

# Limited Scope Representation: The Changing Legal Landscape

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# What is Limited Scope Representation?

- Breaking down legal services into discrete tasks
- Attorney limits the representation to agreed upon tasks
- Fee-for-service payment structure increases access to essential legal services
- Also referred to as “unbundling legal services”

# What it's NOT

Limited Scope Representation is NOT:

- Limited liability
- Unethical
- Inherently dangerous
- Good for every case, issue, or client
- Just for poor people

# Reasons for Current Trend

- Growing justice gap
- Increasing number of pro se litigants
- Low to moderate income population that cannot afford full range of legal services
- Access to information
- Way to increase access to the courts

# Delivery of Services to the Poor

- Legal Aid Programs
- Pro Bono Attorneys
- Pro Se Litigants
  - Limited scope representation is essential

# Level of Access to an Attorney

In Wyoming:

- There is one ***private attorney*** in practice for every 250 Wyoming residents
- There is only one ***legal aid attorney*** for every 7,500 poor Wyoming residents

# Effects of Increased Pro Se Litigants

- Inefficiency in the court system caused by ill-prepared pro se litigants
- Increased amount of time which court personnel must spend with pro se litigants
- Attorneys with excess capacity
- Loss of public confidence in the justice system

# Searching for Solutions

## Limited Scope Representation:

- Is a tool to be used in addressing these major shifts in the justice system
- When used appropriately can benefit all stakeholders – clients, attorneys, and courts
- Will not solve every problem faced by the justice system, but is a key to increasing access to justice



# Benefits of Limited Scope Representation

For Clients:

- Reduces the overall costs of legal services
- Increases access to essential legal services
- Gives clients options – Not all or nothing

# Benefits of Limited Scope Representation

For Lawyers:

- New market of litigants
- Potential to increase client base
- Focus practice

# Benefits of Limited Scope Representation

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For Courts:

- Increases Court efficiency
- Lowers the number of pro se appearances
- Better prepared pro se litigants

# Ethical Considerations

- Rule 1.2(c) of the Wyoming Rules of Professional Conduct specifically authorizes limited scope representation

# Rule 1.2

- Allows attorneys to limit representation in a matter to specific tasks if:
  - The limitation is reasonable, and
  - The client gives informed consent after full disclosure, and
  - The disclosure and consent is in writing (unless the consultation is by phone)

# Rule 1.2

- The limitation must be fully disclosed and explained to the client in a manner the client can reasonably understand
- Use of approved written agreement
  - Appendix I of the Wyoming Rules of Professional Conduct

# Rule 1.1

- A lawyer shall provide competent representation. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

# Rule 1.1 Comment 5

- A lawyer and a client may agree, pursuant to Rule 1.2(c) or Rule 6.5, to limit the scope of representation. In such circumstances, competence means the legal knowledge, skill, thoroughness and preparation reasonably necessary for the limited representation.



# Rule 6.5

- Rule for provision of limited legal services through a non-profit limited legal services program
  - Clinics and law nights

# Rule 102

## Uniform Rules of District Courts

- Rule allows for limited appearance in civil cases
- Limited appearance must be in writing or attorney will be considered as making a general appearance
- Attorney who has entered a limited entry of appearance shall be deemed withdrawn when the attorney has fulfilled the duties of the limited entry of appearance

# Ethical Duties to the Client

- Ethical duties to the client remain essentially the same
  - Must provide competent and diligent representation
  - Must maintain duty of confidentiality
  - General duty not to communicate with another represented party
  - Avoid conflicts of interest and run conflict checks

# Client Selection

- It's not right for every client or every case
- Works best for clients that are:
  - Reasonable
  - Responsible
  - Have common sense
  - Are self-help oriented

# Dividing the Work

- Work can be divided between the lawyer and the client by:
  - Tasks
  - Issues

# Follow Best Practices

- Document your file
- Use checklists to ensure tasks are completed
- Use good judgment in defining the scope of representation
- Be clear in defining the scope of representation
- NEVER step outside the defined box without drawing a new box
- REMEMBER – it's not right for every case

# Effectively Market LSR

- Lawyer directory
- Lawyer referral service
- Wherever you normally advertise
- Word of mouth from clients that used your unbundled services

# Why Market LSR Services?

- Grow your client base
- Tap into a huge unmet market
- Increase revenue
- Get paid for the work you do
- Increase access to justice



# Tools that Make LSR Work

- Judicial Commitment
- Strong Support of the Bar Association
- Attorney Training
- Process to Make Referrals
- Templates and Forms