WSR 15-08-029

RULES OF COURT

STATE SUPREME COURT

[March 25, 2015]

IN THE MATTER OF THE OF THE EXPEDITED ADOPTION OF PROPOSED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT RPC 1.0B—TERMS AND NEW COMMENTS TO RPC 1.5, RPC 1.8—CONFLICT OF INTEREST, RPC 1.10—IMPUTATION OF CONFLICTS OF INTEREST:GENERAL RULE, RPC 1.15A (H)(9)—SAFEGUARDING PROPERTY, RPC 1.17—SALE OF LAW PRACTICE, TITLE 3—ADVOCATE, TITLE 4—TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS, RPC 5.8—MISCONDUCT INVOLVING DISBARRED, SUSPENDED, RESIGNED, AND INACTIVE LAWYERS, NEW RPC 5.9 AND 5.10—LAWYERS ASSOCIATED IN A LAW FIRM WITH LLLTs, TITLE 7—INFORMATION ABOUT LEGAL SERVICES AND TITLE 8—MAINTAINING THE INTEGRITY OF THE PROFESSION	)))))))))))))))))))	ORDER NO. 25700-A-1096

The Washington State Bar Association, having recommended the expedited adoption of the Proposed Amendments to Rules of Professional Conduct RPC 1.0B—Terms and New Comments to RPC 1.5, RPC 1.8—Conflict of Interest, RPC 1.10—Imputation of Conflicts of Interest: General Rule, RPC 1.15A (h)(9)—Safeguarding Property, RPC 1.17—Sale of Law Practice, Title 3—Advocate, Title 4—Transactions with Persons Other Than Clients, RPC 5.8—Misconduct Involving Disbarred, Suspended, Resigned, and Inactive Lawyers, New RPC 5.9 and 5.10—Lawyers Associated in a Law Firm with LLLTs, Title 7—Information about Legal Services and Title 8—Maintaining the integrity of the Profession, and the Court having considered the amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules as shown below are adopted.

(b) That the new rules will be published expeditiously in the Washington Reports and will become effective upon publication.

(c) That the Washington State Bar Association will solicit and gather feedback on these rules and provide it to the court nine months after the rules' effective date.

DATED at Olympia, Washington this 23rd Day of March, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	Gordon McCloud, J.
Stephens, J.	Yu, J.

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE

WASHINGTON RULES OF PROFESSIONAL CONDUCT (RPC)

Table of Rules

Fundamental Principles of Professional Conduct

PREAMBLE AND SCOPE

Preamble: A Lawyer's Responsibilities
Scope

Rule

1.0A Terminology
1.0B Additional Washington Terminology

TITLE 1 CLIENT-LAWYER RELATIONSHIP

1.1 Competence
1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer
1.3 Diligence
1.4 Communication
1.5 Fees
1.6 Confidentiality of Information
1.7 Conflict of Interest: Current Clients
1.8 Conflict of Interest: Current Clients: Specific Rules
1.9 Duties to Former Client
1.10 Imputation of Conflicts of Interest: General Rule
1.11 Special Conflicts of Interest for Former and Current Government Officers and Employees
1.12 Former Judge, Arbitrator, Mediator or Other Third-Party Neutral
1.13 Organization as Client
1.14 Client with Diminished Capacity
1.15A Safeguarding Property
1.15B Required Trust Account Records
1.16 Declining or Terminating Representation
1.17 Sale of Law Practice
1.18 Duties of Prospective Client

TITLE 2 COUNSELOR

2.1 Advisor
2.2 (Deleted)
2.3 Evaluation for Use by Third Persons
2.4 Lawyer Serving as Third-Party Neutral

TITLE 3 ADVOCATE

3.1 Meritorious Claims and Contentions
3.2 Expediting Litigation
3.3 Candor Toward the Tribunal
3.4 Fairness to Opposing Party ~~and Counsel~~
3.5 Impartiality and Decorum of the Tribunal
3.6 Trial Publicity
3.7 Lawyer as Witness
3.8 Special Responsibilities of a Prosecutor
3.9 Advocate in Nonadjudicative Proceedings

TITLE 4 TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

4.1 Truthfulness in Statements to Others

4.2 Communication With Person Represented by ~~Counsel~~ a Lawyer

4.3 Dealing With ~~Unrepresented~~ Person Not Represented by a Lawyer

4.4 Respect for Rights of Third Person

TITLE 5 LAW FIRMS AND ASSOCIATIONS

5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers

5.2 Responsibilities of a Subordinate Lawyer

5.3 Responsibilities Regarding Nonlawyer Assistants

5.4 Professional Independence of a Lawyer

5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

5.6 Restrictions on Right to Practice

5.7 Responsibilities Regarding Law-Related Services

5.8 Misconduct Involving ~~Disbarred, Suspended, Resigned, and Inactive~~ Lawyers and LLLTs Not Actively Licensed to Practice Law

5.9 Business Structures Involving LLLT and Lawyer Ownership

5.10 Responsibilities Regarding Other Legal Practitioners

TITLE 6 PUBLIC SERVICE

6.1 Pro Bono Publico Service

6.2 Accepting Appointments

6.3 Membership in Legal Services Organization

6.4 Law Reform Activities Affecting Client Interests

6.5 Nonprofit and Court-Annexed Limited Legal Service Programs

TITLE 7 INFORMATION ABOUT LEGAL SERVICES

7.1 Communications Concerning a Lawyers Services

7.2 Advertising

7.3 Direct Contact with Prospective Clients

7.4 Communication of Fields of Practice and Specialization

7.5 Firm Names and Letterheads

7.6 Political Contributions to Obtain Government Legal Engagements or Appointments by Judges

TITLE 8 MAINTAINING THE INTEGRITY OF THE PROFESSION

8.1 Bar Admission and Disciplinary Matters

8.2 Judicial and Legal Officials

8.3 Reporting Professional Misconduct

8.4 Misconduct

8.5 Disciplinary Authority; Choice of Law

Appendix: Guidelines for Applying Rule of 3.6

FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT*

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Lawyers, as guardians of the law, play a vital role in the preservation of society. To understand this role, lawyers must comprehend the components of our legal system, and the interplay between the different types of professionals within that system. ~~The fulfillment of this~~ To fulfill this role, ~~requires an understanding by~~ lawyers ~~of~~ must understand their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

In fulfilling professional responsibilities, a lawyer necessarily assumes various roles that require the performance of many difficult tasks. Not every situation which a lawyer may encounter can be foreseen, but fundamental ethical principles are always present as guidelines. Within the framework of these principles, a lawyer must with courage and foresight be able and ready to shape the body of the law to the ever-changing relationships of society.

The Rules of Professional Conduct point the way to the aspiring lawyer and provide standards by which to judge the transgressor. Each lawyer must find within his or her own conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession and the society which the lawyer serves that should provide to a lawyer the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

* These *Fundamental Principles of the Rules of Professional Conduct* are taken from the former Preamble to the Rules of Professional Conduct as approved and adopted by the Supreme Court in 1985. Washington lawyers and judges have looked to the 1985 Preamble as a statement of our overarching aspiration to faithfully serve the best interests of the public, the legal system, and the efficient administration of justice. The former Preamble is preserved here to inspire lawyers to strive for the highest possible degree of ethical conduct, and these *Fundamental Principles* should inform many of our decisions as lawyers. The *Fundamental Principles* do not, however, alter any of the obligations expressly set forth in the Rules of Professional Conduct, nor are they intended to affect in any way the manner in which the Rules are to be interpreted or applied.

PREAMBLE AND SCOPE

PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] - [11] [Unchanged.]

[12] **[Washington revision]** The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other ~~lawyers~~ legal practitioners. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

[13] [Unchanged.]

SCOPE

[14] - [21] [Unchanged.]

Additional Washington Comments (22 - ~~23~~ 25)

[22] [Unchanged.]

[23] The structure of these Rules generally parallels the structure of the American Bar Association's Model Rules of Professional Conduct. The exceptions to this approach are Rule 1.15A, which varies substantially from Model Rule 1.15, and Rules 1.15B, ~~and~~ 5.8, 5.9, and 5.10, ~~neither~~ none of which is found in the Model Rules. In other cases, when a provision has been wholly deleted from the counterpart Model Rule, the deletion is signaled by the phrase "Reserved." When a provision has been added, it is generally appended at the end of the Rule or the paragraph in which the variation appears. Whenever the text of a Comment varies materially from the text of its counterpart Comment in the Model Rules, the alteration is signaled by the phrase "Washington revision." Comments that have no counterpart in the Model Rules are compiled at the end of each Comment section under the heading "Additional Washington Comment(s)" and are consecutively numbered. As used herein, the term "former Washington RPC" refers to Washington's Rules of Professional Conduct (adopted effective September 1, 1985, with amendments through September 1, 2003). The term "Model Rule(s)" refers to the ~~2004 Edition of the~~ American Bar Association's Model Rules of Professional Conduct.

[24] In addition to providing standards governing lawyer conduct in the lawyer's own practice of law, these Rules encompass a lawyer's duties related to individuals who provide legal services under a limited license. A lawyer should remember that these providers also engage in the limited practice of law and are part of the legal profession, albeit with strict limitations on the nature and scope of the legal services they provide. See APR 28; LLLT RPC 1.2.

[25] Rule 5.9 refers specifically to a lawyer's duties relating to business structures permitted between lawyers and LLLTs. Rule 5.10 refers to a lawyer's responsibilities when working with other legal practitioners operating under a limited license. Other rules have been amended to address a lawyer's relationship with and duties regarding LLLTs. In general, a lawyer should understand the authorized scope of the services provided by LLLTs, including the requirement that an LLLT must refer a client to a lawyer when that client requires services outside of that scope. See LLLT RPC 1.2; APR 28(F). Lawyers should participate in the development of a robust system of cross-referral between lawyers and LLLTs to promote access to justice and the smooth and efficient provision of a complete range of legal services. In addition, a robust system of cross-referral will benefit the profession by supporting LLLTs in operating ethically within their limited licensure. See Preamble Comment [6].

RPC 1.0A TERMINOLOGY

(a) "Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of "informed consent." If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

(c) "Firm" or "law firm" denotes a lawyer, ~~or~~ lawyers, an LLLT, LLLTs, or any combination thereof in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers or LLLTs employed in a legal services organization or the legal department of a corporation or other organization.

(d) "Fraud" or "fraudulent" denotes conduct that has a purpose to deceive and is fraudulent under the substantive or procedural law of the applicable jurisdiction, except that it is not necessary that anyone has suffered damages or relied on the misrepresentation or failure to inform.

(e) "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

(f) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(g) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(h) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(i) "Reasonable belief" or "reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(j) "Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(k) "Screened" denotes the isolation of a lawyer or an LLLT from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer or LLLT is obligated to protect under these Rules, the LLLT Rules of Professional Conduct, or other law.

(l) "Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(m) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(n) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and e-mail. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

Comment

[1] - [5] [Unchanged.]

[6] **[Washington revision]** Many of the Rules of Professional Conduct require the lawyer to obtain the informed consent of a client or other person (e.g., a former client or, under certain circumstances, a prospective client) before accepting or continuing representation or pursuing a course of conduct. See, e.g., Rules 1.2(c), 1.6(a) and 1.7(b). The communication necessary to obtain such consent will vary according to the Rule involved and the circumstances giving rise to the need to obtain informed consent. The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client's or other person's options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of another ~~counsel~~ lawyer. A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid. In determining whether the information and explanation provided are reasonably adequate, relevant factors include whether the client or other person is experienced in legal matters generally and in making decisions of the type involved, and whether the client or other person is independently represented by another ~~counsel~~ lawyer in giving the consent. Normally, such persons need less information and explanation than others, and generally a client or other person who is independently represented by another ~~counsel~~ lawyer in giving the consent should be assumed to have given informed consent.

[7] [Unchanged.]

Screened

[8] **[Washington revision]** This definition applies to situations where screening of a personally disqualified lawyer or LLLT is permitted to remove imputation of a conflict of interest under Rules 1.10, 1.11, 1.12, 1.18, or 6.5.

[9] **[Washington revision]** The purpose of screening is to assure the affected parties that confidential information known by the personally disqualified lawyer or LLLT remains protected. The personally disqualified lawyer or LLLT should acknowledge the obligation not to communicate with any of the other lawyers or LLLTs in the firm with respect to the matter. Similarly, other lawyers or LLLTs in the firm who are working on the matter should be informed that the screening is in place and that they may not communicate with the personally disqualified lawyer or LLLT with respect to the matter. Additional screening measures that are appropriate for the particular matter will depend on the circumstances. To implement, reinforce and remind all affected lawyers or LLLTs of the presence of the screening, it may be appropriate for the firm to undertake such procedures as a written undertaking by the screened lawyer or LLLT to avoid any communication with other firm personnel and any contact with any firm files or other materials relating to the matter, written notice and instructions to all other firm personnel forbidding any communication with the screened lawyer or LLLT relating to the matter, denial of access by the screened lawyer or LLLT to firm files or other materials relating to the matter and periodic reminders of the screen to the screened lawyer or LLLT and all other firm personnel.

[10] **[Washington revision]** In order to be effective, screening measures must be implemented as soon as practical after a lawyer, LLLT, or law firm knows or reasonably should know that there is a need for screening. See also Washington Comment [15].

Additional Washington Comments (11 - 16)

[11] [Unchanged.]

Firm

[12] Although the definition of "firm" or "law firm" in Rule 1.0A(c) differs from the definition set forth in the Terminology section of Washington's former Rules of Professional Conduct, there is no intent to change the scope of the definition or to alter existing Washington law on the application of the Rules of Professional Conduct to lawyers in a government office.

Fraud

[13] Model Rule 1.0A(d) was modified to clarify that the terms "fraud" and "fraudulent" in the Rules of Professional Conduct do not include an element of damage or reliance.

[14] - [15] [Unchanged.]

Other

[16] For the scope of the phrase "information relating to the representation of a client," which is not defined in Rule 1.0A, see Comment [19] to Rule 1.6.

RPC 1.0B ADDITIONAL WASHINGTON TERMINOLOGY

(a) "APR" denotes the Washington Supreme Court's Admission and Practice Rules.

(b) "Legal practitioner" denotes a lawyer or a limited license legal technician licensed under APR 28.

(c) "Limited License Legal Technician" or "LLLT" denotes a person qualified by education, training, and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by APR 28 and related regulations. The LLLT does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in APR 28 to a pro se client.

(d) "Limited Practice Officer" or "LPO" denotes a person licensed in accordance with the procedures set forth in APR 12 and who has maintained his or her certification in

accordance with the rules and regulations of the Limited Practice Board.

(e) "Representation" or "represent," when used in connection with the provision of legal assistance by an LLLT, denotes limited legal assistance as set forth in APR 28 to a pro se client.

Washington Comments

[1] This Rule addresses the evolution of the practice of law in Washington to include the limited licensure of legal professionals that permits persons other than lawyers to provide legal assistance that would otherwise constitute the unauthorized practice of law.

[2] These Rules apply to a lawyer's ethical duties, including specific duties that encompass a lawyer's dealings with legal practitioners practicing under a limited license and their clients. LLLTs are bound by corresponding duties that are set forth in the LLLT RPC.

[3] LLLTs are authorized to engage in the limited practice of law in explicitly defined areas. Unlike a lawyer, an LLLT may perform only limited services for a client. See APR 28(F), (H). A lawyer who interacts with an LLLT about the subject matter of that LLLT's representation or who interacts with an otherwise pro se client represented by an LLLT should be aware of the scope of the LLLT's license and the ethical obligations imposed on an LLLT by the LLLT RPC. See APR 28 (F)-(H); Appendix APR 28 Regulation 2; LLLT RPC 1.2, 1.5, 4.2, 4.3. See also, RPC 5.10.

RPC 1.1 COMPETENCE

[Unchanged.]

Comment

[1] - [6] [Unchanged.]

Additional Washington Comment (7)

[7] In some circumstances, a lawyer can also provide adequate representation by enlisting the assistance of an LLLT of established competence, within the scope of the LLLT's license and consistent with the provisions of the LLLT RPC. However, a lawyer may not enter into an arrangement for the division of the fee with an LLLT who is not in the same firm as the lawyer. See Comment [7] to Rule 1.5(e); LLLT RPC 1.5(e). Therefore, a lawyer may enlist the assistance of an LLLT who is not in the same firm only (1) after consultation with the client in accordance with Rules 1.2 and 1.4, and (2) by referring the client directly to the LLLT.

RPC 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

[Unchanged.]

Comment

[1] - [13] [Unchanged.]

Additional Washington Comment (14 - 17)

Agreements Limiting Scope of Representation

[14] An agreement limiting the scope of a representation shall consider the applicability of Rule 4.2 to the representation. (The provisions of this Comment were taken from former Washington RPC 1.2(c).) See also Comment [11] to Rule 4.2 for specific considerations pertaining to contact with ~~an~~ person otherwise represented ~~person~~ by a lawyer to whom limited representation is being or has been provided.

Acting as a Lawyer Without Authority

[15] Paragraph (f) was taken from former Washington RPC 1.2(f), which was deleted from the RPC by amendment effective September 1, 2006. The mental state has been changed from "willfully" to one of knowledge or constructive knowledge. See Rule 1.0A (f) & (j). Although the language and structure of paragraph (f) differ from the former version in a number of other respects, paragraph (f) does not otherwise represent a change in Washington law interpreting former RPC 1.2(f).

[16] - [17] [Unchanged.]

RPC 1.3 DILIGENCE

[Unchanged.]

Comment

[1] - [5] [Unchanged.]

RPC 1.4 COMMUNICATION

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0A(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

[1] [Unchanged.]

Communicating with Client

[2] **[Washington revision]** If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from an opposing ~~counsel~~ lawyer an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless that client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See Rule 1.2(a).

[3] - [4] [Unchanged.]

Explaining Matters

[5] **[Washington revision]** The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in Rule 1.0A(e).

[6] - [7] [Unchanged.]

RPC 1.5 FEES

[Unchanged.]

Comment

[1] [Unchanged.]

Basis or Rate of Fee

[2] **[Washington revision]** When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of the legal services to be provided, the basis, rate or total amount of the fee and whether and to what extent the client will be responsible for any costs, expenses or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding. See Washington Comment [17] for fee agreements that include LLLT services.

[3] - [6] [Unchanged.]

Division of Fee

[7] **[Washington revision]** A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1. See also Washington Comment [18].

[8] - [9] [Unchanged.]

Additional Washington Comments (10 - ~~16~~ 19)

Reasonableness of Fee and Expenses

[10] [Unchanged.]

[11] Under paragraph (a)(9), one factor in determining whether a fee is reasonable is whether the fee agreement or confirming writing demonstrates that the client received a reasonable and fair disclosure of material elements of the fee agreement. Lawyers are encouraged to use written fee agreements that fully and fairly disclose all material terms in a manner easily understood by the client. See also Washington Comment [17] regarding fee agreements that include LLLT services.

[12] - [14] [Unchanged.]

[15] If a lawyer and a client agree to a retainer under paragraph (f)(1) or a flat fee under paragraph (f)(2) and the lawyer complies with the applicable requirements, including obtaining agreement in a writing signed by the client, the fee is considered the lawyer's property on receipt and must not be deposited into a trust account containing client or third-party funds. See Rule 1.15A(c) (lawyer must hold property of clients separate from lawyer's own property). For definitions of the terms "writing" and "signed," see Rule 1.0A(n).

[16] [Unchanged.]

Fee Agreements in Law Firms That Include Both Lawyers and LLLTs

[17] LLLTs are required to disclose the scope of the representation and the basis or rate of their fees and expenses in writing to the client prior to the performance of services for a fee. APR 28G(3); LLLT RPC 1.5(b). Accordingly, when lawyers and LLLTs are associated in a firm, if the firm's services include representation by an LLLT who acts under the authority of APR 28, then there must be a written fee agreement that comports with APR 28G(3) and LLLT RPC 1.5(b). See RPC 8.4 (f)(2).

[18] Paragraph (e) does not allow division of fees between a lawyer and an LLLT who are not in the same firm. See LLLT RPC 1.5(e).

[19] An LLLT, unlike a lawyer, is prohibited from entering into a contingent fee or retainer agreement with a client directly. See LLLT RPC 1.5 Comment [1]. Nonetheless, this prohibition was not intended to prohibit a lawyer from sharing fees that include contingent fees or retainers with an LLLT with whom the lawyer has entered into a for-profit business relationship under Rule 5.9. See Rules 5.9 and 5.10 for a managing lawyer's additional duties regarding LLLTs

who are members of the same firm as the lawyer. See also RPC 5.4 Washington Comment [4].

RPC 1.6 CONFIDENTIALITY OF INFORMATION

[Unchanged.]

Comment

See also Washington Comment [19].

[1] [Unchanged.]

[2] **[Washington revision]** A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See Rule 1.0A(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[3] - [4] [Unchanged.]

Authorized Disclosure

[5] **[Washington revision]** Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose ~~to each other~~ information relating to a client of the firm to other lawyers or LLLTs within the firm, unless the client has instructed that particular information be confined to specified lawyers or LLLTs.

[6] - [18] [Unchanged.]

Additional Washington Comments (19 - 26)

[19] - [26] [Unchanged.]

RPC 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

[Unchanged.]

Comment

General Principles

[1] **[Washington revision]** Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person or from the lawyer's own interests. For specific Rules regarding certain concurrent conflicts of interest, see Rule 1.8. For former client conflicts of interest, see Rule 1.9. For conflicts of interest involving prospective clients, see Rule 1.18. For definitions of "informed consent" and "confirmed in writing," see Rule 1.0A (e) and (b).

[2] - [12] [Unchanged.]

Interest of Person Paying for a Lawyer's Service

[13] - [16] [Unchanged.]

[17] **[Washington revision]** Paragraph (b)(3) describes conflicts that are nonconsentable because of the institutional interest in vigorous development of each client's position when the clients are aligned directly against each other in the same litigation or other proceeding before a tribunal. Whether clients are aligned directly against each other within the meaning of this paragraph requires examination of the context of the proceeding. Although this paragraph does not preclude a lawyer's multiple representation of adverse parties to a mediation (because mediation is not a proceeding before a "tribunal" under Rule 1.0A(m)), such representation may be precluded by paragraph (b)(1). See also Washington Comment [38].

Informed Consent

[18] **[Washington revision]** Informed consent requires that each affected client be aware of the relevant circumstances and of the material and reasonably foreseeable ways that the conflict could have adverse effects on the interests of that client. See Rule 1.0A(e) (informed consent). The information required depends on the nature of the conflict and the nature of the risks involved. When representation of multiple clients in a single matter is undertaken, the information must include the implications of the common representation, including possible effects on loyalty, confidentiality and the attorney-client privilege and the advantages and risks involved. See Comments [30] and [31] (effect of common representation on confidentiality).

[19] [Unchanged.]

Consent Confirmed in Writing

[20] **[Washington revision]** Paragraph (b) requires the lawyer to obtain the informed consent of the client, confirmed in writing. Such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent. See Rule 1.0A(b). See also Rule 1.0A(n) (writing includes electronic transmission). If it is not feasible to obtain or transmit the writing at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. See Rule 1.0A(b). The requirement of a writing does not supplant the need in most cases for the lawyer to talk with the client, to explain the risks and advantages, if any, of representation burdened with a conflict of interest, as well as reasonably available alternatives, and to afford the client a reasonable opportunity to consider the risks and alternatives and to raise questions and concerns. Rather, the writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence of a writing.

[21] - [35] [Unchanged.]

Additional Washington Comments (36 - 41)

[36] - [41] [Unchanged.]

RPC 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent ~~legal counsel~~ lawyer on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, expect as permitted or required by these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of the client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not, while representing a client in connection with contemplated or pending litigation, advance or guarantee financial assistance to a client, except that:

(1) a lawyer may advance or guarantee the expenses of litigation, including court costs, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses; and

(2) in matters maintained as class actions only, repayment of expenses of litigation may be contingent on the outcome of the matter.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information relating to representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, confirmed in writing. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and the participation of each person in the settlement.

(h) A lawyer shall not:

(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented by a lawyer in making the agreement; or

(2) settle a claim or potential claim for such liability with an unrepresented-client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent ~~legal counsel~~ lawyer in connection therewith.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not:

(1) have sexual relations with a current client of the lawyer unless a consensual sexual relationship existed between them at the time the client-lawyer relationship commenced; or

(2) have sexual relations with a representative of a current client if the sexual relations would, or would likely, damage or prejudice the client in the representation.

(3) For purposes of Rule 1.8(j), "lawyer" means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.

(k) While lawyers are associated in a firm with other lawyers or LLLTs, a prohibition in the foregoing paragraphs (a) through (i) of this Rule or LLLT RPC 1.8 that applies to any one of them shall apply to all of them, except that the prohibitions in paragraphs (a), (h), and (i) of LLLT RPC 1.8 shall apply to firm lawyers only if the conduct is also prohibited by this Rule.

(l) A lawyer who is related to another lawyer or LLLT as parent, child, sibling, or spouse, or who has any other close familial or intimate relationship with another lawyer or LLLT, shall not represent a client in a matter directly adverse to a person who the lawyer knows is represented by the related lawyer or LLLT unless:

(1) the client gives informed consent to the representation; and

(2) the representation is not otherwise prohibited by Rule 1.7.

(m) A lawyer shall not:

(1) make or participate in making an agreement with a governmental entity for the delivery of indigent defense services if the terms of the agreement obligate the contracting lawyer or law firm:

(i) to bear the cost of providing conflict counsel; or

(ii) to bear the cost of providing investigation or expert services, unless a fair and reasonable amount for such costs is specifically designated in the agreement in a manner that does not adversely affect the income or compensation allocated to the lawyer, law firm, or law firm personnel; or

(2) knowingly accept compensation for the delivery of indigent defense services from a lawyer who has entered into a current agreement in violation of paragraph (m)(1).

Comment

[1] [Unchanged.]

[2] **[Washington revision]** Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client, in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking the advice of an independent ~~legal counsel~~ lawyer. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement and the existence of reasonably available alternatives and should explain why the advice of an independent ~~legal counsel~~ lawyer is desirable. See Rule 1.0A(e) (definition of informed consent).

[3] [Unchanged.]

[4] **[Washington revision]** If the client is independently represented by a lawyer in the transaction, paragraph (a)(2) of this Rule is inapplicable, and the paragraph (a)(1) requirement for full disclosure is satisfied either by a written disclosure by the lawyer involved in the transaction or by the client's independent ~~counsel~~ lawyer. The fact that the client was independently represented by a lawyer in the transaction is relevant in determining whether the agreement was fair and reasonable to the client as paragraph (a)(1) further requires.

[5] - [12] [Unchanged.]

Aggregate Settlements

[13] **[Washington revision]** Differences in willingness to make or accept an offer of settlement are among the risks of common representation of multiple clients by a single lawyer. Under Rule 1.7, this is one of the risks that should be discussed before undertaking the representation, as part of the process of obtaining the clients' informed consent. In addition, Rule 1.2(a) protects each client's right to have the final say in deciding whether to accept or reject an offer of settlement and in deciding whether to enter a guilty or nolo contendere plea in a criminal case. The rule stated in this paragraph is a corollary of both these Rules and provides that, before any settlement offer or plea bargain is made or accepted on behalf of multiple clients, the lawyer must inform each of them about all the material terms of the settlement, including what the other clients will receive or pay if the settlement or plea offer is accepted. See also Rule 1.0A(e) (definition of informed consent). Lawyers representing a class of plaintiffs or defendants, or those proceeding derivatively, may not have a full client-lawyer relationship with each member of the class; nevertheless, such lawyers must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

Limiting Liability and Settling Malpractice Claims

[14] **[Washington revision]** Agreements prospectively limiting a lawyer's liability for malpractice are prohibited unless permitted by law and the client is independently represented by a lawyer in making the agreement because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the lawyer seeking the agreement. This paragraph does not, however, prohibit a lawyer from entering into an agreement with the client to arbitrate legal malpractice claims, provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement. Nor does this paragraph limit the ability of lawyers to practice in the form of a limited-liability entity, where permitted by law, provided that each lawyer remains personally liable to the client for his or her own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with Rule 1.2 that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

[15] **[Washington revision]** Agreements settling a claim or a potential claim for malpractice are not prohibited by this Rule. Nevertheless, in view of the danger that a lawyer will take unfair advantage of a~~n unrepresented~~ client or former client not represented by a lawyer, the lawyer must first advise such a person in writing of the appropriateness of independent representation by a lawyer in connection with such a settlement. In addition, the lawyer must give the client or former client a reasonable opportunity to find and consult an independent ~~counsel~~ lawyer.

[16] - [20] [Unchanged.]

Additional Washington Comments (21 - ~~29~~ 31)

[21] - [29] [Unchanged.]

Settling Malpractice Claims

[30] A client or former client of an LLLT who is not represented by a lawyer is unrepresented for purposes of Rule 1.8 (h)(2).

Lawyers Associated in Firms with Limited License Legal Technicians

[31] LLLT RPC 1.8 prohibits LLLTs from engaging in certain conduct that is not necessarily prohibited to lawyers by this Rule. See LLLT RPC 1.8(a) (strictly prohibiting a LLLT from entering into a business transaction with a client); LLLT RPC 1.8 (h)(1) (strictly prohibiting a LLLT from making an agreement prospectively limiting the LLLT's liability to a client for malpractice); LLLT RPC 1.8(i) (strictly prohibiting a LLLT from acquiring a proprietary interest in a client's cause of action or the subject matter of the litigation). These prohibitions do not apply to any lawyers in a firm unless the conduct is also prohibited to a lawyer under this Rule.

RPC 1.9 DUTIES TO FORMER CLIENTS

[Unchanged.]

Comment

[1] - [8] [Unchanged.]

[9] **[Washington revision]** The provisions of this Rule are for the protection of former clients and can be waived if the client gives informed consent, which consent must be confirmed in writing under paragraphs (a) and (b). See Rule 1.0A(e). With regard to disqualification of a firm with which a lawyer is or was formerly associated, see Rule 1.10.

RPC 1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE

(a) Except as provided in paragraph (e), while lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

(d) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.

(e) When the prohibition on representation under paragraph (a) is based on Rule 1.9 (a) or (b), and arises out of the disqualified lawyer's association with a prior firm, no other lawyer in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified unless:

(1) the personally disqualified lawyer is screened by effective means from participation in the matter and is apportioned no part of the fee therefrom;

(2) the former client of the personally disqualified lawyer receives notice of the conflict and the screening mechanism used to prohibit dissemination of information relating to the former representation;

(3) the firm is able to demonstrate by convincing evidence that no material information relating to the former representation was transmitted by the personally disqualified lawyer before implementation of the screening mechanism and notice to the former client.

Any presumption that information protected by Rules 1.6 and 1.9(c) has been or will be transmitted may be rebutted if the personally disqualified lawyer serves on his or her former law firm and former client an affidavit attesting that the personally disqualified lawyer will not participate in the matter and will not discuss the matter or the representation with any other lawyer or employee of his or her current law firm, and attesting that during the period of the lawyer's personal disqualification those lawyers or employees who do participate in the matter will be apprised that the personally disqualified lawyer is screened from participating in or discussing the matter. Such affidavit shall describe the procedures being used effectively to screen the personally disqualified lawyer. Upon request of the former client, such affidavit shall be updated periodically to show actual compliance with the screening procedures. The law firm, the personally disqualified lawyer, or the former client may seek judicial review in a court of general jurisdiction of the screening mechanism used, or may seek court supervision to ensure that implementation of the screening procedures has occurred and that effective actual compliance has been achieved.

(f) When LLLTs and lawyers are associated in a firm, an LLLT's conflict of interest under LLLT RPC 1.7 or LLLT RPC 1.9 is imputed to lawyers in the firm in the same way as conflicts are imputed to lawyers under this Rule. Each of the other provisions of this Rule also applies in the same way when LLLT conflicts are imputed to lawyers in the firm.

Comment

Definition of "Firm"

[1] **[Washington revision]** For purposes of the Rules of Professional Conduct, the term "firm" denotes lawyers, LLLTs, or any combination thereof in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers or LLLTs employed in a legal services organization or the legal department of a corporation or other organization. See Rule 1.0A(c). Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. See Rule 1.0A, Comments [2] - [4].

Principles of Imputed Disqualification

[2] - [5] [Unchanged.]

[6] **[Washington revision]** Rule 1.10(c) removes imputation with the informed consent of the affected client or former client under the conditions stated in Rule 1.7. The conditions stated in Rule 1.7 require the lawyer to determine that the representation is not prohibited by Rule 1.7(b) and that each affected client or former client has given informed consent to the representation, confirmed in writing. In some cases, the risk may be so severe that the conflict may not be cured by client consent. For a definition of informed consent, see Rule 1.0A(e).

[7] - [8] [Unchanged.]

Additional Washington Comments [9 - ~~13~~ 14]

[9] - [10] [Unchanged.]

[11] Under Rule 5.3, this Rule also applies to nonlawyer assistants and lawyers who previously worked as nonlawyers at a law firm. See Daines v. Alcatel, 194 F.R.D. 678 (E.D. Wash. 2000); Richard v. Jain, 168 F. Supp. 2d 1195 (W.D. Wash. 2001). For the definition of nonlawyer for the

purposes of Rule 5.3, see Washington Comment [3] to Rule 5.3.

[12] - [13] [Unchanged.]

[14] For the parallel provision imputing lawyer conflicts to an LLLT when an LLLT has associated with a lawyer, see LLLT RPC 1.10(f).

RPC 1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to Rule 1.9(c); and

(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(b) When a lawyer or LLLT is disqualified from representation under paragraph (a) of this Rule or LLLT RPC 1.11, no lawyer in a firm with which that lawyer or LLLT is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer or LLLT is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this Rule.

(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule the term "confidential government information" means information that has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom.

(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:

(1) is subject to Rules 1.7 and 1.9; and

(2) shall not:

(i) participate in a matter in which the lawyer participated personally and substantially while in private practice or non-governmental employment, unless the appropriate government agency gives its informed consent, confirmed writing; or

(ii) negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer or arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).

(e) As used in this Rule, the term "matter" includes:

(1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and

(2) any other matter covered by the conflict of interest rules of the appropriate government agency.

Comment

[1] **[Washington revision]** A lawyer who has served or is currently serving as a public officer or employee is personally subject to the Rules of Professional Conduct, including the prohibition against concurrent conflicts of interest stated in Rule 1.7. In addition, such a lawyer may be subject to statutes and government regulations regarding conflict of interest. Such statutes and regulations may circumscribe the extent to which the government agency may give consent under this Rule. See Rule 1.0A(e) for the definition of informed consent.

[2] - [5] [Unchanged.]

[6] **[Washington revision]** Paragraphs (b) and (c) contemplate a screening arrangement. See Rule 1.0A(k) (requirements for screening procedures). These paragraphs do not prohibit a lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly relating the lawyer's compensation to the fee in the matter in which the lawyer is disqualified.

[7] - [10] [Unchanged.]

RPC 1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR OR OTHER THIRD-PARTY NEUTRAL

(a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer or as an arbitrator, mediator or other third-party neutral. A lawyer serving as a law clerk to a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the clerk is participating personally and substantially, but only after the lawyer has notified the judge or other adjudicative officer.

(c) If a lawyer or LLLT is disqualified by paragraph (a) of this Rule or LLLT RPC 1.12, no lawyer in a firm with which that lawyer or LLLT is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer or LLLT is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this Rule.

(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

Comment

[1] [Unchanged.]

[2] **[Washington revision]** Like former judges, lawyers who have served as arbitrators, mediators or other third-party neutrals may be asked to represent a client in a matter in which the lawyer participated personally and substantially. This Rule forbids such representation unless all of the parties to the proceedings give their informed consent, confirmed in writing. See Rule 1.0A (e) and (b). Other law or codes of ethics governing third-party neutrals may impose more stringent standards of personal or imputed disqualification. See Rule 2.4.

[3] [Unchanged]

[4] **[Washington revision]** Requirements for screening procedures are stated in Rule 1.0A(k). Paragraph (c)(1) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[5] [Unchanged.]

RPC 1.13 ORGANIZATION AS CLIENT

[Unchanged.]

Comment

The Entity as the Client

[1] - [2] [Unchanged.]

[3] **[Washington revision]** When constituents of the organization make decisions for it, the decisions ordinarily must be accepted by the lawyer even if their utility or prudence is doubtful. Decisions concerning policy and operations, including ones entailing serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear, however, that when the lawyer knows that the organization is likely to be substantially injured by action of an officer or other constituent that violates a legal obligation to the organization or is in violation of law that might be imputed to the organization, the lawyer must proceed as is reasonably necessary in the best interest of the organization. As defined in Rule 1.0A(f), knowledge can be inferred from circumstances, and a lawyer cannot ignore the obvious.

[4] - [14] [Unchanged.]

Additional Washington Comment (15)

[15] [Unchanged.]

RPC 1.14 CLIENT WITH DIMINISHED CAPACITY

[Unchanged.]

Comment

[1] - [9] [Unchanged.]

[10] **[Washington revision]** A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other ~~counsel~~ legal practitioner involved the nature of his or her relationship with the person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.

RPC 1.15A SAFEGUARDING PROPERTY

(a) This Rule applies to (1) property of clients or third persons in a lawyer's possession in connection with a representation and (2) escrow and other funds held by a lawyer incident to the closing of any real estate or personal property transaction.

(b) A lawyer must not use, convert, borrow or pledge client or third person property for the lawyer's own use.

(c) A lawyer must hold property of clients and third persons separate from the lawyer's own property.

(1) A lawyer must deposit and hold in a trust account funds subject to this Rule pursuant to paragraph (h) of this Rule.

(2) Except as provided in Rule 1.5(f), and subject to the requirements of paragraph (h) of this Rule, a lawyer shall deposit into a trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(3) A lawyer must identify, label and appropriately safeguard any property of clients or third persons other than funds. The lawyer must keep records of such property that identify the property, the client or third person, the date of receipt and the location of safekeeping. The lawyer must preserve the records for seven years after return of the property.

(d) A lawyer must promptly notify a client or third person of receipt of the client or third person's property.

(e) A lawyer must promptly provide a written accounting to a client or third person after distribution of property or upon request. A lawyer must provide at least annually a written accounting to a client or third person for whom the lawyer is holding funds.

(f) Except as stated in this Rule, a lawyer must promptly pay or deliver to the client or third person the property which the client or third person is entitled to receive.

(g) If a lawyer possesses property in which two or more persons (one of which may be the lawyer) claim interests, the lawyer must maintain the property in trust until the dispute is resolved. The lawyer must promptly distribute all undisputed portions of the property. The lawyer must take reasonable action to resolve the dispute, including, when appropriate, interpleading the disputed funds.

(h) A lawyer must comply with the following for all trust accounts:

(1) No funds belonging to the lawyer may be deposited or retained in a trust account except as follows:

(i) funds to pay bank charges, but only in an amount reasonably sufficient for that purpose;

(ii) funds belonging in part to a client or third person and in part presently or potentially to the lawyer must be deposited and retained in a trust account, but any portion belonging

to the lawyer must be withdrawn at the earliest reasonable time; or

(iii) funds necessary to restore appropriate balances.

(2) A lawyer must keep complete records as required by Rule 1.15B.

(3) A lawyer may withdraw funds when necessary to pay client costs. The lawyer may withdraw earned fees only after giving reasonable notice to the client of the intent to do so, through a billing statement or other document.

(4) Receipts must be deposited intact.

(5) All withdrawals must be made only to a named payee and not to cash. Withdrawals must be made by check or by electronic transfer.

(6) Trust account records must be reconciled as often as bank statements are generated or at least quarterly. The lawyer must reconcile the check register balance to the bank statement balance and reconcile the check register balance to the combined total of all client ledger records required by Rule 1.15B (a)(2).

(7) A lawyer must not disburse funds from a trust account until deposits have cleared the banking process and been collected, unless the lawyer and the bank have a written agreement by which the lawyer personally guarantees all deposits to the account without recourse to the trust account.

(8) Disbursements on behalf of a client or third person may not exceed the funds of that person on deposit. The funds of a client or third person must not be used on behalf of anyone else.

(9) Only a lawyer admitted to practice law or an LLLT may be an authorized signatory on the account. If a lawyer is associated in a practice with one or more LLLT's, any check or other instrument requiring a signature must be signed by a signatory lawyer in the firm.

(i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay other than notice periods that are required by law or regulation and meet the requirements of ELC 15.7(d) and ELC 15.7(e). In the exercise of ordinary prudence, a lawyer may select any financial institution authorized by the Legal Foundation of Washington (Legal Foundation) under ELC 15.7(c). In selecting the type of trust account for the purpose of depositing and holding funds subject to this Rule, a lawyer shall apply the following criteria:

(1) When client or third-person funds will not produce a positive net return to the client or third person because the funds are nominal in amount or expected to be held for a short period of time the funds must be placed in a pooled interest-bearing trust account known as an Interest on Lawyer's Trust Account or IOLTA. The interest earned on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the Legal Foundation of Washington in accordance with ELC 15.4 and ELC 15.7(e).

(2) Client or third-person funds that will produce a positive net return to the client or third person must be placed in one of the following two types of non-IOLTA trust accounts, unless the client or third person requests that the funds be deposited in an IOLTA account:

(i) a separate interest-bearing trust account for the particular client or third person with earned interest paid to the client or third person; or

(ii) a pooled interest-bearing trust account with sub-accounting that allows for computation of interest earned by each client or third person's funds with the interest paid to the appropriate client or third person.

(3) In determining whether to use the account specified in paragraph (i)(1) or an account specified in paragraph (i)(2), a lawyer must consider only whether the funds will produce a positive net return to the client or third person, as determined by the following factors:

(i) the amount of interest the funds would earn based on the current rate of interest and the expected period of deposit;

(ii) the cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client or third person's benefit; and

(iii) the capability of financial institutions to calculate and pay interest to individual clients or third persons if the account in paragraph (i)(2)(ii) is used.

(4) The provisions of paragraph (i) do not relieve a lawyer or law firm from any obligation imposed by these Rules or the Rules for Enforcement of Lawyer Conduct.

(j) In any transaction in which a lawyer has selected, prepared, or completed legal documents for use in the closing of any real estate or personal property transaction, where funds received or held in connection with the closing of the transaction, including advances for costs and expenses, are not being held in that lawyer's trust account, the lawyer must ensure that such funds, including funds being held by a closing firm, are held and maintained as set forth in this rule or LPORPC 1.12A. The duty shall not apply to a lawyer whose participation in the matter is incidental to the closing if (i) the lawyer or lawyer's law firm has a preexisting lawyer-client relationship with a buyer or seller in the transaction, and (ii) neither the lawyer nor the lawyer's law firm has an existing client-lawyer relationship with a closing firm or LPO participating in the closing.

Washington Comments

[1] - [21] [Unchanged.]

[22] An LLLT who is signatory to a trust account under paragraph (h)(9) is subject to independent professional-ethical obligations that correspond to a lawyer's obligations under this Rule. See LLLT RPC 1.15A. Partners and lawyers who individually or together with other lawyers possess comparable managerial authority in a law firm that employ LLLTs, or in which LLLTs are members, should also be aware of their obligations under Rule 5.10. These obligations extend to making reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that an LLLT's conduct in relation to the firm's trust account(s) is compatible with these Rules of Professional Conduct. A lawyer with managerial or supervisory authority over an LLLT who is signatory to a trust account under paragraph (h)(9) is also ethically obligated to make reasonable efforts to ensure that the LLLT's conduct is compatible with the LLLT's professional-ethical obligations. When a lawyer is a joint signatory on a trust account with an LLLT, a lawyer should exercise direct supervisory authority over the activities of the LLLT with respect to the account.

RPC 1.15B REQUIRED TRUST ACCOUNT RECORDS

[Unchanged.]

Washington Comments

[1] - [3] [Unchanged.]

RPC 1.16 DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall, notwithstanding RCW 2.44.040, withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of another ~~counsel~~ legal practitioner, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

Comment

[1] - [9] [Unchanged]

RPC 1.17 SALE OF LAW PRACTICE

A lawyer or a law firm may sell or purchase a law practice, or an area of law practice, including good will, if the following conditions are satisfied:

(a) [Reserved.]

(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;

(c) The seller gives written notice to each of the seller's clients regarding:

(1) the proposed sale;

(2) the client's right to retain another ~~counsel~~ legal practitioner or to take possession of the file; and

(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.

If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.

(d) The fees charged clients shall not be increased by reason of the sale.

Comment

[1] - [5] [Unchanged.]

Sale of Entire Practice or Entire Area of Practice

[6] **[Washington revision]** The Rule requires that the seller's entire practice, or an entire area of practice, be sold. The prohibition against sale of less than an entire practice area protects those clients whose matters are less lucrative and who might find it difficult to secure another ~~counsel~~ legal practitioner if a sale could be limited to substantial fee-generating matters. The purchasers are required to undertake all client matters in the practice or practice area, subject to client consent. This requirement is satisfied, however, even if a purchaser is unable to undertake a particular client matter because of a conflict of interest. See also Washington Comment [17].

[7] - [9] [Unchanged].

Fee Arrangements Between Client and Purchaser

[10] **[Washington revision]** The sale may not be financed by increases in fees charged the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser. See also Washington Comment [17].

Other Applicable Ethical Standards

[11] **[Washington revision]** Lawyers participating in the sale of a law practice or a practice area are subject to the ethical standards applicable to involving another lawyer in the representation of a client. These include, for example, the seller's obligation to exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently (see Rule 1.1); the obligation to avoid disqualifying conflicts, and to secure the client's informed consent for those conflicts that can be agreed to (see Rule 1.7 regarding conflicts and Rule 1.0A(e) for the definition of informed consent); and the obligation to protect information relating to the representation (see Rules 1.6 and 1.9).

[12] [Unchanged.]

Applicability of the Rule

[13] **[Washington revision]** This Rule applies to the sale of a law practice of a deceased, disabled or disappeared lawyer. Thus, the seller may be represented by a ~~non-lawyer~~ representative not subject to these Rules. Since, however, no lawyer may participate in a sale of a law practice which does not conform to the requirements of this Rule, the representatives of the seller as well as the purchasing lawyer can be expected to see to it that they are met.

[14] - [15] [Unchanged]

Additional Washington Comments (16 - 19)

[16] If, at the time the notice under paragraph (c) is given, the buyer or seller knows of a conflict that would preclude the buyer from representing a client of the seller, the notice to that client should inform the client of the conflict and the need for the client to obtain a substitute ~~counsel~~ legal practitioner or retrieve the file. When such a conflict exists, the notice described in paragraph (c)(3) cannot be given because there can be no presumption that the client's file will be transferred to the buyer.

Notice Requirements Related to LLLT Services

[17] Notice under paragraph (c) of this Rule must disclose whether legal services performed by LLLTs have been provided by the seller or will be provided by the purchaser of the law practice or area of practice that is subject to the sale. Where the purchaser will provide legal services performed by an LLLT, this notice must include written disclosures that comply with LLLT Rule 1.5(b). See RPC 1.5 Washington Comment [17].

[18] A purchaser is not required to employ or associate with an LLLT to provide legal services where the law practice or area of practice that is the subject of the sale includes legal services provided by LLLTs. However, the purchaser must honor existing agreements between client and seller as to fees and scope of work. Notice under paragraph (c) must include the purchaser's agreement to do so.

[19] An LLLT is not authorized to purchase a law practice that requires provision of legal services outside the scope of the LLLT's practice. See APR 28F-H; Appendix APR 28 Regulation 2. Consequently, a lawyer may not participate in or facilitate such a sale. See RPC 8.4 (f)(2).

RPC 1.18 DUTIES TO PROSPECTIVE CLIENT

(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client or except as provided in paragraph (e).

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraphs (d) or (e). If a lawyer or LLLT is disqualified from representation under this paragraph or paragraph (c) of LLLT RPC 1.18, no lawyer in a firm with which that lawyer or LLLT is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.

(e) A lawyer may condition conversations with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. The prospective client may also expressly consent to the lawyer's subsequent use of information received from the prospective client.

Comment

[1] - [4] [Unchanged.]

[5] **[Washington revision]** [**Reserved**. Comment [5] to Model Rule 1.18 is codified, with minor modifications, as paragraph (e). See Rule 1.0A(e) for the definition of informed consent.]

[6] [Unchanged.]

[7] **[Washington revision]** Under paragraph (c), the prohibition in this Rule is imputed to other lawyers as provided in Rule 1.10, but, under paragraph (d)(1), imputation may be avoided if the lawyer obtains the informed consent, confirmed in writing, of both the prospective and affected clients. In the alternative, imputation may be avoided if the conditions of paragraph (d)(2) are met and all disqualified lawyers are timely screened and written notice is promptly given to the prospective client. See Rule 1.0A(k) (requirements for screening procedures). Paragraph (d)(2)(i) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[8] - [9] [Unchanged.]

Additional Washington Comments (10 - 13)

[10] - [13] [Unchanged.]

TITLE 2 - COUNSELOR

RPC 2.1 ADVISOR

[Unchanged.]

Comment

[1] - [5] [Unchanged.]

RPC 2.2 (DELETED)

[Unchanged.]

Washington Comment

[1] [Unchanged.]

RPC 2.3 EVALUATION FOR USE BY THIRD PERSONS

[Unchanged.]

Comment

[1] - [4] [Unchanged.]

Obtaining Client's Informed Consent

[5] **[Washington revision]** Information relating to an evaluation is protected by Rule 1.6. In many situations, providing an evaluation to a third party poses no significant risk to the client; thus, the lawyer may be impliedly authorized to disclose information to carry out the representation. See Rule 1.6(a). Where, however, it is reasonably likely that providing the evaluation will affect the client's interests materially and adversely, the lawyer must first obtain the client's consent after the client has been adequately informed concerning the important possible effects on the client's interests. See Rules 1.6(a) and 1.0A(e).

[6] [Unchanged.]

RPC 2.4 LAWYER SERVING AS THIRD-PARTY NEUTRAL

[Unchanged.]

Comment

[1] - [4] [Unchanged.]

[5] **[Washington revision]** Lawyers who represent clients in alternative dispute-resolution processes are governed by the Rules of Professional Conduct. When the dispute-resolution process takes place before a tribunal, as in binding arbitration (see Rule 1.0A(m)), the lawyer's duty of candor is governed by Rule 3.3. Otherwise, the lawyer's duty of candor toward both the third-party neutral and other parties is governed by Rule 4.1.

TITLE 3 - ADVOCATE

RPC 3.1 MERITORIOUS CLAIMS AND CONTENTIONS

[Unchanged.]

Comment

[1] - [2] [Unchanged.]

[3] **[Washington revision]** The lawyer's obligations under this Rule are subordinate to federal or state constitutional law that entitles a defendant in a criminal matter to the assistance of counsel in presenting a claim or contention that otherwise would be prohibited by this Rule. For an explanation of the term "counsel" in the criminal context, see Washington Comment [10] to Rule 3.8.

RPC 3.2 EXPEDITING LITIGATION

[Unchanged.]

Comment

[1] [Unchanged.]

RPC 3.3 CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client unless such disclosure is prohibited by Rule 1.6;

(3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by the opposing ~~counsel~~ party;

(4) offer evidence that the lawyer knows to be false.

(b) The duties stated in paragraph (a) continue to the conclusion of the proceeding.

(c) If the lawyer has offered material evidence and comes to know of its falsity, the lawyer shall promptly disclose this fact to the tribunal unless such disclosure is prohibited by Rule 1.6.

(d) If the lawyer has offered material evidence and comes to know of its falsity, and disclosure of this fact is prohibited by Rule 1.6, the lawyer shall promptly make reasonable efforts to convince the client to consent to disclosure. If the client refuses to consent to disclosure, the lawyer may seek to withdraw from the representation in accordance with Rule 1.16.

(e) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

(f) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Comment

[1] **[Washington revision]** This Rule governs the conduct of a lawyer who is representing a client in the proceedings of a tribunal. See Rule 1.0A(m) for the definition of "tribunal." It also applies when the lawyer is representing a client in an ancillary proceeding conducted pursuant to the tribunal's adjudicative authority, such as a deposition.

[2] - [6] [Unchanged.]

[7] **[Washington revision]** The duties stated in paragraphs (a) apply to all lawyers, including defense counsel in criminal cases. In some jurisdictions other than Washington, however, courts have required counsel to present the accused as a witness or to give a narrative statement if the accused so desires, even if counsel knows that the testimony or statement will be false. The obligation of the advocate under the Rules of Professional Conduct is subordinate to such requirements. See State v. Berrysmith, 87 Wn. App. 268, 944 P.2d 397 (1997), review denied, 134 Wn.2d 1008, 954 P.2d 277 (1998). For an explanation of the term "counsel" in the criminal context, see Washington Comment [10] to Rule 3.8.

[8] **[Washington revision]** The prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances. See Rule 1.0A(f).

Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood.

[9] - [15] [Unchanged.]

RPC 3.4 FAIRNESS TO OPPOSING PARTY ~~AND COUNSEL~~

[Unchanged.]

Comment

[1] - [4] [Unchanged.]

Additional Washington Comment (5)

[5] [Unchanged.]

RPC 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

[Unchanged.]

Comment

[1] - [4]

[5] **[Washington revision]** The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition. See Rule 1.0A(m).

RPC 3.6 TRIAL PUBLICITY

[Unchanged.]

Comments

[1] - [6] [Unchanged.]

[7] **[Washington revision]** Finally, extrajudicial statements that might otherwise raise a question under this Rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer or LLLT, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

[8] [Unchanged.]

Additional Washington Comment (9)

[9] [Unchanged.]

RPC 3.7 LAWYER AS WITNESS

[Unchanged.]

Comments

[1] - [2] [Unchanged]

[3] **[Washington revision]** To protect the tribunal, paragraph (a) prohibits a lawyer from simultaneously serving as advocate and necessary witness except in those circumstances specified in paragraphs (a)(1) through (a)(4). Paragraph (a)(1) recognizes that if the testimony will be uncontested, the ambiguities in the dual role are purely theoretical. Paragraph (a)(2) recognizes that where the testimony concerns the extent and value of legal services rendered in the action in which the testimony is offered, permitting the lawyers to testify avoids the need for a second trial with a new ~~counsel~~ lawyer to resolve that issue. Moreover, in such a situation the judge has firsthand knowledge of the matter in issue; hence, there is less dependence on the adversary process to test the credibility of the testimony.

[4] - [5] [Unchanged.]

[6] **[Washington revision]** In determining if it is permissible to act as advocate in a trial in which the lawyer will be a necessary witness, the lawyer must also consider that the dual role may give rise to a conflict of interest that will require compliance with Rules 1.7 or 1.9. For example, if there is likely to be substantial conflict between the testimony of the client and that of the lawyer, the representation involves a conflict of interest that requires compliance with Rule 1.7. This would be true even though the lawyer might not be prohibited by paragraph (a) from simultaneously serving as advocate and witness because the lawyer's disqualification would work a substantial hardship on the client. Similarly, a lawyer who might be permitted to simultaneously serve as an advocate and a witness by paragraph (a)(3) or (a)(4) might be precluded from doing so by Rule 1.9. The problem can arise whether the lawyer is called as a witness on behalf of the client or is called by the opposing party. Determining whether or not such a conflict exists is primarily the responsibility of the lawyer involved. If there is a conflict of interest, the lawyer must secure the client's informed consent, confirmed in writing. In some cases, the lawyer will be precluded from seeking the client's consent. See Rule 1.7. See Rule 1.0A(b) for the definition of "confirmed in writing" and Rule 1.0A(e) for the definition of "informed consent."

[7] [Unchanged.]

Additional Washington Comment (8)

[8] [Unchanged.]

RPC 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

[Unchanged.]

Comments

[1] - [6] [Unchanged.]

Additional Washington Comments (7 - ~~9~~ 10)

[7] - [9] [Unchanged.]

[10] In many of the Lawyer RPC, the term "counsel" has been changed to "lawyer" to avoid ambiguity between a lawyer and an LLLT. The term "counsel" has been retained in this Rule, however, because this term in a criminal matter may implicate statutory and constitutional responsibilities that are not intended to be modified. The term "counsel" in this Rule nevertheless denotes a lawyer.

RPC 3.9 ADVOCATE IN NONADJUDICATIVE PROCEEDINGS

[Unchanged.]

Comments

[1] - [3] [Unchanged.]

TITLE 4 - TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

RPC 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS

[Unchanged.]

Comments

[1] - [3] [Unchanged.]

RPC 4.2 COMMUNICATION WITH PERSON REPRESENTED BY ~~COUNSEL~~ A LAWYER

[Unchanged.]

Comment

[1] [Unchanged.]

[2] **[Washington revision]** This Rule applies to communications with any person who is represented by ~~counsel~~ a lawyer concerning the matter to which the communication relates.

[3] **[Washington revision]** The Rule applies even though the person represented ~~person~~ by a lawyer initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule.

[4] **[Washington revision]** This Rule does not prohibit communication with a person represented ~~person~~ by a lawyer or an employee or agent of such a person, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between two organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Nor does this Rule preclude communication with a ~~represented~~ person represented by a lawyer who is seeking advice from a lawyer who is not otherwise representing a client in the matter. A lawyer may not make a communication prohibited by this Rule through the acts of another. See Rule 8.4(a). Parties to a matter may communicate directly with each other, and a lawyer is not prohibited from advising a client concerning a communication that the client is legally entitled to make. Also, a lawyer having independent justification or legal authorization for communicating with a represented person is permitted to do so.

[5] [Unchanged.]

[6] **[Washington revision]** A lawyer who is uncertain whether a communication with a person represented ~~person~~ by a lawyer is permissible may seek a court order. A lawyer may also seek a court order in exceptional circumstances to authorize a communication that would otherwise be prohibited by this Rule, for example, where communication with a person represented by ~~counsel~~ a lawyer is necessary to avoid reasonably certain injury.

[7] **[Washington revision]** In the case of a represented organization, this Rule prohibits communications with a constituent of the organization who supervises, directs or regularly consults with the organization's lawyer concerning the matter or has authority to obligate the organization with respect to the matter. Consent of the organization's lawyer is not required for communication with a former constituent. If a constituent of the organization is represented in the matter by his or her own ~~counsel~~ lawyer, the consent by that ~~counsel~~ lawyer to a communication will be sufficient for purposes of this Rule. In communicating with a current or former constituent of an organization, a lawyer must not use methods of obtaining evidence that violate the legal rights of the organization. See Rule 4.4.

[8] **[Washington revision]** The prohibition on communication with a person represented ~~person~~ by a lawyer only applies in circumstances where the lawyer knows that the person is in fact represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation; but such actual knowledge may be inferred from the circumstances. See Rule 1.0A(f). Thus, the lawyer cannot evade the requirement of obtaining the consent of ~~counsel~~ another lawyer by closing eyes to the obvious.

[9] **[Washington revision]** In the event the person with whom the lawyer communicates is not known to be represented by ~~counsel~~ a lawyer in the matter, the lawyer's communications are subject to Rule 4.3.

Additional Washington Comments (10 - ~~11~~ 12)

[10] [Unchanged]

[11] **[Washington revision]** A~~n~~ person not otherwise ~~un~~represented ~~person~~ by a lawyer to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation. (The provisions of this Comment were taken from former Washington RPC 4.2(b)).

[12] A person who is assisted by an LLLT is not represented by a lawyer for purposes of this Rule. See APR 28B(4). Therefore, a lawyer may communicate directly with a person who is assisted by an LLLT. Lawyer communication with a person who is assisted by an LLLT instead is governed by RPC 4.3 and RPC 4.4. For special considerations that may arise when a lawyer deals with a person who is assisted by an LLLT, see Rule 4.4 Comment [5].

RPC 4.3 DEALING WITH ~~UNREPRESENTED~~ PERSON NOT REPRESENTED BY A LAWYER

In dealing on behalf of a client with a person who is not represented by ~~counsel~~ a lawyer, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure ~~counsel~~ the services of another legal practitioner, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Comment

[1] **[Washington revision]** An unrepresented person, particularly one not experienced in dealing with legal mat-

ters, might assume that a lawyer is disinterested in loyalties or is a disinterested authority on the law even when the lawyer represents a client. In order to avoid a misunderstanding, a lawyer will typically need to identify the lawyer's client and, where necessary, explain that the client has interests opposed to those of the unrepresented person. For misunderstandings that sometimes arise when a lawyer for an organization deals with an unrepresented constituent, see Rule 1.13(f). For the definition of unrepresented person under this Rule, see Washington Comment [5].

[2] **[Washington revision]** The Rule distinguishes between situations involving unrepresented persons whose interests may be adverse to those of the lawyer's client and those in which the person's interests are not in conflict with the client's. In the former situation, the possibility that the lawyer will compromise the unrepresented person's interests is so great that the Rule prohibits the giving of any advice, apart from the advice to obtain ~~counsel~~ the services of another legal practitioner. Whether a lawyer is giving impermissible advice may depend on the experience and sophistication of the unrepresented person, as well as the setting in which the behavior and comments occur. This Rule does not prohibit a lawyer from negotiating the terms of a transaction or settling a dispute with an unrepresented person. So long as the lawyer has explained that the lawyer represents an adverse party and is not representing the person, the lawyer may inform the person of the terms on which the lawyer's client will enter into an agreement or settle a matter, prepare documents that require the person's signature and explain the lawyer's own view of the meaning of the document or the lawyer's view of the underlying legal obligations. For special considerations that may arise when a lawyer deals with a person who is assisted by an LLLT, see RPC 4.4 Comment [5].

Additional Washington Comments (3 - 4 6)

[3] - [4] [Unchanged.]

[5] For purposes of this Rule, a person who is assisted by an LLLT is not represented by a lawyer and is an unrepresented person. See APR 28B(4).

[6] When a lawyer communicates with an LLLT who represents an opposing party about the subject of the representation, the lawyer should be guided by an understanding of the limitations imposed on the LLLT by APR 28H(6) (an LLLT shall not "negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party") and the LLLT RPC. The lawyer should further take care not to overreach or intrude into privileged information. APR 28K(3) ("The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship").

RPC 4.4 RESPECT FOR RIGHTS OF THIRD PERSONS

[Unchanged]

Comments

[1] - [3] [Unchanged.]

Additional Washington Comments (4 - 5)

[4] The duty imposed by paragraph (a) of this Rule includes a lawyer's assertion or inquiry about a third person's immigration status when the lawyer's purpose is to intimidate, coerce, or obstruct that person from participating in a civil matter. Issues involving immigration status carry a significant danger of interfering with the proper functioning of the justice system. See Salas v. Hi-Tech Erectors, 168 Wn.2d 664, 230 P.3d 583 (2010). When a lawyer is representing a client in a civil matter, a lawyer's communication to a party or a witness that the lawyer will report that person to immigration authorities, or a lawyer's report of that person to immigration authorities, furthers no substantial purpose of the civil adjudicative system if the lawyer's purpose is to intimidate, coerce, or obstruct that person. A communication in violation of this Rule can also occur by an implied assertion that is the equivalent of an express assertion prohibited by paragraph (a). See also Rules 8.4(b) (prohibiting criminal acts that reflect adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects), 8.4(d) (prohibiting conduct prejudicial to the administration of justice), and 8.4(h) (prohibiting conduct that is prejudicial to the administration of justice toward judges, lawyers, LLLTs, other parties ~~and/or their counsel~~, witnesses ~~and/or their counsel~~, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status).

[5] A risk of unwarranted intrusion into a privileged relationship may arise when a lawyer deals with a person who is assisted by an LLLT. Although a lawyer may communicate directly with a person who is assisted by an LLLT, see Rule 4.2 Comment [12], client-LLLT communications are privileged to the same extent as client-lawyer communications. See APR 28K(3). An LLLT's ethical duty of confidentiality further protects the LLLT client's right to confidentiality in that professional relationship. See LLLT RPC 1.6(a). When dealing with a person who is assisted by an LLLT, a lawyer must respect these legal rights that protect the client-LLLT relationship.

TITLE 5 - LAW FIRMS AND ASSOCIATIONS

RPC 5.1 RESPONSIBILITIES OF A PARTNER OR SUPERVISORY LAWYER

[Unchanged.]

Comment

[1] **[Washington revision]** Paragraph (a) applies to lawyers who have managerial authority over the professional work of a firm. See Rule 1.0A(c). This includes members of a partnership, the shareholders in a law firm organized as a professional corporation, and members of other associations authorized to practice law; lawyers having comparable managerial authority in a legal services organization or a law department of an enterprise or government agency; and lawyers who have intermediate managerial responsibilities in a firm. Paragraph (b) applies to lawyers who have supervisory authority over the work of other lawyers in a firm.

[7] - [8] [Unchanged.]

RPC 5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER

[Unchanged.]

Comment

[1] - [2] [Unchanged.]

RPC 5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

[Unchanged.]

Comment

[1] - [2] [Unchanged.]

Additional Washington Comment (3)

[3] A nonlawyer for purposes of this Rule denotes an individual other than a lawyer or an LLLT. For responsibilities regarding an LLLT associated with a lawyer, see Rule 5.10.

RPC 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER

[Unchanged.]

Comment

[1] - [2] [Unchanged.]

Additional Washington Comments (3 - 4)

[3] [Unchanged.]

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

RPC 5.5 UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

[Unchanged.]

Comment

[1] - [2]

[3] **[Washington revision]** A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist LLLTs and other independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[4] - [21] [Unchanged.]

RPC 5.6 RESTRICTIONS ON RIGHT TO PRACTICE

A lawyer shall not participate in offering or making:

(a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the rights of a lawyer or an LLLT to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or

(b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

Comment

[1] - [3] [Unchanged.]

Additional Washington Comment (4)

[4] The prohibition in paragraph (a) on offering or making agreements restricting a lawyer's right to practice also applies to LLLTs. An LLLT is prohibited from entering into an agreement restricting the right to practice as part of a settlement under LLLT RPC 5.6(b).

RPC 5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES

[Unchanged.]

Comment

[1] - [11] [Unchanged.]

Additional Washington Comment (12)

[12] A nonlawyer for purposes of this Rule denotes an individual other than a lawyer or an LLLT.

RPC 5.8 MISCONDUCT INVOLVING ~~DISBARRED, SUSPENDED, RESIGNED, AND INACTIVE~~ LAWYERS AND LLLTS NOT ACTIVELY LICENSED TO PRACTICE LAW

(a) A lawyer shall not engage in the practice of law while on inactive status, or while suspended from the practice of law for any cause.

(b) A lawyer shall not engage in any of the following with ~~an individual~~ a lawyer or LLLT who is ~~a~~ disbarred or suspended ~~lawyer~~ or who has resigned in lieu of disbarment or discipline or whose license has been revoked or voluntarily cancelled in lieu of discipline:

(1) practice law with or in cooperation with such an individual;

(2) maintain an office for the practice of law in a room or office occupied or used in whole or in part by such an individual;

(3) permit such an individual to use the lawyer's name for the practice of law;

(4) practice law for or on behalf of such an individual; or

(5) practice law under any arrangement or understanding for division of fees or compensation of any kind with such an individual.

Washington Comment

[1] [Unchanged.]

[2] The prohibitions in paragraph (b) of this Rule apply to suspensions, revocations and voluntary cancellations in lieu of discipline under the disciplinary procedural rules applicable to LLLTs. See LLLT Rules for Enforcement of Conduct (REC).

RPC 5.9 BUSINESS STRUCTURES INVOLVING LLLT AND LAWYER OWNERSHIP

(a) Notwithstanding the provisions of Rule 5.4, a lawyer may:

(1) share fees with an LLLT who is in the same firm as the lawyer;

(2) form a partnership with an LLLT where the activities of the partnership consist of the practice of law; or

(3) practice with or in the form of a professional corporation, association, or other business structure authorized to practice law for a profit in which an LLLT owns an interest or serves as a corporate director or officer or occupies a position of similar responsibility.

(b) A lawyer and an LLLT may practice in a jointly owned firm or other business structure authorized by paragraph (a) of this rule only if:

(1) LLLTs do not direct or regulate any lawyer's professional judgment in rendering legal services;

(2) LLLTs have no direct supervisory authority over any lawyer;

(3) LLLTs do not possess a majority ownership interest or exercise controlling managerial authority in the firm; and

(4) lawyers with managerial authority in the firm expressly undertake responsibility for the conduct of LLLT partners or owners to the same extent they are responsible for the conduct of lawyers in the firm under Rule 5.1.

Comment

[1] This Rule authorizes lawyers to enter into some fee-sharing arrangements and for-profit business relationships with LLLTs. It is designed as an exception to the general prohibition stated in Rule 5.4 that lawyers may not share fees or enter into business relationships with individuals other than lawyers.

[2] In addition to expressly authorizing fee-sharing and business structures between LLLTs and lawyers in paragraph (a), paragraph (b) of the Rule sets forth limitations on the role of LLLTs in jointly owned firms, specifying that regardless of an LLLT's ownership interest in such a firm, the business may not be structured in a way that permits LLLTs directly or indirectly to supervise lawyers or to otherwise direct or regulate a lawyer's independent professional judgment. This includes a limitation on LLLTs possessing a majority ownership interest or controlling managerial authority in a jointly owned firm, a structure that could result indirectly in nonlawyer decision-making affecting the professional independence of lawyers. Lawyer managers, by contrast, will be required to undertake responsibility for a firm's LLLT owners by expressly assuming responsibility for their conduct to the same extent as they are responsible for the conduct of firm lawyers. See also Rule 5.10.

RPC 5.10 RESPONSIBILITIES REGARDING OTHER LEGAL PRACTITIONERS

With respect to an LLLT employed or retained by or associated with a lawyer:

(a) a partner and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the LLLT's conduct is compatible with the professional obligations of the lawyer and the professional obligations applicable to the LLLT directly;

(b) a lawyer having direct supervisory authority over the LLLT shall make reasonable efforts to ensure that the LLLT's conduct is compatible with the professional obligations of the lawyer and the professional obligations applicable to the LLLT directly; and

(c) a lawyer shall be responsible for conduct of an LLLT that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the LLLT is employed, or has direct supervisory authority over the LLLT, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Comment

[1] Lawyers may employ, hire, or associate with LLLTs. As with a lawyer's obligations under Rule 5.3 with respect to nonlawyer assistants, a lawyer with managerial authority over LLLTs must make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that LLLTs in the firm will act in a way compatible with the Rules of Professional Conduct, and a lawyer with supervisory authority over an LLLT must make reasonable efforts to ensure that the LLLT's conduct is compatible with the professional obligations of the lawyer. In addition, LLLTs are subject to the LLLT RPC and APR 28. A lawyer with managerial or supervisory authority over an LLLT is also ethically obligated to make reasonable efforts to ensure that the LLLT's conduct is compatible with these specific professional and ethical obligations.

TITLE 6 - PUBLIC SERVICE

RPC 6.1 PRO BONO PUBLICO SERVICE

[Unchanged.]

Comment

[1] - [2]

[3] **[Washington revision]** Persons eligible for legal services under paragraphs (a)(1) are those who qualify for services provided by a qualified legal services provider (see Washington Comment [14]) and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but nevertheless, cannot afford ~~counsel~~ legal services. Legal services under paragraphs (a)(1) and (2) include those rendered to individuals or to organizations such as homeless shelters, battered women's centers and food pantries that serve those of limited means. The term "governmental organizations" includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

[6] - [12] [Unchanged.]

Additional Washington Comments (13 - 16)

[13] - [16] [Unchanged.]

RPC 6.2 ACCEPTING APPOINTMENTS

[Unchanged.]

Comment

[1] - [3] [Unchanged.]

RPC 6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

[Unchanged.]

Comment

[1] - [2] [Unchanged.]

RPC 6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

[Unchanged.]

Comment

[1] [Unchanged.]

RPC 6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICE PROGRAMS

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter and without expectation that the lawyer will receive a fee from the client for the services provided:

(1) is subject to Rules 1.7, 1.9(a), and 1.18(c) only if the lawyer knows that the representation of the client involves a conflict of interest, except that those Rules shall not prohibit a lawyer from providing limited legal services sufficient only to determine eligibility of the client for assistance by the program and to make an appropriate referral of the client to another program;

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer or LLLT associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) or by LLLT RPC 1.7 and LLLT RPC 1.9(a) with respect to the matter; and

(3) notwithstanding paragraphs (1) and (2), is not subject to Rules 1.7, 1.9(a), 1.10, or 1.18(c) in providing limited legal services to a client if:

(i) the program lawyers or LLLTs representing the opposing clients are screened by effective means from information relating to the representation of the opposing client;

(ii) each client is notified of the conflict and the screening mechanism used to prohibit dissemination of information relating to the representation; and

(iii) the program is able to demonstrate by convincing evidence that no material information relating to the representation of the opposing client was transmitted by the personally disqualified lawyers or LLLTs to the lawyer representing the conflicting client before implementation of the screening mechanism and notice to the opposing client.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

Comment

[1] [Unchanged]

[2] **[Washington revision]** A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of ~~counsel~~ a legal practitioner. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[4] - [5] [Unchanged.]

Additional Washington Comments (6 - 7)

[6] - [7] [Unchanged.]

TITLE 7 - INFORMATION ABOUT LEGAL SERVICES

RPC 7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

[Unchanged.]

Comment

[1] - [4] [Unchanged.]

RPC 7.2 ADVERTISING

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service;

(3) pay for a law practice in accordance with Rule 1.17; and

(4) refer clients to another lawyer or LLLT pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and

(ii) the client is informed of the existence and nature of the agreement.

(c) Any communication made pursuant to this Rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

Comment

[1] - [4]

Paying Others to Recommend a Lawyer

[5] **[Washington revision]** Lawyers are not permitted to pay others for channeling professional work. Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, online directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, banner ads, and group advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client-development services, such as publicists, public-relations personnel, business-development staff and website designers. See Rule 5.3 for the duties of lawyers and law firms with respect to the conduct of nonlawyers who prepare marketing materials for them. For the definition of nonlawyer for the purposes of Rule 5.3, see Washington Comment [3] to Rule 5.3.

[6] - [8] [Unchanged.]

Additional Washington Comment (9)

[9] That portion of Model Rule 7.2 (b)(4) that allows lawyers to enter into reciprocal referral agreements with non-lawyer professionals was not adopted. A lawyer may agree to refer clients to an LLLT in return for the undertaking of that person to refer clients to the lawyer. The guidance provided in Comment [8] to this Rule is also applicable to reciprocal referral arrangements between lawyers and LLLTs. Under LLLT RPC 1.5(e), however, an LLLT may not enter into an arrangement for the division of a fee with a lawyer who is not in the same firm as the LLLT.

RPC 7.3 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

(a) A lawyer shall not directly or through a third person, by in-person, live telephone, or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:

(1) is a lawyer or an LLLT;

(2) has a family, close personal, or prior professional relationship with the lawyer; or

(3) has consented to the contact by requesting a referral from a not-for-profit lawyer referral service.

(b) A lawyer shall not solicit professional employment from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if;

(1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; or

(2) the solicitation involves coercion, duress or harassment.

(c) [Reserved.]

(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Comment

[1] - [3] [Unchanged.]

[4] **[Washington revision]** There is far less likelihood that a lawyer would engage in abusive practices against an individual who is a former client, or with whom the lawyer has close personal or family relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for abuse when the person contacted is a lawyer or an LLLT. Consequently, the general prohibition in Rule 7.3(a) is not applicable in those situations. Also, paragraph (a) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to its members or beneficiaries.

[5] - [8] [Unchanged.]

Additional Washington Comments (9 - 12)

[9] -[12] [Unchanged.]

RPC 7.4 COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION

[Unchanged.]

Comment

[1] - [3] [Unchanged.]

Additional Washington Comments (4 - 5)

[4] [Unchanged.]

[5] In advertising concerning an LLLT's services, an LLLT is required to communicate the fact that the LLLT has a limited license in the particular fields of law for which the LLLT is licensed and must not state or imply that the LLLT has broader authority to practice than is in fact the case. See LLLT RPC 7.4(a); see also LLLT RPC 7.2(c) (advertisements must include the name and office address of at least one responsible LLLT or law firm). When lawyers and LLLTs are associated in a firm, lawyers with managerial or pertinent supervisory authority must take measures to assure that the firm's communications conform with these obligations. See Rule 5.10.

RPC 7.5 FIRM NAMES AND LETTERHEADS

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers or LLLTs in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer or LLLT holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer or LLLT is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is a fact.

Comment

[1] **[Washington revision]** A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is a public legal aid agency may be required to avoid a mis-

leading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer or LLLT not associated with the firm or a predecessor of the firm, or the name of ~~a nonlawyer~~ an individual who is neither a lawyer nor an LLLT.

[2] **[Washington revision]** With regard to paragraph (d), lawyers or LLLTs sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm.

Additional Washington Comments (3 - 4)

[3] When lawyers and LLLTs are associated with each other in a law firm, the firm may be designated using the name of a member LLLT if the name is not otherwise in violation of Rule 7.1, this Rule, or LLLT RPC 7.5. See also Washington Comment [4] to this Rule.

[4] Lawyers or LLLTs practicing out of the same office who are not partners, shareholders of a professional corporation, or members of a professional limited liability company or partnership may not join their names together. Lawyers or LLLTs who are not 1) partners, shareholders of a professional corporation, or members of a professional limited liability company or partnership, or 2) employees of a sole proprietorship, partnership, professional corporation, or members of a professional limited liability company or partnership or other organization, or 3) in the relationship of being "Of Counsel" to a sole proprietorship, partnership, professional corporation, or members of a professional limited liability company or partnership or other organization, must have separate letterheads, cards and pleading paper, and must sign their names individually at the end of all pleadings and correspondence and not in conjunction with the names of other lawyers or LLLTs. (The provisions of this Comment were taken from former Washington RPC 7.5(d).)

RPC 7.6 POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT LEGAL ENGAGEMENTS OR APPOINTMENTS BY JUDGES

[Unchanged.]

Comment

[1] - [8] [Unchanged.]

TITLE 8 - MAINTAINING THE INTEGRITY OF THE PROFESSION

RPC 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS

An applicant for admission to the Bar, or a lawyer in connection with a bar admission ~~or~~, reinstatement application, or LLLT limited licensure, or in connection with a lawyer or LLLT disciplinary matter, shall not:

(a) knowingly make a false statement of material fact; or

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

Comment

[1] - [2] [Unchanged.]

[3] **[Washington revision]** A lawyer representing an applicant for admission to the bar, ~~or~~ representing a lawyer who is the subject of a disciplinary inquiry or proceeding, or representing an LLLT in relation to an application for limited licensure under APR 28 or disciplinary matter is governed by the rules applicable to the client-lawyer relationship, including Rule 1.6 and, in some cases, Rule 3.3.

Additional Washington Comments (4 - 5)

[4] [Unchanged.]

[5] The corollary duties of applicants for limited licensure under APR 28 are set forth in LLLT RPC 8.1.

RPC 8.2 JUDICIAL AND LEGAL OFFICIALS

[Unchanged.]

Comment

[1] - [3] [Unchanged.]

RPC 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer or LLLT has committed a violation of the applicable Rules of Professional Conduct that raises a substantial question as to that lawyer's or LLLT's honesty, trustworthiness or fitness as a lawyer or LLLT in other respects, should inform the appropriate professional authority.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office should inform the appropriate authority.

(c) This Rule does not permit a lawyer to report the professional misconduct of another lawyer, judge, or LLLT ~~or a judge~~ to the appropriate authority if doing so would require the lawyer to disclose information otherwise protected by Rule 1.6.

Comment

[1] **[Washington revision]** Lawyers are not required to report the misconduct of other lawyers, LLLTs, or judges. Self-regulation of the legal profession, however, creates an aspiration that members of the profession report misconduct to the appropriate disciplinary authority when they know of a serious violation of the applicable Rules of Professional Conduct. Lawyers have a similar aspiration with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

[2] **[Reserved.]**

[3] **[Washington revision]** While lawyers are not obliged to report every violation of the applicable Rules, the failure to report a serious violation may undermine the belief that ~~lawyers~~ the legal profession should be ~~a~~ self-regulating ~~profession~~. A measure of judgment is, therefore, required in deciding whether to report a violation. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware. A report

should be made whenever a lawyer's or LLLT's conduct raises a serious question as to the honesty, trustworthiness or fitness to practice. Similar considerations apply to the reporting of judicial misconduct.

[4] **[Washington revision]** This Rule does not apply to a lawyer retained to represent a lawyer, LLLT, or judge whose professional conduct is in question. Such a situation is governed by the Rules applicable to the client-lawyer relationship.

[5] **[Washington revision]** Information about a lawyer's, LLLT's, or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in an approved lawyers or judges assistance program. In that circumstance, there is no requirement or aspiration of reporting. Admission to Practice Rule 19(b) makes confidential communications between lawyer-clients and staff or peer counselors of the Lawyers' Assistance Program (LAP) of the WSBA privileged. Likewise, Discipline Rule for Judges 14(e) makes confidential communications between judges and peer counselors and the Judicial Assistance Committees of the various judges associations or the LAP of the WSBA privileged. Lawyers and judges should not hesitate to seek assistance from these programs and to help prevent additional harm to their professional careers and additional injury to the welfare of clients and the public.

RPC 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) knowingly

(1) assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law, or

(2) assist or induce an LLLT in conduct that is a violation of the applicable rules of professional conduct or other law;

(g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation if such an act would violate this rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, or marital status. This Rule shall not limit the ability of a lawyer to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16;

(h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward judges, lawyers, or LLLTs, other parties ~~and/or their counsel~~, witnesses ~~and/or their counsel~~, jurors, or court personnel or officers, that a reasonable person would interpret as manifesting prejudice or bias on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status. This Rule does not restrict a lawyer from representing a client by advancing material factual or legal issues or arguments.

(i) commit any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of his or her conduct as a lawyer, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding;

(j) willfully disobey or violate a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear;

(k) violate his or her oath as an attorney;

(l) violate a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter; including, but not limited to, the duties catalogued at ELC 1.5;

(m) violate the Code of Judicial Conduct; or

(n) engage in conduct demonstrating unfitness to practice law.

Comment

[1] **[Washington revision]** Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Lawyers are also subject to discipline if they assist or induce an LLLT to violate the LLLT RPC. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] - [5] [Unchanged.]

Additional Washington Comments (6 - 7)

[6] Paragraphs (g) - (n) were taken from former Washington RPC 8.4 (as amended in 2002).

[7] Under paragraph (f)(2), lawyers are also subject to discipline if they assist or induce an LLLT to violate the LLLT RPC. See also Rule 4.3 Washington Comment [6].

RPC 8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW

[Unchanged.]

Comment

[1] - [7] [Unchanged.]

Additional Washington Comments (8 - 13)

[8] - [13] [Unchanged.]

APPENDIX GUIDELINES FOR APPLYING RULE OF PROFESSIONAL CONDUCT 3.6

I. Criminal

[Unchanged.]

II. Civil

[Unchanged.]

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-09-002
NOTICE OF PUBLIC MEETINGS
SEATTLE COLLEGES
[Filed April 1, 2015, 2:15 p.m.]

Following is the schedule of regular meetings for the Seattle Colleges board of trustees for the remainder of the 2014-15 academic year: April 9, 2015, at 3:00.

If you need further information contact Leda Goncharoff.

WSR 15-09-006
NOTICE OF PUBLIC MEETINGS
LIQUOR CONTROL BOARD
[Filed April 2, 2015, 1:42 p.m.]

Please Extend May 12, Caucus Meeting Time

Current May 12, Caucus Meeting Time: May 12, 2015, Caucus Meeting, 10:00 to 2:30, LCB Headquarters Boardroom, 3000 Pacific Avenue S.E., Olympia, WA 98501.

New May 12, Caucus Meeting Time: May 12, 2015, Caucus Meeting, 10:00 to 5:00, LCB Headquarters Boardroom, 3000 Pacific Avenue S.E., Olympia, WA 98501.

Request made on April 2, 2015, by Maureen Malahovsky, confidential secretary to the board, Maureen.malahovsky@lcb.wa.gov, (360) 664-1717.

WSR 15-09-012
HEALTH CARE AUTHORITY
[Filed April 6, 2015, 7:30 a.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 15-0013 Certified Public Expenditures.

Effective Date: July 1, 2015.

Description: The health care authority (the agency) intends to submit medicaid SPA 15-0013 in order to allow government-operated hospitals participating in the certified public hospital program to opt out of the program using specific criteria. The agency is changing its methods and standards so that qualifying hospitals can choose to participate in the program that would most benefit them. There is no expected increase or decrease in annual aggregate expenditures if this SPA is approved.

For additional information, contact Lillian Erola, Office of Professional Rates, Financial Services, 626 8th Avenue S.E., Olympia, WA 98501, phone (360) 725-1877, TDD/TTY 1-800-848-5429, fax (360) 753-9152, e-mail Lillian.erola@hca.wa.gov.

WSR 15-09-014
RULES OF COURT
STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE PROPOSED AMENDMENT TO GR 15(j)— DESTRUCTION, SEALING, AND REDACTION OF COURT RECORDS	))))	ORDER NO. 25700-A-1097

The Commission on Judicial Conduct (CJC), having recommended the expeditious adoption of the Proposed Amendment to GR 15(j)—Destruction, Sealing, and Redaction of Court Records, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules as shown below are adopted.

(b) That the new rules will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of April, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	Gordon McCloud, J.
Stephens, J.	Yu, J.

RULE GR 15
DESTRUCTION, SEALING, AND REDACTION OF COURT RECORDS

(a) Purpose and Scope of the Rule. This rule sets forth a uniform procedure for the destruction, sealing, and redaction of court records. This rule applies to all court records, regardless of the physical form of the court record, the method of recording the court record, or the method of storage of the court record.

(b) Definitions.

(1) "Court file" means the pleadings, orders, and other papers filed with the clerk of the court under a single or consolidated cause number(s).

(2) "Court record" is defined in GR 31 (c)(4).

(3) Destroy. To destroy means to obliterate a court record or file in such a way as to make it permanently irretrievable. A motion or order to expunge shall be treated as a motion or order to destroy.

(4) Seal. To seal means to protect from examination by the public and unauthorized court personnel. A motion or order to delete, purge, remove, excise, or erase, or redact shall be treated as a motion or order to seal.

(5) Redact. To redact means to protect from examination by the public and unauthorized court personnel a portion or portions of a specified court record.

(6) Restricted Personal Identifiers are defined in GR 22 (b)(6).

(7) Strike. A motion or order to strike is not a motion or order to seal or destroy.

(8) Vacate. To vacate means to nullify or cancel.

(c) Sealing or Redacting Court Records.

(1) In a civil case, the court or any party may request a hearing to seal or redact the court records. In a criminal case or juvenile proceedings, the court, any party, or any interested person may request a hearing to seal or redact the court records. Reasonable notice of a hearing to seal must be given to all parties in the case. In a criminal case, reasonable notice of a hearing to seal or redact must also be given to the victim, if ascertainable, and the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile. No such notice is required for motions to seal documents entered pursuant to CrR 3.1(f) or CrRLJ 3.1(f).

(2) After the hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record. Agreement of the parties alone does not constitute a sufficient basis for the sealing or redaction of court records. Sufficient privacy or safety concerns that may be weighed against the public interest include findings that:

(A) The sealing or redaction is permitted by statute; or

(B) The sealing or redaction furthers an order entered under CR 12(f) or a protective order entered under CR 26(c); or

(C) A conviction has been vacated; or

(D) The sealing or redaction furthers an order entered pursuant to RCW 4.24.611; or

(E) The redaction includes only restricted personal identifiers contained in the court record; or

(F) Another identified compelling circumstance exists that requires the sealing or redaction.

(3) A court record shall not be sealed under this section when redaction will adequately resolve the issues before the court pursuant to subsection (2) above.

(4) Sealing of Entire Court File. When the clerk receives a court order to seal the entire court file, the clerk shall seal the court file and secure it from public access. All court records filed thereafter shall also be sealed unless otherwise ordered. The existence of a court file sealed in its entirety, unless protected by statute, is available for viewing by the public on court indices. The information on the court indices is limited to the case number, names of the parties, the notation "case sealed," the case type and cause of action in civil cases and the cause of action or charge in criminal cases, except where the conviction in a criminal case has been vacated, section (d) shall apply. The order to seal and written findings supporting the order to seal shall also remain accessible to the public, unless protected by statute.

(5) Sealing of Specified Court Records. When the clerk receives a court order to seal specified court records the clerk shall:

(A) On the docket, preserve the docket code, document title, document or subdocument number and date of the original court records;

(B) Remove the specified court records, seal them, and return them to the file under seal or store separately. The clerk shall substitute a filler sheet for the removed sealed court record. If the court record ordered sealed exists in a microfilm, microfiche or other storage medium form other than paper, the clerk shall restrict access to the alternate storage medium so as to prevent unauthorized viewing of the sealed court record; and

(C) File the order to seal and the written findings supporting the order to seal. Both shall be accessible to the public.

(D) Before a court file is made available for examination, the clerk shall prevent access to the sealed court records.

(6) Procedures for Redacted Court Records. When a court record is redacted pursuant to a court order, the original court record shall be replaced in the public court file by the redacted copy. The redacted copy shall be provided by the moving party. The original unredacted court record shall be sealed following the procedures set forth in (c)(5).

(d) Procedures for Vacated Criminal Convictions. In cases where a criminal conviction has been vacated and an order to seal entered, the information in the public court indices shall be limited to the case number, case type with the notification "DV" if the case involved domestic violence, the adult or juvenile's name, and the notation "vacated."

(e) Grounds and Procedure for Requesting the Unsealing of Sealed Records.

(1) Sealed court records may be examined by the public only after the court records have been ordered unsealed pursuant to this section or after entry of a court order allowing access to a sealed court record.

(2) Criminal Cases. A sealed court record in a criminal case shall be ordered unsealed only upon proof of compelling circumstances, unless otherwise provided by statute, and only upon motion and written notice to the persons entitled to notice under subsection (c)(1) of this rule except:

(A) If a new criminal charge is filed and the existence of the conviction contained in a sealed record is an element of the new offense, or would constitute a statutory sentencing enhancement, or provide the basis for an exceptional sentence, upon application of the prosecuting attorney the court shall nullify the sealing order in the prior sealed case(s).

(B) If a petition is filed alleging that a person is a sexually violent predator, upon application of the prosecuting attorney the court shall nullify the sealing order as to all prior criminal records of that individual.

(3) Civil Cases. A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24 or CR 26(j). If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by the Superior Court Rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful.

(4) Juvenile Proceedings. Inspection of a sealed juvenile court record is permitted only by order of the court upon motion made by the person who is the subject of the record, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(23). Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order, pursuant to RCW 13.50.050(16).

(f) Maintenance of Sealed Court Records. Sealed court records are subject to the provisions of RCW 36.23.065 and can be maintained in mediums other than paper.

(g) Use of Sealed Records on Appeal. A court record or any portion of it, sealed in the trial court shall be made available to the appellate court in the event of an appeal. Court records sealed in the trial court shall be sealed from public access in the appellate court subject to further order of the appellate court.

(h) Destruction of Court Records.

(1) The court shall not order the destruction of any court record unless expressly permitted by statute. The court shall enter written findings that cite the statutory authority for the destruction of the court record.

(2) In a civil case, the court or any party may request a hearing to destroy court records only if there is express statutory authority permitting the destruction of the court records. In a criminal case or juvenile proceeding, the court, any party, or any interested person may request a hearing to destroy the court records only if there is express statutory authority permitting the destruction of the court records. Reasonable notice of the hearing to destroy must be given to all parties in the case. In a criminal case, reasonable notice of the hearing must also be given to the victim, if ascertainable, and the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile.

(3) When the clerk receives a court order to destroy the entire court file the clerk shall:

(A) Remove all references to the court records from any applicable information systems maintained for or by the clerk except for accounting records, the order to destroy, and the written findings. The order to destroy and the supporting written findings shall be filed and available for viewing by the public.

(B) The accounting records shall be sealed.

(4) When the clerk receives a court order to destroy specified court records the clerk shall;

(A) On the automated docket, destroy any docket code information except any document or sub-document number previously assigned to the court record destroyed, and enter "Order Destroyed" for the docket entry;

(B) Destroy the appropriate court records, substituting, when applicable, a printed or other reference to the order to destroy, including the date, location, and document number of the order to destroy; and

(C) File the order to destroy and the written findings supporting the order to destroy. Both the order and the findings shall be publicly accessible.

(5) This subsection shall not prevent the routine destruction of court records pursuant to applicable preservation and retention schedules.

(i) Trial Exhibits. Notwithstanding any other provision of this rule, trial exhibits may be destroyed or returned to the parties if all parties so stipulate in writing and the court so orders.

(j) Effect on Other Statutes. Nothing in this rule is intended to restrict or to expand the authority of clerks under existing statutes, nor is anything in this rule intended to restrict or expand the authority of any public auditor, or the Commission on Judicial Conduct, in the exercise of duties conferred by statute.

[Adopted effective September 22, 1989; amended effective September 1, 1995; June 4, 1997; June 16, 1998; September 1, 2000; amended effective October 1, 2002; amended effective July 1, 2006.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-09-015
RULES OF COURT
STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO ENFORCEMENT OF LAWYER CONDUCT ELC 15.4—TRUST ACCOUNT OVERDRAFT NOTIFICATION AND 15.7—TRUST ACCOUNTS AND THE LEGAL FOUNDATION OF WASHINGTON	)))))))	ORDER NO. 25700-A-1098

The Washington State Bar Association, having recommended the expeditious adoption of the Proposed Amendments to Enforcement of Lawyer Conduct ELC 15.4—Trust Account Overdraft Notification and 15.7—Trust Accounts and the Legal Foundation of Washington, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules shown below are adopted.

(b) That the new rules will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of April, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	Gordon McCloud, J.
Stephens, J.	Yu, J.

PROPOSED AMENDMENTS TO RULE 15.4 OF THE RULES FOR ENFORCEMENT OF LAWYER CONDUCT

TITLE

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

RULE 15.4. TRUST ACCOUNT OVERDRAFT NOTIFICATION

(a) Overdraft Notification Agreement Required. To be authorized as a depository for lawyer trust accounts referred to in RPC 1.15A(i), limited license legal technician (LLLT) trust accounts referred to in LLLT RPC 1.15A(i), or limited practice officer (LPO) trust accounts referred to in LPO RPC 1.12A(i), a financial institution, bank, credit union, savings bank, or savings and loan association must file with the Legal Foundation of Washington an agreement, in a form provided by the Washington State Bar Association, to report to the Washington State Bar Association if any properly payable instrument is presented against a lawyer, LLLT, LPO or closing firm trust account containing insufficient funds, whether or not the instrument is honored. The agreement must apply to all branches of the financial institution and cannot be canceled except on 30 days' notice in writing to the Legal Foundation of Washington. The Legal Foundation of Washington must provide copies of signed agreements and notices of cancellation to the Washington State Bar Association.

(b) Overdraft Reports.

(1) The overdraft notification agreement must provide that all reports made by the financial institution must contain the following information:

(A) the identity of the financial institution;

(B) the identity of the (1) the lawyer, LLLT, or law firm, or (2) the limited practice officer or closing firm;

(C) the account number; and

(D) either:

(i) the amount of overdraft and date created; or

(ii) the amount of the returned instrument(s) and the date returned.

(2) The financial institution must provide the information required by the notification agreement within five banking days of the date the item(s) was paid or returned unpaid.

(c) Costs.

[Unchanged.]

(d) Notification by Lawyer.

[Unchanged.]

PROPOSED AMENDMENTS TO RULE 15.7 OF THE RULES FOR ENFORCEMENT OF LAWYER CONDUCT

TITLE

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

RULE 15.7. TRUST ACCOUNTS AND THE LEGAL FOUNDATION OF WASHINGTON

(a) Legal Foundation of Washington.

[Unchanged.]

(b) Definitions. The following definitions apply to this rule:

(1) *United States Government Securities*. United States Government Securities are defined as direct obligations of the United States Government, or obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof, including United States Government-Sponsored Enterprises.

(2) *Daily Financial Institution Repurchase Agreement.* A daily financial institution repurchase agreement must be fully collateralized by United States Government Securities and may be established only with an authorized financial institution that is deemed to be "well capitalized" under applicable regulations of the Federal Deposit Insurance Corporation and the National Credit Union Association.

(3) *Money Market Funds.* A money market fund is an investment company registered under the Investment Company Act of 1940, as amended, that is regulated as a money market funder under Rules and Regulations adopted by the Securities and Exchange Commission pursuant to said Act, and at the time of the investment, has total assets of at least five hundred million dollars ($500,000,000). A money market fund must be comprised solely of United States Government Securities or investments fully collateralized by United States Government Securities.

(4) *IOLTA*. As used in these rules, the term IOLTA means interest on lawyer's trust accounts, interest on LLLT's trust accounts, and interest on LPO's trust accounts, as set forth in RPC 1.15A, LLLT RPC 1.15A, and LPORPC 1.12A, respectively, and Title 15 of these rules and ELPOC Title 15.

(c) Authorized Financial Institutions.

[Unchanged.]

(d) Requirements of All Trust Accounts. All trust accounts established pursuant to RPC 1.15A(i), LLLT RPC 1.15A(i), or LPORPC 1.12A(h) must be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration up to the limit established by law for those types of accounts or be backed by United States Government Securities. Trust account funds must not be placed in stocks, bonds, mutual funds that invest in stock or bonds, or similar uninsured investments.

(e) IOLTA Accounts. To qualify for Legal Foundation approval as an authorized financial institution offering IOLTA accounts, in addition to meeting all other requirements set forth in this Rule, a financial institution must comply with the requirements set forth in this section.

(1) *Interest Comparability.* For accounts established pursuant to RPC 1.15A or LLLT RPC 1.15A, authorized financial institutions must pay the highest interest rate generally available from the institutions to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other account eligibility qualifications, if

any. In determining the highest interest rate generally available to its non-IOLTA customers, authorized financial institutions may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates for its customers, provided that such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers and that these factors do not include that the account is an IOLTA account. An authorized financial institution may satisfy these comparability requirements by selecting one of the following options:

(i) Establish the IOLTA account as the comparable interest-paying product; or

(ii) Pay the comparable interest rate on the IOLTA checking account in lieu of actually establishing the comparable interest-paying product; or

(iii) Pay a rate on IOLTA equal to 75% of the Federal Funds Targeted Rate as of the first business day of the month or IOLTA remitting period, or .75%, whichever is higher, and which rate is deemed to be already net of allowable reasonable service charges or fees.

(2) *Remit Interest to Legal Foundation of Washington.* Authorized financial institutions must remit the interest accruing on all IOLTA accounts, net of reasonable account fees, to the Legal Foundation monthly, on a report form prescribed by the Legal Foundation. At a minimum, the report must show details about the account, including but not limited to the name of the lawyer, law firm, LLLT, LPO, or Closing Firm for whom the remittance is sent, the rate of interest applied, the amount of service charges deducted, if any, and the balance used to compute the interest. Interest must be calculated on the average monthly balance in the account, or as otherwise computed in accordance with applicable state and federal regulations and the institution's standard accounting practice for non-IOLTA customers. The financial institution must notify each lawyer, law firm, LLLT, LPO, or Closing Firm of the amount of interest remitted to the Legal Foundation on a monthly basis on the account statement or other written report.

(3) *Reasonable account fees.* Reasonable account fees may only include per deposit charges, per check charges, a fee in lieu of minimum balances, sweep fees, FDIC insurance fees, and a reasonable IOLTA account administration fee. No service charges or fees other than the allowable, reasonable fees may be assessed against the interest or dividends on an IOLTA account. Any service charges or fees other than allowable reasonable fees must be the sole responsibility of, and may be charged to, the lawyer, law firm, LLLT, LPO, or Closing Firm maintaining the IOLTA account. Fees or charges in excess of the interest or dividends earned on the account must not be deducted from interest or dividends earned on any other account or from the principal.

(4) *Comparable Accounts.* Subject to the requirements set forth in sections (d) and (e), an IOLTA account may be established as:

(i) A business checking account with an automated investment feature, such as a daily bank repurchase agreement or a money market fund; or

(ii) A checking account paying preferred interest rates, such as a money market or indexed rates; or

(iii) A government interest-bearing checking account such as an account used for municipal deposits; or

(iv) An interest-bearing checking account such as a negotiable order of withdrawal (NOW) account, business checking account with interest; or

(v) Any other suitable interest-bearing product offered by the authorized financial institution to its non-IOLTA customers.

(5) Nothing in this rule precludes an authorized financial institution from paying an interest rate higher than described above or electing to waive any service charges or fees on IOLTA accounts.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-09-016
RULES OF COURT
STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE SUPERIOR COURT CIVIL RULES (CR) CR 4—PROCESS, CR 5—SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS, CR 6—TIME, CR 8—GENERAL RULES OF PLEADING, CR 9—PLEADING SPECIAL MATTERS, CR 10—FORM OF PLEADINGS AND OTHER PAPERS, CR 12—DEFENSES AND OBJECTIONS, CR 13—COUNTERCLAIM AND CROSS CLAIM, CR 14—THIRD PARTY PRACTICE, CR 15—AMENDED AND SUPPLEMENTAL PLEADINGS, CR 17—PARTIES PLAINTIFF AND DEFENDANT: CAPACITY, CR 18—JOINDER OF CLAIMS AND REMEDIES, CR 19—JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION, CR 20—PERMISSIVE JOINDER OF PARTIES, CR 22—INTERPLEADER, CR 23—CLASS ACTIONS, CR 23.1—DERIVATIVE ACTIONS BY SHAREHOLDERS, CR 24—INTERVENTION, CR 25—SUBSTITUTION OF PARTIES, CR 26—GENERAL PROVISIONS GOVERNING DISCOVERY, CR 27—PERPETUATION OF TESTIMONY, CR 28—PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN, CR 30—DEPOSITIONS UPON ORAL EXAMINATION, CR 31—DEPOSITIONS UPON WRITTEN QUESTIONS, CR 32—USE OF DEPOSITIONS IN COURT PROCEEDINGS, CR 36—REQUESTS FOR ADMISSION, CR 37—FAILURE TO MAKE DISCOVERY: SANCTIONS, CR 38—JURY TRIAL OF RIGHT, CR 40—ASSIGNMENT OF CASES, CR 41—DISMISSAL OF ACTIONS, CR 43—TAKING OF TESTIMONY, CR 44.1—DETERMINATION	)	ORDER NO. 25700-A-1099

OF FOREIGN LAW, CR 46—EXCEPTIONS UNNECESSARY, CR 47—JURORS, CR 49—VERDICTS, CR 51—INSTRUCTIONS TO JURY DELIBERATION, CR 54—JUDGMENT AND COSTS, CR 55—DEFAULT AND JUDGMENT, CR 56—SUMMARY JUDGMENT, CR 58—ENTRY OF JUDGMENT, CR 59—NEW TRIAL, RECONSIDERATION, AND AMENDMENTS OF JUDGMENTS, CR 60—RELIEF FROM JUDGMENT OR ORDER, CR 63—JUDGES, CR 65—INJUNCTIONS, CR 65.1—SECURITY—PROCEEDINGS 1AGAINST SURETIES, CR 68—OFFER OF JUDGMENT, CR 69—EXECUTION, CR 77—SUPERIOR COURTS AND JUDICIAL OFFICERS, CR 78—CLERKS

Justice Steven Gonzalez, having recommended the expeditious adoption of the Proposed Amendments to the Superior Court Civil Rules (CR) CR 4—Process, CR 5—Service and Filing of Pleadings and Other Papers, CR 6—Time, CR 8—General Rules of Pleading, CR 9—Pleading Special Matters, CR 10—Form of Pleadings and Other Papers, CR 12—Defenses and Objections, CR 13—Counterclaim and Cross Claim, CR 14—Third Party Practice, CR 15—Amended and Supplemental Pleadings, CR 17—Parties Plaintiff and Defendant: Capacity, CR 18—Joinder of Claims and Remedies, CR 19—Joinder of Persons Needed for Just Adjudication, CR 20—Permissive Joinder of Parties, CR 22—Interpleader, CR 23—Class Actions, CR 23.1—Derivative Actions by Shareholders, CR 24—Intervention, CR 25—Substitution of Parties, CR 26—General Provisions Governing Discovery, CR 27—Perpetuation of Testimony, CR 28—Persons Before Whom Depositions May Be Taken, CR 30—Depositions Upon Oral Examination, CR 31—Depositions Upon Written Questions, CR 32—Use of Depositions in Court Proceedings, CR 36—Requests for Admission, CR 37—Failure to Make Discovery: Sanctions, CR 38—Jury Trial of Right, CR 40—Assignment of Cases, CR 41—Dismissal of Actions, CR 43—Taking of Testimony, CR 44.1—Determination of Foreign Law, CR 46—Exceptions Unnecessary, CR 47—Jurors, CR 49—Verdicts, CR 51—Instructions to Jury Deliberation, CR 54—Judgment and Costs, CR 55—Default and Judgment, CR 56—Summary Judgment, CR 58—Entry of Judgment, CR 59—New Trial, Reconsideration, and Amendments of Judgments, CR 60—Relief from Judgment or Order, CR 63—Judges, CR 65—Injunctions, CR 65.1—Security—Proceedings Against Sureties, CR 68—Offer of Judgment, CR 69—Execution, CR 77—Superior Courts and Judicial Officers, CR 78—Clerks, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules as shown below are adopted.

(b) That the new rules will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of April, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	Gordon McCloud, J.
Stephens, J.	Yu, J.

Reviser's note: The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 15-10 issue of the Register.

WSR 15-09-017
RULES OF COURT
STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE SUGGESTED AMENDMENT TO GR 27—FAMILY LAW COURTHOUSE FACILITATORS	)))	ORDER NO. 25700-A-1100

The Washington State Association of County Clerks, having recommended the adoption of the Suggested Amendment to GR 27—Family Law Courthouse Facilitators, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provision of GR9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2016.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2016. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of April, 2015.

For the Court

Madsen, C.J.
CHIEF JUSTICE

GR 27
~~FAMILY LAW~~ COURTHOUSE FACILITATORS

(a) Generally. RCW 26.12.240 and RCW xx.xx.xxx provide a county may create a courthouse facilitator program to provide basic services to pro se litigants in family law and guardianship cases. This Rule applies only to courthouse facilitator programs created pursuant to RCW 26.12.240 or RCW xx.xx.xxx.

(b) The Washington State Supreme Court shall create a ~~Family~~ Courthouse Facilitator Advisory Committee supported by the Administrative Office of the Courts to establish minimum qualifications and develop and administer a curriculum of initial and ongoing training requirements for family law and guardianship courthouse facilitators. The Administrative Office of the Courts shall assist counties in administering ~~family law~~ courthouse facilitator programs.

(c) Definitions. For the purpose of this rule the following definitions apply:

(1) A ~~Family Law~~ Courthouse Facilitator is an individual ~~or individuals~~ who has ~~or have~~ met or exceeded the minimum qualifications and completed the curriculum developed by the ~~Administrative Office of the Courts~~ Courthouse Facilitator Advisory Committee and who is ~~or are~~ providing basic services in family law or guardianship cases in a Superior Court.

(2) Family Law Cases include, but are not limited to, dissolution of marriage, modification of dissolution matters such as child support, parenting plans, non-parental custody or visitation, and parentage by unmarried persons to establish paternity, child support, child custody and visitation.

(3) Guardianship cases include cases filed under RCW 11.88, RCW 11.90, RCW 11.92 and RCW 73.36.

(4) "Basic Service" includes but is not limited to:

a) referral to legal and social service resources, including lawyer referral and alternate dispute referral programs and resources on obtaining ~~family law~~ forms and instructions;

b) assistance in calculating child support using standardized computer based program based on financial information provided by the pro se litigant;

c) processing interpreter requests for facilitator assistance and court hearings;

d) assistance in selection as well as distribution of forms and standardized instructions that have been approved by the court, clerk's office, or the Administrative Office of the Courts;

e) assistance in completing forms that have been approved by the court, clerk's office, or the Administrative Office of the Courts;

f) explanation of legal terms;

g) information on basic court procedures and logistics including requirements for service, filing, scheduling hearings and complying with local procedures;

h) review of completed forms to determine whether forms have been completely filled out but not as to substantive content with respect to the parties' legal rights and obligations;

i) previewing pro se documents prior to hearings for matters such as dissolution of marriage, review hearings, and show cause and temporary relief motions calendars under the direction of the Clerk or Court to determine whether procedural requirements have been complied with;

j) attendance at ~~pro se~~ hearings to assist the Court with pro se matters;

k) assistance with preparation of court orders under the direction of the Court; and

l) preparation of pro se instruction packets under the direction of the Administrative Office of the Courts.

(d) ~~Family Law~~ Courthouse Facilitators shall, whenever reasonably practical, obtain a written and signed disclaimer of attorney-client relationship, attorney-client confidentiality and representation from each person utilizing the services of the ~~Family Law~~ Courthouse Facilitator. The prescribed disclaimer shall be in the format developed by the Administrative Office of the Courts.

(e) No attorney-client relationship or privilege is created, by implication or by inference, between a ~~Family Law~~ Courthouse Facilitator providing basic services under this rule and the users of ~~Family Law~~ Courthouse Facilitator Program services.

(f) ~~Family law~~ Courthouse facilitators providing basic services under this rule are not engaged in the unauthorized practice of law. Upon a courthouse facilitator's voluntary or involuntary termination from a courthouse facilitator program, that person is no longer a courthouse facilitator providing services pursuant to RCW 26.12.240 or RCW xx.xx.xx or this Rule.

[Adopted effective September 1, 2002.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-09-018
RULES OF COURT
STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO APR 11—CONTINUING LEGAL EDUCATION AND APPENDIX APR 11—REGULATIONS OF THE WASHINGTON STATE BOARD OF CONTINUING LEGAL EDUCATION	))))))	ORDER NO. 25700-A-1101

The Washington State Bar Association, having recommended the adoption of the Proposed Amendments to APR 11—Continuing Legal Education and Appendix APR 11—Regulations of the Washington State Board of Continuing Legal Education, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules shown below are adopted.

(b) That the new rules will be published in the Washington Reports and will become effective on January 1, 2016.

DATED at Olympia, Washington this 2nd day of April, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	
Stephens, J.	Yu, J.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 15-10 issue of the Register.

WSR 15-09-019

RULES OF COURT

STATE SUPREME COURT

[April 2, 2015]

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO CrR 8.10—POST-TRIAL CONTACT WITH JURORS AND CrRLJ 8.13—POST-TRIAL CONTACT WITH JURORS	)))))	ORDER NO. 25700-A-1102

The Washington Association of Criminal Defense Lawyers, having recommended the adoption of the Suggested Amendments to CrR 8.10—Post-Trial Contact with Jurors and CrRLJ 8.13—Post-Trial Contact with Jurors, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice.

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2016.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2016. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of April, 2015.

For the Court

Madsen, C.J.

CHIEF JUSTICE

[PROPOSED] CrR 8.10
POST TRIAL CONTACT WITH JURORS

After a jury has been discharged, or after a verdict has been returned, or after a mistrial has been declared, a lawyer who participated in the trial, a representative from that lawyer's office, or a law enforcement officer who participated in the trial shall not communicate to the jury information that was suppressed or excluded pursuant to a ruling by the judge in the case.

[PROPOSED] CrRLJ 8.13
POST-TRIAL CONTACT WITH JURORS

After a jury has been discharged, or after a verdict has been returned, or after a mistrial has been declared, a lawyer who participated in the trial, a representative from that lawyer's office, or a law enforcement officer who participated in the trial shall not communicate to the jury information that was suppressed or excluded pursuant to a ruling by the judge in the case.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-09-020

INTERPRETIVE OR POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed April 6, 2015, 11:51 a.m.]

NOTICE OF ADOPTION OF AN INTERPRETIVE STATEMENT OR POLICY STATEMENT

Title of Interpretive or Policy Statement: Certified Copies of Vital Records for Veteran's Administration Claims.

Issuing Entity: Disease control and health statistics, center for health statistics.

Subject Matter: Copies of vital records for VA claims.

Effective Date: April 1, 2015.

Contact Person: Jean Remsbecker, jean.remsbecker@doh.wa.gov or (360) 236-4330.

WSR 15-09-021

HEALTH CARE AUTHORITY

[Filed April 6, 2015, 1:34 p.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 15-0015 Certified Public Expenditures.

Effective Date: July 1, 2015.

Description: The health care authority (the agency) intends to submit medicaid SPA 15-0015 in order to allow government-operated hospitals participating in the certified public hospital program to opt out of the program using specific criteria. The agency is changing its methods and standards so that qualifying hospitals can choose to participate in the program that would most benefit them. There is no expected increase or decrease in annual aggregate expenditures if this SPA is approved.

A notice was previously filed under WSR 15-09-012 which erroneously identified this SPA as 15-0013; this notice corrects that error.

For additional information, contact Lillian Erola, Office of Professional Rates, Financial Services, 626 8th Avenue S.E., Olympia, WA 98501, phone (360) 725-1877, TDD/TTY 1-800-848-5429, fax (360) 753-9152, e-mail Lillian.erola@hca.wa.gov.

WSR 15-09-031
NOTICE OF PUBLIC MEETINGS
LIQUOR CONTROL BOARD
[Filed April 9, 2015, 8:01 a.m.]

Please Change the Following Meeting Times

Due to a scheduling change we need to revert a recent change submitted for the May 12, board caucus meeting (see details below). We will also need to then extend the May 13, executive management team (EMT) meeting (see details below).

Previous May 12, Caucus Meeting Time: May 12, 2015, Caucus Meeting 10:00 to 2:30, LCB Headquarters Boardroom, 3000 Pacific Avenue S.E., Olympia, WA 98501.

We submitted the following change on April 2:

New May 12, Caucus Meeting Time: **May 12, 2015, Caucus Meeting 10:00 to 5:00,** LCB Headquarters Boardroom, 3000 Pacific Avenue S.E., Olympia, WA 98501.

Please revert the new May 12, Caucus meeting back to original time of 10:00 to 2:30.

We now need the following new meeting change:

Current May 13, EMT Meeting Time: **May 13, 2015, EMT Meeting 1:30 to 5:00,** LCB Headquarters Boardroom, 3000 Pacific Avenue S.E., Olympia, WA 98501.

New May 13, EMT Meeting Time: **May 13, 2015, EMT Meeting 9:30 to 5:00,** LCB Headquarters Boardroom, 3000 Pacific Avenue S.E., Olympia, WA 98501.

Request made on April 7, 2015, by Maureen Malahovsky, confidential secretary to the board, Maureen.malahovsky@lcb.wa.gov, (360) 664-1717.

WSR 15-09-035
DEPARTMENT OF AGRICULTURE
[Filed April 9, 2015, 12:11 p.m.]

LEGAL NOTICE FOR SPARTINA TREATMENT IN WESTERN WASHINGTON

LEGAL NOTICE FOR SPARTINA TREATMENTS: The Washington state department of agriculture (WSDA) is hereby notifying the affected public that the herbicides imazapyr and glyphosate may be used to control invasive *Spartina* grass species between June 1, 2015, and November 30, 2015.

Licensed pesticide applicators operating under WSDA's national pollutant discharge elimination system (NPDES) state waste discharge general permit may apply these products in the following locations: Grays Harbor, Hood Canal, Willapa Bay, Puget Sound, the north and west sides of the Olympic Peninsula, and the mouth of the Columbia River.

For more information, including locations of possible application sites or information on *Spartina*, contact WSDA *Spartina* Control Program, phone (360) 902-2070, e-mail pestprogram@agr.wa.gov or web site http://agr.wa.gov/PlantsInsects/Weeds/Spartina/, or write WSDA *Spartina* Program, P.O. Box 42560, Olympia, WA 98504-2560.

The Washington state department of ecology twenty-four hour emergency number for reporting concerns about *Spartina* treatments is (360) 407-6283.

WSR 15-09-039
PUBLIC RECORDS OFFICER
DEPARTMENT OF HEALTH
[Filed April 9, 2015, 4:02 p.m.]

Pursuant to RCW 42.56.580, the public records officer for the department of health is Melanee Auldredge, P.O. Box 47890, Olympia, WA 98504-7890, phone (360) 236-4220, prd@doh.wa.gov.

WSR 15-09-043
DEPARTMENT OF ECOLOGY
[Filed April 9, 2015, 4:22 p.m.]

Purpose: In accordance with the Administrative Procedure Act, RCW 34.05.230, the department of ecology submits the following:

Document Title: Water Rights Processing Policy 1000 and Procedure 1000.

Subject: To ensure statewide consistency, conformity with state law, and equality of service to the public in the administration of water rights.

Document Description: This policy and procedure revise the 1990 version of the same policy and procedure to reflect how the department of ecology staff process water right applications to appropriate water and applications for change of water right under the applicable sections of the state water code (chapters 90.03 and 90.44 RCW).

The revised Policy 1000 describes how water right applications to appropriate water and applications for change of water right will be processed in accordance with the revised water rights processing procedure. The policy promotes statewide consistency in processing water rights while allowing for procedural differences between regional offices as long as those differences are in agreement with and further the purposes of the policy.

The revised Procedure 1000 is intended to provide guidance to staff by ensuring relevant factors are considered in the processing of applications to appropriate water and applications for change or transfer of existing water rights. Specifically, it provides transparency to the public as to how the agency processes a water right application from start to finish.

Both the revised policy and procedure supersedes the previous policy and procedure adopted on September 23, 1990.

To receive a copy of the policy and/or procedure, contact Mike Dexel, Water Resources Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7679, e-mail mdex461@ecy.wa.gov, web site http://www.ecy.wa.gov/programs/wr/rules/images/pdf/pol1000.pdf and http://www.ecy.wa.gov/programs/wr/rules/images/pdf/pro1000.pdf.

WSR 15-09-048
DEPARTMENT OF ECOLOGY

[Filed April 10, 2015, 10:25 a.m.]

Notice of a Draft New 2015 General Permit for Biosolids Management

Notice is hereby given that the Washington state department of ecology (ecology) is seeking comments on a draft new general permit for biosolids management (general permit) to replace the expiring general permit.

Ecology was granted the authority to develop a state biosolids program (including the general permit) under RCW 70.95J.007. The purpose of the state biosolids rule (chapter 173-308 WAC) is to maximize beneficial use of biosolids while protecting human health and the environment. The purpose of the general permit is to implement the requirements of the rule.

Ecology previously sought public comment on its tentative decision to issue a new general permit. The comment period ended on February 20, 2015. Ecology received thirteen comments. A response to comments can be found at http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html.

Ecology issued a determination of nonsignificance (DNS) under the State Environmental Policy Act (SEPA) for the draft general permit. After review of a completed environmental checklist and other information on file, ecology determined this proposal will not have a probable significant adverse impact on the environment. The DNS and completed environmental checklist are at http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html, or request a copy from the contact listed below.

The state biosolids program regulates biosolids (including septage) applied to the land, sold or given away in a bag or other container, being stored, transferred from one facility to another, or sewage sludge disposed in a municipal solid waste landfill.

The general permit will apply to all treatment works treating domestic sewage in the state including publicly and privately owned wastewater treatment plants that treat only domestic sewage, composting facilities that treat biosolids as a feedstock, biosolids beneficial use facilities, and septage management facilities.

The general permit is applicable within the boundaries of the state of Washington, including state and federal lands. It does not apply to lands within the boundaries of Indian reservations or lands outside of Indian reservations that are held in trust by the federal government for a tribe.

Three hundred and ninety-six have submitted a notice of intent to apply for coverage under the new general permit. A list of those facilities can be found at http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html or by requesting from the contact listed below.

Each facility seeking coverage under the general permit must submit a complete permit application as defined in the general permit and comply with any SEPA and public notice requirements. Facilities that have met all these requirements will be "provisionally" approved for coverage under the general permit. Each facility's biosolids program will receive a full review prior to issuing "final" approval of coverage.

In accordance with the requirements in WAC 173-308-90005(4), an economic impact analysis (EIA) was conducted on the draft general permit to assess whether it may have a disproportionate economic impact on small businesses relative to large businesses. Ecology found that the draft general permit would not have a disproportionate impact on small businesses. The EIA may be obtained from https://fortress.wa.gov/ecy/publications/SummaryPages/1507014.html or by requesting from the contact listed below.

Documents and information on the draft general permit may be obtained from http://www.ecy.wa.gov/programs/swfa/biosolids/GenPermitDev.html or by requesting from the contact listed below.

Ecology is maintaining an interested parties list for anyone who wants to be informed about the general permit process. To be included on the list, notify the person listed below.

There will be a thirty-day comment period for the draft general permit and the DNS. Comments can be submitted in writing or at a public hearing. Written comments will be accepted by e-mail or United States mail. Send written comments to the contact listed below. Oral comments may be made at one of the public hearings:

June 16, 2015
Ecology Headquarters
3 p.m. - 5 p.m.
300 Desmond Drive S.E.
Lacey, WA 98503

June 17, 2015
Washington State Labor and Industries - Yakima
3 p.m. - 5 p.m.
15 West Yakima Avenue
Suite 100
Yakima, WA 98902

All comments received by 5:00 p.m. on June 24, 2015, will be considered during the development of a final general permit. A summary of responses to comments received will be prepared and made available. Ecology anticipates issuing a final general permit by July 22, 2015. Following issuance, there will be a thirty-day appeal period for the final general permit before it becomes effective on August 21, 2015.

For comments, questions, or requests please contact Rebecca Singer, State Biosolids Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail

rebecca.singer@ecy.wa.gov, phone (360) 407-6108, physical address 300 Desmond Drive S.E., Lacey, WA 98503.

WSR 15-09-050
NOTICE OF PUBLIC MEETINGS
CENTRAL WASHINGTON UNIVERSITY
[Filed April 10, 2015, 12:53 p.m.]

In compliance with RCW 42.30.075, please note the following addition to the meeting dates for the Central Washington University board of trustees: Special telephonic meeting, April 20, 2015, in order to approve two new degree programs.

WSR 15-09-054
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE HISTORICAL SOCIETY
[Filed April 13, 2015, 10:00 a.m.]

The Washington State Historical Society board of trustees adopted the following meeting schedule at their September 2012 meeting.

March 5, 2015 (Thursday)	State Capital [Capitol] Museum Olympia
June 20, 2015 (Saturday)	Washington State History Museum Tacoma
September 24, 2015 (Thursday)	Washington State Historical Society Research Center Tacoma
March 10, 2016 (Thursday)	Museum of History and Industry (MOHAI) Seattle
June 18, 2016 (Thursday)	Washington State History Museum Tacoma

If you need additional information, please contact Misty Dawn Reese at (253) 798-5901 or misty.reese@wshs.wa.gov.

WSR 15-09-055
NOTICE OF PUBLIC MEETINGS
TRAFFIC SAFETY COMMISSION
[Filed April 13, 2015, 10:01 a.m.]

The Washington traffic safety commission has changed the following regular meeting:

From:	October 15, 2015 Washington Traffic Safety Commission 621 8th Avenue S.E. Suite 409 Olympia, WA 98504 10:30 a.m. - 12 noon
To:	October 15, 2015 DoubleTree by Hilton SeaTac 18740 International Boulevard Seattle, WA 98188 10 - 11 a.m.

If you need further information contact Geri Nelson, 621 8th Avenue S.E., Suite 409, Olympia, WA 98504, (360) 725-9898, gnelson@wtsc.wa.gov, or WTSC.wa.gov.

WSR 15-09-057
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
[Filed April 13, 2015, 2:21 p.m.]

Pursuant to RCW 42.30.075, following is a change to Washington State University board of regents' meeting schedule previously submitted: June 4-5, 2015, retreat-Woodinville (location has been moved to Richland, Washington).

All other meeting dates and locations remain the same.

WSR 15-09-058
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Filed April 14, 2015, 7:49 a.m.]

The Bellingham Technical College presidential search advisory committee will hold a special meeting, on Wednesday, April 15, 2015, 8:30 - 5:00 p.m., in G Building on the Bellingham Technical College campus to discuss the presidential search process. The search committee may convene into executive session to discuss qualifications of specific applicants for public employment or review the performance of a public employee. (RCW 42.30.110 (1)(g).) Call 752-8334 for information.

WSR 15-09-067
DEPARTMENT OF ECOLOGY
[Filed April 15, 2015, 9:51 a.m.]

PUBLIC NOTICE
Announcing a Draft Fisheries Resource Management General Permit for Review and Comment

Proposed Permit: The Washington state department of ecology (ecology) is proposing a new general permit to regu-

late the use of the piscicides rotenone and antimycin A, and potassium permanganate applied for management of fish populations in surface waters of Washington state.

Washington's water quality statutes and regulations do not allow the discharge of pollutants to waters of the state without permit coverage. The piscicides rotenone and antimycin A, and the detoxification agent potassium permanganate are potential pollutants, and therefore require a discharge permit before application to surface waters. Ecology issues general permits in place of a series of individual permits when the permitted activities are similar.

Washington department of fish and wildlife (WDFW) is the State Environmental Policy Act (SEPA) lead and have determined that this proposal is likely to have significant adverse impacts on the environment. WDFW has made the environmental documents, adopted as part of the SEPA determination, available for review and comment at http://wdfw.wa.gov/licensing/sepa/sepa_final_docs_2015.html.

Purpose of the Permit: This permit would allow WDFW to manage fish populations in surface waters of Washington state. Coverage under the proposed general permit will be limited to WDFW only.

Copies of the Draft Permit: You may download copies of the draft permit and fact sheet beginning May 6, 2015, from the following web site http://www.ecy.wa.gov/programs/wq/pesticides/final_pesticide_permits/fish/fish_index.html.

Ecology Contact: Nathan Lubliner, Washington State Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696, phone (360) 407-6563, e-mail nathan.lubliner@ecy.wa.gov.

Workshop and Public Hearing: Ecology will hold one workshop and public hearing on the draft NPDES general permit for fisheries resource management. The purpose of the workshop is to explain the general permit and answer questions in order to facilitate meaningful testimony during the hearing. The purpose of the hearing is to provide an opportunity for people to give formal oral testimony and comment on the proposed draft permit. Written comments will receive the same consideration as oral testimony. The workshop and public hearing will begin at 12:00 noon on June 8, 2015, and conclude when public testimony is complete.

On **June 8, 2015, at 12:00 noon,** Moses Lake Fire Station 1, 701 East Third Avenue, Moses Lake, WA 98837.

Submitting Written Comments: Ecology will accept written comments on the draft permit and fact sheet until **5 p.m., June 19, 2015**. Ecology prefers comments be submitted by e-mail to nathan.lubliner@ecy.wa.gov. E-mailed comments must contain the commenter's name and postal address. Comments should reference specific permit text when possible.

Submit comments by e-mail to nathan.lubliner@ecy.wa.gov.

Submit written comments to Nathan Lubliner, Washington State Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696.

You must send e-mail comments before **5 p.m., June 19, 2015**. Written comments must be postmarked no later than **5 p.m., June 19, 2015**.

Issuing the Permit: The final decision on permit issuance will be made after ecology receives and considers all public comments. If public comments cause a substantial change in the permit conditions from the original draft permit, another public notice of draft and comment period may ensue. Ecology expects to issue the general permit in spring 2015.

WSR 15-09-077

RULES COORDINATOR

WASHINGTON STATE UNIVERSITY

[Filed April 16, 2015, 9:59 a.m.]

Pursuant to RCW 28B.10.528, the board of regents delegated to Elson S. Floyd, Ph.D., as president to act on behalf of the board of regents in matters pertaining to the management of Washington State University. This delegation included the authority to designate subordinates with appropriate authority.

I hereby designate Ms. Deborah Bartlett, Director, Procedures, Records, and Forms, 3089 Information Technology Building, Pullman, WA 99164-1225, as rules coordinator for the Administrative Procedure Act, to appoint hearing officers as appropriate, and to conduct hearings on administrative rules proposed for review and adoption. This delegation of authority continues as long as you hold the position of director of procedures, records, and forms at Washington State University or until revoked by Elson S. Floyd, Ph.D.

I know that you will exercise good judgment in the performance of these responsibilities.

Elson S. Floyd, Ph.D.

WSR 15-09-088

NOTICE OF PUBLIC MEETINGS

FORENSIC INVESTIGATIONS COUNCIL

[Filed April 17, 2015, 10:21 a.m.]

Pursuant to RCW 42.30.075, the forensic investigations council meeting scheduled for Friday, April 24, 2015, at the Seattle Crime Laboratory in Seattle, Washington, is being cancelled.

WSR 15-09-095

INTERPRETIVE STATEMENT

DEPARTMENT OF REVENUE

[Filed April 20, 2015, 8:00 a.m.]

INTERPRETIVE STATEMENT ISSUED

The department of revenue has issued the following excise tax advisory (ETA):

ETA 3047.2015 - Retail Sales Taxes Imposed on Telecommunications Used to Provide Internet Access

This ETA primarily addresses Washington's taxation of telecommunications used to provide internet access under the Internet Tax Freedom Act (ITFA), 47 U.S.C. § 151. This ETA is being updated to reflect ITFA's new extension date ending October 1, 2015.

A copy of this document is available via the internet at Recent Rule and Interpretive Statements, Adoptions, and Repeals.

Kevin Dixon
Tax Policy Manager
ETAs and Special Projects

WSR 15-09-096
NOTICE OF PUBLIC MEETINGS
COLUMBIA BASIN COLLEGE
[Filed April 20, 2015, 9:32 a.m.]

The Columbia Basin board of trustees' is moving their May 11, 2015, meeting to May 18, 2015, at 4:00 p.m. in the CBC Beers Board Room.

If you have any questions, please contact Lupe Perez at (509) 542-4802.

WSR 15-09-103
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed April 20, 2015, 1:40 p.m.]

Under RCW 34.05.230, following are two policy and interpretive statements issued by the department of labor and industries regarding the insurance services division.

If you have any questions or need additional information, please call Maggie Leland at (360) 902-4504.

Title: Policy 3.12, Adjudication of New Asbestos Claims.

Date Issued: April 1, 2015.

Description: This policy applies when a new claim is filed for an asbestos-related disease. The order of the policy was rearranged and reworded for clarification. Information was added for guidance on what to do with cancer and death related claims.

Contact: Suzy Campbell, 7273 Linderson Way, Mailstop 4208, Tumwater, WA 98501, (360) 902-5003, suzanne.campbell@lni.wa.gov.

Title: Policy 15.70, Payment or Reimbursement for Burial Expenses.

Date Issued: March 10, 2015.

Description: This policy applies when death results from an accepted industrial injury or occupational disease and the state fund or self-insurance pension adjudicator receives a request for reimbursement for burial expenses. The policy gives guidance for what will and will not be reimbursed for burial expenses. The following changes were made in the March 10, 2015, revision:

- "Plot purchase and preparation" is changed under #2 (covered expenses) to read, "Plot purchase, opening and closing of burial site, tent and chairs for committal."
- "Memorial keepsakes such as jewelry, keepsake urns, tattoos, or body piercings" is added under #3 to clarify expenses that won't be covered.
- Family members are clarified under #2.
- "Furnishings" is added under #3 as an expense that will not be covered.

Contact: Nancy Lach, 7273 Linderson Way, Tumwater, WA 98501, (360) 902-4379, nancy.lach@lni.wa.gov.

Maggie Leland
Rules Coordinator
Senior Policy Advisor

WSR 15-09-104
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed April 20, 2015, 1:42 p.m.]

Under RCW 34.05.230, following are two policy and interpretive statements issued by the department of labor and industries regarding the prevailing wage program.

If you have any questions or need additional information, please call Maggie Leland at (360) 902-4504.

Title: 04062015A—Office Cubicles and Furniture.

Date Issued: April 6, 2015.

Description: This policy addresses prevailing wage requirements for the assembly, installation, disassembly and delivery of cubicles, furniture, modular furniture systems, partitions or a similar product.

Title: 04062015B—Prevailing Wage Requirements for Lock and Locksmith Work.

Date Issued: April 6, 2015.

Description: This policy addresses prevailing wage requirements for the installation or replacement of finish hardware such as locks, lock sets, door knobs, or door closers for state or municipal agencies.

Title: 04062015C—Prevailing Wage Requirements for Portable Toilets.

Date Issued: April 6, 2015.

Description: This policy addresses that prevailing wage requirements do not apply to portable toilets for community events and public works projects.

Contact: Sean Anderson, 7273 Linderson Way, Tumwater, WA 98501, (360) 902-5337, sean.anderson@lni.wa.gov.

Maggie Leland
Rules Coordinator
Senior Policy Advisor

WSR 15-09-107
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed April 20, 2015, 1:47 p.m.]

NOTICE OF PUBLIC HEARING
WAC 392-123-010
SCHOOL DISTRICT ACCOUNTING MANUAL

Public Hearing/Written Comments: A public hearing adopting changes relating to the 2014-2015 Accounting Manual for School Districts; and publication of the 2015-2016 School District Accounting Manual in accordance with WAC 392-123-010 will be held on May 28, 2015, 11:00 a.m., Office of Superintendent of Public Instruction, Policy Conference Room, 600 Washington Street, Olympia, WA 98504-7200.

Written comments may be submitted directly to Paul Stone, Office of Superintendent of Public Instruction, 600 Washington Street, Olympia, WA 98504-7200, on or before May 28, 2015, at Paul.Stone@k12.wa.us.

Randy Dorn
State Superintendent
of Public Instruction

WSR 15-09-111
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD ADMINISTRATION BOARD
[Filed April 21, 2015, 8:28 a.m.]

MEETING NOTICE: July 36 [16], 2015
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
1:00 p.m. to 5:00 p.m.

PUBLIC HEARING: July 16, 2015
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
2:00 p.m.

MEETING NOTICE: July 17, 2015
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
8:30 a.m. - noon

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact Karen Pendleton at (360) 753-5989.

WSR 15-09-127
NOTICE OF PUBLIC MEETINGS
BREE COLLABORATIVE
[Filed April 21, 2015, 2:35 p.m.]

The Bree Collaborative meeting location for the Dr. Robert Bree Collaborative previously scheduled for Wednesday, July 22 from 12:30-4:30 p.m. has been changed to Cambia Grove, 1800 9th Avenue, Suite 250, Seattle, WA 98101.

The following schedule of additional steering committee meetings is for the Dr. Robert Bree Collaborative for 2015.

Date	Time	Location
Tuesday, June 30	4:00 - 4:45 p.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Tuesday, August 25	10:00 - 10:45 a.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104
Tuesday, November 3	10:00 - 10:45 a.m.	The Foundation for Health Care Quality 705 Second Avenue Suite 410 Seattle, WA 98104

If you need further information contact Ginny Weir, Foundation for Health Care Quality, 705 Second Avenue, Suite 410, Seattle, WA 98104, phone (206) 204-7377, fax (206) 682-3739, e-mail GWeir@qualityhealth.org.

WSR 15-09-130
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY
(Coastal Marine Advisory Council)
[Filed April 21, 2015, 4:11 p.m.]

The Washington coastal marine advisory council regular meetings schedule is updated below. Please note the council will be meeting at a different location on June 24, 2015, than previously published.

Date	Time	Location
June 24, 2015	9:30 a.m. to 3:30 p.m.	Montesano High School Library 303 North Church Montesano, WA 98563
September 23, 2015	9:30 a.m. to 3:30 p.m.	Port of Grays Harbor Commission Chambers Room 111 South Wooding Street Aberdeen, WA 98520

If you need further information contact Jennifer Hennessey, P.O. Box 47600, Olympia, WA 98504-6700 [98504-7600], (360) 407-6595, jennifer.hennessey@ecy.wa.gov.