LIMITED LICENSE LEGAL TECHNICIAN RULES OF

PROFESSIONAL CONDUCT (LLLT RPC)

FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT FOR AN LLLT[[1]](#footnote-1)\*

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Lawyers, as guardians of the law, play a vital role in the preservation of society. LLLTs, within the scope of their lim­ited licenses to deliver legal services, also play a significant role. The fulfillment of the LLLT’s role requires an under­standing of their relationship with and function in our legal system. A consequent obligation of LLLTs is to maintain the highest standards of ethical conduct.

In fulfilling professional responsibilities, an LLLT may provide services consistent with the authorized scope of ~~his or her~~ their practice that require the performance of many difficult tasks. Not every situation that an LLLT may en­counter can be foreseen, but fundamental ethical principles are always present as guidelines.

The Rules of Professional Conduct for LLLTs point the way for the LLLT who aspires to the highest level of ethical conduct, and provide standards by which to judge the trans­gressor. Each LLLT must find within ~~his or her~~ their own conscience the touchstone against which to test the extent to which ~~his or her~~ their actions should rise above mini­mum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal pro­fession, including LLLTs and the society that LLLTs serve, that should provide to an LLLT the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction.

**LLLT RPC 1.2**

**SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LLLT**

**(a)**-**(e)** [Unchanged.]

**(f)** An LLLT shall not purport to act as an LLLT for any person or organization if the LLLT knows or reasonably should know that the LLLT is acting without the author­ity of that person or organization and beyond his or her the LLLT’s authorized scope of practice, unless the LLLT is au­thorized or required to so act by law or a court order.

**(g)** [Unchanged.]

**Comment**

[1]-[8] [Unchanged.]

**LLLT RPC 1.10**

**IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE**

**(a)**-**(d)** [Unchanged.]

**(e)** When the prohibition on representation under para­graph (a) is based on Rule 1.9(a) or (b) and arises out of the disqualified LLLT’s association with a prior firm, no other LLLT in the firm shall knowingly represent a person in a matter in which that LLLT is disqualified unless:

(1)-(2) [Unchanged.]

(3) the firm is able to demonstrate by convincing evidence that no material information relating to the former repre­sentation was transmitted by the personally disqualified LLLT before implementation of the screening mechanism and notice to the former client.

Any presumption that information protected by Rules 1.6 and 1.9(c) has been or will be transmitted may be rebut­ted if the personally disqualified LLLT serves on his or her their former firm and former client an affidavit attesting that the personally disqualified LLLT will not participate in the matter and will not discuss the matter or the rep­resentation with any other LLLT or employee of his or her their current firm, and attesting that during the period of the LLLT’s personal disqualification those LLLTs, or em­ployees who do participate in the matter will be apprised that the personally disqualified LLLT is screened from par­ticipating in or discussing the matter. Such affidavit shall describe the procedures being used effectively to screen the personally disqualified LLLT. Upon request of the former client, such affidavit shall be updated periodically to show actual compliance with the screening procedures. The firm, the personally disqualified LLLT, or the former client may seek judicial review in a court of general jurisdiction of the screening mechanism used, or may seek court supervision to ensure that implementation of the screening procedures has occurred and that effective actual compliance has been achieved.

**(f)** [Unchanged.]

**Comment**

[1] [Unchanged.]

**LLLT RPC 5.5**

**UNAUTHORIZED PRACTICE OF LAW**

**(a)**-**(d)** [Unchanged.]

**Comment**

[1] Lawyer RPC 5.5(a) expresses the basic prohibition on a legal prac­titioner practicing law in a jurisdiction where that individual is not spe­cifically licensed or otherwise authorized to practice law. It reflects the general notion (enforced through criminal-legal prohibitions and other law) that legal services may only be provided only by those licensed to do so. This limitation on the ability to practice law is designed to protect the public against the rendition of legal services by unqualified persons. *See* Comment [2] to Lawyer RPC 5.5.

As applied to LLLTs, this principle should apply with equal force. An actively licensed LLLT should practice law as an LLLT only in a jurisdic­tion where he or she is they are licensed to do so, i.e., Washington State. An LLLT must not practice law in a jurisdiction where he or she is they are not authorized to do so. Unless and until other jurisdictions authorize Washington-licensed LLLTs to practice law, it will be unethical under this Rule for the LLLT to provide or attempt to provide legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities that constitute the unauthorized practice of law in any jurisdiction. *See also* APR 28(H)(6) (prohibiting an LLLT from providing services to a cli­ent in connection with a legal matter in another state unless permitted by the laws of that state to perform the services for the client).

[2] Lawyer RPC 5.5(b) through (d) define the circumstances in which lawyers can practice in Washington despite being unlicensed here. For example, lawyers actively licensed elsewhere may provide services on a temporary basis in Washington in association with a lawyer admitted to practice here or when the lawyer’s activities “arise out of or are reason­ably related to the lawyer’s practice in his or her their home jurisdiction.” These provisions also recognize that certain non-Washington-licensed lawyers may practice here on more than a temporary basis (e.g., lawyers providing services authorized by federal law), and otherwise prohibit non-Washington-licensed lawyers from establishing a systematic and continuous presence in Washington for the practice of law.

These provisions are, at this time, unnecessary in the LLLT RPC be­cause there are no limited licenses in other jurisdictions tantamount to Washington’s LLLT rules and no need to authorize limited license prac­titioners in other jurisdictions to practice law in Washington, either tem­porarily or on an ongoing basis. For this reason, paragraphs (b) through (d) are reserved.

**LLLT RPC 8.4**

**MISCONDUCT**

It is professional misconduct for an LLLT to:

**(a)**-**(h)** [Unchanged.]

**(i)** commit any act involving moral turpitude, or corrup­tion, or any unjustified act of assault or other act which that reflects disregard for the rule of law, whether the same be committed in the course of his or her their conduct as an LLLT, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal pro­ceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;

**(j)** willfully disobey or violate a court order directing him or her them to do or cease doing an act which he or she that they ought in good faith to do or forbear;

**(k)** violate his or her their oath as an LLLT;

**(*l*)**-**(o)** [Unchanged.]

**Comment**

[1]-[4] [Unchanged.]

1. \* These Fundamental Principles of the Rules of Professional Conduct are taken from the former Preamble to the Rules of Professional Conduct as approved and adopted by the Supreme Court in 1985. Washington lawyers and judges have looked to the 1985 Preamble as a statement of our overarching aspiration to faithfully serve the best interests of the public, the legal system, and the efficient administration of justice. The former Preamble is preserved here to inspire LLLTs to strive for the highest possible degree of ethical conduct, and these Fundamental Principles should inform many of our decisions as LLLTs. The Fundamental Principles do not, however, alter any of the obligations expressly set forth in the Rules of Professional Conduct, nor are they intended to affect in any way the manner in which the Rules are to be interpreted or applied. [↑](#footnote-ref-1)