

TASK FORCE ON THE DELIVERY OF LEGAL SERVICES

DRAFT MINUTES

Wednesday, February 13, 2019

Room 101, Arizona State Courts Building

1501 W. Washington Street

Phoenix, Arizona 85007

Present: Justice Ann Timmer, Chair; Victoria Ames; Robyn Austen; Betsey Bayless; Justice Rebecca Berch (ret.); Stacy Butler; Dave Byers; Diane Culin (telephonic); Whitney Cunningham; Judge Maria Elena Cruz; Jeff Fine; Paul Friedman; Tami Johnson; Judge Joseph Kreamer; John Phelps (telephonic), Judge Peter Swann; Billie Tarascio; Guy Testini; Mark Wilson

Absent: Don Bivens, Peter Akmajian

AOC Staff: Jennifer Albright; Theresa Barrett; Sabrina Nash

Guest Presenters: Paula Littlewood, Executive Director, Washington State Bar Association; Steve Crossland, Chair, Washington Supreme Court LLLT Board; Steven Johnson, Attorney, Member of Utah Licensed Paralegal Practitioner Program

I. REGULAR BUSINESS

The second meeting of the Task Force on the Delivery of Legal Services was called to order at 9:03 a.m. Justice Timmer, Chair, welcomed the membership, and others in the room. As this was only the second meeting of the membership, members briefly introduced themselves.

The meeting minutes from January 7, 2019, were provided to members in advance. Justice Timmer asked if there were any edits, additions, or other concerns. Having heard none, Dave Byers moved to approve the minutes. Judge Joseph Kreamer seconded the motion. The minutes were approved unanimously.

II. PRESENTATIONS

Presenters appeared telephonically with the aid of WebEx.

Washington State LLLT Program

The first presentation to the task force was by Paula Littlewood, Executive Director of the Washington State Bar Association and Steve Crossland Chair of Washington's LLLT (Limited License Legal Technician) program. Ms. Littlewood and Mr. Crossland gave an overview of the need for legal services in Washington that led to the committee that ultimately recommended the LLLT program, the work involved in getting the program approved, and the scope of legal

services LLLTs can provide. They also spoke about lessons learned from the inception of the program to present time and spoke of efforts to expand the scope of legal services to family law and to allow LLLTs to appear in court in limited capacities on each area of they are licensed to provide legal services.

Members of the task force asked question throughout the presentation. Questions included whether LLLTs can partner with lawyers as a single business entity (answer was yes, ethical rules were amended to allow, they also can practice individually); average hourly rate of a LLLT compared to an attorney's hourly rate (LLLTs charge 25-33% of what an attorney charges), and cost of becoming licensed (University of Washington has reduced credit hour rate from \$600 to \$200 for LLLT, estimate is \$15,000 for cost of Associate degree plus the mandatory additional legal courses and license application).

Steven Johnson

The next presentation was by Steven Johnson, attorney, and member of Utah's Limited License Practitioner Committee. Mr. Johnson spoke generally about Utah's efforts to provide a non-lawyer tier of legal service providers. He shared that unlike Washington's LLLT program, Utah's LPPP program would limit the legal service LPPPs could provide to completions of forms and legal advice related to completion of forms. He related that to begin LPPPs are not authorized to appear in court. Utah has just gained approval of the LPPP program and therefore is still in the process of developing curriculum, exams, changes to ethical rules, and other infrastructure needed to license its first practitioners. Mr. Johnson noted that Utah expected to potentially have 100 licensed LPPPs in the first year due to a process developed to grandfather persons who meet all of the requirements except the passing of examinations.

Members asked questions throughout the presentation which included what practice areas LPPPs would be allowed to provide services in (landlord/tenant, collections, family law); who will be regulatory authority (State Bar); who may LPPPs represent (individuals, not organizations).

III. WORK GROUP BUSINESS

Work Group Breakouts

The task force then broke for lunch and to breakout out into the two previously formed work groups. Members of the public were able to attend these breakout sessions.

Report Out

The full task force reconvened at 1:15 p.m. to hear from the work groups. Judge Cruz, as lead of the work group charged with exploring possible recommendations related to the two charges (items d. and e. in AO 2018-111) assigned to the work group, reported first. Judge Cruz explained that the group continued to focus on the charge related to ethical rules 5.4 and 1.2 and the possibility of allowing non-lawyers and lawyer to be partners in a legal services entity, commonly known as alternative business structures. Judge Cruz shared that the work group had invited and heard from Hope Todd of the Washington D.C. Bar Association about the D.C.

ethical rule 5.4 that allows limited alternative business structures. The work group exploring specific topics in order to determine if Arizona ethical rule 5.4 should be amended to allow for alternative business structures. The work group brainstormed ideas related to the following: scope of services provided by such an entity, organizational structure and potential limits on percentage of ownership by non-lawyers, and requirements around disclosure of being an alternative business structure. Topics involving conflicts of interest between legal partners and non-lawyer partners, what is known as the multi-discipline practice issue, and passive investment were also discussed. Judge Cruz noted the group decided those needed greater investigation.

Stacy Butler reported out for the work group charged with exploring the three charges (items a. through c. in AO 2018-111) assigned to the group. Ms. Butler reported the work group is first focusing on the topic of whether Arizona should develop a limited licensed non-lawyer legal services provider program. Having heard from Ontario, Canada, and Washington and Utah about their programs, the work group members had consensus that such a program should be pursued and had reached consensus to develop a recommendation that was more similar to Ontario, Canadas model. The task force was able to provide feedback as to the work groups chosen direction. There was consensus the workgroup should continue its work.

Ms. Butler also explained the work group spent the breakout session focused on small claims and general civil claims in limited jurisdiction courts. Marretta Mathes, staff to the Small Claims Case Improvements Committee, gave a presentation on efforts to improve caseflow of small claims cases to allow the work group to have knowledge of efforts to explore of improvements to processing of small claims matters. The work group started by focusing on small claims cases. It was agreed that since small claims cases by law do not allow parties to be represented (except if other parties agree to be represented) and although Arizona certified Legal Document Preparers can assist self-represented persons in preparing documents for small claims matters, they generally are not utilized for those case types, ultimately the discussion of the work group focused on civil matters in limited jurisdiction courts generally.

The work group engaged in a great deal of discussion on the merits of a limited license non-lawyer practitioner program. Members of the public who were present provided answer to several questions the work group had as to scope of practice by attorneys and typical issues and case types in limited jurisdiction courts, specifically justice of the peace courts. Ms. Butler shared information about the work group determining to continue the discussion on this topic and sought input and feedback from the whole of the task force membership. Discussion among the members included the topic of whether the Legal Document preparer Program should be eliminated. Consensus form the task force was that the Legal Document Preparer Program should not be eliminated and instead exploration should occur into modifying or expanding that program once the work group is ready to move on to that charge. As discussion ensued on continuation of exploring the creation of a new tier of limited licensed legal practitioner, the task force members ultimately began discussing whether a more focused subject matter area might be a better place to start developing recommendations. After discussion, it was agreed the work group would focus on family law matters first and return to civil cases later.

III. OTHER BUSINESS

Call to the Public

The meeting concluded with a call to the public. A number of public members representing legal document preparers and attorneys practicing in landlord/tenant law, debt collections, and limited jurisdiction civil matters provided statements to the task force. Task force members asked questions of these public members as well.

Next Meeting:

Thursday, March 14, 2019, at 9:00 a.m. in Room 345 A/B.

Adjournment:

The meeting adjourned at 3:04 p.m.