



LLLTs and Lawyers: Gaining Market Share Side-by-Side

Approved for 1.25 Other Credits and 0.25 Ethics Credits for Washington Attorneys

Presented on Tuesday, May 28, 2019 • Seattle, WA

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Faculty

A Special Thank You to Our Program Faculty!

Those who have planned and will present at this WSBA CLE seminar are volunteers. Their generous contributions of time, talent, and energy have made this program possible. We appreciate their work and their service to the legal profession.

Program Faculty

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Program Schedule

Legal Lunchbox™ Series: LLTs and Lawyers: Gaining Market Share Side-by-Side

Tuesday, May 28, 2019

- 12:00 p.m.** **Welcome and Introductions**
Jean McElroy, Washington State Bar Association, Seattle
- 12:05 p.m.** **Introductory Remarks**
Justice Barbara A. Madsen, Washington Supreme Court, Olympia
- 12:15 p.m.** **Presentation and Panel Discussion**
Moderator: Jean McElroy, Washington State Bar Association, Seattle
Davis Abbott, Virtú Legal Services, Seattle
Sarah Bové, Legal Technician Division, PLLC, Redmond
Jeanne Marie Clavere, Washington State Bar Association, Seattle
Samuel K. Darling, Genesis Law Firm, PLLC, Everett
Marya C. Noyes, Genesis Law Firm, PLLC, Everett
- 1:35 p.m.** **Adjourn • Complete Evaluation Forms**

Under MCLE Rules, we report hours of course attendance. Our report is based on you confirming your attendance with our CLE representative as you arrive, and the receipt of the form below from anyone who chooses to attend only part of the seminar.

We ask that you complete this form and turn-in to our representative if you leave before the end of the program.

Thank you, WSBA-CLE

The purpose of this form is to notify the sponsor listed below if you have earned less than the available credits while attending this CLE course. You can fax your completed form to WSBA-CLE: (206) 727-8324.

Under Washington State MCLE Rules (APR 11.6(a)(1)), sponsors must report attendance at each CLE course. The sponsor's report is based on confirming your attendance as you arrive and the receipt of this form as you leave if you choose to attend only part of the CLE course.

- If this form is not returned, the sponsor will presume that you have attended the entire CLE course and earned full credit.
- If you did not attend the full CLE course, this form must be returned to the sponsor.

How to calculate L&LP/Ethics/Other credits:

One credit is equivalent to one hour (60 minutes) of instruction time at an approved CLE course. Credits can be obtained in quarter-hour increments: 15 minutes of instruction equal .25 credits. No credit is given for breaks. Contact the sponsor if you have questions about which sections of the program, if any, have been approved for ethics credit.

For information, see the following website or contact the WSBA Service Center.

<http://www.wsba.org/Licensing-and-Lawyer-Conduct/MCLE/Members/Member-Online-MCLE-FAQs> - questions@wsba.org

Seminar Sponsor:	<u>WSBA-CLE</u>								
Seminar Name:	Legal Lunchbox™ Series: (LL190528WEB)								
Seminar Date:	May 28, 2019								
Approved Credits:	<u>1.50</u> CLE Credits for Washington Attorneys (<u>1.25</u> Law & Legal Procedure, <u>0.25</u> Ethics and <u>0.0</u> Other)								
Hours of Attendance:	<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 50%;">TIME OF ARRIVAL</th> <th style="width: 50%;">TIME OF DEPARTURE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	TIME OF ARRIVAL	TIME OF DEPARTURE						
TIME OF ARRIVAL	TIME OF DEPARTURE								
Credits Earned:	_____ L&LP _____ Ethics _____ Other								
Printed Name:	_____ Bar #: _____								
I hereby certify that I have earned the number of L&LP/Ethics/Other credits inserted above on the Credits Earned line.									
Signature:	_____ Date: _____								

CHAPTER ONE

LLLTs AND LAWYERS: GAINING MARKET SHARE SIDE-BY-SIDE

May 2019

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JEAN MCELROY is a 1983 graduate of the University of Washington School of Law, and she was admitted to practice that same year. She currently serves as Chief Regulatory Counsel and Director of the Regulatory Services Department for the Washington State Bar Association. Employed at the WSBA since November 1989, Ms. McElroy has worked in the Office of Disciplinary Counsel (1989-2004), the Office of General Counsel (2011-2017), and the Regulatory Services Department (continuously since 2005). Since 2005, Ms. McElroy has managed and overseen 1) WSBA's non-discipline regulatory functions - admissions (including Character and Fitness), annual licensing, and mandatory continuing legal education accreditation and compliance; 2) innovative licensing programs, including Limited Practice Officers, Limited License Legal Technicians, and the Law Clerk program; and 3) membership records including status changes. Before joining the WSBA, Ms. McElroy worked in the King County Prosecuting Attorney's Office Criminal Division for five years, and spent one year in private contract work and as a staff attorney with the Washington State House of Representatives Office of Program Research.

Biographies continued on next page

Biographies cont.

DAVIS ABBOTT is the founder and Executive Director at Virtú (pronounced virtue) Legal Services, a non-profit law firm dedicated to providing legal services to low income individuals in the areas of housing and family law. Prior to joining the faculty, he attended Seattle University School of Law where he interned with the Northwest Justice Project, The Deputy Mayor for Education in Washington DC, and the Municipal Research & Services Center. He was admitted to the Washington State Bar in 2018.

SARAH BOVÉ practices as a family law limited licensed legal technician (LLLT) at Legal Technician Division, PLLC. Prior to licensure, Sarah worked for several family law attorneys in King and Snohomish counties and completed a one-year internship with the Moderate Means program at the University of Washington School of Law.

An active member of the legal community, Sarah co-instructs pro se classes with King County Law Library, regularly volunteers at Eastside Legal Assistance Program's pro bono clinics, serves on the Legislative Committee of the Low Bono Section, and serves on the Washington Supreme Court's Limited License Legal Technician Board. She was admitted as an LLLT to the Washington State Bar in 2017.

Sarah lives on Seattle's eastside with her two young sons and Great Dane, Hoggle.

JEANNE MARIE CLAVERE is a 1987 graduate of the University Of Puget Sound School Of Law (now Seattle University School of Law). Prior to earning her law degree she received a Master of Business Administration from DePaul University in Chicago. In February, 2010 she joined the staff of the Washington State Bar Association as Professional Responsibility Counsel. After four years with a Seattle law firm, Jeanne Marie began her solo practice in 1992, focusing on estate planning, elder law (including complex guardianships, trusts, and guardian ad litem appointments), and contract based criminal prosecution. As Professional Responsibility Counsel, Jeanne Marie serves as an advisor to members of the bar on the Rules of Professional Conduct as they apply to WSBA Advisory Ethics Opinions, the Rules for Enforcement of Lawyer Conduct, and the ABA Standards for Imposing Lawyer Sanctions. She has been invited to lecture on Professionalism, Civility, and Ethics at all three Washington law schools, for the American Bar Association, and speaks at various local bar CLE's throughout the state. Jeanne Marie is the primary responder on the WSBA Ethics Line and wants every attendee to commit the number to memory and call her first, not after they run into an ethical dilemma.

While in private practice Jeanne Marie appeared before a wide range of courts and tribunals, ranging from Ex Parte hearings to trials on guardianship and criminal issues, and served for many years as a Settlement, Litigation, Adoption, Family Law, Incapacity and Probate Guardian ad Litem in King and Snohomish Counties. Jeanne Marie is Past President of the state Washington Women Lawyers, past Chair of the Washington State Bar Association Elder Law Section and served on the executive committee of the King County Bar Association Guardianship and Elder Law Section. She is a member of the

Biographies continued on next page

Biographies cont.

CLAVERE (cont.) American Bar Association, the ABA's Center for Professional Responsibility, the ABA Law Practice Division, and is a Master Member of the William L. Dwyer Inn of Court. Jeanne Marie also serves on the board of the National Conference of Women's Bar Associations.

Opinions expressed herein are the author's and do not necessarily represent the official or unofficial position of the Washington State Bar Association or the WSBA Office of General Counsel. Members seeking guidance or information about ethics may contact WSBA Professional Responsibility Counsel on the Ethics Line at 206-727-8284 / 800-945-WSBA ext. 8284

SAMUEL K. DARLING Samuel K. Darling is the managing partner of Genesis Law Firm, an eight-attorney firm in Everett. His practice emphasizes family law, though he began his career as general business and litigation associate. He was admitted to the Washington State Bar in 2008.

MARYA C. NOYES is a Limited License Legal Technician (LLLT) currently employed full-time at Genesis Law Firm in Everett, Washington. She is also scheduled to graduate with her MBA from Seattle University on June 15, 2019. Her Bachelor's degree is from Mills College in Oakland California, where she graduated as a double major in Business Economics and Environmental Science. After a successful career in financial services and sales, she sought out a more meaningful career choice for her professional life. She began schooling to complete the LLLT pre-requisites in January, 2015. In order to complete the 3,000 substantive hours of legal experience required to receive the LLLT license, she simultaneously worked as a paralegal at several law firms while completing the required coursework. She received her LLLT license on June 1, 2017, as the 23rd LLLT to be licensed in the State of Washington.

APR 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 to Practice Rules.

(2) “LLLT Board” means the Limited License Legal Technician Board.

(3) “Lawyer” means a person licensed as a lawyer and eligible to practice law in any United States jurisdiction.

(4) “Limited License Legal Technician” (LLLT) 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 pro bono lawyer member of the Bar.

(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 (LLLT Board). The LLLT Board shall consist of 15 voting members appointed by the Supreme Court, and one nonvoting ex officio member who is a representative of the Washington State Board of Community and Technical Colleges. At least 11 members shall be Washington lawyers, LLLTs, or LPOs. Of those 11 members, at least 9 shall be active lawyers or LLLTs, and no more than 2 may be LPOs, or judicial or emeritus pro bono lawyers or LLLTs. Four members of the LLLT Board shall be Washington residents who do not have a license to practice law. Appointments shall be for staggered three year terms. No member may serve more than two consecutive full three year terms. The validity of the Board’s actions is not affected if the Board’s makeup differs from the stated constitution due to a temporary vacancy in any of the specified positions.

(2) *LLLT Board Responsibilities.* The LLLT Board shall be responsible for the following:

(a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;

(b) Working with the Bar and other appropriate entities to select, create, maintain, and grade the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to LLLTs, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to approved practice areas;

(c) Approving education and experience requirements for licensure in approved practice areas;

(d) Establishing and overseeing committees and tenure of members;

(e) Establishing and maintaining criteria for approval of educational programs that offer LLLT core curriculum; and

(f) Such other activities and functions as are expressly provided for in this rule.

(3) *Rules and Regulations.* The LLLT Board shall propose rules, regulations and amendments to these rules and regulations, to implement and carry out the provisions of this rule, for adoption by the Supreme Court.

(4) *Administration.* The Bar shall provide reasonably necessary administrative support for the LLLT Board. All notices and filings required by these Rules, including applications for admission as an LLLT, shall be sent to the headquarters of the Bar.

(5) *Expenses of the LLLT Board.* Members of the LLLT Board shall not be compensated for their services but shall be reimbursed for actual reasonable and necessary expenses incurred in the performance of their duties according to the Bar's expense policies.

D. [Reserved.]

E. [Reserved.]

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 LLLT 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 LLLT Board; and advise the client of the significance of the selected forms to the client's case;

(7) Perform legal research;

(8) Draft letters setting forth legal opinions that are intended to be read by persons other than the client, and draft documents beyond what is permitted in paragraph (6), if the work is reviewed and approved by a Washington lawyer;

(9) 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;

(10) 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 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;

(2) 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 LLLT Board.

(3) 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.

(4) 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;

(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 Technician Rules of Professional Conduct.

I. Continuing Licensing Requirements

(1) *Continuing Education Requirements.* Each active Limited License Legal Technician must complete a minimum number of credit hours of approved or accredited education, as prescribed by APR 11.

(2) *Financial Responsibility.* Each LLLT 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:

(a) submitting an individual professional liability insurance policy in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit;

(b) 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; or

(c) submitting proof of indemnification by the LLLT's government employer.

(3) *License Fees and Assessments.* Each Limited License Legal Technician must pay the annual license fee established by the Board of Governors, subject to review by the Supreme Court, and any mandatory assessments as ordered by the Supreme Court. Provisions in the Bar's Bylaws regarding procedures for assessing and collecting lawyer license fees and late fees, and regarding deadlines, rebates, apportionment, fee reductions, and exemptions, and any other issues relating to fees and assessments, shall also apply to LLLT license fees and late fees. Failure to pay may result in suspension from practice pursuant to APR 17.

(4) *Trust Account.* Each active Limited License Legal Technician shall annually certify compliance with Rules 1.15A and 1.15B of the LLLT Rules of Professional Conduct. Such certification shall be filed in a form and manner as prescribed by the Bar and shall include the bank where each account is held and the account number. Failure to certify may result in suspension from practice pursuant to APR 17.

J. Existing Law Unchanged. This rule shall in no way modify existing law prohibiting the unauthorized practice of law.

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 Technician 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.

L. Confidentiality and Public Records. GR 12.4 shall apply to access to LLLT Board records.

M. Inactive Status. An LLLT may request transfer to inactive status after being admitted. An LLLT on inactive status is required to pay an annual license fee as established by the Board of Governors and approved by the Supreme Court.

N. Reinstatement to Active Status. An LLLT on inactive status may return to active status by filing an application and complying with the procedures set forth for lawyer members of the Bar in the Bar's Bylaws.

O. Voluntary Resignation. Any Limited License Legal Technician may request to voluntarily resign the LLLT license by notifying the Bar in such form and manner as the Bar may prescribe. If there is a disciplinary investigation or proceeding then pending against the LLLT, or if the LLLT has knowledge that the filing of a grievance of substance against such LLLT is imminent, resignation is permitted only under the provisions of the applicable disciplinary rules. An LLLT who resigns the LLLT license cannot practice law in Washington in any manner, unless they are otherwise licensed or authorized to do so by the Supreme Court.

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

REGULATION 1. [RESERVED.]

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 28(F) to inform clients when issues

arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28(F) 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, if the client engages a lawyer with respect to the issue, then 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. If the client does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that relate to the issue if:

1. The client informs the LLLT how the issue is to be determined and instructs the LLLT how to complete the relevant portions of the document, and
2. Above the LLLT's signature at the end of the document, the LLLT inserts a statement to the effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's scope of practice and completed any portions of the document with respect to any such issues at the direction of the client.

The LLLT may proceed in the manner described above 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 2(B)(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 2(B)(3).

2. *Scope of Practice for LLLTs--Domestic Relations.* LLLTs in domestic relations may provide legal services to clients as provided in APR 28(F), except as prohibited by APR 28(H) and Regulation 2(B)(3).

(a) 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 28(H), 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 de facto parentage or nonparental custody actions; and
 - ii. if 25 U.S.C. chapter 21, the Indian Child Welfare Act, or chapter 13.38 RCW, 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. jointly acquired committed intimate relationship 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 chapter 26.27 RCW or Uniform Interstate Family Support Act issues under chapter 26.21A RCW unless and until jurisdiction has been resolved;
 - viii. objections to relocation petitions, responses to objections to relocation

petitions, or temporary orders in relocation actions; and

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 LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS

An applicant for admission as an LLLT shall satisfy the following education requirements:

A. Core Curriculum.

1. *Credit Requirements.* An applicant for licensure shall have earned 45 credit hours as required by APR 3. The core curriculum must include the following required subject matters with minimum credit hours earned as indicated:

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

The core curriculum courses in which credit for the foregoing subject matters is earned shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar. If the required courses completed by the applicant do not total 45 credit hours, then the applicant may earn the remaining credit hours by taking legal or paralegal elective courses. All core curriculum course credit hours must be earned at an ABA approved law school, an educational institution with an ABA approved paralegal program, or at an educational institution with an LLLT core curriculum program approved by the LLLT Board under the Washington State LLLT Educational Program Approval Standards.

For purposes of satisfying APR 3(e)(2), one credit hour shall be equivalent to 450

minutes of instruction.

2. *LLLT Educational Program Approval Requirements for Programs Not Approved by the ABA.* The LLLT Board shall be responsible for establishing and maintaining standards, to be published by the Association, for approving LLLT educational programs that are not otherwise approved by the ABA. Educational programs complying with the LLLT Board's standards shall be approved by the LLLT Board and qualified to teach the LLLT core curriculum.

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 3(e). Each practice area curriculum course shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar.

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 5 credit hours in basic domestic relations subjects and 10 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, 2023, the LLLT Board shall grant a waiver of the minimum associate-level degree requirement and/or the core curriculum education requirement set forth in APR 3 if an applicant meets the requirements set forth in Regulation 4(B). The LLLT Board shall not grant waivers for applications filed after December 31, 2023. The LLLT Board shall not waive the practice area curriculum requirement. The limited time waiver application will be separate from the application process for admission 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, and provide proof, in such form and manner as the Bar requires, that he/she has:

1. Passed an LLLT Board approved national paralegal certification examination;
2. Active certification from an LLLT Board approved national paralegal certification organization; 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. The Bar 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 Bar 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 the Bar may request review by the LLLT Board chair. Such request shall be filed with the Bar 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, 2025. After expiration of the approval, any subsequent application for licensure by the applicant shall meet all of the standard requirements for admission without waiver.

REGULATION 5. [RESERVED.]

REGULATION 6. [RESERVED.]

REGULATION 7. [RESERVED.]

REGULATION 8. [RESERVED.]

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 5(c). The experience requirement shall be completed no more than three years before and 40 months after the date of the LLLT practice area examination that the applicant passed. The proof shall be provided in

such form as the Bar 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 this regulation.

REGULATION 10. ADDITIONAL PRACTICE AREAS

A. Application for Additional Practice Area. An LLLT seeking admission in an additional practice area must complete and file with the Bar:

1. a completed practice area application in a form and manner prescribed by the Bar;
2. evidence in a form and manner prescribed by the Bar demonstrating completion of the practice area curriculum required under Regulation 3(B); and
3. a signed and notarized Authorization, Release, and Affidavit of Applicant.

B. Additional Practice Area Prelicensure 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 annual license fee as stated in the fee schedule; and
3. file any and all licensing forms required for active LLLTs.

The requirements above shall be completed within one year of the date the applicant is notified of the practice area 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 practice area examination.

C. Order Admitting LLLT to Limited Practice in Additional Practice Area. After examining the recommendation and accompanying documents transmitted by the Bar, 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.

D. Voluntary Termination of Single Practice Area License. An LLLT licensed in two or more practice areas may request to voluntarily terminate a single practice area by notifying the Bar in writing. After terminating the practice area license, the LLLT shall not accept any new clients or engage in work as an LLLT in any matter in the terminated practice area. The Bar will notify the LLLT of the effective date of the termination.

REGULATION 11. [RESERVED.]

REGULATION 12. [RESERVED.]

REGULATION 13. [RESERVED.]

REGULATION 14. [RESERVED.]

REGULATION 15. [RESERVED.]

REGULATION 16. [RESERVED.]

REGULATION 17. [RESERVED.]

REGULATION 18. [RESERVED.]

REGULATION 19. [RESERVED.]

REGULATION 20. AMENDMENT AND BOARD POLICIES

These Regulations may be altered, amended, or repealed by vote of the LLLT Board on approval of the Supreme Court. The LLLT Board has ongoing authority to adopt policies for the administration of the LLLT program consistent with APR 28 and these Regulations.

[Adopted effective August 20, 2013; Amended effective September 3, 2013; February 3, 2015; June 21, 2016; November 22, 2016; September 1, 2017.]

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

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FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT FOR AN LLLT*

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

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

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

The Rules of Professional Conduct for LLLTs point the way for the LLLT who aspires to the highest level of ethical conduct, and provide standards by which to judge the transgressor. Each LLLT must find within his or her own conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession, including

LLTs and the society that LLTs serve, that should provide to an LLT the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction.

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

PREAMBLE AND SCOPE
PREAMBLE: AN LLT'S RESPONSIBILITIES

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

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

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

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

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

[6] As a member of the legal profession, an LLLT should seek to improve access to the legal system, the administration of justice, and the quality of service rendered by the legal profession, and should also seek to strengthen legal education. An LLLT should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all LLLTs should devote professional time and resources to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. An LLLT should aid the legal profession in pursuing these objectives and should help the legal profession regulate itself in the public interest.

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

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

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

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

[11] To the extent that LLLTs meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important

force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

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

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

SCOPE

[14] The Rules of Professional Conduct for LLLTs are rules of reason. They should be interpreted with reference to the purposes of legal representation (within the LLLT's authorized scope of practice) and of the law itself. Some of the Rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may" are permissive and define areas under the Rules in which the LLLT has discretion to exercise professional judgment. No disciplinary action should be taken when the LLLT chooses not to act or acts within the bounds of such discretion. Other rules define the nature of relationships between the LLLT and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define an LLLT's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

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

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

[17] For purposes of determining the LLLT's authority and responsibility, principles of substantive law external to these Rules determine whether a client-LLLT relationship exists. Most of the duties flowing from the client-LLLT relationship attach only after the client-LLLT relationship is formed. But there are some duties, such as that of confidentiality under Rule 1.6,

that may attach when the LLLT agrees to consider whether a client-LLLT relationship shall be established. *See* Lawyer RPC 1.18 and Washington Comment [11] thereto. Whether a client-LLLT relationship exists for any specific purpose can depend on the circumstances and is a question of fact.

[18] [Reserved.]

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

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

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

Additional Washington Comments (22 - 25)

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

[23] The Rules of Professional Conduct for LLLTs are modeled on Washington's Rules of Professional Conduct for lawyers (Lawyer RPC). The structure of these Rules, like the Lawyer RPC, generally parallels the structure of the American Bar Association's Model Rules of Professional Conduct. When an entire provision that appears in the Lawyer RPC is deleted for purposes of these Rules, the deletion is signaled by the phrase "Reserved." The reservation of a rule or portion of a rule that appears in the Lawyer RPC does not necessarily mean that the conduct of an LLLT in that area is unregulated; the conduct may be regulated under APR 28 or another rule. Should a situation arise where a rule or portion of a rule is reserved but the counterpart rule in the Lawyer RPC addresses the conduct, the LLLT should look to the relevant

Lawyer RPC and comments to that rule for guidance. In general, when a Rule has a counterpart in the Lawyer RPC, the comments to that Lawyer RPC may be looked to as a guide to interpretation of that Rule to the extent that both the Lawyer RPC and the LLLT RPC are substantially similar and the content of the comments is applicable to the conduct of an LLLT.

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

[25] The Fundamental Principles of Professional Conduct and the Preamble and Scope sections of these Rules were adapted from the corresponding parts of the Lawyer RPC with only minor modifications. These provisions express the role of an LLLT as a legal professional acting within the justice system. With the exception of the reservation of Comment [18], modifications relate to the limited scope of an LLLT's license to deliver legal services, and the corresponding limitations on the role that an LLLT will have in the development of certain aspects of the legal profession, such as advocacy and development of the common law.

LLLT RPC 1.0A TERMINOLOGY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LLLT RPC 1.0B ADDITIONAL TERMINOLOGY

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

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

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

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

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

(f) "Limited License Legal Technician" or "LLLT" denotes 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 APR 28 and related regulations. The LLLT does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in APR 28 to a pro se client.

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

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

Comment

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

[2] The definition of the term "lawyer" is taken from APR 28(B). When used in the LLLT RPC, however, the term is used to denote a lawyer who is acting within the scope of the lawyer's license and in accordance with the Lawyer RPC. So, for example, the authorization in Rule 5.9 to enter into a law partnership with a lawyer requires that the lawyer is admitted and authorized to practice in the State of Washington.

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

**TITLE 1. CLIENT-LLLT RELATIONSHIP
LLLT RPC 1.1 COMPETENCE**

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

Comment

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

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

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

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

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

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

(e) [Reserved.]

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

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

Comment

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

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

[3] Unlike a lawyer, an LLLT may perform only limited services for a client. Under APR 28G(3), before performing any services for a fee, an LLLT must enter into a written contract with the client, signed by both the client and the LLLT, that includes the following: (a) an explanation of the services to be performed, including a conspicuous statement that the LLLT 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 LLLT; (d) a statement that the LLLT 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 LLLT's duty to protect the confidentiality of information provided by the client and the LLLT's work product associated with the services sought or provided by the LLLT; (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 to the LLLT's services that are required by the rules and regulations of the Limited License Legal Technician Board.

[4] Additional requirements concerning the authorized scope of an LLLT's practice are imposed by APR 28(F). An LLLT must ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If not, the LLLT shall not provide the services required on the issue and must inform the client that the client should seek the services of a lawyer. If the issue does lie within the defined practice area for which the LLLT is licensed, then the LLLT is authorized to undertake the services that are enumerated in APR 28(F). Those services include only the following: (a) obtain relevant facts and explain the relevancy of such information to the client; (b) inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding; (c) inform the client of applicable procedures for proper service of process and filing of legal documents; (d) provide the client with self-help materials prepared by a Washington lawyer or approved by the Limited License Legal Technician Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements; (e) review documents or exhibits that the client has received from the opposing side, and explain them to the client; (f) 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 Limited License Legal Technician Board; and advise the client of the significance of the selected forms to the client's case; (g) perform legal research; (h) draft legal letters and documents beyond what is permitted in (f) if the work is reviewed and approved by a Washington lawyer; (i) 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; and (j) assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.

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

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

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

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

LLLT RPC 1.3 DILIGENCE

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

Comment

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

LLLT RPC 1.4 COMMUNICATION

(a) An LLLT shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and

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

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

Comment

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

LLLT RPC 1.5 FEES

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

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the LLLT;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the LLLT or LLLTs performing the services;
- (8) whether the fee is fixed or hourly; and
- (9) the terms of the fee agreement between the LLLT and the client, including whether the fee agreement or confirming writing demonstrates that the client had received a reasonable and fair disclosure of material elements of the fee agreement and of the LLLT's billing practices.

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

- (c) [Reserved.]
- (d) An LLLT shall not enter into an arrangement for, charge, or collect any fee, the payment or amount of which is contingent upon the outcome of the case.
- (e) An LLLT may not enter into an arrangement for the division of a fee with another LLLT or lawyer who is not in the same firm as the LLLT.
- (f) Fees and expenses paid in advance of performance of services shall comply with Rule 1.15A, subject to the following exceptions:
- (1) [Reserved.]
 - (2) An LLLT may charge a flat fee for specified legal services, which constitutes complete payment for those services and is paid in whole or in part in advance of the LLLT providing the services. A flat fee must be agreed to in advance in a writing signed by the client. The written agreement may specify that the flat fee is the LLLT's property on receipt, in which case the fee shall not be deposited into a trust account under Rule 1.15A. To qualify for the exception from the requirements of Rule 1.15A, the written fee agreement shall, in a manner that can easily be understood by the client, include the following: (i) the scope of the services to be provided; (ii) the total amount of the fee and the terms of payment; (iii) that the fee is the LLLT's property immediately on receipt and will not be placed into a trust account; (iv) that the fee agreement does not alter the client's right to terminate the client-LLLT relationship; and (v) that the client may be entitled to a refund of a portion of the fee if the agreed-upon legal services have not been completed. A statement in substantially the following form satisfies this requirement:

[LLLT/law firm] agrees to provide, for a flat fee of \$_____, the following services: _____. The flat fee shall be paid as follows: _____.

Upon [LLLT's/law firm's] receipt of all or any portion of the flat fee, the funds are the property of [LLLT/law firm] and will not be placed in a trust account. The fact that you have paid your fee in advance does not affect your right to terminate the client-LLLT relationship. In the event our relationship is terminated before the agreed-upon legal services have been completed, you may or may not have a right to a refund of a portion of the fee.
 - (3) In the event of a dispute relating to a fee under paragraph (f)(2) of this Rule, the LLLT shall take reasonable and prompt action to resolve the dispute.

Comment

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

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

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

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

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

LLLT RPC 1.6 CONFIDENTIALITY OF INFORMATION

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

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

- (1) shall reveal information relating to the representation of a client to prevent reasonably certain death or substantial bodily harm;
- (2) may reveal information relating to the representation of a client to prevent the client from committing a crime;

- (3) may reveal information relating to the representation of a client to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the LLLT's services;
- (4) may reveal information relating to the representation of a client to secure legal advice about the LLLT's compliance with these Rules;
- (5) may reveal information relating to the representation of a client to establish a claim or defense on behalf of the LLLT in a controversy between the LLLT and the client, to establish a defense to a criminal charge or civil claim against the LLLT based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the LLLT's representation of the client;
- (6) may reveal information relating to the representation of a client to comply with a court order; or
- (7) may reveal information relating to the representation of a client to inform a tribunal about any breach of fiduciary responsibility when the client is serving as a court appointed fiduciary such as a guardian, personal representative, or receiver.

Comment

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

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

LLLT RPC 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

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

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

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

- (1) the LLLT reasonably believes that the LLLT will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the LLLT with respect to the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing (following authorization from the other client to make any required disclosures).

Comment

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

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

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

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

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

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

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

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

- (1) an LLLT may advance or guarantee the expenses of litigation, including court costs, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses.
 - (2) [Reserved.]
- (f)** An LLLT shall not accept compensation for representing a client from one other than the client unless:
- (1) the client gives informed consent;
 - (2) there is no interference with the LLLT's independence of professional judgment or with the client-LLLT relationship; and
 - (3) information relating to representation of a client is protected as required by Rule 1.6.
- (g)** [Reserved.]
- (h)** An LLLT shall not:
- (1) make an agreement prospectively limiting the LLLT's liability to a client for malpractice; or
 - (2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent lawyer in connection therewith.
- (i)** An LLLT shall not acquire a proprietary interest in the cause of action or subject matter of litigation in which the LLLT is assisting a client.
- (j)** An LLLT shall not:
- (1) have sexual relations with a current client of the LLLT unless a consensual sexual relationship existed between them at the time the client-LLLT relationship commenced; or
 - (2) have sexual relations with a representative of a current client if the sexual relations would, or would likely, damage or prejudice the client in the representation.
 - (3) For purposes of Rule 1.8(j), "LLLT" means any LLLT who assists in the representation of the client, but does not include other LLLT members of a firm

with which the LLLT is associated if those other LLLTs provide no such assistance.

- (k)** Except as otherwise provided in these Rules,
- (1) while LLLTs are associated in a firm with other LLLTs, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them; and
 - (2) while LLLTs and lawyers are associated in a firm, the prohibitions in Lawyer RPC 1.8(a) through (i) that apply to any lawyer shall apply to any LLLT, and the prohibitions in the foregoing paragraphs (a), (h), and (i) shall not apply to any lawyers unless the conduct is otherwise prohibited by the Lawyer RPC.
- (l)** An LLLT who is related to another LLLT or a lawyer as parent, child, sibling, or spouse, or who has any other close familial or intimate relationship with another LLLT or lawyer, shall not represent a client in a matter directly adverse to a person who the LLLT knows is represented by the related LLLT or lawyer unless:
- (1) the client gives informed consent to the representation; and
 - (2) the representation is not otherwise prohibited by Rule 1.7.

(m) [Reserved.]

Comment

- [1] This Rule was adapted from Lawyer RPC 1.8 with modifications described in these Comments. Otherwise, it applies to LLLTs analogously.
- [2] Under limited and defined circumstances, Lawyer RPC 1.8(a) permits a lawyer to enter into a business transaction with a client, or to acquire a property interest adverse to a client. Because of the limitations on the scope of an LLLT's authorized practice, the analysis and disclosures that suffice under Lawyer RPC 1.8(a) to enable a lawyer to enter into such a transaction despite the existence of a conflict of interest are not feasible in the client-LLLT relationship. For this reason, LLLT RPC 1.8(a) strictly prohibits an LLLT from entering into any business transaction with a current client.
- [3] LLLTs may not advocate for, or appear in court on behalf of, a client. LLLTs will have no role in class action litigation and Rule 1.8(e)(2) is accordingly reserved in this Rule. LLLT RPC 1.8(e) does not authorize activities that are beyond the scope of the LLLT's limited license. Nothing in Rule 1.8(e) is intended to prohibit lawyer members of a firm with which an LLLT is associated from engaging in conduct permitted by Lawyer RPC 1.8(e)(2).

- [4] Rule 1.8(g) is reserved. LLLTs are not permitted to engage in the making of settlements, or aggregated agreements as to guilty or nolo contendere pleas in criminal cases. Nothing in Rule 1.8(g) is intended to prohibit lawyer members of a firm with which an LLLT is associated from participating in such settlements if permitted by the Lawyer RPC.
- [5] Unlike a lawyer, an LLLT is strictly prohibited by Rule 1.8(h)(1) from making any agreement that prospectively limits the LLLT's liability to the client for malpractice.
- [6] A client or former client of an LLLT who is not represented by a lawyer is unrepresented for purposes of Rule 1.8(h)(2).
- [7] Unlike a lawyer, an LLLT is prohibited by Rule 1.8(i) from acquiring any proprietary interest in a client's cause of action or the subject matter of litigation.
- [8] If one LLLT or lawyer in a firm has a conflict of interest specified under this Rule, other LLLTs and lawyers in the firm may, under some circumstances, have the same conflict of interest or be subject to the same prohibition. This is called imputation of a conflict of interest. Similarly, in a firm that includes both LLLTs and lawyers, a conflict of interest of a lawyer will, under some circumstances, be imputed to an LLLT in the firm. Rule 1.8(k) describes the imputations of Rule 1.8 conflicts in a firm.
- [9] Rule 1.8(m) is reserved. LLLTs are not permitted to engage in the scope of practice anticipated by Lawyer RPC 1.8(m). The reservation of Rule 1.8(m) in these Rules is not intended to prohibit lawyer members of a firm with which an LLLT is associated from engaging in the scope of practice described in Rule 1.8(m) of the Lawyer RPC.

LLLT RPC 1.9 DUTIES TO FORMER CLIENTS

(a) An LLLT who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

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

- (1) whose interests are materially adverse to that person; and
- (2) about whom that LLLT had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.

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

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

Comment

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

LLLT RPC 1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE

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

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

- (1) the matter is the same or substantially related to that in which the formerly associated LLLT represented the client; and
- (2) any LLLT remaining in the firm has information that is material to the matter and that is protected by Rules 1.6 and 1.9(c).

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

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

(e) When the prohibition on representation under paragraph (a) is based on Rule 1.9(a) or

(b) and arises out of the disqualified LLLT's association with a prior firm, no other LLLT in the firm shall knowingly represent a person in a matter in which that LLLT is disqualified unless:

- (1) the personally disqualified LLLT is screened by effective means from participation in the matter and is apportioned no part of the fee therefrom;
- (2) the former client of the personally disqualified LLLT receives notice of the conflict and the screening mechanism used to prohibit dissemination of information relating to the former representation;
- (3) the firm is able to demonstrate by convincing evidence that no material information relating to the former representation was transmitted by the personally disqualified LLLT before implementation of the screening mechanism and notice to the former client.

Any presumption that information protected by Rules 1.6 and 1.9(c) has been or will be transmitted may be rebutted if the personally disqualified LLLT serves on his or her former firm and former client an affidavit attesting that the personally disqualified LLLT will not participate in the matter and will not discuss the matter or the representation with any other LLLT or employee of his or her current firm, and attesting that during the period of the LLLT's personal disqualification those LLLTs, or employees who do participate in the matter will be apprised that the personally disqualified LLLT is screened from participating in or discussing the matter. Such affidavit shall describe the procedures being used effectively to screen the personally disqualified LLLT. Upon request of the former client, such affidavit shall be updated periodically to show actual compliance with the screening procedures. The firm, the personally disqualified LLLT, or the former client may seek judicial review in a court of general jurisdiction of the screening mechanism used, or may seek court supervision to ensure that implementation of the screening procedures has occurred and that effective actual compliance has been achieved.

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

Comment

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

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

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

- (1) is subject to Rule 1.9(c); and
- (2) shall not otherwise represent a client in connection with a matter in which the LLLT participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

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

- (1) the disqualified LLLT or lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
- (2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this Rule.

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

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

- (1) is subject to Rules 1.7 and 1.9; and
- (2) shall not:
 - (i) participate in a matter in which the LLLT participated personally and substantially while in private practice or nongovernmental employment, unless the appropriate government agency gives its informed consent, confirmed writing; or
 - (ii) negotiate for private employment with any person who is involved as a party or as LLLT for a party in a matter in which the LLLT is participating personally and substantially, except that an LLLT who may otherwise be serving as a law clerk to a judge, other adjudicative officer

or arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).

- (e) As used in this Rule, the term "matter" includes:
 - (1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties; and
 - (2) any other matter covered by the conflict of interest rules of the appropriate government agency.

Comment

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

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

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

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

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

- (1) the disqualified LLLT or lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
- (2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this Rule.

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

Comment

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

LLLT RPC 1.13

[Reserved]

Comment

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

LLLT RPC 1.14 CLIENT WITH DIMINISHED CAPACITY

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

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

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

Comment

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

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

[3] Protective action taken by an LLLT under paragraph (b) of this Rule may include obtaining the services of a lawyer. An LLLT should proceed cautiously when independently undertaking protective action on behalf of a person with diminished capacity, and the LLLT should carefully evaluate and weigh all the circumstances and options. For a discussion of

potential protective actions and relevant considerations, see Lawyer RPC 1.14, Comments [5] - [7].

LLLT RPC 1.15A SAFEGUARDING PROPERTY

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

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

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

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

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

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

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

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

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

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

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

- (1) No funds belonging to the LLLT may be deposited or retained in a trust account except as follows:
 - (i) funds to pay bank charges, but only in an amount reasonably sufficient for that purpose;
 - (ii) funds belonging in part to a client or third person and in part presently or potentially to the LLLT must be deposited and retained in a trust account, but any portion belonging to the LLLT must be withdrawn at the earliest reasonable time; or
 - (iii) funds necessary to restore appropriate balances.
 - (2) An LLLT must keep complete records as required by Rule 1.15B.
 - (3) An LLLT may withdraw funds when necessary to pay client costs. The LLLT may withdraw earned fees only after giving reasonable notice to the client of the intent to do so, through a billing statement or other document.
 - (4) Receipts must be deposited intact.
 - (5) All withdrawals must be made only to a named payee and not to cash. Withdrawals must be made by check or by electronic transfer.
 - (6) Trust account records must be reconciled as often as bank statements are generated or at least quarterly. The LLLT must reconcile the check register balance to the bank statement balance and reconcile the check register balance to the combined total of all client ledger records required by Rule 1.15B(a)(2).
 - (7) An LLLT must not disburse funds from a trust account until deposits have cleared the banking process and been collected, unless the LLLT and the bank have a written agreement by which the LLLT personally guarantees all disbursements from the account without recourse to the trust account.
 - (8) Disbursements on behalf of a client or third person may not exceed the funds of that person on deposit. The funds of a client or third person must not be used on behalf of anyone else.
 - (9) Only an LLLT or a lawyer admitted to practice law may be an authorized signatory on the account. If an LLLT is associated in a practice with one or more lawyers, any check or other instrument requiring a signature must be signed by a signatory lawyer in the firm.
- (i)** Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay other than notice periods that are required by law or regulation and meet the requirements of LLLT REC 15.7(d) and LLLT REC 15.7(e). In the exercise of ordinary prudence, an LLLT

may select any financial institution authorized by the Legal Foundation of Washington (Legal Foundation) under LLLT REC 15.7(c). In selecting the type of trust account for the purpose of depositing and holding funds subject to this Rule, an LLLT shall apply the following criteria:

- (1) When client or third-person funds will not produce a positive net return to the client or third person because the funds are nominal in amount or expected to be held for a short period of time the funds must be placed in a pooled interest-bearing trust account known as an Interest on Limited License Legal Technician's Trust Account or IOLTA. The interest earned on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the Legal Foundation of Washington in accordance with LLLT REC 15.4 and LLLT REC 15.7(e).
- (2) Client or third-person funds that will produce a positive net return to the client or third person must be placed in one of the following two types of non-IOLTA trust accounts, unless the client or third person requests that the funds be deposited in an IOLTA account:
 - (i) a separate interest-bearing trust account for the particular client or third person with earned interest paid to the client or third person; or
 - (ii) a pooled interest-bearing trust account with sub-accounting that allows for computation of interest earned by each client or third person's funds with the interest paid to the appropriate client or third person.
- (3) In determining whether to use the account specified in paragraph (i)(1) or an account specified in paragraph (i)(2), an LLLT must consider only whether the funds will produce a positive net return to the client or third person, as determined by the following factors:
 - (i) the amount of interest the funds would earn based on the current rate of interest and the expected period of deposit;
 - (ii) the cost of establishing and administering the account, including the cost of the LLLT's services and the cost of preparing any tax reports required for interest accruing to a client or third person's benefit; and
 - (iii) the capability of financial institutions to calculate and pay interest to individual clients or third persons if the account in paragraph (i)(2)(ii) is used.
- (4) The provisions of paragraph (i) do not relieve an LLLT or law firm from any obligation imposed by these Rules or the LLLT REC.

Comment

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

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

LLLT RPC 1.15B REQUIRED TRUST ACCOUNT RECORDS

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

- (1) Checkbook register or equivalent for each trust account, including entries for all receipts, disbursements, and transfers, and containing at least:
 - (i) identification of the client matter for which trust funds were received, disbursed, or transferred;
 - (ii) the date on which trust funds were received, disbursed, or transferred;
 - (iii) the check number for each disbursement;
 - (iv) the payor or payee for or from which trust funds were received, disbursed, or transferred; and
 - (v) the new trust account balance after each receipt, disbursement, or transfer;
- (2) Individual client ledger records containing either a separate page for each client or an equivalent electronic record showing all individual receipts, disbursements, or transfers, and also containing:
 - (i) identification of the purpose for which trust funds were received, disbursed, or transferred;
 - (ii) the date on which trust funds were received, disbursed or transferred;
 - (iii) the check number for each disbursement;
 - (iv) the payor or payee for or from which trust funds were received, disbursed, or transferred; and

- (v) the new client fund balance after each receipt, disbursement, or transfer;
- (3) Copies of any agreements pertaining to fees and costs;
- (4) Copies of any statements or accountings to clients or third parties showing the disbursement of funds to them or on their behalf;
- (5) Copies of bills for legal fees and expenses rendered to clients;
- (6) of invoices, bills, or other documents supporting all disbursements or transfers from the trust account;
- (7) Bank statements, copies of deposit slips, and cancelled checks or their equivalent;
- (8) Copies of all trust account bank and client ledger reconciliations; and
- (9) Copies of those portions of clients' files that are reasonably necessary for a complete understanding of the financial transactions pertaining to them.

(b) Upon any change in the LLLT's practice affecting the trust account, including dissolution or sale of a law firm or other entity, or suspension or other change in membership status, the LLLT must make appropriate arrangements for the maintenance of the records specified in this Rule.

Comment

[1] Rule 1.15B was adapted from Lawyer RPC 1.15B with no substantive changes and applies to LLLTs analogously.

LLLT RPC 1.16 DECLINING OR TERMINATING REPRESENTATION

(a) An LLLT shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

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

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

- (1) withdrawal can be accomplished without material adverse effect on the interests of the client;

- (2) the client persists in a course of action involving the LLLT's services that the LLLT reasonably believes is criminal or fraudulent;
- (3) the client has used the LLLT's services to perpetrate a crime or fraud;
- (4) the client insists upon taking action that the LLLT considers repugnant or with which the LLLT has a fundamental disagreement;
- (5) the client fails substantially to fulfill an obligation to the LLLT regarding the LLLT's services and has been given reasonable warning that the LLLT will withdraw unless the obligation is fulfilled;
- (6) the representation will result in an unreasonable financial burden on the LLLT or has been rendered unreasonably difficult by the client; or
- (7) other good cause for withdrawal exists.

(c) [Reserved.]

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

Comment

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

LLLT RPC 1.17 SALE OF LAW PRACTICE

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

(a) [Reserved.]

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

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

- (1) the proposed sale;
- (2) the client's right to retain a lawyer or another LLLT or to take possession of the file; and
- (3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice. If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.

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

Comment

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

LLLT RPC 1.18 DUTIES TO PROSPECTIVE CLIENT

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

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

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

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

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

- (2) the LLLT who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and
 - (i) the disqualified LLLT is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
 - (ii) written notice is promptly given to the prospective client.

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

Comment

[1] This Rule was adapted from Lawyer RPC 1.18 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.

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

**TITLE 2. COUNSELOR
LLLT RPC 2.1 ADVISOR**

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

Comment

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

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

LLLT RPC 2.2 [Reserved]

LLLT RPC 2.3 [Reserved]

Comment

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

LLLT RPC 2.4 LLLT SERVING AS THIRD-PARTY NEUTRAL

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

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

Comment

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

TITLE 3. ADVOCATE

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

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

- (1) an abuse of legal procedure, including asserting or controverting a position that is frivolous or lacks a good faith basis in law and fact;
- (2) delay of a proceeding without reasonable and substantial purpose;
- (3) submission of a false statement of fact or law to a tribunal or offering evidence known to be false;
- (4) obstruction of another party's access to evidence or the unlawful alteration, destruction, or concealment of a document or other material having potential evidentiary value;

- (5) falsification of evidence or assisting or inducing false testimony of a witness;
- (6) knowingly disobeying an obligation under the rules of a tribunal; or
- (7) making frivolous discovery requests or failing to reasonably comply with legally proper discovery requests of an opposing party.

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

Comment

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

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

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

LLLT RPC 3.2

[Reserved]

Comment

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

LLLT RPC 3.3

[Reserved]

Comment

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

LLLT RPC 3.4

[Reserved]

Comment

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

LLLT RPC 3.5

[Reserved]

Comment

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

LLLT RPC 3.6

[Reserved]

Comment

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

LLLT RPC 3.7

[Reserved]

Comment

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

LLLT RPC 3.8

[Reserved]

Comment

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

LLLT RPC 3.9

[Reserved]

Comment

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

**TITLE 4. TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS
LLLT RPC 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS**

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

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Comment

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

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

LLLT RPC 4.2 COMMUNICATION WITH PERSON REPRESENTED BY LAWYER

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

Comment

[1] A person who has chosen to be represented by a lawyer should be protected against possible overreaching by another lawyer. See Lawyer RPC 4.2 and Comments to that rule. Rule 4.2 extends to LLLTs the prohibition on communicating with a person represented by a lawyer. This Rule differs from Lawyer RPC 4.2 in that the prohibition is absolute. While a lawyer may be permitted to communicate directly with a person who is represented by another lawyer with the other lawyer's consent, or if authorized to do so by law or court order, there are no exceptions to the prohibition as it applies to LLLTs, because any such communication would put an LLLT in a position of exceeding the authorized scope of the LLLT's practice under APR 28(H). Specifically, APR 28(H)(6) prohibits negotiating a client's legal rights or responsibilities or communicating with another person the client's position, and APR 28(H)(5) prohibits an LLLT from representing a client in court proceedings. In light of these limitations,

there is no circumstance in which an LLLT could communicate with a person represented by a lawyer about the subject matter of the representation without transgressing the APR.

LLLT RPC 4.3 DEALING WITH PERSON NOT REPRESENTED BY LAWYER

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

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

Comment

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

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

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

[4] Although an LLLT is strictly prohibited by paragraph (b) from communicating with a party about the subject matter of the LLLT's representation, an LLLT may have occasion to communicate directly with a nonparty who is assisted by another LLLT. A risk of unwarranted intrusion into a privileged relationship may arise when an LLLT deals with a person who is assisted by another LLLT. Client-LLLT communications, however, are privileged to the same extent as client-lawyer communications. See APR 28(K)(3). An LLLT's ethical duty of confidentiality further protects the LLLT client's right to confidentiality in that professional relationship. See LLLT RPC 1.6(a). When dealing with a person who is assisted by another LLLT, an LLLT must respect these legal rights that protect the client-LLLT relationship.

LLLT RPC 4.4 RESPECT FOR RIGHTS OF THIRD PERSONS

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

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

Comment

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

TITLE 5. LAW FIRMS AND ASSOCIATIONS
LLLT RPC 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND
SUPERVISORY LLLTS

(a) An LLLT partner in a law firm, 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 all LLLTs in the firm conform to the LLLT RPC.

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

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

- (1) the LLLT orders or, with 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 other LLLT practices, or has direct supervisory authority over the other LLLT, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) An LLLT shall be responsible for a lawyer violation of the Lawyer RPC if the LLLT is a partner or has comparable managerial authority 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 5.1 with no substantive changes and applies to LLLTs analogously.

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

[3] Under paragraph (d), when an LLLT with managerial authority in a firm comprised of both lawyers and LLLTs knows of a lawyer's violation of the Lawyer RPC at a time when its

consequences can be avoided or mitigated, reasonable remedial action will ordinarily consist of promptly reporting the violation to one of the firm's lawyers with managerial authority so that the lawyer manager can take appropriate action under Lawyer RPC 5.1(c).

LLLT RPC 5.2 RESPONSIBILITIES OF A SUBORDINATE LLLT

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

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

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

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

- (1) an agreement by an LLLT with the LLLT's firm, partner, or LLLT associate may provide for the payment of money, over a reasonable period of time after the LLLT's death, to the LLLT's estate or to one or more specified persons;
- (2) an LLLT who purchases the practice of a deceased, disabled, or disappeared LLLT or lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that LLLT or lawyer the agreed-upon purchase price;
- (3) an LLLT or LLLT firm may include non-LLLT employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and
- (4) [Reserved.]
- (5) an LLLT authorized to complete unfinished legal business of a deceased LLLT may pay to the estate or other representative of the deceased LLLT that proportion of the total compensation that fairly represents the services rendered by the deceased LLLT.

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

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

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

- (1) a non-LLLT owns any interest therein, except that a fiduciary representative of the estate of an LLLT may hold the stock or interest of the LLLT for a reasonable time during administration;
- (2) a non-LLLT is a corporate director or officer (other than as secretary or treasurer) thereof or occupies the position of similar responsibility in any form of association other than a corporation; or
- (3) a non-LLLT has the right to direct or control the professional judgment of an LLLT.

Comment

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

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

LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF LAW

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

(b) [Reserved.]

(c) [Reserved.]

(d) [Reserved.]

Comment

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

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

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

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

LLLT RPC 5.6 RESTRICTIONS ON RIGHT TO PRACTICE

An LLLT shall not participate in offering or making:

- (a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the rights of an LLLT or lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
- (b) an agreement in which a restriction on the LLLT's right to practice is part of the settlement of a client controversy.

Comment

[1] This Rule was adapted from Lawyer RPC 5.6 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 5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES

- (a) An LLLT shall be subject to the LLLT RPC with respect to the provision of law-related services, as defined in paragraph (b), if the law-related services are provided:
 - (1) by the LLLT in circumstances that are not distinct from the LLLT's provision of legal services to clients; or
 - (2) in other circumstances by an entity controlled by the LLLT individually or with others if the LLLT fails to take reasonable measures to assure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-LLLT relationship do not exist.
- (b) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by anyone except an LLLT or a lawyer.

Comment

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

**LLLT RPC 5.8 MISCONDUCT INVOLVING LLLTs AND LAWYERS NOT
ACTIVELY LICENSED TO PRACTICE LAW**

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

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

- (1) practice law with or in cooperation with such an individual;
- (2) maintain an office for the practice of law in a room or office occupied or used in whole or in part by such an individual;
- (3) permit such an individual to use the LLLT's name for the practice of law;
- (4) practice law for or on behalf of such an individual; or
- (5) practice law under any arrangement or understanding for division of fees or compensation of any kind with such an individual.

Comment

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

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

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

- (1) share fees with a lawyer who is in the same firm as the LLLT;
- (2) form a partnership with a lawyer where the activities of the partnership consist of the practice of law; or
- (3) practice with or in the form of a professional corporation, association, or other business structure authorized to practice law for a profit in which a lawyer owns an interest or serves as a corporate director or officer or occupies a position of similar responsibility.

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

- (1) LLLTs do not direct or regulate any lawyer's professional judgment in rendering legal services;
- (2) LLLTs have no direct supervisory authority over any lawyer;
- (3) LLLTs do not possess a majority ownership interest or exercise controlling managerial authority in the firm; and
- (4) lawyers with managerial authority in the firm expressly undertake responsibility for the conduct of LLLT partners or owners to the same extent they are responsible for the conduct of lawyers in the firm under Lawyer RPC 5.1.

Comment

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

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

TITLE 6. PUBLIC SERVICE

LLLTPRO 6.1 PRO BONO PUBLICO SERVICE

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

- (a) provide legal services without fee or expectation of fee to:
 - (1) persons of limited means or
 - (2) charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

- (b) provide pro bono publico service through:
 - (1) [Reserved.]
 - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
 - (3) participation in activities for improving the law, the legal system or the legal profession.

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

Comment

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

[2] Paragraph (b) of this Rule was adapted from Lawyer RPC 6.1(b) with no substantive changes except that paragraph (b)(1) is reserved. Lawyer RPC 6.1(b)(1) refers to the delivery of pro bono public services to individuals or organizations to secure civil rights, civil liberties or public rights, or to further the organizational purposes of certain not-for-profit organizations and entities. These kinds of services are beyond the scope of a LLLT's authority under APR 28. Accordingly, Rule 6.1(b)(1) is reserved. Otherwise, this Rule applies to LLLTs analogously.

LLLT RPC 6.2 [Reserved]

Comment

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

LLLT RPC 6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

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

- (a) if participating in the decision or action would be incompatible with the LLLT's obligations to a client under Rule 1.7; or
- (b) where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the LLLT.

Comment

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

LLLT RPC 6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

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

Comment

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

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

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

- (1) is subject to Rules 1.7, 1.9(a), and 1.18(c) only if the LLLT knows that the representation of the client involves a conflict of interest, except that those Rules shall not prohibit an LLLT from providing limited legal services sufficient only to determine eligibility of the client for assistance by the program and to make an appropriate referral of the client to another program;
- (2) is subject to Rule 1.10 only if the LLLT knows that another LLLT or lawyer associated with 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 respect to the matter; and
- (3) notwithstanding paragraph (1) and (2), is not subject to Rules 1.7, 1.9(a), 1.10, or 1.18(c) in providing limited legal services within the authorized scope of the LLLT's practice to a client if:
 - (i) any program LLLTs or lawyers representing the opposing clients are screened by effective means from information relating to the representation of the opposing client;
 - (ii) each client is notified of the conflict and the screening mechanism used to prohibit dissemination of information relating to the representation; and
 - (iii) the program is able to demonstrate by convincing evidence that no material information relating to the representation of the opposing client

was transmitted by the personally disqualified LLLTs or lawyers to the LLLT representing the conflicting client before implementation of the screening mechanism and notice to the opposing client.

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

Comment

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

**TITLE 7. INFORMATION ABOUT LEGAL SERVICES
LLLT RPC 7.1 COMMUNICATIONS CONCERNING AN LLLT'S SERVICES**

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

Comment

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

LLLT RPC 7.2 ADVERTISING

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

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

- (1) pay the reasonable cost of advertisements or communications permitted by this Rule;
- (2) pay the usual charges of a legal service plan or a not-for-profit LLLT referral service;
- (3) pay for a law practice in accordance with Rule 1.17; and
- (4) refer clients to a lawyer or to another LLLT pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the LLLT, if

- (i) the reciprocal referral agreement is not exclusive, and
- (ii) the client is informed of the existence and nature of the agreement.

(c) Any communication made pursuant to this Rule shall include the name and office address of at least one LLLT or law firm responsible for its content.

Comment

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

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

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

LLLT RPC 7.3 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

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

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

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

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

(c) [Reserved.]

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

Comment

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

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

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

(b) [Reserved.]

(c) [Reserved.]

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

- (1) be truthful and verifiable and otherwise comply with Rule 7.1;
- (2) identify the group, organization, or association that issued the legal title, credential, or certificate; and
- (3) state that the Supreme Court of Washington does not recognize certification of specialties in the practice of law and that the legal title, credential, or certificate is not a requirement of the LLLT's limited license to practice in the particular fields of law for which the LLLT is licensed.

Comment

[1] An LLLT's license to provide legal services is unique and may not be understood by persons who are not familiar with the limited scope of practice of an LLLT and with the differences between an LLLT and a lawyer. Advertising is designed to help educate the public on the availability of legal services, but advertising by an LLLT may not be false or misleading. *See* Rule 7.1. In order to avoid confusion about the scope of services that an LLLT can provide as distinct from the broader scope of services that a lawyer is authorized to provide, advertising by an LLLT must communicate that an LLLT may deliver legal services only within a limited scope. Accordingly, Rule 7.4(a) differs from Lawyer RPC 7.4(a) in that it requires that all advertising by an LLLT communicate relevant facts concerning the scope of the LLLT's license and expressly prohibits communications that state or imply that the LLLT's license exceeds that scope.

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

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

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

LLLT RPC 7.5 FIRM NAMES AND LETTERHEADS

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

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers or LLLTs in an

office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

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

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

Comment

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

[2] An LLLT’s license to provide legal services is unique and may not be understood by persons who are not familiar with the limited scope of an LLLT’s practice and with the differences between an LLLT and a lawyer. A trade name is a brand and is therefore similar to forms of advertising and is often used in advertising. A trade name must not be false or misleading. *See* Rules 7.1 and 7.4. In order to avoid confusion, trade names should communicate the nature of the legal services that a licensed practitioner or firm can deliver. Rule 7.5(a) requires that any trade name communicate relevant facts concerning the scope of the legal services that can be delivered by the legal professional or firm.

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

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

Comment

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

**TITLE 8. MAINTAINING THE INTEGRITY OF THE PROFESSION
LLLT RPC 8.1 LIMITED LICENSURE AND DISCIPLINARY MATTERS**

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

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

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

Comment

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

LLLT RPC 8.2 JUDICIAL AND LEGAL OFFICIALS

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

(b) [Reserved.]

Comment

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

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

LLLT RPC 8.3 REPORTING PROFESSIONAL MISCONDUCT

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

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

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

Comment

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

LLLT RPC 8.4 MISCONDUCT

It is professional misconduct for an LLLT to:

- (a) violate or attempt to violate the LLLT RPC, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the LLLT's honesty, trustworthiness, or fitness as an LLLT in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the LLLT Rules of Professional Conduct or other law;
- (f) knowingly assist
 - (1) a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law or
 - (2) a lawyer in conduct that is a violation of the lawyer Rules of Professional Conduct or other law;
- (g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status, where the act of discrimination is committed in connection with the LLLT's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, or marital status. This Rule shall not limit the ability of an LLLT to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;
- (h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward LLLTs, lawyers, judges, other parties, witnesses, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. This Rule does not restrict an LLLT from assisting a client to advance material factual or legal issues or arguments.

- (i) commit any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of his or her conduct as an LLLT, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;
- (j) willfully disobey or violate a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear;
- (k) violate his or her oath as an LLLT;
- (l) violate a duty or sanction imposed by or under the LLLT REC in connection with a disciplinary matter; including, but not limited to, the duties catalogued at LLLT REC 1.5;
- (m) [Reserved];
- (n) engage in conduct demonstrating unfitness to practice law; or
- (o) violate or attempt to violate APR 28 (F)-(H) or Appendix APR 28 Regulation 2.

Comment

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

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

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

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

LLLT RPC 8.5 DISCIPLINARY AUTHORITY

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

(b) [Reserved.]

(c) [Reserved.]

Comment

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

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

[Adopted February 3, 2015.]

APPENDIX [Reserved]

Please note that the following Supreme Court of Washington Order, dated May 1, 2019, is not effective until official publication.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF PROPOSED AMENDMENTS)
TO APR 28—LIMITED PRACTICE RULE FOR)
LIMITED LICENSE LEGAL TECHNICIANS; APR)
28 APPENDIX—REGULATION 2 PRACTICE)
AREAS—SCOPE OF PRACTICE AUTHORIZED)
BY LIMITED LICENSE LEGAL TECHNICIAN)
RULE; APR 28 APPENDIX REGULATION 3—)
EDUCATION REQUIREMENTS FOR LLLT)
APPLICANTS AND APPROVAL OF)
EDUCATIONAL PROGRAMS; RULES OF)
PROFESSIONAL CONDUCT (RPC) 1.0B—)
ADDITIONAL WASHINGTON TERMINOLOGY;)
RPC 1.17—SALE OF LAW PRACTICE; RPC 4.3—)
DEALING WITH A PERSON NOT REPRESENTED)
BY A LAWYER; RPC 5.8—MISCONDUCT)
INVOLVING LAWYERS AND LLLTs NOT)
ACTIVELY LICENSED TO PRACTICE LAW; RPC)
8.1—BAR ADMISSION AND DISCIPLINARY)
MATTERS; AND LLLT RULES OF)
PROFESSIONAL CONDUCT (LLLT RPC) LLLT)
RPC 1.0B—ADDITIONAL TERMINOLOGY; LLLT)
RPC 1.2—SCOPE OF REPRESENTATION AND)
ALLOCATION OF AUTHORITY BETWEEN)
CLIENT AND LLLT; LLLT RPC 1.5—FEES; LLLT)
RPC 1.17; LLLT RPC 1.8 CONFLICT OF)
INTEREST: CURRENT CLIENTS: SPECIFIC)
RULES; LLLT RPC 1.15A—SAFEGUARDING)
POLICY; LLLT RPC 1.16—DECLINING OR)
TERMINATING REPRESENTATION; LLLT RPC)
1.7 SALE OF A LAW PRACTICE; LLLT RPC 2.1;)
LLLT RPC 2.3 [RESERVED]; LLLT RPC 3.1—)
ADVISING AND ASSISTING CLIENTS IN)
PROCEEDINGS BEFORE A TRIBUNAL; LLLT)
RPC 3.6-3.9 [RESERVED]; LLLT RPC 4.1—)
TRUTHFULNESS IN STATEMENTS TO OTHERS;)
LLLT RPC 4.2—COMMUNICATION WITH)
PERSON REPRESENTED BY LAWYER; LLLT RPC)
4.3—DEALING WITH PERSON NOT)
REPRESENTED BY LAWYER; LLLT RPC 5.4—)
PROFESSIONAL INDEPENDENCE OF A LLLT;)
LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF)
LAW; LLLT RPC 8.1—LICENSING, ADMISSION,)
AND DISCIPLINARY MATTERS; LLLT RPC 8.4—)
MISCONDUCT)

ORDER

NO. 25700-A-1258



IN THE MATTER OF PROPOSED AMENDMENTS TO APR 28—LIMITED PRACTICE
RULE FOR LIMITED LICENSE LEGAL TECHNICIANS, et al.

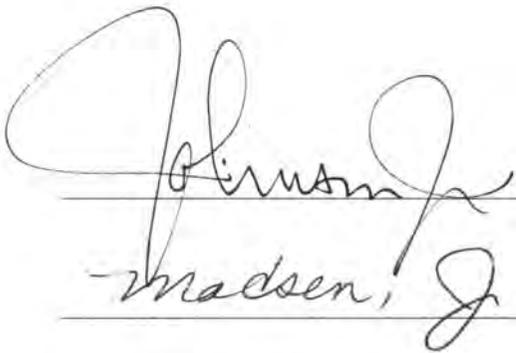
The Washington State Supreme Court Limited License Legal Technician Board, having recommended the expeditious adoption of the proposed amendments to APR 28, APR 28 Appendix, RPCs and LLLT RPCs, and the Court having considered the amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

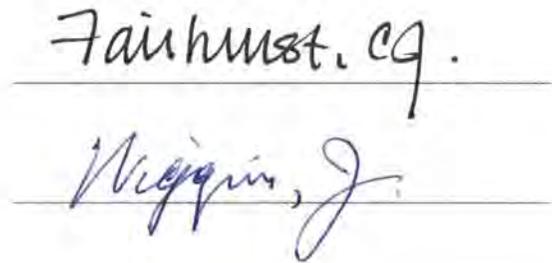
ORDERED:

- (a) That the proposed amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the proposed amendments will be published expeditiously in the Washington Reports and will become effective upon publication.

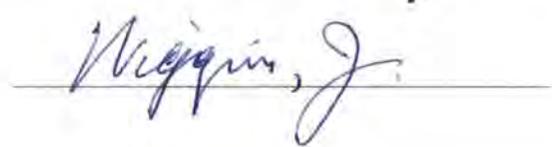
DATED at Olympia, Washington this 1st day of May, 2019.



Madsen, J.



Fairhurst, C.J.



Higgins, J.



Steyer, J.

In re Proposed Amendments to Limited License Legal Technician Rules

GONZÁLEZ, J. (dissenting)—I cannot join the court’s decision today. Any decision to expand the scope of the Limited License Legal Technician (LLLT) program requires careful evaluation of the program’s sustainability, its potential benefits, and establishment of a methodology that will both ensure adherence to rules of professional conduct and ensure adequate client protection. We have the opportunity to do this as we are undertaking a comprehensive review of the structure of the Bar. Ironically, the majority fundamentally changes the LLLT program when, at the same time, we have required the Board of Governors to defer action on any proposed bylaw amendments concerning the role of LLLTs in the governance of the bar. Because the majority’s ill-advised decision is a mistake and because it becomes effective on publication, I respectfully dissent.

The LLLT program was conceived as an effort to address the unmet civil legal needs of low-income Washingtonians. We ultimately determined that the area that needed most attention was family law and that assistance with preparing orders and assisting individuals with filling out forms would make a significant difference. It did not take long to realize that the business model adopted by the

In re Proposed Amendments to Limited License Legal Technician Rules
Dissent from May 1, 2019 Order by González, J.

LLLT program was incompatible with meeting the needs of low-income individuals and so the program shifted to becoming a moderate means effort.

Without any evidence of success, the program has begun expanding the scope of legal services that LLLTs are allowed to provide.

LLLTs were never meant to legally advocate on behalf of a client. The majority's hasty decision fundamentally alters the role of LLLTs, allowing LLLTs to immediately begin negotiating with opposing counsel, attending depositions, and appearing and responding to questions from the court without adequate legal training. Moreover, there is no training for judges or attorneys to accommodate this significant and immediate expansion of authority.

Further, even with this expansion, I have serious doubts that the LLLT program is financially sustainable for the Bar or provides a sustainable practice area for LLLTs themselves. It is entirely possible that we could tweak the program into financial sustainability, but we have been presented with no business plan or other meaningful evidence of how that might be done in a way that protects the public. Until the evidence supports a conclusion that the program can be sustainable without harm to the public, I am opposed to expanding its scope. The significant financial burden of the LLLT program on the Washington State Bar Association is not justified without a showing that there exists a sustainable business plan allowing LLLTs to meet the population's unmet legal needs.

In re Proposed Amendments to Limited License Legal Technician Rules
Dissent from May 1, 2019 Order by González, J.

We must address the issue of unmet legal needs, but we must do it wisely and carefully. I respectfully dissent.

González, J.
Su,
Quinn, J.
Scott McLeod, J.

SUGGESTED AMENDMENTS TO APR 28

1 **TITLE**

2 **ADMISSION AND PRACTICE RULES (APR)**

3 **RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL**
4 **TECHNICIANS**

5 **A. Purpose.**

6 [Unchanged.]

7 **B. Definitions.** For purposes of this rule, the following definitions will apply:

8 (1)-(3) [Unchanged.]

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

14 (5)-(10) [Unchanged.]

15 **C. Limited License Legal Technician Board**

16 [Unchanged.]

17 **D. [Reserved.]**

18 **E. [Reserved.]**

19 **F. Scope of Practice Authorized by Limited Practice Rule.** The Limited License Legal
20 Technician shall ascertain whether the issue is within the defined practice area for which the
21 LLLT is licensed. ~~If it is not, the LLLT shall not render any legal assistance provide the~~
22 ~~services required on this issue and shall advise inform the client to that the client should seek the~~
23 ~~services of a lawyer. If the issue is within the defined practice area, the LLLT may render the~~
24 ~~following limited legal assistance to a pro se client undertake the following:~~

25 (1)-(2) [Unchanged.]

26 (3) Inform the client of and assist with applicable procedures for proper service of process and

SUGGESTED AMENDMENTS TO APR 28

1 filing of legal documents;

2 (4) [Unchanged.]

3 (5) Review documents or exhibits that the client has received ~~from the opposing party~~, and
4 explain them to the client;

5 (6)-(7) [Unchanged.]

6 (8) Draft letters setting forth legal opinions that are intended to be read by persons other than the
7 client; ~~and~~

8 (9) Draft documents beyond what is permitted in paragraph (6), if the work is reviewed and
9 approved by a Washington lawyer;

10 (10) Advise the client as to other documents that may be necessary to the client's case, and
11 explain how such additional documents or pleadings may affect the client's case;

12 (11) Assist the client in obtaining necessary ~~documents or~~ records, such as birth, death, or
13 marriage certificates.

14 (12) Communicate and negotiate with the opposing party or the party's representative regarding
15 procedural matters, such as setting court hearings or other ministerial or civil procedure matters;

16 (13) Negotiate the client's legal rights or responsibilities provided that the client has given
17 written consent defining the parameters of the negotiation prior to the onset of the negotiation;
18 and

19 (14) Render other types of legal assistance when specifically authorized by the scope of practice
20 regulations for the approved practice area in which the LLLT is licensed.

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

22 (1) [Unchanged.]

23 (2) Prior to the performance of the services for a fee, the Limited License Legal Technician shall
24 enter into a written contract with the client, signed by both the client and the Limited License
25 Legal Technician, that includes the following provisions:

26 (a) An explanation of the services to be performed, including a conspicuous statement that the

SUGGESTED AMENDMENTS TO APR 28

1 Limited License Legal Technician may not ~~appear or~~ represent the client in court, formal
2 administrative adjudicative proceedings, or other formal dispute resolution process or negotiate
3 the client's legal rights or responsibilities, unless permitted under GR 24(b) or specifically
4 authorized by the scope of practice regulations for the approved practice area in which the LLLT
5 is licensed;

6 (b)-(g) [Unchanged.]

7 (3) [Unchanged.]

8 (4) A document prepared by an LLLT shall include the LLLT's name, signature, and license
9 number beneath the signature of the client. LLLTs do not need to sign sworn statements or
10 declarations of the client or a third party, and do not need to sign documents that do not require a
11 signature by the client, such as information sheets.

12 **H. Prohibited Acts.**

13 In the course of dealing with clients or prospective clients, a Limited License Legal Technician
14 shall not:

15 (1)-(4) [Unchanged.]

16 (5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or
17 other formal dispute resolution process, unless permitted by GR 24 or specifically authorized by
18 the scope of practice regulations for the approved practice area in which the LLLT is licensed;

19 ~~(6) Negotiate the client's legal rights or responsibilities, or communicate with another person the~~
20 ~~client's position or convey to the client the position of another party, unless permitted by GR~~
21 ~~24(b);~~

22 ~~(67)~~ Provide services to a client in connection with a legal matter in another state, unless
23 permitted by the laws of that state to perform such services for the client;

24 ~~(78)~~ Represent or otherwise provide legal or law related services to a client, except as permitted
25 by law, this rule, or associated rules and regulations;

26 (8) Conduct or defend a deposition;

SUGGESTED AMENDMENTS TO APR 28

1 (9) Initiate or respond to an appeal to an appellate court; and

2 (109) Otherwise violate the Limited License Legal Technician Rules of Professional Conduct.

3 **I. – O.**

4 [Unchanged.]

5
6 **APPENDIX APR 28. REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL**
7 **TECHNICIAN BOARD**

8 **REGULATION 1. [Reserved.]**

9 **REGULATION 2. Approved Practice Areas—Scope of Practice Authorized by Limited**
10 **License Legal Technician Rule**

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

13 **A. Issues Beyond the Scope of Authorized Practice.**

14 [Unchanged.]

15 1.- 4. [Unchanged.]

16 After an issue beyond the LLLT's scope of practice has been identified, if the client engages a
17 lawyer with respect to the issue, then an LLLT may prepare a document related to the issue only
18 if a lawyer acting on behalf of the client has provided appropriate documents and written
19 instructions for the LLLT as to whether and how to proceed with respect to the issue. If the client
20 does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that
21 relate to the issue if:

22 ~~1. t~~The client informs the LLLT how the issue is to be determined and instructs the LLLT how to
23 complete the relevant portions of the document, and

24 ~~2. a~~Above the LLLT's signature at the end of the document, the LLLT inserts a statement to the
25 effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's
26 scope of practice and completed any portions of the document with respect to any such issues at

SUGGESTED AMENDMENTS TO APR 28

1 the direction of the client.

2 ~~The LLLT may proceed in the manner described above only if no other defined prohibitions~~
3 ~~apply.~~

4 **B. Domestic Relations.**

5 1. *Domestic Relations, Defined.* For the purposes of these regulations, domestic relations shall
6 include only the following actions: (a) divorce and dissolution~~child support modification actions,~~
7 (b) parenting and support~~dissolution actions,~~ (c) parentage or paternity~~domestic violence actions,~~
8 ~~except as prohibited by Regulation 2(B)(3),~~ (d) child support modification~~committed intimate~~
9 ~~relationship actions only as they pertain to parenting and support issues,~~ (e) parenting plan
10 modification~~legal separation actions,~~ (f) domestic violence protection orders~~major parenting~~
11 ~~plan modifications when the terms are agreed to by the parties before the onset of the~~
12 ~~representation by the LLLT,~~ (g) committed intimate relationships only as they pertain to
13 parenting and support issues~~minor parenting plan modifications,~~ (h) legal separation~~parenting~~
14 ~~and support actions,~~ (i) nonparental and third party custody~~paternity actions,~~ and (j) other
15 protection or restraining orders arising from a domestic relations case, and (k) relocation actions,
16 ~~except as prohibited by Regulation 2(B)(3).~~

17 2. *Scope of Practice for LLLTs—Domestic Relations.* LLLTs licensed in domestic relations may
18 ~~render~~provide legal services to clients as provided in APR 28(F) and this regulation, except as
19 prohibited by APR 28(H) and Regulation 2(B)(3).

20 (a) Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may
21 advise and assist clients with (1) to initiating and responding to actions and related (2) regarding
22 motions, discovery, trial preparation, temporary and final orders, and modifications of orders.

23 (b) LLLT legal services regarding the division of real property shall be limited to matters where
24 the real property is a single family residential dwelling with owner equity less than or equal to
25 twice the homestead exemption (see RCW 6.13.030). LLLTs shall use the form for real property
26 division as approved by the LLLT Board.

SUGGESTED AMENDMENTS TO APR 28

1 (c) LLLTs may advise as to the allocation of retirement assets for defined contribution plans with
2 a value less than the homestead exemption, and as provided in United States Internal Revenue
3 Code (IRC) sections 401a, 401k, 403b, and 457; and Individual Retirement Accounts as set forth
4 in IRC section 408.

5 (d) LLLTs may include language in a decree of dissolution awarding retirement assets as
6 described in APR 28 Regulation 2(B)(2)(c) when the respondent defaults, when the parties agree
7 on the award or when the court awards the assets following trial. The award language in the
8 decree shall identify (1) the party responsible for having the qualified domestic relations order
9 (QDRO) or supplemental order prepared and by whom, (2) how the cost of the QDRO or
10 supplemental order preparation is to be paid, (3) by what date the QDRO or supplemental order
11 must be prepared, and (4) the remedy for failure to follow through with preparation of the QDRO
12 or supplemental order.

13 (e) LLLTs may prepare paperwork and accompany and assist clients in dispute resolution
14 proceedings including mediation, arbitration, and settlement conferences where not prohibited by
15 the rules and procedures of the forum.

16 (f) LLLTs, when accompanying their clients, may assist and confer with their pro se clients at
17 depositions.

18 (g) LLLTs may present to a court agreed orders, uncontested orders, default orders, and
19 accompanying documents.

20 (h) LLLTs, when accompanying their clients, may assist and confer with their pro se clients and
21 respond to direct questions from the court or tribunal regarding factual and procedural issues at
22 the hearings listed below:

23 i. domestic violence protection orders and other protection or restraining orders arising from a
24 domestic relations case;

25 ii. motions for temporary orders, including but not limited to temporary parenting plans, child
26 support, maintenance, and orders to show cause;

SUGGESTED AMENDMENTS TO APR 28

1 iii. enforcement of domestic relations orders;

2 iv. administrative child support;

3 v. modification of child support;

4 vi. adequate cause hearings for nonparental custody or parenting plan modifications;

5 vii. reconsiderations or revisions;

6 viii. trial setting calendar proceedings with or without the client when the LLLT has confirmed

7 the available dates of the client in writing in advance of the proceeding.

8 3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28(H), in the course of
9 rendering legal services to~~dealing with~~ clients or prospective clients, LLLTs licensed to practice
10 in domestic relations:

11 a. shall not render legal services to~~represent~~ more than one party in any domestic relations
12 matter;

13 b. shall not render~~provide~~ legal services in:

14 i. ~~in-de facto parentage or nonparental custody actions; and~~

15 ii. actions that involve~~if~~ 25 U.S.C. chapter 21, the Indian Child Welfare Act of 1978, or chapter
16 13.38 RCW, the Washington State Indian Child Welfare Act, ~~applies to the matter;~~

17 ~~e. shall not advise or assist clients regarding:~~

18 iii. division or conveyance of owned real estate, formal business entities, commercial property,
19 or residential real property except as permitted by Regulation 2(B)~~or retirement assets that~~
20 ~~require a supplemental order to divide and award, which includes division of all defined benefit~~
21 ~~plans and defined contribution plans;~~

22 iv. preparation of QDROs and supplemental orders dividing retirement assets beyond what is
23 prescribed in Regulation 2(B)(2)(d);

24 v. any retirement assets whereby the decree effectuates the division or the implementation of the
25 division of the asset;

26 vii. bankruptcy, including obtaining a stay from bankruptcy;

SUGGESTED AMENDMENTS TO APR 28

1 ~~viii.~~ disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the
2 pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent
3 him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided
4 written instructions for the LLLT as to whether and how to proceed regarding the division of
5 debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;

6 ~~iv. antiharassment orders, criminal no contact orders, antistalking orders, and sexual assault
7 protection orders in domestic violence actions;~~

8 ~~viii. jointly acquired committed intimate relationship property issues in committed intimate
9 domestic relationship actions;~~

10 ~~vix. major parenting plan modifications and nonparental custody actions beyond the adequate
11 cause hearing unless the terms are were agreed to by the parties or one party defaults before the
12 onset of the representation by the LLLT;~~

13 ~~xvii. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under
14 chapter 26.27 RCW or Uniform Interstate Family Support Act issues under chapter 26.21A
15 RCW unless and until jurisdiction has been resolved;~~

16 ~~vixi. objections or responses in contested relocation actions objections to relocation petitions,
17 responses to objections to relocation petitions, or temporary orders in relocation actions; and~~

18 ~~ixii. final revised parenting plans in relocation actions except in the event of default or where the
19 terms have been agreed to by the parties.~~

20 ~~d. shall not appear or participate at the taking of a deposition; and~~

21 ~~e. shall not initiate or respond to an appeal to an appellate court.~~

22 **REGULATION 3: Education Requirements for LLLT Applicants and Approval of** 23 **Educational Programs**

24 An applicant for admission as an LLLT shall satisfy the following education requirements:

25 **A. Core Curriculum.**

26 [Unchanged.]

SUGGESTED AMENDMENTS TO APR 28

1 **B. Practice Area Curriculum**

2 [Unchanged.]

3 **C. Required Supplemental Education.** The LLLT Board has discretion to require all LLLTs to
4 complete supplemental education in order to maintain their licenses due to changes in the
5 permitted scope of practice for LLLTs. The LLLT Board shall provide notice to LLLTs of the
6 supplemental education requirement and the deadline for completion of the requirement,
7 allowing at least 12 months to complete the required supplemental education. LLLTs may be
8 administratively suspended pursuant to the procedures set forth in APR 17 if they fail to comply
9 with the supplemental education requirements by the stated deadline.

10
11 **REGULATION 4- 20**

12 [Unchanged.]

**AMENDMENTS TO
RULES OF PROFESSIONAL CONDUCT**

1 **TITLE**

2 RULES OF PROFESSIONAL CONDUCT (RPC)

3 **RPC 1.0B ADDITIONAL WASHINGTON TERMINOLOGY**

4 (a) [Unchanged.]

5 (b) “Legal practitioner” denotes a lawyer or a limited license legal technician licensed under
6 ~~APR 28.~~

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

12 (d)-(e) [Unchanged.]

13 **Washington Comments (1-3)**

14 [1]-[2] [Unchanged.]

15 [3] LLLTs are authorized to engage in the limited practice of law in explicitly defined areas.

16 Unlike a lawyer, an LLLT may perform only limited services for a client. ~~See APR 28(F), (H).~~

17 A lawyer who interacts with an LLLT about the subject matter of that LLLT’s representation or

18 who interacts with an otherwise pro se client represented by an LLLT should be aware of the

19 scope of the LLLT’s license and the ethical obligations imposed on an LLLT by the LLLT RPC.

20 ~~See APR 28(F) (H); Appendix APR 28 Regulation 2 and related regulations;~~ LLLT RPC 1.2, 1.5,

21 4.2, 4.3. See also RPC 5.10.

22 **RPC 1.17 SALE OF LAW PRACTICE**

23 (a)-(d) [Unchanged.]

24 Comment

25 [1]-[18] [Unchanged.]

26 [19] ~~An LLLT is not authorized to purchase a law practice that requires provision of legal~~

**AMENDMENTS TO
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1 ~~services outside the scope of the LLLT's practice. See APR 28(F) (H); Appendix APR 28~~
2 ~~Regulation 2. Consequently, There are some restrictions on a lawyer's ability to sell a law~~
3 ~~practice to an LLLT when the legal services provided are outside the scope of the LLLT's~~
4 ~~practice. As such, a lawyer may not participate in or facilitate such a sale that is in violation of~~
5 ~~LLLT RPC 1.17. See LLLT RPC 1.17 cmt. [2]; RPC 8.4(f)(2).~~

6 **RPC 4.3 DEALING WITH PERSON NOT REPRESENTED BY A LAWYER**

7 [Unchanged.]

8 **Comment**

9 [1]-[2] [Unchanged.]

10 **Additional Washington Comments (3-6)**

11 [3]-[4] [Unchanged.]

12 [5] For purposes of this Rule, a person who is assisted by an LLLT is not represented by a
13 lawyer and is an unrepresented person. See APR 28(B)(4).

14 [6] When a lawyer communicates with an LLLT who represents an opposing party about the
15 subject of the representation, the lawyer should be guided by an understanding of the limitations
16 imposed on the LLLT by APR 28, ~~related Regulations(H)(6) (an LLLT shall not “negotiate the~~
17 ~~client's legal rights or responsibilities, or communicate with another person the client's position~~
18 ~~or convey to the client the position of another party”)~~ and the LLLT RPC. The lawyer should
19 further take care not to overreach or intrude into privileged information. APR 28(K)(3) (“The
20 Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the
21 client shall apply to the Limited License Legal Technician-client relationship to the same extent
22 as it would apply to an attorney-client relationship.”)

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

25 (a)-(b) [Unchanged.]

26 **Washington Comment**

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1 [1] [Unchanged.]

2
3 [2] The prohibitions in paragraph (b) of this Rule apply to suspensions, revocations, and
4 voluntary cancellations in lieu of discipline under the disciplinary procedural rules applicable to
5 LLLTs. See Rules for Enforcement of Limited License Legal Technician LLLT Rules for
6 Enforcement of Conduct (RECELLLTC).

7 **RPC 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS**

8 An applicant for admission to the Bar, or a lawyer in connection with an application for
9 reinstatement or admission to the Bar or a disciplinary matter involving a legal practitioner-bar
10 admission, reinstatement application, or LLLT limited licensure, or in connection with a lawyer or
11 LLLT disciplinary matter, shall not:

12 **(a)-(b)** [Unchanged.]

13 **Comment**

14 [1] – [5] [Unchanged.]

**AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES
OF PROFESSIONAL CONDUCT**

TITLE

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

PREAMBLE AND SCOPE

PREAMBLE: An LLLT's Responsibilities.

[1] [Unchanged.]

[2] As a representative of clients within a limited scope, an LLLT performs various functions.

As advisor, an LLLT provides a client with an informed understanding of the client's legal rights

and obligations and explains their practical implications. As an evaluator, an LLLT acts by

examining a client's legal affairs and reporting about them to the client or to others. ~~While an~~

~~LLLT is not authorized to act as advocate or negotiator,~~ To the extent an LLLT is allowed to act

as an advocate or as a negotiator under APR 28, an LLLT conscientiously acts in the best interest

of the client, and seeks a result that is advantageous to the client but consistent with the

requirements of honest dealings with others.

[3]-[13] [Unchanged.]

SCOPE

[Unchanged.]

LLLT RPC 1.0B ADDITIONAL TERMINOLOGY

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

(b) [Unchanged.]

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

(d) [Unchanged.]

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

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

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

6 (g) "~~LLLT RECELLLTC~~" denotes the Washington Supreme Court's Rules for Enforcement
7 of Limited License Legal Technician Rules for Enforcement of Conduct.

8 (h) [Unchanged.]

9 Comment

10 [1] – [3] [Unchanged.]

11 LLLT RPC 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF 12 AUTHORITY BETWEEN CLIENT AND LLLT

13 (a) Subject to paragraphs (c), (d), and (g), an LLLT shall abide by a client's decisions
14 concerning the objectives of representation and, as required by Rule 1.4, shall consult with the
15 client as to the means by which they are to be pursued. An LLLT may take such action on behalf
16 of the client as is impliedly authorized to carry out the representation. An LLLT shall abide by a
17 client's decision whether to settle a matter.

18 (b) [Unchanged.]

19 (c) An LLLT must limit the scope of the representation and provide disclosures informing a
20 potential client as required by these Rules and APR 28.

21 (d)-(g) [Unchanged.]

22 Comment

23 [1] [Unchanged.]

24 [2] ~~Negotiation on behalf of a client and representation in court are beyond the authorized~~
25 ~~scope of an LLLT's practice. See APR 28(H). Accordingly, p~~Paragraph (a) was modified from
26 the Lawyer RPC to exclude references to ~~settlements and criminal cases, and paragraph (d) was~~

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 modified from the Lawyer RPC to exclude (and therefore prohibit) an LLLT from discussing with
2 a client the legal consequences of any proposed criminal or fraudulent conduct and assisting a
3 client in determining the validity, scope, meaning, or application of the law with respect to any
4 such conduct. In circumstances where a client has engaged or may engage in conduct that the
5 LLLT knows is criminal or fraudulent, the LLLT shall not provide services related to such
6 conduct and shall inform the client that the client should seek the services of a lawyer.

7 [3] Unlike a lawyer, an LLLT may perform only limited services for a client. ~~Under APR~~
8 ~~28(G)(3), b~~Before performing any services for a fee, an LLLT must enter into a written contract
9 with the client as required by APR 28(G)(2), signed by both the client and the LLLT, that includes
10 the following: (a) an explanation of the services to be performed, including a conspicuous
11 statement that the LLLT may not appear or represent the client in court, formal administrative
12 adjudicative proceedings, or other formal dispute resolution process, or negotiate the client's legal
13 rights or responsibilities, unless permitted under GR 24(b); (b) identification of all fees and costs
14 to be charged to the client for the services to be performed; (c) a statement that upon the client's
15 request, the LLLT shall provide to the client any documents submitted by the client to the LLLT;
16 (d) a statement that the LLLT is not a lawyer and may only perform limited legal services (this
17 statement shall be on the first page of the contract in minimum twelve point bold type print); (e)
18 a statement describing the LLLT's duty to protect the confidentiality of information provided by
19 the client and the LLLT's work product associated with the services sought or provided by the
20 LLLT; (f) a statement that the client has the right to rescind the contract at any time and receive
21 a full refund of unearned fees (this statement shall be conspicuously set forth in the contract); and
22 (g) any other conditions to the LLLT's services that are required by the rules and regulations of
23 the Limited License Legal Technician Board.

24 [4] Additional requirements concerning the authorized scope of an LLLT's practice are
25 imposed by APR 28(F). An LLLT must ascertain whether the issue is within the defined
26 practice area for which the LLLT is licensed. If not, the LLLT shall not provide the services

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 ~~required~~ render any legal assistance on the issue and must ~~inform~~ advise the client ~~to that the client~~
2 ~~should~~ seek the services of a lawyer. If the issue does lie within the defined practice area for
3 which the LLLT is licensed, then the LLLT is authorized to ~~undertake~~ render the services that are
4 enumerated in APR 28(F). ~~Those services include only the following: (a) obtain relevant facts~~
5 ~~and explain the relevancy of such information to the client; (b) inform the client of applicable~~
6 ~~procedures, including deadlines, documents which must be filed, and the anticipated course of~~
7 ~~the legal proceeding; (c) inform the client of applicable procedures for proper service of process~~
8 ~~and filing of legal documents; (d) provide the client with self help materials prepared by a~~
9 ~~Washington lawyer or approved by the Limited License Legal Technician Board, which contain~~
10 ~~information about relevant legal requirements, case law basis for the client's claim, and venue~~
11 ~~and jurisdiction requirements; (e) review documents or exhibits that the client has received from~~
12 ~~the opposing side, and explain them to the client; (f) select, complete, file, and effect service of~~
13 ~~forms that have been approved by the State of Washington, either through a governmental~~
14 ~~agency or by the Administrative Office of the Courts or the content of which is specified by~~
15 ~~statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the~~
16 ~~Limited License Legal Technician Board; and advise the client of the significance of the selected~~
17 ~~forms to the client's case; (g) perform legal research; (h) draft legal letters and documents~~
18 ~~beyond what is permitted in (f) if the work is reviewed and approved by a Washington lawyer;~~
19 ~~(i) advise a client as to other documents that may be necessary to the client's case, and explain~~
20 ~~how such additional documents or pleadings may affect the client's case; and (j) assist the client~~
21 ~~in obtaining necessary documents, such as birth, death, or marriage certificates.~~

22 [5] An LLLT must personally perform the authorized services for the client and may not
23 delegate those services to a person who is not either an LLLT or a lawyer. This prohibition,
24 however, does not prevent a person who is neither an LLLT nor a lawyer from performing
25 translation services. APR 28(G)(~~2~~1).

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 [6] An LLLT may not provide services that exceed the scope of the LLLT's authority under
2 APR 28. If an issue arises for which the client needs services that exceed the scope of the LLLT's
3 authority, the LLLT must inform that client that the client should seek the services of a lawyer.
4 APR 28(G)(5).

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

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

25 LLLT RPC 1.5 FEES

26 (a) – (f) [Unchanged.]

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 Comment

2 [1]-[3] [Unchanged.]

3 [4] Unlike a lawyer, an LLLT is required by APR 28(G)(32) to enter into a written contract
4 with the client before the LLLT begins to perform any services for a fee that includes, among
5 other things, identification of all fees and costs to be charged to the client for the services to be
6 performed. The provisions concerning a flat fee described in (f)(2) of this Rule, if applicable,
7 should be included in that contract. The contract must be signed by both the client and the LLLT
8 before the LLLT begins to perform any services for a fee. ~~See Comment [2] to Rule 1.2 for other~~
9 ~~provisions that are to be included in the contract.~~

10 [5] [Unchanged.]

11 LLLT RPC 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

12 (a) - (m) [Unchanged.]

13 Comment

14 [1]-[2] [Unchanged.]

15 [3] ~~LLLTs may not advocate for, or appear in court on behalf of, a client.~~ LLLTs will have
16 no role in class action litigation and Rule 1.8(e)(2) is accordingly reserved in this Rule.
17 LLLT RPC 1.8(e) does not authorize activities that are beyond the scope of the LLLT's
18 limited license. Nothing in Rule 1.8(e) is intended to prohibit lawyer members of a firm
19 with which an LLLT is associated from engaging in conduct permitted by Lawyer RPC
20 1.8(e)(2).

21 [4] Rule 1.8(g) is reserved. LLLTs ~~are not permitted to do~~ not engage in the making of
22 aggregate settlements, or aggregated agreements as to guilty or nolo contendere pleas in
23 criminal cases. Nothing in Rule 1.8(g) is intended to prohibit lawyer members of a firm
24 with which an LLLT is associated from participating in such settlements if permitted by
25 the Lawyer RPC.

26 [5]-[9] [Unchanged.]

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LLLT RPC 1.15A SAFEGUARDING PROPERTY

(a)-(h) [Unchanged.]

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

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

(2)-(3) [Unchanged.]

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

Comment

[1] – [2] [Unchanged.]

LLLT RPC 1.16 DECLINING OR TERMINATING REPRESENTATION

(a) – (d) [Unchanged.]

Comment

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[1] This Rule was adapted from Lawyer RPC 1.16 with no substantive changes except to reflect that LLLTs the limited scope of representation that an LLLT provides to pro se clients and that an LLLT does not enter a notice of appearance. ~~are not authorized to represent clients in court or to advocate for clients.~~ For this reason, paragraph (c) is reserved ~~and references to litigation or proceedings before a tribunal that appear in Lawyer RPC 1.16 do not apply and have been omitted from this Rule.~~ Otherwise, ~~this Rule~~ Lawyer RPC 1.16 applies to LLLTs analogously.

LLLT RPC 1.17 SALE OF LAW PRACTICE

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

(a)-(c) [Unchanged.]

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

Comment

[1] [Unchanged.]

[2] A law firm consisting solely of LLLT owners is not authorized to purchase a law practice that includes client matters requiring provision of legal services outside the authorized LLLT scope of practice or defined practice area(s). See APR 28 and related Regulations.

LLLT RPC 2.1 ADVISOR

[Unchanged.]

Comment

[1] [Unchanged.]

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

LLLT RPC 2.3 [Reserved]

Comment

**AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES
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[1] Lawyer RPC 2.3 pertains to a lawyer providing an evaluation of a matter affecting a client for the use of someone other than the client. ~~Unlike lawyers, LLLTs are not authorized to communicate the client's position to third parties. Drafting an opinion letter for the purposes of its use with a third party is the same as communicating the client's position to a third party and is prohibited by APR 28(H)(6). If the need for an evaluation arises in an LLLT's authorized scope of practice under APR 28, an LLLT should look to Lawyer RPC 2.3 for guidance. Accordingly, this Rule is reserved.~~

**LLLTPC 3.1 ADVISING AND ASSISTING CLIENTS IN PROCEEDINGS BEFORE
A TRIBUNAL**

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

(1)-(5) [Unchanged.]

(6) knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; or

(7) [Unchanged.]

(b) [Unchanged.]

Comment

[1] This Rule is substantially different from Lawyer RPC 3.1 because the role of the LLLTs as an advocate is limited. ~~are not authorized to represent clients in the proceedings of a tribunal. Title 3 of the Lawyer RPC addresses a lawyer's duties as an advocate when representing a client in the proceedings of a tribunal. Because APR 28(H)(5) expressly prohibits an LLLT from representing a client in a court or administrative adjudicative proceeding (unless permitted by GR 24), the Title 3 Rules do not apply directly to the conduct of LLLTs. Nevertheless, a number of the ethical principles located in Title 3 address conduct in connection with a proceeding that would be improper and repugnant whether engaged in by a lawyer or a party. In many instances, an LLLT will be providing assistance to a client who is a party to a court proceeding. In providing~~

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 such assistance, an LLLT may be authorized within the scope of a specific practice area to
2 accompany and assist a pro se client in certain proceedings. Assistance may include responding
3 to factual and procedural questions from a tribunal. For this reason, asAs a member of the legal
4 profession, an LLLT is ethically bound to avoid ~~advising or assisting a client in~~ conduct that
5 undermines the integrity of the adjudicative process or threatens the fair and orderly
6 administration of justice. ~~As applied to the indirect conduct of LLLTs, the ethical proscriptions~~
7 ~~of Lawyer RPC 3.1, 3.2, 3.3, and 3.4 are less nuanced. Accordingly, they have been consolidated~~
8 ~~within Rule 3.1(a) as a prohibition on counseling or assisting the client in such activities. Conduct~~
9 ~~relating to the impartiality and decorum of a tribunal, Lawyer RPC 3.5, should be prohibited~~
10 ~~whether engaged in by an LLLT directly or indirectly, and is separately addressed in paragraph~~
11 ~~(b) of this Rule. Although less comprehensive than Title 3 of the Lawyer RPC, the core Title 3~~
12 principles incorporated into Rule 3.1 address the issues likely to be encountered by an LLLT,
13 with supplemental guidance available in ~~the corresponding~~ Title 3 of the Lawyer RPC and
14 commentary thereto.

15 [2] ~~An LLLT acting as a "lay representative authorized by administrative agencies or~~
16 ~~tribunals" under GR 24(b)(3) would not be acting pursuant to the authority of his or her LLLT~~
17 ~~license in that context, since such representation would be beyond the scope of LLLT practice~~
18 ~~authorized by APR 28(F). Should an LLLT engage in conduct as a lay advocate that would~~
19 ~~otherwise directly violate a Title 3 obligation—for example, by knowingly making a false~~
20 ~~statement of fact to an administrative tribunal—such conduct may violate the requirements of~~
21 ~~other rules. See, e.g., Rule 8.4(c) (prohibiting conduct involving dishonesty, fraud, deceit, and~~
22 ~~misrepresentation) and Rule 8.4(d) (prohibiting conduct prejudicial to the administration of~~
23 ~~justice).~~

24 [32] Certain provisions of Title 3 of the Lawyer RPC provisions, such as Lawyer as Witness
25 in Rule 3.7 and the Special Responsibilities of a Prosecutor in Rule 3.8, do not apply to LLLTs.
26 In these instances, the corresponding LLLT RPC has been reserved. Rules 3.6 and 3.9 represent

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1 ethical issues that would rarely if ever arise in the context of an LLLT's limited-scope
2 representation. Accordingly, these provisions have been reserved as well, though guidance is
3 available in the corresponding Lawyer RPC in the event that such an ethical dilemma does arise
4 in an LLLT representation.

5 **LLLT RPC 3.6**

6 [Reserved]

7 Comment

8 [1] See Comment [32] to Rule 3.1.

9 **LLLT RPC 3.7**

10 [Reserved]

11 Comment

12 [1] See Comment [32] to Rule 3.1.

13 **LLLT RPC 3.8**

14 [Reserved]

15 Comment

16 [1] See Comment [32] to Rule 3.1.

17 **LLLT RPC 3.9**

18 [Reserved]

19 Comment

20 [1] See Comment [32] to Rule 3.1.

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

22 [Unchanged.]

23 Comment

24 [1] [Unchanged.]

25 [2] ~~LLLTs are required by APR 28(G)(5) to include the LLLT's name, signature, and license~~
26 ~~number beneath the signature of the client on all documents that the LLLT prepares. This will~~

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 assure that judges and other court personnel, other parties to a matter, and lawyers representing
2 those parties, are informed of the LLLT's role in the matter.

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

4 [Unchanged.]

5 Comment

6 [1] A person who has chosen to be represented by a lawyer should be protected against
7 possible overreaching by another lawyer. *See* Lawyer RPC 4.2 and Comments to that rule. Rule
8 4.2 extends to LLLTs the prohibition on communicating with a person represented by a lawyer.
9 This Rule differs from Lawyer RPC 4.2 in that the prohibition is absolute. While a lawyer may
10 be permitted to communicate directly with a person who is represented by another lawyer with
11 the other lawyer's consent, or if authorized to do so by law or court order, there are no exceptions
12 to the prohibition as it applies to LLLTs, ~~because any such communication would put an LLLT~~
13 ~~in a position of exceeding the authorized scope of the LLLT's practice under APR 28(H).~~
14 ~~Specifically, APR 28(H)(6) prohibits negotiating a client's legal rights or responsibilities or~~
15 ~~communicating with another person the client's position, and APR 28(H)(5) prohibits an LLLT~~
16 ~~from representing a client in court proceedings. In light of these limitations, there is no~~
17 ~~circumstance in which an LLLT could communicate with a person represented by a lawyer about~~
18 ~~the subject matter of the representation without transgressing the APR.~~

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

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

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1 ~~(b) — An LLLT shall not communicate about the subject of the representation with another party~~
2 ~~in the matter.~~

3 Comment

4 [1] ~~Paragraph (a) of this Rule was adapted from Lawyer RPC 4.3 with no substantive~~
5 ~~changes and applies to LLLTs analogously.~~

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

9 [3] The client of an LLLT is an unrepresented person for purposes of Lawyer RPC 4.2 and
10 4.3. ~~The definition of an LLLT in APR 28(B)(4) clarifies that an LLLT does not represent a client~~
11 ~~in court proceedings or negotiations, but provides limited legal assistance to a pro se client.~~

12 [4] ~~Although an LLLT is strictly prohibited by paragraph (b) from communicating with a~~
13 ~~party about the subject matter of the LLLT's representation, an~~ An LLLT may have occasion to
14 communicate directly with a nonparty who is assisted by another LLLT. A risk of unwarranted
15 intrusion into a privileged relationship may arise when an LLLT deals with a person who is
16 assisted by another LLLT. Client-LLLT communications, however, are privileged to the same
17 extent as client-lawyer communications. *See* APR 28(K)(3). An LLLT's ethical duty of
18 confidentiality further protects the LLLT client's right to confidentiality in that professional
19 relationship. *See* LLLT RPC 1.6(a). When dealing with a person who is assisted by another LLLT,
20 an LLLT must respect these legal rights that protect the client-LLLT relationship.

21 LLLT RPC 5.4 PROFESSIONAL INDEPENDENCE OF AN LLLT

22 (a) An LLLT or LLLT firm shall not share legal fees with anyone who is not an ~~non~~-LLLT,
23 except that:

24 (1)-(2) [Unchanged.]
25
26

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 (3) an LLLT or LLLT firm may include ~~non-LLLT~~ employees who are not LLLTs in
2 a compensation or retirement plan, even though the plan is based in whole or in
3 part on a profit-sharing arrangement; and

4 (4)-(5) [Unchanged.]

5 (b) An LLLT shall not form a partnership with a ~~non-LLLT~~ anyone who is not an LLLT if any
6 of the activities of the partnership consist of the practice of law.

7 (c) [Unchanged.]

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

10 (1) a ~~non-LLLT~~ person who is not an LLLT owns any interest therein, except that a
11 fiduciary representative of the estate of an LLLT may hold the stock or interest of
12 the LLLT for a reasonable time during administration;

13 (2) a person who is not an LLLT ~~non-LLLT~~ is a corporate director or officer (other
14 than as secretary or treasurer) thereof or occupies the position of similar
15 responsibility in any form of association other than a corporation; or

16 (3) a person who is not an LLLT ~~non-LLLT~~ has the right to direct or control the
17 professional judgment of an LLLT.

18 Comment

19 [1] This Rule was adapted from Lawyer RPC 5.4 with no substantive changes except to
20 change references to a “nonlawyer” to “person who is not an LLLT ~~non-LLLT~~” to avoid
21 confusion. It applies to LLLTs analogously.

22 [2] ~~Notwithstanding Rule 5.4 does not prohibit~~, lawyers and LLLTs may from sharing fees
23 and forming business structures to the extent permitted by Rule 5.9.

24 LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF LAW

25 (a) – (d) [Unchanged.]

26 Comment

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

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

7 As applied to LLLTs, this principle should apply with equal force. An actively licensed
8 LLLT should practice law as an LLLT only in a jurisdiction where he or she is licensed to do so,
9 i.e., Washington State. An LLLT must not practice law in a jurisdiction where he or she is not
10 authorized to do so. Unless and until other jurisdictions authorize Washington-licensed LLLTs
11 to practice law, it will be unethical under this Rule for the LLLT to provide or attempt to provide
12 legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities that
13 constitute the unauthorized practice of law in any jurisdiction. *See also* APR 28(H)(76)
14 (prohibiting an LLLT from providing services to a client in connection with a legal matter in
15 another state unless permitted by the laws of that state to perform the services for the client).

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

25 These provisions are, at this time, unnecessary in the LLLT RPC because there are no
26 limited licenses ~~programs~~ in other jurisdictions tantamount to Washington's LLLT rules and no

AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 need to authorize ~~nonlawyers~~ limited license practitioners in other jurisdictions to practice law in
2 Washington, either temporarily or on an ongoing basis. For this reason, paragraphs (b) through
3 (d) are reserved.

4 **LLLT RPC 8.1 ~~LIMITED LICENSURE~~ LICENSING, ADMISSION, AND** 5 **DISCIPLINARY MATTERS**

6 An applicant for an LLLT license ~~limited licensure~~, or an LLLT in connection with an
7 application for limited licensure or reinstatement application or, or admission to the Bar ~~lawyer's~~
8 bar admission, or a disciplinary matter involving a legal practitioner in connection with a lawyer
9 ~~or LLLT disciplinary matter~~, shall not:

10 **(a)-(b)** [Unchanged.]

11 Comment

12 [1] This Rule was adapted from Lawyer RPC 8.1 with no substantive changes, ~~except to~~
13 ~~reflect the difference between admission to the Bar (for a lawyer) and limited licensure (for an~~
14 ~~LLLT)~~. This Rule applies to LLLTs analogously.

15 **LLLT RPC 8.4 MISCONDUCT**

16 It is professional misconduct for an LLLT to:

17 **(a)-(k)** [Unchanged.]

18 **(l)** violate a duty or sanction imposed by or under the ~~LLLT~~ RECELLLTC in connection
19 with a disciplinary matter; including, but not limited to, the duties catalogued at ~~LLLT~~
20 RECELLLTC 1.5;

21 **(m)-(o)** [Unchanged.]

22 Comment

23 [1] – [4] [Unchanged.]

AN OVERVIEW OF WASHINGTON'S LLLT LICENSE



Presented by: Jean McElroy, WSBA Chief Regulatory
Counsel, Director of Regulatory Services Department

IMPETUS BEHIND THE LLLT RULE

2003 Civil Legal
Needs Study

- Revealed glaring unmet need for legal services among those of moderate means in Washington

SUPREME COURT ORDER

June 15, 2012: Supreme Court issued an order adopting LLLT Rule, stating “[w]e have a duty to ensure the public 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.” Order at 5-6.

WASHINGTON STATE
BAR ASSOCIATION

INITIAL PRACTICE AREA

Family law
chosen as first
practice area



Approved by
Supreme Court
in March 2013

WASHINGTON STATE
BAR ASSOCIATION

LIMITED LICENSE LEGAL TECHNICIANS MAY:

Inform clients of applicable procedures and anticipated course of legal proceedings

Provide client with approved and lawyer-prepared self-help materials

Review documents and exhibits from the opposing side and explain them to client

Select, complete, file, and serve approved and lawyer-prepared forms and advise of their significance

Advise clients of necessary documents and explain their relevance

Assist a client in obtaining necessary documents

WASHINGTON STATE
BAR ASSOCIATION

FAMILY LAW SCOPE OF PRACTICE*

Family law shall include (subject to limitations):

- Child support modification actions
- Dissolution and legal separation actions
- Domestic violence actions (*except as prohibited by Regulation 2(B)(3)*)
- Parenting and support actions
- Minor parenting plan modifications
- Paternity actions
- Relocation actions (*except as prohibited by Regulation 2(B)(3)*)

*Defined as Domestic Relations in APR 28 Regulation 2. See Appendix APR 28. Regulation 2: Practice Areas—Scope of Practice

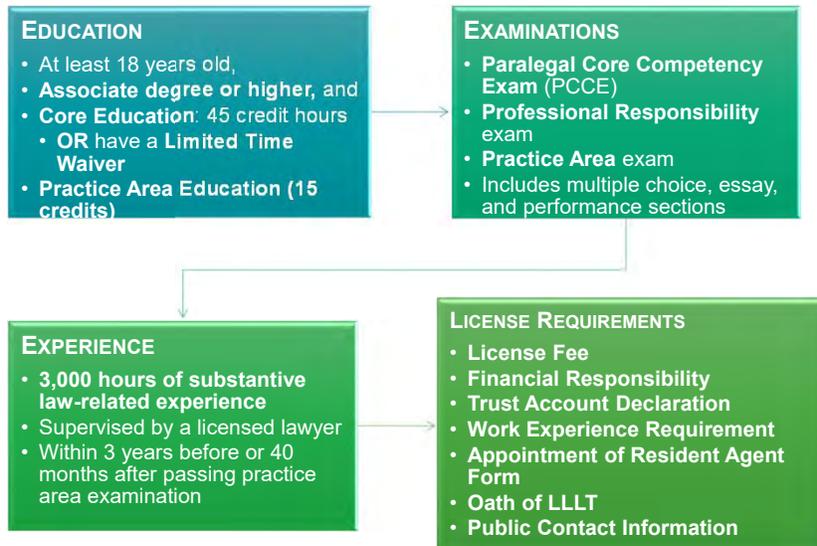
WASHINGTON STATE
BAR ASSOCIATION

SCOPE LIMITATIONS – (update later in presentation)

LLTs shall not (unless permitted by GR 24):



LICENSING REQUIREMENTS



EDUCATION: CORE CURRICULUM

Intro to Law and Legal Process, 3 credits

Civil Procedure, 8 credits

Legal Research, Writing, and Analysis, 8 credits

Professional Responsibility/Ethics, 3 credits

Interviewing and Investigation Techniques, 3 credits

Contracts, 3 credits

Law Office Procedures and Technology, 3 credits

WASHINGTON STATE
BAR ASSOCIATION

FAMILY LAW COURSES

Course Description

- 5 credits of basic domestic relations subjects and 10 credits in advanced and WA specific domestic relations subjects
- Currently taught via live webcast at UW School of Law

Core Prerequisites

- Intro to Law & Legal Process
- Civil Procedure & Litigation
- Legal Research, Writing, & Analysis
- Professional Responsibility/Ethics
- Interviewing & Investigation Techniques

WASHINGTON STATE
BAR ASSOCIATION

EXPERIENCE REQUIREMENT

“Substantive law-related work”

- Requires knowledge of legal concepts and is customarily but, not necessarily, performed by a lawyer

“Supervised”

- Lawyer personally directs, approves, and has responsibility for work performed

3,000 Hours of Experience

- Approx. 18 months full time
- Within 3 years before or 40 months after notification of passing exams

Declaration(s) of Supervising Lawyer(s)

- Certification of substantive experience and period of supervision by lawyer

LLLT EMPLOYMENT OPTIONS

Own an independent LLLT firm,
with or without other LLLTs

Own a law firm with an attorney
(LLLT RPC 5.9)

Work in a law firm or for a legal
service provider

ENHANCEMENTS TO FAMILY LAW SCOPE EFFECTIVE WHEN PUBLISHED (LIKELY 6/4/19); TRAINING REQUIRED

Third Party Declarations	LLLTs are not required to sign third party declarations.
Major Modifications	Allow contested major modifications to the adequate cause hearing.
Nonparental Custody	Allow nonparental custody to the adequate cause hearing.
Retirement Assets	Allow retirement asset allocation; clarify existing restrictions on asset division.
Real Estate Division	Allow division of single family residential dwelling which has less than twice the homestead exemption in equity; use board approved form.
Alternative Dispute Resolution	Allow LLLTs to advise and participate in mediation, arbitration, and settlement conferences.
Communication & Negotiations	Allow communication with opposing representative re: procedural issues. LLLTs may negotiate with prior written consent from client.
Assistance at Court	Allow presentation of orders on the ex parte or motion calendar. Allow LLLTs to assist a pro se client at certain types of hearings.



May Legal Lunchbox™:

LLTS AND LAWYERS: GAINING MARKET SHARE SIDE-BY-SIDE

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- ▶ “Divorce can happen to anyone—it doesn’t matter if you are rich, poor, or middle-class. And yet, getting a divorce is an expensive endeavor, especially for those of moderate means. Having a LLLT in a family law practice combats this issue by providing legal services to those who would otherwise struggle to afford an attorney. Without our LLLT, our firm would be missing out on an enormous section of individuals who are willing to pay for legal services, but cannot commit to the price of an attorney. In fact, many potential clients who inform me that they are unable to retain me due to price end up retaining our LLLT in the end. Seeing first-hand the benefit of having a LLLT in the firm—financially and socially—I cannot help but conclude that LLLTs need to be an integral part of the family law profession.”
 - ▶ -Megan Kelley | Genesis Law Firm, PLLC

Question 1:

- ▶ Is working with a LLLT or incorporating one into your firm a workable business model?

Question 2:

- ▶ What were your considerations (monetary, ethical, etc.) before taking a LLLT into your firm, or in working with one?

Question 3:

- ▶ Did it take a lot of time and effort to incorporate working with a LLLT into your existing business?

Question 4:

- ▶ What specific adjustments did you have to make to your firm's business practices?

Question 5:

- ▶ What are the benefits of working with a LLLT?
- ▶ -Attorney-LLLT partnerships
- ▶ -Flexible pricing model
- ▶ -Ability to serve lower income clientele

Question 6:

- ▶ Are there disadvantages of working with a LLLT?
 - ▶ If so, what are they?

Question 7:

- ▶ Describe the nuts and bolts of LLLT drafting and “hand off” to Attorney via Limited Notice of Appearance.

Notifying LLLT Clients of Attorney – LLLT Referral Relationships

Example from LLLT Initial Consultation Agreement:

ATTORNEY REFERRAL: LLLT Firm has non-exclusive, reciprocal referral agreements with some attorneys. These attorneys may, depending on their willingness and availability, provide advice or assistance on issues outside the scope of Legal Technician’s license through a separate agreement. Depending on Prospective Client’s needs, Legal Technician may refer Prospective Client to one or more of the following attorneys:

John Smith, Attorney Law Firm, PLLC 123 Apple Road Seattle, WA 98011	Jane Jones, Attorney Another Law Firm, P.S. 456 Pear Drive Kirkland, WA 98032	Barbara Johnston Third Law Firm, P.S. 789 Banana Way Seattle, WA 98188
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Question 8:

- ▶ Do clients understand the attorney / LLLT differences; do clients get confused?

Question 9:

- ▶ Are you making more money as a firm or as an attorney by working with a LLLT?

Question 10:

- ▶ Do you think that you are losing money by working with a LLLT?
 - ▶ (i.e. Is the LLLT-attorney partnership business model cannibalizing business that you otherwise would have been able to bill out at a higher rate?)

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CHAPTER TWO
RULES OF PROFESSIONAL CONDUCT

WASHINGTON'S RULES OF PROFESSIONAL CONDUCT (RPC)

(Amended effective October 1, 2002, September 1, 2006, September 1, 2010; September 1, 2011; December 13, 2011; September 1, 2012, September 1, 2013, January 1, 2014, April 14, 2015, September 1, 2016]

Fundamental Principles of Professional Conduct

Preamble and Scope

1.0A Terminology

1.0B Additional Washington Terminology

Title 1 Client-Lawyer Relationship

1.1 Competence

1.2 Scope of Representation and Allocation

1.3 Diligence

1.4 Communication

1.5 Fees

1.6 Confidentiality of Information

1.7 Conflict of Interest: Current Clients

1.8 Conflict of Interest: Current Clients: Specific Rules

1.9 Duties to Former Clients

1.10 Imputation of Conflicts of Interest: General Rule

1.11 Special Conflicts of Interest for Former and Current Government Officers and Employees

1.12 Former Judge, Arbitrator, Mediator or Other Third-Party Neutral

1.13 Organization as Client

1.14 Client with Diminished Capacity

1.15A Safeguarding Property

1.15B Required Trust Account Records

1.16 Declining or Terminating Representation

1.17 Sale of Law Practice

1.18 Duties to Prospective Client

Title 2 Counselor

2.1 Advisor

2.2 (Deleted)

2.3 Evaluation for Use by Third Persons

2.4 Lawyer Serving as Third-Party Neutral

Title 3 Advocate

3.1 Meritorious Claims and Contentions

3.2 Expediting Litigation

3.3 Candor Toward the Tribunal

3.4 Fairness to Opposing Party

3.5 Impartiality and Decorum of the Tribunal

3.6 Trial Publicity

3.7 Lawyer as Witness

3.8 Special Responsibilities of a Prosecutor

3.9 Advocate in Nonadjudicative Proceedings

Title 4 Transactions With Persons Other Than Clients

4.1 Truthfulness in Statements to Others

4.2 Communication With Person Represented by a Lawyer

4.3 Dealing With Person Not Represented by a Lawyer

4.4 Respect for Rights of Third Person

Title 5 Law Firms and Associations

5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers

5.2 Responsibilities of a Subordinate Lawyer

5.3 Responsibilities Regarding Nonlawyer Assistants

5.4 Professional Independence of a Lawyer

5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

5.6 Restrictions on Right to Practice

5.7 Responsibilities Regarding Law-Related Services

5.8 Misconduct Involving Lawyers and LLLTs Not Actively Licensed to Practice Law

5.9 Business Structures Involving LLLT and Lawyer Ownership

5.10 Responsibilities Regarding Other Legal Practitioners

Title 6 Public Service

6.1 Pro Bono Publico Service

6.2 Accepting Appointments

6.3 Membership in Legal Services Organization

6.4 Law Reform Activities Affecting Client Interests

6.5 Nonprofit and Court-Annexed Limited Legal Service Programs

Title 7 Information About Legal Services

7.1 Communications Concerning a Lawyers Services

7.2 Advertising

7.3 Solicitation of Clients

7.4 Communication of Fields of Practice and Specialization

7.5 Firm Names and Letterheads

7.6 Political Contributions to Obtain Government Legal Engagements or Appointments by Judges

Title 8 Maintaining the Integrity of the Profession

8.1 Bar Admission and Disciplinary Matters

8.2 Judicial and Legal Officials

8.3 Reporting Professional Misconduct

8.4 Misconduct

8.5 Disciplinary Authority; Choice of Law

Appendix Guidelines for Applying Rule of Professional Conduct 3.6