

Licensed Paralegal Practitioner Committee

AGENDA

June 21, 2022
4:00 p.m.–5:00 p.m.
Via Zoom

Action —Approval of draft meeting minutes May 17, 2022	Tab 1	Judge Amber Mettler
Discussion —Update from the LPPs on current casework and projects		Tonya Wright, Meredith Farrell, Leslie Staples, Susan Morandy
Discussion —Update from LPP Innovation Subcommittee <ul style="list-style-type: none">• Discuss proposed amendments to Rule 14-802, 15-701, and 15-703	Tab 2	Scotti Hill, Jackie Morrison, Carolynn Clark, Tonya Wright, AJ Torres, Steve Johnson
Discussion —Update from the Bar		Scotti Hill, Matthew Page
Discussion —Update on rural outreach		Steve Johnson
Discussion —Update on outreach efforts		Julie Emery, Monte Sleight
Discussion —Old business/new business		

[Committee Webpage](#)

2022 Meeting Schedule:

July 19, 2022 October 18, 2022
August 16, 2022 November 15, 2022
September 20, 2022 December 20, 2022

Tab 1

Licensed Paralegal Practitioner Committee

Meeting Minutes
May 17, 2022
Zoom Meeting
4:00 p.m. – 5:00 p.m.

Judge Mettler, presiding

Attendees:

Judge Amber Mettler, Chair
Susan Morandy, LPP,
Recording Secretary
Tonya Wright, LPP
Matthew Page
Steve Johnson
Monte Sleight

Staff: Scotti Hill, Utah State Bar
A.J. Torres, Utah State Bar

Chairperson Judge Amber Mettler called the meeting to order at 4:09 p.m.

1. Action—Welcome and approval of the draft meeting minutes: (Judge Mettler)

Judge Mettler welcomed everyone to the meeting and asked for approval of the minutes.

One correction was made to the draft minutes. Steve Johnson moved to approve the April 17, 2022, minutes with the change. Tonya Wright seconded the motion, and it passed unanimously.

Scotti Hill asked if she could continue to attend the meetings as an advisor. All committee members in attendance agreed.

1. LPPs on current casework and projects.

Susan Morandy advised that due to changes in her office she is not going to be able to take on many cases and is reducing her current case load. She is getting calls and referring to other LPPS.

Tonya Wright advised that she continues to get calls and has taken more debtor cases.

1. Discussion—Update from LPP Innovation Subcommittee. (*Judge Mettler*)

Judge Mettler advised that the I4J people have been informed that the LPP Committee is not the right home as currently imagined and that they need to present to the Supreme Court. Judge Mettler, Scotti Hill, and A.J. Tores will give the Supreme Court a rundown and see if they can get further direction from the Supreme Court.

Steve Johnson asked if there were any updates on the rule modification issues Scotti raised last month including expungements. Nothing further had been discussed since then. Steve Johnson advised that he will work with A.J., Scotti, Matthew Page and Monte Sleight and see if they could come up with some proposed language.

1. Discussion—Update from Bar. (*Matthew Page*)

Matthew Page advised that the Licensed Lawyer page usually averages 150-180 views for lawyers, but the LPP page averages 320-360 views. Steve Johnson asked if Elizabeth will give an update on this at the Bar Convention. Matthew will check and see.

Five LPPs were sworn in today. There are now a total of 23 LPPs that have been sworn in to date. Steve Johnson stated he would like to have known that in advance in order to attend the ceremony and support the new LPPs. Scotti advised that this year's ceremony was remote, but if future ceremonies are in person, then the Bar will send notification of the ceremony.

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

Nothing until fall.

1. Discussion—Update on outreach efforts: (*Monte Sleight*)

Monte advised that there was a small group working through the courses and that there are 11 enrolled in the ethics course, and that he was still working on potential changes to the exam format.

1. Discussion - Other Business:

Extensive discussion on LPPs relationship with forms. The committee discussed various possibilities of revising forms, or possibly having separate forms just for LPPs, possibly removing the requirement that LPPS have to use court approved forms or changing the rules to state that the documents the LPPs use have to have substantially the same language as the court forms. Discussion on not being too hesitant to remove the requirement

altogether and expanding 14-802. Steve Johnson advised that he will work with A.J. on some proposals to present at next month's meeting.

Tonya Wright advised that she will send the rest of the committee a sample Notice of Conditions form for discussion.

1. Adjournment and next meeting:

The meeting adjourned at 4:38 p.m. The next meeting will be held on June 21, 2022, at 4:00 p.m. - 5:00 p.m. via Zoom.

Tab 2

Rule 14-802. Authorization to practice law.

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

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

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

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

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

(B) decisions, orders, and deliberations of adjudicative, legislative, and executive bodies of government that have authority to interpret, prescribe, and determine a person's rights, duties, constraints, and freedoms.

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

(c) **Licensed Paralegal Practitioners.** A person may be licensed to engage in the limited practice of law in the area or areas of (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, name or gender change, and petitions to recognize a relationship as a marriage; (2) ~~forcible entry and detainer; and landlord-tenant matters;~~ (3) expungements, and (4) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

(1) Within a practice area or areas in which a Licensed Paralegal Practitioner is licensed, a Licensed Paralegal Practitioner who is in good standing may represent the interests of a natural person who is not represented by a lawyer unaffiliated with the Licensed Paralegal Practitioner by:

(A) establishing a contractual relationship with the client;

(B) interviewing the client to understand the client's objectives and obtaining facts relevant to achieving that objective;

(C) completing forms approved by the Judicial Council and drafting forms similar to and containing essentially the same information as forms approved by the Judicial Council;

(D) informing, counseling, advising, and assisting in determining which form to use and giving advice on how to complete the form;

(E) signing, filing, and completing service of the form;

- (F) obtaining, explaining, preparing, and filing any document needed to support the form;
 - (G) reviewing documents of another party and explaining them;
 - (H) informing, counseling, assisting and advocating for a client in mediated negotiations;
 - (I) filling in, signing, filing, and completing service of a written settlement agreement form in conformity with the negotiated agreement;
 - (J) communicating with another party or the party's representative regarding the relevant form and matters reasonably related thereto; and
 - (K) explaining a court order that affects the client's rights and obligations.
 - (L) standing or sitting with the client during a proceeding to provide emotional support, answering factual questions as needed that are addressed to the client by the court or opposing counsel, taking notes, and assisting the client to understand the proceeding and relevant orders.
- (d) **Exceptions and Exclusions.** Whether or not it constitutes the practice of law, the following activity by a nonlawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:
- (1) Making legal forms available to the general public, whether by sale or otherwise, or publishing legal self-help information by print or electronic media.
 - (2) Providing general legal information, opinions, or recommendations about possible legal rights, remedies, defenses, procedures, options, or strategies, but not specific advice related to another person's facts or circumstances.
 - (3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in Utah when no fee is charged to do so.
 - (4) When expressly permitted by the court after having found it clearly to be in the best interests of the child or ward, assisting one's minor child or ward in a juvenile court proceeding.
 - (5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.
 - (6) Representing without compensation a natural person or representing a legal entity as an employee representative of that entity in an arbitration proceeding, where the amount in controversy does not exceed the jurisdictional limit of the small claims court set by the Utah Legislature.
 - (7) Representing a party in any mediation proceeding.
 - (8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.
 - (9) Serving in a neutral capacity as a mediator, arbitrator, or conciliator.

- (10) Participating in labor negotiations, arbitrations, or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.
- (11) Lobbying governmental bodies as an agent or representative of others.
- (12) Advising or preparing documents for others in the following described circumstances and by the following described persons:
- (A) A real estate agent or broker licensed in Utah may complete state-approved forms including sales and associated contracts directly related to the sale of real estate and personal property for their customers.
- (B) An abstractor or title insurance agent licensed in Utah may issue real estate title opinions and title reports and prepare deeds for customers.
- (C) Financial institutions and securities brokers and dealers licensed in Utah may inform customers with respect to their options for titles of securities, bank accounts, annuities, and other investments.
- (D) Insurance companies and agents licensed in Utah may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, the naming of beneficiaries, and the adjustment of claims under the company's insurance coverage outside of litigation.
- (E) Health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.
- (F) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.
- (13) Representing an Indian tribe that has formally intervened in a proceeding subject to the Indian Child Welfare Act of 1978, 25 U.S.C. sections 1901–63. Before a nonlawyer may represent a tribe, the tribe must designate the nonlawyer representative by filing a written authorization. If the tribe changes its designated representative or if the representative withdraws, the tribe must file a written substitution of representation or withdrawal.
- (14) Providing legal services under Utah Supreme Court Standing Order No. 15.

Advisory Committee Comment:

Paragraph (a).

“Active” in this paragraph refers to the formal status of a lawyer, as determined by the Bar. Among other things, an active lawyer must comply with the Bar's requirements for continuing legal education.

Paragraph (b).

The practice of law defined in paragraph (b)(1) includes: giving advice or counsel to another person as to that person's legal rights or responsibilities with respect to that person's facts and circumstances; selecting, drafting, or completing legal documents that affect the legal rights or responsibilities of another person; representing another person before an adjudicative, legislative, or executive body, including preparing or filing documents and conducting discovery; and negotiating legal rights or responsibilities on behalf of another person.

Because representing oneself does not involve another person, it is not technically the "practice of law." Thus, any natural person may represent oneself as an individual in any legal context. To the same effect is Article 1, Rule 14-111 Integration and Management: "Nothing in this article shall prohibit a person who is unlicensed as an attorney at law or a foreign legal consultant from personally representing that person's own interests in a cause to which the person is a party in his or her own right and not as assignee."

Similarly, an employee of a business entity is not engaged in "the representation of the interest of another person" when activities involving the law are a part of the employee's duties solely in connection with the internal business operations of the entity and do not involve providing legal advice to another person. Further, a person acting in an official capacity as an employee of a government agency that has administrative authority to determine the rights of persons under the law is also not representing the interests of another person.

As defined in paragraph (b)(2), "the law" is a comprehensive term that includes not only the black-letter law set forth in constitutions, treaties, statutes, ordinances, administrative and court rules and regulations, and similar enactments of governmental authorities, but the entire fabric of its development, enforcement, application, and interpretation.

Laws duly enacted by the electorate by initiative and referendum under constitutional authority are included under paragraph (b)(2)(A).

Paragraph (b)(2)(B) is intended to incorporate the breadth of decisional law, as well as the background, such as committee hearings, floor discussions, and other legislative history, that often accompanies the written law of legislatures and other law- and rule-making bodies. Reference to adjudicative bodies in this paragraph includes courts and similar tribunals, arbitrators, administrative agencies, and other bodies that render judgments or opinions involving a person's interests.

Paragraph (c).

The exceptions for Licensed Paralegal Practitioners arise from the November 18, 2015 Report and Recommendation of the Utah Supreme Court Task Force to Examine Limited Legal Licensing. The Task Force was created to make recommendations to address the large number of litigants who are unrepresented or forgo access to the Utah judicial system because of the high cost of retaining a lawyer. The Task Force recommended that the Utah Supreme Court exercise its constitutional authority to govern the practice of law to create a subset of discreet legal services in the practice areas of: (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support; (2) unlawful detainer and forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the

statutory limit for small claims cases. The Task Force determined that these three practice areas have the highest number of unrepresented litigants in need of low-cost legal assistance. Based on the Task Force's recommendations, the Utah Supreme Court authorized Licensed Paralegal Practitioners to provide limited legal services as prescribed in this rule and in accordance with the Supreme Court Rules of Professional Practice.

Paragraph (c)(1)(E).

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

Paragraph (d).

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

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

Paragraph (d)(7) applies only to the procedures directly related to parties' involvement before a neutral third-party mediator; it does not extend to any related judicial proceedings unless otherwise provided for under this rule (e.g., under paragraph (d)(5)).

Rule 15-701. Definitions.

As used in this article:

- (a) “**ABA**” means the American Bar Association.
- (b) “**Accredited Program**” means a course of instruction in paralegal studies from a program officially recognized as meeting the standards and requirements of a regional or national accrediting organization that is approved by the U.S. Department of Education, or a paralegal school or paralegal studies program that has been fully or provisionally approved by the ABA Standing Committee on Paralegals.
- (c) “**Accredited School**” means a school officially recognized as meeting the standards and requirements of a regional or national accrediting organization that is approved by the U.S. Department of Education.
- (d) “**Applicant**” means each person requesting licensure as a Licensed Paralegal Practitioner.
- (e) “**Approved Law School**” means a law school which is fully or provisionally approved by the ABA pursuant to its Standards and Rules of Procedure for Approval of Law Schools. To qualify as approved, the law school must have been fully or provisionally approved at the time of the Applicant’s graduation, or at the time of the Applicant’s enrollment, provided the Applicant graduated within a typical and reasonable time.
- (f) “**Associate Degree**” means an undergraduate academic degree conferred by a college upon completion of the curriculum required for an associate degree.
- (g) “**Bachelor’s Degree**” means an academic degree conferred by a college or university upon completion of the undergraduate curriculum.
- (h) “**Bar**” means the Utah State Bar, including its employees, committees and the Board.
- (i) “**Board**” means the Board of Bar Commissioners.
- (j) “**Complete Application**” means an application that includes all fees and necessary application forms, along with any required supporting documentation, character references, a criminal background check, a photo, an official certificate of graduation and if applicable, a test accommodation request with supporting medical documentation.
- (k) “**Confidential Information**” is defined in Rule 15-720(a).
- (l) “**Disbarred Lawyer**” means an individual who was once a licensed lawyer and is no longer permitted to practice law.
- (m) “**Executive Director**” means the executive director of the Utah State Bar or designee.
- (n) “**First Professional Degree**” means a degree that prepares the holder for admission to the practice of law (e.g. juris doctorate) by emphasizing competency skills along with theory and analysis. An advanced, focused, or honorary degree in law is not recognized as a First Professional Degree (e.g. master of laws or doctor of laws).

(o) “**Full-time**” means providing legal services as a paralegal for no fewer than 80 hours per month.

(p) “**General Counsel**” means the General Counsel of the Utah State Bar or designee.

(q) “**Licensed Paralegal Practitioner**” means a person licensed by the Utah Supreme Court to provide limited legal representation in the practice areas of (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, name or gender change, and petitions to recognize a relationship as a marriage, (2) forcible entry and detainer and unlawful detainer; or (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

(r) “**LPP**” means Licensed Paralegal Practitioner.

(s) “**LPP Administrator**” means the Bar employee in charge of LPP licensure or designee.

(t) “**LPP Admissions Committee**” means those Utah State Bar members or others appointed by the Board or president of the Bar who are charged with recommending standards and procedures for licensure of LPPs, with implementation of this article, reviewing requests for test accommodations, and assessing the qualifications of applicants.

(u) “**NALA**” means the National Association of Legal Assistants.

(v) “**NALS**” means The Association for Legal Professionals.

(w) “**NFPA**” means the National Federation of Paralegal Associations.

(x) “**National Certification**” means Certified Paralegal (CP or CLA) credential from the National Association of Legal Assistants (NALA); the Professional Paralegal (PP) credential from the National Association of Legal Professionals (NALS); or the Registered Paralegal (RP) credential from the National Federation of Paralegal Associations (NFPA).

(y) “**OPC**” means the Office of Professional Conduct.

(z) “**Paralegal**” means a person qualified through education, training, or work experience, who is employed or retained by a lawyer, law office, governmental agency, or the entity in the capacity or function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically delegated substantive legal work, which work, for the most part, requires a sufficient knowledge of legal concepts that absent such assistance, the attorney would perform.

(aa) “**Paralegal Certificate**” means verification that an individual has successfully completed a paralegal studies program from an Accredited Program that includes at least 15 credit hours of paralegal studies. The certificate must be offered, taught, and granted by an Accredited Program.

~~(bb) “**Paralegal Studies**” and “**Paralegal Studies Degree**” mean course work that prepares a holder to work as a paralegal.~~

(~~eebb~~) **“Privileged Information”** in this article includes: information subject to the attorney-client privilege, attorney work product, test materials and applications of examinees; correspondence and written decisions of the Board and LPP Admissions Committee, and the identity of individuals participating in the drafting, reviewing, grading and scoring of the LPP Licensure Examination.

(~~ddcc~~) **“Reapplication for Licensure”** means that for two years after the filing of an original application, an Applicant may reapply by completing a Reapplication for Licensure form updating any information that has changed since the prior application was filed and submitting a new criminal background check.

(~~eedd~~) **“Specialized Course of Instruction”** means a course that has been approved by the Board to provide instruction in professional ethics or the subject areas for which LPP’s are licensed.

(~~ffee~~) **“Substantive Law-Related Experience”** means the provision of legal services as a Paralegal, paralegal student or law student including, but not limited to, drafting pleadings, legal documents, or correspondence, completing forms, preparing reports or charts, legal research, and interviewing clients or witnesses. Substantive Law-Related Experience does not include routine clerical or administrative duties. Substantive Law-Related Experience for licensure in landlord-tenant and debt collection includes, but is not limited to, legal services provided in the areas of bankruptcy, real estate, mortgage and/or banking law.

(~~egff~~) **“Substantive Legal Course”** means a course offered for academic credit by an Approved Law School, an Accredited School, or an Accredited Program. Any course by an Approved Law School is a Substantive Legal Course. Any non-general education course required as part of a Paralegal Studies Degree or Certificate by an Approved School of an Approved Program, including required electives, is a Substantive Legal Course.

(~~hhgg~~) **“Supreme Court”** means the Utah Supreme Court.

(~~hh~~) **“Unapproved Law School”** means a law school that is not fully or provisionally approved by the ABA.

(~~jjii~~) **“Updated Application”** means that an Applicant is required to amend and update the Applicant’s application on an ongoing basis and correct any information that has changed since the application was filed.

Rule 15-703. Qualifications for Licensure as a Licensed Paralegal Practitioner.

(a) Requirements of Licensed Paralegal Practitioner Applicants. The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(1) has paid the prescribed application fees;

(2) is at least 21 years old;

(3) has:

(A) graduated with a First Professional Degree in law from an Approved Law School; or

(B) graduated with an Associate's Degree ~~in paralegal studies~~ from an Accredited School or Accredited Program; or

(C) graduated with a Bachelor's Degree ~~in paralegal studies~~ from an Accredited School or Accredited Program; or

(D) graduated with a Master's Degree in legal studies or equivalent that is offered through an Approved Law School; or

(E) obtained either the Certified Paralegal (CP or CLA) credential from the National Association of Legal Assistants (NALA); the Professional Paralegal (PP) credential from the National Association of Legal Professionals (NALS); or the Registered Paralegal (RP) credential from the National Federation of Paralegal Associations (NFPA).

(4) is of good moral character and satisfies the requirements of Rule 15-708; and

(5) has a proven record of ethical, civil, and professional behavior.

(b) **Specialized Course of Instruction requirement.** If the Applicant has not graduated with a First Professional Degree in law from an approved law school, the Applicant must take a Specialized Course of Instruction, as defined in Rule 15-701, in:

(1) professional ethics for Licensed Paralegal Practitioners; and

(2) each subject for which the Applicant seeks to be licensed.

(c) **Substantive Law-Related Experience requirement.** An Applicant must have 1500 hours of Substantive Law-Related Experience, as defined in Rule 15-701, within the last 3 years, including 500 hours of Substantive Law-Related Experience in temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, and name or gender change, and petitions to recognize a relationship as a marriage if the Applicant is to be licensed in that area, or 100 hours of Substantive Law-Related Experience in forcible entry and detainer or debt collection if the Applicant is to be licensed in those areas. Except as provided in paragraph (d), the Substantive Law-Related Experience must have been supervised by a lawyer licensed in any state or a Utah Licensed Paralegal Practitioner.

(d) **Substantive Law-Related Experience in a school or program.** An Applicant may submit a transcript from an Approved Law School, an Accredited School, or an Accredited Program and

receive a maximum of 750 credit hours toward the Substantive Law-Related Experience requirements under the following conditions:

- (1) Courses must have been completed within the five years prior to applying for licensure as a Licensed Paralegal Practitioner.
- (2) The transcript must specifically note the Substantive Legal Course, as that term is defined in Rule 15-701, for which the Applicant requests credit under this paragraph.
- (3) The transcript or other documentation must note whether the credits are semester-based or quarter-based.
- (4) For credit to apply to a specific practice area, the Applicant must specifically request that a course apply and also demonstrate that the course covers the specific area of practice.
- (5) Upon request, the Applicant must provide the course description, syllabus, or other course materials.
- (6) To receive Substantive Law-Related Experience credit, a course must meet the definition of Substantive Legal Course under Rule 15-701, as determined by the LPP Admissions Committee.

(e) **Credit for Substantive Legal Courses.** Substantive Law-Related Experience credit for a Substantive Legal Course will be given as follows:

- (A) If the course is offered at an institution that works on the common semester model, the Applicant will receive 30 Substantive Law-Related Experience hours for each credit hour of the course.
- (B) If the course is offered at an institution that works on the common quarter model, Applicants will receive 20 Substantive Law-Related Experience hours for each credit hour of the course.
- (C) If the course is offered using any other formula, the Applicant must submit documentation of the actual hours of classroom instruction along with the hours of out-of-classroom work expected by the program or school. The committee will determine how many Substantive Law-Related Experience hours to grant the Applicant based on a rough equivalence to the semester or quarter models.

(f) **Examination requirement.** An Applicant must successfully pass:

- (1) the Licensed Paralegal Practitioner Ethics Examination; and
- (2) the Licensed Paralegal Practitioner Examination(s) for the practice area(s) in which the Applicant seeks licensure.

(g) **Licensure and fee requirements.** Upon successfully completing the application and examination requirements, an Applicant must comply with the provisions of Rule 15-716 concerning licensing and enrollment fees before the Applicant will be licensed.

(h) **Disqualification.** An individual who has been disbarred or suspended in any jurisdiction may not apply for licensure as a Paralegal Practitioner.