

Licensed Paralegal Practitioner Committee

Meeting Minutes

June 15, 2021

Zoom Meeting

12:00 p.m. – 1:30 p.m.

Justice Deno Himonas, presiding

Attendees:

Justice Deno Himonas, Co-Chair
Matthew Page
Jackie Morrison
Elizabeth Wright
Monte Sleight
Angela Allen
Steve Johnson
Julie Emery

Staff:

Scotti Hill, Utah State Bar
Michaela Choppin, Recording Secretary

Excused:

Heather Farnsworth
Judge Amber Mettler, Co-Chair

Guests:

Carolynn Clark, S.J. Quinney College of Law

1. Action—Welcome and approval of the draft meeting minutes: (Justice Himonas)

Justice Himonas welcomed everyone to the meeting and asked for approval of the minutes.

Elizabeth Wright moved to approve the May 18, 2021 minutes. Angela Allen seconded the motion, and it passed unanimously.

2. Discussion—Update from Angela Allen on current casework and projects: (Angela Allen)

Angela Allen reported that things are going well, as she is currently busier and getting more public referrals. Ms. Allen has not heard much from her colleagues. She is currently focusing her practice on uncontested cases. Ms. Allen and the other LPPs will not meet for another two weeks. Justice Himonas asked what the current rates for LPPs are and Ms. Allen reported that they range from \$85-\$135/hour. Monte Sleight asked if anyone charges flat fees and Ms. Allen stated that she does all flat fees. She charges a flat fee plus filing fees, and has discounted those fees for several people because they have a lower-income.

3. Action—Update from LPP Innovation Subcommittee, proposed addition of education credit/experience hour language to Rule 15-703: (Judge Mettler, Jackie Morrison, Scotti Hill,Carolynn Clark)

Monte Sleight reported that the Subcommittee is proposing a rule change that would allow some of the required education hours to count towards experiential hours. The conversion would be 1 credit hour in a semester would equate to 30 hours of experience. In a quarter, 1 credit would equate to 20 hours of experience. The Subcommittee has outlined the definition of what a “substantive legal course” means, but Mr. Sleight inquired if the Committee favored a broad or narrow interpretation of allowable courses. A narrow interpretation of a “substantive legal course” would include courses from a paralegal program, an accredited law school, and any other course that could count towards a paralegal or law degree; however, a broad interpretation would put the burden of responsibility on the admissions committee as to what courses count as “substantive legal courses.” The Subcommittee also reported that they have decided to put a cap on the number of experiential hours that one can complete. Mr. Sleight stated that 750 out of the 1500 required hours can be satisfied through coursework. This cap excluded hours completed at an internship or externship.

Justice Himonas asked what the Subcommittee’s position was on what kind of courses they would accept. Mr. Sleight reported that he would favor the broad approach. Students can gain a basic legal education from courses, such as business classes. Mr. Sleight added that this is why it is vital for the Committee to be clear in their definition of a “substantive legal course.” Carolynn Clark explained that most of them favored the broad approach, but it was difficult to balance the administrative component. Justice Himonas asked if the Subcommittee had a definition that they believe to be tight enough that everyone thinks it is workable from an administrative perspective. Mr. Sleight said that the definition of a “substantive legal course” is in Rule 15-701. The basic definition is that a course qualifies if it is offered by an accredited law school or a paralegal program. The definition is vague for any courses outside of that scope. The rule states that qualifying courses must be from an accredited school, which would mean that any course from any school could qualify.

Elizabeth Wright asked if the committee had decided that the 1500 hours of experiential work was too much. Justice Himonas suggested that the Committee begin with more limiting language because it can be amended later. Steve Johnson suggested that the definition could state a “substantive legal course” is a course in the law from a paralegal program, an approved law school, or any other accredited school. Ms. Wright added that qualifying courses should be law-related. Justice Himonas said that the discussion should be tabled and, in the meantime, the group will work on the definition and proceed knowing that the Committee favors a broad approach.

Matthew Page added that there has been an intense interest in the LPP program from MLS students at the University of Utah. The concern that everyone has is that they do not want to sacrifice their lives to meet the experiential requirements since most of them are executives. Mr. Page suggested that it be clearer whether those requirements can be met with pro bono practice.

4. Discussion—Update on LPP cut score, proposed amendments to LPP testing Rules 15-710, 15-711, and 15-713: (Scotti Hill)

Scotti Hill explained that the cut score, as a collective average, is set at 69.5% and was made by Ergometrics, who administers the LPP examination. This is based off of an Angoff rating, where we are assessing the minimally-competent test taker. This cut score applies to each subject area because it creates more uniformity. Justice Himonas suggested that the cut score not remain static and be measured regularly to ensure that it is fair. Steven Johnson asked if the trend of scores dropping meant that the Committee should evaluate the tests. Mr. Sleight agreed but indicated that there needs to be a line between curriculum and testing development so that the courses do not become test preparation courses. Mr. Johnson asked if the Committee should still inform Utah Valley University of rule changes. Ms. Hill indicated that she sends out changes to ethical rules and rules of professional conduct to LPPs before their exams.

5. Discussion—Update on proposed amendment to Rule 14-802, LPPs sitting at defense table: (Elizabeth Wright, Scotti Hill)

Elizabeth Wright explained that the comments were largely negative, stating that LPPs are not qualified or do not have the appropriate training. Additional arguments included slippery slope arguments, bait and switch accusations, and that the program was pitched as a limited license and now LPPs are becoming lawyers.

Justice Himonas suggested that Scotti Hill draft a memo to be circulated to the group. He recognized that the comments were overwhelmingly negative, but misguided, and that there may be some confusion about what the rule is intended to cover. He recommended that some clarifying language be added to address this confusion. Justice Himonas stated that the majority of the comments were protectionist and did not have anything to do with access to justice, only the lawyer's place in the system. The program needs to be expanded and LPPs need to be empowered in greater ways to address problems that have arisen since the program was implemented.

Monte Sleight pointed out how well the LPPs handled their responses. They put together well-reasoned arguments and it speaks well to those who are becoming LPPs. Jackie Morrison explained her surprise reading the comments after talking to a practicing attorney who thought the language in the rule seemed broad and easily misunderstood.

Ms. Morrison asked how those concerns could be alleviated. Scotti Hill stated that the comments about objections to the rule cited the rule “as written,” so the language could be clarified to tighten the rule and alleviate concerns for those who are otherwise on board. Steven Johnson also added that non-advocacy language could be helpful.

Julie Emery explained that it potentially downplays the competence and professionalism of the LPP. They can cite the rule to a judge if they are uncomfortable and feel as though they are being portrayed as an advocate. Angela Allen shared that LPPs have been advocating in this way except for it otherwise being not in-person since it has been a hybrid format for the last 12 months. LPPs are clear in what their role is and none of them are scared to say something is beyond their scope.

6. Discussion—Update from the Bar: (Elizabeth Wright, Scotti Hill, Matthew Page).

Scotti Hill decided to have the committee weigh-in via email for other matters.

7. Discussion—Update on rural outreach: (Steve Johnson)

Nothing new to report.

8. Discussion—Update on outreach efforts: (Julie Emery, Monte Sleight)

Nothing new to report.

9. Discussion—Old business/new business:

None.

10. Adjournment and next meeting:

The meeting adjourned at 1:08 p.m. The next meeting will be held on July 20, 2021 from 12:00p.m.–1:30p.m. via Zoom.