



WSBA

WASHINGTON STATE BAR ASSOCIATION

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD MEETING MINUTES

January 16, 2014

Washington State Bar Association
Seattle, Washington

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

Also in attendance was Thea Jennings (Staff Liaison) and Bobby Henry, RSD Associate Director.

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

I. Meeting Minutes

The minutes from the Board's December 19, 2013 meeting were approved.

II. Preliminary Matters

Chair Steve Crossland addressed several issues for the Board's future consideration:

1. Developing a mechanism for evaluating the LLLT Program,
2. Promoting the Program with different entities, including the Latino Bar Association and the judiciary,
3. Having an annual meeting with the Supreme Court beginning at the end of this calendar year, and
4. Finalizing the financial responsibility component.

III. Report of RPC Subcommittee Meeting

Subcommittee Chair Dial presented the report of the January 16, 2014 RPC subcommittee meeting.

Consent Agenda

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The RPC subcommittee removed its consent agenda item for further discussion on RPC 1.14 and diminished capacity clients. The subcommittee discussed whether the protective action an LLLT may take should be limited and whether an LLLT should be required to refer a client to an attorney when the protective action implicates an area of the law beyond the LLLT's scope of practice. The subcommittee determined that the rule should be revised to provide an admonition to the LLLT that any protective action shall not exceed his or her authority under APR 28 and that an explanatory note should be included to state that a reasonably protective action may include contacting an attorney. All of the proposed rules but RPC 1.14 will be on the Board's February consent agenda. RPC 1.1 to RPC 1.6 and RPC Title 2 will also be on the Board's February consent agenda.

Conflict of Interest Rules

The subcommittee clarified that a conflict for an LLLT may be imputed to a lawyer. Additionally, the issue of informed consent was revisited. The subcommittee previously determined an LLLT should be prohibited from obtaining informed consent, as it concluded that an LLLT would likely be unable to fully explain the implications of a conflict such that a client could provide informed consent to a waiver of a conflict. The subcommittee raised new concerns that such a prohibition may create access to justice issues. It was pointed out that LLLTs will be well trained and regulated. Further, allowing LLLTs to obtain informed consent will encourage them to disclose potential conflicts to clients rather than avoiding or ignoring such subjects. For the next meeting, the Conflicts workgroup will consider some hypothetical scenarios LLLTs may encounter for further discussion. The subcommittee will make a final recommendation regarding whether LLLTs may obtain conflict waivers at its February meeting. A final draft of the conflicts rules will be on the Board's March consent agenda.

Comments to Rules

The subcommittee then discussed whether it will revise or discard the comments to the lawyer rules. The subcommittee is on an aggressive timeline for submitting the rules to the Supreme Court for adoption. The comments can be useful to the application of rules but going through each comment to the lawyer rules will be a time consuming process that may delay completion of the rules. The subcommittee did not finalize an approach, though it favored referencing directly applicable lawyer comments in the RPC for LLLTs while generally referring LLLTs to the lawyer comments for instruction.

The Board then discussed the timeline for submitting the rules by June. Subcommittee Chair Dial will reach out to Nan Sullins, the Supreme Court Liaison to the subcommittee, regarding the best approach to submitting the rules.

IV. Board Retreat

The Board set the exam writing retreat for May 30-31. Given the work before the Board, the retreat will not replace the regularly scheduled May Board meeting. Perkins Coie has meeting space available for the retreat, if necessary.

V. Examination Consent Agenda

The Board then approved the January 16, 2014 consent agenda recommendation of the Examination subcommittee:

- a. The National Federation of Paralegal Association's Paralegal Core Competency (PCC) Exam shall be used for testing the LLLT core education.

VI. Report of Examination Subcommittee

Subcommittee Chair Lupe Artiga presented the report of the January 16, 2014 Examination subcommittee meeting.

The subcommittee will present proposed amendments to Appendix APR 28 and the Board's policies for the Board's February consent agenda. The proposed amendments relate to the application and examination regulations and the subcommittee's decision to make the core exam the PCC Exam. As a policy decision, the subcommittee would further like to permit waiver applicants to establish completion of the core exam based on their passage of one of the waiver qualifying examinations.

The subcommittee further discussed its family law testing objectives list and assigned weight to certain topics on a scale of 1-3, with one indicating major issues on which to test and 3 indicating topics that should be tested less frequently. The subcommittee will try to finalize this list for its next meeting, after which it will assign people questions and topics.

Finally, the subcommittee discussed the Family Law Advisory Workgroup. The subcommittee will review resumes from persons interested in assisting with the examination and make recommendations at the next meeting.

VII. Report re Community Colleges

Staff Liaison Thea Jennings reported on work with the community colleges to implement the LLLT core education. On Friday, January 10, 2014, two meetings were held to discuss the core curriculum. At the first meeting, the group discussed finalizing the curriculum "crosswalk" (a comparison of curricula at several colleges to see what matches up with the LLLT curriculum). Three ABA approved schools and Clark College aligned its curriculum to the Board's core curriculum.

Spokane's curriculum requires further review to determine whether its curriculum meets the Board's core education requirements. WSBA staff pinpointed specific courses of concern and gathered course materials for the Board to consider. Bob Loomis, Program Director at Spokane, provided additional materials for the Board's consideration. The courses of concern are as follows: Ethics, Contracts, Law Office Procedures and Technology, and Interviewing and Investigation Techniques. The Board then discussed whether Spokane's coursework satisfies the core requirements. The subcommittee that developed the core education spent great time evaluating what the LLLT education should be and determined that minimum credit hours should be in place for each required

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core course. From the materials provided, the Board determined more information was needed regarding the specific credit hours that meet each course requirement. Board member Janet Olejar agreed to reach out to Mr. Loomis to obtain further information and work toward aligning Spokane's curriculum. She will report back at the February Board meeting.

During the second meeting with the community colleges, the possible creation of the LLLT Education Endorsement Committee was discussed. Given concerns about WSBA's level of involvement, apparent lack of authority for such an entity and overall timing, discussion regarding a possible endorsement committee was put on hold. Alternative options to an endorsement committee resulted. The colleges asked for the Board's input and guidance regarding which direction to take. The Board chose to reconvene the Admissions & Licensing subcommittee to consider these issues and report back with a recommendation. The Board asks that the subcommittee consider the following questions:

1. Should the Board consider education options beyond the ABA approved institutions?
2. If yes, which option presented by the community colleges makes the most sense or should other ideas be considered?

ADJOURNMENT

The meeting adjourned at 4:45 p.m.

NEXT MEETING

The next meeting will be 2:00 p.m. Thursday, February 20, 2014, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.