

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED)
AMENDMENTS TO APR 5—PREADMISSION)
REQUIREMENTS, ETC.; APR 13—SIGNING OF)
PLEADINGS AND OTHER PAPERS, ETC.; APR)
17—ADMINISTRATIVE SUSPENSION FROM)
PRACTICE; AND ELC 4.1—SERVICE OF PAPERS)
_____)
)

ORDER

NO. 25700-A-1586

The Washington State Bar Association (WSBA), having recommended the suggested amendments to APR 5—Preadmission Requirements, etc.; APR 13—Signing of Pleadings and Other Papers, etc.; APR 17—Administrative Suspension from Practice; and ELC 4.1—Service of Papers, and a majority of the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2025.

(b) The purpose statement as required by GR 9(e) is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2025. Comments may be sent to the following

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ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO APR 5—PREADMISSION REQUIREMENTS, ETC.; APR 13—SIGNING OF PLEADINGS AND OTHER PAPERS, ETC.; APR 17—ADMINISTRATIVE SUSPENSION FROM PRACTICE; AND ELC 4.1—SERVICE OF PAPERS

addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov.

Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 11th day of July, 2024.

For the Court


González, C.J.

GR 9 COVER SHEET

Suggested Amendments
ADMISSION AND PRACTICE RULES (APR)
Rules 5, 13, and 17
RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)
Rule 4.1

Submitted by the Washington State Bar Association

A. Name of Proponent:

Washington State Bar Association

B. Spokesperson:

Sunitha Anjilvel, Acting WSBA President
Terra Nevitt, WSBA Executive Director

WSBA Staff Contact:

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C. Purpose:

The primary purpose of the suggested amendments to rules 5, 13, and 17 of the Admission and Practice Rules (APR) and rule 4.1 of the Rules for Enforcement of Lawyer Conduct is to remove the resident agent required of many Washington licensed legal professionals.

APR 5(a) and 13(f) require new members and most current members of the WSBA to designate a resident agent for the purpose of receiving service of process if their address of record is not a physical street address in Washington state. The origins of the resident agent requirement can be traced back to early laws requiring lawyers to

be residents of Washington state. The residency requirement evolved to a resident agent requirement. The need for a resident agent for service of process is antiquated and unnecessary. Procedural rules provide for alternative methods of service when a person cannot be found. The resident agent requirement is also an undue burden on members residing out of state who must impose this responsibility upon friends or family in Washington or hire a service of process corporation. Accordingly, the suggested amendments remove the resident agent requirement for Washington licensed legal professionals, remove failing to designate a resident agent as grounds for suspension, and remove the resident agent as an option for personal service in disciplinary proceedings.

In addition, the suggested amendments, specifically to APR 17(b), would create a new subsection making the act of WSBA recommending suspension of WSBA members for failing to timely notify the WSBA of a change in contact information a discretionary act instead of a mandatory act as currently required under the rule. The WSBA often does not know when a member has failed to timely update their contact information until someone complains about it. The WSBA prefers to take steps to remedy the situation rather than conduct suspension proceedings.

At its May 2, 2024 meeting, the WSBA Board of Governors voted unanimously to recommend these suggested amendments to the Washington Supreme Court. A detailed memo describing the background, impact on members, and reasons for removal of the resident agent requirement is attached as supporting material.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Expedited consideration is requested. Because the

resident agent requirement is antiquated, unnecessary, and unduly burdensome, the WSBA seeks expedited consideration. Ideally, the resident agent requirement would be removed by November 1, 2024, so as not to continue to be included in the 2025 license renewal season.

F. Supporting Material:

1. Memo to WSBA Board of Governors dated February 13, 2024 re Suggested Amendments to Remove Resident Agent Requirement

SUGGESTED AMENDMENTS TO ADMISION AND PRACTICE RULES

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 5. PRE-ADMISSION REQUIREMENTS; OATH; RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE LAW

(a) Preadmission Requirements. Before an applicant who has passed an examination for admission, or who qualifies for admission without passing an examination, may be admitted, the applicant must:

(1) pay to the Bar the annual license fee and any mandatory assessments ordered by the Supreme Court for the current year;

(2) file any and all licensing forms required of active lawyers, LLLTs or LPOs; and

(3) take the Oath of Attorney, the Oath for Limited Practice Officers, or the Oath of Limited License Legal Technician; and

~~————(4) designate a resident agent if required to do so by APR 13.~~

(b) – (m) [Unchanged.]

RULE 13. SIGNING OF PLEADINGS AND OTHER PAPERS; ADDRESS OF RECORD; ELECTRONIC MAIL ADDRESS; NOTICE OF CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME; RESIDENT AGENT

(a) – (e) [Unchanged.]

~~**(f) Resident Agent.** If the address of record required under this rule is not in the state of Washington or is not a physical street address, the lawyer, LLLT or LPO shall file with the Bar the name and address of an agent within this state for the purpose of receiving service of process or of any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer, LLLT or LPO. Service or delivery to such agent shall be deemed service~~

SUGGESTED AMENDMENTS TO ADMISION AND PRACTICE RULES

1 ~~upon or delivery to the lawyer, LLLT or LPO. The name and address of the resident agent shall~~
2 ~~be a public record. If the address or name of the resident agent changes, the lawyer, LLLT or~~
3 ~~LPO shall notify the Bar of the change within 10 days after the change. Judicial and honorary~~
4 ~~members of the Bar are exempt from the requirements of this section.~~

6 **RULE 17. ADMINISTRATIVE SUSPENSION FROM PRACTICE**

7 **(a) Basis for Suspension From Practice – Mandatory.** The Bar shall request that the
8 Supreme Court suspend a lawyer, LLLT, or LPO from the practice of law upon:

9 (1) notification from the Department of Social and Health Services that the lawyer,
10 LLLT, or LPO is more than six months delinquent in noncompliance with a valid and
11 enforceable order entered by a court of competent jurisdiction requiring the lawyer, LLLT, or
12 LPO to pay child support; or

13 (2) failure of a lawyer, LLLT, or LPO to comply with licensing requirements under these
14 rules, the applicable disciplinary rules, or the Bar’s Bylaws. This includes but is not limited to a
15 lawyer’s, LLLT’s, or LPO’s:

16 (A) failure to pay the annual license fee or late payment fee to the Bar;

17 (B) failure to pay to the Bar any mandatory assessments ordered by the Supreme Court
18 including the Client Protection Fund assessment;

19 (C) failure to comply with MCLE requirements;

20 (D) failure to comply with financial responsibility or professional liability insurance
21 requirements; and

22 (E) failure to file annual trust account information;

23 ~~(F) failure to designate a resident agent when required to do so; and~~

24 **(b) Basis for Suspension From Practice – Discretionary.** The Bar may request that the

SUGGESTED AMENDMENTS TO ADMISION AND PRACTICE RULES

1 Supreme Court suspend a lawyer, LLLT, or LPO from the practice of law upon ~~(G)~~ failure to
2 timely notify the Bar of a change in the lawyer's, LLLT's, or LPO's name, address, phone
3 number or e-mail address ~~or resident agent information~~ as required under APR 13.

4 **(bc) Notice and Order of Suspension.** The Bar shall provide at least 60 days written
5 notice of intent to seek suspension to a lawyer, LLLT, or LPO at the lawyer's, LLLT's, or LPO's
6 address of record with the Bar. The Bar shall establish notice procedures consistent with this
7 rule. A lawyer, LLLT, or LPO shall have a right to submit proof that the grounds for the
8 suspension do not exist or no longer exist. After such notice the Court may enter an order
9 suspending the lawyer, LLLT, or LPO from practice.

10 **(ed) Change of Status After Suspension Pursuant to This Rule.** A lawyer, LLLT, or
11 LPO who has been administratively suspended under this rule shall have a right to submit proof
12 to the Bar that the grounds for suspension no longer exist. The lawyer, LLLT, or LPO must
13 adhere to status change procedures established by the Bar. The Court may enter an order
14 changing status upon determination said proof is satisfactory and so long as the lawyer, LLLT, or
15 LPO meets all other requirements to practice law.

16 **(de) Rules of Professional Conduct Not Superseded.** Nothing in this rule supersedes
17 any of the Rules of Professional Conduct.

**SUGGESTED AMENDMENTS TO
RULES FOR ENFORCEMENT OF LAWYER CONDUCT**

1 **TITLE**

2 **RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)**

3 **RULE 4.1. SERVICE OF PAPERS**

4 (a) [Unchanged.]

5 (b) **Methods of Service.**

6 (1) – (2) [Unchanged.]

7 (3) *Personal Service.* Personal service on a respondent is accomplished as follows:

8 (A) [Unchanged.]

9 (B) if the respondent cannot be found in Washington State, service may be made either

10 by:

11 (i) [Unchanged.]

12 (ii) mailing by registered or certified mail, postage prepaid, a copy addressed to the
13 respondent at their last known place of abode, office address maintained for the practice of law,
14 post office address, or address on file with the Association, ~~or to the respondent's resident agent~~
15 ~~whose name and address are on file with the Association under APR 5(f).~~

16 (C) [Unchanged.]

17 (4) [Unchanged.]

18 (c) – (d) [Unchanged.]

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24 Suggested Amendments to ELC 4.1(b)(3)(B)(ii)
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