



WSBA

WASHINGTON STATE BAR ASSOCIATION

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD MEETING MINUTES

March 14, 2013

**Washington State Bar Association
Seattle, Washington**

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

Also in attendance were Thea Jennings (Staff Liaison), Robert Henry (RSD Associate Director), and Jean McElroy (WSBA General Counsel & Chief Regulatory Counsel).

Also present was Christy Carpenter, a member of the public.

PRELIMINARY MATTERS

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

I. Introduction

Chair Steve Crossland began by reporting that the Supreme Court approved family law as the practice area and that he will present updates on the Board at the Court's April 4, 2013 en banc meeting.

II. Board Decision-Making Process

Chair Crossland then explained the LLLT Board decision-making process referring to page 246 of the meeting materials. With a slight revision to the language, the Board agreed upon the decision-making process going forward.

III. Board Meeting Minutes

The Board adopted the February 21, 2013 Board meeting minutes.

IV. Scope of Practice Subcommittee Consent Agenda

The Board then discussed the March 14, 2013 consent agenda recommendations of the Scope of Practice Subcommittee, which were as follows:

- 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.

The Board adopted all of the recommendations on consent.

V. Scope of Practice Subcommittee Report

Subcommittee Chair Dallaire presented the report of the March 14, 2013 Scope of Practice Subcommittee meeting. The subcommittee discussed and made recommendations regarding LLLTs scope of practice in domestic violence and relocation actions.

Domestic Violence Actions Recommendations

The subcommittee discussed various types of protection/restraining order actions and recommends that family law LLLTs advise and assist clients in the following areas:

- Protection Orders (provided the LLLT notifies the client of available free legal services for obtaining protection orders);
- Restraining Orders;
- Responses to Petitions for Protection Orders; and
- Modifications and Renewals of Protection Orders.

The subcommittee recommends that the following types of protection/restraining order actions are not appropriate for family law LLLTs:

- Anti-harassment Orders;
- Criminal No Contact Order; and
- Sexual Assault Protection Orders.

The subcommittee determined that family law LLLTs should be required to advise clients of free legal services in domestic violence cases.

Relocation Actions Recommendations

As previously approved by the Board, family law LLLTs may assist in initiating relocation actions. The subcommittee further recommends LLLTs advise and assist clients regarding the following in relocation actions:

- Ex parte final orders;
- Motions/Declarations to Waive Notice Requirements for Notice of Intended Relocation (when a child or person is at risk); and
- Child support paperwork.

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A family law LLLT must terminate his/her legal services and advise the client to seek an attorney if there is an objection filed or a need for temporary orders. The subcommittee recommends that LLLTs be prohibited from advising and assisting clients regarding the following in relocation actions:

- Objections to Relocation Petitions;
- Responses to Objections to Relocation Petitions; and
- Temporary Orders.

Forms Approval

The subcommittee approved a number of forms. Mr. Dallaire directed the Board to review the subcommittee minutes for those specific forms.

Suggested Curriculum for LLLTs in Family Law Practice Area

The subcommittee submits to the Admissions & Licensing subcommittee curriculum criteria for its consideration: A family law LLLT's education should include the following:

- Protection order procedures and safety planning for domestic violence cases;
- When it is time to launch a relocation action; and
- Available pro se resources for clients.

VI. Admissions & Licensing Subcommittee Consent Agenda

The Board then discussed the March 14, 2013 consent agenda recommendations of the Admissions & Licensing Subcommittee, which were as follows:

- a) Must complete 45 credit hours in "Core Curriculum" in paralegal studies
- b) Must complete 12 credit hours in the "Major" or approved practice area
- c) Core course instruction to occur at ABA approved law school or ABA approved paralegal educational program
- d) Major curriculum to be developed by or in conjunction with Washington's ABA approved law schools
- e) 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.

Before presenting the consent agenda for adoption, Subcommittee Chair Bill Covington pointed out that the subcommittee had approved a couple of clarifications to the consent agenda items as described below:

- An educational credit shall be quantified using a ten week academic quarter; a "quarter" credit equals 450 minutes of "face-time" (the student or students are directly interacting with the class instructor). The American Bar Association uses the 450 minute standard.
- Experience must be gained no later than three years after passing the exam.

The Board adopted all of the recommendations and clarifications on consent.

VII. Admissions & Licensing Subcommittee Report

Subcommittee Chair Covington presented the report of the March 14, 2013 Admissions & Licensing Subcommittee meeting. The subcommittee further discussed the curriculum for the core and major area of practice courses and what the elements of each course should include. It is expected to finalize its chart of course descriptions at the April meeting.

Grandfather & Waiver Provisions

The subcommittee discussed whether or not there should be any grandfather provisions or waivers of the education requirements based on prior education or experience. The subcommittee agreed that every applicant must have, at a minimum, an associate-level degree and that prior education and/or experience could not substitute for that requirement. The subcommittee has a number of questions to consider, among which include:

- Should prior education be treated as the equivalent of some or all of the core requirements and/or Family Law I?
- Should successful completion of the PACE or NALA examination be treated as the equivalent of discharging some or all of the core requirements?
- Should applicants be allowed to test out of all or some of the core requirements?
- Should prior experience be treated as the equivalent of some or all of the core requirements and/or Family Law I?
- Should prior experience be allowed to count as 33 credits towards an associate degree so as to make an applicant who has successfully completed core and major courses eligible to take the licensing exam?

The subcommittee will continue this discussion at the next meeting.

Pro Bono Requirement Recommendations

The subcommittee discussed the 20 hour pro bono requirement for admission to the program. The subcommittee recommends striking that provision from APR 28, which would require a revision of the rule. A request was made by the Board that the recommendation that the pro bono requirement be stricken be up for discussion rather than on the subcommittee's consent agenda.

Exam Recommendations

The subcommittee discussed the exam requirements and agreed that there should be an ethics exam, core exam, and a major area of study exam. Each exam would be separate. The core and major area of study exam would each be comprised of three parts: a multiple choice part; an essay part; and, a practicum part. The subcommittee is open to the possibility that the ethics material may be combined with the multiple choice or essay parts of the core exam. The subcommittee will continue its discussion of the examination requirements at the next meeting.

VIII. Dual Representation of Parties in Uncontested Matters

The Board then discussed whether LLLTs may engage in dual representation of parties in uncontested matters. Strong concerns were addressed regarding situations where one spouse may have more power than the other. The Board could not reach consensus on the issue, so a motion was made to prohibit LLLTs from engaging in dual representation in family law matters. The motion passed unanimously.

IX. Should LLLTs Be Allowed to Prepare Discovery

The Board discussed whether LLLTs should be allowed to prepare formal discovery, such as interrogatories or requests for production, which created some debate. Concerns were addressed that LLLTs would not have the power to compel responses to discovery and that crafting discovery questions can be complicated. Given that the Scope of Practice & Forms subcommittee is still considering issues of scope, the issue was tabled as premature.

ADJOURNMENT

The meeting adjourned at 3:55 p.m.

NEXT MEETING

The next meeting will be 2:00 p.m. Thursday, April 18, 2013, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.