

AGENDA
Licensed Paralegal Practitioner Steering Committee
 May 22, 2018
 12:00 p.m. – 2:00 p.m.
 Scott M. Matheson Courthouse
 Executive Dining Room, Room W18A
 450 S. State St.
 Salt Lake City, UT. 84111

Welcome ACTION – Approval of draft January 17, 2018 meeting minutes	Tab 1	Justice Himonas
DISCUSSION – Update on publication of Rules and review of comments	Tab 2	Cathy Dupont
DISCUSSION - Update from Education Committee: test development and vendor selection; and coordination with Utah Valley University		Jacqueline Esty Morrison, John Baldwin, and Julie Emery
Forms Committee Update		Cathy Dupont
Update on Presentation at Spring Bar Conference		Judge Kate Toomey and Rob Rice
Update on LPP Survey Data sharing with the Utah State Bar and development of communication options		Julie Emery
Update on Bar Review Article	Tab 3	Cathy Dupont
Other Business		

Members

Justice Deno Himonas, Chair	John Baldwin
Carrie Boren	Adam Caldwell
Dr. Thomas Clarke	Terry Conway
Sue Crismon	Dean Benson Dastrup
James Deans	Julie Emery
Judge Royal Hansen	Dixie Jackson
Jim Jardine	Scott Jensen
Steven Johnson	Commissioner Kim Luhn
Ellen Maycock	Jacqueline Morrison
Daniel O’Bannon	Rob Rice
Monte Sleight	Judge Kate Toomey
Senator Stephen Urquhart	Elizabeth Wright
Cathy Dupont – Staff	Jeni Wood – Recording secretary

Meetings scheduled

June 21, 2018 (Conflicts with PJ/TCE Conference)
 August 16, 2018

Tab 1

**PARALEGAL PRACTITIONER
STEERING COMMITTEE
MEETING**

**Minutes
January 17, 2018
Executive Dining Room
Matheson Courthouse
450 S. State St.
Salt Lake City, Utah 84111
12:00 p.m. – 2:00 p.m.**

Justice Deno Himonas, Presiding

Attendees:

Justice Deno Himonas, Chair
John Baldwin
Sue Crismon
James Deans
Julie Emery
Dixie Jackson
Comm. Kim Luhn
Jacqueline Morrison
Daniel O'Bannon
Rob Rice
Monte Sleight
Judge Kate Toomey
Senator Stephen Urquhart
Elizabeth Wright

Staff:

Cathy Dupont
Jeni Wood – Recording secretary

Excused:

Adam Caldwell
Dr. Thomas Clarke
Terry Conaway
Dean Benson Dastrup
Judge Royal Hansen
Jim Jardine
Scott Jensen
Steven Johnson
Ellen Maycock

- 1. WELCOME AND APPROVAL OF MINUTES: (Justice Deno Himonas)**
Justice Deno Himonas welcomed everyone to the meeting.

Motion: Judge Kate Toomey moved to approve the November 29, 2017 committee minutes. Dixie Jackson seconded the motion, and it passed unanimously.

- 2. APPROVAL OF PROPOSED LPP APPLICATION AND LICENSING FEES:
(Elizabeth Wright)**

Elizabeth Wright noted the admission rules are complete. The rules of integration and management are out for comment until February 22. Ms. Wright stated as of today there have been no comments received.

Ms. Wright explained the proposed application and licensing fees and the letter that will be sent to the Utah State Bar (Bar) requesting funding. The licensing fees are the same as for attorneys under three years. The application fees have not been discussed. Ms. Wright explained that once the Bar approves the funding, the request will be sent to the Bar Commission. Rob Rice said the Bar Commission has seen feedback regarding high fee amounts.

John Baldwin, as a member of the Bar Commission, said the Commission has general numbers but nothing set in stone. Ms. Wright stated they do not know yet what the cost will be to add LPP's to the Bar's licensing database. Justice Himonas asked Mr. Baldwin to bring to the next meeting more accurate numbers, including what the application fee will be. Justice Himonas recommended the letter that is being sent to the Bar this week include a statement that they will be notified of more accurate numbers at a later time. Mr. Rice said the first opportunity to address this with the Judicial Council is at their March 9 meeting in St. George. Judge Toomey and Cathy Dupont agreed to attend the Bar Commission on March 8 in St. George to discuss requests for funding.

3. LETTER TO THE BAR REQUESTING THE BAR TO FUND THE LPP LICENSING AND REGULATORY EXPENSE IN THE BAR BUDGET: (Elizabeth Wright)

Justice Himonas noted Ms. Dupont will prepare the letter to the Bar emphasizing entry fees. Justice Himonas discussed this with Brent Johnson, General Counsel, who approved the proposal. Mr. Rice will assist with preparing the letter.

Cathy Dupont addressed the LPP Survey that was sent to the Committee last week. Justice Himonas requested Elizabeth Wright, Cathy Dupont, Julie Emery and Sue Crimson to review the survey.

4. FUNDING OF VENDOR TO PREPARE TEST QUESTIONS: (Judge Kate Toomey and Monte Sleight)

This was not addressed.

5. REVIEW PROPOSED ACTION PLAN FOR THE COMMITTEE AND ASSIGNMENT OF WORK TO SUBCOMMITTEES: (Justice Deno Himonas and Cathy Dupont)

Justice Himonas next addressed Ms. Dupont's proposed action plan.

**6. SUBCOMMITTEE UPDATES:
Admissions and Administration Subcommittee:**

Nothing was reported.

Education Subcommittee:

Jacqueline Morrison said they met with Mike Walker at Utah Valley University (University), which has some funding available to develop the program. The University is looking for subject matter experts in the substantive areas. Julie Emery said they have subject matter experts to help with the exam. Julie is assisting with the exams. Monte Sleight has provided some names of people that can assist. Mr. Sleight said this will have to go through the RFP process for course development. Ms. Morrison said they are hoping to complete the rules later this year. It was noted there are possible changes to rule 15-703. Ms. Wright will review the proposed changes once she receives it and report back at the next meeting. Ms. Wright does not believe the changes would require the rule to go out for public comment.

Ms. Dupont attended the Forms Committee where she learned the Judicial Council has approved several forms. Sue Crimson said the family law forms are new, such as guardianship

and name change. Judge Toomey said the Forms Committee has a considerable amount of forms to review and prioritize. Justice Himonas stated his interns are researching rules to see which ones should be amended for the LPP's.

Ethics and Discipline Subcommittee:

Judge Kate Toomey completed training and test questions. The subcommittee is now on hold.

Executive Subcommittee:

Justice Himonas discussed the information from the executive committee in sections 2 and 3 of these minutes.

MLCE Subcommittee:

Nothing was reported.

Testing Subcommittee:

Mr. Sleight noted the school is trying to coordinate the course completion with the timing of the testing. Mr. Sleight said the ethics will be ready first then hopefully family law second.

7. FORMS COMMITTEE UPDATE: (Cathy Dupont)

Ms. Dupont said she attended the Forms Committee meeting. Ms. Dupont said there were several forms that the Judicial Council has approved. Ms. Dupont presented the Committee with a list of forms. Judge Toomey stated the forms are on the Judicial Council's consent calendar.

8. OTHER BUSINESS

Justice Himonas recommended the Committee schedule the following 2018 meetings: April 19; June 21; August 16; October 18; and December 20. All of the meetings will begin at noon.

9. ADJOURN

The meeting was adjourned.

Tab 2

Licensed Paralegal Practitioners Rules of Professional Conduct and Rules Governing Licensed Paralegal Practitioner – Comment Period Closes May 21, 2018

LPP1.03 Diligence. The proposed rule applies to Licensed Paralegal Practitioners and is part of the new chapter for Licensed Paralegal Practitioners’ Rules of Professional Conduct which was published for comment on August 31, 2017.

RGLPP15-0908 Conflict of Interest. The proposed rule applies to Licensed Paralegal Practitioners and is part of the new chapter for Licensed Paralegal Practitioners’ Fund for Client Protection which was published for comment on August 31, 2017.

No comments received as of May 14, 2018

Rules Governing the State Bar and Rules Governing Licensed Paralegal Practitioner – Comment Period Closes May 20, 2018

The proposed rules apply to Licensed Paralegal Practitioners. Rule 14-403 amends the membership of the MCLE Board to permit up to 2 Licensed Paralegal Practitioners to serve on the MCLE Board. Rules 15-401 through 15-417 create continuing education requirements for Licensed Paralegal Practitioners that are similar to the MCLE Rules for attorneys. The rules require 12 hours of continuing education every two years which must include three hours of ethics and professionalism. The licensed paralegal practitioner is required to use the same certification process used by attorneys at the end of the two-year cycle to certify they have attended the appropriate CLE courses.

[USB14-0403](#)

[RGLPP15-0401](#)

[RGLPP15-0402](#)

[RGLPP15-0403](#)

[RGLPP15-0404](#)

[RGLPP15-0405](#)

[RGLPP15-0406](#)

[RGLPP15-0407](#)

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[RGLPP15-0411](#)

[RGLPP15-0412](#)

[RGLPP15-0413](#)

[RGLPP15-0414](#)

[RGLPP15-0415](#)

[RGLPP15-0416](#)

[RGLPP15-0417](#)

One thought on “Rules Governing the State Bar and Rules Governing Licensed Paralegal Practitioner – Comment Period Closes May 20, 2018”

1. **Thomas Vaughn**
[April 24, 2018 at 6:24 pm Edit](#)

The revised version of Utah Code of Judicial Administration 11-101, effective May 1, 2018, provides, at the end of Subsection (4) that “No lawyer may serve more than two consecutive terms on the committee unless appointed by the Supreme Court as the committee chair or as an institutional or court representative (e.g. an academician, judge, recording secretary, etc.) or when justified by exceptional circumstances.” I suggest that similar language be added to Rule USB14-403 for the MCLE Board.

Tab 3

Licensed Paralegal Practitioners

by Catherine J. Dupont

I had an interesting cab ride from the St. George Airport to the Utah State Bar's Spring Convention. When Carol, the cabbie, heard that I work for the state courts she told me about her recent experience with a legal issue and shared her opinion that there is no justice in the legal system. She won her case, but she found the experience overwhelming and expensive. Carol is not alone. Utah's 2017 court records reveal that in family law cases 69% of respondents and 56% of petitioners were self-represented. In eviction cases and debt collection cases the numbers are even worse – more than 95% and 98% of respondents, respectively, were self-represented.

The alarming number of people navigating the legal system without representation contributes to the perception that the legal system is stacked against a person who cannot afford an attorney. The Utah Supreme Court and the Utah State Bar are dedicated to addressing barriers to legal representation through innovative projects designed to improve access to the courts. One of those projects is the creation of a new profession: Licensed Paralegal Practitioner (LPP). This spring, Utah's Supreme Court approved final rules to create and regulate LPPs as part of the practice of law, making Utah the second state in the nation to establish a license to practice law outside of a traditional law degree in designated practice areas and within a limited scope of service.

How Did the Utah Supreme Court and the Utah State Bar Develop the LPP Program?

The idea to create a market-based solution for the unmet needs of litigants started with a task force created by the Utah Supreme Court in May 2015. The recommendations of that task force were then assigned to the LPP Steering Committee, which has met frequently over the past year. The LPP Steering Committee's composition is broad, including judges from the trial and appellate courts, practitioners in each of the substantive law areas in which an LPP may practice, paralegals, representatives of colleges and universities with legal studies programs, the Dean of the University of Utah law school and a representative from BYU's law school, a former state senator, a consumer protection representative, Utah State Bar staff, and several public members. The LPP Steering Committee created working groups to develop education criteria, licensing requirements,

and rules of professional conduct. The working groups also met frequently over the last year and involved various stakeholders who could help with each group's specific task. The LPP Steering Committee's work has been deliberative and subject to approval by the Utah Supreme Court and the Judicial Council.

What is the LPP Limited Scope of Service?

Rule 14-802 of the Rules Governing the Utah State Bar creates an exception to the authorization to practice law for an LPP. The exception permits an LPP to assist a client only in the practice areas for which the LPP is licensed. The rule limits an LPP's possible practice areas to:

- Specific family law matters, such as temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, or name change;
- Forcible entry and detainer; and
- Debt collection matters in which the dollar amount at issue does not exceed the statutory limit for small claims cases.

Rule 14-802 also enumerates permissible actions for LPPs within the practice areas. Under this rule, an LPP may:

- Enter into a contractual relationship with a natural person (LPPs cannot represent corporations);
- Interview a client to determine the client's needs and goals;
- Assist a client with completing approved forms and obtaining documents to support those forms;

CATHERINE J. DUPONT is the Appellate Courts Administrator and staff to the Utah Supreme Court's LPP Steering Committee.



- Review documents of another party and explain those documents to a client;
- Inform, counsel, assist, and advocate for a client in a mediated negotiation;
- Complete a settlement agreement, sign the form, and serve the written settlement agreement;
- Communicate with another party or the party's representative regarding the relevant forms and matters; and
- Explain to a client the court's order and how it affects the client's rights and obligations.

It is important to note that an LPP may not appear in court and may not charge contingency fees. They may, however, own their own firms, own a non-controlling equity interest in a firm with attorneys, and use the courts' e-filing systems. There will be no pro hac vice admissions and no reciprocal licensing, at least for the time being. They will be required to have trust accounts and will have the obligation to provide pro bono services.

What is the Required Training for an LPP?

Rules Governing Licensed Paralegal Practitioner (RGLPP) 15-703 establishes the education and training requirements for an LPP. An LPP applicant must have one of the following degrees:

- A degree in law from an accredited law school;
- An Associate degree in paralegal studies from an accredited school;
- A Bachelor's degree in paralegal studies from an accredited school; or
- A paralegal certificate – or fifteen hours of paralegal studies from an accredited school – in addition to a Bachelor's degree in any subject from an accredited school.

In addition to those degree requirements, an applicant is required to:

- Complete 1,500 hours of substantive law-related experience within the three years prior to the application. These hours must include:

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Attorney Keith M. Woodwell Joins Clyde Snow



Clyde Snow is pleased to welcome Keith M. Woodwell to its Salt Lake City office. Prior to joining Clyde Snow, Mr. Woodwell served as the Director for the Utah Division of Securities for 10 years. During his tenure at the Division, Mr. Woodwell oversaw and litigated hundreds of complex enforcement investigations. The experience and perspective he gained at the Division will complement Clyde Snow's Securities and Regulatory Enforcement, and Government Investigations and White Collar Defense practice groups. Mr. Woodwell will focus his practice on securities enforcement, regulatory defense, government and independent investigations, and white collar defense.

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- 500 hours of substantive law-related experience in family law if the applicant want to practice in that area; or
- 100 hours of substantive law-related experience in debt collection or forcible entry and detainer if the applicant wants to be licensed in those areas;
- Pass a professional ethics examination; and
- Pass a Licensed Paralegal Practitioner Examination for each practice area for which the applicant seeks to practice.

However, there is also a provision (RGLPP 15-705) allowing the bar to waive some of the minimum education requirements for the limited time of three years from the date the bar initially begins to accept LPP licensure applications. These waivers may be granted if an applicant demonstrates that he or she has completed seven years of full-time substantive law-related experience as a paralegal within the previous ten years.

Who Will Administer This New Profession?

LPPs will be officers of the court and practice law. Pursuant to authority delegated from the Utah Supreme Court, the Utah State Bar will administer all aspects of the new profession, including admissions, license renewal, and monitoring compliance with

continuing legal education requirements. Bar assistance programs, such as fee arbitration and Lawyers Helping Lawyers, will be available to LPPs. At its most recent Board of Bar Commissioners meeting, the Utah State Bar formally agreed to include in its budget the cost of administering the LPP program.

Are LPPs Subject to Ethical Standards and Discipline?

Yes. The Utah Supreme Court has adopted Licensed Paralegal Practitioner Rules of Professional Conduct, which provide ethical obligations for LPPs and establish Rules of LPP Discipline and Disability as well as standards for imposing discipline similar to those that govern attorneys. The Office of Professional Conduct will investigate and, if necessary, prosecute complaints against LPPs, and the rules make them subject to potential discipline.

Is There a Market for LPPs?

Yes. Utah undeniably has a need for more accessible legal representation. The Utah State Bar's recent survey indicates that people are often interested in self-representation with some support from a legal practitioner. The limited scope of legal services provided by an LPP is one viable solution to this issue. It's also clear that there is a strong interest among paralegals to pursue this licensing option. In a recent survey conducted by the Utah Supreme Court's LPP Steering Committee, more than 200 paralegals expressed an interest in getting licensed as an LPP. The majority were interested in establishing an LPP practice within a law firm, while about a third were interested in starting an independent LPP firm.

What Are the Next Steps?

There is still more work to prepare for the arrival of LPPs in the market. The court created a Forms Committee to examine the multitude of forms used in the courts. The Forms Committee has the herculean task of updating court forms, creating new forms, and deleting obsolete forms. This effort will benefit all legal practitioners in the state and is especially important for LPPs whose practice is limited to the use of forms approved by the Judicial Council. With that in mind, the Forms Committee is focusing first on updating and developing forms in the family law, debt collection and forcible entry and detainer areas of law.

Some have asked if creation of the LPP license is a field of dreams. If we create it, will they come? The LPP Steering Committee believes the Utah model for the LPP program is a promising solution to a growing need in the state. In the meantime, Utah Valley University is preparing to start classes for LPPs in the fall of 2018, and we hope to have our first Licensed Paralegal Practitioners in 2019.

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