**OSB PLIC – Regulation Workgroup**

**DRAFT – 3/12/21**

1. Name of licensee –
   1. Proposed -- Licensed Paraprofessional (LP)
   2. Concern with use of “associate attorney” or similar
      * + change from traditional use of the word in law
        + confusion with “associates” in firms, traditionally used to describe non-partner attorneys – may cause some attorneys to object
        + confusion with public used to working with “associate attorneys”
        + No need to create needless confusion/concern when use of “LP” or similar term available (why court confusion)
        + Terms used in other states:
          - licensed legal paraprofessional (LLP -- AZ)
          - non-lawyer legal service provider
          - limited license legal practitioner (LLLP -- AZ)
          - limited licensed legal technician (LLLT – WA and CO)
          - legal document assistants/unlawful detainer assistants (LDAs or UDAs– CA)
          - paralegal practitioners (PP – UT)
          - licensed paralegals (LP – Ontario, Canada)
2. Scope of LP License
   1. Limited Subject Areas to family law and landlord tenant
   2. Court Appearances [Need further discussion from committee as whole]
      * + FTF recommended NO court appearances
        + Should the line be drawn at administrative, procedural, and emotional preparation and support?
        + Should LPs be allowed “in front of the bar,” even if not technically appearing in court?
        + Should the kind of hearing matter (eg. IDRTs)?
   3. Depositions [Need further discussion from workgroup and committee as whole]
      * + FTF recommended NO deposition appearances for LPs
        + Deposition as court proceeding under oath without a judge present
        + Issue of scheduling depositions to “disqualify” LP
        + Should LPs be allowed to help clients prepare for depositions?
        + Should LPs be allowed to help clients during depositions by being present and attending, but not being able to ask questions?
   4. Appeals [Need further discussion from workgroup and committee as whole]
      * + Should LPs be allowed to advise clients on doing own appeal without attorney? (e.g. general process/form, etc.)
        + If so, should subject matter exclusions listed below apply?
   5. Within these subject areas, exclude LP’s from these areas:
      1. DHS proceedings
         * Mixed recommendation
         * Complicated area of family law with impact highly possible on other legal subject areas (e.g. juvenile dependency, criminal, etc.) beyond LP scope
         * Some support for allowing LPs to assist with stipulated family law cases and those that proceed by default.
      2. Contempt
         * [Ask for more stakeholder feedback]
         * Mixed recommendation
         * Question whether to allow LPs when confinement requested in remedial contempt cases
         * Assisting in filing/filling out forms v. advocacy
         * Concern that disqualifying LP’s will increase inter-party animosity/aggression (“inducing” contumacious behavior to get rid of LP)
      3. Military Divorces v. Stipulated Divorces
         * [Ask for more stakeholder feedback]
         * Generally more complex area of law
         * But, some paralegals trained expressly for this
         * Differentiate between stipulated and contested matters?
      4. Unregistered Domestic Partnerships (Beale and Beale)
         * General agreement with excluding LPs
         * Really issue of contract law
      5. ORS 107.718 (Family Abuse Prevention Act Restraining Orders (FAPAs)
         * [Check to see if PLF risk considered too high?]
         * Concern that issues in this area can be “quasi-criminal” and get complicated with other legal subject areas quickly (e.g. criminal law, juvenile law); “landmine on both sides.”
         * May require discussion of potential criminal conduct early on – outside of family law
         * Many courthouses already provide experienced assistance for petitioners, but concern that not all have this kind of assistance.
         * Perhaps good area for LP’s “duty to refer”
         * Concern if filing FAPA makes case outside of LP scope, may promote not filing in good faith to get LP off of case.
         * Concern of need to carve out clear distinctions regarding where “line should be drawn” regarding representation.
      6. ORS 30.866 Stalking Protection Orders (SPO)
         * Determined this not a family law/LT issue
      7. Appeals – administrative, circuit court, appellate court
         * [Need further discussion]
      8. Prenuptial agreements, postnuptial agreements
         * Complex areas
         * High liability risk
         * Consensus that LPs should NOT take on
      9. Juvenile dependency cases
         * Consensus LPs should NOT take on
      10. Qualified Domestic Relations Orders (QDRO)
          * Complex and technical area of law
          * Possible high liability risk
          * Consensus that LPs should NOT take on
      11. ORS 109.119 (third party custody/visitation)
          * Complex and technical statute/ area of law
          * High likelihood of interplay with guardianship issues
          * Consensus that LPs should NOT take on
      12. Out of state modifications
          * [Need further discussion]
      13. Out of state disciplinary proceedings
          * Consensus that LP required to report any past, ongoing
          * LP should have affirmative obligation to report of any disciplinary proceedings from another jurisdiction, whether or not concluded
      14. ??Informal Domestic Relations Trials (IDRT)
3. Regulations/Statutes to Modify related to LPs
   1. Minimum Continuing Legal Education (MCLE)
   2. Oregon Rules of Civil Procedure (ORCP)
   3. Oregon Rules of Professional Conduct (ORPC)
      * + Per FTF (Futures Task Force), amend advertising rules to allow in-person or real time solicitation with limited exceptions
        + Per FTF, amend current fee-sharing rules to allow fee-sharing between lawyers and lawyer referral services, with appropriate disclosure to clients
        + Per FTF, amend current fee-sharing and partnership rules to allow participation by LPs
        + Per FTF, clarify that providing access to we-based intelligent software that allows consumers to create custom legal documents is not the practice of law.
   4. Uniform Trial Court Rules (UTCR)
   5. OSB Client Security Fund Rules
   6. OSB Rules of Procedure
   7. Oregon Code of Judicial Conduct
   8. Informal Domestic Relations Trials (IDRT)
   9. Others? [Check with Brian Cox or Joan Marie Michelson re LT related regulations or statutes]
   10. ORS 3.428 – Family Law Facilitation Programs
   11. ORS 9.005 et seq. – Oregon State Bar Act – [SB 678 may change this statute – check w/ Susan Grabe]
   12. ORS 20.075 – Factors to be considered by court in awarding attorney fees [Check with Brian Cox or Joan Marie Michelson re LT related regulations or statutes]
   13. ORS 40.090 et seq. – Oregon Evidence Code
       * + Rule 202. Judicial Notice
         + Rule 503. Lawyer-Client Privilege
         + Rule 503-1. Right of client to communicate with lawyer
         + Rule 504-5. Communications revealing intent to commit certain crimes
         + Rule 509-2. Non-English-speaking person-interpreter privilege
         + Rule 511. Waiver of privilege by voluntary disclosure
         + Rule 513. Comment on Inferences
   14. ORS 124.060 – Elder Abuse Reporting – Duty to report
   15. ORS 419B.005 et seq. – Child Abuse Reporting
       * + 419B.005. Definition of “public official”
         + 419B.010. Duty to report
   16. [Other???]
4. New Regulations/Statutes to Consider re LPs
   1. Admission criteria
   2. Scope of practice limitations
   3. Duty to refer to attorney if LP reasonably knows client requires services outside scope of practice
   4. Discipline reporting requirements
   5. Require liability insurance
   6. Require use of written agreements with mandatory disclosures