

**AGENDA**  
**Paralegal Practitioner Steering Committee**  
 June 15, 2017  
 12:00pm  
 Scott M. Matheson Courthouse  
 Education Room, Room N302  
 450 South State Street, Salt Lake City, UT

Welcome ● <b>ACTION</b> - Approval of draft minutes	Tab 1	Justice Deno Himonas
Admissions and Administration Subcommittee ● <b>ACTION</b> - Proposed Rule 14-802 ● <b>ACTION</b> - Proposed Paralegal Survey	Tab 2	Judge Royal Hansen Mr. Robert Rice Julie Emery
MLCE Subcommittee ● <b>ACTION</b> - Proposed MCLE Rules	Tab 3	Steve Johnson
Education Subcommittee	Tab 4	Dean Robert Adler
Ethics and Discipline Subcommittee		Judge Kate Toomey
Executive Subcommittee	Tab 5	Justice Deno Himonas
Other Business ● <b>ACTION</b> - Request from Forms Committee	Tab 6	James Ishida

**Members**

Justice Deno G. Himonas, Chair  
 Dean Robert W. Adler  
 John Baldwin  
 Adam Caldwell  
 Dr. Thomas Clarke  
 Terry Conaway  
 Sue Crismon  
 Dean Benson Dastrup  
 James Dean  
 Julie Emery  
 Judge Royal Hansen  
 Dixie Jackson  
 James S. Jardine  
 Scott Jensen  
 Steven Johnson

Comm. Kim Luhn

Ellen Maycock  
 Daniel O'Bannon  
 Robert Rice  
 Monte Sleight  
 Judge Kate A. Toomey  
 Stephen Urquhart  
 Elizabeth Wright

**Staff**

James N. Ishida  
 Jody Gonzales

**Meeting Schedule**

- None planned at this time

Tab 1

**PARALEGAL PRACTITIONER  
STEERING COMMITTEE  
MEETING**

**Minutes  
Thursday, April 20, 2017  
Executive Dining Room  
Matheson Courthouse  
Salt Lake City, Utah**

**Justice Deno Himonas, Presiding**

**ATTENDEES:**

Justice Deno Himonas  
John Baldwin  
Terry Conaway  
Dean Benson Dastrup - by phone  
James Deans  
Julie Emery  
Dixie Jackson  
Jim Jardine  
Steven Johnson  
Daniel O'Bannon  
Rob Rice  
Judge Kate Toomey  
Elizabeth Wright

**GUESTS:**

Miles Pope  
Jacqueline Morrison

**STAFF:**

James Ishida  
Jeni Wood

**EXCUSED:**

Dean Robert W. Adler  
Adam Caldwell  
Mary Jane Ciccarello  
Dr. Thomas Clarke  
Sue Crismon  
Judge Royal Hansen  
Scott Jensen  
Comm. Kim Luhn  
Ellen Maycock  
Monte Sleight  
Senator Stephen Urquhart

**1. WELCOME AND APPROVAL OF MINUTES: (Justice Deno Himonas)**

Justice Himonas welcomed everyone to the meeting.

**Motion:** Judge Toomey moved to approve the February 16 committee minutes. Ms. Jackson seconded the motion, and it passed unanimously.

**2. SUBCOMMITTEE UPDATES:**

**Admissions and Administration Subcommittee:**

Mr. Rice highlighted the following in his summary of the education qualifications as recommended in the draft rules to be considered by the steering committee:

- Two license procedures
  - ❖ Traditional application for a license
  - ❖ Waiver requirements for the veteran paralegal practitioner

- Rule 15-703 – Qualifications for Licensure as a Licensed Paralegal Practitioner
  - ❖ a first professional degree in law from an approved law school; or
  - ❖ an Associate’s Degree in paralegal studies from a regionally or nationally accredited school; or
  - ❖ a Bachelor’s Degree in paralegal studies from a regionally or nationally accredited school, or
  - ❖ a Bachelor’s Degree in any field from a regionally or nationally accredited school, plus a paralegal certificate or 15 credit hours of paralegal studies/paralegal training
  - ❖ has either 1500 hours of substantive law-related experience within the last three years, including 500 hours of substantive law-related experience in family law if the applicant is to be licensed in that area, or 100 hours of substantive law-related experience in either landlord-tenant or debt collection law if the applicant is to be licensed in those areas.

A last minute revision was proposed as to the reference used for family law, landlord tenant law or debt collection law. Rather than use broad conceptual reference to these three areas of law, it was proposed to adopt the terminology utilized by the Supreme Court Task Force to Examine Limited Legal Licensing which included:

- **Family Law: temporary separations, divorce, parentage, cohabitant abuse and civil stalking, custody & support, and name change**
    - **Landlord Tenant Law: forcible entry and detainer**
    - **Debt Collection Law: debt collections**
  - ❖ has successfully passed the Licensed Paralegal Practitioner Ethics Examination approved by the Board
  - ❖ has successfully passed the Licensed Paralegal Practitioner Examination(s) for the practice area(s) in which the applicant seeks licensure
  - ❖ have passed either the National Association of Legal Assistants or NALS certification examination
- Rule 15-705 – Limited Time Waiver
    - ❖ for the limited time of three years from the date the Bar initially begins to accept LPP applications for licensure, the Bar may grant a waiver of the minimum educational requirements set forth in Rule 15-703
    - ❖ within two years from the time the waiver request is submitted, an applicant must complete the remaining requirements to become licensed as a licensed paralegal practitioner
    - ❖ has completed seven years of substantive law-related experience as a paralegal within the 10 years preceding the application for the waiver, including relevant experience for the practice area in which the applicant seeks licensure, including 500 hours of substantive law-related experience in family law, if the applicant is to be licensed in that area, or 100 hours of substantive law-related experience in landlord-tenant or debt collection law, if the applicant is to be licensed in those areas
    - ❖ proof of seven years of substantive law-related experience in the practice area in which the applicant seeks licensure shall be certified by the supervising lawyer(s)
    - ❖ has successfully passed the Licensed Paralegal Practitioner Ethics Examination approved by the Board

- ❖ has successfully passed the Licensed Paralegal Practitioner Examination(s) for the practice area(s) in which the applicant will be licensed
- ❖ is of good moral character and satisfies the requirements of Rule 15-708

Definition of paralegal studies to be included with the program details was recommended. Discussion took place.

Discussion took place relative to Washington State considering extending their grandfathering period, as it relates to family law, with regard to their Limited Legal Licensing Technician Program.

Ms. Wright reported that the remaining Licensed Paralegal Practitioner Admission Rules are administrative, with respect to the application process. Some of the rules were left blank until the information becomes available. The administrative and review process that are in place for lawyers will be the same for the licensed paralegal practitioner. An LPP Admissions and an LPP Character and Fitness Committee will be created. It was also noted that once the rules have been approved, they cannot be waived except by the court.

**Motion:** Judge Toomey moved to approve the proposed LPP Admission rules as amended. Mr. Johnson seconded the motion, and it passed unanimously.

#### **Ethics and Discipline Subcommittee:**

Judge Toomey reported that the proposed Rules Governing Licensed Paralegal Practitioners were recommended for approval.

**Motion:** Mr. Rice moved to approve the Rules Governing Licensed Paralegal Practitioners as recommended by the Ethics and Discipline Subcommittee. Mr. Johnson seconded the motion, and it passed unanimously.

Judge Toomey reported that a request was made by the Oregon State Bar was made to get a copy of the draft rules for use with the licensed paralegal practitioner. She mentioned that a copy of the rules was sent to them for review.

The proper terminology with regard to “paternity” or “parentage” was discussed. It was noted that the correct terminology should be “parentage”. Amendments to the rules as appropriate will take place.

#### **Education Subcommittee:**

Mr. Ishida reported that Dean Adler was unable to attend today’s meeting, and he would provide an update on behalf of Dean Adler. Mr. Ishida highlighted the following:

- Licensed Paralegal Practitioner Training Program
  - ❖ discussion of what a training program for licensed paralegal practitioners could look like
  - ❖ creation of a training outline on how to train the licensed paralegal practitioners

- Forms Analysis
  - ❖ two thirds of the way through analyzing the appropriate forms for use by the licensed paralegal practitioners
  - ❖ coordinating efforts with the new Forms Committee

### **Executive Subcommittee:**

Judge Toomey reported that the priority of the forms to be used by the licensed paralegal practitioner is being made a priority by the Forms Committee.

Mr. Johnson reported that a draft rule on the MCLE requirements has been prepared. The question was asked as to the appropriate amount of MCLE hours to be required in a two-year period for the licensed paralegal practitioner. Ms. Emery noted that currently the paralegal practitioners are required to obtain 10 MCLE hours per year. Discussion took place.

The steering committee agreed to 12 MCLE hours in a two-year period—6 per year with three hours relative to ethics and civility for the licensed paralegal practitioner.

Justice Himonas asked for a volunteer from the steering committee to be a liaison on the Forms Committee. Mr. Ishida volunteered to participate as a liaison to the Forms Committee.

### **3. OTHER BUSINESS**

Preliminary Report on Washington State's LLLT Program. Justice Himonas asked the steering committee for any feedback. Discussion took place, and feedback was provided.

Program Participant Survey. Ms. Emery reported that a survey was created to determine the interest and qualifications of potential paralegal practitioners. The survey will be sent to Mr. Ishida for distribution.

Timeline – Implementation of the Licensed Paralegal Practitioner Program. Discussion took place on offering a soft rollout in the Spring of 2018 and a hard rollout in the Fall of 2018. Consideration of offering an early examination for the grandfathered applicants will be made.

### **4. ADJOURN**

The meeting was adjourned at 12:54 pm.

# Tab 2

**Rule 14-802. Authorization to practice law.**

(a) Except as set forth in subsections (c) and (d) of this rule, only persons who are active, licensed members of the Bar in good standing may engage in the practice of law in Utah.

(b) For purposes of this rule:

(b)(1) The “practice of law” is the representation of the interests of another person by informing, counseling, advising, assisting, advocating for or drafting documents for that person through application of the law and associated legal principles to that person’s facts and circumstances.

(b)(2) The “law” is the collective body of declarations by governmental authorities that establish a person’s rights, duties, constraints and freedoms and consists primarily of:

(b)(2)(A) constitutional provisions, treaties, statutes, ordinances, rules, regulations and similarly enacted declarations; and

(b)(2)(B) decisions, orders and deliberations of adjudicative, legislative and executive bodies of government that have authority to interpret, prescribe and determine a person’s rights, duties, constraints and freedoms.

(b)(3) “Person” includes the plural as well as the singular and legal entities as well as natural persons. (c) Exceptions and Exclusions for Licensed Paralegal Practitioners. A person may be licensed to engage in the limited practice of law in the area or areas of (1) temporary separation, divorce, paternity parentage, cohabitant abuse, civil stalking, custody and support, and name change; (2) forcible entry and detainer; or (3) debt collection.

(c)(1)(A) Within a practice area or areas in which a Licensed Paralegal Practitioner is licensed, a Licensed Paralegal Practitioner who is in good standing may represent the interests of a natural person who is not represented by a lawyer unaffiliated with the Licensed Paralegal Practitioner by:

(c)(1)(B) establishing a contractual relationship with the client;

(c)(1)(C) interviewing the client to understand the client’s objectives and obtaining facts relevant to achieving that objective;

(c)(1)(D) completing ~~an form~~ approved form; ~~by the Judicial Council or board of district court judges~~;

(c)(1)(E) informing, counseling, advising, and assisting in determining which form to use and giving advice on how to complete the form;

(c)(1)(F) signing, filing, and completing service of the form;

(c)(1)(G) obtaining, explaining, and filing any document needed to support the form;

(c)(1)(H) reviewing documents of another party and explaining them;

(c)(1)(I) informing, counseling, assisting and advocating for a client in mediated negotiations;

(c)(1)(J) filing in, signing, filing and completing service of a written settlement agreement form in conformity with the negotiated agreement;

(c)(1)(K) communicating with another party or the party's representative; and

(c)(1)(L) explaining a court order that affects the client's rights and obligations.

(d) Other Exceptions and Exclusions. Whether or not it constitutes the practice of law, the following activity by a non-lawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

(d)(1) Making legal forms available to the general public, whether by sale or otherwise, or publishing legal self-help information by print or electronic media.

(d)(2) Providing general legal information, opinions or recommendations about possible legal rights, remedies, defenses, procedures, options or strategies, but not specific advice related to another person's facts or circumstances.

(d)(3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in the State of Utah when no fee is charged to do so.

(d)(4) When expressly permitted by the court after having found it clearly to be in the best interests of the child or ward, assisting one's minor child or ward in a juvenile court proceeding.

(d)(5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.

(d)(6) Representing without compensation a natural person or representing a legal entity as an employee representative of that entity in an arbitration proceeding, where the amount in controversy does not exceed the jurisdictional limit of the small claims court set by the Utah Legislature.

(d)(7) Representing a party in any mediation proceeding.

(d)(8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.

(d)(9) Serving in a neutral capacity as a mediator, arbitrator or conciliator.

(d)(10) Participating in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.

(d)(11) Lobbying governmental bodies as an agent or representative of others.

(d)(12) Advising or preparing documents for others in the following described circumstances and by the following described persons:

(d)(12)(A) a real estate agent or broker licensed by the state of Utah may complete State-approved forms including sales and associated contracts directly related to the sale of real estate and personal property for their customers.

(d)(12)(B) an abstractor or title insurance agent licensed by the state of Utah may issue real estate title opinions and title reports and prepare deeds for customers.

(d)(12)(C) financial institutions and securities brokers and dealers licensed by Utah may inform customers with respect to their options for titles of securities, bank accounts, annuities and other investments.

(d)(12)(D) insurance companies and agents licensed by the state of Utah may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, the naming of beneficiaries, and the adjustment of claims under the company's insurance coverage outside of litigation.

(d)(12)(E) health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.

(d)(12)(F) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.

Advisory Committee Comment:

Subsection (a).

"Active" in this paragraph refers to the formal status of a lawyer, as determined by the Bar. Among other things, an active lawyer must comply with the Bar's requirements for continuing legal education.

Subsection (b).

The practice of law defined in Subparagraph (b)(1) includes: giving advice or counsel to another person as to that person's legal rights or responsibilities with respect to that person's facts and circumstances; selecting, drafting or completing legal documents that affect the legal rights or

responsibilities of another person; representing another person before an adjudicative, legislative or executive body, including the preparation or filing of documents and conducting discovery; negotiating legal rights or responsibilities on behalf of another person.

Because representing oneself does not involve another person, it is not technically the "practice of law." Thus, any natural person may represent oneself as an individual in any legal context. To the same effect is Article 1, Rule 14-111 Integration and Management: "Nothing in this article shall prohibit a person who is unlicensed as an attorney at law or a foreign legal consultant from personally representing that person's own interests in a cause to which the person is a party in his or her own right and not as assignee."

Similarly, an employee of a business entity is not engaged in "the representation of the interest of another person" when activities involving the law are a part of the employee's duties solely in connection with the internal business operations of the entity and do not involve providing legal advice to another person. Further, a person acting in an official capacity as an employee of a government agency that has administrative authority to determine the rights of persons under the law is also not representing the interests of another person.

As defined in subparagraph (b)(2), "the law" is a comprehensive term that includes not only the black-letter law set forth in constitutions, treaties, statutes, ordinances, administrative and court rules and regulations, and similar enactments of governmental authorities, but the entire fabric of its development, enforcement, application and interpretation.

Laws duly enacted by the electorate by initiative and referendum under constitutional authority would be included under subparagraph (b)(2)(A).

Subparagraph (b)(2)(B) is intended to incorporate the breadth of decisional law, as well as the background, such as committee hearings, floor discussions and other legislative history, that often accompanies the written law of legislatures and other law- and rule-making bodies. Reference to adjudicative bodies in this subparagraph includes courts and similar tribunals, arbitrators, administrative agencies and other bodies that render judgments or opinions involving a person's interests.

Subsection (c).

The exceptions for Licensed Paralegal Practitioners arise from the November 18, 2015 Report and Recommendation of the Utah Supreme Court Task Force to Examine Limited Legal Licensing. The Task Force was created to make recommendations to address the large number of litigants who are self represented or forego access to the Utah judicial system because of the high cost of retaining a lawyer. The Task Force recommended that the Utah Supreme Court exercise its constitutional authority to govern the practice of law to create a subset of discreet legal services in the practice areas of: (1) temporary separation, divorce, paternity, cohabitant abuse, civil stalking, custody and support, and name change; (2) forcible entry and detainer; and (3) debt collection. The Task Force determined that these three practice areas have the highest number of unrepresented litigants in need of low cost legal assistance. Based on the Task Force's recommendations, the Utah Supreme Court authorized Licensed Paralegal Practitioners to provide limited legal services as prescribed in this Rule and in accordance with the Supreme Court Rules of Professional Practice.

Subsection (d).

To the extent not already addressed by the requirement that the practice of law involves the representation of others, subparagraph (d)(2) permits the direct and indirect dissemination of legal information in an educational context, such as legal teaching and lectures.

Subparagraph (d)(3) permits assistance provided by employees of the courts and legal-aid and similar organizations that do not charge for providing these services.

Subparagraph (d)(7) applies only to the procedures directly related to parties' involvement before a neutral third-party mediator; it does not extend to any related judicial proceedings unless otherwise provided for under this rule (e.g., under subparagraph (d)(5)).



UTAH PARALEGAL SURVEY

1. Have you heard of the new profession being introduced in Utah, Licensed Paralegal Practitioner (“LPP”)?
2. How did you hear about LPP?
3. Have you read the report by the Supreme Court Task Force to Examine Limited Legal Licensing, dated November 18, 2015?
4. How are you currently employed as a paralegal?
  - a. Law firm, corporate or government entity, working under the supervision of licensed attorneys.
  - b. Freelance paralegal, working under the supervision of licensed attorneys.
  - c. Independent paralegal.
  - d. Student.
5. How many years of experience do you have working as a paralegal?
6. In what practice area do you work? (paragraph text answer)
7. Which best describes your paralegal education:
  - a. Juris Doctorate.
  - b. Juris Doctorate candidate.
  - c. ABA approved paralegal program (Associates or Bachelor’s Degree).
  - d. Paralegal Certificate, not ABA approved, but from a nationally or regionally accredited institution.
  - e. On the job training only, with no post-high school education.
  - f. Currently enrolled as a student in an ABA approved paralegal program.
  - g. Currently enrolled as a student in a paralegal program at a nationally or regionally accredited program, which is not ABA approved.
8. LPPs will be able to practice law in three areas: Debt Collection, Domestic Law and Eviction. How many hours experience do you have in the following practice areas (include clinics, pro bono and paid employment)?
  - a. Debt Collection
  - b. Domestic Law
  - c. Eviction
9. What is your interest level in becoming a Licensed Paralegal Practitioner?
  - a. Very interested, and I plan to apply as soon as available in the following practice areas.
    - i. Debt Collection

- ii. Domestic Law
    - iii. Eviction
  - b. Interested in the following practice areas, but I need more information. (paragraph text - What information you need, or what questions do you have?)
    - i. Debt Collection
    - ii. Domestic Law
    - iii. Eviction
  - c. Interested in the following practice areas, but I don't think I qualify. (paragraph text – Why don't you qualify?)
    - i. Debt Collection
    - ii. Domestic Law
    - iii. Eviction
  - d. Not at all interested.
- 10. Are you interested in setting up your own LPP firm, or starting an LPP division in an existing law firm?
  - a. Set up LPP firm.
  - b. LPP work in law firm.
- 11. Do you have any questions? Please list them here. Also, feel free to leave comments and suggestions. (paragraph field)

# Tab 3

## **MANDATORY CONTINUING LEGAL EDUCATION**

### **Rule 15-401. Purpose.**

By continuing their legal education throughout the period of practice of law, licensed paralegal practitioners can better fulfill their obligation to serve their clients competently. This article establishes minimum requirements for mandatory continuing legal education and the means by which the requirements are enforced.

### **Rule 15-402. Definitions.**

As used in this article:

- (a) Reserved;
- (b) "Accredited CLE" means a CLE course that has been approved by the Board in accordance with Rule 15-410.
- (c) "Active status" or "active status licensed paralegal practitioner " means a licensed paralegal practitioner who has elected to be on active status as defined under the Bar's rules, regulations and policies;
- (d) Reserved;
- (e)(1) "Approved law school" means an ABA approved law school as defined under Rule 14-701;
- (e)(2) "Approved paralegal education program" means a program offered by an accredited school as that term is defined in Rule 15-701.
- (f) "Bar" means the Utah State Bar;
- (g) "Bar Examination" means the Bar Examination as defined in Rules 14-710 and 14-711 and includes the UBE, regardless of where the UBE was taken;
- (h) "Board" means the Utah State Board of Mandatory Continuing Legal Education as set forth in Rule 14-403;
- (i) "Board of Bar Commissioners" means the governing board of the Bar;
- (j) "Certificate of Compliance" means a written report evidencing a licensed paralegal practitioner's completion of accredited CLE as required and defined under Rule 15-414;
- (k) "CLE" means continuing legal education;
  - (k)(1) "Live CLE" means a CLE program presented in a classroom setting where the licensed paralegal practitioner is in the same room as the presenter;
  - (k)(2) "Live Attendance" means in person attendance at a Utah state courthouse where a course is streamed by live audio-visual communication from another Utah state courthouse or from the Law and Justice Center;
  - (k)(3) "Self-Study CLE Program" means a program presented in a suitable setting where the licensed paralegal practitioner can view approved self-study activities;

- (l) Reserved;
- (m) "Compliance Cycle"- means the period of 2 years beginning July 1 through June 30;
- (n) "Ethics" means standards set by the Utah Rules of Professional Conduct with which a licensed paralegal practitioner must comply to remain authorized to certify as a licensed paralegal practitioner in Utah and remain in good standing;
- (o) Reserved;
- (p) Reserved;
- (q) "Inactive status" or "inactive status licensed paralegal practitioner" means a- licensed paralegal practitioner who has elected to be on inactive status as defined under the Bar's rules, regulations and policies;
- (r) "MCLE" means mandatory continuing legal education as defined under this article;
- (s) Reserved;
- (t) "New admittee" means a licensed paralegal practitioner newly licensed by the Utah State Bar;
- (u) Reserved;
- (v) "Presumptively approved sponsor" means those CLE sponsors or providers who qualify under the standards set forth in Rule 14-412;
- (w) "Presumptive CLE accreditation" means those CLE courses or activities that qualify under the standards set forth in Rule 14-412;
- (x) "Professionalism and Civility" means conduct consistent with the tenets of the legal profession by which a licensed paralegal practitioner demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, lawyers, other licensed paralegal practitioners, witnesses and unrepresented parties;
- (y) "OPC" means the Bar's Office of Professional Conduct;
- (z) Reserved; and
- (aas) "Supreme Court" means the Utah Supreme Court.

**Rule 15-403.** Reserved.

[Note: Rule 14-403 will be amended to read:

**Rule 14-403. Establishment and membership of Board.**

There is hereby established by this Court a Board of Mandatory Continuing Legal Education. The Board consists of 15 members, at least 13 of whom are lawyers admitted to the Bar, and may include up to 2 additional licensed paralegal practitioners. Members are appointed for three-year terms, except that three members of the initial Board will be appointed for a one-year term and three members will be appointed for a

two-year term. Each yearly class of members will include one member residing outside of Salt Lake County. No lawyer may serve more than two consecutive terms as a member of the Board.]

**Rule 15-404. Active status licensed paralegal practitioners: MCLE.**

(a) Active status licensed paralegal practitioners. Commencing with calendar year 2018, each paralegal practitioner licensed to practice in Utah must complete, during each two fiscal year period (July 1 through June 30), a minimum of 12 hours of Utah accredited CLE which must include a minimum of three hours of accredited ethics or professional responsibility. One of the three hours of ethics or professional responsibility must be in the area of professionalism and civility. Licensed paralegal practitioners on inactive status are not subject to the requirements of this rule.

(b) Reserved.

(c) Reserved.

(d) Reserved.

(e) Reserved.

(f) Reserved.

(g) Out-of-state CLE activities. CLE credit may be awarded for out-of-state activities that the Board determines meet standards in furthering a licensed paralegal practitioner's legal education. The Board determines whether to accredit the activities and, if accredited, the number of hours of credit to allow for such activities.

(h) Activities that may be regarded as equivalent to state-sponsored self-study CLE may include, but are not limited to, viewing of approved CLE audio and video, and webcast presentations, computer interactive telephonic programs, writing and publishing an article in a legal periodical, part-time teaching in an approved law school or approved paralegal education program, or delivering a paper or speech on a professional subject at a meeting primarily attended by lawyers, licensed paralegal practitioners, legal assistants, or law school students.

(i) A licensed paralegal practitioner's application for accreditation of a CLE activity must be submitted in writing to the Board if the activity has not been previously approved for CLE credit in Utah.

**Rule 15-405. MCLE requirements for licensed paralegal practitioners on inactive status.**

(a) Licensed paralegal practitioners on inactive status are not subject to MCLE requirements while on inactive status.

(b) Return to active status. A licensed legal practitioner who is on inactive status for 12 months or more and who returns to active status must complete the 24 hour MCLE requirement by June 30 of the fiscal year following his or her return to active status and may use CLE hours completed prior to activation to satisfy part or all of the MCLE

requirement if those hours were completed during the CLE cycle in which the licensed legal practitioner must complete the MCLE requirement.

(c) A licensed legal practitioner who has been on inactive status for less than 12 months may not elect active status until completing the MCLE requirements that were incomplete at the time the licensed legal practitioner elected to be enrolled as an inactive- licensed legal practitioner.

**Rule 15-406. MCLE requirements for licensed paralegal practitioners on active military duty.**

(a) Waiver. **Licensed paralegal practitioners** who are serving or called to federal active military duty that will last for 90 concurrent days or longer during any portion of a compliance period will have MCLE requirements waived for that particular compliance period.

(b) Statement of compliance. Each licensed legal practitioner serving or called to federal active military duty that will last for 90 concurrent days or longer must file with the Board a statement of compliance providing verification of the date the licensed legal practitioner was called to federal active military duty. The statement of compliance is due by July 31 following the end of the compliance cycle in which the report is due.

**Rule 15-407. Reserved.**

**Rule 15-408. Credit hour defined; application for approval.**

(a) An hour of accredited CLE means 60 minutes of attendance in a one-hour period at an accredited CLE program.

(b) A licensed paralegal practitioner or a sponsoring agency applying for approval of a CLE activity or program must submit to the Board all the necessary information required under this article.

**Rule 15-409. Self-study categories of accredited MCLE defined.**

(a) Lecturing, teaching and panel discussions. Licensed paralegal practitioners who lecture in an accredited CLE program will receive credit for three hours for each hour spent lecturing. No lecturing or teaching credit is available for participation in a panel discussion or for preparation time.

(b) Final published course schedule. The Board will determine the number of accredited CLE hours available for a program based on the final published course schedule.

(c) Equivalent CLE credit for certain self-study activities. Subject to the Board's determination, the Board will allow equivalent credit for such activities that further the purpose of this article and qualify for equivalency. Such equivalent activities may include, but are not limited to, viewing of approved CLE audio and video and webcast presentations, computer interactive telephonic programs, writing and publishing an

article in a legal periodical, part-time teaching by a licensed paralegal practitioner in an approved law school or approved paralegal education program, or delivering a paper or speech on a professional subject at a meeting primarily attended by lawyers, licensed paralegal practitioners, legal assistants or law students. The number of hours of credit allowed for such activities and the procedures for obtaining equivalent credit will be determined specifically by the Board for each instance.

**Rule 15-410. Accreditation of MCLE; attendance; undue hardship and special accreditation.**

(a) Accredited CLE activities provided by this article must:

(a)(1) have as their primary objective to increase licensed paralegal practitioners' professional competency;

(a)(2) be comprised of subject matter directly related to the practice of law in the areas approved for practice by licensed paralegal practitioners; and

(a)(3) comply with the specific requirements set forth in this article with respect to each activity.

(b) The Board shall assign an appropriate number of credit hours to each accredited CLE activity.

(c) Attendance. A licensed paralegal practitioner may attend a course in person or by live, interactive audio-video communication from a Utah state courthouse to another Utah state courthouse or from the Law and Justice Center to a Utah state courthouse.

(c)(1) The total of all hours allowable for live, interactive webcasts that are broadcast from a Utah state courthouse to another Utah state courthouse or from the Law and Justice Center to a Utah state courthouse must be authorized by the Board.

(d) Ethics and professional responsibility courses. All courses or components of courses offered to fulfill the ethics and professional responsibility requirement under 14-404(a) must be specifically accredited by the Board.

(d)(1) Professionalism and Civility. All courses or components of courses offered to fulfill the professionalism and civility requirement under 14-404(a) must be specifically accredited by the Board.

(e) Undue hardship; special accreditation. Formal instruction or educational seminars which meet the requirements of paragraph (a) lend themselves well to the fulfillment of the educational requirement imposed by this article and will be readily accredited by the Board. It is not intended that compliance with this article will impose any undue hardship upon any licensed paralegal practitioner because the licensed paralegal practitioner may find it difficult to attend such activities because of health or other special reasons. In addition to accrediting formal instruction at centralized locations, the Board, in its discretion, may accredit such educational activities including, but not limited to, audio and video presentations, webcast, computer interactive telephonic programs, teaching,

preparation of articles and other meritorious learning experiences as provided in this article.

**Rule 15-411. Board accreditation of non-approved sponsor courses.**

The Board in its discretion may accredit CLE courses or activities offered by non-approved sponsors if they meet the following standards.

- (a) The course must be of intellectual or practical content and, where appropriate, should include an ethics or professional responsibility component.
- (b) The course or activity must contribute directly to a licensed paralegal practitioner's professional competence or skills, or the licensed paralegal practitioner's professional ethical obligations.
- (c) Course or activity leaders or lecturers must have the necessary practical or academic skills to conduct the course effectively.
- (d) Prior to or during the course or activity, each attendee must be provided with written or electronic course materials of a quality and quantity which indicate that adequate time has been devoted to preparation and which are of value to licensed paralegal practitioners in their practice of the law. One-hour courses or activities meet this requirement by providing an outline of the course or activity's content.
- (e) The course or activity must be presented in an appropriate setting.
- (f) The course or activity must be made available to licensed paralegal practitioners throughout the state unless the sponsor demonstrates to the satisfaction of the Board that there is good reason to limit availability.
- (g) A sponsor or attendee must submit to all reasonable requests for information related to the course or activity.
- (h) A sponsor or attendee must submit a written request for accreditation on an approved form within 60 days prior to or following the course or activity. Sponsors who wish to advertise a course or activity as being accredited must submit a request for approval at least 60 days prior to the event.
- (i) The sponsor must submit the registration list in an approved format and CLE fees if applicable within 30 days following the presentation of a course.

**Rule 15-412. Presumptively approved sponsors; presumptive MCLE accreditation.**

(a) The Board may designate an individual or organization as a presumptively approved sponsor of accredited CLE courses or activities if they meet the following standards:

(a)(1) The sponsor must be either an approved law school, an approved paralegal education program, or an organization engaged in CLE that has, during the three years immediately preceding its application, sponsored at least six separate courses that

comply with the requirements for individual course accreditation under Rule 14-411. Status as a presumptively approved sponsor is subject to periodic review.

(a)(2) Presumptively approved sponsors are required to pay annual presumptive fees.

(a)(3) Within 60 days prior to offering a course, the sponsor must indicate on a Board-approved form that the course satisfies the provisions of Rule 14-411. The sponsor should also submit a copy of the brochure or outline describing the course, a description of the method or manner of presentation, and, if specifically requested by the Board, a set of materials.

(a)(4) The sponsor must submit the registration list in an approved format, and CLE fees if applicable within 30 days following the presentation of a course.

(a)(5) The sponsor must make its courses available to all licensed paralegal practitioners throughout the state, unless it can demonstrate to the satisfaction of the Board that there is good reason to limit the availability.

(a)(6) The sponsor must submit to all reasonable requests for information and comply with this article.

(b) Denial of presumptively approved sponsor status. Notwithstanding a sponsor's compliance with paragraphs (a)(1) through (a)(6), the Board may deny designation as a presumptively approved sponsor if the Board finds there is just cause for denial.

(c) Revocation of presumptive approval. The Board may audit any sponsor having presumptive approval and may revoke the presumptive approval if it determines that the sponsor is offering, as accredited, courses which do not satisfy the standards established under Rule 14-411.

**Rule 15-413. MCLE credit for qualified audio and video presentations; webcasts; computer interactive telephonic programs; writing; lecturing; teaching; live attendance.**

(a) Credit will be allowed for self-study with Board accredited audio and video presentations, webcasts or computer interactive telephonic programs in accordance with the following.

(a)(1) One hour of self-study credit will be allowed for viewing and/or listening to 60 minutes of audio or video presentations, webcasts or computer interactive telephonic programs in accordance with Rule 14-408(a).

(a)(2) No more than 6 hours of credit may be obtained through self-study with audio or video presentations, webcasts or computer interactive telephonic programs. Upon application to the Board, the Board may grant a waiver, permitting a licensed paralegal practitioner on active status to obtain all required hours of credit through self-study, if the licensed paralegal practitioner:

(a)(2)(A) does not reside in Utah; and

(a)(2)(B) is engaged in full-time volunteer work for a religious or charitable organization.

(b) Credit will be allowed for writing and publishing an article in a legal periodical in accordance with the following.

(b)(1) To be eligible for any credit, an article must:

(b)(1)(A) be written to address a licensed paralegal practitioner audience;

(b)(1)(B) be at least 3,000 words in length;

(b)(1)(C) be published by a recognized publisher of legal material; and

(b)(1)(D) not be used in conjunction with a seminar.

(b)(2) Three credit hours will be allowed for each 3,000 words in the article. An application for accreditation of the article must be submitted at least 60 days prior to reporting the activity for credit. Two or more authors may share credit obtained pursuant to this paragraph in proportion to their contribution to the article. No more than 6 hours of credit may be obtained through writing and publishing an article or articles.

(c) Credit will be allowed for lecturing in an accredited CLE program, part-time teaching by a licensed paralegal practitioner in an approved paralegal education program or by a lawyer in an approved law school, or delivering a paper or speech on a professional subject at a meeting primarily attended by lawyers, licensed paralegal practitioners, legal assistants, or law students in accordance with the following.

(c)(1) Lecturers in an accredited CLE program and part-time teachers may receive three hours of credit for each hour spent in lecturing or teaching as provided in Rule 14-408(a).

(c)(2) No lecturing or teaching credit is available for participation in a panel discussion.

(c)(3) No more than 6 hours of credit may be obtained through lecturing and part-time teaching.

(d) Credit will be allowed for lecturing and teaching by full-time law school or approved paralegal education program faculty members in accordance with the following:

(d)(1) Full-time law school or approved paralegal education program faculty members may receive credit for lecturing and teaching but only for lecturing and teaching accredited CLE courses.

(d)(2) No lecturing or teaching credit is available for participation in panel discussions.

(d)(3) No more than 6 hours of credit may be obtained through lecturing and teaching by full-time law school or approved paralegal education program faculty members.

(e) Credit will be allowed for attendance at an accredited CLE program in accordance with the following.

(e)(1) Credit is allowed for attendance at an accredited CLE program in accordance with Rule 14-408(a).

(e)(2) A minimum of 6 CLE hours, with no maximum restriction, must be obtained through attendance at live in-person CLE programs.

(f) The total of all hours allowable under paragraphs (a), (b), (c), and (d) of this rule may not exceed 6 hours during a reporting period.

(g) No credit is allowed for self-study programs except as expressly permitted under paragraph (a).

**Rule 15-414. Certificate of compliance; filing, late, and reinstatement fees; suspension; reinstatement.**

(a) Certificate of compliance. On or before July 31 of alternate years, each licensed paralegal practitioner subject to MCLE requirements must file a Certificate of Compliance with the Board, appropriately evidencing the licensed paralegal practitioner's completion of accredited CLE courses or activities ending the preceding 30th day of June. The Certificate of Compliance must include the title of programs or the audio or video presentation, computer interactive webcast, telephonic program attended, viewed or listened to; the sponsoring entity; the number of hours in actual attendance at each program or the number of hours of such audio or video presentation; and other information as the Board requires.

(b) Filing fees, late fees and reinstatement fees.

(b)(1) Each licensed paralegal practitioner shall pay a filing fee in the amount of \$15 at the time of filing the Certificate of Compliance under paragraph (a).

(b)(2) Any licensed paralegal practitioner who fails to complete the MCLE requirement by the June 30 deadline, or fails to file by the July 31 deadline will be assessed a \$100 late fee.

(b)(3) Licensed paralegal practitioners who fail to comply with the MCLE requirements but who file within a reasonable time, as determined by the Board and who are subject to an administrative suspension pursuant to Rule 14-415 will be assessed, in addition to the late fee, a \$200 reinstatement fee and a \$500 fee if the failure to comply is a repeat violation within the past 5 years.

(c) Maintaining proof of compliance. Each licensed paralegal practitioner will maintain proof to substantiate the information provided on the filed Certificate of Compliance. The proof may contain, but is not limited to, certificates of completion or attendance from sponsors, certificates from course leaders, or materials related to credit. The licensed paralegal practitioner must retain this proof for a period of four years from the end of the period for which the Certificate of Compliance is filed. Proof must be submitted to the Board upon written request.

(d) Failure to provide proof of compliance; rebuttable presumption. Failure by the licensed paralegal practitioner to produce proof of compliance within 15 days after written request by the Board constitutes a rebuttable presumption that the licensed

paralegal practitioner has not complied with the MCLE requirements for the applicable time period.

(e) Verification period. The Board may, at any time within four years after the Certificate of Compliance has been filed, commence verification proceedings to determine a licensed paralegal practitioner's compliance with this article.

**Rule 15-415. Failure to satisfy MCLE requirements; notice; appeal procedures; reinstatement; waivers and extensions; deferrals.**

(a) Failure to comply; petition for suspension. A licensed paralegal practitioner who fails to comply with reporting provisions of Rule 14-414 will be assessed a late fee. A licensed paralegal practitioner who fails to comply with Rule 14-414 or who files a Certificate of Compliance showing that he or she has failed to complete the required number of hours of MCLE will be notified that a petition for the licensed paralegal practitioner's suspension of their license will be submitted to the Supreme Court unless all requirements are completed and reported within 30 days.

(a)(1) The licensed paralegal practitioner will have the opportunity during the 30-day period to file an affidavit with the Board disclosing facts demonstrating that the licensed paralegal practitioner's noncompliance was not willful and to tender such documents that, if accepted, would cure the delinquency. A hearing before the Board will be granted if requested.

(a)(2) If, after a hearing or a failure to cure the delinquency by satisfactory affidavit and compliance, the licensed paralegal practitioner is suspended by the Supreme Court, the licensed paralegal practitioner will be notified by certified mail, return receipt requested.

(b) Reinstatement. A licensed paralegal practitioner suspended by the Supreme Court under the provisions of this rule may be reinstated by the Court upon motion of the Board showing that the licensed paralegal practitioner has cured the delinquency for which the licensed paralegal practitioner has been suspended. If a licensed paralegal practitioner has been suspended by the Supreme Court for non-compliance with this article, the licensed paralegal practitioner must then comply with all applicable rules to be eligible to return to active or inactive status.

(c) Waivers and extensions of time. For good cause shown, the Board may use its discretion in cases involving hardship or extenuating circumstances to grant waivers of the minimum MCLE requirements or extensions of time within which to fulfill the requirements.

(d) Deferrals. The Board may defer MCLE requirements in the event of the licensed paralegal practitioner's serious illness.

(e) Petition to appeal. Any licensed paralegal practitioner who is aggrieved by any decision of the Board under this rule may, within 30 days from the date of the notice of decision, appeal to the Board by filing a petition setting forth the decision and the relief

sought along with the factual and legal basis. Unless a petition is filed, the Board's decision is final.

(e)(1) The Board may approve a petition without hearing or may set a date for hearing. If the Board determines to hold a hearing, the licensed paralegal practitioner will have at least 10 days' notice of the time and place set for the hearing. Testimony taken at the hearing will be under oath. The Board shall enter written findings of fact, conclusions of law and the decision on each petition. A copy will be sent by certified mail, return receipt requested, to the licensed paralegal practitioner.

(e)(2) The Board may grant the petitioner an extension of time within which to comply with this rule.

(e)(3) Decisions of the Board are final and are not subject to further contest, unless the decision was a denial of a request for a waiver or a recommendation of suspension of licensed paralegal practitioner's license.

(f) Appeal to Supreme Court. A decision denying a request for waiver or a decision to suspend the licensed paralegal practitioner is final under paragraph (e)(3) unless within 30 days after service of the findings of fact, conclusions of law and decision, the licensed paralegal practitioner files a written notice of appeal with the Supreme Court.

(f)(1) Transcripts. To perfect an appeal to the Supreme Court, the licensed paralegal practitioner must, at the licensed paralegal practitioner's expense, obtain a transcript of the proceedings from the Board. If testimony was taken before the Board, the Board will certify that the transcript contains a fair and accurate report of the proceedings. The Board will prepare and certify a transcript of all orders and other documents pertinent to the proceeding before it and file these promptly with the clerk of the Supreme Court. The matter will be heard by the Supreme Court under this article and other applicable rules.

(f)(2) The time set forth in this article for filing notices of appeal are jurisdictional. The Board or the Supreme Court, as to appeals pending before each such body, may, for good cause shown either extend the time for the filing or certification of any material or dismiss the appeal for failure to prosecute.

**Rule 15-416. Licensed paralegal practitioners on active status not practicing law in Utah; licensed paralegal practitioners on active status engaged in full-time volunteer work in remote locations.**

(a) A licensed paralegal practitioner on active status who is not engaged in practice in Utah may file and attach to his or her Utah Certificate of Compliance evidence showing that the licensed paralegal practitioner has met the Utah MCLE requirements in Rule 15-404 with CLE courses accredited in the state in which the licensed paralegal practitioner resides and practices. This may include certificates of

compliance, certificates of attendance or other information indicating the identity of the accrediting jurisdiction.

(a)(1) The licensed paralegal practitioner must attach to his or her Utah Certificate of Compliance a copy of the licensed paralegal practitioner's Certificate of Compliance with the MCLE requirements from that jurisdiction together with evidence that the licensed paralegal practitioner has completed a minimum of three hours of accredited ethics or professional responsibility. One of the three hours of ethics or professional responsibility must be in the area of professionalism and civility.

(a)(2) If the licensed paralegal practitioner lives in a jurisdiction where there is not a CLE requirement, the licensed paralegal practitioner must comply with the Utah CLE requirements or place his or her license on inactive status.

(b) Upon application by a licensed paralegal practitioner on active status, the Board may grant a waiver of the MCLE requirements of Rule 15-404 and issue a certificate of exemption if the licensed paralegal practitioner:

(b)(1) resides in a remote location outside of Utah where audio or video presentations or computer interactive telephonic programs sufficient to allow the licensed paralegal practitioner to participate in CLE credit hours are not reasonably available to the licensed paralegal practitioner; and

(b)(2) is engaged in full-time volunteer work for a religious or charitable organization.

#### **Rule 15-417. Miscellaneous fees and expenses.**

(a) All fees under this article will be deposited in a special account of the Board and used to defray the costs of administering this article.

(b) A licensed paralegal practitioner must pay an administrative fee of \$25 for preparation and mailing of certificates of CLE compliance to other MCLE states. The Board may establish other fees to defer administrative costs related to requests for accreditation with Supreme Court approval.

(c) Members of the Board are not compensated, but will be reimbursed for reasonable and necessary expenses incurred in the performance of their duties under this article.

(d) All CLE sponsors who offer any course for Utah approved CLE credit must pay to the Board, within 30 days following the course, a fee of \$1.50 per credit hour per attendee. The required fee must accompany the required registration list. The \$1.50 per credit hour fee will cap at \$15 per attendee.

(d)(1) All CLE sponsors that submit more than 50 programs annually must pay additional application fees to the Board.

(d)(2) All CLE sponsors that do not charge registration fees but submit more than 50 programs annually must pay to the Board additional application fees.

(d)(3) If the CLE sponsor is a government or non-profit agency that is offering a program free of charge, the fees may be waived.

(e) Any licensed paralegal practitioner who is required by this article to apply to the Board for any special accreditation or approval of an educational activity must pay a fee of \$10 at the time of application.

(f) Reserved.

(g) Presumptive providers are required to pay an annual fee. The presumptive provider fee must be paid by January 1<sup>st</sup> of each year and is good through December 31<sup>st</sup> of each year.

(g)(1) Presumptive providers that submit more than 50 applications annually will be required to pay additional presumptive fees.

# Tab 4

**Proposed Licensed Paralegal Practitioner Training Program**

Summary

Utah Valley University (UVU) and Salt Lake Community College (SLCC) will develop, and partner with other institutions of higher education in Utah to deliver, a training program to help paralegals and other legal professionals (including J.D. graduates who choose not to practice in Utah as licensed attorneys) become Licensed Paralegal Professionals (LPPs). The program will be offered through a combination of online and live training components, at multiple locations and times designed to facilitate participation throughout Utah. The curriculum will cover, in discrete components, ethical requirements for LPPs, basic skills required of LPPs, and each of the three substantive areas of practice for which LPPs may be licensed in Utah. The curriculum will be designed to help ensure that LPPs are properly trained to serve clients professionally and competently, and to pass the necessary licensing exams to be admitted to practice. This effort is designed to ensure that at least one excellent training program is available as soon as the LPP program is approved, but does not preclude the establishment of other LPP training programs around the state by any other qualified entity.

Program Leadership and Partners

The paralegal programs at UVU and SLCC will serve as the co-lead partners in developing and delivering the curriculum for legal professionals (trained paralegals and J.D. graduates who choose not to practice in Utah as licensed attorneys) who seek to become Licensed Paralegal Practitioners (LPPs). UVU will partner with two other groups to develop and to deliver the training program, respectively:

- To develop the curriculum and training modules, UVU and SLCC will coordinate closely with the Supreme Court’s LPP Steering Committee and relevant subcommittees, along with representatives of the Utah State Bar, to help ensure that the content of the training meets program needs and considers the nature and content of the LPP licensing examinations.
- To deliver the training program efficiently and cost-effectively statewide, and to facilitate participation by aspiring LPPs throughout Utah at a reasonable cost, and at times and locations that are convenient for working professionals, UVU and SLCC will [may?] endeavor to partner with other institutions of higher education, such as Dixie State University, Southern Utah University, Utah State University Eastern (Price), the University of Utah Continuing Education Program, Weber State University, and Utah State University. Some partnerships may involve additional instructors from those schools, while others may involve only the use of facilities and related resources.

## Curriculum and Program Delivery

The statement of Learning Outcomes and Core Competencies approved by the LPP Steering Committee will serve as the primary content guide for the curriculum. The program will combine common online training modules with intensive and conveniently scheduled onsite training sessions to deliver the curriculum in a convenient, efficient and effective way:

- Online training modules will cover the majority of the substantive knowledge necessary to practice as an LPP and to pass the licensing exams. This will ensure that all program participants receive the same basic instruction in the core substantive materials. It will also be efficient and cost-effective in terms of curricular development and delivery. It will be more convenient for program participants, including working professionals, who can study the material at their convenience, and as often as necessary for students who are less familiar with the material, or as exam preparation review for more experienced participants. Online training modules may include self-graded quizzes and practice problems (such as form preparation) that can be submitted to instructors for remote grading and feedback.
- Onsite training sessions will be used for material that is more difficult or impossible to deliver effectively through online training. That will include an opening session to orient students to the program, socialize the cohort of LPP students for purposes of networking and mutual support, explain the nature and content of the licensing examinations, and to answer questions and facilitate discussion about the program. After students have an opportunity to study the online materials, additional onsite sessions will be used for simulation training and personal feedback in interviewing, negotiation, and other core LPP skills, along with additional opportunities for questions and live discussion to ensure that students understand the material fully. Depending on student demand, onsite training sessions can be conducted at various locations to help facilitate statewide participation.
- The curriculum will be divided into the following components, which can be taken individually or as packages, including the option of studying the entire curriculum to be licensed in all areas of approved LPP practice:
  - One course on ethical issues for LPPs, also designed to help students prepare for the licensing exam on LPP professional ethics.
  - [One course on key practice skills that all LPPs should master in order to work with clients competently and professionally.??]
  - One course in each of the three substantive areas for which LPPs may be licensed (family law, debt collection, and landlord-tenant).
- [Will the curriculum also include practice licensing exams and grading?]

## Funding and Cost

UVU and SLCC hope to run the program in a way that at least breaks even or generates some net revenue. Revenue splitting agreements will have to be negotiated between UVU and SLCC, and between those institutions and other institutions of higher education that provide facilities or otherwise partner with UVU and SLCC in program delivery. The intent is to deliver the program at as affordable a cost as is feasible, to encourage student participation and reduce any “barrier to entry” to the LPP profession. Students will be able to pay per course, or a package amount if they want to take a group of courses. [??] [I don’t think it is possible to estimate these costs now, but others may disagree – can we at least give an anticipated range of tuition?]

\*\* Some seed funding will be needed for initial program development, after which tuition will be designed to cover ongoing program delivery and updating costs. We estimate that initial program development and outreach will cost between \$150,000 and \$250,000. We hope we can request seed funding from some combination of the Utah State Legislature, the Utah State Bar, and other sources. [Note: We can float this, but from a practical perspective UVU and SLCC may have to offer a match of seed funding in order for this to be viable.]

## Other LPP Training Programs

This program is designed to ensure that at least one LPP training program will be available once the LPP program is approved and operational. Depending on student demand, it could remain as the exclusive LPP training program in Utah. However, it is not intended to preclude any other public or private entity from entering the training market with additional programs. We do not envision an approval or accreditation process for those programs. Ultimately, students will choose training programs based on cost, convenience, and track record in preparing students for the licensing exams.

[Anything missing????]

# Tab 5

**PARALEGAL PRACTITIONER  
EXECUTIVE SUBCOMMITTEE MEETING**

**Minutes**

**Thursday, May 25, 2017 10:00am**

**Judicial Council Conference Room**

**Matheson Courthouse**

**JUSTICE DENO HIMONAS, Presiding**

**ATTENDEES:**

Justice Deno Himonas, Chair  
Dean Benson Dastrup (via conference call)  
Steven G. Johnson  
Jacqueline Esty Morrison  
Robert O. Rice  
Judge Kate A. Toomey  
Elizabeth Wright  
James Ishida, Staff  
Bradley Ecker, Intern

**GUESTS:**

Professor Michael J. Walker, Assistant  
Director, Professional & Continuing  
Education, Utah Valley University  
  
Professor Sharee Laidlaw, Assistant  
Professor of Paralegal Studies, School of  
Business, Salt Lake Community College

**EXCUSED:**

Judge Royal I. Hanson, Vice Chair  
Dean Robert W. Adler  
Dr. Thomas Clarke  
James S. Jardine

**I. WELCOME AND APPROVAL OF MINUTES (Himonas)**

Justice Himonas welcomed everyone to the meeting. Minutes of the last meeting were approved.

**II. PRESENTATIONS BY UVU and SLCC (Walker and Laidlaw)**

Justice Himonas greeted Professor Michael Walker from Utah Valley University and Professor Sharee Laidlaw from Salt Lake Community College and invited them to voice their questions and concerns about establishing an LPP training program. Professor Walker expressed his appreciation for the chance to speak to the committee, reiterated UVU's interest in participating in the LPP training program, and welcomed the opportunity to partner with SLCC. Professor Laidlaw agreed.

Professor Walker acknowledged UVU's main concern about the LPP program is its economic viability. To that end, the professors posed the following questions:

- **Developing the curriculum would require a substantial investment in time and money. What support can the schools expect from the judiciary and Bar?**

Professor Walker was concerned that there would be a multitude of institutions offering LPP training programs, which would make it difficult for UVU to compete. He therefore wondered what kind of support UVU could expect from the judiciary and Bar?

Mr. Rice acknowledged the concern, but he predicted that there probably would not be a large influx of LPP candidates at the outset. This, he surmised, makes it unlikely that there would be a large number of educational organizations competing to offer services. He also suggested that perhaps some of the concerns could be addressed through rulemaking. Justice Himonas agreed, but he cautioned that the judiciary legally and ethically could not (1) endorse or approve certain educational institutions over other institutions, (2) play a role in deciding which schools would be allowed to offer their programs in specific geographic areas, or (3) be involved in any fund-raising effort.

- **Who would supervise the development of the curriculum for each school?**

Several members noted that supervision would not be necessary since it is understood that the curriculum would be geared towards teaching students to pass the licensing exam. In any event, the members repeated that it would be inappropriate for the judiciary or Bar to get involved in this area.

- **Do the educational entities need to be ABA-approved or otherwise accredited?**

Several members referred to the draft admission rules, which require the education provider to be regionally accredited. This, Professor Walker observed, should limit the number of providers in the marketplace.

- **Where can the schools get more information on the licensing examination itself?**

Ms. Wright noted that the Bar was in the early stages of developing the test and it should be ready in due course.

- **What is the timeline for the LPP program?**

Justice Himonas was optimistic that the first grandfathered candidates could sit for the licensing exam in late Spring 2018, with regular candidates taking the exam by Fall 2018.

● **Can the schools offer a certificate for completing the course of study?**

Professor Walker said that the schools may be interested in awarding their students a certificate for completing the program. He explained that awarding a certificate would increase the profile of the program, give it a measure of prestige, and enhance marketing efforts. Several committee members noted that the schools are free to offer certificates, but the group concluded that it needed to confirm that with the judiciary's and Bar's attorneys. One member pointed out that the certificates could not be used in other states, as they are applicable only in Utah.

Justice Himonas thanked Professor Walker and Professor Laidlaw for their interest and participation, and he said that the schools will play a critical role in the LPP program.

**III. SUBCOMMITTEE REPORTS**

**A. Education Subcommittee (Morrison)**

Ms. Morrison reported on behalf of Dean Adler, and she mentioned that much of what has been discussed had already been discussed at the last Education Subcommittee meeting. She mentioned that Dean Adler had memorialized the subcommittee discussions into a proposed LPP training program, which will be presented to the Steering Committee at its next meeting. In addition, while UVU and SLCC had attended the subcommittee meeting, there was no intent to limit the training programs to only those two schools.

Finally, Ms. Morrison reported that there was general agreement that the content should be delivered online and through in-person classes to develop skills. Funding, course offering, and tuition were other topics discussed at the subcommittee meeting.

**B. MCLE Subcommittee (Johnson)**

Mr. Johnson mentioned that his subcommittee had approved a tentative draft of the mandatory continuing education rules for LPPs. He noted, however, that in light of the earlier discussions the proposed rules would have to be revised to reflect that the proper nomenclature is "approved" LPP program, not "accredited" LPP program. Mr. Johnson also said that Rule 14-403 needed to be changed to include paralegals on the Board of Mandatory Continuing Legal Education.

Justice Himonas congratulated Mr. Johnson on completing the rules in record time.

**C. Admissions and Administration Subcommittee (Rice)**

Mr. Rice reported that the subcommittee had finished the bulk of its work when it presented its set of rules to the Steering Committee for approval. The few remaining issues that the subcommittee is working on include: (1) issues involving the Education Subcommittee; (2)

overlapping issues involving the Examination Subcommittee; and (3) finalizing the practice of law provisions in Rule 14-802. Justice Himonas suggested that proposed Rule 14-802 be presented to the Steering Committee at its next meeting.

**D. Ethics and Discipline Subcommittee (Toomey)**

Judge Toomey announced that her subcommittee had nothing to report.

**IV. QUESTIONS FROM COMMITTEE ON FORMS (Himonas)**

Justice Himonas relayed several questions from Professor Randy Dryer, the chair of the new Judicial Council Committee on Forms, on the LPP program: (1) should the LPP forms provide a space where an LPP can sign, and, if so, is the signature optional or mandatory? and (2) what area in family law will an LPP be permitted to practice?

The members unanimously endorsed that there should be a place on the forms for LPPs to identify themselves and to sign. Indeed, a member noted that Rule 14-802(c)(1)(F) provides that an LPP may sign, file, and complete service of an authorized court form. Justice Himonas noted that we had also provided to the Forms Committee information on the scope of LPP practice in family law.

**V. ADJOURN**

Justice Himonas thanked the members, and the meeting was adjourned at 10:52am.

# Tab 6

# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

Richard H. Schwermer  
State Court Administrator  
Raymond H. Wahl  
Deputy Court Administrator

## MEMORANDUM

TO: Licensed Paralegal Practitioner Steering Committee

FROM: James N. Ishida

DATE: June 9, 2017

RE: Request from Forms Committee re *Verified Petition to Amend a Utah Vital Record*

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On June 6, 2017, the Judicial Council Committee on Forms met to consider, among other things, proposed forms for use by Licensed Paralegal Practitioners ("LPPs"). One of the forms that was discussed was the *Verified Petition to Amend a Utah Vital Record* form. The form was created by Administrative Office of the Courts staff at the request of the Utah Office of Vital Records and Statistics, ostensibly to streamline the process of correcting a Utah vital record.

The Utah Courts Self Help Center receives requests for the form on a modest but fairly regular basis. In turn, the form has also been presented to courts across the state, and the judges are signing them, although there is some question as to whether courts have jurisdiction to sign them.

At the Forms Committee meeting, this jurisdictional issue was discussed, and a member raised the concern that given the jurisdictional uncertainty about the form he didn't want LPPs using a questionable form. I was eventually asked to convey the issue to this Committee and seek guidance on whether the Committee believes that the *Verified Petition to Amend a Utah Vital Record* form is appropriate for LPPs to use.

Attachments: Excerpt Draft Minutes, Committee on Forms, June 6, 2017, Meeting  
*Verified Petition to Amend a Utah Vital Record* form  
Email Exchange between Mary Jane Ciccarello and James Ishida (June 7, 2017)  
Utah Administrative Code Rule 436

**The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.**



**MINUTES**  
**Utah Judicial Council's Committee**  
**On Court Forms**

Administrative Office of the Courts  
450 South State Street  
Salt Lake City, Utah 84111

**June 6, 2017**  
12:00 – 2:00 pm

**ATTENDEES**

Randy Dryer, Chair  
Kim Allard  
Cyndie Bayles  
Commissioner T. Patrick Casey  
Mary Jane Ciccarello  
Guy Galli  
Stewart Ralphs  
Judge James Taylor  
Jessica Van Buren  
Mary Westby

**EXCUSED**

Christina Cope  
Judge Elizabeth Lindsley  
Judge J.C. Ynchausti

**STAFF**

Brent Johnson  
Jeni Wood, Recording Secretary

**GUESTS**

James Ishida  
Dillon Johnson, Law Library Intern

**I. WELCOME AND APPROVAL OF MINUTES**

Randy Dryer welcomed the committee members to the meeting.

The committee discussed the May 9, 2017 minutes. There being no changes, Judge James Taylor moved to approve the minutes. Stewart Ralphs seconded the motion and it passed unanimously.

**II. DISCUSSION OF FORM NOTICE/DISCLAIMER**

Mr. Dryer discussed the proposed notice/disclaimer. Mr. Dryer stated this notice could be included on each form or a notice put on the website providing the notice. Mr. Dryer noted most people will access the forms electronically so putting the link on the website may be the better way. Judge Taylor said the committee may be in the best position now to create an index system. Judge Taylor noted every form should have an index form and a disclaimer or a link to a

by anyone before they are put on the website. At this time, these forms have not been approved by any committee.

Judge Taylor motioned to approve the adult adoption forms. Commissioner Casey seconded the motion. Mr. Ralphs reviewed the Verified Petition for Adoption of an Adult to section 11. Ms. Ciccarello noted this is specific to the statute therefore it needs to be left as is. With this, Mr. Ralphs called in question the motion to approve the rules. Mr. Johnson discussed section 10. Ms. Ciccarello noted again, this is what the statute requires. Ms. Ciccarello noted litigants are not waiving the adoption, only the written notice of the proceeding. Mr. Johnson stated that this is basically notice for the judge. Mr. Ralphs said he will make changes with a “hard indent” and give the option the adoptee’s spouse “has” and “has not” consented.

Ms. Ciccarello discussed the notarized section. She noted when it’s a verified petition some statutes require the petition to be verified. Judge Taylor recommends all petitions be verified, therefore, leaving the litigant not required to have their signature notarized.

Mr. Dryer said the motion for approval will stand and the forms will go to the style and format subcommittee. The motion then carried unanimously.

#### **IV. REVIEW AND APPROVAL OF PROBATE FORMS**

Many committee members noted they weren’t sure if they were looking at the correct forms. Mr. Dryer noted the committee is therefore not in the position to take action at this meeting. Ms. Ciccarello noted the self-help committee is getting a lot of requests and these forms are not available on the website.

Ms. Ciccarello will circulate the forms to the committee. Ms. Ciccarello noted the probate forms are only for “no contest.” Ms. Ciccarello will include the Verified Petition to Amend a Utah Vital Record form. Mr. Johnson said the rule does not grant authority on these petitions, however, the courts are signing them. Ms. Ciccarello stated the point in this petition is to simply correct a Utah created vital record. Ms. Ciccarello said she believes the LPP program users can prepare this form as well. Mr. Johnson is concerned about the jurisdictional question leaving judges uncertain and putting the LPP users in the middle. Ms. Ciccarello said the self-help receives requests for this petition approximately once a week. This does not include name change requests. Additionally, they receive notices from out-of-state. These are denied because Utah does not have jurisdiction outside of the state. James Ishida noted the LPP committee meets next week and he will address this issue.

Mr. Dryer asked if the committee believes they should ask BYU to stop selling these forms. Judge Taylor said the committee is not in a position to make this request. Mr. Johnson noted the LPP program will not be initially working on probate forms. Mr. Dryer noted if the Judicial Council makes probate forms mandatory then BYU would not be able to continue to sell their versions. Mr. Dryer said this can be addressed at a later meeting.



This is a private record.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am the  Petitioner  
 Attorney for the Petitioner and my Utah Bar number is \_\_\_\_\_

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

In the Matter of an Amendment of a Utah  
Vital Record of:

\_\_\_\_\_

**Verified Petition to Amend a Utah  
Vital Record**

Utah Administrative Code R436-3

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

- (1) I ask the court to order an amendment of a
  - birth certificate
  - death certificate
 issued by the Utah Department of Health Office of Vital Records.
- (2) The subject of the vital records is \_\_\_\_\_.  
(name of the person whose vital record you want to amend).
- (3) My relationship to the subject of the vital record is (state how you are related to the person whose vital record you want to amend): \_\_\_\_\_.



On this date, I certify that \_\_\_\_\_ (name)  
who is known to me or who presented satisfactory identification, in the form of \_\_\_\_\_  
\_\_\_\_\_ (form of identification), has, while in my  
presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

Sign here ►

\_\_\_\_\_ **Date**

\_\_\_\_\_ **Typed or printed name (Court Clerk or Notary Public)**

\_\_\_\_\_ **Notary Seal**





James Ishida <jamesi@utcourts.gov>

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## Verified Petition to Amend a Utah Vital Record

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**Mary Jane Ciccarello** <maryc@utcourts.gov>

Wed, Jun 7, 2017 at 9:05 PM

To: James Ishida <jamesi@utcourts.gov>

Cc: Jessica Van Buren <jessicavb@utcourts.gov>, "Brent Johnson (General Counsel)" <brentj@utcourts.gov>

James,

We developed this form at the request of Utah Vital Records. I work with that office and have a wonderful contact through the assistant attorney general who represents VR.

We in the Self-Help Center get a request for this type of petition at least once a week. We had presented the draft forms to the Board of District Court Judges just at the time the Forms Committee went into effort so the board deferred the forms to the new committee. However, the judges did not express any concerns with the forms.

The forms were drafted by myself, Jessica Van Buren and Brent Johnson. I had feedback and approval from VR as well.

Mary Jane

[Quoted text hidden]

--

Mary Jane Ciccarello  
Director, Self-Help Center  
Utah State Courts  
[maryc@utcourts.gov](mailto:maryc@utcourts.gov)  
801-238-7921



**R436. Health, Center for Health Data, Vital Records and Statistics.**

**R436-3. Amendment of Vital Records.**

**R436-3-1. Definitions.**

For purposes of this rule "putative father" means the man the birth mother specifies as the birth father.

**R436-3-2. Correction of Minor Errors on Birth Certificates.**

Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions may be made by the Registrar while the original certificate is still in the local office, based on personal observation, query, or upon the request of a person with a direct and tangible interest in the certificate as defined in R436-13-1(1). When such additions or minor amendments are made by the Registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change, shall be made on the certificate in such a way as not to become a part of any certification issued. The certificate shall not be marked "Amended." After the certificate is registered and the original has been transmitted to the State Registrar and processing completed, all corrections must be made by amendment.

**R436-3-3. Amendments to Correct Errors or Omissions.**

(1) Whenever facts are not correctly stated in any certificate of birth, death or fetal death already registered, the person asserting that the error exists may make an affidavit under oath on the form prescribed by the State Registrar stating the corrections necessary to make the record correct. Such corrections shall be supported by the affidavit of one other credible person having knowledge of the facts. Such certificate, as corrected, shall be filed with the state or local registrar.

(2) If the amendment relates to a certificate which has not been transmitted to the State Registrar, the local registrar shall review the amendment for adequacy for filing. If the local registrar finds reason to doubt the adequacy of the amendment it shall be referred to the State Registrar.

(3) If the amendment relates to a certificate which has been transmitted to the State Registrar, the amendment shall be transmitted to the State Registrar who shall review it for acceptance for registration. If the State Registrar has reason to doubt the adequacy of the amendment, one or more items of documentary evidence to support the alleged facts may be required. A Supplemental Name Report may be used to add a child's name to its birth certificate when this information was not given at the time the certificate was registered.

This form must be signed by both parents.

(4) An amendment shall be filed with and become part of the record to which it pertains. The original certificate shall be marked "Amended, 1 of 2," or however many parts the amendment may require.

Subsequent parts will be marked accordingly.

(5) When an amendment is accepted, the State Registrar shall transmit copies of the amendment to the local registrar in whose office a copy of the original record is on file.

**R436-3-4. Amendment of Medical and Health Data.**

(1) Whenever the originally furnished medical and health data of any record of death, fetal death, or live birth is modified by supplemental information the certifying physician or medical examiner having knowledge of this information, may certify, under penalty of perjury, the changes necessary to make the information correct. The cause of death information may also be amended by the physician who performs an autopsy on the deceased.

(2) This amendment shall be processed in the manner prescribed in Section R436-3-2 of these rules.

**R436-3-5. Acknowledgement of Paternity by Natural Parents.**

(1) If the mother was married at any time during the pregnancy, the name of the husband shall be entered on the certificate as the father of the child, unless:

(a) paternity has been determined otherwise by a district court of this state, or

(b) the mother and the mother's husband execute joint or separate affidavits attesting that the husband is not the father of the child. The signature of the mother and of the husband shall be individually notarized on affidavit form(s). In such event, information about the father shall be omitted from the certificate, or

(c) the mother executes an affidavit attesting that the husband is not the father and that the putative father is the father, and the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. Affidavits may be joint or individual or a combination thereof, and each signature shall be individually notarized. In such event, the putative father shall be shown as the father on the certificate.

(2) If the mother was not married at any time during the pregnancy, the name of the father shall not be entered on the certificate without a declaration of paternity signed by the mother and the putative father.

(3) In any case in which paternity of a child is determined by a district court of this state, the name of the father and surname of the child shall be added to the certificate of birth in accordance with the finding and order of the court. If the court order does not specifically change the surname of the child, the child's surname shall remain the name listed on the original birth certificate.

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

(5) The affidavit for the declaration of paternity referenced in this rule shall be on a form provided by the State Registrar. When completed prior to the registration of the birth certificate they will be filed with the original birth certificate. When completed after the birth certificate has been registered they should be transmitted to the State Registrar for filing.

**KEY: vital statistics, amendments, fathers, mothers**

**Date of Enactment or Last Substantive Amendment: 1994**

**Notice of Continuation: March 21, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-2-7; 78B-15-302**