



WSBA

LIMITED LICENSE LEGAL TECHNICIAN BOARD

MEMORANDUM

To: WSBA President, President-elect, and Board of Governors
From: Steve Crossland, Chair, Limited License Legal Technician (LLLT) Board
Ellen Reed, LLLT Program Lead and Staff Liaison to the LLLT Board
Date: January 9, 2017
Re: LLLT Program Progress Report

INPUT REQUESTED – Proposed New LLLT Practice Area.

Purpose

The purpose of this memorandum is to keep you advised of the efforts of the LLLT Board and solicit your thoughts as the LLLT Board moves forward in creating a new LLLT practice area. LLLT Board Chair Steve Crossland looks forward to meeting with the Board of Governors (BOG) to share the LLLT Board's ideas and to hear the BOG's input. The LLLT Board will be meeting with the Supreme Court on March 8 to discuss its plans to further develop the LLLT program and to present a proposed second practice area.

Discussion

The Limited License Legal Technician (LLLT) Board derives its authority from the Washington Supreme Court under Rule 28 of the Admission and Practice Rules (APR), adopted effective September 1, 2012. The Supreme Court created the LLLT Board to oversee the LLLT program.

The LLLT Board is charged with establishing new areas of practice for LLLTs; for that purpose, the LLLT Board has created a "New Practice Area Committee" which discusses potential new practice areas and makes recommendations to the LLLT Board. The LLLT Board also addresses any issues related to the domestic relations practice area within its "Family Law Advisory Committee." The committees' recommendations will be considered by the LLLT Board at its January 19 meeting. Chair Crossland will update the BOG at its January 26-27 meeting in Spokane regarding the discussions and recommendations of these two committees. Discussions will continue throughout February as the LLLT Board creates the rule which will govern the new scope of practice. All LLLT Board decisions are forwarded to the Supreme Court for final approval.

Estate and Healthcare Law

The New Practice Area Committee, chaired by Greg Dallaire, has recommended a new practice area titled “Estate and Healthcare Law”. Practitioners knowledgeable in a variety of practice areas such as administrative law, estate planning, consumer law, housing law, and family law served on the committee. Their discussions were informed by the presence of subject matter professionals who were invited to specific discussions to lend their expertise and perspective to the deliberations of the committee. The committee discussed the pros and cons of LLLT practice in diverse areas such as reentry issues, licensing, debt defense, bankruptcy, estate planning, vulnerable adult protection orders, guardianship, and administrative law (including government benefits).

After weighing the unmet need for legal services, the ability of a limited practitioner to provide effective representation, and the economic viability of the practice area, the committee concluded that “Estate and Healthcare Law” should be the next practice area for the LLLT profession.

“Estate and Healthcare Law” encompasses aspects of estate planning, probate, guardianship, health care law, and government benefits. LLLTs licensed to practice in this area will be able to provide a wide range of services to those grappling with issues that disproportionately affect seniors but also touch people of all ages who are disabled, planning ahead for major life changes, or dealing with the death of a relative. The Civil Legal Needs Studies provide support for combining these needed services into a single practice area. An outline of the scope of this practice area is included in the meeting materials for your consideration.

LLLT Domestic Relations Scope

Over the past couple of years, practicing LLLTs and professors teaching the family law classes have identified where APR 28 could be improved to allow LLLTs to provide qualified and comprehensive assistance for a wider range of issues. The Family Law Advisory Committee of the LLLT Board, chaired by Nancy Ivarinen, also deliberated extensively in the process of crafting a recommendation for changes to the domestic relations scope of practice. An outline of these proposed changes to APR 28 is included in Executive Director’s Information, which is contained in the Executive Director’s Report.

As always, the LLLT Board appreciates the BOG’s continuing support of its work.

ATTACHMENTS:

- Outline of Estate and Healthcare Law Recommendation

LLLT NEW PRACTICE AREA COMMITTEE RECOMMENDATION

The New Practice Area Committee of the Limited License Legal Technician (LLLT) Board has approved the following recommendation for the LLLT Board. If adopted, the new LLLT practice area will be called “Estate & Healthcare Law” and the scope will be limited as follows:

Outline of Estate & Healthcare Law LLLT Practice Area	
Scope	Permitted Actions
Estate planning on non-taxable estates	<ul style="list-style-type: none"> • Drafting wills based on LLLT Board approved forms • Transfer on death deed • Designation of beneficiaries of non-probate assets • Creation of community property agreements based on LLLT Board approved forms • Revocation of community property agreements • Healthcare directives
Probate on non-taxable estates	<ul style="list-style-type: none"> • Completion of small estate affidavits • Completion of LLLT Board approved forms • Presentation of agreed or uncontested orders • Completing uniform transfer to minor act provisions • Completion of affidavit of surviving spouse
Power of Attorney	<ul style="list-style-type: none"> • Limited & durable powers of attorney, including for healthcare and minor children • Revocation of powers of attorney
Guardianships	<ul style="list-style-type: none"> • Completion of LLLT Board approved forms in uncontested guardianships • Presentation of agreed or uncontested orders • Transition planning for disabled minors
Vulnerable Adult Protection Orders (VAPO)	<ul style="list-style-type: none"> • Preparation of LLLT Board approved forms • Presentation and assistance at initial hearing for temporary order
Government benefits	<ul style="list-style-type: none"> • Representation in administrative hearings (where not prohibited by agency rules and regulations) • Negotiation and document preparation for applications, denials, disputes, and overpayments for social security benefits, Medicare, Medicaid, home health care, long term care, and other government benefit programs • Assistance with total and permanent disability discharge for student loan debts
Health insurance benefits	<ul style="list-style-type: none"> • Advice and assistance with health insurance disputes, including negotiation and writing appeal letters • Assistance with Charity Care applications and denials

LLLT FAMILY LAW ADVISORY COMMITTEE RECOMMENDATION

The Family Law Advisory Committee of the Limited License Legal Technician (LLLT) Board has approved the following recommendation for the LLLT Board. If adopted, the scope of the domestic relations practice area will be altered as follows:

Outline of Changes to Domestic Relations Practice Area	
Subject	Recommendation
Third Party Declarations	<ul style="list-style-type: none"> • LLLTs do not have to sign third party declarations, as long as they are drafted with the third party and signed by them.
Major Modifications	<ul style="list-style-type: none"> • LLLTs may work with contested major modifications up to the point of the adequate cause hearing.
Nonparental Custody	<ul style="list-style-type: none"> • LLLTs may work with contested or uncontested nonparental custody to the point of the adequate cause hearing.
Retirement Assets	<ul style="list-style-type: none"> • LLLTs shall not advise or assist clients with the preparation of QDROs, supplemental orders dividing retirement assets, or include language within a decree of dissolution to effectuate division of retirement assets when funds would be transferred from the account holder to another party. LLLTs may advise as to retirement asset allocation.
Real Estate Division	<ul style="list-style-type: none"> • LLLTs may advise on property division and divide single family residential dwellings which have no more than twice the homestead exemption in equity (currently \$125, 000 – see RCW 6.13.030). LLLTs may also assist with gathering information on the value and potential encumbrances on a home.
Alternative Dispute Resolution	<ul style="list-style-type: none"> • LLLTs may attend mediation, arbitration and settlement conferences and prepare paperwork related to the conferences.
Negotiations	<ul style="list-style-type: none"> • LLLTs may communicate with opposing parties or third parties regarding procedural issues. If communicating with a pro se opposing party, they should do so in writing. LLLTs may negotiate on behalf of their client if they have prior written consent from the client defining the parameters the negotiation.
Appearances in Court and Administrative Tribunals	<ul style="list-style-type: none"> • LLLTs may present agreed, uncontested and default orders on the ex parte or motion calendar and attend trial setting calendar hearings. • LLLTs may represent clients at administrative hearings if the hearing relates to an issue within the permitted scope. • LLLTs may appear and assist clients with a motion hearing for the issues that are within the scope of their practice. They would be permitted to speak to factual or legal issues. Permitted hearings would include: <ul style="list-style-type: none"> ➤ Protection Orders ➤ Hearings on Motion for Temporary Orders ➤ Enforcement of Orders ➤ Modification of Child Support/Post-Secondary Child Support