



# The State Bar of California

## CALIFORNIA PARAPROFESSIONAL PROGRAM WORKING GROUP

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Date: December 17, 2020

To: California Paraprofessional Program Working Group

From: Sharon Bashan, Stephen Hamilton, Dana McRae, Elizabeth Olvera, and Fariba Soroosh

Subject: Consideration of Topics and Tasks, Family Law Practice Area

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### EXECUTIVE SUMMARY

The California Paraprofessional Program Working Group (CPPWG) is charged with developing recommendations for consideration by the Board of Trustees for the creation of a paraprofessional licensure/certification program to increase access to legal services in California. The CPPWG's charter is informed by the [California Justice Gap Study](#) and the [Task Force on Access Through Innovation of Legal Services](#). In carrying out its charge, the CPPWG must balance the dual goals of ensuring public protection and increasing access to legal services. The CPPWG's recommendations to the Board will include, among other topics, the selection of practice areas for inclusion in the program, and the specific tasks that will be allowed for licensees in each practice area.

### DISCUSSION

At its first meeting on April 21, the CPPWG discussed potential practice areas for program inclusion. One of these areas was Family Law, including Children and Custody (referred to herein as Family Law). At its July 13 meeting, five members of the CPPWG volunteered to serve on a Family Law Subcommittee tasked with studying this practice area with the goal of generating recommendations regarding inclusion or exclusion of specific Family Law subtopics for consideration by the full body at its next meeting. The Family Law Subcommittee provided the CPPWG with an update at its August 25 meeting. At that meeting, the CPPWG decided to modify the scheduled approach for Working Group deliberations, advancing the development of recommendations in the areas of paraprofessional licensing, regulation, and discipline; the Family Law Subcommittee was paused as a result. The subcommittee did not meet between the August 25 and October 29 CPPWG meetings. The subcommittee resumed its work following the October 29 meeting, starting from the point where it had left off several months prior.

That starting point, reflected in the subcommittee's August 2020 update to the CPPWG, is summarized in Tables 1 and 2 below.

**Table 1. Subtopic Recommendations, August 2020**

Subtopics	Included	Excluded	To be Determined
<b>Dissolution</b>	X		
<b>Parentage</b>	X		
<b>Division of Assets and Debt</b>	X		
<b>Custody and Visitation</b>	X		
<b>Child Protective Services Investigation</b>	X		
<b>Support</b>	X		
<b>Violence Prevention</b>			
Domestic Violence	X		
Elder Abuse			X
Civil Harassment	X		
<b>Protection of the Person</b>			
Guardianship	X		
Conservatorship			X
Adoption not arising from dependency	X		

**Table 2. Task Recommendations, August 2020**

Task Categories	Included	Excluded	Split Recommendation
<b>Legal Advice</b>	X		
<b>In-Court Representation</b>			X <sup>1</sup>
<b>Preparation of Documents:</b>			
Pleadings	X		
Joinders	X		
Lis pendens	X		
Written discovery		Recommendation pending	
Declarations	X		
Motions	X		
Briefs	X		
Exhibits	X		
Findings and Orders After Hearing	X		
Judgments	X		
Qualified Domestic Relations Orders (QDRO)		X	
<b>Tax Advice</b>		X	

<sup>1</sup> Further explanation of split recommendations can be found in the Family Law Subcommittee agenda item posted for the August 25, 2020, CPPWG meeting.

Task Categories	Included	Excluded	Split Recommendation
<b>Trial Preparation</b>			X
<b>Trial Preparation Coaching for Self-Represented Litigants</b>	X		
<b>Oral Discovery</b>			Recommendation pending
<b>Mediation Preparation for Self-Represented Litigants</b>	X		
<b>Support Calculations</b>	X		
<b>Filing Appeals</b>		X	
<b>Appellate Advocacy</b>		X	

## CURRENT STATUS OF DELIBERATIONS

Following the October 29 CPPWG meeting, the subcommittee determined that the most effective course of action would be to turn back to the subtopic list, with a goal of fully delineating all possible subtopics within the area of Family Law and making recommendations for inclusion/exclusion. The current status of these efforts is provided as Attachment A. The subcommittee has not yet revisited the question of authorized tasks other than to the extent that they overlap with a subtopic (for example QDRO preparation and support calculations). In addition to seeking CPPWG feedback regarding recommended included and excluded subtopics, the subcommittee invites discussion regarding “hot topic” tasks still under consideration, including in-court representation, written and oral discovery, and whether paraprofessional representation should be precluded for parties whose income or estates exceeds specified levels, at the Working Group’s December 17 meeting.

The subcommittee continues to vet the subtopics of guardianship, conservatorship, and elder abuse. At its December 1 meeting the subcommittee heard from Ms. Johanna Thai Van Dat and Ms. Linda Vu, from the Santa Clara Superior Court Self-Help Center, and Ms. Bertha Hayden and Ms. Dani Kaiserman from Bet Tzedek Legal Services, on issues related to elder abuse and the various types of conservatorship. The subcommittee plans to explore these issues further, as well as to better understand the nature of guardianship proceedings, as part of its upcoming work.

The subcommittee has identified substantive education courses and experiential training requirements for the Family Law practice area and has provided its recommendations to the Licensing Subcommittee in that vein. These recommendations include mandatory courses in trauma-informed legal assistance and experiential hours in a violence prevention clinic setting. Similar recommendations regarding MCLE have been provided to the Regulation Subcommittee.

### Family Law Subtopic Recommendations

Dissolution/Domestic Partnerships, including dissolution, legal separation and nullity (annulment) <ol style="list-style-type: none"> <li>1. Marital status, including status-only judgments<sup>i</sup></li> <li>2. Annulment based on bigamy, age of spouse/registrant, prior existing marriage/DP<sup>ii</sup></li> <li>3. Annulment based on incest, unsound mind, fraud, force, physical incapacity</li> </ol>	Included Included Excluded <sup>iii</sup>
Paternity (including paternity issues within dissolution, legal separation or domestic partnerships) <ol style="list-style-type: none"> <li>1. Complaint to establish parental relationship not involving FC 7612(b) or (c)</li> <li>2. Complaint to establish parental relationship involving FC 7612(b) or (c)</li> </ol>	Included Excluded
Summary Dissolutions	Included
Petitions for Custody and Support	Included
Violence Prevention: Domestic Abuse/Domestic Violence Restraining Order, Civil Harassment, Gun Violence, Workplace Violence subject to following conditions: <ol style="list-style-type: none"> <li>1. Domestic abuse/violence education mandatory</li> <li>2. Specific annual CLE of no less than 3 hours required, in addition to base CLE</li> </ol>	Included
Child custody and visitation except in any action where any of the following issues or claims are raised: <ol style="list-style-type: none"> <li>1. Hague Convention on International Child Abduction</li> <li>2. International or interstate custody disputes under UCCJEA</li> </ol>	Included  Excluded Excluded
Child support <sup>iv</sup>	Included
Spousal or domestic partner support <ol style="list-style-type: none"> <li>1. Temporary</li> <li>2. Permanent (litigated/contest)/FC 4320</li> <li>3. Spousal support waivers, buyouts or nonmodifiable step downs <ol style="list-style-type: none"> <li>a. Short term marriage [FC 4336(b)]</li> <li>b. Long term marriage</li> </ol> </li> </ol>	Included Excluded  Included Excluded

<p>Separate property/community property/quasi community property (nullity)<sup>v</sup></p> <ol style="list-style-type: none"> <li>1. Declaration of disclosures</li> <li>2. Referrals to experts for appraisals and valuations</li> <li>3. Written discovery (form interrogatories v. other)</li> <li>4. Depositions</li> <li>5. Expert discovery</li> <li>6. Subpoenas: deposition and hearing/trial</li> <li>7. Motions to compel/motions to quash not related to depositions</li> <li>8. Motions to compel/quash related to depositions</li> <li>9. Post division transfer documents</li> <li>10. QDRO (referrals only)</li> </ol>	<p>Included Included  Excluded  Included  Excluded Included Excluded</p>
Quasi marital property (nullity)	Excluded
Attorney fees, including expert and paraprofessional fees	Included
Restoration of former name	Included
Venue and jurisdiction disputes not otherwise addressed herein	
Marital settlement agreements [except for any issues which are within excluded areas of practice as set forth above]	Included
Post judgment/permanent order modifications [except UCCJEA/Hague]	Included
Registration of foreign judgments	Included
Premarital/Post-marital agreements (not including MSAs)	Excluded
Putative spouse claims arising from nullity action, including all issues within such a claim (e.g. quasi marital property, attorney fees, spousal support)	Excluded
Marvin/Palimony actions	Excluded
<p>Enforcement of family law orders and judgments</p> <ol style="list-style-type: none"> <li>1. Appointment of elisor</li> <li>2. RFO/Motion for relief in issuing court to assist in enforcement</li> <li>3. Contempt</li> <li>4. Seek work orders support</li> <li>5. Debtor's exam</li> <li>6. Wage assignment</li> <li>7. Writ of execution</li> <li>8. Filing of lien</li> </ol> <p>All enforcement mechanisms not specifically identified above are excluded</p>	<p>Included Included Excluded Included Included Included Included Included</p>

## ENDNOTES

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- i. If instruction includes detailed, in depth education regarding FC 2337, FL-315, FL-347, FL-318-Info, joinder and pension issues
  - ii. If instruction includes education and instruction re: bigamy v. prior existing marriage/DP and FC 2200-2210 and 2310-2312
  - iii. Education includes issue spotting, clear definition of excluded item, specific education regarding excluded issues and referral process (necessity, regulation)
  - iv. Instruction to include training on support calculators, wage assignments and role of DCSS
  - v. This scope of practice presumes detailed and substantive instruction on forms of discovery, responding to discovery, objections and law and motion procedure related to discovery