

March 10, 2016

Received  
Washington State Supreme Court

Sent via U.S. Regular Mail

MAR 14 2016

Clerk of the Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929

Ronald R. Carpenter  
Clerk

RE: Proposed Changes to APR 28 Regulation 2 - Practice Areas-Scope of Practice Authorized by Limited License Legal Technician Rule

Dear Clerk of the Supreme Court:

I was admitted as a Limited License Legal Technician (LLLT) on June 25, 2015. My area of practice is Family Law (Domestic Relations). Prior to becoming an LLLT, I worked as a paralegal at the firm where I am still employed. I have the pleasure of working with two experienced and seasoned attorneys who mentor me as I build my own client base within the firm.

I would like to provide the following comments regarding the Proposed Changes to APR 28 Regulation 2, Subpart A.

The issue that has arisen in my practice during consultations with potential clients, is their frustration that although they have come to an agreement with their spouse regarding an issue outside my scope (i.e. real property and/or pension and retirement benefits), I am unable to prepare their dissolution documents (i.e. Petition, Findings of Fact & Conclusions of Law & Decree of Dissolution) without written instructions from an attorney. There are two comments that I hear the most when I explain the matter is outside my scope. These comments are as follows:

One is that the client has already consulted with an attorney and paid an hourly fee for that consult. If they are to request that the attorney provide me written instructions, they will now need to pay for the attorney's time to write up those instructions and provide them to me.

The second area of concern is they simply do not feel they need to meet with an attorney because they have an agreement that they are happy with, that they are adults and should be able to make their own decisions if they decide to.

I agree that the LLLT should still be prohibited from advising the client regarding the issue that lies outside of the authorized scope of the LLLT's practice (and strongly encourage the client in writing that the client should obtain advice from an attorney), and would be obligated to complete any portion of the document that involves such an issue only at the client's direction. Above the LLLT's signature on the document, the LLLT would be obligated to insert a statement to the effect that the LLLT did not advise the client with respect to any issue that lies outside of the scope of the LLLT's authorized practice and completed any portions of the document with respect to any such issues at the direction of the client.

I believe that similar language should also apply when an LLLT is provided written instructions from an attorney on matters outside their scope. Currently there is no proof that the LLLT received such instructions other than retaining a copy of the written instructions in the client file. To seal and file such a document would go against the attorney client privilege. How else does the court know the LLLT prepared the documents containing matters outside their scope with an attorney's written instruction?

I am unclear what the proposal means when it states the following:

The proposed amendment modifies the second full paragraph of the Regulation, adds new material in the form of a second set of subparagraphs, and modifies the last sentence of the Regulation to reflect the new material.

The change in language to APR 28 Regulation 2, Subpart A also may affect the language in APR 28 Regulation 2, Subpart B(3)(c)(i) which states as follows:

3. Prohibited Acts. In addition to the prohibitions set forth in APR 28H, in the course of dealing with clients or prospective clients, LLLTs licensed to practice in domestic relations:
  - c. shall not advise or assist clients regarding:
    - i. division of owned real estate, formal business entities, or retirement assets that require a supplemental order to divide and award, which includes division of all defined benefit plans and defined contribution plans;

The current way the language is written in APR 28 Regulation 2, Subpart B(3)(c)(i) gives the LLLT the impression they cannot advise or assist, no exceptions. However, the LLLT Board indicated that by following APR 28 Regulation 2(A) and with the appropriate documentation and written instructions from the lawyer, there should be a way for the LLLT to proceed. What happens when the proposed changes are approved for APR 28 Regulation 2(A) no longer requiring written instruction from an attorney? Would the LLLT be able to assist their client on the matters of real property and/or retirement assets that require a supplemental order with only the client's direct instructions, or will the client still be required to obtain written instructions on these issues from an attorney in order to allow the LLLT to prepare the documents on their client's behalf? I believe this needs to be clarified as well.

Thank you for taking the time in considering my comments on the proposed change(s) to APR 28 Regulation 2, Subpart A.

Very truly yours,



Michelle Lynn-Moore Cummings, LLLT 101  
Limited Licensed Legal Technician  
Licensed in Family Law (Domestic Relations)