

SUGGESTED AMENDMENTS TO APR 28

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

A. Purpose. The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to protect the public and ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained Limited License Legal Technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.

B. Definitions. For purposes of this rule, the following definitions will apply:

- (1) “APR” means the Supreme Court's Admission ~~and to~~ Practice Rules.
- (2) “LLLT Board” means the Limited License Legal Technician Board.
- (3) “Lawyer” means a person licensed as a lawyer and eligible to practice law in any United States jurisdiction.
- (4) “Limited License Legal Technician” (LLLT) means a person qualified by education, training and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations. ~~The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.~~
- (5) “Paralegal/legal assistant” means a person qualified by education, training, or work experience; who is employed or retained by a lawyer, law office, corporation, governmental

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agency, or other entity; and who performs specifically delegated substantive law-related work for which a lawyer is responsible.

(6) “Reviewed and approved by a Washington lawyer” means that a Washington lawyer has personally supervised the legal work and documented that supervision by the Washington lawyer's signature and bar number.

(7) “Substantive law-related work” means work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.

(8) “Supervised” means a lawyer personally directs, approves; and has responsibility for work performed by the Limited License Legal Technician.

(9) “Washington lawyer” means a person licensed and eligible to practice law in Washington and who is an active or emeritus pro bono lawyer member of the Bar.

(10) Words of authority:

(a) “May” means “has discretion to,” “has a right to,” or “is permitted to.”

(b) “Must” or “shall” means “is required to.”

(c) “Should” means “recommended but not required.”

C. Limited License Legal Technician Board

[NO CHANGES]

D. [Reserved.]

E. [Reserved.]

F. Scope of Practice Authorized by Limited Practice Rule. The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. It if is not, the LLLT shall not ~~render any legal assistance~~~~provide the services required~~ on this issue and shall ~~advise~~~~inform~~ the client ~~to that the client should~~ seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may ~~render~~~~undertake~~ the following limited legal assistance to a pro se client:

(1) Obtain relevant facts, and explain the relevancy of such information to the client;

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- (2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;
- (3) Inform the client of and assist with applicable procedures for proper service of process and filing of legal documents;
- (4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the LLLT Board, which contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- (5) Review documents or exhibits that the client has received ~~from the opposing side~~, and explain them to the client;
- (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the LLLT Board; and advise the client of the significance of the selected forms to the client's case;
- (7) Perform legal research;
- (8) Draft letters setting forth legal opinions that are intended to be read by persons other than the client; ~~and~~
- (9) Draft documents beyond what is permitted in paragraph (6), if the work is reviewed and approved by a Washington lawyer;
- (10) Advise the client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case;
- (11) Assist the client in obtaining necessary records documents, such as birth, death, or marriage certificates.
- (12) Communicate and negotiate with the opposing party or the party's representative regarding procedural matters, such as setting court hearings or other ministerial or civil procedure matters;
- (13) Negotiate the client's legal rights or responsibilities provided that the client has given

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written consent defining the parameters of the negotiation prior to the onset of the negotiation;
and

(14) Render other types of legal assistance when specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed.

G. Conditions Under Which A Limited License Legal Technician May Provide Services

(1) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a nonlicensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;

(2) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician, that includes the following provisions:

(a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not ~~appear or~~ represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b) or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;

(b) Identification of all fees and costs to be charged to the client for the services to be performed;

(c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;

(d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the first page of the contract in minimum twelve-point bold type print;

(e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by the client and the Limited License Legal Technician's work product associated with the services sought or provided by the Limited License Legal

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Technician;

(f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and

(g) Any other conditions required by the rules and regulations of the LLLT Board.

(3) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client should seek the services of a lawyer.

(4) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client. LLLTs do not need to sign sworn statements or declarations of the client or a third party, and do not need to sign documents that do not require a signature by the client, such as information sheets.

H. Prohibited Acts. In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

(1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;

(2) Retain any fees or costs for services not performed;

(3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and the client;

(4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;

(5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24 or specifically authorized by the scope of practice regulations for the approved practice area in which the LLLT is licensed;

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~~(6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party, unless permitted by GR 24(b);~~

~~(7) Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client;~~

~~(8) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;~~

~~(8) Conduct or defend a deposition;~~

~~(9) Initiate or respond to an appeal to an appellate court; and~~

~~(10) Otherwise violate the Limited License Legal Technicians' Rules of Professional Conduct.~~

I. – O.

[NO CHANGES]

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

REGULATION 1: [RESERVED.]

REGULATION 2: APPROVED PRACTICE AREAS--SCOPE OF PRACTICE

AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE

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

A. Issues Beyond the Scope of Authorized Practice.

An LLLT has an affirmative duty under APR 28F to inform clients when issues arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28F arises, then the LLLT shall inform the client in writing that:

1. the issue may exist, describing in general terms the nature of the issue;
2. the LLLT is not authorized to advise or assist on this issue;

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3. the failure to obtain a lawyer's advice could be adverse to the client's interests; and,
4. the client should consult with a lawyer to obtain appropriate advice and documents necessary to protect the client's interests.

After an issue beyond the LLLT's scope of practice has been identified, if the client engages a lawyer with respect to the issue, then an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. If the client does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that relate to the issue if:

- (1) ~~t~~The client informs the LLLT how the issue is to be determined and instructs the LLLT how to complete the relevant portions of the document, and
- (2) ~~a~~Above the LLLT's signature at the end of the document, the LLLT inserts a statement to the effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's scope of practice and completed any portions of the document with respect to any such issues at the direction of the client.

~~The LLLT may proceed in the manner described above only if no other defined prohibitions apply.~~

B. Domestic Relations.

1. *Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations shall include only the following actions: (a) divorce and dissolution~~child support modification actions~~, (b) parenting and support~~dissolution actions~~, (c) parentage or paternity~~domestic violence actions~~, ~~except as prohibited by Regulation 2B(3)~~, (d) child support modification~~committed intimate relationship actions only as they pertain to parenting and support issues~~, (e) parenting plan modification~~legal separation actions~~, (f) domestic violence protection orders~~major parenting plan modifications when the terms are agreed to by the parties before the onset of the representation by the LLLT~~, (g) committed intimate relationships only as they pertain to parenting and support

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issues ~~minor parenting plan modifications~~, (h) legal separation ~~parenting and support actions~~, (i) nonparental and third party custody ~~paternity actions~~, and (j) other protection or restraining orders arising from a domestic relations case, and (k) relocation ~~actions, except as prohibited by Regulation 2B(3)~~.

2. Scope of Practice for Limited License Legal Technicians -- Domestic Relations. LLLTs licensed in domestic relations may ~~render provide~~ legal services to clients as provided in APR 28F and this regulation, except as prohibited by APR 28H and Regulation 2B(3).

(a) Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients with ~~(1) to initiating~~ and responding to actions and ~~related~~ ~~(2) regarding~~ motions, discovery, trial preparation, temporary and final orders, and modifications of orders.

(b) LLLT legal services regarding the division of real property shall be limited to matters where the real property is a single family residential dwelling with owner equity less than or equal to twice the homestead exemption (see RCW 6.13.030). LLLTs shall use the form for real property division as approved by the LLLT Board.

(c) LLLTs may advise as to the allocation of retirement assets for defined contribution plans with a value less than the homestead exemption, and as provided in U.S. Internal Revenue Code (IRC) Sections 401 a; 401 k; 403 b; 457; and Individual Retirement Accounts as set forth in IRC section 408.

(d) LLLTs may include language in a decree of dissolution awarding retirement assets as described in APR 28 Regulation 2 B (2) (c) when the respondent defaults, when the parties agree upon the award or when the court awards the assets following trial. The award language in the decree shall identify (1) the party responsible for having the QDRO or supplemental order prepared and by whom, (2) how the cost of the QDRO or supplemental order preparation is to be paid, (3) by what date the QDRO or supplemental order must be prepared, and (4) the remedy for failure to follow through with preparation of the QDRO or supplemental order.

(e) LLLTs may prepare paperwork and accompany and assist clients in dispute resolution

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proceedings including mediation, arbitration, and settlement conferences where not prohibited by the rules and procedures of the forum.

(f) LLLTs, when accompanying their client, may assist and confer with their pro se clients at depositions.

(g) LLLTs may present to a court agreed orders, uncontested orders, default orders and accompanying documents;

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

i. domestic violence protection orders and other protection or restraining orders arising from a domestic relations case;

ii. motions for temporary orders, including but not limited to temporary parenting plans, child support, maintenance, and orders to show cause;

iii. enforcement of domestic relations orders;

iv. administrative child support;

v. modification of child support;

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

vii. reconsiderations or revisions;

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

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

a. shall not render legal services to~~represent~~ more than one party in any domestic relations matter;

b. shall not render~~provide~~ legal services in:

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- ~~i. in-defacto parentage or nonparental custody actions; and~~
- ii. actions that involve 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the Washington State Indian Child Welfare Act, ~~applies to the matter;~~
- ~~e. shall not advise or assist clients regarding:~~
- iii. division or conveyance of owned real estate, formal business entities, commercial property, or residential real property except as permitted by Regulation 2B ~~or retirement assets that require a supplemental order to divide and award, which includes division of all defined benefit plans and defined contribution plans;~~
- iv. preparation of QDROs and supplemental orders dividing retirement assets beyond what is prescribed in Regulation 2(B)(2)(d);
- v. any retirement assets whereby the decree effectuates the division or the implementation of the division of the asset;
- vi. bankruptcy, including obtaining a stay from bankruptcy;
- vii. disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;
- ~~iv. anti-harassment orders, criminal no contact orders, anti-stalking orders, and sexual assault protection orders in domestic violence actions;~~
- viii. jointly acquired committed intimate relationship property issues in committed intimate relationship actions;
- ix. major parenting plan modifications and nonparental custody actions beyond the adequate cause hearing unless the terms are ~~were~~ agreed to by the parties or one party defaults before the onset of the representation by the LLLT;
- x. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under

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RCW 26.27 or Uniform Interstate Family Support Act issues under RCW 26.21A unless and until jurisdiction has been resolved;

~~viii. objections or responses in contested relocation actions; objections to relocation petitions, responses to objections to relocation petitions, or temporary orders in relocation actions; and~~

~~ix. final revised parenting plans in relocation actions except in the event of default or where the terms have been agreed to by the parties.~~

~~d. shall not appear or participate at the taking of a deposition; and~~

~~e. shall not initiate or respond to an appeal to an appellate court.~~

REGULATION 3: EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS

An applicant for admission as an LLLT shall satisfy the following education requirements:

A. Core Curriculum.

1. *Credit Requirements.* An applicant for licensure shall have earned 45 credit hours as required by APR 3. The core curriculum must include the following required subject matters with minimum credit hours earned as indicated:

1. Civil Procedure, minimum 8 credit hours;
2. Contracts, minimum 3 credit hours;
3. Interviewing and Investigation Techniques, minimum 3 credit hours;
4. Introduction to Law and Legal Process, minimum 3 credit hours;
5. Law Office Procedures and Technology, minimum 3 credit hours;
6. Legal Research, Writing and Analysis, minimum 8 credit hours; and
7. Professional Responsibility, minimum 3 credit hours.

The core curriculum courses in which credit for the foregoing subject matters is earned shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar. If the required courses completed by the applicant do not total 45 credit hours, then the applicant may earn the remaining credit hours by taking legal or paralegal elective courses. All core curriculum

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course credit hours must be earned at an ABA approved law school, an educational institution with an ABA approved paralegal program, or at an educational institution with an LLLT core curriculum program approved by the LLLT Board under the Washington State LLLT Educational Program Approval Standards.

For purposes of satisfying APR 3(e)(2), one credit hour shall be equivalent to 450 minutes of instruction.

2. LLLT Educational Program Approval Requirements for Programs Not Approved by the ABA.

The LLLT Board shall be responsible for establishing and maintaining standards, to be published by the Association, for approving LLLT educational programs that are not otherwise approved by the ABA. Educational programs complying with the LLLT Board's standards shall be approved by the LLLT Board and qualified to teach the LLLT core curriculum.

B. Practice Area Curriculum. An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR 3(e). Each practice area curriculum course shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar.

C. Required Supplemental Education. The LLLT Board has discretion to require all LLLTs to complete supplemental education in order to maintain their licenses due to changes in the permitted scope of practice for LLLTs. The LLLT Board shall provide notice to LLLTs of the supplemental education requirement and the deadline for completion of the requirement, allowing at least 12 months to complete the required supplemental education. LLLTs may be administratively suspended pursuant to the procedures set forth in APR 17 if they fail to comply with the supplemental education requirements by the stated deadline.

1. Domestic Relations.

a. Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and

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Professional Responsibility.

b. Credit Requirements: Applicants shall complete five credit hours in basic domestic relations subjects and ten credit hours in advanced and Washington specific domestic relations subjects.

REGULATION 4- 20

[NO CHANGES]

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