

**Minutes of the Apprentice/Practice Alternatives Subcommittee to the
Alternatives to the Exam Task Force
April 21, 2021
Zoom Videoconference**

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

Attendees

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

Advisory Sub-Committee Members: Joanna Perini-Abbott

Bar Staff: Sergio Hernandez, Helen Hirschbiel, and Troy Wood

1. Call to Order

- The meeting was called to order at approximately 3:06 p.m.
- The meeting was recorded.
- Maya Crawford Peacock noted the attendance.

2. April 19, 2021 Subcommittee Minutes Approved

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

3. On-Going Discussion of Teams Collaboration Document

Maya Crawford Peacock led the on-going discussion of what should be required by an apprentice program if adopted in Oregon.

- Consensus point: this avenue for admission is an alternative to sitting and passing the bar, so other components of admission (including requirements relating to the MPRE and to the character & fitness examination) would not be altered.
- Madeleine Campbell discussed the different programs that have cropped up in Ontario designed to alleviate difficulties people find in that jurisdiction (largely in Toronto) with securing a supervising attorney. There are two programs (these programs were summarized in the first sub-committee meeting): one is largely completed during the third year of law school through detailed programs adopted and administered by the law schools; the other is completed after law school (though it is administered by a law school, it is funded through bar admission fees). The post-law school program has a targeted educational component that is followed by shorter supervised practice term. (Whereas ordinary articling calls for a year; this program requires only four months. Applicants in the program are also given assistance in finding a supervising attorney.) Madeleine was

disinclined to shorten the supervision period without the addition on a similar type of educational component that provides measurable gages for measuring competence.

- A bar exam tests multiple areas and it was discussed whether some effort should be made to ensure applicants using this approach received training on a wide variety of areas either through an educational requirement or a requirement that the applicant seek out practice in different areas (with the assistance of their supervising attorney).
- Kendra Matthews suggested that one way to incorporate a broader educational component without creating an undue onus on supervising attorneys would be to ask sections of the OSB (along with related bar associations, *e.g.*, OSB Criminal Law Section and OCDLA) to create extended nuts & bolts educational presentations and to require applicants to attend those or a selection of those.
- Stanton Gallegos noted that while he thought it was a great idea, generally, for new practitioners to get extra training or to create portfolios of work, such a requirement was not consistent with his vision of this alternative pathway to admission would work. He was inclined to focus on the Utah model, which simply requires a set-number of supervised practice hours that meet the clear requirements set-out by the bar (*e.g.*, preapproved supervisor; detailed timesheets; detailed scope of work rules). In Oregon, he thought, some portion of the required hours should be permitted to be earned during law school if the work met all the other requirements of the program.
- It was discussed that Utah had included as a “gatekeeping” criteria an applicant’s school’s first time bar exam passage rate, which this subcommittee had rejected. It was discussed that with the removal of this requirement there needed to be some way to overtly lift responsibility for admission from the supervising attorney.
 - A “portfolio” was reframed (as compared to how it was discussed earlier in the meeting) as referring to a body of relevant writing samples that could be produced throughout the applicant’s supervised practice period. Along with their timesheets (and other paperwork) related to admission using this approach, applicants could be required to submit a portfolio demonstrating their competence in writing and legal analysis. The Board of Bar Examiners could review this portfolio (which would be entirely in line with their work grading bar exams, particularly the MPT questions). Because this approach also includes supervised practice, this “portfolio” submission would be less onerous than that employed in New Hampshire right now. It would be the BBX (with OSB staff assistance) who would recommend admission to the Bar.

- Supervised attorneys would be given training that focused on both their tasks/obligations as supervisors but also educated them on the essential eligibility requirements for admission to the practice in Oregon. Their obligation, however, would not be to make admission decisions but to diligently meet their obligations of supervision outlined in the rules.
- There was discussion that, generally, attorneys in supervisory positions in firms have to ensure that their employees are meeting their ethical and professional obligations and that this would also be the case for an attorney supervising an applicant. (Just as it is when an attorney employs a certified law student.)
- The committee had previously concluded that as a request to sit for the bar exam was not tied to when a person had graduated from law school, there should not be a time limitation for eligibility imposed in this context. Troy Wood pointed out that from a consumer protection perspective the passage of time can be considered meaningful and that the committee should consider whether there should be different requirements for people who have significant distance between seeking admission and attending law school. A potentially meaningful time frame would be five years because if one is inactive for five years, there is a requirement that one retake the bar; thus, if one has been *not admitted* for five years, an applicant one can take the bar or _____ (fill in the blank for the requirements of pursuing the apprentice track for admission that gap in time). One suggestion would be to increase the term of supervised practice. (It was noted that the committee had previously agreed that there should be a duration limit on supervisory practice hours. So, for example, if someone completed documented qualified work in law school but did not actually seek admission for a decade, those law school hours would not count against the supervisory practice obligation.)
- As there is not, necessarily, consensus within the subcommittee on which of these approaches is best,” it was generally agreed that the way to start drafting the subcommittee’s submission to the task force would be to outline Utah and Ontario approaches as modified and illuminated by these discussions. The draft can endeavor to identify some of the pluses and minuses of those approaches. The subcommittee will have another meeting at which the entire subcommittee can review and revise that draft; at that point, the subcommittee can note where there were areas of consensus on a “best approach” and where there were mixed feelings about an approach (and why).

4. Appointment of Drafting Committee.
Maya Crawford Petock and Madeline Campbell agreed to serve as the drafting committee.

5. Next Meeting: May 12, 2021 at 3:30 p.m.

The meeting adjourned at around 4:30 p.m.

Prepared by:

Kendra M. Matthews

April 21, 2021