

**NON-LAWYER PRACTICE
COMMISSION REGULATIONS
Current Draft**

REGULATION 1. PURPOSE

The purpose of these regulations is to establish procedures for the Non-Lawyer Practice Commission (Commission) in order to carry out its purposes and exercise its powers pursuant to General Rule 25 (GR 25) and APR 28.

REGULATION 2. PRACTICE OF LAW BOARD

A. For purposes of these regulations, the Practice of Law Board (POL Board) shall determine Commission membership; hear discipline appeals; recommend the Commission's annual budget; and consider and recommend areas of practice to be submitted to the Supreme Court.

REGULATION 3. ESTABLISHMENT OF THE COMMISSION

A. Commission Responsibilities. The Commission shall be responsible for the following:

- (1) Holding public hearings regarding scope of practice area;
- (2) Processing applications, screening applicants and fees;
- (3) Testing of general, ethical and procedural aspects;
- (4) Continuing Legal Education (CLE) requirements and approval of such programs;
- (5) Approval of education requirements for certification in specific areas;
- (6) Initial discipline and grievance hearings;
- (7) Establishing and over-seeing committees and tenure of members;
- (8) Trust account requirements and procedures; and
- (9) Such other activities and functions as the POL Board may determine.

B. Members. The Commission shall consist of 7 members (Member[s]) appointed by the Supreme Court of the State of Washington (Supreme Court) at least 4 of whom shall be lawyers licensed to practice law in the State of Washington, and the remainder

of whom shall be non-lawyer Washington residents. At least 4 members of the Commission shall be existing or former members of the POL Board. At least one Member shall be a legal educator. Appointments shall be made by the Supreme Court after considering nominations from the POL Board and after input from the WSBA Board of Governors and any other interested people or organizations.

C. Member Terms. The Members shall initially be appointed to staggered terms of 1 to 3 years. Thereafter, appointments shall be for 3-year terms. No Member may serve more than 2 consecutive full 3-year terms.

D. Resignation. A Member may resign from the Commission by letter addressed to the Commission and the Supreme Court with resignation to be effective 2 days following the date of the letter or any effective date thereafter which may be specified in the letter.

E. Vacancies. A membership vacancy shall be deemed to occur on the resignation of a Member or upon declaration of a vacancy by the Supreme Court following any request to the Supreme Court by the Commission for the reasons set forth in section O below, or if a Member has three unexcused absences from regular Commission meetings or is not present at more than a majority of the Commission meetings during any 12-month period as determined by the chairperson. A membership vacancy shall be filled by the Supreme Court for the unexpired term.

F. Administration of Commission. The Washington State Bar Association (WSBA), in consultation with the POL Board and Commission shall provide the Commission with an administrator (Commission Administrator) and any additional staff support as designated by the Executive Director of the WSBA. The Commission Administrator shall not be entitled to vote on Commission matters.

G. Funding and Expenses. The POL Board and Commission shall prepare an annual budget to be submitted for approval on a schedule set by the WSBA Board of Governors. The WSBA shall pay all expenses reasonably and necessarily incurred by the Commission pursuant to the budget and the expense policy of the WSBA. Funding for the Commission shall be generated by Legal Technician certification fees, as well as commitments from the WSBA.

H. Officers. The POL Board shall annually designate a chairperson and a vice-chairperson from among the Commission membership.

I. Regular Meetings. The Commission shall meet as necessary to complete its business, as determined by the Commission or upon call of the chairperson, but not less than once per year.

J. Regular Meeting / Agenda Notice. In January of each year, the Commission may file the times and places of its regularly scheduled meetings with the Office of the Code Reviser for publication in the Washington State Register. At least 7 days prior to each regularly scheduled meeting, the Commission shall submit agendas to the Administrative Office of the Courts and to WSBA for website posting.

K. Special Meetings. A special meeting of the Commission may be called at any time by the chairperson or by a majority of the Commission membership by delivering written notice personally, by mail, or by e-mail to each Member at least 2 business days before the time of such meeting and by providing notice of the special meeting to the public by submitting notice for posting on the Administrative Office of the Courts website and the WSBA website.

L. Voting. Each Member shall be entitled to 1 vote on each matter submitted to a vote at a meeting of the Commission. A majority vote of the Members present at a meeting at which a quorum exists shall, unless a greater vote is required by other provisions of these regulations or by APR 28, decide any issue submitted. Members shall not be permitted to vote by proxy.

M. Quorum. A majority of the Members shall constitute a quorum. The chairperson may appoint temporary members of the Commission (or any designated committee) from among former members of the Commission, when a Member is disqualified or unable to function on a specific matter, for good cause. If less than a quorum is present at a meeting, a majority of the Members present may adjourn the meeting and continue it to a later date and time upon notice. At any reconvened meeting at which a quorum is present, any business may be transacted which might have been transacted at the adjourned meeting. Members present at a properly called meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum.

N. Action by Communication Equipment. The Members or any committee may participate in a meeting of the Commission or such committee by means of a conference phone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time, and participation by such means will constitute presence in person at a meeting.

O. Removal of a Member. The Commission may request the Supreme Court to declare a membership vacancy with respect to any Member whose removal from the Commission would, upon a 2/3 vote of the Commission excluding the affected Member, be in the best interest of the Commission; however, such action may only be taken by the Commission at a regular or special meeting following notice of such proposed action.

P. Committees. The Commission shall establish such committees as it deems necessary and appropriate with each committee having a specified function determined by the Commission and as required otherwise under these regulations.

Q. Records. The Commission Administrator shall maintain deliberations, recommendations, and decisions of the Commission and its committees. All records of the Commission and its committees shall be filed and maintained at the principal office of the WSBA.

R. Open Meeting and Records. All records, files, meetings and proceedings of the Commission and its designated committees shall be open and public, except that the Commission may meet in executive session and records and files may be made confidential where the preservation of confidentiality is desirable or where public disclosure might result in the violation of individual rights or in unwarranted private or personal harm as determined by the Commission. All discussions of particular complaints and investigations will be held in Executive Session.

S. Public Participation. The chairperson or the chair of any designated committee may allow for public participation at any meeting. Members of the public who wish to address the Commission or a designated committee at any meeting shall be required to provide contact information on a form provided for that purpose and shall be required to comply with any time limitation deemed appropriate by the chairperson or the designated committee chair.

REGULATION 4. PROCEDURE FOR DETERMINING AREAS OF PRACTICE

A. Notice and Public Hearing. Before any area of practice is authorized, notice shall be given to interested parties, including any group or individual who has requested notice and also to the WSBA Board of Governors, any WSBA section that might be affected and such other groups or individuals the Commission believes might be interested in such matter. Notice shall also be given in the WSBA Bar News, on the WSBA website and the POL Board website. Notices shall be given no less than 90 days prior to submission to the Commission for consideration. In addition, a minimum of 2 public hearings shall be held at separate locations within the State of Washington.

B. Commission Committees

1. Establishment of Committees. The Commission shall establish a separate committee for each area of practice by Legal Technicians when an area of practice is under consideration. Each such committee shall be composed of no less than 5 members, including 1 of each of the following: a lawyer licensed in the State of Washington whose practice area emphasizes the area of practice under consideration;

a legal educator in the state of Washington; a person who is interested in practicing as a Legal Technician in this area; a member or former member of the POL Board.

2. Committee Responsibilities. The committee shall first determine whether the proposed area promotes access to affordable and reliable law related services in an area of unmet civil legal need that is practical and feasible for non-lawyer practice. If so, the committee shall determine the scope and nature of practice for Legal Technicians and any limitations and conditions to be imposed. The Commission shall report its recommendation to the POL Board. If this area of practice is approved by the Supreme Court, the Committee shall develop the forms and materials which may be used by the Legal Technicians; the test to be administered to those seeking certification; the continuing education/ethics requirements to be developed; and such other functions as the Commission shall request. The committee shall remain in place if the area of practice is approved by the Supreme Court, to continue such functions as shall be necessary, subject to the terms of tenure as established by the Commission.

C. Transmittal of Recommendations to Supreme Court. The Commission recommendation shall be forwarded to the POL Board for a determination whether to send the recommendation to the Supreme Court of the State of Washington. If such a recommendation is sent to the Supreme Court, all comments received and the Board of Governors recommendation shall also be sent to the Court. The Supreme Court of the State of Washington shall make the final determination on whether or not to open any area of practice of law to Legal Technicians as provided under these rules and regulations governing the same.

REGULATION 5. DISCIPLINE. The Commission shall have the authority to hold such hearings and impose such discipline as may be appropriate for any violations of the Admission to Practice Rules (APR). Such discipline shall be consistent with the Rules of Professional Conduct (RPC), as such apply to Legal Technicians. A disciplinary finding by the Commission may be reviewed by the POL Board. The POL Board decision may be reviewed by the Supreme Court at the Court's discretion.

REGULATION 6. CONFLICT OF INTEREST.

A. In General. A Member who has or has had a lawyer/client relationship or financial relationship with, or who is an immediate family member of, a person or entity who is a complainant or the subject of a matter before the Commission shall not participate in the investigation or deliberation on any matter involving that person. No WSBA employee shall participate in deliberation on any matter which is pending in, or likely to be referred to, the WSBA attorney disciplinary or bar admission systems.

B. Disclosure. A Member with a past or present relationship, other than that as provided in section A above, with a person or entity who is the complainant or subject of

a matter before the Commission, shall disclose such relationship to the Commission and, if the Commission deems it a conflict, that Member shall not participate in any action relating to that matter.

REGULATION 7. PETITIONS FOR REVIEW.

Petitions for review from any action of the Commission to the Supreme Court shall comply with GR 25(g).