

Frequently Asked Questions

Related to Oregon's New Temporary Practice Program

1. Why did Oregon create a Temporary Practice Program ("TPP")?

Answer: States have generally prohibited the practice of law within their boundaries unless the practitioner is authorized to engage in such practice through a license issued from the highest Court in the State or a regulatory body to which the Court has delegated the licensing responsibility. In the last 20 years, many states have entered into reciprocal admission agreements with each other, allowing their licensees to apply for admission into states with whom they have reciprocity. Additionally, since 2011, many states have adopted the Uniform Bar Exam (UBE), which permits applicants to take the bar exam in any UBE state, and transfer the score from the originating UBE state to any other UBE state whose passing score is at or below the score achieved by the applicant in the originating UBE state. These two trends have caused a multi-jurisdictional licensing phenomenon not previously experienced at any other point in legal regulatory history. However, reciprocal admission and UBE score transfer applicants must still go through the admissions process in the state for which they seek a license. This process takes time (on average, 4 – 6 months). Applicants must generally avoid the practice of law in the new state until they receive their license. This causes applicants to miss out on employment opportunities for which they are otherwise qualified. This also causes employers to avoid hiring applicants until they are licensed. For employers and employees who cannot hold off on their hiring decision, they often go months where they cannot realize the benefits for which they hired the applicant. The TPP was designed to fill this period of lost opportunities, and help Oregon's employers and admission applicants fill vacancies that were not being filled by Oregon State Bar's current membership.

2. How does the TPP protect Oregon's legal consumers from out-of-state lawyers who do not yet know Oregon's relevant laws?

Answer: The TPP requires that the temporary licensee previously applied for admission to the Oregon State Bar through reciprocity, UBE score transfer, house-counsel, out-of-state active pro bono or the military spouse application, all of which require that the applicant to be licensed, and in good standing, in another jurisdiction. In other words, most temporary licensees will already be an experienced lawyer in another jurisdiction. For UBE applicants without any practice experience, it is assumed that the employer will adhere to best employment practices and provide greater supervision to the inexperienced licensee. As the temporary licensee will have an active application with the Oregon State Board of Bar Examiners (BBX), which will involve a thorough background check and character and fitness review. If that review determines that the applicant does not have the requisite character to become licensed, the BBX would recommend the applicant be denied admission, which would automatically terminate the temporary license. The license also automatically terminates if the licensee loses their good standing in another jurisdiction or is indicted for any crime. These aspects of the TPP should assure the bench and public that it is very unlikely that the temporary licensee has previously engaged in the type of conduct that could lead to a recommendation of denial by the BBX. Additionally, the temporary licensee's work must be supervised by an active member of the Oregon State Bar who is also in good standing. The supervising attorney will be responsible for teaching the temporary licensee Oregon laws that are relevant to the practice of the temporary licensee. Finally, if the temporary licensee will be engaged in the private practice of law in Oregon, the temporary licensee will

be required to obtain and maintain professional liability insurance for any legal services performed while in the TPP.

3. What is the difference between the Pro Hac Vice and a temporary license?

Answer: Pro Hac Vice is a process by which an out-of-state attorney can be authorized by a trial court to appear in front of the Court for a particular client in a particular case, through association with an active Oregon State Bar member who is representing the same client. The Temporary Practice Application allows an out-of-state lawyer who, has an active application for membership to the Oregon State Bar based on reciprocity, house counsel, UBE score transfer, military spouse or active pro-bono, and who is employed by a law firm or organization with a systemic office presence in Oregon from which the applicant will work, to be temporary licensed to practice law under the supervision of an active Oregon State Bar member.

4. How long does it take for a temporary practice application to be approved?

Answer: The Regulatory Counsel's Office (RCO) of the Oregon State Bar will review and process all applications under the TPP. The goal is to approve or deny the application within 10-business days of the submission of a complete temporary practice application. RCO will work with applicants whose applications need additional information before it can be approved, but if the applicant does not provide the necessary information within a reasonable period of time, then the application will be rejected.

5. Are multi-jurisdictional law firms able to take advantage of the TPP in their hiring decisions or with current out-of-state lawyer employees?

Answer: Multi-jurisdictional law firms can take advantage of the TPP if they meet the following criteria: 1) have a systemic office in Oregon from which the applicant will work during the temporary license period; 2) have an active Oregon State Bar member, who will be located in the Oregon office while the temporary license is active; and 3) the active Oregon State Bar member has agreed to act as the supervising attorney for the licensee. If these qualifications are met and the applicant is qualified under the rule, then the TPP would permit the temporary licensee to practice in Oregon while awaiting membership in the Oregon State Bar.

6. What about business entities who are incorporated in a state other than Oregon?

Answer: Out-of-state businesses who hire an in-house counsel under the TPP, need to be authorized to do business in Oregon and have a systemic office in Oregon from which their legal work is performed. The out-of-state business would also need to have a qualified supervising attorney who could oversee the temporary licensee's work.

7. Does the supervising attorney need to be a more experienced lawyer than the temporary licensee?

Answer: The role of the supervising attorney is to oversee the work performed by the temporary licensee, and ensure that the licensee's avoids malpractice by performing work that is in compliance with Oregon's laws and that the conduct of the licensee complies with the Rules of Professional Conduct. While it would be ideal for the supervising attorney to be more seasoned in the practice of law than the temporary licensee, this role could be performed by any active member of the bar who has agreed to perform the tasks required of a supervising attorney.

8. Does the supervising attorney need to be an employee of the firm or business hiring the temporary licensee?

Answer: While it is not a stated requirement, it would probably be very difficult for a non-employee/non-firm-member to supervise the practice of a temporary licensee. The supervising attorney needs to have regular contact with the licensee on a day-to-day basis, and have sufficient supervising authority over the licensee to correct any work performed by the licensee. If an Oregon business hired an out-house counsel to perform this function, it would be difficult to provide that attorney with sufficient authority over the temporary in-house counsel licensee.

9. Can the employer and supervising attorney be the same person?

Answer: Yes. Solo practitioners, or heads of businesses who happen to be active members of the Oregon State Bar, can hire out-of-state lawyers for positions within their business, and act as the supervising attorney for the temporary licensee under the TPP. One of the goals of the TPP is to permit lawyers with thriving practices in less populated areas of Oregon to hire associates that will stay in the firm or communities after becoming members of the Oregon State Bar.

10. Can temporary licensees be actively involved in litigation?

Answer: Yes; however, the licensee would have co-counsel in all litigation matters. The temporary practice number (TPN) given to licensees does not permit the licensee to e-file documents with the Court hearing the litigation matter. The supervising attorney would need to be sufficiently involved in the litigation so that they took responsibility for any e-filed documents.

11. How will the Courts know that a temporary licensee is authorized to practice before them?

Answer: Licensees will use their TPN in lieu of a bar number for any appearances before a Court. RCO will publish a running list of active and recently terminated temporary licensees. Every month RCO submits status changes to Oregon's Courts. These status change notices will include a link to the TPP Active Licensee List, which will allow Judges and Court staff to confirm that the licensee's TPN is still active; thus, authorized to appear before the Court.

12. Are temporary licensees members of the Oregon State Bar?

Answer: No. Temporary licensees have a pending membership pursuant to an application for admission. They are authorized by the Oregon Supreme Court to practice law in Oregon, under the supervision of an active Oregon State Bar member, while that membership is pending. Licensees do not have access to any of the benefits available to members during this time (access to Fastcase, OSB Legal Publications, or membership discounts on various other OSB products).

13. I have submitted an application to the BBX for an alternative admission through reciprocity, UBE score transfer, house-counsel, out-of-state pro bono, or military spouse attorney; do I qualify for a temporary practice license?

Answer: It depends on your answers to items (a) and (b) below. If you answer "yes" to all of the questions in item (a), and "no" to all of the questions in item (b), and you acquire and maintain the necessary professional liability insurance, or are exempt from acquiring such coverage, then you probably qualify for a temporary license:

- a. If you answer “yes” to all of the following, continue onto item (b) to determine if you qualify:
- i. Are you presently employed by one of the following: A) a business whose legal services are provided from an office physically located within Oregon; B) a law firm who has an office physically located within Oregon; or C) an active member of the OSB, who has an office physically located within Oregon? Yes No
 - ii. Do you affirm that, should your Temporary Practice Application be approved, the Oregon Office identified in Section 1 of this Application will be the primary location of your law practice? Yes No
 - iii. Has your employer identified an active member of the OSB who will be responsible for supervising your work until you become a member of the OSB or this Temporary Practice Application is terminated or suspended? Yes No
 - iv. If your practice includes the private practice of law, do you affirm that prior to approval of this Temporary Practice Application, you will acquire a professional liability insurance policy (Policy) covering any legal malpractice claims made against you (Claims), which relate to the practice of law authorized by the approval of this Temporary Practice Application? Yes No N/A (not in private practice).
 - v. Prior to approval of this Temporary Practice Application, will you provide a certificate of insurance establishing the policy referenced in C5 above with policy limits of at least \$300,000 (Certificate) and, if a deductible is referenced in the Certificate, provide a signed declaration affirming that the deductible amount will not exceed the liquid assets available to you while the Policy is in effect? Yes No N/A (not in private practice).
 - vi. If your answer was “N/A” to items (iv) and (v) above, do you qualify for an exemption under Oregon’s Insurance Requirement (see Insurance Compliance Worksheet for exemption qualifications)? Yes No
- b. You may qualify if you answered “yes” to all of the items in (a) above, and you answer “no” to all of the following:
- i. Do you have any doubts about your qualifications for the related alternative admission application that you have previously or concurrently filed with this Temporary Practice Application? Yes No
 - ii. Have you ever been subject to, or are you currently being investigated by any disciplinary authority and such investigation may lead to, a disciplinary suspension or disbarment in any jurisdiction? Yes No
 - iii. Have you ever been denied admission to practice law in any other US jurisdiction? Yes No
 - iv. Are there any current indictments, or similar instrument, alleging you have committed a crime in any jurisdiction? Yes No

14. How long will a temporary practice license remain active?

Answer: The maximum time for which a temporary license may be active is one year following the authorization notice sent by RCO. The license may be terminated earlier if any of the following occurs while the temporary license is still active:

- a. The applicant becomes admitted through the underlying admission application submitted to the BBX;
- b. The licensee withdraws their application for admission with the BBX;
- c. The BBX recommends the applicant's application for admission be denied;
- d. The licensee loses their good standing, or resigns their membership while a pending disciplinary investigation is active, in any other jurisdiction in which the licensee is a member;
- e. The licensee's status with any jurisdiction in which they are admitted changes from the status represented in their temporary practice application;
- f. The licensee has an application for admission denied in another jurisdiction based on concerns about the licensee's character and fitness;
- g. If a formal complaint is filed against the licensee by the Disciplinary Counsel's Office of the Oregon State Bar;
- h. If an indictment, or equivalent instrument, is filed against the applicant in any jurisdiction; or
- i. If the relationship between the licensee and their employer or supervising attorney changes to such an extent that the licensee is no longer employed or supervised full-time, and a replacement relationship is not established within 10-days of the change in relationship and confirmed by the filing of a new temporary practice application.