WSBA

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

AGENDA for July 20, 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
   - Approval of Meeting Minutes
   - Rosters & Call for RPC Committee Members
   - Staffing Update
2. **New Practice Area Committee Report** (Greg Dallaire) (1:45 p.m.)
3. **Decision Regarding Next Practice Area Ideas** (Greg Dallaire/Steve Crossland) (2:00 p.m.)
4. **Communication to Supreme Court** (Steve Crossland) (2:30 p.m.)
5. **Proposed Changes to APR** (Nancy Ivarinen) (3:00 p.m.)
   - Discussion of Comments Received
   - Vote on Real Estate Form

MEETING MATERIALS

1. July Update
2. Draft Meeting Minutes from June 15, 2017
3. Committee Rosters
4. Civil Legal Needs Data Summary
5. Comments Received re: Family Law Enhancements
6. Real Estate Form
7. July Pending Issues

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

UPDATE: JULY 2017

Outreach & Press

Press:

- June 20, 2017: "We want to hear from you: Family Law Enhancements", NW Sidebar
- June 21, 2017: "Reflecting on Access to Justice", Forbes
- July 10, 2017: "Are Legal Technicians Coming to Oregon?", Oregon Law Practice Management
- July 11, 2017: "Licensed Legal Technicians", New York Times

Recent:

- July 12, 2017: LLLT Working Group Meeting: Missoula, MT. Paula Littlewood, Steve Crossland

Upcoming:

- August 10, 2017: National Organization of Bar Counsel: New York. Paula Littlewood, Steve Crossland
- September 8-9, 2017: Law Society of Manitoba, Paula Littlewood, Steve Crossland.

Statistics & Other Events

- Number of current LLLTs: 23
- Comment Period for Family Law Amendments Ends July 17, 2017
- LLLT Exam: August 28, 2017

Meetings

Recent:

- July 20, 2017: New Practice Area Meeting

Upcoming:

- August 17, 2017: LLLT Board Meeting

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

Meeting Minutes for June 15, 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 Amy Riedel, Steve Crossland, Greg Dallaire, Ruth Walsh McIntyre, Genevieve Mann, and Brenda Cothary. Members attending remotely were Lynn Fleischbein, Jeanne Dawes, and BOG Liaison Andrea Jarmon.

Also in attendance were LLLT Program Lead Ellen Reed, Regulatory Services Director Associate Director Bobby Henry, and LLLT candidate Sarah Bove.

Call to Order/Preliminary Matters

The meeting was called to order at 1:45pm.

- Outreach Update

Program Lead Ellen Reed and LLLT candidate Sarah Bove talked about the recent Access to Justice Conference, which included a presentation by Priscilla Selden (LLLT #102) and Christa Lennsen, Thurston County Volunteer Legal Services Program Coordinator. Sarah Bove also described a recent presentation that she and Jennifer Ortega (LLLT #118) gave to Spokane Community College and a recent discussion with the YWCA regarding potentially fitting LLLTs into their worker retraining and scholarship programs. Board member Lynn Fleischbein noted that there had been a recent article in the ABA Family Law quarterly regarding the LLLT program. Board Chair Steve Crossland described the widespread enthusiasm for an LLLT program in Canada based on his experience at a Benchers retreat he attended in Alberta and also reported back on his recent work with a foundation that he hopes may be interested in providing funding for LLLT students.

- Approval of Meeting Minutes

The May 11, 2017 meeting minutes were approved with one abstention.

- Board of Governors Meeting Report

Board Chair Steve Crossland and Family Law Advisory Committee Chair Nancy Ivarinen attended the May 19 Board of Governors (BOG) meeting to report on recent and proposed developments in the LLLT program. They felt that the BOG offered helpful insights on the current direction of the program how to best solicit input from the Bar members.

- Update on Coordination Project

In early June 2017, the Supreme Court adopted the changes to the Admission and Practice Rules which were proposed in October 2016. The changes will become effective on September 1, 2017 and will transfer regulation of LLLT Mandatory Continuing Legal Education (MCLE) to the MCLE Board and the LLLT character and fitness process to the Character and Fitness Board. The amendments will also change the composition of the LLLT Board and will allow LLLTs to access the Ethics Line, the Law Office Management Assistance Program, the Law Fund for Client Protection, and the Lawyers Assistance Program.

Family Law Advisory Committee Report

LLLT Program Lead Ellen Reed reported back on the Family Law Advisory Committee Meeting which was held on June 12, 2017. The meeting resulted in some suggested changes to the previous draft of the family law enhancements, scheduled to be sent down to the Supreme Court this summer after consideration of comments from the Bar membership.

Proposed Changes to Family Law Amendments

The Board unanimously voted to approve the amendments as recommended by the Family Law Advisory Committee.

Communication to Court Regarding New Practice Area

The Board discussed the Supreme Court's communication to the Board in March regarding the development of the LLLT program. The Board offered suggestions as to the contents of a letter responding to the Court; Board Chair Crossland will incorporate the Board's suggestions into the draft of the letter, which will be discussed again at the July meeting. The LLLT Board also held an in-depth discussion of the potential next LLLT practice area, which will also be further explored at the July meeting.

Adjournment and Next Meeting

The meeting was adjourned at 4:02 pm. The next meeting will be held on July 20, 2017 at 1:30pm.

WSBA

WASHINGTON STATE BAR ASSOCIATION

Limited License Legal Technician (LLLT) Board
Admissions, Education & Licensing Committee
FY 2017 Roster

NAME	E-MAIL
Professor Genevieve Mann, Chair	manng@gonzaga.edu
William E. Covington	wcovington@aol.com
Brenda Cothary	bcothary@msn.com
Stephen R. Crossland	steve@crosslandlaw.net
Stephanie Delaney	Stephanie.Delaney@seattlecolleges.edu
Nancy Ivarinen	nancy@ncilegal.com
Amy Riedel	ariedel@whatcom.edu
Bobby (Buzz) Wheeler	bwheeler@highline.edu
Andrea Jarmon (BOG Liaison)	ajarmon@jarmonlaw.net
WSBA STAFF	
Ellen Reed LLLT Program Lead	ellenr@wsba.org
Robert Henry Regulatory Services Department Associate Director	roberth@wsba.org

WSBA

WASHINGTON STATE BAR ASSOCIATION

Limited License Legal Technician (LLLT) Board
2017 Family Law Advisory Committee Roster

NAME	E-MAIL
Nancy Ivarinen, Chair	nancy@ncilegal.com
Rita Bender	rbender@skellengerbender.com
Jeanne Dawes	jjdawes@goregrewe.com
Professor Gail Hammer	hammerg@gonzaga.edu
Jennifer Petersen	jen@saalawoffice.com
Ruth Walsh McIntyre	drruth1@nwi.net
Andrea Jarmon (BOG Liaison)	jarmonlaw@hotmail.com
WSBA STAFF	
Ellen Reed LLLT Program Lead	ellenr@wsba.org
Robert Henry Regulatory Services Department Associate Director	roberth@wsba.org

WSBA

WASHINGTON STATE BAR ASSOCIATION

Limited License Legal Technician (LLLT) Board
2017 New Practice Area Committee Roster

NAME	E-MAIL
Greg Dallaire, Chair	gdallaire1@comcast.net
Caitlin Davis Carlson	caitlindc@legalfoundation.org
Steve Crossland	steve@crosslandlaw.net
Jeanne Dawes	jjdawes@goregrewe.com
Lynn Fleischbein	lkf@lmflaw.com
Hon. Lorraine Lee	lorraine.lee@oah.wa.gov
Kameron Kirkevold	kkirkevold@helsell.com
Sheila O' Sullivan	sheila@nwclc.org
WSBA STAFF	
Ellen Reed LLLT Program Lead	ellenr@wsba.org
Robert Henry Regulatory Services Department Associate Director	roberth@wsba.org

WSBA

WASHINGTON STATE BAR ASSOCIATION

Limited License Legal Technician (LLLT) Board
2017 Nominations Roster

NAME	E-MAIL
Brenda Cothary, Chair	bcothary@msn.com
Steve Crossland	steve@crosslandlaw.net
Greg Dallaire	gdallaire1@comcast.net
Caitlin Davis Carlson	caitlindc@legalfoundation.org
Jeanne Dawes	jjdawes@goregrewe.com
Nancy Ivarinen	nancy@ncilegal.com
Ruth Walsh McIntyre	drruth1@nwi.net
Andrea Jarmon (BOG Liaison)	ajarmon@jarmonlaw.net
WSBA STAFF	
Ellen Reed LLLT Program Lead	ellenr@wsba.org
Robert Henry Regulatory Services Department Associate Director	roberth@wsba.org

Legal Needs Data Summary

Problem Areas

Source	#1	#2	#3
Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% FPL)	Health	Consumer	Rental Housing
Legal Foundation of Washington (Statewide, 0-200% FPL)	Family	Housing	Individual Rights
Moderate Means Program (Statewide, 200-400%FPL)	Family	Consumer	Housing
2015 Civil Legal Needs Study (Statewide, 0-200% FPL)	Healthcare	Consumer	Employment
2003 Civil Legal Needs Study (Statewide 0-400% FPL)	Housing	Family	Employment
Neighborhood Legal Clinics (King County, all income levels)	Family	Housing	Consumer

Individual Issues

Source	#1	#2	#3
Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% FPL)	Debt Collection for Health Procedures	Health Insurance Doesn't Cover Needed Care	Debt Collection (general) Housing Conditions
Legal Foundation of Washington (Statewide, 0-200% FPL)	Private LL/T	Divorce	Immigration
Moderate Means Program (Statewide, 200-400%FPL)	Custody	Divorce	Support
Neighborhood Legal Clinics (King County, all income levels)	Private LL/T	Divorce	Custody

From:	Sunshineseeker75
To:	Limited License Legal Technician
Subject:	Amendments comment
Date:	Wednesday, July 05, 2017 8:09:49 PM

Hello,

I hired a LLLT in the Spring of 2016 for a personal matter in Cowlitz County. I found that using this technician helped me so much to navigate the court's website, of which I was very unfamiliar. My technician helped me with finding forms, and court timing and how to access the call-in feature instead of being in court in person.

I feel additional responsibilities as outlined in the amendment would be very beneficial. These technicians can help with court administrative things, and I recommend the amendments!

The scoundrel I went to court against, who has a court order for specific performance is still non-compliant, but that is another story.

Cherie G

From: Angela Wright
To: Priscilla Selden
Cc: Ellen Reed; Ellen Reed; debbie@aubreylawfirm.com; tamara@baugherlawfirm.com; jeanneb@brewelaw.com; barbara@davidgateslaw.com; assistant@fiorilawoffice.com; michelle@fiorilawoffice.com; tracyswanlund@hotmail.com; dseverin@jmlawps.com; kelliedightman@gmail.com; kim@kimlancasterlt.com; contact@legaltechservices.org; kay.luoma@lutzlaw.com; christy@myllllt.com; maryanoyes@gmail.com; vanessa@olympicllllt.com; jen@saalawoffice.com; fabian@sutkuslawfirm.com; candy@falkensteinlaw.com; cindy@stewartlegalservices.com; laura@wafamilylawtech.com; Jennifer Ortega
Subject: Re: Draft APR Amendments Related to Family Law - Please submit comments by 12pm, Wednesday June 14th
Date: Wednesday, June 14, 2017 12:38:40 PM

Ellen,

Thank goodness Priscilla is on top of this! My thoughts echo what she has stated so eloquently. Thank you Priscilla.

I am especially appreciative of inclusion of non-parental custody matters to the list of what we can help with. There is a huge demand for help in that area and it will benefit many children.

The only other thing I would add at this time is a comment and question regarding the prohibition on preparation of QDROs. I would like to point out that a proposed QDRO can even be prepared DIY by the party/parties. Although Courts have jurisdiction to declare a QDRO "qualified" as comporting with federal law, pension plan administrators must determine whether a QDRO meets the requirements of a specific pension plan and because of that most plan administrators provide a template for the QDRO that meets the plans requirements. Additionally they offer to review proposed QDROs prior to submission to the court.

A simple Google search for "QDRO" will find all kinds of online QDRO preparation websites - Some offer the service for as little as $50.00 for "all states". Really makes one wonder about the legitimacy of such a service. So exactly what is the reasoning behind prohibiting LLLTs from preparing QDROs?

Many thanks to all who have worked on this effort!

Best Regards,
Angela Wright

Angela Wright, Legal Technician Services, PLLC
Angela Wright, LLLT
P.O. Box 81
Granite Falls, WA 98252
425-350.7908
www.angieslegaltech.com
angela@angieslegaltech.com

Limited License Legal Technicians (LLLT), are experienced legal professionals, trained and licensed to advise and assist individuals in family-law matters defined by APR 28 in the State of Washington. An LLLT is not an attorney.

This e-mail message is intended only for the named recipient(s) above and is covered by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This e-mail is confidential and may contain information that is privileged, or exempt from disclosure under applicable law. Recipients should not file copies of this e-mail with publicly accessible records. If you have received this message in error, please immediately notify the sender by return e-mail and delete this e-mail and any attachments from your computer. Thank you

On Wed, Jun 14, 2017 at 12:07 PM, Priscilla Selden <cvlts.pllc@gmail.com> wrote:

> Hi, Ellen. Thanks so much for forwarding these to us for comment!
>
> Having reviewed the proposed changes, I wish to submit the following comments and

From: Virginia Tucker
To: Limited License Legal Technician
Subject: Proposed Enhancements to the LLLT Practice Area
Date: Saturday, July 08, 2017 2:40:23 PM

I am writing in support of the latest proposed enhancements to the LLLT Practice Area. I was a County Law Librarian for eleven years in Whatcom County, serving primarily self-represented litigants, and have a deep appreciation for the need for LLLTs in the legal community -- and also for the oversight needed for this new area of professional practice. The depth of planning that has gone into the LLLT guidelines has been both thoughtful and thorough, and now this latest set of proposed enhancements further tightens the scope and guidance. Excellent work all around. I am fully in support.

Sincere regards,
Virginia Tucker, MLS, PhD, Certified Paralegal

_____

Virginia M. Tucker, MLS, PhD, Assistant Professor
School of Information, San José State University
e: virginia.tucker@sjsu.edu | w: faculty profile

From:	Pattie
To:	Limited License Legal Technician
Subject:	Response to enhancements to LLLT Practice Area
Date:	Wednesday, July 12, 2017 12:44:57 PM

Assistance in Courts. I think attendance in Court is a great idea for so many reasons, but especially when drafting the Orders at the conclusion of the hearing. Would an LLLT participation's in this process be allowed? This may include interacting with opposing counsel/party, verbally, drafting the Order as a result of the ruling? With regard to the deposition attendance, I am unclear how helpful an attendance would be but "*not to participate in deposition*". Would this mean not advising client, i.e. objecting to questions, or telling them not to answer. What role would an LLLT have at a deposition, please clarify?

Communication on Procedural Matters and Negotiations. I am not understanding "procedural matters", this would have to be further defined. It appears "procedural matters" and "negotiations" are two different things. Do you mean like requesting a hearing continuance? How does this affect APR 28 F(8) regarding drafting letters? How does this affect APR 28 H(6) regarding negotiating and communicating with other party/counsel? Define form of communication? does this include emails, letters, or just verbal, does this mean LLLT can sign email, letters, etc.?

Alternative Dispute Resolution. This is great, now my question is does this include assisting client's with drafting a mediation/settlement conference letter/notebook/materials? arbitration brief? Any limitations on "accompanying and assist" client?

Presentation of Orders. Right now in King County, most of the presentation of Orders are done via the Clerk in Ex Parte where no appearance is necessary EXCEPT presentation of final orders (i.e. decree/parenting plan) when oral testimony is necessary, does this include that? So I assume no Order to Show Cause or TRO's correct?

Clarification of Prohibitions on Retirement Assets. I assume defined benefit plans are excluded because they usually need valuing by an expert and then a QDRO, yet defined contribution plans may still need an expert to determine comm. vs sep. value and may still need a QDRO. I think if an LLLT utilizes these experts (i.e. to value plans and to draft QDRO and references this in Decree) should be sufficient for either benefit, but that's my opinion and there should be no limitation as long as experts have rendered their opinion in value and allocation. Is see no reason to limit the scope for either benefit plan

Requirements to Sign All Documents. So if an LLLT assists with a client's sworn declaration, we sign it as well?

Nonparental Custody and Major Modification to Adequate Cause. Up to the point of adequate cause hearing, what does this mean? Does it mean an LLLT can assist in drafting and filing the Petition, Summons and then the entire Motion for Adequate

cause, then client has to appear at hearing on own anyway, so everything after that, i.e. following case schedule, temporary orders, discovery, etc. the LLLT cannot assist with? I am not understanding what a LLLT can do? Personally, I think determination of adequate cause is a big deal and should not be in LLLT scope when considering the lesser complicated issues like the pension plan division, real estate division, etc.). Why isn't relocation included in this scope? Personally, I would stick a LLLT scope to agreed mods and custody orders, but allow all relocation issues since pplan evaluators usually are involved for a very short term.

Division of Single Family Home. I have never understood this limited scope on this issue from the beginning. I do not think there should be any limitation on dividing a home whatsoever, no matter value or encumbrances. The majority of divorces have a one major asset, the family home, either someone buys the other out, gets awarded in full or they sell it. The values are determined either by agreement, CMA or an appraiser. As with any asset, sometimes there is a separate interest. Not sure why real property is being treated so differently. QCD, DOT, PN and REETA are available and very easy to fill out. There should be no limitation on an LLLT's scope with regard to real property.

Thank you,

From: Vanessa Ridgway
To: Ellen Reed
Subject: Feedback re: proposed amendments to APR 28
Date: Wednesday, July 12, 2017 2:12:00 PM

Dear Ellen,

Set forth below are my "comments" on the proposed amendments to APR 28.

COMMENT #1:

APR 28 Regulation 2B(2)(h): LLLTs may accompany, assist, and confer with their pro se clients and respond to questions from the court or tribunal at the hearings listed below: ...

What kinds of questions from the court or tribunal does the rule contemplate that LLLTs will be answering? Questions related to the content of the pleadings prepared by the LLLT for the client? Requests to the LLLT to clarify what the client is trying to say? Questions to the LLLT to respond to what the other party has filed? On the other end of the spectrum, how will the Court know they can ask questions of LLLTs and what those questions may pertain to? I respectfully request clarification so that we can ensure we are in compliance.

Furthermore, I respectfully suggest that LLLTs be allowed to speak for their clients and present client's arguments for them at motion hearings. When my clients are articulate or are confident enough to speak in open Court, it has worked extremely well for me to prepare pleadings and for them to speak on their own behalf. But when clients are incapable of speaking for themselves, they are at an enormous disadvantage. If LLLTs are provided with sufficient education and training in courtroom advocacy, we can be an appropriate voice to speak on behalf of our clients. Since I personally am truly serving low income clients that cannot afford to hire attorneys, the fears of attorneys that LLLTs will steal their clients if we are allowed to argue hearings does not apply. We are filling a much-needed gap to give pro se parties a voice; not stealing business from attorneys.

COMMENT #2:

APR 28 Regulation 2B(3)(xi): Prohibited acts - "objections to relocation petitions, responses to objections to relocation petitions,..."

My concern is that this language is technically incorrect and possibly misleading to the lay person. A relocation action begins with the relocating party filing and serving a Notice of Intent to Move with Children (Relocation) (FL Relocate 701), not a petition. Then the other party must file and serve an Objection to Relocation/Petition to Modify Parenting Plan which is now known by the more cumbersome title of "Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation)" (FL Relocate 721) and Summons (FL Relocate 720). Is there alternate language that can used here to clarify that it is not an objection to relocation PETITION?

Many thanks to all of you on the Board for working hard to expand our

scope and enable us to better assist our clients.

--
Kind Regards,

Vanessa Ridgway, WSBA LLLT #119
Olympic LLLT, P.S.
Limited License Legal Technician Services
104 N. Laurel St, Ste. 101/P.O. Box 3086
Port Angeles, WA 98362
(360) 477-7150
(360) 470-7176 - fax
vanessa@olympicllllt.com
www.olympicllllt.com

Using Opera's mail client: http://www.opera.com/mail/

From: Assistant
To: Ellen Reed
Cc: Heather Ramirez; Michelle M. Cummings
Subject: RE: Draft APR Amendments Related to Family Law - Please submit comments by 12pm, Wednesday June 14th
Date: Friday, June 16, 2017 12:23:28 PM
Attachments: image001.jpg

Ellen: Glad to hear you will be around a little longer. There's no doubt you are an asset to the LLLT program.

Regarding the proposed rule changes, I appreciate the thoughtful comments of other LLLT's and I'm pleased to see that the Board is attentive to the practice issues. I have just a few comments regarding QDRO's and pre-nuptial agreements:

I agree that LLLT's should not advise or assist with QDRO's or pre-nuptial agreements. Even experienced family law attorneys steer clear of these because of the complex nature and significant financial impact. Even the smallest error or omission could be enormously detrimental to the client (and legal professional). Specifically regarding QDRO's, I believe these are best left to professionals who possess the requisite legal and financial expertise to carry it out properly and in the client's best interest. Yes, there are relatively inexpensive professional services available to clients for preparing a QDRO. If the clients can already contract directly and inexpensively with a more qualified professional, them there is no need for a LLLT to prepare these documents.

On the other hand, if the client consults with an attorney and obtains the required forms and written instructions for preparation of a QDRO, then I think the LLLT should be allowed to assist the client with the preparation, approval, filing and service of the QDRO-- *in strict adherence to the attorneys instructions.* Personally, in this scenario, I still would decline to prepare the QDRO unless the forms and instructions came from an attorney/firm I was in practice with, so that we were both covered under the same E&O policy for the services rendered.

Respectfully,

Melodie J. Nicholson, LLLT No. 115
Limited Licensed Legal Technician (Family Law)
Paralegal Assistant to Heather Ramirez, Esq.

Fiori Law Office, Inc.
731 West Main Street
Auburn, WA 98001
Phone: 253-735-3400
Fax: 253-735-3436
www.fiorilawoffice.com
assistant@fiorilawoffice.com

From: Steve Chance
To: Limited License Legal Technician
Subject: LLLT changes
Date: Thursday, June 22, 2017 11:51:05 AM

Dear LLLT Board,

I have reviewed the proposed changes to the LLLT program and I fully support them.

Steve Chance
Attorney at Law
119 N. Commercial Street, Suite 175
Bellingham, WA 98225
(360) 676-9700
(360) 676-0082 fax
steve@chancelaw.com

THIS TRANSMISSION CONTAINS CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS AND MAY NOT BE DISCLOSED TO ANY PERSON BUT THE INTENDED RECIPIENT(S). IF THIS MATTER IS TRANSMITTED TO YOU IN ERROR, PLEASE REPLY TO THE SENDER IMMEDIATELY AND DELETE ALL INFORMATION FROM YOUR COMPUTER. THANK YOU.

From: Kirsten Barron
To: Limited License Legal Technician
Cc: Rajeev Majumdar
Subject: LLLT Amendments
Date: Thursday, June 22, 2017 3:37:11 PM

I am writing in support of the LLLT Amendments that enhance and expand the activities in which LLLTs may engage. Rajeev Majumdar, our District 2 Governor, has been wonderful at letting us know what is going on at WSBA – and he sent out an email today informing us of these revisions, which I had not yet seen. He provided a link to the actual amendments and I have read them.

I think the amendments will go far in improving the experience of many people in family law matters. I think LLLT limited appearance in court will provide litigants who would not otherwise have representation and have less complicated matters with guidance and comfort and certainty through the process. The amendments allow LLLTs to be more supportive of litigants and we know that people are able to think more clearly, rationally and effectively when they feel guided and supported. I also think allowing negotiation is an excellent idea within the scope of "practice." The limitations on the scope, such as commercial assets and higher value residential real estate, are sensible.

I want to thank the WSBA for its commitment to expanding access to justice for Washington's citizens. I understand that doing something new is a risk and I am hopeful that the LLLT Committee will be able to quantify and evaluate how these amendments, if adopted, affect litigants' experience and results in the legal process.

Kirsten Barron, Esq.
Barron Smith Daugert PLLC
300 N. Commercial
P.O. Box 5008
Bellingham, WA 98225
kbarron@barronsmithlaw.com
tel 360-733-0212
fax 360-738-2341

From: Priscilla Selden
To: Limited License Legal Technician
Subject: Comments on proposed Amendments
Date: Friday, June 23, 2017 10:25:04 AM

I appreciate that the Board has solicited our input on the impacts of APR 28 and regulations on our practice, since adoption. It is clear from these proposed amendments that you have been listening, and are attentive to the needs and issues of our clients and of practitioners. Thank you!

Comments

The proposed amendments address many of the barriers that remain for individuals who engage Legal Technicians. Specifically, the ability to communicate, and even negotiate directly, with the opposing party or her representative, will significantly increase the value of our services to clients. (APR 28 F. (12), (13).) The current prohibition results in time delays, inconvenience, and often increased conflict in the client's prosecution of her case. It also creates a logistical barrier to my practice that renders my services less effective and helpful to clients.

Likewise, the ability to accompany, assist, and confer with clients in dispute resolution proceedings, depositions, and hearings, as laid out in App. APR 28 B.2.(e), (f), and (h), addresses a huge barrier that currently exists in our usefulness to our clients, as does allowing us to present uncontested orders (g). This ability will level the playing field for self-represented litigants, many of whom struggle to afford the time and other resources required to manage these activities without our assistance, at present. It will also facilitate progress in their case for self-represented litigants, who often are caught in the "spin cycle," dragging out the process, when they are not sufficiently able to respond to the Court's questions, or who are challenged in their understanding or ability to speak in these settings, whether through intimidation or otherwise, also improving judicial economy.

The enhancements to our scope under the proposed amendments to render services in nonparental custody, major parenting plan modification, and protection order cases, and regarding division of real property and retirement assets, will also address issues that have arisen in my cases, that have created a barrier to my effectiveness and value to clients.

Some of the other mechanical changes, including clarification or re-wording, are also very helpful. Specifically: the change to the requirement regarding signature on Declarations and information sheets (APR 28 G.(4)); the revised language at App. APR 28 B.2.(a); and clarification around the terminology regarding our services (i.e., "rendering" services, rather than representing or providing assistance, e.g. APR 28 F., and App. APR 28 B.3, is also helpful.

Questions

A few questions that come immediately to mind include:

- Whether we can assist with trial preparation in contested major parenting plan modifications?;
- The meaning of "whereby the decree effectuates the division or the implementation of the division of the asset" at App. APR 28 B.3.b.v.regarding the prohibition around dividing retirement assets
- Should the language under "Prohibited Acts" at App. APR 28 B.3.b.iii. refer to Regulation 2.A., instead of 2B?

(This is a copy of comments I emailed directly to LLLT Program Lead Ellen Reed on June 14. Thank you!)

--
Priscilla Selden, WSBA LLLT No. 102
Columbia Valley Legal Technician Services, PLLC
P.O. Box 432
Entiat, WA 98822
(509) 560-4787
cvlegaltech.com

From: Bobby Henry
To: Limited License Legal Technician
Subject: APR Comment on NWSidebar
Date: Wednesday, June 28, 2017 9:39:00 AM
Attachments: image001.png

The following posted on NWSidebar from Jacklyn Glass, a member of the public:

Personally, I think it is a good thing to allow a LLLT to accompany a client to court as some people may benefit simply on the presence of someone who knows the case. Allowing a LLLT to help the client understand certain things that are not clear to some people seeking help with their case. The ability to address questions from the court is also helpful as the LLLT will know more than some clients what information or guidance the court is giving or seeking.

Overall I feel that the courts are providing the right amount of guidance for a LLLT to effectively help bring access to justice to the low income families, or families who may not need a full attorney to do a simple task for their case.

~Bobby

Robert W Henry | Associate Director, Regulatory Services Department
Washington State Bar Association | 206.727.8227 | roberth@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org
The WSBA is committed to full access and participation by persons with disabilities. If you have questions about accessibility or require accommodation please contact barbarao@wsba.org.

From: Spradley, Laura
To: Limited License Legal Technician
Subject: proposed amendments to LLLT admission and practice ruies
Date: Thursday, June 29, 2017 10:24:03 AM

I received the draft of the proposed amendments from Bobby Henry and have reviewed them. They look fine to me as written.

Laura Spradley
Vice-Chair, Board of Bar Examiners

From: Dan Crowe
To: Limited License Legal Technician
Subject: LLLT Program and Amendments
Date: Thursday, June 29, 2017 3:14:50 PM

LLLT Board:

I am a member of the WSBA, and my practice includes a significant amount of family law. My comments about the LLLT program and the amendments are limited to my experience in Pierce and Thurston Counties. I haven't spoken up on this issue before because I feel like I have never really had any say in the WSBA. I'm not a biglaw attorney from Seattle. But, in reading your proposed amendments to the LLLT program, I feel like I really have to speak up.

Since its inception, I have seen little to no positive benefit of the program. LLLT's charge approximately the same as I do for similar unbundled services, so there is no benefit to access to justice. People who could not afford to hire a lawyer cannot afford to hire a LLLT. Further, I have repeatedly witnessed and have spoken to my colleagues who have witnessed, LLLT's appearing in court and negotiating with attorneys through their client. In other words, the attorney addresses the client, the LLLT, standing next to them, tells them what to say, and then the client responds. How is that any different than what we as attorneys do when we negotiate with other attorneys? How is that allowable? A LLLT, with little to no comparable training or experience, is blatantly giving legal advice and, essentially, litigating the case through a supposedly pro se client.

Now, it appears as if, to a large extent, the rules are being amended to allow LLLT's further authority to act as lawyers. Allowing them to attend depositions? Allowing them to address the court on behalf of their clients? Allowing them to mediate or arbitrate cases? That's ridiculous, especially when there appears to be no oversight whatsoever to keep them from fully acting as an attorney now.

These amendments devalue the profession and they hurt litigants. You are not giving anyone access to justice when the cost of a LLLT is similar to the cost of an attorney, and by continuing to allow LLLTs to provide more and more legal services, you are harming those of us who actually earned the right to provide those services, and who are proud of our advocacy. Your message to the public is that there is no difference between a trained, experienced attorney, and a LLLT.

There is a need for access to justice. Working in a small town, I see it almost every day. The LLLT program could be amended to fill that need, but not by allowing LLLTs to practice law on equal footing and for comparable prices with attorneys without comparable oversight. That benefits no one. I hope you will take these comments seriously.

Daniel W. Crowe
The Crowe Law Office, PS
302 E. Yelm Ave
Yelm, WA 98597
(360) 810-8006

THIS EMAIL IS PRIVILEGED AND/OR CONFIDENTIAL AND INTENDED ONLY FOR THE LISTED RECIPIENT. IF YOU RECEIVED THIS EMAIL IN ERROR OR THROUGH UNAUTHORIZED INTERCEPT, PLEASE REPLY TO IT, AND THEN DELETE IT.

From: tonya@winlocklaw.com on behalf of Tonya Hebert
To: Limited License Legal Technician
Subject: Comment on LLLT
Date: Thursday, June 29, 2017 4:26:54 PM

Very helpful changes to the LLLT practice area! Thanks for the hard work on this, Tonya Hebert

Tonya Hebert, Attorney at Law
411 NE First Street
P.O. Box 69
Winlock, WA 98596
Office 360-785-3333 cell/text 559-554-5077<br style="mso-special-character: line-break;" /> <br style="mso-special-character: line-break;" /> Providing legal services with the highest level of integrity

From: Greg Touchton
To: Limited License Legal Technician
Subject: Draft Amendments
Date: Friday, June 30, 2017 9:16:07 AM

On Page 3

"(11) Assist the client in obtaining necessary records, such as birth, death, or marriage certificates."

I am concerned that limiting the scope of assistance to obtaining records instead of documents generally makes it harder for the LLLT to provide services to a client. The LLLT should be in position to negotiate what they assist in obtaining, and this appears to restrict them. Restricting an LLLT beyond what an attorney-in-fact could do has reduction of agency implications that hurt the provision of professional services.

Thank you,
Greg Touchton

From: Sarah Cates Bove
To: Ellen Reed
Subject: Re: Can you write up your comment for me?
Date: Friday, June 16, 2017 9:06:52 AM

Hey Ellen:

I apologize for the delayed response. I had a PTSA meeting right after the Board meeting last night.

1. It would be helpful if an LLLT can draft final orders which refer to retirement assets (and the effectuation language) by reference if a Property Settlement Agreement, Separation Agreement or (attorney drafted) CR 2A agreement is present.

2. At minimum, a LLLT would need the ability to draft the "retirement asset language" in a Petition for Divorce (in cases where default is likely, as the Final Orders must mirror the Petition precisely in a default), in the Final Divorce Order, and the Findings and Conclusion.

Note: For #2, one solution would be allowing a LLLT to draft that "retirement asset language" on any "form" a LLLT is permitted to use under the rules (hopefully less work in the future, should form names change or the scope adjusts).

Thank you, Ellen!!

On Thu, Jun 15, 2017 at 3:07 PM Ellen Reed <ellenr@wsba.org> wrote:

> Just if you have time- but great point and I want to make sure it's addressed appropriately. Just a quick email explaining the issue you see and your recommendation is fine.
>
> Here's the draft we were looking at! Pg. 48.

--
Sarah Cates Bove
LegalTAP.org
Legal Tech Advocate | Family Law LLLT Candidate

Family Law Legal Technicians (LLLTs) are "trained and licensed to advise and assist people going through divorce, child custody and other family-law matters in Washington. Think of them like nurse-practitioners, who can treat patients and prescribe medication like a doctor. Licensed Legal Techs bring a similar option to the legal world, making legal services more accessible..." To learn more, visit WSBA LLLT & LegalTAP.org.

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Monica Chin
To: Limited License Legal Technician
Subject: LLLT expansion comments
Date: Thursday, July 13, 2017 10:25:13 AM
Attachments: northwest-family-law-logo.gif

To Whom It May Concern,

I am a divorce/domestic relations attorney. While I realize that there is a desire to serve an "underserved" area of the population, the proposed amendments allowing LLLTs to practice law by representing clients in in mediations and negotiations, advise them of their legal rights, and *even represent them in court*, is contrary to the best interests of the public. It will do more harm than good. LLLTs will never have sufficient training, experience, our expertise to perform these tasks adequately. Clients will suffer. If the WSBA or the WA Supreme Court really wants to serve the population then it should put more funding into legal aid services such as ELAP or the Northwest Justice Project which has paid staff attorneys. More paid staff attorneys can be added to organizations like this.

I find it appalling that the LLLT Board/WSBA is seeking to allow LLLTs to practice law in court. The proposed amendments would allow LLLTs to represent clients in family law matters before family law commissioners. I fail to understand how this proposed amendment is ethical or even legal - how can non-lawyers represent clients in court? You have proposed that LLLTs can represent clients in essentially every type of motion that family law practitioners practice (temporary orders, parenting plans, child support, adequate cause, even revisions and reconsiderations) with the exception of full-blown trials, which are extremely rare in comparison. All of this with 45 hours of training for LLLTs?

Furthermore, It does not serve the public well to allow non-lawyers to "negotiate the client's legal rights or responsibilities". This is NOT a "limited legal service". This is the very essence of what lawyers do for their clients. This also holds true for allowing LLLTs to advise clients in mediation and dispute resolution. This is the very essence of what we as lawyers do. Again, LLLTs will never have sufficient training, knowledge, or expertise to effectively advise clients of their legal rights or negotiate on behalf of a client.

Please tell me what the purpose of going to law school is and getting four years of undergraduate training, three years of graduate education, three years of internships, and now eight years of practice if non-lawyer LLLTs can now provide the exact same legal services that I can?

I find it similarly appalling that my bar dues are being used to fund this program which takes away the very clients that I need to run my business.

Monica Chin

Northwest Family Law, P.S.
5400 Carillon Point, 4th Floor

Kirkland WA 98033
T (206) 467-8000
F (425) 576-4040
www.nw-familylaw.com

Please CC my paralegal Maggie Wyer on all emails @ mwyer@nw-familylaw.com

1. This email (including attachments) is covered by the Electronic Communications Privacy Act, 18 USC 2501-2521, and is therefore legally privileged and confidential and is intended only for the use of the individual(s) to whom it has been directed. If you are not the intended recipient, you are hereby notified that any review, retention, dissemination, distribution, or copying of this email, or any action or inaction taken in reliance on its contents is strictly prohibited. If you received this email in error, please immediately notify the sender by return email or call (206) 467-8000 so that we may correct our records. Please immediately delete this email and any attachments.
2. IRS Circular 230 Disclosure: To ensure any compliance with requirements imposed by the IRS, we hereby inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (a) avoiding penalties under the Internal Revenue Code or (b) promoting, marketing, or recommending to another party any matter addressed herein.

From:	Matt Purcell
To:	Limited License Legal Technician
Subject:	LLLT voices... still ignoring the bar members
Date:	Friday, July 14, 2017 8:23:05 PM
Attachments:	image001.png

I don't even know what to say anymore as it seems like the legal voices are still just ignored. 210 attorneys signed a letter to the supreme court. Ignored. Emails. Ignored. I asked my district rep for help; falls on deaf ears from his perspective. I asked to allow for telephonic appearances for the eastern side of the state so we can serve on the BOG without it significantly costing our practices: ignored. I want to serve but I can't do it because of the SIGNIFICANT financial hit my practice would take traveling across the state to put in 40 hours (which is a lot more once you factor in the travel time for an eastern Washington lawyer)…

This is the last time I will do anything to help this bar. It has become nothing more than a fee to be paid to a bunch of individuals seeming hell bent on ignoring the multitude of voices shouting at it to please put the break on this program: get more opinions from us practitioners who are ACTUALLY doing the work down here at what feels like is viewed as the peon level. There is nothing wrong with waiting to see how the LLLT program (which should have been a pilot program in one county first before any expansion at all) actually fairs before expanding its powers to nothing more than pseudo lawyers who get to pay less in fees (sorry, equal protection here? Meh, whatever right?) and get all the same benefits without the same training or education.

This has truly become disturbing on so many levels. This is it. Keep ignoring it and not only will the voices leave, they will do nothing to help the WSBA ever again… sad.

Truly,

MATHEW M. PURCELL
Attorney

2001 N. Columbia Center Blvd.
Richland, WA 99352
Phone: (509) 783-7885
Fax: (509) 783-7886

Heather Martinez: HM@PurcellFamilyLaw.com
Maria Diaz: MD@PurcellFamilyLaw.com

Office Hours: Monday-Friday from 9:00 a.m. to 5:00 p.m. Closed for lunch from 12:00 p.m. – 1:00 p.m.

Confidentiality Note: This e-mail message (including any attachments) may contain information that is confidential, protected by applicable legal provisions, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution or reproduction of this message by unintended recipients is strictly prohibited. Thank you.

From: jennifercahoon72@hotmail.com
To: Limited License Legal Technician
Subject: LLLT Support/Kellie Dightman
Date: Sunday, July 16, 2017 3:11:37 PM

To Whom it May Concern,

I am writing in regards to my personal experience with LLLT's. First off...I am a stay at home mom that found myself served with a restraining order and divorce papers while in a treatment center. That is not a good place to be when you have a 9 year old son to fight for. I spoke with many attorneys and none were able to help without a large amount of money. Considering I had no access to the family monies any amount was too large for me. I was told to go through CLEAR well.....that was next to impossible! It is an overloaded system with many people fighting for their families and future that do not have money for expensive Attorneys! I was scanning the internet and ran across an article about LLLT's!! I was determined to talk to one of them! I sent out a mass email begging for help and explaining my situation....The response was amazing!! I heard from pretty much all of them!! Kellie Dightman and I were able to meet and go over my case at the FESS Free Clinic. and WOW! She is amazing!! I dont know if anyone can describe the feeling of having no financial means to fight for your children and all of your belongings and essentially your life!!! I was beyond grateful to have someone even to tell me that I had to fill some stuff out to send in to my husbands very expensive attorney! There are too many people in my same situation men and women alike! How sad to lose custody of your life due to lack of money and proper guidance/representation! I have since seen Kellie outside of the clinic and I would be lost without her guidance! I have a court hearing in a week and I can feel at ease that I had help with all the confusing paperwork! I would love to have her in court with me but I know that is not possible at this time!! She has totally been a god send to me and my son! PLEASE dont ever rob other people with lack of funds to hire an attorney of this WONDERFUL option!!! It is truly a life altering service!!!

Jennifer Stuart Cahoon

Sent from Outlook

From: Tracy Gregory
To: Limited License Legal Technician
Subject: Support of LLLT
Date: Monday, July 17, 2017 8:52:02 AM

Good Morning,

I am writing this email to share my personal experience of working with a LLLT for my divorce. I am currently working with Kellie Dightman, LLLT on my current divorce case. I was ready to file for a divorce, I went and had multiple consults with attorney's to get the ball rolling, I found myself getting discouraged to file for a divorce due to the huge expense of hiring/retaining an attorney, until I stumbled across Kellie Dightman, LLLT. I met with Kellie and her services that she was able to provide were exactly what I was looking for, I didn't need anyone to fight my case for me I just really needed someone to prepare the initial documents and help guide me as I represented myself. The cost was a fraction of the price it was for an attorney. The paperwork was drawn up, I filed it myself and felt confident, until my husband hired an attorney. So I decided to pay for an hour of legal counsel with an attorney, I paid her hourly rate to make sure I was in good shape. The attorney I met with told me that she would love my business but my case is solid and I do not need an attorney. The attorney told me the paperwork that was drawn up, was great and I would do just fine without hiring someone to represent me. So far everything is working in my favor with me representing myself and having a qualified person prepare good, quality work for my case.

LLLT's are sometimes just what people need, without breaking the bank. I do believe there are some cases that do need the full service for their case, where it is necessary that they hire an attorney. It would be a shame to see them go away.

If you have any further questions or concerns, please contact me at 253-617-5200.

Respectfully,

Tracy Gregory

From: Bob
To: Limited License Legal Technician
Subject: Proposed amendments.
Date: Monday, July 17, 2017 9:36:37 AM

The word "assist" is not defined. The rule suggests LLLTs will be able to assist clients by arguing motions.

The amended rule allows people with very limited education to negotiate complex issues potentially exposing their clients to the loss of substantial property and parenting rights among other things.

Family law is very complex with lots of nuances. It is an area which could qualify as specialized if we used that term.

The LLLTs may be good for a case with no real property and no children. They are a huge risk to people with assets.

I encourage you to reject this expansion. I anticipate a lot of effort will be spent attempting to undue the harm which will result from allowing LLTs to venture into the more complex and nuanced aspects of family law.

Bob Young
Yakima

Sent from my iPhone

From:	Doug Shepherd
To:	Limited License Legal Technician
Subject:	FW: Thanks to Jen!
Date:	Monday, July 17, 2017 9:45:01 AM

From: Caryl Dunavan [mailto:CarylDunavan@cityofferndale.org]
Sent: Tuesday, July 11, 2017 4:47 PM
To: Dougshepherd@saalawoffice.com
Subject: Thanks to Jen!

Hi Doug,
I just wanted to share some great feedback that a mutual client just gave me re: Jen Petersen. My client was over the income limit for LAW Advocates, but couldn't afford a private attorney and was very anxious about a likely long civil battle with her child's father, who had been wearing her down for years with verbal and physical abuse. She had nothing but raves for Jen's work – she said she was great to work with, "super smart and helpful," and that she helped her strategize to get a parenting plan entered and a child support order in the works, all for a fraction of a typical family law retainer. This is such a great and desperately needed service.
Thanks to Jen, and thanks to your firm for supporting her work.
Caryl

Caryl Dunavan
Domestic Violence Specialist
Cities of Blaine, Everson, Nooksack, Ferndale, Lynden, and Sumas

P.O. Box 1792, Ferndale, WA 98248
(360) 815-2928 phone / text
(888) 696-8999 fax

caryldunavan@cityofferndale.org

3905 Martin Way E, Suite D1
Lacey, WA 98503

July 17, 2017

LLLT Board
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Dear Sirs,

I am currently party to a family court case in Thurston County. My children are victims of domestic violence however due to the rights of the abuser, it has now been nearly two and a half years since I first filed (and was granted) a Domestic Violence Protection Order against their dad. Regrettably, the case is still open.

Due to a plethora of motions and filings as well as the numerous appeals the abuser had the right to file, my legal expenses to date exceed well over $100,000. Rather than fight the good fight, these exorbitant fees caused me to lose my ability to retain representation.

About eighteen months into the court case, I attempted to represent myself (pro se) but the way our court system is constructed, a person without an education in the law is left flailing in a sea of legal rhetoric and filing requirements which are impossible for the lay person to understand. Consequently, I appeared unprepared in court as well as was positioned at a significant disadvantage against the opposing party, who was represented.

Once I lost my representation due to financial hardship, I asked for help at the information center at the Thurston County Family Courthouse. For an unrepresented party, the "help" that is offered is practically non-existent. Any questions asked are replied to with "you need to ask an attorney" leaving someone like me lost in a labyrinth with no center to be found.

Trying not to succumb to impending defeat, I searched the internet and found Kellie Dightman, an LLLT in my area. Kellie is both an amazing person, but easily helped me navigate the legal process to complete my required filings (and in the way, they had to be filed) and did so at a cost I could afford. I can use her services "as needed" without agreeing to a relationship in which some attorneys can take advantage through over communication that costs the client at a rate of over $300 per hour.

I urge you to not only retain the LLLT program, but if there is any way to expand it, I whole heartedly would support such a plan.

As a victim of domestic violence, I feel the current court process and structure only aided my abuser in further abuse – emotional and financial. Had I known about the services of an LLLT over two years ago and had there been the option to have limited representation inside of the court room, I firmly believe my costs (and life hardship) would have been greatly reduced and perhaps "justice" could have been attained.

Thank you for your consideration of this program,

Julie Brannberg, Owner
Kenzie Property Management
julie@kenziepm.com | (360) 790-6317

July 17, 2017

To the Washington Supreme Court Justices and to the Limited License Legal Technician Board:

The King County Bar Association's Family Law Section strongly opposes the LLLT Board's proposed amendments to APR 28, as both unnecessary and harmful to the public.

1. APR 28 paragraph A: The first sentence of APR 28 (A) refers to the 2003 Civil Needs Study's "clearly" establishing that the legal needs of the public are not currently being met.

    a. In 2003, family law was listed as one of the top areas of need. However, the proposed expansion of LLLTs in family law disregards the latest Civil Needs Study, which showed that in 2015 family law was no longer among the state's principal unmet legal needs: "The most common problems have changed. Health care, consumer/finance and employment now represent the three areas with the highest percentage of problems."[1] However, the LLLT proposals address none of the current areas of greatest need.

    b. Since 2003 Washington lawyers have increased accessibility to the public. Low bono and moderate means panels have been established in the WSBA. Family law forms were revised to use plain language. Meanwhile, attorneys throughout the state have continued to volunteer in pro bono cases, through legal clinics, and as mediators. Many of these LLLT proposals will in fact be counterproductive, reducing lawyers' motivation to provide free or discounted services. The draft expansion discourages young attorneys from offering their lower rates to meet the public's unmet legal needs.

    c. The WSBA website touts LLLTs as "an affordable legal support option to help meet the needs of those unable to afford the services of an attorney."[2] I understand that when the LLLT Board met with the Washington Supreme Court last March, one of the Justices asked the LLLT Board Chair Steve Crossland why the proposals don't address the areas of greatest need, such as landlord-tenant. The response was that those in need can't afford to pay LLLTs; it wasn't a workable "business model." In sum, LLLTs don't benefit the low income public,

[1] http://ocla.wa.gov/final-report-2015-civil-legal-needs-study-update/

[2] http://www.wsba.org/Licensing-and-Lawyer-Conduct/Limited-Licenses/Legal-Technicians

but aim at those with moderate income or better – who could afford lawyers.

i. To the extent the public would be served by a lower rate charged by an LLLT (and there is no such requirement), that could likewise be achieved by using paralegals, who have the benefit of being supervised by an attorney.

2. The most alarming changes sought by the draft amendments would authorize LLLTs to appear in court[3] and at mediations and arbitrations[4], and to negotiate a client's legal rights and responsibilities[5].

a. This represents a drastic and dangerous departure from the very limited role envisioned for legal "technicians". Authorizing LLLTs trained in online courses, instead of three years of law school, to render legal advice and negotiate financial and parental rights blurs the line between qualified lawyers, and directly harms the public.

b. The technical limit that an LLLT could only "accompany, assist, and confer with their pro se clients and respond to questions from the court or tribunal at the hearings"[6] can't be followed realistically. The client will naturally view the LLLT as their representative in court, which is where critical legal rights will be decided. Nor is a court commissioner likely to have patience with the LLLT's technical boundaries during a contested hearing on a crowded calendar.

i. It's curious that the client is referred to here as the "pro se" client, apparently in a desire to stress that the LLLT can't advocate for the client at a hearing. The semantic difference will be lost on the client in practice.

c. Mediations and settlement conferences[7] likewise are seldom helped by the presence of non-attorney advisers. When those meetings usually result in binding agreements which determine a party's fundamental rights, a party should not view a legal technician as comparable to an experienced attorney. Regardless of caveats

---

[3] See draft Regulation 2B(2)(h).

[4] See draft Regulation 2B(2)(e).

[5] See the changes in draft APR 28F(13) and H(6).

[6] Regulation 2B(2)(h)

[7] Regulation 2B(2)(e)

or written disclaimers, that will be the result.

d. Allowing negotiating when the client gives written consent[8] will prove to be the rule rather than the exception. That consent will doubtless be incorporated in the LLLT's boilerplate agreement, where it will lose any importance.

e. It makes little sense to allow an LLLT to appear in court with a client, and to appear and negotiate for the client at a mediation or administrative hearing, but not to "conduct or defend" a deposition.[9] Which is more likely to affect the client's rights? Neither should be allowed.

3. Parenting plan modifications and nonparental and third party custody actions should not be added to the areas for LLLT practice.[10] The existing limit of pre-agreed orders[11] should be preserved.

4. The last sentence of Regulation 2B(2)(b) says LLLTs shall use the form for real property divisions as approved by the LLLT Board.

   a. Can one size fit all situations, even if the client wants to change the form?

   b. It suggests that an LLLT can't exercise independent professional judgment. Yet how is that different from negotiating a client's rights at a settlement conference?

5. Regulation 2B(2)(c) would authorize LLLTs to advise on allocation of retirement assets. This is a highly technical area, fraught with uncertainty (especially given the 5/15/17 U.S. Supreme Court decision about military disability benefits in *Howell v. Howell*[12]), ill-suited for an LLLT.

---

[8] In draft APR 28F(13)

[9] See draft APR 28H(8). Yet Regulation 2B(2)(f) authorizes an LLLT to "accompany, assist, and confer with their clients at depositions".

[10] Regulation 2B(2)(h)(vi)

[11] See existing Regulation 2B(1)(f)

[12] Slip Opinion No. 15-1031, available online at https://www.supremecourt.gov/opinions/16pdf/15-1031_hejm.pdf

6. Giving the LLLT Board discretion to require supplemental education[13] due to changes in the scope of LLLT practice tacitly acknowledges that LLLT roles will remain in flux: an amorphous blurring of what LLLTs can and can't do, with ex post facto changes, not made by the Supreme Court, which have to be obeyed.

Conclusion. The practice scope of legal technicians should not be expanded. The line between LLLTs and lawyers should remain distinct. As suggested in draft APR 28F(12), appropriate actions could include communicating about procedural matters, such as setting court hearings or other *ministerial* matters. Filling out quit claim deeds and real estate excise tax affidavits, or presenting agreed orders in Ex Parte, might also be appropriate for a legal technician. However, their negotiating and appearing in court or mediations undermines the legal system and harms the public.

Thank you for your consideration of the above.

Sharon Friedrich

King County Bar Association Family Law Section Chair

[13] Regulation 2C

BAUGHER LAW FIRM PLLC
6912 220TH STREET SW, SUITE 214
MOUNTLAKE TERRACE, WA 98043
FAX: (888) 867-1922
(425) 275-5000

July 17, 2017

VIA E-MAIL

WSBA LLLT Board
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Re: *Limited License Legal Technician Program*

To Whom It May Concern:

I am writing in support of the LLLT profession and to outline some of the benefits that I have witnessed with my personal experience working with Tamara Garrison, a LLLT in my firm. Since receiving her license, Ms. Garrison has been able to assist several clients who would not have otherwise engaged the services of an attorney in our firm. The clients expressed that they could not afford the hourly rate or standard advance fee deposit of an attorney, however, they were able to engage with a LLLT due to the lower hourly rate and advance fee deposit.

Ms. Garrison has directed clients as to the proper next steps for their cases, whether it is the need to request discovery documents, file a motion, file for Petitions for Divorce, or Responding to Petitions. She is a capable and knowledgeable legal professional, whom I have personally mentored to perform her job correctly and produce a high-quality product for her clients.

As a specific example, recently I met with a potential client who was in a dire situation and unfortunately was unable to afford an attorney. She was about to be evicted from her home by her husband, who had taken control of all of the financial assets. With Ms. Garrison's help, this client filed a motion for attorney fees and responded to the husband's motion for a temporary restraining order removing her from the home. Because Ms. Garrison was acting in her LLLT capacity, rather than as a paralegal, it was not necessary for me to review the pleadings she drafted for the client. This allowed the client to keep costs down so that I could appear with her for the hearing to argue her case. The client successfully kept her housing and was granted money for attorney fees.

Ms. Garrison's role as a LLLT in our firm has broadened the pool of clients that we are able to assist. I can attest that she is dedicated to providing excellent and accurate advice and assistance to our clients as is evidenced by the work-product that

she has produced for her clients and also as my paralegal when she completes pleadings for our other cases.

I do, however, have some misgivings about aspects of the currently proposed expansion of LLLT duties. Primarily, I am concerned about how a LLLT appearing in court with a client can maintain the ethical line of not "arguing" on behalf of their client if, say, a court commissioner directs a specific question to the LLLT instead of the client. That would essentially put the LLLT in the position of either going beyond the ethical bounds by "arguing" the case or, if they decline to respond, it might negatively impact the client's position in the eyes of the court. A LLLT does not have to "appear" in court on behalf of a client to fulfill a request to "assist" a client during their court proceedings, as they can always attend, answer last-minute questions the client may have, and / or assist with drafting orders and procedural steps following the hearing.

In my opinion, that, and other similar issues in the proposed expansion would need to be addressed in order for me to feel as whole-hearted in my support for the current scope of the duties for Limited License Legal Technicians.

Very truly yours,

BAUGHER LAW FIRM PLLC

Patricia Baugher

From:	Meredith McKell Graff
To:	Limited License Legal Technician
Subject:	LLLT expansion
Date:	Monday, July 17, 2017 12:04:05 PM
Attachments:	lawmer.vcf

LLLT Board,

Please so note that McKELL GRAFF, PLLC, that is, parterns, Meredith McKell Graff, Eugene McKell Graff are vehemently opposed to the expansion of the Limited License Legal Technicians into the proposed areas of law. Not only are these complicated matters for a new attorney with much more education, but for a person with the limited education of an LLLT, it is formidable. It will take more court time to educate the LLLTs, thus wasting court resources.

We are appalled at the apparent movement to decimate the professional practice of law in the State of Washington, from the organization that should have the backs of the professionals - the attorneys who are forced to be members of this mandatory bar assocation. When I compare the attitude and services, not to mention cost, of the WSBA to the other bar I belong to - the Utah State Bar, it is like night and day. The USB promotes the practice of law. It has made mediation mandatory in all areas of law to reduce backlog in the courts and provide access to justice, without compromising the professional practice of law. It supports its professional members in ways the WSBA has never done, such as wonderful benefits to members without charging the highest dues in the country. In no way does the USB undermine the professional practice of law.

We urge the Supreme Court to halt the expansion of the LLLT authority and consider abandoning this blatant attempt to destroy the legal profession in our state.

With great concern,

Meredith McKell Graff

Eugene McKell Graff (gene@mckellgraff.com)

--
*** The only thing you have the power to change is you! *** This email is directed only to the named recipients at the top of the email. If you have received this email in error, please immediately delete it and notify McKELL GRAFF, PLLC at 360-694-9947 that the email was misdirected to you in order that we can correct our email address records. THIS EMAIL IS CONFIDENTIAL AND NO GRANT OF AUTHORITY HAS BEEN GIVEN FOR IT TO BE DISSEMINATED TO ANY OTHER PARTY EXCEPT FOR THE CLIENT(S) REPRESENTED BY AN ATTORNEY OR LEGAL SUPPORT STAFF FOR THE ATTORNEY NAMED IN THE HEADER OF THE EMAIL!

Mr. Mark Alexander, Member, Executive Committee
Washington State Bar Association Family Law Section

Re: Proposed Rule APR 28; Limited License Legal Technicians

July 9, 2017

Thank you for presenting this proposed rule at the 2017 Annual Mid-Year Family Law Section. I have read the rule and have some comments. You are welcome to include this letter along with your own comments, incorporate some of its points into your own letter, or do neither, as you see fit.

This rule would drastically expand the scope of practice for Limited License Legal Technicians. I am very concerned about permitting LLLTs to appear with self-represented litigants in mediation sessions and in court. Access to additional sources of advice and representation is not truly access to justice where the advisor is ill-equipped to protect the client's legal interests.

Allowing non-lawyers to accompany self-represented litigants to mediation sessions (as well as court) will provide the litigants with a false sense of security. After all, if this licensed professional is there, the litigant may assume they do not need to get legal advice. (The requirement that the client sign a form authorizing the LLLT to appear is largely meaningless. Are we expecting the untrained client to evaluate and understand the limitations of a LLLT? Please consider that these litigants are often in a highly emotional frame of mind and not inclined to rationally process information.) Having an LLLT at the proceeding will make it less likely that the litigant will listen to the judge or mediator who advises that they seek advice from a trained lawyer before continuing with the process.

I presided over many settlement conferences as a judge and since retiring from the bench regularly volunteer to conduct mediations for low income litigants, many of whom are self-represented. I also am employed at a for profit private mediation firm. One of the techniques for achieving a successful and fair settlement is to provide a reality check for the litigants. We work to ensure that they have a realistic understanding of the laws and rules pertaining to their case and that they understand the risks associated with going to trial. When they are represented by counsel who of course have legal training, we can generally depend on counsel to give them honest feedback or at least not to seriously undermine the reality check. When they are self-represented, we will still try to provide at least a rudimentary outline of the procedures and laws. If they are paying for a LLLT to accompany them to the mediation, it is only reasonable that they will expect the LLLT to participate in the mediation or give them advice and that the LLLT will see a need to do so. Having a "helper" with the aura of knowledge who has never tried a case in court, who doesn't understand how to read the caselaw and statutes, and hasn't had their knowledge tested through law school and a bar examination is worse than having no representation. At least when a litigant is self-represented, a lawyer/judge mediator can speak to them without fear of having a third party distort the communication.

I understood that there have been some statements made that the LLLT would not actively seek to participate in the court or mediation session but would function more as a support person, helping to organized the client's exhibits, for example.[1] Do we really think that clients will be willing to pay LLLTS

[1] Of course, LLLTs can assist in assembling exhibits at the time when it is most needed, in advance of the court hearing or mediation session, without changes to the current rules.

for their time in appearing at a mediation or court hearing without also providing advocacy or advice? Do we really think that LLLTS attempting to pay their bills will be able to resist the client's expectations that they at least advise, if not negotiate and advocate for the client in the same way a lawyer would? Unlike courthouse facilitators, the LLLT's income depends on satisfying the desires of their clients, whether rational or not.

Expecting the LLLT to be a "potted plant" at the proceeding is also problematic in mediation. Mediation is much more likely to be successful if the mediator can gauge the interests and concerns of all the participants and address those interests. A mediator cannot do this when a participant remains silent during the proceeding (perhaps only to unload on the client during the session breaks).

It appears that the drafters think that family law is so simple that non-lawyers can be trusted to represent litigants in adversarial matters. Nothing could be further from the truth and is insulting to the many fine lawyers who devote much or all of their career to family law. When the litigant fails to obtain an appropriately worded QDRO or the decree fails to protect the property from being dissipated, that litigant may be left destitute, with no real recourse. When the parenting plan does not protect against relocation of the children to a distant foreign jurisdiction, a parent may effectively be deprived of the fundamental right to parent their own children. I know that family law attorneys could cite many other examples, although it might be even more instructive to talk to legal malpractice carriers about claims paid out. (Query as to how LLLTS will satisfy the requirement to demonstrate adequate financial responsibility. Are malpractice carriers, at affordable rates, willing to insure LLLTS against claims made in these areas?)

I understand that the LLLTS are required to take classes in family law. I also took classes in family law at my law school but what prepared me best to practice and judge (in both family law, as well as other areas) was the law school's emphasis on learning how to critically think and evaluate contracts, statutes and rules, combined with the practical experience of representing clients in court. I don't know how the abbreviated legal curriculum offered to a LLLT is an adequate substitute.

If this rule passes in its current form, it will require additional clarification of the standard of care to be employed by LLLTs when appearing with their clients in court and mediation proceedings. This reminds me of my experiences as Chair of the Washington State Professional Guardianship Board. Our volunteer body included lawyers, judges, community advocates, medical professionals and professional guardians. Despite the expertise and commitment brought to the process by the Board, and the oversight by the Supreme Court, the rewrite of the standard of care rules for professional guardians were quite controversial. Some professional guardians felt that they couldn't meet their overhead and earn a reasonable income because of what they viewed as overly rigid and cumbersome requirements. Some community advocates thought our rules were too lenient and did not exercise enough oversight over the profession. My involvement with this process made me realize how hard it is to develop standards of conduct for a new profession-- particularly one that is poorly funded.

I would caution against expanding the scope of practice for a new profession while not having the resources and structure for proper certification, training and oversight. While I suppose siting LLLT oversight under the State Bar is an improvement over the CPG model, in that they have a larger paid staff, query how well such a system will be funded over the long term. I understand that per the LLLT report, WSBA has already contributed the regulatory costs to date of $473,405 and the fees collected in 2015 total only a little over $11,000. When young lawyers strapped with high student loans and

concerned with paying their bills realize that a portion of their Bar Dues are going toward subsidizing a competing profession, they may well be resistant to increases in bar dues (or may respond to the request for pro bono and low bono assistance by stating that "they gave at the office.")

Washington, with the leadership of our Supreme Court and State Bar, has been at the forefront of increasing access to justice. Let's continue to focus our efforts on projects with a proven record of success such as plain language forms, Courthouse facilitators, pro bono and low bono assistance.

Thank you for taking the time to read this letter.

Sincerely,

Judge Kim Prochnau (Ret., King County Superior Court)

(Kwhedb@gmail.com)

From:	Michael Heatherly
To:	Limited License Legal Technician
Subject:	Support for LLLT and proposed enhancements
Date:	Monday, July 17, 2017 2:40:46 PM
Attachments:	image001.png

To Whom It May Concern:

The following is my personal opinion and not the official opinion of our organization.

I strongly support continued improvement and expansion of the LLLT program, including implementation of the proposed enhancements now under discussion. We have one licensed LLLT in our community, Jennifer Peterson. In addition to her employment with a local law firm Jen provides considerable volunteer work for our organization, including participation in our Kinship Custody Clinic and Street Law drop-in advice clinic. Because of economics and limited availability of practitioners, low- and even middle-income clients have great difficulty finding legal assistance with family law cases in our community. Our organizations helps as much as possible, but we are limited to handling a narrow range of cases. We know there are many people going through the dissolution and parenting plan process who need professional assistance but are unable to get it. The LLLT program is one of the only concrete solutions to this problem. I hope that the program will retain the support of the WSBA and the courts. Of course the powers that be need to respond to legitimate criticism of the program and ensure it neither infringes on the practices of lawyers nor exposes the public to abuse. But if properly regulated, the program could be part of the foundation of a justice system that protects the rights of all regardless of economic status or other personal characteristics.

I am aware that when the LLLT program was first proposed it was not officially supported by the Board of Governors. However, I appreciate that the Bar is carrying out its duty to now support and improve the program. Those of us in the legal aid community appreciate the potential for this program to bring legal help to many who need it.

Sincerely

Michael Heatherly

Michael Heatherly | Executive Director
LAW Advocates *in partnership with the Volunteer Lawyer Program of Island County*
Phone (360)-671-6079 ext. 24
Fax (360)-671-6082
www.lawadvocates.org

July 17, 2017

To the Justices of the Supreme Court and to the LLLT Board:

The following represents my personal opinion, and not that of any county or state bar association or section.

The LLLT Board's APR 28 amendments should not insert LLLTs in court and administrative hearings, negotiations, and mediations. In my opinion, the attempted limits in court (the LLLT may "accompany, assist, and confer with their pro se clients and respond to questions from the court or tribunal at the hearings") will be lost on the client, and not observed in reality. The practice scope of legal technicians should not be expanded (or, to use the marketing spin, "enhanced".) The line between LLLTs and lawyers needs to be preserved to protect the public.

As suggested in proposed APR 28F(12), LLLTs might appropriately communicate about procedural matters, such as setting court hearings or other ministerial matters. Filling out quit claim deeds and real estate excise tax affidavits, or presenting agreed orders in Ex Parte, might also be appropriate for a legal technician. However, their negotiating and appearing in court or mediations undermines the legal system and harms the public, when the client faces critical parenting and financial decisions. The proposed expansion areas involve some of the most complex substantive issues, which affect fundamental rights of parents and litigants. The public is ill served by entrusting their children and their financial futures to legal technicians educated through online courses.

The LLLT program's track record doesn't support its expansion. After five years (three years of exams), there are a total of only 23 LLLTs since the Washington Supreme Court authorized LLLT practice through APR 28 on June 15, 2012. The numbers aren't escalating. Despite the glowing reports and predictions to the Supreme Court, and across the country and the continent, from LLLT Board Chair Steve Crossland and WSBA Executive Director Paula Littlewood, only six candidates took the spring 2017 LLLT Family Law Practice Area examination. Of the six, three passed.

The LLLTs are not only few, but far between. They aren't accessible to most of the state; almost all are clustered around the western major population centers, with *none* in the eastern half of the state.[1]

[1] http://wsba.org/Licensing-and-Lawyer-Conduct/Limited-Licenses/Legal-Technicians/Directory

As of September 2016, there were only 14 LLLTs in Washington State. For Fiscal Year 2016, the LLLT Board had $11,325 in revenue and $227,683 in expenses, for a net deficit of ($216,358): a deficiency of $15,454 per LLLT. The LLLT Board budgets a deficit of ($221,664) for Fiscal Year 2017. That deficiency amounts to $9,638 per LLLT.[2] Although the LLLT Board is a Supreme Court board, those costs are so far being paid by this state's attorneys, through the WSBA.

In my experience, most attorneys oppose expanding the LLLT scope, and virtually all (of those who understand that WSBA fully funds it) oppose WSBA paying for the LLLT Program.

1. There was a Town Hall meeting on Feb. 15 at the WSBA offices. Unfortunately, it was scheduled for only 1-1/2 hours, which wasn't adequate for those present and online to express their comments. The overwhelming viewpoint expressed at that meeting was opposition to most of the proposed expansion. That conclusion could be confirmed by *watching* the Town Hall meeting, but the link to its recording has apparently been removed from the WSBA website.

2. This March, 210 Washington attorneys endorsed a letter to the Supreme Court opposing the proposed LLLT expansion – in the space of only 24 hours. That is only the tip of the iceberg.

Rather than expand to unprecedented areas, it's time to cut the losses for an expensive experiment which has neither fulfilled its promise, nor justified its costs. In these times of scarce resources, the legal needs of low income households could be better served by promoting family law court facilitators and legal services attorneys.

Sincerely,

Mark Alexander, WSBA 19731
Mark@SeattleDivorceServices.com

[2] ftp://publicftp.wsba.org/BOGBookPublic/Sept2016SupplementalMaterials.pdf
(LLLT information begins on page 82)

Angela Wright, Legal Technician Services, PLLC
Limited License Legal Technician Services
P.O. Box 81, Granite Falls, WA 98252

Angela K. Wright,
Limited License Legal Technician
Angela@angieslegaltech.com Phone: 425.350.7908

July 17, 2017

WSBA
LLLT Board Members

Re: LLLT Enhancements to Scope

Dear Board Members,

I have assisted pro se clients in family law matters for two years now as an LLLT. Below, I share examples of some of my experiences involving limitations of scope in LT practice and reasons why I believe expanded scope in these areas is justified.

Temporary Orders

One of the most common impediments I have encountered for my clients and potential clients is that I am not permitted to assist in court with obtaining temporary orders. Family law matters that require temporary orders are often of a critical nature, thus highly emotional, stressful, and even frightening for the client. Add to that, the pro se component of being required to speak in a courtroom setting, a client can easily become intimidated and fail to be able to adequately present their position or respond to questions.

Another component of this issue occurs when a client chooses to engage an attorney for limited representation at a hearing for temporary orders. It is not an easy task to find an attorney willing to take on limited representation of a pro se litigant, nor is it cost effective for the client. An attorney must fully review the case, so in addition to the time spent at the hearing, there are additional fees for case review and preparation. However, an LLLT that has assisted the client in preparation of documents for temporary orders has already acquired knowledge of the case in the process, and can assist the pro se client in court more readily and at less cost.

The ability for an LLLT to assist the pro se client in the courtroom would certainly be beneficial in respect to providing a client adequate access to the legal system. In addition, an LLLT in the courtroom with a pro se party can aid judges and commissioners in fully understanding a party's situation when they are unable to adequately communicate for themselves. This enhancement could provide better outcomes for pro se clients in family law matters.

Division of Real Property

I have also worked with clients requiring division of real property, typically the family home. Most have chosen to prepare, record and file the necessary quit claim deed and real estate tax affidavit on their own after learning that I am prohibited from helping them with those documents. I have also encountered potential clients who believed real property had been awarded in their dissolution by use of a do it yourself QCD, only to learn later, that because the property had not been refinanced, the

mortgage for the property remained in the names of both parties. It would certainly make sense to give LLLTs the ability to assist with documents in an agreed or court ordered real property division to aid in avoiding such mishaps by those who cannot afford a lawyer to do so.

QDROs

Qualified Domestic Relations Order (QDRO) preparation is another area where I have seen clients choose to take the DIY approach. While retirement division can be complex and require expert knowledge, templates for QDRO's, that were prepared by lawyers, are commonly provided by plan administrators. Review of a proposed QDRO is also offer by plan administrators to ensure it meets the plan's criteria prior to entry with the court. If the parties to a retirement division have agreed, or if the court has ordered a division, it seems reasonable that an LLLT should be able to assist in preparation of the proposed QDRO.

Non-Parental Custody

There is a huge need for assistance in non-parental custody matters. Often the party is low- income and are grandparents or other relatives that are caring for children of family members no longer caring for their own children. Because this area involves the welfare of children, and because it is often those without financial means who need access to affordable assistance in non-parental custody matters, it should be an area where LLLTs can assist.

Communications

Picture dialing the phone and coaching a client through a phone call to an opposing attorney to arrange a hearing date or obtain an agreement on extending one. Sound impracticable? Currently the scope of LT communications is that restrictive. It is hard to explain this to a client because there appears to be no positive explanation for it. Communication is key in being effective in assisting pro se clients in family law matters. Clients have an expectation that an LLLT should be able to communicate, at the client's request, to an opposing party or counsel regarding anything from administrative matters to negotiating matters for the client. If a client could make these communications for themselves then why would a client engage an LLLT? There is simply no good reason for this limitation to remain in effect.

Conclusion

While I am extremely honored to be licensed to provide affordable legal assistance to those who must choose self-representation, I believe my ability to do so would be greatly increased with the suggested enhancements to the LLLT scope of practice. I thank you for your consideration and for the opportunity to share my perspective**.**

Respectfully,

Angela K Wright

Angela Wright, WSBA LLLT No. 103

From: Debi Perluss
To: Limited License Legal Technician
Subject: Comments on Proposed Expansion of LLLT Practice
Date: Monday, July 17, 2017 4:08:44 PM
Attachments: LLLT Expansion Comments.docx

Dear LLLT Board: Northwest Justice Project submits the attached comments on the Board's proposed expansion of LLLT practice to include appearances in certain proceedings. As a general matter, this appears to be a broad expansion of the LLLT role from the current non-adversarial limited assistance to pro se litigants to one of adversarial representation. The attached comments are primarily concerned with this apparent change in the LLLT role within the Domestic Relations Practice Area. If this is not an accurate reflection of the LLLT Board's intent, we suggest adding clarifying language to explain the goal and any inconsistency caused by the proposed language. Thank you.

Deborah Perluss
Director of Advocacy/General Counsel
Northwest Justice Project
(206) 707-0809

401 Second Ave S. Suite 407
Seattle, WA 98104
Tel. (206) 464-1519
Fax (206) 903-0526

Toll Free 1-888-201-1012
www.nwjustice.org

César E. Torres
Executive Director

Northwest Justice Project

July 17, 2017

Mr. Steve Crossland, Chair
Limited License Legal Technician Board
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Sent By Email: LLLT@wsba.org

RE: Northwest Justice Project's Comments On Proposed Enhancements to the LLLT Domestic Relations Practice Area

Dear Chairman Crossland and LLLT Board Members:

The Northwest Justice Project (NJP) is a statewide not-for-profit legal aid program that provides free civil legal services to low-income persons throughout the state of Washington. Our mission is to combat injustice, strengthen communities and protect human dignity. NJP recognizes and appreciates the LLLT Board's desire to expand access to justice for low and moderate-income persons in domestic relations, a high demand area of legal need. NJP supports the Board's proposals to allow LLLTs to provide in-court assistance on non-contested domestic relations matters and has no objection to LLLTs presenting orders as set out in Proposed Regulation APR 28(2)(B)(g).

NJP supports allowing LLLTs to assist pro se persons with mediation, document preparation of already agreed upon property settlements, parenting arrangements, etc. (but see 2012 WSBA Advisory Opinion 2223). These comments address the following concerns:

- NJP urges the Board not to expand the LLLT scope of practice to in-court appearance (accompany, assist, confer and respond to questions from the court), in any contested matter, but in particular contested domestic violence protection order and other protective orders arising from a domestic relations case, motions for temporary orders and threshold adequate cause hearings for modification of parenting plan and third party custody proceedings.
- NJP also strongly objects to LLLTs assisting litigants with arbitration proceedings, revision proceedings, at depositions, and in negotiations in contested cases.
- NJP also believes the Board should not authorize LLLT assistance in administrative hearings of any kind.

THE ALLIANCE for Equal Justice MEMBER

Board of Directors: Vicente Omar Barraza • Diana Bob • Brendan Donckers • Carolyn Estrada • Loren Etengoff • Richard J. Harrison
Abeda Jafar • Maggie Kennedy • Richard Kuhling • Monica Langfeldt • Elizabeth Neidzwski • Chiedza Nziramasanga • Andrea Oton
Robert Roche • Russell J. Speidel • John S. Tracy • Claude M. Pearson, President Emeritus

LSC

We have always understood and valued the role of an LLLT as one that assists unrepresented litigants to navigate the vagaries of court process and thus expand access to justice for persons seeking less expensive alternatives to private attorney representation. APR 28 and arguments in favor of this innovation was adopted expressly for this purpose.

Quickly morphing the LLLT into a representation and advocacy role raises many issues pertaining to equal access to justice, due process, consumer protection and the broader integrity of legal profession. Authorizing LLLT's to represent clients in domestic relations proceedings appears to rest on an underlying assumption that these proceedings are less complex and require less skill, education, and experience than other legal practice areas and, in short, involve lesser practice of law. Based on many years of experience in handling the most difficult and most complex types of domestic relations cases, including domestic violence protection orders (DVPOs), modification of parenting plans, and third-party custody proceedings NJP fundamentally disputes this assumption. A quick review of facts and legal issues raised in recent Supreme Court and Court of Appeals cases involving these proceedings illustrates this point. See *Rodriquez v. Zavala*, 2017 WL 2829358 (June 19, 2017) (reversing trial court's refusal to include child of parties in protection order); *Juarez v. Juarez*, 195 Wn. App. 880 (2016)(reversing trial court's failure to grant long-term DVPO and deferring to dissolution court proceeding to protect family); and, *Aiken v. Aiken*, 187 Wn.2d 491 (2017)(respondent has no statutory and only limited due process confrontation right to cross-examine child member of household in DVPO proceeding).

LLLT Role: The revised rules are unclear as to the intended role of the LLLT and therefore create confusion for prospective clients, the judiciary, LLLTs themselves and the legal profession as a whole. The Board's proposed omission from the last sentence of APR 28B(4) that "the legal technician does not represent the client in court proceedings or negotiations," implies that the LLLT is authorized to represent a client in court, negotiations, and pre-trial discovery (e.g. depositions), which fundamentally changes the role of an LLLT assisting an otherwise unrepresented litigant through the legal process. Such a fundamental change in the role of the LLLT goes well-beyond enhancing the LLLT Domestic Relations Practice Area and should be subject to greater public scrutiny and justification than presented to date. NJP strongly disagrees with changing the LLLT role from pro se assistance to representation, particularly in contested proceedings that involve fundamental rights, interests and relationships.

In this regard, NJP also disagrees that LLLTs should "negotiate the client's legal rights and responsibilities provided that the client has given written consent defining the parameters of the negotiation prior to the onset of the negotiation." Proposed APR 28F(12). First, negotiation is a specialized skill not currently part of the LLLT training. Second, the client's prior written statement of the parameters of the negotiation cannot dictate or control either the outcome or course of the negotiation. Negotiation requires a give and take of positions based on the informed understandings and expectations of both parties. The course of any negotiation provides informal discovery, relies on the strategic use of facts, potentially requires knowledge of law in other areas, *e.g.*, tax law for income and property distributions, and unanticipated issues can arise during a negotiation that require on the spot legal advice. Participating in a negotiation is essentially an advocacy function to achieve a client's

objectives. NJP does not support extending LLLT practice to encompass negotiations in contested matters.

Domestic Violence Protection Order and Other Protective Order Proceedings: Proposed APR 28 regulation, paragraph F expands the scope of proceedings in which an LLLT may render legal services to include domestic violence protection orders (DVPO) and other protection or restraining orders arising from a domestic relations case; committed intimate relationships pertaining to parenting and support issues; parenting plan modifications; and, non-parental third party custody actions. DVPO hearings are high stakes proceedings often involving issues of life or death and, as the above-referenced appellate cases suggest, the legal system does not well accommodate for persons untrained in domestic violence work. Currently, lay domestic violence advocates are able to appear in court and assist victims in DVPO hearings. However, those advocates are required to do several hours of training before working with these vulnerable clients. Even with this training, lay domestic violence advocates cannot speak for clients or otherwise represent them at hearings. In the long experience of NJP attorneys who work with domestic violence survivor clients (nearly all NJP family law clients), persons participating in domestic violence cases without specialized skills and training do a significant disservice to these survivors and their families. Authorizing LLLTs to appear in these proceedings on behalf of either a victim or perpetrator without requiring a basic understanding and recognition of the trauma, social and psychological impacts involved with domestic violence, neither achieves greater access to justice nor better judicial outcomes. Also, regulating who appears in DVPO proceedings threatens to reduce access to justice if LLLT licensing is required to assist in these proceedings, implicitly prohibiting lay domestic violence advocates doing so. If the Board deems it important to address DVPO proceedings at it, it could authorize participation "to the same extent as lay domestic violence trained advocates," so long as their training is the same.

Parenting Plan Modification and Third-party Custody Proceedings: Modification of parenting plan and third-party custody proceedings may be appropriate and necessary to protect children from harm by a primary or biological parents, respectively. LLLT assistance is a helpful resource when these arrangements are agreed upon by all parties. However, if the proceedings are likely to be or become contested, NJP strongly believes that an LLLT should not be authorized to assist or "represent" a petitioner through an adequate cause hearing (its apparent that the proposed expansion is aimed at assisting petitioners in these proceedings versus respondent parents who typically have greater need for legal help when faced with these proceedings).

The adequate cause hearing is the threshold fact-finding proceeding to determine if the petition should move forward. In NJP's experience, a case can be won or lost at the adequate cause hearing. This is especially true if the respondent(s) is unrepresented and even more so if the court enters temporary orders that change the status quo pending trial. The ultimate outcome of these proceedings could lead to substantial impairment of fundamental parental rights and family relationships. Once entered, it is extremely difficult to undo or reverse modification and third-party custody orders. Non-parental custody orders in particular substitute third-parties for biological parents significantly impairing fundamental rights. They also often involve well-heeled relatives seeking care of children against low-income primary

and/or biological parents and it is often the latter who are in greatest need of legal help. LLLTs should not be allowed to participate in these proceedings when contested.

Mediation, arbitration and other dispute resolution: NJP does not object to LLLT assistance in mediation processes within the LLLT authorized area of practice. However, NJP has the same concerns regarding participation in arbitration proceedings that it has with respect to contested proceedings generally. Importantly, an arbitration is fundamentally different from mediation - an amicable dispute resolution process. It is the functional equivalent to a trial leading to a binding judgment and orders. Representation in arbitrations require the same skills, training and experience as trials. To the extent that LLLTs are not allowed to assist in trials, they should not be allowed to appear in contested arbitrations.

Depositions: Similar to the above concerns regarding contested cases, NJP also does not support allowing LLLTs to appear at depositions. These likely only occur in hotly contested matters. They are adversarial proceedings that require knowledge of the Rules of Evidence, constitutional law (Fifth Amendment), complex proceedings under the Civil Rules, e.g. protective orders, sanctions, preservation of testimony and other issues, direct and cross-examination skills, etc. A deponent assisted by an LLLT could easily understand that they are receiving the full scope of protection and assistance that a lawyer would provide and failure to protect a client adequately in a deposition could be disastrous to their rights.

Reconsideration and Revision Proceedings: Consistent with NJPs concern about authorizing LLLT's to appear in contested domestic relations proceedings, we also have significant concern regarding the proposed expansion to include reconsideration/revision proceedings. These proceedings will only occur in hotly contested cases. They often involve issues of law rather than purely factual disputes. Revisions, in particular, are in the nature of an appeal (which LLLTs are not authorized to handle) from a commissioner's decision and require the judge to determine whether the commissioner's ruling is legally and factually supported. The proceedings are on the record of the case and require briefing of the issues as well as oral argument when allowed per local court rules. These proceedings require a high level of legal knowledge, strategic analysis, and persuasive argument and should not be within the LLLT scope of practice.

Administrative hearings: NJP urges the LLLT Board not to regulate the practice of law in administrative tribunals, including child support and other domestic relations related proceedings. Jurisdiction to regulate administrative tribunals rests with the executive branch agencies and tribunals maintain their own rules and regulations regarding who can practice in these proceedings. Currently, any lay non-attorney can appear in administrative proceedings on child support matters. See WAC 388-02-0155. Any effort to regulate the practice of law before administrative tribunals could impair access to justice if the regulating practice of law in this arena takes it outside the current exclusion in GR 24, NJP urges the LLLT Board to not regulate administrative agency practice. However, if the Board considers this an important area of LLLT practice, NJP urges the Board to consider simply authorizing LLLTs to participate in administrative proceedings within their authorized practice areas "to the same extent as other non-attorneys."

NJP appreciates the LLLT Board's effort to ensure that low-and moderate-income persons in Washington have increased access to justice. However, without more study, analysis and demonstration of the impacts of and need for these particular expansions – re in-court appearance, deposition and negotiation in domestic violence and contested parenting/custody proceedings and infringing on currently allowed lay representation-expanding LLLT practice in these areas is unwarranted.

Sincerely,

Deborah Perluss
Director of Advocacy/General Counsel

C: Cesar E. Torres
NJP Family Law Practitioners

From:	Thomas Mettler
To:	Limited License Legal Technician
Date:	Monday, July 17, 2017 4:47:31 PM

On behalf of the LLLT program, I would like to offer my support. I have been working with a LLLT for several weeks now and she has been a lifesaver. If not for her and her experience and her expertise, I am confident that I would not have gotten as far in my family law case as I have. The work she has done and the advice she has given is sound and helpful. She has done more for me and my situation than I could have expected, and has made many of the confusing legal issues easier to understand and laid everything out in simple terms that a layperson can access.

I strongly urge you to consider continued support and expansion of the LLLT program.

Sincerely,

Thomas Mettler

7/17/2017

To whom it may concern:

My name is Jessica Olson, and I am a Parent-Child Assistance Program Advocate with Family Education and Support Services. Several of my clients have had occasion to utilize the Legal Clinic that Kellie Dighman offers at Family Education and Support Services and have found help completing court paperwork and otherwise navigating the court process. My clients report to me that Ms. Dighman offers a compassionate listening ear, and is able to break down the paperwork and court processes in ways that are understandable. One of my clients who had previously utilized multiple other volunteer-based legal services in the community told me that the time she spent with Ms. Dighman was more helpful in one meeting than all the meetings with other services she had used. I hope to see this service continue at Family Education and Support Services, as it has been extremely helpful!

Sincerely,

Jessica Olson, PCAP Advocate

Family Education and Support Services
1202 Black Lake Boulevard, Suite #B, Olympia, WA 98502
Phone: 360-754-7629; Fax: 360-705-3411
www.FamilyESS.org

DISPOSITION OF REAL PROPERTY

Owner #1
Name: _____
Address: _____
Email: _____
Phone Number: _____

Owner #2
Name: _____
Address: _____
Email: _____
Phone Number: _____

1. VALUE AND DESCRIPTION OF REAL ESTATE

Value of Real Estate: **$_____**
Value based on:

- ☐ Agreement (attach written agreement)
- ☐ Comparative Market Analysis (non-binding value)
- ☐ Appraisal (recommended within 6 months)

Address: _____
Tax Parcel Information: _____
Legal description: _____

ATTACHMENT 1: Attach documents referenced above and most recent County Tax valuation *(note: not conclusive for value of property).*

2. ENCUMBRANCES

Total amount of loans, liens or other encumbrances: **$_____**

Secured Party: _____
Name(s)
_____
Mailing Address
_____
City, State
_____
Physical Address
_____
City, State

Phone: _____
Fax: _____
Email: _____

Principal Balance as of (date) _____ $_____
Monthly payment: $_____
*Annual Taxes: $_____
*Annual Insurance: $_____
**(if not included in mortgage payments)*
Next Payment Due: _____

DRAFT

Other liens or encumbrances: $_____

ATTACHMENT 2: Attach separate sheets to identify each encumbrance and include:
Name and Contact Information for any lien holder(s).
Amount Owing
Reason for lien
Whether it is a Community or Separate Debt

ATTACHMENT 3: Any written agreements or copies of judgments and liens.

3. EQUITY

Amount of Current Equity (using figures in 1 and 2) $_____

Adjustments to Current Equity: $_____

Deferred maintenance (items likely to appear on a house inspection):

Damage to property (indicate if the loss is covered by insurance):

ATTACHMENT 4: Attach a description of any other reason for adjustments and include contract bids, if any.

4. PROPERTY DISPOSITION/DIVISION

How is equity to be divided: Owner #1: _____% Owner #2: _____%

- ☐ Transfer of title
- ☐ Payable upon sale
- ☐ Payment to be deferred. (If payment of equity is to be deferred, the amount and terms of repayment shall be reduced to writing in the form of a Promissory Note secured by a Deed of Trust against the property.)

  Terms of Payment:
  - ☐ Period of Amortization _____ months\years
  - ☐ Interest rate _____% Default Interest rate _____% [12% if not filled in.]
  - ☐ Periodic payment amount $_____ monthly\annual, beginning _____(date)
  - ☐ Other terms: _____
    _____
  - ☐ Due on sale clause.
  - ☐ Balloon payment date _____
  - ☐

Until the property is transferred or sold:

Who will occupy the property?
_____

If the home is encumbered by a mortgage or other encumbrance:

- ☐ Who will pay the mortgage or encumbrance? _____
- ☐ Who is responsible for maintenance of the property? _____

Complete if the property is to be refinanced:

- ☐ Who will refinance? _____

Refinance by:
- ☐ _____ (date)
- ☐ no later than _____ months\years from the date of the entry of decree of dissolution

DRAFT

☐ when the youngest child turns 18 or graduates from high school, whichever is first, but no later than _____ (date)
☐ Other:_____

Complete if there will be an equity buy-out of one party's interest:
If party is to be bought out or receive a percentage of the sale price:

- ☐ Will the other party:
- ☐ remain a borrower on the mortgage, if any, or
- ☐ be released from liability?
- ☐ Total amount of buy-out?
- ☐ $_____ (fixed amount)
- ☐ _____% of Fair Market Value (FMV) or Sale
- ☐ How will FMV be determined, if not by sale?
  _____

Date buy-out must occur by: _____

- ☐ Cash or deferred payments? _____
- ☐ If deferred:
  - Terms of Payment_____
  - Period of Amortization _____ mo/yrs
  - Interest rate, if any _____% (may depend on structure buy-out vs. equity lien)
  - Periodic payment amount $_____ monthly, annual
  - Other terms: _____
  - Balloon payment date _____
- ☐ How will obligation be secured? (Equity Lien pursuant to Decree or Judgment, Deed of Trust, Other)?
  _____

Complete if the property is to be sold:

- ☐ Who will occupy the property while on the market?
- ☐ Who is responsible for maintaining property while on the market?
- ☐ Who is responsible for arranging showings?
- ☐ Who determines the listing price?
- ☐ Who determines the listing agent?
- ☐ What is the process for the parties' acceptance of an offer?
- ☐ What if the parties do not agree on the acceptance of an offer?
- ☐ Is there an upset price or percentage of listing (Redact if this form is filed with the court)?
- ☐ What is the process for counteroffers, repairs based on inspection or buyers' lender's requirements?

6. REMEDIES IN THE EVENT OF DEFAULT OR IMPOSSIBILITY

How will notice be given to the other party (include period in which to cure if default)?
_____
_____

What happens if the person refinancing the loan cannot obtain financing within time allowed?

- ☐ Sale
  - What is the process to determine terms, price and occupancy during sale?
    _____

DRAFT

_____
_____

☐ Creation or Modification of Note and Deed of Trust in favor of party with Equitable Lien which will obligate the Party unable to refinance to make monthly payments of $_____ with interest to accrue at the rate of _____% per annum, until _____, at which time the entire amount shall be paid in full. Said Note and Deed of Trust shall include a due on sale clause, and default interest of _____% [12% if not filled in].

What happens if the person responsible in the Decree fails to make payments or defaults on non-monetary terms in the Deed of Trust?

☐ Other Party may cure default and the amount paid by said party shall be added to that Party's Equitable Lien. In such event the property shall be immediately listed for sale.

Complete the following:

- Who will occupy the property while on the market? _____
- Who is responsible for maintaining property while on the market? _____
- Who is responsible for arranging showings? _____
- Who determines the listing price? _____
- Who determines the listing agent? _____
- What is the process for the parties' acceptance of an offer? _____
- What if the parties do not agree on the acceptance of an offer? _____
- Is there an upset price or percentage of listing (Redact if this form is filed with the court)? _____
- What is the process for counteroffers, repairs based on inspection or buyers' lender's requirements? _____

☐ Other:
_____
_____

The Party entitled to remedies under this section shall be deemed to have waived his or her remedies, if not exercised within 180 days of date of default by the other Party, or upon foreclosure of a prior encumbrance, whichever occurs first.

7. AGREEMENT OF THE PARTIES

This document is a:

☐ Proposed agreement presented by _____
☐ Settlement agreement of the parties.

Name: _____
Signature: _____
Represented by: _____
Signature: _____

Name: _____
Signature: _____
Represented by: _____
Signature: _____

Prepared by: _____ Date: _____

_____ _____
Owner #1 Date Owner #2 Date

DRAFT

ATTACHMENT 1

May include:
Value agreement, Comparative Market Analysis, Appraisal, Tax Parcel Information, Legal description and most recent County Tax valuation.

ATTACHMENT 2

Amount Owing_____

Reason for lien _____

Whether it is a Community or Separate Debt_____

Lien Holder(s):

Name: _____

Address: _____

Email: _____

Phone Number: _____

ATTACHMENT 3

May include:
Any written agreements or copies of judgments and liens.

ATTACHMENT 4

May include:
A description of any other reason for adjustments and include contract bids, if any.

DRAFT

LLLT Board Pending Issues

In Progress

Topic	Details	Assigned To	Next Steps
Family Law Scope • 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 it be a separate practice area • Discuss lifting non-parental custody prohibition • Discuss allowing contested major modifications		Family Law Advisory Committee/LLLT Board	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. The amendments will be discussed at the July meeting.
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 July 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.
Expansion of core curriculum to non ABA-approved schools			Several 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 3rd 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