



WSBA

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

AGENDA for May 11, 2017

Washington State Bar Association
1325 Fourth Avenue – Suite 600
Seattle, Washington 98101
1:30 p.m. to 4:30 p.m.

1. **Call to Order/Preliminary Matters** (1:30 p.m.)
 - Outreach Update
 - Legal Tech Talk Report
 - Approval of Meeting Minutes
 - Upcoming BOG Meeting - LLLT Discussion
2. **Nominations Committee Report** (Brenda Cothary) (1:45 p.m.)
 - Finalize Nominations Slate
3. **MCLE Late Fee** (Jeanne Dawes) (2:00 p.m.)
 - Proposal of \$50 late fee for LLLTs
4. **Education Approval Question** (Genevieve Mann) (2:15 p.m.)
5. **Family Law Advisory Committee Report** (Nancy Ivarinen) (2:30 p.m.)
 - Committee recommendations regarding proposed amendments to APR 28
6. **Discussion on Family Law Enhancements** (Steve Crossland, Nancy Ivarinen) (2:45 p.m.)
7. **Discussion on Development of Practice Areas** (Steve Crossland, Jeanne Dawes) (3:15 p.m.)

MEETING MATERIALS

1. May Update
2. Draft Meeting Minutes from March 23, 2017
3. Issue Statement – MCLE Late Fee
4. Proposed Amendments – APR 28
5. Discussion Background- Anatomy of a Practice Area
6. Pending Issues List



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UPDATE: MAY 2017

Outreach & Press

Press:

- March 30, 2017: [Spokane Journal of Business, Program Creates New Type of Law Professional](#)
- April 2017: [Pierce County Lawyer, LLLT Profiles, Cindy Stewart and Barbara Esselstrom](#)

Recent:

- April 1, 2017: Washington Young Lawyers Committee. Jeanne Dawes, Ellen Reed.
- April 5, 2017: King County Bar Association. Paula Littlewood, Steve Crossland.
- April 20, 2017: ABA Standing Committee on Lawyers Professional Liability. Steve Crossland.
- May 5, 2017: Law Society of British Columbia Benchers' Retreat, Steve Crossland (LLLT) & Paula Littlewood (Future of the Profession).
- May 6, 2017: National Meeting of Access to Justice Chairs Table Talk. Diana Singleton, Access to Justice Board Manager
- May 6, 2017: University of California Riverside Paralegal Conference, Steve Crossland & Paula Littlewood.

Upcoming:

- August 10, 2017, National Organization of Bar Counsel, New York. Paula Littlewood, Steve Crossland.

Statistics

- Number of current LLLTs: 20
- March 2017 Exam: 6 examinees; 3 passed.

Meetings

Recent

- 5-10-2017 Family Law Advisory Committee Meeting
- 5-10-2017 Legal Tech Talk Webcast. Steve Crossland, Nancy Ivarinen.

Upcoming:

- 5-18/19-2017: Board of Governors Meeting
- 6-15-2017 LLLT Board Meeting



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LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

Meeting Minutes for March 23, 2017

Washington State Bar Association
1325 Fourth Avenue – Suite 600
Seattle, Washington 98101
1:30 p.m. to 4:30 p.m.

Members attending in person were Steve Crossland, Greg Dallaire, Caitlin Davis, Ruth Walsh McIntyre, and Nancy Ivarinen. Members attending remotely were Elisabeth Tutsch, Brenda Cothary, Professor Gail Hammer, Genevieve Mann, Jeanne Dawes, Lynn Fleischbein, Andrea Jarmon, Amy Riedel, and William Covington.

Also present were Ellen Reed, Limited License Legal Technician Program Lead, Bobby Henry, Associate Director of Regulatory Services, Jean McElroy, Chief Regulatory Counsel, Paula Littlewood, Executive Director, Christy Carpenter, LLLT #113, Jennifer Ortega, LLLT #118, and Destiny McManis on behalf of Andrea Jarmon.

Call to Order/Preliminary Matters

The meeting was called to order at 1:32 p.m.

- Outreach Update

Board members Gail Hammer, Genevieve Mann, and Jeanne Dawes were interviewed by Spokane Journal of Business regarding the program; the article was published at the end of March. Program Lead Ellen Reed and Jeanne Dawes also recently spoke to the Washington Young Lawyers Committee. Ellen Reed, Paula Littlewood and Steve Crossland joined a presentation by Jennifer Ortega and Sarah Bove at an Edmonds Community College Law Association meeting. Nancy Ivarinen met with Sara Harding from the Division of Child Support to discuss the ways in which LLLTs might assist in child support administrative hearings. Steve Crossland attended a meeting of the Superior Court Justices Association on March 4 to update them on the proposed enhancements to the family law practice area and the proposed Estate and Healthcare Law practice area.

- Expansion of Community College Core Curriculum

The University of Washington paralegal program has expressed interest in offering the LLLT core curriculum. Portland Community College recently created a course alignment chart with the LLLT core curriculum for their ABA approved paralegal program.

- Approval of Meeting Minutes

The meeting minutes from February 19, 2017 were approved with no changes.

- Applications for FY 2018 Board Appointments

The application period for the FY 2018 Board appointments will be closing on April 7th. Three attorney positions and one community member position will be up for reappointment. The Nominations Committee will meet shortly after the deadline to review applications.

- Public Welfare Foundation Report

The Public Welfare Foundation has released their report on the LLLT Program. It is publicly available on their website. The Board would like to evaluate the program again in the future and will seek out opportunities to do so.

Supreme Court Meeting Debrief

The LLLT Board discussed the meeting with the Supreme Court of Washington on March 8. Board members felt that it was important to move forward with further investigation of the scope of the proposed Estate and Healthcare Law practice area as soon as possible. Jeanne Dawes has agreed to be the Chair of the Estate and Healthcare Law Advisory Committee.

Family Law Examination Committee Report

Chair Nancy Ivarinen reported back on a recent meeting of the Family Law Examination Committee, which met to go over grades for the March 2017 examination and discussed possible changes to the testing format.

Staffing Update

Ellen Reed, LLLT Program Lead, has given notice. She will stay on with the program through May 2017. Her position will be posted as well as a new Regulatory Services Department manager position, which along with other duties will oversee strategic management for the LLLT program.

Committee Work plans

- New Practice Area Committee

New Practice Area Committee Chair Greg Dallaire will call a committee meeting within the next month in order to solicit ideas for the next LLLT practice area.

- Estate and Healthcare Law Advisory Committee

The Board discussed the possible composition of the Estate and Healthcare Law Advisory Committee. Ideally, the committee would have its first meeting in April.

MCLE Credits Discussion

In response to a question from the Mandatory Continuing Legal Education (MCLE) Board, the LLLT Board discussed whether or not LLLT MCLE credits should be approved using the standards for lawyer accreditation. Specifically, the MCLE Board asked whether, given the LLLT scope of practice, Law and Legal credits should only be awarded to LLLTs when related to their scope of practice. The Board generally did not have a strong opinion on whether or not there should be different standards for approval.

Adjournment and Next Meeting

The meeting was adjourned at 4pm. The next meeting will be held May 11, 2017 at the Washington State Bar Association headquarters.



WSBA

LIMITED LICENSE LEGAL TECHNICIAN BOARD

ISSUE STATEMENT

To: LLLT Board
From: Ellen Reed
Date: May 2017
Re: MCLE Late Fee for LLLTs

Issue

The 2106-2017 LLLT license renewal process began the first week of May. If LLLTs do not comply with mandatory continuing legal education (MCLE) requirements by August 1, they will be required to pay a late fee. The late fee amount needs to be set by the LLLT Board.

MCLE Late Fees for Lawyers and LPOs

Lawyers currently have a three-year MCLE compliance cycle; the fee for late reporting is \$150. Limited Practice Officers (LPOs) have a one year reporting cycle and pay a late fee of \$50. If the LLLT Board chooses to set a MCLE late fee of \$50 for LLLTs for their yearly reporting cycle, it would be equivalent to the fee for lawyers and LPOs.

SUGGESTED AMENDMENTS TO APR 28 (Clean)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 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 ~~and~~ 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

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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

[NO CHANGES]

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 ~~render any legal assistance provide the services required~~ on this issue and shall ~~advise-inform~~ the client ~~to that the client should~~ seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may ~~render~~undertake the following limited legal assistance to a pro se client:

(1) Obtain relevant facts, and explain the relevancy of such information to the client;

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- (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 [and assist with](#) 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 ~~the~~ 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 ~~records~~~~documents~~, such as birth, death, or marriage certificates.
- [\(11\) Communicate and negotiate with the opposing party or the party's representative regarding procedural matters, such as setting court hearings or other ministerial or civil procedure matters;](#)
- [and](#)
- [\(12\) Render other types of legal assistance when specifically authorized by the scope of practice](#)

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[regulations for the approved practice area in which the LLLT is licensed.](#)

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) [or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed](#);

(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

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- (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, other than a sworn statement or declaration by the client or a third party, 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 or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;
- (6) Negotiate the client's legal rights or responsibilities unless the client has given written consent defining the parameters of the negotiation prior to the onset of the negotiation, 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);

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(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) Appear or participate at the taking of a deposition;

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

(119) Otherwise violate the Limited License Legal Technicians' Rules of Professional Conduct.

I. – O.

[NO CHANGES]

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

REGULATION 1: [RESERVED.]

REGULATION 2: APPROVED 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 28F to inform clients when issues arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28F 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.

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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) ~~t~~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) ~~a~~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 2B(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~~, (g) nonparental custody actions, (h) parenting and support actions, (i) paternity actions, and (j) relocation actions, ~~except as prohibited by Regulation 2B(3)~~.

2. *Scope of Practice for Limited License Legal Technicians -- Domestic Relations.* LLLTs licensed in domestic relations may render~~provide~~ legal services to clients as provided in APR 28F and this regulation, except as prohibited by APR 28H and Regulation 2B_(3).

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

(b) LLLT legal services regarding the division of real property shall be limited to matters where the real property is a single family residential dwelling with owner equity less than or equal to twice the homestead exemption (see RCW 6.13.030).

(c) LLLTs may advise as to the allocation of retirement assets.

(d) LLLTs may include language awarding retirement assets in a decree of dissolution when the respondent defaults, when the parties agree upon the award or when the court awards the assets following trial. The award language in the decree shall identify (1) the party responsible for having the QDRO or supplemental order prepared and by whom, (2) how the cost of the QDRO or supplemental order preparation is to be paid, (3) by what date the QDRO or supplemental order must be prepared, and (4) the remedy for failure to follow through with preparation of the QDRO or supplemental order.

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

(f) LLLTs may present to a court agreed orders, uncontested orders, default orders and accompanying documents;

(g) LLLTs may accompany and assist their pro se clients at certain hearings, which may include responding to questions from the court or tribunal or the client and conferring with the client when permitted by the court or tribunal. The following types of hearings are permitted:

i. domestic violence protection order;

ii motions for temporary orders, including but not limited to temporary parenting plans, child support, and maintenance;

iii. enforcement of domestic relations orders;

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iv. administrative child support;

v. modification of child support;

vi. trial setting calendar proceedings with or without the client when the LLLT has confirmed the available dates of the client in writing in advance of the proceeding.

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

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

b. shall not provide render legal services in:

i. ~~in~~ defacto parentage or nonparental custody actions; ~~and~~

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

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

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

~~iv. preparation of QDROs, supplemental orders dividing retirement assets, or language within a final dissolution order to effectuate the division of retirement assets when the intention is to transfer funds from one account holder to another party;~~

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

~~viii. 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~~

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debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;

~~iv~~ii. anti-harassment orders, ~~criminal no contact orders~~, anti-stalking orders, and sexual assault protection orders in domestic violence actions;

~~vii~~iii. jointly acquired committed intimate relationship property issues in committed intimate relationship actions;

~~ix~~x. major parenting plan modifications and nonparental custody actions beyond the adequate cause hearing unless the terms are~~were~~ agreed to by the parties ~~before the onset of the representation by the LLLT~~;

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

~~xviii~~xi. objections to relocation petitions, responses to objections to relocation petitions, or temporary orders in relocation actions; and

~~ix~~ii. 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;

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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

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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 five credit hours in basic domestic relations subjects and ten credit hours in advanced and Washington specific domestic relations subjects.

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

REGULATION 4 – 20

[NO CHANGES]

ANATOMY OF A GUARDIANSHIP PROCEEDING

RCW 11.88.005

It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs.

RCW 11.88.010(1)

(a) For purposes of this chapter, a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety.

(b) For purposes of this chapter, a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.

(c) A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate. Age, eccentricity, poverty, or medical diagnosis alone shall not be sufficient to justify a finding of incapacity.

(d) A person may also be determined incapacitated if he or she is under the age of majority as defined in RCW 26.28.010.

RCW 11.88.030(1)

Any person or entity may petition for the appointment of a qualified person, certified professional guardian, or financial institution authorized in RCW 11.88.020 as the guardian or limited guardian of an incapacitated person.

IN THE BEGINNING:

- Existing estate planning documents of the Alleged Incapacitated Person (AIP) must be reviewed to determine whether a guardianship is the least restrictive method to protect AIP, determine whether a full or limited guardianship is warranted, and determine who AIP may have chosen to act in this capacity.
- Consideration and analysis must be made concerning whether there are less restrictive alternatives to a guardianship.
 - If the AIP can be protected with a durable power of attorney, or a SSA representative payee, the LLLT assisting must be familiar with the laws and regulations surrounding these areas, and must be able to complete the following:
 - Durable Power of Attorney pursuant to RCW 11.125 (General, Financial & Health Care)
 - Revocation of Durable Power of Attorney
 - SSA Representative Payee Program (No Fee may be charged for these services unless RP is a qualified organizational payee approved in writing by SSA to collect a fee.)
- If it is determined that a Guardianship is required:
 - Proposed Guardian must complete online guardian training and in-person guardian training (In Spokane County, and some other counties, not all counties required the in-person training).
 - Petitioner must obtain 3 names from Guardian Ad Litem (GAL) registry, and obtain agreement from one to act as GAL.
- After a GAL has been agreed upon, Petitioner MUST file the following to initiate an action:
 - A case information cover sheet
 - A confidential information form (If Petitioner wants to keep address and phone confidential)

- A Petition for Guardianship of Person and/or Estate
- Notice of Guardianship Petition
- Order Appointing Guardian Ad Litem and Notice of Hearing
- Petitioner must immediately notify GAL of appointment and provide the above documents once appointed by the Court
 - Note: In Spokane and possibly other counties, it is customary for the GAL to serve the document on the AIP – Petitioner should inform GAL if AIP has already been served.
- GAL must file Statement of Qualifications within 5 days of appointment, and meet and serve AIP with initial pleadings, including Notice of Hearing (if not already served by Petitioner) at least 10 days prior to any hearing date. The GAL report must be filed and served at least 15 days prior to the hearing date. Typically, the GAL will meet with the AIP and other parties as soon as possible, because the hearing must take place within 60 days of filing the Petition, unless continued for good reason.

ABOUT PATTERN FORMS: In the area of guardianship various sets of “pattern forms” – WPF – have been adopted by the Administrator of Courts for use in all guardianship proceedings. However, most counties have their own customized mandatory forms that must be used in that county. Spokane County forms are used by other counties in Eastern Washington, while King County forms may be used by Counties in Western Washington. A person must check the local rules of county to determine which forms must be used. The WPF Forms do not include all of the forms required by many counties. The mandatory forms required by the local counties may not include forms to cover all issues that may arise. For instance, in Spokane County, there is no Petition to Appoint a Successor Guardian, only an Order. The Spokane Guardianship Monitoring Program (GMP), want the person to use the Petition used to initially Appoint a Guardian, Declaration of Proposed Guardian, and submit a WSP background check, but you will not find this information anywhere on its website, in the local rule or in the statute. Another example is when transferring a guardianship from another state the instructions contained on the Spokane GMP website to not include all the forms Spokane requires – again they want you to include the Declaration of Proposed Guardian and submit a WSP background check. Hopeful this inconsistency and issue of unwritten rules will be rectified through the WINGS project. But until then, a new practitioner may have to use trial and error to figure out what their county's GMP wants. The WA Office of Guardianship and Elder Services formed a Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) which is a statewide stakeholder group developing a comprehensive strategy to address service delivery to the elderly and persons with disabilities, which includes developing a uniform, statewide system for guardianship services, and use of mandatory pattern forms. It is my understanding that WINGS is favoring Spokane GMP model for use statewide, but I do not believe any final decision has been made in this regard.

IN THE MIDDLE:

- If the Petitioner has not filed a Declaration of Guardian, that must be filed and served on AIP and GAL.
- Declaration of Completion of On-line Guardian Training must be filed with Court (In-training certificate will be filed by the GMP staff).
- Declaration of Service must be filed with Court.
- Proposed Order Appointing must be served on all parties, including bench copies at least two days prior to Hearing. (this may also be done in the beginning)
- If the Guardianship is uncontested, it is likely the middle work is mostly done by the GAL, and once the GAL has completed his or her work, the hearing will be held.
- If the Guardianship is contested, various things may happen during this period of time. Information gathering and "discovery" may be conducted, Experts such as psychologists and other medical professionals may be retained to determine if the AIP is incapacitated and to what degree; forensic accounts and other financial professional may be retained to determine the value of the AIP's estate, AIP's income and/or debt, and evidence of financial abuse. APS may be involved. Other potential guardians may petition to be considered. If the guardianship is contested, the court will appoint an attorney to represent the AIP, even if the AIP does not have

the resources to pay an attorney. The matter may be assigned to a judge for a trial with or without a jury. A contested guardianship is most likely not a practice area for a LLLT.

IN THE MIDDLE - GAL'S DUTIES:

- The GAL must determine as soon as possible if AIP wants or should have legal representation, and if so to file a Petition and Order to Appoint Attorney for AIP.
- GAL must obtain a medical/psychological report prior to hearing – hearing will not be heard without this report.
- If hearing cannot take place within 60 days, GAL must petition to continue hearing and must provide interim GAL reports to court every 30 days.

HEARING – STILL IN THE MIDDLE:

- All parties must attend the Hearing, unless the Court for good reason agrees that the AIP need not attend. This will be determined upon the recommendation of the GAL.
- If contested, this may be a full trial that has been assigned to a judge, and it could be before a jury.
- If the parties agree, "the hearing" can still be complicated by the court imposing its own judgment on how the matter should be resolved.
- If Guardian is appointed, Oath of Guardian must be filed with Bond (if required) before Letters of Guardianship are issued (usually have 30 days in which to file a bond.)

AFTER THE HEARING – NEXT 30 DAYS:

- Obtain Bond (must be included in Order)
- File Oath of Guardian (if not already filed)
- Obtain Letters of Guardianship from the Clerk's office
- File Receipts of Funds into Blocked Account(s)

AFTER THE HEARING – NEXT 90 DAYS:

- File Inventory
- File Initial Personal Care Plan
- Designation of and Consent by In-State Resident Agent (If not previously filed, and Guardian resides outside WA)
- File Designation of Standby Guardian (if not already filed)
- File Declaration of Guardian: Assets Held in Financial Institutions (If required, may not be required)
- File Form 56 Notice Concerning Fiduciary Relationship with IRS (If required, may not be required)
- File Petition for Approval of Budget, Disbursements and Initial Personal Care Plan
- Enter Order Approving Budget, Disbursements and Initial Personal Care Plan

AFTER THE HEARING – ANNUALLY:

- File Periodic Personal Care Plan (Guardian of Person only)
- Enter Order Approving Personal Care Plan (Guardian of Person only)
- Guardian's Report, Accounting, and Proposed Budget (Guardian of Person and Estate, or Guardian of Estate Only)
- Enter Order Approving Guardian's Report, Accounting, & Budget

DURING THE PERIOD OF GUARDIANSHIP:

- Any change in circumstances must be reported to the Court within 30 days.
- Any withdrawal from a Blocked Account must have prior authorization using a Petition and Declaration for Withdrawal from Blocked Financial Account and Order for Withdrawal from Blocked Account.

- Petition Court for authority to Invest Guardianship Funds and submit plan of Investment. Investments must comply with Court guidelines, obtain Order to Invest Guardianship Funds, Restrict Investment Accounts, and file Notice of Blocked Account(s) with Court.
- Any authority required to administer estate or care for person not specified in the Order Appointing Guardian must be Petitioned for and granted through a Petition for Instructions and Order on Petition for Instructions
- If Guardian has not complied with a Court's Order, a show cause hearing may be set by the Court, and sanctions may be imposed upon the guardian.
- Specific authority must be granted by the Court to list and sell personal and real property of IP.
- Specific authority must be granted by the Court to transfer the guardianship to another state, or to accept an out-of-state guardianship into this state.
- If Guardian is unable to act temporarily – a planned absence. The guardian must petition the Court for appointment of the stand-by guardian on a temporary basis – there are no mandatory forms for this, although different counties may have a requirement to use a specific form and modify it to fit this circumstance. References to stand-by guardian include a limited stand-by guardian if that is the case.
 - Prior to the commencement of the guardian's or limited guardian's planned absence and prior to the standby guardian assuming any duties, responsibilities, and powers of the guardian, the guardian must file a petition in the superior court stating the dates of the planned absence and the duties, responsibilities, and powers the standby guardian should assume. The guardian shall give notice of the planned absence petition to the standby guardian, the IP and his or her spouse or domestic partner and adult children, any facility in which the IP resides, and any person who requested special notice under RCW 11.92.150.
 - Upon the conclusion of the hearing on the planned absence petition, and a determination by the court that the standby guardian meets the requirements of RCW 11.88.020, the court shall issue an order specifying: (i) The amount of bond as required by RCW 11.88.100 through 11.88.110 to be filed by the standby guardian; (ii) the duties, responsibilities, and powers the standby guardian will assume during the planned absence; (iii) the duration the standby guardian will be acting; and (iv) the expiration date of the letters of guardianship to be issued to the standby guardian.
 - Letters of guardianship consistent with the court's determination under the preceding section shall be issued to the standby guardian upon filing an oath and posting a bond. The standby guardian shall give notice of such appointment to the IP and his or her spouse or domestic partner and adult children, any facility in which the incapacitated person resides, and any person who requested special notice.
- If Guardian resigns, dies or becomes incapacitated – permanent replacement.
 - Resignation: The guardian must obtain a hearing date and file a Notice of Guardian's Intent to Resign, Petition to Appoint Successor Guardian, Notice of Hearing and Declaration of Mailing. Guardian must provide notice of the hearing to all interested parties set forth in RCW 11.88.040. The successor guardian must appear at the hearing and present the Order Appointing Successor Guardian along with a Declaration of Proposed Guardian, WSP background check. Once the Order is entered the resigning Guardian has 30 days in which to submit the final accounting. The resigning guardian must file a Declaration of Service for all interested parties and allow time for objections. The final accounting will be audited through the GMP. After audit is complete the Order Approving Final Accounting will be entered or a hearing scheduled if not approved.
 - Death or Incapacity: If guardian dies or becomes incapacitated, within 30 days the stand-by guardian must petition for appointment of a substitute guardian, which may be the stand-by guardian. Upon the court's appointment of a new, substitute guardian, the standby guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the standby guardian (if not asking for appointment) shall be released from all duties and obligations arising from or out of the guardianship. Letters of guardianship shall be issued to the standby guardian or new substituted guardian upon filing an oath and posting a bond. The oath may be filed prior to the regularly appointed guardian's death or incapacity. The standby guardian shall provide notice of such appointment to the

incapacitated person and his or her spouse or domestic partner and adult children, any facility in which the incapacitated person resides, and any person who requested special notice.

THE END:

- If the Incapacitated Person (IP) is no longer incapacitated – due to attaining age of majority. Following forms must be filed and entered within 30 days of minor's 18th birthday. These forms may be filed and the Order entered at the same time. Presumably these forms, modified for an adult, would also be used if the IP regained his or her capacity. There are no separate mandatory forms for such a circumstance in Spokane, and I imagine it is a rare event.
 - File Declaration of Completion of Guardianship of Minor
 - Notice of Filing of Declaration of Completion of Guardianship of Minor
 - Declaration of Mailing – Minor
 - Petition for Order Closing Guardianship and Discharging Guardian
 - Order Closing Guardianship and Discharging Guardian
- Upon death of Incapacitated Person:
 - The Guardian must file a Notice of Death of IP within 30 days.
 - A final report and accounting must be filed within 90 days of the termination of the guardianship.
 - A Petition for Order Approving Guardian's Activities and Final Report must be filed.
 - Guardian must present an Order Setting Hearing on Petition to Settle Final Accounting
 - Notice of Hearing must be served on all interested parties & Declaration of Service filed. Service must be at least 12 days prior to the hearing.
 - Interested parties may file objections to the final report and accounting prior to or on the day of the hearing. (There may be local rules affecting property notice deadlines – Spokane LSPR98.20)
 - If no objection, the Order Approving Guardian's Activities and Final Report should be approved (although I've seen it not approved if the court questions any expenditure or activity.)
 - If objections are made, the court will determine the complexity of the issue objected to at the time of the hearing. The matter may be resolved by argument to the court in 10 minutes or less; the court settle the account at the time of a continued hearing after an audit is completed through the GMP; or the matter will be referred to GMP coordinator for scheduling of another hearing.
 - Upon approval of the final report, the Court will hear the Petition for Order Closing Guardianship and Discharging Guardian and enter its Order Closing Guardianship and Discharging Guardian. (which may occur at the hearing to approve the final report, or may occur ex-parte).
- Converting a guardianship to an intestate probate action is governed by RCW 11.88.150. There are no mandatory forms. The guardian may elect to administer the estate of an intestate IP (and presumably a testate IP if the guardian is the person named in the IP's will). While the statute only refers to in intestate proceeding, it does refer to both Letters of Administration and Letters Testamentary. If no other person petitions the court within 40 days of death, the guardian may convert the guardianship into a probate action, and continue administration of the estate without the necessity for any further petition or hearing. If another person petitions and is appointed personal representative within the 40-day period, that personal representative will supersede the guardian in the administration of the estate. That statute requires a guardian to complete the statutory creditor claim process for an IP decedent. It may also require another PR to complete the claims process, however the provision relating to a non-guardian PR is less clear.

LLLT Board Pending Issues

In Progress

Topic	Details	Assigned To	Next Steps
<p>Family Law Scope</p> <ul style="list-style-type: none"> • Clarify, expand, or remove prohibition on dividing retirement assets • Incorporation of mediation, negotiations, communication, or court appearances • Possible incorporation of division of the family home, or basic real property law, into family law practice area; or decide if it should be a separate practice area • Discuss lifting non-parental custody prohibition • Discuss allowing contested major modifications 		Family Law Advisory Committee	The Board voted to adopt the Family Law Advisory Committee's scope recommendations. The recommendation was discussed with the Supreme Court on 3/8 and the Court has given approval to move forward with drafting the amendments.
Define next practice area		New Practice Area Committee	The Estate and Healthcare Law recommendation was discussed with the Supreme Court 3/8; the Court has responded. The Board will discuss how and when to move forward with developing the next practice areas at their May meeting.
Financial aid for LLLT practice area students		WSBA Staff / AEL Committee	Amy Riedel has identified several options; continuing to research.
Outreach program to paralegal students, lawyers, and potential clients	WSBA staff and Board members are engaged in ongoing outreach to members	Board Members and WSBA Communications Staff	WSBA has developed a new outreach plan that focuses on potential applicants for the license, LLLTs and the public.
Member benefits for LLLTs		WSBA Staff	LLLTs currently can access all member discounts and Casemaker. If the Court adopts proposed changes to APR 19, they may have access to LOMAP and the ethics line in Sept. 2017.
Expansion of core curriculum to non ABA-approved schools		Site Team	Whatcom Community College has received approval to offer the core curriculum. Portland Community College recently aligned curriculum. Several other institutions have inquired about applying, including Wenatchee Valley College and the

			University of Washington paralegal program.
Vision for long-term access to justice through LLLT program		Caitlin Davis, Greg Dallaire, LLLT Program Lead	Planning to correlate outreach to VLPs with licensing of actual LLLTs. When more LLLTs are licensed, Board members plan to reach out to VLPs, QLSPs and Facilitator Programs to encourage them to hire LLLTs.
Creation of local court rules to allow LLLTs to access files electronically	See Okanagon County rule. Pierce County wants to talk about it. Chelan county may have rule.	Steve Crossland/ LLLT Program Lead	Planning to send letter to AOC asking them to grant LLLTs access re Odyssey counties. Researching JIS and other systems regarding where LLLTs have problems.

Future Issues/Deferred

Should core curriculum be revised (poverty/real estate)?		AEL Committee	TBD
Revise curriculum to require scope/ethics to be taught earlier than 3 rd of 3 courses?	To be considered after initial program development is complete	AEL Committee	TBD
May community colleges teach subject area courses?	To be considered after initial program development is complete	AEL Committee	TBD

Pending

Revise APR 28 G (mailing address requirements) to conform with lawyer rules	Suggested rule change approved by Board of Governors	WSBA staff	Included in APR 28 suggested amendments sent to Court in October 2016
Revise fingerprint requirement for LLLTs to conform to lawyer rule	Suggested rule change approved by Board of Governors	WSBA staff	Included in APR 28 suggested amendments sent to Court in October 2016
Revise APR 28 to include LLLTs in Board composition	Rule change approved by Board of Governors	WSBA staff	Included in APR 28 suggested amendments sent to Court in October 2016