PRACTICE OF LAW BOARD
REGULATIONS

REGULATION 1. PURPOSE

The purpose of these regulations is to establish procedures for the Practice of Law Board (POL Board) in order to carry out its purposes and exercise its powers pursuant to General Rule 25 (GR 25).

REGULATION 2. PRACTICE OF LAW

General Rule 24 (GR 24), Definition of the Practice of Law, including any amendments, provides the framework by which the POL Board will carry out its purposes and exercise its powers as set forth in GR 25.

REGULATION 3. ESTABLISHMENT OF THE BOARD

A. Board Members. The POL Board shall consist of 13 members (Member[s]) appointed by the Supreme Court of the State of Washington (Supreme Court) at least four of whom shall be non-lawyer Washington residents and the remainder of whom shall be lawyers licensed to practice law in Washington. Appointments to the POL Board shall be made by the Supreme Court after considering nominations from the WSBA Board of Governors (WSBA Board) and any other interested people or organizations.

B. Member Terms. 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 three-year terms.

C. Resignation. A member may resign from the POL Board by letter addressed to the POL Board and the Supreme Court with resignation to be effective two days following the date of the letter or any effective date thereafter which may be specified in the letter.

D. Vacancies. A membership vacancy shall be deemed to occur on the resignation of a Member or upon declaration of a vacancy by the Supreme Court following any request to the Supreme Court by the POL Board for the reasons set forth in section O below, or if a Member has three consecutive unexcused absences from regular POL Board meetings or is not present at more than a majority of the POL Board meetings during any 12-month period as determined by the chairperson. A membership vacancy shall be filled by the Supreme Court for the unexpired term.

E. Administration of Board. The Washington State Bar Association (WSBA), in consultation with the POL Board, shall provide the POL Board with an administrator (Board Administrator) and any additional staff support as designated by the Executive Director of the WSBA. The Board Administrator shall not be entitled to vote on POL Board matters.

F. Funding and Expenses. The POL Board shall prepare an annual budget to be submitted for approval and on a schedule set by the WSBA Board of Governors. The WSBA shall pay all expenses reasonably and necessarily incurred by the POL Board pursuant to the budget and the expense policy of the WSBA. Funding for the POL Board shall be provided by annual commitments from the WSBA and through a portion of other licensing fees established by the Supreme Court.

G. Officers. The Supreme Court shall annually designate a chairperson and a vice-chairperson from among the POL Board membership.

H. Regular Meetings. The POL Board shall meet as necessary to complete its business not less than once per year as determined by the POL Board or upon call of the chairperson.

I. Regular Meeting / Agenda Notice. The POL Board may file with the Code Reviser a schedule of the time and place of regularly scheduled meetings in January of each year for

publication in the Washington State Register. The POL Board shall post an agenda for each regular meeting on the Administrative Office of the Courts website or the WSBA website at least seven days prior to the meeting.

J. Special Meetings. A special meeting of the POL Board may be called at any time by the chairperson or by a majority of the POL Board membership by delivering written notice personally, by mail, or by e-mail to each Member at least two business days before the time of such meeting and by providing notice of the special meeting to the public on the Administrative Office of the Courts website or the WSBA website.

K. Voting. Each Member shall be entitled to one vote on each matter submitted to a vote at a meeting of the POL Board. A majority vote of the Members present at a meeting at which a quorum exists shall, unless a greater vote is required by other provisions of these regulations or by GR 25, decide any issue submitted.

L. Quorum. A majority of the Members shall constitute a quorum. The chairperson may appoint temporary members of the POL Board (or any designated committee) from among former members of the POL Board when a Member is disqualified or unable to function on a specific matter, for good cause. If less than a quorum is present at a meeting, a majority of the Members present may adjourn the meeting and continue it to a later date and time upon notice. At any reconvened meeting at which a quorum is present, any business may be transacted which might have been transacted at the adjourned meeting. Members present at a properly called meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum.

M. Action by Communication Equipment. The Members or any designated committee may participate in a meeting of the POL Board or such designated committee by means of a conference phone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time, and participation by such means will constitute presence in person at a meeting.

N. Action Without a Meeting. Any action required or permitted to be taken at a POL Board meeting in Executive Session may be taken without a meeting if a written consent setting forth the action taken or to be taken is signed by each of the Members. Any such written consent (including facsimile and digital signatures) shall be inserted in the minute book as if it were the minutes of a POL Board meeting in Executive Session. Further, such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed for the public record.

O. Removal of a Member. The POL Board may request the Supreme Court to declare a membership vacancy with respect to any Member whose removal from the POL Board would, upon a two-thirds vote of the POL Board excluding the affected Member, be in the best interest of the POL Board; however, such action may only be taken by the POL Board at a regular or special meeting following notice of such proposed action.

P. Committees. The POL Board may establish such committees as the POL Board deems necessary and appropriate with each committee (designated committee) having a specified function determined by the POL Board and having the full jurisdiction and authority of the POL Board as provided in GR 25, except that: 1) no advisory opinion may be issued without the approval of the POL Board; 2) no determination of the unauthorized practice of law by a respondent and referral of a matter to a law enforcement or other agency may be made without the approval of the POL Board; and 3) the action of a designated committee on any matter shall be subject to review and approval/disapproval of the POL Board. The chairperson shall designate a committee chair for each designated committee to serve for a one-year term.

Q. Records. The Board Administrator shall maintain minutes of the POL Board and its designated committees, deliberations, recommendations, and decisions. All records of the POL Board and its committees shall be filed and maintained at the principal office of the WSBA.

R. R. Open Meeting and Records. All records, files, meetings and proceedings

of the POL Board and its designated committees shall be open and public, except that the POL Board may meet in executive session and records and files may be made confidential where the preservation of confidentiality is desirable or where public disclosure might result in the violation of individual rights or in unwarranted private or personal harm. All discussions of particular complaints and investigations will be held in Executive Session. Nothing in these regulations shall be construed to deny access to relevant information by professional licensing or discipline agencies, or other law enforcement authorities, as the Board shall authorize.

S. Public Participation. The chairperson or the chair of any designated committee may allow for public participation at any meeting. Members of the public who wish to address the POL Board or a designated committee at any meeting shall be required to provide contact information on a form provided for that purpose and shall be required to comply with any time limitation deemed appropriate by the chairperson or the designated committee chair.

T. Letterhead. Use of POL Board letterhead shall be limited to official business of the POL Board and specifically shall not be used in connection with any political campaign or to support or oppose any public issue unless the POL Board has taken a position on the issue; to support or oppose any political candidate; or for personal or charitable purposes.

REGULATIONS 4. CONFLICT OF INTEREST.

A. In General. A Member who has or has had a lawyer/client relationship or financial relationship with, or who is an immediate family member of, a person or entity who is a complainant or the subject of a matter before the POL Board shall not participate in the investigation or deliberation on any matter involving that complainant, person, or entity. No WSBA employee shall participate in deliberation on any matter which is pending in, or likely to be referred to, the WSBA attorney disciplinary system or bar admission.

B. Disclosure. A Member with a past or present relationship, other than that as provided in section A above, with a person or entity who is the complainant or subject of a matter before the POL Board, shall disclose such relationship to the POL Board and, if the POL Board deems it appropriate, that Member shall not participate in any action relating to that matter.

REGULATION 5. ADVISORY OPINIONS.

A. Requests for Advisory Opinions. Any person may request an advisory opinion from the POL Board relating to the authority of a non-lawyer to perform legal and law-related services. Such requests shall be in writing in a form and in a manner prescribed by the POL Board and signed by the person requesting the opinion.

B. Board Initiated Advisory Opinions. The POL Board may render advisory opinions relating to the authority of non-lawyers to perform legal and law-related services in connection with the consideration of any complaint or in any investigation made on its own initiative relating to the unauthorized practice of law by any person or entity.

C. Notice of Request. The POL Board may give notice to any person or entity, either personally or by publication, of any pending request for an advisory opinion or pending POL Board initiated advisory opinion, and invite written comments regarding the pending advisory opinion.

D. Pending Controversy. The POL Board may not render an advisory opinion in any matter that, to its knowledge, is the subject of or might affect a case or controversy pending in any court or administrative [attorney disciplinary] proceeding.

E. Public Hearing. The POL Board may conduct a public hearing at a date and time and in a manner set by the POL Board, designed to make it accessible to interested parties as determined by the Board, on any request for an advisory opinion or a POL Board initiated advisory opinion.

F. POL Board Action. Upon receipt of a proper request for an advisory opinion, the POL Board may issue an advisory opinion or

proposed advisory opinion, or may decline to issue an advisory opinion. If the POL Board issues an advisory opinion, it shall be in writing and shall be transmitted to the person making the request, or in the case of a POL Board initiated advisory opinion, it may be transmitted to any person(s) determined by the POL Board for whose benefit or detriment the advisory opinion was issued.

G. Publication of Advisory Opinions. The POL Board may arrange for the publication of advisory opinions in the Washington State Bar News. Opinions so published shall not, insofar as practicable, identify the party or parities making the inquiry, the complainant or the respondent.

H. Petitions for Review. Petitions for review of any advisory opinion issued by the POL Board shall conform with Regulation 7 below.

REGULATION 6. COMPLAINTS.

A. Filing Complaints. Complaints alleging the unauthorized or unlicensed practice of law shall be submitted to the POL Board, in writing, in a form and manner prescribed by the POL Board.

B. Investigation. The POL Board may, on its own initiative and without any complaint being made to it, investigate any condition, situation or activity involving the unauthorized or unlicensed practice of law of which it becomes aware in the same manner as if a complaint had been made under section A above.

C. Initial Review of Complaints. Upon receipt of a complaint, the Board Administrator shall conduct an initial review to determine whether it is within the jurisdiction of the POL Board or may be subject to deferral. If not within the jurisdiction of the POL Board or if it is subject to deferral, the Board administrator shall advise the complainant that the matter will not be opened as a complaint, and the reasons. The complainant may submit additional information. All such items will be placed on the next POL Board agenda for review and any action deemed appropriate by the POL Board. If the complaint is deemed to be within the jurisdiction of the POL Board and not subject to deferral, the complaint will be opened for investigation.

D. Request for Response. If a complaint is opened for investigation, a copy shall be send to the respondent with a request to respond within 20 days, and with notice that if the respondent does not respond, the complaint shall be considered without a response.

E. Report and Written Agreement. The complainant and respondent shall be interviewed and such other and further review or investigation may be conducted as is deemed appropriate. A written report and recommendation will be submitted to the Board, by transmitting it to the Board Administrator and the Members. All Members shall have one week (5 working days) to submit comments respecting the report by transmitting them to the Board Administrator and the Members. If the report recommends dismissal of the complaint and there are no adverse comments from the Members within the comment period, the report and recommendation shall be deemed adopted by the POL Board and the chairperson shall immediately notify the complainant and the respondent, in writing, of the dismissal and the matter shall be closed. If one or more Members disagree with the recommendation for dismissal, the matter shall be placed on the agenda of the next meeting of the POL Board for action by the POL Board. If the report concludes that there has been an unauthorized or unlicensed practice of law, the matter shall be placed on the agenda of the next POL Board meeting for action.

F. POL Board Review. If upon POL Board review of a report and recommendation, the POL Board concludes that there has been no unauthorized or unlicensed practice of law, the complaint shall be dismissed and the chairperson shall so notify the complainant and the respondent, in writing, and shall close the file. If the POL Board concludes that there has been unauthorized or unlicensed practice of law, the POL Board shall proceed in the following manner:

(1) The POL Board shall attempt through the Chairperson or his or her designee to persuade the respondent to enter into a written agreement to refrain from the

objectionable conduct in the future. Such written agreement shall be prepared by the Chairperson or his or her designee and may include a stipulation as to penalties in the event of continued unauthorized or unlicensed practice of law which is the subject matter of the agreement or violation of other terms of the agreement.

(2) If the respondent will not enter into a written agreement as set forth in (1) above, the POL Board may attempt to arrive at any other satisfactory disposition as determined by the POL Board. In attempting to arrive at a satisfactory disposition, the POL Board may, at a regular or special POL Board meeting, or by a designated committee, conduct an informal conference with the respondent, which conference may, in the discretion of the chairperson or designated committee chair, be recorded electronically or reported by a certified court reporter. At such informal conference, the respondent may be represented by counsel, but the informal conference shall not be public, nor shall rules of evidence apply. If the informal conference was held by a designated committee, the chair shall render a report, in writing, to the POL Board at the next POL Board meeting for action. If the POL Board determines that the respondent has engaged in the unauthorized or unlicensed practice of law, the POL Board shall endeavor to have the respondent enter into a written agreement to refrain from the objectionable conduct in the future, in the same manner as provided in (1) above. If, however, the respondent declines to enter into a written agreement, the POL Board may refer the matter to the appropriate law enforcement or other agency in accordance with GR 25(h).

G. Pending Controversy. Notwithstanding the foregoing, the POL Board may defer an investigation in any matter that, to its knowledge, is the subject of or might affect a case or controversy pending in any court or administrative [attorney disciplinary] proceeding.

H. Notice of Board Action.

(1) Notice to Parties. The chairperson shall provide notice to any complainant who has not been previously notified of dismissal and each respondent, other than a respondent who has entered into a written agreement, of POL Board action with respect to the complaint or self-initiated investigation within ten days of POL Board action. All such notices of POL Board action shall inform the recipients of the right to petition for review by the Supreme Court as prescribed in GR 25(g).

(2) Publication of Notice: The POL Board may, in its discretion, publish notice of Board action on a complaint alleging the unauthorized practice of law in the Washington State Bar News, on the WSBA website, or elsewhere as it deems appropriate. The Board Administrator has discretion in drafting notices for publication, and they should include sufficient information to adequately inform the public of the reasons for the Board's action and conclusions.

REGULATION 7. PETITIONS FOR REVIEW.

Petitions for review from any action of the POL Board to the Supreme Court shall comply with GR 25(g).

REGULATION 8. RECOMMENDATIONS TO THE SUPREME COURT.

A. In General. On the request of the Supreme Court or any person or organization, or on its own initiative, the POL Board may recommend that non-lawyers be authorized to engage in certain defined activities that otherwise constitute the practice of law as defined in GR 24.

B. Public Hearing. The POL Board may, in its discretion, conduct a public hearing upon such notice and at a date, time and in a manner as determined by the POL Board on any self-initiated action or request for a recommendation to the Supreme Court.

C. Recommendation. Any recommendation forwarded by the POL

Board to the Supreme Court that non-lawyers be authorized to engage in certain legal or law-related activities that constitute the practice of law as defined in GR 24 shall set forth the determining factors required by GR 25(c)(4), and any additional factors the POL Board deems relevant.

D. Transmittal of Recommendation to the Board of Governors. Any recommendation from the POL Board pursuant to this Regulation 8 shall be submitted to the WSBA Board of Governors for consideration and comment before transmission to the Supreme Court. The recommendation of the POL Board with comments by the WSBA Board, if any, shall be transmitted to the Supreme Court as provided in GR 25(c)(4). The WSBA Board of Governors may affirm the recommendation of the POL Board or recommend that it be modified or rejected.

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