

# **COLORADO SUPREME COURT STANDING COMMITTEE ON THE COLORADO RULES OF PROFESSIONAL CONDUCT**

## **AGENDA**

April 14, 2023, 9:00 a.m.  
The Supreme Court Conference Room and via Webex

Webex link:

<https://judicial.webex.com/judicial/j.php?MTID=mc180da53d80f29e3c6ce6483f4583283>

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1. Call to Order [Judge Lipinsky].
2. Approval of minutes for January 27, 2023, meeting [attachment 1].
3. Old business:
  - a. Report on the status of the proposed amendments to Rule 1.4 and the comments thereto [Judge Lipinsky].
  - b. Report from the patent practitioner harmonization subcommittee [Rob Steinmetz and Alec Rothrock] [attachment 2].
  - c. Report from the PALS II committee and vote on proposed changes to the Rules in light of the Supreme Court's approval of the LLP initiative [Judge Espinosa] [attachment 3]
  - d. Report from the reproductive health subcommittee [Nancy Cohen] [attachment 4].
  - e. Report from the Rule 1.5(e) subcommittee [Alec Rothrock].
  - c. Report from the Rule 1.2 subcommittee [Noah Patterson].
4. New business.

5. Adjournment.

Upcoming meeting dates: July 28 and October 27.

Judge Lino Lipinsky, Chair  
Colorado Court of Appeals  
[lino.lipinsky@judicial.state.co.us](mailto:lino.lipinsky@judicial.state.co.us)

# Attachment 1

**COLORADO SUPREME COURT**

**STANDING COMMITTEE ON THE RULES OF PROFESSIONAL CONDUCT**

**Approved Minutes of Meeting of the Full Committee**

**On**

**January 27, 2023**

**Sixty-Sixth Meeting of the Full Committee**

The sixty-sixth meeting of the Colorado Supreme Court Standing Committee on the Rules of Professional Conduct was convened at 9:00 AM on Friday, January 27, 2023, by Chair Judge Lino Lipinsky de Orlov.

Present at the meeting, in addition to Judge Lipinsky and liaison Justice Maria Berkenkotter, were Nancy Cohen, Cynthia Covell, Thomas E. Downey, Jr., Margaret Funk, Marcy Glenn, Erika Holmes, April Jones, Matthew Kirsch, Judge Bryon M. Large, Noah Patterson, Troy Rackham, Alexander R. Rothrock, David W. Stark, and Robert W. Steinmetz.

Present for the meeting by virtual appearance were Justice Monica Márquez, Marianne Luu-Chen, Cecil E. Morris, Jr., Molly Kocialski (guest from United States Patent and Trademark Office), Daniel Smith (guest as Chair of National Association of Patent Practitioners Advocacy Committee), Marcus L. Squarrell, David W. Stark, Jamie S. Sudler, III, and E. Tuck Young. Committee members excused were Judge Adam Espinosa, Judge Ruthanne Polidori, Judge John R. Webb, Julia Martinez, David W. Stark, Eli Wald, and Fred Yarger. Tyrone Glover was absent.

**1. CALL TO ORDER.** Judge Lipinsky called the meeting to order at 9:02 AM. He welcomed those attending in person or virtually. He reviewed the names of all attendees and noted those having excused absences. He also noted the attendance of guests Dan Smith and Molly Kocialski

**2. APPROVAL OF MINUTES FOR OCTOBER 28, 2022 MEETING.** Judge Large made a motion to amend the minutes to correct the spelling of his name. Ms. Yates made a motion to amend to correct spelling of Judge Espinosa's name. With two amendments, a motion was made to approve. Motion was seconded by Mr. Morris. Motion approved unanimously.

**3. REPORT FROM THE RULE 1.4 SUBCOMMITTEE.** Ms. Yates reported that the Subcommittee received feedback from the Supreme Court on the previous recommendation. The Court's feedback was that it desired the Committee to further streamline the rule. The Subcommittee met afterwards to discuss the Court's feedback. The Subcommittee recommends changes that remove the reference to limits of an insurance policy. The Subcommittee discussed the fact that the reference to the limits was unnecessary because the market takes care of limits given that the lowest minimum limits correlate to what previously was in the draft proposed change to Rule 1.4. The Subcommittee retained its recommendations for comments regarding disclosure to the client. Cecil Morris, Jr. asked whether the proposal should reference something like limits consistent with the market. Ms. Yates explained that the Subcommittee discussed this issue and thought it unnecessary. Mr. Morris moved to approve the proposal. Mr. Rackham seconded the

motion. Judge Large abstained. Motion carried with three votes in opposition: Ms. Covell, Ms. Glenn, and Mr. Kirsch.

**4. REPORT ON PATENT PRACTITIONER HARMONIZATION PROPOSAL.** Robert Steinmetz reported that the Subcommittee met in December. The Subcommittee was joined by Molly Kocialski, Dan Smith, and three lawyers practicing in the patent area. The Subcommittee's discussion addressed the fact that the proposal affects more than just Rule 5.4(d). The Subcommittee was unsure whether the charter of the Subcommittee was broad enough to cover other rules. The simple fix to the Rule 5.4(d) issue is to carve out patent practitioners from the reach of Rule 5.4(d), but there are several other rules that require lawyers to be involved, such as the trust accounting rules contained in Rule 1.15A et al. The Subcommittee is inquiring as to whether the scope should be expanded to consider other germane rules that also may need to be amended for patent practitioners.

Ms. Funk inquired whether the proposed changes would just be the Rules of Professional Conduct, or would also include proposed changes to the Rules of Civil Procedure. The Rules of Civil Procedure are addressed by a different Committee of the Court. Ms. Yates raised these other issues (such as profit sharing and trust accounting) and noted that there are Rules of Professional Conduct applicable to the patent practitioners issued by the USPTO. Ms. Yates recognized that expanding the scope to these issues creates a sizeable amount of work. The Committee does not want to unfairly burden the Subcommittee with additional work, but if the work of the Subcommittee is limited, the Committee should keep on the agenda the proposition that other rules will need to be changed as well. Mr. Rothrock commented that he is sympathetic to the concerns expressed by Ms. Yates and believes our Committee should evaluate the other potentially applicable Rules. Mr. Rothrock noted that many of the revisions would also apply to nonlawyers representing individuals in other matters, such as immigration, social security, enrolled tax agents, and the like. Ms. Funk noted that this is a really big issue and applies well beyond patent practitioners. It would be a big deal to allow profit sharing in these very broad areas.

Ms. Covell noted that the Subcommittee discussed this topic in the past before the Enron-related problems. She noted that this is a discussion that the Committee needs to have because it extends to many areas. The discussion about revising the Rules on a wholesale level to address nonlawyer patent practitioners (and other nonlawyers providing legal services) would be significant and complicated. Ms. Cohen noted that there are nonlawyers who are bankruptcy petition preparers. When there are individuals authorized by statute or regulation to provide what are historically legal services (such as enrolled tax agents, patent practitioners, etc.), the Committee needs to recognize that and analyze why they should be treated differently. They should be able to work at a law firm, share in profits, etc. Based on prior work from the Committee, Ms. Cohen suggested that we first discuss the issue with the Court and see if the Court has an interest in changing the rules before the Committee undertakes a discussion and proposed revisions to the Rules to address the nonlawyer provision of services.

Dan Smith noted the differences between a patent practitioner and other nonlawyers providing services (such as enrolled tax agents, bankruptcy petition preparers, etc.). Patent practitioners must take a bar exam and, once successful, are afforded the same privileges of practicing as a patent lawyer has. Patent practitioners also have to follow the USPTO rules of

professional conduct, which are similar to the model Rules of Professional Conduct. The USPTO Rules also have requirements for insurance. As a result, it may be reasonable to treat patent practitioners differently than other nonlawyers. Mr. Smith thanked the Committee for tackling this issue and noted that it is the first state to consider the issue.

Ms. Glenn noted that the Committee typically lets the ABA take the lead on the issue. Although Colorado sometimes is the first state to revise rules, those amendments are related to unique items of Colorado law such as the marijuana revisions to Rules 1.2 and 8.4. Ms. Glenn noted that the patent practitioners issue is nationwide and therefore we would expect that the ABA would pave the path for the issue. Mr. Smith noted that the ABA is considering this matter, but its committee works much slowly. Mr. Smith also noted that the ABA committee is merely advisory so it would not have the same effect as a proposal from this Committee to be considered by the Colorado Supreme Court.

Ms. Kocialski commented about the patent practitioners bar. She echoed the comments of Mr. Smith. Patent practitioners still have to take a bar exam and have the same privileges of practicing as a patent lawyer would have. Patent practitioners also have to follow the USPTO rules of professional conduct.

Ms. Funk noted that immigration courts do not have a bar, but they have a certification process that has to be followed. It sounds like a similar process, although not the same. It is at least a prior verification and training process. Ms. Covell commented that perhaps patent practitioners should be treated differently, but the Committee also needs to think about the larger picture involving nonlawyers practicing in other areas as described above.

Ms. Yates explained that the Rules applicable to patent agents have trust account rules, but they are different Rules because Colorado has a unique approach to the trust accounting rules. Ms. Yates suggested that only reviewing and proposing revisions to Colo. RPC 5.4(d) would be shortsighted because there are many other rules implicated. She explained that she knows of patent practitioners in Colorado who are unable to open a trust account because they are nonlawyers, even though USPTO rules have trust accounting rules. Mr. Patterson suggested that this is an access to justice issue. Particularly in other areas where access to legal services is scarcer, such as bankruptcy, tax enrolled agents, and the like.

Chair Lipinsky suggested that the Committee ask the Court if the Court is interested in having the Committee take a larger view and evaluate other rules that would be applicable to nonlawyers practicing in the areas described above.

Ms. Cohen explained that if we want patent practitioners or nonlawyer practitioners to be able to use trust accounts and share profits of a firm, then we would want to have the practitioners follow Colorado Rules. Ms. Funk explained that there are some jurisdictional issues because federal rules applicable to patent practitioners, tax enrolled agents, and the like, would apply over the state rules.

Judge Large commented on the admissions rules. Those rules have carve-outs to allow a non-licensed person to have a limited practice here in Colorado. Those carve outs allow the non-

licensed person to be subject to the jurisdiction of OARC. Ms. Yates also noted that because of the US Supreme Court's decision, patent practitioners are allowed to practice here in Colorado. As a result, there may be significant problems in Colorado attempting to impose additional restrictions on a patent practitioners.

Dan Smith commented on the registration process for patent practitioners. Registered patent practitioners are permitted in Colorado. Molly Kocalski referenced that because patent practitioners are already working and providing legal services in Colorado, the question is whether Colorado should adopt rules for how a patent practitioner might practice in conjunction with other lawyers. Expanding the inquiry beyond that issue to whether

Chair Lipinsky suggested that the Subcommittee prepare a list of questions/ issues for the Court to consider. Chair Lipinsky will work with the Subcommittee and run the proposed list of questions/ issues by Ms. Yates and Judge Large in advance of submitting to the Court. Judge Lipinsky would then get feedback from the Court.

**5. REPORT FROM THE PALS II COMMITTEE.** Ms. Yates described the hearing that occurred before the Court on November 16, 2022. Some of the issues the Court inquired about were whether the size of dispute limitations based on income/ asset caps were appropriate. The Court inquired whether there was a better or more reliable test to determine complexity in terms of drawing the line on what a PALS could do compared to what the lawyer could do. Another topic inquired into by the Court was whether a PALS practitioner could make statements or examine witnesses in courts. A third topic involved insurance. Washington requires insurance and other states are considering it. A fourth topic was whether there should be an experiential basis for admission as a PALS. Ms. Yates noted that the Subcommittee is considering these topics and expects to have a proposal to address them by the April meeting.

Chair Lipinsky asked whether the Committee should start reviewing language under the Rules to determine what amendments need to be made, to move together with the PALS Rules. Ms. Yates suggested it would be better to defer consideration of this issue until the April meeting when there is more guidance from the Subcommittee.

**6. REPORT FROM THE REPRODUCTIVE HEALTH COMMITTEE.** Ms. Cohen presented on this topic. She referenced an article from the ABA Professional Liability Litigation Committee authored by a Texas lawyer that addressed some of these issues. It was an interesting and timely article. The Subcommittee met in December and then had a lively discussion over email. That lively discussion resulted in a proposal to change the proposed comment [15] to use the word "may" instead of "shall," as it is used in comment relating to marijuana. The reason for this is that the comments provide guidance and should not include mandates. Ms. Cohen referenced the fact that several providers are building facilities near the southern border of Colorado because there is a significant demand for these reproductive services from neighboring states. Ms. Cohen explained the bases for the phrasing in the proposed comment identified in the memo.

Judge Lipinsky proposed changing "actions or proposed actions is" to "actions or proposed actions are." Thus, the wording would be changed:

Comment 15: A lawyer may counsel or assist a client rendering, seeking, or receiving reproductive health care, as defined in C.R.S. § 25-6-402(4), that the lawyer reasonably believes is not prohibited by the laws and regulations of Colorado. In these circumstances, if the lawyer also reasonably believes that the client's actions or proposed actions ~~is~~ are likely to result in another jurisdiction finding that the client's conduct is prohibited, the lawyer should advise the client of the potential consequences regarding conduct that may be prohibited under another state's law.

Mr. Kirsch suggested the grammatical problem also could be addressed in other ways. Ms. Covell suggested that this proposal puts a lot of burden on a lawyer to provide advice regarding the laws of another state. Chair Lipinsky indicated he shared Ms. Covell's concern because if a large pharmacy company asked can we provide these pills in each state, he would have found a lawyer in each state to advise on the topic. Mr. Downey suggested that he shares the concern that it opens a lawyer up to exposure unnecessarily.

Ms. Cohen suggested that perhaps this issue could be addressed by changing the language in the comment from "that the lawyer reasonably believes is not permitted" to "if the lawyer ~~also reasonably believes~~ knows that the client's actions or proposed actions ~~is~~ are likely to result in another jurisdiction finding that the client's conduct is prohibited...."

Ms. Funk suggested that this problem could be resolved by a lawyer limiting her representation to clarify that she is not providing advice about another jurisdiction's law. Ms. Glenn moved to return this proposed comment to return to the Subcommittee to rework the second sentence that could include "unless the lawyer and client have agreed to a more general scope of representation, then...." Ms. Cohen suggested that this language is perhaps broader than the current version. Ms. Glenn suggested that what is needed is a revision to the conditional portion of the sentence in the comment. Ms. Glenn suggested that there could be other ways to revise the language as well.

Ms. Covell asked how this issue plays out in actual circumstances. She explained that if a patient comes from Texas, the patient presumably knows that Colorado's laws are more permissive of reproductive health choices than those of Texas. A lawyer in that circumstance could advise on Colorado law without having to address the issue of whether the conduct is permitted in Texas. Ms. Cohen explained that what is happening is that lawyers are giving advice, particularly in circumstances where a patient has a prescription for medication that is prohibited in Texas. Ms. Cohen agreed that the Subcommittee may have to revise the proposed comment's language in light of the comments today.

Ms. Luu-Chen suggested shortening the second sentence to say: "The lawyer should consider advising the client that the conduct may be prohibited in other jurisdictions." Mr. Sudler commented that perhaps we do not need the second sentence of the comment at all. All we are talking about is a comment and not a black letter rule, so the language of the comment should not be used to create an affirmative obligation on the part of the lawyer. Mr. Sudler agreed that the Subcommittee needs to reexamine the issue and determine whether the second sentence is needed at all.

Mr. Patterson noted that the second sentence comes from the marijuana rule, but that is because possession and use of marijuana remains illegal in Colorado under federal law. The reproductive services, in contrast, are legal in Colorado because there is no federal prohibition on reproductive services.

Mr. Rothrock suggested that the proposed comment must track the language of Rule 1.2(d). The blackletter rule uses the term “knows.” The phrase from this proposed comment, “reasonably believes,” is more restrictive and inconsistent with Rule 1.2(d). Mr. Rothrock also suggested that there is inconsistency in the structure because Rule 1.2(d) describes what a lawyer cannot do while the comment proposes suggesting what a lawyer may do. Mr. Rothrock addressed the issue of reciprocal discipline. That is in another Rule and not governed by this Committee. That Rule – CRCP 242.21 – would need to be revised. Ms. Glenn also recommended that the comment should be called comment [15A] because it is Colorado specific, consistent with the past practices of the Committee.

The Subcommittee will review the proposed language and suggest changes at the next meeting in April.

**7. REPORT FROM THE RULE 1.5(E) SUBCOMMITTEE.** Mr. Rothrock addressed the Committee. Rule 1.5(e) prohibits referral fees. Rule 7.2(b) addresses referral fees as well, but somewhat inconsistently. Rule 1.5(e) is unique to Colorado and not in the Model Rules. The Model Rules address referral fees only in Rule 7.2(b). Colo. Rule 1.5(e) is very broad and prohibits referral fees in any circumstances. The Subcommittee’s proposal is to revise Rule 1.5(e) to apply only to a lawyer’s receipt of referral fees rather than payment. There is also a potential inconsistency with Colo. Rule 1.5(d) relating to division of fees. The concept behind these proposed revisions is to ensure each rule regulates three discrete types of conduct: (1) division of fees; (2) payment of referral fees; and (3) receipt of referral fees. There is also an issue about whether a lawyer should be able to receive referral fees for former clients referred to a professional for non-legal services, such as financial services. The Subcommittee therefore debated whether former clients should be included within the prohibition of referral fees for clients. The final issue is where the proposed changes should go. One possibility is Rule 1.5(e). Another possibility is Rule 1.8. The third possibility is Rule 7.2. The Subcommittee would like the Committee Members’ views on these issues.

The first issue is whether the proposed revisions should include former clients. Mr. Rothrock believed that former clients should not be included. It can be nuanced and factually intensive to determine whether a person or entity is a former client.

Chair Lipinsky identified a hypothetical scenario. A lawyer gets a very lucrative medical malpractice case. He refers it to another lawyer and terminates the representation. After the representation is over, the new lawyer gets a big contingency and pays 20% of the fee to the referring lawyer as a referral fee. Would that be prohibited if the Rule does not include former clients? Mr. Kirsch asked whether the *payment* of the referral fee would be prohibited under Rule 7.2. Mr. Rothrock agreed that it would be.

Ms. Glenn asked about nuanced situations. What if the referral comes from an out of state lawyer? Or what if the referral comes from a nonlawyer. Can a lawyer get a referral fee from a nonlawyer? Ms. Glenn suggested that the language be clarified to address this issue.

Mr. Morris suggested that this is a large public policy issue for the Court to consider. Many states allow referral fees as an incentive to get a matter to a more competent or special counsel. Those public policy issues are important but go beyond these suggested changes to the Rules. Mr. Morris suggests that the Colorado Supreme Court already decided this issue deliberately and expressly to prohibit receipt of referral fees, but fees can only be shared through Rule 1.5(d) with joint acceptance of responsibilities. Mr. Morris suggested that we simply revise Colo. Rule 1.5(d) to say any fees from the representation of a client cannot be shared amongst lawyers not in the same firm unless there is joint acceptance of responsibilities.

There was a lengthy discussion of whether Rule 7.2(b) includes payment of fees to nonlawyers because the rule references “a person” rather than a lawyer. This proposal Rule is trying to codify a policy choice that other states have decided to either conclude that this is a nonwaivable conflict that a lawyer cannot do or it is a waivable conflict that lawyers can do. All this proposed rule is trying to do is address the receipt of a referral fee.

Ms. Glenn said now, upon consideration and reflection, she believes a change is necessary because the rules do not address this particular issue. Ms. Glenn referenced Rule 1.5 comment [7]. Ms. Glenn explained that she agrees with the proposed changes. Ms. Glenn suggested that this issue may be better placed in Rule 1.8 rather than Rule 1.5. Rule 1.5 addresses fees from clients. Rule 1.8 addresses conflicts coming from business relationships or incentives, including from nonclients. This is really addressing payment of fees by a person, not a client, for the lawyer referring his client to the person for products or services.

Ms. Holmes suggested that this issue should not be in Rule 1.5(d) because that relates to division of fees and this is more specific to referral compensation. Mr. Rothrock did not have a concern about putting this issue in Rule 1.8. It might make more sense to put it in Rule 1.8. The shallow reasoning would be to include it in Rule 1.5 simply because it is easier to do that. Mr. Rothrock also suggested that Rule 1.5 is getting more cumbersome and complicated with the recent changes, so it might be concerning if a lawyer is trying to find the specific rule as part of Rule 1.5.

Regarding whether former clients should be included, Judge Large suggested that consideration should be given to the often disparate views between a client and a lawyer as to whether the client is a current client. Ms. Luu-Chen suggested that in Trusts and Estates practice, there often are needs by former clients for third party professional services or products, such as tax planning, financial planning, closing services, title services, etc. She suggested that the current rules set a high standard because there is something wholesome about not getting a referral fee in this circumstance. Further, there is no time restriction on referral fees.

Mr. Kirsch suggested leaving the term “former client” out and instead addressing the concept of “former client” in a comment to explain the issue. There was a consensus on this issue after a straw poll was taken. The Subcommittee was given enough guidance to put the proposal in Rule 1.8 and provide the comments that clarify the application to former clients in the comments

to the Rule. There also would be a comment to Rule 1.5 relating to the division of fees issue that says referral fees are included within the division of fees analysis with a cross-reference to Rule 1.8. Ms. Glenn and Ms. Holmes agreed to work with the Subcommittee on these revisions. The Subcommittee will send an additional report in April.

**8. NEW BUSINESS.**

**a. Possible Amendment to Comment [14] to Rule 1.2 to Address Proposition 122.**

Ms. Glenn gave some background on Comment [14] to Rule 1.2 to address concerns about giving advice to a client in the marijuana industry. In 2014, this Committee suggested several revisions to Colo. RPC 1.2 to address these issues in terms of personal consumption by a lawyer of marijuana and advice by a lawyer in the marijuana industry. The backstory is that the current rule came about by a change that the Court initiated. The Chief Justice at the time said she could not get the votes for the proposal from the Committee. The Chief Justice wrote the proposed amendment with a back and forth and that resulted in the current rule. The revisions have worked well in terms of providing guidance to lawyers and avoiding discipline against lawyers for personal consumption and providing advice to clients in the marijuana industry.

Now that the voters approved Proposition 122, there is a similar need for revision to Rule 1.2 to address the issues arising from Proposition 122. Ms. Glenn suggested a Subcommittee should be formed to evaluate proposed revisions to Rule 1.2. A Subcommittee was formed with six members. Mr. Patterson agreed to serve as chair of the Subcommittee.

**b. Committee Changes.** Chair Lipinsky thanked Mr. Downey for serving as secretary. Chair Lipinsky also noted that Lisa Wayne was recently appointed to serve as chair of the National Criminal Defense Bar, so she is resigning from this Committee. The Court will fill her vacant position. There are members whose term is up. If such a member does not wish to continue on the Committee, that member should advise Chair Lipinsky, who will in turn advise the Court of the need for a replacement. Chair Lipinsky also noted that Mr. Rothrock will be moving to South Carolina but will continue to practice law in Colorado and continue to serve on this Committee.

**9. Adjournment.** A motion to adjourn was made at 11:31 a.m. A member seconded the motion. The motion carried. The next meeting of the Committee will be on April 14, 2023 at 9 a.m.

Respectfully submitted,

Troy R. Rackham, Secretary

# Attachment 2

At the April 22, 2022 meeting of the Standing Committee on the Colorado Rules of Professional Conduct (Standing Committee), the Patent Practitioner Harmonization Subcommittee (Subcommittee) was formed. The charge of the Subcommittee was to consider the issues presented in a letter request from the National Association of Patent Practitioners (NAPP) that the Standing Committee investigate clarifying or amending or clarify the Colorado Rules of Professional Conduct (Colorado Rules) to “harmonize” them with the United States Patent and Trademark Office (USPTO) Rules of Professional Conduct (USPTO Rules). The Standing Committee understands that NAPP has presented a substantially request to the American Bar Association (ABA).

The two groups of professionals qualified to practice before the USPTO with respect to patent matters are Patent Lawyers and Patent Agents. Both Patent Lawyers and Patent Agents are required to pass the patent bar examination. Patent Agents are authorized to perform all functions within the jurisdiction of the USPTO, including patentability analysis, drafting and prosecuting patent applications, causing an assignment to be executed for the patent owner and filing the assignment, representing others before the Patent Trials and Appeals Board (PTAB), and all other matters before the USPTO. Indeed, the U.S. Supreme Court has recognized that Patent Agents are authorized to practice law before the Patent Office, specifically federal law within the jurisdiction of the Patent Office. See *Sperry v. Florida ex rel. Florida Bar*, 373 U.S. 379, at 385, 389 (1963). In practice before the USPTO, the sole distinction between Patent Lawyers and Patent Agents is that the former generally are graduates of an accredited law school, are licensed in to practice with the jurisdiction of the Patent Office, and a state jurisdiction, while the latter are licensed to practice in the USPTO. In that regard, Patent Lawyers can appear in the state court where they are licensed, federal courts where admitted, and the USPTO, whereas Patent Agents’ authority to appear is limited to the USPTO.

USPTO “Practitioners”, which include Patent Lawyers, Trademark Lawyers, and Patent Agents, are all subject to the same ethical requirements of the USPTO Rules. The USPTO Rules are, for the most part, the ABA Model Rules of Professional Conduct (ABA Rules), with slight modifications that include replacing the term “lawyer” throughout with the term “practitioner.”

The Standing Committee has recognized impetus for the NAPP request is that the Colorado Rules do not permit a Patent Agent, a “non-lawyer,” to share legal fees or form a partnership with a Colorado lawyer, direct the lawyer’s professional judgment, or hold an ownership interest in a law firm. See Colo. RPC 5.4. Using the broader term “practitioner,” the USPTO Rules permit what the Colorado Rules prohibit. See USPTO Rule 5.4(d)(applying prohibitions to “non-practitioner(s)”). The NAPP has cast the Colo. RPC 5.4 issue as imposing a ceiling on the practice of Patent Agents with consequences for those attempting to access patent legal services. One simple “fix” to the Colo. RPC 5.4 issue would be to exclude Patent Agents from the definition of “non-lawyers” pursuant to that Rule. However, even that simple “fix” requires analyzing and answering additional, potentially more complex questions such as: Does a Colorado lawyer practicing with a Patent Agent have supervisory responsibilities under Colo. RPC 5.3 because the Patent Agent is a non-lawyer, or should Colo. RPC 5.1 be revised so that Patent Agents are treated no differently than lawyers for purposes of the supervisory responsibilities in that rule? Are there other implications to the Colorado Rules where Colorado lawyers and Patent Agents practice together?

Further, the NAPP’s request to be acknowledged as a practitioner for purposes of Colo. RPC 5.4 and profits also could open the door to similar requests from other non-lawyers who are authorized

to provide some legal services (e.g., enrolled agents authorized to represent taxpayers before the Internal Revenue Service or accredited representatives in immigration cases).

Thus, the NAPP harmonization request is a large undertaking and one that would mean that Colorado would be leading an effort to revise non-USPTO rules of professional conduct to accommodate the request of the NAPP. Thus, the Standing Committee seeks the Court's guidance on the following questions: (1) Does the Court believe the Standing Committee should explore the "harmonization" effort without prior modification of the ABA Model Rules as a guide?; (2) If the answer to the first question is "yes," should the effort explore the relationship of lawyers practicing with other types of non-lawyers with a limited authority to provide legal services?

# Attachment 3

Attorney Regulation Counsel  
Jessica E. Yates

Chief Deputy Regulation Counsel  
Margaret B. Funk

Deputy Regulation Counsel  
April M. McMurrey

Deputy Regulation Counsel  
Dawn M. McKnight

Deputy Regulation Counsel  
Gregory G. Sapakoff

**COLORADO SUPREME COURT  
ATTORNEY REGULATION COUNSEL**



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Inventory Counsel  
Jay Fernandez

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March 7, 2023

Justice Melissa Hart  
2 East 14<sup>th</sup> Avenue  
Denver, CO 80203  
*(Via Email Only)*

Re: Proposed Set of Rule Amendments to the Rules of Professional  
Conduct

Dear Justice Hart,

On behalf of the Advisory Committee on the Practice of Law and the subcommittee and working groups formed to work on the Licensed Legal Paraprofessional ("LLP") project, I am transmitting a proposed set of rule amendments to the Colorado Rules of Professional Conduct applicable to lawyers licensed by or practicing in Colorado. These proposed changes would help give full effect to the Court's approval of the LLP program by ensuring that Colorado lawyers recognize LLPs as authorized providers of legal services and address situations in which lawyers are practicing law with LLPs in the same firm.

I respectfully request that the Court refer this proposal to the Court's Standing Committee on the Rules of Professional Conduct for consideration, communicated with a request by the Court that the Committee tender a proposal back to the Court that would ensure that the Rules of Professional Conduct recognize LLPs.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Jessica E. Yates". The signature is written in a cursive style.

Jessica E. Yates  
Attorney Regulation Counsel

JEY/kp  
Enclosures

cc: David Stark, Chair of the Advisory Committee on the Practice of Law  
Angie Arkin, Co-Chair of LLP Subcommittee

## **Memorandum**

To: Standing Committee on the Rules of Professional Conduct

From: Adam J. Espinosa, Chair of the LLP Subcommittee

Date: May 15, 2022

Re: Potential Changes to Colorado Attorney Rules of Professional Conduct based on the Proposed Licensed Legal Paraprofessional (LLP) Program

### **Summary**

The LLP Subcommittee has set forth our recommendations for amendments to the Colorado Rules of Professional Conduct in summary fashion and with proposed edits that are redlines of the current attorney rule. Our focus was primarily on attorney rules that might need to be amended, but in some instances a comment to the rule was also flagged for a possible amendment. As you will see, many of the attorney rules of professional conduct will not be affected by the proposed LLP Rules of Professional Conduct and the primary set of rules that would need amendment are the Rule 5 Series set of attorney rules of professional conduct.

Our ask of the Standing Rules Committee is to review our proposals and consider this memo and our initial recommendations as a starting point for a final review by the Standing Rules Committee and a final vote at a future meeting.

### **Background**

The LLP subcommittee of the Standing Committee on the Rules of Professional Conduct was asked to review the proposed LLP Rules of Professional Conduct and make recommendations to this committee for possible changes to the Colorado Rules of Professional Conduct based on the proposed LLP rules. Our task was not to evaluate the proposed LLP Rules of Professional Conduct nor make recommendations to those rules because a separate Colorado Supreme Court Committee was tasked with that responsibility. Our subcommittee is comprised of Erika Holmes, Esq., April Jones, Esq., Matthew Kirsch, Esq., Marcus Squarrell, Esq., Professor Eli Wald, Dave Stark, Esq., Jessica Yates, Esq., and Judge Adam J. Espinosa.

At the outset, our subcommittee was provided a full set of the proposed LLP Rules of Professional Conduct, the LLP Memorandum to the Supreme Court, and the Court's order regarding the implementation of an LLP program. The subcommittee met and decided to do a complete review of each attorney rule of professional conduct, the scope, and the preamble to those rules to determine if the proposed LLP rules would necessitate a change to any of the attorney rules. We divided ourselves into smaller groups where we were each assigned to review a particular set of attorney rules and make recommendations. Those recommendations comprise this memo and are below.

### **Rules**

#### **Preamble**

In the preamble to the attorney rules of professional conduct, we may want to consider an amendment to include a reference to LLPs. Our suggestion to paragraph 5 of the preamble is below.

Preamble: A Lawyer's Responsibilities

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, [Licensed legal Paraprofessionals](#), and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

### **Rule 1 Series**

We found no relevant rules in the Rule 1 Series set of rules that need amendment but we did identify Colo. RPC 1.0(c) and the definition of “firm” or “law firm” as a definition that would need to be amended to include LLPs. As background, the proposed LLP definition for “firm” is as follows:

“Firm” denotes a partnership, professional company, or other entity or a sole proprietorship through which a lawyer or lawyers, an LLP or LLPs, or a combination of lawyers and LLPs render legal services.

We recommend amending the definition of “firm” or “law firm” in Colo. RPC 1.0(c) of the attorney rules to include reference to LLPs. Our proposed amendment is below:

“Firm” or “law firm” denotes a partnership, professional company, or other entity or a sole proprietorship through which a lawyer, ~~or~~ lawyers, [or combination of lawyers and LLPs](#) render legal services; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

If the Standing Committee decides to amend this definition, we will also want to consider amending comments [2] and [4] of Colo. RPC 1.0. Last, the Standing Rules Committee will also want to consider adding a cross-reference to the definition of an LLP in the definitional section of the attorney rules in Colo. RPC 1.0. We recommend:

[Licensed legal paraprofessionals \(“LLPs”\) are individuals licensed by the Supreme Court pursuant to C.R.C.P. \\_\\_\\_\\_\\_ to perform certain types of legal services only under the conditions set forth by the Court. They do not include individuals with a general license to practice law in Colorado.](#)

### **Rule 2 Series**

We found no relevant rules in the Rule 2 Series set of rules that need amendment. There was a suggestion that we add a comment to Rule 2.1 that states, “A lawyer may advise a client of the option of engaging a licensed legal paraprofessional (LLP) when it appears a domestic relations matter could be handled, entirely or substantially, by an LLP. When a lawyer advises a client of the option of engaging an LLP, the lawyer should describe the limited legal services that may be performed by an LLP and should identify services that may not be performed by an LLP.”

### **Rule 3 Series**

We found a few minor instances where we are recommending amendments to Rule 3 Series rules. Specifically, we recommend changing the title of Rule 3.4 to include LLPs and a few minor amendments to Rule 3.7 as reflected below.

Rule 3.4. Fairness to Opposing Party, ~~and Counsel,~~ or LLPs (Title change only)

#### Rule 3.7. Lawyer as Witness

(b) A lawyer may act as advocate in a trial in which another lawyer or LLP in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9.

If the amendment to Rule 3.7 is made by the Standing Rules Committee, we will want to consider amending comments 5 and 6 of this rule to include LLPs.

### **Rule 4 Series**

We recommend amendments to a few Rule 4 series rules. The proposed amendments would presume people being assisted by LLPs are represented rather than unrepresented. Further, we presume that an LLP privilege would be created and recognized. We understand the larger LLP Rules Committee is recommending a statutory client-LLP privilege as part of their proposed statutory rules changes needed to implement the program. Below are our recommendations for amendments.

#### Rule 4.2. Communication with Person Represented by Counsel or an LLP

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer or LLP in the matter, unless the lawyer has the consent of the other lawyer or LLP or is authorized to do so by law or a court order.

Comment 1 and 2 of Rule 4.2 would also need to be amended to include LLPs and client-LLP privilege.

#### Rule 4.3. Dealing with Unrepresented Person

In dealing on behalf of a client with a person who is not represented by counsel or an LLP, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel or an LLP, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Comment 2 of Rule 4.3 would need amendment to include LLPs.

#### Rule 4.4. Respect for Rights of Third Persons

The sole recommendation for amendment to this rule relates to Comments 1 and 2 to Rule 4.4 and the need to identify the client-LLP relationship and the need to incorporate LLPs into these comments.

## Rule 5 Series

We found several instances where we are recommending changes to the Rule 5 series rules. Our recommended amendments relate to Rules 5.1 through 5.6. Proposed redline amendments are below.

### Rule 5.1. Responsibilities of a Partner or Supervisory Lawyer

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct and all LLPs conform to the LLP Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer or LLP shall make reasonable efforts to ensure that the other lawyer or LLP conforms to the applicable Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's or LLP's violation of the applicable Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved;

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer or LLP practices, or has direct supervisory authority over the other lawyer or LLP, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

### Rule 5.2. Responsibilities of a Subordinate Lawyer or LLP

(a) A lawyer or LLP is bound by the applicable Rules of Professional Conduct notwithstanding that the lawyer or LLP acted at the direction of another person.

(b) A subordinate lawyer or LLP does not violate the applicable Rules of Professional Conduct if that lawyer or LLP acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

### Rule 5.3. Responsibilities Regarding Nonlawyer Assistants

With respect to nonlawyers and LLPs employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer or LLP;

(b) a lawyer having direct supervisory authority over the nonlawyer or LLP shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer

[or LLP](#); and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the [applicable](#) Rules of Professional Conduct if engaged in by a lawyer [or LLP](#) if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

#### Rule 5.4. Professional Independence of a Lawyer

(a) A lawyer or law firm shall not share legal fees with a nonlawyer [who is not an LLP](#), except that:

(1) an agreement by a lawyer with the lawyer's firm, partner, [LLP](#) or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer [or LLP](#) may pay to the estate of the deceased lawyer [or LLP](#) that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer [or LLP](#);

(3) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer [or LLP](#) may, pursuant to the provisions of [Rule 1.17](#), pay to the estate or other representative of that lawyer [or LLP](#) the agreed-upon purchase price;

(4) a lawyer or law firm may include nonlawyer [or nonLLP](#) employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

(5) a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommend employment of the lawyer in the matter.

(b) A lawyer shall not form a partnership with a nonlawyer [other than an LLP](#) if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional company that is authorized to practice law for a profit, if:

(1) A nonlawyer [other than an LLP](#) owns any interest therein, except that a fiduciary representative of the estate of a lawyer [or LLP](#) may hold the stock or interest of the lawyer [or LLP](#) for a reasonable time during administration; or

(2) A nonlawyer has the right to direct or control the professional judgment of a lawyer.

(e) A lawyer shall not practice with or in the form of a professional company that is authorized to practice law for a profit except in compliance with [C.R.C.P. 265](#).

(f) For purposes of this Rule, a “nonlawyer [other than an LLP](#)” includes (1) a lawyer [or LLP](#) who has been disbarred, (2) a lawyer [or LLP](#) who has been suspended and who must petition for reinstatement, (3) a lawyer [or LLP](#) who is subject to an interim suspension pursuant to [C.R.C.P. 242.22](#), (4) a lawyer [or LLP](#) who is on inactive status pursuant to [C.R.C.P. 227\(A\)\(6\)](#), (5) a lawyer [or LLP](#) who has been permitted to resign under [C.R.C.P. 227\(A\)\(8\)](#), or (6) a lawyer [or LLP](#) who, for a period of six months or more, has been (i) on disability inactive status pursuant to [C.R.C.P. 243.6](#) or (ii) suspended pursuant to [C.R.C.P. 227\(A\)\(4\)](#), [242.23](#), [242.24](#), or [260.6](#).

#### Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

(a) A lawyer shall not:

(1) practice law in this jurisdiction without a license to practice law issued by the Colorado Supreme Court unless specifically authorized by [C.R.C.P. 204](#), *et seq.* or federal or tribal law;

(2) practice law in a jurisdiction where doing so violates the regulations of the legal profession in that jurisdiction;

(3) assist a person who is not authorized to practice law pursuant to subpart (a) of this Rule in the performance of any activity that constitutes the unauthorized practice of law; or

(4) allow the name of a disbarred lawyer [or LLP](#) or a suspended lawyer [or LLP](#) who must petition for reinstatement to remain in the firm name.

(b) A lawyer shall not employ, associate professionally with, allow or aid a person the lawyer knows or reasonably should know is a disbarred, suspended, or on disability inactive status to perform the following on behalf of the lawyer’s client:

(1) render legal consultation or advice to the client;

(2) appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer;

(3) appear on behalf of a client at a deposition or other discovery matter;

(4) negotiate or transact any matter for or on behalf of the client with third parties;

(5) otherwise engage in activities that constitute the practice of law; or

(6) receive, disburse or otherwise handle client funds.

(c) Subject to the limitation set forth below in paragraph (d), a lawyer may employ, associate professionally with, allow or aid a lawyer or LLP who is disbarred, suspended (whose suspension is partially or fully served), or on disability inactive status to perform research, drafting or clerical activities, including but not limited to:

(1) legal work of a preparatory nature, such as legal research, the assemblage of data and other necessary information, drafting of pleadings, briefs, and other similar documents;

(2) direct communication with the client or third parties regarding matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages; and

(3) accompanying an active member in attending a deposition or other discovery matter for the limited purpose of providing assistance to the lawyer who will appear as the representative of the client.

~~(3-1) (i)–An LLP who is disbarred, suspended or on disability status may only perform the above services subject to the limitations imposed by Rule \_\_\_\_\_.~~

(d) A lawyer shall not allow a person the lawyer knows or reasonably should know is disbarred, suspended, or on disability inactive status to have any professional contact with clients of the lawyer or of the lawyer’s firm unless the lawyer:

(1) prior to the commencement of the work, gives written notice to the client for whom the work will be performed that the disbarred or suspended lawyer or LLP, or the lawyer or LLP on disability inactive status, may not practice law; and

(2) retains written notification for no less than two years following completion of the work.

(e) Once notice is given pursuant to C.R.C.P. 242.32 or this Rule, then no additional notice is required.

#### Rule 5.6. Restrictions on Right to Practice

A lawyer shall not participate in offering or making:

(a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer or LLP to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or

(b) an agreement in which a restriction on the lawyer's or LLP's right to practice is part of the settlement of a client controversy.

### **Rule 6 Series**

We found no relevant rules or comments in Chapter 6 that need amendment. The Rule 6 Series rules includes recommended Model Pro Bono Policies for Colorado Attorneys, Law Firms and In-House Counsel, and it might be appropriate to add or reference the model for LLPs.

### **Rule 7 Series**

We found only one relevant rule in the Rule 7 series rules that we recommend amending. Specifically, we recommend adding licensed legal paraprofessionals to the list of persons who can be solicited by a lawyer in Rule 7.3(b). A proposed redline amendment is below.

#### Rule 7.3. Solicitation of Clients

(b) A lawyer shall not solicit professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or law firm's pecuniary gain, unless the contact is with a:

(1) lawyer;

(2) person who has a family, close personal, or prior business or professional relationship with the lawyer or law firm; ~~or~~

(3) person who routinely uses for business purposes the type of legal services offered by the lawyer; or-

(4) a licensed legal paraprofessional.

### **Rule 8 Series**

We found two instances in the Rule 8 series rules that we are recommending amendment. We recommend Rule 8.3 be amended to include a lawyer's duty to report another lawyer or LLP that has violated their respective rules of professional conduct. Also, we are recommending that 8.4(a) be amended to make it clear that a lawyer commits misconduct if the lawyer assists another lawyer or LLP in violating their respective rules of professional conduct. Proposed redline amendments are below.

#### Rule 8.3. Reporting Professional Misconduct

(a) A lawyer who knows that another lawyer or LLP has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's or LLP's honesty,

| trustworthiness or fitness as a lawyer [or LLP](#) in other respects, shall inform the appropriate professional authority.

#### Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

| **(a)** violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another [lawyer or LLP](#) to do so, or do so through the acts of another;

**RULE CHANGE 2023(06)**

**RULES GOVERNING ADMISSION TO THE PRACTICE OF LAW IN COLORADO**

**Rules 207, 207.1, 207.2, 207.3, 207.4, 207.5, 207.6, 207.7, 207.8, 207.9, 207.10, 207.11,  
207.12, 207.13, and 207.14**

**Rule 207. Licensed Legal Paraprofessionals**

## Rule 207.1. Licensed Legal Paraprofessionals' Scope of Authority to Practice

(1) Licensed Legal Paraprofessionals ("LLPs") are individuals licensed by the Supreme Court pursuant to this rule to perform certain types of legal services only under the conditions set forth by the Court. They do not include individuals with a general license to practice law in Colorado.

(2) An LLP's scope of licensure is limited as follows:

(a) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in a legal separation, declaration of invalidity of marriage, or dissolution of a marriage or civil union.

(b) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in an initial allocation of parental responsibility ("APR") matter, including parentage determinations, that is not part of a dissolution of a marriage or civil union.

(c) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in a matter involving modification of APR regardless of whether the initial APR was part of a dissolution of a marriage or civil union, or modification of child support and/or maintenance.

(d) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in any of the following matters: protection orders, name changes, and adult gender designation changes.

(e) An LLP's authority to practice law under any section of this rule includes filing and responding to motions for remedial contempt citations under C.R.C.P. 107.

(f) Even if an LLP is authorized to represent a client pursuant to sections (2)(a), (2)(b), (2)(c), (2)(d) and (2)(e), an LLP is not authorized to represent a client in any of the following:

(i) the registration of foreign orders;

(ii) motions for or orders regarding punitive contempt citations under C.R.C.P. 107;

(iii) matters involving an allegation of common law marriage;

(iv) matters involving disputed parentage where there are more than two persons asserting or denying legal parentage;

(v) matters in which a non-parent's request for APR is contested by at least one parent;

(vi) preparation of or litigation regarding pre- or post-nuptial agreements;

(vii) matters in which a party is a beneficiary of a trust and information about the trust will be relevant to resolution of the matter;

(viii) matters in which a party intends to contest jurisdiction of the court over the matter;

(ix) the preparation by the LLP of a qualified domestic relations order ("QDRO") or other document allocating retirement assets that are not liquid at the time of the matter;

(x) the preparation by the LLP of documents needed to effectuate the sale or distribution of assets of a business entity or commercial property;

(xi) matters in which an expert report or testimony is required to value an asset or determine income due to the inherent complexity of the asset or income at issue; or

(xii) issues collateral to, but directly affecting, a matter which falls within the LLP's scope of practice when such issues require analysis and advice outside that scope of practice, such as immigration, criminal, and bankruptcy issues that could directly affect the resolution of the matter.

(g) Within the types of matters and authorizations to practice law identified in section (2)(a), (2)(b), (2)(c), (2)(d) and (2)(e) of this rule, an LLP who is in good standing may represent the interests of a client by:

(i) establishing a contractual relationship with the client;

(ii) interviewing the client to understand the client's objectives and obtaining information relevant to achieving that objective;

(iii) informing, counseling, advising, and assisting the client in determining which form (among those approved by the Judicial Department or the Supreme Court) to use as the basis for a document in a matter, and advising the client on how to complete a form or provide information for a document;

(iv) preparing and completing documents using forms approved by the Judicial Department or the Supreme Court, including proposed parenting plans, separation agreements, motions or stipulations for child support modification, child support worksheets, proposed orders, non-appearance affidavits, discovery requests and answers to discovery requests, trial management certificates, pretrial submissions, and exhibit and witness lists;

(v) obtaining, explaining, and filing any document or necessary information in support of a form or other document, including sworn financial statements and certificates of compliance;

(vi) signing, filing, and completing service of documents;

(vii) reviewing documents of another party or documents and forms prepared by a pension or retirement plan which allocate pension or retirement benefits pursuant to a decree of dissolution, and explaining them to the client;

(viii) informing, counseling, assisting and advocating for a client in negotiations with another party or that party's representative and in mediations;

(ix) filling in, signing, filing, and completing service of a written settlement agreement in conformity with the negotiated agreement;

(x) communicating with another party or the party's representative regarding documents prepared for or filed in a case and matters reasonably related thereto;

(xi) communicating with the client regarding the matter and related issues;

(xii) explaining a court order that affects the client's rights and obligations;

(xiii) standing or sitting at counsel table with the client during a court proceeding to provide emotional support, communicating with the client during the proceeding, answering questions posed by the court, addressing the court upon the court's request, taking notes, and assisting the client in understanding the proceeding and relevant orders;

(xiv) providing clients with information about additional resources or requirements, such as parenting education classes, and filing certificates of completion with the court; and

(xv) advising clients regarding the need for a lawyer to review complex issues that may arise in a matter.

(h) An LLP is not authorized to conduct an examination of a witness. The LLP may only address the court pursuant to section (2)(g)(xiii) of this rule.

(i) Limits on the activities that can be performed or matters that can be undertaken by an LLP under this rule do not, by themselves, require the LLP to withdraw from the representation of a client if the LLP can provide authorized services to that client. Nothing in this rule precludes a client of an LLP from retaining a lawyer or acting pro se in the same matter in which the client has retained an LLP when an activity, task or issue is outside the LLP's authorized scope of practice.

### **Rule 207.2. Supreme Court Jurisdiction**

The Supreme Court exercises jurisdiction over all matters involving the licensing and regulation of those persons who practice law in Colorado. Accordingly, the Supreme Court has adopted the following rules governing admission to the practice of law by licensed legal paraprofessionals (LLPs) in Colorado.

### **Rule 207.3. Supreme Court Advisory Committee on the Practice of Law**

(1) The Supreme Court Advisory Committee on the Practice of Law (Advisory Committee) is a permanent committee of the Supreme Court. See C.R.C.P. 242.3. The Advisory Committee oversees the coordination of administrative matters for all programs of the LLP regulation process.

(2) The Advisory Committee shall have oversight over the LLP admissions process.

(3) The Advisory Committee shall recommend to the Supreme Court proposed changes or additions to the rules of procedure governing admission to the practice of law by LLPs.

(4) The Advisory Committee shall review the productivity, effectiveness and efficiency of all matters involving the admission of LLPs to practice law in the state of Colorado.

### **Rule 207.4. Licensed Legal Paraprofessionals Committee**

(1) Licensed Legal Paraprofessionals (LLP) Committee. The LLP Committee will serve as a permanent committee of the Supreme Court.

(a) **Members.** The LLP Committee will consist of eleven volunteers appointed by the Supreme Court. For at least the first four years from the date of adoption of this rule, at least six members must be Colorado licensed attorneys and at least two members must be non-attorneys. With the exception of the chair and vice-chair, members will be appointed for an initial term of two, three or four years, and may serve up to two terms. Diversity will be a consideration in making the appointments. The terms of the members of the LLP Committee will be staggered to provide, so far as possible, for the expiration each year of the term of one member. All members, including the chair and vice-chair, serve at the pleasure of and may be dismissed at any time by the Supreme Court. A member of the LLP Committee may resign at any time.

(b) **Chair and Vice-Chair.** The Supreme Court will designate two members of the LLP Committee to serve as its chair and vice-chair for unspecified terms. The chair will exercise overall supervisory control of the Committee. The chair will also be a member of the Advisory Committee.

(c) **Powers and Duties.** The LLP Committee will:

(i) Oversee the administration of written examinations concerning substantive and procedural law and ethical responsibilities each year, at such times and places as may be designated by the Supreme Court;

(ii) Make recommendations to the Supreme Court regarding passing scores for the written examinations;

(iii) Oversee the process of grading the written examinations to ensure uniformity and quality of grading;

(iv) Oversee other regulatory functions specific to LLP applications and the practice of law by LLPs as provided in the rules within Rule 207.

(v) Periodically report to the Advisory Committee on the operations of the LLP Committee;

(vi) Make recommendations to the Advisory Committee regarding proposed changes or additions to rules that concern the functions of the LLP Committee; and

(vii) Adopt such practices as may from time to time become necessary to govern the internal operation of the LLP Committee.

(2) **Character and Fitness Committee.** The Character and Fitness Committee established by C.R.C.P. 202.3, which serves as a permanent committee of the Supreme Court with the powers and duties set forth by that rule, will exercise the same powers and perform the same duties relative to the admission of LLPs:

(i) To enforce the character and fitness standards set forth in C.R.C.P. 208 in the review of all LLP applications for admission to the practice of law in Colorado;

(ii) To participate in inquiry panels as set forth in C.R.C.P. 208.4;

(iii) To participate on hearing boards empaneled by the Office of the Presiding Disciplinary Judge pursuant to C.R.C.P. 209.2;

(iv) To periodically report to the Advisory Committee on the operations of the Character and Fitness Committee;

(v) To make recommendations to the Advisory Committee regarding proposed changes or additions to rules that concern the functions of the Character and Fitness Committee; and

(vi) To adopt such practices as may from time to time become necessary to govern the internal operations of the Character and Fitness Committee.

### **Rule 207.5. Attorney Regulation Counsel**

The Attorney Regulation Counsel will maintain and supervise a permanent office, hereinafter referred to as the Office of LLP Admissions, to serve as a central office for (a) the filing and processing of all applications for admission, certification, and other authorization to practice law in Colorado; (b) the administration of the Colorado bar examination and LLP examinations; (c) the investigation of all applicants' character and fitness; and (d) the certification to the Supreme Court of applicants' qualifications to practice law in Colorado. The Attorney Regulation Counsel shall administer all LLP admission functions as part of a budget approved by the Supreme Court.

### **Rule 207.6. Immunity**

**(1) Committees, Staff, and Volunteers.** Persons performing official duties under the provisions of this chapter, including but not limited to the Advisory Committee and its members, the LLP Committee and its members, the Character and Fitness Committee and its members, the Attorney Regulation Counsel and staff, the Presiding Disciplinary Judge and staff, members of hearing boards, and other enlisted volunteers are immune from suit for all conduct performed in the course of their official duties.

**(2) Other Participants in Admission Proceedings.** Testimony, records, statements of opinion and other information regarding an applicant for LLP admission communicated by any person or entity to the Advisory Committee or its members, the LLP Committee or its members, the Character and Fitness Committee and its members, the Attorney Regulation Counsel or staff, the Presiding Disciplinary Judge or staff, members of hearing boards, the Colorado Lawyer Assistance Program or staff, or other volunteers are absolutely privileged, and no lawsuit will be predicated thereon. If the matter is confidential as provided in these rules, and if the person or entity who testified or otherwise communicated does not maintain confidentiality, then the testimony or communications shall be qualifiedly privileged, such that an action may lie against a person or entity who provided the testimony or communications in bad faith or with reckless disregard of its truth or falsity.

### **Rule 207.7. General Provisions**

**(1) Application Forms.** All applications for a license to practice law as an LLP in Colorado will be made on forms furnished by the Office of LLP Admissions. The application forms will require such information as is necessary to determine whether the applicant meets the requirements of these rules, together with such additional information as is necessary for the efficient

administration of these rules. Applicants must answer all questions completely, and must provide all required documentation. The Office of LLP Admissions may, in its discretion, reject an incomplete application or place an incomplete application on hold until all required information is produced.

(2) Confidentiality. Information contained on applications for a license to practice law as an LLP in Colorado will be deemed confidential and may be released only under the conditions for release of confidential information established by C.R.C.P. 211.1.

**(3) Duty to Supplement.**

(a) Applicants must immediately update the application with respect to all matters inquired of. This duty to supplement continues in effect up to the time an applicant takes the oath of admission. Updates must be reported in a manner consistent with the Office of LLP Admissions' requirements.

(b) Failure to timely supplement a pending application may result in the denial of the application, a review of such failure as a character and fitness issue, or if the person has already been admitted as an LLP in Colorado, discipline or revocation of the person's LLP license.

(4) Fees. All applicants must pay a fee in an amount fixed by the Supreme Court. The fee must be paid when the application is submitted.

(5) Admission as an LLP. An applicant who qualifies for admission as an LLP under this rule, and who meets the character and fitness requirements set forth in C.R.C.P. 208, shall be admitted to the practice of law as an LLP in Colorado in the manner prescribed by these rules.

(6) Disbarred Attorneys or Legal Paraprofessionals. A person who has been disbarred from the practice of law in any jurisdiction, or who has resigned pending disciplinary proceedings in any jurisdiction, is not eligible to apply for admission to the practice of law as an LLP in Colorado until the person has been readmitted in the jurisdiction in which the person was disbarred or resigned.

(7) Suspended Attorneys or Legal Paraprofessionals. A person who has been suspended for disciplinary purposes from the practice of law in any jurisdiction is not eligible to apply for admission to the practice of law as an LLP in Colorado until the period of suspension has expired and the person has been reinstated to the practice of law in the jurisdiction in which the person was suspended.

(8) Mandatory LLP Professionalism Course. All applicants under these rules, unless otherwise exempted, must complete a required course on professionalism specific to LLPs presented by the Office of Attorney Regulation Counsel. Continuing legal education credit will be applied to the LLP's first compliance period pursuant to C.R.C.P. 250.2(1). Credit for completion of the professionalism course will be valid for eighteen months following completion of the course.

**Rule 207.8. Applications for Colorado LLP Admission**

(1) All LLP applicants must, as a condition of admission, take and pass the Colorado LLP examinations, which includes testing on family law and professional conduct rules, and any other

topics designated by the Supreme Court.

(2) Colorado LLP applications for the LLP Examination must be received or postmarked on or before the deadlines designated by the Supreme Court and published by the Office of LLP Admissions.

(3) By the time of taking the family law examination, Colorado LLP examination applicants must either meet the experience requirements set forth in section (4) or must have received:

(a) a J.D. degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a state-accredited law school;

(b) an associate's degree in paralegal studies from an accredited school;

(c) a bachelor's degree in paralegal studies from an accredited school;

(d) a bachelor's degree in any subject from an accredited school that includes:

(i) a paralegal certificate; or

(ii) 15 hours of paralegal studies from an accredited school; or

(e) a first professional law degree from a law school in a country other than the United States with an LL.M. qualifying such applicant to sit for the Colorado bar examination under C.R.C.P. 204.3.

(4) An applicant is not required to meet the educational qualifications set forth in section (3) if the applicant demonstrates that the applicant has worked the equivalent of three full-time years in employment constituting substantive law-related practical experience, which must include the equivalent of one full-time year focused on Colorado family law, during the five years immediately preceding the date of filing the application.

(5) By the time of taking the professional conduct examination, all Colorado LLP applicants must have successfully completed an ethics class specific to LLPs or lawyers from an accredited school.

(6) All Colorado LLP applicants must also pass an LLP professional conduct exam prior to admission.

(7) All Colorado LLP applicants must also demonstrate completion of 1,500 hours of substantive law-related practical experience, including 500 hours of experience in Colorado family law, within the three years immediately preceding the date of submitting the LLP application.

(8) All Colorado LLP applicants bear the burden of proving they have the character and fitness to practice law as an LLP, and must comply with all character and fitness requirements established by the Supreme Court through C.R.C.P. 208.1. All Colorado LLP applicants are subject to the procedures set forth in C.R.C.P. 208.1 through C.R.C.P. 210.2 concerning review of character and fitness.

(9) All Colorado LLP applicants must pay the required application fee.

(10) Professionalism Course. All successful Colorado LLP examination applicants must

complete the course on professionalism, as described in C.R.C.P. 203.1(8), prior to and as a condition of admission. Credit for completion of the professionalism course will be valid for eighteen months following completion of the course.

(11) Any unsuccessful applicant may, upon request, obtain a copy of the applicant's answers to the essay portions of the examination. Such request shall be made on a form furnished by the Office of LLP Admissions. This rule does not permit applicants to obtain any materials other than the applicant's written essay answers.

### **Rule 207.9. Petitions to the Supreme Court for Waiver of Admissions Requirements**

(1) Availability. C.R.C.P. 206 applies to petitions for waiver of specific LLP admissions eligibility requirements. Nothing herein is deemed a limitation on the Supreme Court's plenary jurisdiction set forth in C.R.C.P. 207.2, 207.13 and 212.

### **Rule 207.10. Access to Information Concerning Admission of LLPs**

(1) Except as otherwise authorized by C.R.C.P. 209.4(2) or order of the Supreme Court, all other information contained in the application, and all admissions proceedings conducted pursuant to C.R.C.P. 208 through 209 prior to the filing of any written exceptions with the clerk of the Supreme Court, shall be confidential and requests for such information shall be denied by the Office of the Presiding Disciplinary Judge and the Office of Attorney Regulation Counsel, hearing boards, inquiry panels, and committees, unless the request is made by:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law, including admission to limited-scope practice as a licensed legal paraprofessional or licensed paralegal;

(b) An agency authorized to investigate the qualifications of persons for government employment;

(c) A regulation or discipline enforcement agency with jurisdiction over attorneys or licensed legal paraprofessionals or licensed paralegals;

(d) A law enforcement agency;

(e) An agency authorized to investigate the qualifications of judicial candidates; or

(f) The Colorado Lawyer Assistance Program, or another jurisdiction's similar program.

Upon a showing of good cause, the Supreme Court may enter an order that seals all or part of the record of proceedings at the Supreme Court level.

(2) Public Proceedings. Except as otherwise provided by the Supreme Court, the record, pleadings and all proceedings before the Supreme Court shall become public upon the filing of written exceptions.

### **Rule 207.11. Reapplication for Admission**

(1) Unless otherwise ordered by the Supreme Court, an applicant who has been rejected by the Supreme Court as not possessing the character and fitness necessary to practice law in Colorado, or whose license to practice law has been revoked pursuant to proceedings under C.R.C.P. 210, may not reapply for admission as an LLP in Colorado for five years after the date of the Supreme Court's ruling.

### **Rule 207.12. Oath of Admission**

(1) Oath of Admission. No applicant will be admitted as an LLP in Colorado until such time as they have taken the oath of admission prescribed by the Supreme Court.

(2) Length of Time to Take Oath. No LLP applicant will be permitted to take the oath more than eighteen months after the date of the announcement by the Supreme Court that they have passed the examination. Nothing herein shall preclude reapplication for admission.

(3) Certificates of Admission. Admission of all LLP applicants shall be by order of the Supreme Court, en banc, and certificates of admission issued to applicants shall be signed by the Clerk of the Supreme Court. An applicant will not receive a certificate of admission until after the applicant has signed an oath before the Clerk of the Supreme Court or other designated offices and has paid a license fee in an amount set by the Supreme Court. The portion of the license fee necessary to cover the cost of the license shall be remitted to the Clerk of the Supreme Court.

### **Rule 207.13. Plenary Power of the Supreme Court**

The Supreme Court reserves the authority to review any determination made in the course of the admissions process or in the operation of these rules and to enter any order with respect thereto, including an order directing that further proceedings be conducted as provided by these rules.

### **Rule 207.14. Registration Fee**

#### **A. REGISTRATION FEE OF LICENSED LEGAL PARAPROFESSIONALS**

##### **(1) General Provisions.**

(a) Fees. On or before February 28 of each year, every licensed legal paraprofessional (LLP) admitted to practice in Colorado must annually file a registration statement and pay a fee as set by the Colorado Supreme Court. As of 2024, the fees set by the court are as follows: the fee for active LLPs is \$325.00; the fee of any LLP whose first admission to practice is within the preceding three years is \$190.00; the fee for LLPs on inactive status is \$130.00. All persons first becoming subject to this rule must file a statement required by this rule at the time of admission, but no annual fee shall be payable until the first day of January following such admission. The Supreme Court will authorize periodic increases to the annual fee for every Colorado LLP as necessary.

(b) Collection of Fee. The annual fee will be collected by the Clerk of the Supreme Court of Colorado, who will send and receive the notices and statements provided for hereafter.

(c) Application of Fees. The fee will be divided. Twenty dollars shall be used to maintain an Attorneys' Fund for Client Protection. The remaining portion of the fee, and the entire fee of those on inactive status, shall be used only to defray the costs of licensing and regulating LLPs within the Office of Attorney Regulation Counsel, as well as other functions within the Office of Attorney Regulation Counsel (admissions, registration, mandatory continuing legal and judicial education, attorney diversion and discipline, unauthorized practice of law and inventory counsel functions), the Office of the Presiding Disciplinary Judge, the Colorado Lawyers Assistance Program, the Colorado Attorney Mentoring Program, the Advisory and other regulatory committees and any other practice of law function deemed appropriate by the Supreme Court.

## **(2) Statement.**

(a) Contents. The annual registration statement must be on a form prescribed by the Clerk, setting forth:

(1) date of admission as an LLP by the Colorado Supreme Court;

(2) registration number;

(3) current residence and office addresses and, if applicable, a preferred mailing address for the Colorado Courts, along with current telephone numbers and email addresses;

(4) certification as to (a) whether the LLP has been ordered to pay child support and, if so, whether the LLP is in compliance with any child support order, (b) whether the LLP or the LLP's law firm has established one or more interest-bearing accounts for client funds as provided in Colo. RPC 1.15B or Colo. LLP RPC 1.15B and if so, the name of the financial institution, account number and location of the financial institution, or, if not, the reason for the exemption, and (c) whether the LLP is currently covered by professional liability insurance and, if so, whether the LLP intends to maintain insurance during the time the LLP is engaged in the private practice of law; and

(5) certification that the LLP agrees to confine the LLP's practice of law to all limitations set forth in applicable rules, statutes, and other law.

(6) such other information as the Clerk may from time to time direct.

(b) Notification of Change. Every LLP shall file a supplemental statement of change in the information previously submitted, including home and business addresses, within 28 days of such change. Such change shall include, without limitation, the lapse or termination of professional liability insurance without continuous coverage.

(c) Availability of Information. The information provided by the LLP regarding professional liability insurance shall be available to the public through the Supreme Court Office of Attorney Registration and on the Supreme Court Office of Attorney Registration website.

## **(3) Compliance.**

(a) Late Fee. Any LLP who pays the annual fee or files the annual registration statement after February 28 but on or before March 31 must pay a late fee of \$50.00 in addition to the

registration fee. Any LLP who pays the annual fee or files the annual registration statement after March 31 must pay a late fee of \$150.00 for each such year, in addition to the registration fee.

(b) Initial Pleading Must Contain Registration Number. Whenever an initial pleading is signed by an LLP, it shall also include thereon the LLP's registration number. Whenever an initial appearance is made in court without a written pleading, the LLP shall advise the court of the registration number. The number need not be on any subsequent pleadings.

#### **(4) Suspension.**

(a) Failure to Pay Fee or File Statement--Notice of Delinquency. An LLP will be summarily suspended if the LLP either fails to pay the fee or fails to file a complete statement or supplement thereto as required by this rule prior to May 1, provided a notice of delinquency has been issued by the Clerk and mailed to the LLP addressed to the LLP's last known mailing address at least 28 days prior to such suspension, unless an excuse has been granted on grounds of financial hardship. Orders suspending an LLP for failure to comply with rules governing LLP registration take effect on entry of the order, unless otherwise ordered.

(b) Duties to Notify Clients and Duties in Litigation Matters. An LLP who has been suspended under the rules governing LLP registration need not comply with the requirements of C.R.C.P. 242.32(c) or C.R.C.P. 242.32(d) if the LLP has sought reinstatement under the rules governing LLP registration and reasonably believes that reinstatement will occur within 14 days of the date of the order of suspension. If the LLP is not reinstated within those 14 days, then the LLP must comply with the requirements of C.R.C.P. 242.32(c) and C.R.C.P. 242.32(d).

#### **(5) Reinstatement.**

(a) Application--Reinstatement Fee. Any LLP suspended under the provisions of section (4)(a) above will not be reinstated until application for reinstatement is made in writing and the Clerk acts favorably on the application. Each application for reinstatement shall be accompanied by a reinstatement fee of \$100.00 and payment of all arrearages and late fees to the date of the request for reinstatement.

#### **(6) Inactive Status.**

(a) Notice. An LLP who has retired or is not engaged in practice shall file a notice in writing with the Clerk that they desire to transfer to inactive status and discontinue the practice of law.

(b) Payment of Fee--Filing of Statement. Upon the filing of the notice to transfer to inactive status, the LLP shall no longer be eligible to practice law but shall continue to pay the fee required under section (1)(a) above and file the statements and supplements thereto required by this rule on an annual basis.

(c) Exemption--Age 65. Any registered inactive LLP over the age of 65 is exempt from payment of the annual fee.

(7) Transfer to Active Status. Upon the filing of a notice to transfer to inactive status and payment of the fee required under section (1)(a) above and any arrearages, if owed, an LLP will be removed from the roll of those classified as active until and unless a request for transfer to

active status is made and granted. Transfer to active status will be granted, unless the LLP is subject to an outstanding order of suspension or disbarment, upon the payment of any assessment in effect for the year the request is made and any accumulated arrearages for non-payment of inactive fees.

### **(8) Resignation.**

(a) Criteria. The supreme court may permit an LLP to resign from the practice of law in Colorado. The Regulation Counsel must inform the supreme court whether any disciplinary or disability matter involving the LLP should preclude the LLP's resignation and whether any pre-complaint proceeding pending against the LLP under C.R.C.P. 242 should be dismissed. An LLP may not resign if a complaint under C.R.C.P. 242.25 is pending against the LLP.

(b) Procedure. An LLP who wishes to resign must request permission of the supreme court under this section by submitting a request to the Office of Attorney Registration, and must tender the LLP's certificate of admission along with a certification as to whether the LLP is subject to disciplinary proceedings in any other jurisdiction. A request to resign and an order of resignation are public information.

(c) Effect. An LLP who has been permitted to resign:

(1) Must comply with the duties listed in C.R.C.P. 242.32;

(2) Is excused from paying the annual registration fee;

(3) Is not eligible for reinstatement or transfer to active or inactive status and may be admitted to the practice of law in Colorado only by complying with the rules governing admission to the practice of law;

(4) May not hold themselves out as a Colorado LLP; and

(5) Remains subject to the supreme court's jurisdiction as set forth in C.R.C.P. 242.1(a) as to the LLP's prior practice of law in Colorado.

### **COMMENT**

The Supreme Court sets the annual registration fee for LLPs to be used for the purposes set forth in the rule. Those fees, together with other fees collected through the Office of Attorney Regulation Counsel, will help defray the cost of admitting, registering and regulating LLPs.

## **Rule 207. Licensed Legal Paraprofessionals**

### **Rule 207.1. Licensed Legal Paraprofessionals' Scope of Authority to Practice**

(1) Licensed Legal Paraprofessionals (“LLPs”) are individuals licensed by the Supreme Court pursuant to this rule to perform certain types of legal services only under the conditions set forth by the Court. They do not include individuals with a general license to practice law in Colorado.

(2) An LLP’s scope of licensure is limited as follows:

(a) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in a legal separation, declaration of invalidity of marriage, or dissolution of a marriage or civil union.

(b) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in an initial allocation of parental responsibility (“APR”) matter, including parentage determinations, that is not part of a dissolution of a marriage or civil union.

(c) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in a matter involving modification of APR regardless of whether the initial APR was part of a dissolution of a marriage or civil union, or modification of child support and/or maintenance.

(d) An LLP may represent a client to perform tasks and services identified under section (2)(g) of this rule in any of the following matters: protection orders, name changes, and adult gender designation changes.

(e) An LLP’s authority to practice law under any section of this rule includes filing and responding to motions for remedial contempt citations under C.R.C.P. 107.

(f) Even if an LLP is authorized to represent a client pursuant to sections (2)(a), (2)(b), (2)(c), (2)(d) and (2)(e), an LLP is not authorized to represent a client in any of the following:

(i) the registration of foreign orders;

(ii) motions for or orders regarding punitive contempt citations under C.R.C.P. 107;

(iii) matters involving an allegation of common law marriage;

(iv) matters involving disputed parentage where there are more than two persons asserting or denying legal parentage;

(v) matters in which a non-parent’s request for APR is contested by at least one parent;

(vi) preparation of or litigation regarding pre- or post-nuptial agreements;

(vii) matters in which a party is a beneficiary of a trust and information about the trust will be relevant to resolution of the matter;

(viii) matters in which a party intends to contest jurisdiction of the court over the matter;

(ix) the preparation by the LLP of a qualified domestic relations order (“QDRO”) or other document allocating retirement assets that are not liquid at the time of the matter;

(x) the preparation by the LLP of documents needed to effectuate the sale or distribution of assets of a business entity or commercial property;

(xi) matters in which an expert report or testimony is required to value an asset or determine income due to the inherent complexity of the asset or income at issue; or

(xii) issues collateral to, but directly affecting, a matter which falls within the LLP's scope of practice when such issues require analysis and advice outside that scope of practice, such as immigration, criminal, and bankruptcy issues that could directly affect the resolution of the matter.

(g) Within the types of matters and authorizations to practice law identified in section (2)(a), (2)(b), (2)(c), (2)(d) and (2)(e) of this rule, an LLP who is in good standing may represent the interests of a client by:

(i) establishing a contractual relationship with the client;

(ii) interviewing the client to understand the client's objectives and obtaining information relevant to achieving that objective;

(iii) informing, counseling, advising, and assisting the client in determining which form (among those approved by the Judicial Department or the Supreme Court) to use as the basis for a document in a matter, and advising the client on how to complete a form or provide information for a document;

(iv) preparing and completing documents using forms approved by the Judicial Department or the Supreme Court, including proposed parenting plans, separation agreements, motions or stipulations for child support modification, child support worksheets, proposed orders, non-appearance affidavits, discovery requests and answers to discovery requests, trial management certificates, pretrial submissions, and exhibit and witness lists;

(v) obtaining, explaining, and filing any document or necessary information in support of a form or other document, including sworn financial statements and certificates of compliance;

(vi) signing, filing, and completing service of documents;

(vii) reviewing documents of another party or documents and forms prepared by a pension or retirement plan which allocate pension or retirement benefits pursuant to a decree of dissolution, and explaining them to the client;

(viii) informing, counseling, assisting and advocating for a client in negotiations with another party or that party's representative and in mediations;

(ix) filling in, signing, filing, and completing service of a written settlement agreement in conformity with the negotiated agreement;

(x) communicating with another party or the party's representative regarding documents prepared for or filed in a case and matters reasonably related thereto;

(xi) communicating with the client regarding the matter and related issues;

- (xii) explaining a court order that affects the client's rights and obligations;
  - (xiii) standing or sitting at counsel table with the client during a court proceeding to provide emotional support, communicating with the client during the proceeding, answering questions posed by the court, addressing the court upon the court's request, taking notes, and assisting the client in understanding the proceeding and relevant orders;
  - (xiv) providing clients with information about additional resources or requirements, such as parenting education classes, and filing certificates of completion with the court; and
  - (xv) advising clients regarding the need for a lawyer to review complex issues that may arise in a matter.
- (h) An LLP is not authorized to conduct an examination of a witness. The LLP may only address the court pursuant to section (2)(g)(xiii) of this rule.
- (i) Limits on the activities that can be performed or matters that can be undertaken by an LLP under this rule do not, by themselves, require the LLP to withdraw from the representation of a client if the LLP can provide authorized services to that client. Nothing in this rule precludes a client of an LLP from retaining a lawyer or acting pro se in the same matter in which the client has retained an LLP when an activity, task or issue is outside the LLP's authorized scope of practice.

### **Rule 207.2. Supreme Court Jurisdiction**

The Supreme Court exercises jurisdiction over all matters involving the licensing and regulation of those persons who practice law in Colorado. Accordingly, the Supreme Court has adopted the following rules governing admission to the practice of law by licensed legal paraprofessionals (LLPs) in Colorado.

### **Rule 207.3. Supreme Court Advisory Committee on the Practice of Law**

- (1) The Supreme Court Advisory Committee on the Practice of Law (Advisory Committee) is a permanent committee of the Supreme Court. See C.R.C.P. 242.3. The Advisory Committee oversees the coordination of administrative matters for all programs of the LLP regulation process.
- (2) The Advisory Committee shall have oversight over the LLP admissions process.
- (3) The Advisory Committee shall recommend to the Supreme Court proposed changes or additions to the rules of procedure governing admission to the practice of law by LLPs.
- (4) The Advisory Committee shall review the productivity, effectiveness and efficiency of all matters involving the admission of LLPs to practice law in the state of Colorado.

### **Rule 207.4. Licensed Legal Paraprofessionals Committee**

- (1) **Licensed Legal Paraprofessionals (LLP) Committee.** The LLP Committee will serve as a permanent committee of the Supreme Court.

(a) **Members.** The LLP Committee will consist of eleven volunteers appointed by the Supreme Court. For at least the first four years from the date of adoption of this rule, at least six members must be Colorado licensed attorneys and at least two members must be non-attorneys. With the exception of the chair and vice-chair, members will be appointed for an initial term of two, three or four years, and may serve up to two terms. Diversity will be a consideration in making the appointments. The terms of the members of the LLP Committee will be staggered to provide, so far as possible, for the expiration each year of the term of one member. All members, including the chair and vice-chair, serve at the pleasure of and may be dismissed at any time by the Supreme Court. A member of the LLP Committee may resign at any time.

(b) **Chair and Vice-Chair.** The Supreme Court will designate two members of the LLP Committee to serve as its chair and vice-chair for unspecified terms. The chair will exercise overall supervisory control of the Committee. The chair will also be a member of the Advisory Committee.

(c) **Powers and Duties.** The LLP Committee will:

(i) Oversee the administration of written examinations concerning substantive and procedural law and ethical responsibilities each year, at such times and places as may be designated by the Supreme Court;

(ii) Make recommendations to the Supreme Court regarding passing scores for the written examinations;

(iii) Oversee the process of grading the written examinations to ensure uniformity and quality of grading;

(iv) Oversee other regulatory functions specific to LLP applications and the practice of law by LLPs as provided in the rules within Rule 207.

(v) Periodically report to the Advisory Committee on the operations of the LLP Committee;

(vi) Make recommendations to the Advisory Committee regarding proposed changes or additions to rules that concern the functions of the LLP Committee; and

(vii) Adopt such practices as may from time to time become necessary to govern the internal operation of the LLP Committee.

**(2) Character and Fitness Committee.** The Character and Fitness Committee established by C.R.C.P. 202.3, which serves as a permanent committee of the Supreme Court with the powers and duties set forth by that rule, will exercise the same powers and perform the same duties relative to the admission of LLPs:

(i) To enforce the character and fitness standards set forth in C.R.C.P. 208 in the review of all LLP applications for admission to the practice of law in Colorado;

(ii) To participate in inquiry panels as set forth in C.R.C.P. 208.4;

(iii) To participate on hearing boards empaneled by the Office of the Presiding Disciplinary Judge pursuant to C.R.C.P. 209.2;

- (iv) To periodically report to the Advisory Committee on the operations of the Character and Fitness Committee;
- (v) To make recommendations to the Advisory Committee regarding proposed changes or additions to rules that concern the functions of the Character and Fitness Committee; and
- (vi) To adopt such practices as may from time to time become necessary to govern the internal operations of the Character and Fitness Committee.

### **Rule 207.5. Attorney Regulation Counsel**

The Attorney Regulation Counsel will maintain and supervise a permanent office, hereinafter referred to as the Office of LLP Admissions, to serve as a central office for (a) the filing and processing of all applications for admission, certification, and other authorization to practice law in Colorado; (b) the administration of the Colorado bar examination and LLP examinations; (c) the investigation of all applicants' character and fitness; and (d) the certification to the Supreme Court of applicants' qualifications to practice law in Colorado. The Attorney Regulation Counsel shall administer all LLP admission functions as part of a budget approved by the Supreme Court.

### **Rule 207.6. Immunity**

**(1) Committees, Staff, and Volunteers.** Persons performing official duties under the provisions of this chapter, including but not limited to the Advisory Committee and its members, the LLP Committee and its members, the Character and Fitness Committee and its members, the Attorney Regulation Counsel and staff, the Presiding Disciplinary Judge and staff, members of hearing boards, and other enlisted volunteers are immune from suit for all conduct performed in the course of their official duties.

**(2) Other Participants in Admission Proceedings.** Testimony, records, statements of opinion and other information regarding an applicant for LLP admission communicated by any person or entity to the Advisory Committee or its members, the LLP Committee or its members, the Character and Fitness Committee and its members, the Attorney Regulation Counsel or staff, the Presiding Disciplinary Judge or staff, members of hearing boards, the Colorado Lawyer Assistance Program or staff, or other volunteers are absolutely privileged, and no lawsuit will be predicated thereon. If the matter is confidential as provided in these rules, and if the person or entity who testified or otherwise communicated does not maintain confidentiality, then the testimony or communications shall be qualifiedly privileged, such that an action may lie against a person or entity who provided the testimony or communications in bad faith or with reckless disregard of its truth or falsity.

### **Rule 207.7. General Provisions**

**(1) Application Forms.** All applications for a license to practice law as an LLP in Colorado will be made on forms furnished by the Office of LLP Admissions. The application forms will require such information as is necessary to determine whether the applicant meets the requirements of these rules, together with such additional information as is necessary for the efficient

administration of these rules. Applicants must answer all questions completely, and must provide all required documentation. The Office of LLP Admissions may, in its discretion, reject an incomplete application or place an incomplete application on hold until all required information is produced.

**(2) Confidentiality.** Information contained on applications for a license to practice law as an LLP in Colorado will be deemed confidential and may be released only under the conditions for release of confidential information established by C.R.C.P. 211.1.

**(3) Duty to Supplement.**

(a) Applicants must immediately update the application with respect to all matters inquired of. This duty to supplement continues in effect up to the time an applicant takes the oath of admission. Updates must be reported in a manner consistent with the Office of LLP Admissions' requirements.

(b) Failure to timely supplement a pending application may result in the denial of the application, a review of such failure as a character and fitness issue, or if the person has already been admitted as an LLP in Colorado, discipline or revocation of the person's LLP license.

**(4) Fees.** All applicants must pay a fee in an amount fixed by the Supreme Court. The fee must be paid when the application is submitted.

**(5) Admission as an LLP.** An applicant who qualifies for admission as an LLP under this rule, and who meets the character and fitness requirements set forth in C.R.C.P. 208, shall be admitted to the practice of law as an LLP in Colorado in the manner prescribed by these rules.

**(6) Disbarred Attorneys or Legal Paraprofessionals.** A person who has been disbarred from the practice of law in any jurisdiction, or who has resigned pending disciplinary proceedings in any jurisdiction, is not eligible to apply for admission to the practice of law as an LLP in Colorado until the person has been readmitted in the jurisdiction in which the person was disbarred or resigned.

**(7) Suspended Attorneys or Legal Paraprofessionals.** A person who has been suspended for disciplinary purposes from the practice of law in any jurisdiction is not eligible to apply for admission to the practice of law as an LLP in Colorado until the period of suspension has expired and the person has been reinstated to the practice of law in the jurisdiction in which the person was suspended.

**(8) Mandatory LLP Professionalism Course.** All applicants under these rules, unless otherwise exempted, must complete a required course on professionalism specific to LLPs presented by the Office of Attorney Regulation Counsel. Continuing legal education credit will be applied to the LLP's first compliance period pursuant to C.R.C.P. 250.2(1). Credit for completion of the professionalism course will be valid for eighteen months following completion of the course.

**Rule 207.8. Applications for Colorado LLP Admission**

**(1)** All LLP applicants must, as a condition of admission, take and pass the Colorado LLP examinations, which includes testing on family law and professional conduct rules, and any other

topics designated by the Supreme Court.

**(2)** Colorado LLP applications for the LLP Examination must be received or postmarked on or before the deadlines designated by the Supreme Court and published by the Office of LLP Admissions.

**(3)** By the time of taking the family law examination, Colorado LLP examination applicants must either meet the experience requirements set forth in section (4) or must have received:

(a) a J.D. degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a state-accredited law school;

(b) an associate's degree in paralegal studies from an accredited school;

(c) a bachelor's degree in paralegal studies from an accredited school;

(d) a bachelor's degree in any subject from an accredited school that includes:

(i) a paralegal certificate; or

(ii) 15 hours of paralegal studies from an accredited school; or

(e) a first professional law degree from a law school in a country other than the United States with an LL.M. qualifying such applicant to sit for the Colorado bar examination under C.R.C.P. 204.3.

**(4)** An applicant is not required to meet the educational qualifications set forth in section (3) if the applicant demonstrates that the applicant has worked the equivalent of three full-time years in employment constituting substantive law-related practical experience, which must include the equivalent of one full-time year focused on Colorado family law, during the five years immediately preceding the date of filing the application.

**(5)** By the time of taking the professional conduct examination, all Colorado LLP applicants must have successfully completed an ethics class specific to LLPs or lawyers from an accredited school.

**(6)** All Colorado LLP applicants must also pass an LLP professional conduct exam prior to admission.

**(7)** All Colorado LLP applicants must also demonstrate completion of 1,500 hours of substantive law-related practical experience, including 500 hours of experience in Colorado family law, within the three years immediately preceding the date of submitting the LLP application.

**(8)** All Colorado LLP applicants bear the burden of proving they have the character and fitness to practice law as an LLP, and must comply with all character and fitness requirements established by the Supreme Court through C.R.C.P. 208.1. All Colorado LLP applicants are subject to the procedures set forth in C.R.C.P. 208.1 through C.R.C.P. 210.2 concerning review of character and fitness.

**(9)** All Colorado LLP applicants must pay the required application fee.

**(10) Professionalism Course.** All successful Colorado LLP examination applicants must

complete the course on professionalism, as described in C.R.C.P. 203.1(8), prior to and as a condition of admission. Credit for completion of the professionalism course will be valid for eighteen months following completion of the course.

**(11)** Any unsuccessful applicant may, upon request, obtain a copy of the applicant's answers to the essay portions of the examination. Such request shall be made on a form furnished by the Office of LLP Admissions. This rule does not permit applicants to obtain any materials other than the applicant's written essay answers.

#### **Rule 207.9. Petitions to the Supreme Court for Waiver of Admissions Requirements**

**(1) Availability.** C.R.C.P. 206 applies to petitions for waiver of specific LLP admissions eligibility requirements. Nothing herein is deemed a limitation on the Supreme Court's plenary jurisdiction set forth in C.R.C.P. 207.2, 207.13 and 212.

#### **Rule 207.10. Access to Information Concerning Admission of LLPs**

**(1)** Except as otherwise authorized by C.R.C.P. 209.4(2) or order of the Supreme Court, all other information contained in the application, and all admissions proceedings conducted pursuant to C.R.C.P. 208 through 209 prior to the filing of any written exceptions with the clerk of the Supreme Court, shall be confidential and requests for such information shall be denied by the Office of the Presiding Disciplinary Judge and the Office of Attorney Regulation Counsel, hearing boards, inquiry panels, and committees, unless the request is made by:

- (a) An agency authorized to investigate the qualifications of persons for admission to practice law, including admission to limited-scope practice as a licensed legal paraprofessional or licensed paralegal;
- (b) An agency authorized to investigate the qualifications of persons for government employment;
- (c) A regulation or discipline enforcement agency with jurisdiction over attorneys or licensed legal paraprofessionals or licensed paralegals;
- (d) A law enforcement agency;
- (e) An agency authorized to investigate the qualifications of judicial candidates; or
- (f) The Colorado Lawyer Assistance Program, or another jurisdiction's similar program.

Upon a showing of good cause, the Supreme Court may enter an order that seals all or part of the record of proceedings at the Supreme Court level.

**(2) Public Proceedings.** Except as otherwise provided by the Supreme Court, the record, pleadings and all proceedings before the Supreme Court shall become public upon the filing of written exceptions.

#### **Rule 207.11. Reapplication for Admission**

(1) Unless otherwise ordered by the Supreme Court, an applicant who has been rejected by the Supreme Court as not possessing the character and fitness necessary to practice law in Colorado, or whose license to practice law has been revoked pursuant to proceedings under C.R.C.P. 210, may not reapply for admission as an LLP in Colorado for five years after the date of the Supreme Court's ruling.

### **Rule 207.12. Oath of Admission**

(1) **Oath of Admission.** No applicant will be admitted as an LLP in Colorado until such time as they have taken the oath of admission prescribed by the Supreme Court.

(2) **Length of Time to Take Oath.** No LLP applicant will be permitted to take the oath more than eighteen months after the date of the announcement by the Supreme Court that they have passed the examination. Nothing herein shall preclude reapplication for admission.

(3) **Certificates of Admission.** Admission of all LLP applicants shall be by order of the Supreme Court, en banc, and certificates of admission issued to applicants shall be signed by the Clerk of the Supreme Court. An applicant will not receive a certificate of admission until after the applicant has signed an oath before the Clerk of the Supreme Court or other designated offices and has paid a license fee in an amount set by the Supreme Court. The portion of the license fee necessary to cover the cost of the license shall be remitted to the Clerk of the Supreme Court.

### **Rule 207.13. Plenary Power of the Supreme Court**

The Supreme Court reserves the authority to review any determination made in the course of the admissions process or in the operation of these rules and to enter any order with respect thereto, including an order directing that further proceedings be conducted as provided by these rules.

### **Rule 207.14. Registration Fee**

#### **A. REGISTRATION FEE OF LICENSED LEGAL PARAPROFESSIONALS**

##### **(1) General Provisions.**

(a) Fees. On or before February 28 of each year, every licensed legal paraprofessional (LLP) admitted to practice in Colorado must annually file a registration statement and pay a fee as set by the Colorado Supreme Court. As of 2024, the fees set by the court are as follows: the fee for active LLPs is \$325.00; the fee of any LLP whose first admission to practice is within the preceding three years is \$190.00; the fee for LLPs on inactive status is \$130.00. All persons first becoming subject to this rule must file a statement required by this rule at the time of admission, but no annual fee shall be payable until the first day of January following such admission. The Supreme Court will authorize periodic increases to the annual fee for every Colorado LLP as necessary.

(b) Collection of Fee. The annual fee will be collected by the Clerk of the Supreme Court of Colorado, who will send and receive the notices and statements provided for hereafter.

(c) Application of Fees. The fee will be divided. Twenty dollars shall be used to maintain an Attorneys' Fund for Client Protection. The remaining portion of the fee, and the entire fee of those on inactive status, shall be used only to defray the costs of licensing and regulating LLPs within the Office of Attorney Regulation Counsel, as well as other functions within the Office of Attorney Regulation Counsel (admissions, registration, mandatory continuing legal and judicial education, attorney diversion and discipline, unauthorized practice of law and inventory counsel functions), the Office of the Presiding Disciplinary Judge, the Colorado Lawyers Assistance Program, the Colorado Attorney Mentoring Program, the Advisory and other regulatory committees and any other practice of law function deemed appropriate by the Supreme Court.

**(2) Statement.**

(a) Contents. The annual registration statement must be on a form prescribed by the Clerk, setting forth:

(1) date of admission as an LLP by the Colorado Supreme Court;

(2) registration number;

(3) current residence and office addresses and, if applicable, a preferred mailing address for the Colorado Courts, along with current telephone numbers and email addresses;

(4) certification as to (a) whether the LLP has been ordered to pay child support and, if so, whether the LLP is in compliance with any child support order, (b) whether the LLP or the LLP's law firm has established one or more interest-bearing accounts for client funds as provided in Colo. RPC 1.15B or Colo. LLP RPC 1.15B and if so, the name of the financial institution, account number and location of the financial institution, or, if not, the reason for the exemption, and (c) whether the LLP is currently covered by professional liability insurance and, if so, whether the LLP intends to maintain insurance during the time the LLP is engaged in the private practice of law; and

(5) certification that the LLP agrees to confine the LLP's practice of law to all limitations set forth in applicable rules, statutes, and other law.

(6) such other information as the Clerk may from time to time direct.

(b) Notification of Change. Every LLP shall file a supplemental statement of change in the information previously submitted, including home and business addresses, within 28 days of such change. Such change shall include, without limitation, the lapse or termination of professional liability insurance without continuous coverage.

(c) Availability of Information. The information provided by the LLP regarding professional liability insurance shall be available to the public through the Supreme Court Office of Attorney Registration and on the Supreme Court Office of Attorney Registration website.

**(3) Compliance.**

(a) Late Fee. Any LLP who pays the annual fee or files the annual registration statement after February 28 but on or before March 31 must pay a late fee of \$50.00 in addition to the

registration fee. Any LLP who pays the annual fee or files the annual registration statement after March 31 must pay a late fee of \$150.00 for each such year, in addition to the registration fee.

(b) Initial Pleading Must Contain Registration Number. Whenever an initial pleading is signed by an LLP, it shall also include thereon the LLP's registration number. Whenever an initial appearance is made in court without a written pleading, the LLP shall advise the court of the registration number. The number need not be on any subsequent pleadings.

#### **(4) Suspension.**

(a) Failure to Pay Fee or File Statement--Notice of Delinquency. An LLP will be summarily suspended if the LLP either fails to pay the fee or fails to file a complete statement or supplement thereto as required by this rule prior to May 1, provided a notice of delinquency has been issued by the Clerk and mailed to the LLP addressed to the LLP's last known mailing address at least 28 days prior to such suspension, unless an excuse has been granted on grounds of financial hardship. Orders suspending an LLP for failure to comply with rules governing LLP registration take effect on entry of the order, unless otherwise ordered.

(b) Duties to Notify Clients and Duties in Litigation Matters. An LLP who has been suspended under the rules governing LLP registration need not comply with the requirements of C.R.C.P. 242.32(c) or C.R.C.P. 242.32(d) if the LLP has sought reinstatement under the rules governing LLP registration and reasonably believes that reinstatement will occur within 14 days of the date of the order of suspension. If the LLP is not reinstated within those 14 days, then the LLP must comply with the requirements of C.R.C.P. 242.32(c) and C.R.C.P. 242.32(d).

#### **(5) Reinstatement.**

(a) Application--Reinstatement Fee. Any LLP suspended under the provisions of section (4)(a) above will not be reinstated until application for reinstatement is made in writing and the Clerk acts favorably on the application. Each application for reinstatement shall be accompanied by a reinstatement fee of \$100.00 and payment of all arrearages and late fees to the date of the request for reinstatement.

#### **(6) Inactive Status.**

(a) Notice. An LLP who has retired or is not engaged in practice shall file a notice in writing with the Clerk that they desire to transfer to inactive status and discontinue the practice of law.

(b) Payment of Fee--Filing of Statement. Upon the filing of the notice to transfer to inactive status, the LLP shall no longer be eligible to practice law but shall continue to pay the fee required under section (1)(a) above and file the statements and supplements thereto required by this rule on an annual basis.

(c) Exemption--Age 65. Any registered inactive LLP over the age of 65 is exempt from payment of the annual fee.

**(7) Transfer to Active Status.** Upon the filing of a notice to transfer to inactive status and payment of the fee required under section (1)(a) above and any arrearages, if owed, an LLP will be removed from the roll of those classified as active until and unless a request for transfer to

active status is made and granted. Transfer to active status will be granted, unless the LLP is subject to an outstanding order of suspension or disbarment, upon the payment of any assessment in effect for the year the request is made and any accumulated arrearages for non-payment of inactive fees.

**(8) Resignation.**

(a) Criteria. The supreme court may permit an LLP to resign from the practice of law in Colorado. The Regulation Counsel must inform the supreme court whether any disciplinary or disability matter involving the LLP should preclude the LLP's resignation and whether any pre-complaint proceeding pending against the LLP under C.R.C.P. 242 should be dismissed. An LLP may not resign if a complaint under C.R.C.P. 242.25 is pending against the LLP.

(b) Procedure. An LLP who wishes to resign must request permission of the supreme court under this section by submitting a request to the Office of Attorney Registration, and must tender the LLP's certificate of admission along with a certification as to whether the LLP is subject to disciplinary proceedings in any other jurisdiction. A request to resign and an order of resignation are public information.

(c) Effect. An LLP who has been permitted to resign:

(1) Must comply with the duties listed in C.R.C.P. 242.32;

(2) Is excused from paying the annual registration fee;

(3) Is not eligible for reinstatement or transfer to active or inactive status and may be admitted to the practice of law in Colorado only by complying with the rules governing admission to the practice of law;

(4) May not hold themselves out as a Colorado LLP; and

(5) Remains subject to the supreme court's jurisdiction as set forth in C.R.C.P. 242.1(a) as to the LLP's prior practice of law in Colorado.

**COMMENT**

The Supreme Court sets the annual registration fee for LLPs to be used for the purposes set forth in the rule. Those fees, together with other fees collected through the Office of Attorney Regulation Counsel, will help defray the cost of admitting, registering and regulating LLPs.

**Amended and Adopted by the Court, En Banc, March 23, 2023, effective July 1, 2023.**

**By the Court:**

**Brian D. Boatright  
Chief Justice, Colorado Supreme Court**

# Attachment 4

## MEMO

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**To: Standing Committee on the Rules of Professional Conduct**

**From: Nancy L. Cohen**

**Re:** Ethical Implications for Colorado lawyers who provide advice related to reproductive health issues based on state laws in effect after *Dobbs v. Jackson Women's Health Organization*

**Date:** April 12, 2023

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The subcommittee met in March 2023 to discuss the potential comment addressing a lawyer's obligation under Colo. RPC 1.2 when representing clients who provide, seek, or are indirectly involved with parties who provide or seek reproductive health care services. The subcommittee believes a comment is necessary and discussed the proposed comment and possible revisions. The subcommittee revised the comment based on the January Standing Rules meeting.

The subcommittee wanted to know if any other states are studying the issue or considering a rule or comment to address the lawyer's obligations in these circumstances. N. Cohen contacted Ellyn Rosen of the ABA Center for Professional Responsibility. Ms. Rosen was unaware of any state specifically studying the issue although she had heard concerns raised by lawyers about whether disciplinary authorities may investigate and prosecute lawyers who provide legal services to clients involved in reproductive health services in states that allow reproductive health services and in states that recently enacted laws prohibiting certain types of reproductive health services. Ms. Rosen also has heard concerns from lawyers in firms that have offices in multi-state jurisdictions about what health benefits can or cannot be offered to the firm's employees. Ms. Rosen did further investigation and reported to Ms. Cohen that she is unaware of any state currently considering a rule or comment change.

Since the January meeting, three women in Texas have been sued by an ex-husband of a friend for wrongful death and other claims related to termination of a pregnancy. The lawsuit is based on the Texas law allowing private persons to sue. According to the lawsuit, the three women helped their friend obtain medication to terminate a pregnancy.

The CO legislature is considering a bill to protect professionals and others from criminal prosecution for assisting women to get reproductive healthcare in CO.

The ABA recently issued an opinion regarding choice of law. *See* ABA Formal Opinion 504. For non-litigation matters, the jurisdiction where the conduct occurred will generally control unless the predominant effect is in another jurisdiction. The Opinion lists factors to consider in determining the choice of law. The subcommittee did not discuss this Opinion at its last meeting.

The subcommittee recommends the following new comment to Rule 1.2 as follows:

Comment 15: A lawyer may counsel or assist a client rendering, seeking, or receiving reproductive health care, as defined in C.R.S.

§ 25-6-402(4), that the lawyer reasonably believes is not prohibited by the laws and regulations of Colorado. In these circumstances, the lawyer should consider advising the client that the conduct may be unlawful in other relevant jurisdictions, and that the client seek legal advice in those jurisdictions.