

# WASHINGTON STATE BAR ASSOCIATION

## MEMO

**To:** Limited License Legal Technician Board

**From:** Cathy Biestek, Managing Regulatory Counsel  
Catherine Schur, Assistant General Counsel

**Date:** April 16, 2024

**Re:** Suggested Amendments to APR 28 Appendix Regulation 2(B)

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Recent amendments to the Admission and Practice Rules (APR) governing the scope of practice for Limited License Legal Technicians (LLTs) were intended to adapt the rules to changes in the law regarding third-party custody of minors and minor guardianship. The language of the amendments, however, may be interpreted to grant additional authority for LLTs to handle types of guardianships beyond those involving minors, which was not the intent of the amendments. This potential for misinterpretation puts LLTs at risk of engaging in the unauthorized practice of law by representing clients outside of minor guardianships. As described in more detail below, we recommend suggesting technical amendments to ensure the scope of practice for LLTs in guardianship matters is clear.

The permissible scope of practice for LLTs is set forth in APR 28 and accompanying regulations in an Appendix to APR 28. Until January 23, 2024, Regulation 2(B)(1)(i) permitted LLTs to assist clients with “nonparental and third party custody” matters. Nonparental and third-party custody matters were governed by Chapter 26.10 of the Washington Domestic Relations Code.<sup>1</sup> Nonparental custody actions were initiated by filing a petition for custody in superior court.<sup>2</sup> The court would then determine based on the petition and accompanying affidavits whether adequate cause existed to hold a hearing on the underlying request for custody.<sup>3</sup> LLTs were permitted to assist with nonparental custody matters up through the adequate cause hearing and could continue to assist clients beyond the adequate cause hearing in uncontested and default cases.<sup>4</sup>

Effective January 1, 2021, the Washington Legislature repealed Chapter 26.10 of the Domestic Relations Code and adopted the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act,<sup>5</sup> which included Article 2, Guardianship of Minor.<sup>6</sup> In light of the change in law, the LLT Board submitted suggested amendments to Regulation 2(B) to the Washington Supreme Court. The suggested amendments replaced references to “nonparental and third party custody” with “agreed or default minor guardianships

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<sup>1</sup> RCW 26.10.010 – 26.10.913.

<sup>2</sup> RCW 26.10.030(1).

<sup>3</sup> RCW 26.10.032.

<sup>4</sup> See version of APR 28 Appx., Reg. 2(B)(3)(b)(ix) in effect prior to Jan. 23, 2024 (LLTs “shall not render legal services in [. . .] nonparental custody actions beyond the adequate cause hearing unless the terms are agreed to by the parties or one party defaults.”).

<sup>5</sup> RCW 11.130.001 et seq.

<sup>6</sup> RCW 11.130.185 – 11.130.260.

or guardianships arising out of a familial relationship.” The suggested amendments also removed “nonparental and third party custody” from the prohibition in Regulation 2(B)(3)(b)(ix) against providing legal representation beyond the adequate cause hearing stage. Minor guardianship proceedings do not include a stage for determining whether adequate cause exists to proceed to hearing on the guardianship petition.

The GR 9 coversheet accompanying the suggested amendments stated that the purpose of the amendments was “to provide LLLTs with the same authority in dealing with ‘nonparental and third party custody’ that they had prior to January 1, 2021, the date that RCW 26.10 was repealed. The suggested amendments do not expand LLLTs’ authority.”<sup>7</sup>

The Washington Supreme Court published the proposed rule amendments for comment on January 5, 2023, and, on January 3, 2024, adopted the amendments replacing references to nonparental and third-party custody with “agreed or default minor guardianships or guardianships arising out of a familial relationship.”<sup>8</sup> The amendments became effective on January 23, 2024, upon publication in the Washington Reports.

Following adoption of these amendments, it has become apparent that the language allowing for LLLT representation in “guardianships arising out of a familial relationship” may be interpreted to expand the scope of LLLT representation. The reason for including this provision is not apparent from the available materials. The GR 9 coversheet notes that “guardianships for incapacitated adult children arising out of a familial relationship are now covered by RCW 11.130 Article 3.”<sup>9</sup> It does not appear, however, that LLLT practice in nonparental and third-party custody proceedings prior to the repeal of RCW Chapter 26.10 encompassed custody of incapacitated adult children.<sup>10</sup> Prior to the repeal of RCW Chapter 26.10, the predecessor guardianship statute to the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act would have governed the process for a relative, or any other person or entity, to petition for legal responsibility for an incapacitated adult.

Given that the intent of the 2023 amendments was simply to translate the existing scope of representation in third-party custody matters to the new minor guardianship statute, the ambiguity in the guardianship language in Regulation 2(B) raises the risk that some LLLTs may inadvertently exceed the permissible scope of practice.

To ensure the scope of practice is clear, we recommend that the LLLT Board suggest an amendment to the Washington Supreme Court replacing references to “agreed or default minor guardianships or guardianships arising out of a familial relationship” with “agreed or default minor guardianships under Article 2 of the Washington Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, RCW 11.130.185 – 11.130.260.”

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<sup>7</sup> GR 9 Coversheet to proposed amendments to APR 28, Reg. 2(B) (accessible here: [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.proposedRuleDisplayArchive&ruleId=6027](https://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplayArchive&ruleId=6027)).

<sup>8</sup> APR 28, Appx., Reg. 2(B)(1)(i).

<sup>9</sup> GR 9 Coversheet to proposed amendments to APR 28, Reg. 2(B) (accessible here: [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.proposedRuleDisplayArchive&ruleId=6027](https://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplayArchive&ruleId=6027)).

<sup>10</sup> See RCW Chapters 11.88, 11.92.

While the Court considers any suggested rule amendments, WSBA proposes that the LLLT Board send the following or similar communication to LLLTs to inform them of the matter:

On January 3, 2024, the Washington Supreme Court issued an order approving amendments to APR 28 and Appendix APR 28 Regulation 2(B). These revisions took effect on January 23, 2024. Among other amendments, the Court adopted the LLLT Board's suggested amendment to Appendix APR 28 Regulation 2(B) replacing "nonparental and third party custody" with "agreed or default minor guardianships or guardianships arising out of a familial relationship." This amendment was necessary because the Washington State Legislature repealed the nonparental custody statute for minors (RCW 26.10 et seq.) effective January 1, 2021, and replaced it with Article 2 of the Uniform Guardianship Act (RCW 11.130.185 et seq.).

The LLLT Board has recently learned that some LLLTs may be interpreting the amendments to Appendix APR 28 Regulation 2(B)(1)(i) to expand the permissible scope of practice for LLLTs to guardianships beyond those involving minors. The Board is now clarifying that this was not the intent of the amendments. As the materials accompanying the suggested amendments made clear, the purpose of the amendments was to accommodate the legislative changes described above. The Board does not consider the amendments that went into effect on January 23, 2024 to fundamentally change the scope of assistance LLLTs may provide. As stated in the [amendment materials](#), "[t]he suggested amendments seek to provide LLLTs with the same authority in dealing with 'nonparental and third party custody' that they had prior to January 1, 2021, the date that RCW 26.10 was repealed. The suggested amendments do not expand LLLTs' authority." Any language in the amendments suggesting otherwise was inadvertent.

On *[date]*, the LLLT Board suggested amendments to Regulation 2(B) to the Washington Supreme Court to resolve this issue on an expedited basis. While the Court considers this proposal, LLLTs should take care not to undertake matters beyond agreed or default minor guardianship actions under Article 2 of the Uniform Guardianship Act, RCW 11.130.185 – 11.130.260.

Any questions regarding this guidance should be directed to [LLLT@wsba.org](mailto:LLLT@wsba.org).

## GR 9 COVER SHEET

**Suggested Amendments to  
Admission and Practice Rules  
Appendix APR 28, Regulation 2,  
Regulations of the APR 28 Limited License Legal Technician Board  
Submitted by the Limited License Legal Technician Board**

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**A. Name of Proponent:**

Limited License Legal Technician Board

**B. Spokesperson:**

Steve Crossland, Chair of the LLLT Board

**WSBA Staff Contact:**

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**C. Purpose:**

The suggested amendments are a technical change to clarify language in Regulation 2(B) of the Appendix to APR 28 to accurately reflect the scope of practice for Limited License Legal Technicians (LLLT).

Regulation 2(B) of the APR 28 Appendix comprises regulations covering the scope of permissible practice areas for LLLTs. Prior to January 23, 2024, Regulation 2(B)(1)(i) authorized LLLTs to provide services to clients in some “nonparental and third party custody” matters. Nonparental and third-party custody matters were governed by Chapter 26.10 of the Domestic Relations Code. Effective January 1, 2021, however, the Washington State Legislature repealed the nonparental custody statute for minors (RCW

26.10 et seq.) and replaced it with Article 2 of the Uniform Guardianship Act (RCW 11.130.185 et seq.).

To conform APR 28 and the Appendix to APR 28 to the change in law, in 2022, the LLLT Board suggested amendments to Regulation 2(B) replacing “nonparental and third party custody” with “agreed or default minor guardianships or guardianships arising out of a familial relationship.” As noted in the GR 9 coversheet accompanying the suggested amendments, the changes were intended only to translate LLLTs’ preexisting authority to assist clients with nonparental and third-party custody matters to the new guardianship law. See Attachment 1 at pages 9-10. The suggested amendments were not intended to expand LLLTs’ scope of practice.

The Washington Supreme Court adopted the rule amendments effective January 23, 2024. See Attachment 2. Since adoption of the amendments, it has come to the LLLT Board’s attention that the language permitting LLLTs to assist with “guardianships arising out of a familial relationship” may potentially be interpreted to allow LLLTs to represent clients in guardianship matters beyond those involving minors. Again, this was not the intent of the addition of the guardianship language in Regulation 2(B). Prior to the repeal of Chapter 26.10 of the Domestic Relations Code in 2021, the scope of LLLT practice in nonparental and third-party custody proceedings would have involved only custody of minors. The reason for including the provision for “guardianships arising out of a familial relationship” is not apparent from the available materials. However, the documents accompanying the original amendments do make clear that the amendments were not intended to go beyond the preexisting scope of LLLT practice.

Therefore, to ensure the scope of LLLT practice is clear and conforms with the

purpose of the original suggested amendment, the LLLT Board now proposes that references to “agreed or default minor guardianships or guardianships arising out of a familial relationship” in Regulation 2(B) be replaced with “agreed or default minor guardianships under Article 2 of the Washington Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, RCW 11.130.185–11.130.260.”

**D. Hearing:** A hearing is not requested.

**E. Expedited Consideration:** Expedited consideration is requested. Expedited consideration will ensure the scope of practice for LLLTs is clear and that LLLTs do not inadvertently exceed their permissible scope of practice in reliance on the imprecise language in Regulation 2.

**F. Attachments:**

1. [2022 GR 9 Cover Sheet and Published Proposed Rule Amendment](#)
2. [January 3, 2024 Court Order No. 25700-A-1562](#)



## Proposed Rules Archives

### **APR 28 - Limited Practice Rule for Limited License Legal Technicians**

- [Proposed Changes to APR 28 - Limited Practice Rule for Limited License Legal Technicians \(in Word Format\)](#)
  - [Comments Received for APR 28 - Limited Practice Rule for Limited License Legal Technicians](#)
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## GR 9 COVER SHEET

### **Suggested Amendments to ADMISSION AND PRACTICE RULES RULE 28 AND THE APPENDIX APR 28 REGULATIONS Submitted by the Limited License Legal Technician Board**

**A. Name of Proponent:**

Limited License Legal Technician (LLLT) Board

Staff Liaison/Contact:

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**B. Spokespersons:**

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**C. Purposes:**

#### **SUMMARY OF PURPOSES**

In general, the four primary purposes of the suggested amendments to Admission and Practice Rule (APR) 28 the APR 28 Appendix of Regulations (Reg.) are to (1) reflect changes to the Limited License Legal Technician (LLLT) Program following the entry of the Washington State Supreme Court's (Court's) July 1, 2021, order to sunset the LLLT Program (Sunset Order); (2) remove provisions in the APR that became moot following the Sunset Order and clarify the role of the LLLT Board following the Sunset Order; (3)



update and clarify provisions in APR 28 relating to “nonparental and third party custody” due to recent changes in the law; and (4) clarify a LLLT’s authority to accompany clients to pretrial conferences and settlement conferences. A more specific list of the purposes of the suggested amendments are as follows:

1. To reduce the LLLT Board from 15 to 11 members and to update the LLLT Board duties in APR 28C to reflect the evolution of the LLLT Program following the Sunset Order.
2. To delete responsibilities of the LLLT Board set forth in APR 28C(2) that have become moot because of the Sunset Order.
3. To amend and update APR 28C(2) to more fully and accurately describe the duties and powers of the LLLT Board following the Sunset Order, including duties to process and administer LLLT disciplinary grievances, approve standard forms for LLLTs, propose rules for governing LLLTs, and establish committees to carry out the LLLT Board’s proposed new powers to provide continuing legal education to LLLTs, assess changes in the law that affect a LLLT’s scope of practice, and collaborate with other boards and entities regarding the delivery of law related services.
4. To add a provision to APR 28 that accurately acknowledges and describes the LLLT Board’s power and authority to adopt regulations provided that the proposed regulations are approved by the Court. See suggested APR 28P.
5. To update the provisions in the APR 28 Regulations by deleting references to “nonparental and third party custody” because the Washington state legislature repealed the underlying statutes for “nonparental and third party custody.”  
See

suggested amendments to APR 28 Reg. 2B.1.(i), APR 28 Reg. 2B.2.(h)vi, and suggested APR 28 Reg. 2B.3.(b)ix.

6. To replace the references in APR 28 Reg 2B to “nonparental and third party custody” with references to the guardianship proceedings for the statute that replaced the repealed statutes for “nonparental and third party custody.” See suggested amendments to APR 28 Reg. 2B.1.(i) and suggested APR Reg. 2B.2.(h)ix.
7. To clarify and describe the scope of practice for LLLTs in connection with pretrial calendar proceedings. See suggested amendments to APR 28 Reg 2B.2.(h)viii.
8. To clarify that LLLTs may accompany their clients in settlement conference proceedings. See suggested APR 28 Reg. 2B.2.(h)x.

The LLLT Board’s suggested amendments seek to clarify, not expand, the prior authority granted by this Court to the LLLT Board and LLLTs.

**BACKGROUND AND EXPLANATION OF PROPOSED AMENDMENTS:**

**A. COURT ENTERS ORDER SUNSETTING LLLT PROGRAM**

On July 1, 2021, the Court entered an order sunsetting the LLLT Program, effective July 31, 2022. After July 31, 2023, the Washington State Bar Association (WSBA) will no longer be admitting LLLTs.<sup>1</sup> Consequently, the LLLT Board will no longer be involved in preparing and grading LLLT examinations or reviewing additional areas of practice for LLLTs. There are currently 75 active LLLTs in Washington.

1. On June 9, 2022, the Court entered an order extending by one year the deadline for LLLT applicants who passed the LLLT examination to complete the pre-admission requirements in APR 5(e)(2). The Court’s order did not authorize WSBA or the LLLT Board to administer additional LLLT examinations.

**B. PROPOSALS TO CHANGE LLLT BOARD'S SIZE AND COMPOSITION AND UPDATE THE LIST OF THE LLLT BOARD'S DUTIES**

APR 28C(1) provides for the establishment of a LLLT Board that is comprised of 15 members. APR 28C(1) requires the composition of the LLLT Board to include a legal educator and one *ex officio* member who is a representative of the Washington State Board of Community and Technical Colleges. The Sunset Order eliminates the need for educators on the LLLT Board because it will no longer be involved in education requirements for licensing LLLTs and licensing exams for LLLTs. The final LLLT examination was administered on May 3-4, 2022.

APR 28C(2) lists six responsibilities of the LLLT Board. The Sunset Order has effectively made moot the following four of the six listed responsibilities in APR 28C(2):

- “Recommending practice areas for LLLTs subject to approval by the Supreme Court.” APR 28 C(2)(a);
- “Working with the Bar . . . to select, create, maintain, and grade the examinations required under this rule. . . .” APR 28 C(2)(b);
- “Approving education and experience requirements for licensure in approved practice areas.” APR 28 C(2)(c); and
- “Establishing and maintaining criteria for approval of educational programs that offer LLLT core curriculum.” APR 28 C(2)(e).

The LLLT Board’s suggested amendments to APR 28 seek to remove these four responsibilities from APR 28C(2) because they have been effectively eliminated by the Sunset Order. The suggested amendments also delete the provision making WSBA responsible for notices and filings “including applications for admission as a LLLT” in APR 28C(4) because this responsibility is also now moot for the same reason.

The Sunset Order has effectively changed the focus of the LLLT Board from developing the LLLT Program and licensing LLLTs to improving and sustaining the

current LLLT Program. The suggested amendments refer to the LLLT Board's "duties and powers" instead of "responsibilities." APR 28C(2). This suggested change makes the terminology in APR 28 consistent with the terminology contained in the rules governing the Limited Practice Board. See APR 12(b)(2). Following the Sunset Order, the LLLT Board's duties and powers now focus on administering LLLT disciplinary complaints; developing forms for LLLT practice; improving the LLLT Program by proposing amendments to APR 28, the LLLT Rules of Professional Conduct (LLLT RPC), and procedural rules for LLLT disciplinary matters (ELLLTC); and overseeing committees to carry out the LLLT Board's duties to the LLLT Program.

The LLLT Board's suggested amendments seek to clarify and more accurately reflect its evolved role to sustain and improve the LLLT Program by adding the following duties and powers in APR 28C(2):

- Administering grievances and discipline. APR 28C(2)(a);
- Approving standard LLLT forms. APR 28C(2)(b);
- Proposing amendments to LLLT rules. APR 28C(2)(c);
- Overseeing the provision of continuing legal education to LLLTs. APR 28C(2)(d)i;
- Overseeing the assessment of changes in the law that affect the practice of LLLTs. APR 28C(2)(d)ii; and
- Overseeing collaborations with other boards and entities regarding the delivery of law related services. APR 28C(2)(d)iii.

The suggested amendments do not expand the current authority of the LLLT Board. Rather, the suggested amendments reflect the tasks currently performed by the LLLT Board to sustain the LLLT Program. For example, the Rules for Enforcement of Limited License Legal Technician Conduct (ELLLTC), including but not limited to ELLLTC 2.3,

2.4 , 5.3, and 6.9, currently establish the authority of the LLLT Board and LLLT Disciplinary Committee to administer grievances and discipline. APR 28F(6) implies that the LLLT Board has authority to approve standard forms as it provides that LLLTs may provide legal assistance to a *pro se* client, including to “select, complete, file, and effect service of . . . forms approved by the LLLT Board.” APR 28C(2)(c).

APR 28C(3) currently provides the LLLT Board with the responsibility to propose rules, regulations, and amendments to APR 28 and other court rules:

*Rules and Regulations.* The LLLT Board shall propose rules, regulations and amendments to these rules and regulations, to implement and carry out the provisions of this rule, for adoption by the Supreme Court.

The other suggested amendments include tasks that could or would fit under the current catchall provision in APR 28C(2)(f) that the Board is responsible for “[s]uch other activities and functions as are expressly provided for in this rule.” The LLLT Board’s suggested amendments recommend deleting the catchall provision and replacing it with more specific provisions stated above to avoid confusion.

The evolution of LLLT Board duties makes the current size and composition of the Board in APR 28C(2) superfluous for several reasons. First, the Sunset Order effectively eliminated all educational programs needed for qualifying for a LLLT license and, therefore, the need for educators on the LLLT Board. Second, the evolution of the LLLT Board duties from the development of the LLLT Program to sustaining the LLLT Program makes the need for 15 Board members unnecessary.

The description of the LLLT Board’s duties and powers in the suggested amendments is sufficient that there is no longer a need for the catchall provision in APR 28C(2)(f) for “[s]uch other activities and functions as are expressly provided for in this rule.”

Consequently, the suggested amendments delete the catchall provision.

A 15-member LLLT Board is not practical given the small pool of LLLTs in the state (currently 75 active LLLTs) and the scaled back duties of the LLLT Board. Other similarly situated Supreme Court Boards have less members. For example, the Limited Practice Board, which has over 800 active members, is comprised of nine members. APR 12(b)(1). For these reasons, the LLLT Board's suggested amendment to APR 28C(1) reduces the LLLT Board from 15 to 11 members and propose that the LLLT Board be composed of at least four active lawyers, three active LLLTs, and two members who are not licensed to practice law. The LLLT Board's specific proposed amendments in APR 28C(1) regarding the size and composition of the board are contained in the attached redlined version of the proposed amendments.

**C. SUGGESTED AMENDMENT FOR LLLT BOARD'S ROLE TO ADOPT REGULATIONS**

The LLLT Board's suggested amendments seek to add a provision to APR 28 clarifying its existing authority, currently in APR 28C(3), to adopt regulations pertinent to its duties and powers subject to the approval of the Court. This provision is essentially the same provision governing regulations that the Court adopted for the Practice of Law Board in General Rule (GR) 25(h). This suggested amendment underscores that, as a Supreme Court Board, the LLLT Board regulations are subject to approval by the Court. Moreover, the suggested amendment acknowledges and recognizes that although the LLLT regulations are not governed by the WSBA Board of Governors (BOG), proposed regulations "should" be provided to the BOG for informational purposes. See Suggested amendment APR 28P. To avoid possible confusion or duplication, the LLLT Board's suggested amendments propose to strike the provision on "rules and regulation" in APR

28C(3).

**D. AMENDMENTS RELATED TO LLLT SCOPE OF PRACTICE IN MINOR GUARDIANSHIPS F/K/A NONPARENTAL CUSTODY ACTIONS**

The Appendix to APR 28 is comprised of regulations covering the scope of approved practice areas for LLLTs. Domestic Relations is the only approved LLLT practice area. APR 28 Reg. 2B authorizes LLLTs to provide services to clients related to “nonparental and third party custody,” but this provision is confusing because later provisions provide that LLLTs are prohibited from providing legal services in “nonparental custody actions beyond the adequate cause hearing unless the terms are agreed to by the parties or one party defaults.” APR 28 Reg. 2B.3.(b)ix.

Effective January 1, 2021, the Washington state legislature repealed the nonparental custody statute for minors (RCW 26.10 *et seq.*) and replaced it with RCW 11.130.185 *et seq.* (Article 2), the Uniform Guardianship Act – minors. Guardianships for incapacitated adult children arising out of a familial relationship are now covered by RCW 11.130 Article 3.

To accommodate the change in law, the LLLT Board’s suggested amendments propose to strike the provisions in APR 28 Reg. 2B referencing “nonparental and third party custody” and replace these terms with provisions authorizing LLLTs to provide services under the new statute, RCW 11.130 *et seq.*, for “agreed or default minor guardianships or guardianships arising out of a familial relationship.” See suggested amendment APR 28 Reg. 2B.1.(i). This suggested amendment is intended to ameliorate confusion that may exist regarding the extent of the services that LLLTs are authorized to provide to clients. The suggested amendments to the provisions in APR 28 Reg 2B include the following:

- Replace “nonparental and third party custody” in APR 28 Reg. 2B.1.(i) with “agreed or default minor guardianships arising out of a familial relationship.”
- Delete “nonparental custody” in APR 28 Reg. 2B.2.(h)vi.
- Add a new subsection for hearings related to “agreed or default minor guardianships or guardianships arising out of a familial relationship” to APR 28 Reg. 2B.2.(h)ix.
- Delete “nonparental custody actions” in APR 28 Reg. 2B.3.b.ix.

The suggested amendments seek to provide LLLTs with the same authority in dealing with “nonparental and third party custody” that they had prior to January 1, 2021, the date that RCW 26.10 was repealed. The suggested amendments do not expand LLLT’s authority. Moreover, *pro se* parties are able to use LLLTs to ensure that nonparental and third party custody issues are dealt with under the most current law.<sup>2</sup>

**E. AMENDMENTS RELATED TO ATTENDING PRETRIAL CALENDAR PROCEEDINGS AND SETTLEMENT CONFERENCES**

The LLLT Board has discovered that there was some confusion regarding the provision authorizing LLLTs to assist clients in “trial setting calendar proceedings.” See APR 28 Reg. 2B.2.(h)viii. To ameliorate potential confusion, the LLLT Board’s suggested amendments seek to clarify this provision by striking “trial setting” and replacing it with more specificity regarding the nature of proceedings in which LLLTs may assist clients: “pretrial calendar proceedings such as trial setting, pretrial conferences, and status conferences.” See suggested amendment to APR 28 Reg. 2B.2.(h)viii.

The LLLT Board’s suggested amendments also seek to clarify LLLTs’ authority to attend settlement conference proceedings with clients in APR 28 Reg. 2B by adding more

<sup>2</sup> The new guardianship statute is a topic that the LLLT Board has been monitoring. It intends to provide mandatory continuing legal education classes to update LLLTs if and when the Court adopts the suggested amendment.



specificity that LLLTs are authorized to attend “settlement conference proceedings” with their clients. See proposed APR 28 Reg. 2B.2.(h)x. The current rules provide that LLLTs may “accompany and assist clients in dispute resolution proceedings including . . . settlement conferences where not prohibited by the rules and procedures of the forum.” APR 28 Reg. 2B.2.(e).

**F. BOG MEETING ON LLLT BOARD’S SUGGESTED ADMENDMENTS**

On September 23, 2022, the WSBA Board of Governors (BOG) met to consider the LLLT Board’s suggested amendments. Prior to the BOG meeting, the WSBA fiscal analysis opined that the adoption of the suggested amendments would result in estimated costs savings to the LLLT budget of \$4,952. The LLLT Board requested the BOG to support the suggested amendments. Instead, the BOG voted 5-4 to oppose the suggested amendments, with a number of governors absent for the vote. The BOG did not recommend changes to the suggested amendments. Nor did the BOG provide any specific reason for opposing the suggested amendments.

**Conclusion**

The LLLT Board believes that its suggested amendments will improve and clarify APR 28 and assist in effectuating the Court’s Sunset Order.

**D. Hearing:** A hearing is not requested.

**E. Expedited Consideration:** Expedited consideration is not requested.

**F. Supporting Materials:** Suggested Amendments to APR 28 and the APR 28

Appendix of Regulations Redlined and Clean Version.

**RECORDS**

- Case Records
- Caseload Reports
- Court Dates
- Judicial Information System (JIS)
- JIS LINK
- Odyssey Portal
- Records Requests

**RESOURCES**

- Civic Learning
- Court News
- Court Program Accessibility
- Jury Duty
- Procurement Opportunities
- Resources, Publications, and Reports
- Self Help
- State Law Library
- Whistleblower Policy

**QUICK LINKS**

- Court Closures and Emergency Modifications to Operations
- Court Forms
- Court Opinions
- Court Rules
- Protection Order Forms
- Emergency Procedures
- eService Center
- Pattern Jury Instructions

**TRANSLATIONS**

- 中文形式/Chinese
- 한국어서류/Korean
- Русский/Russian
- Español/Spanish
- Tiếng Việt/Vietnamese

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## LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

A. ~~B.~~ [Unchanged.]

**C. Limited License Legal Technician Board**

(1) *Establishment.* There is hereby established a Limited License Legal Technician Board (LLLT Board). The LLLT Board shall consist of ~~15~~ 11 voting members appointed by the Supreme Court; Nine members of the LLLT Board shall be active members of the Washington State Bar Association with at least four active lawyer members, one of whom must have experience practicing in family law, and three active LLLT members. Two members of the LLLT Board shall be Washington residents who do not have a license to practice law, and one nonvoting ex officio member who is a representative of the Washington State Board of Community and Technical Colleges. At least 11 members shall be Washington lawyers, LLLTs, or LPOs. Of those 11 members, at least 9 shall be active lawyers or LLLTs, and no more than 2 may be LPOs, or judicial or emeritus pro bono lawyers or LLLTs. Four members of the LLLT Board shall be Washington residents who do not have a license to practice law. Appointments shall be for staggered three year terms. No member may serve more than two consecutive full three year terms. The validity of the Board's actions is not affected if the Board's makeup differs from the stated constitution due to a temporary vacancy in any of the specified positions.

(2) *LLLT Board Duties and Powers. Responsibilities.* ~~The LLLT Board shall be responsible for the following:~~

(a) Grievances and discipline. The LLLT Board's involvement in the investigation, hearing, and appeal procedures for handling complaints of persons aggrieved by the failure of LLLTs to comply with the requirements of this rule and of the LLLT RPC shall be established in the Rules for Enforcement of LLLT Conduct (ELLLTC). Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;

(b) Approval of Forms. The LLLT Board shall approve standard forms for use by LLLTs in the performance of legal services authorized by this rule. Working with the Bar and other appropriate entities to select, create, maintain, and grade the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to LLLTs, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to approved practice areas;

(c) Rules. The LLLT Board shall propose to the Supreme Court amendments to APR 28, LLLT Rules of Professional Conduct, the Rules for Enforcement of LLLT Conduct, and these rules as may appear necessary to implement and carry out the provisions of this rule. Approving education and experience requirements for licensure in approved practice areas;

(d) Establishing and overseeing committees and tenure of members on such committees to carry out the LLLT Board's duties and powers; including  
i. providing continuing legal education to LLLTs;  
ii. assessing changes in the law that effect the scope of practice by LLLTs; and  
iii. collaborating with other boards and entities regarding the delivery of law related services.

~~(e) Establishing and maintaining criteria for approval of educational programs that offer LLLT core curriculum; and~~

~~(f) Such other activities and functions as are expressly provided for in this rule.~~

(3) *Rules and Regulations.* ~~The LLLT Board shall propose rules, regulations and amendments to these rules and regulations, to implement and carry out the provisions of this rule, for adoption by the Supreme Court.~~

~~(3)(4)~~ *Administration.* The Bar shall provide reasonably necessary administrative support for the LLLT Board. All notices and filings required by these Rules, ~~including applications for admission as an LLLT,~~ shall be sent to the headquarters of the Bar.

~~(4)(5)~~ *Expenses of the LLLT Board.* Members of the LLLT Board shall not be compensated for their services but shall be reimbursed for actual reasonable and necessary expenses incurred in the performance of their duties according to the Bar's expense policies.

**D.- O. [Unchanged.]**

**P. Regulations.** The LLLT Board may adopt regulations pertinent to its duties and powers subject to the approval of the Supreme Court. Proposed regulations should be provided to the Washington State Bar Association Board of Governors for informational purposes.

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

**REGULATION 1.** [Unchanged.]

**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. [Unchanged.]

**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, (b) parenting and support, (c) parentage or paternity, (d) child support modification, (e) parenting plan modification, (f) domestic violence protection orders, (g) committed intimate relationships only as they pertain to parenting and support issues, (h) legal separation, (i) agreed or default minor guardianships or guardianships arising out of a familial relationship ~~nonparental and third party custody~~, (j) other protection or restraining orders arising from a domestic relations case, and (k) relocation.

2. *Scope of Practice for LLLT's—Domestic Relations.* LLLTs licensed in domestic relations may render legal services to clients as provided in APR 28(F) and this regulation, except as prohibited by APR 28(H) and Regulation 2(B).

(a)-(g) [Unchanged.]

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

i.-v. [Unchanged.]

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

vii. [Unchanged.]

viii. pretrial trial setting calendar proceedings such as trial setting, pretrial conferences, and status conferences with or without the client when the LLLT has confirmed the available dates of the client in writing in advance of the proceeding;:-

ix. agreed or default minor guardianships or guardianships arising out of a familial relationship; and

x. settlement conference proceedings.

3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28(H), in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in domestic relations:

a. [Unchanged.]

b. shall not render legal services in:

i.- viii. [Unchanged.]

ix. major parenting plan modifications ~~and nonparental custody actions~~ beyond the adequate cause hearing unless the terms are agreed to by the parties or one party defaults;

x.- xii. [Unchanged.]

**REGULATIONS 3. – 20.** [Unchanged.]

# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED  
AMENDMENTS TO APR 28--LIMITED PRACTICE  
RULE FOR LIMITED LICENSE LEGAL  
TECHNICIANS AND THE APPENDIX APR 28  
REGULATIONS

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## ORDER

NO. 25700-A-1562

The Limited License Legal Technician Board (LLLT Board), having recommended the adoption of the proposed amendments to APR 28--Limited Practice Rule for Limited License Legal Technicians and the Appendix APR 28 Regulations, and the Court having considered the proposed amendments, and having determined that several of the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments by the LLLT Board are adopted in part and rejected in part. The proposed amendments as attached hereto are adopted.

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

IN THE MATTER OF THE PROPOSED AMENDMENTS TO APR 28--LIMITED PRACTICE  
RULE FOR LIMITED LICENSE LEGAL TECHNICIANS AND THE APPENDIX APR 28  
REGULATIONS

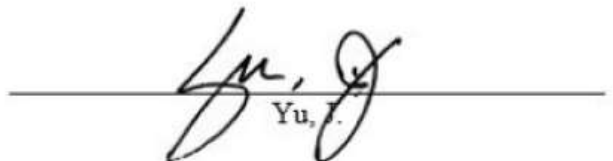
DATED at Olympia, Washington this 3rd day of January, 2024.

  
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Johnson, J.

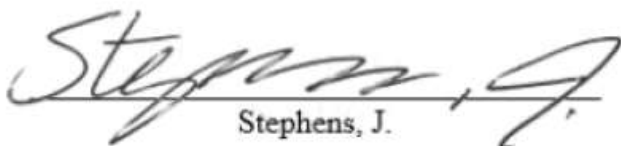
  
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Gordon McCloud, J.

  
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## LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

A. ~~B.~~ [Unchanged.]

**C. Limited License Legal Technician Board**

(1) *Establishment.* There is hereby established a Limited License Legal Technician Board (LLLT Board). The LLLT Board shall consist of ~~15~~ 11 voting members appointed by the Supreme Court; Nine members of the LLLT Board shall be active members of the Washington State Bar Association with at least four active lawyer members, one of whom must have experience practicing in family law, and three active LLLT members. Two members of the LLLT Board shall be Washington residents who do not have a license to practice law, and one nonvoting ex officio member who is a representative of the Washington State Board of Community and Technical Colleges. At least 11 members shall be Washington lawyers, LLLTs, or LPOs. Of those 11 members, at least 9 shall be active lawyers or LLLTs, and no more than 2 may be LPOs, or judicial or emeritus pro bono lawyers or LLLTs. Four members of the LLLT Board shall be Washington residents who do not have a license to practice law. Appointments shall be for staggered three year terms. No member may serve more than two consecutive full three year terms. The validity of the Board's actions is not affected if the Board's makeup differs from the stated constitution due to a temporary vacancy in any of the specified positions.

(2) *LLLT Board Duties and Powers. Responsibilities.* ~~The LLLT Board shall be responsible for the following:~~

(a) Grievances and discipline. The LLLT Board's involvement in the investigation, hearing, and appeal procedures for handling complaints of persons aggrieved by the failure of LLLTs to comply with the requirements of this rule and of the LLLT RPC shall be established in the Rules for Enforcement of LLLT Conduct (ELLLTC). Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;

(b) Approval of Forms. The LLLT Board shall approve standard forms for use by LLLTs in the performance of legal services authorized by this rule. Working with the Bar and other appropriate entities to select, create, maintain, and grade the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to LLLTs, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to approved practice areas;

(c) Rules. The LLLT Board shall propose to the Supreme Court amendments to APR 28, LLLT Rules of Professional Conduct, the Rules for Enforcement of LLLT Conduct, and these rules as may appear necessary to implement and carry out the provisions of this rule. Approving education and experience requirements for licensure in approved practice areas;

(d) Establishing and overseeing committees and tenure of members on such committees to carry out the LLLT Board's duties and powers; including  
i. providing continuing legal education to LLLTs;  
ii. assessing changes in the law that effect the scope of practice by LLLTs; and  
iii. collaborating with other boards and entities regarding the delivery of law related services.

(e) ~~Establishing and maintaining criteria for approval of educational programs that offer LLLT core curriculum; and~~

(f) ~~Such other activities and functions as are expressly provided for in this rule.~~

(3) *Rules and Regulations.* ~~The LLLT Board shall propose rules, regulations and amendments to these rules and regulations, to implement and carry out the provisions of this~~

rule, for adoption by the Supreme Court.

~~(3)~~(4)-*Administration.* The Bar shall provide reasonably necessary administrative support for the LLLT Board. All notices and filings required by these Rules, ~~including applications for admission as an LLLT,~~ shall be sent to the headquarters of the Bar.

~~(4)~~(5)-*Expenses of the LLLT Board.* Members of the LLLT Board shall not be compensated for their services but shall be reimbursed for actual reasonable and necessary expenses incurred in the performance of their duties according to the Bar's expense policies.

**D.- O. [Unchanged.]**

**P. Regulations.** The LLLT Board may adopt regulations pertinent to its duties and powers subject to the approval of the Supreme Court. Proposed regulations should be provided to the Washington State Bar Association Board of Governors for informational purposes.

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

**REGULATION 1.** [Unchanged.]

**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. [Unchanged.]

**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, (b) parenting and support, (c) parentage or paternity, (d) child support modification, (e) parenting plan modification, (f) domestic violence protection orders, (g) committed intimate relationships only as they pertain to parenting and support issues, (h) legal separation, (i) agreed or default minor guardianships or guardianships arising out of a familial relationship ~~nonparental and third party custody~~, (j) other protection or restraining orders arising from a domestic relations case, and (k) relocation.

2. *Scope of Practice for LLLT's—Domestic Relations.* LLLTs licensed in domestic relations may render legal services to clients as provided in APR 28(F) and this regulation, except as prohibited by APR 28(H) and Regulation 2(B).

(a)-(g) [Unchanged.]

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

i.-v. [Unchanged.]

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

vii. [Unchanged.]

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

ix. agreed or default minor guardianships or guardianships arising out of a familial relationship.

3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28(H), in the course of rendering legal services to clients or prospective clients, LLLTs licensed to practice in domestic relations:

a. [Unchanged.]

b. shall not render legal services in:

ATTACHMENT 2

i.- viii. [Unchanged.]

x. major parenting plan modifications ~~and nonparental custody actions~~ beyond the adequate cause hearing unless the terms are agreed to by the parties or one party defaults;

x.- xii. [Unchanged.]

**REGULATIONS 3. – 20.** [Unchanged.]

# SUGGESTED AMENDMENT(S) TO ADMISSION AND PRACTICE RULES

## APPENDIX APR 28, REGULATION 2, REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD

1 **REGULATION 1.** [Unchanged.]

2 **REGULATION 2. APPROVED PRACTICE AREAS—SCOPE OF PRACTICE**  
3 **AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE**

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

6 **A. Issues Beyond the Scope of Authorized Practice.** [Unchanged.]

7 **B. Domestic Relations.**

8 *1. Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations  
9 shall include only the following actions: (a) divorce and dissolution, (b) parenting and support,  
10 (c) parentage or paternity, (d) child support modification, (e) parenting plan modification, (f)  
11 domestic violence protection orders, (g) committed intimate relationships only as they pertain to  
12 parenting and support issues, (h) legal separation, (i) agreed or default minor guardianships  
13 under Article 2 of the Washington Uniform Guardianship, Conservatorship, and Other Protective  
14 Arrangements Act, RCW 11.130.185–11.130.260~~or guardianships arising out of a familial~~  
15 ~~relationship,~~ (j) other protection or restraining orders arising from a domestic relations case, and  
16 (k) relocation.

17 *2. Scope of Practice for LLLT's—Domestic Relations.* LLLTs licensed in domestic  
18 relations may render legal services to clients as provided in APR 28(F) and this regulation,  
19 except as prohibited by APR 28(H) and Regulation 2(B).

20 (a) – (g) [Unchanged.]

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

24 i. – viii. [Unchanged.]

1 ix. agreed or default minor guardianships under Article 2 of the Washington Uniform  
2 Guardianship, Conservatorship, and Other Protective Arrangements Act, RCW 11.130.185-  
3 11.130.260~~or guardianships arising out of a familial relationship.~~

4 *3. Prohibited Acts.* [Unchanged.]

5 **REGULATION 3 – REGULATION 10.** [Unchanged.]

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**SUGGESTED AMENDMENT(S) TO ADMISSION AND  
PRACTICE RULES [CLEAN COPY]**

**APPENDIX APR 28, REGULATION 2, REGULATIONS OF THE APR 28 LIMITED  
LICENSE LEGAL TECHNICIAN BOARD**

1 **REGULATION 1.** [Unchanged.]

2 **REGULATION 2. APPROVED PRACTICE AREAS—SCOPE OF PRACTICE**  
3 **AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE**

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

6 **A. Issues Beyond the Scope of Authorized Practice.** [Unchanged.]

7 **B. Domestic Relations.**

8 *1. Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations  
9 shall include only the following actions: (a) divorce and dissolution, (b) parenting and support,  
10 (c) parentage or paternity, (d) child support modification, (e) parenting plan modification, (f)  
11 domestic violence protection orders, (g) committed intimate relationships only as they pertain to  
12 parenting and support issues, (h) legal separation, (i) agreed or default minor guardianships  
13 under Article 2 of the Washington Uniform Guardianship, Conservatorship, and Other Protective  
14 Arrangements Act, RCW 11.130.185–11.130.260, (j) other protection or restraining orders  
15 arising from a domestic relations case, and (k) relocation.

16 *2. Scope of Practice for LLLT's—Domestic Relations.* LLLTs licensed in domestic  
17 relations may render legal services to clients as provided in APR 28(F) and this regulation,  
18 except as prohibited by APR 28(H) and Regulation 2(B).

19 (a) – (g) [Unchanged.]

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

23 i. – viii. [Unchanged.]

1 ix. agreed or default minor guardianships under Article 2 of the Washington Uniform  
2 Guardianship, Conservatorship, and Other Protective Arrangements Act, RCW 11.130.185-  
3 11.130.260.

4 *3. Prohibited Acts.* [Unchanged.]

5 **REGULATION 3 – REGULATION 10.** [Unchanged.]

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LLLT Board  
Family Law Practice Area  
Recommendations for Minor Guardianship CLE

The amendments to APR 28 were intended by the LLLT Board to provide LLLTs with the same authority in dealing with “nonparental and third-party custody” that they had prior to January 1, 2021. The amendments do not expand LLLTs’ authority.

The LLLT scope of practice regarding guardianships is predicated on the GR9 coversheet and actions previously allowed under non-parental custody.

**Recommendations**

1. The LLLT Board should communicate to LLLTs that LLLTs should not assist in guardianships other than agreed or default minor guardianships unless the Washington Supreme Court decides otherwise.
2. The LLLT Board should mandate continuing legal education for LLLTs in guardianships within the intended scope of practice: agreed or default minor guardianships under Article 2 of the Washington Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, RCW 11.130.185-11.130.260. The GR9 coversheet included footnote 2 stating the LLLT Board “*intends to provide mandatory continuing legal education classes to update LLLTs.*” The training should be a requirement for licensing and should be completed prior to February 2, 2026.
3. The Family Law Practice Area Committee (FLPAC) should form several workgroups to provide subject matter expertise in the development of the CLE.
4. Different workgroups will convene in phases:
  - a. Phase I Workgroup should consist of the FLPAC to develop the outline of the scope for LLLTs assisting in agreed or default minor guardianships.
  - b. Phase II Workgroup should consist of experienced attorneys, law school professors, and subject matter experts from organizations providing guardianship services (i.e. KCBA’s Kinship Care, Whatcom County Kinship Custody Clinic) to develop the course objectives and learning outcomes.
  - c. Phase III Workgroup should consist of a broad group of interested individuals, including LLLTs, attorneys, subject matter experts, and others to provide input on the specific needs of LLLTs representing pro se parties.
  - d. Phase IV should consist of the FLPAC consolidating the information gathered and developing a formal training outline.
  - e. Phase V Workgroup should consist of a small group of subject matter experts to develop the training materials.
5. The CLE should take place on October 17, 2024 as a hybrid in-person & remote training.
6. The CLE should be recorded and made available at a later date for LLLTs unable to attend the first training.