

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Anonymous		AGREE with the proposed Rule	Application to PD and DA / Level of pay for PLL / Apply MCLE to requirements upon licensure	<p>In regards to practicing for the public defenders or District attorneys office. Is there a way that we can still be able to practice as provisional attorneys with those offices. I would like to pursue working for the District Attorneys office, however, I understand that they only hire if you have passed and have been sworn in the state of California as an attorney.</p> <p>I would like to impose that we be paid as attorneys and not as law clerks or students.</p> <p>It would be helpful if we can still take extra courses such as the MCLE and it still be counted towards our record or our bar number.</p>	No change. The rule does not prohibit working as a PLL for the PD or DA. The rule should not dictate the rate of pay for PLLs. MCLE requirements are imposed for public protection. Allowing PLLs to count most MCLE trainings taken prior to licensure does not support that goal. The rule does permit applying the 10 hour new attorney training to the first year licensure requirement.
Elizabeth Jamison		AGREE ONLY if Modified	Apply to Solo Practitioners	The proposed Provisional Licensure Program continues California's tradition of overly burdensome and unnecessarily complicated licensing requirements. By precluding self-employment (which could be accomplished with oversight through a mentor or association with a law firm) and imposing layers of unnecessary bureaucracy, this rule places additional burdens on a class of incoming lawyers already facing significant hardships when it comes to employment. California should follow the lead of Washington, Utah, Wisconsin, and others to implement diploma privilege for 2020 grads and then get to work on reforming the overall licensing process.	No change. The Working Group discussed this issue and concluded that to ensure appropriate supervision was provided, the supervisor needed to be employed by the same firm, as defined, and thus a PLL could not operate as a solo practitioner.
Emilio		AGREE ONLY if Modified	Apply to Solo Practitioners	These rules appear to be written under the assumption that the applicant and supervisor are currently applying or working for a large corporate style law firm. The rule does not account for the nuances in the way law is practiced by sole practitioners and appears to make it more difficult for law graduates who wish to practice under a sole practitioners license. If accommodations could be made to the rules to help sole practitioners; it would be more beneficial both to graduates and the profession as a whole.	No change. The Working Group discussed this issue and concluded that to ensure appropriate supervision was provided, the supervisor needed to be employed by the same firm, as defined, and thus a PLL could not operate as a solo practitioner.
Anonymous		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>I am a member of the public who has used legal services in the past, and appreciates a high standard of lawyering the Supreme Court and the State Bar promotes.</p> <p>I find the provisional licensing (PL) program as being seriously injurious to the public rather than protecting the public. If the purpose of licensing law graduates is public protection, the PL program should, at best, be kept to a bare minimum. While the Court initially decided that the PL program was only for 2020 graduates (i.e. those who did not have an opportunity to take the exam), the expansion of the program to those who graduated in Fall 2019 clearly injures the public because many of those graduates who would be eligible for PL likely took the Feb 2020 bar exam and may have failed miserably.</p> <p>If the Court and the State Bar are actually concerned about public protection while showing compassion to current examinees, the Court and the State Bar court should (1) restrict the provisional licensing program to examinees who have never taken the bar exam and graduated from schools with at least 85% pass rate, and (2) admit, rather than consider a provisional license for, those examinees who have already in the past achieved the cut-score of 1390, which clearly indicates that these examinees would not harm the public.</p> <p>I hope the Court and the State Bar do the right thing rather than put us, the public, in jeopardy by expanding the PL program.</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Juan Mundo		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>Hi, please pardon the interruption. As you know, the public comment period for provisional licensing is open. I believe this commenting is for the "public," and not restricted to examinees. Please consider encouraging all of your family, friends, and/or well-wishers to submit a public comment as they form the "public." Someone I know submitted the following:</p> <p>"I am a member of the public who has used legal services in the past, and appreciates a high standard of lawyering the Supreme Court and the State Bar promotes.</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Karine Pirumova		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>I am a member of the public who has used legal services in the past, and appreciate a high standard of lawyering the Supreme Court and the State Bar promotes.</p> <p>I find the provisional licensing (PL) program as being seriously injurious to the public rather than protecting the public. If the purpose of licensing law graduates is public protection, the PL program should, at best, be kept to a bare minimum. While the Court initially decided that the PL program was only for 2020 graduates (i.e. those who did not have an opportunity to take the exam), the expansion of the program to those who graduated in Fall 2019 clearly injures the public because many of those graduates who would be eligible for PL likely took the Feb 2020 bar exam and may have failed miserably.</p> <p>If the Court and the State Bar are actually concerned about public protection while showing compassion to current examinees, the Court and the State Bar court should (1) restrict the provisional licensing program to examinees who have never taken the bar exam and graduated from schools with at least 85% pass rate, and (2) admit, rather than consider a provisional license for, those examinees who have already in the past achieved the cut-score of 1390, which clearly indicates that these examinees would not harm the public.</p> <p>I hope the Court and the State Bar do the right thing rather than put the public in jeopardy by expanding the PL program.</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.

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Natalie Mundo		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>Hi, please pardon the interruption. As you know, the public comment period for provisional licensing is open. I believe this commenting is for the “public,” and not restricted to examinees. Please consider encouraging all of your family, friends, and/or well-wishers to submit a public comment as they form the “public.” Someone I know submitted the following:</p> <p>“I am a member of the public who has used legal services in the past, and appreciates a high standard of lawyering the Supreme Court and the State Bar promotes.</p> <p>I find the provisional licensing (PL) program as being seriously injurious to the public rather than protecting the public. If the purpose of licensing law graduates is public protection, the PL program should, at best, be kept to a bare minimum. While the Court initially decided that the PL program was only for 2020 graduates (i.e. those who did not have an opportunity to take the exam), the expansion of the program to those who graduated in Fall 2019 clearly injures the public because many of those graduates who would be eligible for PL likely took the Feb 2020 bar exam and may have failed miserably.</p> <p>If the Court and the State Bar are actually concerned about public protection while showing compassion to current examinees, the Court and the State Bar court should (1) restrict the provisional licensing program to examinees who have never taken the bar exam and graduated from schools with at least 85% pass rate, and (2) admit, rather than consider a provisional license for, those examinees who have already in the past achieved the cut-score of 1390, which clearly indicates that these examinees would not harm the public.</p> <p>I hope the Court and the State Bar do the right thing rather than put the public in jeopardy by expanding the PL program.”</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Steven Fantasia		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>I am a member of the public who has used legal services in the past, and appreciates a high standard of lawyering the Supreme Court and the State Bar promotes.</p> <p>I find the provisional licensing (PL) program as being seriously injurious to the public rather than protecting the public. If the purpose of licensing law graduates is public protection, the PL program should, at best, be kept to a bare minimum. While the Court initially decided that the PL program was only for 2020 graduates (i.e. those who did not have an opportunity to take the exam), the expansion of the program to those who graduated in Fall 2019 clearly injures the public because many of those graduates who would be eligible for PL likely took the Feb 2020 bar exam and may have failed miserably.</p> <p>If the Court and the State Bar are actually concerned about public protection while showing compassion to current examinees, the Court and the State Bar court should (1) restrict the provisional licensing program to examinees who have never taken the bar exam and graduated from schools with at least 85% pass rate, and (2) admit, rather than consider a provisional license for, those examinees who have already in the past achieved the cut-score of 1390, which clearly indicates that these examinees would not harm the public.</p> <p>I hope the Court and the State Bar do the right thing rather than put the public in jeopardy by expanding the PL program.</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Troy Saucillo		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>I am a member of the public who has used legal services in the past, and appreciates a high standard of lawyering the Supreme Court and the State Bar promotes.</p> <p>I find the provisional licensing (PL) program as being seriously injurious to the public rather than protecting the public. If the purpose of licensing law graduates is public protection, the PL program should, at best, be kept to a bare minimum. While the Court initially decided that the PL program was only for 2020 graduates (i.e. those who did not have an opportunity to take the exam), the expansion of the program to those who graduated in Fall 2019 clearly injures the public because many of those graduates who would be eligible for PL likely took the Feb 2020 bar exam and may have failed miserably.</p> <p>If the Court and the State Bar are actually concerned about public protection while showing compassion to current examinees, the Court and the State Bar court should (1) restrict the provisional licensing program to examinees who have never taken the bar exam and graduated from schools with at least 85% pass rate, and (2) admit, rather than consider a provisional license for, those examinees who have already in the past achieved the cut-score of 1390, which clearly indicates that these examinees would not harm the public.</p> <p>I hope the Court and the State Bar do the right thing rather than put the public in jeopardy by expanding the PL program.</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Valerie Saucillo		DISAGREE with the proposed Rule	Available only to those have not failed the Bar Exam / Retroactivity of Reduction of Bar Exam Cut Score	<p>Hi, please pardon the interruption. As you know, the public comment period for provisional licensing is open. I believe this commenting is for the “public,” and not restricted to examinees. Please consider encouraging all of your family, friends, and/or well-wishers to submit a public comment as they form the “public.” Someone I know submitted the following:</p> <p>“I am a member of the public who has used legal services in the past, and appreciates a high standard of lawyering the Supreme Court and the State Bar promotes.</p>	No change. The Supreme Court directed the State Bar to craft a rule that is not limited only to those who have never taken a Bar Exam. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.

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Zane Dashty		AGREE ONLY if Modified	Definition of 2020 Law Graduate	<p>My name is Zaniar ("Zane") Dashty. I am 30 years old and I received my J.D. from Georgetown University Law Center in May of 2019. I am currently enrolled in the LL.M. Program at the UCLA School of Law with a specialization in Entertainment, Media, Technology, Law and Policy. I am writing today in order to seek clarification regarding the definition of "2020 Law School Graduate" as well as to plead for a broader application of this definition.</p> <p>The current definition of "2020 Law School Graduate" under the proposed rule is:</p> <p>"2020 Law School Graduate" means a person who became eligible to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061 between December 1, 2019 and December 31, 2020, either by graduating from a qualifying law school with a juris doctor (J.D.) or master of laws (LLM) degree during that time period, or by otherwise meeting the legal education requirements of Business and Professions Code sections 6060 and 6061 during that time period."</p> <p>When reading the text of this proposed definition, I immediately turn my attention to "[o]r otherwise meeting the legal education requirements". What does this encompass? Is it meant to apply to anyone who was eligible to sit for the bar between the dates listed? In the FAQ section of the State Bar of California's website regarding this provisional license program it states that anyone who meets the legal education requirements "would be eligible to apply for provisional licensure. They may apply regardless of whether they have taken the California bar exam."</p> <p>The reason I anxiously need clarification is because I want to understand whether I would be eligible to apply for this program. I graduated from law school with zero job prospects. The story of how OCI wasn't accurately represented to me at Georgetown when coming in as a transfer student is beyond the scope of this public comment. I graduated, moved back to California, and planned to sit for the July 2019 exam. However, due to unforeseen problems at home, I wasn't able to follow through with my plan.</p>	No change to proposed rule. The phrase pointed to by the commenter was meant to include, for example, those who became eligible to take the Bar in 2020 following completion of the law office study program.
Athar A. Khan		AGREE with the proposed Rule	Definition of 2020 Law Graduate	I agree with extending provisionals licensure to December 2019 graduates.	No change
Maya Blasberg		DISAGREE with the proposed Rule	Diploma Privilege	This is incredibly unhelpful. I truly have no idea who this helps if we still have to take the bar exam. I am a 2020 law school graduate and the job market is abysmal right now. It's nonsensical to have us start our careers, do what actual attorneys do, and then have to ask for time off to study and take the bar exam at some point. Frankly it's embarrassing how desperate you are to preserve the status quo by making us partake in the outdated hazing ritual that is the CA bar exam. Please grant diploma privilege if you actually care about our livelihoods - anything short is a waste of all of our time.	No change. The comment is beyond the scope of the proposed rule.
Stephen Gray		AGREE with the proposed Rule	Diploma Privilege	Doesn't go far enough. Diploma privilege should be strongly considered.	No change. The comment is beyond the scope of the proposed rule.
Anonymous		AGREE ONLY if Modified	Diploma Privilege	Diploma Privilege would be the better modified solution as applicants have not been able to prepare the same way as previous years and are not able to test the same way. Thus, an online exam is not for the best. This provisional licensure will likely need to be implemented for the class of 2021 as well since COVID is not ending anytime soon. Furthermore, the fires in CA have caused severe hardships to thousands of applicants who have been required to relocate and cannot study due to their stay in small apartments with tons of family members.	No change. The comment is beyond the scope of the proposed rule.
Ryan Burnham		AGREE ONLY if Modified	Diploma Privilege	Please see attached.	No change. The comment is beyond the scope of the proposed rule.
Anonymous		AGREE ONLY if Modified	Diploma Privilege	<p>Out of approximately 170,000 lawyers in this state, approximately 133,000 are white. Provisional licensure isn't going to fix this problem unless you allow this license to be converted into a full license after certain requirements are met that do not include the bar exam.</p> <p>Protecting the public includes providing them with access to advocates who look like them and speak their language.</p> <p>Diploma privilege isn't going to harm the public, statistics support that. Furthermore, you have a member on the committee for this provisional licensure who is from a state that grants diploma privilege and could speak to that point.</p>	No change. The comment is beyond the scope of the proposed rule.

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Alexis Bagon		AGREE ONLY if Modified	Diploma Privilege / Limitation to 2020 Law Graduates - Apply to all registered for October bar exam / Fee	<p>I am a 2020 law graduate and applicant to the California Bar. I am submitting this comment to urge the State Bar to reconsider diploma privilege as the only equitable solution for all bar applicants. If the State Bar proceeds with the Provisional Licensure Program, I wish to express my views on the following provisions.</p> <p>Section (a)(1): The State Bar shall administer a program for provisionally licensing eligible 2020 Law School Graduates through June 1, 2022.</p> <p>In regards to Provision (a)(1), the State Bar should expand the eligible participants to all applicants of the California Bar. The conditions of the pandemic, coupled with the recent wildfires, have severely impacted all applicants of the Bar. Extending the protection of the Provisional Licensure Program to non-2020 graduates of qualifying law schools will not increase any risks of threatening public safety. In fact, it will ensure that more Provisionally Licensed Lawyers are available to provide legal services at a time when they are needed most.</p> <p>Section (c)(2): [To participate in the Provisional Licensure Program, an applicant must] submit an application for Provisional Licensure with the State Bar, along with a fee of \$200, or \$55 if the applicant's sole use of the Provisional License will be in an unpaid volunteer capacity under the direction of a Supervising Lawyer.</p> <p>In regards to Provision (c)(2), the State Bar should lower proposed application fee and eliminate the fee for a lawyer seeking provisional licensure in an unpaid capacity. Additionally, the State Bar should include a fee waiver application form in order to consider the circumstances of applicants who, like myself, are in dire financial circumstances. The delays to the bar exam have affected our ability to secure employment and our savings have dwindled. In particular, applicants who secure unpaid legal work will be disadvantaged by the current \$55 fee requirement. Reducing the general fee, eliminating the unpaid work fee, and introducing a fee waiver will remove financial hurdles for incoming Provisionally Licensed Lawyers.</p>	Diploma Privilege. No change. The comment is beyond the scope of the proposed rule. Limitation to 2020 Law Graduates. No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group. Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b>
Anonymous		AGREE ONLY if Modified	Diploma Privilege with guardrails	The California bar exam has been in practice for a substantial number of years and a method in which attorneys are considered to have a minimum competency to practice law however due recent events such as the COVID-19 pandemic students have been struggling to pass the California bar exam it is in my opinion that in the best interest of the student that they should be given diploma privilege and required to work under a licensed attorney supervision for a minimum of one year and required to take additional hours of CLEs. It is not only inappropriate but harmful to the legal profession to require these bar applicants to take the bar during a pandemic. Allowing all bar applicants to have a diploma privilege will also allow for a greater number of people to have access to legal professionals	No change. The comment is beyond the scope of the proposed rule.
Judge Mark Juhas / Jasmine Kaddoura	California Access to Justice Commission	AGREE ONLY if Modified	Effective Date of PLP / Fee	<p>For over 20 years, the California Access to Justice Commission (CAJC) has worked toward achieving equal access to justice for all Californians. We appreciate the Bar's efforts to adopt a Provisional Licensure Rule. We offer three comments to ensure that this rule will help address California's justice gap by allowing legal aid programs to use recent law graduates to provide critical services to low income communities most significantly impacted by the COVID-19 pandemic, including the almost 4 million Californians who are now out of work.</p> <ul style="list-style-type: none"> <li>• Promptly approve the Provisional License Program. Law graduates working at legal aid organizations have already had to decide if they are planning to take the October 5th bar exam. Those signed up to take the exam are already studying. The Bar needs to act quickly and put the provisional license into effect immediately (and be clear what it is) if it is to be a meaningful option for law grads to opt out of taking the upcoming bar exam.</li> <li>• Clarify the rules for those enrolled in the Bar's Practical Training of Law Students program. This program certifies law students to provide legal services under supervision. Most recent law graduates enrolled in this program are not planning to take the October bar exam. To ensure these recent graduates can continue to assist legal services clients, we recommend the Provisional License program take effect no later than October 5. This will ensure these recent graduates working in legal aid can successfully transition from one Bar program to another.</li> <li>• Waive, or lower, fees for individuals working or volunteering in a legal aid organization. These fees will ultimately be paid by the employer. In the case of legal aid, and IOLTA-funded legal aid specifically, it does not make sense for organizations to spend limited resources to enable individuals to work or volunteer there. By waiving or lowering the Provisional Licensing fee for these groups, the Bar can both support IOLTA-funded legal aid and effectuate the goals of the provisional licensure program.</li> </ul>	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b> Effective date. The State Bar is working as expeditiously as possible to implement this program. If recommended by the Working Group, the proposed rule will be presented to the State Bar Board of Trustees on September 24, and then submitted to the Court for approval. Although parts of automating the process can be and have been completed, receipt of the final rule requirements is necessary to complete the automation.
Andrea Marquez		AGREE ONLY if Modified	Fee	There should be no fee associated with the provisional license program, considering all the financial burdens that individuals are facing during this time.	The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b>
Diane Byun		AGREE ONLY if Modified	Fee	Section (c)(1)(A) regarding the fee for submission for application or for volunteer work should be removed in its entirety. The purpose of provisional licensure is to provide assistance to applicants and the community, not further financial burdens. There should not be a fee for pursuing a path that is necessary to maintain one's livelihood and give back to the community in the most severe recession the nation has experienced.	The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b>
Olivia Meme		AGREE ONLY if Modified	Fee	A fee of \$200 to be provisionally licensed is unconscionable. 2020 October bar examinees have had offers rescinded, pushed back, or altogether denied. Bar examinees have been without income for months, if not years. Please also consider that the nation is in the midst of a severe recession. Bar examinees have to support themselves and in some cases, their families. Many bar examinees will only take provisional licensing because they need to be able to work and earn money. It's unconscionable to charge \$200 on top of all the state bar fees the examinees have paid and will pay to be admitted to the California bar. Make provisional licensing free.	The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b>

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Anonymous		AGREE ONLY if Modified	Fee	<p>Charging recent graduates a fee of \$200 or \$55 is unconscionable and poses issues with financial discrepancies of those looking to be part of the program. There is nothing to suggest that Cal Bar lost any profit due to COVID-19 since they were able to elevate most overhead for bar exams without making the slightest adjustments to the cost of the exam (\$850) or the cost of the moral character application (\$550). What even is the basis for the \$200 fee? Application costs alone are insufficient during these unprecedented times.</p> <p>Considering the program has no backing of prior success or evidence of being financially supportive, it is really just another way for the state bar to push fees on applicant, all while deterring involvement based on financial strain. Would a recent graduate be more inclined to make their student loan payment or pay \$200 for an unsubstantiated program? This fee appears to be due around the same time that many applicants would need to start paying back student loans—a cost we are already unprepared for.</p> <p>Furthermore, what happen to this fee upon learning that an applicant is admitted into the state bar? Would the program wait to begin collecting fees until learning of the October 2020 results, or would a paid fee be forfeited. If an applicant seeks and pays for Provisional Licensure in November, is approved in December, and passes the October bar as of January 2021, they paid \$200 for limited privilege that acts as an unjust gain to the Cal Bar.</p> <p>Simply, the collection of fees for the program causes vast issues based on financial discrimination, timing, and unconscionability. The fee tells applicants that, although you have taken all the correct steps to accomplish this goal and its our first go at this, we still need another couple hundred bucks to make it worthwhile for us!</p>	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee.
Felipe Rojas-Flores		AGREE ONLY if Modified	Fee	<p>The California Supreme Court and the State Bar of California have asked me and my fellow 2020 law school graduates to postpone our careers, livelihoods, and lives. This provisional license program is meant to alleviate some of these hardships we face. Yet, this committee has added another barrier that disproportionately keeps out low-income applicants like me.</p> <p>This committee is asking me to pay \$55 for the privilege to volunteer and \$200 for the privilege to work. That does not make sense and ignores reality. These fees work against the purpose of this program. Many applicants paid hundreds in bar exam fees, paid thousands for a bar review course, and have significant student loan debt. Now we're being asked to pay more. This is unacceptable! Please show us the empathy we deserve as future members of the profession. Please do the right thing and make the program free for all.</p> <p>I look forward to your responses on Friday.</p>	The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee.
Julian Sarkar		AGREE ONLY if Modified	Fee	Please see attached.	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee.
Ashley Reddy		AGREE ONLY if Modified	Fee	<p>This provisional license program, only allows 2020 law school graduates a temporary, restricted license that requires attorney supervision. There is no valid reason as to why this provisional licensing program requires a \$200 fee. The provisional license still requires 2020 law school graduates to sit for the California bar exam, which has a fee of its own. If this provisional license program is meant to compensate law school graduates for the hardships suffered due to the, then this provisional license program should not require any fee at all.</p> <p>I support the proposed rule, however the program should not require a \$200 fee because adding such a fee does not alleviate the kinds of hardships this program was designed to relieve.</p>	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee.
Claire Solot		AGREE ONLY if Modified	Fee / Auditing / Requirement to Sit for the Bar Exam / Supervision Requirement - Change of Supervisor / Supervising Lawyer - years of practice / Notice of use of PLL / Practice Areas / Miscellaneous	Please see attached Claire Solot comment #2.	<p>Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee. The commenter also raises a legitimate question if having a third party stipend makes it no longer a "volunteer" opportunity, and whether a fee is owed if the volunteer opportunity becomes paid employment. <b>The Working Group should consider</b> defining a volunteer and clarifying that, despite the possibility for some to take advantage of this, providing that the fee is based on status as a volunteer or not at the time of application. Audit. No change. The Working Group considered but rejected language that would expressly provide the State Bar the authority to audit compliance with the rule. Requirement to take bar exam. <b>The Working Group should amend (d)(1)</b> for clarity to provide that except the applicant need not have [insert: sat for or] passed the California Bar Examination . . .</p> <p>Supervision Requirement - Change of Supervisor. No change. Although the commenter is correct that there could be a gap in coverage if the PLL's assigned supervisor leaves the firm, as defined, and is not immediately replaced. The PLL's authority to practice law is limited to there being a supervisor in place. We hope the firm will act expeditiously to replace supervisors when necessary. The rule provides that no additional fee will be required in situations where a new supervisor in the same firm is assigned. Supervising lawyer - years of practice. Supervising lawyer - years of practice. No change. This requirement, which is similar to requirements for other MJP programs, is intended to ensure the supervising lawyer is current on the law and is thus competent to supervise on California law. Notice of use of PLL. No change. At least 12 states that recently adopted a PLP require disclosure to the client. Some require written disclosure. Some require client consent. Practice areas. The Working Group includes two liaisons from the Supreme Court. They did not indicate that the Court's vision was that this apply primarily for poverty law / public interest issues, and no such direction or communication was received from the Court. Miscellaneous. No change. The commenters suggestions about sample forms, addressing procedural failures to comply, documentation to demonstrate volunteer status, and evaluations are more appropriately addressed in implementation materials.</p>

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Zach Newman / Salena Copeland	Legal Aid Association of California	AGREE with the proposed Rule	Fee / Effective Date of PLP / Supervision Requirement / Supervising Lawyer - years of practice / Supervision - multiple supervisors / Pathway to Licensure	Please see attached.	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b> LAAC also raises a unique issue - a waiver or reduction in the fee paid by IOLTA funded organizations. Attorney licensing fees paid by such organizations are reduced by 25%. <b>The Working Group should consider</b> a waiver or reduction for fees paid by IOLTA funded organizations on behalf of PLLs working or volunteering for them. Effective date of PLP. The State Bar is working as expeditiously as possible to implement this program. If recommended by the Working Group, the proposed rule will be presented to the State Bar Board of Trustees on September 24, and then submitted to the Court for approval. Although parts of automating the process can be and have been completed, receipt of the final rule requirements is necessary to complete the automation. Supervision Requirement. No change. The rule does not require the supervising lawyer to be present at every appearance. The rule contemplates that the in the exercise of proper supervision, the supervising lawyer will accompany the PLL when necessary, and will permit the PLL to appear without the supervising attorney when such presence is not necessary. Supervising lawyer - years of practice. No change. This requirement, which is similar to requirements for other MJP programs, is intended to ensure the supervising lawyer is current on the law and is thus competent to supervise on California law. Although the State Bar is heartened by the legal aid community's desire to place PLLs, an exception to the years of practice requirement does not seem warranted. Supervision - multiple supervisors. No change. The problem LAAC is trying to be solved appears to already be addressed by the proposed rule. The rule provides: Supervising Lawyer may delegate some or all day-to-day supervisory responsibilities or supervisory responsibilities related to certain practice areas or assignments to another lawyer in the same organization who otherwise meets the requirements for Supervising Lawyers, without the need for those additional supervisors to file a declaration with the State Bar. The Supervising Lawyer's obligations under (I)(1)(G) are not affected by any such delegation. By listing multiple supervisors, the assumption of professional responsibility for the work of the PLL and obligation to assume personal representation appears to become muddled. Pathway to Licensure. No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam. It is possible the Blue Ribbon Commission on the Future of the Bar Examination will recommend examinations or testing outside of the bar exam related to certain content areas. Until such time, however, it is unknown what kind of shortened exam would provide the appropriate addition to the PLP.
Gilbert T. ("Tom")Rivera		DISAGREE with the proposed Rule	Fee / Requirement for Conditional Employment Prior to Licensure / Diploma Privilege	Please see attached.	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee. Conditional Employment. No change. This issue was discussed by the Working Group. The proposal creates a risk that someone will try to practice prior to securing the necessary supervision, and would create a more complex process to administer.
Elizabeth A Glusman		AGREE ONLY if Modified	Fee / Requirement for Conditional Employment Prior to Licensure / Change of Supervisor	Please see attached.	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee. Requirement for Conditional Employment Prior to Licensure. No change. The Working Group debated this issue. There is too great a risk that someone will try to practice prior to securing the necessary supervision. The proposal would also create a more complex process to administer. Change of Supervisor. No change. The rule provides that if a PLL is reassigned to a new Supervising Lawyer for the same firm, they must only submit a declaration from the new Supervising Lawyer and obtain State Bar approval. If beginning employment or volunteering with a new firm, as defined, the PLL must submit a new application for provisional licensure.
Holliann Morro		AGREE ONLY if Modified	Fee / Timing of MCLE Requirement / Timing of the program	<p>Sec. (c)(1)(A): The \$200 fee is excessive considering that a large majority of examinees have already undergone a significant financial strain, more so than during a typical administration of the bar examination, due to examination and resulting employment delays. Additionally, there is no explanation of the purpose of this \$200, making this fee appear not just excessive, but unnecessary.</p> <p>Sec. (e)(1): "[F]irst year of provisional licensure should be clarified. Is this a full year which begins on the provisionally licensed lawyer's start date or is this intended to end the day the current calendar year ends? (For example, if a provisionally licensed lawyer begins work in that capacity on October 12, 2020, does that "first year" end on October 12, 2021 or on December 31, 2020?)</p> <p>Could we have a document outlining the differences in duties and privileges between a certified law clerk and a provisionally licensed lawyer? Must a provisionally licensed lawyer have a supervisor present in court at all hearings?</p> <p>I would also request that the details be finalized by October 7, 2020. H191</p>	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider further reductions to the fee.</b> First year of provisional licensure re: new attorney training. <b>Amend</b> to clarify that the completion of the New Attorney Training is required during the first 12 months of licensure. This language better mirrors the language of Rule 2.53. Difference between certified law student and PLL. No change proposed. This is not a comment on the rule itself. Implementation date. No change proposed. Several steps still need to be accomplished prior to the launch of this program. The State Bar is working diligently to get the program operational as quickly as possible.
BENJAMIN RICE		AGREE with the proposed Rule	General	I have had student clerks work with me who were tremendous assets. Brilliant, hard working and nice people to be around. In my 40 year career I have seen time and time again examples of consistent quality legal work from people who struggled with passing the bar... as well as terrible legal work from people who passed their first time. Pretty clear to me that a person who passes and loves their work will often outperform even a smarter person who hates their legal work.	No change to the proposed rule.
Connie Elizabeth Watson		AGREE with the proposed Rule	General	I am pleased to inform you that in order to further my legal education, on November 2019, I graduated with a Master of Laws (LL.M.) degree in Human Rights and Constitutional Law; due to COVID19 the bar card is still in process.	No change to the proposed rule.
Frederick Rivers		AGREE with the proposed Rule	General	This is a great opportunity to not only increase the pass rate of the CA Bar, but also give graduates an opportunity to put into practice what they have been studying and preparing for Over the course of their program.	No change to the proposed rule.
Lesley Harris		AGREE with the proposed Rule	General	Sounds reasonable to me!	No change to the proposed rule.
Michael Tunink		AGREE with the proposed Rule	General		No change to the proposed rule.
Xylona Boone		AGREE with the proposed Rule	General		No change proposed.
Anonymous		AGREE with the proposed Rule	General		No change proposed.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Aaron Bailey		AGREE with the proposed Rule	General		No change.
Connie Elizabeth Watson		AGREE with the proposed Rule	General		No change.
Xuantrang Do		AGREE with the proposed Rule	General		No change.
Lynette Belsky		AGREE with the proposed Rule	General		No change.
Lorissa S Talavera		AGREE with the proposed Rule	General		No change.
Stephanie Ramos		AGREE with the proposed Rule	General		No change.
Sydney Selix		AGREE with the proposed Rule	General		No change.
Jianhua Sun		AGREE with the proposed Rule	General		No change.
Jo Chowdhury		AGREE with the proposed Rule	General	This is the right move given that we are faced with not only a pandemic, a lot of us Have loved ones effected by the wild fires. I agree with the proposed rules because its fair to be held accountable for mistakes as well as being able to practice.	No change.
Ricardo Torres Artavia		AGREE with the proposed Rule	General		No change.
Mario Apuzzo		AGREE with the proposed Rule	General		No change.
Luis Virgen		AGREE with the proposed Rule	General	We should allow the provisional licensure because it has been extremely difficult for students to study under certain these Covid conditions. NO libraries are open, no schools are open and some of us cannot study at home. So, I am in full support of this.	No change.
Mikahla Harris		AGREE with the proposed Rule	General	These rules will help me take a job that I am applying for right now. Thank you	No change.
Trenten Bilodeaux		AGREE with the proposed Rule	Impact of Not Passing Bar Exam	I agree with the rule so long as those of us that are taking the October Bar Exam are still allowed to utilize the provisional licensure program. This includes in the event a 2020 grad does not pass the October Bar Exam.	No change. The rule expressly provides that those taking the October bar exam may participate in the program, as well as those taking but not passing other bar exams until the expiration of the program.
Jack Ucciferri		AGREE with the proposed Rule	Lack of opportunity to comment	<p>At 2:09 PM on Tuesday, September 15, I received an email from the State Bar of California notifying me of this opportunity to comment on the Draft Provisional Licensing Rule.</p> <p>Assuming I read the email instantly - which I in fact did because I greatly value any scant communications from the Bar - I have not quite 3 hours to read the draft language, consider and formulate a comment, and submit my response.</p> <p>Please ask yourself, is this an adequate amount of notice? I note that the California Supreme Court directed the State Bar of California to "afford a public comment period of at least 15 days for any proposed supervised provisional licensure program rules." Remember, the Bar exam is less than 3 weeks away as of today, 9/15. I assume the letter of this order was complied with, but in sending the email to Bar applicants at the 11th hour, the spirit of the order seems to have been violated.</p> <p>Today's Bar applicants are tomorrow's barristers. I have a sense that as this new crop of esquire's begin to assume leadership in this profession we will act with an urgency to make the professional more fair, transparent, accessible, and client oriented. Please help us get there together. There is too much heated acrimony in civil society already. Let us all communicate with each other as expeditiously and openly as possible, so as to reduce any perception of bad faith. As you know, many of my colleagues are quite unhappy with how they have been treated this year.</p> <p>All that said, while I don't have time to read the Components of a Provisional Licensure Program memo in its entirety, what I have read seems thorough and well thought out. It is just a shame that the policy's legitimacy has now been compromised somewhat, due to the lack of notice of my opportunity to be heard on the matter.</p> <p>Thank you for your time.</p>	The State Bar apologizes if you did not learn about the proposed rule until the day the comments were due. Among other things, the State Bar posted FAQs on the Admissions website, posted the public comment announcement in the traditional location for rules going out for public comment on the website, informed applicants in July that an FAQ on the provisional licensure program would be coming.

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Curtis Skinner		DISAGREE with the proposed Rule	Lack of opportunity to comment / Fee / Diploma Privilege with guardrails	<p>I received this draft proposal at 2 p.m. on 9/15/2020, the same day that public comment was due - leaving anyone who has been focusing their attention on bar prep or work (like myself) unaware of its existence. This means that I have not formulated a deep and nuanced opinion within the 3 hour time window before public comment is due.</p> <p>But I can say first that provisional licensure suffers from serious problems that have been discussed time and time again by California law school deans, public interest employers in California, and advocates with the Diploma Privilege For All movement.</p> <p>Second, it appears that on top of paying ~\$850 for a likely dysfunctional bar exam, over \$1,000 to apply for bar membership, thousands more for bar prep software, and tens if not hundreds of thousands of dollars for law school tuition and fees, that the bar is going to charge an additional \$200 for this provisional licensure is outrageous. Advocates have been highlighting how elitist and discriminatory the bar exam and legal profession are against low-income people and people of color, so throwing another \$200 fee at graduates amid a pandemic where many have been unable to secure employment (in large part due to the state bar's failure to hold a timely bar exam or extend diploma privilege) is offensive.</p> <p>Just do the right thing and extend diploma privilege with a supervised practice/CLE requirement. I realize this is public comment about the provisional licensure proposal, but this would be a moot issue if diploma privilege was extended.</p>	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee. Diploma Privilege. No change. The comment is beyond the scope of the proposed rule. Lack of opportunity to comment: The State Bar apologizes if you did not learn about the proposed rule until the day the comments were due. Among other things, the State Bar posted FAQs on the Admissions website, posted the public comment announcement in the traditional location for rules going out for public comment on the website, informed applicants in July that an FAQ on the provisional licensure program would be coming.
Duncan Crabtree-Ireland			Law Office Study Program	Please see attached.	The definition of 2020 Law Graduate, by reference to otherwise completing the legal education requirements of Business and Professions Code section 6060 applies to those who completed the law office study program in 2020.
Anonymous		AGREE ONLY if Modified	Limit to first time takers / Limitation to 2020 graduates	This should be restricted to first time takers only. Other states, except for Delaware, have restricted this to first time takers and have gone back eighteen months from date of application. That may be a more sensible approach.	No change proposed. The Working Group discussed whether the program should be limited to those who had never taken a bar exam, and concluded that in order to apply the program with the flexibility desired by the Supreme Court to provide 2020 law graduates with the options and opportunities to take one or several exams during the pendency of the provisional licensure, no such limitation should be imposed.
Barbara Choi		AGREE with the proposed Rule	Limitation to 2020 Law Graduates - Attorneys Licensed in Other Jurisd. / Obligations of Supervising Lawyer	<p>I agree with the proposed rule due to the current pandemic.</p> <p>I would like the State Bar to grant the provisional attorney status to apply to those who are already licensed to practice law in another jurisdiction but are in the process of applying to take the CA state bar exam and may not pass or due to a technical or logistic reason, has not been able to take the exam.</p> <p>Also, I would like clarity that the provisional status will allow the person to appear in court without the supervising attorney needing to be present. Otherwise, it would pose a financial burden on the client and also a financial disincentive for the law firm to employ a provisional attorney. It should be sufficient for a licensed attorney to supervise the provisional attorney in all aspects, without having to also appear in court along with the provisional attorney.</p>	<p>Attorneys licensed in other jurisdictions. No change proposed.</p> <p>No change proposed. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates. Supervising lawyer obligations. No change proposed. The rule does not require the supervising lawyer to be present at every appearance. The rule contemplates that the in the exercise of proper supervision, the supervising lawyer will accompany the PLL when necessary, and will permit the PLL to appear without the supervising attorney when such presence is not necessary.</p>
Andrew Nef		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	There does not appear to me to be a rational basis for arguing that provisional licenses should be limited exclusively to students who graduated in 2020. The inability to take a traditional bar exam in July is a factor that applies to all applicants for the state bar exam.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Jon Ivy		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	<p>I do not agree with limiting the temporary license program to only the most recent graduates. There are many well qualified people who graduated less than a year before the arbitrary cutoff date of December 2019. They are equally stuck with a Covid environment, a delayed second-chance to take the bar, and conditions that warrant a temporary license program.</p> <p>Additionally, the evidence gained from the temporary license program will help to guide future bar admittance policies and procedures. We might discover that people who failed the bar exam in 2019 turn out to be some of our best lawyers -- showing that it's the bar exam that is below standard, not them.</p> <p>I could fail the bar exam next month and still get a temporary license. Why should a graduate of 2019 have less than me? It makes no sense, and is seemingly arbitrary. I might even call it capricious.</p> <p>Please, consider extending or eliminating the arbitrary cutoff date.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Kathleen Moore		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	Providing this relief solely to 2020 graduates would be a violation of the 2109 graduates Equal Protection rights. There is no basis for excluding current applicants PL if the basis for this relief is due to COVID. COVID does not simply affect 2020 graduates - it equally affects ALL 2019 graduates who are current applicants. Enactment of this in its current state will result immediately in a Federal Lawsuit challenging this disparate treatment by California where not even rational basis could be argued. While the SC can apparently act without oversight on the retroactivity issue, it will be subject to Federal oversight on this issue where Equal Protection right violation occurs on the face of the rule.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Taline Panossian		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	I am a Spring 2019 graduate and would like this proposed rule to apply to May 2019 graduates as well. I graduated from a Ca accredited school and took the bar in July of 2019 scoring 1409 and again in February of 2020 scoring 1414. I believe I can benefit from this rule since the court is not applying past scores retroactively.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Tim Crough		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	The draft eligibility for the Provisional License includes, "Pursuant to the direction of the Supreme Court, eligible applicants includes those who have previously taken and failed to pass the February 2020 or October 2020 California bar examination." I am a 2019 graduate, taking the October 2020 Bar Exam. If I fail to pass the October 2020 Bar Exam, I should be eligible for the Provisional License.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.



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Anonymous		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	Please include November 2019 graduates who are taking the exam for the first time as they are out of staters and couldn't travel to CA for the february 2020 exam because of covid. Thank you.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Ying Jiang		DISAGREE with the proposed Rule	Limitation to 2020 Law Graduates	<p>I was admitted to law school as a part-time student in 2016. My original graduation date was May 2020, but I took more classes during the summer breaks, so I can graduate half semester earlier. But since the current PL is only applying to May 2020 graduates, I feel I am being punished for graduating half semester earlier.</p> <p>Furthermore, my concern is that a blanket grant to ALL May 2020 graduated students faces the danger of incompetence of practicing law, if the bar's primary concern is the competence of each applicant.</p> <p>In addition, granting the license to the applicants who has previously scored between 1390-1440 has far less risks than giving the PL to all 2020 graduated students, because applicants who previously scored 1390 - 1440 has shown the competence solidly by their score after being tested. The current grant to ONLY but ALL May 2020 graduated applicants is denying the reality that other applicants enendured the same hardships caused by the pandemic, mentally and financially.</p> <p>Thus, this is not the right remedy to the applicants overall, because this is treating similarly situated applicants differently without sufficient justification.</p>	No change. The rule is not limited to May 2020 graduates, but rather applies to those who graduate or otherwise meet the legal education requirements of Business and Professions Code section 6060 and 6061 from December 1, 2019 to December 31, 2020. Many schools have cycles that have graduation periods other than May.
Concerned Citizen		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	I think you should open this up to previous years graduates. This would allow others the same opportunity to work under a licensed lawyer to expand their knowledge in the field. This experience would help people in their chances to pass the Bar.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Arthur Dermendjian		AGREE ONLY if Modified	Limitation to 2020 Law Graduates	<p>There is no reason to limit this to 2020 graduates only. All applicants for the upcoming exam are struggling, and need the opportunity to work immediately. Although 2020 graduates will be first time takers, repeaters should be allowed to participate in the same program. As someone who has scored above the new 1390 cut score, the public is no safer in a 2020 graduate's hands than mine. Technically, neither them nor I have passed the bar exam.</p> <p>The concept does not make logical sense. The 1390 cut score is the new threshold for minimum competency. Under the current proposal, a 2020 graduate who scores a 1200 on the upcoming exam would be eligible to practice law, whereas a 2019 graduate who scored above a 1400 on a previous examination would not.</p> <p>If the new cut score is not to be applied retroactively, this program should be expanded, at the very least, to include individuals who have scored above a 1390 on a previous administration of the bar exam.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Gayatri Gunasekaran		AGREE with the proposed Rule	Limitation to 2020 Law Graduates	<p>It appears that the State Bar of California is considering offering provisional licenses only to people who graduated between December 1, 2019 and December 31, 2020.</p> <p>I hope that the State Bar of California will add people who graduated before these dates to the group that is eligible for provisional licensure. If it does not do so, then the graduates of 2020 are given an advantage (being able to work provisionally as an attorney) that graduates from previous years are denied.</p> <p>If the Coronavirus Pandemic necessitates provisional licensure, which I agree that it does, the State Bar of California should offer ALL graduates the opportunity for provisional licensing, not just the most recent graduates.</p> <p>I am someone who was highly successful in court and at work (Los Angeles County District Attorney's Office, Senior Law Clerk and Certified Law Clerk), and who relished both, but who has not yet been successful at passing the California Bar Exam.</p> <p>After graduating from law school and taking the California Bar Exam, I would have been delighted to have had the opportunity to appear in court as a provisional attorney.</p> <p>Hence, I truly hope that in the interests of justice and fairness, the State Bar of California will offer ALL law school graduates the opportunity for provisional licensing. The policy considerations supporting provisional licensing that apply to graduates of the Class of 2020 are equally pertinent to graduates of previous years.</p> <p>However, even if the State Bar of California denies this request, I hope that it cancels the Bar Exam this year, and that it grants provisional licenses to the Class of 2020.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Anonymous		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to 2019 graduates	The Provisional Licensure Program should include the students that graduated in May 2019. Also, those that were unable to pass the exam in February 2020 should be allowed to work in the interim. These two groups should able allowed to work under supervision which would give them time to prepare for the following exam. There were many economical setbacks for many students and these are unprecedented times. Thank you.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.

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Angel Ariel Bermudez		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to 2019 graduates	<p>The rule lacks a complete understanding of the people impacted by the Covid-19 pandemic as it exclusively applies to 2020 graduates.</p> <p>However, 2019 graduates (especially those that graduated December 2019) are equally affected. The proposed rule should be extended to cover all recent grads (2019 and 2020) that have not had an opportunity to take the Bar exam.</p> <p>Thus, I support the proposed rule but it should be modified to include 2019 graduates or, at least, December 2019 graduates.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Shawn C. Williams		AGREE with the proposed Rule	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	The licensure should be available to all who are registered for the October exam—not just 2019 and 2020 graduates.	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Sean Lawrence Phillips		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all prior bar exam takers	I disagree with the proposed rule only applying to 2020 grads, and those graduates from December 2019. This rule should apply to all takers of the previous bar exams. They all are in the same boat as the 2020 graduates. Past takers of the bar exam have been just as disenfranchised because they have had to pause their lives for the pandemic and societal unrest. They have been jobless more often than the 2020 graduates. I can support this Provisional Licensure program if it apply's to a larger group of graduates, and not just a small group of the 2020 graduates.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Dave Groth		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	<p>Each year applicants awaiting bar results have an approximately four month waiting period which allows for the practice of law under supervision. If an applicant is unsuccessful that permission is taken without any input or recourse no matter the achievement or score of the applicant. While no one would wish for this current pandemic or difficulty in studying for this difficult exam, this proposed opportunity is ridiculous if it is only given to 2020 graduates. While the pandemic has disrupted lives and created additional stresses, it has also given recent graduates nearly three months of additional study time to prepare. I am a repeat taker who given limited study time following graduation from and ABA school and limited time after results were posted might have had different results given the allowance of multiple exams and the ability to retain employment after negative results. While I cannot speak for every repeat taker, I personally can supply this committee with multiple resources who are willing supervise my practice of law while working toward a passing result. I have never taken this exam with the anticipation of failure. However, 2020 graduates are being given not only a lower cut score but also a safety net that has never been provided any other takers of this exam. I am simply asking for a level playing field. My most staunch supporter is the current elected District Attorney of Amador County and the recent President of the California District Attorney's Association. I imagine a man in his position is aware of the stakes as well as the benefit of allowing my practice of law until a passing result can be achieved. His recommendation is based in my legal knowledge and volunteer work in his office not some personal or political allegiance.</p> <p>I urge this committee to either allow all registered examinees to benefit from this opportunity or to limit the period to the current first exam waiting period. While I expect my response to fall upon an unsympathetic group, I would hope the right step includes repeat takers like myself. Thank you for your time and consideration.</p>	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
David Erskine		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	I am writing in regard to the rules regarding Provisional Licensing. There is one section of the rule that needs to be addressed.: "Who is eligible to apply" According to the proposed rule only those who have graduated in 2020 are eligible. I understand the bars desire to create a rule that will have limits. However, this provision should be fair to all applicants not just a select few. The stated intent of the bars decision to allow a Provisional License is to reflect the impact f COVID-19 is having on the applicant community. Like many, my life has been upended: work, childcare and trying to prep for the exam are all happening under one roof. I realized this week I am in no way going to be prepared for this test given how compressed my life has become because of COVID 19. Prior to receiving this email from the bar on 9/4/2020, I submitted my withdrawal from the exam. (Due By 9/8). Although my situation seems to be the type of circumstance the bar is trying to address with the Provisional License, by limiting the pool to recent graduates, it's of no assistance. To that end, the Provisional License should be made available to all applicants who applied for and were cleared to take the July/Oct Bar, regardless if they subsequently withdrew their application due to COVID -19. ( Keep in mind this draft rule was released right at the deadline to withdraw from the exam) In Short: Application should be available to all who applied for and were eligible to take the bar. Including those who with withdrew due to COVID-19. If the applicant has not done so, they must complete the application for Character prior to submitting application for Provisional License. (See attached)	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Velia V Soto		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	<p>Modify to include " all eligible law school graduates regardless of graduation year registered and approved to sit for the October 2020 California Bar Exam" .....to practice law as provisionally licensed lawyers under the supervision of fully-licensed lawyers who meet the requirements of the rule and who agree to assume professional responsibility over the work of the provisionally licensed lawyers. As set forth in the proposed new rule, provisionally licensed lawyers would be able to engage in all of the same activities that a fully-licensed lawyer is permitted to engage in, under their supervising lawyer's direct supervision and subject to certain restrictions...</p> <p>This modification is necessary to provide an equitable solution for all stakeholder applicants.</p> <p>Given the current global pandemic, wildfire evacuations, pending wildfire advisories, power outages,internet failure, cyber attacks, lack of equal accesss to technology equipment, testing space, and applicants relying on Bar admittance for employment and income.</p>	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Adam Johnson		AGREE with the proposed Rule	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	<p>I am an attorney licensed to practice in Minnesota, where I have practiced since 2009 following successful bar examination passage. I elected to sit for the summer/fall, 2020 attorneys' bar examination in California in anticipation of our family's potential move to your state. I recently received notice of the proposed rule that would allow 2020 law school graduates to receive provisional licensure without taking or passing the bar examination, which provisional licensure would exist until June of 2022. It appears that the criteria for provisional licensure include, among other things, that an applicant graduate from law school between December 1, 2019 and December 31, 2020.</p> <p>The temporal limitation above makes sense to keep the benefit of provisional licensure limited to those graduates whose lives and studies have been affected by the COVID-19 pandemic. There is also a compelling floodgates argument against allowing provisional licensure for anyone holding a juris doctor degree irrespective of graduation date.</p> <p>My reason for submitting comment today is to propose that provisional licensure be permitted for all applicants who successfully filed to sit for the October, 2020 examination by the July 24, 2020 filing deadline. This would allow attorney applicants, such as myself, and other recent graduates who may fall outside the specified time-frame, to gain provisional licensure, and seek employment. Additionally, the floodgates would not open, as the provisional licensure would be extended only to the discreet grouping of people who met the filing deadline for the examination, but who did not graduate between December 1, 2019 and December 31, 2020. In other words, the provisional licensure program would not be subject to abuses by persons out of state seeking to gain admission through opportunism post-rule change - provisional admission would extend only to those people who, prior to the rule change (if any), earnestly intended to sit for the bar examination. All of my filings to sit for the exam were made before I was notified of the proposed rule change.</p>	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Laura Boyd		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	The rule should be applied to anyone who has applied to take the Bar Exam. Many graduates of law schools do not take the Bar Exam until multiple months or even years after law school for a variety of reason. Limiting it to law school 2020 graduates forces all those who graduated Winter 2019 or later to take an online exam which could have multiple technical problems. Please open up the proposed rules to include all graduates of law school.	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Reshma Kamath		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	The Provisional Licensure is much needed in the COVID pandemic not only because 2020 grads need it, but for those of us, who have been struggling with California's Bar cutoff scores in the past, retaking the test, and have all the abilities to be a lawyer, except for the hurdle of obtaining a California Bar License. As much as 2020 graduates need this, so do the rest of us. First, this is excellent practice to become a lawyer, in a pragmatic sense. Second, more so in the pandemic era, when there is a dire need for lawyers in eviction issues, in bankruptcy, in commercial and residential leases, in fashioning new businesses. The State Bar, the Supreme Court of California should extend this provisional licensure to all those signed up for the October 2020 Bar exam. If not, we will be stuck in the rigmarole and grind of not having a job during the pandemic post-October and who knows for some post-Bar exam.	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Dorothea Galdo		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	Please see attached.	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Marguerite Adams		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam	<p>The proposed rule arbitrarily excludes prospective attorneys who are not graduates of the class of 2020. The privilege should extend to those who are currently registered but have not taken the exam notwithstanding their graduation year.</p> <p>Temporary licensure could encumber prospective attorneys by allowing employers to withhold healthcare benefits by classifying them as "temporary" workers. Deferring full licensure and subjecting bar candidates to an interim period of legal limbo would create more challenges for an already-beleaguered state bar association. Unless the decision to opt for temporary licensure is substantially informed by reliable statistics and evidence-based analyses that indicate its superiority to full licensure without an exam, I believe the California bar invites widespread criticism and exposure to lawsuits.</p>	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group.
Danielle Craig		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all registered for October bar exam / Use of term Provisionally Licensed	<p>1. The Rule should apply to ANY individual who sought to take the California Bar Exam in July 2020. There is no good faith reason why it should only be applied to 2020 law graduates. This is deeply unfair and prejudicial.</p> <p>2. Requiring that we state that we are "Provisionally Licensed" makes the determination as useful as the certification for law school students. As in, useless.</p>	No change. The direction from the Supreme Court was to create a program for 2020 law graduates. Although the Working Group had cause to define that term to include those who met all graduation requirements in December 2019, opening the PLP to all persons who registered for the October exam is beyond the authority of this working group. Use of term provisionally licensed. No change. At least 9 other states require the designation of provisional licensure on court filings; at least 11 other states require some or all of the following: all communications must include designation of provisional status; written disclosure of to client of provisional licensure status; disclosure of provisional licensure status to all clients.
Brandon Cummings		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all who didn't previously take a bar exam	<p>The provisional licensure should include all first time test takers, not just 2020 graduates. The pandemic affects all of us. While I understand that the limitation is essentially designed to screen out past test takers, those of us who were scheduled to take the exam for the first time could be included in provisional licensing without running afoul of the desire to not include past test takers.</p> <p>Ultimately a universal provisional licensing of all registered candidates would be even more fair. The pandemic affects everyone.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.

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Roza Ranjbar		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to all who didn't previously take a bar exam	<p>I have graduated in June 2019. I have Earned my J.D. Degree in June 2019, However I am a first time Bar taker for October 2020. I was registered to take the bar in February 2020, However I was diagnosed with Covid-19, 2 days prior the exam, and I was not able to take the Bar.</p> <p>At this point there is no difference between me and the students who graduated in Dec 2019. I am like other students a first time taker and the rule should apply to firs time Bar takers regardless of the date of graduation.</p> <p>Covid-19 has also affected my life and prevented me to take the February 2020 Bar Exam.</p> <p>I can also provide the documents, showing that I was detected with Covid-19 in late February.</p> <p>First Time Bar taker students, who impacted by Covid-19 should also be granted a provisional license.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Ian William Young		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to Applicants with Hlstory of Disability	Please see attached.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Benjamin Funk		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to Attorneys Licensed in Other Jurisd.	<p>I believe the proposed rule is reasonable under the extraordinary circumstances of the COVID-19 pandemic of 2020-2021, as well as the additional significant civil unrest and dramatic natural disaster of the summer of 2020. Recent law graduates are likely to face greater than the usual financial uncertainty and bear heavy burdens of debt. Enabling them to begin work as a provisionally-licensed lawyers and obtain durable licenses within a reasonable time will benefit both the profession, the public, and thousands of students.</p> <p>The proposed rule should be extended to include attorneys licensed and in good standing in another state who have moved to California and are taking or intended to take the California bar exam. Older, already-licensed, experienced lawyers from outside of California are more likely to have additional burdens as a family breadwinner. Provisional licensing will enable already licensed, experienced lawyers to contribute their skill in California, while preserving their means of supporting their family while moving to California. Their experience adds to the depth of expertise of the professional field, creating a benefit to the profession and to the public. Enabling them to begin work as a provisionally-licensed lawyers and obtain durable licenses within a reasonable time will benefit both the profession and the public.</p>	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Maimuna		State No Preference	Limitation to 2020 Law Graduates - Apply to Foreign Attorneys	<p>I have read the above proposed new rule. I have a question and concern regarding the rule. Are foreign attorneys who got their eligibility to sit for the bar exam in California during the specified period mentioned in the rule which is December 1, 2019 until December 31, 2020 will be given the provisional license as well?</p> <p>Under equal protection clause, do they deserve it ?</p> <p>I would like the Court to consider foreign attorneys as well if the Court finds it appropriate.</p>	No change. The rule applies the program to any person who became eligible to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061 between December 1, 2019 and December 31, 2020, either by graduating from a qualifying law school with a juris doctor (J.D.) or master of laws (LLM) degree during that time period, or by otherwise meeting the legal education requirements of Business and Professions Code sections 6060 and 6061 during that time period. Foreign attorneys i.e. those who are already admitted to the active practice of law in a foreign country or in another U.S. jurisdiction and are in good standing are qualified to take the California Bar Examination without having to complete any additional legal education. This rule is intended to address the needs of law graduates who have had little to no opportunity to take the California Bar Exam prior to the pandemic. It would not apply to those licensed in another state or foreign jurisdiction who don't otherwise meet the definition of law graduates.
Anonymous		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to Nov 2019 first time takers	Please include persons who have graduated in November 2019 and are appearing for the exam for the first time. Many could not appear in February 2020 because of covid fear / travel restrictions which were implemented by then.	No change. Although the State Bar refined the definition of 2020 graduates to include those who met graduation requirements in December 2019, it did so to provide a more comprehensive definition of 2020 graduates. The direction of the Supreme Court was to craft a program eligible to 2020 law graduates.
		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to Nov 2019 first time takers	I am concerned as to how repeaters from December 2019 and January 2020 graduates will be allowed to apply but not people who have graduated in November 2019 and not taken the February 2020 examination? So if I understand correctly if you graduated a few days later you can get provisional licensing even if you failed once? Wouldn't it be fair to include only people who have not taken nor failed the bar exam before and have graduated in the last one year? Otherwise it's not fair to other repeaters nor is it fair to first time takers who graduated a few days before december 2019.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Gabriel Buelna		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to prior bar takers scoring over 1390 / Retroactivity of Reduction in Bar Exam Cut Score	Please see attached.	Retroactivity of Reduction in Bar Exam Cut Score. No change. This goes beyond the scope of this rule proposal. Application of PLP to those scoring above 1390 on past exams. No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Kathleen Moore		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to prior bar takers scoring over 1390	<p>The Provisions License should be available ALSO to all persons who have achieved a 1390 or higher score on the February 2020 Bar Exam. There is no rational basis to exclude persons who have proven their competence, and permit persons who have never attempted, to practice while waiting to take and pass the Bar Examination during the Covid crisis. It either is an issue or it is not - it cannot be stated to only be an issue for 2020 Graduates as if 2019 graduates have been granted immunity from the effects of Covid.</p> <p>Remember - competence, protection of the public, consideration for ALL who are subject to taking the Bar Examination during Covid, is the issue to be remedied here. Not simply a boon for one randomly identified group and capricious exclusion of an already proven group. It is only one added sentence - and it is necessary.</p>	No change. As a matter of clarification, the rule is not limited to graduates from ABA approved schools, but rather all 2020 law graduates. The direction to the State Bar from the Supreme Court did not authorize the application of this program to graduates from earlier periods, regardless of the score they may have achieved on the exam. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school.

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Gabriel Clift		DISAGREE with the proposed Rule	Limitation to 2020 Law Graduates - Apply to prior bar takers scoring over 1390	<p>The decision to allow provisional licenses only to recent law school grads from ABA accredited schools is truly unfair and illogical. I took the Feb 2020 Bar Exam while the pandemic was already underway (we were warned and allowed masks during the test), and I scored above 1390 but below 1440. My essays were read a second time, but I was unable to get enough points to pass.</p> <p>Now the CA Supreme Court lowers the pass score to 1390 permanently (which I scored above in just the last test given) yet the Bar wants me to pay another \$700 to take the test again??? Why not give ME a provisional license? I've already invested heavily in my education and review courses and I've proven myself by scoring above 1390 already. If the test truly is fair, why isn't 1390+ score from Feb 2020 not equivalent to a 1390+ in Sep 2020?</p> <p>It makes no sense to automatically grant provisional licenses to those who have never even taken the Bar Exam and shown you what they can do.</p>	No change. As a matter of clarification, the rule is not limited to graduates from ABA approved schools, but rather all 2020 law graduates. The direction to the State Bar from the Supreme Court did not authorize the application of this program to graduates from earlier periods, regardless of the score they may have achieved on the exam. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school.
Jeffrey Bloeser		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to prior bar takers scoring over 1390 / Retroactivity of Reduction in Bar Exam Cut Score	<p>For the proposed rule on provisional licensing to NOT include bar exam applicants who have previously scored above a 1390 is an absolute joke. This entity has shown its true colors by not advocating a retroactive cut score for previous examinees (at the very least for February 2020 applicants who were faced with unaccounted for effects of COVID-19). To say that previous applicants are not qualified to have a provisional license because of 1) the inability of the Bar to advocate and push the State Supreme Court for retroactivity; and 2) poor timing for not graduating later than others, is beyond comprehension. I am aware the rule allows persons who became eligible December 1, 2019 the opportunity to apply for a provisional license, which likely would include some of the 374 people who scored above 1390 in February. But to not include the portion of 374 persons who were eligible before December 1, 2019 is illogical. Preventing those who have shown the minimal competence on the most recent, pandemic-stricken exam the opportunity to have a provisional license is nothing short of a pure dereliction of duty, which is supposedly "the advancement of the ethical and competent practice of law."</p> <p>I would write further, but I am a little tied up studying for an \$850 exam I have already proven competent enough to pass. I will attach the letter I wrote moving for retroactivity, although it was unfortunately not one of the several papers and petitions submitted to the State Supreme Court. (Please see attached)</p>	No change. direction to the State Bar from the Supreme Court did not authorize the application of this program to graduates from earlier periods, regardless of the score they may have achieved on the exam. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. Retroactivity. No change. The comment is beyond the scope of the proposed rule.
Marilyn Wade		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Apply to prior bar takers scoring over 1390 / Retroactivity of Reduction in Bar Exam Cut Score	<p>For the proposed rule on provisional licensing to NOT include bar exam applicants who have previously scored above a 1390 is an absolute joke. This entity has shown its true colors by not advocating a retroactive cut score for previous examinees (at the very least for February 2020 applicants who were faced with unaccounted for effects of COVID-19). To say that previous applicants are not qualified to have a provisional license because of 1) the inability of the Bar to advocate and push the State Supreme Court for retroactivity; and 2) poor timing for not graduating later than others, is beyond comprehension. I am aware the rule allows persons who became eligible December 1, 2019 the opportunity to apply for a provisional license, which likely would include some of the 374 people who scored above 1390 in February. But to not include the portion of 374 persons who were eligible before December 1, 2019 is illogical. Preventing those who have shown the minimal competence on the most recent, pandemic-stricken exam the opportunity to have a provisional license is nothing short of a pure dereliction of duty, which is supposedly "the advancement of the ethical and competent practice of law."</p> <p>I would write further, but I am a little tied up studying for an \$850 exam I have already proven competent enough to pass. I will attach the letter I wrote moving for retroactivity, although it was unfortunately not one of the several papers and petitions submitted to the State Supreme Court.</p>	No change. The direction to the State Bar from the Supreme Court did not authorize the application of this program to graduates from earlier periods, regardless of the score they may have achieved on the exam. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. Retroactivity. No change. The comment is beyond the scope of the proposed rule
Ali M. Huda			Limitation to 2020 Law Graduates - Apply to Repeat Takers	Please see attached.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Anonymous		DISAGREE with the proposed Rule	Limitation to 2020 Law Graduates - Attorneys Licensed in Other Jurisd.	The information on the State Bar website does not adequately, or makes no attempt to explain, why attorneys who became eligible to take the bar before 2020, and are already licensed in other jurisdictions, should not be equally eligible for participation in the Provisional Licensure Program. Whatever justifications led to the proposal of such a rule for 2020 graduates applies with equal force for already-licensed attorneys who recently moved to California and are and have been equally affected by COVID-19 and its impact on the bar exam. Why should law school graduates and people who became eligible to take the bar before 2020 be excluded from this program? Curiously, the proposed rule would allow people who took the bar exam in Feb. or Oct 2020 but failed the bar exam to suddenly become certified, while people who, for example, took the bar exam once in another state in an earlier year and passed with a good score and who have already been practicing, are excluded--people who actually failed the bar exam are being rewarded while people who passed a bar exam in another jurisdiction but who, for example, moved to California recently are excluded for no apparent reason. As a result, recent graduates who failed the CA bar exam, regardless of how low their score, will be more competitive and likely obtain more available jobs, simply because they happened to graduate later. Again, the State Bar makes no attempt to adequately explain this aspect of the proposed rule. Already-licensed attorneys, but who recently moved to CA to start lives here and seek employment, are as equally impacted by COVID-19 as people who graduated from law school 3 or 4 months ago; regardless, under the proposed rule, recent graduates who took and FAILED the exam, REGARDLESS OF SCORE, will be more competitive for employment in CA than attorneys who have been practicing for months or years. Such a system is nonsensical and illogical.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
Carmen McDonald	Los Angeles Center for Law and Justice	State No Preference	Limitation to 2020 Law Graduates - Attorneys Licensed in Other Jurisd.	I think the bar should also look at the qualified legal services provider rule, so that we can hire folks who are licensed in other states. The rule bars folks who have a failed attempt at the bar, which seems extra burdensome right now when they can't sit for the bar.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.

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Alfred Lomax Carr		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - Attorneys Licensed in Other Jurisd. / Bar licensure out of state attorneys	Does the provisional rule include attorneys that are approved to sit for the Attorney's exam given their qualificaitons - a member in good standing in another jurisdiction; that has practiced law for more than 5 years in that jurisdiction; and has submitted the Moral and Character Fitness Application for review in California?  Why not allow those applications to waive into California and immediately obtain their California bar license? If need be, those applicants could also seek the supervision of a currently licensed attorney.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates. The State Bar of California does not waive bar requirements for attorneys licensed in other jurisdictions. The pandemic does not argue for changing that.
Noel A Elgrably		DISAGREE with the proposed Rule	Limitation to 2020 Law Graduates - Out of State Law Graduates	This proposed rule discriminates against those that have endeavored and worked hard at Law Schools outside of CA that registered to take the Bar exam in CA thus showing real concerted interest in practicing in CA. Please open up this opportunity to those that have already registered to take the Bar in CA.	No change. The rule as drafted applies to all 2020 graduates, whether in state or out of state.
Anonymous		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - redefine dates	Your qualifying period should be from November 1, 2019 to October 31, 2020. Why would you include November 2020 and December 2020 graduates? These graduates would not have been eligible for the July 2020 examination, which is now in October 2020, and they are therefore not affected by the issues with this exam. People who have passed in November 2019 have waited 10 months to give the exam in october but you are not currently including them. They should be included. November 2020 and December 2020 graduates should not be handed provisional licensing when ones who have truly suffered are not being included. It does not seem logical that they will graduate and get provisional licensing immediately without having studied a day for the bar exam. If a February 2021 exam is held these candidates immediately get option for licensing plus they are able to appear for the Feb 2021 exam in 2-3 months. If the exam is not held the court will then decide appropriately.	No change. Although the State Bar refined the definition of 2020 graduates to include those who met graduation requirements in December 2019, it did so to provide a more comprehensive definition of 2020 graduates. The direction of the Supreme Court was to craft a program eligible to 2020 law graduates. The Supreme Court did not appear to envision not applying it to those who graduated in late 2020.
Anonymous		AGREE ONLY if Modified	Limitation to 2020 Law Graduates - refine dates / MPRE Requirement	I have 2 comments:  1. The eligibility period should commence from November 2019 otherwise you will be missing a few students who graduated in November 2019 (most graduating at the end of the year would graduate in November and not December) and were not able to take the February 2020 exam because of COVID. Most other jurisdictions have gone back 18 months from the date of the application for provisional licensing. If you are concerned about the number of eligible persons increasing, you can restrict this licensing to only first time takers as most other jurisdictions have done.  2. If I understand correctly, you require that the MPRE be taken, it has not been possible for graduates to take the MPRE this year as you have to take the MPRE in person. Unless, they allow MPRE to be taken online or in person MPRE exam is safe this condition should not be enforced on graduates, you are then essentially forcing them to expose themselves to COVID. This may be taken during the course of provisional licensing but before admission to the Bar as attorney.	2020 Law Graduates. No change. The refinement of the term 2020 law graduate to include those who met graduation requirements in December 2019 was intended to capture the spirit of the Supreme Court's direction. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. MPRE. <b>The Working Group could consider requiring</b> the PLL to sign up for the next available MPRE. Failure to achieve a passing score on the MPRE will result in termination of the provisional licensure.
Shireen		AGREE ONLY if Modified	Limitation to 2020 Law Graduates / Limitation to 2020 Law Graduates - Apply to prior bar takers scoring over 1390	I request the court to please give all provisional licenses not just dec 2029 till 2020.  At least give provisional licenses to all applicants who achieved new passing cut scores 1390 +...I graduated from law school in 2016. But, I always ended up 1390+ on my past 4 attempts.  So, the court should expand and allow all applicants to get PLL.	No change. The direction to the State Bar from the Supreme Court did not authorize the application of this program to graduates from earlier periods, regardless of the score they may have achieved on the exam. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school.
Tyler G		AGREE ONLY if Modified	Limitation to 2020 Law Graduates / MPRE	Some students will be completing Law School by December 31, 2020. Those students will be otherwise qualified to sit for the bar—February 2021. Will those students qualify for provisional licensure? Please clarify because the language is ambiguous. Additionally, those students completing law school in December typically take the bar exam in February and the MPRE in March. Please clarify whether or not the MPRE is a requirement for provisional licensure? If so, I propose that this requirement be removed. Under the circumstances many have been unable to take the MPRE this year. An active finding of good moral character, or an ongoing investigation without derogatory information should suffice.	No change. The rule provides that those who graduate between December 1, 2019 and December 31, 2020 are eligible to participate in the program if they meet all other program requirements. MPRE. <b>The Working Group could consider</b> requiring the PLL to sign up for the next available MPRE. Failure to achieve a passing score on the MPRE will result in termination of the provisional licensure.
Al Parsad		AGREE ONLY if Modified	Limitation to 2020 Law Graduates / Pathway to Licensure	Please see attached.	Application beyond 2020 graduates. No change/ Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates. Pathway to Licensure. No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Anonymous		AGREE ONLY if Modified	Limitation to first time takers / Limitation to 2020 graduates	This should be restricted to first time takers only. Other states, except for Delaware, have restricted this to first time takers and have gone back eighteen months from date of application. That may be a more sensible approach.	No change. The Working Group discussed whether the program should be limited to those who had never taken a bar exam, and concluded that in order to apply the program with the flexibility desired by the Supreme Court to provide 2020 law graduates with the options and opportunities to take one or several exams during the pendency of the provisional licensure, no such limitation should be imposed.
Luis Haro		AGREE ONLY if Modified	Make PLLs State Bar Licensees	The proposed regulations do not make clear whether provisional licensees are "members of the California bar." Whether licensees are "members of the California bar" is crucial for eligibility to particular law-related jobs. It's also unclear whether licensees will have a state bar number. Please clarify this in the final regulations.	No change. The PLL, like others who are specially admitted, are not licensees of the State Bar of California. It is important to maintain the distinction between the fully licensed lawyers and those who have limitations on their ability to practice.
Mitchel Winick	Monterey College of Law	AGREE with the proposed Rule	Malpractice Insurance	The Provisional Licensure Rules should include a similar requirement as is found in: Rule 3-410 Disclosure of Professional Liability Insurance  A [provisionally licensed] member who knows or should know that he or she does not have professional liability insurance shall inform a client in writing, at the time of the client's engagement of the [provisionally licensed] member, that the [provisionally licensed] member does not have professional liability insurance whenever it is reasonably foreseeable that the total amount of the [provisionally licensed] member's legal representation of the client in the matter will exceed four hours.	No change to the proposed rule. The rule requires the PLL to abide by the laws of the State of California relating to the practice of law, the California Rules of Professional Conduct, and the rules and regulations of the State Bar. This covers the obligation to inform clients if not covered by malpractice insurance.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Anonymous		AGREE ONLY if Modified	Malpractice insurance	Has there been any discussion with professional liability carriers to offer coverage for provisionally licensed lawyers or will the supervising attorney's professional liability insurance cover the provisionally licensed lawyers?	No change.
Leslie Peralta		AGREE ONLY if Modified	MPRE	Please see attached.	<b>The Working Group could consider</b> requiring the PLL to sign up for the next available MPRE. Failure to achieve a passing score on the MPRE will result in termination of the provisional licensure.
Merhawie Woldezion		AGREE ONLY if Modified	MPRE	It is important to recognize the steps that the California State Bar has taken in order to ensure fairness in the licensure process and provide a path to bar admission for those adversely affected by the COVID-19 pandemic. Nonetheless, it has come to my attention that other requirements to bar admission have also been impacted by COVID-19; namely the Multistate Professional Responsibility Examination (MPRE). All administrations of the MPRE this year have been administered in-person without an online or safe in-person alternative. Irregularities and confusion of social distancing policies have been reported to affect the most recent administration of the exam. As such, I have been told that bar applicants intending to take the examination have postponed taking the exam so as to not put themselves and their loved ones who they live with at risk. In consideration of these circumstances, and similar to the rule with respect to the character and fitness determination, eligibility for the provisional licensure may additionally include a modified stipulation that applicants be registered for the soonest upcoming MPRE exam. Further, if the applicant were to not receive a passing score on the exam for which they have registered, the provisional license may be revoked. Though it should be recognized that the tested matters on the MPRE are non-trivial and important to ensure the ethical practice of lawyers, a passing grade in a professional responsibility course is a requirement in nearly all law schools. Should you have any questions regarding this comment, please do not hesitate to contact me.	<b>The Working Group could consider</b> requiring the PLL to sign up for the next available MPRE. Failure to achieve a passing score on the MPRE will result in termination of the provisional licensure.
Ghobad Doostmohammadloo		AGREE ONLY if Modified	MPRE / Definition of 2020 Law Graduate	<p>1- We only have right to practice in temporary two years opportunity and if we as a Provisional License lawyer have to take the MPRE exam, it will take time because due to COVID and the possibility of the unsuccessful attempts while MPRE exam in not online and we must take it in person.</p> <p>2- You did not mention, whether 2020 LL.M graduates are included or not???? what do you mean "ALL" is it all graduated students in 2020, or all graduate students including foreign lawyers who has been practicing law in out of US.</p> <p>3- I am 2020 graduated LL.M student from USC and I have passed my moral character as a Foreign Legal Consultant certified, Could you please explain, Are Foreign Leagl Consalatt Lawyers who has been graduated in 2020 will be eligible to get Provisional License lawyer?</p> <p>4. Please give us chance to get MPRE exam whiting specific time during the two years licensing because If you required us to take MPRE before issuing the license, we will lose time and job. Howvere if MPRE is required please let us enough time to take it or consider our "Legal Professional" courses which we have taken and passed in Law School instead of the MPRE exam score.</p>	MPRE. <b>The Working Group could consider</b> requiring the PLL to sign up for the next available MPRE. Failure to achieve a passing score on the MPRE will result in termination of the provisional licensure. Definition of 2020 law graduate. No change. The proposed rule provides that 2020 law graduates include those who graduated in 2020 from a qualifying law school with an LL.M degree.
Aaron Mohamed		DISAGREE with the proposed Rule	No provisional licensure program	<p>The last thing we need in California more attorneys. Even worse, we do not need attorneys of less training and less proven ability to cope with complicated legal rules.</p> <p>The proliferation of attorneys who are not properly trained or do not have the requisite ability is a detriment to access to justice for the residents of our state.</p> <p>As a civil attorney who practices regularly in complex and detailed areas of law, it is highly important to have a counterpart (opposing counsel) who has a deep appreciation for the importance of, and a deep understanding of - not just certain technical applications of the law - but a realistic view of the practical results of how the law works, and how to properly advise clients.</p> <p>The law is subtle and requires complex and nuanced thinking.</p> <p>The State Bar Association exists, at least in part, to limit the number of attorneys who are licensed to practice in our state, and to make sure that the quality of representation is above a certain threshold.</p> <p>If someone is going to practice law in our state, they should be able to pass the Bar exam.</p>	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Alyssa Skolnick		DISAGREE with the proposed Rule	No provisional licensure program	I do not believe Covid-19 has caused the same need for new lawyers as it did for medical professionals. Passing the bar exam should still be required in order to practice law in California.	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Angel L Hess		DISAGREE with the proposed Rule	No provisional licensure program	<p>The State Bar examination is a minimum competency test. Minimum competency. I believe all new lawyers should have mentors to help them to navigate the legal landscape while they are learning how to be good lawyers, but allowing them to practice law without passing even a minimum competency test is going too far. It places the public at risk and it gives a very bad example to others who have not passed the bar. Such a policy will encourage others to practice law without a license because now there is no standard. You just have to know a lawyer who will look over your work and you can be a lawyer. Very bad precedent to make and endangers the public.</p> <p>Another problem with the idea of allowing law students to pretend to be lawyers so long as they have a mentor is the cost to the public for the mistake that is caught too late. A non-lawyer cannot be covered under malpractice insurance policies because they are not lawyers.</p> <p>It also undermines the public's trust in the profession. Are you a lawyer or just a law student acting like a lawyer?</p> <p>Please do not make it possible for a non-lawyer who has not passed the bar to practice law even if he/she has a mentor who is willing to help him/her.</p>	No change proposed. The State Bar was directed by the Supreme Court to develop a provisional licensure program.

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Anonymous		DISAGREE with the proposed Rule	No provisional licensure program	There seems to be no good justification for allowing recent grads to bypass the bar exam. This is a back door for unqualified applicants to be admitted to practice. There are already so many marginally-qualified people who practice law that the last thing California needs is a huge crop of people giving terrible advice.	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
gil stein		DISAGREE with the proposed Rule	No provisional licensure program	Bar Pass rates are usually below 50%. This means that at least half of these provisional lawyers will probably not pass the bar exam. There is no public health reason that the exam cannot go forward. It can be given at more and larger venues to allow for social distancing. People can wear masks and now that there will be a test that provides results in minutes, test takers can be tested on site each day of the exam and know within a half hour if they are good to go. Would you go to a doctor who was provisionally certified? I sure wouldn't so why should the public be afflicted with attorneys who have not passed our bar exam?	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Gregory Alexander Jackson		DISAGREE with the proposed Rule	No provisional licensure program	<p>This proposal would be absolutely devastating to the integrity of the California Bar. This would allow unqualified candidates to practice law and would undoubtedly lead to a significant rise in malpractice. Real people and clients would be hurt by this proposal. It will also lower the respect and standing of public perception of CA attorneys, negatively impacting both currently practicing attorneys and anyone who would have sat for the 2020 Bar by being associated with this floodgate class.</p> <p>The Bar exam exists for a reason. If it cannot be held safely due to COVID-19, it simply must be postponed until such time it is safe to hold. There is zero valid reason to allow unqualified candidates to practice law, regardless of whether or not they are being "supervised" by licensed attorneys (and who will agree to supervise? How will this be enforced? How will you, the State Bar, ensure the "supervising" attorney is actually looking over every single piece of attorney work product?).</p> <p>As attorneys we strive to support the integrity of our profession. This will undoubtedly damage the profession. What is going to happen when an unqualified candidate later fails the Bar Exam? Will they automatically lose their provisional license, and be exposed to malpractice lawsuits or preemptive Bar discipline for any negative client outcomes incurred while they were practicing law before passing the bar? Any negative outcome will be blamed on these candidates.</p> <p>This rule cannot pass. It would be devastating to the profession and the standing of California attorneys.</p>	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Jeffrey A. Hartwick		DISAGREE with the proposed Rule	No provisional licensure program	<p>I OPPOSE the proposed rule to give law school graduates the ability to provisionally practice law.</p> <p>We must keep high standards in our profession. All attorneys in California must pass the California Bar Exam and pass a moral character check. There is a reason for this: lawyers work with the public and attorney incompetency or moral turpitude can injure people. The proposed rule will lower standards. We should not dispense with these requirements, even temporarily.</p> <p>States like Texas and Alaska have just postponed the July bar exam for a few months. California should do the same thing and postpone the exam to January or February. The bar exam can be given with social distancing protocols if they are needed.</p> <p>Covid-19 has brought many challenges to all of us, including lawyers. But we should not dilute professional standards when the solution is simply to postpone the exam briefly. This would protect the public and maintain competency in the profession.</p> <p>OPPOSE the proposed rule.</p>	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
John Boyle		DISAGREE with the proposed Rule	No provisional licensure program	California has too many lawyers, and too many of those are bad lawyers. A rigorous Bar Exam is the only remaining tool to maintain a level of competency in the profession, The notion that there will be meaningful supervision is laughable.	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Nicholas Grossman		DISAGREE with the proposed Rule	No provisional licensure program	This proposed rule is completely ludicrous and unnecessary. There is already a huge over-supply of attorneys in this state, this will further drive down prices for legal services and put more attorneys out of business. Instead of creating a provisional licensure program, why doesn't the Bar do anything about all the unemployed or underemployed licensed members in this state?	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Rachel Ostrander		DISAGREE with the proposed Rule	No provisional licensure program	This is a dangerous proposal that would allow unlicensed lawyers to practice law. Lawyers who otherwise would never pass the bar will be able to hold themselves out as lawyers to the public. There are already so many poor lawyers in practice even with our stringent bar exam requirements, allowing unlicensed students to practice law would be a disaster out to our profession.	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.



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JOHN MANOOGIAN		DISAGREE with the proposed Rule	No provisional licensure program	<p>I have been actively practicing since December 1974. my SBN is 62005.</p> <p>I currently have a case involving an attorney with State bar #327701... indicating the admission of 265,696 attorneys since my own admission.</p> <p>In 1978, in anticipation of the passage of Prop. 13, I believe, then gov. Jerry brown commissioned a study to find ways to reduce the overall cost of the UC system to the State... the recommendation came back to close ALL the law schools, recognizing the gross over supply of Lawyers in the state... the discussion focused on Hastings and McGeorge, both schools with large, economically powerful alumni groups in the legislature and elsewhere....</p> <p>the discussion died , quietly!</p> <p>Then the legislature chose to spend another Billion to start a NEW law school at Irvine...</p> <p>My practice is FAMILY LAW. As basic a consumer practice as there is, outside the criminal courts. I have seen the practice overrun by young, inexperienced and undertrained admittee's who view each case as an opportunity to bill hours, rather than to help the clients, efficiently settle their disputes.</p> <p>This proposed Rule will only exacerbate the problem, by allowing even less qualified students begin practice and compete for available cases.</p> <p>Advertising and public promotion in our profession is already crass and uninformative, to say the least. More lawyers will not help .</p>	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Valerie Gonzalez		DISAGREE with the proposed Rule	No provisional licensure program	<p>There is no need for a program such as this, as there is no shortage of attorneys. Further, this program perpetuates the elitist pervasive within the industry by rewarding those with connections and access to firms and resources and disadvantage for those who do not have such access. Those who have more access to these resources tend to be overwhelmingly white students while Hispanic students remain disadvantaged. This program gives 2020 students an inaccurate sense of stability when the reality is firms are laying off and there are hiring freezes nationwide. Thus this program is a fake bandaaid on the bullet hole that is the pandemic. The state bar needs to focus on executing the bar exam competently and timely so as not to disadvantage students. This program is not it.</p>	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program.
Taylor O'Neal		DISAGREE with the proposed Rule	No provisional licensure program / Retroactivity of Reduction in Bar Exam Cut Score	<p>I believe that the Provisional Licensing Program is a potential injury to the public. I have also talked to many fellow legal peers who also believe that this program is extremely injurious to the public. I feel that it is extremely risky to give provisional licenses to 2020 Graduates who have never even attempted to take a CA bar examination. Further, the fact that these graduates are allowed to work as "attorneys" with supervision while others who have exceeded the cut score are not is baffling. The mere fact that students with provisional licensing are allowed to fail the bar exam 5 times before 2022 demonstrates the failure to achieve "minimum competency," a standard that the California State Bar and California Supreme Court adhere to. The Provisional Licensing Program should also not be a substitute remedy to those students who have already achieved the cut score of 1390. Since the State Bar did not find it to be "too much work" to grant Provisional Licensing to 2020 grads, granting retroactivity to those who have already met the "minimum competency" requirement should not be of any more work.</p> <p>Ultimately, admitting students who have already achieved the 1390 cut score and demonstrated "minimum competency" is far less injurious to the legal field and the public as opposed to granting provisional licenses to other students.</p>	No change. The State Bar was directed by the Supreme Court to develop a provisional licensure program. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Misrepresented self under the name of a member of Board of Trustees		DISAGREE with the proposed Rule	Not addressing comments to the Rule	<p>What is the difference between this and a post bar associate waiting for bar results? This is another shameful attempt by the court to continue to disregard the needs of students during the pandemic. Why on earth would any employer hire someone to hold their hand, and then proceed to let them take time off later down the road to take the exam? You are arrogant and have your head in the sand if you think this is an effective program, and this class of law students will do everything in their power to make sure that the racist Bar Exam is abolished, the NCBE is brought down for the sham it is, given that their President Judy is not a competent lawyer since she was licensed through diploma privilege, and the California Board of Bar examiners actually starts to promote ethics in the profession rather than take in the profits or fall asleep during zoom meetings. This is an absolute disgrace and a slap in the face to students who have already lost jobs, housing, healthcare, and loved ones due to the courts inability to act with courage. Cowardice. We will never forgive you for how you have treated us and I cannot wait for professionals with empathy and ethics to finally replace your corruption and inadequacy.</p>	No change.
Anonymous		DISAGREE with the proposed Rule	Not addressing comments to the Rule	<p>Should Hailyn Chen serve as the President of the working group? She's already a trustee. She also pushed for the payment policy division between those doing volunteer and regular work.</p> <p>Having a Big Law partner to chair this working group at a time where capitalism and private interests have only exacerbated racial and economic inequality in California, the country, and the world more broadly, is incredibly out of touch.</p>	No change.
Anthionette Kamara		AGREE with the proposed Rule	Not addressing comments to the Rule	Please see attached.	No change.
Anonymous		AGREE ONLY if Modified	Not addressing comments to the Rule	<p>By citing to other licensing exams you are showing your incompetence even more. I do not have faith you will grant diploma privilege under the guise of "protecting the public" with your "minimal competency test" which none of you would probably be able to pass now. If you truly want to embody what you are saying why don't you create periodic licensing exams for all lawyers? If you want to do what the other professions are doing...doctors must get re-certified in internal medicine + their speciality every 10 years. So why don't you do that then? The only way to make this an equitable solution is to make this test an open book exam at this point.</p>	No change.

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Markus Aloyan		State No Preference	Not addressing comments to the Rule	<p>This makes no difference to us test-takers. I've personally lost 15 pounds in a month because of the Coronavirus, I thought I was dying. My main anxiety/panic inducing thought while I was sick was "I hope I pass the bar exam." To top it all off, peoples' houses are on fire. Imagine if I was homeless, had COVID, and still tried to do 12 hours study days. Do the right thing here. Make it proctor less. Another state did it yesterday. States WITHOUT fires are going proctor less, it makes sense for a state that is on FIRE (2 state-emergencies with the virus and fire) to do it.</p> <p>Do the right thing. GO proctor less. make it an open book exam. Be on the right side of history. This is supposed to be lawyers regulating lawyers. Lawyers want you to do the right thing.</p>	No change.
		State No Preference	Not addressing comments to the Rule	I heard in a public meeting session that the State bar assumes law firms will pay for their incoming associates to be provisionally licensed under this program. I'm skeptical of the perceived benefits. Incoming law firm associates typically perform their jobs with minimal impact for the several months before they are formally admitted to the bar in a typical year.	No change.
Anonymous		DISAGREE with the proposed Rule	Not addressing comments to the Rule	<p>In light of everything that has been happening in the state of California and across in the world....These students have been totally disadvantaged. This world is upside down and you are wanting them to focus on a test because back in the day you had to take a test...There are a ton of options for you to use if we ever get back to a social state whereby you can determine if they have the basic knowledge to be a lawyer, I just am in awe as to the lack of compassion the decision makers have in making these decisions. Covid, National disasters, racial unrest...what is it going to take for this high court to wake up. Listen to your students....open you hearts and minds as they are the future.</p> <p>Thank you for the opportunity to respond.</p>	No change.
Emmanuel Ahme		State No Preference	Not addressing comments to the Rule	I am a recent graduate interested in legal aid or clinical work. Can the State bar provide Direct Attorney Supervision and assistance to find training positions?	No change.
Paul Arrow		AGREE ONLY if Modified	Pathway to Licensure	Please see attached.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Rebekah Merrill-Callaway		AGREE ONLY if Modified	Pathway to Licensure	<p>I implore the bar to use this opportunity to enlarge this program to become an alternative path to licensure. You are halfway there!</p> <p>Allowing applicants to work as "attorneys" for over one year, submit to supervision and possible extra MCLE credits, only to then be told you are not "minimally competent" until you pass the exam is illogical.</p> <p>How do you account for the applicant who, because of financial limitations, work and family obligations, cannot study for the exam with proper resources, who then does not pass the exam? That person is now not qualified to be either an attorney or a supervised attorney?</p> <p>As attorneys we research, and discuss issues with colleagues when dealing with clients. No attorney, at least not a competent one, would rely on rote memorization to answer a client's question or handle matters in court. The bar does not test in a manner consistence with actual practice. A provisional license program is compatible with how lawyers practice and should be the basis for admission.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Savannah Jensen		AGREE ONLY if Modified	Pathway to Licensure	Please see attached.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Taylow Matthews		AGREE ONLY if Modified	Pathway to Licensure	<p>(a) State Bar Provisional Licensure Program</p> <p>(3) Upon completion of the Provisional Licensure Program, that is after a period of 12 months of supervised practice, one who was provisionally licensed pursuant to this rule shall be fully admitted to the State Bar of California. Successful completion of this program shall waive the requirement that the provisionally licensed lawyer take and pass the California Bar Exam. All other requirements must be met.</p> <p>"Successful" shall be defined as: A positive Moral Character result, passing the MPRE, and no record of complaints, discipline, or sanctions while serving as a Provisionally Licensed Lawyer.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Chase Stone		DISAGREE with the proposed Rule	Pathway to Licensure	Please see attached.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Anonymous		DISAGREE with the proposed Rule	Pathway to Licensure	The provisional licensing program delays careers, as no firm is willing to hire individuals with a provisional license and then give them time to study for the bar exam. The requirement for taking the bar exam should be removed, and replaced with other guardrails (e.g. CLEs). I'm not sure if this too much to ask in the middle of a pandemic, given that the state bar did not even apply scores retroactively despite their own rule that scores remain valid for 5 years.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.

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Nadia Simone		AGREE ONLY if Modified	Pathway to Licensure	<p>I'd agree with the rule if it were modified to allow full admission to the bar through the practical demonstration of competence and without the bar exam requirement.</p> <p>I think this rule/program is a good start, but I don't see the benefit to either employers or potential Provisionally Licensed Lawyers. It seems like the idea is to allow us to start working and practicing law, but it doesn't seem like we'd be anything more than glorified law clerks. Participating in this program isn't going to do much in the way of alleviating the financial burdens we face. Employers are going to pay us at attorney salaries, or even close to it in most cases, but we're still going to be held to the same standards and expectations, including sanctions, discipline, and MCLEs.</p> <p>Based on the comments that came up during the development process, it seems like it's going to be a hard sell to most employers in its current form. Who would want to hire someone knowing they will need to take two months off in the not so distant future? It's a complete disruption to all parties involved. Additionally, I have heard from other attorneys that they are not sure how receptive clients would be to PLLs as well. If the program were modified to allow admission to the based on hitting certain practical requirements throughout and waiving the necessity of the bar exam, I'd think this would be a much more attractive program to everyone.</p> <p>As someone who is considering taking advantage of this rule, I don't see the value in being allowed to demonstrate competence for two years only to have to stop to take a test that won't actually measure competence to prove that I'm competent. It just seems counterintuitive.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Jenia Washington		AGREE ONLY if Modified	Pathway to Licensure	<p>Why do they have to take the bar if they will have been practicing under supervision? Why are they subjected to full discipline if they are not full attorneys?</p> <p>Modify it to let the get licensed like a practice based admission.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Anonymous		AGREE with the proposed Rule	Pathway to Licensure	The program should allow participants to gain full licensure upon the expiration date, since there will have been sufficient evidence of participants' qualification to practice law by the end of it.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Anonymous		AGREE ONLY if Modified	Pathway to Licensure	<p>Provisional licensure is an unrealistic waste of time and shows how shockingly disconnected those in charge of these rules the are from the actual practice of law and the job market. An individual taking part in this program will be competing for these positions with similarly qualified law students (who will perform the same type of work for free) and attorneys that are completely barred and will not require supervision. If an individual can be deemed minimally competent to practice under the supervision of a licensed attorney for TWO YEARS with no perceived harm to the public, there is no reason to make that same individual that has essentially been practicing for 2 years take unpaid time off of work, spend thousands of dollars and hours to take the bar exam. With unemployment in the US at an all time high, the state bar needs to selfishly stop standing in the way of grads who have completed years and years of expensive schooling and allow us to work to support our families.</p> <p>The Bar should allow for supervised practice that results in a license without having to eventually take the bar exam. The supervised practice program as they plan to implement it is a waste of time and all members should be ashamed of themselves for working so tirelessly to make examinees and recent grads lives a living hell to protect their financial interest in the implementation of the exam.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Sam Thompson		AGREE ONLY if Modified	Pathway to Licensure	Please see attached.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Jason Jacobs		AGREE ONLY if Modified	Pathway to Licensure	Provisionally licensed attorneys who practice for at least a year should be admitted to the State Bar of California when the provisional license program terminates WITHOUT sitting for a bar exam. The stated purpose of the bar exam is to ensure minimum competency for those entering the legal profession. By receiving a positive moral character determination, completing the training requirements listed in the rule, and practicing under the supervision of an attorney without having any sanctions imposed for a year, 2020 graduates will have demonstrated that they are minimally competent to practice law in the state of California. This makes sitting for a bar exam redundant.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Samantha Gatton		AGREE ONLY if Modified	Pathway to Licensure	<p>The provisional license should provide a conversion option. Takers of the October 2020 exam should be offered this option,( possibly even a broader group). It should included both an hour and an MCLE requirement.</p> <p>From Oct. 2020 through July 2022, the licensee who has completed 500-1500 (amount determined by committee) hours, has completed 50 (amt. determined by committee) of MCLE credits should be afforded the opportunity to convert to a fully licensed attorney, as long as Moral Character has been satisfied. Allowing those who will sit for this very trying bar exam in October an opportunity to not have to retake the exam but have an alternative route to being a fully functioning attorney in the State if California.</p> <p>Thank you for the opportunity to comment.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Dr. Lehua Yim		AGREE with the proposed Rule	Pathway to Licensure	Please see attached.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Manish Ankola		AGREE with the proposed Rule	Pathway to Licensure	<p>I fully support provisional licenses for the 2020 law school graduates under the circumstances.</p> <p>In addition to passing the Bar, I would like to propose one provisional licenses be admitted as a fully-licensed attorney to the Bar (whether they take/pass the bar in two years) following some minimum requirements like: (i) minimum 6 months of working under the supervision of fully-licensed attorney; (ii) completes 50-100 hrs of MCLE classes that Bar could mandate; AND (iii) 150-200 hours of pro bono service. All the other rules regarding moral character, discipline, etc. stays.</p> <p>Such a program could be deemed as mandatory "residency" program like medical students have, or "practical training" requirements.</p> <p>Definitely with Covid, the wildfires, unemployment, Black Lives Matter movement, and everything that's going on around us, there is definitely an increased need for qualified attorneys and increased need for legal representation of the indigent and the oppressed.</p> <p>Provisional licensure with a requirement of 150-200 hours of pro-bono services would be a win-win for everyone - the community, the needy and for the licensures.</p>	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Robin Kilgore		AGREE ONLY if Modified	Pathway to Licensure	If a student graduated from law school, pays the provisional license fee, has an offer from a supervising attorney, takes the required course, and works for a year minimum for the supervising attorney, why is it necessary to then sit for the exam? That's absurd. They should be required to do CLEs, and not be forced to pay additional fees and be tested again if they have an attorney vouching for them. This could be an excellent way to re-evaluate the entire Bar Exam to include apprenticeship like other countries do, like Canada. *Canada is a country which has open book Bar Exams, btw, which makes sense because trying to practice law without access to the rules is a form of malpractice.	No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Sydney Selix		AGREE with the proposed Rule	Pathway to Licensure / Fee	<p>I agree with the proposed Rule, although would be in favor of a process to become licensed at the end of the provisional period other than sitting for the exam after two uninterrupted years of employment.</p> <p>The proposed fee is unclear in purpose and in calculation. Would this be in addition to the fees already surrendered in the bar application process? Is it purely to dissuade any indigent applicant from seeking a provisional license?</p>	Fee. The State Bar sympathizes with all that 2020 law graduates - and others - have had to struggle through, and understands that this may be a burden for some PLLs. <b>The Working Group should consider</b> further reductions to the fee. Pathway to Licensure. No change. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.
Claire Solot	Legal Services Funders Network	AGREE ONLY if Modified	Pathway to Licensure / Transition from PTLs to PLP	Please see attached.	Pathway to Licensure. No change proposed. The Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam. Transition from PTLs to PLP. No change. To ensure all of the requirements are satisfied and the applicant and supervising lawyer meet the eligibility requirements for participation, it is important that all applicants follow the same process to apply for the program.
Nathan Jamieson		DISAGREE with the proposed Rule	PLP relationship to client billing rates	<p>How is the rule at all any different from a Certified Law Clerk?</p> <p>The reason for a provisional licensure program is to permit recent graduates the ability to retain their employment positions despite the upheaval the pandemic has caused in part with respect to the bar examination when such employment may be conditioned upon admission into the bar. In turn, admission to the state bar is likely relevant for employers because employers can charge more for a licensed attorney's hour than for a law clerk, whether certified or not.</p> <p>With the exception of the rate at which a recent graduate may bill, a recent graduate's work duties likely would vary very little regardless of whether a recent graduate is classified as a law clerk or first-year associate.</p> <p>It is the billable rate that is most relevant for employers and the reason why employers would revoke offers for recent graduates.</p> <p>Therefore, any rule must take this into account lest the new rule will be toothless.</p> <p>For instance, here, it seems very likely that clients will not accept, and instead demand discounts, for work done by provisionally-licensed attorneys, especially considering that the new rule requires that licensed attorneys directly supervise the work of provisionally-licensed attorneys, thus likely increasing the bill to the client.</p> <p>If clients demand discounts for the work done by first year attorneys, such demands defeat the entire purpose for the rule's implementation in the first place.</p>	No change.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Jeremy Edwards		AGREE with the proposed Rule	Practice areas / Eligibility for Participation	<p>I agree there should be a special program with flexibility to meet the heightened challenges posed by the present circumstances. However, I strongly disagree the program should extend to criminal practice. I do not believe it is constitutional under 6A's guarantee of "counsel" for a student who has not passed the bar to represent a client as if they are qualified counsel. I am particularly concerned in light of the relatively low quality of representation in criminal practice, the potential effect of the Bar score cut on representation when life and liberty is at stake, and the likelihood attorneys will offload a considerable amount of substantive case work to unqualified students to catch up on the backlog. I do not know many students, if any, who are adequately prepared to fulfill all the responsibilities of a lawyer upon graduation, even under supervision. Yet this proposal allows the possibility an unqualified student might conduct an entire trial the day after they graduate or otherwise qualify to take the bar, so long as they have the confidence of their supervising attorney, if I am not mistaken. It seems to me like the stakeholders in this discussion did not include criminal defendants, since everyone seems to get something out of this proposal—students and lawyers especially—except for the people most at risk.</p> <p>I think there should also be some kind of qualification, perhaps having to sit for the bar in the first year, in order to qualify for the program in the second year regardless of whether the student passes the bar. Do you have any estimates on how many students you expect to take advantage of the full two-year program and then never pass the bar? How many of those students do you project will work in criminal practice? How many defendants might those students represent over the course of two years? How many wrongful convictions do you project will result from the program? If you do not already have data to answer these questions, I am afraid you have not really thought it through to begin with.</p>	Practice areas. No change. Representatives of the Working Group who practice criminal law - including representatives from the PD and DA - did not believe such a limitation should exist. The requirement that the PLL practice under the supervision of an attorney, and that the attorney assumes professional responsibility for the work of the PLL eliminates the possibility that an unqualified PLL would conduct an entire trial without supervision the day after they become PLLs. The Court also retains the authority to direct the supervising lawyer to attend a proceeding. Requirement to sit for the bar exam in the first year of the program. No change. The Supreme Court direction sought to provide the greatest possible flexibility for PLLs to sit for any or all exams between 2020 and 2022.
Natalie G. Cooke		AGREE ONLY if Modified	Require Employers to Pay PLL	As a 2020 law school graduate, I support the State Bar's implementation of a provisional licensure program. My focus is in public interest law and throughout law school, I participated in legal internships with Central California Legal Services and the California Eastern Federal Defender. Both of those internships were unpaid—as is common in the field of public interest law. With a provisional license, I plan to continue working in the public sector. However, I need paid employment. Therefore, you can understand my disappointment that the draft rule provides no incentive for employers to distinguish legal interns from those who are provisionally licensed. Specifically, I am disturbed that the State Bar is considering unpaid employment in the draft rule. See Rule [XX](c)(C) ("whether the employment is paid or unpaid"). Given the unique hardship faced by 2020 law school graduates, I request that paid employment be required of employers of provisional license grantees	No change. This is beyond the scope of authority of the State Bar.
Daniel Huynh		AGREE ONLY if Modified	Requirement for Conditional Employment Prior to Licensure	The applicants should have been licensed as provisional licensed attorneys first, but they can't practice law unless they are supervised by a licensed attorney. It would make more sense because employer would not hire law school grads if they are not licensed.	No change. This issue was discussed by the Working Group. The proposal creates a risk that someone will try to practice prior to securing the necessary supervision, and would create a more complex process to administer.
Daniel Minh Huynh		DISAGREE with the proposed Rule	Requirement for Conditional Employment Prior to Licensure	The issue is that Department of Justice are hiring entry attorneys; however, they will not issue an offer if the applicants are not admitted to state bar. I spoke to the HR personnel that they will sponsor even it is just provisional license. However, in order for the DOJ or IRS to hire, admission to CA Bar is a must. I urge the committee to change the rules to grant provisional license, but not allow provisional licensed attorneys to practice until they are supervised.	No change. The Working Group debated this issue. There is too great a risk that someone will try to practice prior to securing the necessary supervision. The proposal would also create a more complex process to administer.
Haden Goebel		DISAGREE with the proposed Rule	Requirement for Conditional Employment Prior to Licensure	<p>This rule accomplishes very little. We're in the middle of a pandemic induced recession and you are requiring applicants already have a conditional offer before being eligible. I've been told by several employers they will not hire graduates using this program and to reapply upon full admission. I appreciate at least attempting to do something, but this is a non-answer to the current crisis.</p> <p>This manages to help those at the top with jobs in hand while leaving those already vulnerable without recourse.</p>	No change. The Working Group debated this issue. There is too great a risk that someone will try to practice prior to securing the necessary supervision. The proposal would also create a more complex process to administer.
ANONYMOUS		AGREE ONLY if Modified	Requirement to Refer to Oneself as PLL	<p>For section (e)2 for the draft that describes how provisionally licensed lawyers must put themselves out ot be "provisionally licensed, or participants of provisional program"...</p> <p>While understanding the purpose of this section, it does seem that it could potentially cause problems in the court when going against opposing counsel. There is the possibility that the provisionally licensed attorney would get disrespected on a frequent basis by opposing counsel, which could effectively damage that provisionally licensed lawyer's reputation, even beyond his provisional period when he becomes fully licensed.</p> <p>I am not going to provide suggestions of identification choices that are better, but I think there could be a slight adjustment to this requirement so that the provisionally licensed lawyer's reputation is not damaged before they have really even begun their career. It seems to be slightly unconscionable to give other members of the profession a free bullseye to squash and ruin the new attorney before they have even begun.</p>	No change. At least 9 other states require the designation of provisional licensure on court filings; at least 11 other states require some or all of the following: all communications must include designation of provisional status; written disclosure to client of provisional licensure status; disclosure of provisional licensure status to all clients.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Ona Alston Dosunmu / Emilio Varanini	California Lawyers Association	AGREE with the proposed Rule	Requirement to take Bar Exam / Supervision Requirement	<p>We write on behalf of the California Lawyers Association in support of the proposed new provisional licensure rule.</p> <p>As the statewide, voluntary bar association for all California attorneys, including students, newly admitted professionals and those awaiting admission, we have previously written the State Bar and the Supreme Court offering our support and perspective with respect to options to facilitate the prompt entry into practice of 2020 law school graduates. As we wrote in our letter of July 14, 2020, we believe that any solution must require 2020 law school graduates to eventually pass the California bar exam in some reasonable time period and until such time, any provisional licensure arrangement must include the supervision of law school graduates by licensed attorneys, and disclosure of any provisional status as a matter of public protection. We are pleased to see that these components have all been carried forward into the proposed new rule.</p> <p>We appreciate the Provisional Licensure Working Group's analysis of these and other components of a supervised provisional licensure program. We agree with the working group's recommendations, following its examination of other states that have implemented a provisional licensure program, California's own Practical Training of Law Students program, and other special admissions programs that allow out-of-state attorneys to practice in California in limited ways, as a means of helping to design this short-term but important program.</p>	No change.
Manuel Parra		AGREE ONLY if Modified	Retroactivity of Bar Exam / Limitation to 2020 Law Graduates - apply to prior bar takers scoring over 1390	I believe this is acceptable for 2020 graduates but we need to address granting retroactivity back 5 years for this who have already received a 1390 on a Bar Exam and can prove they did. This is definitely in the interests of the public and although the California Supreme Court has the authority to grant this it is imperative the State Bar influences them to take this initiative. At the least provisional licensing should be given at least 5 years back since graduates from before who have received a 1390 do not have any representation in the modified rules and have paid their dues. I am signed up to take the October 2020 Bar Exam but in the interests of justice please take this under consideration as I have spoken to many Bar Applicants who feel the same way.	Retroactivity. No change. The comment is beyond the scope of the proposed rule. Limitation to 2020 Law Graduates. No change. The direction to the State Bar from the Supreme Court did not authorize the application of this program to graduates from earlier periods, regardless of the score they may have achieved on the exam. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school.
Anonymous		AGREE ONLY if Modified	Retroactivity of Reduction in Bar Exam Cut Score	Provide provisional license to December 2019 graduates, but do not re-consider retroactivity to Feb 2020 bar applicants who've reached the score above 1390 is unfair and unreasonable decision. Retroactivity must apply at least back to Feb 2020 applicants. The passing rate in Feb 2020 was 26%, even less than 30%. Per research, after retroactivity is granted, only 300 around applicants will pass the exam and it does not make big increased the passing rate from the last exam.	No change. The comment is beyond the scope of the proposed rule.
Sandeep Singh		AGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	The California Supreme Court explicitly restricted the provisional licensing program to include only 2020 graduates. If the Court is willing to modify their earlier decision granting provisional licenses to those who graduated in 2020 to include those who graduated in the Fall of 2019, then the Court should also be open to modifying their decision to not grant retroactivity. In light of many persuasive arguments made in favor of equity, fairness, and the principals upon which our judicial system is based, I strongly urge the Court to reconsider its decision and apply the new cut-score retroactively to February 2020 examinees.	No change. The comment is beyond the scope of the proposed rule.
shireen		AGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	<p>I agree with the SC proposed rule for PLL. However, I feel I am as a California Bar Exam repeaters ( Who already achieved 1390+ on Feb 2020, July 2019, July 2018, Feb 2018) multiple times not getting relieve from the SC. Who is already competent to practice law under new cut scores.</p> <p>If the court is willing to modify their decision about giving provisional licenses to those who graduated in both Fall 2019 and Fall 2020 (as noted in the proposed rules) after the Court explicitly restricted the licensing program only for 2020 graduates, The Court SHOULD be open to modifying their decision to not grant retroactive. If the court is willing to modify their decision about giving provisional licenses to those who graduated in both Fall 2019 and Fall 2020 (as noted in the proposed rules) after the Court explicitly restricted the licensing program only for 2020 graduates, as well as 2020 graduates can practice law under provisional license till 2022 even they can fail the exam 5 times during this time period). The Court should be open to modifying their decision to not grant retroactivity.</p> <p>I really request the SC to please reconsider about us (repeaters) who already achieved passing new cut scores and apply retroactively.</p>	No change. The comment is beyond the scope of the proposed rule.
Brook Yarnell		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	I wholeheartedly REJECT any expansion of this provisional licensing program. It will be ineffective and useless. In my experience, employers have already rejected hiring me and others based on this idea. The entire PL program should be scrapped. It is a waste of resources. We need RETROACTIVITY for those who have made the 1390 cut score. We need the State Bar of CA to be consistent in supporting RETROACTIVITY as they did in 2017. We need the State Bar of CA to lobby the Supreme Court of CA to support RETROACTIVITY immediately. The PL program, or any expansion thereof, will solve nothing and frankly, is an insulting attempt to quiet the valid complaints of 2020 bar examinees. It is very dishonorable that the State Bar of CA is being hypocritical in now withdrawing their support for retroactivity. Many are suffering under a conglomeration of issues plaguing California. Let us work. We are qualified. We have met the cut score already but cannot earn a living. We are not a danger to the public. Many of us are underrepresented minorities in the legal profession. If we have met the criteria in February 2020, why make us jump through the SAME HOOP in October 2020? Especially being that there are so many alterations and problem with this new online exam. I strongly urge the State Bar of CA to publicly support retroactivity.	No change. The comment is beyond the scope of the proposed rule.
Gurmeet Singh		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	The Honorable Supreme Court explicitly restricted the provisional licensing program for only 2020 graduates. If the Court is willing to modify their decision about giving provisional licenses to those who graduated in Fall 2019 and graduate in Fall 2020 (as noted in the proposed rules), the Court should be open to modifying their decision to not grant retroactivity. I strongly urge the Court to apply the new cut-score retroactively for at least the Feb 2020 exam administration.	No change. The comment is beyond the scope of the proposed rule.
Jazmyne Martin		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	Please see attached.	No change. The comment is beyond the scope of the proposed rule.

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Rosemarie Aleman		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	<p>The Honorable Supreme Court explicitly restricted the provisional licensing program for only 2020 graduates. This decision particularly impacts law school graduates who scored well above 1390 but under 1440 on the February 2020 bar exam (taken during a pandemic) and graduated before 2020. This decision, in effect, would deem more competent a 2020 graduate who has not taken the bar exam at all (and possibly fail with a score under 1390) over an earlier graduate who scored above a 1390 (a score deemed to be competent on the prior administration).</p> <p>If the Court is willing to modify their decision about giving provisional licenses to those who graduated in Fall 2019 and graduated in Fall 2020 (as noted in the proposed rules), the Court should be open to modifying their decision to not grant retroactivity. I strongly urge the Court to apply the new cut-score retroactively.</p>	No change. The comment is beyond the scope of the proposed rule.
Shireen		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	<p>I am commenting again related to provisional license after thinking throughly. I wonder how far it will be safe for public becuz new grade didnt even sit for bar exam and didn't even prove competence.</p> <p>I truly think the court should reconsider about retro if there is urgency of legal service instead of giving all PLL which could cause higher risk of public.</p>	No change. The comment is beyond the scope of the proposed rule.
Anonymous		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	Please support retroactivity. It is incredibly unfair that a person who failed the bar by 1 point under the old cut score of 1440 in February won't be able to obtain a license or provisional license because they graduated in May 2019. Whereas a first time taker that fails the bar in October under the lower cut score, by a wider margin, obtains a provisional license and three more times to take the bar.	No change. The comment is beyond the scope of the proposed rule.
Gabriel Buelna		State No Preference	Retroactivity of Reduction in Bar Exam Cut Score	Please see attached.	No change. The comment is beyond the scope of the proposed rule.
Joseph Shashaty		State No Preference	Retroactivity of Reduction in Bar Exam Cut Score	<p>Let me preface this by saying I ABSOLUTELY agree that 2020 graduates should get Provisional Licenses. However, I have a proposal regarding 2019 graduates who received above a 1390.</p> <p>I am a student who received above a 1390 on my February exam. I propose that students like myself be given a Provisional License UNTIL the State Bar is given a timely opportunity to administer retroactivity. Contrary to what some Facebook messages and comments might indicate, we understand there is an administrative burden for the State Bar to retroactively apply the scores. However, we disagree that should stop the Court/the State Bar from pursuing sound policy based on fairness and justice.</p> <p>Provisional licenses, ONLY IF temporary while the board administers retroactivity, would be welcomed by students like myself. It is a win for all parties involved. It's clearly a win for us students since our lives will not needlessly be stalled for months as we lose out on many career opportunities in the meantime. It is a win for the State Bar and the Court as well since it will 1) show your commitment to justice and equality in the legal profession 2) will reduce the number of examinees which would show your commitment to a smooth running online bar exam 3) reduce the number of essays the State Bar will need to grade and 4) would give you enough time to administer the program.</p> <p>The State Bar is capable of administering such a program. It has, in times past, dealt with issues that caused a severe administrative burden as a former Trustees letter highlighted. This is an issue that can be quickly dealt with and satisfy all parties involved. Thank you for taking the time to read this.</p>	No change. The comment is beyond the scope of the proposed rule.
Anonymous		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	Please see attached.	No change. The comment is beyond the scope of the proposed rule.
Malissa Mollberg		DISAGREE with the proposed Rule	Retroactivity of Reduction in Bar Exam Cut Score	Please see attached.	No change. Although every applicant who sought to take the July bar exam is disadvantaged by the conditions brought about by the pandemic, the purpose of the PLP was to respond to those law graduates who had little to no opportunity to take a bar exam prior to the pandemic due to the recency of their graduation from law school. The direction from the Supreme Court was to develop a program for 2020 law graduates.
SUMMER SHAFER		AGREE ONLY if Modified	Retroactivity of Reduction in Bar Exam Cut Score	Thank you for taking the time to read the enclosed letter I have attached respectfully requesting that provisional licensing be granted and those that took the California Bar Exam in February 2020 that passed under the recent new requirements be rightfully deemed to have passed as well.	No change. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Gerardo Arias		AGREE ONLY if Modified	Retroactivity of Reduction in Bar Exam Cut Score	I believe that making students who have already met the passing score in February is unnecessary. It places students in undue hardship during these challenging time for our state. If the court plans or granting such freedoms to students who have never sat for a bar exam, it should allow for the cut score to be applied retroactively to February takers. Those students have proven their competency and should be allowed to practice.	No change. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Gerardo Arias		AGREE ONLY if Modified	Retroactivity of Reduction in Bar Exam Cut Score	I believe that making students who have already met the passing score in February is unnecessary. It places students in undue hardship during these challenging time for our state. If the court plans or granting such freedoms to students who have never sat for a bar exam, it should allow for the cut score to be applied retroactively to February takers. Those students have proven their competency and	No change. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
Carlos Arias		AGREE ONLY if Modified	Retroactivity of Reduction in Bar Exam Cut Score	The CA Supreme Court should apply their new cut score retroactively to at the very least the February 2020 exam. Forcing already practicing lawyers to re-take an exam that they had ostensibly passed with a prior score, in light pandemic, social unrest, and wildfire conditions is unnecessary, arbitrary, and not an equitable option.  This is a very important modification.	No change. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Joshua Slepecki		AGREE ONLY if Modified	Retroactivity of Reduction in Bar Exam Cut Score	I believe that the new cut score should be applied retroactively to those who took the February Bar. The new cut score was directly affected by the historically low pass rate from that exam. Those who took the test and received what is now a passing score are being forced to take the exam again during an unprecedented time of financial crisis and global pandemic. Students who come from humble means may not be able to afford the costs of waiting for the next exam and risk their personal health/well being to do so. There would be no negative effects from making this positive decision.	No change. Retroactivity of the reduction of the Bar Exam cut score is beyond the scope of this rule.
Charlene Nercess		AGREE ONLY if Modified	Supervising Lawyer - California licensed attorney	My sole concern at this time is with the requirement for a California Bar Member within the firm as the only option for supervising attorneys. This greatly limits graduate employment. As a recent graduate with a job offer in a small firm, there may be no California Bar members within the firm who could act as my supervising attorney. There are, however, others who are members of other state bars in good standing who could and are willing to act as my supervisors.	No change. The status of a provisionally licensed lawyer in California allows individuals to practice law, with supervision, in California. Attorneys licensed in other states do not possess the California specific knowledge to supervise a PLL practicing California law.
Elizabeth Crivaro		AGREE ONLY if Modified	Supervising Lawyer - California licensed attorney	I write to urge you to reconsider the parameters of the provisional licensure. Please consider allowing members of any state bars in good standing to be supervisors for provisional licensing purposes. I will be working outside of California completing a fellowship with a non-profit organization for a year and then transitioning to California. Because of delays in the bar exam, I have been unable to start my job and will be unable to fully perform my job until I am sworn in as a California lawyer. If there is provisional licensing under supervision of a non-California attorney, I will be able to work as a lawyer until I transition to California, which would be a great relief to my non-profit organization and its clients.	No change. The status of a provisionally licensed lawyer in California allows individuals to practice law, with supervision, in California. Attorneys licensed in other states do not possess the California specific knowledge to supervise a PLL practicing California law.
Anonymous		State No Preference	Supervising Lawyer - California licensed attorney	The current draft rule could prevent recent graduates who are working for small federal agencies from participating in the provisional licensure program, as it would be difficult or impossible to find a Supervising Attorney that meets the requirements of Proposed New Rule (I)(1). As such, it might make sense for the State Bar to consider a narrow exception that allows recent graduates at federal agencies to practice under the supervision of an attorney barred in any jurisdiction (who also has sufficient experience and subject-matter expertise). Subsection (C) is largely irrelevant and subsections (B) and (D) would need to be waived in this special case.	No change. The status of a provisionally licensed lawyer in California allows individuals to practice law, with supervision, in California. Attorneys licensed in other states do not possess the California specific knowledge to supervise a PLL practicing California law.
Angelina Laus		AGREE ONLY if Modified	Supervising Lawyer - California Licensure requirement	Agree only if supervising lawyers can also include in-house counsel not licensed in CA. Limiting the supervising attorneys only to CA-licensees will limit the employment prospects of 2020 graduates when it comes to tech companies, start-ups and other entities who have a large in-house legal department and who may be trained by lawyers licensed in other jurisdictions. For example, I'm in legal at a tech company and my supervising attorney is a New York-licensed attorney.	No change. The PLP is designed as a stepping stone to the practice of law in California. Having a CA licensed supervising lawyer in critical to this. Additionally, rules related to the Registered In House Counsel Program require the company to employ a California licensed lawyer for these same purposes.
Matthew		State No Preference	Supervising Lawyer - Firm Presence in California	Whilst generally I agree with the proposed Rule, please consider removing the requirement that a Provisionally Licensed Lawyer's firm and the Supervising Lawyer have an office located in California. That requirement may unnecessarily narrow potential employment opportunities for 2020 Law School Graduates. Relevant sections - (c)(1)(C), (d)(3), (e)(4).  Perhaps the locale could simply be within the U.S.	<b>The Working Group could consider</b> amending the rule to address this narrow circumstance.
James Blucker, Esq.		AGREE ONLY if Modified	Supervising Lawyer - Number of Years of Licensure	I would propose that the supervising attorney only be licensed for a minimum of 2 years, as in accordance with Rule 9.42 rule for Certified Law Clerk/Students under PTLs. I have been practicing for 3.5 years and will not be able to supervise a 2020 graduate under these proposed guidelines, however I am able to supervise under PTLs 9.42 being that I've been licensed for over 2 years.	No change. The Working Group discussed this issue and concluded there was no reason to deviate from the requirements for the MJP programs.
Victoria Ann Moffa		AGREE ONLY if Modified	Supervising Lawyer - Presence in California	I would like further clarification on the geographic bounds of the provisional program. I am a 2020 law graduate set to take the CA bar in October, but my employment offer is with my firm's DC office, which works closely with our Palo Alto office. The partner I would be working for in DC is a member of the California bar. The rule under its current wording appears to support my situation for eligibility into the provisional licensing program. However, the "agenda" clarifications document appears to support a stricter reading of the rule, e.g., that I and my supervising lawyer would have to physically be in California for me to be eligible.	No change. The rule requires that the PLL be employed by, or have a conditional offer of employment from a firm that has an office located in California; and (4) Practice law under a Supervising Lawyer who is an active licensee in good standing of the State Bar, who satisfies the requirements for serving as a Supervising Lawyer under this rule. The rule does not require the PLL or supervising lawyer themselves to be in present in California.



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Yesol Han		AGREE ONLY if Modified	Supervising Lawyer - Presence in California	<p>I graduated from UC Berkeley School of Law this May and am planning to use the provisional license program. I have a job offer at a 2nd largest Korean law firm based in Seoul, South Korea. The firm does not have office in CA, but it has many attorneys who are active in CA bar. It also has CA clients like Adobe and attorneys come to CA often on various business trips.</p> <p>In the F&amp;Q, it says "an applicant need not live in California so long as they have a conditional offer of employment from a legal employer, as defined, with an office in California and are supervised by an eligible California attorney."</p> <p>Would it be possible to eliminate the requirement of the firm having to have an office in CA for the final version of the rule? The requirement for having an office in CA would make the rule useless for my purposes. I believe my problem would be shared by other lawyers working globally or internationally. In fact, the draft rule as it is a bit discriminatory against people working internationally in other parts of the world.</p> <p>I was really looking forward to use the provisional license program. Eliminating the office in CA requirement would be an invaluable support for my legal career. Because the October exam result comes out in mid-Jan, I am planning to retake the exam in July, if needed. Until Fall 2021 when the results for July exam comes out, I need provisional license to succeed in my job.</p>	<b>The Working Group could consider amending the rule</b> to address this narrow circumstance.
Hirbod Rashidi		DISAGREE with the proposed Rule	Supervising Lawyer - Requirement to be Working Lawyer / Signature of PLL on Court Forms	<p>There are a lot of problems with this that I believe have already been identified and no need to rehash (un-tested, un-vetted recent graduates of "law schools" affecting people's lives; I placed law school in quotes because we have so many different kinds in CA and for this program we are pretending they are all equal). This same pool of recent grads will be taken advantage of by certain members of the bar looking for cheap or free labor. Relatedly, the definition of "fully licensed lawyer," does not state said lawyer needs to be a working lawyer. As an example, if I was thinking about retiring this year, what is stopping me from "extending" my plans until 2022, while I send my new Provisionally Licensed Lawyer (PLL) to do all -- if not most -- of the work. (And I can pay him a minimal amount or nothing -- since they can be "volunteers" -- and I bill for attorney hours.)</p> <p>The other big practical problem I have identified is that Judicial Council forms provide signature lines for "Attorney[s]" and have boxes to check for "Attorney Present." Since most of these forms are for mandatory use, the PLL must use the forms but cannot use the appropriate box or line without proper interlineation. There needs to be a rule mandating such interlineation.</p>	Working lawyer. No change. The Working Group eliminated language that would have required the supervising lawyer to be an active licensee employed full time as a lawyer. However, the rule requires that the supervising lawyer must supervise the PLL appropriately, and assumes professional responsibility for the actions of the PLL and must personally assume representation of the PLL's clients if the PLL cannot continue representation. This appears to be a sufficient backstop to prevent the issues raised by the commenter. Signature on court forms. No change. At least 9 other states require the designation of provisional licensure on court filings. The term provisionally licensed lawyer can be interlineated on the form.
Emilio Martinez		State No Preference	Supervising Lawyer - years of practice	The only issue I see is with rule (i)(1)(b) which requires a supervising attorney "two years of practice" immediately prior to the supervision term. This portion should be deleted or allowed for any attorney who wishes to reactivate their license simply for the supervision program to be allowed.	No change. This requirement, which is similar to requirements for other MJP programs, is intended to ensure the supervising lawyer is current on the law and is thus competent to supervise on California law.
James Lauth		AGREE ONLY if Modified	Supervising Lawyer Experience - Law School Teacher	On page 4, section (i) (1) (B) Supervision, Requirements of a Supervising Attorney: Add or taught Law at a California or ABA accredited Law school. thus allowing a law school professor to work with a Provisionally Licensed Lawyer on matters to benefit to the community	<b>Amend</b> rule to include law school teaching in the four / two year requirement in addition to "actively practiced"
Diana Dorame		AGREE ONLY if Modified	Supervision - Multiple lawyers, different firms	Proposed Rule XX fails to allow for supervision of more than one lawyer. Although the rule allows for supervision by a sole practitioner the rules fail to allow under Section XX(i)(3) for a provisional lawyer to be concurrently supervised by more than one lawyer. This omission fails to recognize that many sole practitioners may concentrate in only one area of law thereby limiting the provisionally licensed lawyer the ability to practice in more than one area of law. For example, if the provisionally licensed lawyer wanted to practice in the area of commercial litigation and family law and one firm did not have a family law practice then the provisionally licensed lawyer would be unable to practice in both areas. Further, if the supervising lawyer's practice could not hire a provisionally licensed lawyer full-time then this would be detrimental to both the supervising lawyer and the provisional lawyer. This seems to be an oversight. Certainly, it would be beneficial to both the supervising lawyer and the provisional lawyer to allow the provisional lawyer an opportunity to practice in more than one area of law and obtain the appropriate supervision from a lawyer qualified to supervise in that area of law. It seems somewhat capricious to allow only one supervising attorney which could limit the opportunities for the provisional lawyer to practice in areas of law in which the provisional lawyer is interested. It appears that this rule envisions all provisional lawyers to be practicing in large law firms instead of with sole practitioners who seem to comprise nearly half, if not more, of the lawyers in California. This rule should be changed to allow multiple supervising lawyers in different firms to allow provisional lawyers the opportunity to be gainfully employed and to be able to practice in the areas of law in which they are interested in.	The commenter raises an interesting issue. <b>The Working Group should amend the proposed rule</b> to allow for the possibility of the PLL dividing their time between two or more separate firms, as that term is defined. The rule as drafted only addresses having multiple supervisors in the same firm.
Anonymous		DISAGREE with the proposed Rule	Supervision Requirement - Multiple Supervisors / Notice of Use of PLL / MCLE / Pathway to Licensure for Those Who Previously Scored over 1390	<p>I raise the following important issues with the proposed rules:</p> <p>i. The proposed rules do not account for the fact that when a new associate joins a firm, the firm may have many different supervising attorneys that give work to that associate. The proposed rules do not clarify which supervising attorney should submit the declaration, and whether all supervising attorneys need to submit the declaration. It seems that requiring all supervising attorneys to submit declarations may be unduly burdensome on employers, and may dissuade employers from hiring provisionally licensed lawyers.</p> <p>ii. In a law firm environment, a first year associate may be staffed last minute on an existing client. The proposed rules do not account for such emergency situations where the supervising attorney is unable to grant notice to the client that the associate working on the case is provisionally licensed.</p> <p>iii. The provisional licensed lawyer can remain provisionally licensed until 2022 without needing to attend any CLEs. The proposed rules should require CLE credits the same way other lawyers require CLEs. There also needs to be some feedback from the supervising attorney after a preset amount of time.</p>	Supervision Requirement - Multiple Supervisors. No change. The rule provides: Supervising Lawyer may delegate some or all day-to-day supervisory responsibilities or supervisory responsibilities related to certain practice areas or assignments to another lawyer in the same organization who otherwise meets the requirements for Supervising Lawyers, without the need for those additional supervisors to file a declaration with the State Bar. The Supervising Lawyer's obligations under (i)(1)(G) are not affected by any such delegation. By listing multiple supervisors, the assumption of professional responsibility for the work of the PLL and obligation to assume personal representation appears to become muddled. This envisions a "lead" Supervisor who would submit the declaration, but have the ability to delegate supervisory work. Notice of use of PLL. No change. At least 12 states that recently adopted a PLP require disclosure to the client. Some require written disclosure. Some require client consent. MCLE. No change proposed. The rules require completion of the 10 hour New Attorney Training developed by the State Bar and provided at no charge. Additional MCLE was not deemed necessary by the Working Group. Pathway to Licensure. No change. Although the commenter proposes an interesting middle ground, the Supreme Court directed the State Bar to create a temporary PLP through at least June 1, 2022 to allow participants multiple options or opportunities to take and pass the bar exam. The Supreme Court direction does not contemplate licensure without taking a bar exam.

Name	Commenting on behalf of an org.	Agree / Disagree with Proposed Rule	Brief Description of Topic Raised	Comments	Initial Staff Response
John V. DiAna		AGREE ONLY if Modified	Supervision Requirements	<p>First let me congratulate the State Bar for considering the suffering of law school students that are prevented from achieving their license to practice law only because of Covid-19.</p> <p>However, I think you expose the public to less than competent representation unless you implement a stricter supervisory standard. I suggest the following added language to XX(l) (Supervision):</p> <p>Proposed language</p> <p>"To any document filed with a court, tribunal, administrative agency, or recorder's office, the Supervising Lawyer must sign and attach a declaration under the penalty of perjury stating words to the effect that the Supervising Lawyer has supervised the work product of the provisionally licensed lawyer and that the document(s) meets the competency standards of a lawyer licensed to practice law in the State of California."</p> <p>"For any appearance before a court, tribunal, or administrative agency, the Supervising Lawyer must sign and attach a declaration under the penalty of perjury stating words to the effect that the Supervising Lawyer has sufficiently prepared the provisionally licensed attorney on the issues before the tribunal sufficient enough that the provisionally licensed lawyer can discharge his or her duty of competency the same as a lawyer licensed to practice law in the State of California." END.</p> <p>The intent of the language is to place an affirmative duty on the Supervising Lawyer on each official action taken on a case. Otherwise, you expose the public to harm from incompetent representation. Lawyers are busy. I think you have to require an affirmative statement that the duty to supervise has been discharged.</p>	<p>No change proposed. The Working Group discussed this at length and concluded that there should be greater flexibility to allow the Supervising Lawyer the ability to determine when the supervisor signing the documents is necessary, and when the PLL can proceed without the supervising lawyer's signature, under his or her general direction. The supervising lawyer has an obligation to appropriately prepare the PLL, and failure to do so can subject both to discipline if the supervisor is inadequately supervising and the PLL does not possess the competence to perform the tasks. The Working Group concluded that these obligations on a supervising lawyer were sufficient to ensure public protection.</p>
Anonymous		State No Preference	Supervision Requirements	<p>Provisional license program should not require attorney supervision.</p> <p>ALSO, IT SADDENS ME THAT IT TOOK THE BAR THIS LONG TO PREPARE FOR THE IMPLEMENTATION OF THIS PROGRAM.</p>	<p>No change. A supervision requirement is a necessary component of a provisional licensure program. The Working Group considered and rejected many limitations placed on PLLs by other states to provide the supervisor discretion to determine the appropriate level of supervision based on the PLLs knowledge, skills, and abilities.</p>
Zachary Cavanagh		State No Preference	Supervision Requirements	<p>Does the "supervision" requirement mean that a Provisionally Licensed Attorney must be physically accompanied by a fully licensed attorney while appearing in court or mediation? If so, will there be exceptions for certain court appearances not likely to necessitate a supervising attorney? Thank you.</p>	<p>No change. The Working Group considered and rejected many limitations placed on PLLs by other states to provide the supervisor discretion to determine the appropriate level of supervision - in court or elsewhere - based on the PLLs knowledge, skills, and abilities. A court could determine that a PLL should not be appearing alone and request the appearance of the supervising lawyer.</p>

Thank you for the opportunity allowing me to submit my comments regarding the proposed Provisional Licensing program. As a 2020 law school graduate, I would qualify for this proposed program if or when it goes into effect. However, because the purpose and objective of this program is to address “the challenges facing law graduates due to the COVID-19 pandemic,” I question not only its fairness as proposed, but also wonder whether this program can serve to achieve the stated purpose and objective.

By “fairness” I am referring to law school graduates from prior years, who have been just as severely impacted by the COVID-19 but are not qualified under the proposed rule. As to its purpose, I fail to see how this program, as proposed, intends to help those affected by the COVID-19.

I have read various comments, reports, and petitions regarding the Provisional Licensing program. I am familiar with different viewpoints on the subject. Some look at this as nothing more than a certified law clerk or a paralegal position. The fact that the proposed rule makes a distinction by allowing a provisionally licensed lawyer “to provide a broad array of legal services for clients” under supervision of an attorney means the supervising attorney has to pay higher wages and higher malpractice insurance premiums. It may not be that easy to find a supervising attorney who may be willing to pay higher wages while assuming higher liabilities. And when the provisional license expires if the holder fails to pass the bar which becomes harder and harder as time goes by, under this proposed rule the licensee goes back to the same status he or she holds today. This will inevitably cause the clients and supervising attorneys to be left with a mess. This program as proposed could perceivably do more harm than any good it intends to achieve. This program could attract much more interest if these clouds and uncertainties could be removed.

In my humble opinion, a provisional license program leading to a permanent license without the requirement to pass the bar, which removes some of these clouds, is a workable option to consider, providing however, that it will be subject to other conditions subsequent to assure the minimum competency.

My name is Ali Huda, and I am a repeat California Bar exam-taker.<sup>66</sup> As you know, the California Supreme Court sought to implement a Provisional Licensing Program for 2020 law school graduates. The goal of this program was to mitigate any economic “disruption” caused by the COVID-19 pandemic. Unfortunately, the Supreme Court only focused on the economic impacts felt by 2020 law school graduates, and did not consider the ongoing economic impacts all repeat bar-exam takers are feeling. Although repeat-takers may have been eligible to take the California Bar Exam before many 2020 law school graduates, this does not mean that we are in an economically superior position than those recent graduates. Because the American economy has suffered this year and unemployment has increased, repeat-takers have also suffered job losses and furloughs in their non-legal jobs. Many of these repeat-takers also have families to care for, bills to pay, and loans payments due. Tending to these responsibilities while studying for this new California Bar Exam format has imposed much hardship for all of us, regardless of when we graduated. I graduated law school in May 2019. I have not been successful on the California Bar Exam yet. Currently, I am preparing to take the October 2020 bar examination. I have many other friends who also have not yet been successful in their efforts, and are thus also bar exam repeaters. Many of them graduated years before me, yet also face similar circumstances as I do as well as many other repeaters. As such, I respectfully request that you extend this Provisional Licensing Program for all California Bar Candidates who became eligible to take the exam since December 31, 2016 until December 31, 2020. By extending the eligibility for this program, you will accomplish two (2) goals. First, extending this program to repeat-takers will enhance the economic considerations that the Supreme Court recognized in their July 16 letter. It will expand employment opportunities to all repeat-takers who were recently laid-off or unemployed as a direct result of the COVID-19 pandemic. Because this pandemic has affected all of us—not just 2020 law school graduates—many of us are uncertain as to whether we can fulfill our economic obligations to ourselves and our loved ones. An expansion of this program to more candidates will create new economic opportunities and employment, allowing us to meet our obligations and ensure our families are safe and secure. Second, an eligibility expansion would protect the public from bad lawyers. Since more California Bar candidates can enroll in this program under the supervision of a licensed attorney, licensees can gain practical experience and expand their understanding of the ethical obligations they need to meet as licensed attorneys. This would curb the occurrence of negligent or reckless ethical misconduct because licensees have the ethical mentorship they need from their supervisors, and can actively observe, recognize, and prevent potential ethical issues in practical settings. Licensees can enhance their skills and better learn how to comport to their duties of competency, communication, candor, zealous representation, and more, if you give them this opportunity. Therefore, for the reasons stated above, I respectfully request that you extend this Provisional Licensing Program for all California Bar Candidates who became eligible to take the exam since December 31, 2016 until December 31, 2020.

I feel compelled to comment on the Provisional Licensure (PL) program as a May 2019 graduate who is not eligible under the proposed rules as I am deeply concerned about the equity of expanding PL beyond actual 2020 graduates without retroactive admission of applicants who have already earned a 1390+

The State Bar has proposed to include Dec 2019 graduates in the PL program. However, these individuals finished law school pre-pandemic and had the opportunity to also sit for the February 2020 Bar Exam. The only possible justification for including December 2019 graduates is that they have not had the opportunity to sit for a bar exam under normal conditions. The State Bar had previously recognized the emerging global health crisis and provided information regarding mask used and precautions in their email to applicants shortly before the February exam. However, if the State Bar is proposing to expand PL to December 2019 because it is now acknowledging the extent of the exceptional conditions under which the February Bar Exam was administered and graded, then the State Bar should also be supporting retroactive application of new cut score to the qualifying (and now competent) February 2020 examinees. Expansion of PL to December 2019 graduates without granting retroactive application of the new cut score to the February 2020 Bar Exam and providing some relief to all examinees defies logic.

Concessions cannot be made for only a subset of February 2020 examinees because the State Bar is now recognizing the extent to which the February 2020 exam was impacted by the global health crisis. There is no equity in granting a Provisional License to only a portion of the February 2020 Bar Exam test-takers with no rationale basis for the distinction. How is the public safer with a December 2019 graduate who scored a 1220 being granted a Provisional License, then with a May 2019 graduate who scored a 1420 being able to provide legal services?

Never before has an applicant been penalized for failing to take the first offered bar exam after graduation. Will a May 2019 graduate who for personal reasons could not take the July 2019 bar exam also be denied eligibility for PL?

If the State Bar is proposing to include December 2019 graduates in the PL program because of the February 2020 exam conditions, then this is also adequate justification for a limited application of retroactivity to apply the new cut score of 1390 to February examinees. While I believe retroactive application should be granted for 5 years to actually address the very issues of diversity and inclusion that lowering the cut score was allegedly intended to promote, I do not believe the State Bar can support extending PL to non-2020 graduates (i.e. December 2019) without also supporting relief for all other February 2020 examinees. Retroactive application of the new cut score is the least costly means of providing relief to competent bar applicants and is the most appropriate resolution. An overly expansive PL program would be cost prohibitive and poses a far greater risk to the public than admitting those who have already demonstrated their competency by earning a 1390 or higher on the California Bar Exam. I am well aware that the California Supreme Court ultimately holds the power to determine retroactive application of the new cut score, but I do not believe the State Bar can in good faith advocate for and propose an expansion of the PL program to 2019 graduates without openly acknowledging their reasoning for the expansion and supporting the proper relief for all effected February 2020 examinees.

For the reasons described above, I also strongly disagree with the proposed rule allowing those who are provisionally licensed to retain their PL if they take and fail a future bar exam. If the PL program is being limited to 2020 graduates because of the present circumstances, the exception for failing and retaining the PL should be limited to the period during which those circumstances persist. Not to mention the very reasoning for allowing individuals to retain their PL in spite of failures in fact supports the notion that ALL bar applicants deserve some assistance or relief. Every single current bar applicant is struggling right now and is impacted by the state of the world and the challenges 2020 has presented to ALL. The least costly and least burdensome step in addressing the plight of bar applicants is retroactive admission. It poses absolutely no threat to the public and demonstrates that the State Bar and California Supreme Court truly do want to see California's diversity reflected in the profession.

I am hereby pleading to your senses of justice, to please allow for the provision of an open book bar exam as well as the following:

Release of all essay topics in the exam

Comprehensive study guide

Decrease in the test score to pass the bar exam.

As a registered nurse, I witness the devastating effect of coronavirus in the lives of people. Times have changed due to CoVid 19, this is not a normal time, therefore we all have to come together as humanity and show the utmost kindness, and support to each other.

I feel perplexed and helpless because I am not able to give a lending hand to my daughter, by helping to take care of her 7-yr old daughter and 3-yr old son due to social isolation.

My daughter a US Navy Veteran and new law student graduate (Class of May 2020) is a hard working, kind and selfless human being. She does not believe in hand out, or laziness. However, it is super and extremely difficult, as she struggled between trying to help her 7-yr old and 3-yr old with zoom schooling.

Her children (7 & 3-yr old) do not know how to use zoom, nor can they type. As a result, my daughter is left with the responsibility of login into zoom with them, stayed with them through their learning sessions for the day (8AM to 3PM), they help with typing and submitting all their school work in a timely manner.

After, she has to prepare their dinner and then try hard to find few hours to study without zero interruption (mom can I get this? mom tell Audri to stop, etc etc) while studying. She calls and cry all the time, telling me how she finds herself studying and falling asleep.

Prior to the outbreak of CoVid19, she got everything planned, I will take off from to stay with her for a month, and will help with dropping and picking, her kids to and from school. Help with cooking, and taking care of the children. Then her in-laws who are elderly and currently stock in another country, were going to come and stay for another month to help her. She even rented an office for two months to study for the bar exam.

Unfortunately, our plans came crashing on us due to coronavirus. As a registered nurse, I am not able to take off from work, and I am currently recovering from coronavirus. So this is really not the time to be hard on all our new graduate law students.

Please please help them. Also please if you can find it in your hearts to even cancel the exam and allow them to practice law under the supervision of a license lawyer, that would be the decent human thing to do. May Jehovah God be with you all and your family as we try to survive this deadly virus we call "Coronarvirus".



Thank you for the opportunity to provide a comment on the provisional licensing program as proposed by the State Bar. I disagree with the proposed Rule even in light of its' well-intentioned ambitions to aid the class of 2020. Notwithstanding the admirable efforts of the State Bar to generate a stop-gap measure like this, the provisional licensing program unfortunately lacks both long-term benefits to the public and short-term benefits for aspiring attorneys. Everyone understands that providing a benefit to the public is the rationale of this Rule (and our profession generally). Aspiring attorneys must also be considered, given their efforts expended towards licensure this year. This Rule, however, lacks an incentive for them to participate in provisional licensure. Despite the generous time-period the Court has provided, the Rule, as written, does not account for many of the challenges of obtaining gainful employment as a provisional licensee. Part of the challenge is due to the fact that employers themselves cannot be expected to provide provisional licensees with adequate time needed to prepare for the Bar Exam at some point during the course of a licensee's employment (through 2022). Typical Bar Exam preparation consists of eight to 12 weeks of regimented study. This extensive time gap in employment would be the equivalent of asking a new employer for summer vacation immediately after being hired. It is presumptive to assume that employers would be willing to provide this. Moreover, will employers be expected to pay licensees' salary during that time period? Or, provide health insurance? Will there be sick leave and vacation available once the licensee returns? Of course, a licensee might fail the Bar, after having established themselves as an asset at a law firm or public agency. Instead, the provisional licensing scheme will motivate employers to hire attorneys with conventional licenses over provisional ones. From an economic standpoint, hiring managers, behaving rationally, should always prefer a consistent employee over a provisional licensee. Provisional-licenses come with a warranty that will cause hesitation when prospective employers relative to a Bar Member. Secondly, the overarching goal of providing public service is not achieved either because the provisional licensing program will detract from serving the public over the long-term. The U.S. Bureau of Justice Statistics estimate that the average time for a trial to reach the trial-stage (e.g. from complaint to trial) is 22 months. In California, empaneling a jury can take up to five years (constitutional limit). The likelihood that a provisionally licensed attorney would be able to provide and/or guarantee counsel consistently over this time period is impractical due to the time-frame of the program itself. Why would a client develop a relationship with a provisional licensee if that individual will be forced to stop representation within six months? We are clipping the wings of the licensee from the beginning; in that respect, licensee-graduates shall have no greater duties or responsibilities than lesser-accomplished 2L and 3L law student interns/externs in the same position at a law firm. Moreover, the Rule includes no mention of practical issues that will arise related to sensitive legal issues, particularly in criminal law (e.g. would a public defender licensee be required to take on cases that must end in a given window of time?). The bottomline is that the public and employers cannot be expected to utilize provisionally-licensed attorneys over the average/foreseeable litigation timeline as we understand it. As mentioned above, provisionally licensed attorneys will not be given the same responsibilities as a supervising attorney; yet, in many understaffed public agencies, a provisionally licensed attorney may be asked and/or expected to take on significant responsibility. A provisional licensee will be required to delegate any casework mid-stream to go take the Bar Exam. This is unfair to the public. It's also unfair to the aspiring attorney-applicant seeking to build a legal practice. Overall, I am of the opinion that this Rule does little more than put an asterisk on would-be Bar Members and some added guardrails to extant legal internships. It would be prudent for the State Bar to immediately explore practice-based programs that lead to permanent licensure. A path to permanent licensure avoids long-gaps in unemployment to study (a burden on employers) and the decrease in quality representation to the public due to a gap in employment. Moreover, the State Bar should consider the performance of recent graduates from California-based ABA law schools on examinations in building a new path to permanent licensure program. A path to permanent licensure must unfortunately come at the expense of applicants with low-GPAs, non-ABA accredited graduates,

and LL.M students. It is rational to establish a cut-off line based on academic performance, as we are quite comfortable establishing a cut-off line for the Bar Exam (arguably even more arbitrary). This is not to suggest that we open the flood-gates to the profession; but rather, utilize this Rule can be a building block towards a path to permanent licensure. Let the market for legal services dictate students who receives a license and who does not: the gatekeepers will be hiring managers seeking qualified applicants. This is no different than ordinary hiring practices, where presumably the most qualified candidates rise to the top. There exists no incentive for a hiring manager (or a committee) at a law firm to rubber-stamp a new graduate's Bar License if that individual underperforms. Our field is naturally competitive. There is no guarantees except for achieving results. In that respect, this year's graduates should be able to work and achieve a license based upon superb evaluations and a successful trial-run as a provisional licensee en route to permanent licensure. Consider the motivation that this year's students will have if given the opportunity to prove their mettle. That said, even in the event of a successful bar exam in October 2020, which appears increasingly unlikely, grading of this year's exam will not be complete until January 2021. By that time, the State Bar will have delayed licensure for dozens of weeks. This comes at a significant opportunity cost in net gains otherwise generated by to our services. We will also have forced graduates to forego meaningful labor. Reasonable alternatives exist. We should consider this year's class to be a "gap year" and cut our losses, particularly as it becomes increasingly unfair and costly to continue pushing them through an examination that, at this point, does not resemble past Bar Exam in form. Provisional licensure, at this point, does little to address these economic concerns, nor provide legal services at a time when government institutions are weak and unstable due to the pandemic. The Rule, however, can be utilized as a blueprint and a starting point; directly implement the Rule's program, but with the ultimate end-point resulting in permanent licensure. This work will not be in vain. To that end, I appreciate all of the efforts the State Bar's personnel has expended towards this. Thank you.

**Recommendation for a Parallel Track CA Provisional License Program, as proposed by the LSFN**

<b>Provisionally Licensed Lawyer</b> (based on the State Bar Provisional Licensure Working Group's recommendations)	<b>Public Interest Progressive Provisional License</b> (as proposed by the LSFN)
<p><u>Eligibility:</u></p> <ul style="list-style-type: none"> <li>• All December 2019-2020 graduates of CA-based law schools. This program would serve those who go into private practice.</li> <li>• All other eligibility requirements are identical between the PLL and PIPPL.</li> </ul>	<p><u>Eligibility Distinction:</u></p> <ul style="list-style-type: none"> <li>• All December 2019-2020 graduates of CA-based law schools <i>working in public interest law or for a government office/agency</i></li> <li>• All other eligibility requirements are identical between the PLL and PIPPL.</li> </ul>
<p><u>Supervision:</u></p> <ul style="list-style-type: none"> <li>• Supervisor must sign a certificate under oath acknowledging requirements and restrictions.</li> <li>• No other required verification after completing the original application.</li> </ul>	<p><u>Supervision Distinction:</u></p> <ul style="list-style-type: none"> <li>• In addition to signing a certificate under oath acknowledging requirements and restrictions, a PIPPL Supervisor must:                             <ul style="list-style-type: none"> <li>◦ <i>Sign an affidavit confirming that the PIPPL has completed the requisite number of supervised hours AND that the Supervisor recommends the PIPPL be admitted to practice law in CA</i></li> </ul> </li> </ul>
<p><u>Hours Requirement/Outcome/Duration:</u></p> <ul style="list-style-type: none"> <li>• No hour requirement</li> <li>• PLL will expire upon the earliest of the following events:                             <ul style="list-style-type: none"> <li>◦ PLL is suspended due to negative moral character determination</li> <li>◦ Infraction of the PLL requirements</li> <li>◦ PLL passes the CA bar exam</li> <li>◦ June 1, 2022</li> </ul> </li> </ul>	<p><u>Hours Requirement/Outcome/Duration:</u></p> <ul style="list-style-type: none"> <li>• Supervised hour requirement of 1,000+/- (TBD)                             <ul style="list-style-type: none"> <li>◦ Ohio requires 240hrs, Utah 360hrs</li> </ul> </li> <li>• PIPPL will expire upon the earliest of the following events:                             <ul style="list-style-type: none"> <li>◦ PIPPL is suspended due to negative moral character determination</li> <li>◦ Infraction of the PIPPL requirements</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ PIPPL completes the minimum number of supervised hours required, the Supervisor submits an affidavit attesting to successful completion of hours &amp; in support of licensure and the PIPPL takes and passes a CA Component exam (similar to the Ohio Component exam)</li> <li>○ PIPPL opts out of the PIPPL program and decides to take and passes the CA bar exam</li> <li>○ June 1, 2022</li> </ul>
<ul style="list-style-type: none"> <li>● <u>Fees &amp; Costs:</u> <ul style="list-style-type: none"> <li>○ \$200 application fee for PLL doing paid legal work, \$55 for those volunteering</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● <u>Fees &amp; Costs:</u> <ul style="list-style-type: none"> <li>○ No cost to the PIPPL (private funder will cover costs incurred by the State Bar)</li> </ul> </li> </ul>

#### Benefits of Conducting a Parallel Program:

- Supports the California Supreme Court's desire to increase access to justice for low income individuals.
- Provides a pathway for new law school graduates to do public interest and government work at a critical time when they are needed to help increase capacity to assist those impacted by COVID-19.
- Allows recent graduates who are working at legal aid and government organizations using a Practical Training of Law Student Certification (PTLS) to continue to do their work and choose whether or not to take the October Bar Exam. Otherwise PTLS will expire on the first day of the bar exam for those who do not take the exam (currently anticipated to be 10/5/20).
- Creates an ideal pilot program that explores an alternative way to become a licensed attorney in California. Data and evaluation of the programs can be used by the State Bar Blue Ribbon Commission over the next two years as they explore the future of the bar exam.
- Expands on the Utah Emergency Postgraduate Practice Rule and Ohio Emergency Rule for Supervised Practice by Candidates for Bar Admission by adding a public interest component.
- Provides a pathway for international students to apply for a work permit and remain in the United States. Absent such a program, international students will only have a single opportunity to take the CA bar exam before their visas expire.
- Does not require those doing public interest and government work to pay an additional fee. Note: new graduates are advised to plan for over \$5,000 in costs (not including living expenses) relating to taking the CA bar exam. They over \$1,600 in fees and \$2,000-4,000 for bar review classes).

DRAFT RULE OF COURT: Rule [XX]. Provisional Licensure of 2020 Law School Graduates Comments

(c) Application Requirements

(1)(A) Fees: The draft Provisional Law License (PLL) deviates from the State Bar's normal practice and imposed the same fee for ALL participants, regardless of the type of practice or income earned. The \$200 fee fails to take into account the dramatic disparity in compensation that new associates make who work in large private law firms and those who work in public interest and/or do "low-bono" work. The \$55 charge for being a volunteer PLL is impractical and the fee will be a deterrent to both new law school graduates and legal aid and government firms. The fee also fails to take into consideration that new graduates who have previously been certified under the Practical Training of Law Students program have already paid a fee and that many are currently working under this certification. Furthermore, there is no explanation as to what a PLL must do if they transition from being a volunteer to being paid staff or how stipends from third parties are to be considered.

The fees that the State Bar plans to impose may seem small in the eyes of practicing attorneys, but for a new law school graduate who is already hundreds of thousands of dollars in debt and has paid thousands of dollars this summer in bar exam and bar prep course fees, it is another barrier. Many of the new law school graduates who have yet to complete their Moral Character Determinations applications are not waiting because they fear the results, but because the \$551 fee is significant for them. With the uncertainties relating to the administration of the bar exam and the challenge of finding employment, they must prioritize use of those funds to pay housing and living expenses now and plan to submit their Moral Character Determination application after they have secured a job and/or passed the bar exam.

Related to this the California State Bar has received over \$2,000,000 in additional registration fees for the upcoming bar exam and will save over \$1,000,000 by administering the exam remotely. In considering the financial implications of the Provisional License program, these figures should be considered. While the California State Bar as a whole may have financial challenges, allowing those that do not pertain to the licensing of 2020 graduates should not drive this planning. The cost of the Provisional Licensure program can be covered 3-4x over with the increased revenue from bar fees alone.

(1)(B & C): Declarations: Sample forms are critical to ensure that PLLs, their supervisors and their firms can readily comply. The materials used for the PTLS program easily could and should be modified for the PLL program.

(1)(C): The Supervising Lawyer is to submit a declaration to the State Bar at the application phase only. Given that this program is designed to last for over 18mo, the absence of any follow up with the Supervising Attorney makes this program ripe for misuse if the firm does not have its own supervision standards and/or internal reporting.

#### (d) Eligibility Requirements

(1) Taking the Bar Exam: The language "...except the applicant need not have passed the California Bar Exam" is vague and fails to explain if the PLL must actually sit for the bar exam between the time they apply to be a PLL and June 1, 2022. During the discussions the Working Group stated that a PLL is NOT required to take the October 2020 bar exam, but this section does little to clarify that taking the upcoming bar exam is NOT required.

(3) Employment: This section does not explain how one is to verify being a volunteer.

#### (e) Responsibilities of Provisionally Licensed Lawyer

(5, 7, 8). Reporting: The requirements to report a change in Supervising Attorney could easily result in gaps of coverage. For example, if a Supervising Attorney leaves the organization, the PLL must have a new Supervising Attorney submit a declaration before taking over responsibility of the PLL. There are likely to be times when the departure of the Supervising Attorney happens suddenly and it will take a few weeks to submit the new supervisor's declaration to the State Bar. It is also unclear if this will result in needing to pay an additional fee. Similarly, it is unclear if a PLL must pay an additional fee if they switch firms. Per the California Supreme Court's Order, the PLL program is to be active until at least June of 2022. It is very common for people to change employers within an 18mo time frame. In contrast, the PTLS program set out clear instructions and fees relating to changes in supervising attorneys and/or firms.

#### (i) Supervision

(1)(B & D) Supervising Attorney: There is a lack of explanation as to whether the "Supervising Attorney" is to be the lead attorney at a firm (such as the San Francisco District Attorney, the Executive Director of a Legal Services Organization or the Managing Partner at a for-profit law firm) or the attorney who directly mentors the PLL. If the DA is the supervisor, meeting the 4yr/2yr requirement should be easy. However, even in such cases, Section (i)(2) which allows a Supervising Attorney to delegate some or all day-to-day supervisory responsibilities to another lawyer in the organization who otherwise meets the requirements for Supervising Lawyers" will make it impossible for firms to use attorneys with less than four years of experience to take on day-to-day supervision. This will pose a big problem for the public sector and smaller firms, as it is common to have mid-level staff attorneys with less than four years legal experience in total or less than two years in California. The suspension prohibition is also likely to be a problem in jurisdictions where simply not renewing one's license results in suspension (such as New York).

(1)(E) Disclosure of PLL at outset of representation: This needs to be clarified. If it is sufficient to have the potential for a PLL working on a case disclosed in generic firm materials or retainer documents, that may work. If it needs to be more detailed and case specific, this will likely be a challenge for nonprofits and government offices that handle a large volume of cases and/or provide limited scope representation.

(j) Termination of Provisional Licensure

Notice of Termination: The draft does not address how a PLL can remedy a procedural failure to comply. For example, if the PLL misses the State Bar New Attorney Training Program deadline by a day, are they out? Or if their payment of fees gets delayed due to miscommunication as to who is covering the fee?

Additional Comments:

Absence of Practice Specified Areas: The California Supreme Court specified in its July 16, 2020 letter that it wanted the State Bar to identify specific areas of law for the Provisional License. Given the Court's commitment to Access to Justice, it is well within reason to conclude that the Court envisioned that the Provisional License would be used primarily for poverty law/public interest issues.

Absence of Evaluation: The PLL does not include any evaluation measures. The value of this program and ability to continue using it to inform the State Bar as it explores the future of the bar exam are significantly hampered due to the lack of evaluation measures. Additionally, using enrollment as the only measure of interest in the program is misleading. The State Bar has heard from many 2020 law school graduates that they are seeking an alternative licensure method. Many of these new graduates have informed the State Bar that while they are interested in a provisional license that would lead to licensure, a provisional license that simply allows them to delay taking the bar exam is not a feasible option.

**TO:** State Bar Of California  
**FROM:** David Erskine  
**RE:** Eligibility for Provisional License  
**DATE:** September 13, 2020

**QUESTION PRESENTED:**

The Provisional licensing program as drafted is fundamentally unfair and violates the State Bars stated mission and Equal Protection Clause.

**SHORT ANSWER:**

The Provisional License Program should be amended to include all individuals who applied and were deemed eligible to sit for the July/October bar. Regardless of subsequent withdrawal.

**FACTS:**

I graduated from a ABA approved Law School prior to December 2019. I applied for and am eligible to take the July 2020 Bar Exam (now October) . I have lost a portion of my income due to COVID-19. The work I do have, my wife's employment and child's education are primarily happening from home. After months of trying to study I realized I will not be adequately prepared to pass the test. Additionally, the exam will be administered online, and I don't have a venue suitable to provide the two days of uninterrupted focus the test requires. Since my economic resources are limited and the Pandemic has prevented me from giving the exam the time it deserves, I withdrew my application by the September 8 deadline.

Although there is February Bar exam, COVID-19 is not disappearing soon. I will be working from home for the remainder of 2020 and I anticipate the same for my wife and child. Even if a vaccine is approved by years end, administering it to 350 million people won't happen overnight. At this point, preparing for and taking the February exam looks unrealistic, leaving the July 2021 exam as the next best alternative. Therefore, the earliest I could potentially practice is Nov/Dec 2021.

On July 16, the California Supreme issued an order moving the California Bar exam online and allowing for a provisional Licenses. The Holding in part:

"The court understands that many law school graduates are being substantially affected by the resulting disruption. Some graduates have lost job offers. Many are about to lose health insurance, cannot find a job to pay bills, or are in fear of deportation if they cannot enter the bar in time to retain job offers. Many more have student loan payments that become due in mid-November, but without a law license and the ability to work, they fear going into default."



“Moreover, the court recognizes 2020 graduates may not be in a position to study and prepare for a fall bar 2020 examination. Therefore, in order to mitigate these hardships faced by graduates while fulfilling the responsibility to protect the public by ensuring that persons engaged in the practice of law are minimally competent to do so, the court directs the State Bar to implement, as soon as possible, a temporary supervised provisional licensure program — a limited license to practice specified areas of law under the supervision of a licensed attorney.

This program will be made available for all 2020 graduates of law schools based in California or those 2020 graduates of law schools outside California who are permitted to sit for the California Bar Examination under Business and Professions Code sections 6060 and 6061.”

The court indicated an FAQ would follow. The FAQ was sent on Friday August 4<sup>th</sup> 2020 , the Friday before Labor day weekend. and the deadline to withdraw from the exam was September 8<sup>th</sup>, the next business day.

### **THE PROVISIONAL LICENSE PROGRAM AS DRAFTED VIOLATES EQUAL PROTECTION CLAUSE.**

The Equal Protection Clause of the Fourteenth Amendment commands that no State shall "deny to any person within its jurisdiction the equal protection of the laws," which is essentially a direction that all persons similarly situated should be treated alike. Plyler v. Doe, 457 U. S. 202, 457 U. S. 216 (1982) Rational basis review requires only that a law “be rationally related to a legitimate state interest. City of New Orleans v. Dukes, 427 U.S. 297, 303

The principle is imbedded in our constitutional system that there are certain essentials of liberty with which the state is not entitled to dispense in the interest of experiments. . . . [T]he theory of experimentation in censorship was not permitted to interfere with the fundamental doctrine of the freedom of the press. The opportunity to apply one’s labor and skill in an ordinary occupation with proper regard for all reasonable regulations is no less entitled to protection. New State Ice Co. v. Liebmann, 285 U.S. 262, 280 (1932).

In order to determine if California Bar’s limiting of the provisional license to 2020 graduates is rationally related to the State Interest one need look no further than the State Bar’s Mission statement for guidance.

“The State Bar of California’s mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; ***the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.***”

Any analysis must remain focused on the issue the Court was seeking to remedy with the provisional license - the postponement and structural changes to the biannual bar exam due to COVID-19.

The court listed many factors they found to be unique to the 2020 graduates so as to afford them an opportunity to obtain at a provisional License not otherwise available to similarly situated and equally qualified applicants for the state bar exam. They include:

**“Some graduates have lost job offers. Many are about to lose health insurance, cannot find a job to pay bills”**

The Pandemic has impacted all applicants for the July 2020 Bar not just 2020 graduates. I personally have lost income as a result of COVID -19 and fear more losses are on the horizon. I have a potential job waiting, but I must be Licensed. Due to COVID I wasn't able to study thereby withdrawing from the exam by the deadline, therefore absent a license and fear this opportunity will be lost.

**“Many more have student loan payments that become due in mid-November, but without a law license and the ability to work, they fear going into default.”**

Student Loan debt impacts a great many candidates for the California Bar Exam including those who graduated prior to January 2020. This is an issue that is not unique to 2020 graduates, but a wide variety of individuals not specifically delineated in the Courts decision. More importantly, due to the pandemic, most lender have frozen payments and interest on student loans until January 2021. the issue both not unique to 2020 graduates and moot.

**“Moreover, the court recognizes 2020 graduates may not be in a position to study and prepare for a fall bar 2020 examination**

The Court applies a myopic view of the applicant pool for the fall Bar Exam by singling-out recent graduates as the only ones suffering during the pandemic. My work, my wife's employment and child's education are all happening from home. After months of trying to study I realized I will not be adequately prepared to pass the test. Additionally, the exam will be administered online, and I don't have a venue suitable to provide the two days of uninterrupted focus the test requires. Since my economic resources are limited and the pandemic has prevented me from giving the exam the time it deserves, I withdrew my application to sit for the test by the September 8 deadline. There can be no doubt that the factors that are encumbering the 2020 graduates are the same as those hindering many other members of the applicant pool.

Unlike other jurisdictions that went the route of Diploma Privilege, whereby, an individual is automatically licensed by virtue of certain academic requirements they attained prior to registering for the exam, the State of California created a whole separate licensing structure- Provisional License – whereby an applicant needs to fulfill

certain additional requirements. Unfortunately, the threshold to start the Provisional License application process is eligibility, which is limited to 2020 graduates.

Arbitrary and protectionist licensing laws deny equal protection because “[c]entral to both the rule of law and to our own Constitution’s guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance.” *Romer v. Evans*, 517 U.S. 620, 633–34 (1996) 'Equal protection of the laws is not achieved through indiscriminate imposition of inequalities.'" *Sweatt v. Painter*, 339 U. S. 629, 635 (1950) (quoting *Shelley v. Kraemer*, 334 U. S. 1, 22 (1948))

Keep in mind, the provisional license is not automatic like diploma privilege, it requires the individual meet certain criteria and take certain steps that must be approved in order to obtain the license. Although it's understandable the bar wishes to limit and control the amount of people licensed for the safety of the public. There is no guarantee that opening the provisional license to all July/October bar applicants will in any way have an adverse effect on the general public. To the contrary, among those currently excluded from the Bar provisional License program are seasoned attorneys in good standing from other jurisdictions who are seeking to obtain a California License. Most likely there would be far less risk of negligence and or malpractice providing an attorney licensed in another state a provisional license than a recent untrained graduate.

In short, I suffer the same hardships the court sought to remedy by providing 2020 graduate's eligibility for the provisional license. Yet, the court has denied me access to the program. The arbitrary singling out of 2020 graduates from other equally qualified candidates for the exam appears to be a gift to an exclusive group of individuals rather than an open and impartial licensing scheme that is inclusive as required by both the State Bars Mission Statement and the Equal Protection Clause of the Constitution.

#### **REMEDY:**

The Provisional License Program should be amended to include all individuals who applied and were deemed eligible to sit for the July/October bar. Regardless of subsequent withdrawal.

July 6, 2020

Seth R. Hoyt Jr.

Superior Court Judge

Superior Court of California

County of San Joaquin

(209) 992-5236 (work)

(209) 418-8546 (home)

Re: Bar Candidate David Groth

Honorable Commissioners of the California State Bar:

I would like to take this opportunity to recommend David Groth for admission to the California State Bar. This I do with no reservation whatsoever.

I have had the pleasure of knowing David for the past 8 years and have always found him to be open, honest in his dealings, and dedicated to his family and faith. He has an excellent reputation both in his community and in his employment.

During the past 23 years, I have worked as a Deputy District Attorney (1997 to 2008) and later served as Superior Court Commissioner (2008 to 2010) before being appointed to the bench in 2010. During this time, I have been involved in hundreds of jury trials and thousands of cases. I have interacted with hundreds of attorneys. I have no doubt that David will make an excellent attorney if given the opportunity. His abilities far exceed many of the attorneys that currently appear before me.

David served as my Judicial Clerk from June 2013 to August 2013 following his first year of Law School. During that time he performed a number of assignments including: research of criminal law issues, trial memoranda, recommendations regarding motions and sentencing, and jury instructions. In addition, he volunteered to assist our judicial secretaries in updating legal research volumes utilized by our thirty judicial officers.

Based on my experience of working with David, I am confident that he has a great understanding of the law. I saw firsthand that he was able to read authorities, identify the rules within the authority, and synthesize those rules into a logical framework. David also was able to apply controlling legal principles to legal problems and wrote his conclusions and recommendations in a clear, concise, well-organized, professional manner that directly helped me as I ruled on complex legal issues during a two month long murder jury trial during the summer of 2013.

From the moment I met David, I was struck by his intelligence, dedication, work ethic, and strong moral sense. Of great importance, I believe David possesses the temperament and sense of balance, confidence, and strength necessary to be an exceptional attorney.

David Groth is an outstanding candidate for admission to the California State Bar. I have every confidence he will live up to the highest expectations and standards of this important responsibility. Thank you for your attention in this matter. Please feel free to contact me if I can be of further assistance with his evaluation.

Sincerely,

Seth R. Hoyt Jr.



**Todd D. Riebe**  
District Attorney

Criminal Division

(209) 223-6444

Investigations

Fax: (209) 223-6304

Victim Witness

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July 6, 2020

California State Bar Commissioners  
180 Howard Street  
San Francisco, CA 94105

Re: Letter of Recommendation for David Groth

Dear Commissioners:

My name is Todd Riebe and I am the District Attorney of Amador County. I am privileged to have this opportunity to share with you the qualifications of David Groth. David has taken the California Bar exam several times without passing. I understand that you are reviewing policies and procedures regarding registered Bar exam takers. I would certainly hope that such review will look at allowing past some Bar exam takers who have failed in previous attempts to pass the exam to practice law under supervision, when they have demonstrated sufficient ability, character and potential.

I have known David for about 3 years. He came to our officer as a part-time volunteer legal intern after graduating from McGeorge School of Law. David demonstrated himself to me as someone with a strong work ethic, excellent communication skills, sharp intellect, empathy and maturity far beyond his years. In addition to writing motions for prosecutors, I would assign David special projects on a wide range of criminal justice issues. The quality of his work and his ability to analyze complex legal issues was outstanding. I would not hesitate in allowing him to attend court and handle some criminal matters under the supervision of a prosecutor, but current rules forbid it, which is a shame.

I have been practicing law for almost 30 years as a deputy public defender, Chief Public Defender and then as the elected District Attorney. I have hired and supervised well over a hundred people during my career. I can say without equivocation that David Groth has what it takes to be an excellent prosecutor. One day soon, David will pass the California Bar exam and he will do our profession proud. I hope that in the meantime, you will grant David and others in his position, the ability to pursue their dreams in the profession that they love. Please contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Todd D. Riebe". The signature is stylized with a large, looped "T" and "R".

Todd D. Riebe  
District Attorney

VIA PUBLIC COMMENT FORM

Dorothea S. Galdo, J.D.  
257 Vernon St., #112  
Oakland, CA 94610

September 15, 2020

State Bar of California's Provisional Licensure Working Group  
ATTN: Chair, Hailyn Chen  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105  
[ProvisionalLicensure@calbar.ca.gov](mailto:ProvisionalLicensure@calbar.ca.gov)

**Re: California State Bar Provisional Licensure Program**

Dear Ms. Chen:

The California State Bar Provisional Licensure Program should be available to all eligible candidates that were/are registered for the California July 2020, now October 2020, Bar Exam, including non-2020 law school graduates. This program was ordered by the Supreme Court in a remedial effort to mitigate adverse impacts on “employment prospects, delay incomes, and impairs of the livelihoods of persons who have recently graduated from law school” due to the postponement of the bar examination.<sup>1</sup> The Supreme Court further recognized that graduates “may not be in a position to study and prepare for a fall bar 2020 examination.” (Id.) To distinguish the adverse impacts on recent 2020 law school graduates from non-2020 law school graduate repeat takers, however, unfairly dismisses the experiences and hardships of thousands of other bar applicants.<sup>2</sup> The recognized adverse financial hardships as described in the Supreme Court’s July 16, 2020 Order, do not start nor begin with 2020 graduates alone.

While the intention of the provisional license appears to be a genuine measured response to combat the effects of the pandemic, it discriminates against non-2020 graduate repeat takers whom have also succumb to challenging economic hardships during this time. The postponement of the bar exam, in light of the COVID-19 pandemic, has made it clear that a juris doctor (J.D.) without a license to practice law is in professional limbo — the employment prospects in the legal field for an unlicensed J.D. is in many instances, limited to hourly work as a law clerk, possible paralegal work, or an unpaid internship. These prospects have been made even more rare due to COVID-19.

As the Court has recognized, this is true for recent 2020 law graduates, but is exponentially more challenging for non-2020 graduates who are repeat takers. For instance, a repeat taker after being unsuccessful on the bar examination, may have had to delay reexamination to work in order afford basic necessities, pay student loans, and save for registration of another bar exam, as well as study materials. For this bar cycle, a repeat taker may have had to take an extended period of time off of work, or quit, to study and take the bar exam. This financial instability only continues when a person must retake the exam until

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<sup>1</sup> Supreme Court of California July 16, 2020 Order re: California Bar Examination

<sup>2</sup> For July 2019 California bar examination, 3,889 applicants were repeat takers and 4,938 were first time takers. <http://www.calbar.ca.gov/Portals/0/documents/July2019-CBX-Statistics.pdf?>; For July 2018 California bar examination, 3,284 applicants were repeat takers and 8,071 were first time takers. [http://www.calbar.ca.gov/Portals/0/documents/admissions/JULY2018\\_CBX\\_Statistics.pdf](http://www.calbar.ca.gov/Portals/0/documents/admissions/JULY2018_CBX_Statistics.pdf)

finally successful, or decides to pursue other options. Until an applicant is successful on the bar examination, the applicant continues to endure an overwhelming amount of economic and mental frustration.

A provisional licensure program that is based on a person's graduation date is not and should not be the starting marker of eligibility, particularly since this program is in response to COVID-19. The California Business and Professions Codes 6060 and 6061 generally require a person to meet the legal age requirement, be of good moral character, have obtained a valid legal education, and satisfy the required professional responsibility and ethics examination. The Business and Professions Code make no mention of a graduation date requirement. Hence, limiting a provisional license to those who have graduated with a J.D. or masters of law (L.L.M.) between December 1, 2019 and December 31, 2019, discounts non-2020 unlicensed J.D.s or L.L.M.s that have demonstrated minimal competency to practice law since graduating law school through real life work experience in the legal field and have registered for this bar cycle.

Since the provisional licensure program is intended solely to combat the unprecedented and unforeseeable impacts of COVID-19, the licensure should be made available for all eligible bar examinee applicants that have registered for the July 2020 bar examination, regardless of the applicant's graduation year from law school. It is unfair and without justification to hold a non-2020 unlicensed J.D. registered to take this bar exam to a state bar licensing standard, while granting a provisional license to a recent graduate who has not taken the exam. This distinction of eligibility unfairly permits 2020-graduates a grace period of approximately two years to get their financial and professional affairs in order, prior to taking and passing the California bar examination. While on the other hand, non-2020 graduate repeat takers must continue to endure economic and professional challenges (*e.g.* growing debt, delayed or stunted professional achievement, emotional trauma, etc.) until they can pass the exam in the face of COVID-19's present and future unknown effects.

Simply put, there is no justifiable basis to limit a provisional license to only 2020 law graduates. If the program is purely based on the effects COVID-19 has had on the administration of the bar exam, then the provisional license should be afforded to all eligible applicants who registered for the July 2020 bar examination. Otherwise, the provisional licensure program overlooks and ignores the likely thousands of registered non-2020 law graduate repeat takers.

Thank you for your time and consideration to this matter.

Sincerely,

Dorothea S. Galdo



Thank you for the dedication you have shown during the complex process of addressing the impact of the pandemic on prospective attorneys whose efforts to become licensed have been adversely impacted by the extraordinary circumstances in which we all find ourselves. Even after being a practicing attorney for more than twenty years myself, my memory of the stress of the bar examination and its immense impact on my professional life is still vivid. I have had the opportunity to review the materials prepared by the State Bar staff and the working group, as well as the minutes of your meetings, and I would like to take this opportunity to raise a concern that it appears has not been expressly addressed by the Working Group, which is the treatment of participants in the State Bar's law office/judge's chambers study program. The Working Group's minutes of its August 18, 2020, meeting appear to adopt a rule limiting participation in the provisional licensure program to graduates of ABA approved, State Bar accredited, or unaccredited law schools. The inference of this rule would be that individuals who are eligible to take the bar examination pursuant to completion of the law office/judge's chambers study program are ineligible. I believe this conclusion should be revisited. I recognize that the letter from the Supreme Court to the State Bar framed the provisional licensure program in such terms. However, it seems likely that due to the relatively small number of applicants who become eligible to sit for the bar exam through this program, this group of future attorneys may have been inadvertently overlooked. The impact on these individuals is just as significant as it would be to any law school graduate. Some may consider that individuals becoming eligible to take the bar examination through this program should be treated with skepticism because of the differences between a classroom education and a law office/judge's chambers study education. The California Legislature, in making law office/judge's chambers study an accepted method of qualifying to take the bar examination, did not do so. California Business and Professions Code Sec. 6060(e) creates two groupings of eligible applicants: 1) those who have graduated from an ABA approved or California accredited law school, and 2) those who have studied in other ways, grouping unaccredited law schools with study in a law office/judge's chambers, foreign law schools, and authorized correspondence programs. The State Bar's own Rule 4.26(B)(1) likewise groups these methods together and provides no basis for separating out and disadvantaging those who have learned this way. Individuals who have qualified to take the bar examination through study in a law office or judge's chambers have taken the First Year Law Students' Examination, and have completed rigorous educational requirements overseen by licensed attorneys or judicial officers of this state, supervised and verified by the State Bar. Just like everyone else who is eligible for this program, they have qualified to take the bar examination and, absent the pandemic, would have an equal opportunity to do so alongside the law school graduates covered by this program, and for that reason, present no different or additional risk to the public. In its letter of July 16, 2020, the Supreme Court noted that unlike other states, California celebrates its diversity by providing opportunities that are not limited to ABA approved or state accredited law schools, thereby enabling many future lawyers to join the profession who otherwise might not have that opportunity. This program does the same and the students who have completed four years of intensive study deserve the same opportunity to participate in the provisional licensure program. I hope you will consider taking the action necessary to ensure these individuals are also included in this program.

## FEE

There should be no fee for becoming provisionally licensed. The State Bar has already asked applicants to fork over over \$1,000 just to have the privilege of sitting for this bar exam and applying for moral character and fitness determinations.

The fact that there is also a different fee for people who are doing unpaid work and those doing paid work is unacceptable. I understand this is meant to ease the burden on those who need financial assistance, but the reality is that everyone needs financial assistance right now. Asking for more money from someone who has just graduated is like imposing a penalty on them for being able to secure gainful employment. If they are working, they will be less likely to continue to receive other forms of financial assistance and hardship assistance. That doesn't mean they aren't going through extreme hardship.

If \$55 accurately reflects the cost of administering the program, that is all that should be charged.

As it stands, the fee is too high. Many applicants have not had any income since last winter, when federal loans were disbursed. Unfortunately, \$200 is a lot of money for people living on the brink of financial disaster.

## SUPERVISING LAWYER

This program proposal doesn't make sense in terms of order of operations. Requiring an applicant to have a supervising attorney before they are provisionally licensed puts the cart before the horse. It should be the reverse order -- that an applicant receives their provisional license approval and then is able to show that to prospective employers. Otherwise, employers are disincentivized to work with or hire a recent graduate. They have to wait even longer for the applicant to be approved before the applicant can start working, and as of now, we have no idea how long that will be. Applicants should be approved, and then be able to show that approval to a prospective employer, then confirm with the state bar that they have received employment and have a qualified supervising attorney.

## WHAT HAPPENS BETWEEN JOBS?

The program FAQs do not lay out what happens if someone is provisionally licensed with one employer, and that employment ends. Do they have to apply again? Pay another fee? Or can they simply update their employer and supervising attorney with the state bar?

## CONCLUSION

I do not agree with the proposed rule as it stands. I think the two modifications I have addressed are crucial and necessary to make the program effective. The whole point is to help recent graduates who have had their lives turned upside down by COVID-19, racial injustice crises, economic crises, school closures, wild fires, and evacuations. Don't impose an additional fee on these people. Don't put up another barrier to practicing law.

Thank you for the opportunity to address you. I would like to congratulate you for making the courageous decision to permanently lower the passage score for the California State Bar from 1440 to 1390. This decision will have a profound impact on the legal profession, as there will be an increase in the diversity of the profession and access to legal services by communities in need. For this reason, I respectfully request the court consider the following information and recommendations regarding the February 2020 Bar Examination cohort.

Your consideration to take these recommendations under consideration affect me directly as I took the Bar Examination in February 2020 in Oakland and received a score of 1423. My score at the first read, however, was a 1435 (Please see attached score).

In your July 2020 letter regarding the California Bar Exam, the court mentions that:

“The court understands that many law school graduates are being substantially affected by the resulting disruptions. Some graduates have lost job offers. Many are about to lose health insurance, cannot find a job to pay bills, or are in fear of deportation if they cannot enter the bar in time to retain job offers.”

It shows great empathy that the court understands the issues that 2020 graduates are facing. The same rationale could and should be applied to those of us that took the exam in February 2020. Please consider the following:

- The February 2020 class took the exam during the on-set of the biggest pandemic in the history of our nation. In fact, the State Bar recognized this and gave guidance regarding mask usage at the time.

Many State Bar staff were using medical grade masks as they were handing out the exams and welcoming us. Many of us were afraid but had no other option than to take the exam. This could be tied directly to the 26.8% passage rate, the lowest in forty years.

- You granted Diploma Privilege to the 2020 graduating class, but those that immediately received and reach the 1390 threshold are not considered in the poll that should either be granted Diploma Privilege or retroactively passed.

- The June 2019 cohort received a significant advantage as they received the areas of focus of the essay portion days before. This advantage is clear in that the June 2019 cohorts' passage rate was 50.1%, 23.3% higher than the February 2020 exam takers.

- In the same letter, the court mentions that "the court recognizes 2020 graduates may not be in a position to study and prepare for a fall bar 2020 examination." This same rationale exists for the fall 2020 cohort. Many of us are losing health insurance, jobs and all the issues mentioned because we took the exam under the worst conditions in the history of the California State Bar. The results of the exam at 26.8% show this.

We understand that the State Bar committed an error in June 2020 by releasing the areas of focus and appreciate that it did not opt to delay the exam. This would have been a detriment to that cohort. It is also appreciated that the Supreme Court has reduced the score to 1390 and is making an unprecedented exception by providing a licensing option for the class of 2020. The question then begs, how do you make it right for the February 2020 cohort, those thousands who took the exam under very difficult circumstances and without any advantage.

It is only reasonable for the court to act on behalf of the February 2020 exam cohort by considering the following:

- Amend the July 16, 2020 letter to include individuals who sat for the February 2020 Bar who received a 1390 or above to receive the “diploma privilege” or;
- Pass individuals retroactively who received a 1390 and above during the February 2020 Bar Exam or;
- Review appeals from individuals who took the February 2020 Bar and there circumstances considering a totality of the circumstances.

The court has stated that it seeks to have a “path that ensures the fair and equal treatment of all graduates, regardless of law school accreditation status, while also ensuring that protections remain in place for consumers of legal services.” Allowing the February 2020 cohort the same “diploma privilege” or passing them meets the standard of protecting consumers of legal services while simultaneously allowing a group to begin serving California since they have met the standard set forth by this court.

We know these are difficult times. However, there is no reason not to license individuals who have met this standard, just a few months ago. The February 2020 cohort that could be considered is only between 150 and 200 examinees who scored between 1390 and 1440. This is not a large cohort and could be managed with very little oversight. This would free those who proved that they could operate under difficult circumstances and let them bring there lives back together. American jurisprudence allows the courts to retroactively make laws effective, I respectfully request you do the same here.

I disagree strongly with two major provisions: the \$200 fee and the requirement that someone already have employment or conditional employment to be eligible for the program.

In sum, both of these provisions add unnecessary burdens that will deter applications and undermine the entire purpose of providing some relief to 2020 law graduates who are already facing extreme and unprecedented hardships. I personally will not apply for the PL program as written.

I. The \$200 fee is an unnecessary additional burden for 2020 law graduates who could benefit from the program.

There are three main reasons the Bar should drop the \$200 fee requirement.

First, the \$200 fee imposes an unnecessary additional financial burden on 2020 law graduates. The rules require that applicants for the PL program submit their moral character application, which costs \$551. Many, if not virtually all, 2020 law graduates who would apply for the PL have also paid the Bar Exam registration and laptop fees, which cost \$830. The state bar already has ALL of the necessary information about each potential PL applicant, and has failed to explain why it needs an additional \$200 from each PL applicant for what appears to be - or at least should be - a fairly simple administrative item. The New Attorney Program is free of charge, the PL application should be too.

Second, the \$200 fee would defeat the purpose of creating the program at all. The Supreme Court's order directed the State Bar to develop the PL to "mitigate the hardships" 2020 graduates are facing in light of COVID and now, record-breaking wildfires and air pollution. The people who could benefit the most from the program are those that need to seek employment immediately - which are also the people who likely cannot afford the fee. Requiring the people who could benefit most from the program to pay an additional \$200 will only ADD to the hardship because they would likely apply for it because they can't get adequate employment otherwise.

Third and finally, imposing a \$200 fee would further diminish the State Bar's credibility as a body dedicated to protecting the public and ensuring competent legal services. There is no good reason for the fee to exist, or to be that high, and it raises significant questions over what the Bar's priorities truly are.

The fee should be completely abolished, or at minimum, significantly reduced. Anything more than a nominal administrative fee under \$50 will act as both a deterrent and a barrier for people to avail themselves of the provisional licensing program, which defeats the purpose of creating the program in the first place.

II. The provision requiring employment before being able to secure the provisional license will not help 2020 graduates obtain employment as the Supreme Court intended.

The proposed requirement to already have employment in some fashion will significantly diminish the value of the PL. The Supreme Court explicitly stated in its order that the PL program is meant to address the difficulty for 2020 law grads to secure employment with a long-delayed license (thanks to the Bar's and the Court's own insistence to adhere to a highly questionable exam requirement). But many

employers have no reason to hire an unlicensed person for legal work if that person has no authority to work as a lawyer. There is no incentive for an employer to hire someone who does not yet have a PL, then to wait for the PL application to process. Instead, employers will hire someone already licensed or several unpaid law students to support their work under the PTLS program.

A better alternative is to allow someone to apply for and receive the PL, and then later have an employer/supervising attorney sign onto it. Alternatively, the state bar could easily list the PL application as "approved pending supervisors' affidavit" or something similar so that an employer knows the person is ready and able to work as soon as they are hired.

The sole purpose of the PL program is to provide relief for 2020 law grads. But the proposed rules fail to do that. Instead, they create a program that imposes additional, unnecessary burdens that will deter the only group eligible for the program from applying for it at all.

I urge the Bar and the Committee to drop the \$200 fee and to drop the requirement that a PL applicant already have employment secured in some fashion.

Of course, the best alternative that will solve all the problems the Bar and Bar Applicants are facing is to grant Diploma Privilege. I urge that too.

Thank you for your consideration

Tom Rivera



I am a 2018 Graduate of Chapman Law School and I am on my third attempt to pass the state bar with reasonable accommodated testing with extended time on October 5 and 6th 2020. As a person who has a disability of motor neural processing and dyslexia it is interesting that people who are in the class of 2020 are the only ones available for provisional licensure. The same argument made by the class of 2020 that they would lose income by not being able to pass a bar exam due to covid-19 disaster could be made by graduates who are repeaters. Why should repeat bar takers be treated differently? Particularly if they work under attorney supervision. I have certainly lost speculative income based on failing the bar exam twice already. However, I have been employed as a law clerk for over two years now. Why should a repeater with more experience and under attorney supervision be disfavored for provisional licensure if they have not passed the bar yet? Shouldn't there be a level of experience or attorney supervision to qualify a bar repeater for provisional licensure.

I urge the committee to make a reasonable accommodation for people with accommodated testing or a history of disability to allow them to make the income they need while studying for the bar in California. I can attest from personal experience that working full time as a law clerk for two years has been an economic and financial struggle to take the bar multiple times. Without having a family trust left to my mother by my grandparents, I probably would not be able to afford taking the bar exam or even studying with the appropriate materials I would need for the past two years. Does the committee want people with disabilities to leave the state to practice in states with lower cut scores if they have difficulty passing the California Bar Exam? I would think not. I am fortunate to have a family trust where I can supplement my income to pay for living expenses while I study and take time off work but I have become less able to do so and now do not have enough money to take off work for the amount of time I need.

I make 25 percent of what I would as a barred attorney had I passed the bar exam. I am doing work in personal injury like drafting complaints, interviewing clients for intake and writing motions and researching case law and subpoenas all under attorney supervision at 25 percent of the income I would have made had I passed the bar. As a person with dyslexia and motor neural processing speed disorder I can attest to the fact that the exam is a herculean effort and I have considered leaving the state due to the high cut score, this decision would be tough for me because my elderly parents live in California I have considered career changes and even giving up. However, because I am stubborn and enthusiastic I am going to keep pushing to pass the California Bar Exam.

I think the strict bar exam requirement of 1441 was outrageous and the 1390 cut score is more in line with the other states, so I am happy about that. However, I am convinced there should be a residency requirement for new attorneys to work under supervision and qualify for a certain number of years. I don't see why provisional licensure cannot operate to ensure competency and ethics in the profession

based on mentorship. There should be a mentor program for provisional licensed attorneys to help ensure competence and attorney growth in the profession.

I believe that persons with cognitive disabilities should be able to apply for provisional licensure based on demonstrated disability and with character references from multiple attorneys. Why even deny repeaters without disabilities to engage in provisional licensure if they can demonstrate ethical and competent behavior under attorney supervision?

In my view the California bar exam and the LSAT needs more research by clinical and research psychologists as to whether the bar and LSAT is predictive of lawyers success academically and professionally economically. There needs to be an effort to allow students who have acquired astronomical law school debt of nearly \$300,000 plus to pay their debt provisionally if they graduate law school until they can pass the bar or they can work for the government in public interest sector to have the debt forgiven or reduced.

I cannot get credit cards to supplement my income because of the amount of my law school debt, further I have to rely on my parents and family to pay. I am lucky to have a family trust, not everyone in my situation does. The provisional license should be retroactive for five years or available to persons with demonstrated disabilities. Thank you for reading.

I am an African-American Woman from Moreno Valley, California. I was born and raised in the Inland Empire and decided to graduate from the only ABA Accredited Law School in my region, the University of La Verne College of Law. Though my law school experience was as challenging as the next person's, I graduated in 2017, after being hospitalized toward the end of my studies. I studied for the 2017 Bar Exam, less than a year out of the hospital and failed. The night I found out that I failed, I was one month pregnant and set to be six months pregnant come the February 2018 exam, and a month postpartum come the July 2018 bar exam. It was in May 2018 that I was diagnosed with Preeclampsia and my daughter was born 4 weeks early. I had decided to spend my daughters first year at home with her, as both of our lives were at risk. Once my daughter turned 1, on May 19, 2019, I decided to study for the February 2020 bar exam. I would have never thought that I would be regretting these decisions.

In February 2020, I increased my bar exam score to a 1437 and scored in the 80th percentile nationwide, and the 75th percentile across the State of California. As devastating as the news was that I could not practice law, I was proud of how far I came and ready to sit for July. Now, it is September and I am wishing that I had just taken on this stress test when I was six months pregnant or, again, fresh out of the hospital. The blatant and willful disregard toward retroactively passing examinees, and the tough decisions they had to make in preparing for the bar exam, is immoral. Though I appreciate the California Bar's commitment to serving the public, as a member of the public and as a representative and advocate for underserved communities, I must say that I am disheartened by the decision to only include December 2019 graduates and onward in the proposal for provisional licensure.

To willfully disregard a class of people, such as repeat takers who scored above 1390, and to refuse to acknowledge the well-known fact that the bar exam has had a historically disproportionate impact on African-American applicants, and other applicants of color, is a grave injury to justice and our faith in the justice system.

Future attorneys of this state are subject to substantial injury with the California Bar Exam being held over their head, despite being more than competent to practice with the zeal and enthusiasm required to contribute to the profession. To truly stand on the principles of the California Bar, retroactivity is the most equitable and logical remedy. The provisional licensure is helpful to those awaiting to sit for the exam who have not surpassed 1390, but to subject your qualifying attorneys to the very process of this

exam is sacrificing potentially great practitioners at the expense of testing their endurance and stress tolerance. This must not go on. Please reconsider a remedy for retroactively passing applicants.

July 24, 2020

Hon. Tani G. Cantil-Sakauye, Chief Justice of California  
Associate Justices of the Supreme Court of California  
350 McAllister Street, 5th Floor  
San Francisco, CA 94102-4797

RE: Retroactive Application of 1390 Cut Score to February 2020 California Bar Exam

Dear Honorable Chief Justice and Associate Justices of the California Supreme Court:

Although the California Supreme Court's decision to permanently lower the cut score for the California Bar Examination to 1390 is a step in the right direction, the Court should account for examinees who took the February 2020 Bar Exam amidst the COVID-19 pandemic. By not addressing the unique obstacles presented to February 2020 bar examinees, the Court has effectively determined that the administration of the February 2020 bar exam was in no way impacted by COVID-19, thus as normal as any previous bar exam. The Court must address this. I submit that the Court should retroactively apply the new cut score of 1390 to February 2020 bar examinees.

COVID-19 is the greatest single health crisis in over a century and is far from over. The United States declared COVID-19 a public health emergency on January 31, 2020. While the effects of COVID-19 were unfolding in January and February, many examinees wondered how the virus would affect the February 2020 bar exam. Uncertain how contagious the virus may be or how quickly it could spread, many of us believed COVID-19 would cause the bar exam to be delayed or cancelled. Detracting away from important areas of law, our focus and concerns surrounded the virus and the safety of taking the exam during this alarming health crisis.

**I. The California State Bar acknowledged the fears of COVID-19 prior to examination**

The California State Bar sent two emails to February 2020 bar applicants regarding COVID-19, the first on February 14, 2020, **eleven days before the examination**:

"The State Bar of California ("State Bar") understands you may have concerns regarding the coronavirus and we encourage you to follow the guidance from the Centers for Disease Control and Prevention (CDC) and the World Health Organization. At this time, the risk in California for contracting the coronavirus is low.

According to the CDC, the best ways to prevent the spread of the coronavirus, the flu and other respiratory viruses are to:

- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom; before eating; and after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, use an alcohol-based hand sanitizer. Always wash your hands with soap and water if your hands are visibly dirty.
- Avoid touching your eyes, nose, and mouth with unwashed hands.

- Avoid close contact with people who are sick.
- Cover your mouth and nose with a tissue when you cough or sneeze, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces.

In keeping with the CDC prevention guidelines, the State Bar will have hand sanitizer dispensers stationed at the testing sites for the upcoming administration of the bar exam.

If you would feel more comfortable wearing a mask during the exam, you will be permitted to bring and wear your own mask in the secured testing area in accordance with the following guidelines:

- Applicants are only allowed to bring one mask into the secured testing area per exam session. Extra masks will not be permitted in the secured testing area. Extra masks should be stored in an applicant's hotel room or car.
- Masks brought into the secured testing area shall not contain writing of any kind and will be subject to inspection by State Bar personnel.
- Masks will be inspected at all entry and exit points, including when an applicant leaves the secured testing area to go to the restroom, when coming back from the restroom, and at the beginning and end of each exam session.
- Masks must be removed by applicants for inspection upon entry and exit from the secured testing area, and both sides of the mask must be shown to State Bar personnel.
- If an applicant decides to remove their mask during an exam session, they must place the mask in their clear Ziploc bag so that it can be seen on the desk by State Bar personnel."

The second email was sent out on February 21, 2020, just **four days before the examination**:

"In preparation for the examination next week, please see the important information below regarding specific details.

The State Bar of California (State Bar) understands you may have concerns regarding the coronavirus and we encourage you to follow the guidance from the Centers for Disease Control and Prevention (CDC) and the World Health Organization. At this time, the risk in California for contracting the coronavirus is low. In keeping with the CDC prevention guidelines, the State Bar will have hand sanitizer dispensers stationed at the testing sites for the upcoming administration of the bar exam.

If you would feel more comfortable wearing a mask during the exam, you will be permitted to bring and wear your own mask in the secured testing area in accordance with the following guidelines:

- Masks must be medical masks that are surgical or procedure masks that are flat or pleated (some are like cups); they are affixed to the head with straps.
- Masks brought into the secured testing area shall not contain writing, designs or adornments of any kind and will be subject to inspection by State Bar personnel.
- Applicants are only allowed to bring one mask into the secured testing area per exam session. Extra masks will not be permitted in the secured testing area. Extra masks should be stored in an applicant's hotel room or car.

- Masks will be inspected at all entry and exit points, including when an applicant leaves the secured testing area to go to the restroom, when coming back from the restroom, and at the beginning and end of each exam session.
- Masks must be removed by applicants for inspection upon entry and exit from the secured testing area, and both sides of the mask must be shown to State Bar personnel.
- If an applicant decides to remove their mask during an exam session, they must place the mask in their clear Ziploc bag so that it can be seen on the desk by State Bar personnel."

Receiving emails from the State Bar days before the exam regarding COVID-19 safety protocols was an alarming reminder about the seriousness of this public health emergency. The California State Bar recognized that COVID-19 added further stress and anxiety to preparing for arguably the nation's most difficult bar exam. Many examinees, including myself, were concerned these State Bar emails would regard a delay or cancellation. The level of uncertainty regarding the virus itself and the possibility of not even being able to take the exam are unquantifiable on how it specifically impacted each individual examinee. But to say the State Bar's emails did not create further levels of stress and anxiety for examinees would be erroneous.

## **II. COVID-19 was an additional obstacle to an already demanding exam**

It goes without saying that studying for the bar exam is a stressful and anxious endeavor. The State bar recognized the seriousness of COVID-19 before administering the February 2020 California Bar Examination, yet failed to account for how such obstacles would interfere with examinee performance on the exam itself.

As a repeat examinee myself, the environment of taking the exam was tenser than it was last summer. Upon arrival and meeting former classmates and acquaintances, the fear of being at the testing center was palpable as we hoped to stay healthy the entire two-day period. We were fully aware of the prevailing science of COVID-19 symptoms being as varied as 2-14 days after initial exposure. Not to mention the ominous possibility any of us may have been infected and contagious, as many cases are asymptomatic. We worried the onset of fever or other COVID-19 symptoms could have occurred at any time within the three-day period the day before and through completion of the exam. Standing in line with students waiting for admittance into the convention center, some of them coughing or sneezing, created an apprehension that is not comparable to simply wanting to avoid those who may potentially "be sick."

Entering the actual testing room after the anxious wait in line outside was further unsettling, as proctors spent extra time looking at and even having certain examinees take off their facemasks for inspection. I do not recall there being hand sanitizer dispensers at the my particular testing site in Pasadena although the State Bar emails indicate they would be provided. There was also the discomfort and interruption when someone in the exam room would have a coughing fit to the point they had to leave the room. Examinees were justifiably concerned and affected by this terrible virus. The environment was uncomfortable, distressing, and further exacerbated the difficulties that are separately inherent in taking the California Bar Exam. Again, such adverse effects are not quantifiable nor account for variances amongst individual examinees. But to say this unfavorable exam environment did not impact examinees and overall performance is also erroneous.

Is it any surprise that the February 2020 exam resulted in the lowest pass rate in California history at 26.8%? Is there any connection between COVID-19 and that historically low pass rate? I would be remiss to think there is not, and it is bizarre that the Court did not address nor factor such impacts on February 2020 bar examinees. The Court addressed in its July 16, 2020 letter about the “*dangers posed by mass in-person testing*” but did not account for those dangers presented to February 2020 bar examinees.

### **III. A one-time retroactive cut score of 1390 ensures minimal competency**

The concerns about retroactively applying a cut score to a previously administered examination may cause concern about a slippery slope. However, the State Bar’s acknowledgement of such a health crisis and the actual effects of COVID-19 on the February 2020 exam is the exact type of situation that would warrant a one-time retroactive cut score. This is not a slippery slope. This is fair to those who undertook one of the nation’s most rigorous bar exams under the unforeseen yet unaccounted for effects of COVID-19. This will ensure that the State Bar is truly admitting those who possess the minimal competency to practice law.

An August 2017 article on abajournal.com by Stephanie Francis Ward noted, “the total pass rate for the 2016 California bar exam was 43.3 percent. If a cut score of 1414 had been in effect, the pass rate would have been 46.8 percent. ***With a 1390 score, the pass rate would have been 52.1 percent.***” Should the State Bar retroactively apply the “new” cut score to February 2020 examinees, the pass rate would (coincidentally) rise 9% from 26.8% to about 36% (per the February 2020 Bar percentile table). Would retroactively passing about 9% of examinees, who undertook one of the most rigorous bar exams in the country with the added interruptions of COVID-19 run afoul to “the advancement of the ethical and competent practice of law?”

### **IV. The unaccounted for impact of COVID-19 on the February 2020 exam is not a matter of “luck”**

Dean Michael Waterstone of Loyola Law School said the three components to passing the California Bar exam are knowledge, preparation, and luck. The last one stuck with me. I presume Dean Waterstone meant good luck. But luck is not something I really believe in. In my 27 years of life, I have experienced a great amount of hardship and tragedy (which I will not belabor here). Is that bad luck? Notwithstanding those obstacles, I have persevered and achieved many feats of which I am extremely proud. Is that good luck?

There is neither good luck nor bad luck. There is action. Attorneys act and I will follow my late father’s footsteps as a relentless advocate of the California State Bar. I have been an advocate for my family throughout tragedy. I have been an advocate for myself in the many obstacles inside and outside the classroom. And I will be an advocate for a fair and just resolution for February 2020 Bar examinees who were unaccounted for in determining how COVID-19 adversely affected the administration of the bar exam and examinee performance. The Court addressed in its July 16, 2020 letter to the State Bar that COVID-19 has “had an unprecedented impact on professional licensure testing for graduates seeking admission to many professions, including law.” Is it luck that I may potentially be one of the last examinees to have



an exam score that will live in bar exam purgatory (i.e. not good enough before, but good enough later) even though COVID-19 negatively impacted the exam? It is not a matter of luck. The Court can and should take action. The “Frequently Asked Questions” page for the October Bar Exam says on page 8 that “The [Supreme Court’s July 16, 2020] letter did not act to retroactively change the exam cut score. ***The Supreme Court is the only entity empowered to make such a change.***” I humbly ask the Court to address the negative impact of COVID-19 on February 2020 California Bar examinees and urge the Court to enact a one-time retroactive cut score of 1390.

Respectfully,

Jeffrey Bloeser, J.D.

What's the rational basis for this program? If you turn to the top of the second page of the Draft Rule of Court, you'll immediately see why this program is important to the State Bar. Yet another State Bar rule to take money from law school graduates and give to itself, in order to protect the public from the "overcrowded condition of the bar," "a question of keeping pure the Anglo-Saxon race." No, that's not *deja vu* you're experiencing. Yes, the State Bar indeed already has many, many Rules of the State Bar to continue generating wealth from law school graduates. (See Rules of the State Bar, rules 4.16, 4.41, 4.47, 4.52, 4.58, 4.61, appen. A: Schedule of Charges and Deadlines for 2020. See also State Bar of Cal., 2017 Financial Statement and Independent Auditor's Report of the State Bar of Cal. (Apr. 30, 2018) p. 12 ["OPERATING REVENUES... Examination application fees... 20,077,228"].) But those have all been there for a while. It's 2020, it's time for a change.

But most importantly, the State Bar needs a few more cases of *Veuve Clicquot* for its lobbyist friends. (Cal. State Auditor, *The State Bar of California: It Needs Additional Revisions to Its Expense Policies to Ensure That It Uses Funds Prudently*, no. 2017-030 (June 27, 2017) ["Auditor, State Bar Needs to Use Funds Prudently"] p. 2 ["the State Bar identified alcohol purchases totaling \$156,900 for events, meetings... does not require its lobbyists to justify the amounts they bill, which totaled \$768,000 from 2014 to 2016."].) Before you complain, try to understand. Top shelf lobbyists require top shelf alcohol. I mean, they're not going to bring their *\*own\** alcohol to the State Bar's lavish Financial District building. (I hear the Los Angeles Downtown branch is quite nice as well.) And they've worked very hard to climb up the backs of the rest of us to get to the top. The State Bar would be quite remiss to try and serve them *Kirkland* off-brand or something that the rest of us peasants drink.

Protecting the public is a *\*tax\**ing challenge. (Don't do that, State Bar, it's a separation of powers issue. Oh, you'll do what you want and not even the Supreme Court will stop you? *Touché*.) Even figuring out the meaning of that statutory language, "protecting the public," is a challenge in of itself. In fact, State Bar President Michael G. Colantuono and Executive Director Leah T. Wilson would even say that "One of the most significant challenges facing the Bar and, by extension, research regarding the appropriate pass line for the CBX, is the fact that while 'public protection' is essential to the mission of the Bar, public protection has never been clearly defined." (Pres. Michael G. Colantuono & Exec. Dir. Leah T. Wilson, State Bar of Cal. letter to C.J. Tani G. Cantil-Sakauye, Supreme Ct. of Cal., Dec. 1, 2017 p. 81.) It's all right, State Bar. We all have to stop and wonder why we're really here, what the meaning of life is, what the purpose of it all is. You're not alone.

Maybe the State Bar should hire a white supremacist pseudoscientist to fake a bunch of numbers and blame minorities and women for the bar exam pass rate? Oh, the State Bar's already been hiring them for 38 or more years? That's okay. The State Bar can just lie to the Supreme Court and the public and tell them four years, that way they can call Dr. Bolus "independent." (Id. at 5, 50.) I mean, who's going to stop the State Bar from repeatedly and persistently violating the Rules of Professional Conduct and the Penal Code? Probably not the State Bar. And probably not daddy. And those stupid minorities and women with their "differences in their legal skills and abilities" will never know the difference. (Klein & Bolus, The Size and Source of Differences in Bar Exam Passing Rates Among Racial and Ethnic Groups (Nov. 1997) 66 B. Exam'r 15.)

We can call the women and the minorities just coming out of law school "provisional lawyers" and take their money and then make them take a "minimum competency" exam developed by people who have never taken a minimum competency exam. And what better way to prevent the "overcrowded condition of the bar" than forcing them to use the same testing software company responsible for #barmageddon in 2014 and totally botching the 2020 Michigan bar exam? Oh right, they said it was hackers or something and that they asked the FBI and DHS to investigate. Sure, they didn't have a modicum of evidence, but who needs evidence when you're working for the State Bar? Our courts can just take judicial notice of the State Bar's unlimited power or something.

But the thing about unlimited power and riches is that you always want more. I think. That's what it seems like, anyways. Personally, I would have stopped after driving someone into taking their own life. But the State Bar seems to get a rush from that sort of thing, and really ramped up their efforts to defraud and gaslight the public the very next year. They even broke their record and made over \$20,000,000 in exam fee revenues, unless that's underreported.

So what's the rational basis of all this? Well, it may not be rational or constitutional or anything. But it's going to make the State Bar very, very rich, and that's the most important thing to keep in mind. It's not like some peasant agreement like a "constitution" would ever stop the State Bar. They can just lobby that stupid thing out of existence. And mimosas for the State Bar's lobbyists will be served on Sunday at

11 AM. But those events are invite only. There are very, very important statutes in the Bagley-Keene Open (Closed?) Meeting Act which are why the State Bar has to keep the public out from the important lobbyist parties or basically any serious decision the State Bar ever makes. We certainly can't let the ... "provisional" lawyers enjoying the State Bar's \$156,900 of alcohol purchases. That would ruin the whole thing.

Instead, the State Bar can just release some of the tension from its knees on the next generation's necks, and let them buy second-class licensure from the State Bar before paying for the exam registration fees, exam fee, laptop fee, late fee, second late fee, late laptop fee, moral character determination fee, moral character extension fee, moral character appeal fee, etc., etc. Wait, doesn't that mean that the very people who have been repeatedly defrauding the Supreme Court and the public are responsible for investigating attorney applicants' "moral character"? It's a weird flex. But okay. I'll give.

Just like the national clan--whoops, I mean, conference--of bar examiners who have never taken such a thing in their lives. At least at the end of the day, once the State Bar finally surmounts their "most significant challenge" of figuring out what "protecting the public" means, we'll be safely protected from something or other. Oh, our Legislature immediately amended the statute after that to clarify that it obviously meant greater inclusion and access to the legal system? Uh oh, those bar examiners "keeping pure the Anglo-Saxon race" from the "overcrowded condition of the bar" won't like that at all. Oh, they just ignored it and lowered the "scaled"\* pass rate to 26.8%\*? Fair enough. Lisa Cummins in the Office of Admissions filed a perjurious declaration to pretend Farid Yusuf-Sada hadn't already admitted that there were printing errors affecting multiple applicants' grading, there were some errors in uploading essays, some scans had missing pages, and certain essays or grader's notes were difficult to see? Someone has to protect the public from the truth and the "overcrowded condition of the bar." And thank goodness we have the State Bar for that.

After sitting through much of the Provisional Licensure Working Group's public meetings, I want to thank the Working Group's members for the thoughtful, pragmatic, and compassionate work they put into this draft Rule. In the midst of a national crisis, and real worries that states were casually or willfully disregarding the professional and personal crises that Class of 2020 graduates and other examinees are subject to, during the PL Working Group's meetings, I witnessed members craft a set of rules that gave me a glimmer of hope. Working Group members' comments envisioned a future in which PLLs would do good, solid, competent legal work, and they did so without expressing a prejudice that we are less-than or bound to be incompetent. This sign of their faith in us was much needed in this difficult time.

I agree with the Proposed Rule of Court on PLLs offered for public comment. Its harmonization with existing rules for attorneys barred out of state but not (yet) in California offers a helpful map for potential employers as to where the Proposed Rule and PLLs fit within the professional ecosystem. Could the Working Group also provide (along with the Rule Comments) a single-sheet, grid-like guide to potential employers that highlights how PLLs are relatively situated in that ecosystem of requirements and abilities? Such a guide may help employers see at a glance what their responsibilities will boil down to and the employability of PLL job-seekers.

To the Supreme Court, may the Court please consider expanding this PLL pathway into a non-examination-based pathway to full licensure in the California Bar.

This year's problems with highly invasive and discriminatory remote proctoring software and the realities of examinees' economic disadvantage—such as cramped housing, incessant urban noise disturbances, unstable electricity, wildfire evacuations, smoke pollution in run-down rental apartments, computers that cannot handle remote exam software, and especially no income for months beyond loan budgets—are not a single crisis to be ended soon. We are looking at an ongoing, predictable pandemic and climate-related change that has and will continue to fundamentally challenge how we live our lives, including how licensure to practice law might need to happen. Burden-shifting of the economic and personal costs of this multi-year crisis onto 2020 law school graduates is no fair, equitable, or just solution to meet this crisis.

To not take this real suffering, the losses, the laying bare of structural inequities and discriminatory pasts and presents, to not repair these damages with enlightened justice and reasonable new solutions will send a starkly negative and forbidding message to up-and-coming potential lawyers, especially those from under-represented backgrounds. Please give us a way to convert our good work and practice under solid supervision into something enduring, something that enriches the profession as a whole in

California. Please give us a pathway into full licensure without a semi-annual bar examination, based on actual evidence of our performance as ascertained in PLL practice.

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solid supervision into something enduring, something that enriches the profession as a whole in California. Please give us a pathway into full licensure without a semi-annual bar examination, based on actual evidence of our performance as ascertained in PLL practice.

I believe that requiring graduates to have a passing MPRE score on file to even apply, let alone participate, in the provisional licensing program is nonsensical and conflicts with the spirit of the state supreme court's letter of July 16, 2020. That directive from the Supreme Court is very clear in that it seeks to be fair to all applicants and its purpose is to allow employment under supervision, giving applicants til June 2022 to take and pass a bar exam. To me, it follows and is only logical that the same rule should be applied to the MPRE — or else what is the purpose of the state supreme court's action, if the state bar is going to set another barrier to graduates getting to work, which in effect negates the absence of a bar exam requirement.

I took the MPRE in March 2020 at a PearsonVue testing center, all set up by and charged for by NCBEX. This was a HORRIBLE experience, with the huge, wide computers set up to accommodate engineering and autocad types of exams, which they administer, NOT a small worded law exam with no ability to adjust anything. An examinee spends the entire 1.48 minutes for each question turning his/her head back and forth as though at a tennis match to even READ the questions. As a result, there is no time to even process and select the correct answer. I called NCBEX to inform them of this horrible and utterly unrealistic test taking experience. They admitted other examinees called with the same complaint — yet they arrogantly fail to correct it. And the California state Bar is still requiring it (this really stuns me, as I have encountered numerous long licensed lawyers I have defeated in court who grossly violate these ethics rules constantly; what stuns me is the premise of “protecting the public” as to the rationale for this exam, when in fact if protecting the public is the objective here, these types of attorneys should be severely disciplined — yet they never are).

I believe that to comply with the spirit of the state supreme court's letter and directive of July 16, 2020, a graduate should be allowed to participate in the provisional licensing program and be given until June 2022 to complete BOTH the General Bar exam AND the MPRE. To require a passing MPRE score — but NOT a passing bar exam score — in order to participate in the provisional licensing program defeats the purpose of the state supreme court's letter and directive of July 16, 2020 in its entirety.



As someone who sat for the February 2020 bar exam I was very aware of the emerging public health crisis at the time and have always felt strongly that the February exam administration and grading was impacted by the pandemic. The PL working group then admitted that it was in fact impacted in the meeting where they were developing the proposed rules. This is why they have proposed to extend PL beyond just 2020 to include December 2019 graduates. The group believed that December 2019 graduates have not had an opportunity to sit for a bar exam under normal conditions. While given the current state of the world, I would never want to deny any applicant whatever advantage or opportunity they could possibly benefit from, I feel strongly that extending PL is an inappropriate and inequitable remedy that discriminates against all other February 2020 examinees. Every single examinee that sat for that administration was impacted; therefore whatever means of remedying the identified problem is should apply across the board.

The proper remedy is what other jurisdictions have done for July 2020 bar exams and/or the fall exams soon to be administered. A lower cut score should be applied for bar exams impacted by Covid-19. This is completely separate and apart from the Supreme Court's decision to permanently and prospectively lower the cut score for the bar exam. While I am admittedly also a proponent for retroactive admission, I believe that the impact on the February Bar Exam that has now been admitted by State Bar officials in a public forum is an entirely separate issue that calls for a separate and distinct resolution. This would not be a retroactive application of the new cut score, but a temporarily reduced passing score in light of the circumstances similar to what Hawaii, North Carolina, Oregon, and Washington have done for the summer/fall administrations. Other states may have also taken the same action of temporarily reducing the pass score, but those are the ones that I have been made aware of. While I am admittedly not aware of any state lowering the pass score for the February 2020 bar exam, I am also not aware of any State Bar employees in any other state admitting that their exams were impacted and I believe California was in a very different position in February than the majority of the United States. The public here was already well aware of clusters of Covid-19 circulating in California and the concerns were far different than in other states where it was not apparent that there was already community spread.

Concessions simply cannot be made for only a subset of February 2020 examinees because the State Bar is now recognizing the extent to which the February 2020 exam was impacted by the global health crisis. There is no equity in granting a Provisional License to only a portion of the February 2020 Bar Exam test-takers with no rationale basis for the distinction. I also strongly believe that PL is not the appropriate remedy and further expansion of the program would be highly impractical. PL was created to give applicants an opportunity to begin working and delay the bar exam until they can take it given the state of the world right now and all of the challenges applicants are facing. February 2020 examinees have already taken the bar exam. The time, sacrifice and financial investment in doing so was already made, therefore the proper resolution would not be to force applicants to make further sacrifices and an even greater investment associated with re-taking a future exam, but to lower the cut score for February 2020 as means of accounting for Covid-19's impact. This would be the proper resolution even if the California Supreme Court had never decided to lower the cut score for future administrations. This

provides every February 2020 examinee with the same potential benefit of a lower score, without further burdening the PL program by extending it to December 2019 graduates or beyond, and while also ensuring protection of the public.

The State Bar Provisional Licensure Program is inadequate because it does not contemplate the possibility of an apprenticeship to licensure program. Given the uncertainty due to COVID-19 and the significant time commitment necessary to prepare for and take a Bar exam, the failure to include an apprenticeship option is, ultimately, a fatal flaw in the Provisional Licensure Program. A Provisional Licensure Program for a limited period of time is better than nothing for recent law school graduates in California, but by itself is inadequate to address the uncertainties caused by the pandemic.

There is no certainty that California or any other state will be able to safely administer in-person Bar exams in the near future. Given the recent experiences with ILG and even the ExamSoft download issues experienced on September 1, it seems increasingly unlikely that remote proctored examinations will be feasible.

If there were any guarantees that either in-person Bar exams could be safely administered or remote proctored examinations would work effectively for all applicants by February 2021, there is a possibility that a Provisional Licensure Program would be a worthwhile stop-gap measure. However, both of those options may be impossible to implement within a reasonable timeframe.

Delaying taking a Bar exam for more than one year means that the applicants will be that much more removed from their legal studies, that much more immersed in what are likely to be heavy workloads with limited ability to take time to prepare for this life-changing exam, and much less likely to be able to engage with the Bar examination preparation programs most are currently undertaking in preparation for the October Bar. Quite simply, delaying for two or more years the first opportunity that recent graduates may take the California Bar is unreasonable and not in the best interest of the public, which includes providing a pipeline of new attorneys.

The only reasonable option is to implement an apprenticeship to licensure program. The “guardrails” described in the Provisional Licensure Program would be appropriate for such an apprenticeship to licensure program with one major exception. The federal judicial clerkship programs across the United States draw the best and brightest from the most elite law schools in the nation. Any applicant who spent some or all of the designated apprenticeship time period under the direction of a federal judge should be deemed to have met whatever supervisory requirements are established.

Thank you for allowing public comment on this important issue.

Upon waking this morning, I do what I have always done—check the State bar website for updates, check my email for notifications from the same. It wasn't until a fellow California Bar applicant of the 2020 class notified me of this Public Commentary Form. Not that it is relevant or important to whomever is reading this, but I must affirmatively state: that I find the delivery of this comment form incredibly untimely. There were over 100 pages of documents that we (bar applicants scheduled for the thrice removed exam date, to digest instead of studying.)

Why is it that California which has always been monikered as a leader in social justice, environmental awareness, and equality the LAST in line to PROPOSE the same provision that 23 states have already adopted a comment section open for at least 15 days??? Our bar Exam has been moved repeatedly.

The question I have is WHY are other states who are not known as leaders of law and democracy able to have passed what is PROPOSED by California now. You should be ashamed of yourselves.

It is absolutely ridiculous that a provisional license be given to all of the graduates of 2020; all of which have had to overcome the pandemic, the lack of in class teaching, the numerous postponements of the bar exam—only to be told that there was FINALLY an advisory

There are several states that have already allowed the supervised practice of law students contained in the email received today:

Ohio—May 13th

Arizona—April 6th

Arkansas and Colorado—July 10th

Georgia—July 20th

Kentucky—May 13th

Minnesota—June 5th

New Jersey—April 6th

Montana—June 17th

New York—July 27th

Tennessee—July 13th

South Dakota—May 6th

Wyoming—April 10th

Washington—June 12th DIPLOMA Privilege

California bar applicants should be given the same as Washington...a diploma privilege. It is professional Darwinism...if you cannot practice law effectively—you will not be in this profession for long.

I take personal offense to the fact that you are telling all of us now.....3 months after a multitude of states...that there is a provisional license being considered...

Get your heads straight. Be Leaders.

Greetings State Bar of California,

I am a 2020 law school graduate of Columbia Law school. I am an African American male that comes from humble means. My source of income, which is a job at law firm in California, has been pushed back, from an expected start date of August 1st, to whenever I can sit for the bar examination, which has been continually pushed back. As such, I have been exposed increasing distress, with debts both personal and educational piling up, especially since my parents depend on me for income as my mother has been dealing with severe medical issues as of late. My story pales in comparison to others, who have no means to pay for basic necessities for themselves, or even afford internet connection to sit for the "remote" October bar examination, and thus will not be able to start work.

The administration of the remote October bar exam has been fraught with technical and legal difficulties. Namely in that the collection of biometric information is in violation of California's own California Consumer Privacy Act. Also, the exam places incoming test takers with shoddier internet and those who lack access to a private space due to their economic position with lesser means to effectively take the bar examination online.

I understand the need from your end to ensure that lawyers practicing in the state are fully competent to practice in the jurisdiction, which in past years has been satisfied by the passage of the bar examination. However, extraordinary times call for extraordinary measures, and the state bar must adapt to the most unprecedented crisis of the modern generation (which is the explosion of COVID-19), just as incoming lawyers, as well as the general population, have been forced to adapt to these turbulent times. I implore you to consider the equities of the situation, namely balancing the need to ensure competency against the needs of both incoming lawyers and the general Californian population - who will need access to legal services. Unemployment benefits from the federal government are drying up, and soon Californians will need legal assistance relating to a plethora of issues; which range from unemployment claims, to eviction proceedings, to claims relating to the exposure to the Covid virus. Thousands, if not millions, of Californians will have eviction proceedings commenced against their residences (including close friends and family of mine), and will need legal representation.

Competency can be assured by other means this year. Namely, I find the most reasonable and equitable way to do so would be a practice-based approach. This approach would consist of the granting of a temporary license to incoming lawyers in the state conditioned on the successful passage of the MPRE examination, and permanent admittance to the bar being conditioned on the completion of 200 or more hours of practice under the supervision of a qualified, admitted attorney. The supervising attorney should be subject to a proceeding in which they, under oath, can attest to the competency of the temporarily licensed attorney based on the 200+ hours of legal work they have personally observed and supervised. This method, in my humble opinion, is more suited to ensuring the competency of incoming lawyers than the bar exam itself in the best of times.

Therefore, I agree with most of the substance of proposed rule XX. However, I disagree with (a)(3) of the proposed rule, specifically the portion which states that provisionally licensed lawyers will retain their

provision license until 2022, and in order to continue with practice thereafter will only retain admission to practice law upon the passage of the California Bar Examination.

It is impracticable to require the taking of the bar examination a full two years after provisionally licensed lawyers will have been practicing law with full legal authority in the jurisdiction under the supervision of an admitted qualified attorney. This would cause direct interruptions in the legal representations that provisionally licensed lawyers will have undertaken for two years - causing these provisionally licensed attorneys to limit their representation of their respective clients in order to prepare for the examination. It makes much more sense to condition permanent admittance to the bar on a satisfactory showing of adequate and competent representation during the provisionally licensed period, which can be legally attested to by the qualified and admitted supervising attorney.

In sum, I beseech you to have empathy for the incoming lawyers that have been drastically affected by the nation's most severe crisis in decades, and to employ creativity in finding a just and equitable solution. We are ready to work for the betterment of the country's society, so let us show you that we can.

-Sam

I agree with a supervised practice program, ONLY if it is modified to result in full admission to the State Bar after successful completion of the supervised practice period (no disciplinary issues, etc.). As presently drafted, this program leaves applicants no better off, and due to the costs of administration, it might as well not exist.

I fail to understand the logic behind taking away the license of a bar applicant who has practiced successfully for two years with no issues. Two years of supervised practice is a better indicator of attorney competence than a bar examination. This program would be so helpful to applicants if it allowed them to practice and ultimately gain admission to the Bar. For example, I would be able to start work with my law firm (current start date is 10.19.2020), with no further delay or interruption to my career, work for two years with supervision--which would always have been the case as a brand new lawyer--and then ultimately gain admission to practice in my own right.

I'd also like to note that I have now been studying for the bar exam since early June and am prepared to take it. I am not trying to get out of taking the exam. I have already done practice essays and simulated exams. I am ready for the bar. The problem is that this October bar is a complete sham. It doesn't scale to past bar exams nor is there any way to validly or reliably apply the new cut score to determine who passes this exam. It is nothing more than a lottery. This is hugely concerning to an applicant who depends on the exam for admission. Provisional licensing DOES NOT solve this problem if it does not result in admission to the bar, because NO ONE is going to sign up for a provisional license until after trying their hand in the lottery. If this program resulted in full admission, many applicants would actually enroll in the program, and on top of that, the amount of test takers might go down in October sufficient for the exam to actually function as it is intended--which is still a statistically invalid exam, but I guess better than nothing.

This provisional licensure program as currently designed is useless if it requires that applicants still sit for a bar examination. This program does not help the marketability of unemployed graduates in their job search because they must have a supervisor to get a license but will not have a supervisor until they have gained employment. This program does not help those of us who already have jobs because our employers want to hire lawyers, not provisionally licensed lawyers who still have to take months off to study for and pass the bar. Furthermore, this program does not help future DAs and PDs because as provisionally licensed, they do not have the autonomy to attend court appearances etc. without supervision. This rule is a bandaid intended not to help bar applicants, but to appease their legitimate concerns.

The failure to administer a reliable bar exam and license new lawyers in 2020 is the fault of the State Bar and Supreme Court, not bar applicants, yet we are the ones who are deeply suffering the consequences. There are options that are fair and equitable but those options, including admission after a period of supervised licensure, are being ignored by those with the power to help us. I am sorry, but no one is



buying the narrative that the bar exam is a better measure of public protection than supervised practice. Especially when you have so fundamentally changed the bar exam that it ceases to reliably measure what it has purported to measure in the past. Thank you for taking the time to consider these comments and I hope that the State Bar and Court finally hear our concerns and do something helpful.

**Summer Joy Shafer**  
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August 5, 2020

**VIA U.S. MAIL**

Hon. Tani G. Cantil-Sakauye, Chief Justice of California  
Associate Justices of the California Supreme Court  
350 McAllister Street, 5th Floor  
San Francisco, CA 94102-4797

Jorge Naverrete  
Earl Warren Building  
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San Francisco, CA 94102

**Re: Retroactive Application of 139 Cut Score**

Dear Chief Justice Cantil-Sakauye, Associate Justices of the California Supreme Court, and Clerk and Executive Officer of the Supreme Court Jorge Naverrete:

I hope you are well and find this email in good health in light of our current trying circumstances.

As a recent graduate student of California Western School of Law, an ABA accredited California law school, I very much appreciate this Court's letter of July 16, 2020. I, as well as many other across the state, am thankful for your choice to forego the in-person exam in the midst of a pandemic, to create provisional licenses, and to lower the bar pass score from 144 to 139. I believe this helps meet the Court's dual goals of fair and equal treatment of law school graduates and the protection of members of the public that utilize the services of practicing lawyers.

I write now to respectfully request that the Court allow bar admission to, at a minimum, those February 2020 exam-takers who scored between 139 and 144 on that exam. There are several reasons, both logical and practical, for this request.

I took the California Bar Examination in February 2020. I received over a 1390, but below a 1440 on the test. My exam was then re-scored, as all exams scored above a 1390 are. My original score of above 1390, as you know, is now deemed a passing score. I took the Bar Exam in a large room full of people, during the COVID-19 crisis. I studied day and night, not even

taking a break for important holidays or family members in need of help. I put in the effort, time, and dedication this exam requires.

I worked for the San Diego Public Defender's Office for three years, and after the bar exam had obtained a coveted post bar position in one of the most competitive Public Defender offices in the country. I would be happy to provide references from at least five attorneys verifying that I have I am skilled, knowledgeable in the law, and dedicated to advocating zealously for my clients. I received the highest possible grade in my Advanced Criminal Defense class taught by one of the most prestigious and respected criminal defense attorney's in San Diego, Gary Gibson. While I was a law student at California Western School of Law, I received merit-based scholarships, merit-based awards, pro-bono awards, and recognition for my efforts to help our community. I paid for law school myself with scholarship and mountains of loans I will have to pay very soon. Further, I satisfied the Moral Character and Fitness requirement and am taking the MPRE in less than a week. While I am certified to speak on the record, am studying every day, and am doing law related work, I am also greatly hindered by my score on the February bar exam.

Since the day I failed the California Bar Exam, missing the mark by very little, I lost my position to work at the San Diego Public Defender's Office. I was unemployed. I had to pay to retake the exam, costing me thousands of dollars. I now know that my original score would have been passing under these new requirements. If 1390 was passing score, I would not have lost a position I have worked my whole life for.

It is clear in light of these new requirements for the California Bar Exam, that the Supreme Court of California values integrity, equality, and fairness. If anything the February Examinees faced much harsher, riskier, and detrimental circumstances in taking the February Bar Exam than any other group of examinees in history. As you know, it not only was the hardest time to take the exam due to the crisis, but it also had the lowest passing score in history. The passing percentage, 26.8%, was so shockingly low that it put into question the reason for such a low pass rate and was instrumental in the creation of the new 1390 passing score. I put my health, my career, and my money on the line to take the California Bar Exam, only to find out I would have passed if this new score was applied. I know I am not the only February Bar Examinee in this position and that many others may have been even more detrimentally affected.

I know this is a difficult situation, and there is a fear that every person will request a similar retroactive application of this passing score, however I urge you to consider allowing this score to be retroactively applied to those who took the exam in February of 2020 during the COVID-19 crisis. I urge you to consider the unusual and extreme circumstances that I faced, and all the February 2020 Examinees faced as a whole.

I truly appreciate the time you take to read and consider this letter. I want to use my legal skills to help those suffering in this crisis and need my license to do so. This is a license I fought for, a license I studied day and night to receive, and a license I would have rightfully gained had 1390 been the passing score earlier this year. A provisional license is not the same, since I have already taken the Exam and have showed the Bar Examinees I have what it takes to pass the test

under the current requirements, in fact even more rigorous requirements. With a provisional license, I will still have to take the October Bar Exam, incur more costs, and put more professional and personal goals at risk. I work every day to become the best lawyer I can be, so that I can help those in dire need of representation, and I hope to spend my life doing just that.

Thank you for your understanding and all you have been doing for students as the times change and progress.

Sincerely,

Summer Joy Shafer, J.D.

*“The Unified Voice of Legal Services”*



**September 15, 2020**

Hailyn Chen  
State Bar of California, Provisional Licensure Working Group  
180 Howard St.  
San Francisco, CA 94105

**Re: New Provisional Licensure Rule, Rule of Court XX**

Dear Ms. Chen,

I am writing on behalf of the Legal Aid Association of California (LAAC) to express our support for the new provisional licensure rule. However, we have a few key comments regarding precisely how this program would function for legal aid and, thereby, function to best serve our community's low-income clients.

LAAC is a statewide membership association of over 100 public interest law nonprofits that provide free civil legal services to low-income people and communities throughout California. LAAC member organizations provide legal assistance on a broad array of substantive issues, ranging from general poverty law to civil rights to immigration, and also serve a wide range of low-income and vulnerable populations. LAAC serves as California's unified voice for legal services and is a zealous advocate advancing the needs of the clients of legal services on a statewide level regarding funding and access to justice.

We applaud the State Bar of California for taking an important step to allow would-be lawyers to gain the practice skills they need to immediately start their careers. As the Working Group is well-aware, it is essential for law graduates to launch their careers with real experience right away, and delay, especially during an economic recession, can hamper their employment objectives. This program will help solve part of that. While we support the provisional licensure of soon-to-be lawyers, we have a few comments on how to make this program work the best it can for legal aid and, consequently, increase access to justice for low-income Californians.

**1. *Waived fees or, in the alternative, lowered fees to participate in the program if the graduate is working or volunteering in a legal aid organization or a government entity (e.g. public defender).***

The proposed fee will ultimately be paid by the employer. In the case of legal aid, and IOLTA-funded legal aid specifically, it does not make sense for organizations to spend limited resources for individuals working or volunteering there to participate. As the IOLTA funding is distributed by the Bar, the Bar would just be receiving money back that it has already sent out.

Additionally, 2020 graduates at legal aid organizations and government offices may be volunteering with the hopes of leveraging the volunteer position into a paid part or full-time position when funding allows. It is unclear if the graduate or their sponsoring organization would have to first pay a smaller volunteer fee and then the larger fee later on for essentially the same work.

By waiving this fee for these groups, the Bar can both support IOLTA-funded legal aid and effectuate the goals of the provisional licensure program. This may also allow organizations to recruit more 2020 graduates to serve in some capacity, whether volunteering or part-time work, as they will save money on the provisional licensing fee.

**2. *Timeline for launching program***

For those already enrolled in the Bar's Practical Training of Law Students program—which certifies law students to provide legal services under supervision—and are not planning to take the October bar exam, *we recommend the provisional licensing program take effect no later than October 5*. This will ensure this cadre of recent graduates working in legal aid is not impeded from a successful transition from one Bar program to another. We also request that there be no fee for current PTLS participants to transfer over to the Provisional Licensing program.

**3. *Court appearances (subsection g)***

A provisionally licensed lawyer can, among other things, appear in court so long as they are supervised, but the rule does not specify what supervision looks like when the supervisee is in court. *We recommend that the supervising attorney be with the provisionally licensed lawyer in court when possible, except when it is not feasible or impracticable from an organizational perspective.* Namely, legal aid organizations have expressed concern that a supervisor may have to go to court with the provisionally licensed lawyer all of the time and that this could create an unnecessary burden on the organization and the supervising lawyer.

Therefore, the rule should have an exception and not be a requirement all of the time (i.e., it could be up to the discretion of the organization). Moreover, there could be a time limit instituted, which would also minimize unnecessary and overburdening supervisory requirements. For instance, after a reasonable amount of time, a provisionally licensed lawyer

may no longer need in-court supervision, and the legal aid organization should have discretion to determine when that moment arrives. Ultimately, we do not want to create unnecessary burdens on legal aid already working hard to meet the needs of the public.

#### **4. Supervisor qualification (subsection i)**

In the current rule, supervising attorneys need to have practiced law for four years. *We recommend keeping the minimum number of years of practice at four. The rule could also carve out an exception leaving it up to the organization to decide if someone under 4 years of practice would be the optimal supervisor, especially if no lawyer with 4 years of practice is available.* The goal is to not unnecessarily exclude a legal aid organization without a supervisor who fits this qualification. For this reason, we suggest that the working group develop a rule that could accommodate an exception for legal aid organizations, who are already additionally monitored and regulated by the bar, to deem an otherwise qualified lawyer to supervise.

#### **5. Supervisor change (subsection i)**

In the proposal, the supervisor must tell the Bar if the supervising lawyer is no longer supervising the provisionally licensed lawyer. It's not completely clear how this would function.

*To maximize this for legal aid practitioners, it would be ideal for the organization to list 1-3 attorney supervisors who otherwise meet the qualifications.* This way, in terms of how legal aid organizations are structured, an organization could have a Directing Attorney supervising as well as two Staff Attorneys. IOLTA programs should be permitted to designate a supervising attorney and then re-assign that responsibility as needed without submitting a new declaration or paperwork; IOLTA directors should remain ultimately responsible for ensuring supervision (as they should be with staff attorneys).

This would also address the issue of court appearances if supervision in court is required at least sometimes or for a period of time. It would also decrease the likelihood that, in the event that one supervisor transfers to a new practice area or no longer supervises the supervisee, that supervisee would be able to continue working at that organization. Having this double layer would be helpful for continuity and flexibility.

In addition, if a legal aid organization no longer has an attorney who is available to supervise or fits the qualifications, the organization should be able to work with another organization to transfer supervision to that other organization, so that the provisionally licensed lawyer can continue to work in legal aid and provide services to clients.

#### **6. Modified Bar Exam for active participants in the Provisional License Lawyer program**

It is likely that many participants in the provisional licensing program will feel unsafe taking the Bar Exam in the next 18 months. Over that time, they will have completed over a thousand hours of legal services. We recommend that the Bar create a program for a modified bar exam

in recognition of these “apprenticeship”-like hours. *If the participant in the program has completed over 2,000 hours of free legal services since their graduation (whether in the PTLIS program or the PLL program), we recommend a shortened bar exam, similar to what Ohio is contemplating, in recognition of that work.*

This would apply to PLL participants at legal nonprofits and at government offices. The bar exam tests general knowledge and an ability to memorize mnemonic devices. After 2,000 hours, the PLL participant has shown their competency in practicing law and no longer needs to memorize the rule against perpetuities to show they are capable of helping people with legal problems.

## **Conclusion**

In sum, we appreciate the Bar’s work to bring this program to fruition. It is worth noting that with any licensure program, protecting the public is paramount. However, it is also critical that recent graduates are protected as well, including unscrupulous graduates who may be taken advantage of by employers. With sufficient protections to ensure law graduates are not taken advantage of by employers, this program will be a helpful means for graduates to gain experience in this unprecedented moment. Further, by implementing the comments made here, we can also ensure this program works as well as it can for legal aid and other public interest employers working to provide a level playing field by supporting the legal safety net for low-income Californians.

Thank you again for this opportunity to comment on behalf of our community. Please do not hesitate to reach out to me with questions or comments.

Sincerely,



Salena Copeland  
**Executive Director, Legal Aid Association of California**

Zach Newman  
**Research Attorney, Legal Aid Association of California**