

**Minutes of the Apprentice/Practice Alternatives Subcommittee to the
Alternatives to the Exam Task Force
April 2, 2021
Zoom Videoconference**

Note: This meeting was recorded by Oregon State Bar staff.

Attendees

Sub-Committee Members: Akriti Bhargava, Madeleine Campbell, Maya Crawford Peacock, Stanton Gallegos, Ekua Hackman, and Kendra Matthews

Advisory Sub-Committee Members: Joanna Perini-Abbott and Jason Specht

Bar Staff: Sergio Hernandez, J.B. Kim and Troy Wood

1. Call to Order

- The meeting was called to order at approximately 8:04 a.m.
- The meeting was recorded.
- Maya Crawford took attendance.

2. March 5, 2021 Subcommittee Minutes Approved

- Maya Crawford moved to approve the minutes; Madeleine Campbell second; the motion passed unanimously.

3. Summary of the Apprentice Licensure Programs in Canada, Utah, Washington, D.C.

- Subcommittee members included robust summaries of the programs for review prior to the meeting; each group provided a brief overview of the relevant jurisdiction's approach to alternative licensing. Canada (Madeline Campbell / Ekua Hackman); Utah (Stanton Gallegos / Kendra Matthews); Washington, D.C. (Maya Crawford / Akriti Bhargava).

4. Discussion Prompted by Established Apprentice Programs

- The participants in the meeting then engaged in a free-ranging discussion of the positives and negatives of these approaches to licensing and factors that should be considered as the task force makes recommendations to the Oregon Supreme Court. Some discussion notes:
 - There are a variety of equity issues inherent in Canada's traditional articling approach, in part this is because of the limited supply of appropriate, qualified, supervising attorneys as compared to people hoping to be articulated; to that end, some jurisdictions have or will be implementing alternatives to articling (including options that are integrated into law

schools). Some of the supply/demand issues will be avoided in Oregon because it is anticipated that Oregon will still have a bar exam. Nevertheless, the “alternative” programs being developed in Canada were (at least at first glance) of more interest to many sub-committee members than the traditional article model itself because the programs (and access to them) seemed more equitable.

- Washington, D.C. / Utah programs were adopted during the pandemic, which greatly influenced *who* were deemed eligible for an alternative pathway for admission. Any Oregon program would need to develop eligibility apart from a pandemic lens; thus, issues like when one graduated, what type of law school one had graduated from (ABA accredited/particular bar exam passage rate), and whether a person had failed a bar exam previously, were all issues that need to be independently considered. As a person pursuing an alternative pathway would be supervised and not yet licensed, it was the general feeling that having failed an exam should not be an impediment to pursuing this pathway. In terms of timing “away” from law (neither in school or practicing anywhere), there may be some relevance to that question but, generally, the feeling was it shouldn’t be a bar to pursuing this pathway. Instead, we *may* conclude that it warrants requires an additional term of supervision or some other component intended to ensure distance from training/education hasn’t impacted competency to practice.
- The approaches are intended as a substitute for passing a bar exam and, thus, all other components of admission (Character & Fitness / MPRE) would stay in place.
- Approach needs to focus employing an equity lens as every step is taken. Greater flexibility in alternatives is likely to permit more equitable access to licensure; however, the committee must also be cognizant as it develops alternatives of the need to create a regulatory program that has clear parameters to ensure equitable implementation of the pathway.
- The goal of the alternative pathway (ensuring the person pursuing it meets the minimum competency required to practice in Oregon) must be considered as the pathway is crafted. So, for example, while it might be an “ideal” that every new attorney receive three-years of hands-on training before they were eligible to act on their own, requiring that type of a supervision term was (generally) considered far too onerous an obligation to meet the burden of establishing minimum competence. (Others noted that there numerous other concerns about such a duration, including how it would be regulated by the Bar and the concerns of exploitation by employers of apprentices.)

- It seems as though any approach that were to develop from this category would/should be able to incorporate a way for work that students do in law school (both formally and informally) to be factored into their efforts to earn their license. For instance, some of the work that students do in clinics or a job for an attorney during law school might qualify as “hours” in supervised practice. Also, for a candidate to be permitted to participate in some components of supervised practice (both before/after law school), the candidate may have to have taken a particular course in law school. For example, to take or defend a deposition in supervised practice, a candidate needs to have taken Evidence during law school. (Both Utah’s rule and Oregon’s Certified Law Student rule will be helpful starting points for those types of restrictions.) if supervised practice were to include participating in a deposition).
- The subcommittee continues to believe that Oregon law schools will be committed to helping students meet the requirements of an alternative pathway to licensure.

See the meeting recording for the full discussion.

5. Next Steps / Next Meeting

- The subcommittee will be working towards creating work product that could be used as a building block for the larger task force. The larger task force will likely start meeting regularly in mid-May in an effort to meet a June 30, 2021 deadline.
- Maya Crawford (via Sergio) will circulate a skeleton “Google Doc” addressing the different factors the subcommittee thinks should be considered regarding this pathway. The subcommittee brainstormed some of the categories that should be included in the initial skeleton document. (A copy of the initial document will be included in subcommittee materials.) The topics listed on the initial document are intended as a prompt, not a complete list. Between now and the next meeting, all subcommittee members should reflect and contribute thoughts to the Google Doc.
- The subcommittee will likely meet every few weeks until the large committee starts meeting; the next meeting will be scheduled after a “Doodle” survey.

The meeting adjourned at 9:31 a.m.

Prepared by:

Kendra M. Matthews

April 2, 2021