

## Licensed Paralegal Practitioner Committee

### AGENDA

August 17, 2021  
12:00 p.m.–1:30 p.m.  
Via Zoom

<b>Action</b> —Approval of draft meeting minutes July 20, 2021	Tab 1	Judge Amber Mettler
<b>Discussion</b> —Update from Angela Allen on current casework and projects		Angela Allen
<b>Discussion</b> —LPP scope of practice, review of Rule 14-802	Tab 2	Scotti Hill
<b>Discussion</b> —Study update, LPP survey		Anna Carpenter, Alyx Mark
<b>Discussion</b> —Update from LPP Innovation Subcommittee		Judge Amber Mettler, Jackie Morrison, Scotti Hill, Carolynn Clark
<b>Discussion</b> —Update from the Bar		Scotti Hill, Matthew Page
<b>Discussion</b> —Update on rural outreach		Steve Johnson
<b>Discussion</b> —Update on outreach efforts		Julie Emery, Monte Sleight
<b>Discussion</b> —Old business/new business		Scotti Hill

[Committee Webpage](#)

#### 2021 Meeting Schedule:

September 21, 2021      November 16, 2021  
October 19, 2021      December 21, 2021

## **Tab 1**

## Licensed Paralegal Practitioner Committee

### Meeting Minutes DRAFT

July 20, 2021

Zoom Meeting

12:00 p.m. – 1:30 p.m.

*Justice Deno Himonas, presiding*

#### **Attendees:**

Justice Deno Himonas, Co-Chair  
Matthew Page  
Angela Allen  
Steve Johnson  
Julie Emery

#### **Staff:**

Scotti Hill, Utah State Bar  
Marina Kelaidis, Recording Secretary

#### **Excused:**

Judge Amber Mettler, Co-Chair  
Jackie Morrison  
Monte Sleight

#### **Guests:**

Carolynn Clark, S.J. Quinney College of Law  
Nancy Sylvester, General Counsel, Utah State Bar  
Professor Anna Carpenter, 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.

*Steve Johnson moved to approve the June 15, 2021 minutes. Angela Allen seconded the motion, and it passed unanimously.*

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

Ms. Allen reported the LPPs are continuing to make suggestions on the OCAP forms and most recently have been focusing on the available discovery forms. Ms. Hill reported the LPPs had a lot of questions on discovery and scope of practice at their last monthly meeting. Ms. Hill added that the discovery forms are intentionally limited based on the LPPs current scope of practice. Ms. Hill will circle back with the LPPs to further explain this intention in order to address some of their concerns regarding these forms. Ms. Allen reported there is no form for a petition for a sex change and the LPPs have asked for this

to be added. Steve Johnson added that they should also request for the conjoining forms, such as a proposed order, with the forms submitted to the forms committee for approval. The next opportunity for the Forms Committee to review and approve any changes to the LPP forms will be at their next meeting on August 9, 2021.

**3. Discussion—Update on amendments to LPP testing rules:** (Scotti Hill, Nancy Sylvester)

Ms. Hill gave a brief overview of the Court's feedback regarding the amendments to the LPP testing rules presented at the last Supreme Court Conference. Ms. Hill and Nancy Sylvester will be meeting with Ergometrics tomorrow to determine if it is possible to create a scaled score for this test, akin to the scale used for the Bar exam. Ms. Hill reported it is likely that a scaled score can be developed once there are more test takers. Ms. Sylvester reported that once they conclude their meeting with Ergometrics, they will iron out some of the proposed rule changes before submitting them to the Court. The Committee unanimously supported the development of a scaled score for the LPP exam.

**4. Discussion—Update from LPP Innovation Subcommittee:** (Judge Amber Mettler, Jackie Morrison, Scotti Hill, Carolynn Clark)

Nothing new to report.

**5. Discussion—Update from the Bar:** (Scotti Hill, Matthew Page).

Matthew Page reported he submitted a request to resume funding for the LPP marketing initiatives. His aim is to continue getting information out about the LPP program and to rectify any misinformation that may be circulating. Currently the funds are on hold due to the pandemic. Mr. Page will update the Committee on any changes. Professor Carpenter added that they are considering running an experiment on information dissemination and what marketing materials have the most positive effect on lawyers, prospective clients, etc. Mr. Page agreed that he would like to have access to this data to assist in making effective marketing decisions.

Ms. Hill reported the Bar's general counsel will not be attending the LPP meetings regularly, however Scotti will act as a liaison for the Bar's general counsel. Ms. Hill also reported there are six applicants who will be taking the August 2021 iteration of the LPP exam. Additionally, she will be meeting with the Court tomorrow to further discuss the proposed changes to Rule 14-802. Ms. Hill also reported there are two solo LPPs who have asked for recommendations for attorneys they can refer clients to, particularly in family law matters, as well as attorneys who may be interested in becoming informal mentors for the LPPs.

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

Nothing new to report.

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

Julie Emery reported she has been communicating with Monte Sleight to coordinate some fall travel opportunities to present the LPP program to students. Ms. Emery also reported the firm she works for has hired an LPP to join their practice and they are working on creating a business structure to support the LPP within their firm.

**8. Discussion—Old business/new business:**

Professor Carpenter provided a brief update on the data collection surveys she is developing with her research partner, Dr. Alyx Mark. Professor Carpenter reported they anticipate the surveys will be launched over the next couple of months. Once they have finalized the drafts of these surveys, they will circulate them to the Committee for feedback.

Justice Himonas reported this is his last meeting as co-chair of this Committee. Judge Amber Mettler will continue as Chair, beginning at the next meeting.

**9. Adjournment and next meeting:**

The meeting adjourned at 12:50 p.m. The next meeting will be held on August 17, 2021 from 12:00p.m.–1:30p.m. via Zoom.

## **Tab 2**

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

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

(b) **Definitions.** For purposes of this rule:

(1) "Practice of law" means representing the interests of another person by informing, counseling, advising, assisting, advocating for, or drafting documents for that person through applying the law and associated legal principles to that person's facts and circumstances.

(2) "Law" means the collective body of declarations by governmental authorities that establish a person's rights, duties, constraints, and freedoms and includes:

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

(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.

(3) "Person" includes the plural as well as the singular and legal entities as well as natural persons.

(c) **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, parentage, cohabitant abuse, civil stalking, and custody and support; (2) forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

(1) 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:

- (A) establishing a contractual relationship with the client;
- (B) interviewing the client to understand the client's objectives and obtaining facts relevant to achieving that objective;
- (C) completing forms approved by the Judicial Council;
- (D) informing, counseling, advising, and assisting in determining which form to use and giving advice on how to complete the form;
- (E) signing, filing, and completing service of the form;
- (F) obtaining, explaining, and filing any document needed to support the form;
- (G) reviewing documents of another party and explaining them;
- (H) informing, counseling, assisting and advocating for a client in mediated negotiations;
- (I) filling in, signing, filing, and completing service of a written settlement agreement form in conformity with the negotiated agreement;
- (J) communicating with another party or the party's representative regarding the relevant form and matters reasonably related thereto; and
- (K) explaining a court order that affects the client's rights and obligations.

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



- (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.
- (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.
- (3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in Utah when no fee is charged to do so.
- (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.
- (5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.
- (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.
- (7) Representing a party in any mediation proceeding.
- (8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.
- (9) Serving in a neutral capacity as a mediator, arbitrator, or conciliator.
- (10) Participating in labor negotiations, arbitrations, or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.
- (11) Lobbying governmental bodies as an agent or representative of others.

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

(A) A real estate agent or broker licensed in 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.

(B) An abstractor or title insurance agent licensed in Utah may issue real estate title opinions and title reports and prepare deeds for customers.

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

(D) Insurance companies and agents licensed in 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.

(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.

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

(13) Representing an Indian tribe that has formally intervened in a proceeding subject to the Indian Child Welfare Act of 1978, 25 U.S.C. sections 1901-63. Before a nonlawyer may represent a tribe, the tribe must designate the nonlawyer representative by filing a written authorization. If the tribe changes its

designated representative or if the representative withdraws, the tribe must file a written substitution of representation or withdrawal.

(14) Providing legal services under Utah Supreme Court Standing Order No. 15.

*Effective September 1, 2020*

**Advisory Committee Comment:**

Paragraph (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.

Paragraph (b).

The practice of law defined in paragraph (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 preparing or filing documents and conducting discovery; and 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 paragraph (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 are included under paragraph (b)(2)(A).

Paragraph (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 paragraph includes courts and similar tribunals, arbitrators, administrative agencies, and other bodies that render judgments or opinions involving a person’s interests.

Paragraph (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 unrepresented or forgo 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, parentage, cohabitant abuse, civil stalking, and custody and support; (2) unlawful detainer and forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases. 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.

Paragraph (c)(1)(E).

A Licensed Paralegal Practitioner may complete forms that are approved by the Judicial Council and that are related to the limited scope of practice of law described in paragraph (c). The Judicial Council approves forms for the Online Consumer Assistance Program and for use by the public. The forms approved by the Judicial Council may be found at <https://www.utcourts.gov/ocap/> and <https://www.utcourts.gov/selfhelp/>.

Paragraph (d).

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

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

Paragraph (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 paragraph (d)(5)).