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On November 18, 2015 the Supreme Court Task Force to Examine Limited Legal Licensing (“Task Force”) identified gaps in access to justice in Utah in three areas - family law, debt collection, and eviction. These three areas contain the highest concentration of self-represented parties in the state of Utah. Utah’s 2017 court records show 56% of petitioners and 69% of respondents were self-represented in family law matters. Respondents in debt collection and eviction matters are largely self-represented – 98% and 95%, respectively, while nearly all petitioners had legal representation. As one solution to support access to justice the Utah Supreme Court accepted the Task Force’s recommendation to create a limited legal license to help fill the gaps in access to justice in the following areas:

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

A steering committee was formed to identify and affect the details necessary for making Utah’s Licensed Paralegal Practitioner (“LPP”) profession a reality. The LPP Steering Committee created subcommittees to complete tasks related to education, admissions and administration, and professional conduct and discipline. Since February 2016 the LPP Steering Committee has met regularly to review and discuss work completed by the subcommittees. Committee members spent countless hours thoughtfully developing criteria and drafting rules, all of which were subject to approval by the Utah Supreme Court and the Judicial Council. The rules governing Licensed Paralegal Practitioners went into effect on November 1, 2018.

What is the scope of the LPP practice?

Rule 14-801 of the Rules Governing the Utah State Bar contains an exception that authorizes LPPs to practice law in the area(s) in which they are licensed. The narrow scope of LPP’s practice is based on the use of court-approved forms. If there is a court-approved form related to the client’s needs, the LPP can assist the client.

Within the limits of Rule 14-802 the LPP may enter into a contractual relationship with an individual to provide legal services, interview the client, review documents of another

individual and explain those documents to the client, review a court’s order and explain the order to the client, select appropriate court-approved forms, advise the client about the forms, gather facts and information related to the completion of the forms, sign, file and serve the forms, communicate with an opposing lawyer on behalf of the client, advocate for the client in mediation, and assist with settlement of claims, including completing a settlement agreement form.

The following fictional scenario illustrates how an LPP can assist a client.

Facts:

Client initiates divorce proceedings against his wife. Emotions run high, the parties are unable to communicate effectively, and several mediation attempts fail. As a result, over the span of 12 months both parties incur extraordinary legal fees. Temporary orders are in place specifying obligations for child support and alimony. Client hires an expert witness to determine the value of client’s sole proprietorship, which is a major point of contention in the proceedings. Client’s lawyer moves to Colorado and provides client with a referral to another lawyer and tells him about the new LPP profession. The parties, now being more reasonable, meet and negotiate a settlement. Client meets with an LPP seeking help to complete the divorce case.

Client: Can you help write up our settlement agreement?

LPP: Yes. Rule 14-802(c)(1)(C) allows "interviewing the client to understand the client’s objectives and obtaining facts relevant to achieving that objective" and Rule 14-802(c)(1)(J) permits "filling in, signing, filing and completing service of a written settlement agreement form in conformity with the negotiated agreement."

Client: My wife and I did not discuss the portion in the temporary orders dealing with the “right of first refusal.” Can you explain what that means and clarify how it affects me?

LPP: Yes. Rule 14-802(c)(1)(L) allows "explaining a court order that affects the client’s rights and obligations." The LPP may advise the client about the meaning of right of first refusal.

Client: My wife agreed to give me half of her retirement account. We discussed this option during one of our mediations and my lawyer told me I would need to obtain a qualified domestic relations order (“QDRO”). Can you help me get that done?

LPP: No. QDRO work must be referred to a lawyer. There is not a Utah court-approved form associated with QDRO, which is a complicated process based on tax law.

Client: I have a few questions about my company. 1) Will you please call my expert witness and ask if she needs more information, and see when she can get the report finished? 2) I am willing to pay you 10% of the value of my company if you can make sure my wife doesn't get additional alimony; and 3) Are you willing to also represent my company and advise me about how to restructure after the divorce is final?

LPP: 1) Yes. 14-802(c)(1)(K) allows "communicating with another party or the party's representative regarding the relevant form and matters reasonably related thereto." 2) No. Contingent fee contracts are forbidden pursuant to LPP Rule of Professional Conduct 1.5(f). 3) No. This request must be referred to a lawyer. LPPs are not permitted to represent corporations. Additionally, giving legal advice on corporate matters does not fall within the three LPP practice areas.

The most important aspect of the LPP's practice is to know and communicate to the client the boundaries of the scope of practice and when a lawyer must be engaged.

How will LPPs impact lawyers?

When the LPP program was first introduced many lawyers expressed concern about losing clients to newly licensed LPPs. Over the past two years I have heard this question less frequently. The LPP profession is a market-based approach to help provide access to justice to unrepresented parties. The Task Force identified the potential LPP market as individuals who do not, for whatever reason, call upon lawyers. There are many ways the LPP profession will also benefit lawyers, including:

- LPPs will refer clients who would not otherwise call a lawyer;
- LPPs will provide a new source of revenue for law firms that hire LPPs or establish an LPP group;
- LPPs will serve markets in rural areas that are not currently viable for law firms;
- Lawyers will communicate with an LPP in lieu of an opposing pro se party; and
- Lawyers will have access to the updated court-approved LPP forms.

Will LPPs be qualified to provide limited legal advice?

The LPP Steering Committee established high standards for qualifying applicants. Each applicant must meet certain educational requirements. Applicants who do not have a law degree must also obtain a national certification and have experience working as a paralegal under the supervision of a licensed lawyer or LPP. Applicants must also receive additional training through online courses offered by Utah Valley University. The courses include ethics, family law, debt collection, and eviction. Each course was deliberately developed to teach the scope of the LPP practice in addition to the subject matter for each practice area. See Rule 15-703 of the Utah Supreme Court Rules of Professional Practice for a complete explanation of the requirements.

When will the first LPPs be licensed in Utah?

The Bar is currently working with a professional testing company and Utah practice-area experts to craft the licensure exams. We anticipate that the required courses will be available online through Utah Valley University in the spring and the exams will be offered near the end of the summer 2019. We expect to see the first licensed practitioners in Utah by the end of 2019. The Utah Supreme Court is working on an informational website for the LPP program to make the rules, timeline, and announcements available to the public.