



The State Bar *of California*

Options for Extension of Provisional Licensure Program

Board of Trustees Meeting, November 16, 2022

Presentation Plan

- Discussion of the 2 Provisional Licensure Programs (PLPs)
- Key takeaways from surveys, comments received, and other data
- Policy objectives / considerations in developing options for PLP extension
- Options for Board consideration





Original PLP: Program Description

- Created in response to the unique circumstances in 2020
 - Uncertainty / delay in bar exam administration
 - Physical conditions brought on by the pandemic
 - First remote bar exam
 - Economic conditions individuals may be facing
- Intended as a temporary limited license
- Open to 2020 “law graduates”, as defined
- Requirements to ensure public protection
- Launched November 2020
- Scheduled to terminate June 1, 2022; extended to Dec 31, 2022





Original PLP: Participant Data

- 912 Original PLLs
- 645 became fully licensed (+ 17 on the way to doing so)
- 77 suspended or terminated
- 173 remaining participants
 - 168 have not passed bar exam
 - 125 have satisfied all program requirements except bar passage





Pathway PLP: Program Description

- Launched February 2021
- Open to those with bar score 1390 – 1439
 - July 2015 – Feb 2020 bar exam
- Unlike Original PLP, creates a Pathway to Licensure
- Requirements to ensure competence
- Requirements to ensure public protection
- Scheduled to terminate June 1, 2022; extended to Dec. 31, 2022





Pathway PLP: Participant Data

- 673 approved to participate
- 538 licensed through the pathway
- 32 suspended or terminated
- 53 active participants remain with pending requirements
- 18 pending completion of 300 hours
- +11 more pending receipt of supervisor evaluation



Key Takeaways from Surveys and Other Data

Supervisor Input: 34% of Supervisors Responding

Success of the Program Reflected by the Numbers:

- ✓ 92% very satisfied or satisfied with work of PLL
 - ✓ 83%: PLL especially hard working
 - ✓ 68%: Having PLL allowed ER to serve more clients
 - ✓ 33%: allowed ER to serve different group of clients
 - ✓ 58%: having PLL added diversity
- ✓ 27%: required more direct supervision than newly licensed lawyers;
- ✓ 22%: required more training than newly licensed lawyers



Key Takeaways from Surveys and Other Data

PLL Input:

50% of PLLs Responding

- ✓ 86% extremely satisfied or satisfied with the PLP
- ✓ 89%: PLP valuable in preparing for the practice of law
- ✓ 27%: required more direct supervision than newly licensed lawyers;
- ✓ 22%: required more training than newly licensed lawyers
- ✓ 16%: had difficulty finding supervisor (much more pronounced among Pathway PLLs)



Key Takeaways from Surveys and Other Data

Public Protection: Discipline Rates

- ✓ PLL discipline rates less than attorneys licensed 2 years or less.
- ✓ PLL: .9% over entire program
- ✓ Newly licensed attorneys: 1.3% per year
- ✓ No statistically significant difference



Committee of Bar Examiners Input

- Sunset Original PLP and Pathway PLP
- Sunset Original PLP; extend Pathway PLP and reopen Pathway
- Sunset Original PLP; reopen Pathway PLP but do not extend
- Create permanent PLL status (no bar exam)



Policy Objectives / Considerations in Developing Options



Open mindedness to challenges faced by participants in completing the program



Ensuring that public protection is not negatively impacted



Fairness: To those eligible for the Pathway PLP who never received notice of the program due to State Bar error



Policy Objectives / Considerations in Developing Options



Recognition that the end of the pandemic does not mean return to exactly how things were done before: we should learn from the innovations instituted



Increasing openness that a traditional bar exam is not the only way to demonstrate minimum competence





Options for Consideration / Recommendation to Supreme Court

- 1 option identified to submit to Supreme Court to extend and reopen the Pathway PLP
- 4 options identified to submit to Supreme Court to extend the Original PLP with recommendation that the Court select 1 of the 4



Options for Board Consideration



**Extend
Pathway /
Reopen
Pathway**



**Extend Original
PLP for More
Opportunities
to Pass CBX**



**Extend Original
PLP and Develop
Pilot Supervised
Practice Program
for those
Remaining in
PLP**



**Extend Original
PLP and Develop
a Permanent
Alternative
Licensure Status**



**Extend Original
PLP and Allow
Remaining
Participants to
Take Attorneys'
Exam**



Option 1: Extend and Reopen Pathway PLP



Consistent with policy objectives:
Fairness
Open Mindedness
Does not negatively impact public protection



Failure to provide notice
Recognition of challenges in identifying a supervisor (26%)



Eligible only to those passed MPRE, have positive moral character, completed 10-hour New Attorney Training



89% Pathway PLLs support extension
70% Pathway PLLs support reopening
77% Supervisors support extension or reopening (1/2 for each option)
81% Eligible PLLs would apply if reopened



Option 2: Extend Original PLP; CBX Required



Consistent with policy objectives:

Open Mindedness

Does not negatively impact public protection



Challenges in studying for the bar exam
while working as a PLL (40%)



Eligible only to those passed MPRE, have
positive moral character, completed 10-
hour New Attorney Training



44% of supervisors support this option; 28% only for
those who took at least 1 bar exam during the PLP

44% of Original PLPs also support; with an additional
23% supporting only for those who took at least 1 bar
exam



Option 3: Extend Original PLP; Supervised Practice Pilot



Consistent with policy objectives:

Learn from new innovations

Openness to new ways to demonstrate minimum competence

Open Mindedness

Does not negatively impact public protection



Advantage of a very small controlled pilot;
would allow gathering of empirical data



Limited eligibility; objective assessments
and tools to be developed to only license
those who demonstrate minimum
competence



54% of Original PLLs support a supervised
practice pathway
19% of supervisors support a supervised
practice pathway



Option 4: Extend Original PLP; Permanent Alternative Licensure Status



Consistent with policy objectives:
Open Mindedness
Does not negatively impact public protection
Learn from new innovations



Limited eligibility; would allow gathering of empirical data to assist in determining whether to expand the program



Alternative license could include permanent supervision or limited scope of work designed to minimize impact on public protection



Other states have adopted or are exploring limited scope of work licenses (AZ, CO, FL, MN, NM, NY, OR, UT, WA)



Option 5: Extend Original PLP; Permit to Take Attorneys' Exam



Consistent with policy objectives:

Open Mindedness

Does not negatively impact public protection



Equates the time spent working as a CA PLL with time spent working as an out-of-state lawyer



Eligible only to those passed MPRE, have positive moral character, completed 10-hour New Attorney Training. Supreme Court to establish minimum # of hours required



Recognition of challenges of working as a PLL and studying for bar exam



Options Considered But Not Recommended



Permit the PLP to sunset



Reopen Pathway PLP due to notice failure; sunset program for current participants



Permit the Pathway PLP to sunset and do not reopen



Questions?

