

The Hotsheet

Volume 10, Issue 2

A WSBA Family Law Section Publication

October 2005

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Hotsheet Fax Poll: Proposed Limited Practice Rule for Legal Technicians

The Practice of Law Board of the WSBA is proposing a limited practice rule that would create "legal technicians". The following is selected text from the proposed rule. The full text can be found on the WSBA web site.

The Family Law Executive Committee is interested in our section's members' views on this proposed rule. Please review the rule and then fill out the fax poll on the back of this issue of *The Hotsheet*. Please send additional comments on separate sheets of paper.

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 individuals. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons who are not lawyers licensed to practice in the State of Washington to render assistance or advice in defined areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to ensure that only trained and qualified individuals

may provide the same. This rule is intended to permit non-lawyers to provide limited legal assistance in a more accessible fashion to those who do not require the full services of a Lawyer.

B) Definitions. Unless the context clearly indicates otherwise, terms used in this rule shall have the following meanings:

1) "Approved and reviewed by a lawyer" means that a lawyer has supervised the legal work and documented that supervision by the lawyer's signature and bar number.

2) "Board" when used alone means the Practice of Law Board.

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4) "Lawyer" means a person licensed to practice law in the State of Washington.

5) "Legal Technician" means a nonlawyer authorized to engage in the limited practice of law as specified by this rule and related rules.

6) "Paralegal" shall mean is 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 legal work for which a lawyer is responsible.

7) "RPC" means the Rules of Professional Conduct.

8) "Substantive legal work" shall mean work performed by a person that requires

knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.

9) "Supervised" means a lawyer directs, approves and has responsibility for work performed by the legal technician.

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C) Certification Requirements. An applicant for certification as a legal technician shall:

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

2) Moral Character. Be of good moral character.

3) Education. Have graduated from a paralegal/legal assistant program that is approved by the American Bar Association or the Commission and is:

a) An associate degree or other paralegal/legal assistant program that consists of a minimum of 90 quarter hours (900 clock hours or 60 semester hours) of which at least 45 quarter hours (450 clock hours or 30 semester hours) are substantive legal courses; or
b) A bachelor's degree program in paralegal/legal assistant studies; or
c) A post-baccalaureate certificate program in paralegal/legal assistant studies.

4) Experience. Possess the following substantive legal experience as a paralegal/legal assistant under the supervision of a lawyer:

a) Those with an associates degree from an American Bar

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Association approved institution or who hold a bachelor's degree need a minimum of 2 years experience; or

b) Those who are graduates of any other program set out in subsection (3) need 3 years experience.

5) Pro Bono Service Requirement. Complete at least 20 hours of pro bono service ...

6) Examination. Satisfactorily complete an examination which shall, at a minimum, cover the rules of professional conduct applicable to legal technicians, rules of ethics, procedural rules and substantive law issues related to one or more discrete areas of practice.

7) Oath...

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D) Scope of Practice Authorized by Limited Practice Rule.

The legal technician may undertake the following in the defined area(s) of law for which the legal technician has been certified:

1) Interview clients to 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 conduct of the court hearing;

3) Inform the client of applicable procedures for proper service of process for motion papers, and proper filing procedures;

4) Provide the client with self-help materials prepared by a lawyer or approved by the Commission, which contain information as to statutory requirements, case law basis for the client's claim, and venue and jurisdiction requirements;

5) Review pleadings or exhibits presented by the client from the opposing side, and explain the documents;

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 lawyer; or forms approved by the Commission; 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 pleadings, if the work is reviewed and approved by a lawyer.

8) Advise client as to other documents which may be necessary (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.

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This is only a portion of the proposed rule. Space limitations prohibit printing the entire text of the rule here. Please see the WSBA web site for the rest of the rule.

Family Law Listserv

One of the benefits provided by your section is the popular listserv. There you can post questions or otherwise find useful information. Check our web site for instructions on joining the listserv.

WSBA Web Site Section Membership Renewal

Your Family Law Section membership can be renewed from the WSBA website page at www.wsba.org/familylaw.

Prospective new members can join from the same web site.

Fax Poll:

I agree with the proposed limited practice rule: Yes ___ No ___

I agree with the proposed limited practice rule with modifications (Please state modifications): Yes ___ No ___

Comments: _____

This is a publication of a Section of the Washington State Bar Association. All opinions and comments in this publication represent the views of the authors and do not necessarily have the endorsement of the Association or its officers or agents.

*"One of the tests of leadership is the ability to recognize a problem before it becomes an emergency."
 -Arnold Glasgow*

Please fax responses as soon as possible to Rick Bartholomew at 360-456-3632 or mail to Rick at 1415 College St. SE Lacey, WA 98503

Please attach separate sheets for additional comments.