

# MINUTES

## Paraprofessional Licensing Implementation Committee

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<b>Meeting Date:</b>	January 25, 2021
<b>Location:</b>	Zoom Call
<b>Chair:</b>	Sr. Judge Kirsten Thompson
<b>Vice Chair:</b>	Sr. Judge Dan Harris
<b>Committee Attendance:</b>	Sue Gerhardt, Linda Odermott, Jon Dennis, Brian Cox, Aurora Levinson, Ralph Gzik, Robin Wright
<b>Advisory Group:</b>	Chris Costantino, Kendra Matthews, Danny Lang, Terry Wright, Joan Marie Michaelson, Walter Fonseca, Ryan Jennings, Jason Specht, Madeleine Campbell, Dr. Johnny Lake, Aubrey Baldwin, Crystal Sullivan, Jack Lundeen
<b>Staff present:</b>	Susan Grabe, Kellie Baumann

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### ACTION ITEMS

**Meeting notes for 1/11 approved with slight alteration – fix typos in last page**

**Breakout Room Meeting Notes from Admissions & Education and Regulation Workgroups for 1/11 approved**

### INFORMATION ITEMS

**New Advisory Member Introduction – Introduction of Madeline Campbell from the PLF.**

#### **Review draft licensing implementation committee work plan and timelines**

- Judge Thompson and the committee discussed pushing back the deadline for a first draft from February 8th to February 22<sup>nd</sup>. This would give the committee more time to develop a solid product. This change would also require moving back the report to the Supreme Court to March 8th.
- Susan Grabe explained that using Teams is problematic for many users. As an alternative, we will phase out Teams and load documents onto the task force webpage. Drafts of full committee minutes, workgroup minutes, and the work plan will be added to the webpage including documents currently living on Teams. Workgroups will conduct most of their work during the breakout sessions & if necessary additional workgroup meetings will be scheduled. This will help ensure compliance with the public records and public meeting laws.
- Linda Odermott from the Admissions Workgroup, informed the committee that she had been able to connect with bar staff including Troy Wood, Regulatory Counsel and Jade Priest-Maoz, MCLE Program Manager to seek input and guidance with respect to both of their roles and the Admissions draft. Their comments and suggestions

have been incorporated into the Admissions documents. The vision is to use existing programs within the bar rather than creating new programs. Outstanding issues include renewals – that is a priority for the workgroup moving forward as well as the CLE component.

- Robin Wright from the Regulatory Workgroup provided the committee with an update. Robin connected with Courtney Dipple, state bar disciplinary counsel, connected Robin with committee members in Washington who were involved in developing the Washington LLLT program.
- Judge Thompson suggested that moving the deadline to the 22nd is a more reasonable timeframe to develop a solid draft that provides direction. How complete it needs to be depends on each workgroup. Once drafts are shared for feedback, there will be lots of opportunity for comments and suggestions which the committee can consider and potentially incorporate. If meeting the deadline of the 22nd, proves to be challenging, we will need to communicate what will happen to the Supreme Court in a timely fashion. I know Chief Justice Walters is interested in knowing what we are working on.
- The committee discussed the need for workgroups to start taking notes of their breakout sessions. Committee notes and workgroup notes will be posted and clearly labeled as a draft until they are approved when they will be moved to final. If there are questions, contact Judge Thompson, Helen, Susan or Kellie and they can address them.

**New Advisory Member Introduction** – Dr. Johnny Lake introduced himself to the committee.

**Revisit discussion points as necessary**

- Judge Thompson: most of these carry over from the past January meeting conversations.
- Issues for further consideration included:
  - Character and fitness requirements related to UPL or to felony convictions. OSB's approach is one of reform and rehabilitation in regards to the character and fitness requirements, and disbarment from OSB is permanent. The timeframe and actionability requirement could alleviate that for this program.
  - Application could ask about conduct, but not about fitness. So to ensure that any area that might be a flag is something that can be talked through in a character and fitness evaluation and is not an immediate disqualifier.
  - Waiver of the education component. There are about 12,000 Certified paralegals across the nation with about 300 in Oregon. That is another pool of applicants that we can pull from. Adding in the MCLE component would allow them to meet those standards, like IOLTA accounts, to ensure compliance with the standard as opposed to just allowing a credentialed individual on their face.

- Another item to consider includes groups already allowed by statute to represent landlords and tenants. Question is how to fold existing programs into this one because they don't currently have an ethics or CLE requirement. Maybe we could add them into this by requiring them to meet certain CLE requirements in advance of being allowed in.
- Renewal piece that we have not discussed previously. We're talking about maybe a 3 year renewal like an attorney and reducing the CLE requirements from 45 which is what is currently required to 40. Also addressing cost prohibited issues related to that – perhaps reducing the cost or allowing them for free, but still substantive in nature. We broke out some of the CLE requirements to include an IOLTA account if the PLF requires it, one hour of abuse reporting, mandatory reporting for children or elder law, access to justice training every 6 years (which is the same requirement as attorneys), and mental health and substance abuse training. Everything else would be in subject matter related to their license.
- Will the CLE for paralegals be any CLE approved for attorneys? Linda Odermott said yes.
- Professional fees issue has not yet been discussed.
- The issue of separate or unified rules of professional responsibility has not yet been decided. The Workgroup would like to see how other jurisdictions have approached this and what worked in their application.
- Other considerations raised include what business model is the best to help ensure success, including standard forms. How do we parse the line between legal representation and paralegal representation? And, do we consider eventually expanding to other areas here a paraprofessional could assist?
- Judge Harris: I think it is worthwhile to look at the other potential areas where a paraprofessional could assist – not just traffic court, but elder care, guardianships, and other types of issues relating to the elderly that might be considered. I would like to follow up and be prepared to submit an additional list to the BOG to expand the scope of this license at some point.
- Judge Thompson: We were given a fairly narrow charge from the Board of Governors to develop a structure and program for landlord/tenant and family law cases. I want to make sure we are successful and finish that. But we can definitely recommend more. Perhaps the stakeholder group could be the best way to look at this.
- Linda Odermott: if I could make one comment. The market will handle itself. Also, Washington has gone through this. There were some paraprofessionals that went out by themselves while others joined with law firms.
- Terry Wright: In Washington, at least one person who was certified became the court facilitator in a really small county. That was another valuable role that they were able

to play. They needed far less supervision from the judge which the judge liked and the people who they were consulting with had high quality work as well.

- Susan Grabe: Eddie Sherman, chair of the Stakeholder Workgroup created an outreach plan and stakeholder document on Teams that can be loaded onto the Paraprofessional website and shared with others. Feedback and additional names and communities to reach out to would be great to include.
- Madeline Campbell: I just wanted to let you know that the PLF could offer assistance in terms of providing information about common errors, rates of error, severity of claims that might be helpful to the scope of practice and CLE group at some point. Because the financial viability will depend on what the coverage would cost. That is something to be balanced.
- Judge Thompson: that would be terrific. If you could meet with Regulation on that issue that would be very helpful.

#### **Workgroup breakout sessions**

- The two workgroups (the Workgroup on Admission & Education and the Regulation Workgroup) met in Breakout Rooms to discuss their respective work plans.

#### **Workgroup Breakout Room Discussion:**

- Linda Odermott reported for the Admissions Workgroup. The workgroup revisited what we have done so far with more of a diversity and inclusion and access to justice lens. I would request that the next committee meeting that the bulk of the time be spent in breakout sessions.
- Judge Thompson: Agreed. The next meeting agenda will begin with a 15 minute check in followed by a 90 minute breakout session for the workgroups and then update for the close of the meeting. I think until we have a product ready, the stakeholder group will need to hold off on meeting until February.
- Robin Wright reported for the Regulatory Workgroup. The workgroup reviewed what we have learned from the bar's Disciplinary Counsel, Courtney Dippel. The group will continue to explore whether a separate code of conduct for attorneys versus paraprofessionals makes sense. Nonetheless, the group will continue to look at rules that may apply to one group vs another. In our discussion beforehand, Ralph Gzik had reviewed the rules that are in the Oregon Rules of Professional Conduct for attorneys and determined that most would apply, but not entirely the whole set. We discussed some of those specifics and had some very helpful input from advisory group members.

#### **Resources:**

- Judge Thompson: There are two resources mentioned in the agenda. There is an article from the American Bar Association that the ABA has launched a regulatory reform looking at efforts like ours. There are efforts going on all over the place right

now to look at licensing paraprofessionals for all of the reasons that we have been charged with to create better access to justice and more affordable legal services in routine areas. Some states have chosen other areas of law than landlord tenant or family. I recommend that article to you.

- Also, the link to our website is on the agenda as well. If you are a member of a subgroup and you have taken notes, please give those to Kellie so she can include them as draft notes onto the website.

**Future meetings:**

- February 8<sup>th</sup> will be a 2 hour full committee meeting.
- February 22<sup>nd</sup> will be a 2 hour full committee meeting.
- March 8<sup>th</sup> will be a 2 hour full committee meeting.
- March 22<sup>nd</sup> will be a 2 hour full committee meeting.
- April 5<sup>th</sup> will be a 2 hour full committee meeting.
- April 19<sup>th</sup> will be a 2 hour full committee meeting.

**Next steps:**

- The next meeting is scheduled for February 8<sup>th</sup> and will be for the full committee to work in Workgroups.