

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AUTHORIZING A LICENSED LEGAL) Administrative Order
ADVOCATE PILOT PROGRAM FOR) No. 2020 - 88
DOMESTIC VIOLENCE CASES AND) (Replacing Administrative
RELATED MATTERS) Order No. 2020-84)
)
_____)

In October 2019, the Arizona Judicial Council (AJC) approved a recommendation of the Task Force on the Delivery of Legal Services for a pilot program proposed by the University of Arizona James E. Rogers College of Law’s Innovation for Justice (i4J) Program. The pilot, known as the Licensed Legal Advocate (LLA) Program, would train and license lay legal advocates to become LLAs, a new tier of legal service provider permitted to advise victims of domestic violence in navigating Arizona’s civil legal system. LLAs would be authorized to provide advice and assistance with respect to specifically-identified legal needs of people experiencing domestic violence by removing regulatory barriers imposed by rules governing the unauthorized practice of law. The pilot is limited to employees and clients (also referred to herein as “participants”) of Emerge! Center Against Domestic Abuse (Emerge), located in Tucson.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that:

1. The Licensed Legal Advocate Pilot Program is hereby established.
2. Individuals meeting the qualifications for LLA certification shall be certified by the Administrative Office of the Courts (AOC) with a certification as restricted by this Order, and, except as specifically provided in this Order, are otherwise subject to the provisions of ACJA §§ 7-201 and 7-208.
3. Candidates for certification as LLAs must be nominated by the Pilot Program Director, and must meet the following minimum qualifications:
 - a. A citizen or legal resident of the United States;
 - b. At least eighteen years of age;
 - c. Of good moral character;

- d. The applicant shall possess a bachelor's degree;
 - e. At least 2,000 hours of work experience as a lay legal advocate at Emerge;
 - f. Successful completion of the LLA course of study presented by the i4J Program; and
 - g. A passing grade on the LLA Pilot Program substantive law and court forms examination administered by the Administrative Office of the Courts (AOC).
4. An individual who has been disbarred by the highest court in any state or who has been denied admission to the practice of law in Arizona or has been denied certification or had their certification revoked or suspended by the Board of Legal Document Preparers is not eligible to participate in this pilot program.
 5. Applicants shall furnish fingerprints to the AOC for a criminal background investigation pursuant to A.R.S. § 12-323 and ACJA § 7-201(E).
 6. Individuals who meet the above-stated requirements will be granted LLA certification by the AOC.
 7. If necessary, discipline and revocation of LLAs will be processed in accordance with ACJA §§ 7-201 and 7-208.
 8. For purposes of this pilot program, LLAs are not required to meet the continuing education requirements.
 9. Participating professors from the i4J Licensed Legal Advocate course of study and volunteer attorneys with subject matter expertise will serve as mentors to the LLAs after they are licensed until the pilot period is complete.
 10. The Program Director shall certify to the AOC that an LLA has completed his or her supervised work requirements identified in paragraph (3)(e) through (g).
 11. The AOC shall develop and administer the examination required for certification under this program.
 12. Recipients of LLA services shall not be charged any fees for those services.
 13. LLAs shall enter into a written agreement with Emerge participants regarding the limited scope of the advice and assistance permitted by the LLA pilot before providing services, a copy of which shall be maintained by the LLA. The Agreement shall be substantially similar to the sample Limited Scope Agreement form attached to this Order as Appendix 2.

14. LLAs shall maintain a separate confidential file for each participant to whom they provide services which shall not be accessible by other Emerge staff or the public.
15. Supreme Court Rule 31 is deemed modified to allow for this Pilot Program.
16. LLA certification is restricted and such certified individual is only authorized to provide legal advice and assistance to participants of Emerge as follows:
 - a. The LLA may provide general legal information and legal advice regarding orders of protection and family law matters at legal intake but will refer the participant to a licensed attorney and not provide legal advice regarding collateral issues such as housing, immigration or financial abuse;
 - b. The LLA may provide legal advice and assistance during the completion of court forms and other documents for filing, such as service of process, orders of protection, petitions for dissolution, requests for spousal maintenance, and requests for child support;
 - c. The LLA may provide legal advice and assistance with respect to preparation for hearings and mediations in the case types noted above;
 - d. The LLA may sit at counsel table to advise and assist clients during court hearings; and
 - e. The LLA may respond to requests for information from the presiding judicial officer during a hearing.
17. Unless otherwise ordered by the Court, an LLA certification expires upon the occurrence of any of the following:
 - a. Termination of the pilot program;
 - b. Leaving employment with Emerge; or
 - c. On June 30th of odd-numbered years, beginning June 30, 2023. A certification expiring on June 30th of an odd- numbered year may be renewed as prescribed in ACJA § 7-208.
18. Until further order of the Court, during the duration of the LLA Pilot Program, an applicant for LLA certification or renewal shall not pay a certification or renewal application fee.

IT IS FURTHER ORDERED that any reference in ACJA §§ 7-201 and 7-208 to “Legal Document Preparers” or “LDP’s” is deemed to be a reference to Licensed Legal Advocates or LLAs for purposes of this pilot. Where this Order conflicts with the provisions of ACJA §§ 7-201 and 7-208, this Order controls.

IT IS FURTHER ORDERED in lieu of compliance with the Code of Conduct in ACJA § 7-208(J), LLAs shall comply with the Code of Conduct for Licensed Legal Advocates Pilot Program attached to this Order as Appendix 1.

IT IS FURTHER ORDERED that the Administrative Director is authorized to establish forms, and additional policies and procedures, including evaluation forms and procedures, required to implement this program.

IT IS FURTHER ORDERED that Stacy Butler, Director, Innovation for Justice Program, University of Arizona James E. Rogers College of Law, is hereby appointed Pilot Program Director.

IT IS FURTHER ORDERED that the LLA Pilot Program Director shall provide quarterly reports to the AOC and an annual report to the Judicial Council, on or before December 31st of each year.

Dated this 10th day of June, 2020.

ROBERT BRUTINEL
Chief Justice

Appendix 1

Code of Conduct for Licensed Legal Advocates Pilot Program

Definitions

"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.

"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 Licensed Legal Advocate promptly transmits to the person confirming an oral informed consent. If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the Licensed Legal Advocate must obtain or transmit it within a reasonable time thereafter.

"Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

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

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

"Reasonable" or "reasonably" when used in relation to conduct by an LLA denotes the conduct of a reasonably prudent and competent attorney.

"Reasonable belief" or "reasonably believes" when used in reference to an LLA denotes that the LLA holds a belief that is equal to that expected of an attorney that the matter in question and that the circumstances are such that the belief is reasonable.

"Reasonably should know" when used in reference to an LLA denotes that an attorney of reasonable prudence and competence would ascertain the matter in question.

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

"Tribunal" means a court, an arbitrator in an arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity.

"Writing" or "written" means a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photography, audio or video

recording and electronic communications. 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.

- 1. Competence.** An LLA shall provide competent advice and assistance to a client. Competent advice and assistance require the legal knowledge, skill, thoroughness, and preparation reasonably necessary.
- 2. Diligence.** An LLA shall act with reasonable diligence and promptness in advising and assisting a client.
- 3. Independence.** An LLA shall exercise independent professional judgment in advising and assisting a client and not be influenced by the LLA's status as an employee of Emerge!
- 4. Communications.**
 - a. An LLA shall:
 - (1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in this Code, is required by this Code;
 - (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 LLA's conduct when the LLA knows that the client expects assistance not permitted by this Code of Conduct or other law.
 - b. An LLA shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the advice and assistance.
- 5. Confidentiality of Information.**
 - a. An LLA shall not reveal information relating to advice and assistance of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the advice and assistance or the disclosure is permitted or required by paragraph (b).
 - b. An LLA to the extent the LLA reasonably believes necessary may:
 - (1) Prevent the client from committing a crime that would harm a child or vulnerable adult;
 - (2) Reveal information relating to the advice and assistance of a client to prevent the client from committing a crime;
 - (3) Secure legal advice about the LLA's compliance with this Code;
 - (4) Reveal information relating to advising and assisting the client to secure legal advice about the LLA's compliance with this Code;

- (5) Comply with other law or a final order of a court or tribunal of competent jurisdiction directing the LLA to disclose such information;
- (6) Prevent reasonably certain death or substantial bodily harm.

6. Conflict of Interest: Current Clients.

- a. Except as provided in paragraph (b), an LLA shall not advise and assist a client if the advice and assistance involve a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) The advising and assisting of one client will be directly adverse to another client; or
 - (2) There is a significant risk that advising and assisting one or more clients will be materially limited by the LLA's responsibilities to another client, a former client or a third person or by a personal interest of the LLA.
- b. Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), an LLA may advise and assist a client if each affected client gives informed consent, confirmed in writing, and:
 - (1) The LLA reasonably believes that the LLA will be able to provide competent and diligent advice and assistance to each affected client; and
 - (2) The advice and assistance are not prohibited by law.

7. Conflict of Interest: Current Clients: Specific Rules.

- a. An LLA shall not enter into a business transaction with a current client.
- b. An LLA shall not use information relating to advising and assisting a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by this Code.
- c. An LLA shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of the client an instrument giving the LLA or a person related to the LLA any substantial gift unless the LLA 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 LLA or the client maintains a close, familial relationship.
- d. Prior to the conclusion of advice and assistance to a client, an LLA shall not make or negotiate an agreement giving the LLA literary or media rights to a portrayal or account based in substantial part on information relating to the assistance.
- e. An LLA shall not, while advising and assisting a client in connection with contemplated or pending litigation, advance or guarantee financial assistance to a client.
- f. An LLA shall not:
 - (1) Make an agreement limiting the LLA's liability to a client for malpractice; or

(2) Settle a claim or potential claim for such liability unless the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent lawyer in connection therewith.

- g. An LLA shall not acquire a proprietary interest in the cause of action or subject matter of litigation in which the LLA is assisting a client.
- h. An LLA shall not have sexual relations with a current client of the LLA unless a consensual sexual relationship existed between them at the time the client-LLA relationship commenced.

8. Declining or Terminating Advice or Assistance.

- a. An LLA shall not advise and assist a client or, where advice or assistance has commenced, shall cease to provide advice or assistance to a client if:
 - (1) The advice and assistance will result in violation of this Code or other law;
 - (2) The LLA's physical or mental condition materially impairs the LLA's ability to advise and assist the client;
 - (3) The LLA's abilities are inadequate for the assignment; or
 - (4) The LLA is discharged.
- b. An LLA may withdraw from advising and assisting 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 LLA's services that the LLA reasonably believes is criminal or fraudulent;
 - (3) The client may or has used the LLA's services to perpetrate a crime or fraud;
 - (4) The client insists upon taking action that the LLA considers repugnant or with which the LLA has a fundamental disagreement;
 - (5) The client fails substantially to fulfill an obligation to the LLA regarding the LLA's services and has been given reasonable warning that the LLA will withdraw and not provide additional advice and assistance unless the obligation is fulfilled;
 - (6) The advice and assistance will result in an unreasonable financial burden on the LLA or has been rendered unreasonably difficult by the client; or
 - (7) Other good cause for withdrawal exists.
- c. Upon termination of advising and assisting, an LLA 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 a lawyer or another LLA, surrendering papers and property to which the client is entitled.

9. Truthfulness in Statements to Others. In the course of advising and assisting a client, an LLA shall not knowingly:

- a. Make a false statement of material fact or law to a third person; or

- b. Fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Paragraph 4.

10. Reporting Professional Misconduct.

- a. An LLA who knows that another LLA has committed a violation of the Code of Conduct that raises a substantial question as to that person's honesty, trustworthiness or fitness as an LLA in other respects, shall inform the appropriate professional authority, except as otherwise provided in this Code or by law.
- b. An LLA 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 shall inform the appropriate authority.
- c. This Code does not permit an LLA to report the professional misconduct of another LLA, a lawyer, or a judge to the appropriate authority if doing so would require the LLA to disclose information otherwise protected by paragraph 4.

11. Misconduct. It is professional misconduct for an LLA to:

- a. Violate or attempt to violate the LLA Code of 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 LLA's honesty, trustworthiness or fitness as an LLA 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 improperly influence a government agency or official or to achieve results by means that violate the LLA Code of Conduct or other law;
- f. Knowingly assist:
 - (1) A judge or judicial officer in conduct that is a violation of an applicable Code of Judicial Conduct or other law; or
 - (2) A lawyer in conduct that is a violation of Supreme Court Rule 42 or other law;
- g. Engage in conduct that the LLA knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law; or
- h. Engage in any misconduct described in ACJA § 7-201(H)(6).

Appendix 2
SAMPLE
Limited Scope Agreement

This Agreement is made between _____ [insert name], (hereinafter “Participant”) and _____ [insert name], (hereinafter “Licensed Legal Advocate”). Participant wishes to receive legal advice and assistance from Licensed Legal Advocate in dealing with certain domestic violence issues that Participant is facing.

Notice of Limited Authority – Scope of Service

Notice is hereby given that Licensed Legal Advocate is not authorized to advise and assist Participant in any or all legal matters that Participant may be facing. Licensed Legal Advocate’s authority is limited by the terms of an Arizona Supreme Court Administrative Order that identifies the following specific areas of law and specific types of advice and assistance which Licensed Legal Advocates are authorized to provide to participants of Emerge! Center Against Domestic Abuse.

1. General legal information and referrals to licensed attorneys for immediate legal issues not within the scope of service during legal intake.
2. Legal advice and assistance regarding immediate legal issues within the scope of service such as orders of protection, paternity, child support, dissolution, legal decision-making and parenting time during legal intake.
3. Legal advice and assistance during the completion of forms related to the legal issues within the scope of service including orders of protection, petitions to establish paternity or establish or modify child support, petitions for legal separation or dissolution, requests for spousal maintenance, and temporary orders for legal decision-making and parenting time, and requests for waiver of mediation or provision of special accommodations.
4. Legal advice and assistance with identifying, locating, obtaining, preserving and presenting supporting materials and evidence for the Participant’s case.
5. Accompany participant to court hearings and sit at counsel table to provide support and quiet advice to assist Participant in presenting materials and responding to questions from the presiding judicial officer.

Participant Responsibilities

1. Participant intends to handle the Participant’s case and understands that Participant will remain in control of the case and be responsible for all decisions made in the course of the case.

2. Participant understands that Licensed Legal Advocate cannot speak for, appear for, or sign papers on Participant's behalf, and will not make decisions for Participant about any aspect of Participant's case.
3. Participant understands that Licensed Legal Advocate is not authorized to provide advice and assistance with any other legal problem, other than those identified above, and that any additional advice and assistance will require that Participant seek advice and assistance from a licensed attorney.
4. Participant agrees to cooperate with the Licensed Legal Advocate and provide all information and documents that Participant has that are relevant to his/her case. Participant agrees to provide only truthful information in responding to the Licensed Legal Advocate's questions.
5. Participant understands that the Licensed Legal Advocate will diligently pursue all appropriate legal actions within the Licensed Legal Advocate Scope of Service to resolve Participant's case. The Licensed Legal Advocate will not pursue legal actions outside of the Scope of Service.

Participant Consent

By signing below, I agree that I have read this Agreement and I understand that the areas of law listed above are the only areas of law for which the Licensed Legal Advocate can provide me with advice and assistance. I further understand that the Licensed Legal Advocate who is advising and assisting me is not an Arizona licensed attorney and is not my lawyer.

Participant:

Licensed Legal Advocate:

Signature

Signature

Print Name

Print Name

Date

Date