APR 28

[New]

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 to Practice Rules.

(2) "Board" when used alone means the Limited License Legal Technician Board.

(3) "Lawyer" means a person licensed 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 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

member of the Washington State Bar Association.

(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

(1) Establishment. There is hereby established a Limited License Legal Technician Board. The Board shall consist of 13 members appointed by the Supreme Court of the State of Washington, nine of whom shall be active Washington lawyers, and four of whom shall be nonlawyer Washington residents. At least one member shall be a legal educator. The members shall initially be appointed to staggered terms of one to three years. Thereafter, appointments shall be for three year terms. No member may serve more than two consecutive full three year terms.

(2) Board Responsibilities. The Board shall be responsible for the following:

(a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;

(b) Processing applications and fees, and screening applicants;

(c) Administering the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to Limited License Legal Technicians, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to one or more approved practice areas;

(d) Determining LLLT Continuing Legal Education (LLLT CLE) requirements and approval of LLLT CLE programs;

(e) Approving education and experience requirements for licensure in approved practice areas;

(f) Establishing and overseeing committees and tenure of members;

(g) Establishing and collecting examination fees, LLLT CLE fees, annual license fees, and other fees in such amounts approved by the Supreme Court as are necessary to carry out the duties and responsibilities of the Board; and

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

(3) Rules and Regulations. The Board shall propose rules and regulations for adoption by the Supreme Court that:

(a) Establish procedures for grievances and disciplinary proceedings;

(b) Establish trust account requirements and procedures;

(c) Establish rules of professional and ethical conduct; and

(d) Implement the other provisions of this rule.

D. Requirements for Applicants. An applicant for licensure as a Limited License Legal Technician shall:

(1) Age. Be at least 18 years of age.

(2) Moral Character and Fitness to Practice. Be of good moral character and demonstrate fitness to practice as a Limited License Legal Technician.

(3) Education and Experience. Have the following education and experience:

(a)(i) An associate degree or equivalent program, or a bachelor degree, in paralegal/legal assistant studies approved by the

American Bar Association or the Board, together with a minimum of two years' experience as a paralegal/legal assistant doing substantive law-related work under the supervision of a lawyer, provided that at least one year is under a Washington lawyer; or

(ii) A post-baccalaureate certificate program in paralegal/legal assistant studies approved by the Board, together with a minimum of three years' experience as a paralegal/legal assistant doing substantive law-related work under the supervision of a lawyer, provided that at least one year is under a Washington lawyer; and

(b) Complete at least 20 hours of pro bono legal service in Washington as approved by the Board, within two years prior to taking the Limited License Legal Technician examination.

In all cases, the paralegal/legal assistant experience must be acquired after completing the education requirement, unless waived by the Board for good cause shown.

(4) Application. Execute under oath and file with the Board two copies of his/her application, in such form as the Board requires. An applicant's failure to furnish information requested by the Board or pertinent to the pending application may be grounds for denial of the application.

(5) Examination Fee. Pay, upon the filing of the application, the examination fee and any other required application fees as established by the Board and approved by the Supreme Court.

E. Licensing Requirements. In order to be licensed as a Limited License Legal Technician, all applicants must:

(1) Examination. Take and pass the examinations required under these rules;

(2) Annual License Fee. Pay the annual license fee;

(3) Financial Responsibility. Show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rules. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe; and

(4) Meet all other licensing requirements set forth in the rules and regulations proposed by the Board and adopted by the Supreme Court.

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. If it is not, the LLLT shall not provide the services required on this issue and shall inform the client that the client should seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may undertake the following:

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

(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 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 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 and complete 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 Board; and advise the client of the significance of the selected forms to the client's case;

(7) Perform legal research and draft legal letters and documents beyond what is permitted in the previous paragraph, if the work is reviewed and approved by a Washington lawyer;

(8) Advise a client as to other documents that may be necessary to the client's case (such as exhibits, witness declarations, or party declarations), and explain how such additional documents or pleadings may affect the client's case;

(9) Assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.

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

(1) A Limited License Legal Technician must have a principal place of business having a physical street address for the acceptance of service of process in the State of Washington;

(2) 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;

(3) 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);

(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 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 Board.

(4) 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.

(5) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client.

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;

(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;

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

I. Continuing Licensing Requirements

(1) Continuing Education Requirements. Each Limited License Legal Technician annually must complete the Board-approved number of credit hours in courses or activities approved by the Board, provided that the Limited License Legal Technician shall not be required to comply with this subsection during the calendar year in which he or she is initially licensed.

(2) Financial Responsibility. Each Limited License Legal Technician shall annually provide proof of financial responsibility in such form and in such amount as the Board may by regulation prescribe.

(3) Annual Fee. Each Limited License Legal Technician shall pay the annual license fee established by the Board and approved by the Supreme Court.

J. Existing Law Unchanged. This rule shall in no way modify existing law prohibiting nonlawyers from practicing law or giving

legal advice other than as authorized under this rule or associated rules and regulations.

K. Professional Responsibility and Limited License Legal Technician-Client Relationship

(1) Limited License Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a Washington lawyer.

(2) Limited License Legal Technicians shall be held to the ethical standards of the Limited License Legal Technicians' Rules of Professional Conduct, which shall create an LLLT IOLTA program for the proper handling of funds coming into the possession of the Limited License Legal Technician.

(3) The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.

Adopted effective September 1, 2012