

GR 9 COVER SHEET
Suggested

**SUGGESTED CONFORMING AMENDMENTS TO OTHER COURT RULES RELATED
TO SUGGESTED RULES FOR DISCIPLINE AND INCAPACITY (RDI)**

ELC; ELPOC; ELLLTC; GR 1, 12.4, 12.5, and 24; RPC 1.0B, 1.6, 1.15A, 5.4, 5.6, 5.8,
8.1, 8.4, and 8.5; LLLT RPC 1.0B, 1.15A, 5.4, 5.8, and 8.4; LPORPC 1.0, 1.8, 1.10,
and 1.12A; APR 1, 5, 8, 9, 12, 14, 15, 15 Procedural Regulation 6, 22.1, 23, 24.1,
24.2, 25.1, 25.5, and 28; and new APR 29 and 30

A. Proponent

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C. Purpose

The proponent suggests a series of conforming amendments to other court rules as necessary to implement the new suggested disciplinary procedural rules for Washington State's discipline and incapacity system, the Rules for Discipline and Incapacity (RDI), should they be adopted.

If the suggested RDI are adopted, conforming amendments are necessary to other sets of rules that either cross-reference or give effect to the Rules for Enforcement of Lawyer Conduct (ELC), Rules for Enforcement of Limited Practice Officer Conduct (ELPOC), or Rules for Enforcement of Limited License Legal Technician Conduct (ELLLTC). Most of the conforming amendments are technical amendments that change citations and cross-references from the current rules to the

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new suggested RDI. In addition, the names of entities and other terminology is amended to reflect the new terminology used in the RDI.

In addition, the conforming amendments capture any other technical updates needed such as updating names of other rule sets or cross-references that might have been overlooked from prior amendments to various rules over the years. A small number of substantive changes to rules other than the RDI have been suggested, as identified below.

ELC

If the Court elects to adopt these suggested rules, the ELC need to be rescinded in their entirety to be replaced by the RDI.

ELPOC

If the Court elects to adopt these suggested rules, the ELPOC need to be rescinded in their entirety to be replaced by the RDI.

ELLTC

The ELLTC were adopted by the Court not as published rules but as an interim provision until a set of disciplinary procedural rules was drafted to replace it. See *In re the Matter of— Enforcement of Limited License Legal Technician Conduct*, Order No. 25700-A-1136 (Jan. 7, 2006). If the Court elects to adopt these suggested rules, Order No. 25700-A-1136 needs to be rescinded.

RPC 1.0B(d), LPORPC 1.0(f), LLLT RPC 1.0B(g)

The definition of LPO is amended due to prior amendments to the APR. Under those prior amendments, the term “certification” was changed to “license” and the APR 12 regulations were rescinded. The LPO definition is also added to the LLLT RPC because LPOs are now referenced in that set of rules also.

RPC 5.8, LLLT RPC 5.8, LPORPC 1.8

These rules prohibit licensed legal professionals from working with other licensed legal professionals who are disbarred or suspended or whose licenses have been revoked. The suggested amendments contain a significant change, which would limit the prohibition for suspension to a disciplinary suspension, i.e., the suggested amendments make it permissible to work with a licensed legal professional who is under an administrative suspension (e.g., suspended for failing to pay the license fee). The prohibition for LPOs remains limited to other LPOs.

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LPORPC 1.12A(i)

This rule is amended so that the text of the rule more closely mirrors the text of the lawyer RPC 1.15A(i) and LLLT RPC 1.15A(i).

APR 1(d)(5)

This new section adds a confidentiality provision relating to incapacity inactive status under APR 30, which is a new rule being suggested as part of this submission (see below).

APR 23(f)

The RDI do not contain procedures for disqualification. Instead, regulatory adjudicators look to the Code of Judicial Conduct (CJC). Thus, Character and Fitness Board members likewise should look to the CJC regarding disqualification when a complaint is filed against a board member.

APR 24.1 – APR 25.5

Currently under the APR, when the Character and Fitness Board recommends against admission in a reinstatement from disbarment proceeding, the petitioner has a right to an intermediate appeal to the Disciplinary Board. This intermediate appeal is unique to reinstatement after disbarment proceedings. For all other character and fitness matters, the only appeal is to the Washington Supreme Court. With the elimination of the Disciplinary Board under the RDI, and to make the reinstatement process more procedurally analogous to character and fitness matters generally, the intermediate appeal is removed from the APR in these suggested amendments. In addition, these suggested amendments reflect other procedural changes necessitated by the removal of the appeal to the Disciplinary Board. Some procedural amendments also reflect current practice in these proceedings.

APR 29 Lawyer Trust Account Declaration

This is a new rule. Currently, the trust account declaration requirement for lawyers is in the ELC. See ELC 15.5 (Declaration). For LLLTs and LPOs, it is in the APR. As an annual licensing requirement to practice law, this provision is best situated in the Admission and Practice Rules.

APR 30 Voluntary Incapacity Inactive Status

This is a new rule for voluntarily requesting incapacity inactive status. There are a few requests every year for incapacity inactive status (currently called disability inactive status). Under the current rules, the only way to accomplish this status change is under ELC 8.5 (Stipulated Transfer to Disability Inactive Status), which is a discipline-system process. This process is unnecessarily cumbersome and potentially stigmatizing for situations when a licensed legal

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professional seeks only to demonstrate incapacity to practice law. Under this suggested rule, there would be a simple application process handled by the WSBA Regulatory Services Department. To prevent abuse, the licensed legal professional must not have any pending discipline or incapacity matters in order to use this new provision. In addition, the licensed legal professional must seek reinstatement in the same manner as any other licensed legal professional on incapacity inactive status.

D. Hearing:

A hearing is not requested.

E. Expedited Consideration:

Expedited consideration is not requested.

SUGGESTED AMENDMENTS TO THE GENERAL RULES

Redline Version

1 **GR 1 CLASSIFICATION SYSTEM FOR COURT RULES**

2 **Part I: Rules of General Application**

3 General Rules GR

4 Code of Judicial Conduct CJC

5 Discipline Rules for Judges DRJ

6 Board for Judicial Administration Rules BJAR

7 Admission ~~to~~ and Practice Rules APR

8 Rules of Professional Conduct RPC

9 Limited License Legal Technician Rules of Professional Conduct LLLT RPC

10 Limited Practice Officer Rules of Professional Conduct LPORPC

11 ~~Rules for Enforcement of Lawyer Conduct ELC~~ Rules for Discipline and Incapacity RDI

12 ~~Rules for Enforcement of Limited Practice Officer Conduct ELPOC~~

13 ~~Rules for Enforcement of Limited License Legal Technician Conduct ELLLTC~~

14 Judicial Information System Committee Rules JISCR

15 Rules of Evidence ER

16 **GR 12.4 WASHINGTON STATE BAR ASSOCIATION ACCESS TO RECORDS**

17 (a) – (c) [Unchanged.]

18 (d) **Bar Records—Right of Access.**

19 (1) The Bar shall make available for inspection and copying all Bar records, unless the
20 record falls within the specific exemptions of this rule, or any other state statute (including
21 the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be
22 applied to a public agency, or is made confidential by the Rules of Professional Conduct, the
23 LLLT Rules of Professional Conduct, the LPO Rules of Professional Conduct, the Rules for
24 ~~Enforcement of Lawyer Conduct~~ Discipline and Incapacity, the Admission ~~to~~ and Practice
25 Rules and associated regulations, ~~the Rules for Enforcement of Limited Practice Officer~~
26 ~~Conduct,~~ General Rule 25, court orders or protective orders issued under those rules, or any

SUGGESTED AMENDMENTS TO THE GENERAL RULES

Redline Version

1 other state or federal statute or rule. To the extent required to prevent an unreasonable
2 invasion of personal privacy interests or threat to safety or by the above-referenced rules,
3 statutes, or orders, the Bar shall delete identifying details in a manner consistent with those
4 rules, statutes, or orders when it makes available or publishes any Bar record; however, in
5 each case, the justification for the deletion shall be explained in writing.

6 (2) In addition to exemptions referenced above, the following categories of Bar records
7 are exempt from public access except as may expressly be made public by court rule:

8 (A) [Unchanged.]

9 (B) Specific information and records regarding

10 (i) internal policies, guidelines, procedures, or techniques, the disclosure of which would
11 reasonably be expected to compromise the conduct of disciplinary or regulatory functions,
12 investigations, or examinations;

13 (ii) application, investigation, and hearing or proceeding records relating to lawyer,
14 Limited Practice Officer, or Limited License Legal Technician admissions, licensing or
15 discipline, or that relate to the work of ~~ELC 2.5~~RDI 2.3 hearing officers-regulatory
16 adjudicators, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk
17 Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician
18 Board, the Practice of Law Board, or the ~~Disciplinary Board~~ RDI 2.4 adjudicative panels in
19 conducting investigations, hearings or proceedings; and

20 (iii) the work of the Judicial Recommendation Committee and the ~~Hearing Officer selection~~
21 ~~panel~~ RDI 2.5 Volunteer Selection Board, unless such records are expressly categorized as
22 public information by court rule.

23 (C) – (F) [Unchanged].

24 (e) – (j) [Unchanged.]

SUGGESTED AMENDMENTS TO THE GENERAL RULES

Redline Version

1 **GR 12.5 IMMUNITY**

2 All boards, committees, or other entities, and their members and personnel, and all personnel
3 and employees of the Washington State Bar Association, acting on behalf of the Supreme
4 Court under the Admission and Practice Rules, or the Rules for Discipline and Incapacity
5 ~~Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice~~
6 ~~officers and limited license legal technicians,~~ shall enjoy quasi-judicial immunity if the
7 Supreme Court would have immunity in performing the same functions.

8 **GR 24 DEFINITION OF THE PRACTICE OF LAW**

9 (a) [Unchanged.]

10 (b) **Exceptions and Exclusions:** Whether or not they constitute the practice of law, the
11 following are permitted:

12 (1) Practicing law authorized by a limited license to practice law pursuant to Admission ~~to~~
13 and Practice Rules 3(g) (emeritus pro bono admission), 8 (special limited admissions for: a
14 particular ~~purpose or action or proceeding;~~ indigent representation; ~~educational purposes;~~
15 ~~emeritus membership;~~ house counsel), 9 (licensed legal interns), 12 (limited practice ~~for~~
16 ~~closing~~ officers), ~~or 14 (limited practice for foreign law consultants), or 28 (limited license~~
17 legal technicians).

18 (2) – (11) [Unchanged.]

19 (c) – (f) [Unchanged.]

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Redline Version

1 **RPC 1.0B ADDITIONAL WASHINGTON TERMINOLOGY**

2 (a) – (b) [Unchanged.]

3 (c) “Limited License Legal Technician” or “LLLT” ~~denotes~~means a person qualified by
4 education, training, and work experience who is ~~authorized~~licensed to engage in the limited
5 practice of law in approved practice areas of law as specified by APR 28 and related
6 regulations.

7 (d) “Limited Practice Officer” or “LPO” ~~denotes~~means a person who is licensed in
8 ~~accordance with the procedures set forth in APR 12 and who has maintained his or her~~
9 ~~certification in accordance with the rules and regulations of the Limited Practice Board~~to
10 engage in the limited practice of law as specified by APR 12.

11 (e) [Unchanged.]

12 **Washington Comments**

13 [Unchanged.]

14 **RPC 1.6 CONFIDENTIALITY OF INFORMATION**

15 [Unchanged.]

16 **Comments**

17 [1] – [20] [Unchanged.]

18 **Additional Washington Comments (21-28)**

19 [21] – [27] [Unchanged.]

20 [28] This Rule does not relieve a lawyer of his or her obligations under Rules ~~5.4(b)~~2.13(b)
21 or 15.3(a) of the Rules for ~~Enforcement of Lawyer Conduct~~Discipline and Incapacity.

22 **RPC 1.15A SAFEGUARDING PROPERTY**

23 (a) – (h) [Unchanged.]

24 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
25 delay other than notice periods that are required by law or regulation and meet the
26 requirements of ~~ELC 15.7(d)~~RDI 15.5(d) and ~~ELC 15.7(e)~~15.5(e). In the exercise of

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Redline Version

1 ordinary prudence, a lawyer may select any financial institution authorized by the Legal
2 Foundation of Washington (Legal Foundation) under ~~ELC 15.7(e)~~RDI 15.5(c). In selecting
3 the type of trust account for the purpose of depositing and holding funds subject to this Rule,
4 a lawyer shall apply the following criteria:

5 (1) When client or third-person funds will not produce a positive net return to the client or
6 third person because the funds are nominal in amount or expected to be held for a short period
7 of time the funds must be placed in a pooled interest-bearing trust account known as an
8 Interest on Lawyer's Trust Account or IOLTA. The interest earned on IOLTA accounts shall
9 be paid to, and the IOLTA program shall be administered by, the Legal Foundation of
10 Washington in accordance with ~~ELCRDI 15.4~~ and ~~ELC 15.7(e)~~15.5(e).

11 (2) – (3) [Unchanged.]

12 (4) The provisions of paragraph (i) do not relieve a lawyer or law firm from any obligation
13 imposed by these Rules or the Rules for ~~Enforcement of Lawyer Conduct~~Discipline and
14 Incapacity.

15 (j) [Unchanged.]

16 **Washington Comments**

17 [1] – [6] [Unchanged.]

18 [7] A lawyer may not use as a trust account an account in which funds are periodically
19 transferred by the financial institution between a trust account and an uninsured account or
20 other account that would not qualify as a trust account under this Rule or ~~ELC 15.7~~RDI 15.5.

21 [8] – [15] [Unchanged.]

22 [16] The term “closing firm” as used in this rule has the same definition as in RDI
23 15.1~~ELPOC 1.3(g)~~.

24 [17] [Unchanged.]

25 [18] When selecting a financial institution for purposes of depositing and holding funds in
26 a trust account, a lawyer is obligated to exercise ordinary prudence under paragraph (i). All

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

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1 trust accounts must be insured by the Federal Deposit Insurance Corporation or the National
2 Credit Union Administration up to the limit established by law for those types of accounts
3 or be backed by United States Government Securities. Trust account funds must not be
4 placed in stocks, bonds, mutual funds that invest in stock or bonds, or similar uninsured
5 investments. See ~~ELC 15.7(d)~~RDI 15.5(d).

6 [19] Only those financial institutions authorized by the Legal Foundation of Washington
7 (Legal Foundation) are eligible to offer trust accounts to Washington lawyers. To become
8 authorized, the financial institution must satisfy the Legal Foundation that it qualifies as an
9 authorized financial institution under ~~ELC 15.7(e)~~RDI 15.5(c) and must have on file with the
10 Legal Foundation a current Overdraft Notification Agreement under ~~ELC~~RDI 15.4. A list of
11 all authorized financial institutions is maintained and published by the Legal Foundation and
12 is available to any person on request.

13 [20] Upon receipt of a notification of a trust account overdraft, a lawyer must comply with
14 the duties set forth in ~~ELC~~RDI 15.4(d) (lawyer must promptly notify the Office of
15 Disciplinary Counsel of the Washington State Bar Association and include a full explanation
16 of the cause of the overdraft).

17 [21] – [22] [Unchanged.]

18 **RPC 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER**

19 (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

20 (1) [Unchanged.]

21 (2) a lawyer who purchases the practice of a deceased, ~~disabled~~incapacitated, or
22 disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other
23 representative of that lawyer the agreed-upon purchase price;

24 (3) – (5) [Unchanged.]

25 (b) – (d) [Unchanged.]

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SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Redline Version

1 **Comment**

2 [Unchanged.]

3 **RPC 5.6 RESTRICTIONS ON RIGHT TO PRACTICE**

4 [Unchanged].

5 **Comments**

6 [1] – [2] [Unchanged.]

7 [3] **[Washington revision]** This Rule does not prohibit restrictions that may be included in
8 the terms of the sale of a law practice pursuant to Rule 1.17, a lawyer's plea agreement in a
9 criminal matter, or a stipulation under the Rules for ~~Enforcement of Lawyer~~
10 ~~Conduct~~Discipline and Incapacity.

11 **Additional Washington Comment (4)**

12 [4] [Unchanged.]

13 **RPC 5.8 MISCONDUCT INVOLVING LAWYERS, ~~AND LLLTS,~~ AND LPOS NOT**
14 **ACTIVELY LICENSED TO PRACTICE LAW**

15 (a) [Unchanged.]

16 (b) A lawyer shall not engage in any of the following with a lawyer, ~~or LLLT,~~ or LPO who
17 is disbarred or suspended for discipline, ~~or~~ who has resigned in lieu of disbarment or
18 discipline, or whose license has been revoked for discipline or voluntarily cancelled in lieu
19 of ~~discipline~~ revocation:

20 (1) – (5) [Unchanged.]

21 **Washington Comments**

22 [1] [Unchanged.]

23 [2] ~~The prohibitions in paragraph (b) of this Rule apply to suspensions, revocations, and~~
24 ~~voluntary cancellations in lieu of discipline under the disciplinary procedural rules applicable~~
25 ~~to LLLTs. See Rules for Enforcement of Limited License Legal Technician Conduct~~
26 ~~(ELLLTC)~~[Reserved].

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Redline Version

1 **RPC 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS**

2 [Unchanged.]

3 **Comment**

4 [1] – [3] [Unchanged.]

5 **Additional Washington Comments (4-5)**

6 [4] A lawyer's obligations under this Rule are in addition to the lawyer's obligations under the
7 Rules for ~~Enforcement of Lawyer Conduct~~Discipline and Incapacity.

8 [5] [Unchanged.]

9 **RPC 8.4 MISCONDUCT**

10 It is professional misconduct for a lawyer to:

11 **(a) – (k)** [Unchanged.]

12 **(l)** violate a duty or sanction imposed by or under the Rules for ~~Enforcement of Lawyer~~
13 ~~Conduct~~Discipline and Incapacity in connection with a disciplinary matter; including, but not
14 limited to, the duties catalogued at ~~ELC 1.5~~RDI 1.6;

15 **(m) – (n)** [Unchanged.]

16 **Comments**

17 [Unchanged.]

18 **Additional Washington Comments (6-8)**

19 [Unchanged.]

20 **RPC 8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW**

21 **(a) – (b)** [Unchanged.]

22 **(c) Disciplinary Authority over Judges.** Notwithstanding the provisions of Rule 8.4(m), a
23 lawyer, while serving as a judge or justice as defined in RCW 2.64.010, shall not be subject
24 to the disciplinary authority provided for in these Rules or the Rules for ~~Enforcement of~~
25 ~~Lawyer Conduct~~Discipline and Incapacity for acts performed in his or her judicial capacity
26 or as a candidate for judicial office unless judicial discipline is imposed for that conduct by

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Redline Version

1 the Commission on Judicial Conduct or the Supreme Court. Disciplinary authority should
2 not be exercised for the identical conduct if the violation of the Code of Judicial Conduct
3 pertains to the role of the judiciary and does not relate to the judge’s or justice’s fitness to
4 practice law.

5 **Comment**

6 [Unchanged.]

7 **Additional Washington Comments (8-13)**

8 [Unchanged.]

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**SUGGESTED AMENDMENTS TO THE LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

Redline Version

1 LLLT RPC 1.0B ADDITIONAL TERMINOLOGY

2 (a) – (e) [Unchanged.]

3 (f) “Limited License Legal Technician” or “LLLT” ~~denotes~~means a person qualified by
4 education, training, and work experience who is ~~authorized~~licensed to engage in the limited
5 practice of law in approved practice areas of law as specified by APR 28 and related
6 regulations.

7 (g) “Limited Practice Officer” or “LPO” means a person who is licensed to engage in the
8 limited practice of law as specified by APR 12.

9 (g)(h) “ELLLTCRDI” denotes the Washington Supreme Court’s Rules for Enforcement of
10 Limited License Legal Technician Conduct Discipline and Incapacity.

11 (h)(i) "Representation" or "represent," when used in connection with the provision of legal
12 assistance by an LLLT, denotes limited legal assistance as set forth in APR 28 to a pro se
13 client.

14 **Comment**

15 [Unchanged.]

16 **LLLT RPC 1.15A SAFEGUARDING PROPERTY**

17 (a) – (h) [Unchanged.]

18 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
19 delay other than notice periods that are required by law or regulation and meet the
20 requirements of ~~ELC 15.7(d)~~RDI 15.5(d) and 15.5(e). In the exercise of ordinary prudence,
21 an LLLT may select any financial institution authorized by the Legal Foundation of
22 Washington (Legal Foundation) under ~~ELC 15.7(e)~~RDI 15.5(c). In selecting the type of trust
23 account for the purpose of depositing and holding funds subject to this Rule, an LLLT shall
24 apply the following criteria:

**SUGGESTED AMENDMENTS TO THE LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

Redline Version

1 (1) When client or third-person funds will not produce a positive net return to the client or
2 third person because the funds are nominal in amount or expected to be held for a short period
3 of time the funds must be placed in a pooled interest-bearing trust account known as an
4 Interest on Limited License Legal Technician's Trust Account or IOLTA. The interest earned
5 on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the
6 Legal Foundation of Washington in accordance with ~~ELLLTCRDI~~ 15.4 and ~~ELC~~
7 ~~15.7(e)~~15.5(e).

8 (2) – (3) [Unchanged.]

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

11 **Comment**

12 [Unchanged.]

13 **LLLT RPC 5.4 PROFESSIONAL INDEPENDENCE OF AN LLLT**

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

16 (1) [Unchanged.]

17 (2) an LLLT who purchases the practice of a deceased, ~~disabled~~incapacitated, or
18 disappeared LLLT or lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate
19 or other representative of that LLLT or lawyer the agreed-upon purchase price;

20 (3) - (5) [Unchanged.]

21 (b) – (d) [Unchanged.]

22 **Comment**

23 [Unchanged.]

**SUGGESTED AMENDMENTS TO THE LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

Redline Version

1 | **LLLT RPC 5.8 MISCONDUCT INVOLVING LLLTS, ~~AND LAWYERS,~~ AND**
2 | **LPOS NOT ACTIVELY LICENSED TO PRACTICE LAW**

3 | (a) [Unchanged.]

4 | (b) An LLLT shall not engage in any of the following with ~~an LLLT or a lawyer,~~ LLLT,
5 | or LPO who is disbarred or suspended for discipline, ~~or~~ who has resigned in lieu of
6 | disbarment or discipline, or whose license has been revoked for discipline or voluntarily
7 | canceled in lieu of ~~discipline~~ revocation:

8 | (1) – (5) [Unchanged.]

9 | **Comment**

10 | [Unchanged.]

11 | **LLLT RPC 8.4 MISCONDUCT**

12 | It is professional misconduct for an LLLT to:

13 | (a) – (k) [Unchanged.]

14 | (l) violate a duty or sanction imposed by or under the ~~ELLLTCRDI~~ in connection with a
15 | disciplinary matter; including, but not limited to, the duties catalogued at ~~ELLLTC 1.5RDI~~
16 | 1.6;

17 | (m) – (o) [Unchanged.]

18 | **Comment**

19 | [Unchanged.]

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SUGGESTED AMENDMENTS TO THE LIMITED PRACTICE OFFICER RULES OF PROFESSIONAL CONDUCT

Redline Version

LPORPC 1.0 TERMINOLOGY

(a) – (e) [Unchanged.]

(f) “Limited Practice Officer” or “LPO” means a person who is licensed in accordance with the procedures set forth in APR 12 and who has maintained his or her certification in accordance with the rules and regulations of the Limited Practice Board to engage in the limited practice of law as specified by APR 12.

(g) – (n) [Unchanged.]

Comment

[Unchanged.]

LPORPC 1.8 UNAUTHORIZED PRACTICE OF LAW

An LPO shall not:

(a) – (b) [Unchanged.]

(c) select, prepare, or complete documents authorized by APR 12 for or together with ~~any person whose an LPO certification who has been revoked~~ is ~~disbarred~~ or suspended for discipline, or who has resigned in lieu of discipline, or whose license has been revoked for discipline or voluntarily cancelled in lieu of revocation, if the LPO knows, or reasonably should know, of such disbarment, revocation, ~~or~~ suspension, resignation, or cancellation; or

(d) [Unchanged.]

Comment

[Unchanged.]

LPORPC 1.10 MISCONDUCT

It is professional misconduct for an LPO to:

(a) – (e) [Unchanged.]

(f) violate a duty or sanction imposed by or under the Rules for ~~Enforcement of Limited Practice Officer Conduct~~ Discipline and Incapacity in connection with a disciplinary matter,

SUGGESTED AMENDMENTS TO THE LIMITED PRACTICE OFFICER RULES OF PROFESSIONAL CONDUCT

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1 including, but not limited to, the duties catalogued at ~~ELPOC 1.5~~RDI 1.6, ~~Violation of Duties~~
2 ~~Imposed by These Rules.~~

3 (g) engage in conduct demonstrating unfitness to practice as an LPO. “Unfitness to
4 practice” includes but is not limited to the inability, unwillingness or repeated failure to
5 perform adequately the material functions required of an LPO or to comply with the
6 LPORPC and/or ELPOCRDI;

7 (h) – (i) [Unchanged].

8 **Comment**

9 [Unchanged.]

10 **LPORPC 1.12A SAFEGUARDING PROPERTY**

11 (a) – (h) [Unchanged.]

12 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
13 delay other than notice periods that are required by law or regulation and meets the
14 requirements of RDI 15.5(d) and 15.5(e). In the exercise of ordinary prudence, the LPO or
15 Closing Firm may select any bank, savings bank, credit union or savings and loan association
16 that is insured by the Federal Deposit Insurance Corporation or National Credit Union
17 Administration, is authorized by law to do business in Washington and has filed the
18 agreement required by ~~rule~~RDI 15.4 of the Rules for Enforcement of Lawyer Conduct. Trust
19 account funds must not be placed in mutual funds, stocks, bonds, or similar investments.

20 (1) When client or third-person funds will not produce a positive net return to the client or
21 third person because the funds are nominal in amount or expected to be held for a short period
22 of time the funds must be placed in a pooled interest-bearing trust account known as an
23 Interest on Lawyer’s Trust Account or IOLTA. The interest ~~accruing~~earned ~~on the~~-IOLTA
24 ~~accounts, net of reasonable check and deposit processing charges which may only include~~
25 ~~items deposited charge, monthly maintenance fee, per item check charge, and per deposit~~

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Redline Version

1 | ~~charge, must~~shall be paid to, and the IOLTA program shall be administered by, the Legal
2 | Foundation of Washington in accordance with RDI 15.4 and 15.5(e). ~~Any other fees and~~
3 | ~~transaction costs must be paid by the LPO or Closing Firm. An LPO or Closing Firm may,~~
4 | ~~but shall not be required to,~~ notify the parties to the transaction of the intended use of such
5 | funds.

6 | (2) – (4) [Unchanged.]

7 | (j) [Unchanged.]

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SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

APR 1 IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; COMMUNICATIONS TO THE BAR; CONFIDENTIALITY; DEFINITIONS

(a) – (c) [Unchanged]

(d) Confidentiality.

(1) – (4) [Unchanged].

(5) Unless expressly authorized by the Supreme Court or by the lawyer, LLLT, or LPO, the nature of the incapacity and all application records under this rule, including all supporting documentation and related investigation files and documents are confidential and shall be privileged against disclosure. The fact and date of placement in incapacity inactive status shall be subject to disclosure.

(e) [Unchanged.]

APR 5 PREADMISSION REQUIREMENTS: OATH: RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE LAW

(a) – (g) [Unchanged.]

(h) Oath for LPOs—Content of Oath.

OATH FOR LIMITED PRACTICE OFFICERS

STATE OF WASHINGTON

COUNTY OF _____

I, _____, do solemnly declare:

1. – 2. [Unchanged]

3. I will abide by the Limited Practice Officer Rules of Professional Conduct ~~and Rules for Enforcement of Limited Practice Officer Conduct~~ approved by the Supreme Court of the State of Washington.

4. – 5. [Unchanged]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 I understand that I may incur personal liability if I violate the applicable standard of care of
2 a Limited Practice Officer. Also, I understand that I have authority to act as a Limited
3 Practice Officer only during the times that my financial responsibility coverage is in effect.
4 If I am covered under my employer's errors and omissions insurance policy or by my
5 employer's certificate of financial responsibility, my coverage is limited to services
6 performed in the course of my employment.

7 _____
8 Signature Limited Practice Officer

9 Subscribed and sworn to before me this _____ day of _____, _____.

10 _____
11 JUDGE

12 (i) – (m) [Unchanged.]

13 **APR 8 NONMEMBER LAWYER LICENSES TO PRACTICE LAW**

14 (a) – (b) [Unchanged].

15 (c) **Exception for Indigent Representation.** A member in good standing of the bar of
16 another state or territory of the United States or of the District of Columbia, who is eligible
17 to apply for admission as a lawyer under APR 3 in this state, while rendering service in either
18 a bar association or governmentally sponsored legal services organization or in a public
19 defender's office or similar program providing legal services to indigents and only in that
20 capacity, may, upon application and approval, practice law and appear as a lawyer before the
21 courts of this state in any matter, litigation, or administrative proceeding, subject to the
22 following conditions and limitations:

23 (1) Application to practice under this rule shall be made to the Bar, and the applicant shall
24 be subject to the Rules for ~~Enforcement of Lawyer Conduct~~ Discipline and Incapacity and to
25 the Rules of Professional Conduct.

26 (2) – (4) [Unchanged.]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 (d) – (e) [Unchanged.]

2 (f) **Exception for House Counsel.** A lawyer admitted to the practice of law in any
3 jurisdiction may apply to the Bar for a limited license to practice law as in-house counsel in
4 this state when the lawyer is employed in Washington as a lawyer exclusively for a profit or
5 not for profit corporation, including its subsidiaries and affiliates, association, or other
6 business entity, that is not a government entity, and whose lawful business consists of
7 activities other than the practice of law or the provision of legal services. The lawyer shall
8 apply by:

9 (i) – (iv) [Unchanged.]

10 (v) furnishing whatever additional information or proof that may be required in the course
11 of investigating the applicant.

12 (1) – (4) [Unchanged.]

13 (5) The practice of a lawyer licensed under this section shall be subject to the Rules of
14 Professional Conduct, the Rules for ~~Enforcement of Lawyer Conduct~~Discipline and
15 Incapacity, and to all other laws and rules governing lawyers admitted to the active practice
16 of law in this state. Jurisdiction shall continue whether or not the lawyer retains the limited
17 license and irrespective of the residence of the lawyer.

18 (6) – (8) [Unchanged.]

19 (g) [Unchanged].

20 **APR 9 LICENSED LEGAL INTERNS**

21 (a) – (c) [Unchanged.]

22 (d) **Application.** The applicant must submit an application on a form provided by the Bar
23 and signed by both the applicant and the supervising lawyer.

24 (1) – (7) [Unchanged.]

25 (8) Once an application is accepted and approved and a license is issued, a Licensed Legal
26 Intern is subject to the Rules of Professional Conduct and the Rules for ~~Enforcement of~~

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 ~~Lawyer Conduct~~Discipline and Incapacity and to all other laws and rules governing lawyers
2 admitted to the Bar of this state, and is personally responsible for all services performed as a
3 Licensed Legal Intern. Any offense that would subject a lawyer admitted to practice law in
4 this state to suspension or disbarment may ~~be punished by~~result in termination of the
5 Licensed Legal Intern's license, or suspension or forfeiture of the Licensed Legal Intern's
6 privilege of taking the lawyer bar examination and being admitted to practice law in this
7 state.

8 (9) [Unchanged.]

9 (e) [Unchanged.]

10 **(f) Additional Obligations of Supervising Lawyer.** Agreeing to serve as the supervising
11 lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising
12 lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule
13 shall be grounds for disciplinary action pursuant to the Rules for ~~Enforcement of Lawyer~~
14 ~~Conduct~~Discipline and Incapacity. In addition to the duties stated or implied above, the
15 supervising lawyer:

16 (1) – (10) [Unchanged.]

17 (g) – (h) [Unchanged.]

18 **APR 12 LIMITED PRACTICE RULE FOR LIMITED PRACTICE OFFICERS**

19 (a) [Unchanged.]

20 **(b) Limited Practice Board.**

21 (1) [Unchanged.]

22 (2) *Duties and Powers.*

23 (A) [Unchanged.]

24 (B) Grievances and discipline. The ~~LP Board's involvement in the~~ investigation, hearing
25 and appeal procedures for handling complaints of persons aggrieved by the failure of limited
26 practice officers to comply with the requirements of this rule and of the Limited Practice

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 Officer Rules of Professional Conduct shall be as established in the Rules for ~~Enforcement~~
2 ~~of Limited Practice Officer Conduct (ELPOC)~~Discipline and Incapacity.

3 (C) – (D) [Unchanged.]

4 (3) – (4) [Unchanged.]

5 (c) – (d) [Unchanged]

6 **Comment**

7 [Unchanged.]

8 **APR 14 LIMITED PRACTICE RULE FOR FOREIGN LAW CONSULTANTS**

9 (a) - (b) [Unchanged.]

10 (c) **Procedure.** The Bar shall approve or disapprove applications for Foreign Law
11 Consultants licenses. Additional proof of any facts stated in the application may be required
12 by the Bar. In the event of the failure or refusal of the applicant to furnish any information
13 or proof, or to answer any inquiry of the Board pertinent to the pending application, the Bar
14 may deny the application. Upon approval of the application by the Bar, the Bar shall
15 recommend to the Supreme Court that the applicant be granted a license for the purposes
16 herein stated. The Supreme Court may enter an order licensing to practice those applicants it
17 deems qualified, conditioned upon such applicant's:

18 (1) – (2) [Unchanged.]

19 (3) Filing with the Bar in writing his or her address in the State of Washington, or the name
20 and address of his or her registered agent as provided in APR 13, together with a statement
21 that the applicant has read the Rules of Professional Conduct and Rules for ~~Enforcement of~~
22 ~~Lawyer Conduct~~Discipline and Incapacity, is familiar with their contents and agrees to abide
23 by them.

24 (d) [Unchanged.]

25 (e) **Regulatory Provisions.** A Foreign Law Consultant shall be subject to the Rules for
26 ~~Enforcement of Lawyer Conduct~~Discipline and Incapacity and the Rules of Professional

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 Conduct as adopted by the Supreme Court and to all other laws and rules governing lawyers
2 admitted to the Bar of this state, except for the requirements of APR 11 relating to mandatory
3 continuing legal education. Jurisdiction shall continue whether or not the Consultant retains
4 the authority for the limited practice of law in this state, and regardless of the residence of
5 the Consultant.

6 (f) – (h) [Unchanged.]

7 APR 15 CLIENT PROTECTION FUND

8 (a) – (d) [Unchanged.]

9 (e) **Restitution.** A lawyer, LLLT or LPO whose conduct results in payment to an applicant
10 shall be liable to the Fund for restitution.

11 (1) [Unchanged.]

12 (2) Lawyers, LLLTs or LPOs on disciplinary or administrative suspension, disbarred or
13 revoked lawyers, LLLTs or LPOs, and lawyers, LLLTs or LPOs on any status other than
14 ~~incapacity~~~~disability~~ inactive must pay restitution to the Fund in full prior to returning to
15 Active status, unless the ~~attorney~~licensed legal professional enters into a periodic payment
16 plan with Bar counsel assigned to the Client Protection Board.

17 (3) A lawyer, LLLT or LPO who returns from ~~disability~~incapacity inactive status as to
18 whom an award has been made shall be required to pay restitution if and as provided in
19 Procedural Regulation 6(I).

20 (4) Restitution not paid within ~~30~~90 days of final payment by the Fund to an applicant
21 shall accrue interest at the maximum rate permitted under RCW 19.52.050.

22 (5) – (6) [Unchanged.]

23 (f) – (i) [Unchanged.]

24 APR 15 CLIENT PROTECTION FUND (APR 15) PROCEDURAL REGULATIONS

25 **Regulations 1-5** [Unchanged.]

26 **Regulation 6. Procedures**

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 (a) – (h) [Unchanged.]

2 (i) **Deferred Disciplinary Proceedings; Lawyer, LLLT or LPO on ~~Disability~~Incapacity**
3 **Inactive Status.**

4 (1) If an application relates to a lawyer, LLLT or LPO on ~~disability-incapacity~~ inactive
5 status, ~~and~~ or a disciplinary proceeding or investigation is deferred due to a lawyer's, LLLT's
6 or LPO's transfer to ~~disability-incapacity~~ inactive status, the Client Protection Board may act
7 on the application when received or may defer processing the application for up to three years
8 if the lawyer, LLLT or LPO remains on ~~disability-incapacity~~ inactive status.

9 (2) A lawyer, LLLT or LPO on ~~disability-incapacity~~ inactive status seeking to return to
10 Active status may, while pursuing reinstatement pursuant to the Rules for ~~Enforcement of~~
11 ~~Conduct-Discipline and Incapacity~~ or other applicable discipline rules, request that the
12 lawyer's, LLLT's, or LPO's obligation to make restitution for any applications approved
13 while the lawyer, LLLT or LPO was on ~~disability-incapacity~~ inactive status be reviewed.

14 (A) - (B) [Unchanged.]

15 (j) – (k) [Unchanged.]

16 **Regulations 7-15** [Unchanged.]

17 **APR 22.1. REVIEW OF APPLICATIONS**

18 (a) – (e) [Unchanged].

19 (f) **Scope of Inquiry into Health Diagnosis and Drug or Alcohol Dependence.** When a
20 basis for an inquiry by the Bar or the Character and Fitness Board has been established under
21 section (e), any such inquiry must be narrowly, reasonably, and individually tailored and
22 adhere to the following:

23 (1) - (3) [Unchanged.]

24 (4) Any testimony or records from medical or other treatment providers may be admitted into
25 evidence at a hearing on, or review of, the Applicant's fitness and transmitted with the record
26 on review to ~~the Disciplinary Board and/or~~ the Supreme Court. Records and testimony

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 regarding the Applicant's fitness shall otherwise be kept confidential in all respects and
2 neither the records nor the testimony of the medical or treatment provider shall be
3 discoverable or admissible in any other proceeding or action without the written consent of
4 the Applicant.

5 **APR 23. CHARACTER AND FITNESS BOARD**

6 (a) – (e) [Unchanged.]

7 (f) **Disqualification.** A Character and Fitness Board member must adhere to Rule 2.11 of the
8 Code of Judicial Conduct regarding disqualification, including ~~In the event a grievance when~~
9 a ~~complaint~~ is made to the Bar alleging an act of misconduct by a lawyer, LLLT or LPO
10 member of the Character and Fitness Board, ~~the procedures specified in ELC 2.3(b)(5) shall~~
11 apply.

12 **APR 24.1. HEARING PROCEDURE**

13 (a) – (e) [Unchanged]

14 (f) **Independent Medical Examination.** An independent medical examination may be
15 requested by the Character and Fitness Board only when a basis for an inquiry by the
16 Character and Fitness Board exists under Rule 22.1(e) and only after testimony and evidence
17 presented at the hearing has failed to resolve the Character and Fitness Board's reasonable
18 concerns regarding the Applicant's ability to meet the essential eligibility requirements to
19 practice law. If the applicant has not previously been requested to provide information under
20 APR 22.1(f)(1), (2) and (3), the Character and Fitness Board shall provide the applicant with
21 the opportunity to submit such information, within such reasonable timelines as the Character
22 and Fitness Board shall establish, prior to requesting the independent medical examination.

23 (1) - (4) [Unchanged.]

24 (5) Confidentiality of IME: Any report and testimony of an examining professional may
25 be admitted into evidence at a hearing on, or review of, the Applicant's fitness and transmitted
26 with the record on review to ~~the Disciplinary Board and/or the Supreme Court.~~ Reports and

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 testimony regarding the Applicant's fitness shall otherwise be kept confidential in all respects
2 and neither the report nor the testimony of the examining professional shall be discoverable
3 or admissible in any other proceeding or action without the consent of the Applicant.

4 (6) [Unchanged.]

5 **(g) Confidentiality:** All hearings and documents before the Character and Fitness Board on
6 applications for admission or licensure to practice law, enrollment in the law clerk program,
7 and return to active membership are confidential, but may be provided to the ~~Disciplinary~~
8 ~~Board or~~ Supreme Court in connection with any appeal or review, or to other entities with
9 the written consent of the applicant.

10 **APR 24.2. DECISION AND RECOMMENDATION**

11 (a) [Unchanged.]

12 **(b) Action on Character and Fitness Board Recommendation.** The recommendation of
13 the Character and Fitness Board shall be served upon the Applicant pursuant to Rule 23.5.

14 (1) [Unchanged.]

15 (2) If the Character and Fitness Board recommends against admission, the record and
16 recommendation shall be retained in the office of the Bar unless the Applicant requests that
17 it be submitted to the Supreme Court by filing a notice of appeal with the Character and
18 Fitness Board within 15 days of service of the recommendation of the Character and Fitness
19 Board. If the Applicant ~~so requests~~ files a notice of appeal, ~~the Character and Fitness Board~~
20 ~~will transmit~~ the record, including the transcript, exhibits, and recommendation shall be
21 transmitted to the Supreme Court for review and disposition. The Applicant must pay to the
22 Supreme Court any fee required by the Court in connection with the appeal and review.

23 (3) If the Character and Fitness Board recommends against admission and the Applicant
24 does not file a notice of appeal, then the Bar shall transmit the recommendation to the
25 Supreme Court for disposition. The Supreme Court may request that the Bar transmit all or
26 part of the record for the Court's consideration, or take such other action, including

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 scheduling the matter for appeal, as it deems appropriate based on the record and
2 recommendation. If the Supreme Court approves the Board's recommendation against
3 admission, it may enter an order to that effect and notify the Bar and the parties of the
4 decision, without requiring further action.

5 (c) [Unchanged.]

6 **APR 25.1. RESTRICTIONS ON REINSTATEMENT**

7 (a) [Unchanged.]

8 **(b) When Petition May Be Filed.** No petition for reinstatement shall be filed within a period
9 of five years after disbarment or within a period of two years after an adverse decision of the
10 Supreme Court upon a former petition, or after an adverse recommendation of the Character
11 and Fitness Board ~~or the Disciplinary Board~~ on a former petition ~~when that recommendation~~
12 ~~is not submitted to the Supreme Court.~~ If prior to disbarment the lawyer, LLLT or LPO was
13 suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for
14 ~~Enforcement of Lawyer Conduct Discipline and Incapacity~~, or any comparable rule, the
15 period of such suspension shall be credited toward the five years referred to above.

16 **(c) When Reinstatement May Occur.** No disbarred lawyer, LLLT or LPO may be
17 reinstated sooner than six years following disbarment. If prior to disbarment the lawyer,
18 LLLT or LPO was suspended from the practice of law pursuant to the provisions of Title 7
19 of the Rules for ~~Enforcement of Lawyer Conduct Discipline and Incapacity~~, or any
20 comparable rule, the period of such suspension shall be credited toward the six years referred
21 to above.

22 **(d) Payment of Obligations.** No disbarred lawyer, LLLT or LPO may file a petition for
23 reinstatement until costs and expenses and restitution ordered ~~by the Disciplinary Board or~~
24 ~~the Supreme Court~~ in the related disciplinary matter or a prior reinstatement proceeding have
25 been paid and until amounts paid out of the Client Protection Fund for losses caused by the
26 conduct of the Petitioner have been repaid to the ~~client protection fund~~ Client Protection

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 Fund, or until periodic payment plans for costs and expenses, restitution and repayment to
2 the ~~client protection fund~~ Client Protection Fund have been entered into by agreement
3 between the Petitioner and disciplinary counsel or bar counsel. A Petitioner may seek review
4 ~~by the Chair of the Disciplinary Board~~ of an adverse determination by disciplinary counsel
5 regarding the reasonableness of any such proposed periodic payment plan by following the
6 procedures set forth in RDI 13.8(i). ~~Such review will proceed as directed by the Chair of the~~
7 ~~Disciplinary Board and the decision of the Chair of the Disciplinary Board is final unless the~~
8 ~~Chair of the Disciplinary Board determines that the matter should be reviewed by the~~
9 ~~Disciplinary Board, in which case the Disciplinary Board review will proceed as directed by~~
10 ~~the Chair and the decision of the Disciplinary Board will be final.~~

11 **APR 25.5. ACTION BY CHARACTER AND FITNESS BOARD**

12 (a) – (c) [Unchanged.]

13 **(d) Action on Character and Fitness Board Recommendation.** The recommendation of
14 the Character and Fitness Board shall be served upon the Petitioner pursuant to Rule 23.5.

15 (1) If the Character and Fitness Board recommends reinstatement, the record, and
16 recommendation, and all exhibits shall be transmitted to the Supreme Court for disposition.

17 (2) If the Character and Fitness Board recommends against reinstatement, the record and
18 recommendation shall be retained in the office of the Bar unless the Petitioner requests that
19 it be submitted to the Disciplinary Board by filing with the Clerk of the Disciplinary Board
20 a request for Disciplinary Board review files a notice of appeal with the Character and Fitness
21 Board within 15 days of service of the recommendation of the Character and Fitness Board.

22 If the Petitioner so requests files a notice of appeal, the record, including the transcript,
23 exhibits, and recommendation shall be transmitted to the Disciplinary Board Supreme Court
24 for review and disposition and the review will be conducted under the procedure of rules 11-

25 9 and 11.12 of the Rules for Enforcement of Lawyer Conduct. The Petitioner must pay to the
26 Supreme Court any fee required by the Court in connection with the appeal and review.

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 (3) If the Character and Fitness Board recommends against reinstatement and the Petitioner
2 does not so request file a notice of appeal, then the Bar shall transmit the recommendation to
3 the Supreme Court for disposition. The Supreme Court may request that the Bar transmit all
4 or part of the record for the Court's consideration and take such other action as it deems
5 appropriate based on the record and recommendation, including scheduling the matter for
6 appeal. ~~the record and~~ The recommendation and all related records shall be retained in the
7 records of the Bar and the Petitioner shall still be responsible for payment of the costs
8 incidental to the reinstatement proceeding as directed by the Character and Fitness Board. If
9 the Supreme Court approves the Board's recommendation against admission, it may enter an
10 order to that effect and notify the Bar and the parties of the decision, without requiring further
11 action.

12 ~~(e) Action on Disciplinary Board Recommendation. The recommendation of the~~
13 ~~Disciplinary Board shall be served upon the Petitioner. If the Disciplinary Board~~
14 ~~recommends reinstatement, the record and recommendation shall be transmitted to the~~
15 ~~Supreme Court for disposition. If the Disciplinary Board recommends against reinstatement,~~
16 ~~the record and recommendation shall be retained in the office of the Bar unless the Petitioner~~
17 ~~requests that it be submitted to the Supreme Court by filing with the Clerk of the Disciplinary~~
18 ~~Board a request for Supreme Court review within 30 days of service of the recommendation.~~
19 ~~If the Petitioner so requests, the record and recommendation shall be transmitted to the~~
20 ~~Supreme Court for disposition. If the Petitioner does not so request, the record and the~~
21 ~~recommendation shall be retained in the records of the Bar and the Petitioner shall still be~~
22 ~~responsible for payment of the costs incidental to the reinstatement proceeding as directed~~
23 ~~by the Disciplinary Board under the procedure of rule 13.9 of the Rules for Enforcement of~~
24 ~~Lawyer Conduct.~~

25 **APR 28 LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL**
26 **TECHNICIANS**

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 A. [Unchanged.]

2 **B. Definitions**

3 (1) – (3) [Unchanged.]

4 (4) “Limited License Legal Technician” (LLLT) means a person qualified by education,
5 training, and work experience who is ~~authorized~~ licensed to engage in the limited practice of
6 law in approved practice areas of law as specified by this rule and related regulations.

7 (5) – (10) [Unchanged.]

8 C. – O. [Unchanged.]

9 **APR 29 LAWYER TRUST ACCOUNT DECLARATION**

10 Every active lawyer must annually certify compliance with Rules 1.15A and 1.15B of the
11 Rules of Professional Conduct. The certification must be filed in a form and manner as
12 prescribed by the Bar and must include the bank where each account is held and the account
13 number. Failure to certify may result in suspension from practice under APR 17.

14 **APR 30 VOLUNTARY INCAPACITY INACTIVE STATUS**

15 (a) **Basis.** Except for matters governed by Title 8 of the Rules for Discipline and
16 Incapacity, when a licensed legal professional has a mental or physical condition or disability
17 that adversely affects the licensed legal professional’s capacity to practice law, the licensed
18 legal professional may submit an application to the Bar to have the license to practice law
19 placed in incapacity inactive status if all requirements of this Rule are met.

20 (b) **Requirements.** In order to qualify for incapacity inactive status under this Rule, the
21 licensed legal professional must:

22 (1) have a mental or physical condition or disability that adversely affects the licensed
23 legal professional’s capacity to practice law;

24 (2) not have any pending discipline or incapacity matters under the Rules for Discipline
25 and Incapacity or have knowledge that a discipline matter is imminent;

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Redline Version

1 (3) acknowledge that while on incapacity inactive status, the licensed legal professional
2 will be prohibited from practicing law; and

3 (4) acknowledge that in order to return from incapacity inactive status, the licensed legal
4 professional will be required to demonstrate that the basis for the incapacity has been
5 resolved as set forth in RDI 8.11.

6 (c) **Application.** The application must be in a form and manner as prescribed by the Bar
7 and must state the nature of the licensed legal professional's incapacity supported by current
8 medical, psychological, or psychiatric evidence.

9 (d) **Placement in Incapacity Inactive Status.** Upon the licensed legal professional's
10 compliance with sections (b) and (c) of this Rule, the Bar will place the licensed legal
11 professional's license in incapacity inactive status. The licensed legal professional must
12 comply with all duties under Title 14 of the Rules for Discipline and Incapacity. The Bar
13 must comply with the notice requirements of RDI 3.8.

14 (e) **Confidentiality.** Unless expressly authorized by the Supreme Court or by the lawyer,
15 LLLT, or LPO, the nature of the incapacity and all application records under this rule,
16 including all supporting documentation and related investigation files and documents are
17 confidential and shall be privileged against disclosure. The fact and date of placement in
18 incapacity inactive status shall be subject to disclosure.

19 (f) **Return from Incapacity Inactive Status.** In order to return to a prior or other license
20 status from incapacity inactive status, the licensed legal professional must demonstrate that
21 the basis for the incapacity has been resolved as set forth in RDI 8.11.

SUGGESTED AMENDMENTS TO THE GENERAL RULES

Clean Version

1 **GR 1 CLASSIFICATION SYSTEM FOR COURT RULES**

2 **Part I: Rules of General Application**

3 General Rules GR

4 Code of Judicial Conduct CJC

5 Discipline Rules for Judges DRJ

6 Board for Judicial Administration Rules BJAR

7 Admission and Practice Rules APR

8 Rules of Professional Conduct RPC

9 Limited License Legal Technician Rules of Professional Conduct LLLT RPC

10 Limited Practice Officer Rules of Professional Conduct LPORPC

11 Rules for Discipline and Incapacity RDI

12 Judicial Information System Committee Rules JISCR

13 Rules of Evidence ER

14 **GR 12.4 WASHINGTON STATE BAR ASSOCIATION ACCESS TO RECORDS**

15 **(a) – (c)** [Unchanged.]

16 **(d) Bar Records—Right of Access.**

17 (1) The Bar shall make available for inspection and copying all Bar records, unless the
18 record falls within the specific exemptions of this rule, or any other state statute (including
19 the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be
20 applied to a public agency, or is made confidential by the Rules of Professional Conduct, the
21 LLLT Rules of Professional Conduct, the LPO Rules of Professional Conduct, the Rules for
22 Discipline and Incapacity, the Admission and Practice Rules and associated regulations,
23 General Rule 25, court orders or protective orders issued under those rules, or any other state
24 or federal statute or rule. To the extent required to prevent an unreasonable invasion of
25 personal privacy interests or threat to safety or by the above-referenced rules, statutes, or
26 orders, the Bar shall delete identifying details in a manner consistent with those rules,

SUGGESTED AMENDMENTS TO THE GENERAL RULES

Clean Version

1 statutes, or orders when it makes available or publishes any Bar record; however, in each
2 case, the justification for the deletion shall be explained in writing.

3 (2) In addition to exemptions referenced above, the following categories of Bar records
4 are exempt from public access except as may expressly be made public by court rule:

5 (A) [Unchanged.]

6 (B) Specific information and records regarding

7 (i) internal policies, guidelines, procedures, or techniques, the disclosure of which would
8 reasonably be expected to compromise the conduct of disciplinary or regulatory functions,
9 investigations, or examinations;

10 (ii) application, investigation, and hearing or proceeding records relating to lawyer,
11 Limited Practice Officer, or Limited License Legal Technician admissions, licensing or
12 discipline, or that relate to the work of RDI 2.3 regulatory adjudicators, the Board of Bar
13 Examiners, the Character and Fitness Board, the Law Clerk Board, the Limited Practice
14 Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law
15 Board, or the RDI 2.4 adjudicative panels in conducting investigations, hearings or
16 proceedings; and

17 (iii) the work of the Judicial Recommendation Committee and the RDI 2.5 Volunteer
18 Selection Board, unless such records are expressly categorized as public information by court
19 rule.

20 (C) – (F) [Unchanged].

21 (e) – (j) [Unchanged.]

22 **GR 12.5 IMMUNITY**

23 All boards, committees, or other entities, and their members and personnel, and all personnel
24 and employees of the Washington State Bar Association, acting on behalf of the Supreme
25 Court under the Admission and Practice Rules or the Rules for Discipline and Incapacity

26

SUGGESTED AMENDMENTS TO THE GENERAL RULES

Clean Version

1 shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in
2 performing the same functions.

3 **GR 24 DEFINITION OF THE PRACTICE OF LAW**

4 **(a)** [Unchanged.]

5 **(b) Exceptions and Exclusions:** Whether or not they constitute the practice of law, the
6 following are permitted:

7 (1) Practicing law authorized by a limited license to practice law pursuant to Admission
8 and Practice Rules 3(g) (emeritus pro bono admission), 8 (limited admissions for: a particular
9 action or proceeding; indigent representation; house counsel), 9 (licensed legal interns), 12
10 (limited practice officers), 14 (foreign law consultants), or 28 (limited license legal
11 technicians).

12 (2) – (11) [Unchanged.]

13 **(c) – (f)** [Unchanged.]

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SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Clean Version

1 **RPC 1.0B ADDITIONAL WASHINGTON TERMINOLOGY**

2 (a) – (b) [Unchanged.]

3 (c) “Limited License Legal Technician” or “LLLT” means a person qualified by
4 education, training, and work experience who is licensed to engage in the limited practice of
5 law in approved practice areas of law as specified by APR 28 and related regulations.

6 (d) “Limited Practice Officer” or “LPO” means a person who is licensed to engage in the
7 limited practice of law as specified by APR 12.

8 (e) [Unchanged.]

9 **Washington Comments**

10 [Unchanged.]

11 **RPC 1.6 CONFIDENTIALITY OF INFORMATION**

12 [Unchanged.]

13 **Comments**

14 [1] – [20] [Unchanged.]

15 **Additional Washington Comments (21-28)**

16 [21] – [27] [Unchanged.]

17 [28] This Rule does not relieve a lawyer of his or her obligations under Rules 2.13(b) or
18 15.3(a) of the Rules for Discipline and Incapacity.

19 **RPC 1.15A SAFEGUARDING PROPERTY**

20 (a) – (h) [Unchanged.]

21 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
22 delay other than notice periods that are required by law or regulation and meet the
23 requirements of RDI 15.5(d) and 15.5(e). In the exercise of ordinary prudence, a lawyer may
24 select any financial institution authorized by the Legal Foundation of Washington (Legal
25 Foundation) under RDI 15.5(c). In selecting the type of trust account for the purpose of
26 depositing and holding funds subject to this Rule, a lawyer shall apply the following criteria:

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Clean Version

1 (1) When client or third-person funds will not produce a positive net return to the client or
2 third person because the funds are nominal in amount or expected to be held for a short period
3 of time the funds must be placed in a pooled interest-bearing trust account known as an
4 Interest on Lawyer's Trust Account or IOLTA. The interest earned on IOLTA accounts shall
5 be paid to, and the IOLTA program shall be administered by, the Legal Foundation of
6 Washington in accordance with RDI 15.4 and 15.5(e).

7 (2) – (3) [Unchanged.]

8 (4) The provisions of paragraph (i) do not relieve a lawyer or law firm from any obligation
9 imposed by these Rules or the Rules for Discipline and Incapacity.

10 (j) [Unchanged.]

11 **Washington Comments**

12 [1] – [6] [Unchanged.]

13 [7] A lawyer may not use as a trust account an account in which funds are periodically
14 transferred by the financial institution between a trust account and an uninsured account or
15 other account that would not qualify as a trust account under this Rule or RDI 15.5.

16 [8] – [15] [Unchanged.]

17 [16] The term “closing firm” as used in this rule has the same definition as in RDI 15.1.

18 [17] [Unchanged.]

19 [18] When selecting a financial institution for purposes of depositing and holding funds in
20 a trust account, a lawyer is obligated to exercise ordinary prudence under paragraph (i). All
21 trust accounts must be insured by the Federal Deposit Insurance Corporation or the National
22 Credit Union Administration up to the limit established by law for those types of accounts
23 or be backed by United States Government Securities. Trust account funds must not be
24 placed in stocks, bonds, mutual funds that invest in stock or bonds, or similar uninsured
25 investments. See RDI 15.5(d).

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Clean Version

1 [19] Only those financial institutions authorized by the Legal Foundation of Washington
2 (Legal Foundation) are eligible to offer trust accounts to Washington lawyers. To become
3 authorized, the financial institution must satisfy the Legal Foundation that it qualifies as an
4 authorized financial institution under RDI 15.5(c) and must have on file with the Legal
5 Foundation a current Overdraft Notification Agreement under RDI 15.4. A list of all
6 authorized financial institutions is maintained and published by the Legal Foundation and is
7 available to any person on request.

8 [20] Upon receipt of a notification of a trust account overdraft, a lawyer must comply with
9 the duties set forth in RDI 15.4(d) (lawyer must promptly notify the Office of Disciplinary
10 Counsel of the Washington State Bar Association and include a full explanation of the cause
11 of the overdraft).

12 [21] – [22] [Unchanged.]

13 **RPC 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER**

14 **(a)** A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

15 (1) [Unchanged.]

16 (2) a lawyer who purchases the practice of a deceased, incapacitated, or disappeared
17 lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative
18 of that lawyer the agreed-upon purchase price;

19 (3) – (5) [Unchanged.]

20 **(b) – (d)** [Unchanged.]

21 **Comment**

22 [Unchanged.]

23 **RPC 5.6 RESTRICTIONS ON RIGHT TO PRACTICE**

24 [Unchanged].

25 **Comments**

26 [1] – [2] [Unchanged.]

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Clean Version

1 [3] **[Washington revision]** This Rule does not prohibit restrictions that may be included in
2 the terms of the sale of a law practice pursuant to Rule 1.17, a lawyer's plea agreement in a
3 criminal matter, or a stipulation under the Rules for Discipline and Incapacity.

4 **Additional Washington Comment (4)**

5 [4] [Unchanged.]

6 **RPC 5.8 MISCONDUCT INVOLVING LAWYERS, LLLTS, AND LPOS NOT** 7 **ACTIVELY LICENSED TO PRACTICE LAW**

8 **(a)** [Unchanged.]

9 **(b)** A lawyer shall not engage in any of the following with a lawyer, LLLT, or LPO who
10 is disbarred or suspended for discipline, who has resigned in lieu of disbarment or discipline,
11 or whose license has been revoked for discipline or voluntarily cancelled in lieu of
12 revocation:

13 (1) – (5) [Unchanged.]

14 **Washington Comments**

15 [1] [Unchanged.]

16 [2] [Reserved].

17 **RPC 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS**

18 [Unchanged.]

19 **Comment**

20 [1] – [3] [Unchanged.]

21 **Additional Washington Comments (4-5)**

22 [4] A lawyer's obligations under this Rule are in addition to the lawyer's obligations under the
23 Rules for Discipline and Incapacity.

24 [5] [Unchanged.]

25 **RPC 8.4 MISCONDUCT**

26 It is professional misconduct for a lawyer to:

SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Clean Version

1 (a) – (k) [Unchanged.]

2 (l) violate a duty or sanction imposed by or under the Rules for Discipline and Incapacity in
3 connection with a disciplinary matter; including, but not limited to, the duties catalogued at
4 RDI 1.6;

5 (m) – (n) [Unchanged.]

6 **Comments**

7 [Unchanged.]

8 **Additional Washington Comments (6-8)**

9 [Unchanged.]

10 **RPC 8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW**

11 (a) – (b) [Unchanged.]

12 (c) **Disciplinary Authority over Judges.** Notwithstanding the provisions of Rule 8.4(m), a
13 lawyer, while serving as a judge or justice as defined in RCW 2.64.010, shall not be subject
14 to the disciplinary authority provided for in these Rules or the Rules for Discipline and
15 Incapacity for acts performed in his or her judicial capacity or as a candidate for judicial
16 office unless judicial discipline is imposed for that conduct by the Commission on Judicial
17 Conduct or the Supreme Court. Disciplinary authority should not be exercised for the
18 identical conduct if the violation of the Code of Judicial Conduct pertains to the role of the
19 judiciary and does not relate to the judge's or justice's fitness to practice law.

20 **Comment**

21 [Unchanged.]

22 **Additional Washington Comments (8-13)**

23 [Unchanged.]

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**SUGGESTED AMENDMENTS TO THE LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

Clean Version

1 LLLT RPC 1.0B ADDITIONAL TERMINOLOGY

2 (a) – (e) [Unchanged.]

3 (f) “Limited License Legal Technician” or “LLLT” means a person qualified by
4 education, training, and work experience who is licensed to engage in the limited practice of
5 law in approved practice areas of law as specified by APR 28 and related regulations.

6 (g) “Limited Practice Officer” or “LPO” means a person who is licensed to engage in the
7 limited practice of law as specified by APR 12.

8 (h) “RDI” denotes the Washington Supreme Court’s Rules for Discipline and Incapacity.

9 (i) "Representation" or "represent," when used in connection with the provision of legal
10 assistance by an LLLT, denotes limited legal assistance as set forth in APR 28 to a pro se
11 client.

12 **Comment**

13 [Unchanged.]

14 **LLLT RPC 1.15A SAFEGUARDING PROPERTY**

15 (a) – (h) [Unchanged.]

16 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
17 delay other than notice periods that are required by law or regulation and meet the
18 requirements of RDI 15.5(d) and 15.5(e). In the exercise of ordinary prudence, an LLLT
19 may select any financial institution authorized by the Legal Foundation of Washington
20 (Legal Foundation) under RDI 15.5(c). In selecting the type of trust account for the purpose
21 of depositing and holding funds subject to this Rule, an LLLT shall apply the following
22 criteria:

23 (1) When client or third-person funds will not produce a positive net return to the client or
24 third person because the funds are nominal in amount or expected to be held for a short period
25 of time the funds must be placed in a pooled interest-bearing trust account known as an
26

**SUGGESTED AMENDMENTS TO THE LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

Clean Version

1 Interest on Limited License Legal Technician's Trust Account or IOLTA. The interest earned
2 on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the
3 Legal Foundation of Washington in accordance with RDI 15.4 and 15.5(e).

4 (2) – (3) [Unchanged.]

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

7 **Comment**

8 [Unchanged.]

9 **LLLT RPC 5.4 PROFESSIONAL INDEPENDENCE OF AN LLLT**

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

12 (1) [Unchanged.]

13 (2) an LLLT who purchases the practice of a deceased, incapacitated, or disappeared LLLT
14 or lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other
15 representative of that LLLT or lawyer the agreed-upon purchase price;

16 (3) - (5) [Unchanged.]

17 (b) – (d) [Unchanged.]

18 **Comment**

19 [Unchanged.]

20 **LLLT RPC 5.8 MISCONDUCT INVOLVING LLLTS, LAWYERS, AND LPOS**

21 **NOT ACTIVELY LICENSED TO PRACTICE LAW**

22 (a) [Unchanged.]

23 (b) An LLLT shall not engage in any of the following with a lawyer, LLLT, or LPO who
24 is disbarred or suspended for discipline, who has resigned in lieu of disbarment or discipline,
25 or whose license has been revoked for discipline or voluntarily canceled in lieu of revocation:

**SUGGESTED AMENDMENTS TO THE LIMITED LICENSE LEGAL TECHNICIAN
RULES OF PROFESSIONAL CONDUCT**

Clean Version

1 (1) – (5) [Unchanged.]

2 **Comment**

3 [Unchanged.]

4 **LLLT RPC 8.4 MISCONDUCT**

5 It is professional misconduct for an LLLT to:

6 (a) – (k) [Unchanged.]

7 (l) violate a duty or sanction imposed by or under the RDI in connection with a disciplinary
8 matter; including, but not limited to, the duties catalogued at RDI 1.6;

9 (m) – (o) [Unchanged.]

10 **Comment**

11 [Unchanged.]

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SUGGESTED AMENDMENTS TO THE LIMITED PRACTICE OFFICER RULES OF PROFESSIONAL CONDUCT

Clean Version

LPORPC 1.0 TERMINOLOGY

(a) – (e) [Unchanged.]

(f) “Limited Practice Officer” or “LPO” means a person who is licensed to engage in the limited practice of law as specified by APR 12.

(g) – (n) [Unchanged.]

Comment

[Unchanged.]

LPORPC 1.8 UNAUTHORIZED PRACTICE OF LAW

An LPO shall not:

(a) – (b) [Unchanged.]

(c) select, prepare, or complete documents authorized by APR 12 for or together with an LPO who is disbarred or suspended for discipline, or who has resigned in lieu of discipline, or whose license has been revoked for discipline or voluntarily cancelled in lieu of revocation, if the LPO knows, or reasonably should know, of such disbarment, revocation, suspension, resignation, or cancellation; or

(d) [Unchanged.]

Comment

[Unchanged.]

LPORPC 1.10 MISCONDUCT

It is professional misconduct for an LPO to:

(a) – (e) [Unchanged.]

(f) violate a duty or sanction imposed by or under the Rules for Discipline and Incapacity in connection with a disciplinary matter, including, but not limited to, the duties catalogued at RDI 1.6.

SUGGESTED AMENDMENTS TO THE LIMITED PRACTICE OFFICER RULES OF PROFESSIONAL CONDUCT

Clean Version

1 (g) engage in conduct demonstrating unfitness to practice as an LPO. “Unfitness to
2 practice” includes but is not limited to the inability, unwillingness or repeated failure to
3 perform adequately the material functions required of an LPO or to comply with the
4 LPORPC or RDI;

5 (h) – (i) [Unchanged].

6 **Comment**

7 [Unchanged.]

8 **LPORPC 1.12A SAFEGUARDING PROPERTY**

9 (a) – (h) [Unchanged.]

10 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
11 delay other than notice periods that are required by law or regulation and meets the
12 requirements of RDI 15.5(d) and 15.5(e). In the exercise of ordinary prudence, the LPO or
13 Closing Firm may select any bank, savings bank, credit union or savings and loan association
14 that is insured by the Federal Deposit Insurance Corporation or National Credit Union
15 Administration, is authorized by law to do business in Washington and has filed the
16 agreement required by RDI 15.4. Trust account funds must not be placed in mutual funds,
17 stocks, bonds, or similar investments.

18 (1) When client or third-person funds will not produce a positive net return to the client or
19 third person because the funds are nominal in amount or expected to be held for a short period
20 of time the funds must be placed in a pooled interest-bearing trust account known as an
21 Interest on Lawyer’s Trust Account or IOLTA. The interest earned on IOLTA accounts shall
22 be paid to, and the IOLTA program shall be administered by, the Legal Foundation of
23 Washington in accordance with RDI 15.4 and 15.5(e).

24 (2) – (4) [Unchanged.]

25 (j) [Unchanged.]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

APR 1 IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW; COMMUNICATIONS TO THE BAR; CONFIDENTIALITY; DEFINITIONS

(a) – (c) [Unchanged]

(d) Confidentiality.

(1) – (4) [Unchanged].

(5) Unless expressly authorized by the Supreme Court or by the lawyer, LLLT, or LPO, the nature of the incapacity and all application records under this rule, including all supporting documentation and related investigation files and documents are confidential and shall be privileged against disclosure. The fact and date of placement in incapacity inactive status shall be subject to disclosure.

(e) [Unchanged.]

APR 5 PREADMISSION REQUIREMENTS: OATH: RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE LAW

(a) – (g) [Unchanged.]

(h) Oath for LPOs—Content of Oath.

OATH FOR LIMITED PRACTICE OFFICERS

STATE OF WASHINGTON

COUNTY OF _____

I, _____, do solemnly declare:

1. – 2. [Unchanged]

3. I will abide by the Limited Practice Officer Rules of Professional Conduct approved by the Supreme Court of the State of Washington.

4. – 5. [Unchanged]

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 have authority to act as a Limited

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 Practice Officer only during the times that my financial responsibility coverage is in effect.
2 If I am covered under my employer's errors and omissions insurance policy or by my
3 employer's certificate of financial responsibility, my coverage is limited to services
4 performed in the course of my employment.

5 _____
6 Signature Limited Practice Officer

7 Subscribed and sworn to before me this _____ day of _____, _____.

8 _____
9 JUDGE

10 (i) – (m) [Unchanged.]

11 **APR 8 NONMEMBER LAWYER LICENSES TO PRACTICE LAW**

12 (a) – (b) [Unchanged].

13 (c) **Exception for Indigent Representation.** A member in good standing of the bar of
14 another state or territory of the United States or of the District of Columbia, who is eligible
15 to apply for admission as a lawyer under APR 3 in this state, while rendering service in either
16 a bar association or governmentally sponsored legal services organization or in a public
17 defender's office or similar program providing legal services to indigents and only in that
18 capacity, may, upon application and approval, practice law and appear as a lawyer before the
19 courts of this state in any matter, litigation, or administrative proceeding, subject to the
20 following conditions and limitations:

21 (1) Application to practice under this rule shall be made to the Bar, and the applicant shall
22 be subject to the Rules for Discipline and Incapacity and to the Rules of Professional
23 Conduct.

24 (2) – (4) [Unchanged.]

25 (d) – (e) [Unchanged.]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 | **(f) Exception for House Counsel.** A lawyer admitted to the practice of law in any
2 | jurisdiction may apply to the Bar for a limited license to practice law as in-house counsel in
3 | this state when the lawyer is employed in Washington as a lawyer exclusively for a profit or
4 | not for profit corporation, including its subsidiaries and affiliates, association, or other
5 | business entity, that is not a government entity, and whose lawful business consists of
6 | activities other than the practice of law or the provision of legal services. The lawyer shall
7 | apply by:

8 | (i) – (iv) [Unchanged.]

9 | (v) furnishing whatever additional information or proof that may be required in the course
10 | of investigating the applicant.

11 | (1) – (4) [Unchanged.]

12 | (5) The practice of a lawyer licensed under this section shall be subject to the Rules of
13 | Professional Conduct, the Rules for Discipline and Incapacity, and to all other laws and rules
14 | governing lawyers admitted to the active practice of law in this state. Jurisdiction shall
15 | continue whether or not the lawyer retains the limited license and irrespective of the
16 | residence of the lawyer.

17 | (6) – (8) [Unchanged.]

18 | **(g)** [Unchanged].

19 | **APR 9 LICENSED LEGAL INTERNS**

20 | **(a) – (c)** [Unchanged.]

21 | **(d) Application.** The applicant must submit an application on a form provided by the Bar
22 | and signed by both the applicant and the supervising lawyer.

23 | (1) – (7) [Unchanged.]

24 | (8) Once an application is accepted and approved and a license is issued, a Licensed Legal
25 | Intern is subject to the Rules of Professional Conduct and the Rules for Discipline and
26 | Incapacity and to all other laws and rules governing lawyers admitted to the Bar of this state,

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 and is personally responsible for all services performed as a Licensed Legal Intern. Any
2 offense that would subject a lawyer admitted to practice law in this state to suspension or
3 disbarment may result in termination of the Licensed Legal Intern's license, or suspension or
4 forfeiture of the Licensed Legal Intern's privilege of taking the lawyer bar examination and
5 being admitted to practice law in this state.

6 (9) [Unchanged.]

7 (e) [Unchanged.]

8 **(f) Additional Obligations of Supervising Lawyer.** Agreeing to serve as the supervising
9 lawyer for a Licensed Legal Intern imposes certain additional obligations on the supervising
10 lawyer. The failure of a supervising lawyer to comply with the duties set forth in this rule
11 shall be grounds for disciplinary action pursuant to the Rules for Discipline and Incapacity.

12 In addition to the duties stated or implied above, the supervising lawyer:

13 (1) – (10) [Unchanged.]

14 (g) – (h) [Unchanged.]

15 **APR 12 LIMITED PRACTICE RULE FOR LIMITED PRACTICE OFFICERS**

16 (a) [Unchanged.]

17 **(b) Limited Practice Board.**

18 (1) [Unchanged.]

19 (2) *Duties and Powers.*

20 (A) [Unchanged.]

21 (B) Grievances and discipline. The investigation, hearing and appeal procedures for
22 handling complaints of persons aggrieved by the failure of limited practice officers to comply
23 with the requirements of this rule and of the Limited Practice Officer Rules of Professional
24 Conduct shall be as established in the Rules for Discipline and Incapacity.

25 (C) – (D) [Unchanged.]

26 (3) – (4) [Unchanged.]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 (c) – (l) [Unchanged]

2 **Comment**

3 [Unchanged.]

4 **APR 14 LIMITED PRACTICE RULE FOR FOREIGN LAW CONSULTANTS**

5 (a) - (b) [Unchanged.]

6 (c) **Procedure.** The Bar shall approve or disapprove applications for Foreign Law
7 Consultants licenses. Additional proof of any facts stated in the application may be required
8 by the Bar. In the event of the failure or refusal of the applicant to furnish any information
9 or proof, or to answer any inquiry of the Board pertinent to the pending application, the Bar
10 may deny the application. Upon approval of the application by the Bar, the Bar shall
11 recommend to the Supreme Court that the applicant be granted a license for the purposes
12 herein stated. The Supreme Court may enter an order licensing to practice those applicants it
13 deems qualified, conditioned upon such applicant's:

14 (1) – (2) [Unchanged.]

15 (3) Filing with the Bar in writing his or her address in the State of Washington, or the name
16 and address of his or her registered agent as provided in APR 13, together with a statement
17 that the applicant has read the Rules of Professional Conduct and Rules for Discipline and
18 Incapacity, is familiar with their contents and agrees to abide by them.

19 (d) [Unchanged.]

20 (e) **Regulatory Provisions.** A Foreign Law Consultant shall be subject to the Rules for
21 Discipline and Incapacity and the Rules of Professional Conduct as adopted by the Supreme
22 Court and to all other laws and rules governing lawyers admitted to the Bar of this state,
23 except for the requirements of APR 11 relating to mandatory continuing legal education.
24 Jurisdiction shall continue whether or not the Consultant retains the authority for the limited
25 practice of law in this state, and regardless of the residence of the Consultant.

26 (f) – (h) [Unchanged.]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 | **APR 15 CLIENT PROTECTION FUND**

2 | (a) – (d) [Unchanged.]

3 | (e) **Restitution.** A lawyer, LLLT or LPO whose conduct results in payment to an applicant
4 | shall be liable to the Fund for restitution.

5 | (1) [Unchanged.]

6 | (2) Lawyers, LLLTs or LPOs on disciplinary or administrative suspension, disbarred or
7 | revoked lawyers, LLLTs or LPOs, and lawyers, LLLTs or LPOs on any status other than
8 | incapacity inactive must pay restitution to the Fund in full prior to returning to Active status,
9 | unless the licensed legal professional enters into a periodic payment plan with Bar counsel
10 | assigned to the Client Protection Board.

11 | (3) A lawyer, LLLT or LPO who returns from incapacity inactive status as to whom an
12 | award has been made shall be required to pay restitution if and as provided in Procedural
13 | Regulation 6(I).

14 | (4) Restitution not paid within 90 days of final payment by the Fund to an applicant shall
15 | accrue interest at the maximum rate permitted under RCW 19.52.050.

16 | (5) – (6) [Unchanged.]

17 | (f) – (i) [Unchanged.]

18 | **APR 15 CLIENT PROTECTION FUND (APR 15) PROCEDURAL REGULATIONS**

19 | **Regulations 1-5** [Unchanged.]

20 | **Regulation 6. Procedures**

21 | (a) – (h) [Unchanged.]

22 | (i) **Deferred Disciplinary Proceedings; Lawyer, LLLT or LPO on Incapacity Inactive**
23 | **Status.**

24 | (1) If an application relates to a lawyer, LLLT or LPO on incapacity inactive status, or a
25 | disciplinary proceeding or investigation is deferred due to a lawyer's, LLLT's or LPO's
26 | transfer to incapacity inactive status, the Client Protection Board may act on the application

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 when received or may defer processing the application for up to three years if the lawyer,
2 LLLT or LPO remains on incapacity inactive status.

3 (2) A lawyer, LLLT or LPO on incapacity inactive status seeking to return to Active status
4 may, while pursuing reinstatement pursuant to the Rules for Discipline and Incapacity,
5 request that the lawyer's, LLLT's, or LPO's obligation to make restitution for any
6 applications approved while the lawyer, LLLT or LPO was on incapacity inactive status be
7 reviewed.

8 (A) - (B) [Unchanged.]

9 (j) – (k) [Unchanged.]

10 **Regulations 7-15** [Unchanged.]

11 **APR 22.1. REVIEW OF APPLICATIONS**

12 (a) – (e) [Unchanged].

13 (f) **Scope of Inquiry into Health Diagnosis and Drug or Alcohol Dependence.** When a
14 basis for an inquiry by the Bar or the Character and Fitness Board has been established under
15 section (e), any such inquiry must be narrowly, reasonably, and individually tailored and
16 adhere to the following:

17 (1) - (3) [Unchanged.]

18 (4) Any testimony or records from medical or other treatment providers may be admitted into
19 evidence at a hearing on, or review of, the Applicant's fitness and transmitted with the record
20 on review to the Supreme Court. Records and testimony regarding the Applicant's fitness
21 shall otherwise be kept confidential in all respects and neither the records nor the testimony
22 of the medical or treatment provider shall be discoverable or admissible in any other
23 proceeding or action without the written consent of the Applicant.

24 **APR 23. CHARACTER AND FITNESS BOARD**

25 (a) – (e) [Unchanged.]

26

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 | **(f) Disqualification.** A Character and Fitness Board member must adhere to Rule 2.11 of the
2 | Code of Judicial Conduct regarding disqualification, including when a complaint is made to
3 | the Bar alleging an act of misconduct by a lawyer, LLLT or LPO member of the Character
4 | and Fitness Board.

5 | **APR 24.1. HEARING PROCEDURE**

6 | **(a) – (e)** [Unchanged]

7 | **(f) Independent Medical Examination.** An independent medical examination may be
8 | requested by the Character and Fitness Board only when a basis for an inquiry by the
9 | Character and Fitness Board exists under Rule 22.1(e) and only after testimony and evidence
10 | presented at the hearing has failed to resolve the Character and Fitness Board’s reasonable
11 | concerns regarding the Applicant’s ability to meet the essential eligibility requirements to
12 | practice law. If the applicant has not previously been requested to provide information under
13 | APR 22.1(f)(1), (2) and (3), the Character and Fitness Board shall provide the applicant with
14 | the opportunity to submit such information, within such reasonable timelines as the Character
15 | and Fitness Board shall establish, prior to requesting the independent medical examination.

16 | (1) - (4) [Unchanged.]

17 | (5) Confidentiality of IME: Any report and testimony of an examining professional may
18 | be admitted into evidence at a hearing on, or review of, the Applicant's fitness and transmitted
19 | with the record on review to the Supreme Court. Reports and testimony regarding the
20 | Applicant's fitness shall otherwise be kept confidential in all respects and neither the report
21 | nor the testimony of the examining professional shall be discoverable or admissible in any
22 | other proceeding or action without the consent of the Applicant.

23 | (6) [Unchanged.]

24 | **(g) Confidentiality:** All hearings and documents before the Character and Fitness Board on
25 | applications for admission or licensure to practice law, enrollment in the law clerk program,
26 | and return to active membership are confidential, but may be provided to the Supreme Court

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 in connection with any appeal or review, or to other entities with the written consent of the
2 applicant.

3 **APR 24.2. DECISION AND RECOMMENDATION**

4 (a) [Unchanged.]

5 (b) **Action on Character and Fitness Board Recommendation.** The recommendation of
6 the Character and Fitness Board shall be served upon the Applicant pursuant to Rule 23.5.

7 (1) [Unchanged.]

8 (2) If the Character and Fitness Board recommends against admission, the record and
9 recommendation shall be retained in the office of the Bar unless the Applicant requests that
10 it be submitted to the Supreme Court by filing a notice of appeal with the Character and
11 Fitness Board within 15 days of service of the recommendation of the Character and Fitness
12 Board. If the Applicant files a notice of appeal, the record, including the transcript, exhibits,
13 and recommendation shall be transmitted to the Supreme Court for review and disposition.
14 The Applicant must pay to the Supreme Court any fee required by the Court in connection
15 with the appeal and review.

16 (3) If the Character and Fitness Board recommends against admission and the Applicant
17 does not file a notice of appeal, then the Bar shall transmit the recommendation to the
18 Supreme Court for disposition. The Supreme Court may request that the Bar transmit all or
19 part of the record for the Court's consideration, or take such other action, including
20 scheduling the matter for appeal, as it deems appropriate based on the record and
21 recommendation. If the Supreme Court approves the Board's recommendation against
22 admission, it may enter an order to that effect and notify the Bar and the parties of the
23 decision, without requiring further action.

24 (c) [Unchanged.]

25 **APR 25.1. RESTRICTIONS ON REINSTATEMENT**

26 (a) [Unchanged.]

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 | **(b) When Petition May Be Filed.** No petition for reinstatement shall be filed within a period
2 | of five years after disbarment or within a period of two years after an adverse decision of the
3 | Supreme Court upon a former petition, or after an adverse recommendation of the Character
4 | and Fitness Board on a former petition. If prior to disbarment the lawyer, LLLT or LPO was
5 | suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for
6 | Discipline and Incapacity, or any comparable rule, the period of such suspension shall be
7 | credited toward the five years referred to above.

8 | **(c) When Reinstatement May Occur.** No disbarred lawyer, LLLT or LPO may be
9 | reinstated sooner than six years following disbarment. If prior to disbarment the lawyer,
10 | LLLT or LPO was suspended from the practice of law pursuant to the provisions of Title 7
11 | of the Rules for Discipline and Incapacity, or any comparable rule, the period of such
12 | suspension shall be credited toward the six years referred to above.

13 | **(d) Payment of Obligations.** No disbarred lawyer, LLLT or LPO may file a petition for
14 | reinstatement until costs and expenses and restitution ordered in the related disciplinary
15 | matter or a prior reinstatement proceeding have been paid and until amounts paid out of the
16 | Client Protection Fund for losses caused by the conduct of the Petitioner have been repaid to
17 | the Client Protection Fund, or until periodic payment plans for costs and expenses, restitution
18 | and repayment to the Client Protection Fund have been entered into by agreement between
19 | the Petitioner and disciplinary counsel or bar counsel. A Petitioner may seek review of an
20 | adverse determination by disciplinary counsel regarding the reasonableness of any such
21 | proposed periodic payment plan by following the procedures set forth in RDI 13.8(i).

22 | **APR 25.5. ACTION BY CHARACTER AND FITNESS BOARD**

23 | **(a) – (c)** [Unchanged.]

24 | **(d) Action on Character and Fitness Board Recommendation.** The recommendation of
25 | the Character and Fitness Board shall be served upon the Petitioner pursuant to Rule 23.5.

SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 (1) If the Character and Fitness Board recommends reinstatement, the record,
2 recommendation, and all exhibits shall be transmitted to the Supreme Court for disposition.

3 (2) If the Character and Fitness Board recommends against reinstatement, the record and
4 recommendation shall be retained in the office of the Bar unless the Petitioner files a notice
5 of appeal with the Character and Fitness Board within 15 days of service of the
6 recommendation of the Character and Fitness Board. If the Petitioner files a notice of appeal,
7 the record, including the transcript, exhibits, and recommendation shall be transmitted to the
8 Supreme Court for review and disposition. The Petitioner must pay to the Supreme Court
9 any fee required by the Court in connection with the appeal and review.

10 (3) If the Character and Fitness Board recommends against reinstatement and the Petitioner
11 does not file a notice of appeal, then the Bar shall transmit the recommendation to the
12 Supreme Court for disposition. The Supreme Court may request that the Bar transmit all or
13 part of the record for the Court's consideration and take such other action as it deems
14 appropriate based on the record and recommendation, including scheduling the matter for
15 appeal. The recommendation and all related records shall be retained in the records of the
16 Bar and the Petitioner shall be responsible for payment of the costs incidental to the
17 reinstatement proceeding as directed by the Character and Fitness Board. If the Supreme
18 Court approves the Board's recommendation against admission, it may enter an order to that
19 effect and notify the Bar and the parties of the decision, without requiring further action.

20 **APR 28 LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL** 21 **TECHNICIANS**

22 **A.** [Unchanged.]

23 **B. Definitions**

24 (1) – (3) [Unchanged.]
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SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 (4) “Limited License Legal Technician” (LLLT) means a person qualified by education,
2 training, and work experience who is licensed to engage in the limited practice of law in
3 approved practice areas of law as specified by this rule and related regulations.

4 (5) – (10) [Unchanged.]

5 C. – O. [Unchanged.]

6 **APR 29 LAWYER TRUST ACCOUNT DECLARATION**

7 Every active lawyer must annually certify compliance with Rules 1.15A and 1.15B of the
8 Rules of Professional Conduct. The certification must be filed in a form and manner as
9 prescribed by the Bar and must include the bank where each account is held and the account
10 number. Failure to certify may result in suspension from practice under APR 17.

11 **APR 30 VOLUNTARY INCAPACITY INACTIVE STATUS**

12 (a) **Basis.** Except for matters governed by Title 8 of the Rules for Discipline and
13 Incapacity, when a licensed legal professional has a mental or physical condition or disability
14 that adversely affects the licensed legal professional’s capacity to practice law, the licensed
15 legal professional may submit an application to the Bar to have the license to practice law
16 placed in incapacity inactive status if all requirements of this Rule are met.

17 (b) **Requirements.** In order to qualify for incapacity inactive status under this Rule, the
18 licensed legal professional must:

19 (1) have a mental or physical condition or disability that adversely affects the licensed
20 legal professional’s capacity to practice law;

21 (2) not have any pending discipline or incapacity matters under the Rules for Discipline
22 and Incapacity or have knowledge that a discipline matter is imminent;

23 (3) acknowledge that while on incapacity inactive status, the licensed legal professional
24 will be prohibited from practicing law; and
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SUGGESTED AMENDMENTS TO THE ADMISSION AND PRACTICE RULES

Clean Version

1 (4) acknowledge that in order to return from incapacity inactive status, the licensed legal
2 professional will be required to demonstrate that the basis for the incapacity has been
3 resolved as set forth in RDI 8.11.

4 (c) **Application.** The application must be in a form and manner as prescribed by the Bar
5 and must state the nature of the licensed legal professional's incapacity supported by current
6 medical, psychological, or psychiatric evidence.

7 (d) **Placement in Incapacity Inactive Status.** Upon the licensed legal professional's
8 compliance with sections (b) and (c) of this Rule, the Bar will place the licensed legal
9 professional's license in incapacity inactive status. The licensed legal professional must
10 comply with all duties under Title 14 of the Rules for Discipline and Incapacity. The Bar
11 must comply with the notice requirements of RDI 3.8.

12 (e) **Confidentiality.** Unless expressly authorized by the Supreme Court or by the lawyer,
13 LLLT, or LPO, the nature of the incapacity and all application records under this rule,
14 including all supporting documentation and related investigation files and documents are
15 confidential and shall be privileged against disclosure. The fact and date of placement in
16 incapacity inactive status shall be subject to disclosure.

17 (f) **Return from Incapacity Inactive Status.** In order to return to a prior or other license
18 status from incapacity inactive status, the licensed legal professional must demonstrate that
19 the basis for the incapacity has been resolved as set forth in RDI 8.11.
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