

## **APPENDIX APR 12. REGULATIONS OF THE APR 12 LIMITED PRACTICE BOARD**

### **REGULATION 1: IN GENERAL**

Every person desiring to be admitted to limited practice as a Limited Practice Officer (LPO) pursuant to Admission to Practice Rule (APR) 12 must submit an application in the form and manner and within the time limits established by these Regulations, pay the requisite fee, and satisfy all of the requirements of APR 12.

### **REGULATION 2: APPLICATIONS**

**A. Application.** An applicant must complete and file in duplicate with the Washington State Bar Association (WSBA):

1. two copies of a completed application for admission to limited practice under APR 12 (one of which may be a photocopy);
2. a fingerprint card which has been processed by the applicant at a local police department;
3. a signed Authorization and Release; and
4. a signed Affidavit of Applicant.

The application shall not be considered complete and will not be approved pursuant to Regulation 3 unless the applicant has provided a current residential address.

**B. Fees.** An applicant will pay an examination fee in an amount set by the Limited Practice Board with the approval of the Supreme Court, which must be paid with the application and each applicant will be sent a receipt for the application and fee.

**C. Verification Of Application Information.** Each applicant must submit a fingerprint card which shall be forwarded to the Washington State Patrol for a criminal history check, and for each applicant who has not resided in the state of Washington for two years, a Federal Bureau of Investigation check shall also be conducted. A status review on all professional licenses will be conducted for each applicant. The applicant will furnish whatever additional information or proof may be required in the course of investigating the applicant.

#### **D. Refunds and Transfers.**

1. For all applicants there is a nonrefundable administration fee totaling one half the amount of the examination fee.
2. An applicant may withdraw from the current examination by written request received at least 14 days prior to the date set for the examination and may also request a refund of the fee less the administration fee.
3. An applicant may withdraw from the current examination and apply the examination fee to the next examination only, and only upon the following conditions: the written request to transfer

must be received at least 14 days prior to the date set for the examination, and the applicant must repay the administration fee.

4. An applicant withdrawing an application or requesting to transfer to the next examination less than 14 days prior to the date set for the examination will receive no refund of any kind.

5. If the application is denied before the examination, the examination fee less the nonrefundable administration fee will be refunded. If the applicant reapplies to sit for the examination, the applicant will pay the full examination fee then required of all applicants.

6. If an applicant fails the examination and applies to repeat the next scheduled examination, the examination fee shall be the amount set by the Limited Practice Board with the approval of the Supreme Court.

7. Any applicant transferring to the next examination or repeating the examination may execute and file a Supplemental Declaration in the form prescribed by the Limited Practice Board in lieu of a new application provided not more than one year passes from the date the applicant submitted an application; otherwise, the applicant must submit a new application.

**E. Filing Deadline.** An applicant must file the application to take the LPO examination not less than 30 days prior to the examination date. No applications will be accepted less than 30 days prior to the examination date.

### **REGULATION 3: APPROVAL OR DENIAL OF APPLICATION**

**A. Approval of Application.** The Limited Practice Board will determine if the application meets the criteria established in APR 12.

**B. Denial of Application.** If the application is denied, the applicant will be granted the right to an appeal of the determination pursuant to Regulation 4 .

**C. Notification of Action on Application.** The applicant will be notified whether the application has been approved or denied. If the application has been approved, the applicant will be informed of the date, time and location of the next examination. If the application has been denied, the applicant will be notified of the basis for the denial and of the appeal process of Regulation 4.

### **REGULATION 4: DENIAL OF APPLICATION--RIGHT OF APPEAL**

**A. Appeals Panel.** The Appeals Panel shall be made up of three members of the Limited Practice Board appointed by the Chair.

**B. Right of Appeal.** Every applicant who has been denied admission under APR 12 shall have a right of appeal before the Appeals Panel.

**C. Time Period for Appeal.** An applicant whose application has been denied shall have the right to appeal denial of admission pursuant to APR 12 by submitting a written request within fourteen (14) calendar days of the date the denial of application was issued.

## **D. Procedure for Appeal.**

1. *To begin the appeal procedure.* The applicant's written request for appeal must be filed within the time period for appeal and state the applicant's reason for believing that the application should be approved.

2. *Written submissions.* The complete application will be provided to the Appeals Panel for consideration. The applicant may submit other written materials to the Appeals Panel which may include statements, correspondence, affidavits, memoranda of law or other written items that the applicant believes will assist the Appeals Panel in reviewing the denial. If the Appeals Panel determines the written submissions are merely cumulative or not relevant to the appeal, the Appeals Panel may exclude any submitted materials from consideration.

Written materials must be received no later than ten (10) calendar days prior to the scheduled hearing date.

3. *Stipulations.* Upon agreement of the parties, written stipulations may be utilized by the Appeals Panel.

4. *Review by the Appeals Panel.* The Appeals Panel will consider all relevant written material submitted in accordance with these Regulations. The Appeals Panel may also request oral presentations by the parties if it deems them helpful to a final determination. The Appeals Panel may set time constraints on the oral presentations.

5. *Findings of the Appeals Panel.* The Appeals Panel will make written findings and may affirm or reverse the denial of the application or direct further investigation for the reasons stated in the written findings.

6. *Time lines and scheduling of the appeal.*

a. Upon timely receipt of the request for appeal, the Appeals Panel will schedule the matter for consideration on a date not more than fourteen (14) calendar days from the date the request is received and will notify the applicant of the scheduled date for the consideration of the appeal.

b. The Appeals Panel will not consider any request for appeal which does not strictly comply with these Regulations.

c. Upon a showing of good cause, the Appeals Panel may waive any of the procedural requirements of these Regulations or reschedule the appeal for an earlier or later date.

d. Telephone conferences may be held in lieu of a hearing, and oral presentations may be made by telephone if requested by the Appeals Panel.

7. *Notification of findings.* The Appeals Panel will notify the applicant of the findings of the Appeals Panel. If the application has been approved, the applicant will be supplied any forms or information necessary to sit for the examination. If the application has been denied, the applicant will be informed and supplied a copy of the Appeals Panel's written findings.

## **REGULATION 5: ADMINISTRATION OF EXAMINATION**

The examination will be administered twice a year at appropriate locations within the state at dates and locations established by the Limited Practice Board.

## **REGULATION 6: EXAMINATION STANDARDS AND NOTIFICATION OF RESULTS**

The passing standard for the examination is 75 percent for each section. A failing grade in one section shall result in failure of the exam in which case grading of any remaining sections shall not be required. All applicants will be notified of the applicant's examination results. Those applicants who fail the examination will be informed of their score on each graded section of the examination. Examination scores shall not be disclosed to those applicants who pass the examination. Copies of the examination shall not be available to any applicant.

## **REGULATION 7: FINANCIAL RESPONSIBILITY REQUIREMENT**

Each limited practice officer shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 12 in one of the following described manners.

- (1) Submitted an individual policy for Errors and Omissions insurance in the amount of at least \$100,000;
- (2) Submitted an Errors and Omissions policy of the employer or the parent company of the employer who has agreed to provide coverage for the applicant's ability to respond in damages in the amount of at least \$100,000;
- (3) Submitted the applicant's audited financial statement showing the applicant's net worth to be at least \$200,000; or
- (4) Submitted an audited financial statement of the employer or other surety who agrees to respond in damages for the applicant, indicating net worth of \$200,000 per each limited practice officer employee to and including five and an additional \$100,000 per each limited practice officer employee over five, who may be subject to the jurisdiction of the Limited Practice Board.

## **REGULATION 8: CERTIFICATION OF RESULTS TO SUPREME COURT; OATH**

### **A. Admission Order.**

The Limited Practice Board will submit to the Washington State Supreme Court the names of those persons who have passed the examination for admission pursuant to APR 12, taken the oath as prescribed by these rules, and furnished proof of the applicant's financial responsibility requirement pursuant to regulation 7.

The names of successful applicants will be submitted only after compliance with APR 12 and these Regulations, and the applicants will be admitted under APR 12 only after the admission order has been entered by the Supreme Court.

Each successful applicant shall complete all the requirements for certification within nine (9) months of the date the applicant is notified of the examination results. If an applicant fails to satisfy all the requirements for certification within this period, the applicant shall not be eligible for admission under APR 12 without submitting a new application for admission.

**B. Contents of Oath.** The oath which all applicants shall take is as follows:

**OATH FOR LIMITED PRACTICE OFFICERS**

STATE OF WASHINGTON  
COUNTY OF

I, \_\_\_\_\_, do solemnly declare:

1. I am fully subject to the laws of the State of Washington and Rule 12 of the Admission to Practice Rules and APR 12 Regulations adopted by the Washington State Supreme Court and will abide by the same.
2. I will support the constitutions of the State of Washington and of the United States of America.
3. I will abide by the Limited Practice Officer Rules of Professional Conduct and Rules for Enforcement of LPO Conduct approved by the Supreme Court of the State of Washington.
4. I will confine my activities as a Limited Practice Officer to those activities allowed by law, rule and regulation and will only utilize documents approved pursuant to APR 12.
5. I will faithfully disclose the limitations of my services, that I am not able to act as the advocate or representative of any party, that documents prepared will affect legal rights of the parties, that the parties' interests in the documents may differ, that the parties have a right to be represented by a lawyer of their own selection, and that I cannot give legal advice regarding the manner in which the documents affect the parties.
6. I understand that I may incur personal liability if I violate the applicable standard of care of a Limited Practice Officer. Also, I understand that I only have authority to act as a Limited Practice Officer during the times that my financial responsibility coverage is in effect. If I am covered under my employer's errors and omissions insurance policy or by my employer's certificate of financial responsibility, my coverage is limited to services performed in the course of my employment.

\_\_\_\_\_

Signature Limited Practice Officer

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_

JUDGE

**REGULATION 9: ANNUAL FEE**

A. Except as set forth in section B of this Regulation, every Limited Practice Officer shall pay an annual fee in an amount set by the Limited Practice Board with the approval of the Supreme Court, which is due July 1 of each year. Annual fees paid after July 15 shall be subject to a late fee equal to one-half the annual fee. Failure to pay the annual fee shall subject the LPO to suspension from limited practice as a Limited Practice Officer. If the LPO fails to comply with conditions for reinstatement pursuant to Regulation 10 within 9 months of the date of suspension, the license of the suspended LPO will be revoked.

B. The prorated annual fee for LPOs who pass the qualifying examination given in the spring and who request active status prior to July 1 of that same calendar year shall be one half the amount of the annual fee. LPOs shall pay the annual fee set forth in Regulation 9(A) to retain their active status after June 30 of the calendar year of their admission.

C. An LPO shall provide his or her residential address to the Board at the time of payment of the annual fee.

**REGULATION 10: REINSTATEMENT AFTER SUSPENSION FOR NONPAYMENT OF ANNUAL FEE**

An LPO who is suspended pursuant to Regulation 9(A) shall be reinstated if the LPO has within nine (9) months of the date of suspension:

1. submitted an application for reinstatement in the form prescribed by the Board;
2. continued to meet the qualifications set out in APR 12 and these Regulations; and
3. paid a sum equal to the amount of all delinquent annual fees, late fees, and any investigation fees as may be determined by the Board.

**REGULATION 11: CONTINUING FINANCIAL RESPONSIBILITY**

Each LPO shall either be insured or covered under the financial statement of an employer or employer's parent company or other surety at all times as specified in Regulation 7 . If the LPO is covered under a financial statement, the LPO, employer, employer's parent company or other surety who has assumed such financial responsibility shall annually file with the Limited Practice Board, by July 1, the audited financial statement for the most-recent fiscal year of the financially responsible party indicating net worth.

Each LPO shall notify the Limited Practice Board of any cancellation or lapse in coverage. During any period that an LPO is not covered in accordance with these Regulations, or is not on inactive status pursuant to Regulation 13, the license of the LPO shall be suspended. Each suspended LPO must demonstrate compliance with the requirements of APR 12 within nine (9) months of the date of the suspension or the license of the suspended LPO will be revoked.

## **REGULATION 12: CONTINUING EDUCATION**

Every LPO shall attend a minimum of ten (10) hours of approved continuing education during each calendar year. Two (2) hours of the required ten (10) hours of continuing education shall be on liability issues. If an LPO completes more than ten (10) credit hours in a given calendar year, the excess credit, up to ten credits, may be carried forward and applied to such LPO's education requirements for the next calendar year.

Every LPO shall submit proof of compliance with the continuing education attendance requirements by filing an Affidavit of Attendance as prescribed by the Continuing Education Regulations of the Limited Practice Board. Failure to comply with the continuing education requirements will subject the LPO to suspension of license as a Limited Practice Officer. If the suspended LPO fails to comply with conditions for reinstatement pursuant to Continuing Education Regulations of the Limited Practice Board within nine (9) months of the date of suspension, the license of the suspended LPO will be revoked.

## **REGULATION 13: INACTIVE STATUS**

An LPO may request transfer to inactive status after being certified. An LPO who has been transferred to inactive status must continue to meet all continuing education requirements applicable during the period of inactive status. An LPO on inactive status is required to pay the annual fee required by these Regulations.

If an LPO does not meet the continuing education requirements or the annual fee requirement, the LPO may be suspended.

An LPO on inactive status is not required to meet the financial responsibility requirements prescribed by these regulations during the period of inactive status.

An LPO on inactive status may return to active status by filing a petition to return to active status with the Board. To be granted active status, the LPO must be current on the payment of the annual fees, the continuing education requirements and the financial responsibility requirements prescribed by these Regulations.

## **REGULATION 14: VOLUNTARY CERTIFICATION CANCELLATION**

Any Limited Practice Officer may request to voluntarily surrender the LPO certification by notifying the Limited Practice Board in writing of the desire to cancel and returning the LPO license with the request. The Limited Practice Board may deny requests for voluntary cancellation from any LPO who is the subject of a pending disciplinary investigation or proceeding. The Limited Practice Board will notify the LPO of the effective date of the cancellation if approved.

The former LPO shall then promptly notify by registered or certified mail, return receipt request, all clients being represented in pending matters, of the certification cancellation and the consequent inability to act as a Limited Practice Officer.

After entry of the cancellation order, the former LPO shall not accept any new clients or engage in work as an LPO in any matter.

Within ten (10) days after the effective date of the cancellation order, the former LPO shall file with the Limited Practice Board an affidavit showing:

1. The former LPO has fully complied with the provision of the order and with these Regulations;
2. The residence or other address of the former LPO for purposes of mailing or for service of process; and
3. Attaching to the affidavit a copy of the form of letter of notification sent to clients being represented in pending matters, together with a list of the names and addresses of all clients to whom the notice was sent.

The Board will cause a notice of the cancellation to be published in the same manner as notices of discipline under ELPOC 3.5(b).

### **REGULATION 15: CHANGE IN STATUS**

When an LPO is demonstrating financial responsibility by 1) an endorsement on the employer's Errors and Omissions insurance policy, or 2) submission of the employer's audited financial statement accompanied by the Certificate of Financial Responsibility, the Limited Practice Board shall notify the employer when the LPO is transferred to one of the following statuses: inactive status, voluntary certification cancellation, disability inactive status, or the license is suspended or revoked.

### **REGULATION 16. REINSTATEMENT AFTER REVOCATION**

#### **16.1 RESTRICTIONS AGAINST PETITIONING**

A. When Petition May Be Filed. No petition for reinstatement shall be filed within a period of two (2) years after revocation or within one (1) year after an adverse decision of the Supreme Court upon a former petition, or within a period of six (6) months after an adverse recommendation of the Board on a former petition when that recommendation is not submitted to the Supreme Court. If prior to revocation the LPO was suspended pursuant to the provisions of Title 7 of the Rules for Enforcement of LPO Conduct( ELPOC), or any comparable rule, the period of suspension shall be credited toward the two (2) years referred to above.

B. Payment of Obligations. No revoked LPO may file a petition for reinstatement until costs and expenses assessed pursuant to these rules, and restitution ordered as provided, have been paid by the revoked LPO, or the revoked LPO has entered into a payment plan for any such obligations as provided for under ELPOC 13.9.

#### **16.2 REVERSAL OF CONVICTION**

If an LPO has been revoked solely because of the LPO's conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the LPO, enter an order reinstating the LPO to limited practice under APR 12. At the time such direct application is filed with the court, a copy shall be filed with the Board.

#### **16.3 FORM OF PETITION**

A petition for reinstatement as an LPO after revocation shall be in writing in such form as the Board may prescribe. The petition shall set forth the age, residence and address of the petitioner,



the date of revocation, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required for application under APR 12.

#### 16.4 INVESTIGATION

The Board may, in its discretion, refer the petition for reinstatement for investigation and report to counsel appointed by the Board, if any, or such other person or persons as may be determined by the Board.

#### 16.5 HEARING BEFORE BOARD

A. Notice. The Board may fix a time and place for a hearing on the petition and shall serve notice thereof ten (10) days prior to the hearing upon the petitioner and upon such other persons as may be ordered by the Board. Notice of the hearing shall also be published in such newspaper or periodical as the Board shall direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.

B. Statement in Support or Opposition. On or prior to the date of hearing, anyone wishing to do so may file with the Board a written statement for or against reinstatement, such statements to set forth factual matters showing that the petitioner does or does not meet the requirements of Regulation 16.6A.. Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Board.

#### 16.6 ACTION BY BOARD

A. Requirements for Favorable Recommendation. Reinstatement may be recommended by the Board only upon an affirmative showing that the petitioner possesses the qualifications and meets the requirements as set forth by the Board and APR 12, and that the LPO's reinstatement will not be contrary to the public interest.

B. Action on Recommendation. The recommendation of the Board shall be served upon the petitioner. If the Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Board recommends against reinstatement, the record and recommendation shall be retained by the Board unless the petitioner requests that it be submitted to the Supreme Court. If the petitioner so requests, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the petitioner does not so request, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of costs incidental to the reinstatement proceeding as directed by the Board.

#### 16.7 ACTION ON SUPREME COURT'S DETERMINATION

A. Petition Approved. If the petition for reinstatement is granted by the Supreme Court, the reinstatement shall be subject to the petitioner's taking and passing the examination for APR 12 applicants and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.

B. Petition Denied. If the petition for reinstatement be denied, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding.

### **REGULATION 17: RECORDS DISCLOSURE**

A. The Board shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of this Regulation or any other Rules and Regulations applicable to Limited Practice Officers (LPOs). A "public record" is defined as written information, regardless of physical form or characteristic, that has been made or received by the Limited Practice Board in connection with the transaction of public business.

B. To the extent required to prevent an unreasonable invasion of the privacy interests set forth in these Regulations, the Board shall delete identifying details in a manner consistent with the Regulations when it makes available or publishes any public record.

C. No fee shall be charged for the inspection of public records. The fee charged for the copying of public records shall be the same fee charged by the Washington State Bar Association for making copies of public records.

D. The Board shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate a statute, court order or rule which exempts or prohibits disclosure of specific information or records.

E. The following records are exempt from public inspection and copying:

1. Test questions, scoring keys and other examination data used by the Board to administer the qualifying examination.
2. Preliminary drafts, notes, recommendations, and intra-Board memorandums in which opinions are expressed or policies formulated or recommended.
3. Records which are relevant to a controversy to which the Board is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.
4. The residential address and residential telephone number of a limited practice officer.
5. Membership information; however, status, business addresses, business telephone numbers, facsimile numbers, electronic addresses, license number and dates of admission shall not be exempt.
6. Applications for admission to limited practice and related records.

F. The disclosure of records in disciplinary files shall be governed by Title 3 of the Rules for Enforcement of LPO Conduct.

G. The exemptions to disclosure set forth in this Regulation shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or fall within an exemption, can be deleted from the specific records sought.

H. Responses to requests for public records shall be made promptly by the Board. Within five business days of receiving a public record request, the Board must respond by either (1) providing the record; or (2) acknowledging the request and providing a reasonable time estimate for responding to the request, or (3) denying the request. The Board may ask the requestor to clarify the request. If the requestor fails to clarify the request, the Board may deny the request. Denials of request must be accompanied by a written statement of the specific reasons therefore.

I. Whenever the Clerk concludes that a public record is exempt from inspection and copying, the person may appeal that decision to the Board, whose decision is final.

J. The disclosure of information under this section should not violate an individual's right to privacy by amounting to a disclosure of information about that person that would be highly offensive to a reasonable person and is not of legitimate concern to the public.

**REGULATION 18: NOTICE AND FILING; ADMINISTRATION**

All notices and filings required by these Regulations, including applications for admission as a Limited Practice Officer, shall be sent to the headquarters of the Washington State Bar Association. The Washington State Bar Association shall provide administrative support for the Limited Practice Board pursuant to APR 12(b)(3). "Clerk" as used in these regulations means WSBA staff designated to support the Board.

**REGULATION 19: AMENDMENT**

These Regulations may be altered, amended, or repealed by vote of the Board on approval of the Board of Governors and the Supreme Court.