

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF SUGGESTED)
AMENDMENTS TO APR 28—LIMITED)
PRACTICE RULE FOR LIMITED LICENSE)
LEGAL TECHNICIANS; APR 28 APPENDIX—)
REGULATION 2 PRACTICE AREAS—SCOPE OF)
PRACTICE AUTHORIZED BY LIMITED LICENSE)
LEGAL TECHNICIAN RULE; APR 28 APPENDIX)
REGULATION 3—EDUCATION REQUIREMENTS)
FOR LLLT APPLICANTS AND APPROVAL OF)
EDUCATION PROGRAMS; RULES OF)
PROFESSIONAL CONDUCT (RPC) 1.0B—)
ADDITIONAL WASHINGTON TERMINOLOGY;)
RPC 1.17—SALE OF LAW PRACTICE; RPC 4.3—)
DEALING WITH A PERSON NOT REPRESENTED)
BY A LAWYER; RPC 5.8—MISCONDUCT)
INVOLVING LAWYERS AND LLLTs NOT)
ACTIVELY LICENSED TO PRACTICE LAW; RPC)
8.1—BAR ADMISSION AND DISCIPLINARY)
MATTERS; AND LLLT RULES OF)
PROFESSIONAL CONDUCT (LLLT RPCs) LLLT)
RPC 1.0B—ADDITIONAL TERMINOLOGY; LLLT)
RPC 1.2—SCOPE OF REPRESENTATION AND)
ALLOCATION OF AUTHORITY BETWEEN)
CLIENT AND LLLT; LLLT RPC 1.5—FEES; LLLT)
RPC 1.8 CONFLICT OF INTEREST: CURRENT)
CLIENTS: SPECIFIC RULES; LLLT RPC 1.15A—)
SAFEGUARDING POLICY; LLLT RPC 1.16—)
DECLINING OR TERMINATING)
REPRESENTATION; LLLT RPC 1.7 SALE OF A)
LAW PRACTICE; LLLT RPC 2.1—ADVISOR;)
LLLT RPC 2.3 [RESERVED]; LLLT RPC 3.1—)
ADVISING AND ASSISTING CLIENTS IN)
PROCEEDINGS BEFORE A TRIBUNAL; LLLT)
RPC 3.6-3.9 [RESERVED]; LLLT RPC 4.1—)
TRUTHFULNESS IN STATEMENTS TO OTHERS;)
LLLT RPC 4.2—COMMUNICATION WITH)
PERSON REPRESENTED BY LAWYER; LLLT RPC)
4.3—DEALING WITH PERSON NOT)
REPRESENTED BY LAWYER; LLLT RPC 5.4—)
PROFESSIONAL INDEPENDENCE OF A LLLT;)
LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF)
LAW; LLLT RPC 8.1—LICENSING, ADMISSION,)
AND DISCIPLINARY MATTERS; LLLT RPC 8.4—)
MISCONDUCT)
_____)

ORDER

NO. 25700-A-1246

FILED
NOV - 1 2018
WASHINGTON STATE
SUPREME COURT

ORDER

IN THE MATTER OF SUGGESTED AMENDMENTS TO APR 28—LIMITED PRACTICE
RULE FOR LIMITED LICENSE LEGAL TECHNICIANS, et al.

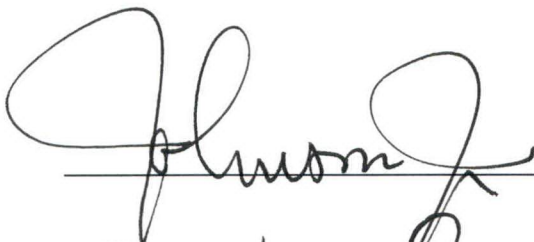
The Washington State Bar Association Limited License Legal Technician Board, having recommended the suggested amendments to APR 28—Limited Practice Rule for Limited License Legal Technicians; APR 28 Appendix; Rules of Professional Conduct (RPC); and LLLT Rules of Professional Conduct (LLLTPCs), and the Court having considered the amendments and comments submitted thereto;

Now, therefore, it is hereby

ORDERED:

- (a) That the suggested amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested amendments will be published expeditiously in the Washington Reports and will become effective upon publication.

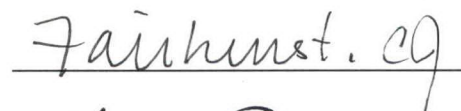
DATED at Olympia, Washington this 1st day of November, 2018.



Madsen, J.



Stephens, J.



Fairhurst, C.J.



Wiggins, J.

SUGGESTED AMENDMENTS TO APR 28

1 TITLE

2 ADMISSION AND PRACTICE RULES (APR)

3 RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL 4 TECHNICIANS

5 A. Purpose.

6 [NO CHANGES]

7 B. Definitions. For purposes of this rule, the following definitions will apply:

8 (1)-(3) [NO CHANGES]

9 (4) "Limited License Legal Technician" (LLLT) means a person qualified by education, training
10 and work experience who is authorized to engage in the limited practice of law in approved
11 practice areas of law as specified by this rule and related regulations.

12 (5)-(10) [NO CHANGES]

13 C. Limited License Legal Technician Board

14 [NO CHANGES]

15 D. [Reserved.]

16 E. [Reserved.]

17 F. Scope of Practice Authorized by Limited Practice Rule. The Limited License Legal
18 Technician shall ascertain whether the issue is within the defined practice area for which the
19 LLLT is licensed. If it is not, the LLLT shall not render any legal assistance on this issue and
20 shall advise the client to seek the services of a lawyer. If the issue is within the defined practice
21 area, the LLLT may render the following limited legal assistance to a pro se client:

22 (1)-(2) [NO CHANGES]

23 (3) Inform the client of and assist with applicable procedures for proper service of process and
24 filing of legal documents;

25 (4) [NO CHANGES]

26 (5) Review documents or exhibits that the client has received ~~from the opposing side~~, and

SUGGESTED AMENDMENTS TO APR 28

1 explain them to the client;

2 (6)-(7) [NO CHANGES]

3 (8) Draft letters setting forth legal opinions that are intended to be read by persons other than the
4 client;~~and~~

5 (9) Draft documents beyond what is permitted in paragraph (6), if the work is reviewed and
6 approved by a Washington lawyer;

7 (109) Advise the client as to other documents that may be necessary to the client's case, and
8 explain how such additional documents or pleadings may affect the client's case;

9 (110) Assist the client in obtaining necessary ~~records~~ documents, such as birth, death, or marriage
10 certificates.

11 (12) Communicate and negotiate with the opposing party or the party's representative regarding
12 procedural matters, such as setting court hearings or other ministerial or civil procedure matters;

13 (13) Negotiate the client's legal rights or responsibilities provided that the client has given
14 written consent defining the parameters of the negotiation prior to the onset of the negotiation;
15 and

16 (14) Render other types of legal assistance when specifically authorized by the scope of practice
17 regulations for the approved practice area in which the LLLT is licensed.

18 **G. Conditions Under Which A Limited License Legal Technician May Provide Services**

19 (1)-(2) [NO CHANGES]

20 (a) An explanation of the services to be performed, including a conspicuous statement that the
21 Limited License Legal Technician may not ~~appear or~~ represent the client in court, formal
22 administrative adjudicative proceedings, or other formal dispute resolution process or negotiate
23 the client's legal rights or responsibilities, unless permitted under GR 24(b) or specifically
24 authorized by the scope of practice regulations for the approved practice area in which the LLLT
25 is licensed;

26 (b)-(g) [NO CHANGES]

SUGGESTED AMENDMENTS TO APR 28

(4) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client. LLLTs do not need to sign sworn statements or declarations of the client or a third party, and do not need to sign documents that do not require a signature by the client, such as information sheets.

H. Prohibited Acts. In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

(1)-(4) [NO CHANGES]

(5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24 or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;

~~(6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party, unless permitted by GR 24(b);~~

~~(67)~~ Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client;

~~(78)~~ Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;

(8) Conduct or defend a deposition;

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

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

I. – O.

[NO CHANGES]

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

REGULATION 1: [RESERVED.]

SUGGESTED AMENDMENTS TO APR 28

REGULATION 2: APPROVED PRACTICE AREAS--SCOPE OF PRACTICE

AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE

In each practice area in which an LLLT is licensed, the LLLT shall comply with the provisions defining the scope of practice as found in APR 28 and as described herein.

A. Issues Beyond the Scope of Authorized Practice.

(1)-(4) [NO CHANGES]

After an issue beyond the LLLT's scope of practice has been identified, if the client engages a lawyer with respect to the issue, then an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. If the client does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that relate to the issue if:

(1). ~~The client informs the LLLT how the issue is to be determined and instructs the LLLT how to complete the relevant portions of the document, and~~

(2). ~~a~~ Above the LLLT's signature at the end of the document, the LLLT inserts a statement to the effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's scope of practice and completed any portions of the document with respect to any such issues at the direction of the client.

~~The LLLT may proceed in the manner described above only if no other defined prohibitions apply.~~

B. Domestic Relations.

1. *Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations shall include only the following actions: (a) divorce and dissolution~~child support modification actions,~~ (b) parenting and support~~dissolution actions,~~ (c) parentage or paternity~~domestic violence actions,~~ except as prohibited by Regulation 2B(3), (d) child support modification~~committed intimate relationship actions only as they pertain to parenting and support issues,~~ (e) parenting plan

SUGGESTED AMENDMENTS TO APR 28

1 ~~modification legal separation actions, (f) domestic violence protection orders major parenting plan~~
2 ~~modifications when the terms are agreed to by the parties before the onset of the representation~~
3 ~~by the LLLT, (g) committed intimate relationships only as they pertain to parenting and support~~
4 ~~issues minor parenting plan modifications, (h) legal separation parenting and support actions, (i)~~
5 ~~nonparental and third party custody paternity actions, and (j) other protection or restraining orders~~
6 ~~arising from a domestic relations case, and (k) relocation actions, except as prohibited by~~
7 ~~Regulation 2B(3).~~

8 *2. Scope of Practice for Limited License Legal Technicians -- Domestic Relations.* LLLTs

9 licensed in domestic relations may ~~render~~provide legal services to clients as provided in APR
10 28F and this regulation, except as prohibited by APR 28H and Regulation 2B(3).

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

14 (b) LLLT legal services regarding the division of real property shall be limited to matters where
15 the real property is a single family residential dwelling with owner equity less than or equal to
16 twice the homestead exemption (see RCW 6.13.030). LLLTs shall use the form for real property
17 division as approved by the LLLT Board.

18 (c) LLLTs may advise as to the allocation of retirement assets for defined contribution plans with
19 a value less than the homestead exemption, and as provided in U.S. Internal Revenue Code (IRC)
20 Sections 401 a; 401 k; 403 b; 457; and Individual Retirement Accounts as set forth in IRC
21 section 408.

22 (d) LLLTs may include language in a decree of dissolution awarding retirement assets as
23 described in APR 28 Regulation 2 B (2) (c) when the respondent defaults, when the parties agree
24 upon the award or when the court awards the assets following trial. The award language in the
25 decree shall identify (1) the party responsible for having the QDRO or supplemental order
26 prepared and by whom, (2) how the cost of the QDRO or supplemental order preparation is to be

SUGGESTED AMENDMENTS TO APR 28

1 paid, (3) by what date the QDRO or supplemental order must be prepared, and (4) the remedy for
2 failure to follow through with preparation of the QDRO or supplemental order.

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

6 (f) LLLTs, when accompanying their client, may assist and confer with their pro se clients at
7 depositions.

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

10 (h) LLLTs, when accompanying their client, may assist and confer with their pro se clients and
11 respond to direct questions from the court or tribunal regarding factual and procedural issues at
12 the hearings listed below:

13 i. domestic violence protection orders and other protection or restraining orders arising from a
14 domestic relations case;

15 ii. motions for temporary orders, including but not limited to temporary parenting plans, child
16 support, maintenance, and orders to show cause;

17 iii. enforcement of domestic relations orders;

18 iv. administrative child support;

19 v. modification of child support;

20 vi. adequate cause hearings for nonparental custody or parenting plan modifications;

21 vii. reconsiderations or revisions;

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

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

SUGGESTED AMENDMENTS TO APR 28

- 1 a. shall not render legal services to~~represent~~ more than one party in any domestic relations
2 matter;
- 3 b. shall not ~~render~~provide legal services in:
- 4 i. ~~in~~ defacto parentage or nonparental custody actions; and
- 5 ii. actions that involve~~if~~ 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the
6 Washington State Indian Child Welfare Act, ~~applies to the matter~~;
- 7 ~~e. shall not advise or assist clients regarding:~~
- 8 iii. division or conveyance of owned real estate, formal business entities, commercial property,
9 or residential real property except as permitted by Regulation 2B~~or retirement assets that require~~
10 ~~a supplemental order to divide and award, which includes division of all defined benefit plans~~
11 ~~and defined contribution plans;~~
- 12 iv. preparation of QDROs and supplemental orders dividing retirement assets beyond what is
13 prescribed in Regulation 2(B)(2)(d);
- 14 v. any retirement assets whereby the decree effectuates the division or the implementation of the
15 division of the asset;
- 16 viii. bankruptcy, including obtaining a stay from bankruptcy;
- 17 viii. disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the
18 pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent
19 him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided
20 written instructions for the LLLT as to whether and how to proceed regarding the division of
21 debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;
- 22 ~~iv. anti harassment orders, criminal no contact orders, anti stalking orders, and sexual assault~~
23 ~~protection orders in domestic violence actions;~~
- 24 viii. jointly acquired committed intimate relationship property issues in committed intimate
25 relationship actions;
- 26 vix. major parenting plan modifications and nonparental custody actions beyond the adequate

SUGGESTED AMENDMENTS TO APR 28

1 ~~cause hearing unless the terms are were agreed to by the parties or one party defaults before the~~
2 ~~onset of the representation by the LLLT;~~

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

6 ~~viixi. objections or responses in contested relocation actions objections to relocation petitions,~~
7 ~~responses to objections to relocation petitions, or temporary orders in relocation actions; and~~

8 ~~ixii.~~ final revised parenting plans in relocation actions except in the event of default or where the
9 terms have been agreed to by the parties.

10 ~~d. shall not appear or participate at the taking of a deposition; and~~

11 ~~e. shall not initiate or respond to an appeal to an appellate court.~~

12 **REGULATION 3: EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND** 13 **APPROVAL OF EDUCATIONAL PROGRAMS**

14 An applicant for admission as an LLLT shall satisfy the following education requirements:

15 **A. Core Curriculum.**

16 [NO CHANGES]

17 **B. Practice Area Curriculum**

18 [NO CHANGES]

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

26 **1. Domestic Relations.**

SUGGESTED AMENDMENTS TO APR 28

1 [NO CHANGES]

2 **REGULATION 4- 20**

3 [NO CHANGES]

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE

RULES OF PROFESSIONAL CONDUCT (RPC)

RULE 1.0B ADDITIONAL WASHINGTON TERMINOLOGY

(a) [NO CHANGES]

(b) “Legal practitioner” denotes a lawyer or a limited license legal technician-licensed under
APR 28.

(c) “Limited License Legal Technician” or “LLLT” denotes a person qualified by education,
training, and work experience who is authorized to engage in the limited practice of law in
approved practice areas of law as specified by APR 28 and related regulations. ~~The LLLT does
not represent the client in court proceedings or negotiations, but provides limited legal
assistance as set forth in APR 28 to a pro se client.~~

(d)-(e) [NO CHANGES]

Washington Comments

[1]-[2] [NO CHANGES]

[3] LLLTs are authorized to engage in the limited practice of law in explicitly defined areas.

Unlike a lawyer, an LLLT may perform only limited services for a client. ~~See APR 28(F), (H).~~

A lawyer who interacts with an LLLT about the subject matter of that LLLT’s representation or
who interacts with an otherwise pro se client represented by an LLLT should be aware of the
scope of the LLLT’s license and the ethical obligations imposed on an LLLT by the LLLT RPC.
~~See APR 28 28(F)-(H); Appendix APR 28 Regulation 2 and related Regulations; LLLT RPC 1.2,~~
1.5, 4.2, 4.3. See also, RPC 5.10.

RULE 1.17 SALE OF LAW PRACTICE

(a)-(d) [NO CHANGES]

Comment

[1]-[18] [No Changes]

[19] ~~An LLLT is not authorized to purchase a law practice that requires provision of legal~~

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

services outside the scope of the LLLT's practice. See ~~APR 28F H~~; Appendix ~~APR 28 Regulation 2~~. Consequently, There are some restrictions on a lawyer's ability to sell a law practice to an LLLT when the legal services provided are outside the scope of the LLLT's practice. As such, a lawyer may not participate in or facilitate such a sale that is in violation of LLLT RPC 1.17. See LLLT RPC 1.17 cmt [2]; RPC 8.4(f)(2).

RULE 4.3 DEALING WITH PERSON NOT REPRESENTED BY A LAWYER

[NO CHANGES]

Comment

[1]-[4] [NO CHANGES]

[5] For purposes of this Rule, a person who is assisted by an LLLT is not represented by a lawyer and is an unrepresented person. See APR 28B(4).

[6] When a lawyer communicates with an LLLT who represents an opposing party about the subject of the representation, the lawyer should be guided by an understanding of the limitations imposed on the LLLT by APR 28 and related Regulations~~H(6)~~ (an LLLT shall not "negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party") and the LLLT RPC. The lawyer should further take care not to overreach or intrude into privileged information. APR 28K(3) ("The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship").

RULE 5.8 MISCONDUCT INVOLVING LAWYERS AND LLLTS NOT ACTIVELY LICENSED TO PRACTICE LAW

[NO CHANGES]

Washington Comment

[1] [NO CHANGES]

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

[2] The prohibitions in paragraph (b) of this Rule apply to suspensions, revocations and voluntary cancellations in lieu of discipline under the disciplinary procedural rules applicable to LLLTs. See Rules for Enforcement of Limited License Legal Technician LLLT Rules for Enforcement of Conduct (RECELLLTC).

RULE 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS

An applicant for admission to the Bar, or a lawyer in connection with an application for reinstatement or admission to the Bar or a disciplinary matter involving a legal practitioner-bar admission, reinstatement application, or LLLT limited licensure, or in connection with a lawyer or LLLT disciplinary matter, shall not:

(a)-(b) [NO CHANGES]

Comment

[NO CHANGES]

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

TITLE

LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT (LLLT
RPC)

PREAMBLE

[1] [NO CHANGES]

[2] As a representative of clients within a limited scope, an LLLT performs various functions.

As advisor, an LLLT provides a client with an informed understanding of the client's legal rights
and obligations and explains their practical implications. As an evaluator, an LLLT acts by

examining a client's legal affairs and reporting about them to the client or to others. ~~While an~~

~~LLLT is not authorized to act as advocate or negotiator, an LLLT~~ To the extent an LLLT is

allowed to act as an advocate or as a negotiator under APR 28, an LLLT conscientiously acts in

the best interest of the client, and seeks a result that is advantageous to the client but consistent

with the requirements of honest dealings with others.

[3]-[13] [NO CHANGES]

RULE 1.0B ADDITIONAL TERMINOLOGY

(a) "APR" denotes the Washington Supreme Court's Admission ~~to~~ and Practice Rules.

(b) [NO CHANGES]

(c) "Lawyer" denotes a person licensed as a lawyer and eligible to practice law in any
United States jurisdiction.

(d) [NO CHANGES]

(e) "Legal practitioner" denotes a lawyer or a limited license legal technician ~~licensed under~~
~~APR 28.~~

(f) "Limited License Legal Technician" or "LLLT" denotes a person qualified by education,
training, and work experience who is authorized to engage in the limited practice of law in
approved practice areas of law as specified by APR 28 and related regulations. ~~The LLLT does~~

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

~~not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in APR 28 to a pro se client.~~

(g) "~~LLLT RECELLLTC~~" denotes the Washington Supreme Court's Rules for Enforcement of Limited License Legal Technician Rules for Enforcement of Conduct.

(h) [NO CHANGES]

Comment

[NO CHANGES]

RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LLLT

(a) Subject to paragraphs (c), (d), and (g), an LLLT shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. An LLLT may take such action on behalf of the client as is impliedly authorized to carry out the representation. An LLLT shall abide by a client's decision whether to settle a matter.

(b) [NO CHANGES]

(c) An LLLT must limit the scope of the representation and provide disclosures informing a potential client as required by these Rules and APR 28.

(d)-(g) [NO CHANGES]

Comment

[1] [NO CHANGES]

[2] ~~Negotiation on behalf of a client and representation in court are beyond the authorized scope of an LLLT's practice. See APR 28(H). Accordingly, p~~Paragraph (a) was modified from the Lawyer RPC to exclude references to ~~settlements and~~ criminal cases, and paragraph (d) was modified from the Lawyer RPC to exclude (and therefore prohibit) an LLLT from discussing with a client the legal consequences of any proposed criminal or fraudulent conduct and assisting a client in determining the validity, scope, meaning, or application of the law with

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

respect to any such conduct. In circumstances where a client has engaged or may engage in conduct that the LLLT knows is criminal or fraudulent, the LLLT shall not provide services related to such conduct and shall inform the client that the client should seek the services of a lawyer.

[3] Unlike a lawyer, an LLLT may perform only limited services for a client. ~~Under APR 28G(3), b~~Before performing any services for a fee, an LLLT must enter into a written contract with the client as required by APR 28(G)(2), ~~signed by both the client and the LLLT, that includes the following: (a) an explanation of the services to be performed, including a conspicuous statement that the LLLT may not appear or represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process, or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b); (b) identification of all fees and costs to be charged to the client for the services to be performed; (c) a statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the LLLT; (d) a statement that the LLLT is not a lawyer and may only perform limited legal services (this statement shall be on the first page of the contract in minimum twelve point bold type print); (e) a statement describing the LLLT's duty to protect the confidentiality of information provided by the client and the LLLT's work product associated with the services sought or provided by the LLLT; (f) a statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees (this statement shall be conspicuously set forth in the contract); and (g) any other conditions to the LLLT's services that are required by the rules and regulations of the Limited License Legal Technician Board.~~

[4] Additional requirements concerning the authorized scope of an LLLT's practice are imposed by APR 28(F). An LLLT must ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If not, the LLLT shall not ~~provide the services required~~render any legal assistance on the issue and must ~~inform~~advise the client ~~to that the client should seek the services of a lawyer.~~ If the issue does lie within the defined practice area for

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

which the LLLT is licensed, then the LLLT is authorized to ~~undertake~~render the services that are enumerated in APR 28(F). ~~Those services include only the following: (a) obtain relevant facts and explain the relevancy of such information to the client; (b) inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding; (c) inform the client of applicable procedures for proper service of process and filing of legal documents; (d) provide the client with self help materials prepared by a Washington lawyer or approved by the Limited License Legal Technician Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements; (e) review documents or exhibits that the client has received from the opposing side, and explain them to the client; (f) select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the Limited License Legal Technician Board; and advise the client of the significance of the selected forms to the client's case; (g) perform legal research; (h) draft legal letters and documents beyond what is permitted in (f) if the work is reviewed and approved by a Washington lawyer; (i) advise a client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case; and (j) assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.~~

[5] An LLLT must personally perform the authorized services for the client and may not delegate those services to a person who is not either an LLLT or a lawyer. This prohibition, however, does not prevent a person who is neither an LLLT nor a lawyer from performing translation services. APR 28(G)(21).

[6] An LLLT may not provide services that exceed the scope of the LLLT's authority under APR 28. If an issue arises for which the client needs services that exceed the scope of the

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1 LLLT's authority, the LLLT must inform that client that the client should seek the services of a
2 lawyer. APR 28(G)(53).

3 [7] ~~A document that is prepared by an LLLT for the client's signature shall include the~~
4 ~~LLLT's name, signature and license number beneath the signature of the client. APR~~
5 ~~28(G)(5).~~[Reserved]

6 [8] Certain conduct and services are specifically prohibited to an LLLT by APR 28(H).~~In~~
7 ~~the course of dealing with clients or prospective clients, an LLLT shall not: (a) make any~~
8 ~~statement that the LLLT can or will obtain special favors from or has special influence with any~~
9 ~~court or governmental agency; (b) retain any fees or costs for services not performed; (c) refuse~~
10 ~~to return documents supplied by, prepared by, or paid for by the client, upon the request of the~~
11 ~~client (the documents must be returned upon request even if there is a fee dispute between the~~
12 ~~LLLT and the client); (d) represent or advertise, in connection with the provision of services,~~
13 ~~other legal titles or credentials that could cause a client to believe that the LLLT possesses~~
14 ~~professional legal skills beyond those authorized by the license held by the LLLT; (e) represent~~
15 ~~a client in court proceedings, formal administrative adjudicative proceedings, or other formal~~
16 ~~dispute resolution process, unless permitted by GR 24; (f) negotiate a client's legal rights or~~
17 ~~responsibilities, or communicate with another person the client's position or convey to the client~~
18 ~~the position of another party; unless permitted by GR 24(b); (g) provide services to a client in~~
19 ~~connection with a legal matter in another state, unless permitted by the laws of that state to~~
20 ~~perform such services for the client; (h) represent or otherwise provide legal or law related~~
21 ~~services to a client, except as permitted by law, APR 28, or associated rules and regulations; or~~
22 ~~(i) otherwise violate these Rules.~~

23 **RULE 1.5 FEES**

24 [NO CHANGES]

25 **Comment**

26 [1]-[3] [NO CHANGES]

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[4] Unlike a lawyer, an LLLT is required by APR 28(G)(32) to enter into a written contract with the client before the LLLT begins to perform any services for a fee that includes, among other things, identification of all fees and costs to be charged to the client for the services to be performed. The provisions concerning a flat fee described in (f)(2) of this Rule, if applicable, should be included in that contract. The contract must be signed by both the client and the LLLT before the LLLT begins to perform any services for a fee. ~~See Comment [2] to Rule 1.2 for other provisions that are to be included in the contract.~~

[5] [NO CHANGES]

RULE 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

[NO CHANGES]

Comment

[1]-[2] [NO CHANGES]

[3] ~~LLLTs may not advocate for, or appear in court on behalf of, a client.~~ LLLTs will have no role in class action litigation and Rule 1.8(e)(2) is accordingly reserved in this Rule. LLLT RPC 1.8(e) does not authorize activities that are beyond the scope of the LLLT's limited license. Nothing in Rule 1.8(e) is intended to prohibit lawyer members of a firm with which an LLLT is associated from engaging in conduct permitted by Lawyer RPC 1.8(e)(2).

[4] Rule 1.8(g) is reserved. ~~LLLTs are not permitted to do~~ not engage in the making of aggregate settlements, or aggregated agreements as to guilty or nolo contendere pleas in criminal cases. Nothing in Rule 1.8(g) is intended to prohibit lawyer members of a firm with which an LLLT is associated from participating in such settlements if permitted by the Lawyer RPC.

[5]-[9] [NO CHANGES]

LLLT RPC 1.15A SAFEGUARDING PROPERTY

(a)-(h) [NO CHANGES]

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(i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay other than notice periods that are required by law or regulation and meet the requirements of ~~LLLT REC~~ELC 15.7(d) and ~~LLLT REC~~ 15.7(e). In the exercise of ordinary prudence, an LLLT may select any financial institution authorized by the Legal Foundation of Washington (Legal Foundation) under ~~LLLT REC~~ELC 15.7(c). In selecting the type of trust account for the purpose of depositing and holding funds subject to this Rule, an LLLT shall apply the following criteria:

(1) When client or third-person funds will not produce a positive net return to the client or third person because the funds are nominal in amount or expected to be held for a short period of time the funds must be placed in a pooled interest-bearing trust account known as an Interest on Limited License Legal Technician's Trust Account or IOLTA. The interest earned on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the Legal Foundation of Washington in accordance with ~~LLLT REC~~ELLLTC 15.4 and ~~LLLT REC~~ELC 15.7(e).

(2)-(3) [NO CHANGES]

(4) The provisions of paragraph (i) do not relieve an LLLT or law firm from any obligation imposed by these Rules or the ~~LLLT REC~~ELLLTC.

Comment

[NO CHANGES]

LLLT RPC 1.16 DECLINING OR TERMINATING REPRESENTATION

[NO CHANGES]

Comment

[1] This Rule was adapted from Lawyer RPC 1.16 with no substantive changes except to reflect the limited scope of representation that a LLLT provides to pro se clients and that a LLLT does not enter a notice of appearance. ~~are not authorized to represent clients in court or to~~

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~~advocate for clients. For this reason, paragraph (c) is reserved and references to litigation or proceedings before a tribunal that appear in Lawyer RPC 1.16 do not apply and have been omitted from this Rule. Otherwise, this Rule~~Lawyer RPC 1.16 applies to LLLTs analogously.

RULE 1.17 SALE OF LAW PRACTICE

(a)-(c) [NO CHANGES]

(d) The ~~legal fees and LLLT fees~~ charged clients shall not be increased by reason of the sale.

Comment

[1] [NO CHANGES]

[2] A law firm consisting solely of LLLT owners is not authorized to purchase a law practice that includes client matters requiring provision of legal services outside the authorized LLLT scope of practice or defined practice area(s). See APR 28 and related Regulations.

RULE 2.1 ADVISOR

[NO CHANGES]

Comment

[1] [NO CHANGES]

[2] This Rule and its requirement regarding the exercise of independent professional judgment do not expand the limitations on the authorized scope of an LLLT's practice under ~~APR 28(H)~~and related regulations.

RULE 2.3 [Reserved]

Comment

[1] Lawyer RPC 2.3 pertains to a lawyer providing an evaluation of a matter affecting a client for the use of someone other than the client. ~~Unlike lawyers, LLLTs are not authorized to communicate the client's position to third parties. Drafting an opinion letter for the purposes of its use with a third party is the same as communicating the client's position to a third party and is prohibited by APR 28(H)(6).~~If the need for an evaluation arises in a LLLT's authorized

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scope of practice under APR 28, a LLLT should look to lawyer RPC 2.3 for guidance.

Accordingly, this Rule is reserved.

RULE 3.1 ADVISING AND ASSISTING CLIENTS IN PROCEEDINGS BEFORE A TRIBUNAL

(a) In a matter reasonably related to a pending or potential proceeding before a tribunal, an LLLT shall not engage, counsel a client to engage, or assist a client, in conduct involving:

(1)-(5) [NO CHANGES]

(6) knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; or

(7) [NO CHANGES]

(b) [NO CHNAGES]

Comment

[1] This Rule is substantially different from Lawyer RPC 3.1 because the role of the LLLTs as an advocate is limited. ~~are not authorized to represent clients in the proceedings of a tribunal. Title 3 of the Lawyer RPC addresses a lawyer's duties as an advocate when representing a client in the proceedings of a tribunal. Because APR 28(H)(5) expressly prohibits an LLLT from representing a client in a court or administrative adjudicative proceeding (unless permitted by GR 24), the Title 3 Rules do not apply directly to the conduct of LLLTs. Nevertheless, a number of the ethical principles located in Title 3 address conduct in connection with a proceeding that would be improper and repugnant whether engaged in by a lawyer or a party.~~ In many instances, an LLLT will be providing assistance to a client who is a party to a court proceeding. In providing such assistance, an LLLT may be authorized within the scope of a specific practice area to accompany and assist a pro se client in certain proceedings. Assistance may include responding to factual and procedural questions from a tribunal. ~~For this reason,~~ asAs a member of the legal profession, an LLLT is ethically bound to avoid ~~advising or assisting a client in~~ conduct that undermines the integrity of the adjudicative process or

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threatens the fair and orderly administration of justice. ~~As applied to the indirect conduct of LLLTs, the ethical proscriptions of Lawyer RPC 3.1, 3.2, 3.3, and 3.4 are less nuanced. Accordingly, they have been consolidated within Rule 3.1(a) as a prohibition on counseling or assisting the client in such activities. Conduct relating to the impartiality and decorum of a tribunal, Lawyer RPC 3.5, should be prohibited whether engaged in by an LLLT directly or indirectly, and is separately addressed in paragraph (b) of this Rule.~~ Although less comprehensive than Title 3 of the Lawyer RPC, the core Title 3 principles incorporated into Rule 3.1 address the issues likely to be encountered by an LLLT, with supplemental guidance available in the corresponding Title 3 of the Lawyer RPC and commentary thereto.

[2] ~~An LLLT acting as a "lay representative authorized by administrative agencies or tribunals" under GR 24(b)(3) would not be acting pursuant to the authority of his or her LLLT license in that context, since such representation would be beyond the scope of LLLT practice authorized by APR 28(F). Should an LLLT engage in conduct as a lay advocate that would otherwise directly violate a Title 3 obligation—for example, by knowingly making a false statement of fact to an administrative tribunal—such conduct may violate the requirements of other rules. See, e.g., Rule 8.4(e) (prohibiting conduct involving dishonesty, fraud, deceit, and misrepresentation) and Rule 8.4(d) (prohibiting conduct prejudicial to the administration of justice).~~

[32] Certain provisions of Title 3 of the Lawyer RPC provisions, such as Lawyer as Witness in Rule 3.7 and the Special Responsibilities of a Prosecutor in Rule 3.8, do not apply to LLLTs. In these instances, the corresponding LLLT RPC has been reserved. Rules 3.6 and 3.9 represent ethical issues that would rarely if ever arise in the context of an LLLT's limited-scope representation. Accordingly, these provisions have been reserved as well, though guidance is available in the corresponding Lawyer RPC in the event that such an ethical dilemma does arise in a LLLT representation.

RULE 3.6

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[Reserved]

Comment

[1] See Comment [32] to Rule 3.1.

RULE 3.7

[Reserved]

Comment

[1] See Comment [32] to Rule 3.1.

LLLT RPC 3.8

[Reserved]

Comment

[1] See Comment [32] to Rule 3.1.

LLLT RPC 3.9

[Reserved]

Comment

[1] See Comment [32] to Rule 3.1.

RULE 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS

[NO CHANGES]

Comment

[1] [NO CHANGES]

~~[2] LLLTs are required by APR 28(G)(5) to include the LLLT's name, signature, and license number beneath the signature of the client on all documents that the LLLT prepares. This will assure that judges and other court personnel, other parties to a matter, and lawyers representing those parties, are informed of the LLLT's role in the matter.~~

RULE 4.2 COMMUNICATION WITH PERSON REPRESENTED BY LAWYER

[NO CHANGES]

Comment

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[1] A person who has chosen to be represented by a lawyer should be protected against possible overreaching by another lawyer. *See* Lawyer RPC 4.2 and Comments to that rule. Rule 4.2 extends to LLLTs the prohibition on communicating with a person represented by a lawyer. This Rule differs from Lawyer RPC 4.2 in that the prohibition is absolute. While a lawyer may be permitted to communicate directly with a person who is represented by another lawyer with the other lawyer's consent, or if authorized to do so by law or court order, there are no exceptions to the prohibition as it applies to LLLTs, ~~because any such communication would put an LLLT in a position of exceeding the authorized scope of the LLLT's practice under APR 28(H). Specifically, APR 28(H)(6) prohibits negotiating a client's legal rights or responsibilities or communicating with another person the client's position, and APR 28(H)(5) prohibits an LLLT from representing a client in court proceedings. In light of these limitations, there is no circumstance in which an LLLT could communicate with a person represented by a lawyer about the subject matter of the representation without transgressing the APR.~~

RULE 4.3 DEALING WITH PERSON NOT REPRESENTED BY LAWYER

(a) In dealing on behalf of a client with a person who is not represented by a lawyer, an LLLT shall not state or imply that the LLLT is disinterested. When the LLLT knows or reasonably should know that the unrepresented person misunderstands the LLLT's role in the matter, the LLLT shall make reasonable efforts to correct the misunderstanding. The LLLT shall not give legal advice to an unrepresented person, other than the advice to secure the services of another legal practitioner, if the LLLT knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

(b) ~~An LLLT shall not communicate about the subject of the representation with another party in the matter.~~

Comment

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[1] ~~TParagraph (a) of this Rule was adapted from Lawyer RPC 4.3 with no substantive~~
changes and applies to LLLTs analogously.

[2] ~~[Reserved] Paragraph (b) of this Rule does not appear in the Lawyer RPC. It derives from~~
~~the limitations on the authorized scope of an LLLT's practice under APR 28(H)(6). See~~
Comment [1] to Rule 4.2 for a discussion of the implications of APR 28(H)(6).

[3] The client of an LLLT is an unrepresented person for purposes of Lawyer RPC 4.2 and
4.3. ~~The definition of an LLLT in APR 28(B)(4) clarifies that an LLLT does not represent a~~
~~client in court proceedings or negotiations, but provides limited legal assistance to a pro se~~
~~client.~~

[4] ~~Although an LLLT is strictly prohibited by paragraph (b) from communicating with a~~
~~party about the subject matter of the LLLT's representation, an~~ An LLLT may have occasion to
communicate directly with a nonparty who is assisted by another LLLT. A risk of unwarranted
intrusion into a privileged relationship may arise when an LLLT deals with a person who is
assisted by another LLLT. Client-LLLT communications, however, are privileged to the same
extent as client-lawyer communications. *See* APR 28(K)(3). An LLLT's ethical duty of
confidentiality further protects the LLLT client's right to confidentiality in that professional
relationship. *See* LLLT RPC 1.6(a). When dealing with a person who is assisted by another
LLLT, an LLLT must respect these legal rights that protect the client-LLLT relationship.

RULE 5.4 PROFESSIONAL INDEPENDENCE OF AN LLLT

(a) An LLLT or LLLT firm shall not share legal fees with anyone who is not a ~~non~~-LLLT,
except that:

(1)-(2) [NO CHANGES]

(3) an LLLT or LLLT firm may include ~~non-LLLT~~ employees who are not LLLTs
in a compensation or retirement plan, even though the plan is based in whole or
in part on a profit-sharing arrangement; and

(4)-(5) [NO CHANGES]

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(b) An LLLT shall not form a partnership with a ~~non-LLLT~~ anyone who is not a LLLT if any of the activities of the partnership consist of the practice of law.

(c) [NO CHANGES]

(d) An LLLT shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a ~~non-LLLT~~ person who is not a LLLT owns any interest therein, except that a fiduciary representative of the estate of an LLLT may hold the stock or interest of the LLLT for a reasonable time during administration;

(2) a person who is not a LLLT ~~non-LLLT~~ is a corporate director or officer (other than as secretary or treasurer) thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a person who is not a LLLT ~~non-LLLT~~ has the right to direct or control the professional judgment of an LLLT.

Comment

[1] This Rule was adapted from Lawyer RPC 5.4 with no substantive changes except to change references to a “nonlawyer” to “person who is not a LLLT” ~~non-LLLT~~ to avoid confusion. It applies to LLLTs analogously.

[2] ~~Notwithstanding Rule 5.4 does not prohibit,~~ lawyers and LLLTs ~~may from sharing~~ fees and forming business structures to the extent permitted by Rule 5.9.

RULE 5.5 UNAUTHORIZED PRACTICE OF LAW

[NO CHANGES]

Comment

[1] Lawyer RPC 5.5(a) expresses the basic prohibition on a legal practitioner practicing law in a jurisdiction where that individual is not specifically licensed or otherwise authorized to practice law. It reflects the general notion (enforced through criminal-legal prohibitions and other law) that legal services may only be provided by those licensed to do so. This limitation on

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the ability to practice law is designed to protect the public against the rendition of legal services by unqualified persons. *See* Comment [2] to Lawyer RPC 5.5.

As applied to LLLTs, this principle should apply with equal force. An actively licensed LLLT should practice law as an LLLT only in a jurisdiction where he or she is licensed to do so, i.e., Washington State. An LLLT must not practice law in a jurisdiction where he or she is not authorized to do so. Unless and until other jurisdictions authorize Washington-licensed LLLTs to practice law, it will be unethical under this Rule for the LLLT to provide or attempt to provide legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities that constitute the unauthorized practice of law in any jurisdiction. *See also* APR 28(H)(76) (prohibiting an LLLT from providing services to a client in connection with a legal matter in another state unless permitted by the laws of that state to perform the services for the client).

[2] Lawyer RPC 5.5(b) through (d) define the circumstances in which lawyers can practice in Washington despite being unlicensed here. For example, lawyers actively licensed elsewhere may provide services on a temporary basis in Washington in association with a lawyer admitted to practice here or when the lawyer's activities "arise out of or are reasonably related to the lawyer's practice in his or her home jurisdiction." These provisions also recognize that certain non-Washington-licensed lawyers may practice here on more than a temporary basis (e.g., lawyers providing services authorized by federal law), and otherwise prohibit non-Washington-licensed lawyers from establishing a systematic and continuous presence in Washington for the practice of law.

These provisions are, at this time, unnecessary in the LLLT RPC because there are no limited licenses ~~programs~~ in other jurisdictions tantamount to Washington's LLLT rules and no need to authorize ~~nonlawyers~~ limited license practitioners in other jurisdictions to practice law in Washington, either temporarily or on an ongoing basis. For this reason, paragraphs (b) through (d) are reserved.

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RULE 8.1 ~~LIMITED LICENSURE~~ LICENSING, ADMISSION, AND DISCIPLINARY MATTERS

An applicant for an LLLT license~~limited licensure~~, or an LLLT in connection with an application for limited licensure or reinstatement application or , or admission to the Bar~~lawyer's bar admission, or a disciplinary matter involving a legal practitioner in connection with a lawyer or LLLT disciplinary matter~~, shall not:

(a)-(b) [NO CHANGES]

Comment

[1] This Rule was adapted from Lawyer RPC 8.1 with no substantive changes, ~~except to reflect the difference between admission to the Bar (for a lawyer) and limited licensure (for an LLLT).~~ This Rule applies to LLLTs analogously.

RULE 8.4 MISCONDUCT

It is professional misconduct for an LLLT to:

(a)-(k) [NO CHANGES]

(l) violate a duty or sanction imposed by or under the ~~LLLTC~~ RECELLLTC in connection with a disciplinary matter; including, but not limited to, the duties catalogued at ~~LLLTC~~ RECELLLTC 1.5;

(m)-(o) [NO CHANGES]

Comment

[NO CHANGES]