

New Admission to Practice Rule 28: Limited Practice Rule for Legal Technicians

- A) **Purpose.** The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render legal assistance or advice in defined areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained legal technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.
- B) **Definitions.** For purposes of this rule, the following definitions will apply:
- 1) "Approved and reviewed by a lawyer" means that a lawyer has supervised the legal work and documented that supervision by the lawyer's signature and bar number.
  - 2) "APR" means the Supreme Court's Admission to Practice Rules.
  - 3) "Board" when used alone means the Practice of Law Board.
  - 4) "Commission" when used alone means the Nonlawyer Practice Commission which is authorized and directed to carry out the functions established by this rule.
  - 5) "Lawyer" means a person licensed in accordance with the APR's to engage in the general practice of law in the State of Washington and whose activities are governed by the RPC's.
  - 6) "Legal Technician" means a trained practitioner authorized to engage in the limited practice of law as specified by this rule and related rules. The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.
  - 7) "Paralegal" shall mean a person qualified by education, training or work experience, who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.
  - 8) "RPC" means the Rules of Professional Conduct.

9) “Substantive legal work” shall mean work performed by a person that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.

10) “Supervised” means a lawyer directs, approves and has responsibility for work performed by the Legal Technician.

11) Words of authority:

a) “May” means “has discretion to,” “has a right to,” or “is permitted to”.

b) “Must” or “shall” mean “is required to”.

c) “Should” means recommended but not required.

C) **Certification Requirements.** An applicant for certification as a Legal Technician shall:

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

2) Moral Character. Be of good moral character.

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

a) An associate degree or other paralegal/legal assistant program that consists of a minimum of 90 quarter hours (900 clock hours or 60 semester hours) of which at least 45 quarter hours (450 clock hours or 30 semester hours) are substantive legal courses; or

b) A bachelor’s degree program in paralegal/legal assistant studies; or

c) A post-baccalaureate certificate program in paralegal/legal assistant studies.

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

a) Those with an associates degree from an American Bar Association approved institution or who hold a bachelor’s degree need a minimum of 2 years experience; or

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

5) Pro Bono Service Requirement. Complete at least 20 hours of pro bono service to a legal services organization approved by the Commission within the two years

prior to taking the Legal Technician examination.

- 6) Examination. Satisfactorily complete an examination which shall, at a minimum, cover the rules of professional conduct applicable to Legal Technicians, rules of ethics, rules relating to the attorney-client privilege, procedural rules and substantive law issues related to one or more discrete areas of practice.
- 7) Oath. Execute under oath and file with the Commission 2 copies of his/her application, in such form as may be required by the Commission. In the event of the failure or refusal of an applicant to furnish any information or proof, or to answer any interrogatories of the Commission pertinent to the pending application, the Commission may deny the application.
- 8) Examination Fee. Pay, upon the filing of the application, the examination fee as established by the Commission.

D) **Scope of Practice Authorized by Limited Practice Rule**. The Legal Technician may undertake the following only in the defined area(s) of law for which the Legal Technician has been certified:

- 1) Ascertain whether the problem is within the defined practice area, and if so, obtain relevant facts, and explain the relevancy of such information to the client;
- 2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;
- 3) Inform the client of applicable procedures for proper service of process for motion papers, and proper filing procedures;
- 4) Provide the client with self-help materials prepared by a lawyer or approved by the Commission, which contain information as to statutory requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- 5) Review pleadings or exhibits presented by the client from the opposing side, and explain the documents;
- 6) Select and complete forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a lawyer; or forms approved by the Commission; and advise the client of the significance of the selected forms to the client's case;
- 7) Perform legal research and draft legal letters and pleadings, if the work is reviewed and approved by a lawyer.
- 8) Advise client as to other documents which may be necessary (such as exhibits,

witness declarations, or party declarations), and explain how such additional documents or pleadings may affect the client's case;

- 9) Assist the client in obtaining necessary documents, such as birth, death, or marriage certificates.

While acting within the scope of authority set forth in this rule, the relationship between the Legal Technician and the client shall be governed by all rules, expectations, privileges and considerations that govern the relationship between lawyers and their clients.

**E) Conditions Under Which A Legal Technician May Provide Services.** A Legal Technician may render services authorized by this rule only under the following conditions and with the following limitations:

- 1) Be certified pursuant to these rules;
- 2) Have a staffed office for the acceptance of service in the State of Washington;
- 3) Personally perform the services for the client. The Legal Technician shall not supervise a non-certified individual to perform the services in the legal technician's place. Nothing in this prohibition shall prevent a person who is not certified from performing translation services; and
- 4) Prior to the performance of the services, the Legal Technician shall enter into a written contract that includes the following provisions:
  - (a) An explanation of the services to be performed, including a conspicuous statement that the Legal Technician may not appear or represent the client in court;
  - (b) Identification of all compensation and costs to be charged to the client for the services to be performed;
  - (c) A statement that documents submitted by the client to the Legal Technician may not be retained by the Legal Technician for any purpose, including payment of compensation or costs;
  - (d) A statement that the Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the face of the contract in twelve-point bold type print;
  - (e) A statement describing the Legal Technician's duty to protect the confidentiality of information provided by the client and the Legal Technician's work product associated with the services sought or provided by the Legal Technician;

(f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and

(g) Such other conditions as the Commission may require.

5) A Legal Technician may not provide services to a client who requires assistance exceeding the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client requires the services of a lawyer. The scope of practice shall be determined as provided in regulations adopted by the Commission and approved by the Board and the Supreme Court.

6) A Legal Technician must sign all pleadings completed by the Legal Technician and include his/her certificate number.

F) **Prohibited Acts.** In the course of dealing with clients or prospective clients, a Legal Technician shall not:

1) Make any statement that the Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;

2) Retain any compensation for services not performed;

3) Refuse to return documents supplied by, prepared by, or paid for by the client upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Legal Technician and the client; or

4) Represent or advertise, in connection with the provision of services, other titles or credentials that could cause a client to believe that the Legal Technician possesses professional skills beyond those authorized by the certificate for which the Legal Technician is approved.

5) Represent or otherwise provide legal or law related services to a client, except as permitted by law or elsewhere in this rule.

G) **Continuing Certification Requirements.**

1) Continuing Education Requirements. Each Legal Technician must complete a minimum number of credit hours of approved or accredited education as prescribed by Commission regulations, during each calendar year in courses certified by the Commission to be appropriate for study by Legal Technicians pursuant to this rule; provided that the Legal Technician shall not be required to comply with this subsection during the calendar year in which he or she is initially

certified.

2) Pro Bono Publico Service. Each Legal Technician should aspire to render at least 30 hours of pro bono publico service per year.

#### H) **Financial Responsibilities**

- 1) Financial Responsibility. Each certified Legal Technician shall show proof of ability to respond in damages resulting from his/her acts or omissions in the performance of services permitted by this rule. The proof of financial responsibility shall be in such form and in such amount as the Commission may by regulation prescribe.
- 2) Annual Fee. Each certified Legal Technician must pay the annual fee established by the Commission.

I) **Existing Law Unchanged**. This rule shall in no way expand, narrow or affect existing law in the following areas as they apply to both lawyers, and Legal Technicians engaged in the limited practice of law, under the exclusive regulatory authority of the Supreme Court in the State of Washington:

- 1) The fiduciary relationship between a certified Legal Technician and his/her customers or clients;
- 2) Conflicts of interest that may arise between the certified Legal Technician and a client or customer; and
- 3) The lack of authority of a Legal Technician to give legal advice without being licensed to practice law other than an authorized under this rule.

#### J) **Professional Responsibility**.

- 1) As grantees by the Supreme Court of authority heretofore reserved exclusively to lawyers, Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a lawyer.
- 2) Legal Technicians shall be held to the same ethical standards as a lawyer, except to the extent that the RPCs conflict with these rules, in which case these rules shall apply.
- 3) All funds that come into a Legal Technician's possession are subject to RPC 1.15B.