

ETHICS AND DISCIPLINE SUBCOMMITTEE SUMMARY

July 2017

Meetings: the committee met monthly March through December 2016; initially discussed general policy questions, then began line-editing various professional rules

Reviewed: Washington's LLLT rules; sections of the Immigration Consultants Act; ABA Resolution 105; sections of Utah licensing statutes, Utah's rules governing lawyer ethics and discipline and related subjects

Assumptions:

- pursuant to delegated authority from the Utah Supreme Court, the Bar will administer all aspects of the new profession
- LPPs will be officers of the court and practice law, but won't be admitted to the Bar
- Bar programs available to lawyers will be made available to LPPs
- LPPs will not be required to sign or acknowledge forms they prepare
- LPPs will be authorized to represent clients in non-mediated negotiations, but limited to matters raised in the forms
- LPPs can communicate on behalf of a client with the other party or that other party's representative
- LPPs will be permitted to e-file
- LPPs may own LPP firms
- LPPs may own an equity interest in a law firm, but not a controlling interest, and may not supervise attorneys

Policy recommendations and nomenclature:

- adapt Utah rules for the LPP context
- incorporating LPPs into existing body of rules will produce unnecessarily cumbersome set of single rules, so subcommittee created new chapter (Chapter 15) for all LPP rules, following Chapter 14 format, but including LPP RCP as an article, rather than a stand-alone chapter; this is important for ease of reference for LPPs, and to facilitate research, but also easier to adjust
- no contingency fees (for now)
- pro bono requirement, but lower than what is required of lawyers (50→30)
- no pro hac vice admissions
- no reciprocal licensing, but reciprocal discipline is possible
- trust accounts necessary for deposit of retainers, therefore IOLPPTA rule required
- no references to liens

Numbering:

- anticipate some additions when the Admissions Subcommittee finishes its work
- used same numbers as the numbers used for attorney rules to facilitate research
- some sections of attorney rules do not apply in this context, so used “reserved” instead

Our final product:

- Chapter 3. Standards of Licensed Paralegal Practitioner Professionalism and Civility
- Chapter 5. Licensed Paralegal Practitioner Discipline and Disability
- Chapter 6. Standards for Imposing Licensed Paralegal Practitioner Sanctions
- Chapter 9. Licensed Paralegal Practitioners’ Fund for Client Protection
- Chapter 10. Interest on Licensed Paralegal Practitioners’ Trust Accounts
- Chapter 11. Resolution of Licensed Paralegal Practitioner Fee Disputes
- Chapter 12. Licensed Paralegal Practitioner Rules of Professional Conduct
- Plus applicable comments

Chapter 3. Standards of Licensed Paralegal Practitioner Professionalism and Civility

- Shortened the cross-reference citations
- Eliminated those that don’t apply (e.g. prescriptions for in-court conduct)

Chapter 5. Licensed Paralegal Practitioner Discipline and Disability

- Ethics and Discipline Committee composition could eventually include LPPs
- Some rules just incorporate RLDD for brevity’s sake because no change at all

Chapter 6. Standards for Imposing Licensed Paralegal Practitioner Sanctions

- No substantive changes to these rules
- Struggled to find an adequate substitute for disbarment; used the inelegant “delicensure” instead, but could substitute the more cumbersome “revocation of license”

Chapter 9. Licensed Paralegal Practitioners’ Fund for Client Protection

- No substantive change to these rules
- Need to set amounts

Chapter 10. Interest on Licensed Paralegal Practitioners’ Trust Accounts (IOLPPA)
Professionalism Counseling Board

- No substantive change to these rules

- IOLPPA is cumbersome

Chapter 11. Resolution of Licensed Paralegal Practitioner Fee Disputes

- Left lawyer member instead of using LPP; there's an immediate practical problem with using LPPs, but it seems wise even long-term

Questions

- Will disbarred attorneys be eligible to become LPPs?
- Should there be a term for firms where there are LPPs but no lawyers

Other considerations

- Rule 5.4, RPC will need revision to permit LPP ownership interest in law firms
- Privilege: evidentiary and statutory
- 14-802 defines practice of law; Elizabeth is working on this
- LHL rules need to be revised

Members: Judge Kate Toomey, Chair; Jim Jardine, Vice-Chair; Dixie Jackson; Steve Johnson;
Commissioner Kim Luhn; Daniel O'Bannon; Elizabeth Wright

Assisted by Miles Pope