OREGON STATE BAR
Board of Governors Agenda

Meeting Date:       June 23, 2023
From:              Policy and Governance Committee
Re:                LP Rule Amendments

Action Recommended

Approve the proposed amendments to the LP Rules of Professional Conduct and the Bar
Rules of Procedure. Recommend the BBX approve the proposed amendments to the LP Rules for
Admission (RLP).

Background

On July 19, 2022, the Oregon Supreme Court approved a proposal to provide licenses to
provide limited legal services as a licensed paralegal. The Oregon Supreme Court also approved
a package of rules to allow the OSB regulatory departments to review and admit applicants as
licensed paralegals, provide practice rules and ethical rules, and provide a procedure for
investigating and disciplining ethical violations. As the bar has started creating the processes
for the program, a number of potential amendments to the rules have been recommended.
The Bar Rules of Procedures and the LP RPCs primarily contain relatively minor fixes detailed
below.

The RLP contained more substantive changes, intended to clarify rules regarding
admission, and to make the admission process smoother. As the RLP require approval by the
BBX, the BOG can recommend the BBX adopt the proposed amendments.

Options

1. Approve the proposed amendments to be submitted to the Supreme Court after
   public comment and recommend that the BBX adopt the RLP proposed amendments.

2. Amend the proposed amendments, and then approve the proposed amendments.

3. Decline to adopt the proposed amendments.

Discussion

The requested changes to the amendments are as follows:

1. The Bar Rules of Procedure has only one requested change. The change would be the
   addition of LP to Bar Rule 8.1(b)(3) within the following paragraph:
(3) The Chief Executive Officer may refer to the Board any applicant who, during the pendency of a reinstatement application, engages in conduct that would violate RPC 8.1(a) if done by an attorney or LP, with a recommendation that the Board determine that the applicant has not made the showing required by BR 8.1(b) and recommend to the Supreme Court that the application be denied. No applicant shall resume the practice of law in Oregon or active membership status unless all the requirements of this rule are met.

The reason for this request is that the Oregon Supreme Court adopted new rules to reinstatement on January 1, 2023, that changed Rule 8.1 and 8.2 substantially. This change would just realign the prior language for LPs adopted on July 19, 2022, with the new language adopted by the Oregon Supreme Court on January 1, 2023.

2. Oregon LP RPCs (Exhibit 1)

A markup to the LP RPCs is attached. Changes include

a. Addition of mixed lawyer LP firms for the definition of firm under 1.0(d).
b. Move definition of LP from 1.0 (i) to 1.0 (s) in order to keep definition numbering congruent to Oregon Lawyer RPCs.
c. Changed disclaimer size from 12 point to 14 point for RPC 1.5(f)(4). It was recommended to increase the font size to make the disclosure more apparent to clients.
d. Clarifications under RPC 1.17 about the sale of LP firm.
e. Clarification under RPC 8.3 that LPs must report violations of LP RPCs or attorney RPCs.

3. Oregon RLPs (Exhibit 2).

The RLPs have substantial changes as Regulatory works on implementing the application process. A markup to the Oregon RLPs is attached. Substantive changes include:

a. 1.1(z) – Addition of Written Acknowledgement of Referral document for LP required referrals to attorneys.
b. 2.1(d) has been redrafted to clarify its intent to have the BBX provide regulations for the Committee of Paralegal Assessors.
c. 3.3(b) – “completed exclusively” was changed to substantially completed.
d. 4.3(a) – Removal of the 1,500 hour requirement as it was duplicative of 4.5(c).
e. 4.3(c) – The military paralegal exception was changed to be broader to encompass a larger number of qualifying military paralegals. Of note, the pay grade was clarified from an E6 or rank of Staff Sergeant to an E4 regardless of service branch, and now requires training from a military
occupation specialty school and three years as a military paralegal, or a supervisor or trainer of military paralegals.

f. 4.5 has been adjusted to clarify that the recent experience may run concurrent with experience used to qualify under RLP 4.2 and 4.3. Of note:
   i. Hours must be verified by an attorney member.
   ii. Removal of the 500 hours each year requirement under 4.5(a).
   iii. Removal of Endorsement requirement under 4.5(b) as duplicative.
   iv. Clarification that hours for Endorsements count for 4.5(b) and (c).

g. 4.6 notes that an applicant may not count the same hours toward the completion of both endorsements.

h. 6.9 moved a provision related to applicants may receive more than two exam cycles in any 12 month period.

i. 11.1(a)(13) was clarified to indicate services allowed in juvenile dependency situations.

j. 11.1(b)(11) was revised to clarify what military family law matters an LP could represent when stipulated by parties.

k. 11.1(b)(13) removed “stand-alone” as not necessary.

l. 11.2(a)(10) was clarified to indicate that representation is allowed when a non-attorney may represent a client in court.

Attachments

Exhibit 1 – LP RPCs

Exhibit 2 – LP LPRs