

APPENDIX B
and
APPENDIX C

APPENDIX B
PROPOSED AMENDMENTS

TO

THE ARIZONA RULES OF THE SUPREME COURT

OPTION 1:

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

....

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

....

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

....

30. AN OFFICER, MEMBER, OR EMPLOYEE OF A CORPORATION, LIMITED LIABILITY COMPANY, PUBLIC FIDUCIARY, OR THE ARIZONA DEPARTMENT OF VETERANS SERVICES THAT IS LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. §14-5651, WHO IS NOT AN ACTIVE MEMBER OF THE STATE BAR MAY REPRESENT SUCH ENTITY BEFORE THE SUPERIOR COURT IN PROBATE PROCEEDINGS IF THE ENTITY IS NOT REPRESENTED BY COUNSEL OR TO THE EXTENT PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED: (A) THE ENTITY AUTHORIZES THE OFFICER, MEMBER, OR EMPLOYEE TO REPRESENT IT IN THE PROCEEDINGS; (B) SUCH REPRESENTATION IS NOT THE OFFICER'S, MEMBER'S, OR EMPLOYEE'S PRIMARY DUTY TO THE ENTITY BUT SECONDARY OR INCIDENTAL TO OTHER DUTIES RELATED TO THE MANAGEMENT OR OPERATION OF THE ENTITY; AND (C) THE OFFICER, MEMBER, OR EMPLOYEE IS NOT RECEIVING SEPARATE OR ADDITIONAL COMPENSATION (OTHER THAN REIMBURSEMENT FOR COSTS) FOR SUCH REPRESENTATION; AND, SUCH OFFICER, MEMBER OR EMPLOYEE IS INDIVIDUALLY LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. §14-5651. NOTWITHSTANDING THE FOREGOING PROVISION, THE COURT MAY REQUIRE REPRESENTATION BY AN ATTORNEY WHENEVER IT DETERMINES THAT LAY REPRESENTATION IS INTERFERING WITH THE ORDERLY PROGRESS OF THE PROCEEDINGS OR IMPOSING UNDUE BURDENS ON OTHER PARTIES. IN ADDITION, THE COURT MAY ASSESS AN APPROPRIATE SANCTION AGAINST ANY PARTY OR

ATTORNEY WHO HAS ENGAGED IN UNREASONABLE, GROUNDLESS, ABUSIVE OR OBSTRUCTIONIST CONDUCT.

31. NOTHING IN THESE RULES SHALL PROHIBIT A PERSON LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND PERFORMING SERVICES IN COMPLIANCE WITH RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, AND ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. THIS EXEMPTION IS NOT SUBJECT TO PARAGRAPH (C) OF THIS RULE AS LONG AS THE DISBARRED ATTORNEY OR MEMBER HAS BEEN LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND THE ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202.

OPTION 2:

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

....

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

....

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

....

30. NOTHING IN THESE RULES SHALL PROHIBIT A PERSON LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND PERFORMING SERVICES IN COMPLIANCE WITH RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE AND ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. THIS EXEMPTION IS NOT SUBJECT TO PARAGRAPH (C) OF THIS RULE AS LONG AS THE DISBARRED ATTORNEY OR MEMBER HAS BEEN LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND THE ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. NOTWITHSTANDING THE FOREGOING PROVISION, THE COURT MAY REQUIRE REPRESENTATION BY AN ATTORNEY WHENEVER IT DETERMINES THAT LAY REPRESENTATION IS INTERFERING WITH THE ORDERLY PROGRESS OF THE PROCEEDINGS OR IMPOSING UNDUE BURDENS ON OTHER PARTIES. IN ADDITION, THE COURT MAY ASSESS AN APPROPRIATE SANCTION AGAINST ANY PARTY OR ATTORNEY WHO HAS ENGAGED IN UNREASONABLE, GROUNDLESS, ABUSIVE OR OBSTRUCTIONIST CONDUCT.

APPENDIX C
PROPOSED AMENDMENTS
TO
THE ARIZONA CODE OF JUDICIAL ADMINISTRATION

OPTION 1

Arizona Code of Judicial Administration

Section 7-202: Fiduciaries

J. Code of Conduct. . .

1. [unchanged]
2. Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.
 - a. – f. [unchanged]
 - g. The fiduciary shall only prepare powers of attorney or other legal document, if also certified as a legal document preparer pursuant to ACJA § 7-208, ~~except~~ PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR as ordered by the court. This provision does not apply to the Arizona Department of Veterans Services pursuant to A.R.S. § 41-603(A).

OPTION 2

Arizona Code of Judicial Administration

Section 7-202: Fiduciaries

F. Role and Responsibilities of Fiduciaries. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:

1. – 9. [unchanged]
10. A LICENSED FIDUCIARY IS AUTHORIZED TO:

- A. PREPARE LEGAL DOCUMENTS WITHOUT THE SUPERVISION OF AN ATTORNEY, AS AUTHORIZED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR
- B. REPRESENT THE LICENSED FIDUCIARY BUSINESS, OFFICE OF THE PUBLIC FIDUCIARY OR THE ARIZONA DEPARTMENT OF VETERANS' SERVICES BEFORE THE SUPERIOR COURT IN PROBATE PROCEEDINGS IF THE BUSINESS, OFFICE OR DEPARTMENT IS NOT REPRESENTED BY COUNSEL OR TO THE EXTENT PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED:
 - 1. THE ENTITY AUTHORIZES THE LICENSED FIDUCIARY TO REPRESENT IT IN THE PROCEEDINGS;
 - 2. THE FIDUCIARY IS NOT RECEIVING SEPARATE OR ADDITIONAL COMPENSATION (OTHER THAN REIMBURSEMENT FOR COSTS) FOR SUCH REPRESENTATION; SUCH REPRESENTATION IS NOT THE OFFICER'S, MEMBER'S, OR EMPLOYEE'S PRIMARY DUTY TO THE ENTITY BUT SECONDARY OR INCIDENTAL TO OTHER DUTIES RELATED TO THE MANAGEMENT OR OPERATION OF THE ENTITY.

J. Code of Conduct.

- 1. [unchanged]
- 2. Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.
 - a. – f. [unchanged]
 - g. The fiduciary shall only prepare powers of attorney or other legal documents, if also certified as a legal document preparer pursuant to ACJA § 7-208, ~~except~~ PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR as ordered by the court. This provision does not apply to the Arizona Department of Veterans Services pursuant to A.R.S. § 41-603(A).