



February 28, 2017

President Robin Hayes
WSBA Board of Governors
1325 Fourth Ave., Suite 600
Seattle, WA 98101-2539

Subject: Expansion of LLLT to Estate and Health Care Law

Dear President Hayes and the WSBA Board of Governors:

On behalf of the National Academy of Elder Law Attorneys (NAELA), I am writing to express serious concerns about the proposed expansion of Limited License Legal Technician (LLLT) programs into the area of “Estate and Health Care Law” in Washington state. The intent, to expand access to legal services to middle and lower income individuals, is noble. Unfortunately, if implemented, the proposal will put people who are aging and individuals with disabilities of all ages at greater risk of improper legal counsel and drafting in situations where correcting errors may be extremely limited.

The National Academy of Elder Law Attorneys (NAELA) is a national, non-profit association comprised of 4,500 attorneys, who concentrate on legal issues affecting seniors, people with disabilities, and their families. The mission of NAELA is to establish NAELA members as the premier providers of legal advocacy, guidance, and services to enhance the lives of individuals with disabilities and people as they age. We represent over 100 attorneys in Washington state.

The purpose of requiring licensed attorneys to perform legal services is to protect consumers. Licensing does so by ensuring the professional a consumer retains meets certain ethical and competency standards. This is critical in legal services, where the market often places consumers at great disadvantage in assessing any one professional over another in advance.

Today, non-lawyers can and do assist applicants for Medicaid and other public programs, such as the Veterans aid and attendance benefits. But serious issues arise when matters require the professional judgment and skills of an attorney. This includes legal advice on issues such as the rights under Medicaid eligibility to convert or transfer property, whether guardianship or some other form of power is needed, and the law of divorce as it impacts families with a long-term care need.

When counseling individuals in need of long-term services and supports, one must understand the interaction between multiple bodies of law, such as Medicaid eligibility, Medicare, taxation of retirement benefits, family law, and trust and estates. Given these complex interactions, the potential to harm consumers due to incomplete or inaccurate advice is high. What seems to be

good tax advice, may be devastating Medicaid advice. The comprehensive training of lawyers reduces the risk of good intentions with devastating consequences.

Many of these individuals in need also face the high risk of financial abuse with fiduciary powers used to perpetrate the crime. Many of these individuals also lack capacity of some form. They may suffer dementia with purported caregivers attempting to use the legal system as a weapon to steal from these vulnerable individuals.

Given the vulnerable population at stake and the high risk of unmitigated harm due to improper legal advice and drafting, we respectfully request that the Board of Governors vote not to recommend this proposal to the State Supreme Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Anne Seal', with a long horizontal flourish extending to the right.

Catherine Anne Seal, Esq.
President
National Academy of Elder Law Attorneys