



Colorado Supreme Court Advisory Committee
Subcommittee on Limited License Legal Technicians

The attached materials are intended to help the Colorado Supreme Court, the Office of Attorney Regulation Counsel, and other interested parties consider whether it might be appropriate to license and regulate Limited License Legal Technicians (LLLTs):

1. An Executive Summary of the Washington Limited License Legal Technical program;
2. Washington Supreme Court Order adopting Rule 28, Admission and Practice Rules (Limited Practice Rule for Limited License Legal Technicians), with dissenting opinion;
3. Washington State APR 28 (Limited Practice Rule for Limited License Legal Technicians);
4. APR 28 Appendix, Regulations of the APR 28 Limited License Legal Technician Board;
5. Washington proposed LLLT Rules of Professional Conduct;
6. A summary of other states that are considering regulating LLLTs or other non-lawyer practice; and
7. A chart setting out a potential regulatory framework for Colorado rules governing Limited Legal Practitioners, based on C.R.C.P. 202-212, 227, 251, 252, 254, and 260.

Washington's Limited License Legal Technicians Executive Summary

Washington State Admission and Practice Rule (“APR”) 28, the Limited License Legal Technicians Rule, was adopted by the Washington Supreme Court on June 15, 2012.¹ The Limited License Legal Technicians (“LLLT”) rule created a new category of qualified, licensed individuals who would be able to offer limited legal services in specific areas of the law. These individuals, the LLLTs, will be regulated by a system much like the system that regulates lawyers.

Washington is the first state in the United States to implement the licensing of non-lawyers to provide limited legal services. The first exams for the LLLT license will be given in March of 2015, with the first LLLTs to be licensed at the end of 2015.

Purpose

The LLLT rule is “a limited, narrowly tailored strategy designed to expand the provision of legal and law related services to members of the public in need of individualized legal assistance with non-complex legal problems.”²

An LLLT is envisioned to provide limited legal services, at a lower rate than a lawyer would charge, to assist clients with simple cases. LLLTs have an affirmative duty to refer more difficult cases to lawyers. In this way, lawyers and LLLTs may work harmoniously, even in the same law firm, by offering a wider spectrum of methods of assisting clients with their legal problems.

A helpful analogy may be of the healthcare profession, where there are different tiers of professionals (doctor, nurse practitioner, physician assistant, etc.) who provide healthcare services to the public.

Access to Justice

In adopting APR 28, the Supreme Court of Washington emphasized the importance of creating ways to close the gap in access to justice in the state.³ Washington, like many other states, has a large portion of the population that currently does not have access to justice in the legal system. A 2003 Civil Legal Needs Study in Washington documented that it was not only the low income but also moderate income populations that did not have access to justice.

Many of the access to justice problems arise in domestic relations cases in which one or both parties in the dispute do not have a lawyer to represent them. Low and moderate income people cannot afford lawyers in the existing legal market.

¹ The Order adopting APR 28, APR 28, and Regulations to APR 28 are attached.

² *In re Adoption of New APR 28 – Limited Practice Rule for Limited License Legal Technicians*, Order No. 25700-A-1005, adopted by Supreme Court of Washington on June 15, 2012, page 11.

³ See the Supreme Court of Washington’s order adopting APR 28, which discusses at length the reasons why LLLTs would benefit the public.

History and Unauthorized Practice of Law

The LLLT rule was created and adopted after a decade of innovative thinking, feedback from the community, and many revisions. It has its roots in trying to protect the public from the unauthorized practice of law (“UPL”), where pro se litigants seek legal services from unregulated, untrained, and often malicious persons and entities. By training and regulating LLLTs, Washington will be able to mitigate the growth of UPL and better protect the public.

Regulation of LLLTs

LLLTs will be regulated very similarly to lawyers. The regulatory framework is currently being created and will include rules of professional conduct, a disciplinary system, character and fitness qualifications, and requirements for continuing education, among other mechanisms for regulation. As discussed below, there are strict requirements on who may be qualified to take the exam for licensure.

LLLTs must be licensed in each area of law that they will be providing limited legal services. Washington will begin with licensure in domestic relations, where there is the greatest need for access to justice.

The LLLT Board is responsible for making recommendations to the Supreme Court regarding the implementation of APR 28, which authorizes and sets forth the basic conditions under which LLLTs may provide limited legal services to the public. The regulations to APR 28 provide further details on how APR 28 is implemented. The Board recently proposed LLLT Rules of Professional Conduct, amendments to the rules of professional conduct for lawyers addressing lawyers’ relationships with LLLTs, and additions and amendments to APR 28 and the regulations.

Licensing Requirements

An LLLT applicant must be licensed in each area of law in which they wish to provide limited legal services. To be licensed, LLLT applicants must meet the following requirements:

- 1) Pass the exam;
- 2) Have an associate level degree or higher;
- 3) Have at least 3,000 hours of substantive law-related work experience supervised by a licensed lawyer;
- 4) Pay an annual license fee (estimated to be \$200/year); and
- 5) Show proof of financial responsibility: either an individual or employer/parent company’s professional liability insurance policy of at least \$100,000 per claim and \$300,000 annual aggregate limit.

Educational prerequisites to sitting for the LLLT exam include satisfying the core curriculum and practice area curriculum requirements:

- 1) Core Curriculum (earned at an ABA approved law school or ABA approved paralegal program), must earn total of 45 credits:

Civil Procedure (minimum 8 credits)
Contracts (minimum 3 credits)
Interviewing and Investigation Techniques (minimum 3 credits)
Introduction to Law and Legal Process (minimum 3 credits)
Law Office Procedures and Technology (minimum 3 credits)
Legal Research, Writing and Analysis (minimum 8 credits)
Professional Responsibility (minimum 3 credits)

- 2) Practice Area Curriculum (domestic relations practice area): 5 credit hours in basic domestic relations subjects and 10 credit hours in advanced and Washington-specific domestic relations subjects.

What LLLTs Can and Cannot Do in Domestic Relations Cases

LLLTs licensed in the domestic relations practice area may generally advise and assist clients in initiating and responding to actions. Except as prohibited by APR 28, LLLTs may advise and assist clients regarding motions, discovery, trial preparation, temporary and final orders, and modifications of orders.

LLLTs may not appear in court or negotiate on behalf of a client. Specifically, LLLTs may not provide legal advice or assist clients regarding:⁴

- 1) division of owned real estate, business entities, or retirement assets that require a supplemental order to divide and award, which includes division of all defined benefit plans and defined contribution plans;
- 2) bankruptcy, including obtaining a stay from bankruptcy;
- 3) disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;
- 4) anti-harassment orders, criminal no contact orders, anti-stalking orders, and sexual assault protection orders in domestic violence actions;
- 5) pseudo-community property issues in committed intimate relationship actions;
- 6) major parenting plan modifications unless the terms were agreed to by the parties before the onset of the representation by the LLLT;
- 7) the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under RCW 26.27 or Uniform Interstate Family Support Act issues under RCW 26.21A unless and until jurisdiction has been resolved;
- 8) objections to relocation petitions, responses to objections to relocation petitions, or temporary orders in relocation actions;
- 9) final revised parenting plans in relocation actions except in the event of default or where the terms have been agreed to by the parties.

⁴ See Regulation 2(B)(3), Appendix APR 28.

LLTs are also prohibited from providing legal services in defacto parentage or nonparental custody actions, and if 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the Washington State Indian Child Welfare Act, applies to the matter.

LLT Fees for Legal Services

Washington expects the legal market to set the rate at which LLTs will charge for their services. However, the assumption is that LLTs will charge a lower rate than lawyers, and will be able to do so because the expense to obtain the educational requirements will not be as high as that to obtain a J.D.

Community colleges and law schools in Washington are working on creating curricula to target LLT applicants satisfying their educational requirements. Based on average course fees in Washington, the Washington State Bar estimates that the total expense to meet the core curriculum and practice area curriculum will be approximately \$15,000 per applicant.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE ADOPTION OF NEW)
APR 28—LIMITED PRACTICE RULE FOR)
LIMITED LICENSE LEGAL TECHNICIANS)
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ORDER

NO. 25700-A-1005

The Practice of Law Board having recommended the adoption of New APR 28—Limited Practice Rule for Limited License Legal Technicians, and the Court having considered the revised rule and comments submitted thereto, and having determined by majority that the rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

That we adopt APR 28, the Limited Practice Rule for Limited License Legal Technicians. It is time. Since this rule was submitted to the Court by the Practice of Law Board in 2008, and revised in 2012, we have reviewed many comments both in support and in opposition to the proposal to establish a limited form of legal practitioner. During this time, we have also witnessed the wide and ever-growing gap in necessary legal and law related services for low and moderate income persons.

We commend the Practice of Law Board for reaching out to a wide spectrum of affected organizations and interests and for revising the rule to address meritorious concerns and suggestions. We also thank the many individuals and organizations whose suggestions to the language of the rule have improved it. The Limited License Legal Technician Rule that we adopt today is narrowly tailored to accomplish its stated objectives, includes appropriate training,

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SUPREME COURT
STATE OF WASH.
12 JUN 15 AM 8:00
BY RONALD R. CARPENTER
CLERK

financial responsibility, regulatory oversight and accountability systems, and incorporates ethical and other requirements designed to ensure competency within the narrow spectrum of the services that Limited License Legal Technicians will be allowed to provide. In adopting this rule we are acutely aware of the unregulated activities of many untrained, unsupervised legal practitioners who daily do harm to “clients” and to the public’s interest in having high quality civil legal services provided by qualified practitioners.

The practice of law is a professional calling that requires competence, experience, accountability and oversight. Legal License Legal Technicians are not lawyers. They are prohibited from engaging in most activities that lawyers have been trained to provide. They are, under the rule adopted today, authorized to engage in very discrete, limited scope and limited function activities. Many individuals will need far more help than the limited scope of law related activities that a limited license legal technician will be able to offer. These people must still seek help from an attorney. But there are people who need only limited levels of assistance that can be provided by non-lawyers trained and overseen within the framework of the regulatory system developed by the Practice of Law Board. This assistance should be available and affordable. Our system of justice requires it.

I. The Rule

Consistent with GR 25 (the Supreme Court rule establishing the Practice of Law Board),¹ the rule² establishes a framework for the licensing and regulation of non-attorneys to engage in discrete activities that currently fall within the definition of the “practice of law” (as defined by GR 24)³ and which are currently subject to exclusive regulation and oversight by this Court. The rule itself authorizes no one to practice. It simply establishes the regulatory framework for the

¹ http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr25

² <http://www.wsba.org/Lawyers/groups/practiceoflaw/2006currentruledraftfinal3.doc>

³ http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr24

consideration of proposals to allow non-attorneys to practice. As required by GR 25, the rule establishes certification requirements (age, education, experience, pro bono service, examination, etc.),⁴ defines the specific types of activities that a limited license legal technician would be authorized to engage in,⁵ the circumstances under which the limited license legal technician would be allowed to engage in authorized activities (office location, personal services required, contract for services with appropriate disclosures, prohibitions on serving individuals who require services beyond the scope of authority of the limited license legal technician to perform),⁶ a detailed list of prohibitions,⁷ and continuing certification and financial responsibility requirements.⁸

In addition to the rule, we are today acting on the Practice of Law Board's proposal to establish a Limited License Legal Technician Board.⁹ This Board will have responsibility for considering and making recommendations to the Supreme Court with respect to specific proposals for the authorization of limited license legal technicians to engage in some or all of the activities authorized under the Limited License Legal Technician Rule, and authority to oversee the activities of and discipline certified limited license legal technicians in the same way the Washington State Bar Association does with respect to attorneys. The Board is authorized to recommend that limited license legal technicians be authorized to engage in specific activities within the framework of – and limited to – those set forth in the rule itself. We reserve the responsibility to review and approve any proposal to authorize limited license legal technicians

⁴ Exhibit A to January 7, 2008 submission from the Practice of Law Board to the Supreme Court, Proposed APR 28(C) (*hereafter* Proposed APR 28).

⁵ APR 28(D)

⁶ APR 28(E)

⁷ APR 28(F)

⁸ APR 28(G) and (H)

⁹ Exhibit B to January 7, 2008 submission from the Practice of Law Board to the Supreme Court (*hereafter* Regulations)

to engage in specific activities within specific substantive areas of legal and law related practice, and our review is guided by the criteria outlined in GR 25.

Today we adopt that portion of the Practice of Law Board's proposal which authorizes limited license legal technicians who meet the education, application and other requirements of the rule be authorized to provide limited legal and law related services to members of the public as authorized by this rule.¹⁰

II. The Need for a Limited License Legal Technician Rule

Our adversarial civil legal system is complex. It is unaffordable not only to low income people but, as the 2003 Civil Legal Needs Study documented, moderate income people as well (defined as families with incomes between 200% and 400% of the Federal Poverty Level).¹¹

One example of the need for this rule is in the area of family relations which are governed by a myriad of statutes. Decisions relating to changes in family status (divorce, child residential placement, child support, etc.) fall within the exclusive province of our court system. Legal practice is required to conform to specific statewide and local procedures, and practitioners are required to use standard forms developed at both the statewide and local levels. Every day across this state, thousands of unrepresented (*pro se*) individuals seek to resolve important legal matters in our courts. Many of these are low income people who seek but cannot obtain help from an overtaxed, underfunded civil legal aid system. Many others are moderate income people for whom existing market rates for legal services are cost-prohibitive and who, unfortunately, must search for alternatives in the unregulated marketplace.

Recognizing the difficulties that a ballooning population of unrepresented litigants has created, court managers, legal aid programs and others have embraced a range of strategies to

¹⁰ Exhibit E to January 7, 2008 submission from the Practice of Law Board to the Supreme Court (Family Law Subcommittee Recommendation as adopted by the Full Practice of Law Board)

provide greater levels of assistance to these unrepresented litigants. Innovations include the establishment of courthouse facilitators in most counties, establishment of courthouse-based self-help resource centers in some counties, establishment of neighborhood legal clinics and other volunteer-based advice and consultation programs, and the creation of a statewide legal aid self-help website. As reflected most recently in a study conducted by the Washington Center for Court Research,¹² some of these innovations – most particularly the creation of courthouse facilitators – have provided some level of increased meaningful support for pro se litigants.

But there are significant limitations in these services and large gaps in the type of services for pro se litigants. Courthouse facilitators serve the courts, not individual litigants. They may not provide individualized legal advice to family law litigants. They are not subject to confidentiality requirements essential to the practitioner/client relationship. They are strictly limited to engaging in “basic services” defined by GR 27.¹³ They have no specific educational/certification requirements, and often find themselves providing assistance to two sides in contested cases. Web-based self-help materials are useful to a point, but many litigants require additional one-on-one help to understand their specific legal rights and prerogatives and make decisions that are best for them under the circumstances.

From the perspective of pro se litigants, the gap places many of these litigants at a substantial legal disadvantage and, for increasing numbers, forces them to seek help from unregulated, untrained, unsupervised “practitioners.” We have a duty to ensure that the public

¹¹ Washington Supreme Court Task Force on Civil Equal Justice Funding, *Civil Legal Needs Study* at 23 (fig. 1), <http://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf>

¹² George, Thomas, Wang, Wei, Washington’s Courthouse Facilitator Programs for Self-Represented Litigants in Family Law Cases (Washington State Center for Court Research, March 2008) <http://www.courts.wa.gov/wscrr/docs/Courthouse%20Facilitator%20Program.pdf#xml=http://206.194.185.202/texis/search/pdfhi.txt?query=center+for+court+research&pr=www&prox=page&rorder=500&rprox=500&rdfreq=500&wfreq=500&rlead=500&rdepth=0&sufs=0&order=r&ccq=&id=480afa0a11>

¹³ http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=agr27

can access affordable legal and law related services, and that they are not left to fall prey to the perils of the unregulated market place.

III. Specific Concerns and Responses

A number of specific issues that have been raised both in support of and in opposition to this rule deserve additional discussion and response.

Proponents have suggested that the establishment and licensing of limited license legal technicians should be a primary strategy to close the Justice Gap for low and moderate income people with family related legal problems. While there will be some benefit to pro se litigants in need of limited levels of legal help, we must be careful not to create expectations that adoption of this rule is not intended to achieve.

By design, limited license legal technicians authorized to engage in discrete legal and law related activities will not be able to meet that portion of the public's need for help in family law matters that requires the provision of individualized legal representation in complex, contested family law matters. Such representation requires the informed professional assistance of attorneys who have met the educational and related requirements necessary to practice law in Washington. Limited purpose practitioners, no matter how well trained within a discrete subject matter, will not have the breadth of substantive legal knowledge or requisite practice skills to apply professional judgment in a manner that can be consistently counted upon to meet the public's need for competent and skilled legal representation in complex legal cases.

On the other hand, and depending upon how it is implemented, the authorization for limited license legal technicians to engage in certain limited legal and law related activities holds promise to help reduce the level of unmet need for low and moderate income people who have relatively uncomplicated family related legal problems and for whom some level of individualized advice, support and guidance would facilitate a timely and effective outcome.

Some opposing the rule believe that limited licensing legal technicians to engage in certain family related legal and law related activities poses a threat to the practicing family law bar.

First, the basis of any regulatory scheme, including our exercise of the exclusive authority to determine who can practice law in this state and under what circumstances, must start and end with the public interest; and any regulatory scheme must be designed to ensure that those who provide legal and law related services have the education, knowledge, skills and abilities to do so. Protecting the monopoly status of attorneys in any practice area is not a legitimate objective.

It is important to observe that members of the family law bar provide high levels of public and pro bono service. In fact, it is fair to say that the demands of pro bono have fallen disproportionately on members of the family law bar. As pointed out in the comments to the Practice of Law Board's proposal, young lawyers and others have been working for years to develop strategies to provide reduced fee services to moderate income clients who cannot afford market-rate legal help. Over the past year, these efforts have been transformed into the Washington State Bar Association's newly established Moderate Means program,¹⁴ an initiative which holds substantial promise to deliver greater access to legal representation for greater numbers of individuals between 200% and 400% of the federal poverty guideline being provided services at affordable rates.

In considering the impact that the limited licensing of legal technicians might have on the practicing family law bar it is important to push past the rhetoric and focus on what limited license legal technicians will be allowed to do, and what they cannot do under the rule. With

¹⁴ <http://www.wsba.org/Legal-Community/Volunteer-Opportunities/Public-Service-Opportunities/Moderate-Means-Program>

limited exception,¹⁵ few private attorneys make a living exclusively providing technical legal help to persons in simple family law matters. Most family law attorneys represent clients on matters that require extended levels of personalized legal counsel, advice and representation – including, where necessary, appearing in court – in cases that involve children and/or property.

Stand-alone limited license legal technicians are just what they are described to be – persons who have been trained and authorized to provide technical help (selecting and completing forms, informing clients of applicable procedures and timelines, reviewing and explaining pleadings, identifying additional documents that may be needed, etc.) to clients with fairly simple legal law matters. Under the rule we adopt today, limited license legal technicians would not be able to represent clients in court or contact and negotiate with opposing parties on a client's behalf. For these reasons, the limited licensing of legal technicians is unlikely to have any appreciable impact on attorney practice.

The Practice of Law Board and other proponents argue that the limited licensing of legal technicians will provide a substantially more affordable product than that which is available from attorneys, and that this will make legal help more accessible to the public. Opponents argue that it will be economically impossible for limited license legal technicians to deliver services at less cost than attorneys and thus, there is no market advantage to be achieved by creating this form of limited practitioner.

No one has a crystal ball. It may be that stand-alone limited license legal technicians will not find the practice lucrative and that the cost of establishing and maintaining a practice under this rule will require them to charge rates close to those of attorneys. On the other hand, it may be that economies can be achieved that will allow these very limited services to be offered at a

¹⁵ See, e.g., the All Washington Legal Clinic (<http://www.divorcelowcostwa.com>)

market rate substantially below those of attorneys. There is simply no way to know the answer to this question without trying it.

That said, if market economies can be achieved, the public will have a source of relatively affordable technical legal help with uncomplicated legal matters. This may reduce some of the demand on our state's civil legal aid and pro bono systems and should lead to an increase in the quality and consistency of paperwork presented by pro se litigants.

Further, it may be that non-profit organizations that provide social services with a family law component (e.g., domestic violence shelters; pro bono programs; specialized legal aid programs) will elect to add limited license legal technicians onto their staffs. The cost would be much less than adding an attorney and could enable these programs to add a dimension to their services that will allow for the limited provision of individualized legal help on many cases — especially those involving domestic violence. Relationships might be extended with traditional legal aid programs or private pro bono attorneys so that there might be sufficient attorney supervision of the activities of the limited license legal technicians to enable them to engage in those activities for which “direct and active” attorney supervision is required under the rule.

Some have suggested that there is no need for this rule at all, and that the WSBA's Moderate Means Program will solve the problem that the limited licensing of legal technicians is intended to address. This is highly unlikely. First, there are large rural areas throughout the state where there are few attorneys. In these areas, many attorneys are barely able to scrape by. Doing reduced fee work through the Moderate Means program (like doing pro bono work) will not be a high priority.

Second, limited licensing of legal technicians *complements*, rather than competes with, the efforts WSBA is undertaking through the Moderate Means program. We know that there is a huge need for representation in contested cases where court appearances are required. We know

further that pro se litigants are at a decided disadvantage in such cases, especially when the adverse party is represented.¹⁶ Limited license legal technicians are not permitted to provide this level of assistance; they are limited to performing mostly ministerial technical/legal functions. Given the spectrum of unmet legal needs out there, Moderate Means attorneys will be asked to focus their energy on providing the help that is needed most – representing low and moderate income people who cannot secure necessary representation in contested, often complex legal proceedings.

Opponents of the rule argue that the limited licensing of legal technicians presents a threat to clients and the public. To the contrary, the authorization to establish, regulate and oversee the limited practice of legal technicians within the framework of the rule adopted today will serve the public interest and protect the public. The threat of consumer abuse already exists and is, unfortunately, widespread. There are far too many unlicensed, unregulated and unscrupulous “practitioners” preying on those who need legal help but cannot afford an attorney. Establishing a rule for the application, regulation, oversight and discipline of non-attorney practitioners establishes a regulatory framework that reduces the risk that members of the public will fall victim to those who are currently filling the gap in affordable legal services.

Unlike those operating in the unregulated marketplace, limited license legal technicians will practice within a carefully crafted regulatory framework that incorporates a range of safeguards necessary to protect the public. The educational requirements are rigorous. Unlike attorneys, legal technicians are required to demonstrate financial responsibility in ways established by the Board. There is a testing requirement to demonstrate professional competency

¹⁶ See, e.g., *In re the Marriage of King*, 162 Wn.2d 378, 404-411 (2007) (Madsen, J., dissenting).

to practice, contracting and disclosure requirements are significant, and there will be a robust oversight and disciplinary process. This rule protects the public.

Another concern that has been raised is that attorneys will be called upon to underwrite the costs of regulating non-attorney limited license legal technicians against whom they are now in competition for market share. This will not happen. GR 25 requires that any recommendation to authorize the limited practice of law by non-attorneys demonstrate that “[t]he costs of regulation, if any, can be effectively underwritten within the context of the proposed regulatory regime.” The Practice of Law Board’s rule expressly provides that the ongoing cost of regulation will be borne by the limited license legal technicians themselves, and will be collected through licensing and examination fees. Experience with the Limited Practice Board demonstrates that a self-sustaining system of regulation can be created and sustained. The Court is confident that the WSBA and the Practice of Law Board, in consultation with this Court, will be able to develop a fee-based system that ensures that the licensing and ongoing regulation of limited license legal technicians will be cost-neutral to the WSBA and its membership.

IV. Conclusion

Today’s adoption of APR 28 is a good start. The licensing of limited license legal technicians will not close the Justice Gap identified in the 2003 Civil Legal Needs Study. Nor will it solve the access to justice crisis for moderate income individuals with legal needs. But it is a limited, narrowly tailored strategy designed to expand the provision of legal and law related services to members of the public in need of individualized legal assistance with non-complex legal problems.

The Limited License Legal Technician Rule is thoughtful and measured. It offers ample protection for members of the public who will purchase or receive services from limited license legal technicians. It offers a sound opportunity to determine whether and, if so, to what degree

New APR 28—Limited Practice Rule for Limited License Legal Technicians

the involvement of effectively trained, licensed and regulated non-attorneys may help expand access to necessary legal help in ways that serve the justice system and protect the public.

IT IS FURTHER ORDERED:

- (1) That a new rule, APR 28, as attached hereto is adopted.
- (2) That the new rule will be published in the Washington Reports and will become effective September 1, 2012.

DATED at Olympia, Washington this 15th day of June, 2012.

Madsen, C. J.

Chandos J.

J.M. Johnson

Styer, J.

Wegman J.

Gonzalez, J.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE ADOPTION OF NEW)
APR 28—LIMITED PRACTICE RULE FOR LEGAL)
TECHNICIANS AND NEW APR 28—NON-)
LAWYER PRACTICE COMMISSION)
REGULATIONS 1-7)
_____)

No. 25700-A-
DISSENT TO ORDER

OWENS, J. (dissenting)—During my years on the Washington Supreme Court, I have not once authored a dissent to an administrative order of this court. I depart from that custom today because I have very strong feelings that our court's decision to adopt the new Admission to Practice Rule, APR 28, is ill-considered, incorrect, and most of all extremely unfair to the members of the Washington State Bar Association (WSBA).

Let me quickly add that by expressing disagreement with the court's approval of this new rule, I am not suggesting that the legal needs of all persons in this state are currently being met. Like my judicial colleagues, I know that there is a great unmet need for legal services and we in the judiciary and the legal profession have an obligation to look for appropriate ways to expand the availability of legal assistance to the public.

My opposition to the board's work product should, therefore, not be considered disagreement with the goal the Practice of Law Board was seeking to achieve—expanding the availability of legal services to individuals who are confronted with legal problems. Rather, my opposition to the rule is based on the fact this rule and its attendant regulations impose an obligation on the members of the WSBA to underwrite the considerable cost of establishing and maintaining what can only be characterized as a mini bar association within the present WSBA. Assuming our court has the inherent

authority to create this new profession of legal technicians, I do not believe that we possess the authority to tax the lawyers of this state to pay "all of the expenses reasonably and necessarily incurred" by the Non-Lawyer Practice Commission, a body which comes into being pursuant to the rule and regulations. See Regulation 3(G). Pertinent to this point, I note that it is generally acknowledged that it will likely cost several hundred thousand dollars to set up the commission that will oversee this new profession of legal technicians. We have not been informed that the WSBA presently has sufficient money within its treasury to underwrite this considerable expense and I have significant doubts that it has an abundance of cash on hand. In fact, in light of the dues rollback, the opposite is true. Although I recognize that this court's order delays implementation of the new rule until January 1, 2013, I think it is unrealistic to assume that the WSBA will realize any large windfall of funds in 2013. Consequently, the only way the WSBA will be able to fulfill the considerable financial obligation this court has imposed upon it is to either reduce the amount it budgets for the programs and services it presently supports or increase the yearly dues of its members. Either way you look at it, this court is imposing a tax on lawyers.

The APR 28 regulations suggest that the APR 28 program will eventually support itself through certification fees. In that regard, we have been advised that something in the order of \$200,000 may eventually be generated by these fees. In this day and age, \$200,000 does not go very far and it is hard for me to see how this APR 28 program with its testing, certification, continuing education, and discipline provisions can be accommodated with a yearly budget of that amount. The hoped for self-sufficiency of the program will, in my view, depend to a large extent on the numbers of persons

achieving legal technician status under the rule. Although this court was earlier led to believe that initially there would be certification of legal technicians only in family law matters, the rule and regulations this court has approved provide the Practice of Law Board with unbridled discretion to recommend to the Supreme Court the areas, within the full range of practice areas encompassed by the GR 24 definition of the practice of law, in which legal technicians can practice.¹ I sense that the Practice of Law Board realized that there is uncertainty about whether the certification fees will produce sufficient funds to underwrite the annual cost of the legal technician program and, thus, provided that funding for the commission will be generated by certification fees "as well as commitments from the WSBA." Regulation 3(G).²

The unfairness of imposing what seems beyond doubt a significant obligation on the lawyers of this state is made all the more manifest by the fact that in recent years, the WSBA has undertaken, with the encouragement of this court, a number of efforts designed to address the very problems the new APR 28 purports to mitigate. I am speaking of (1) increased encouragement for Washington lawyers to provide pro-bono service and the provision of free and low cost training for lawyers who wish to provide such service; (2) the highly successful home foreclosure legal aid project, which helps low and moderate income persons deal with the threat of home foreclosure; (3) a major

¹The court's order contains a statement that "we adopt the portion of the Practice of Law Board's proposal which authorizes legal technicians . . . to provide limited legal and law related services to members of the public in certain defined family law related areas. It is noteworthy that the proposed rule, APR 28, and regulations do not contain the words "family law."

²The court's order expresses confidence that the fee based system will be "cost neutral." Perhaps it will be self-sufficient someday, but this conclusion does not address the significant start up costs which the court order requires the WSBA to pay.

one-time contribution by the WSBA of cash to the Legal Foundation of Washington in order to offset the impact of reduced interest on Lawyers Trust Accounts revenues coming to the foundation, a contribution which leveraged a \$3 million donation from the Gates Foundation to the Legal Foundation of Washington; (4) the statewide moderate means program, which is designed to assist individuals who need the assistance of a lawyer to obtain those services at a reduced cost; and (5) a check off on the annual license fee for lawyers, suggesting an annual contribution of at least \$50 by lawyers to the Campaign for Equal Justice to help ensure equal access to justice for all Washingtonians regardless of financial standing.

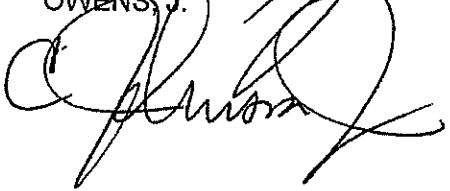
The WSBA is not required to undertake any of the aforementioned initiatives but it has done so voluntarily with great zeal and enthusiasm endeavoring to address the public's legal needs. Furthermore, all of this was done at great expense to the WSBA. Indeed the WSBA's contribution of \$1.5 million to the Legal Foundation of Washington in 2009 was a truly heroic gesture but one which made a major dent in the cash reserves the WSBA had built up over the years. Whether the obligation this court is now imposing on the WSBA will result in eliminating or curtailing any of these programs and initiatives, no one knows for certain. If, however, that is the result of our action, it would be a sad day for the WSBA and the many persons positively affected by the bar's considerable efforts.

Finally, I wish to observe that an impartial observer might wonder why the Supreme Court does not assume responsibility for funding implementation of APR 28. After all, the fact that the legal needs of the public are not being met is a problem that affects the entire community, not just a segment of our state's population like its

attorneys at law. Such a question would not be farfetched because in a number of states the expense associated with the admission and disciplining of lawyers is subsumed within the budget of the highest court in those states. I suspect, though, that if this court had been asked to assume financial responsibility for establishing and administering this major program for certification of legal technicians, with the vague promise that the program may someday be self-supporting, we would have concluded that we presently do not have sufficient funds within our budget with which to undertake this responsibility. Is it fair or equitable for this court to eschew assuming financial responsibility for the program in this time of economic distress, and instead impose the obligation on all of the state's lawyers, many of whom are feeling adverse affects of the current downturn of the economy? I say no. Because the majority by its order says yes, I dissent from the order.

DATED at Olympia, Washington this 14th day of June 2012.


OWENS, J.


I concur in result only.
Fairhurst, G.

ADMISSION AND PRACTICE RULES

RULE 28 LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

- A. Purpose.** The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to protect the public and ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained Limited License Legal Technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.
- B. Definitions.** For purposes of this rule, the following definitions will apply:
- (1) "APR" means the Supreme Court's Admission and Practice Rules.
 - (2) "Board" when used alone means the Limited License Legal Technician Board.
 - (3) "Lawyer" means a person licensed and eligible to practice law in any United States jurisdiction.
 - (4) "Limited License Legal Technician" means a person qualified by education, training and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations. The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.
 - (5) "Paralegal/legal assistant" means a person qualified by education, training, or work experience; who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity; and who performs specifically delegated substantive law-related work for which a lawyer is responsible
 - (6) "Reviewed and approved by a Washington lawyer" means that a Washington lawyer has personally supervised the legal work and documented that supervision by the Washington lawyer's signature and bar number.
 - (7) "Substantive law-related work" means work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.
 - (8) "Supervised" means a lawyer personally directs, approves; and has responsibility for work performed by the Limited License Legal Technician.
 - (9) "Washington lawyer" means a person licensed and eligible to practice law in Washington and who is an active or emeritus member of the Washington State Bar Association.
 - (10) Words of authority:
 - (a) "May" means "has discretion to," "has a right to," or "is permitted to."

- (b) "Must" or "shall" means "is required to."
- (c) "Should" means "recommended but not required."

C. Limited License Legal Technician Board

- (1) *Establishment.* There is hereby established a Limited License Legal Technician Board. The Board shall consist of 13 members appointed by the Supreme Court of the State of Washington, nine of whom shall be active Washington lawyers, and four of whom shall be nonlawyer Washington residents. At least one member shall be a legal educator. The members shall initially be appointed to staggered terms of one to three years. Thereafter, appointments shall be for three year terms. No member may serve more than two consecutive full three year terms.
- (2) *Board Responsibilities.* The Board shall be responsible for the following:
 - (a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;
 - (b) Processing applications and fees, and screening applicants;
 - (c) Administering the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to Limited License Legal Technicians, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to one or more approved practice areas;
 - (d) Determining LLLT Continuing Legal Education (LLLT CLE) requirements and approval of LLLT CLE programs;
 - (e) Approving education and experience requirements for licensure in approved practice areas;
 - (f) Establishing and overseeing committees and tenure of members;
 - (g) Establishing and collecting examination fees, LLLT CLE fees, annual license fees, and other fees in such amounts approved by the Supreme Court as are necessary to carry out the duties and responsibilities of the Board; and
 - (h) Such other activities and functions as are expressly provided for in this rule.
- (3) *Rules and Regulations.* The Board shall propose rules and regulations for adoption by the Supreme Court that:
 - (a) Establish procedures for grievances and disciplinary proceedings;
 - (b) Establish trust account requirements and procedures;
 - (c) Establish rules of professional and ethical conduct; and
 - (d) Implement the other provisions of this rule.

D. Requirements for Applicants. An applicant for licensure as a Limited License Legal Technician shall:

- (1) *Age.* Be at least 18 years of age.
- (2) *Moral Character and Fitness to Practice.* Be of good moral character and demonstrate fitness to practice as a Limited License Legal Technician.
- (3) *Education.* Have the following education, unless waived by the Board through regulation:

- (a) An associate level degree or higher;
 - (b) 45 credit hours of core curriculum instruction in paralegal studies as approved by the Board with instruction to occur at an ABA approved law school or ABA approved paralegal education program; and
 - (c) In each practice area in which an applicant seeks licensure, instruction in the approved practice area, which must be based on a curriculum developed by or in conjunction with an ABA approved law school. For each approved practice area, the Board shall determine the key concepts or topics to be covered in the curriculum and the number of credit hours of instruction required for admission in that practice area.
 - (d) For the purposes of satisfying APR 28(D)(3), one credit hour shall be equivalent to 450 minutes of Instruction.
- (4) *Application.* Execute under oath and file with the Board his/her application, in such form as the Board requires. An applicant's failure to furnish information requested by the Board or pertinent to the pending application may be grounds for denial of the application.
- (5) *Examination Fee.* Pay, upon the filing of the application, the examination fee and any other required application fees as established by the Board and approved by the Supreme Court.
- E. Licensing Requirements.** In order to be licensed as a Limited License Legal Technician, all applicants must:
- (1) *Examination.* Take and pass the examinations required under these rules;
 - (2) *Experience.* Acquire 3,000 hours of substantive law-related work experience supervised by a licensed lawyer. The experience must be acquired no more than three years prior to licensure and no more than three years after passing the examination;
 - (3) *Annual License Fee.* Pay the annual license fee;
 - (4) *Financial Responsibility.* Show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rules. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe; and
 - (5) Meet all other licensing requirements set forth in the rules and regulations proposed by the Board and adopted by the Supreme Court.
- F. Scope of Practice Authorized by Limited Practice Rule.** The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If it is not, the LLLT shall not provide the services required on this issue and shall inform the client that the client should seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may undertake the following:
- (1) Obtain relevant facts, and explain the relevancy of such information to the client;
 - (2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;

- (3) Inform the client of applicable procedures for proper service of process and filing of legal documents;
- (4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- (5) Review documents or exhibits that the client has received from the opposing side, and explain them to the client;
- (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the Board; and advise the client of the significance of the selected forms to the client's case;
- (7) Perform legal research and draft legal letters and pleadings documents beyond what is permitted in the previous paragraph, if the work is reviewed and approved by a Washington lawyer;
- (8) Advise a client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case;
- (9) Assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.

G. Conditions Under Which A Limited License Legal Technician May Provide Services

- (1) A Limited License Legal Technician must have a principal place of business having a physical street address for the acceptance of service of process in the State of Washington;
- (2) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a nonlicensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;
- (3) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician, that includes the following provisions:
 - (a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not appear or represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b);
 - (b) Identification of all fees and costs to be charged to the client for the services to be performed;
 - (c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;
 - (d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the first page of the contract in minimum twelve-point bold type print;

- (e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by the client and the Limited License Legal Technician's work product associated with the services sought or provided by the Limited License Legal Technician;
 - (f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and
 - (g) Any other conditions required by the rules and regulations of the Board.
- (4) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client should seek the services of a lawyer.
- (5) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client.

H. Prohibited Acts. In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

- (1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;
- (2) Retain any fees or costs for services not performed;
- (3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and the client;
- (4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;
- (5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24(b);
- (6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party; unless permitted by GR 24(b).
- (7) Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client.
- (8) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;
- (9) Otherwise violate the Limited License Legal Technicians' Rules of Professional Conduct.

I. Continuing Licensing Requirements

- (1) *Continuing Education Requirements.* Each Limited License Legal Technician annually must complete the Board-approved number of credit hours in courses or activities approved by the Board; provided that the Limited License Legal Technician shall not be required to comply with this subsection during the calendar year in which he or she is initially licensed.

- (2) *Financial Responsibility.* Each Limited License Legal Technician shall annually provide proof of financial responsibility in such form and in such amount as the Board may by regulation prescribe.
 - (3) *Annual Fee.* Each Limited License Legal Technician shall pay the annual license fee established by the Board and approved by the Supreme Court.
- J. Existing Law Unchanged.** This rule shall in no way modify existing law prohibiting nonlawyers from practicing law or giving legal advice other than as authorized under this rule or associated rules and regulations.
- K. Professional Responsibility and Limited License Legal Technician-Client Relationship**
- (1) Limited License Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a Washington lawyer.
 - (2) Limited License Legal Technicians shall be held to the ethical standards of the Limited License Legal Technicians' Rules of Professional Conduct, which shall create an LLLT IOLTA program for the proper handling of funds coming into the possession of the Limited License Legal Technician.
 - (3) The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.

APPENDIX APR 28. REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD

REGULATION 1: IN GENERAL

Every person desiring to be licensed and to maintain licensure as a Limited License Legal Technician (LLLT) pursuant to Admission to Practice Rule (APR) 28 shall satisfy all of the requirements of APR 28 and Appendix APR 28.

To facilitate prompt administration of APR 28 and these regulations, designated staff of the Washington State Bar Association (WSBA) may act on behalf of the LLLT Board under APR 28 and these regulations.

REGULATION 2: PRACTICE AREAS—SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE

In each practice area in which an LLLT is licensed, the LLLT shall comply with the provisions defining the scope of practice as found in APR 28 and as described herein.

A. Issues Beyond the Scope of Authorized Practice.

An LLLT has an affirmative duty under APR 28F to inform clients when issues arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28F arises, then the LLLT shall inform the client in writing that:

1. the issue may exist, describing in general terms the nature of the issue;
2. the LLLT is not authorized to advise or assist on this issue;
3. the failure to obtain a lawyer's advice could be adverse to the client's interests; and,
4. the client should consult with a lawyer to obtain appropriate advice and documents necessary to protect the client's interests.

After an issue beyond the LLLT's scope of practice has been identified, an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. The LLLT shall then be required to follow the instructions and incorporate the terms of the necessary documents into the final court orders. The LLLT may proceed in this manner only if no other defined prohibitions apply.

B. Domestic Relations.

1. Domestic Relations, Defined. For the purposes of these Regulations, domestic relations shall include only: (a) child support modification actions, (b) dissolution actions, (c) domestic violence actions, except as prohibited by Regulation 2B(3), (d) committed intimate relationship actions only as they pertain to parenting and support issues, (e) legal separation actions, (f) major parenting plan modifications when the terms are agreed to by the parties before the onset of the representation by the LLLT, (g) minor parenting plan modifications,

- (h) parenting and support actions, (i) paternity actions, and (j) relocation actions, except as prohibited by Regulation 2B(3).
2. Scope of Practice for Limited License Legal Technicians — LLLTs in domestic relations may provide legal services to clients as provided in APR 28F, except as prohibited by APR 28H and Regulation 2B(3). Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients (1) to initiate and respond to actions and (2) regarding motions, discovery, trial preparation, temporary and final orders, and modifications of orders.
 3. Prohibited Acts. In addition to the prohibitions set forth in APR 28H, in the course of dealing with clients or prospective clients, LLLTs licensed to practice in domestic relations:
 - a. shall not represent more than one party in any domestic relations matter;
 - b. shall not provide legal services:
 - i. in defacto parentage or nonparental custody actions; and
 - ii. if 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the Washington State Indian Child Welfare Act, applies to the matter;
 - c. shall not advise or assist clients regarding:
 - i. division of owned real estate, formal business entities, or retirement assets that require a supplemental order to divide and award, which includes division of all defined benefit plans and defined contribution plans;
 - ii. bankruptcy, including obtaining a stay from bankruptcy;
 - iii. disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;
 - iv. anti-harassment orders, criminal no contact orders, anti-stalking orders, and sexual assault protection orders in domestic violence actions;
 - v. pseudo-community property issues in committed intimate relationship actions;
 - vi. major parenting plan modifications unless the terms were agreed to by the parties before the onset of the representation by the LLLT;
 - vii. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under RCW 26.27 or Uniform Interstate Family Support Act issues under RCW 26.21A unless and until jurisdiction has been resolved;
 - viii. objections to relocation petitions, responses to objections to relocation petitions, or temporary orders in relocation actions;
 - ix. final revised parenting plans in relocation actions except in the event of default or where the terms have been agreed to by the parties.
 - d. shall not appear or participate at the taking of a deposition; and
 - e. shall not initiate or respond to an appeal to an appellate court.

REGULATION 3: EDUCATION REQUIREMENTS FOR APPLICANTS

An applicant for licensure shall satisfy the following education requirements:

A. Core Curriculum. An applicant for licensure shall have earned the following course credits at an ABA approved law school or ABA approved paralegal program:

1. Civil Procedure, minimum 8 credits;
2. Contracts, minimum 3 credits;
3. Interviewing and Investigation Techniques, minimum 3 credits;
4. Introduction to Law and Legal Process, minimum 3 credits;
5. Law Office Procedures and Technology, minimum 3 credits;
6. Legal Research, Writing and Analysis, minimum 8 credits; and
7. Professional Responsibility, minimum 3 credits.

The core curriculum courses in which credit is earned shall satisfy the curricular requirements approved by the Board and published by the WSBA. If the required core curriculum courses completed by the applicant do not total 45 credits as required by APR 28D(3)(b), then the applicant may earn the remaining credits by taking legal or paralegal elective courses at an ABA approved law school or ABA approved paralegal program.

B. Practice Area Curriculum. An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR 28D(3)(c). Each practice area curriculum course shall satisfy the curricular requirements approved by the Board and published by the WSBA.

1. Domestic Relations.
 - a. Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility.
 - b. Credit Requirements: Applicants shall complete five credit hours in basic domestic relations subjects and ten credit hours in advanced and Washington specific domestic relations subjects.

REGULATION 4: LIMITED TIME WAIVERS

A. Limited Time Waiver, Defined. For the limited time between the date the Board begins to accept applications and December 31, 2016, the Board shall grant a waiver of the minimum associate-level degree requirement and/or the core curriculum education requirement set forth in APR 28D(3) if an applicant meets the requirements set forth in Regulation 4B. The Board shall not grant waivers for applications filed after December 31, 2016. The Board shall not waive the practice area curriculum requirement. The limited time waiver application will be separate from the application process for licensure set forth in these regulations.

B. Waiver Requirements and Applications. To qualify for the limited time waiver, an applicant shall pay the required fee, submit the required waiver application form, and provide proof, in such form as the Board requires, that he/she has:

1. Passed the Certified Paralegal Exam conducted by the National Association of Legal Assistants (NALA) or the Paralegal Advanced Competency Exam (PACE) conducted by the National Federation of Paralegal Associations (NFPA);
2. Active certification as a Certified Paralegal with NALA or as a PACE Registered Paralegal with NFPA; and
3. Completed 10 years of substantive law-related experience supervised by a licensed lawyer within the 15 years preceding the application for the waiver. Proof of 10 years of substantive-law related experience supervised by a licensed lawyer shall include the following:
 - a. the name and bar number of the supervising lawyer(s),
 - b. certification by the lawyer that the work experience meets the definition of substantive law-related work experience as defined in APR 28, and
 - c. the dates of employment or service..

C. Review of Limited Time Waiver Application. WSBA staff shall review each limited time waiver application to determine if the application meets the waiver requirements. Any application that does not meet the limited time waiver requirements as established by this Regulation shall be denied by the WSBA staff on administrative grounds, with a written statement of the reason(s) for denial.

D. Review of Denial. An applicant whose application for waiver has been denied by WSBA staff may request review by the Board chair. Such request shall be filed with WSBA staff within 14 days of the date of the notification of denial. The applicant shall be provided with written notification of the chair's decision, which is not subject to review.

E. Expiration of Limited Time Waiver Approval. Approval of the limited time waiver application shall expire December 31, 2018. After expiration of the approval, any subsequent application for licensure by the applicant shall meet all of the standard requirements for licensure without waiver.

REGULATION 5: APPLICATIONS

A. Fees. All applications shall be accompanied by the required application fee.

B. Application for Licensure. An applicant for licensure as an LLLT shall complete and file with the WSBA:

1. a completed application for licensure to limited practice under APR 28;
2. all official transcripts demonstrating completion of

- a. at a minimum, an associate level degree, except applicants who have been approved for a limited time waiver pursuant to Regulation 4,
 - b. the core curriculum required pursuant to Regulation 3A, except applicants who have been approved for a limited time waiver pursuant to Regulation 4, and
 - c. the practice area curriculum required pursuant to Regulation 3B; and
3. a signed and notarized Authorization, Release and Affidavit of Applicant.

C. Application for Additional Practice Area. An LLLT seeking licensure in an additional practice area must complete and file with the WSBA:

1. a completed practice area application for licensure to limited practice under APR 28;
2. an official transcript demonstrating completion of the practice area curriculum required under Regulation 3B; and
3. a signed and notarized Authorization, Release and Affidavit of Applicant.

D. Background Check. Each applicant for licensure shall submit a fingerprint card to the Federal Bureau of Investigation (FBI) for a criminal history record check and provide to the FBI a release for the results of the criminal history check to be sent directly to the WSBA. A Washington LLLT applying for licensure in an additional practice area shall not be required to submit a fingerprint card, unless it has been more than two years since the LLLT was last issued a license.

The applicant shall furnish whatever additional information or proof may be required in the course of investigating the applicant, and failure to furnish such information may be grounds for denial of licensure.

REGULATION 6: APPROVAL OR DENIAL OF APPLICATION ON ADMINISTRATIVE GROUNDS

A. Review of Application. WSBA staff shall review each application to determine if the application meets the criteria for licensure established in APR 28. Any application that does not meet the initial criteria for licensure as established by APR 28 shall be denied by the WSBA staff on administrative grounds, except for those applications where there is a substantial question as to the applicant's good moral character or fitness to practice. The applicant will be notified whether the application has been approved or denied. If the application has been denied, the applicant will be notified of the grounds for the denial and the review process.

B. Review of Denial. Every applicant who has been denied licensure under APR 28 on administrative grounds may request review by the Board chair. To request review, an applicant shall submit a written request within 14 days of the date the denial of application was issued and state the reason for the request.

C. Procedure for Review. The Board chair shall consider the request for review on the written record only and shall hear no oral arguments. The chair shall enter a written decision which may affirm or reverse the denial of the application or direct further investigation.

REGULATION 7: CHARACTER AND FITNESS HEARINGS

Reserved.

REGULATION 8: EXAMINATIONS; NOTIFICATION OF RESULTS

A. Administration of Examinations. The examinations will be administered at such times and locations as the Board may designate.

An applicant for initial licensure shall pass a core curriculum examination and a practice area examination.

An LLLT who applies for licensure in an additional practice area shall be required to take only the qualifying practice area examination in the practice area for which he or she is seeking licensure.

B. Core Curriculum Examination. The core curriculum examination shall be comprised of three parts: a multiple choice section, an essay section, and a performance section. The passing standard for the core curriculum examination is a score of 75 percent for each section of the exam. A failing grade in one section shall result in failure of the exam, in which case grading of any remaining sections shall not be completed.

C. Practice Area Examination. All practice area examinations shall be comprised of three parts: a multiple choice section, an essay section, and a performance section. The passing standard for the practice area examination is a score of 75 percent for each section of the exam. A failing grade in one section shall result in failure of the exam, in which case grading of any remaining sections shall not be completed.

D. Results and Reapplications. Each applicant will be notified of the applicant's examination results. Those applicants who fail the examination will be informed of their score on each graded section of the examination. Examination scores shall not be disclosed to those applicants who pass the examination. Copies of the examination shall not be available to any applicant.

An applicant who passes the core curriculum examination but fails the practice area examination or vice versa may retake the failed exam at the next two administrations of the exam. The passing score shall be valid for one year from the date the applicant is notified of passing. If the applicant does not pass the failed exam after the next two administrations of the exam, the applicant shall be required to retake the exam he or she passed.

REGULATION 9: SUBSTANTIVE LAW-RELATED WORK EXPERIENCE REQUIREMENT

Each applicant for licensure as a limited license legal technician shall show proof of having completed 3,000 hours of substantive law-related work experience supervised by a licensed lawyer as required by APR 28E(2). The experience requirement shall be completed within three years before or after the date the applicant is notified of passing both the core curriculum and practice area qualifying examinations. The proof shall be provided in such form as the Board requires, but shall include at a minimum:

1. the name and bar number of the supervising lawyer;
2. certification that the work experience meets the definition of substantive law-related work experience as defined in APR 28;
3. the total number of hours of substantive law-related work experience performed under the supervising lawyer; and
4. certification that the requisite work experience was acquired within the time period required by APR 28E(2).

REGULATION 10: CERTIFICATION OF RESULTS TO SUPREME COURT; OATH

A. Recommendation for Licensure. The Board shall recommend to the Washington State Supreme Court the licensure of all applicants who have met all licensing requirements set forth in APR 28 and these regulations, including good moral character and fitness to practice. All recommendations of the Board shall be accompanied by the application for licensure and any other documents deemed pertinent by the Board or requested by the Supreme Court. The recommendation and all accompanying documents and papers shall not be public record.

B. Pre-licensure Requirements. Before an applicant who has passed the qualifying examinations may be licensed, the applicant shall:

1. furnish proof of completion of the requisite hours of substantive law-related work experience supervised by a licensed lawyer as required by Regulation 9;
2. furnish proof of financial responsibility as required by Regulation 12;
3. pay the annual license fee and any assessments for the current year as required by Regulation 11;
4. file any and all licensing forms required for active limited license legal technicians; and
5. take the Oath of Limited License Legal Technician..

The pre-licensure requirements shall be completed within three years of the date the applicant is notified of the examination results. If an applicant fails to satisfy all the requirements for licensure within this period, the applicant shall not be eligible for licensure under APR 28 without submitting a new application for licensure and retaking the examination.

C. Additional Practice Area Pre-licensure Requirements. An LLLT who is seeking licensure in an additional practice area shall:

1. take and pass the additional practice area examination;
2. pay the additional practice area license fee; and
3. file any and all licensing forms required for active limited license legal technicians.

The requirements above shall be completed within one year of the date the applicant is notified of the examination results. If an LLLT fails to satisfy all the requirements for licensure in an additional practice area within this period, the LLLT shall not be eligible for licensure in the additional practice area without submitting a new application and retaking the examination.

D. Oath of Limited License Legal Technician. The Oath of Limited License Legal Technician shall be taken before an elected or appointed judge, excluding judges pro tempore, sitting in open court in the state of Washington.

E. Contents of Oath. The oath which all applicants shall take is as follows:

OATH FOR LIMITED LICENSE LEGAL TECHNICIANS

STATE OF WASHINGTON
COUNTY OF

I, _____, do solemnly declare:

1. I am fully subject to the laws of the State of Washington, the laws of the United States, Rule 28 of the Admission to Practice Rules, and APR 28 Regulations adopted by the Washington State Supreme Court and will abide by the same;
2. I will support the constitutions of the State of Washington and of the United States of America;
3. I will abide by the Limited License Legal Technician Rules of Professional Conduct approved by the Supreme Court of the State of Washington;
4. I will confine my activities as a Limited License Legal Technician to those activities allowed by law, rule and regulation and will only utilize documents approved pursuant to APR 28;
5. I will faithfully disclose the limitations of my services and that I am not a lawyer;
6. I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with the business of my client, unless this compensation is from or with the knowledge and approval of the client or with the approval of the court;
7. I will abstain from all offensive personalities and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;
8. I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

Signature Limited License Legal Technician

Subscribed and sworn to before me this ____ day of _____, ____.

JUDGE

F. Order Admitting to Limited Practice as LLLT. After examining the recommendation and accompanying documents transmitted by the Board, the Supreme Court may enter such order in each case as it deems advisable. For those applicants it deems qualified, the Supreme Court shall enter an order admitting them to limited practice as LLLTs. Applicants shall be admitted under APR 28 only after the order has been entered by the Supreme Court.

G. Order Admitting LLLT to Limited Practice in Additional Practice Area. After examining the recommendation and accompanying documents transmitted by the Board, the Supreme Court may enter such order in each case as it deems advisable. For those LLLTs it deems qualified, the Supreme Court shall enter an order admitting them to limited practice in the additional practice area.

REGULATION 11: ANNUAL LICENSE FEES

A. Except as set forth in section B of this Regulation, every Limited License Legal Technician shall pay an annual license fee in an amount set by the Board with the approval of the Supreme Court, which is due July 1 of each year. Annual license fees paid after July 1 shall be subject to a late fee equal to one half the annual license fee. The annual license fee is for the limited license to practice in one defined practice area.

B. The prorated annual license fee for LLLTs who pass the qualifying examination given in the spring and who request active status prior to July 1 of that same calendar year shall be one half the amount of the annual license fee. LLLTs shall pay the annual license fee set forth in Regulation 11A to retain their active status after June 30 of the calendar year of their licensure.

C. A LLLT shall pay an annual additional practice area fee for each additional practice area in which the LLLT is licensed. The annual additional practice area fee for each additional practice area shall be one half the amount of the annual license fee. The combined annual additional practice area fees and annual license fee shall not exceed the total cost of active lawyer annual license fees. Annual license fee payment due dates and late fees shall apply to additional practice area fees.

D. An LLLT shall provide his or her residential and business addresses, telephone numbers, and business email address to the Board at the time of payment of the annual license fee. An LLLT

whose address, telephone number, or email address changes shall notify the WSBA within 10 days after the change.

REGULATION 12: FINANCIAL RESPONSIBILITY

A. Insurance Requirement. Each limited license legal technician shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 28 by:

1. Submitting an individual professional liability insurance policy in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit; or
2. Submitting a professional liability insurance policy of the employer or the parent company of the employer who has agreed to provide coverage for the LLLT's ability to respond in damages in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit.

B. Continuing Requirement. Each active LLLT who is covered by insurance shall file with the WSBA an annual certificate of coverage. The certificate of coverage shall name the covered LLLT(s) and the policy limits and dates. Each LLLT shall notify the Board of any cancellation or lapse in coverage.

**SUGGESTED LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

1 **TITLE**

2 **LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT**
3 **(LLLT RPC)**

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**SUGGESTED LIMITED LICENSE LEGAL TECHNICIAN
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9 **APPENDIX. [RESERVED].**

10 **FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT FOR AN LLLT***

11 The continued existence of a free and democratic society depends upon recognition of the
12 concept that justice is based upon the rule of law grounded in respect for the dignity of the
13 individual and the capacity through reason for enlightened self-government. Law so grounded
14 makes justice possible, for only through such law does the dignity of the individual attain
15 respect and protection. Without it, individual rights become subject to unrestrained power,
16 respect for law is destroyed, and rational self-government is impossible.

17 Lawyers, as guardians of the law, play a vital role in the preservation of society. LLLTs, within
18 the scope of their limited licenses to deliver legal services, also play a significant role. The
19 fulfillment of the LLLT's role requires an understanding of their relationship with and function
20 in our legal system. A consequent obligation of LLLTs is to maintain the highest standards of
21 ethical conduct.

22 In fulfilling professional responsibilities, an LLLT may provide services consistent with the
23 authorized scope of his or her practice that require the performance of many difficult tasks. Not
24 every situation that an LLLT may encounter can be foreseen, but fundamental ethical principles
25 are always present as guidelines.

SUGGESTED LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 The Rules of Professional Conduct for LLLTs point the way for the LLLT who aspires to the
2 highest level of ethical conduct, and provide standards by which to judge the transgressor. Each
3 LLLT must find within his or her own conscience the touchstone against which to test the extent
4 to which his or her actions should rise above minimum standards. But in the last analysis it is
5 the desire for the respect and confidence of the members of the legal profession, including
6 LLLTs and the society that LLLTs serve, that should provide to an LLLT the incentive for the
7 highest possible degree of ethical conduct. The possible loss of that respect and confidence is
8 the ultimate sanction.

9 * These Fundamental Principles of the Rules of Professional Conduct are taken from the former
10 Preamble to the Rules of Professional Conduct for lawyers as approved and adopted by the
11 Supreme Court in 1985. Washington lawyers and judges have looked to the 1985 Preamble of
12 the Rules of Professional Conduct as a statement of our overarching aspiration to faithfully
13 serve the best interests of the public, the legal system, and the efficient administration of justice.
14 The former Preamble is preserved here to inspire LLLTs to strive for the highest possible
15 degree of ethical conduct, and these Fundamental Principles should inform many of our
16 decisions as LLLTs. The Fundamental Principles do not, however, alter any of the obligations
17 expressly set forth in the Rules of Professional Conduct, nor are they intended to affect in any
18 way the manner in which the Rules are to be interpreted or applied.

PREAMBLE AND SCOPE

PREAMBLE: AN LLLT'S RESPONSIBILITIES

21 [1] An LLLT is authorized to provide limited legal services that lie within the scope of the
22 practice that the LLLT is licensed to undertake. Within that scope, an LLLT is a member of the
23 legal profession, is a representative of clients, and has a special responsibility for the quality of
24 justice.

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1 [2] As a representative of clients within a limited scope, an LLLT performs various functions.
2 As advisor, an LLLT provides a client with an informed understanding of the client's legal
3 rights and obligations and explains their practical implications. As an evaluator, an LLLT acts
4 by examining a client's legal affairs and reporting about them to the client or to others. While
5 an LLLT is not authorized to act as advocate or negotiator, an LLLT conscientiously acts in the
6 best interest of the client, and seeks a result that is advantageous to the client but consistent with
7 the requirements of honest dealings with others.

8 [3] In addition to these limited representational functions, an LLLT may serve as a third-party
9 neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some
10 of these Rules apply directly to LLLTs who are or have served as third-party neutrals. *See, e.g.,*
11 Rules 1.12 and 2.4. In addition, there are Rules that apply to LLLTs who are not active in the
12 practice of law or to practicing LLLTs even when they are acting in a nonprofessional capacity.
13 For example, an LLLT who commits fraud in the conduct of a business is subject to discipline
14 for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* Rule 8.4.

15 [4] In all professional functions an LLLT should be competent, prompt, and diligent. An LLLT
16 should maintain communication with a client concerning the representation. An LLLT should
17 keep in confidence information relating to representation of a client except so far as disclosure
18 is required or permitted by the Rules of Professional Conduct for LLLTs.

19 [5] An LLLT's conduct should conform to the requirements of the law, both in professional
20 service to clients and in the LLLT's business and personal affairs. An LLLT should use the
21 law's procedures only for legitimate purposes and not to harass or intimidate others. An LLLT
22 should demonstrate respect for the legal system and for those who serve it, including judges,
23 lawyers, other LLLTs, and public officials.

24 [6] As a member of the legal profession, an LLLT should seek to improve access to the legal
25 system, the administration of justice, and the quality of service rendered by the legal profession,

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1 and should also seek to strengthen legal education. An LLLT should be mindful of deficiencies
2 in the administration of justice and of the fact that the poor, and sometimes persons who are not
3 poor, cannot afford adequate legal assistance. Therefore, all LLLTs should devote professional
4 time and resources to ensure equal access to our system of justice for all those who because of
5 economic or social barriers cannot afford or secure adequate legal counsel. An LLLT should
6 aid the legal profession in pursuing these objectives and should help the legal profession
7 regulate itself in the public interest.

8 [7] Many of an LLLT's professional responsibilities are prescribed in the Rules of Professional
9 Conduct for LLLTs, as well as substantive and procedural law to the extent applicable to
10 LLLTs. However, an LLLT is also guided by personal conscience and the approbation of
11 lawyers, clients, and professional peers. Within the authorized scope of an LLLT's practice, the
12 LLLT should strive to attain the highest level of skill and to exemplify the legal profession's
13 ideals of public service.

14 [8] An LLLT's responsibilities as a limited-scope representative of clients and as a public citizen
15 are usually harmonious. Thus, an LLLT can be sure that preserving client confidences
16 ordinarily serves the public interest because people are more likely to seek legal advice, and
17 thereby heed their legal obligations, when they know their communications will be private.

18 [9] Notwithstanding the limited scope of authority of an LLLT, however, conflicting
19 responsibilities are encountered. Virtually all difficult ethical problems arise from conflict
20 between an LLLT's responsibilities to clients, to the legal system, and to the LLLT's own
21 interest in remaining an ethical person while earning a satisfactory living. The Rules of
22 Professional Conduct for LLLTs often prescribe terms for resolving such conflicts. Within the
23 framework of these Rules, however, many difficult issues of professional discretion can arise.
24 Such issues must be resolved through the exercise of sensitive professional and moral judgment
25 guided by the basic principles underlying the Rules.

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1 [10] The legal profession is largely self-governing. Although other professions also have been
2 granted powers of self-government, the legal profession is unique in this respect because of the
3 close relationship between the profession and the processes of government and law
4 enforcement. This connection is manifested in the fact that ultimate authority over the legal
5 profession is vested largely in the courts.

6 [11] To the extent that LLLTs meet the obligations of their professional calling, the occasion for
7 government regulation is obviated. Self-regulation also helps maintain the legal profession's
8 independence from government domination. An independent legal profession is an important
9 force in preserving government under law, for abuse of legal authority is more readily
10 challenged by a profession whose members are not dependent on government for the right to
11 practice.

12 [12] The legal profession's relative autonomy carries with it special responsibilities of self-
13 government. The profession has a responsibility to assure that its regulations are conceived in
14 the public interest and not in furtherance of parochial or self-interested concerns. Every LLLT
15 is responsible for observance of the Rules of Professional Conduct for LLLTs. An LLLT
16 should also aid in securing their observance by other legal practitioners. Neglect of these
17 responsibilities compromises the independence of the profession and the public interest which it
18 serves.

19 [13] LLLTs are obliged to understand their relationship to our legal system. The Rules of
20 Professional Conduct for LLLTs, when properly applied, serve to define that relationship.

21 **SCOPE**

22 [14] The Rules of Professional Conduct for LLLTs are rules of reason. They should be
23 interpreted with reference to the purposes of legal representation (within the LLLT's authorized
24 scope of practice) and of the law itself. Some of the Rules are imperatives, cast in the terms
25 "shall" or "shall not." These define proper conduct for purposes of professional discipline.

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1 Others, generally cast in the term "may" are permissive and define areas under the Rules in
2 which the LLLT has discretion to exercise professional judgment. No disciplinary action
3 should be taken when the LLLT chooses not to act or acts within the bounds of such discretion.
4 Other rules define the nature of relationships between the LLLT and others. The Rules are thus
5 partly obligatory and disciplinary and partly constitutive and descriptive in that they define an
6 LLLT's professional role. Many of the Comments use the term "should." Comments do not add
7 obligations to the Rules but provide guidance for practicing in compliance with the Rules.

8 [15] The Rules presuppose a context in which the LLLT's role has been or will be shaped. That
9 context includes court rules relating to matters of licensure, laws defining specific authorization
10 and obligations of LLLTs, and substantive and procedural law in general. The Comments are
11 sometimes used to alert LLLTs to their responsibilities under such other law.

12 [16] Compliance with the Rules, as with all law in an open society, depends primarily upon
13 understanding and voluntary compliance, secondarily upon reinforcement by lawyer, client,
14 peer, and public opinion, and finally, when necessary, upon enforcement through disciplinary
15 proceedings. The Rules do not, however, exhaust the moral and ethical considerations that
16 should inform an LLLT, for no worthwhile human activity can be completely defined by legal
17 rules. The Rules simply provide a framework for the ethical practice of law within the
18 authorized scope of an LLLT's practice.

19 [17] For purposes of determining the LLLT's authority and responsibility, principles of
20 substantive law external to these Rules determine whether a client-LLLT relationship exists.
21 Most of the duties flowing from the client-LLLT relationship attach only after the client-LLLT
22 relationship is formed. But there are some duties, such as that of confidentiality under Rule 1.6,
23 that may attach when the LLLT agrees to consider whether a client-LLLT relationship shall be
24 established. *See* Lawyer RPC 1.18 and Washington Comment [11] thereto. Whether a client-

**SUGGESTED LIMITED LICENSE LEGAL TECHNICIAN
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1 LLLT relationship exists for any specific purpose can depend on the circumstances and is a
2 question of fact.

3 [18] [Reserved.]

4 [19] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for
5 invoking the disciplinary process. The Rules presuppose that disciplinary assessment of an
6 LLLT's conduct will be made on the basis of the facts and circumstances as they existed at the
7 time of the conduct in question and in recognition of the fact that an LLLT often has to act upon
8 uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether
9 or not discipline should be imposed for a violation, and the severity of a sanction, depend on all
10 the circumstances, such as the willfulness and seriousness of the violation, extenuating factors,
11 and whether there have been previous violations.

12 [20] Violation of a Rule should not itself give rise to a cause of action against an LLLT, nor
13 should it create any presumption in such a case that a legal duty has been breached. The Rules
14 are designed to provide guidance to LLLTs and to provide a structure for regulating conduct
15 through disciplinary agencies. They are not designed to be a basis for civil liability. The fact
16 that a Rule is a just basis for an LLLT's self-assessment, or for sanctioning an LLLT under the
17 administration of a disciplinary authority, does not imply that a party who is adverse to an
18 LLLT's client in any proceeding or transaction has standing to seek enforcement of the Rule.
19 Nevertheless, since the Rules do establish standards of conduct by LLLTs, an LLLT's violation
20 of a Rule may be evidence of breach of the applicable standard of conduct.

21 [21] The Comment accompanying each Rule explains and illustrates the meaning and purpose
22 of the Rule. The Preamble and this note on Scope provide general orientation. The Comments
23 are intended as guides to interpretation, but the text of each Rule is authoritative.

24 **Additional Washington Comments (22 - 25)**

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1 [22] Nothing in these Rules is intended to change existing Washington law on the use of the
2 Rules of Professional Conduct in a civil action, see *Hizey v. Carpenter*, 119 Wn.2d 251, 830
3 P.2d 646 (1992), or to suggest how that law applies to the obligations of LLLTs. *See also* APR
4 28(K)(1).

5 [23] The Rules of Professional Conduct for LLLTs are modeled on Washington's Rules of
6 Professional Conduct for lawyers (Lawyer RPC). The structure of these Rules, like the Lawyer
7 RPC, generally parallels the structure of the American Bar Association's Model Rules of
8 Professional Conduct. When an entire provision that appears in the Lawyer RPC is deleted for
9 purposes of these Rules, the deletion is signaled by the phrase "Reserved." The reservation of a
10 rule or portion of a rule that appears in the Lawyer RPC does not necessarily mean that the
11 conduct of an LLLT in that area is unregulated; the conduct may be regulated under APR 28 or
12 another rule. Should a situation arise where a rule or portion of a rule is reserved but the
13 counterpart rule in the Lawyer RPC addresses the conduct, the LLLT should look to the relevant
14 Lawyer RPC and comments to that rule for guidance. In general, when a Rule has a counterpart
15 in the Lawyer RPC, the comments to that Lawyer RPC may be looked to as a guide to
16 interpretation of that Rule to the extent that both the Lawyer RPC and the LLLT RPC are
17 substantially similar and the content of the comments is applicable to the conduct of an LLLT.

18 [24] Comment [18] of Scope is reserved. The corresponding Comment of the Lawyer RPC
19 relates to the specific role and authority of certain lawyers in government service, and is not
20 applicable to the professional role of an LLLT.

21 [25] The Fundamental Principles of Professional Conduct and the Preamble and Scope sections
22 of these Rules were adapted from the corresponding parts of the Lawyer RPC with only minor
23 modifications. These provisions express the role of an LLLT as a legal professional acting
24 within the justice system. With the exception of the reservation of Comment [18],
25 modifications relate to the limited scope of an LLLT's license to deliver legal services, and the

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1 corresponding limitations on the role that an LLLT will have in the development of certain
2 aspects of the legal profession, such as advocacy and development of the common law.

3 **LLLT RPC 1.0A TERMINOLOGY**

4 (a) "Belief" or "believes" denotes that the person involved actually supposed the fact in question
5 to be true. A person's belief may be inferred from circumstances.

6 (b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes
7 informed consent that is given in writing by the person or a writing that an LLLT promptly
8 transmits to the person confirming an oral informed consent. See section (e) for the definition
9 of "informed consent." If it is not feasible to obtain or transmit the writing at the time the
10 person gives informed consent, then the LLLT must obtain or transmit it within a reasonable
11 time thereafter.

12 (c) "Firm" or "law firm" denotes a lawyer, lawyers, an LLLT, LLLTs, or any combination
13 thereof in a law partnership, professional corporation, sole proprietorship, or other association
14 authorized to practice law; or lawyers or LLLTs employed in a legal services organization or the
15 legal department of a corporation or other organization.

16 (d) "Fraud" or "fraudulent" denotes conduct that has a purpose to deceive and is fraudulent
17 under the substantive or procedural law of the applicable jurisdiction, except that it is not
18 necessary that anyone has suffered damages or relied on the misrepresentation or failure to
19 inform.

20 (e) "Informed consent" denotes the agreement by a person to a proposed course of conduct after
21 the LLLT has communicated adequate information and explanation about the material risks of
22 and reasonably available alternatives to the proposed course of conduct.

23 (f) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A
24 person's knowledge may be inferred from circumstances.

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1 (g) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a
2 professional corporation, or a member of an association authorized to practice law.

3 (h) "Reasonable" or "reasonably" when used in relation to conduct by an LLLT denotes the
4 conduct of a reasonably prudent and competent LLLT.

5 (i) "Reasonable belief" or "reasonably believes" when used in reference to an LLLT denotes that
6 the LLLT believes the matter in question and that the circumstances are such that the belief is
7 reasonable.

8 (j) "Reasonably should know" when used in reference to an LLLT denotes that an LLLT of
9 reasonable prudence and competence would ascertain the matter in question.

10 (k) "Screened" denotes the isolation of an LLLT or a lawyer from any participation in a matter
11 through the timely imposition of procedures within a firm that are reasonably adequate under
12 the circumstances to protect information that the isolated LLLT or lawyer is obligated to protect
13 under these Rules, the Lawyer RPC, or other law.

14 (l) "Substantial" when used in reference to degree or extent denotes a material matter of clear
15 and weighty importance.

16 (m) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding, or legislative
17 body, administrative agency, or other body acting in an adjudicative capacity. A legislative
18 body, administrative agency, or other body acts in an adjudicative capacity when a neutral
19 official, after the presentation of evidence or legal argument by a party or parties, will render a
20 binding legal judgment directly affecting a party's interests in a particular matter.

21 (n) "Writing" or "written" denotes a tangible or electronic record of a communication or
22 representation, including handwriting, typewriting, printing, photostating, photography, audio or
23 videorecording, and e-mail. A "signed" writing includes an electronic sound, symbol, or
24 process attached to or logically associated with a writing and executed or adopted by a person
25 with the intent to sign the writing.

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1 **LLLT RPC 1.0B ADDITIONAL TERMINOLOGY**

2 (a) "APR" denotes the Washington Supreme Court's Admission and Practice Rules.

3 (b) "GR" denotes the Washington Supreme Court's General Rules.

4 (c) "Lawyer" denotes a person licensed and eligible to practice law in any United States
5 jurisdiction.

6 (d) "Lawyer RPC" denotes the Washington Supreme Court's Rules of Professional Conduct for
7 lawyers.

8 (e) "Legal practitioner" denotes a lawyer or a limited license legal technician licensed under
9 APR 28.

10 (f) "Limited License Legal Technician" or "LLLT" denotes a person qualified by education,
11 training and work experience who is authorized to engage in the limited practice of law in
12 approved practice areas of law as specified by APR 28 and related regulations. The LLLT does
13 not represent the client in court proceedings or negotiations, but provides limited legal
14 assistance as set forth in APR 28 to a pro se client.

15 (g) "LLLT REC" denotes the Washington Supreme Court's Limited License Legal Technician
16 Rules for Enforcement of Conduct.

17 (h) "Representation" or "represent," when used in connection with the provision of legal
18 assistance by an LLLT, denotes limited legal assistance as set forth in APR 28 to a pro se client.

19 **Comment**

20 [1] Rule 1.0A was adapted from Lawyer RPC 1.0 with no substantive changes and applies to
21 LLLTs analogously. Rule 1.0B adds terms that require definitions in light of the licensing of
22 LLLTs as legal practitioners in Washington.

23 [2] The definition of the term "lawyer" is taken from APR 28(B). When used in the LLLT
24 RPC, however, the term is used to denote a lawyer who is acting within the scope of the
25 lawyer's license and in accordance with the Lawyer RPC. So, for example, the authorization in

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1 Rule 5.9 to enter into a law partnership with a lawyer requires that the lawyer is admitted and
2 authorized to practice in the State of Washington.

3 [3] The terms “firm” and “law firm” are used interchangeably in the Lawyer RPC and also in
4 these Rules. An LLLT should be cautious, however, in using the words “law firm” to describe a
5 law practice that includes only LLLTs. The name and description of an LLLT’s practice should
6 not imply that a lawyer is associated with the firm unless that is the case. Rule 7.5(a) requires
7 that any trade name used for an LLLT practice that does not include a lawyer include the words
8 “Legal Technician.”

9 **TITLE 1. CLIENT-LLLT RELATIONSHIP**

10 **LLLT RPC 1.1 COMPETENCE**

11 An LLLT shall provide competent representation to a client. Competent representation requires
12 the legal knowledge, skill, thoroughness and preparation reasonably necessary for the
13 representation.

14 **Comment**

15 [1] Rule 1.1 was adapted from Lawyer RPC 1.1 with no substantive changes and applies to
16 LLLTs analogously.

17 **LLLT RPC 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF**
18 **AUTHORITY BETWEEN CLIENT AND LLLT**

19 (a) Subject to sections (c), (d), and (g), an LLLT shall abide by a client's decisions concerning
20 the objectives of representation and, as required by Rule 1.4, shall consult with the client as to
21 the means by which they are to be pursued. An LLLT may take such action on behalf of the
22 client as is impliedly authorized to carry out the representation.

23 (b) An LLLT's representation of a client does not constitute an endorsement of the client's
24 political, economic, social or moral views or activities.

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1 (c) An LLLT must limit the scope of the representation and provide disclosures informing a
2 potential client as required by these Rules.

3 (d) An LLLT shall not counsel a client to engage, or assist a client, in conduct that the LLLT
4 knows is criminal or fraudulent.

5 (e) [Reserved.]

6 (f) An LLLT shall not purport to act as an LLLT for any person or organization if the LLLT
7 knows or reasonably should know that the LLLT is acting without the authority of that person
8 or organization and beyond his or her authorized scope of practice, unless the LLLT is
9 authorized or required to so act by law or a court order.

10 (g) Nothing in this Rule expands an LLLT's authorized scope of practice provided in APR 28.

11 **Comment**

12 [1] Rule 1.2 was adapted from Lawyer RPC 1.2 with changes to reflect the limited scope of
13 practice authorized by APR 28. Otherwise, it applies to LLLTs analogously.

14 [2] Negotiation on behalf of a client and representation in court are beyond the authorized scope
15 of an LLLT's practice. *See* APR 28(H). Accordingly, section (a) was modified from the
16 Lawyer RPC to exclude references to settlements and criminal cases, and section (d) was
17 modified from the Lawyer RPC to exclude (and therefore prohibit) an LLLT from discussing
18 with a client the legal consequences of any proposed criminal or fraudulent conduct and
19 assisting a client in determining the validity, scope, meaning, or application of the law with
20 respect to any such conduct. In circumstances where a client has engaged or may engage in
21 conduct that the LLLT knows is criminal or fraudulent, the LLLT shall not provide services
22 related to such conduct and shall inform the client that the client should seek the services of a
23 lawyer.

24 [3] Unlike a lawyer, an LLLT may perform only limited services for a client. Under APR
25 28G(3), before performing any services for a fee, an LLLT must enter into a written contract

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1 with the client, signed by both the client and the LLLT, that includes the following: (a) an
2 explanation of the services to be performed, including a conspicuous statement that the LLLT
3 may not appear or represent the client in court, formal administrative adjudicative proceedings,
4 or other formal dispute resolution process, or negotiate the client's legal rights or
5 responsibilities, unless permitted under GR 24(b); (b) identification of all fees and costs to be
6 charged to the client for the services to be performed; (c) a statement that upon the client's
7 request, the LLLT shall provide to the client any documents submitted by the client to the
8 LLLT; (d) a statement that the LLLT is not a lawyer and may only perform limited legal
9 services (this statement shall be on the first page of the contract in minimum twelve-point bold
10 type print); (e) a statement describing the LLLT's duty to protect the confidentiality of
11 information provided by the client and the LLLT's work product associated with the services
12 sought or provided by the LLLT; (f) a statement that the client has the right to rescind the
13 contract at any time and receive a full refund of unearned fees (this statement shall be
14 conspicuously set forth in the contract); and (g) any other conditions to the LLLT's services that
15 are required by the rules and regulations of the Limited License Legal Technician Board.

16 [4] Additional requirements concerning the authorized scope of an LLLT's practice are imposed
17 by APR 28(F). An LLLT must ascertain whether the issue is within the defined practice area
18 for which the LLLT is licensed. If not, the LLLT shall not provide the services required on the
19 issue and must inform the client that the client should seek the services of a lawyer. If the issue
20 does lie within the defined practice area for which the LLLT is licensed, then the LLLT is
21 authorized to undertake the services that are enumerated in APR 28(F). Those services include
22 only the following: (a) obtain relevant facts and explain the relevancy of such information to the
23 client; (b) inform the client of applicable procedures, including deadlines, documents which
24 must be filed, and the anticipated course of the legal proceeding; (c) inform the client of
25 applicable procedures for proper service of process and filing of legal documents; (d) provide

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1 the client with self-help materials prepared by a Washington lawyer or approved by the Limited
2 License Legal Technician Board, which contain information about relevant legal requirements,
3 case law basis for the client’s claim, and venue and jurisdiction requirements; (e) review
4 documents or exhibits that the client has received from the opposing side, and explain them to
5 the client; (f) select, complete, file, and effect service of forms that have been approved by the
6 State of Washington, either through a governmental agency or by the Administrative Office of
7 the Courts or the content of which is specified by statute; federal forms; forms prepared by a
8 Washington lawyer; or forms approved by the Limited License Legal Technician Board; and
9 advise the client of the significance of the selected forms to the client’s case; (g) perform legal
10 research; (h) draft legal letters and documents beyond what is permitted in (f) if the work is
11 reviewed and approved by a Washington lawyer; (i) advise a client as to other documents that
12 may be necessary to the client’s case, and explain how such additional documents or pleadings
13 may affect the client’s case; and (j) assist the client in obtaining necessary documents, such as
14 birth, death, or marriage certificates.

15 [5] An LLLT must personally perform the authorized services for the client and may not
16 delegate those services to a person who is not either an LLLT or a lawyer. This prohibition,
17 however, does not prevent a person who is neither an LLLT nor a lawyer from performing
18 translation services. APR 28(G)(2).

19 [6] An LLLT may not provide services that exceed the scope of the LLLT’s authority under
20 APR 28. If an issue arises for which the client needs services that exceed the scope of the
21 LLLT’s authority, the LLLT must inform that client that the client should seek the services of a
22 lawyer. APR 28(G)(5).

23 [7] A document that is prepared by an LLLT for the client’s signature shall include the LLLT’s
24 name, signature and license number beneath the signature of the client. APR 28(G)(5).

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1 [8] Certain conduct and services are specifically prohibited to an LLLT by APR 28(H). In the
2 course of dealing with clients or prospective clients, an LLLT shall not: (a) make any statement
3 that the LLLT can or will obtain special favors from or has special influence with any court or
4 governmental agency; (b) retain any fees or costs for services not performed; (c) refuse to return
5 documents supplied by, prepared by, or paid for by the client, upon the request of the client (the
6 documents must be returned upon request even if there is a fee dispute between the LLLT and
7 the client); (d) represent or advertise, in connection with the provision of services, other legal
8 titles or credentials that could cause a client to believe that the LLLT possesses professional
9 legal skills beyond those authorized by the license held by the LLLT; (e) represent a client in
10 court proceedings, formal administrative adjudicative proceedings, or other formal dispute
11 resolution process, unless permitted by GR 24; (f) negotiate a client's legal rights or
12 responsibilities, or communicate with another person the client's position or convey to the client
13 the position of another party; unless permitted by GR 24(b); (g) provide services to a client in
14 connection with a legal matter in another state, unless permitted by the laws of that state to
15 perform such services for the client; (h) represent or otherwise provide legal or law related
16 services to a client, except as permitted by law, APR 28, or associated rules and regulations; or
17 (i) otherwise violate these Rules.

18 **LLLT RPC 1.3 DILIGENCE**

19 An LLLT shall act with reasonable diligence and promptness in representing a client.

20 **Comment**

21 [1] Rule 1.3 was adapted from Lawyer RPC 1.3 with no substantive changes and applies to
22 LLLTs analogously. *See also* Comment [5] to Rule 1.2.

23 **LLLT RPC 1.4 COMMUNICATION**

24 (a) An LLLT shall:
25
26

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1 (1) promptly inform the client of any decision or circumstance with respect to which the client's
2 informed consent, as defined in Rule 1.0(e), is required by these Rules;

3 (2) reasonably consult with the client about the means by which the client's objectives are to be
4 accomplished;

5 (3) keep the client reasonably informed about the status of the matter;

6 (4) promptly comply with reasonable requests for information; and

7 (5) consult with the client about any relevant limitation on the LLLT's conduct when the LLLT
8 knows that the client expects assistance not permitted by the LLLT RPC or other law.

9 (b) An LLLT shall explain a matter to the extent reasonably necessary to permit the client to
10 make informed decisions regarding the representation.

11 **Comment**

12 [1] Rule 1.4 was adapted from Lawyer RPC 1.4 with no substantive changes and applies to
13 LLLTs analogously.

14 **LLLT RPC 1.5 FEES**

15 (a) An LLLT shall not make an agreement for, charge, or collect an unreasonable fee or an
16 unreasonable amount for expenses. The factors to be considered in determining the
17 reasonableness of a fee include the following:

18 (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill
19 requisite to perform the legal service properly;

20 (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will
21 preclude other employment by the LLLT;

22 (3) the fee customarily charged in the locality for similar legal services;

23 (4) the amount involved and the results obtained;

24 (5) the time limitations imposed by the client or by the circumstances;

25 (6) the nature and length of the professional relationship with the client;

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1 (7) the experience, reputation, and ability of the LLLT or LLLTs performing the services;

2 (8) whether the fee is fixed or hourly; and

3 (9) the terms of the fee agreement between the LLLT and the client, including whether the fee
4 agreement or confirming writing demonstrates that the client had received a reasonable and fair
5 disclosure of material elements of the fee agreement and of the LLLT's billing practices.

6 (b) The scope of the representation and the basis or rate of the fee and expenses for which the
7 client will be responsible shall be communicated to the client, in writing, before commencing
8 the representation. Upon the request of the client in any matter, the LLLT shall communicate to
9 the client in writing the basis or rate of the fee.

10 (c) [Reserved.]

11 (d) An LLLT shall not enter into an arrangement for, charge, or collect any fee, the payment or
12 amount of which is contingent upon the outcome of the case.

13 (e) An LLLT may not enter into an arrangement for the division of a fee with another LLLT or
14 lawyer who is not in the same firm as the LLLT.

15 (f) Fees and expenses paid in advance of performance of services shall comply with Rule
16 1.15A, subject to the following exceptions:

17 (1) [Reserved.]

18 (2) An LLLT may charge a flat fee for specified legal services, which constitutes complete
19 payment for those services and is paid in whole or in part in advance of the LLLT providing the
20 services. A flat fee must be agreed to in advance in a writing signed by the client. The written
21 agreement may specify that the flat fee is the LLLT's property on receipt, in which case the fee
22 shall not be deposited into a trust account under Rule 1.15A. To qualify for the exception from
23 the requirements of Rule 1.15A, the written fee agreement shall, in a manner that can easily be
24 understood by the client, include the following: (i) the scope of the services to be provided; (ii)
25 the total amount of the fee and the terms of payment; (iii) that the fee is the LLLT's property

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1 immediately on receipt and will not be placed into a trust account; (iv) that the fee agreement
2 does not alter the client's right to terminate the client-LLLT relationship; and (v) that the client
3 may be entitled to a refund of a portion of the fee if the agreed-upon legal services have not
4 been completed. A statement in substantially the following form satisfies this requirement:

5 [LLLT/law firm] agrees to provide, for a flat fee of \$_____, the following services:

6 _____ . The flat fee shall be paid as

7 follows: _____ . Upon [LLLT's/law firm's]

8 receipt of all or any portion of the flat fee, the funds are the property of [LLLT/law firm] and
9 will not be placed in a trust account. The fact that you have paid your fee in advance does not
10 affect your right to terminate the client-LLLT relationship. In the event our relationship is
11 terminated before the agreed-upon legal services have been completed, you may or may not
12 have a right to a refund of a portion of the fee.

13 (3) In the event of a dispute relating to a fee under subsection (f)(2) of this Rule, the LLLT shall
14 take reasonable and prompt action to resolve the dispute.

15 **Comment**

16 [1] Rule 1.5 was adapted from Lawyer RPC 1.5 with changes to reflect the limited scope of an
17 LLLT's authorized practice and special requirements imposed by APR 28. Otherwise, it applies
18 to LLLTs analogously.

19 [2] An LLLT, unlike a lawyer, is prohibited from entering into a contingent fee or retainer
20 agreement with a client. Lawyer RPC 1.5(c) and 1.5(f)(1) address contingent fees and retainers
21 respectively. Accordingly, sections (c) and (f)(1) are reserved under this Rule. Reservation of
22 such sections, however, is not intended to prohibit an LLLT from being apportioned a part of a
23 fee earned by a lawyer under a contingent fee or retainer arrangement when the LLLT and the
24 lawyer are associated in a for profit business relationship authorized under Rule 5.9.

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1 [3] Under the circumstances specified in Lawyer RPC 1.5(e), a lawyer may agree to a division
2 of a fee either with another lawyer who is not in the same firm or with an authorized lawyer
3 referral service. By contrast, section (e) of this Rule categorically prohibits an LLLT from
4 dividing a fee. An LLLT may pay the usual charges of an LLLT referral service. *See* Rule
5 7.2(e).

6 [4] Unlike a lawyer, an LLLT is required by APR 28(G)(3) to enter into a written contract with
7 the client before the LLLT begins to perform any services for a fee that includes, among other
8 things, identification of all fees and costs to be charged to the client for the services to be
9 performed. The provisions concerning a flat fee described in (f)(2) of this Rule, if applicable,
10 should be included in that contract. The contract must be signed by both the client and the
11 LLLT before the LLLT begins to perform any services for a fee. *See* Comment [2] to Rule 1.2
12 for other provisions that are to be included in the contract.

13 [5] An LLLT is ordinarily prohibited from modifying the written contract with the client that is
14 required by APR 28(G)(3). Courts have applied the provisions of RPC 1.8(a) to modifications
15 or renegotiations of fee arrangements by lawyers made during the representation of a client
16 when the modified or renegotiated terms are more favorable to the lawyer than originally agreed
17 upon. *See, e.g., Valley/50th Ave., LLC v. Stewart*, 159 Wn.2d 736, 743-44, 153 P.3d 186, 189
18 (2007); *Rafel Law Grp. PLLC v. Defoor*, 176 Wn. App. 210, 223-24, 308 P.3d 767, 775 (2013),
19 *review denied*, 179 Wn.2d 1011, 316 P.3d 495 (2014). Under these Rules, business transactions
20 between LLLTs and clients are prohibited. *See* Rule 1.8(a). Accordingly, any changes in the
21 basis or rate of an LLLT's fee that benefit the LLLT must be identified in the initial contract.
22 *See also* Comment [8] to Rule 1.2.

23 **LLLT RPC 1.6 CONFIDENTIALITY OF INFORMATION**

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1 (a) An LLLT shall not reveal information relating to the representation of a client unless the
2 client gives informed consent, the disclosure is impliedly authorized in order to carry out the
3 representation or the disclosure is permitted by section (b).

4 (b) An LLLT to the extent the LLLT reasonably believes necessary:

5 (1) shall reveal information relating to the representation of a client to prevent reasonably
6 certain death or substantial bodily harm;

7 (2) may reveal information relating to the representation of a client to prevent the client from
8 committing a crime;

9 (3) may reveal information relating to the representation of a client to prevent, mitigate, or
10 rectify substantial injury to the financial interests or property of another that is reasonably
11 certain to result or has resulted from the client's commission of a crime or fraud in furtherance
12 of which the client has used the LLLT's services;

13 (4) may reveal information relating to the representation of a client to secure legal advice about
14 the LLLT's compliance with these Rules;

15 (5) may reveal information relating to the representation of a client to establish a claim or
16 defense on behalf of the LLLT in a controversy between the LLLT and the client, to establish a
17 defense to a criminal charge or civil claim against the LLLT based upon conduct in which the
18 client was involved, or to respond to allegations in any proceeding concerning the LLLT's
19 representation of the client;

20 (6) may reveal information relating to the representation of a client to comply with a court
21 order; or

22 (7) may reveal information relating to the representation of a client to inform a tribunal about
23 any breach of fiduciary responsibility when the client is serving as a court appointed fiduciary
24 such as a guardian, personal representative, or receiver.

25 **Comment**

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1 [1] Rule 1.6 was adapted from Lawyer RPC 1.6 with no substantive changes and applies to
2 LLLTs analogously.

3 [2] Under APR 28(K)(3) the Washington law of attorney-client privilege extends to LLLTs “to
4 the same extent as it would apply to an attorney-client relationship.” In communicating the
5 existence or scope of this privilege to a client, a LLLT must take steps to ensure that the client
6 understands the LLLTs role and to avoid any impression that the LLLT is serving as a lawyer
7 in the matter.

8 **LLLT RPC 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS**

9 (a) Except as provided in section (b), an LLLT shall not represent a client if the representation
10 involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

11 (1) the representation of one client will be directly adverse to another client; or

12 (2) there is a significant risk that the representation of one or more clients will be materially
13 limited by the LLLT's responsibilities to another client, a former client, or a third person or by a
14 personal interest of the LLLT.

15 (b) Notwithstanding the existence of a concurrent conflict of interest under section (a), an LLLT
16 may represent a client if:

17 (1) the LLLT reasonably believes that the LLLT will be able to provide competent and diligent
18 representation to each affected client;

19 (2) the representation is not prohibited by law;

20 (3) the representation does not involve the assertion of a claim by one client against another
21 client represented by the LLLT with respect to the same litigation or other proceeding before a
22 tribunal; and

23 (4) each affected client gives informed consent, confirmed in writing (following authorization
24 from the other client to make any required disclosures).

25 **Comment**

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1 [1] Rule 1.7 was adapted from Lawyer RPC 1.7 with no substantive changes and applies to
2 LLLTs analogously.

3 [2] Under no circumstances may an LLLT represent more than one party in any domestic
4 relations matter. *See* Appendix APR 28 Regulation 2.

5 **LLLT RPC 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES**

6 (a) An LLLT shall not enter into a business transaction with a current client.

7 (b) An LLLT shall not use information relating to representation of a client to the disadvantage
8 of the client unless the client gives informed consent, except as permitted or required by these
9 Rules.

10 (c) An LLLT shall not solicit any substantial gift from a client, including a testamentary gift, or
11 prepare on behalf of the client an instrument giving the LLLT or a person related to the LLLT
12 any substantial gift unless the LLLT or other recipient of the gift is related to the client. For
13 purposes of this section, related persons include spouse, child, grandchild, parent, grandparent,
14 or other relative or individual with whom the LLLT or the client maintains a close, familial
15 relationship.

16 (d) Prior to the conclusion of representation of a client, an LLLT shall not make or negotiate an
17 agreement giving the LLLT literary or media rights to a portrayal or account based in
18 substantial part on information relating to the representation.

19 (e) An LLLT shall not, while representing a client in connection with contemplated or pending
20 litigation, advance or guarantee financial assistance to a client, except that:

21 (1) an LLLT may advance or guarantee the expenses of litigation, including court costs,
22 expenses of investigation, expenses of medical examination, and costs of obtaining and
23 presenting evidence, provided the client remains ultimately liable for such expenses.

24 (2) [Reserved.]

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1 (f) An LLLT shall not accept compensation for representing a client from one other than the
2 client unless:

3 (1) the client gives informed consent;

4 (2) there is no interference with the LLLT's independence of professional judgment or with the
5 client-LLLT relationship; and

6 (3) information relating to representation of a client is protected as required by Rule 1.6.

7 (g) [Reserved.]

8 (h) An LLLT shall not:

9 (1) make an agreement prospectively limiting the LLLT's liability to a client for malpractice; or

10 (2) settle a claim or potential claim for such liability with an unrepresented client or former
11 client unless that person is advised in writing of the desirability of seeking and is given a
12 reasonable opportunity to seek the advice of an independent lawyer in connection therewith.

13 (i) An LLLT shall not acquire a proprietary interest in the cause of action or subject matter of
14 litigation in which the LLLT is assisting a client.

15 (j) An LLLT shall not:

16 (1) have sexual relations with a current client of the LLLT unless a consensual sexual
17 relationship existed between them at the time the client-LLLT relationship commenced; or

18 (2) have sexual relations with a representative of a current client if the sexual relations would, or
19 would likely, damage or prejudice the client in the representation.

20 (3) For purposes of Rule 1.8(j), "LLLT" means any LLLT who assists in the representation of
21 the client, but does not include other LLLT members of a firm with which the LLLT is
22 associated if those other LLLTs provide no such assistance.

23 (k) Except as otherwise provided in these Rules,

24 (1) while LLLTs are associated in a firm with other LLLTs, a prohibition in the foregoing
25 sections (a) through (i) that applies to any one of them shall apply to all of them; and

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1 (2) while LLLTs and lawyers are associated in a firm, the prohibitions in Lawyer RPC 1.8(a)
2 through (i) that apply to any lawyer shall apply to any LLLT, and the prohibitions in the
3 foregoing sections (a), (h), and (i) shall not apply to any lawyers unless the conduct is otherwise
4 prohibited by the Lawyer RPC.

5 (l) An LLLT who is related to another LLLT or a lawyer as parent, child, sibling, or spouse, or
6 who has any other close familial or intimate relationship with another LLLT or lawyer, shall not
7 represent a client in a matter directly adverse to a person who the LLLT knows is represented by
8 the related LLLT or lawyer unless:

9 (1) the client gives informed consent to the representation; and

10 (2) the representation is not otherwise prohibited by Rule 1.7.

11 (m) [Reserved.]

12 **Comment**

13 [1] This Rule was adapted from Lawyer RPC 1.8 with modifications described in these
14 Comments. Otherwise, it applies to LLLTs analogously.

15 [2] Under limited and defined circumstances, Lawyer RPC 1.8(a) permits a lawyer to enter into
16 a business transaction with a client, or to acquire a property interest adverse to a client. Because
17 of the limitations on the scope of an LLLT's authorized practice, the analysis and disclosures
18 that suffice under Lawyer RPC 1.8(a) to enable a lawyer to enter into such a transaction despite
19 the existence of a conflict of interest are not feasible in the client-LLLT relationship. For this
20 reason, LLLT RPC 1.8(a) strictly prohibits an LLLT from entering into any business transaction
21 with a current client.

22 [3] LLLTs may not advocate for, or appear in court on behalf of, a client. LLLTs will have no
23 role in class action litigation and Rule 1.8(e)(2) is accordingly reserved in this Rule. LLLT
24 RPC 1.8(e) does not authorize activities that are beyond the scope of the LLLT's limited license.

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1 Nothing in Rule 1.8(e) is intended to prohibit lawyer members of a firm with which an LLLT is
2 associated from engaging in conduct permitted by Lawyer RPC 1.8(e)(2).

3 [4] Rule 1.8(g) is reserved. LLLTs are not permitted to engage in the making of settlements, or
4 aggregated agreements as to guilty or nolo contendere pleas in criminal cases. Nothing in Rule
5 1.8(g) is intended to prohibit lawyer members of a firm with which an LLLT is associated from
6 participating in such settlements if permitted by the Lawyer RPC.

7 [5] Unlike a lawyer, an LLLT is strictly prohibited by Rule 1.8(h)(1) from making any
8 agreement that prospectively limits the LLLT's liability to the client for malpractice.

9 [6] A client or former client of an LLLT who is not represented by a lawyer is unrepresented for
10 purposes of Rule 1.8(h)(2).

11 [7] Unlike a lawyer, an LLLT is prohibited by Rule 1.8(i) from acquiring any proprietary
12 interest in a client's cause of action or the subject matter of litigation.

13 [8] If one LLLT or lawyer in a firm has a conflict of interest specified under this Rule, other
14 LLLTs and lawyers in the firm may, under some circumstances, have the same conflict of
15 interest or be subject to the same prohibition. This is called imputation of a conflict of interest.
16 Similarly, in a firm that includes both LLLTs and lawyers, a conflict of interest of a lawyer will,
17 under some circumstances, be imputed to an LLLT in the firm. Rule 1.8(k) describes the
18 imputations of Rule 1.8 conflicts in a firm.

19 [9] Rule 1.8(m) is reserved. LLLTs are not permitted to engage in the scope of practice
20 anticipated by Lawyer RPC 1.8(m). The reservation of Rule 1.8(m) in these Rules is not
21 intended to prohibit lawyer members of a firm with which an LLLT is associated from engaging
22 in the scope of practice described in Rule 1.8(m) of the Lawyer RPC.

23 **LLLT RPC 1.9 DUTIES TO FORMER CLIENTS**

24 (a) An LLLT who has formerly represented a client in a matter shall not thereafter represent
25 another person in the same or a substantially related matter in which that person's interests are

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1 materially adverse to the interests of the former client unless the former client gives informed
2 consent, confirmed in writing.

3 (b) An LLLT shall not knowingly represent a person in the same or a substantially related
4 matter in which a firm with which the LLLT formerly was associated had previously
5 represented a client

6 (1) whose interests are materially adverse to that person; and

7 (2) about whom that LLLT had acquired information protected by Rules 1.6 and 1.9(c) that is
8 material to the matter; unless the former client gives informed consent, confirmed in writing.

9 (c) An LLLT who has formerly represented a client in a matter or whose present or former firm
10 has formerly represented a client in a matter shall not thereafter:

11 (1) use information relating to the representation to the disadvantage of the former client except
12 as these Rules would permit or require with respect to a client, or when the information has
13 become generally known; or

14 (2) reveal information relating to the representation except as these Rules would permit or
15 require with respect to a client.

16 **Comment**

17 [1] Rule 1.9 was adapted from Lawyer RPC 1.9 with no substantive changes and applies to
18 LLLTs analogously.

19 **LLLT RPC 1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE**

20 (a) Except as provided in section (e), while LLLTs are associated in a firm, none of them shall
21 knowingly represent a client when any one of them practicing alone would be prohibited from
22 doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the
23 disqualified LLLT and does not present a significant risk of materially limiting the
24 representation of the client by the remaining LLLTs in the firm.

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1 (b) When an LLLT has terminated an association with a firm, the firm is not prohibited from
2 thereafter representing a person with interests materially adverse to those of a client represented
3 by the formerly associated LLLT and not currently represented by the firm, unless:

4 (1) the matter is the same or substantially related to that in which the formerly associated LLLT
5 represented the client; and

6 (2) any LLLT remaining in the firm has information that is material to the matter and that is
7 protected by Rules 1.6 and 1.9(c).

8 (c) A disqualification prescribed by this Rule may be waived by the affected client under the
9 conditions stated in Rule 1.7.

10 (d) The disqualification of LLLTs associated in a firm with former or current government
11 LLLTs is governed by Rule 1.11.

12 (e) When the prohibition on representation under section (a) is based on Rule 1.9(a) or (b) and
13 arises out of the disqualified LLLT's association with a prior firm, no other LLLT in the firm
14 shall knowingly represent a person in a matter in which that LLLT is disqualified unless:

15 (1) the personally disqualified LLLT is screened by effective means from participation in the
16 matter and is apportioned no part of the fee therefrom;

17 (2) the former client of the personally disqualified LLLT receives notice of the conflict and the
18 screening mechanism used to prohibit dissemination of information relating to the former
19 representation;

20 (3) the firm is able to demonstrate by convincing evidence that no material information relating
21 to the former representation was transmitted by the personally disqualified LLLT before
22 implementation of the screening mechanism and notice to the former client.

23 Any presumption that information protected by Rules 1.6 and 1.9(c) has been or will be
24 transmitted may be rebutted if the personally disqualified LLLT serves on his or her former firm
25 and former client an affidavit attesting that the personally disqualified LLLT will not participate

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1 in the matter and will not discuss the matter or the representation with any other LLLT or
2 employee of his or her current firm, and attesting that during the period of the LLLT's personal
3 disqualification those LLLTs, or employees who do participate in the matter will be apprised
4 that the personally disqualified LLLT is screened from participating in or discussing the matter.
5 Such affidavit shall describe the procedures being used effectively to screen the personally
6 disqualified LLLT. Upon request of the former client, such affidavit shall be updated
7 periodically to show actual compliance with the screening procedures. The firm, the personally
8 disqualified LLLT, or the former client may seek judicial review in a court of general
9 jurisdiction of the screening mechanism used, or may seek court supervision to ensure that
10 implementation of the screening procedures has occurred and that effective actual compliance
11 has been achieved.

12 (f) When LLLTs and lawyers are associated in a firm, a lawyer's conflict of interest under
13 Lawyer RPC 1.7 or Lawyer RPC 1.9 is imputed to LLLTs in the firm in the same way as
14 conflicts are imputed to LLLTs under this Rule. Each of the other provisions of this Rule also
15 applies in the same way when lawyer conflicts are imputed to LLLTs in the firm.

16 **Comment**

17 [1] Rule 1.10 was adapted from Lawyer RPC 1.10 with no substantive changes except to reflect
18 the fact that LLLTs and lawyers may practice in a firm together. The general rules concerning
19 imputation of conflicts of interest apply to LLLTs and firms in which both LLLTs and lawyers
20 are associated analogously.

21 **LLLT RPC 1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND**
22 **CURRENT GOVERNMENT OFFICERS AND EMPLOYEES**

23 (a) Except as law may otherwise expressly permit, an LLLT who has formerly served as a
24 public officer or employee of the government:

25 (1) is subject to Rule 1.9(c); and

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1 (2) shall not otherwise represent a client in connection with a matter in which the LLLT
2 participated personally and substantially as a public officer or employee, unless the appropriate
3 government agency gives its informed consent, confirmed in writing, to the representation.

4 (b) When an LLLT or lawyer is disqualified from representation under paragraph (a) of this
5 Rule or Lawyer RPC 1.11, no LLLT in a firm with which that LLLT or lawyer is associated
6 may knowingly undertake or continue representation in such a matter unless:

7 (1) the disqualified LLLT or lawyer is timely screened from any participation in the matter and
8 is apportioned no part of the fee therefrom; and

9 (2) written notice is promptly given to the appropriate government agency to enable it to
10 ascertain compliance with the provisions of this Rule.

11 (c) Except as law may otherwise expressly permit, an LLLT having information that the LLLT
12 knows is confidential government information about a person acquired when the LLLT was a
13 public officer or employee, may not represent a private client whose interests are adverse to that
14 person in a matter in which the information could be used to the material disadvantage of that
15 person. As used in this Rule the term "confidential government information" means information
16 that has been obtained under governmental authority and which, at the time this Rule is applied,
17 the government is prohibited by law from disclosing to the public or has a legal privilege not to
18 disclose and which is not otherwise available to the public. A firm with which that LLLT is
19 associated may undertake or continue representation in the matter only if the disqualified LLLT
20 is screened from any participation in the matter and is apportioned no part of the fee therefrom.

21 (d) Except as law may otherwise expressly permit, an LLLT currently serving as a public
22 officer or employee:

23 (1) is subject to Rules 1.7 and 1.9; and

24 (2) shall not:

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1 (i) participate in a matter in which the LLLT participated personally and substantially while in
2 private practice or nongovernmental employment, unless the appropriate government agency
3 gives its informed consent, confirmed writing; or

4 (ii) negotiate for private employment with any person who is involved as a party or as LLLT for
5 a party in a matter in which the LLLT is participating personally and substantially, except that
6 an LLLT who may otherwise be serving as a law clerk to a judge, other adjudicative officer or
7 arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the
8 conditions stated in Rule 1.12(b).

9 (e) As used in this Rule, the term "matter" includes:

10 (1) any judicial or other proceeding, application, request for a ruling or other determination,
11 contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter
12 involving a specific party or parties; and

13 (2) any other matter covered by the conflict of interest rules of the appropriate government
14 agency.

15 **Comment**

16 [1] Rule 1.11 was adapted from Lawyer RPC 1.11 with no substantive changes except to reflect
17 the fact that LLLTs and lawyers may practice in a firm together. This Rule applies to LLLTs
18 and firms in which both LLLTs and lawyers are associated analogously.

19 **LLLT RPC 1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR OR OTHER THIRD-**
20 **PARTY NEUTRAL**

21 (a) Except as stated in section (d), an LLLT shall not represent anyone in connection with a
22 matter in which the LLLT participated personally and substantially as a judge or other
23 adjudicative officer or law clerk to such a person or as an arbitrator, mediator, or other third-
24 party neutral, unless all parties to the proceeding give informed consent confirmed in writing.

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1 (b) An LLLT shall not negotiate for employment with any person who is involved as a party or
2 as LLLT for a party in a matter in which the LLLT is participating personally and substantially
3 as a judge or other adjudicative officer or as an arbitrator, mediator, or other third-party neutral.
4 An LLLT serving as a law clerk to a judge or other adjudicative officer may negotiate for
5 employment with a party or LLLT involved in a matter in which the clerk is participating
6 personally and substantially, but only after the LLLT has notified the judge or other
7 adjudicative officer.

8 (c) If an LLLT or lawyer is disqualified by section (a) of this Rule or Lawyer RPC 1.12, no
9 LLLT in a firm with which that LLLT or lawyer is associated may knowingly undertake or
10 continue representation in the matter unless:

11 (1) the disqualified LLLT or lawyer is timely screened from any participation in the matter and
12 is apportioned no part of the fee therefrom; and

13 (2) written notice is promptly given to the parties and any appropriate tribunal to enable them to
14 ascertain compliance with the provisions of this Rule.

15 (d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not
16 prohibited from subsequently representing that party.

17 **Comment**

18 [1] Rule 1.12 was adapted from Lawyer RPC 1.12 with no substantive changes. This Rule
19 applies to LLLTs and firms in which both LLLTs and lawyers are associated analogously.

20 **LLLT RPC 1.13 [Reserved]**

21 **Comment**

22 [1] At present, the authorized scope of LLLT practice does not contemplate representation of an
23 organization.

24 **LLLT RPC 1.14 CLIENT WITH DIMINISHED CAPACITY**

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1 (a) When a client's capacity to make adequately considered decisions in connection with a
2 representation is diminished, whether because of minority, mental impairment or for some other
3 reason, the LLLT shall, as far as reasonably possible, maintain a normal client-LLLT
4 relationship with the client.

5 (b) When the LLLT reasonably believes that the client has diminished capacity, is at risk of
6 substantial physical, financial, or other harm unless action is taken and cannot adequately act in
7 the client's own interest, the LLLT may take reasonably necessary protective action, including
8 consulting with individuals or entities that have the ability to take action to protect the client. In
9 taking any protective action under this Rule, the LLLT shall not exceed the LLLT's authorized
10 scope of practice.

11 (c) Information relating to the representation of a client with diminished capacity is protected by
12 Rule 1.6. When taking protective action pursuant to paragraph (b), the LLLT is impliedly
13 authorized under Rule 1.6(a) to reveal information about the client, but only to the extent
14 reasonably necessary to protect the client's interests.

15 **Comment**

16 [1] Rule 1.14 was adapted from Lawyer RPC 1.14 with no substantive changes except in Rule
17 1.14(b). Otherwise, this Rule applies to LLLTs analogously.

18 [2] Unlike Lawyer RPC 1.14, Rule 1.14(b) does not suggest seeking the appointment of a
19 guardian ad litem, conservator or guardian. Those actions contemplate court appearances and
20 knowledge of multiple areas of law which may exceed the authorized scope of an LLLT's
21 practice. Accordingly, that language from Lawyer Rule 1.14(b) has been omitted from this
22 Rule.

23 [3] Protective action taken by an LLLT under section (b) of this Rule may include obtaining the
24 services of a lawyer. An LLLT should proceed cautiously when independently undertaking
25 protective action on behalf of a person with diminished capacity, and the LLLT should carefully

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1 evaluate and weigh all the circumstances and options. For a discussion of potential protective
2 actions and relevant considerations, see Lawyer RPC 1.14, Comments [5]-[7].

3 **LLLT RPC 1.15A SAFEGUARDING PROPERTY**

4 (a) This Rule applies to property of clients or third persons in an LLLT's possession in
5 connection with a representation.

6 (b) An LLLT must not use, convert, borrow, or pledge client or third person property for the
7 LLLT's own use.

8 (c) An LLLT must hold property of clients and third persons separate from the LLLT's own
9 property.

10 (1) An LLLT must deposit and hold in a trust account funds subject to this Rule pursuant to
11 section (h) of this Rule.

12 (2) Except as provided in Rule 1.5(f), and subject to the requirements of section (h) of this Rule,
13 an LLLT shall deposit into a trust account legal fees and expenses that have been paid in
14 advance, to be withdrawn by the LLLT only as fees are earned or expenses incurred.

15 (3) An LLLT must identify, label, and appropriately safeguard any property of clients or
16 third persons other than funds. The LLLT must keep records of such property that identify the
17 property, the client or third person, the date of receipt, and the location of safekeeping. The
18 LLLT must preserve the records for seven years after return of the property.

19 (d) An LLLT must promptly notify a client or third person of receipt of the client or third
20 person's property.

21 (e) An LLLT must promptly provide a written accounting to a client or third person after
22 distribution of property or upon request. An LLLT must provide at least annually a written
23 accounting to a client or third person for whom the LLLT is holding funds.

24 (f) Except as stated in this Rule, an LLLT must promptly pay or deliver to the client or third
25 person the property which the client or third person is entitled to receive.

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1 (g) If an LLLT possesses property in which two or more persons (one of which may be the
2 LLLT) claim interests, the LLLT must maintain the property in trust until the dispute is
3 resolved. The LLLT must promptly distribute all undisputed portions of the property. The
4 LLLT must take reasonable action to resolve the dispute.

5 (h) An LLLT must comply with the following for all trust accounts:

6 (1) No funds belonging to the LLLT may be deposited or retained in a trust account except as
7 follows:

8 (i) funds to pay bank charges, but only in an amount reasonably sufficient for that purpose;

9 (ii) funds belonging in part to a client or third person and in part presently or potentially to the
10 LLLT must be deposited and retained in a trust account, but any portion belonging to the LLLT
11 must be withdrawn at the earliest reasonable time; or

12 (iii) funds necessary to restore appropriate balances.

13 (2) An LLLT must keep complete records as required by Rule 1.15B.

14 (3) An LLLT may withdraw funds when necessary to pay client costs. The LLLT may
15 withdraw earned fees only after giving reasonable notice to the client of the intent to do so,
16 through a billing statement or other document.

17 (4) Receipts must be deposited intact.

18 (5) All withdrawals must be made only to a named payee and not to cash. Withdrawals must be
19 made by check or by electronic transfer.

20 (6) Trust account records must be reconciled as often as bank statements are generated or at
21 least quarterly. The LLLT must reconcile the check register balance to the bank statement
22 balance and reconcile the check register balance to the combined total of all client ledger
23 records required by Rule 1.15B(a)(2).

24 (7) An LLLT must not disburse funds from a trust account until deposits have cleared the
25 banking process and been collected, unless the LLLT and the bank have a written agreement by

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1 which the LLLT personally guarantees all disbursements from the account without recourse to
2 the trust account.

3 (8) Disbursements on behalf of a client or third person may not exceed the funds of that person
4 on deposit. The funds of a client or third person must not be used on behalf of anyone else.

5 (9) Only a licensed LLLT or a lawyer admitted to practice law who is associated in a practice
6 with the LLLT may be an authorized signatory on the account, except that a licensed LLLT who
7 is associated in a practice with the lawyer may be an authorized signatory on the account only if
8 a firm lawyer signature is also required for any withdrawals, transfers, or deposits on the
9 account.

10 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay
11 other than notice periods that are required by law or regulation and meet the requirements of
12 LLLT REC 15.7(d) and LLLT REC 15.7(e). In the exercise of ordinary prudence, an LLLT
13 may select any financial institution authorized by the Legal Foundation of Washington (Legal
14 Foundation) under LLLT REC 15.7(c). In selecting the type of trust account for the purpose of
15 depositing and holding funds subject to this Rule, an LLLT shall apply the following criteria:

16 (1) When client or third-person funds will not produce a positive net return to the client or third
17 person because the funds are nominal in amount or expected to be held for a short period of
18 time the funds must be placed in a pooled interest-bearing trust account known as an Interest on
19 Limited License Legal Technician's Trust Account or IOLTA. The interest earned on IOLTA
20 accounts shall be paid to, and the IOLTA program shall be administered by, the Legal
21 Foundation of Washington in accordance with LLLT REC 15.4 and LLLT REC 15.7(e).

22 (2) Client or third-person funds that will produce a positive net return to the client or third
23 person must be placed in one of the following two types of non-IOLTA trust accounts, unless
24 the client or third person requests that the funds be deposited in an IOLTA account:

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1 (i) a separate interest-bearing trust account for the particular client or third person with earned
2 interest paid to the client or third person; or

3 (ii) a pooled interest-bearing trust account with sub-accounting that allows for computation of
4 interest earned by each client or third person's funds with the interest paid to the appropriate
5 client or third person.

6 (3) In determining whether to use the account specified in subsection (i)(1) or an account
7 specified in subsection (i)(2), an LLLT must consider only whether the funds will produce a
8 positive net return to the client or third person, as determined by the following factors:

9 (i) the amount of interest the funds would earn based on the current rate of interest and the
10 expected period of deposit;

11 (ii) the cost of establishing and administering the account, including the cost of the LLLT's
12 services and the cost of preparing any tax reports required for interest accruing to a client or
13 third person's benefit; and

14 (iii) the capability of financial institutions to calculate and pay interest to individual clients or
15 third persons if the account in subsection (i)(2)(ii) is used.

16 (4) The provisions of section (i) do not relieve an LLLT or law firm from any obligation
17 imposed by these Rules or the LLLT REC.

18 **Comment**

19 [1] Rule 1.15A was adapted from Lawyer RPC 1.15A with no substantive changes except to
20 reflect limitations on the authorized scope of an LLLT's practice. Otherwise, this Rule applies
21 to LLLTs analogously. The Comments to Lawyer RPC 1.15A provide important guidance to
22 the correct interpretation and application of this Rule.

23 [2] Lawyer RPC 1.15A(a) contemplates that lawyers may act as escrow agents for the closing of
24 a purchase and sale of real estate or personal property, a practice area that is not contemplated
25 by APR 28. Accordingly, there is no counterpart in this Rule to Lawyer RPC 1.15A(a)(2).

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1 LLLT RPC 1.15B REQUIRED TRUST ACCOUNT RECORDS

2 (a) An LLLT must maintain current trust account records. They may be in electronic or manual
3 form and must be retained for at least seven years after the events they record. At minimum, the
4 records must include the following:

5 (1) Checkbook register or equivalent for each trust account, including entries for all receipts,
6 disbursements, and transfers, and containing at least:

7 (i) identification of the client matter for which trust funds were received, disbursed, or
8 transferred;

9 (ii) the date on which trust funds were received, disbursed, or transferred;

10 (iii) the check number for each disbursement;

11 (iv) the payor or payee for or from which trust funds were received, disbursed, or transferred;
12 and

13 (v) the new trust account balance after each receipt, disbursement, or transfer;

14 (2) Individual client ledger records containing either a separate page for each client or an
15 equivalent electronic record showing all individual receipts, disbursements, or transfers, and
16 also containing:

17 (i) identification of the purpose for which trust funds were received, disbursed, or transferred;

18 (ii) the date on which trust funds were received, disbursed or transferred;

19 (iii) the check number for each disbursement;

20 (iv) the payor or payee for or from which trust funds were received, disbursed, or transferred;
21 and

22 (v) the new client fund balance after each receipt, disbursement, or transfer;

23 (3) Copies of any agreements pertaining to fees and costs;

24 (4) Copies of any statements or accountings to clients or third parties showing the disbursement
25 of funds to them or on their behalf;

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- 1 (5) Copies of bills for legal fees and expenses rendered to clients;
- 2 (6) of invoices, bills, or other documents supporting all disbursements or transfers from the trust
- 3 account;
- 4 (7) Bank statements, copies of deposit slips, and cancelled checks or their equivalent;
- 5 (8) Copies of all trust account bank and client ledger reconciliations; and
- 6 (9) Copies of those portions of clients' files that are reasonably necessary for a complete
- 7 understanding of the financial transactions pertaining to them.
- 8 **(b)** Upon any change in the LLLT's practice affecting the trust account, including dissolution or
- 9 sale of a law firm or other entity, or suspension or other change in membership status, the LLLT
- 10 must make appropriate arrangements for the maintenance of the records specified in this Rule.

11 **Comment**

12 [1] Rule 1.15B was adapted from Lawyer RPC 1.15B with no substantive changes and applies

13 to LLLTs analogously.

14 **LLLT RPC 1.16 DECLINING OR TERMINATING REPRESENTATION**

15 **(a)** An LLLT shall not represent a client or, where representation has commenced, shall

16 withdraw from the representation of a client if:

- 17 (1) the representation will result in violation of these Rules or other law;
- 18 (2) the LLLT's physical or mental condition materially impairs the LLLT's ability to represent
- 19 the client; or
- 20 (3) the LLLT is discharged.

21 **(b)** An LLLT may withdraw from representing a client if:

- 22 (1) withdrawal can be accomplished without material adverse effect on the interests of the
- 23 client;
- 24 (2) the client persists in a course of action involving the LLLT's services that the LLLT
- 25 reasonably believes is criminal or fraudulent;

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1 (3) the client has used the LLLT's services to perpetrate a crime or fraud;

2 (4) the client insists upon taking action that the LLLT considers repugnant or with which the
3 LLLT has a fundamental disagreement;

4 (5) the client fails substantially to fulfill an obligation to the LLLT regarding the LLLT's
5 services and has been given reasonable warning that the LLLT will withdraw unless the
6 obligation is fulfilled;

7 (6) the representation will result in an unreasonable financial burden on the LLLT or has been
8 rendered unreasonably difficult by the client; or

9 (7) other good cause for withdrawal exists.

10 (c) [Reserved.]

11 (d) Upon termination of representation, an LLLT shall take steps to the extent reasonably
12 practicable to protect a client's interests, such as giving reasonable notice to the client, allowing
13 time for employment of a lawyer or another LLLT, surrendering papers and property to which
14 the client is entitled, and refunding any advance payment of fee that has not been earned or
15 incurred.

16 **Comment**

17 [1] This Rule was adapted from Lawyer RPC 1.16 with no substantive changes except to reflect
18 that LLLTs are not authorized to represent clients in court or to advocate for clients. For this
19 reason, section (c) is reserved and references to litigation or proceedings before a tribunal that
20 appear in Lawyer RPC 1.16 do not apply and have been omitted from this Rule. Otherwise, this
21 Rule applies to LLLTs analogously.

22 **LLLT RPC 1.17 SALE OF LAW PRACTICE**

23 An LLLT, firm of LLLTs, or a law firm with which one or more LLLTs are associated may sell
24 or purchase a law practice, or an area of law practice, including good will, if the following
25 conditions are satisfied:

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1 (a) [Reserved.]

2 (b) The entire practice, or the entire area of practice, is sold to one or more LLLTs, lawyers,
3 LLLT firms or law firms;

4 (c) The seller gives written notice to each of the seller's clients regarding:

5 (1) the proposed sale;

6 (2) the client's right to retain a lawyer or another LLLT or to take possession of the file; and

7 (3) the fact that the client's consent to the transfer of the client's files will be presumed if the
8 client does not take any action or does not otherwise object within ninety (90) days of receipt of
9 the notice. If a client cannot be given notice, the representation of that client may be transferred
10 to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The
11 seller may disclose to the court in camera information relating to the representation only to the
12 extent necessary to obtain an order authorizing the transfer of a file.

13 (d) The legal fees and LLLT fees charged clients shall not be increased by reason of the sale.

14 **Comment**

15 [1] This Rule was adapted from Lawyer RPC 1.17 with no substantive changes except to reflect
16 that an LLLT may practice in the same firm with one or more lawyers. Otherwise, this Rule
17 applies to LLLTs analogously.

18 **LLLT RPC 1.18 DUTIES TO PROSPECTIVE CLIENT**

19 (a) A person who discusses with an LLLT the possibility of forming a client-LLLT relationship
20 with respect to a matter is a prospective client.

21 (b) Even when no client-LLLT relationship ensues, an LLLT who has had discussions with a
22 prospective client shall not use or reveal information learned in the consultation, except as Rule
23 1.9 would permit with respect to information of a former client or except as provided in section
24 (e).

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1 (c) An LLLT subject to section (b) shall not represent a client with interests materially adverse
2 to those of a prospective client in the same or a substantially related matter if the LLLT received
3 information from the prospective client that could be significantly harmful to that person in the
4 matter, except as provided in sections (d) or (e). If an LLLT or lawyer is disqualified from
5 representation under this paragraph or Lawyer RPC 1.18(c), no LLLT in a firm with which that
6 LLLT or lawyer is associated may knowingly undertake or continue representation in such a
7 matter, except as provided in section (d) or, with respect to lawyers, Lawyer RPC 1.18(d).

8 (d) When the LLLT has received disqualifying information as defined in section (c),
9 representation is permissible if:

10 (1) both the affected client and the prospective client have given informed consent, confirmed in
11 writing, or:

12 (2) the LLLT who received the information took reasonable measures to avoid exposure to more
13 disqualifying information than was reasonably necessary to determine whether to represent the
14 prospective client; and

15 (i) the disqualified LLLT is timely screened from any participation in the matter and is
16 apportioned no part of the fee therefrom; and

17 (ii) written notice is promptly given to the prospective client.

18 (e) An LLLT may condition conversations with a prospective client on the person's informed
19 consent that no information disclosed during the consultation will prohibit the LLLT from
20 representing a different client in the matter. The prospective client may also expressly consent
21 to the LLLT's subsequent use of information received from the prospective client.

22 **Comment**

23 [1] This Rule was adapted from Lawyer RPC 1.18 with no substantive changes except to reflect
24 that LLLTs and lawyers may practice in the same firm. It applies to LLLTs and to firms in
25 which both LLLTs and lawyers are associated analogously.

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1 [2] The Comments to Lawyer RPC 1.18 offer valuable guidance to the correct interpretation and
2 application of this Rule. In particular, Comment 2 to Lawyer RPC 1.18 explains application of
3 this Rule to unsolicited and unilateral communications of information from a person who does
4 not have a reasonable expectation that the LLLT is willing to discuss the possibility of forming
5 a client-LLLT relationship.

6 **TITLE 2. COUNSELOR**

7 **LLLT RPC 2.1 ADVISOR**

8 In representing a client, an LLLT shall exercise independent professional judgment and render
9 candid advice. In rendering advice, an LLLT may refer not only to law but to other
10 considerations, such as moral, economic, social and political factors, that may be relevant to the
11 client's situation.

12 **Comment**

13 [1] This Rule was adapted from Lawyer RPC 2.1 with no substantive changes and applies to
14 LLLTs analogously.

15 [2] This Rule and its requirement regarding the exercise of independent professional judgment
16 do not expand the limitations on the authorized scope of an LLLT's practice under APR 28(H).

17 **LLLT RPC 2.2 [Reserved]**

18 **LLLT RPC 2.3 [Reserved]**

19 **Comment**

20 [1] Lawyer RPC 2.3 pertains to a lawyer providing an evaluation of a matter affecting a client
21 for the use of someone other than the client. Unlike lawyers, LLLTs are not authorized to
22 communicate the client's position to third parties. Drafting an opinion letter for the purposes of
23 its use with a third party is the same as communicating the client's position to a third party and
24 is prohibited by APR 28(H)(6). Accordingly, this Rule is reserved.

25 **LLLT RPC 2.4 LLLT SERVING AS THIRD-PARTY NEUTRAL**

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1 (a) An LLLT serves as a third-party neutral when the LLLT assists two or more persons who
2 are not clients of the LLLT to reach a resolution of a dispute or other matter that has arisen
3 between them. Service as a third-party neutral may include service as an arbitrator, a mediator,
4 or in such other capacity as will enable the LLLT to assist the parties to resolve the matter.

5 (b) An LLLT serving as a third-party neutral shall inform unrepresented parties that the LLLT
6 is not representing them. When the LLLT knows or reasonably should know that a party does
7 not understand the LLLT's role in the matter, the LLLT shall explain the difference between the
8 LLLT's role as a third-party neutral and an LLLT's role as one who represents a client.

9 **Comment**

10 [1] This Rule was adapted from Lawyer RPC 2.4 with no substantive changes and applies to
11 LLLTs analogously.

12 **TITLE 3. ADVOCATE**

13 **LLLT RPC 3.1 ADVISING AND ASSISTING CLIENTS IN PROCEEDINGS BEFORE**
14 **A TRIBUNAL**

15 (a) In a matter reasonably related to a pending or potential proceeding before a tribunal, an
16 LLLT shall not counsel a client to engage, or assist a client, in conduct involving:

17 (1) an abuse of legal procedure, including asserting or controverting a position that is frivolous
18 or lacks a good faith basis in law and fact;

19 (2) delay of a proceeding without reasonable and substantial purpose;

20 (3) submission of a false statement of fact or law to a tribunal or offering evidence known to be
21 false;

22 (4) obstruction of another party's access to evidence or the unlawful alteration, destruction, or
23 concealment of a document or other material having potential evidentiary value;

24 (5) falsification of evidence or assisting or inducing false testimony of a witness;

25 (6) knowingly disobeying an obligation under the rules of a tribunal; or

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1 (7) making frivolous discovery requests or failing to reasonably comply with legally proper
2 discovery requests of an opposing party.

3 (b) An LLLT shall not seek to influence a judge, juror, prospective juror, or other official by
4 means prohibited by law, communicate ex parte with such an individual unless authorized to do
5 so by law or court order, or engage in conduct intended to disrupt a tribunal. An LLLT shall not
6 counsel or assist a client or another person to do such an act.

7 **Comment**

8 [1] This Rule is substantially different from Lawyer RPC 3.1 because LLLTs are not authorized
9 to represent clients in the proceedings of a tribunal. Title 3 of the Lawyer RPC addresses a
10 lawyer's duties as an advocate when representing a client in the proceedings of a tribunal.
11 Because APR 28(H)(5) expressly prohibits an LLLT from representing a client in a court or
12 administrative-adjudicative proceeding (unless permitted by GR 24), the Title 3 Rules do not
13 apply directly to the conduct of LLLTs. Nevertheless, a number of the ethical principles located
14 in Title 3 address conduct in connection with a proceeding that would be improper and
15 repugnant whether engaged in by a lawyer or a party. In many instances, an LLLT will be
16 providing assistance to a client who is a party to a court proceeding. For this reason, as a
17 member of the legal profession, an LLLT is ethically bound to avoid advising or assisting a
18 client in conduct that undermines the integrity of the adjudicative process or threatens the fair
19 and orderly administration of justice. As applied to the indirect conduct of LLLTs, the ethical
20 proscriptions of Lawyer RPC 3.1, 3.2, 3.3, and 3.4 are less nuanced. Accordingly, they have
21 been consolidated within Rule 3.1(a) as a prohibition on counseling or assisting the client in
22 such activities. Conduct relating to the impartiality and decorum of a tribunal, Lawyer RPC 3.5,
23 should be prohibited whether engaged in by an LLLT directly or indirectly, and is separately
24 addressed in section (b) of this Rule. Although less comprehensive than Title 3 of the Lawyer
25 RPC, the core Title 3 principles incorporated into Rule 3.1 address the issues likely to be

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1 encountered by an LLLT, with supplemental guidance available in the corresponding Lawyer
2 RPC and commentary thereto.

3 [2] An LLLT acting as a "lay representative authorized by administrative agencies or tribunals"
4 under GR 24(b)(3) would not be acting pursuant to the authority of his or her LLLT license in
5 that context, since such representation would be beyond the scope of LLLT practice authorized
6 by APR 28(F). Should an LLLT engage in conduct as a lay advocate that would otherwise
7 directly violate a Title 3 obligation—for example, by knowingly making a false statement of
8 fact to an administrative tribunal—such conduct may violate the requirements of other rules.
9 See, e.g., Rule 8.4(c) (prohibiting conduct involving dishonesty, fraud, deceit, and
10 misrepresentation) and Rule 8.4(d) (prohibiting conduct prejudicial to the administration of
11 justice).

12 [3] Certain Title 3 provisions, such as Lawyer as Witness in Rule 3.7 and the Special
13 Responsibilities of a Prosecutor in Rule 3.8, do not apply to LLLTs. In these instances, the
14 corresponding LLLT RPC has been reserved. Rules 3.6 and 3.9 represent ethical issues that
15 would rarely if ever arise in the context of an LLLT's limited-scope representation.
16 Accordingly, these provisions have been reserved as well, though guidance is available in the
17 corresponding Lawyer RPC in the event that such an ethical dilemma does arise in a LLLT
18 representation.

19 **LLLT RPC 3.2** [Reserved]

20 **Comment**

21 [1] See Comments [1] and [2] to Rule 3.1.

22 **LLLT RPC 3.3** [Reserved]

23 **Comment**

24 [1] See Comments [1] and [2] to Rule 3.1.

25 **LLLT RPC 3.4** [Reserved]

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1 **Comment**

2 [1] See Comments [1] and [2] to Rule 3.1.

3 **LLLT RPC 3.5** [Reserved]

4 **Comment**

5 [1] See Comment [1] to Rule 3.1.

6 **LLLT RPC 3.6** [Reserved]

7 **Comment**

8 [1] See Comment [3] to Rule 3.1.

9 **LLLT RPC 3.7** [Reserved]

10 **Comment**

11 [1] See Comment [3] to Rule 3.1.

12 **LLLT RPC 3.8** [Reserved]

13 **Comment**

14 [1] See Comment [3] to Rule 3.1.

15 **LLLT RPC 3.9** [Reserved]

16 **Comment**

17 [1] See Comment [3] to Rule 3.1.

18 **TITLE 4. TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS**

19 **LLLT RPC 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS**

20 In the course of representing a client an LLLT shall not knowingly:

21 (a) make a false statement of material fact or law to a third person; or

22 (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid
23 assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

24 **Comment**

25

26

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1 [1] This Rule was adapted from Lawyer RPC 4.1 with no substantive changes and applies to
2 LLLTs analogously.

3 [2] LLLTs are required by APR 28(G)(5) to include the LLLT’s name, signature, and license
4 number beneath the signature of the client on all documents that the LLLT prepares. This will
5 assure that judges and other court personnel, other parties to a matter, and lawyers representing
6 those parties, are informed of the LLLT’s role in the matter.

7 **LLLT RPC 4.2 COMMUNICATION WITH PERSON REPRESENTED BY LAWYER**

8 In representing a client, an LLLT shall not communicate about the subject of the representation
9 with a person the LLLT knows to be represented by a lawyer in the matter.

10 **Comment**

11 [1] A person who has chosen to be represented by a lawyer should be protected against possible
12 overreaching by another lawyer. See Lawyer RPC 4.2 and Comments to that rule. Rule
13 4.2 extends to LLLTs the prohibition on communicating with a person represented by a lawyer.
14 This Rule differs from Lawyer RPC 4.2 in that the prohibition is absolute. While a lawyer may
15 be permitted to communicate directly with a person who is represented by another lawyer with
16 the other lawyer’s consent, or if authorized to do so by law or court order, there are no
17 exceptions to the prohibition as it applies to LLLTs, because any such communication would
18 put an LLLT in a position of exceeding the authorized scope of the LLLT’s practice under APR
19 28(H). Specifically, APR 28(H)(6) prohibits negotiating a client’s legal rights or
20 responsibilities or communicating with another person the client’s position, and APR 28(H)(5)
21 prohibits an LLLT from representing a client in court proceedings. In light of these limitations,
22 there is no circumstance in which an LLLT could communicate with a person represented by a
23 lawyer about the subject matter of the representation without transgressing the APR.

24 **LLLT RPC 4.3 DEALING WITH PERSON NOT REPRESENTED BY LAWYER**

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1 (a) In dealing on behalf of a client with a person who is not represented by a lawyer, an LLLT
2 shall not state or imply that the LLLT is disinterested. When the LLLT knows or reasonably
3 should know that the unrepresented person misunderstands the LLLT's role in the matter, the
4 LLLT shall make reasonable efforts to correct the misunderstanding. The LLLT shall not give
5 legal advice to an unrepresented person, other than the advice to secure the services of another
6 legal practitioner, if the LLLT knows or reasonably should know that the interests of such a
7 person are or have a reasonable possibility of being in conflict with the interests of the client.

8 (b) An LLLT shall not communicate about the subject of the representation with another party
9 in the matter.

10 **Comment**

11 [1] Section (a) of this Rule was adapted from Lawyer RPC 4.3 with no substantive changes and
12 applies to LLLTs analogously.

13 [2] Section (b) of this Rule does not appear in the Lawyer RPC. It derives from the limitations
14 on the authorized scope of an LLLT's practice under APR 28(H)(6). See Comment [1] to Rule
15 4.2 for a discussion of the implications of APR 28(H)(6).

16 [3] The client of an LLLT is an unrepresented person for purposes of Lawyer RPC 4.2 and 4.3.
17 The definition of an LLLT in APR 28(B)(4) clarifies that an LLLT does not represent a client in
18 court proceedings or negotiations, but provides limited legal assistance to a pro se client.

19 [4] Although an LLLT is strictly prohibited by section (b) from communicating with a party
20 about the subject matter of the LLLT's representation, an LLLT may have occasion to
21 communicate directly with a nonparty who is assisted by another LLLT. A risk of unwarranted
22 intrusion into a privileged relationship may arise when an LLLT deals with a person who is
23 assisted by another LLLT. Client-LLLT communications, however, are privileged to the same
24 extent as client-lawyer communications. See APR 28(K)(3). An LLLT's ethical duty of
25 confidentiality further protects the LLLT client's right to confidentiality in that professional

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1 relationship. *See* LLLT RPC 1.6(a). When dealing with a person who is assisted by another
2 LLLT, an LLLT must respect these legal rights that protect the client-LLLT relationship.

3 **LLLT RPC 4.4 RESPECT FOR RIGHTS OF THIRD PERSONS**

4 (a) In representing a client, an LLLT shall not use means that have no substantial purpose other
5 than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that
6 violate the legal rights of such a person.

7 (b) An LLLT who receives a document relating to the representation of the LLLT's client and
8 knows or reasonably should know that the document was inadvertently sent shall promptly
9 notify the sender.

10 **Comment**

11 [1] This Rule was adapted from Lawyer RPC 4.4 with no substantive changes and applies to
12 LLLTs analogously.

13 **TITLE 5. LAW FIRMS AND ASSOCIATIONS**

14 **LLLT RPC 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND**
15 **SUPERVISORY LLLTS**

16 (a) An LLLT partner in a law firm, and an LLLT who individually or together with other
17 LLLTs possesses comparable managerial authority in a law firm, shall make reasonable efforts
18 to ensure that the firm has in effect measures giving reasonable assurance that all LLLTs in the
19 firm conform to the LLLT RPC.

20 (b) An LLLT having direct supervisory authority over another LLLT shall make reasonable
21 efforts to ensure that the other LLLT conforms to the LLLT RPC.

22 (c) An LLLT shall be responsible for another LLLT's violation of the LLLT RPC if:

23 (1) the LLLT orders or, with knowledge of the specific conduct, ratifies the conduct involved;

24 or

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1 (2) the LLLT is a partner or has comparable managerial authority in the firm in which the other
2 LLLT practices, or has direct supervisory authority over the other LLLT, and knows of the
3 conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable
4 remedial action.

5 **(d)** An LLLT shall be responsible for a lawyer violation of the Lawyer RPC if the LLLT is a
6 partner or has comparable managerial authority and knows of the conduct at a time when its
7 consequences can be avoided or mitigated but fails to take reasonable remedial action.

8 **Comment**

9 [1] This Rule was adapted from Lawyer RPC 5.1 with no substantive changes and applies to
10 LLLTs analogously.

11 [2] When under Rule 5.9 an LLLT has managerial authority in a firm comprised of both lawyers
12 and LLLTs, the LLLT should support efforts of the firm’s lawyers with managerial authority
13 under Lawyer RPC 5.1 and 5.10 to make reasonable efforts to ensure that the firm has in effect
14 measures giving reasonable assurance that all lawyers in the firm conform to the Lawyer RPC.

15 [3] Under section (d), when an LLLT with managerial authority in a firm comprised of both
16 lawyers and LLLTs knows of a lawyer’s violation of the Lawyer RPC at a time when its
17 consequences can be avoided or mitigated, reasonable remedial action will ordinarily consist of
18 promptly reporting the violation to one of the firm’s lawyers with managerial authority so that
19 the lawyer manager can take appropriate action under Lawyer RPC 5.1(c).

20 **LLLT RPC 5.2 RESPONSIBILITIES OF A SUBORDINATE LLLT**

21 **(a)** An LLLT is bound by the LLLT RPC notwithstanding that the LLLT acted at the direction
22 of another person.

23 **(b)** A subordinate LLLT does not violate the LLLT RPC if that LLLT acts in accordance with a
24 supervisory LLLT or a supervisory lawyer's reasonable resolution of an arguable question of
25 professional duty.

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Comment

[1] This Rule was adapted from Lawyer RPC 5.2 with no substantive changes except to reflect that LLLTs and lawyers may practice in the same firm. It applies to LLLTs and to firms in which both LLLTs and lawyers are associated analogously.

LLLT RPC 5.3 RESPONSIBILITIES REGARDING NON-LLLT ASSISTANTS

With respect to a non-LLLT employed or retained by or associated with an LLLT:

(a) an LLLT partner, and an LLLT who individually or together with other LLLTs possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the LLLT;

(b) an LLLT having direct supervisory authority over the non-LLLT shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the LLLT; and

(c) an LLLT shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by an LLLT if:

(1) the LLLT orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the LLLT is a partner or has comparable managerial authority in the firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Comment

[1] This Rule was adapted from Lawyer RPC 5.3 with no substantive changes and applies to LLLTs analogously.

LLLT RPC 5.4 PROFESSIONAL INDEPENDENCE OF AN LLLT

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1 (a) An LLLT or LLLT firm shall not share legal fees with anyone who is a non-LLLT, except
2 that:

3 (1) an agreement by an LLLT with the LLLT's firm, partner, or LLLT associate may provide for
4 the payment of money, over a reasonable period of time after the LLLT's death, to the LLLT's
5 estate or to one or more specified persons;

6 (2) an LLLT who purchases the practice of a deceased, disabled, or disappeared LLLT or
7 lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of
8 that LLLT or lawyer the agreed-upon purchase price;

9 (3) an LLLT or LLLT firm may include non-LLLT employees in a compensation or retirement
10 plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

11 (4) [Reserved.]

12 (5) an LLLT authorized to complete unfinished legal business of a deceased LLLT may pay to
13 the estate or other representative of the deceased LLLT that proportion of the total
14 compensation that fairly represents the services rendered by the deceased LLLT.

15 (b) An LLLT shall not form a partnership with a non-LLLT if any of the activities of the
16 partnership consist of the practice of law.

17 (c) An LLLT shall not permit a person who recommends, employs, or pays the LLLT to render
18 legal services for another to direct or regulate the LLLT's professional judgment in rendering
19 such legal services.

20 (d) An LLLT shall not practice with or in the form of a professional corporation or association
21 authorized to practice law for a profit, if:

22 (1) a non-LLLT owns any interest therein, except that a fiduciary representative of the estate of
23 an LLLT may hold the stock or interest of the LLLT for a reasonable time during
24 administration;

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1 (2) a non-LLLT is a corporate director or officer (other than as secretary or treasurer) thereof or
2 occupies the position of similar responsibility in any form of association other than a
3 corporation; or

4 (3) a non-LLLT has the right to direct or control the professional judgment of an LLLT.

5 **Comment**

6 [1] This Rule was adapted from Lawyer RPC 5.4 with no substantive changes except to change
7 references to a “nonlawyer” to “non-LLLT” to avoid confusion. It applies to LLLTs
8 analogously.

9 [2] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures
10 to the extent permitted by Rule 5.9.

11 **LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF LAW**

12 (a) An LLLT shall not practice law in a jurisdiction in violation of the regulation of the legal
13 profession in that jurisdiction, or assist another in doing so.

14 (b) [Reserved.]

15 (c) [Reserved.]

16 (d) [Reserved.]

17 **Comment**

18 [1] Lawyer RPC 5.5(a) expresses the basic prohibition on a legal practitioner practicing law in a
19 jurisdiction where that individual is not specifically licensed or otherwise authorized to practice
20 law. It reflects the general notion (enforced through criminal-legal prohibitions and other law)
21 that legal services may only be provided by those licensed to do so. This limitation on the
22 ability to practice law is designed to protect the public against the rendition of legal services by
23 unqualified persons. *See* Comment [2] to Lawyer RPC 5.5.

24 As applied to LLLTs, this principle should apply with equal force. An actively licensed LLLT
25 should practice law as an LLLT only in a jurisdiction where he or she is licensed to do so, i.e.,

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1 Washington State. An LLLT must not practice law in a jurisdiction where he or she is not
2 authorized to do so. Unless and until other jurisdictions authorize Washington-licensed LLLTs
3 to practice law, it will be unethical under this Rule for the LLLT to provide or attempt to
4 provide legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities
5 that constitute the unauthorized practice of law in any jurisdiction. *See also* APR 28(H)(7)
6 (prohibiting an LLLT from providing services to a client in connection with a legal matter in
7 another state unless permitted by the laws of that state to perform the services for the client).

8 [2] Lawyer RPC 5.5(b) through (d) define the circumstances in which lawyers can practice in
9 Washington despite being unlicensed here. For example, lawyers actively licensed elsewhere
10 may provide services on a temporary basis in Washington in association with a lawyer admitted
11 to practice here or when the lawyer's activities "arise out of or are reasonably related to the
12 lawyer's practice in his or her home jurisdiction." These provisions also recognize that certain
13 non-Washington-licensed lawyers may practice here on more than a temporary basis (e.g.,
14 lawyers providing services authorized by federal law), and otherwise prohibit non-Washington-
15 licensed lawyers from establishing a systematic and continuous presence in Washington for the
16 practice of law.

17 These provisions are, at this time, unnecessary in the LLLT RPC because there are no limited
18 license programs in other jurisdictions tantamount to Washington's LLLT rules and no need to
19 authorize nonlawyers in other jurisdictions to practice law in Washington, either temporarily or
20 on an ongoing basis. For this reason, sections (b) through (d) are reserved.

21 **LLLT RPC 5.6 RESTRICTIONS ON RIGHT TO PRACTICE**

22 An LLLT shall not participate in offering or making:

23 (a) a partnership, shareholders, operating, employment, or other similar type of agreement that
24 restricts the rights of an LLLT or lawyer to practice after termination of the relationship, except
25 an agreement concerning benefits upon retirement; or

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1 (b) an agreement in which a restriction on the LLLT's right to practice is part of the settlement
2 of a client controversy.

3 **Comment**

4 [1] This Rule was adapted from Lawyer RPC 5.6 with no substantive changes except to reflect
5 that LLLTs and lawyers may practice in the same firm. It applies to LLLTs and to firms in
6 which both LLLTs and lawyers are associated analogously.

7 **LLLT RPC 5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES**

8 (a) An LLLT shall be subject to the LLLT RPC with respect to the provision of law-related
9 services, as defined in section (b), if the law-related services are provided:

10 (1) by the LLLT in circumstances that are not distinct from the LLLT's provision of legal
11 services to clients; or

12 (2) in other circumstances by an entity controlled by the LLLT individually or with others if the
13 LLLT fails to take reasonable measures to assure that a person obtaining the law-related
14 services knows that the services are not legal services and that the protections of the client-
15 LLLT relationship do not exist.

16 (b) The term "law-related services" denotes services that might reasonably be performed in
17 conjunction with and in substance are related to the provision of legal services, and that are not
18 prohibited as unauthorized practice of law when provided by anyone except an LLLT or a
19 lawyer.

20 **Comment**

21 [1] This Rule was adapted from Lawyer RPC 5.7 with no substantive changes except to change
22 the reference to a "nonlawyer" (in Lawyer RPC 5.7(b)) to "anyone except an LLLT or a lawyer"
23 (in Rule 5.7(b)) to avoid confusion. It applies to LLLTs analogously.

24 **LLLT RPC 5.8 MISCONDUCT INVOLVING LLLTS AND LAWYERS NOT**
25 **ACTIVELY LICENSED TO PRACTICE LAW**

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1 (a) An LLLT shall not engage in the practice of law while on inactive status, or while
2 suspended from the practice of law for any cause.

3 (b) An LLLT shall not engage in any of the following with an LLLT or lawyer who is disbarred
4 or suspended, or who has resigned in lieu of disbarment or discipline or whose license has been
5 revoked or voluntarily canceled in lieu of discipline:

6 (1) practice law with or in cooperation with such an individual;

7 (2) maintain an office for the practice of law in a room or office occupied or used in whole or in
8 part by such an individual;

9 (3) permit such an individual to use the LLLT's name for the practice of law;

10 (4) practice law for or on behalf of such an individual; or

11 (5) practice law under any arrangement or understanding for division of fees or compensation of
12 any kind with such an individual.

13 **Comment**

14 [1] This Rule was adapted from Lawyer RPC 5.8 with no substantive changes except to
15 incorporate disciplinary dispositions applicable to LLLTs in paragraph (b). Otherwise, this
16 Rule applies to LLLTs analogously.

17 **LLLT RPC 5.9 BUSINESS STRUCTURES INVOLVING LLLT AND LAWYER**
18 **OWNERSHIP**

19 (a) Notwithstanding the provisions of Rule 5.4, an LLLT may:

20 (1) share fees with a lawyer who is in the same firm as the LLLT;

21 (2) form a partnership with a lawyer where the activities of the partnership consist of the
22 practice of law; or

23 (3) practice with or in the form of a professional corporation, association, or other business
24 structure authorized to practice law for a profit in which a lawyer owns an interest or serves as a
25 corporate director or officer or occupies a position of similar responsibility.

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1 (b) An LLLT and a lawyer may practice in a jointly owned firm or other business structure
2 authorized by section (a) of this Rule only if:

3 (1) LLLTs do not direct or regulate any lawyer's professional judgment in rendering legal
4 services;

5 (2) LLLTs have no direct supervisory authority over any lawyer;

6 (3) LLLTs do not possess a majority ownership interest or exercise controlling managerial
7 authority in the firm; and

8 (4) lawyers with managerial authority in the firm expressly undertake responsibility for the
9 conduct of LLLT partners or owners to the same extent they are responsible for the conduct of
10 lawyers in the firm under Lawyer RPC 5.1.

11 **Comment**

12 [1] This Rule codifies the proposition that LLLTs may enter into fee-sharing arrangements and
13 for-profit business relationships with lawyers. It is an exception to the general prohibition
14 stated in Rule 5.4 that LLLTs may not share fees or enter into business relationships with
15 individuals other than LLLTs. Rule 5.4 governs an LLLT's responsibilities with respect to
16 individuals who are neither LLLTs nor lawyers.

17 [2] In addition to expressly authorizing intra-firm fee-sharing and business structures between
18 LLLTs and lawyers in section (a), section (b) of the Rule sets forth limitations on the role of
19 LLLTs in jointly owned firms, specifying that regardless of an LLLT's ownership interest in
20 such a firm, the business may not be structured in a way that permits LLLTs directly or
21 indirectly to supervise lawyers or to otherwise direct or regulate a lawyer's independent
22 professional judgment. This includes a limitation on LLLTs possessing a majority ownership
23 interest or controlling managerial authority in a jointly owned firm, a structure that could result
24 indirectly in nonlawyer decision-making affecting the professional independence of lawyers.
25 Lawyer managers, by contrast, will be required to undertake responsibility for a firm's LLLT

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1 owners by expressly assuming responsibility for their conduct to the same extent as they are
2 responsible for the conduct of firm lawyers.

3 **TITLE 6. PUBLIC SERVICE**

4 **LLLT RPC 6.1 PRO BONO PUBLICO SERVICE**

5 Every LLLT has a professional responsibility to assist in the provision of legal services to those
6 unable to pay. An LLLT should aspire to render at least thirty (30) hours of pro bono publico
7 service per year. In fulfilling this responsibility, the LLLTs should:

8 (a) provide legal services without fee or expectation of fee to:

9 (1) persons of limited means or

10 (2) charitable, religious, civic, community, governmental, and educational organizations in
11 matters which are designed primarily to address the needs of persons of limited means; and

12 (b) provide pro bono publico service through:

13 (1) [Reserved.]

14 (2) delivery of legal services at a substantially reduced fee to persons of limited means; or

15 (3) participation in activities for improving the law, the legal system or the legal profession.

16 Pro bono publico service may be reported annually on a form provided by the WSBA. An
17 LLLT rendering a minimum of fifty (50) hours of pro bono publico service shall receive
18 commendation for such service from the Limited License Legal Technician Board.

19 **Comment**

20 [1] Section (a) of this Rule was adapted from Lawyer RPC 6.1(a) with no substantive changes
21 and applies to LLLTs analogously.

22 [2] Section (b) of this Rule was adapted from Lawyer RPC 6.1(b) with no substantive changes
23 except that section (b)(1) is reserved. Lawyer RPC 6.1(b)(1) refers to the delivery of pro bono
24 public services to individuals or organizations to secure civil rights, civil liberties or public
25 rights, or to further the organizational purposes of certain not-for-profit organizations and

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1 entities. These kinds of services are beyond the scope of a LLLT’s authority under APR 28.
2 Accordingly, Rule 6.1(b)(1) is reserved. Otherwise, this Rule applies to LLLTs analogously.

3 **LLLT RPC 6.2 [Reserved]**

4 **Comment**

5 [1] Lawyer RPC 6.2 relates to appointments by a tribunal for the representation of persons
6 before that tribunal. These kinds of services are beyond the scope of an LLLT’s authority under
7 APR 28. Accordingly, Rule 6.2 is reserved.

8 **LLLT RPC 6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION**

9 An LLLT may serve as a director, officer, or member of a legal services organization, apart
10 from the firm in which the LLLT practices, notwithstanding that the organization serves persons
11 having interests adverse to a client of the LLLT. The LLLT shall not knowingly participate in a
12 decision or action of the organization:

13 (a) if participating in the decision or action would be incompatible with the LLLT's obligations
14 to a client under Rule 1.7; or

15 (b) where the decision or action could have a material adverse effect on the representation of a
16 client of the organization whose interests are adverse to a client of the LLLT.

17 **Comment**

18 [1] This Rule was adapted from Lawyer RPC 6.3 with no substantive changes and applies to
19 LLLTs analogously.

20 **LLLT RPC 6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS**

21 An LLLT may serve as a director, officer, or member of an organization involved in reform of
22 the law or its administration notwithstanding that the reform may affect the interests of a client
23 of the LLLT. When the LLLT knows that the interests of a client may be materially benefited
24 by a decision in which the LLLT participates, the LLLT shall disclose that fact but need not
25 identify the client.

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1 Comment

2 [1] This Rule was adapted from Lawyer RPC 6.4 with no substantive changes and applies to
3 LLLTs analogously.

**4 LLLT RPC 6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICE
5 PROGRAMS**

6 (a) An LLLT who, under the auspices of a program sponsored by a nonprofit organization or
7 court, provides short-term limited legal services to a client without expectation by either the
8 LLLT or the client that the LLLT will provide continuing representation in the matter and
9 without expectation that the LLLT will receive a fee from the client for the services provided:

10 (1) is subject to Rules 1.7, 1.9(a), and 1.18(c) only if the LLLT knows that the representation of
11 the client involves a conflict of interest, except that those Rules shall not prohibit an LLLT from
12 providing limited legal services sufficient only to determine eligibility of the client for
13 assistance by the program and to make an appropriate referral of the client to another program;

14 (2) is subject to Rule 1.10 only if the LLLT knows that another LLLT or lawyer associated with
15 the LLLT in a firm is disqualified by Rule 1.7 or 1.9(a), or by Lawyer RPC 1.7 or 1.9(a), with
16 respect to the matter; and

17 (3) notwithstanding sections (1) and (2), is not subject to Rules 1.7, 1.9(a), 1.10, or 1.18(c) in
18 providing limited legal services within the authorized scope of the LLLT's practice to a client if:

19 (i) any program LLLTs or lawyers representing the opposing clients are screened by effective
20 means from information relating to the representation of the opposing client;

21 (ii) each client is notified of the conflict and the screening mechanism used to prohibit
22 dissemination of information relating to the representation; and

23 (iii) the program is able to demonstrate by convincing evidence that no material information
24 relating to the representation of the opposing client was transmitted by the personally
25

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1 disqualified LLLTs or lawyers to the LLLT representing the conflicting client before
2 implementation of the screening mechanism and notice to the opposing client.

3 (b) Except as provided in section (a)(2), Rule 1.10 is inapplicable to a representation governed
4 by this Rule.

5 **Comment**

6 [1] This Rule was adapted from Lawyer RPC 6.5 with no substantive changes except to reflect
7 that LLLTs and lawyers may practice in the same firm and to reflect the authorized scope of an
8 LLLT's practice. It applies to LLLTs and to firms in which both LLLTs and lawyers are
9 associated analogously.

10 **TITLE 7. INFORMATION ABOUT LEGAL SERVICES**

11 **LLLT RPC 7.1 COMMUNICATIONS CONCERNING AN LLLT'S SERVICES**

12 An LLLT shall not make a false or misleading communication about the LLLT or the LLLT's
13 services. A communication is false or misleading if it contains a material misrepresentation of
14 fact or law, or omits a fact necessary to make the statement considered as a whole not materially
15 misleading.

16 **Comment**

17 [1] This Rule was adapted from Lawyer RPC 7.1 with no substantive changes and applies to
18 LLLTs analogously. *See also* APR 28(H)(1) (prohibiting an LLLT from making any statement
19 that the LLLT can or will obtain special favors from or has special influence with any court or
20 governmental agency).

21 **LLLT RPC 7.2 ADVERTISING**

22 (a) Subject to the requirements of Rules 7.1 and 7.3, an LLLT may advertise services through
23 written, recorded, or electronic communication, including public media.

24 (b) An LLLT shall not give anything of value to a person for recommending the LLLT's
25 services, except that an LLLT may

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- 1 (1) pay the reasonable cost of advertisements or communications permitted by this Rule;
2 (2) pay the usual charges of a legal service plan or a not-for-profit LLLT referral service;
3 (3) pay for a law practice in accordance with Rule 1.17; and
4 (4) refer clients to a lawyer or to another LLLT pursuant to an agreement not otherwise
5 prohibited under these Rules that provides for the other person to refer clients or customers to
6 the LLLT, if
7 (i) the reciprocal referral agreement is not exclusive, and
8 (ii) the client is informed of the existence and nature of the agreement.
9 (c) Any communication made pursuant to this Rule shall include the name and office address of
10 at least one LLLT or law firm responsible for its content.

11 **Comment**

12 [1] This Rule was adapted from Lawyer RPC 7.2 with no substantive changes except to reflect
13 that client referrals may occur reciprocally between lawyers and LLLTs. It applies to LLLTs
14 analogously.

15 [2] This Rule prohibits LLLTs from paying others for referrals. *See also* Rule 1.5(e)
16 (prohibiting the division of fees with another LLLT or lawyer who is not in the same firm as the
17 LLLT); Rule 5.4 (subject to Rule 5.9, prohibiting the sharing of fees with anyone who is not an
18 LLLT).

19 [3] In advertising, an LLLT also has an affirmative obligation to communicate the fact that the
20 LLLT has a limited license to practice in the particular fields of law for which the LLLT is
21 licensed and is prohibited from stating or implying that the LLLT is licensed to practice in any
22 other areas of law, or has an unlimited license to practice law in any area of law. *See* Rule
23 7.4(a).

24 **LLLT RPC 7.3 DIRECT CONTACT WITH PROSPECTIVE CLIENTS**

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1 (a) An LLLT shall not directly or through a third person, by in-person, live telephone, or real-
2 time electronic contact solicit professional employment from a prospective client when a
3 significant motive for the LLLT's doing so is the LLLT's pecuniary gain, unless the person
4 contacted:

- 5 (1) is a lawyer or an LLLT;
- 6 (2) has a family, close personal, or prior professional relationship with the LLLT; or
- 7 (3) has consented to the contact by requesting a referral from a not-for-profit LLLT referral
8 service.

9 (b) An LLLT shall not solicit professional employment from a prospective client by written,
10 recorded or electronic communication or by in-person, telephone, or real-time electronic contact
11 even when not otherwise prohibited by section (a), if;

- 12 (1) the prospective client has made known to the LLLT a desire not to be solicited by the LLLT;
13 or
- 14 (2) the solicitation involves coercion, duress or harassment.

15 (c) [Reserved.]

16 (d) Notwithstanding the prohibitions in section (a), an LLLT may participate with a prepaid or
17 group legal service plan operated by an organization not owned or directed by the LLLT that
18 uses in-person or telephone contact to solicit memberships or subscriptions for the plan from
19 persons who are not known to need legal services in a particular matter covered by the plan.

20 **Comment**

21 [1] This Rule was adapted from Lawyer RPC 7.3 with no substantive changes except to reflect
22 that LLLTs may solicit employment from lawyers as well as other LLLTs, and that referral
23 services may refer to both lawyers and LLLTs. This Rule applies to LLLTs analogously.

24 **LLLT RPC 7.4 COMMUNICATION OF FIELDS OF PRACTICE AND**
25 **SPECIALIZATION**

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1 (a) In all advertising, an LLLT shall communicate the fact that the LLLT has a limited license
2 practice in the particular fields of law for which the LLLT is licensed, and shall not state or
3 imply that an LLLT is licensed to practice in any other areas of law, or has an unlimited license
4 to practice law in any area of law.

5 (b) [Reserved.]

6 (c) [Reserved.]

7 (d) An LLLT shall not state or imply that an LLLT is "certified," a "specialist," or an "expert,"
8 or use any other similar term to describe his or her qualifications as an LLLT, but may identify
9 any award or recognition that the LLLT has received from a group, organization, or association.
10 If an LLLT has received any other legal title, credential, or certificate from any group,
11 organization, or association, then the LLLT may identify the legal title, credential, or certificate
12 provided that the reference must:

13 (1) be truthful and verifiable and otherwise comply with Rule 7.1;

14 (2) identify the group, organization, or association that issued the legal title, credential, or
15 certificate; and

16 (3) state that the Supreme Court of Washington does not recognize certification of specialties in
17 the practice of law and that the legal title, credential, or certificate is not a requirement of the
18 LLLT's limited license to practice in the particular fields of law for which the LLLT is licensed.

19 **Comment**

20 [1] An LLLT's license to provide legal services is unique and may not be understood by persons
21 who are not familiar with the limited scope of practice of an LLLT and with the differences
22 between an LLLT and a lawyer. Advertising is designed to help educate the public on the
23 availability of legal services, but advertising by an LLLT may not be false or misleading. *See*
24 Rule 7.1. In order to avoid confusion about the scope of services that an LLLT can provide as
25 distinct from the broader scope of services that a lawyer is authorized to provide, advertising by

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1 an LLLT must communicate that an LLLT may deliver legal services only within a limited
2 scope. Accordingly, Rule 7.4(a) differs from Lawyer RPC 7.4(a) in that it requires that all
3 advertising by an LLLT communicate relevant facts concerning the scope of the LLLT’s license
4 and expressly prohibits communications that state or imply that the LLLT’s license exceeds that
5 scope.

6 [2] Lawyer RPC 7.4(b) pertains to a patent practice before the United States Patent and
7 Trademark Office, a practice that exceeds the authorized scope of APR 28. Accordingly, Rule
8 7.4(b) is reserved.

9 [3] Lawyer RPC 7.4(c) pertains to an admiralty practice, a practice that exceeds the authorized
10 scope of APR 28. Accordingly, Rule 7.4(c) is reserved.

11 [4] In order to avoid confusion about the scope of services that an LLLT can provide, APR
12 28(H)(4) prohibits an LLLT from representing or advertising, in connection with the provision
13 of legal services, other legal titles or credentials that could cause a client to believe that the
14 LLLT possesses professional legal skills beyond those authorized by the license held by the
15 LLLT. The terms “certified,” “specialist,” “expert,” and similar terms suggest achievement of
16 skills beyond those that are authorized by the LLLT’s license, and may not be used when
17 describing an LLLT’s credentials. Other titles and recognitions, however, may provide useful
18 information that is not likely to mislead clients or potential clients concerning the skills and
19 authorized scope of an LLLT's practice. Accordingly, if an LLLT has received a legal title,
20 credential or certificate from a group, organization, or association, the LLLT may identify that
21 title, credential, or certificate so long as communications about it meet the requirements
22 enumerated in Rule 7.4(d)(1)-(3). Those requirements are substantially similar to Lawyer Rule
23 7.4(d)(1)-(3). An LLLT may also identify awards and recognitions that the LLLT has received
24 from a group, organization, or association.

25 **LLLT RPC 7.5 FIRM NAMES AND LETTERHEADS**

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1 (a) An LLLT shall not use a firm name, letterhead, or other professional designation that
2 violates Rule 7.1. A trade name may be used by an LLLT in private practice if the trade name
3 does not imply that lawyers are members or employees of the firm unless that is the case, and if
4 it does not imply a connection with a government agency or with a public or charitable legal
5 services organization and is not otherwise in violation of Rule 7.1. If there are no lawyers in the
6 firm, any firm name used by an LLLT in private practice shall include the words "Legal
7 Technician."

8 (b) A law firm with offices in more than one jurisdiction may use the same name or other
9 professional designation in each jurisdiction, but identification of the lawyers or LLLTs in an
10 office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in
11 the jurisdiction where the office is located.

12 (c) The name of an LLLT or lawyer holding a public office shall not be used in the name of a
13 law firm, or in communications on its behalf, during any substantial period in which the LLLT
14 or lawyer is not actively and regularly practicing with the firm.

15 (d) LLLTs may state or imply that they practice in a partnership or other organization only
16 when that is a fact.

17 **Comment**

18 [1] This Rule was adapted from Lawyer RPC 7.5 with no substantive changes except that
19 provisions have been added to subsection (a) to require that any trade name not imply that
20 lawyers are members or employees of the firm unless that is the case, and that, if there are no
21 lawyers in the firm, any trade name include the words "Legal Technician." Otherwise, this Rule
22 applies to LLLTs analogously.

23 [2] An LLLT's license to provide legal services is unique and may not be understood by persons
24 who are not familiar with the limited scope of an LLLT's practice and with the differences
25 between an LLLT and a lawyer. A trade name is a brand and is therefore similar to forms of

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1 advertising and is often used in advertising. A trade name must not be false or misleading. *See*
2 Rules 7.1 and 7.4. In order to avoid confusion, trade names should communicate the nature of
3 the legal services that a licensed practitioner or firm can deliver. Rule 7.5(a) requires that any
4 trade name communicate relevant facts concerning the scope of the legal services that can be
5 delivered by the legal professional or firm.

6 **LLLT RPC 7.6 POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT LEGAL**
7 **ENGAGEMENTS OR APPOINTMENTS BY JUDGES**

8 An LLLT or law firm shall not accept a government legal engagement or an appointment by a
9 judge if the LLLT or law firm makes a political contribution or solicits political contributions
10 for the purpose of obtaining or being considered for that type of legal engagement or
11 appointment.

12 **Comment**

13 [1] This Rule was adapted from Lawyer RPC 7.6 with no substantive changes and applies to
14 LLLTs analogously.

15 **TITLE 8. MAINTAINING THE INTEGRITY OF THE PROFESSION**

16 **LLLT RPC 8.1 LIMITED LICENSURE AND DISCIPLINARY MATTERS**

17 An applicant for limited licensure, or an LLLT in connection with a limited licensure or
18 reinstatement application, or lawyer's bar admission, or in connection with a lawyer or LLLT
19 disciplinary matter, shall not:

20 (a) knowingly make a false statement of material fact; or

21 (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have
22 arisen in the matter, or knowingly fail to respond to a lawful demand for information from a
23 licensing or disciplinary authority, except that this Rule does not require disclosure of
24 information otherwise protected by Rule 1.6.

25 **Comment**

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1 [1] This Rule was adapted from Lawyer RPC 8.1 with no substantive changes except to reflect
2 the difference between admission to the Bar (for a lawyer) and limited licensure (for an LLLT).
3 This Rule applies to LLLTs analogously.

4 **LLLT RPC 8.2 JUDICIAL AND LEGAL OFFICIALS**

5 (a) An LLLT shall not make a statement that the LLLT knows to be false or with reckless
6 disregard as to its truth or falsity concerning the qualifications, integrity, or record of a judge,
7 adjudicatory officer or public legal officer, or of a candidate for election or appointment to
8 judicial or legal office.

9 (b) [Reserved.]

10 **Comment**

11 [1] Rule 8.2(a) was adapted from Lawyer RPC 8.2(a) with no substantive changes and applies
12 to LLLTs analogously.

13 [2] Lawyer Rule 8.2(b) pertains to lawyers who are candidates for judicial office. Judges in the
14 judicial branch of the state of Washington must be lawyers. Accordingly, Rule 8.2(b) does not
15 apply to LLLTs and is reserved.

16 **LLLT RPC 8.3 REPORTING PROFESSIONAL MISCONDUCT**

17 (a) An LLLT who knows that another LLLT or a lawyer has committed a violation of the
18 applicable Rules of Professional Conduct that raises a substantial question as to that LLLT's or
19 that lawyer's honesty, trustworthiness or fitness as an LLLT or lawyer in other respects, should
20 inform the appropriate professional authority.

21 (b) An LLLT who knows that a judge has committed a violation of applicable rules of judicial
22 conduct that raises a substantial question as to the judge's fitness for office should inform the
23 appropriate authority.

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1 (c) This Rule does not permit an LLLT to report the professional misconduct of another LLLT,
2 a lawyer, or a judge to the appropriate authority if doing so would require the LLLT to disclose
3 information otherwise protected by Rule 1.6.

4 **Comment**

5 [1] This Rule was adapted from Lawyer RPC 8.3 with no substantive changes except to reflect
6 that LLLTs have the same rights and responsibilities with respect to the actions of lawyers that
7 they have with respect to the actions of LLLTs. It applies to LLLTs analogously.

8 **LLLT RPC 8.4 MISCONDUCT**

9 It is professional misconduct for an LLLT to:

10 (a) violate or attempt to violate the LLLT RPC, knowingly assist or induce another to do so, or
11 do so through the acts of another;

12 (b) commit a criminal act that reflects adversely on the LLLT's honesty, trustworthiness, or
13 fitness as an LLLT in other respects;

14 (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

15 (d) engage in conduct that is prejudicial to the administration of justice;

16 (e) state or imply an ability to influence improperly a government agency or official or to
17 achieve results by means that violate the LLLT Rules of Professional Conduct or other law;

18 (f) knowingly assist

19 (1) a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct
20 or other law or

21 (2) a lawyer in conduct that is a violation of the lawyer Rules of Professional Conduct or other
22 law;

23 (g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed,
24 religion, color, national origin, disability, sexual orientation, or marital status, where the act of
25 discrimination is committed in connection with the LLLT's professional activities. In addition, it

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1 is professional misconduct to commit a discriminatory act on the basis of sexual orientation if
2 such an act would violate this Rule when committed on the basis of sex, race, age, creed,
3 religion, color, national origin, disability, or marital status. This Rule shall not limit the ability
4 of an LLLT to accept, decline, or withdraw from the representation of a client in accordance
5 with Rule 1.16;

6 **(h)** in representing a client, engage in conduct that is prejudicial to the administration of justice
7 toward LLLTs, lawyers, judges, other parties, witnesses, jurors, or court personnel or officers,
8 that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex,
9 race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status.
10 This Rule does not restrict an LLLT from assisting a client to advance material factual or legal
11 issues or arguments.

12 **(i)** commit any act involving moral turpitude, or corruption, or any unjustified act of assault or
13 other act which reflects disregard for the rule of law, whether the same be committed in the
14 course of his or her conduct as an LLLT, or otherwise, and whether the same constitutes a
15 felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction
16 thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor
17 shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;

18 **(j)** willfully disobey or violate a court order directing him or her to do or cease doing an act
19 which he or she ought in good faith to do or forbear;

20 **(k)** violate his or her oath as an LLLT;

21 **(l)** violate a duty or sanction imposed by or under the LLLT REC in connection with a
22 disciplinary matter; including, but not limited to, the duties catalogued at LLLT REC 1.5;

23 **(m)** [Reserved];

24 **(n)** engage in conduct demonstrating unfitness to practice law; or

25 **(o)** violate or attempt to violate APR 28 (F)-(H) or Appendix APR 28 Regulation 2.

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1 **Comment**

2 [1] This Rule was adapted from Lawyer RPC 8.4 with no substantive changes except as
3 discussed in these Comments, and otherwise applies to LLLTs analogously.

4 [2] An LLLT holds a unique form of license to practice law. As a legal professional, an LLLT
5 has a duty to uphold the integrity of the justice system and of those who are authorized to
6 participate in it as judges, lawyers, and LLLTs. Rule 8.4(f)(1) prohibits an LLLT from
7 knowingly assisting a judge or judicial officer in conduct that violates applicable rules of
8 judicial conduct or other law. Rule 8.4(f)(2) adds a prohibition against knowingly assisting a
9 lawyer in conduct that violates the Lawyer RPC or other law. Rule 8.4(f)(2) is substantially
10 identical to Rule 8.4(f)(1) except for its reference to the applicable code of conduct and should
11 be interpreted and applied analogously. Similarly, Rule 8.4(h) has been modified to reflect that
12 an LLLT's obligation to avoid conduct that is prejudicial to the administration of justice extends
13 to an LLLT's conduct toward lawyers.

14 [3] Lawyer Rule 8.4(m) pertains to lawyers who serve as judges. Judges in the judicial branch
15 of the state of Washington must in nearly all instances be lawyers. Accordingly, because Rule
16 8.4(m) will have little or no applicability to LLLTs, it is reserved.

17 [4] LLLTs are subject to discipline when they violate or attempt to violate the LLLT RPC,
18 knowingly assist or induce another to do so, or do so through the acts of another, as when they
19 require or instruct an agent to do so on the LLLT's behalf. In this way, LLLTs are held to the
20 same standards that apply to lawyers. Rule 8.4(o), which does not appear in the Lawyer RPC,
21 states that violating or attempting to violate APR 28F-H or Appendix APR 28 Regulation 2 is
22 professional misconduct that subjects an LLLT to discipline.

23 **LLLT RPC 8.5 DISCIPLINARY AUTHORITY**

24 **(a) Disciplinary Authority.** An LLLT licensed to practice in this jurisdiction is subject to the
25 disciplinary authority of this jurisdiction, regardless of where the LLLT's conduct occurs.

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1 (b) [Reserved.]

2 (c) [Reserved.]

3 **Comment**

4 [1] The first sentence of Rule 8.5 was adapted from the first sentence of Lawyer RPC 8.5 with
5 no substantive changes and applies to LLLTs analogously.

6 [2] An LLLT holds a unique form of license to practice law. Unlike lawyers, LLLTs are not
7 recognized licensed legal practitioners in jurisdictions other than Washington. With the
8 exception of the first sentence of Lawyer RPC 8.5, that rule applies either to the conduct of
9 lawyers from this jurisdiction who practice law in another jurisdiction, lawyers from another
10 jurisdiction who practice law in this jurisdiction, and lawyers who serve as judges or justices.

11 For this reason, sections (b) and (c) are reserved.

12 **APPENDIX** [Reserved]

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Non-Lawyer Practice In Other Jurisdictions

Washington State: Washington is the only U.S. jurisdiction with a rule that allows Limited License Legal Technicians (LLLTs) to practice. The first LLLTs have not yet been licensed.

Arizona: Arizona authorizes “legal document assistants” to help clients with the preparation of legal documents without attorney supervision. Legal document preparers must meet initial and continuing legal education requirements, pass an examination, and adhere to a code of conduct. They may not provide legal advice, opinions, or recommendations.

California: In early 2013, the California State Bar began studying whether to license and regulate LLLTs like Washington does. The Bar’s Board of Trustees Committee on Regulation, Admissions and Discipline Oversight (RAD) created a Limited License Working Group to study the issue.

After holding hearings and receiving testimony and other evidence, the Working Group proposed further study, development, and implementation of a limited-license program. The Working Group found that regulation offering licensure, disciplinary standards and consequences, codes of conduct, education, training, and financial responsibility can provide greater access to legal services while limiting potential harm to the public.

The Working Group recommended that the scope of non-lawyer services be limited to reserve to fully-licensed lawyers those activities that lawyers have been trained to provide, such as representing clients in court, representation in areas not benefitting from limited licensure, negotiations, and effecting legal rights otherwise.

Non-lawyers would be engaged to provide discrete, technical, limited scope of law activities in non-complicated legal matters in (1) creditor/debtor law, (2) family law, (3) landlord/tenant law, (4) immigration law, and (5) elder law.

In late 2013, RAD approved the recommendations and created a Civil Justice Strategies Task Force. The task force continued to discuss the possibility of licensing LLLTs, along with other strategies to increase access to justice, in 2014.

Note: California also authorizes “legal document preparers” to help clients with the preparation of legal documents without the supervision of a licensed lawyer. Legal document preparers are not allowed to provide legal advice or explanation.

Connecticut: The Connecticut Bar Association Task Force on the Future of Legal Education and Standards of Admission released a report in June 2014 recommending among other things that non-lawyers be allowed to perform some legal services:

Recognizing that much legal work is already being performed by individuals with credentials less than fully licensed attorneys (known as the nurse practitioner model) the concept should be expanded so that non-lawyers be permitted to offer some basic legal services to the public. This would be a post-bachelor’s degree training (more than a paralegal but less than a JD) and it is expected that if the Rules

Committee permitted such practitioners, schools would happily train them and consumers would likely utilize them.

New York: The New York City Bar Association Committee on Professional Responsibility issued a report titled “Narrowing the Justice Gap: Roles for Nonlawyer Practitioners” in June 2013. The report recognized the seriousness of the “justice gap” in New York City¹ and recommended (1) recognizing a role for “courtroom aides” in judicial and administrative proceedings, (2) recognizing a role for “legal technicians” outside judicial and administrative proceedings, and (3) studying additional roles for nonlawyers.

Oregon: In January 2015, the Oregon State Bar Legal Technicians Task Force issued a Final Report to the Board of Governors, recommending that a new board or task force be established to develop a detailed framework for an LLLT program based on the Washington model. The Legal Technicians Task Force was composed of eighteen members, including representatives from legal aid providers, young lawyers, the judiciary, the board of law examiners, paralegal schools, and others. The task force held six meetings throughout 2013, examined numerous written sources, and discussed pros and cons of an LLLT program. The task force’s report recommended that LLLTs be allowed to practice in family law, landlord/tenant, and small claims cases.

New Mexico: Licensing authorities in New Mexico recently met with Washington State Bar Executive Director Paula Littlewood and are studying the possibility of a Washington-style LLLT program.

ABA Report: The American Bar Association Task Force on the Future of the Legal Profession issued its Report and Recommendations in January 2015. One of the report’s primary recommendations is “broader delivery of legal and related services”:

To expand access to justice, state supreme courts, state bar associations, admitting authorities, and other regulators should devise and consider for adoption new or improved frameworks for licensing or otherwise authorizing providers of legal and related services. This should include authorizing bar admission for people whose preparation may be other than the traditional four-years of college plus three-years of classroom-based law school education, and licensing persons other than holders of a J.D. to deliver limited legal services. The current misdistribution of legal services and common lack of access to legal advice of any kind requires innovative and aggressive remediation.

Massachusetts: In March 2014, the Massachusetts Bar Association issued an endorsement of the ABA Report and Recommendation of the ABA Task Force on the Future of the Legal Profession. The MBA “endorses the key findings and recommendations of the [ABA Task Force] and commends it to the Justices of the Supreme Court of Massachusetts to review and consider implementing such findings and recommendations.”

¹ For example, 99% of tenants in eviction cases, 99% of borrowers in consumer credit cases, and 97% of parents in child support proceedings are unrepresented in New York City.

Further, the Conference of Chief Justices endorsed the ABA Task Force on the Future of the Legal Profession's Report and Recommendations, including the recommendation that licensing authorities consider alternative structures for the provision of legal services. The Conference of Chief Justices commended the report to its members and to state supreme courts, state bar associations, and other regulators of lawyers and legal practice.

Comparison of Regulatory Frameworks

Current Attorney Regulation System

Attorney Admissions	
C.R.C.P.	Rule Title
202.1	Supreme Court Jurisdiction
202.2	Supreme Court Advisory Committee
202.3	Board of Law Examiners
202.4	Attorney Regulation Counsel
202.5	Immunity
203	Colorado License to Practice Law
203.1	General Provisions
203.2	Applications for Admission on Motion by Qualified Out-of-State Attorneys
208	Character and Fitness Determination
208.1	Character and Fitness Investigation
208.2	Character and Fitness General Requirements
208.3	Review of Applications
208.4	Inquiry Panel Review
208.5	Inquiry Panel Findings
209	Formal Hearing
209.1	Request for Hearing
209.2	Hearing Board
209.3	Pre-Hearing Matters
209.4	Hearing
209.5	Post-Hearing Procedures

Potential Limited Legal Practitioner Regulation

Limited Legal Practitioner Admissions	
	Rule Title
	Supreme Court Jurisdiction
	Supreme Court Advisory Committee
	Board of Law Examiners
	Attorney Regulation Counsel
	Immunity
	Colorado Limited License to Practice Law
	General Provisions
	Applications for Admission on Motion by Qualified Out-of-State Limited Legal Practitioners
	Character and Fitness Determination
	Character and Fitness Investigation
	Character and Fitness General Requirements
	Review of Applications
	Inquiry Panel Review
	Inquiry Panel Findings
	Formal Hearing
	Request for Hearing
	Hearing Board
	Pre-Hearing Matters
	Hearing
	Post-Hearing Procedures

210	Revocation of License
210.1	General Provisions
210.2	Revocation Proceedings
211	Other Provisions
211.1	Access to Information Concerning Proceedings
211.2	Reapplication for Admission
211.3	Oath of Admission
212	Plenary Power of the Supreme Court
227	Registration Fee

	Revocation of License
	General Provisions
	Revocation Proceedings
	Other Provisions
	Access to Information Concerning Proceedings
	Reapplication for Admission
	Oath of Admission
	Plenary Power of the Supreme Court
	Registration Fee

Attorney Regulation	
C.R.C.P.	Rule Title
251.1	Policy – Jurisdiction
251.2	Attorney Regulation Committee
251.3	Attorney Regulation Counsel
251.4	Duty of Judge to Report Misconduct or Disability
251.5	Grounds for Discipline
251.6	Forms of Discipline
251.7	Probation
251.8	Immediate Suspension
251.8.5	Suspension for Nonpayment of Child Support, or for Failure to Comply with warrants Relating to Paternity or Child Support Proceedings
251.8.6	Suspension for Failure to Cooperate
251.9	Request for Investigation
251.10	Investigation of Allegations

Proposed Limited Legal Practitioners	
	Rule Title
	Policy – Jurisdiction
	Practice of Law Committee (now known as Unauthorized Practice of Law Committee)
	Attorney Regulation Counsel
	Duty of Judge to Report Misconduct or Disability
	Grounds for Discipline
	Forms of Discipline
	Probation
	Immediate Suspension
	Suspension for Nonpayment of Child Support, or for Failure to Comply with warrants Relating to Paternity or Child Support Proceedings
	Suspension for Failure to Cooperate
	Request for Investigation
	Investigation of Allegations

251.11	Determination by the Regulation Counsel
251.12	Determination by the Committee
251.13	Alternatives to Discipline
251.14	Complaint – Contents, Service
251.15	Answer – Filing, failure to answer, default
251.16	Presiding Disciplinary Judge
251.17	Hearing Board
251.18	Hearings before the Hearing Board
251.19	Findings of Fact and Decision
251.20	Attorney Convicted of a Crime
251.21	Discipline Imposed by Foreign Jurisdiction
251.22	Discipline Based on Admitted Misconduct
251.23	Disability Inactive Status
251.27	Proceedings Before the Supreme Court
251.28	Required Action After Disbarment, Suspension, or Transfer to Disability
251.29	Readmission and Reinstatement After Discipline
251.30	Reinstatement After Transfer to Disability Inactive Status
251.31	Access to Information Concerning Proceedings under these Rules
251.32	General Provisions
251.33	Expunction of Records
251.34	Advisory Committee

	Determination by the Regulation Counsel
	Determination by the Practice of Law Committee
	Alternatives to Discipline
	Complaint – Contents, Service
	Answer – Filing, failure to answer, default
	Presiding Disciplinary Judge
	Hearing Board
	Hearings before the Hearing Board
	Findings of Fact and Decision
	Limited Legal Practitioner Convicted of a Crime
	Discipline Imposed by Foreign Jurisdiction
	Discipline Based on Admitted Misconduct
	Disability Inactive Status
	Proceedings Before the Supreme Court
	Required Action After Disbarment, Suspension, or Transfer to Disability
	Readmission and Reinstatement After Discipline
	Reinstatement After Transfer to Disability Inactive Status
	Access to Information Concerning Proceedings under these Rules
	General Provisions
	Expunction of Records
	Advisory Committee

Attorneys' Fund for Client Protection	
C.R.C.P.	Rule Title
252.1	Purpose and Scope
252.2	Establishment
252.3	Funding (from attorney registration fees)
252.4	Funds
252.5	Composition and Officers of the Board
252.6	Board Meetings
252.7	Duties and Responsibilities of the Board
252.8	Conflict of Interest
252.9	Immunity
252.10	Eligible Claims
252.11	Procedures for Filing Claims
252.12	Procedures for Processing Claims
252.13	Reimbursement from Fund is a Matter of Grace
252.14	Restitution and Subrogation
252.15	Confidentiality
252.16	Compensation for Representing Claimants

Limited Legal Practitioners' Fund for Client Protection	
	Rule Title
	Purpose and Scope
	Establishment
	Funding (from LLP registration fees)
	Funds
	Composition and Officers of the Board
	Board Meetings
	Duties and Responsibilities of the Board
	Conflict of Interest
	Immunity
	Eligible Claims
	Procedures for Filing Claims
	Procedures for Processing Claims
	Reimbursement from Fund is a Matter of Grace
	Restitution and Subrogation
	Confidentiality
	Compensation for Representing Claimants

Colorado Lawyer Assistance Program	
254	Colorado Lawyer Assistance Program

Colorado Limited Legal Practitioners Assistance Program	
	Colorado Limited Legal Practitioners Assistance Program

Mandatory Continuing Legal and Judicial Education	
C.R.C.P.	Rule Title

Mandatory Continuing Legal Education for Limited Legal Practitioners	
	Rule Title

260.1	Definitions
260.2	CLE Requirements
260.3	Board of Continuing Legal and Judicial Education
260.4	Accreditation
260.5	Exemptions
260.6	Compliance
260.7	Confidentiality
260.8	Direct Representation and Mentoring in Pro Bono Civil Legal Matters

	Definitions
	CLE Requirements
	Board of Continuing Legal and Judicial Education
	Accreditation
	Exemptions
	Compliance
	Confidentiality
	N/A