



The State Bar of California

Draft Minutes

California Paraprofessional Program Working Group (CPPWG)

June 30, 2020

10:00 a.m.–4:00 p.m.

Zoom Meeting

Time meeting commenced:	10:06 a.m.
Time meeting adjourned:	4:10 p.m.
Chair:	Chris Iglesias
Members Present at Roll Call:	Sharon Bashan, Julia Brynson, Julianne Fellmeth, Steven Fleischman, Stephen Hamilton, Amos Hartston, Dana McRae, Elizabeth Olvera, Carolyn Shining, Fariba Soroosh, Ira Spiro, Hon. Erica Yew
Members Absent:	None
Committee Coordinator:	Linda Katz

Open Session

I. Overview of Bagley-Keene Open Meeting Requirements

Brady Dewar, from the Office of General Counsel, provided an overview of Bagley-Keene and California Public Records Act requirements.

II. Chair's Report

A. Introductory Comments

The Chair acknowledged the importance and urgency of the CPPWG's work in light of the COVID-19 pandemic and access to justice issues highlighted in the California Justice Gap Study. The Chair also referenced the recent decision by the Washington Supreme Court to sunset their LLLT program and noted that the Court's decision should inform the efforts of the CPPWG. Trustee Manning added that the CPPWG's efforts are taking on added significance given that consumers will have a greater need for legal services following the COVID-19 pandemic.

B. Public Comment

Mark Lester: Mr. Lester, a certified specialist in estate planning, trust and probate law and a member of the California Board of Legal Specialization relayed that Mr. Hamilton and Ms. Olvera did a very thorough job in putting together their report. Mr. Lester supported Mr.

Hamilton's recommendation and felt that estate planning, trusts, and probate, should not be included in a paraprofessional program.

Ian Duncan: Mr. Duncan, past President of the California Association of Legal Document Assistants, expressed strong support for including the area of probate in the proposed paraprofessional program. He cited the high fees of the current probate system, saying that especially in disadvantaged communities of color, when a family member dies owning a home, it is often the case that the family home must be sold for no other reason than to pay attorneys' fees. Mr. Duncan stated that probate should be included in a paraprofessional program and that estate planning and wills and trusts should be studied further at a later date for potential inclusion in a paraprofessional program. Mr. Duncan asserted that attorney trade groups are opposing the inclusion of probate because it would threaten their monopoly over the current system, and their right to charge high fees.

Mina Sirkin: Ms. Sirkin, a certified specialist in estate planning, trust and probate law, responded to Mr. Duncan's comments, asserting that attorneys' fees have nothing to do with the issue of the distribution of probated estates. She asserted that, when a property is the only asset of an estate, beneficiaries want to receive their share of the inheritance, rather than to gain title to the property; the property must be sold in order to distribute the assets among heirs. She also cited problems and delays in pro per situations related to incorrect accounting and the reluctance of surety companies to bond probate estates that are considered higher risk due to self-representation.

Helen Bellamy: Ms. Bellamy commented that the CPPWG's responsibility is to the legal consumer and that the legal consumer must be given the right to choose. She encouraged the CPPWG to err on the side of opening up the court system and recognize that probate is an area that very much lends itself to a paraprofessional providing services.

Kristine Custodio Suero: Ms. Suero, past President of the California Alliance of Paralegal Associations and the San Diego Paralegal Association, expressed support for the CPPWG's work and also the LLLT program in Washington. She offered to provide assistance on behalf of paralegal professional organizations.

Ms. Wilson reported that the Berkeley chapter of the NAACP submitted written comments, which were circulated to the working group members on June 29, 2020.

End of Public Comment

III. Business

A. Review of Recommendations Regarding Undecided Practice Areas

1. Veterans

Ms. Brynson and Mr. Hartston presented their recommendation to exclude veterans advocacy for ongoing consideration in a paraprofessional program, as detailed in their memo to the working group.

RESOLVED, that the California Paraprofessional Program Working Group does not recommend ongoing consideration of Veterans Advocacy as a practice area for inclusion in a paraprofessional program at this time.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group will include in its report that the State Bar convene Veterans Services Organizations, legal aid organizations, and pro bono attorneys that are currently providing legal services to veterans to discuss ways in which the State Bar can increase awareness of: (1) available services; (2) increase the number of attorneys providing pro bono legal services to veterans; (3) provide additional resources and trainings; and (4) to potentially recruit nonattorney volunteers interested in veterans advocacy as authorized by the VA and the DoD.

Moved by Hartston, seconded by Hamilton.

Ayes (12) – Bashan, Brynolson, Fellmeth, Fleischman, Hamilton, Hartston, McRae, Olvera, Shining, Soroosh, Spiro, Yew

Motion carries.

2. Income Maintenance

Mr. Fleischman, Ms. Shining, Mr. Shapiro, and Judge Yew presented their recommendations regarding subtopics of the Income Maintenance practice area to be included for ongoing consideration in a paraprofessional program, as detailed in their memo to the working group.

RESOLVED, that the California Paraprofessional Program Working Group makes the following recommendation regarding ongoing consideration of Income Maintenance as a practice area for inclusion in a California paraprofessional program: paraprofessionals are authorized to provide full scope representation at the administrative agency level where nonattorneys are authorized to represent parties in administrative proceedings by state law. The specific details of allowed activity will be discussed at a later date.

Moved by Yew, seconded by Hamilton.

Ayes (11) – Bashan, Brynolson, Fellmeth, Fleischman, Hamilton, Hartston, McRae, Olvera, Soroosh, Spiro, Yew

Nays (1) – Shining

Motion carries.

3. Collateral Criminal

Ms. Bashan presented her recommendations regarding subtopics of the Collateral Criminal practice area to be included for ongoing consideration in a California paraprofessional program, as detailed in her memo to the working group. She also discussed her recommendation that the working group further research and consider

supporting a portal, created and launched by The Access Project (TAP), which guides pro bono service providers through each step required to file for expungements and sentence reductions/reclassifications. Ms. Katz provided a brief demonstration of the TAP portal.

RESOLVED, that the California Paraprofessional Program Working Group recommends that, with the exception of clients with immigration issues, expungement and reclassification of convictions, and resolution of infractions, be included for ongoing consideration in a paraprofessional program, and that further study be conducted regarding how and whether paraprofessionals might serve clients with immigration issues.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends research and consider supporting a portal that was recently created and launched by TAP, which helps guide pro bono service providers through each step required to file for expungement and reclassification of convictions.

Moved by Yew, seconded by Brynelson.

Ayes (12) – Bashan, Brynelson, Fellmeth, Fleischman, Hamilton, Hartston, McRae, Olvera, Shining, Soroosh, Spiro, Yew

Motion carries.

4. Housing

Mr. Spiro and Ms. Fellmeth presented their recommendations regarding subtopics of the Housing practice area to be included for ongoing consideration in a paraprofessional program, as detailed in their memo to the working group.

RESOLVED, that the California Paraprofessional Program Working Group recommends that the following topics under the Housing practice area be included for ongoing consideration in a paraprofessional program:

- Evictions and unlawful detainer proceedings;
- With regard to representation at trial, issues related to civil right to counsel should be considered; and
- Homeownership issues related to clearing title, but not representing clients in quiet title actions.

Moved by Spiro, seconded by Yew.

Ayes (8) – Bashan, Brynelson, Fellmeth, McRae, Olvera, Shining, Soroosh, Spiro, Yew

Nays (3) – Fleischman, Hamilton, Hartston

Motion carries.

5. General Civil

Mr. Fleischman and Judge Yew presented their recommendations regarding subtopics of the General Civil practice area to be included for ongoing consideration in a paraprofessional program, as detailed in their memo to the working group.

RESOLVED, that the California Paraprofessional Program Working Group recommends that the following areas in the General Civil practice area be included for ongoing consideration in a paraprofessional program:

- Providing legal advice regarding preparation of affirmative and responsive pleadings and representation in civil harassment proceedings pleadings;
- Representation of debtors in enforcement of judgment proceedings and advice and representation related to debt collection;
- Enforcement of small claims court judgments; and
- Representation of creditors in wage and hour claims in limited jurisdiction cases (up to \$25,000).

Moved by Fleischman, seconded by Yew.

Ayes (11) – Bashan, Brynolson, Fellmeth, Fleischman, Hamilton, Hartston, Olvera, Shining, Soroosh, Spiro, Yew

Motion carries.

6. Health

Ms. Shining and Ms. McRae presented their recommendations regarding the subtopics of the Health practice area to be included for ongoing consideration in a paraprofessional program, as detailed in their memo to the working group.

RESOLVED, that the California Paraprofessional Program Working Group recommends that the following topics under the Health practice area be included for ongoing consideration in a paraprofessional program:

- Billing for medical services, including copays and deductibles;
- Denial of access to services or equipment;
- Denial of access to insurance; and
- Failure to inform of free services or available financial assistance.

Moved by Hartston, seconded by Bashan.

Ayes (11) – Bashan, Brynolson, Fellmeth, Fleischman, Hamilton, Hartston, Olvera, Shining, Soroosh, Spiro, Yew

Motion carries.

7. Estates and Trusts

Ms. Olvera and Mr. Hamilton presented their divergent recommendations regarding the consideration of the Estates and Trusts practice area in a paraprofessional program, as detailed in their memo to the working group.

The working group also considered the comments of Judge Julie Emede, a probate judge in the Superior Court of California, County of Santa Clara, who earlier joined the meeting as a guest speaker to share her views with respect to paraprofessionals working in the area of probate. Having reviewed the information compiled by Hamilton and Olvera, Judge Emede indicated that she believed that probate should not be included as a practice area in a paraprofessional program because of its technical nature, potential tax consequences, and associated fiduciary obligations. She explained that mistakes in these areas could be costly to people in these matters. Should there be serious consideration of including probate as an authorized paraprofessional practice area, she suggested that it should be in the area of guardianships of the person and conservatorships of the person, not of the estate.

RESOLVED, that the California Paraprofessional Program Working Group recommends that wills, trusts, estates, and probate, not be included for ongoing consideration in a paraprofessional program at this time, but reserved for consideration at a later date; guardianships will be considered during the discussion of family, children, and custody. Moved by Hamilton, seconded by Yew

Ayes (9) – Bashan, Brynelson, Fellmeth, Fleischman, Hamilton, Hartston, Shining, Soroosh, Yew

Nays (2) – Olvera, Spiro

Motion carries.

In closing, Ms. Wilson acknowledged that there was some confusion and discontent about the process that was used in the first meeting to identify practice areas that would be included, excluded, or considered wobblers for further discussion. It was emphasized that the working group was nowhere near making final decisions, and that, in particular, the practice areas previously labeled as being “included” in the program were more correctly characterized as being included for further consideration, with final decisions forthcoming.

Ms. Wilson also shared a roadmap reflecting a proposed extension of the final report due date from July 2021 to September 2021. This extension will provide the working group with the time necessary to conduct its work in a meaningful and thoughtful manner.

ADJOURN