

# **PRACTICE OF LAW BOARD STATE OF WASHINGTON**

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## **MINUTES January 11, 2008**

The Practice of Law Board met on Friday January 11, 2008 at the Washington State Bar Association in Seattle, Washington. Those attending were Meg Bridewell, Jeanne Dawes, Nancy Ivarinen, Steve Crossland, Chair, Hon. Paul Bastine, Vice Chair, Cheryl Kringle, Brian Dano, Stephanie Delaney and Hon. Jane Smith. Julie Shankland, Board Administrator, Sandra Schilling Investigative Attorney and Anna Schmidt, paralegal, Elizabeth Turner, Assistant General Counsel, David Estudillo, Young Lawyers Representative, Doug Lawrence, BOG liaison and Kristal Wiitala, BOG liaison also attended.

### **MINUTES**

Minutes of the December 2007 meeting were unanimously approved with changes.

### **LEGAL TECHNICIAN RULE UPDATE**

Mr. Crossland reported that the proposed rule had been submitted and that the Court had written a letter indicating it received the rule and would process it promptly.

Mr. Lawrence indicated that the WSBA Board of Governors would probably discuss this rule in its annual meeting with the Court later in January. He stated that the discussion would likely focus on procedural questions.

Ms. Wiitala stated that the rule still does not answer all of the questions. She also asked whether the rule would be modified to contain the specific family law definitions and limitation. Mr. Crossland explained that the Board's vision is that the rule is a general template that will be adopted and then applied to various areas of law. Family law will be the first of those areas. If the Court adopts the rule and approves family law and the appropriate first area of law, the Commission and the POLB will draft regulations specific to the family law.

Ms. Wiitala also asked if the Board was planning on appointing new sub committees and essentially starting the area of practice procedure over from the

beginning if the rule is approved. She noted that the Board had acted as the Commission in setting up sub committees, investigating the areas, issuing the reports and conducting hearings. Several Board members answered that the Board does not know what the Court will require. The Board anticipates that the Court will hold additional public hearing prior to adopting the rule.

Mr. Estudillo asked if the Legal Technicians will assume they can practice in other areas when the rule is passed. Ms. Dawes explained that the Technicians have to be certified separately in each practice area, so they should not assume they can practice in any other areas.

## **GAL RULE CHANGE REQUEST**

Following a brief overview, the Board considered the Rule change request (GR 24, GR 25 and GALR 4), the letter from the Family Law Executive Committee and e mails from various counties on whether their non lawyer GALs file pleadings and represent others in court proceedings. The Board discussed whether all non lawyer GALs should be provided with a lawyer, whether the GAL function is the same as or significantly overlaps the function of a parenting investigator and whether a GAL is a party to an action (dependency and dissolution actions).

Ms. Ivarinen stated that it would not be realistic to expect parties to pay for a GAL and a lawyer for the GAL. Clients who do not have high incomes, but are not indigent simply cannot afford this.

Crossland: The problem here really is not UPL. The bigger issue is a policy determination of who should be a GAL and what functions should a GAL perform. There is also the additional problem of the conflicts between the statutes and the court rules.

Dawes: Could GALs be added to the Legal Technician Rule?

Kringle: If the GAL is a party to the action, then there is not a problem. However, the statute has been changed and now the GAL is not a party to the action, except under one county's local rule.

Bridewell: If the GAL is a party, then should he or she be included in the caption? Do the normal service of process and other procedural rules apply? The real issues are what functions the GAL should perform and what qualifications should be required.

A motion was made, seconded and unanimously passed to formulate a response:

1. The POLB will not issue an advisory opinion on this subject;

2. Object to the rule changes for the reasons stated;
3. Should appoint a new taskforce or add to the Dissolution Taskforce.
4. Probably would not be UPL if was a party, but the status is not clear because of the conflict between the statute and the court rule.

A motion was made, seconded and passed unanimously to enter Executive Session.

The meeting was adjourned.