



WSBA

WASHINGTON STATE BAR ASSOCIATION

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD MEETING MINUTES

March 13, 2014

Washington State Bar Association
Seattle, Washington

Members present were Steve Crossland (Chair), Lupe Artiga, Paul Bastine (BOG Liaison), Brenda Cothary, Bill Covington, Greg Dallaire, Jeanne Dawes (by telephone), Ellen Dial, and Elisabeth Tutsch.

Also in attendance was Thea Jennings (Staff Liaison) and Bobby Henry, RSD Associate Director. Reva Siewert, a representative from the Pacific Northwest Paralegal Association based in Oregon, appeared telephonically.

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

I. Preliminary Matters and Meeting Minutes

Steve Crossland reviewed his recent and upcoming travels and outreach conducted to promote the LLLT Program.

The Supreme Court has set a meeting with the LLLT Board for June 4, 2014 from 1:00 to 2:30 p.m. The meeting will be held at the Temple of Justice in Olympia.

The Board approved its February 20, 2014 meeting minutes.

II. Report of RPC Subcommittee Meeting

Subcommittee Chair Dial presented the report of the March 13, 2014 RPC Subcommittee meeting.

RPC 1.14

The Subcommittee again discussed what types of protective actions LLLTs may take when issues relating to a client's diminished capacity arise. The Subcommittee recommends that LLLTs not be encouraged to file guardianship petitions or take other specific protective actions, though such actions will not be expressly prohibited.

Consequently, references to types of protective actions an LLLT may take were taken out of the draft rule, except reference to obtaining the services of a lawyer when necessary. The Subcommittee further recommends adding an admonition that protective actions may not exceed the limited scope of the LLLT's practice.

The Board was then asked to provide input on these issues given the time the Subcommittee spent on RPC 1.14 and its differing opinions. The Board expressed no concerns about the direction of the Subcommittee. Draft RPC 1.14 will be on the Board's April consent agenda.

Conflict Rules

The Subcommittee redrafted the conflicts rules to allow LLLTs to obtain informed consent to a conflict. The Subcommittee reviewed the draft rules and voted to approve several drafts and made recommendations regarding specific revisions that shall be incorporated into a new draft. The Subcommittee will consider a revised draft of the conflicts rules at its April meeting.

Draft Rules

At its next meeting, the Subcommittee will consider revised drafts of the conflicts rules, Title 3, and Title 6. It will further continue discussions regarding draft Title 4 and Title 8 and begin discussions regarding Title 7.

III. Report of Examination Subcommittee

Subcommittee Chair Lupe Artiga presented the report of the March 13, 2014 Examination Subcommittee meeting.

Family Law Advisory Workgroup Participation

The Subcommittee invited all members of the Family Law Advisory Workgroup to attend the Subcommittee's meeting. Four of five were able to participate in the meeting and contributed greatly to the efforts of the Subcommittee. They will be invited to future meetings of the Subcommittee.

Testing Guide & Objectives

With the help of the Workgroup members, the Subcommittee continued to flesh out 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 the list of topics or Testing Guide by April 1, at which time it will assign members topics. The Testing Guide shall remain confidential. The Subcommittee will develop a separate abbreviated Study Guide for applicants.

Information Sharing with Law Professors

The Subcommittee will share the confidential Testing Guide with the law professors teaching the family law courses, so they may review it and contribute questions, including essay questions, for the licensing exam. The Subcommittee will accept test questions from the professors provided the questions are not used on their exams.

Question Drafting

The family law practitioners of the Board and the Workgroup will create the essay and performance section questions. The remaining Board members will write the multiple choice questions.

Professional Responsibility Testing Guide

Subcommittee member Ellen Reed will begin creating a grid for the professional responsibility exam.

IV. Timing of Rules and Regulation Package to Supreme Court

In order to have all necessary rules and regulations in place at the time of the first licensing of LLLTs, Staff Liaison Thea Jennings explained to the Board the need to present a complete rules package to the Supreme Court by the August 18 deadline for the Court Rules Committee. She indicated that WSBA staff will work to draft amendments to APR 28 and Appendix APR 28, new licensing regulations to Appendix APR 28, and the Rules for Enforcement of LLLT Conduct. The Board will have a chance to review these drafts over the coming months with the expectation that the Board will identify any necessary changes and be prepared to approve the rules package at its full-day meeting on August 10. These rules will be submitted to the Supreme Court with the RPC for LLLTs by August 18.

V. Draft Amendments to APR 28

Jennings then reviewed draft amendments to APR 28 that codify how the administration and expenses of the Board shall be handled by the Washington State Bar Association and the Board of Governors (BOG). Some members of the Board expressed concerns about leaving the financial/budgetary decisions to the BOG.

Jennings explained that the draft amendments that are consistent with new GR 12.4 and the WSBA's confidentiality and public records policies. The Board indicated that rules related to confidentiality and public records should mirror the rules and policies for lawyers.

VI. Draft Amendments to Appendix APR 28 and NEW Licensing Regulations 7 and 13-20

WSBA staff drafted amendments to Appendix APR 28 to simplify the rules and ensure consistency. Jennings walked the Board through the specific changes. She then reviewed new draft regulations for Appendix APR 28 related to character and fitness proceedings

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and the licensing of LLLTs. She clarified that the regulations were on for a first reading by the Board and no action was necessary.

Jennings then explained draft Regulation 7: Character and Fitness, which closely mirrors the lawyer APR for character and fitness except that rather than the Character and Fitness Board, a Character and Fitness Committee of the LLLT Board would oversee investigations and hearings and the LLLT Board would hear requests for review of Character and Fitness Committee decisions.

She discussed two proposed versions of Regulation 12 Financial Responsibility to account for additional ways of establishing financial responsibility, if necessary.

The Board discussed Regulation 14: Continuing Education. The Board discussed whether separate regulations regarding procedures for continuing education should be prepared for approval by the Supreme Court. Rather than submitting regulations to the Supreme Court, the Board directed Jennings to provide that continuing education related procedures shall be set forth in continuing education policies that shall be approved and maintained by the Board.

VII. New Practice Areas

The Board continued its discussions regarding the implementation of new practice areas and criteria to consider when making decisions. Preliminarily, the Board would like to consider areas of high need. It was also noted that practice areas that may make the profession viable for practicing LLLTs should also be taken into account. A new civil legal needs study has been commissioned by the Supreme Court. It is expected that statistical information on practice area needs will be available by the end of the year. This information should be considered by the Board as it makes practice area decisions. Member Greg Dallaire volunteered to contribute to the effort to formalize the criteria. The Board would like to have the criteria completed by its June meeting.

At the end of March, Ellen Dial and Elisabeth Tutsch will meet with the Elder Law Section Executive Committee to discuss how the rule may apply in the elder law context.

ADJOURNMENT

The meeting adjourned at 4:04 p.m.

NEXT MEETING

The next meeting will be 2:00 p.m. Thursday, April 17, 2014, at the offices of the Washington State Bar Association, 1325 4th Avenue, Seattle, Washington.