

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF SUGGESTED)
AMENDMENTS TO GR 25—PRACTICE OF LAW)
BOARD, AND RESCIND PRACTICE OF LAW)
BOARD REGULATIONS)
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ORDER

NO. 25700-A- 1232

The Washington State Bar Association Practice of Law Board, having recommended the suggested amendments to GR 25—Practice of Law Board, and Rescind Practice of Law Board Regulations, and the Court having considered the amendments and comments submitted thereto;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than September 14, 2018. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

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ORDER

IN THE MATTER OF SUGGESTED AMENDMENTS TO GR 25—PRACTICE OF LAW BOARD, AND RESCIND PRACTICE OF LAW BOARD REGULATIONS

DATED at Olympia, Washington this 7th day of June, 2018.

For the Court

Fairhurst, C.J.
CHIEF JUSTICE

GR 9 COVER SHEET DRAFT

Suggested Amendment

General Rule 25

Submitted by the Practice of Law Board

A. Name of Proponent:

Practice of Law Board

Staff Liaison/Contact

Julie Shankland, Senior Assistant General Counsel

Washington State Bar Association

1325 Fourth Avenue, Suite 600

Seattle, WA 98101-2539 (Phone: 206-727-8280)

B. Spokespersons:

Hon. Paul Bastine, ret. , Chair

Practice of Law Board

806 S. Raymond Rd.

Spokane Valley, WA 99206-3530 (Phone 509-844-2954)

C. Purpose:

General Rule (GR) 25 sets out the purposes, responsibilities and operating procedures for the Practice of Law Board. GR 25 was adopted effective September 1, 2001, to establish a Board to implement the Definition of the Practice of Law. In July 2015, the Court issued an order modifying the Practice of Law Board's purposes, responsibilities and procedures. The proposed changes conform GR 25 to the Court's July 2015 Order.

The Board also requests that the Court rescind the Practice of Law Board Regulations. The current Regulations were adopted prior to the Court's 2015 Order. The content of the Regulations was included in the proposed GR 25. The Board will determine whether new Regulations are needed.

Board Size and Membership: The proposed changes increase the required number of Board members not currently authorized to practice law from four to five. The total number of Board members is unchanged at 13.

Board Responsibilities: The proposed rule changes conform the Board's functions to those listed in the Court's July 2015 Order. The Board has a new responsibility to educate the public about how to receive competent legal assistance.

The Board maintains its responsibility to consider and recommend to the Court new avenues for persons not currently authorized to practice law to provide legal and law-related services that might otherwise constitute the practice of law. The proposed rule codifies the current practice of forwarding any recommendations in this area to the WSBA Board of Governors for consideration and comment at least 90 days prior to transmission to the Court. This section of the proposed rule also requires the Board to consider the GR 12.1 Regulatory Objectives when developing these recommendations.

The Board's role in unauthorized practice of law complaints is narrowed, consistent with the Court's July 2015 Order. The proposed rule states that the Board may receive complaints alleging unauthorized practice of law, will review the complaints, and may refer complaints that allege harm to the public interest to appropriate enforcement agencies. The proposed rule, consistent with the Court's July 2015 Order, eliminates the Board's responsibility to investigate unauthorized practice of law complaints and make determinations whether specific conduct constitutes the unauthorized practice of law.

The proposed rule eliminates the Board's role in issuing advisory opinions. Current GR 25 permits requests for advisory opinions "relating to the authority of a nonlawyer to perform legal and law-related services." The rule also permits petitions for review of advisory opinions. Issuing opinions regarding who can and cannot perform legal and law-related services is a decision better suited for the Court instead of the Practice of Law Board. Opinions of the Practice of Law Board, the majority of whom are practicing attorneys, presents a heightened risk of anticompetitive activity. Thus, Board advisory opinions would need active court supervision, including some form of review and approval. The active supervision procedure would interfere with a later petition for review process. Although advisory opinions are not included in GR 25, the Board can receive questions from the Court at any time.

Board Records: The proposed rule clarifies that Board records, including unauthorized practice of law complaints are public and subject to GR 12.4.

Annual Report: To assist the Court in actively supervising the Board's activities, the proposed rule requires the Board to submit an annual report to the Court.

Regulations: The proposed rule maintains the Board's authority to adopt regulations subject to the Court's approval. The proposed rule adds a provision requiring proposed board regulations to be provided to the WSBA Board of Governors for informational purposes.

D. Hearing:

A hearing is not recommended.

E. Expedited Consideration:

Expedited consideration is requested. The Practice of Law Board believes the Rule should be consistent with the Court Order as soon as possible.

Supporting Material:

The Board sent the proposed GR 25 changes to stakeholders, including the Access to Justice Board, LLLT Board, and WSBA Board of Governors. In response to comments received, the Board clarified the appointment process, eliminated the advisory opinion process and removed the word "nonlawyer." Most comments received supported the conforming changes to the rule.

Attachments:

GR 25 Proposed Redline

GR 25 Proposed-Clean

July 2015 Court Order Reconstituting Practice of Law Board

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 (a) ~~Purpose.~~ Board. ~~The purpose of this rule is to create a Practice of Law Board in~~
2 ~~order to promote expanded access to affordable and reliable legal and law related services,~~
3 ~~expand public confidence in the administration of justice, make recommendations regarding the~~
4 ~~circumstances under which non-lawyers may be involved in the delivery of certain types of legal~~
5 ~~and law related services, enforce rules prohibiting individuals and organizations from engaging~~
6 ~~in unauthorized legal and law related services that pose a threat to the general public, and to~~
7 ~~ensure that those engaged in the delivery of legal services in the state of Washington have the~~
8 ~~requisite skills and competencies necessary to serve the public.~~

10 (b) ~~Appointment.~~ ~~The Practice of Law Board shall consist of 13 members, at least~~
11 ~~four of whom shall be non-lawyers. The appointments shall be made appointed and actively~~
12 ~~supervised by the Supreme Court after considering nominations from the Practice of Law Board~~
13 ~~and the Board of Governors of the Washington State Bar Association and other interested people~~
14 ~~and organizations. A minimum of five Board members must be persons not currently authorized~~
15 ~~to practice law. The Board members shall may be appointed to staggered 3-year terms of 3 years~~
16 ~~and no member may serve more than 2 consecutive full 3-year terms. ~~Any vacancies shall~~~~
17 ~~may be filled for the unexpired term. The Supreme Court shall may annually designate a chair~~
18 ~~and vice-chair, who shall must be members of the Board.~~

20 (e) ~~b) Powers~~ Responsibilities ~~of the Practice of Law Board. The Practice of Law~~
21 ~~Board's functions are to:~~

22 (1) ~~Advisory Opinions.~~ ~~On request of any person, or in connection with the~~
23 ~~consideration of any complaint or any investigation made on its own initiative, the Board may~~
24 ~~render advisory opinions relating to the authority of non-lawyers to perform legal and law-~~
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RULES OF GENERAL APPLICATION (GR)
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1 ~~related services and arrange for their publication. No opinion shall be rendered if, to the Board's~~
2 ~~knowledge, the subject matter either involves or might affect a case or controversy pending in~~
3 ~~any court. An advisory opinion shall be issued by the Board in writing and shall be transmitted to~~
4 ~~the person making the inquiry. At the direction of the Board, an opinion may be published in the~~
5 ~~Washington State Bar News. Published opinions shall not, insofar as practicable, identify the~~
6 ~~party or parties making an inquiry, or the complainant or respondent.~~

8 (1) Educate the public about how to receive competent legal assistance;

9 (2 4) Consider and recommendations to the Supreme Court Regarding the Provision of
10 Legal and Law Related Services by Non Lawyers. On request of the Supreme Court or any
11 person or organization, or on its own initiative, the Board may recommend new avenues for that
12 non-lawyers persons not currently authorized to practice law to provide legal and law-related
13 services be authorized to engage in certain defined activities that might otherwise constitute the
14 practice of law as defined in GR 24. Recommendations to authorize non-lawyers to engage in
15 the limited practice of law pursuant to this section shall must be forwarded to the Washington
16 State Bar Board of Governors for consideration and comment at least 90 days before
17 transmission to the Supreme Court. Upon approval of such recommendations by the Supreme
18 Court, pursuant to the procedures set out in GR 9, those who meet the requirements and comply
19 with applicable regulatory and licensing provisions shall be deemed to be engaged in the
20 authorized practice of law. In forwarding a recommendation that non-lawyers be authorized to
21 engage in certain legal or law-related activities that constitute the practice of law as defined in
22 GR 24, the Board shall determine whether regulation under authority of the Supreme Court
23 (including the establishment of minimum and uniform standards of competency, conduct, and
24
25

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RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 continuing education) is necessary to protect the public interest. Any ~~r~~Recommendations that
2 ~~non-lawyers be authorized to engage in the limited provision of legal or law-related services~~
3 ~~shall~~ must be accompanied by a determination:

4 (A) that access to affordable and reliable legal and law-related services consistent
5 with protection of the public will be enhanced by ~~permitting non-lawyers to engage in the~~
6 ~~defined activities set forth in the recommendation~~ authorizing the recommended legal service
7 provider or legal service delivery model;

8
9 (B) that the defined activities outlined in the recommendation can be reasonably and
10 competently provided by skilled and trained ~~non-lawyers~~ legal service providers;

11 (C) if the public interest requires regulation under ~~authority of the Supreme Court~~
12 authority, such regulation considers any regulatory objectives in GR 12 et.seq. and is tailored to
13 promote access to affordable legal and law-related services while ensuring that those whose
14 important rights are at stake can reasonably rely on the quality, skill and ability of ~~those non-~~
15 ~~lawyers~~ the authorized legal service providers who will provide such services;

16
17 (D) that, to the extent that the activities authorized will involve the handling of
18 client trust funds, provision has been made to ensure that such funds are handled in a manner
19 consistent with ~~RPC 1.15A and APR 12.1~~, all applicable court rules, including the requirement
20 that such funds be placed in interest bearing accounts, with interest paid to the Legal Foundation
21 of Washington; and

22 (E) that the recommended program, including the costs of regulation, is financially
23 self-supporting within a reasonable period of time, if any, can be effectively underwritten within
24 the context of the proposed regulatory regime. ~~Recommendations to authorize non-lawyers to~~
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SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 ~~engage in the limited practice of law pursuant to this section shall be forwarded to the~~
2 ~~Washington State Board of Governors for consideration and comment before transmission to the~~
3 ~~Supreme Court. Upon approval of such recommendations by the Supreme Court, pursuant to the~~
4 ~~procedures set out in GR 9, those who meet the requirements and comply with applicable~~
5 ~~regulatory and licensing provisions shall be deemed to be engaged in the authorized practice of~~
6 ~~law.~~

7
8 ~~(2 3) *Complaints.* The Board may receive shall have jurisdiction over and shall inquire~~
9 ~~into and consider complaints alleging the unauthorized practice of law in Washington by any~~
10 ~~person or entity. The Board will review and may refer complaints that allege harm to the public~~
11 ~~interest to appropriate enforcement agencies. Upon referring a matter to law enforcement or~~
12 ~~other agency, the Board may notify the complainant of such action in writing. in accordance with~~
13 ~~the procedures outlined in this rule.~~

14
15 ~~(3) *Investigation.* The Board may, on its own initiative, and without any complaint~~
16 ~~being made to it, investigate any condition or situation of which it becomes aware that may~~
17 ~~involve the unauthorized practice of law.~~

18 ~~(d c) **Expenses of the Practice of Law Board Funding and Administration.** The~~
19 ~~Practice of Law Board shall be supported through annual commitments from the Washington~~
20 ~~State Bar Association and through a portion of other licensing fees established by the Supreme~~
21 ~~Court for non-lawyers authorized to engage in the regulated practice of law. The Board shall~~
22 ~~must be funded, administered and staffed by the Washington State Bar in accordance with GR 12~~
23 ~~et seq. which The Bar shall pay all expenses reasonably and necessarily incurred by the Board,~~
24 ~~pursuant to a budget approved by the Board of Governors. Members of the Board members shall~~
25

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RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 ~~not be~~ are not compensated for their services, but shall ~~be~~ are reimbursed for their necessary
2 expenses incurred in connection with the Board in a manner consistent with the ~~Association~~Bar's
3 reimbursement policies.

4 ~~(e d)~~ **Records.** All ~~records of the Board~~ records shall must be filed and maintained at
5 the principal office of the ~~Association~~ Bar. GR 12.4 applies to access to Board records. All
6 Board records, including unauthorized practice of law complaints are public documents except:

7 (1) Information made confidential by GR 22 and GR 31;

8 (2) Information made confidential by other statutes, court rules or legal authority, such
9 as unredacted police reports, medical records, confidential disciplinary information, or
10 copies of sealed pleadings.

11 ~~(f)~~ **Procedures.**

12 ~~(e)~~ **Meetings and Procedures.** The Board may meet as necessary to complete its
13 business. Meetings may be held in person or by videoconference and/or teleconference. All
14 meetings of the Board and its designated committees are open and public, unless the Board meets
15 in Executive Session.

16 (1) Executive Session. The Board may meet in Executive Session on matters within the
17 Board's scope of work and consistent with the Bar Bylaws.

18 (2) Quorum. A majority of the Board shall constitute a quorum. ~~The chairperson of the~~
19 ~~Board may appoint temporary members of the Board or a committee when a member is~~
20 ~~disqualified or unable to function on a specific matter for good cause.~~

21 ~~(f 3)~~ **Committees.** The Board may establish such committees as the membership may
22 deem necessary and appropriate to the performance of its assigned tasks.

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 ~~(3) Action by Board. The full jurisdiction and authority of the Board, as provided in~~
2 ~~this rule, may be exercised by a committee, except that (1) no advisory opinion may be given~~
3 ~~without the approval of a majority of the Board; (2) no determination of the unauthorized~~
4 ~~practice of law by a respondent and referral of a matter to a law enforcement or other agency~~
5 ~~may be made without the approval of a majority of the Board; and (3) the action of a committee~~
6 ~~on any matter shall be subject to review and the approval or disapproval of the Board.~~

8 ~~(4) Voting. Each member shall be entitled to one vote on each matter submitted to a~~
9 ~~vote at a meeting.~~

10 ~~(4) Formal Complaint Procedure.~~

11 ~~(A) Preliminary Investigation. The investigation or review of a complaint shall be~~
12 ~~promptly instituted by the Board or by a member thereof designated by the chair of the Board. If~~
13 ~~a complaint has been filed, the investigating member shall interview the complainant and~~
14 ~~respondent and shall conduct such further investigation as is deemed appropriate.~~

16 ~~(B) Report and Written Agreement. Upon the conclusion of an investigation of a~~
17 ~~complaint, a report shall be made to the Board. If, after consideration of the report, the Board~~
18 ~~concludes that there has been no unauthorized practice of law, the complaint shall be dismissed~~
19 ~~and the Board shall so notify the complainant and the respondent in writing and shall close the~~
20 ~~file in the matter. If the Board concludes that there has been unauthorized practice of law, the~~
21 ~~Board shall attempt to persuade the respondent to enter into a written agreement to refrain from~~
22 ~~such conduct in the future. The written agreement may include a stipulation to penalties in the~~
23 ~~event of continued violation.~~

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GR 25 – PRACTICE OF LAW BOARD

1 ~~(C) Pending Controversy. The Board may defer investigation if, to the Board's~~
2 ~~knowledge, the conduct complained of is the subject matter of or might affect a case or~~
3 ~~controversy pending in any court.~~

4 ~~(D) Informal Disposition. The Board may attempt to arrive at an amicable disposition~~
5 ~~of any matter within its jurisdiction with the respondent. At any time during the pendency of a~~
6 ~~matter before it, the Board may conduct an informal conference with the respondent. At the~~
7 ~~Board's discretion, an electronic recording or written transcription of the proceeding may be~~
8 ~~made. A respondent subject to an informal conference may be represented by counsel. After a~~
9 ~~finding by the Board of the unauthorized practice of law, the Board shall endeavor to have the~~
10 ~~respondent enter into a written agreement to refrain in the future from such conduct. If the~~
11 ~~respondent declines to enter into a written agreement pursuant to this rule, the Board shall refer~~
12 ~~the matter to an appropriate law enforcement or other agency in accordance with this rule.~~

14 ~~(g) Petitions for Review.~~

15 ~~(1) Notice. Within 20 days after an opinion is published, or within 30 days after any~~
16 ~~final action of the Board other than the publication of any opinion, any aggrieved member of the~~
17 ~~bar, bar association, person or entity may seek review thereof by serving on the Board a notice of~~
18 ~~petition for review by the Supreme Court and by filing the original notice with the Clerk of the~~
19 ~~Supreme Court. The notice shall set forth the petitioner's name and address and, if represented,~~
20 ~~the name and address of counsel. The notice shall designate the action of the Board sought to be~~
21 ~~reviewed and shall concisely state the manner in which the petitioner is aggrieved.~~

22 ~~(2) Procedure. Petitions for review to the Supreme Court shall comply with the Rules~~
23 ~~for Appellate Procedure.~~

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 ~~(3) Final Determination. The final determination of a petition for review may be either~~
2 ~~by written opinion or by order of the Supreme Court and shall state whether the opinion or the~~
3 ~~action of the Board is affirmed, reversed or modified or shall provide for such other final~~
4 ~~disposition as is appropriate.~~

5 ~~(h) Referral to Enforcement Agency.~~

6 ~~(1) Referral. When the Board concludes from its preliminary investigation, or from~~
7 ~~the failure of an informal conference as provided in these rules, that an amicable disposition of~~
8 ~~any matter within its jurisdiction cannot be effected with the respondent, it shall, based upon the~~
9 ~~nature of the complaint, the relief sought, and the facts as then known, refer the matter to the law~~
10 ~~enforcement or other agency the Board determines is best suited to conduct an investigation and~~
11 ~~any prosecution of such matter.~~

12 ~~(2) Contents of File. Upon making a determination that an amicable disposition of a~~
13 ~~matter cannot be effected, and that the matter should be referred to a particular law enforcement~~
14 ~~or other agency, the Board shall send such agency the original complaint, response, evidence or~~
15 ~~other proof, investigative report and, if an informal conference has been conducted, a transcript~~
16 ~~of such proceedings. The Board shall retain copies of all such documents for its file.~~

17 ~~(3) Notice to Complainant. Upon referring a matter to a law enforcement or other~~
18 ~~agency, the Board shall notify the complainant of such action in writing.~~

19 ~~**(f) Annual Report.** The Board must file a written report and meet with the Court each~~
20 ~~year. The report must contain the following information:~~

21 ~~(1) Board Roster, including any committees formed;~~

22 ~~(2) Board meeting agendas;~~

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
GR 25 – PRACTICE OF LAW BOARD

1 (3) Short description of all unauthorized practice of law complaints received; whether
2 the board closed, referred or deferred the complaint; and the name of the agencies receiving the
3 referral;

4 (4) Progress report or copies of educational materials provided to the public;

5 (5) Progress report on recommended new legal service providers or legal service
6 delivery mechanisms;

7 (6) Work plan for the fiscal year;

8 (7) Long range work plan.

9 **(i g) Immunity from Suit.**

10 (1) The members and staff of the Board shall be absolutely immune from suit, whether
11 legal or equitable in nature, for any conduct in the performance of their official duties.

12 (2) Persons who bring allegations to the Board concerning any individual or entity to
13 the Board shall be immune from suit, whether legal or equitable in nature, for all
14 communications to the Board or to its staff.

15 **(j h) Regulations.** The Board may adopt regulations pertinent to these powers
16 responsibilities subject to the approval of the Supreme Court. Proposed Regulations should be
17 provided to the Washington State Bar Board of Governors for informational purposes.

18 [Adopted effective September 1, 2001; September 1, 2006.]
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SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
APPENDIX GR 25 – PRACTICE OF LAW BOARD REGULATIONS

REGULATION 1. — PURPOSE

~~The purpose of these regulations is to establish procedures for the Practice of Law Board (POL Board) in order to carry out its purposes and exercise its powers pursuant to General Rule 25 (GR 25).~~

REGULATION 2. PRACTICE OF LAW

~~General Rule 24 (GR 24), Definition of the Practice of Law, including any amendments, provides the framework by which the POL Board will carry out its purposes and exercise its powers as set forth in GR 25.~~

REGULATION 3. ESTABLISHMENT OF THE BOARD

~~**A. Board Members.** The POL Board shall consist of 13 members (Member[s]) appointed by the Supreme Court of the State of Washington (Supreme Court) at least four of whom shall be non lawyer Washington residents and the remainder of whom shall be lawyers licensed to practice law in Washington. Appointments to the POL Board shall be made by the Supreme Court after considering nominations from the WSBA Board of Governors (WSBA Board) and any other interested people or organizations.~~

~~**B. Member Terms.** The Members shall initially be appointed to staggered terms of one to three years. Thereafter, appointments shall be for three year terms. No Member may serve more than two consecutive three year terms.~~

~~**C. Resignation.** A member may resign from the POL Board by letter addressed to the POL Board and the Supreme Court with resignation to be effective two days following the date of the letter or any effective date thereafter which may be specified in the letter.~~

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
APPENDIX GR 25 – PRACTICE OF LAW BOARD REGULATIONS

1 ~~**D. Vacancies.** A membership vacancy shall be deemed to occur on the resignation~~
2 ~~of a Member or upon declaration of a vacancy by the Supreme Court following any request to~~
3 ~~the Supreme Court by the POL Board for the reasons set forth in section O below, or if a~~
4 ~~Member has three consecutive unexcused absences from regular POL Board meetings or is not~~
5 ~~present at more than a majority of the POL Board meetings during any 12-month period as~~
6 ~~determined by the chairperson. A membership vacancy shall be filled by the Supreme Court~~
7 ~~for the unexpired term.~~

9 ~~**E. Administration of Board.** The Washington State Bar Association (WSBA), in~~
10 ~~consultation with the POL Board, shall provide the POL Board with an administrator (Board~~
11 ~~Administrator) and any additional staff support as designated by the Executive~~
12 ~~Director of the WSBA. The Board Administrator shall not be entitled to vote on POL Board~~
13 ~~matters.~~

14 ~~**F. Funding and Expenses.** The POL Board shall prepare an annual budget to be~~
15 ~~submitted for approval and on a schedule set by the WSBA Board of Governors. The WSBA~~
16 ~~shall pay all expenses reasonably and necessarily incurred by the POL Board pursuant to the~~
17 ~~budget and the expense policy of the WSBA. Funding for the POL Board shall be provided by~~
18 ~~annual commitments from the WSBA and through a portion of other licensing fees established~~
19 ~~by the Supreme Court.~~

20 ~~**G. Officers.** The Supreme Court shall annually designate a chairperson and a vice-~~
21 ~~chairperson from among the POL Board membership.~~

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
APPENDIX GR 25 – PRACTICE OF LAW BOARD REGULATIONS

1 ~~H. Regular Meetings.~~ The POL Board shall meet as necessary to complete its
2 business not less than once per year as determined by the POL Board or upon call of the
3 chairperson.

4 ~~I. Regular Meeting / Agenda Notice.~~ The POL Board may file with the Code
5 Reviser a schedule of the time and place of regularly scheduled meetings in January of each
6 year for publication in the Washington State Register. The POL Board shall post an agenda for
7 each regular meeting on the Administrative Office of the Courts website or the WSBA website
8 at least seven days prior to the meeting.

9
10 ~~J. Special Meetings.~~ A special meeting of the POL Board may be called at any
11 time by the chairperson or by a majority of the POL Board membership by delivering written
12 notice personally, by mail, or by e-mail to each Member at least two business days before the
13 time of such meeting and by providing notice of the special meeting to the public on the
14 Administrative Office of the Courts website or the WSBA website.

15
16 ~~K. Voting.~~ Each Member shall be entitled to one vote on each matter submitted to a
17 vote at a meeting of the POL Board. A majority vote of the Members present at a meeting at
18 which a quorum exists shall, unless a greater vote is required by other provisions of these
19 regulations or by GR 25, decide any issue submitted.

20 ~~L. Quorum.~~ A majority of the Members shall constitute a quorum. The
21 chairperson may appoint temporary members of the POL Board (or any designated committee)
22 from among former members of the POL Board when a Member is disqualified or unable to
23 function on a specific matter, for good cause. If less than a quorum is present at a meeting, a
24 majority of the Members present may adjourn the meeting and continue it to a later date and
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SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
APPENDIX GR 25 – PRACTICE OF LAW BOARD REGULATIONS

1 ~~time upon notice. At any reconvened meeting at which a quorum is present, any business may~~
2 ~~be transacted which might have been transacted at the adjourned meeting. Members present at~~
3 ~~a properly called meeting may continue to transact business until adjournment, notwithstanding~~
4 ~~the withdrawal of Members leaving less than a quorum.~~

5 ~~**M. Action by Communication Equipment.** The Members or any designated~~
6 ~~committee may participate in a meeting of the POL Board or such designated committee by~~
7 ~~means of a conference phone or similar communications equipment by which all persons~~
8 ~~participating in the meeting can hear each other at the same time, and participation by such~~
9 ~~means will constitute presence in person at a meeting.~~

10
11 ~~**N. Action Without a Meeting.** Any action required or permitted to be taken at a~~
12 ~~POL Board meeting in Executive Session may be taken without a meeting if a written consent~~
13 ~~setting forth the action taken or to be taken is signed by each of the Members. Any such written~~
14 ~~consent (including facsimile and digital signatures) shall be inserted in the minute book as if it~~
15 ~~were the minutes of a POL Board meeting in Executive Session. Further, such consent shall~~
16 ~~have the same force and effect as a unanimous vote, and may be stated as such in any~~
17 ~~document filed for the public record.~~

18
19 ~~**O. Removal of a Member.** The POL Board may request the Supreme Court to~~
20 ~~declare a membership vacancy with respect to any Member whose removal from the POL~~
21 ~~Board would, upon a two-thirds vote of the POL Board excluding the affected Member, be in~~
22 ~~the best interest of the POL Board; however, such action may only be taken by the POL Board~~
23 ~~at a regular or special meeting following notice of such proposed action.~~

SUGGESTED AMENDMENT
RULES OF GENERAL APPLICATION (GR)
APPENDIX GR 25 – PRACTICE OF LAW BOARD REGULATIONS

1 ~~**P. Committees.** The POL Board may establish such committees as the POL Board~~
2 ~~deems necessary and appropriate with each committee (designated committee) having a~~
3 ~~specified function determined by the POL Board and having the full jurisdiction and authority~~
4 ~~of the POL Board as provided in GR 25, except that: 1) no advisory opinion may be issued~~
5 ~~without the approval of the POL Board; 2) no determination of the unauthorized practice of~~
6 ~~law by a respondent and referral of a matter to a law enforcement or other~~
7 ~~agency may be made without the approval of the POL Board; and 3) the action of a designated~~
8 ~~committee on any matter shall be subject to review and approval/disapproval of the POL~~
9 ~~Board. The chairperson shall designate a committee chair for each designated committee to~~
10 ~~serve for a one-year term.~~

12 ~~**Q. Records.** The Board Administrator shall maintain minutes of the POL Board~~
13 ~~and its designated committees, deliberations, recommendations, and decisions. All records of~~
14 ~~the POL Board and its committees shall be filed and maintained at the principal office of the~~
15 ~~WSBA.~~

17 ~~**R. Open Meeting and Records.** All records, files, meetings and proceedings of the~~
18 ~~POL Board and its designated committees shall be open and public, except that the POL Board~~
19 ~~may meet in executive session and records and files may be made confidential where the~~
20 ~~preservation of confidentiality is desirable or where public disclosure might result in the~~
21 ~~violation of individual rights or in unwarranted private or personal harm. All discussions of~~
22 ~~particular complaints and investigations will be held in Executive Session. Nothing in these~~
23 ~~regulations shall be construed to deny access to relevant information by professional licensing~~
24 ~~or discipline agencies, or other law enforcement authorities, as the Board shall authorize.~~

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1
2 ~~S. Public Participation.~~ The chairperson or the chair of any designated committee
3 may allow for public participation at any meeting. Members of the public who wish to address
4 the POL Board or a designated committee at any meeting shall be required to provide contact
5 information on a form provided for that purpose and shall be required to comply with any time
6 limitation deemed appropriate by the chairperson or the designated committee chair.
7

8 ~~T. Letterhead.~~ Use of POL Board letterhead shall be limited to official business of
9 the POL Board and specifically shall not be used in connection with any political campaign or
10 to support or oppose any public issue unless the POL Board has taken a position on the issue;
11 to support or oppose any political candidate; or for personal or charitable purposes.
12

REGULATION 4. CONFLICT OF INTEREST.

13 ~~A. In General.~~ A Member who has or has had a lawyer/client relationship or
14 financial relationship with, or who is an immediate family member of, a person or entity who is
15 a complainant or the subject of a matter before the POL Board shall not participate in the
16 investigation or deliberation on any matter involving that complainant, person, or entity. No
17 WSBA employee shall participate in deliberation on any matter which is pending in, or likely
18 to be referred to, the WSBA attorney disciplinary system or bar admission.
19

20 ~~B. Disclosure.~~ A Member with a past or present relationship, other than that as
21 provided in section A above, with a person or entity who is the complainant or subject of a
22 matter before the POL Board, shall disclose such relationship to the POL Board and, if the
23 POL Board deems it appropriate, that Member shall not participate in any action relating to
24 that matter.
25

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REGULATION 5. ~~ADVISORY OPINIONS.~~

1
2 **A. ~~Requests for Advisory Opinions.~~** Any person may request an advisory opinion
3 from the POL Board relating to the authority of a non-lawyer to perform legal and law-related
4 services. Such requests shall be in writing in a form and in a manner prescribed by the POL
5 Board and signed by the person requesting the opinion.

6
7 **B. ~~Board Initiated Advisory Opinions.~~** The POL Board may render advisory
8 opinions relating to the authority of non-lawyers to perform legal and law-related services in
9 connection with the consideration of any complaint or in any investigation made on its own
10 initiative relating to the unauthorized practice of law by any person or entity.

11 **C. ~~Notice of Request.~~** The POL Board may give notice to any person or entity,
12 either personally or by publication, of any pending request for an advisory opinion or pending
13 POL Board initiated advisory opinion, and invite written comments regarding the pending
14 advisory opinion.

15
16 **D. ~~Pending Controversy.~~** The POL Board may not render an advisory opinion in
17 any matter that, to its knowledge, is the subject of or might affect a case or controversy
18 pending in any court or administrative [attorney disciplinary] proceeding.

19 **E. ~~Public Hearing.~~** The POL Board may conduct a public hearing at a date and
20 time and in a manner set by the POL Board, designed to make it accessible to interested parties
21 as determined by the Board, on any request for an advisory opinion or a POL Board initiated
22 advisory opinion.

23
24 **F. ~~POL Board Action.~~** Upon receipt of a proper request for an advisory opinion,
25 the POL Board may issue an advisory opinion or proposed advisory opinion, or may decline to

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1 ~~issue an advisory opinion. If the POL Board issues an advisory opinion, it shall be in writing~~
2 ~~and shall be transmitted to the person making the request, or in the case of a POL Board~~
3 ~~initiated advisory opinion, it may be transmitted to any person(s) determined by the POL Board~~
4 ~~for whose benefit or detriment the advisory opinion was issued.~~

5
6 ~~**G. Publication of Advisory Opinions.** The POL Board may arrange for the~~
7 ~~publication of advisory opinions in the Washington State Bar News. Opinions so published~~
8 ~~shall not, insofar as practicable, identify the party or parties making the inquiry, the~~
9 ~~complainant or the respondent.~~

10 ~~**H. Petitions for Review.** Petitions for review of any advisory opinion issued by the~~
11 ~~POL Board shall conform with Regulation 7 below.~~

~~**REGULATION 6. COMPLAINTS.**~~

13
14 ~~**A. Filing Complaints.** Complaints alleging the unauthorized or unlicensed practice~~
15 ~~of law shall be submitted to the POL Board, in writing, in a form and manner prescribed by the~~
16 ~~POL Board.~~

17 ~~**B. Investigation.** The POL Board may, on its own initiative and without any~~
18 ~~complaint being made to it, investigate any condition, situation or activity involving the~~
19 ~~unauthorized or unlicensed practice of law of which it becomes aware in the same manner as if~~
20 ~~a complaint had been made under section A above.~~

21 ~~**C. Initial Review of Complaints.** Upon receipt of a complaint, the Board~~
22 ~~Administrator shall conduct an initial review to determine whether it is within the jurisdiction~~
23 ~~of the POL Board or may be subject to deferral. If not within the jurisdiction of the POL~~
24 ~~Board or if it is subject to deferral, the Board administrator shall advise the complainant that~~

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1 ~~the matter will not be opened as a complaint, and the reasons. The complainant may submit~~
2 ~~additional information. All such items will be placed on the next POL Board agenda for~~
3 ~~review and any action deemed appropriate by the POL Board. If the complaint is deemed to be~~
4 ~~within the jurisdiction of the POL Board and not subject to deferral, the complaint will be~~
5 ~~opened for investigation.~~

6
7 ~~**D. Request for Response.** If a complaint is opened for investigation, a copy shall~~
8 ~~be send to the respondent with a request to respond within 20 days, and with notice that if the~~
9 ~~respondent does not respond, the complaint shall be considered without a response.~~

10 ~~**E. Report and Written Agreement.** The complainant and respondent shall be~~
11 ~~interviewed and such other and further review or investigation may be conducted as is deemed~~
12 ~~appropriate. A written report and recommendation will be submitted to the Board, by~~
13 ~~transmitting it to the Board Administrator and the Members. All Members shall have one week~~
14 ~~(5 working days) to submit comments respecting the report by transmitting them to the Board~~
15 ~~Administrator and the Members. If the report recommends dismissal of the complaint and~~
16 ~~there are no adverse comments from the Members within the comment period, the report and~~
17 ~~recommendation shall be deemed adopted by the POL Board and the chairperson shall~~
18 ~~immediately notify the complainant and the respondent, in writing, of the dismissal and the~~
19 ~~matter shall be closed. If one or more Members disagree with the recommendation for~~
20 ~~dismissal, the matter shall be placed on the agenda of the next meeting of the POL Board for~~
21 ~~action by the POL Board. If the report concludes that there has been an unauthorized or~~
22 ~~unlicensed practice of law, the matter shall be placed on the agenda of the next POL Board~~
23 ~~meeting for action.~~

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1 ~~F. POL Board Review.~~ If upon POL Board review of a report and
2 recommendation, the POL Board concludes that there has been no unauthorized or unlicensed
3 practice of law, the complaint shall be dismissed and the chairperson shall so notify the
4 complainant and the respondent, in writing, and shall close the file. If the POL Board
5 concludes that there has been unauthorized or unlicensed practice of law, the POL Board shall
6 proceed in the following manner:
7

8 ~~(1) The POL Board shall attempt through the Chairperson or his or her designee to~~
9 ~~persuade the respondent to enter into a written agreement to refrain from the objectionable~~
10 ~~conduct in the future. Such written agreement shall be prepared by the Chairperson or his or~~
11 ~~her designee and may include a stipulation as to penalties in the event of continued~~
12 ~~unauthorized or unlicensed practice of law which is the subject matter of the agreement or~~
13 ~~violation of other terms of the agreement.~~

14 ~~(2) If the respondent will not enter into a written agreement as set forth in (1)~~
15 ~~above, the POL Board may attempt to arrive at any other satisfactory disposition as determined~~
16 ~~by the POL Board. In attempting to arrive at a satisfactory disposition, the POL Board may, at~~
17 ~~a regular or special POL Board meeting, or by a designated committee, conduct an informal~~
18 ~~conference with the respondent, which conference may, in the discretion of the chairperson or~~
19 ~~designated committee chair, be recorded electronically or reported by a certified court reporter.~~
20 ~~At such informal conference, the respondent may be represented by counsel, but the informal~~
21 ~~conference shall not be public, nor shall rules of evidence apply. If the informal conference~~
22 ~~was held by a designated committee, the chair shall render a report, in writing, to the POL~~
23 ~~Board at the next POL Board meeting for action. If the POL Board determines that the~~
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1 respondent has engaged in the unauthorized or unlicensed practice of law, the POL Board shall
2 endeavor to have the respondent enter into a written agreement to refrain from the
3 objectionable conduct in the future, in the same manner as provided in (1) above. If, however,
4 the respondent declines to enter into a written agreement, the POL Board may refer the matter
5 to the appropriate law enforcement or other agency in accordance with GR 25(h).

6
7 **G. Pending Controversy.** Notwithstanding the foregoing, the POL Board may
8 defer an investigation in any matter that, to its knowledge, is the subject of or might affect a
9 case or controversy pending in any court or administrative [attorney disciplinary] proceeding.

10 **H. Notice of Board Action.**

11 (1) *Notice to Parties.* The chairperson shall provide notice to any complainant who
12 has not been previously notified of dismissal and each respondent, other than a respondent who
13 has entered into a written agreement, of POL Board action with respect to the complaint or
14 self-initiated investigation within ten days of POL Board action. All such notices of POL
15 Board action shall inform the recipients of the right to petition for review by the Supreme
16 Court as prescribed in GR 25(g).

17
18 (2) *Publication of Notice:* The POL Board may, in its discretion, publish notice of
19 Board action on a complaint alleging the unauthorized practice of law in the Washington State
20 Bar News, on the WSBA website, or elsewhere as it deems appropriate. The Board
21 Administrator has discretion in drafting notices for publication, and they should include
22 sufficient information to adequately inform the public of the reasons for the Board's action and
23 conclusions.
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REGULATION 7. PETITIONS FOR REVIEW.

1
2 ~~Petitions for review from any action of the POL Board to the Supreme Court shall comply with~~
3 ~~GR 25(g).~~

REGULATION 8. RECOMMENDATIONS TO THE SUPREME COURT.

4
5 ~~**A. In General.** On the request of the Supreme Court or any person or organization,~~
6 ~~or on its own initiative, the POL Board may recommend that non lawyers be authorized to~~
7 ~~engage in certain defined activities that otherwise constitute the practice of law as defined in~~
8 ~~GR 24.~~

9
10 ~~**B. Public Hearing.** The POL Board may, in its discretion, conduct a public hearing~~
11 ~~upon such notice and at a date, time and in a manner as determined by the POL Board on any~~
12 ~~self initiated action or request for a recommendation to the Supreme Court.~~

13
14 ~~**C. Recommendation.** Any recommendation forwarded by the POL Board to the~~
15 ~~Supreme Court that non lawyers be authorized to engage in certain legal or law related~~
16 ~~activities that constitute the practice of law as defined in GR 24 shall set forth the determining~~
17 ~~factors required by GR 25(c)(4), and any additional factors the POL Board deems relevant.~~

18 ~~**D. Transmittal of Recommendation to the Board of Governors.** Any~~
19 ~~recommendation from the POL Board pursuant to this Regulation 8 shall be submitted to the~~
20 ~~WSBA Board of Governors for consideration and comment before transmission to the~~
21 ~~Supreme Court. The recommendation of the POL Board with comments by the WSBA Board,~~
22 ~~if any, shall be transmitted to the Supreme Court as provided in GR 25(c)(4). The WSBA~~
23 ~~Board of Governors may affirm the recommendation of the POL Board or recommend that it~~
24 ~~be modified or rejected.~~

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~~[Approved effective December 2, 2004; Amended effective September 1, 2005.]~~