



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

March 14, 2013

### AGENDA

Washington State Bar Association  
1325 Fourth Avenue – Suite 600  
Seattle, Washington 98101  
Time: 2:00 p.m. to 5:00 p.m.

1. **Call to Order/Preliminary Matters** (2:00 p.m.)
  - Board Decision Making Process (Steve Crossland)
  - Approval of February 21, 2013 meeting minutes
  - March 6, 2013 Report to Supreme Court (Steve Crossland)
2. **Scope of Practice Subcommittee Recommendations Consent Agenda** (2:15 p.m.)
  - a. Scope limited to five types of domestic relations actions: Dissolution, Legal Separation, Parenting & Support, Parentage, Intimate Domestic Relationships, and Domestic Violence actions.
  - b. LLLTs will be prohibited from practicing in the following types of domestic relations actions: Defacto Parentage and Nonparental Custody actions.
  - c. Within the approved types of domestic relations actions, LLLTs may select and prepare all pattern forms used to initiate actions.
3. **Scope of Practice Subcommittee Discussion Items** (2:45 p.m.)
  - Should LLLTs be allowed to engage in dual representation of clients in uncontested matters?
  - Should LLLTs be allowed to prepare formal discovery?
4. **Report of Scope of Practice Subcommittee Meeting** (3:45 p.m.)
5. **Admissions & Licensing Subcommittee Recommendations Consent Agenda** (4:00 p.m.)
  - a. LLLT must complete 45 credit hours in “Core Curriculum” in paralegal studies

- b. LLLT must complete 12 credit hours in the “Major” or approved practice area
  - c. Core course instruction must occur at ABA approved law school or ABA approved paralegal educational program
  - d. Major curriculum will be developed by or in conjunction with Washington’s ABA approved law schools
  - e. LLLT must complete 18 months (3,000 hours) of substantive work experience supervised by a lawyer before licensure:
    - i. Qualifying examination can be taken prior to the discharge of the experience requirement
    - ii. Students may petition to have prior experience (gained no more than 36 months before the date of the petition) recognized and credited towards this requirement
6. **Report of Admissions & Licensing Subcommittee Meeting** (4:30 p.m.)
7. **Open Discussion** (4:45 p.m.)
8. **Adjourn** (5:00 p.m.)

### **MEETING MATERIALS**

- 1. 2013-02-21 Draft Meeting Minutes [pp. 233-236]
- 2. 2013-02-21 Approved Scope of Practice Subcommittee Minutes [pp. 237-240]
- 3. 2013-02-21 Approved Admissions & Licensing Subcommittee Minutes [pp. 241-244]
- 4. Revised Admissions & Licensing Subcommittee Roster [pp. 245]
- 5. LLLT Board Decision Making Process [pp. 246]
- 6. 2013-03-01 Letter, Crossland to Supreme Court [pp. 247]
- 7. Overview of Legal Document Preparers [pp. 248-250]



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD MEETING MINUTES

February 21, 2013

### Washington State Bar Association Seattle, Washington

Members present were Steve Crossland (Chair), Paul Bastine (BOG Liaison), Guadalupe Artiga, Brenda Cothary, William Covington, Greg Dallaire, Caitlin Davis Carlson, Jeanne Dawes, Ellen Dial, Lynn Fleischbein, Janet Olejar, Ellen Reed, and Elisabeth Tutsch.

Also in attendance were Thea Jennings (Staff Liaison), Robert Henry, RSD Associate Director, and Paula Littlewood, WSBA Executive Director.

Also present were J. Blake Hilty, an associate at McKinley Irvin, and Christy Carpenter, a member of the public.

### PRELIMINARY MATTERS

The meeting was called to order at 2:00 p.m.

#### **I. Defining Education Requirement and 1<sup>st</sup> Report of Admissions & Licensing Subcommittee**

Admissions & Licensing Subcommittee Chair Bill Covington presented the first report of the Admissions & Licensing subcommittee. The subcommittee believes that the educational requirements in APR 28 should be revised as described below.

#### **Key Education Requirements**

- must have an associate's degree or higher
- must complete a 45 quarter credit "Core Curriculum" in paralegal studies
- must complete 12 quarter credits in the "Major" or approved practice area.

### **Core Curriculum Requirements**

- must be earned at an ABA approved law school or school with an ABA approved paralegal program
- must consist of the following courses:
  - Introduction to Law and Legal Process—5 credits
  - Civil Procedure I and II—10 credits
  - Legal Research, Writing and Analysis—10 credits
  - Contracts—5 credits
  - Professional Responsibility/Ethics (including RPC, LLLT RPC and basic scope)—5 credits
  - Law Office Procedures—5 credits
  - Interviewing and Investigation Techniques—5 credits
- may be part of a degree program, certificate program, or, separate from any program (“a la carte”)
- may be earned outside the state of Washington (provided it meets ABA approved requirement)

One challenge will be whether coursework can be completed at non-ABA approved institutions and whether applicants should be allowed to get a waiver of core competencies.

### **Major or Approved Practice Area Course Requirements**

- 12 quarter credit hours
- Course should be set up to cover practice area issues over two quarters
- Curriculum is to be developed in conjunction with ABA approved law school(s)
- Curriculum may be taught at any ABA approved law school or school with an ABA approved paralegal program
- May be earned outside the state of Washington (provided it meets ABA approved requirement) but must include any required Washington topics

### **Family Law Major Specific Course Requirements**

- Family Law Basics
- Washington forms and documents\*
- Community Property
- Child Advocacy
- Domestic Violence
- Mediation and ADR
- Washington scope and practice issues relating to legal technicians\*

\*Washington specific topics

The subcommittee also discussed experience requirements and recommends the following:

### **Recommended Experience Requirements**

- 3,000 hours of work experience

- Gained in the three years immediately preceding admission/licensure
- Under the supervision of a licensed attorney
- Doing substantive law-related work
- Paid or volunteer.

## **II. Defining Scope of Practice and 1<sup>st</sup> Report of Scope of Practice Subcommittee**

Scope of Practice and Forms Subcommittee Chair Greg Dallaire presented the report of the first Scope of Practice & Forms subcommittee. The subcommittee reestablished that family law is the chosen practice area.

The subcommittee then addressed without resolution whether a legal technician can undertake dual representation of two parties in an uncontested matter, if appropriate waivers are obtained. The subcommittee brings the issue to the full Board for discussion.

The subcommittee then discussed the family law scope of practice for legal technicians. The subcommittee recommended establishing regulations regarding the scope of practice for family law LLLTs as described below.

### **Approved Types of Domestic Relations Actions**

The subcommittee discussed the various types of domestic relations actions and recommends the following types as appropriate for family law legal technicians:

- Dissolution of Marriage Actions;
- Legal Separation Actions;
- Parenting and Support Actions;
- Parentage Actions;
- Intimate Domestic Relationship Actions; and
- Domestic Violence Actions.

### **Prohibited Types of Domestic Relations Actions**

The subcommittee recommends that the following types of actions are not appropriate for family law legal technicians:

- Defacto Parentage Actions; and
- Nonparental Custody Actions.

Having discussed the types of actions above, the subcommittee went through the steps of a dissolution beginning with the initial filing of the action, approving the preparation of all pattern forms that are used to initiate an action. This includes forms used to initiate actions for the other approved types of domestic relations actions.

The subcommittee then addressed appropriate actions after the initial filing. Informal discovery or information gathering was deemed to be within an LLLT's purview. The issue of whether an LLLT may prepare formal discovery, such as interrogatories or

requests for production, could not be resolved and, thus, the subcommittee brings it to the full Board for discussion.

### **III. Updated Strategic Planning Chart**

The subcommittee reviewed the aspirational timeline. Staff Liaison Thea Jennings explained that it is a guide for the Board to use to accomplish required tasks.

### **IV. Draft Admissions & Licensing Regulations**

Ms. Jennings also explained the draft regulations that were included in the materials. The template for the regulations came from the LPO regulations. The purpose of the materials is to use them as a model to guide and assist the Board in identifying issues that need to be addressed. As decisions and recommendations are made, the draft regulations will be updated for review and approval by the subcommittee and Board.

### **V. Overview of Independent Paraprofessionals**

Staff Liaison Jennings referred the group to meeting materials at pages 117-124 for an overview of independent paraprofessionals. The document is merely informational and is meant to inform the Board's discussion when creating the operational details of the program.

### **VI. Open Discussion**

Steve Crossland announced that he and WSBA Executive Director Paula Littlewood will be meeting with the Court on March 6 to request approval for the first area of practice.

The Board then briefly addressed the issue of joint representation in domestic relations actions without coming to consensus on how to address the issue.

Finally, the Board approved the meeting minutes from January 30, 2013.

## **ADJOURNMENT**

The meeting adjourned at 3:20 p.m.

## **NEXT MEETING**

The next meeting will be 1:00 p.m. Thursday, March 14, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD SCOPE OF PRACTICE & FORMS SUBCOMMITTEE MINUTES

February 21, 2013

Washington State Bar Association  
Seattle, Washington

Members present were Greg Dallaire (Chair), Paul Bastine (LLLT Board BOG Liaison), Lupe Artiga, Rita Bender, Jeanne Dawes, Ellen Dial, Lynn Fleischbein, and Ellen Reed.

Also in attendance was Thea Jennings (Staff Liaison).

Christy Carpenter, a member of the public, was also in attendance.

### PRELIMINARY MATTERS

The meeting was called to order at 9:05 a.m.

#### **I. Introduction**

The subcommittee began with introductions and welcomed non-board member Rita Bender to the subcommittee.

#### **II. Updated Strategic Planning Chart**

The subcommittee reviewed the aspirational timeline. Staff Liaison Thea Jennings explained that it is a guide for the subcommittee and Board to use to accomplish required tasks. It will be important to finish the scope of practice regulations as soon as possible to present to the Court for approval.

#### **III. Reporting Practice Area to the Supreme Court**

The subcommittee discussed that Steve Crossland and WSBA staff will be reporting to the Supreme Court on the practice area and scope of practice at the April 4, 2013 en banc.

#### **IV. Drafting Regulation for Scope of Practice**

Thea Jennings also explained the draft regulations that were included in the materials. The template for the regulations came from the LPO regulations. The purpose of the materials is to use them as a model to guide and assist the subcommittee and Board in identifying issues that need to be addressed. As decisions and recommendations are made, the draft regulations will be updated for review and approval by the subcommittee and Board. This subcommittee is tasked with drafting Regulation 2: Practice Areas—Scope of Practice Authorized by Limited License Legal Technician Rule.

#### **V. Defining Scope of Practice**

The subcommittee reestablished that family law is the chosen practice area. The subcommittee then addressed whether a legal technician can undertake dual representation of two parties in an uncontested matter, if appropriate waivers are obtained. The subcommittee could not come to consensus on the issue and decided to bring the matter to the full Board for discussion.

The subcommittee then spent the vast majority of its time discussing the family law scope of practice for legal technicians. The subcommittee recommends establishing regulations regarding the scope of practice for family law LLLTs as described below.

##### **Approved Types of Domestic Relations Actions**

The subcommittee discussed the various types of domestic relations actions and recommends the following types as appropriate for family law legal technicians:

- Dissolution of Marriage Actions;
- Legal Separation Actions;
- Parenting and Support Actions;
- Parentage Actions (provided the LLLT refers the client to the prosecutor to determine paternity);
- Intimate Domestic Relationship Action (the subcommittee will need to create and approve forms for this type of action); and
- Domestic Violence Actions.

##### **Prohibited Types of Domestic Relations Actions**

The subcommittee recommends that the following types of actions are not appropriate for family law legal technicians:

- Defacto Parentage Actions: because these actions require careful research, do not have pattern forms associated with them, and require appearances in court; and
- Nonparental Custody Actions: because these actions require appearances in court, drafting motions, and working without pattern forms.

The subcommittee acknowledged that these prohibited types of actions could be readdressed sometime in the future, if need be.

## **VI. Recommendations as to Scope of Practice in Dissolution and Legal Separation Actions**

Having discussed the types of actions above, the subcommittee prepared initial recommendations for approved and prohibited actions in dissolution and legal separation actions.

### **Approved Forms and/or Documents to Be Selected and Prepared**

The subcommittee recommends that a family law LLLT be approved to select and prepare the following forms and/or documents to initiate actions:

- A vital statistics form
- A case information cover sheet
- A confidential information form
- A summons
- A petition for either dissolution of marriage or legal separation
- A return or acceptance of service form
- A motion and declaration to serve by mail
- A proposed parenting plan and proposed child support worksheets
- Financial records, including tax returns and pay stubs
- A motion to proceed in forma pauperis
- A motion for temporary relief, including restraints, protective orders, custodial provisions, use of property and debt division, maintenance, child support, and temporary attorney fees

These forms and/or documents are also used to initiate other types of approved domestic relations actions and would, thus, be within an LLLT's purview in those actions as well.

Many of the forms described above have mandatory pattern forms available on the Washington Courts website. It was noted that in the next year the Court is likely to approve plain language forms in domestic relation matters.

Before our next meeting, Ms. Jennings will prepare a list of forms from the Washington Courts website for the subcommittee's review to determine if anything is missing from the above list that should be included.

### **Can an LLLT Perform Discovery?**

After approving initial forms for filing domestic relation actions, the subcommittee then addressed appropriate actions after the initial filing. Informal discovery or information gathering was deemed to be within an LLLT's purview. The issue of whether an LLLT may prepare formal discovery, such as interrogatories or requests for production, created some debate.

Two possible suggestions were made: (1) Formal discovery could be done by an LLLT only with the review and approval of an attorney or (2) the Board could prepare and approve form interrogatories and requests for production (with standard questions regarding financial accounts, parenting, etc.) and motions and proposed orders to compel.

Then, if discovery were to go beyond something provided for in the pattern forms, then the LLLT would be required to refer the client to a lawyer. The subcommittee could not resolve the discovery question and agreed that it should be brought to the full Board for discussion.

### **Prohibited Actions**

The subcommittee agreed that legal technicians should be prohibited from drafting qualified domestic relations orders.

## **VII. Next Meeting**

The subcommittee shall approve the meeting minutes (to be prepared by Thea Jennings) within ten days, so that the minutes and recommendations can be provided to the full Board for approval on March 14, 2013.

Before our next meeting, Lynn Fleischbein will prepare an “anatomy” or breakdown of the following domestic relations actions: parenting and support actions and parentage actions; Lupe Artiga will prepare the same for domestic violence and relocation actions; and Rita Bender will prepare a sample petition for dissolution of intimate domestic relationship. The subcommittee should review these documents to determine what actions may be appropriate for an LLLT.

At our March 14, 2013 meeting, we will continue the discussion of the process of dissolution and legal separation actions and begin to discuss other approved types of domestic relations actions.

## **ADJOURNMENT**

The meeting adjourned at 1:30 p.m.

## **NEXT SUBCOMMITTEE MEETING**

The next meeting will be 9:00 a.m. Thursday, March 14, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD ADMISSIONS & LICENSING SUBCOMMITTEE MINUTES

February 21, 2013

Washington State Bar Association  
Seattle, Washington

Members present were William Covington (Chair), Brenda Cothary, Caitlin Davis Carlson, Patricia Kuszler, Janet Olejar, and Elisabeth Tutsch.

Also in attendance were Bobby Henry (RSD Associate Director) and Paula Littlewood (WSBA Executive Director).

### PRELIMINARY MATTERS

The meeting was called to order at 9:00 a.m.

#### **I. Introduction**

The subcommittee began with introductions and welcomed non-board member Patricia Kuszler to the subcommittee.

#### **II. Updated Strategic Planning Chart**

The subcommittee reviewed and discussed the aspirational timeline. Bobby Henry explained how it was a guide for the subcommittee and board to use to accomplish required tasks. It will be important to finish the admission requirements and regulations as soon as possible so that the court can approve them and WSBA staff has time to implement the requirements. The goal is to have a set of regulations for the court in May or June this year.

#### **III. Drafting Admissions & Licensing Regulations**

Bobby Henry also explained the draft regulations that were included in the materials. The template for the regulations came from the LPO regulations. The purpose of these

materials is to use them as a model to guide and assist the subcommittee and board in identifying issues that need to be addressed. As decisions and recommendations are made, the draft regulations will be updated for review and approval by the subcommittee and Board.

#### **IV. Recommended Education Requirements**

The subcommittee then spent the vast majority of the time discussing the educational requirements for legal technicians. The subcommittee discussed various concerns including: minimum qualifications, minimum curriculum, credibility of the legal technician, availability and cost of the education, and quality of the education related to the approved practice area (in this case, family law).

Having considered the issues listed above, the subcommittee prepared initial recommendations for the educational requirements. The subcommittee believes that the educational requirements as currently provided for in APR 28 are inadequate and, therefore, recommends amending APR 28 and establishing regulations as described below.

#### **Key Education Requirements**

- must have an associate's degree or higher
- must complete a 45 quarter credit "Core Curriculum" in paralegal studies
- must complete 12 quarter credits in the "Major" or approved practice area.

#### **Core Curriculum Requirements**

- must be earned at an ABA approved law school or school with an ABA approved paralegal program
- must consist of the following courses:
  - Introduction to Law and Legal Process—5 credits
  - Civil Procedure I and II—10 credits
  - Legal Research, Writing and Analysis—10 credits
  - Contracts—5 credits
  - Professional Responsibility/Ethics (including RPC, LLLT RPC and basic scope)—5 credits
  - Law Office Procedures—5 credits
  - Interviewing and Investigation Techniques—5 credits
- may be part of a degree program, certificate program, or, separate from any program ("a la carte")
- may be earned outside the state of Washington (provided it meets ABA approved requirement)

#### **Major or Approved Practice Area Course Requirements**

- 12 quarter credit hours

- Course should be set up to cover practice area issues over two quarters
- Curriculum is to be developed in conjunction with ABA approved law school(s)
- Curriculum so developed may be taught at any ABA approved law school or school with an ABA approved paralegal program
- May be earned outside the state of Washington (provided it meets ABA approved requirement) but must include any required Washington topics

### **Family Law Major Specific Course Requirements**

- Family Law Basics
- Washington forms and documents\*
- Community Property
- Child Advocacy
- Domestic Violence
- Mediation and ADR
- Washington scope and practice issues relating to legal technicians\*

\*Washington specific topics

There is still some concern among some members of the subcommittee that restricting the education to ABA approved institutions may be too limiting.

The subcommittee also discussed experience requirements. Most members believed two years of experience should be required, however, not necessarily full time. In addition, the subcommittee does not believe the experience needs to be gained prior to taking the exam. However, it must be gained prior to admission. This allows the applicant to gain the work experience prior and during education and/or after education and passing the exam. The subcommittee, therefore, recommends the following experience requirements:

### **V. Recommended Experience Requirements**

- 3,000 hours of work experience
- Gained in the three years immediately preceding admission/licensure
- Under the supervision of a licensed attorney
- Doing substantive law-related work
- Paid or volunteer.

### **VI. Next Meeting**

Subcommittee members were asked to provide key topics to be taught for each of the core courses by March 7 and to email their ideas to Thea. Those will be discussed at the next meeting. In addition, for the next meeting, the subcommittee will come prepared to discuss the following issues:

- Should ABA approval be required?

- Limit on how long experience may be earned after passing the exam
- Experience as a waiver to education requirements/grandfathering options
- Whether pro bono requirement should be a requirement for admission
- Character and fitness issues
- Basic exam concepts, such as form of exam, passing standards

### **ADJOURNMENT**

The meeting adjourned at 1:30 p.m.

### **NEXT MEETING**

The next meeting will be 9:00 a.m. Thursday, March 14, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## Limited License Legal Technician (LLLT) Board: Admissions & Licensing Subcommittee Roster

NAME	PHONE/FAX	E-MAIL
<b>William E. Covington, Chair</b>	(206) 616-4481	<a href="mailto:wcovington@aol.com">wcovington@aol.com</a>
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<b>Stephen R. Crossland</b>	(509) 782-4418 (509) 782-4298 (f)	<a href="mailto:steve@crosslandlaw.net">steve@crosslandlaw.net</a>
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<b>Thea Jennings</b> LLLT Board Staff Liaison & Program Lead	(206) 727-8289	<a href="mailto:theaj@wsba.org">theaj@wsba.org</a>
<b>Robert Henry</b> Regulatory Services Department Associate Director		

## **LLLT Board Decision Making Process**

Subcommittees will develop an agenda for issues to be addressed at the next subcommittee meeting.

Each subcommittee shall reserve the last half hour of its meeting for review of what was accomplished, a summary of decisions made, and an agreement on the general contents of a verbal report to be put forward by the subcommittee chair.

At the conclusion of each subcommittee meeting, the subcommittee chair will prepare to report back to the Board at the Board meeting. The report may include recommendations as follows:

- Issues upon which the subcommittee reached consensus;
- Issues that will need further discussion at a future subcommittee meeting;
- Issues that will need to be discussed at a future Board meeting.

Following the Board meeting, the subcommittee report will be reduced to writing in the form of subcommittee meeting minutes and submitted to the subcommittee and Board prior to the next Board meeting.

The recommendations of the subcommittee will constitute the agenda at the next Board meeting. The chair of the subcommittee, in consultation with the Board Chair, may remove an item if the subcommittee did not approve it at its meeting. The Board will discuss or approve the recommendations of the subcommittee.

The issues upon which the subcommittee reached consensus will be placed on a consent agenda for the next Board meeting. Any member of the Board may remove an issue from the consent agenda for discussion. Otherwise, the Board may adopt the issues on the consent agenda by consensus.



# WSBA

## LIMITED LICENSE LEGAL TECHNICIAN BOARD

**Limited License Legal Technician Board**  
c/o Washington State Bar Association

**WSBA Administrative Staff:**  
Thea Jennings, Program Lead & Staff Liaison  
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Caitlin Davis Carlson  
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Ellen Dial  
Lynn K. Fleischbein  
Janet D. Olejar  
Ellen Reed  
Elisabeth M. Tutsch  
Vickie J. Williams

February 28, 2013

Chief Justice Barbara Madsen  
Washington State Supreme Court  
P.O. Box 40929  
Olympia, WA 98504

RE: Limited License Legal Technician Board

Dear Chief Justice Madsen,

I am writing to inform you that the Limited License Legal Technician Board (LLLT) recommends family law as the first practice area for application of the LLLT Rule. After much thoughtful discussion, the LLLT Board felt that the area of family law represented an area of high need among citizens of limited means. Pursuant to APR 28(C)(2)(a), the LLLT Board seeks the Court's approval of this practice area.

The LLLT Board has had two meetings and is working diligently to implement the Rule applied to this practice area. We are meeting for a full day once a month. We have set an aspirational goal of having the rule implemented within a year. While this goal may be overly ambitious, the LLLT Board nonetheless is working very hard to make that goal a reality.

If you have questions or need additional information with regard to the Board's request to finalize family law as the first area for LLLT licensure, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Crossland".

Stephen R. Crossland  
Chair, Limited License Legal Technician Board

cc: Paula Littlewood, WSBA Executive Director  
Jean McElroy, WSBA General Counsel/Chief Disciplinary Counsel

*Limited License Legal Technician Board*

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<http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Limited-License-Legal-Technician-Board>  
LLLT Board Meeting Materials

000247

WASHINGTON STATE BAR ASSOCIATION

# Legal Document Preparers & Assistants

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## An Overview

**Thea Jennings, LLLT Program Lead**

**3/7/2013**

## Review of Legal Document Preparers & Assistants

As requested, the following is a brief review of Arizona's legal document preparers and California's legal document assistants. It should be noted that the scope of duties for legal document preparers and assistants is much more limited than that of LLLTs in that they cannot provide legal advice of any kind.

### Arizona Legal Document Preparers (LDPs)

In 2003, the Arizona Supreme Court adopted rules and regulations governing "legal document preparers" (LDPs), which became effective on July 1, 2003. Arizona Code of Judicial Administration (ACJA) § 7-208. The rule requires that all individuals or businesses preparing legal documents without attorney supervision must be certified. ACJA § 7-208(B). LDPs can prepare or provide legal documents and file and arrange for service. ACJA § 7-208(F)(1). LDPs may provide general information but not legal advice or recommendations regarding possible legal rights, remedies, defenses, options, or strategies. ACJA § 7-208(F)(1). Unlike LLLTs, communications with clients are not protected or privileged. ACJA § 7-208(J)(2)(a). LDPs must include their name and certification number on all documents prepared unless expressly prohibited. ACJA § 7-208(F)(3).

The program is overseen by the Board of Legal Document Preparers, which consists of five certified LDPs, one judge or court administrator, one clerk of the superior court, one attorney, two members of the public, and one additional member appointed by the Chief Justice of the Supreme Court. ACJA § 7-208(D)(5). The Board has the power to revoke and suspend certificates as a result of formal disciplinary proceedings. ACJA § 7-201(H); ACJA § 7-208(H).

The rule provides for the certification of individuals as well as businesses. Individual applicants are required to pass an examination that covers legal terminology, client communication, data gathering, document preparation, ethical issues, and professional and administrative responsibilities pertaining to their work. ACJA § 7-208(E)(2). Applicants should also have at the very least a high school diploma or equivalent with two years experience under a licensed attorney, under the supervision of an LDP, or as a court employee. ACJA § 7-208(E)(3)(b). Depending on the highest level of completed education, the experience requirement may change. ACJA § 7-208(E)(3). For example, completion of an ABA approved paralegal program removes the experience requirement. ACJA § 7-208(E)(3)(b).

Business entity certification requires that the business designate a principal LDP, who would represent the business in any proceeding under the Rule and who actively and directly supervises the business's certified LDPs and staff. ACJA § 7-208(E)(3)(d); ACJA § 7-208(F)(6). The principal LDP must also provide a complete list of all employed certified LDPs. ACJA § 7-208(E)(3)(e). For a limited time period, LDPs can supervise trainees, meaning persons who would qualify for the certification but for their lack of required experience. ACJA § 7-208(F)(5).

LDPs must complete ten hours of continuing education annually and pay annual licensing fees. ACJA 7-208(I)(2); ACJA 7-208(J)(4).

March 7, 2013

## California Legal Document Assistants (LDAs)

In January 1999, the California State Legislature passed legislation regulating “legal document assistants” (LDAs). Cal. Bus. & Prof. Code § 6400. LDAs provide self-help services to pro se clients for compensation. Cal. Bus. & Prof. Code § 6400(c). A corporation, partnership, association or other entity which employs LDAs also qualifies to provide these services under the law. Cal. Bus. & Prof. Code § 6400(c). Self-help service means:

- In a purely ministerial capacity, completing legal documents selected by and at the direction of a pro se client;
- Providing general published factual information approved by an attorney pertaining to legal procedures and the pro se client’s legal rights and obligations;
- Making published legal documents available to the pro se client; and
- Filing and serving legal documents at the pro se client’s specific direction (with some limitations).

Cal. Bus. & Prof. Code § 6400(d).

LDAs may not provide legal assistance or advice that constitutes the practice of law. Cal. Bus. & Prof. Code § 6411(d). They cannot provide any legal advice, explanation, or opinion or make recommendations as to the pro se client’s legal rights, remedies, defenses, options, selection of forms, or strategies. Cal. Bus. & Prof. Code § 6411(e).

LDAs are required to register with the county clerk in each county in which they intend to provide services. Cal. Bus. & Prof. Code § 6402. To be eligible for registration, applicants must have at least a high school diploma or equivalent with a minimum of two years of law-related experience under the supervision of a licensed attorney. Cal. Bus. & Prof. Code § 6402.1(a). As with LDPs, depending on the highest level of completed education, the experience requirement may change. Cal. Bus. & Prof. Code § 6402.1. Unlike with LLLTs and LDPs, there is no examination process to measure the competency of LDAs and there are no continuing education requirements.

To register, the applicant must pay a \$175 fee and provide a \$25,000 bond or deposit the same amount with the county clerk. Cal. Bus. & Prof. Code § 6404 and § 6405. Certification is effective for two years, after which the LDA must file an application for renewal and pay the same application fee. Cal. Bus. & Prof. Code § 6406(a).

The LDA codes provide no mechanism for disciplining LDAs who commit professional misconduct, apart from revocation when a criminal or civil action has been taken against the individual. Cal. Bus. & Prof. Code § 6413. Registration may be revoked by the county clerk upon receipt of an official record demonstrating the LDA has been found guilty of the unauthorized practice of law or has been found guilty of a misdemeanor under the LDA codes or that a civil judgment has been entered against the individual for negligence or a willful failure to perform his or her services under the LDA codes. Cal. Bus. & Prof. Code § 6413.