STATE OF WISCONSIN
SUPREME COURT

In the Matter of the Licensure and Regulation of Paralegals

PETITION FOR SUPREME COURT RULE

To: The Honorable Justices of the Supreme Court of Wisconsin:

The Board of Governors of the State Bar of Wisconsin, by R. George Burnett, President of the State Bar of Wisconsin, hereby petitions this Honorable Court to establish a system for the licensure and regulation of paralegals in Wisconsin.

Petitioner respectfully requests that such licensure and regulation be conducted by one or more of the agencies of the Wisconsin Supreme Court; that all persons utilizing the title "paralegal" in Wisconsin be subject to such regulation and licensure; and that all such persons perform their services under the supervision of an attorney licensed to practice law in Wisconsin.

Attached to this petition as Exhibit "A" is the supporting Final Report of the State Bar of Wisconsin Paralegal Task Force dated December 2003.

Respectfully submitted on behalf of the Board of Governors of the State Bar of Wisconsin this ____ day of February, 2004.

_____
R. George Burnett
President, State Bar of Wisconsin

Paralegal Practice Task Force
Final Report

December 2003

STATE BAR of WISCONSIN®
WISCONSIN LAWYERS
EXPERT ADVISERS.
SERVING YOU.

Table of Contents

Executive Summary i

Introduction. 1

Paralegal: Definition and Regulation. 3
Definition. 4
Commentary. 5

Education and Training Required for Licensure. 8
Commentary. 10

Licensure Based Upon Experience. 12
Commentary. 13

Continuing Education Requirement. 15
Commentary. 16

Ineligibility. 17
Commentary. 18

Rules of Ethics. 19
Commentary. 29

Paralegal Practice Task Force Members. . . . . Attachment A

Survey of Paralegal Association of Wisconsin
Members' Interest in Licensure. . . . . Attachment B

Activity of Paralegal Licensure in Other States. . . . . Attachment C

Paralegal Practice Task Force
EXECUTIVE SUMMARY

The State Bar of Wisconsin recommends that the Supreme Court, as part of its constitutional authority in Article VII over the administration of all courts and its inherent authority over the practice of law, regulate those individuals who would use the occupational title of "Paralegal". The recommendations are drafted as Supreme Court Rules in six specific areas:

- **Definition:** A paralegal would work under the supervision of an attorney, and would perform services which, absent the attorney, would be performed by the lawyer.

- **Education and Training:** A paralegal would be required to attend and receive 18 semester credits of course work from a qualified paralegal studies program. An attorney, receiving the proper coursework could work as a paralegal.

- **Licensure Based on Experience:** A three-year window would be provided for individuals who are currently providing the services of a paralegal to apply for licensure if they obtain at least three credits of continuing paralegal education in ethics and if they provide documentation from a supervising attorney that they have performed paralegal services for no less than 4,800 hours any time during the past 5 years.

- **Continuing Education Requirement:** A paralegal would be required to complete at least 10 hours of continuing paralegal education during each 2-year reporting period.

- **Ineligibility:** An individual would be ineligible to be licensed as a paralegal if his or her license to practice law had been revoked or suspended; if he or she had been convicted of a crime involving moral turpitude; or if he or she lacks good moral character.

- **Rules of Ethics:** A paralegal would be held to a set of ethical rules fashioned after those standards regulating attorneys under Supreme Court Rule 20. The ethics rules have been drafted jointly by the State Bar Paralegal Task Force and the State Bar Ethics Committee.

INTRODUCTION

In August 1995, the American Bar Association's Commission on Nonlawyer Practice issued its report, *Nonlawyer Activity in Law-Related Situations.* This report followed hearings held in 1992, 1993 and 1994 at which nearly 400 persons offered testimony and over 2,000 documents were reviewed. The report amply demonstrated that nonlawyers provide services which in many instances are related to the practice of law. Furthermore, the factual findings demonstrated that nonlawyers, both as paralegals who are accountable to lawyers and in other roles, have become an important part of the delivery of legal services. Six recommendations were formulated as a result of the Commission's work. One of the recommendations urged expansion of the range of activities of traditional paralegals, with lawyers remaining accountable for the paralegal activities (Recommendation 2).

Concurrently, the National Federation of Paralegal Associations (NFPA), the National Association of Legal Assistants (NALA) and the American Association for Paralegal Education (AAfPE) also addressed concerns relating to the definition of the terms "paralegal" and "legal assistant." These organizations also addressed themselves to the establishment of standards for education, ethics, professionalism, and to the expanded role of skilled paralegals in the delivery of legal services.

In May 1996, the State Bar of Wisconsin's Commission on the Delivery of Legal Services, which was commissioned in September 1994, issued its report and findings, following hearings held around the State of Wisconsin in August 1995. The mission of this commission was to explore and make recommendations to increase the availability of legal services to low and moderate-income persons in Wisconsin, specifically those who did not qualify for publicly financed legal services. One of the 14 recommendations of the Commission (Recommendation 7) was for the State Bar to develop guidelines for expanding the range of activities traditionally performed by paralegals, with lawyers remaining accountable for the paralegal's activities.

The State Bar of Wisconsin Paralegal Practice Task Force (Task Force) was created both to address concerns expressed over unmet legal needs, and to pursue the Commission's recommendations that better utilization of paralegals will help meet some of the legal needs that presently go unserved.

The Task Force also gave consideration to the concerns of state and national paralegal groups over the professionalism of a paralegal career, given the fact that there are no current standards or requirements for those who choose to call themselves paralegals. The Paralegal Association of Wisconsin began addressing these issues in 1995, when steps were taken to develop legislation that would require paralegal licensure through the Wisconsin Department of Regulation and Licensing. Further discussions with members of the State Bar of Wisconsin, the Board of Attorneys of Professional Responsibility and the Board of Bar Examiners indicated a need to approach regulation which would be overseen by the Supreme Court of Wisconsin, while at the same time allowing for cooperative input from paralegals regarding any form of licensing or regulation. The Task Force then drew together the talents and resources of attorneys, paralegals associated with the Paralegal Association of Wisconsin, the Madison Area Paralegal Association, and paralegal educators. Additionally, there are adjunct members who brought to the Task Force their expertise in their particular areas, such as the Board of Bar Examiners, the Board of Attorneys of Professional Responsibility and the State Bar

Board of Governors.

In July 1996 the Task Force met to begin the process of determining the issues surrounding paralegal practice. The Task Force identified several topics for discussion, which included attorney accountability vs. direct supervision, duties of legal secretaries vs. paralegals, interest in licensure and testing, threat to the practice of law, pro bono activities of paralegals, retroactive and/or grandfathering of practicing paralegals, educational criteria and requirements for continuing legal education and legal ethics. Additionally, the Task Force has addressed the issues of paralegal accountability for legal malpractice and professional responsibility.

Over the course of the last 7 1/2 years the Task Force has committed itself to addressing the issues and concerns of paralegal licensure and increased utilization of paralegals in the delivery of legal services.

The Task Force now has accomplished the following: (1) created a definition of paralegal; (2) adapted provisions of SCR 20 to apply to paralegals; (3) created a grandfathering provision for practicing paralegals; (4) created guidelines for educational requirements of future paralegals; (4) drafted a Code of Ethics for paralegals; (5) drafted a Paralegal Oath.

The intent of the Task Force is to establish criteria for the licensure of paralegals in Wisconsin so as to establish recognized standards of training, education and qualifications that will assure attorneys, consumers and the courts that the persons providing paralegal services in the State of Wisconsin have achieved a level of ability that can be measured and recognized.

SCR __.01 Paralegal: Definition and Regulation

(1) "Paralegal" means an individual qualified through education and training, employed or retained to perform substantive legal work and supervised by an attorney licensed to practice law in this state, requiring a sufficient knowledge of legal concepts that, absent the paralegal, the attorney would perform the work.

(2) No individual shall utilize the title “paralegal” in this state unless that individual is licensed under this chapter.

DEFINITION

A "Paralegal" is an individual qualified through education and training, employed or retained to perform substantive legal work and supervised by a lawyer licensed to practice law in this state requiring a sufficient knowledge of legal concepts that, absent the Paralegal, the attorney would perform the work.(1)

The Task Force also adopted the following footnote regarding "grandfathering" Paralegals with work experience as part of the definition:

(1) We presume a "grandfather clause" for qualification by work experience. All the members of the Task Force agreed that work experience could be deleted from the list of qualifications so long as any ultimate program implemented as the result of the work of this Task Force would provide a "grandfather clause" for those "Paralegals" already working in the field.

(See SCR __ .03, which contains the "grandfather" clause pertaining to work experience.)

COMMENTARY

At one of the first meetings of the Paralegal Task Force, it became obvious that to go forward the Task Force first had to define the term "Paralegal".

As a commencing point, the Task Force members reviewed the American Bar Association's (ABA) latest definition of the term "Legal Assistant". Some changes were suggested for use in the State of Wisconsin. Each Task Force member was asked to study this definition and prepare his or her own and return it to the chairperson for redistribution to all Task Force members. A "definition" committee then was appointed to assimilate this and other input and to draft a definition for use in Wisconsin.

Early in the committee's work, it was noted that the terms "Paralegal" and "Legal Assistant" often, but not invariably, are treated as synonyms. The ABA chose to define the term "Legal Assistant" rather than selecting the term "Paralegal". All of the Paralegals on the committee took the position that the proper term and definition that they sought was for "Paralegal". They pointed out that at many offices where they worked, "Paralegal" was the term given to the most qualified member of the staff, followed by Legal Assistant, Legal Secretary, Secretary and Receptionist.

As an example of the trend to acknowledge the evolution of the profession, a local professional organization, the Madison Area Legal Assistant Association elected to change its name to the Madison Area Paralegal Association. It was also pointed out that the State of Wisconsin had recently completed a survey to create professional-level position specifications for state employees performing legal support activities and had adopted the term "paralegal". Employees in these positions had previously been classified in the administrative assistant series. The survey did not affect the entry-level, two-tiered legal assistant series.

The State had concluded that many of the specifications originally developed in the late 1960's for legal support positions did not reflect the increased skill and complexity of the duties currently being performed by some of its staff. The term "paralegal" was chosen as the classification title for objective and advanced level positions which independently performed specialized and complex legal research and analysis, drafted correspondingly sophisticated legal pleadings, as well as other activities in the delivery of legal services that would otherwise be performed by licensed attorneys. The specifications for the paralegal series included limited supervision by an attorney but specifically excluded the performance of clerical and routine tasks typically performed by legal secretaries or legal assistants for a majority of the time. While employees in existing positions were subsequently classified as paralegals, future applicants for paralegal position would require successful completion of civil service testing specific to the paralegal profession.

The committee met formally on October 30, 1996, with a view to preparing definition and that would meet with the approval of at least a majority of the committee. After considerable deliberation, a definition was proposed

with the caveat that there would need to be a "grandfather clause" with a sunset provision. The purpose of the "grandfather clause" was to permit licensure of those experienced individuals who would qualify as Paralegals without having to take the required educational program to be established and recommended for future Paralegals.

The critical elements within the definition were that the individual was 1) qualified through education, training or work experience was 2) supervised by a licensed Wisconsin attorney; and was 3) capable of performing certain legal work that otherwise would have been performed by an attorney. The "grandfather clause" would ultimately allow for the deletion of the words "work experience".

The major hurdle in obtaining and drafting a definition for "Paralegal" was whether that definition included " . . . supervised by an attorney . . .." There was a difference of opinion within the Paralegal members of the Task Force. There was almost an even split between those who wanted the definition to include " . . . supervised by an attorney . . ." and those who wanted it left out. A lesser obstacle, but also discussed at some length, was whether or not the Paralegal could work independently for an out-of-state attorney. Again, there was about an even split between the Paralegals supporting independence and those arguing that an attorney licensed in Wisconsin should still be supervising the Wisconsin licensed Paralegal. After considerable debate, the proposal finally voted on by the committee included the language requiring the supervision by a Wisconsin attorney.

The definition, as proposed by the committee was adopted by a 3-1 vote with one committee member, a Paralegal, dissenting. The dissenting Paralegal proposed a definition as a minority report to the Paralegal Task Force

Both at the committee level and again at the Task Force Committee level a provision for "specialty" Paralegals was discussed. In both instances, the majority believed it was premature to provide for "specialty" categories. If the program recommended by the Task Force is implemented it is foreseeable "specialty" areas of Paralegal work may evolve. A clear majority of the Task Force considers it presently is inappropriate to define areas of "specialty" for Paralegals.

The definition committee's majority and minority reports were presented to a regular meeting of the Paralegal Task Force. Again, the Task Force members had an opportunity to review the proposed definition and "grandfather clause" in advance. All of the elements felt to be critical by the committee were again discussed at length, with particular attention to the issue of Paralegal supervision by a Wisconsin attorney.

There was general discussion on each of the other elements by the Task Force. After considerable deliberation on the part of the entire Task Force, the preceding definition was adopted with two dissenting votes.

Subsection (2) regulates the use of the title "paralegal." The proposed rules do not seek to require the licensure of any individual employed or supervised by a lawyer whose duties fall within the definition contained in subsection (1). Rather, the proposed rules require licensure of individuals whose duties fall

within the definition of subsection (1), and who propose to be known as "paralegals." For example, a person whose job duties fall within subsection (1), but is referred to as a "legal nurse consultant" or "legal assistant" or "legal secretary" is not required to obtain or hold a paralegal license.

SCR __.02 Education and Training Required for Licensure

(a) Except as provided in SCR __.03, no individual may be licensed as a paralegal in this state unless that individual has successfully completed post-secondary education and training that includes either of the following:

(1) An associates degree or bachelors degree from a qualified paralegal studies program; or

(2) a. An associates degree or bachelors degree in any discipline from any institution of post-secondary education which is accredited by an accrediting body recognized by the United States Department of Education; and

b. Not less than 18 semester credits of coursework offered by a qualified paralegal studies program with a minimum grade of "C" in each course, any portion of which may be a part of or in addition to the credits earned toward the foregoing degree, in the following areas:

1. 3 semester credits in legal research;

2. 3 semester credits in legal writing;

3. 1 semester credit in legal ethics;

4. 1 semester credit in Wisconsin litigation practice;

5. 6 semester credits in specific areas of substantive law:

6. Not less than 4 semester credits in any of the areas specified in subs. 1-5 of this subparagraph.

(b) In this chapter, "qualified paralegal studies program" means a program of paralegal or legal assistant studies offered by an institution of post-secondary education which maintains a 2-year or 4-year program of paralegal or legal assistant studies that is sanctioned by the Wisconsin Technical College System Board, is sanctioned by the Board of Regents of the University of Wisconsin System, is approved by the House of Delegates of the American Bar Association, or which is an institutional member of the American Association for Paralegal Education.

(c) In this chapter, "semester credit" means a minimum of 14 clock hours of classroom instruction in a qualified paralegal studies program.

(d) Coursework offered by an institution of post-secondary education as part of a Juris Doctorate program that is approved by the American Bar Association may substitute for the coursework specified in sec. (a)(2)(b) of this section so long as:

(1) not less than 18 semester credits of coursework is completed with a minimum grade of "C" in each course;

(2) the content of the coursework meets the categorical criteria specified in sec. (a)(2)(b) of this section; and

(3) any coursework or combination of coursework submitted in satisfaction of the litigation or substantive law criteria of sec. (a)(2)(b) of this section includes instruction in the proper drafting of legal documents used regularly in that area of the law.".

COMMENTARY

Paralegal professional organizations have long recognized that education should be a component of entry into the profession. While nationally there has been debate as to how the education will be validated, such as through testing or the completion of a degreed program, the committee has agreed that in Wisconsin a standard course of study should be required of all Paralegals.

The requirement should be two-fold: (1) Minimum requirements for entry into the profession, and (2) continuing education requirements for continued licensing.

To develop educational standards, the Task Force looked to various standard-setting organizations, namely, the National Association of Legal Assistants, the National Federation of Paralegal Associations, the American Association for Paralegal Education, and the American Bar Association. Since the ABA possesses national recognition as setting the standard for quality Paralegal education, the Task Force looked to ABA standards in developing educational standards for Paralegals licensed in Wisconsin.

The Task Force concluded, however, that requiring graduation from an ABA-approved program could be detrimental to the profession since it might stifle the development of new Paralegal programs within the state. A program must be in existence a minimum of two years before applying for ABA approval. Instead, the Task Force analyzed the ABA guidelines and adopted the ABA's standard of a minimum of 18 credits of Paralegal course work. While the ABA does not specify which courses should be required, the Task Force recognized that preparation for the profession involves more than technical competency. Therefore, the Task Force set specific course standards that would help ensure the development of skills such as writing, critical thinking, and recognition of ethical issues. The Task Force accordingly recommended that course work include legal research, legal writing, Wisconsin litigation practice, and ethics. At the same time, the Task Force recognized the need for development of skills related to specific areas of law. Thus, the Task Force included a requirement that six credits be in specific areas of law practice. The Task Force concluded that litigation is important to all areas of law to ensure that graduates from non-Wisconsin programs are knowledgeable about Wisconsin litigation procedures, the litigation requirement is state-specific. One credit was considered sufficient since those Paralegals would be able to transfer the litigation fundamentals they learned into a setting outside Wisconsin.

While many large metropolitan-area law firms seek Paralegals with a four-year degree, the Task Force recognized that the majority of Wisconsin law firms are sole or small practices, which consider a four-year degree to be an extravagance. The Task Force saw nothing that suggests a two-year associate's degree provides an inappropriate educational background for Paralegals.

The American Association for Paralegal Education (AAfPE) is a national organization of Paralegal educators. To be a member, the program must be in "substantial compliance" with the ABA guidelines. Since Wisconsin will undoubtedly see Paralegals who have been educated out of state, and since the school may not be ABA approved, the AAfPE membership would serve as a guide for determining the quality of the program. AAfPE is well recognized among Paralegal educators. Some schools are members of AAfPE, some are ABA approved, and some are both. In the judgment of the Task Force, poor quality schools are not allowed membership into AAfPE, and they are

unable to earn ABA approval.

In response to an inquiry made during the initial review of the draft report by the Board of Governors, the Task Force has added subsection (d). This new subsection permits an individual to use coursework completed at an ABA-approved law school to meet the educational criteria specified by SCR__.02.

Associations and institutions which approve and sanction paralegal education in the United States mandate paralegal courses to include instruction in the proper preparation of legal documents. As such, it is essential that law school coursework used to satisfy the litigation and substantive law criteria of SCR__.02 also include instruction in the preparation of forms used regularly in those areas of the law.

Task Force believes that, in some cases, a combination of two law school courses such as a theoretical course in "Trusts and Estates" or "Civil Litigation" together with an applications course such as "General Practice" will serve as the functional equivalent of a paralegal course in litigation or a substantive area of the law. Accordingly, sec. (d)(3) is drafted to permit combinations of law school courses to satisfy the criteria specified in sec. (a)(2)(b).

SCR __.03. Licensure Based Upon Experience

(1) In addition to those who qualify to be licensed under SCR__.02, an individual is eligible to be licensed as a paralegal in Wisconsin if that individual meets all of the following qualifications:

(a) The individual has a high school diploma or equivalent education at the time of application.

(b) The individual has been engaged in work as a paralegal for not less than 4800 hours at any time during the 5 years immediately preceding the time of application.

(c) The individual has completed at least 3 hours of approved continuing paralegal education or continuing legal education in the area of legal ethics and professional responsibility during the 12 months preceding the time of application.

(d) The individual makes application for licensure under this section within 3 years after the effective date of this chapter.

(2) The work experience required under sec. (1)(b) of this section shall be documented by the certification of the attorney or attorneys under whose supervision the work was performed, or by records of a regularly conducted activity. The form and content of the certification shall be prescribed by the licensing agency.

COMMENTARY

SCR _ .03 is referred to as the "grandfather clause" in various portions of the Task Force report.

Age/High School

Originally a minimum age limit of 21 was proposed. The Task Force concluded it was necessary that, in addition to the 4,800 hours of work experience, the person have at least a high school education or its equivalent in order to knowledgeably perform paralegal duties. Since education and experience were agreed to be primary requirements for "grandfathering", the age limit was eliminated as redundant.

Standard of Experience

The Task Force settled on a standard of work experience that would be longer than a two-year associate's degree. An hourly measure was adopted to give fair consideration to both full-time and part-time employment. The 4,800 standard is equivalent to 3 years of experience at an average of 32 hours per week and 50 workweeks per year. A 5-year "window" prior to application was chosen to recognize part-time employment and the possibility of leaves of absence.

Work Certification

Two routes for documentation of work experience are provided. The first allows a supervising attorney to certify that the requisite work, or some portion of it, was performed. The second permits records of a regularly conducted activity (as the concept is understood in the Wisconsin Rules of Evidence) to be utilized.

Competency Testing

The possibility of a formal examination process, conducted by the licensing agency, was discussed at length by the Task Force and was rejected. There are inherent problems in implementation because of the diversity of law specialties and the cost of creation of such an exam. Discussions noted the types of exams that are available now. The National Federation of Paralegal Associations and National Association of Legal Assistants have examinations, which the Task Force views as overly extensive and costly. The national exams also would have no state-specific questions. A Task Force member reported that the American Association of Paralegal Educators looked at entry level exams but has decided against them at this time

The State of Wisconsin Department of Justice does have a civil service exam that could be adapted to test competency. It was the consensus of the Task Force that the Department of Justice exam, already administered as an evaluation of paralegal competency on a statewide level, might be the springboard for future licensure testing. Adaptation of that examination is not recommended at present.

Additional Course Requirements

Extensive time was spent discussing educational programs and whether post-secondary education requirements should be established within the Grandfather Clause. A "crash course" of ABA programs was posited as a potential route for gaining 30-40 credit

hours of classroom study. It was thought that if a bar was to be set in the education requirement, it should be addressed in the experience level as well. Opposition to this idea came from the notion that many experienced Paralegals would be unwilling to expend the money or time to obtain the additional education and would simply drop the title of Paralegal. Additionally the Task Force concluded that employers would be unwilling to expend the projected sums of money to obtain this education for their already-employed and experienced Paralegals. This conclusion was based on a statewide survey of Paralegals covering numerous questions on licensure cost.

Ethics Requirement

To help assure that grandfathered Paralegals are current on ethics, the Task Force concluded it was desirable to require 3 ethics credits be taken prior to submission of the application. The ethics education requirement is equivalent to that for attorneys in Wisconsin. Classes are currently provided by the State Bar, Paralegal Associations and the Legal Seminar Industry to give ample opportunity for Paralegals across the state to obtain the credits.

Limited Timeframe

The Task Force concluded the grandfather option should be available to Paralegals who are currently in the field. Availability of an open-ended option was viewed as a disincentive to formal Paralegal education. A 3-year window of opportunity was selected as an appropriate length of time in which to make the paralegal industry aware of the requirement to allow for the 3 ethics credits to be taken and to process all the applications.

Special Circumstances B Licensing Agency Authority

Discussions by the Task Force also touched on a "Special Certification". There was a concern regarding people hired with special training, i.e. nurse, tax accountant that have been used in the capacity of a Paralegal. The thought was that a Special Certification would come from an employing, duly-licensed Wisconsin lawyer as to the use of the applicant's special expertise. Special Certifications would have been provided on a case by case basis to professionals whose former, verifiable educational degrees are in areas of expertise specifically suited to the attorney's law practice. Special Certifications would be valid for the duration of employment with the supervising attorney only. This portion of the licensure would be open-ended. It would provide attorneys options that regularly hire nurses/tax accountantσ etc. into their practice. Additional requirements were formulated and then discarded due to the complexity of scenarios that could fall under "special certification". It was felt that if someone is being used as a Paralegal they should meet the requirements. It would be nearly impossible to create a criterion that would meet the number of individual possibilities.

SCR __.04 Continuing Education Requirement

(a) No individual may maintain a license as a paralegal in this state unless that individual does either of the following:

(1) Completes at least 10 hours of approved continuing paralegal education or continuing legal education during each reporting period, a minimum of 2 hours of which shall be in the area of legal ethics and professional responsibility; or

(2) Successfully completes with a minimum grade of "C" at least 1 semester credit from a qualified paralegal studies program during each reporting period.

(b) "Reporting period" means the 2-year period during which a paralegal must satisfy the Wisconsin continuing paralegal education requirement of this section. The reporting period for a paralegal licensed in an even-numbered year shall end on December 31 of each even-numbered year following the year in which the paralegal was licensed initially. The reporting period for a paralegal licensed in an odd-numbered year shall end on the December 31 of each odd-numbered year following the year in which the paralegal was licensed initially.

(c) "Hour" means a period of approved continuing paralegal education or continuing legal education consisting of not less than 50 minutes.

COMMENTARY

To determine the educational requirements for continued licensing, the Task Force examined the continuing education requirements for attorneys licensed to practice in Wisconsin.

The Task Force recognized that attorneys, with their greater responsibilities and their (presumed) greater ability to pay for continuing education, should have more extensive continuing legal education requirements than Paralegals. After much debate, the Task Force adopted the standard of 10 continuing Paralegal education credits per two-year reporting period. This requirement would enable Paralegals to obtain the credits by yearly attending a one-day training.

To provide the greatest amount of flexibility for Paralegals to obtain continuing education relevant to their careers, the Task Force provided three methods for achieving the required hours: (1) continuing Paralegal education credits (2) continuing legal education credits, and (3) Paralegal course work. In addition, there is a requirement for continued training in ethics and professional responsibility.

The Task Force recognized that there is a concern regarding accessibility of continuing education for Paralegals who live in remote locations. Therefore, the Task Force recommends that the State Bar of Wisconsin work with the Wisconsin Technical College System to utilize the distance education technology of the Wisconsin Technical College Network to provide live interactive training at each of the Wisconsin Technical Colleges.

SCR __ .05 Ineligibility

No individual is eligible to be licensed as a paralegal in this state if any of the following conditions apply:

(1) The individual's license to practice law in any state is under suspension or revocation.

(2) The individual has been convicted of a crime involving moral turpitude.

(3) The individual lacks good moral character.

COMMENTARY

In March 1997 the Task Force formed a committee on standards and quality to consider the attributes which should be possessed by a person licensed as a Paralegal in Wisconsin. After extensive discussion the committee concluded that standards for licensure should be set in the following broad categories:

- General minimum requirements
- Education
- Training
- Work experience
- Continuing paralegal education

With the exception of the topic of general minimum requirements, the Task Force determined that each subject was of sufficient complexity (and in some cases of sufficient controversy) that separate committees should be constituted to study them and make recommendations.

The standards and quality committee initially recommended a minimum age requirement of 21 years. Subsequent deliberations refined the issue to call for an applicant for licensure to possess a high school diploma or equivalent plus 3 years of practice (in case of an application based on work experience) or a 2-year associates degree (in case of an application based on educational attainment).

The committee and the full Task Force concluded, for reasons considered self-evident, that a person licensed as a Paralegal should be of good moral character, utilizing the same understanding of the term as is used for attorneys.

Similarly, the committee and the full Task Force determined that Paralegal licensure should not be available to persons who had been convicted of a crime involving moral turpitude. While licensed Paralegals will work under the supervision of attorneys under the regulatory scheme proposed by the Task Force, public trust and confidence in the honesty and fidelity of Paralegals is a paramount consideration.

Finally, both the committee and the Task Force concluded, and strongly recommend, that Paralegal licensure not be available to persons whose licenses to practice law are under revocation or suspension. The Paralegal rules of ethics promulgated by the Task Force closely parallel the rules of professional conduct for attorneys. The Task Force believes persons under professional discipline for failure to adhere to similar if not identical standards of conduct should not have recourse to Paralegal licensure as a temporary career expedient.

SCR __: 1 Rules of Ethics

Preamble: A Paralegal's Responsibility

A paralegal is an individual qualified through education and training, employed or retained to perform substantive legal work, supervised by an attorney licensed to practice law in this state, requiring a sufficient knowledge of legal concepts that, absent the paralegal, the attorney would perform the work.

As an integral partner in the delivery of legal services, the paralegal has a special responsibility for the quality of justice provided. The paralegal through his/her work with the supervising attorney seeks a result that is advantageous to the client but consistent with the requirements of honest dealings with others.
In all professional functions a paralegal should be competent, prompt and diligent. A paralegal should, whenever possible, assist in the communication with a client concerning the representation. A paralegal should keep in confidence information relating to representation of a client except as far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

A paralegal's conduct should conform to the requirements of the law, both in professional service to clients and in the paralegal's employment and personal affairs. A paralegal should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A paralegal should demonstrate respect for the legal system and for those who serve it, including attorneys, judges and public officials. While it is a paralegal's duty, as a private citizen, when necessary to challenge the rectitude of official action, it is also the paralegal's duty to uphold the legal process.

As a public citizen, a paralegal should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a licensed profession, a paralegal should cultivate knowledge in reform of the law and work to strengthen legal education. A paralegal should possess integrity, professional skill and dedication to the improvement of the legal system and should strive to enhance the paralegal role in the delivery of legal services. A paralegal should be mindful of deficiencies in the administration of justice and of the fact that the poor, an sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A paralegal should aid the legal profession in pursuing these objectives.

Many of the paralegal's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as in substantive and procedural law. However, a paralegal is also guided by personal conscience and the approbation of professional peers. A paralegal should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

In the nature of law practice, however, conflicting responsibilities are encountered. A paralegal shall act within the bounds of the law, solely for the benefit of the client, and shall be free of compromising influences and loyalties. Neither the paralegal's personal or business interest, nor those of other clients or third persons, should compromise the paralegal's professional judgement and loyalty to the client. The Rules of Professional Conduct prescribe terms for resolving such conflicts. Within the framework of these rules many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the rules.

Scope

The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of assisting in legal representation and of the law itself. Some of the rules are imperatives; cast in the terms of "shall" or "shall not". These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may", are permissive and define areas under the rules in which the paralegal has professional discretion. No disciplinary action should be taken when the paralegal chooses not to act or acts within the bounds of such discretion. Other rules define the nature of relationships between the paralegal and others. The rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a paralegal's professional role.

Furthermore, for purposes of determining the paralegal's role in relationship to an attorney's authority and responsibility, principles of substantive law external to these rules determine whether a client-attorney-paralegal relationship exists.

Failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. The rules presuppose that disciplinary assessment of a paralegal's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a paralegal often has to act upon uncertain or incomplete evidence of the situation. Moreover, the rules presuppose that whether or not discipline should be imposed by a violation, and the severity of a sanction, depend on the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

Violation of a rule should not give rise to a cause of action nor should it create any presumption that a legal duty has been breached. The rules are designed to provide guidance to paralegals and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a paralegal's self-assessment, or for sanctioning a paralegal under the administration of a disciplinary authority, does not imply that an antagonist is a collateral proceeding or transaction has standing to seek enforcement of the rule. Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of paralegals or the extra-disciplinary consequences of violating such duty.

Definitions

"Assistance" or "Assist" as used in these Rules means to perform various tasks relating to the practice of law under the supervision of an attorney.

"Attorney" as used in these Rules means an attorney licensed or otherwise authorized to practice law in the State of Wisconsin.

"Belief" or "Believes" means that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from the surrounding circumstances.

"Consult" or Consultation" as used in these Rules means an attorney or attorneys in a private firm, attorneys employed in the legal department of a corporation or other organization and attorneys employed in a legal services organization.

"Firm" or "Law Firm" as used in these Rules means an attorney or attorneys in a private firm, attorneys employed in the legal department of a corporation or other organization and attorneys employed in a legal services organization."

"Fraud" or "Fraudulent" means conduct with a purpose of deceiving someone and does not mean merely negligent misrepresentation or failure to inform another of relevant information.

"Knowingly", "Known", or "Knows" means actual knowledge of the fact in question. A person's knowledge may be inferred from the surrounding circumstances.

"Reasonable" or "Reasonably" when used in relation to conduct by a paralegal relates to the conduct of a reasonably prudent and competent paralegal.

"Reasonable belief" or "Reasonably believes" when used in reference to a paralegal means that a paralegal of reasonable prudence and competence could believe the fact in question.

"Reasonably should know" when used in reference to a paralegal means that a paralegal of reasonable prudence and competence should know the fact in question.

"Substantial" when used in reference to degree or extent means a material matter of clear and weighty importance.

"Tribunal" includes all courts and other adjudicatory bodies.

SCR __:1.1 Competence

A paralegal shall provide competent assistance to the attorney's client. Competent assistance requires the knowledge, skill, thoroughness and preparation reasonably necessary.

SCR __:1.2 Scope of Representation

(a) A paralegal shall abide by a client's decisions concerning the objectives or representation by the attorney, subject to paragraphs (c), (d) and (e), and shall consult, as directed by the attorney, with the client as to the means by which they are to be pursued.

(b) The paralegal's assistance in representation of a client does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A paralegal may assist the attorney in limiting the objectives of the representation if the client consents after consultation with the attorney.

(d) A paralegal shall not counsel a client to engage, or assist a client, in conduct that the paralegal knows is criminal or fraudulent, but a paralegal may be involved in the discussion of legal consequences of any proposed course of conduct with a client and may assist, under the direction of an attorney, a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(e) When a paralegal knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the paralegal shall consult with the attorney regarding the relevant limitations on the paralegal's conduct.

SCR __:1.3 Diligence

A paralegal shall act with reasonable diligence and promptness.

SCR __.1.4 Communication

(a) A paralegal shall assist the attorney in keeping a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A paralegal shall assist the attorney in explaining a matter to the extent reasonably necessary to permit the client to make informed decisions.

SCR __:1.6 Confidentiality of information

(a) A paralegal shall not reveal information relating to a client unless the client consents and after consultation with the attorney, except for disclosures that impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) After consultation with the attorney, a paralegal may reveal such information to the extent the paralegal reasonably believes necessary to establish a claim or defense on behalf of the paralegal in a controversy between the paralegal and the client, to establish a defense to a criminal charge or civil claim against the paralegal based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the paralegal's assistance in the representation of the client.

SCR __:1.8 Conflict of interest: prohibited transactions

(a) A paralegal shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless, with the attorney's knowledge and consent:

(1) the transaction and terms on which the paralegal acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;

(2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and

(3) the client consents in writing thereto.

(b) The paralegal shall not use information acquired during the attorney's representation of a client to the disadvantage of a client unless the client consents after consultation with the attorney.

(c) Prior to the time the attorney concludes his or her representation of a client, a paralegal shall not make or negotiate an agreement giving the paralegal literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

SCR __:1.10 Imputed disqualification: general rule

(a) When a paralegal becomes associated with a firm, the firm may not knowingly represent a person in the same or a substantially related matter in which that paralegal, or a firm with which the paralegal was associated, had previously represented a client whose interests are materially adverse to that person and about whom the paralegal had acquired information protected by Rule 1.6 that is material to the matter.

(b) When a paralegal has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interest materially adverse to those of a client unless:

(1) the matter is the same or substantially related to that in which the formerly associated paralegal worked on; and

(2) Any paralegal remaining in the firm has information protected by Rules 1.6 and 1.9 (b) that is material to the matter.

(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in SCR 20:1.7.

SCR __:3.1 Meritorious claims and contentions

(a) In assisting the attorney in the representation of a client, a paralegal shall not:

(1) knowingly advance a claim or defense that is unwarranted under existing law, except that the paralegal may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;
(2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or

(3) take action on behalf of the client when the paralegal knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.

SCR __:3.2 Expediting litigation

A paralegal shall make reasonable efforts to expedite litigation consistent with the interests of the client.

SCR __:3.3 Candor toward the tribunal

(a) A paralegal shall not knowingly:

(1) make a false statement of fact or law to a tribunal;

(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

(2) fail to disclose a fact to a tribunal legal authority in the controlling jurisdiction known to the paralegal to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) assist the attorney in the offering of evidence that the paralegal knows to be false. If a paralegal becomes aware of material and false evidence, the paralegal shall take reasonable remedial measures.

(b) The duties stated in paragraph (a) apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

SCR __: 3.4 Fairness to opposing party and counsel

A paralegal shall not:

(a) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A paralegal shall not counsel or assist another person to do any such act;

(b) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) Knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) In pretrial procedure, assist in the making of a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party.

SCR __:3.5 Impartiality and decorum of the tribunal

A paralegal shall not:

(a) Seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) Communicate ex parte with such a person except as permitted by law; or

(c) Engage in conduct intended to disrupt a tribunal.

SCR __.3.7 Paralegal as witness

(a) A paralegal shall not assist an attorney at a trial in which the paralegal is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) without the paralegal's assistance a substantial hardship to the client would result.

SCR __:3.9 Advocate in Nonadjudicative Proceedings

A paralegal representing a client, under the direction of an attorney, before a legislative or administrative tribunal in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 3.3(a) through (c), 3.4 (a) through (c), and 3.5.

SCR __:3.10 Threatening criminal prosecution

A paralegal shall not present, participate in presenting or threaten to present criminal charges solely to obtain an advantage in a civil matter.

SCR __:4.1 Truthfulness in statements to others

In the course of assisting the attorney, a paralegal shall not knowingly:

(a) make a false statement of a material fact or law to a third person; or

(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

SCR __:4.2 Communication with person represented by counsel

A paralegal shall not communicate about the subject of the representation with a party the paralegal knows to be represented by another attorney in the matter, unless the paralegal has the consent of the other attorney or is authorized by law to do so.

SCR __:4.3 Dealing with unrepresented person

In dealing on behalf of a client with a person who is not represented by counsel, a paralegal shall not state or imply that the paralegal is disinterested. When the paralegal knows or reasonably should know that the unrepresented person misunderstands the paralegal's role in the matter, the paralegal shall make reasonable efforts to correct the misunderstanding.

SCR __:4.4 Respect for rights of third persons

In assisting the attorney, a paralegal shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

SCR __:6.1 Pro bono publico service

A paralegal should support and participate in the provision of pro bono services under the supervision of an attorney. A paralegal may discharge this responsibility by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

SCR __:7.1 Communications concerning a paralegal's services

(a) A paralegal shall not make a false or misleading communication about the paralegal services. A communication is false or misleading if it:

(1) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(2) is likely to create an unjustified expectation about the workload the paralegal can complete, or states or implies that the paralegal can achieve results by means that

violate the Rules of Professional Conduct or other law;

(3) compares the paralegal's services with other paralegal's services, unless the comparison can be factually substantiated; or

(4) contains any paid testimonial about or paid endorsement of, the paralegal without identifying the fact that payment has been made or, if the testimonial or endorsement is not made by an actual client, without identifying that fact.

(b) A copy or recording of an advertisement or written communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

(c) Any communication made pursuant to this rule shall include the name of at least one paralegal responsible for its content.

SCR __:7. 5 Firm names and letterheads

(a) A paralegal shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a paralegal in a free-lance practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) The name of a paralegal holding a public office shall not be used in the name of a paralegal firm, or in communications on its behalf, during any substantial period in which the paralegal is not actively and regularly practicing with the firm.

(c) Paralegals may state or imply that they provide services in a partnership corporation or other organization only when that is the fact.

SCR __:8.1 Disciplinary matters

A paralegal in connection with a disciplinary matter shall not:

(a) Knowingly make a false statement of material fact; or

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from the disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

SCR __:8.3 Reporting professional misconduct

(a) A paralegal having knowledge that another paralegal has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that paralegal's honesty, trustworthiness or fitness as a paralegal in other respects, shall inform the appropriate professional authority.

SCR __:8.4 Misconduct

It is professional misconduct for a paralegal to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) Commit a criminal act that reflects adversely on the paralegal's honesty, trustworthiness or fitness as a paralegal in other respects;

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) State or imply an ability to influence improperly a government agency or official;

(e) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(f) Violate a statute, supreme court rule, supreme court order or supreme court decision regulating the conduct of paralegals; or

(g) Violate the paralegal's oath.

SCR __:15 Paralegal's Oath

The oath or affirmation to be taken by the paralegal shall be in substantially the following form:

I will support the constitution of the United States and the constitution of the state of Wisconsin;

I will maintain the respect due to courts of justice and judicial officers;

I will employ, for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, I will maintain the confidence and preserve inviolate the secrets of the client;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from a consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice. So help me God.

COMMENTARY

For many years attorneys have been regulated in the practice of law by a comprehensive set of rules found generally in SCR Chapter 20 as administered by the Board of Attorneys Professional Responsibility. The work of the Task Force has been to investigate and make recommendations to the Board of Governors on what role paralegals can and should play in the daily practice of law. As this group of professionals is given and accepts greater responsibility in serving the legal needs of the client, recognition must be given to the need for rules governing the ethical responsibility of the paralegal. Relaxation of the oversight and control by a supervising attorney requires the promulgation of a comprehensive set of rules, similar to those applied to attorneys that regulate the paralegals' profession and serve to protect the public.

Preceding this commentary is a set of rules that regulate the paralegal profession and ensures that such practice protects and serves the client. The starting point for these new rules has been the Attorneys' Rules of Professional Conduct. The preceding rules follow the attorneys' rules and deviate for nomenclature, to remove inapplicable rules, and to recognize that paralegals ultimately work under the supervision and direction of an attorney licensed to practice law in this State.

First and foremost in the drafting of these proposed rules is the recognition that a paralegal will at all times operate under the supervision of an attorney. These rules are not meant to endow the paralegal with an independent right to practice law. The language "in consultation with an attorney" reiterates this point repeatedly throughout the draft rules.

The Task Force also recognized that working "in consultation with an attorney" could have various meanings. "Consultation", as that term has been used by the Task Force, is meant to require the paralegal to obtain the knowledgeable consent or approval of the attorney for whom he or she is working. This approval and consent can be made only in a close professional relationship between the paralegal and attorney. This consultation and the ensuing discussion should be made with respect to each significant decision that is made. These rules do not sanction a situation in which the attorney gives the paralegal a blanket approval which may allow the paralegal to in effect work unsupervised.

Additionally, the Task Force chose to delete the word "representation" which was contained in the attorney's rules, from the draft paralegal rules. In its place the Task Force has used the word "assistance". Again, the Task Force felt the paralegal, by working under the supervision of an attorney, does not so much "represent" the client, but "assists" the attorney in his or her representation of the client. These rules are not meant to give paralegals a license to practice law nor to represent clients with respect to their legal problems.

Paralegal Practice Task Force Members and Participants

Current Members:

Attorney Pamela E. Barker, Chair

Pamela E. Barker is a shareholder in the Milwaukee office of Godfrey & Kahn, S.C. She graduated with honors from Beloit College in 1976 and *magna cum laude* from the University of Wisconsin Law School in 1979 where she served on the Wisconsin Law Review. Ms. Barker was the first woman to serve as President of the State Bar of Wisconsin during it 114-year history. She currently serves as a member of the American Bar Association's House of Delegates and served on the executive Council of the Young Lawyers Division of the American Bar Association. She has extensive professional experience in real estate and business transactions, and focuses on environmental issues involving real estate and corporate acquisitions and sales.

Attorney Cornelius (Casey) G. Andringa, Vice Chair

Cornelius (Casey) G. Andringa—a 1958 graduate of the University of Wisconsin—Madison Law School—has been active in both bar association and political activities. He served as Assistant District Attorney in Waukesha County prior to entering private practice in 1964. Since 1964, he has also served as Waukesha County Assistant Family Court Commissioner. Andringa served two two-year terms as a member of the Board of Governors of the State Bar of Wisconsin, and two one-year terms as an ex-officio member of the State Board of Attorneys Professional Responsibility (BAPR). In addition, he has been an active participant in the activities of the following State Bar committees: BAPR Study Committee, Sole and Small Firm Practice Committee, Member Relations Committee, and Legislation Committee. Andringa is a former board member and president of the Waukesha County Bar Association, and founder and charter member of the Waukesha County Bar Association's probate and real estate sections. Andringa served two terms on the Waukesha County (District Six) Board of Professional Responsibility.

Attorney John R. Decker

John R. Decker received his law degree from the Marquette University Law School in 1977, and served on the Board of Editors of the Marquette Law Review. He practiced general civil litigation in Madison and Milwaukee from 1977-1991 with the firm of Michael, Best & Friedrich. In 1991 John formed an independent law practice concentrating in construction law. Now retired from active practice, John provides consulting and expert witness services, and is a referee for the Wisconsin Supreme Court in lawyer discipline cases. John has taught on a part-time basis at the Marquette University College of Engineering, the Milwaukee School of Engineering, the University of Wisconsin Law School and the Marquette University Law School. John was president of the State Bar of Wisconsin in 1990-1991, and was a member of the Board of Governors for 10 consecutive years. He chaired many committees and entities within the State Bar, including the Sole & Small Firm Practice Committee, the Construction & Public Contract Law Section and the Young Lawyers Division. He also served several terms in the House of Delegates of the American Bar Association, and is a past member of the Governing Committee of the ABA's Forum on the Construction Industry.

Attorney Mary Lynne Donohue

Mary Lynne Donohue is a partner with Hopp Neumann Humke LLP (formerly Hopp, Powell, Raftery and Bauer) in Sheboygan, Wisconsin. She has a B.A., M.A. and J. D. degrees from the University of Wisconsin. Before entering private practice, Donohue served as Executive Director of Legal Services of Northeastern Wisconsin. Donohue has served as Treasurer and member of the Board of Governors of the State Bar of Wisconsin. She served on the Judicial Council and formerly served as President and as a Director of the Wisconsin Trust Account Foundation. She has also taught a family law course in the paralegal program at Lakeshore Technical College.

John C. Goudie

John C. Goudie has been a litigation and workers compensation paralegal for 16 years. He worked for 15 years doing plaintiff's personal injury and workers compensation, and now is employed doing defense liability and workers compensation for in-house insurance counsel. He graduated from the University of Wisconsin-Milwaukee in 1983 with a Bachelor's Degree in Economics and Labor Relations and received his paralegal certificate from Concordia University-Wisconsin in 1987. He has been a member of the Paralegal Association of Wisconsin since 1987 and has served as a member of the National Affairs Committee, Professional Development Committee, NFPA Primary Representative, Vice President, President and currently serves as National Affairs Representative. He has also served as Co-chair of the NFPA Standing Committee on the Delivery of Legal Services in 1993 - 1994 and 1994 - 1995. He has been a frequent speaker on paralegal topics for the State Bar of Wisconsin, Wisconsin Academy of Trial Lawyers, P.E.S.I., I.P.E. and Half-Moon, LLC seminar providers.

Patricia Klitzke-Wickersham

Patricia Klitzke-Wickersham is a paralegal with the Wisconsin Department of Justice, Legal Services Division, Environmental Protection Unit. Ms. Klitzke-Wickersham has been a paralegal in the Environmental Protection Unit since 1990 providing support to the assistant attorneys general in civil and criminal natural resources litigation.

Marie E. Koster

Marie E. Koster is a paralegal in the Trusts and Estates section with Quarles & Brady LLP in Milwaukee. Prior to joining Quarles & Brady she was a paralegal with Davis & Kuelthau. She started her career with Heide, Hartley, Thom, Wilk & Guttormsen in Kenosha, Wisconsin. Marie graduated *Magna cum Laude* from Concordia University with a degree in business and from Carthage College with a certificate in paralegal studies. She is currently a member of the Milwaukee Trusts and Estates Specialty Group, a member of the Paralegal Association of Wisconsin, a member of the National Federation of Paralegal Associations a member of the American Alliance of Paralegals, Inc. and a member of the Kenosha Guardianship Assistance Program. Marie just completed her term as President of the Paralegal Association of Wisconsin and currently serves as Board Advisor to the association. On the local level she has served as president, past president, pro-bono chairperson and Racine/Kenosha Chapter Director. Marie has also been a past speaker of the State Bar on How to Probate an Estate. She also serves on the Education Committee of the State Bar Paralegal Practice Task Force. On a national level Marie has served as a site team member of the ABA Standing Committee on Legal Assistants that recommends paralegals

schools for ABA approval. Her latest accomplishment is being named the state association's 2003 Paralegal of the Year.

Rochelle Loewenhagen

Rochelle Loewenhagen received her Paralegal Associates Degree from Northeast Wisconsin Technical College in December, 1993, and has been employed as a full-time paralegal for the general practice law firm of Block, Seymour, Chudacoff, Samson & Liebzeit, S.C. (formerly Chudacoff and Liebzeit) since September 1993. She is an active voting member of the Paralegal Association of Wisconsin where she served on the Board of Directors and authored the Profile On…articles for the newsletter. She was appointed to the Paralegal Practice Task Force in July, 1997 and was assigned to the Ethics Subcommittee.

Shawn R. Olley

Shawn R. Olley is the owner of Midwest Paralegal Services, Inc, a contract paralegal service founded in 1989 and located in Milwaukee, WI. Shawn is also owner of Midwest Imaging, a division of Midwest Paralegal, which provides records/data management through imaging. Shawn has a B.A. in Criminal Justice from the University of Wisconsin - Eau Claire, and completed the Roosevelt University ABA approved paralegal program in 1982. Shawn has over twenty years litigation experience working not only in her contract business, but also with law firms both in Chicago, IL and Milwaukee, WI. Shawn has served on the board for the Paralegal Association of Wisconsin and was awarded the 2000 Paralegal of the Year award. Shawn serves on the technology committee of the Milwaukee Bar Association.

Attorney Frank D. Remington

Frank D. Remington is an Assistant Attorney General at the Wisconsin Department of Justice. After graduating with honors from the University of Wisconsin Law School in 1984, he clerked with the Wisconsin Supreme Court and then spent the next two years in private practice. Joining the Attorney General's Office in 1988, Remington presently specializes in commercial litigation and eminent domain.

Remington is active in local, state and federal bar association activities. He is also a frequent contributor to legal educational materials, including the *Wisconsin Judicial Benchbook.* He was appointed by the Supreme Court and continues to serve as a member of the Preliminary Review Panel of the Office of Lawyer Regulation.

Attorney Mary E. Triggiano

Mary E. Triggiano has been the coordinating attorney for Legal Action of Wisconsin's Volunteer Lawyers Project since March 1994 and the managing attorney of Legal Action's Milwaukee office since the fall of 1996. She has been a Court Commissioner since 2000. She was previously a litigation associate for six years at Reinhart, Boerner, Van Deuren, Norris & Rieselbach, S.C. in Milwaukee from 1988-94.

Triggiano currently serves the State Bar of Wisconsin in a variety of capacities, including as a member of its Board of Governors, its Executive Committee and as the Board Liaison to the Section Leaders Advisory Council. She also serves as Vice Chair of the State Bar's Legal Assistance Committee, and as a member of the Gender Equity Committee. She has previously served on the Commission on Delivery of Legal Services, the Commission on Violence and the Justice System, and the Alternative Dispute Resolution Section Board

In addition, Triggiano is active in a number of local and specialty bar associations, serving on the Milwaukee Bar Association's Legal Assistance to the Indigents Committee from 1994 to the present, as a Director and Treasurer of the Association for Women Lawyers

and a member of the Pro Bono Committee; as a member of the Milwaukee Young Lawyers Association's Volunteer Lawyers Project. She is also a member of the Waukesha Bar Association and the Wisconsin Hispanic Lawyers Association. Triggiano is also active in numerous professional and community activities and projects, including as a Director and Secretary of the Leukemia & Lymphoma Society -Wisconsin Chapter; a co-founder of Women's Resource Day and a member of Milwaukee Forum.

Current Participants:

Attorney John L. Frank

John Frank is a fifth-generation resident of Eau Claire, Wisconsin where he practices law, serves as the Director of the Paralegal Program at the Chippewa Valley Technical College, teaches courses in law, economics, and political science, and functions as the on-air political analyst for WEAU-TV (NBC Channel 13).

John is a *summa cum laude* graduate of the University of Wisconsin-Eau Claire, where he received his bachelor's degree in Economics and Political Science in 1974, and a *cum laude* graduate of the University of Wisconsin-Madison, where he received his law degree in 1977. Between 1977 and 1981, John practiced law with the Eau Claire law firm of Garvey, Anderson, Kelly & Ryberg, S.C. and was one of three attorneys who started the CVTC Paralegal Program.

Besides teaching and practicing law in Wisconsin, John has spent 13 of the last 23 years working for the House of Representatives in Washington, D. C. where he served as Chief-of- Staff and Counsel to Congressman Steve Gunderson (R-WI and former Chief Deputy Whip) from 1981 to 1989 and as Deputy Chief Counsel to the House Committee on Agriculture from 1993 to 1997. Since returning to his solo practice of law and teaching responsibilities in 1997, John has been a frequent guest speaker to organizations and associations across the country on Federal legislative process, grassroots lobbying, and agricultural policy making. He also serves as a member of the Board of Directors for the Wisconsin Association for Career and Technical Education.

Attorney Robert J. Lightfoot II

Mr. Lightfoot is an attorney with Murphy Desmond S.C. of Madison, Wisconsin practicing in the area of health, administrative and regulatory law. He chairs the firm's Health Law and Administrative/Regulatory practice groups. Mr. Lightfoot focuses his health law practice on the representation of long term care facilities such as nursing homes and assisted living facilities. Mr. Lightfoot is also a licensed Registered Nurse.

He is a frequent lecturer on the state and national level on issues affecting the long term care industry and has given presentations on a variety of topics affecting skilled nursing and assisted living facilities. He serves on the Nursing Home Regulation Committee of the Wisconsin Health Care Association and the Legislative Committee of the Wisconsin Assisted Living Association where he is a board member. Mr. Lightfoot is also a board member of the Verona Area High School Athletic Foundation. He is a Board of Governor of the State Bar of Wisconsin and serves as the Board liaison to the Paralegal Task Force.

Barbara Morin

Barbara Morin joined CUNA Mutual Group in September 2001 as a Law Specialist III, specializing in credit union contract law. She obtained a paralegal certificate from the American Institute for Paralegal Studies, Inc. in October 1998, then finished a Bachelor's degree in Business – Management and Communications, graduating Summa Cum Laude in December 2000 from Concordia University – Wisconsin, all while working full time at Oscar Mayer Foods. Entering the paralegal field was a career change, which she feels has been both a rewarding and challenging experience. Thus, her interest in getting involved with MAPA, and subsequently with the Paralegal Task Force.

Attorney Gene R. Rankin

Geme R. Rankin has served as the Director of Board of Bar Examiners since December, 1994. Before serving as Director, he was in private practice. He was admitted to the Wisconsin Bar in 1980; U.S. District Court (W.D., WI) (1980); 7th Circuit Court of Appeals (1992).

Rankin served as Director of the Dane County Land Regulation & Records Department (1984-1989). He helped found State Bar of Wisconsin Environmental Law Section and served on its Board. J.D., U. W. Law:1980; M.S. (city planning) U.W.: 1975; B.S., U.W.: 1966.

Attorney Keith L. Sellen

Keith L. Sellen is the Director of the Office of Lawyer Regulation, the agency of the Wisconsin Supreme Court that investigates allegations and prosecutes formal complaints of attorney misconduct and medical incapacity.

Sellen graduated from the United States Military Academy at West Point and the University of Wisconsin Law School in Madison. After graduation from law school, Keith served 16 years as an Army Judge Advocate, during which he received an LL.M. from The Judge Advocate General's School in Charlottesville, Virginia. Keith joined the Office of Lawyer Regulation on September 11, 2000. He is a native of Lena, Wisconsin, the son of a dairy farmer.

Dan Rossmiller, Staff Liaison

Dan Rossmiller is the current State Bar of Wisconsin Public Affairs Director.

Past Members:

Mary E. Celentani

Mary E. Celentani is currently the administrator of the Division of Unclaimed Property for the Office of the Wisconsin State Treasurer. Prior to assuming this position, Mary was a paralegal-advanced with the Wisconsin Department of Justice, and served as the assistant to the Commissioner of Securities. While at the Justice Department, Mary was assigned to the Civil Litigation and Contracts Commercial and Property Units, with an emphasis in bankruptcy law and financial investigations.

Attorney Donald C. Lubner

Donald C. Lubner is an instructor at the Milwaukee Area Technical College Paralegal Department and filled that position since 1980. He is the author of Wisconsin Legal Terminology and has been in private practice since 1975, too. B.A. 1971, M.A. 1972, J.D. 1975.

Christine Ouimet

Christine Ouimet received her Bachelor of Science degree in 1990 from Upper Iowa University and her paralegal certificate from the American Institute for Paralegal Studies in 1991. Christine has been involved in the Madison Area Paralegal Association since its inception and has held numerous positions including president. Christine served as a voting member of the State Bar Paralegal Task Force from its inception until 2002. She has been a paralegal since 1990. She currently works at Foley & Lardner.

Lynn P. Retzak

Lynn Retzak has been the Paralegal Program Director at Lakeshore Technical College (LTC) since 1991. In 1995/96, she chaired the Wisconsin Technical College System (WTCS) Paralegal Core Curriculum Development Project, which resulted in seven core paralegal courses for the five WTCS paralegal programs.

Retzak has been active in the American Association for Paralegal Education, serving on the Curriculum Development Task Force and Chairing the Credentials Committee. Beginning July 1, 2000, she will assume new responsibilities as LTC's Director of Faculty Development. Before working for LTC, Lynn was a Paralegal at the Naval Underwater Systems Center in Newport, Rhode Island, where she received a Performance Award in 1989 and a Special Achievement Award in 1990. She received a B.S. Degree with concentrations in law and math from the University of New York Regents, and she earned a M.S. in Management and Organizational Behavior at Silver Lake College in Manitowoc, Wisconsin.

Past Participants:

Amy Klein

Amy J. Klein is a paralegal with American Family Insurance Group in the Great Lakes Legal Department in Madison, Wisconsin. She received her B.S. degree, cum laude, in 1991 in Paralegal Multi-Legal Studies from Winona State University in Winona, Minnesota. Ms. Klein was previously a litigation paralegal with Ross & Stevens, S.C. and DeWitt, Ross & Stevens, S.C. She is a member of the National Association of Legal Assistants, Madison Area Paralegal Association and the Wisconsin Academy of Trial Lawyers-Paralegal Section.

Attorney William J. Mulligan, Board of Governor Liaison

William J. Mulligan is a shareholder, litigation attorney, co-chair of the Environmental Team and chair of its Litigation Technology Committee at Davis & Kuelthau, S.C. in Milwaukee. He is a former member of the Board of Governors of the State Bar of Wisconsin. He received his B.S. (1958) and L.L.B. (1960) from Marquette University and his M.S. (1965) from the University of Wisconsin. He was the United States Attorney for the Eastern District of Wisconsin from 1974-1978, a professor of Trial Practice and Civil Procedure at Marquette Law School, and a former Chairman of the Board of Wisconsin Lawyers Mutual Insurance Company.

He is a co-author (with his daughter, Attorney Kathleen Mulligan of Sidley & Austin) of Chapter 7, entitled "The Nonjury Trial: Special Procedures", in Brooks et al., Federal Civil Procedure and Evidence During Trial - 7th Circuit, (Lawyers Cooperative Publishing, 1997).

Linda Barth, Staff Liaison

Linda Barth is the former State Bar of Wisconsin Public Affairs Director.

Attachment B

STATE BAR OF WISCONSIN
PARALEGAL PRACTICE TASK FORCE
ANONYMOUS SURVEY
JANUARY 1999

A survey (copy attached) was sent out to 400 members of the Paralegal Association of Wisconsin to determine the amount of interest, if any, paralegals have regarding licensure and what amount a paralegal would pay for that license. We had **73% response** to our survey. The results are as follows:

Question A. How likely are you to apply for a paralegal license?

78% of those responding indicated **very likely**
12% of those responding indicated somewhat likely
8% of those responding indicated somewhat unlikely
2% of those responding indicated very unlikely

Comments Received: Only if necessary, Will it be an option, I think certification is sufficient, would the attorney care one way or another if you were licensed in order to bill, if we are not licensed soon, how can we continue to bill our hours, if my employer requires it, would there be an examination associated with it such as State Bar for attorneys, would not apply for a license if not required by my attorney, I'm against the proposal of licensure.

Question B. What is the highest amount you are personally willing to pay for a license? (Every two years)

88% of those responding indicated up to $100.00
10% of those responding indicated up to $150.00
2% of those responding indicated from $150.00 to $400.00

Comments Received: I would expect my employer to pay fee, $100.00 is the maximum I would pay, I would pay none until our salaries rise.

Question C. In your opinion, what is the highest amount your employer would be willing to pay for your license? (Every two years)

27% of those responding indicated NONE
63% of those responding indicated up to $100.00
10% of those responding indicated over $100.00 to $400.00

Comments Received: I am only guessing at what they would pay, lawyers tend to be cheap, if required by my employer, they should pay 100% of the fee otherwise only 50% of the fee, I believe my firm would pay whatever they had to, I haven't a clue what they would pay.

This survey was anonymous and therefore no demographics were available. The survey was mailed to all areas of Wisconsin, however, the majority of members of the association are in Milwaukee.

STATE BAR OF WISCONSIN
PARALEGAL TASK FORCE
Anonymous Survey

Please take a moment to fill out this survey by placing an X on the line(s) that apply. A return envelope is provided.

There is a **proposal** to license the profession. For you to bill out your hours, you would need to be a licensed paralegal. **If** licensing becomes a reality:

A. How likely are you to apply for a paralegal license?

____ Very likely
____ Somewhat likely
____ Somewhat unlikely
____ Very unlikely

B. What is the highest amount you are personally willing to pay for a license?

____ None
____ Up to $100 every two years
____ $101 - $150 every two years
____ $151 - $200 every two years
____ $201 - $250 every two years
____ $251 - $300 every two years
____ $301 - $350 every two years
____ $351 - $400 every two years
____ Not applicable

C. In your opinion, what is the highest amount your employer would be willing to pay for your license?

____ None
____ Up to $100 every two years
____ $101 - $150 every two years
____ $151 - $200 every two years
____ $201 - $250 every two years
____ $251 - $300 every two years
____ $301 - $350 every two years
____ $351 - $400 every two years
____ Not applicable

Thank you for taking the time to contribute to our continuous efforts regarding licensing of paralegals.

LEGISLATIVE COMMITTEE 2003-2004

BILL STATUS/MONITORING CHART

STATE	REGION	DATE INTRODUCED	SENATE/HOUSE BILL NUMBER	SUMMARY	MONITOR Y/N	REFER TO VPPI TO FILE TESTIMONY	STATUS
CO	II	01/13/2003	HB 1121	A bill concerning offers of settlement in civil actions – and defines attorneys fees to include paralegal fees. Amendment removes attorneys fees definition language	Not after amendment passed	--	n/a
CO	II	01/29/2003	SB 208	A bill establishing fees charged to state department agencies by the Department of Law – paralegal fees at $50.11 per hour	No	--	n/a
GA	III	01/20/2003	HB 177	A BILL to amend Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real estate appraisers, and to provide requirements for nonresident licenses; and for other purposes.	Yes	No	Passed House on 02/12/2003; Passed Senate on 04/10/2003; Approved by Governor on 05/30/2003
GA	III	03/25/2003	HB 770	Same as SB 102, above; After the Senate and House both amended the bill, no resolution was reached until a Conference Committee was appointed. The Circuit Public Defenders will not be allowed to engage in the private practice of law and he or she can staff their office by employing administrative, clerical, and paraprofessional help as authorized by the Council, based on funds appropriated by the General Assembly.	Yes	--	Approved by the Governor on 05/22/2003
HI	I	01/21/2003	SB 1021	Relates to public employment, and reestablishes certain provisions of Chapter 658, Hawaii Revised Statutes that were repealed in 2002 – In 2002, a revised version of the Uniform Arbitration Act, codified as chapter 658A, Hawaii Revised Statutes, replaced	No	No	n/a

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

				chapter 658, Hawaii Revised Statutes, without sufficient notice and opportunity for public employers and employees to provide meaningful discussion. Chapter 658A significantly altered the arbitration process mutually agreed upon by the public employers and employees and utilized by the parties with few problems for over 30 years. Chapter 658A takes on the characteristics of a litigation practice and will tend to exclude non-lawyers, such a labor relation specialists and union business agents, from advocating grievances at arbitration; provides for numerous challenges and delays in obtaining a final and binding arbitration award; and will make arbitration proceedings more costly. Chapter 658A seriously erodes the intent of the legislature that recognized that the modem way of administering government is to allow public employees the right to share in the decision making process.			
HI	I	01/23/2003	HB 1162	Relates to insurance fraud – establishes an insurance fraud division of the insurance department, and authorizes the employment of attorneys, investigators, paralegals, *et al.* necessary to provide effective and efficient activities	No	No	n/a
IL	II	01/27/2003	HB 213	A bill to abolish the death penalty – allows for the State Appellate Defender to establish programs for the purpose of utilizing volunteer law students as legal assistants;	Yes	--	Referred to the House Rules Committee on 01/23/2003; Assigned to the House Judiciary II Committee (Criminal Law Comm.) on 01/29/2003; Passed House Judiciary Committee on 03/06/2003; Re-referred to the Rules Committee on 04/04/2003; First session of term ended on
IL	II	02/06/2003	HB 1400	A bill relating to UPL – specifically states that rape crisis advocates are not engaged in the practice of law	No	No	n/a

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

				when providing assistance of the types specified in the bill/statute			
IL	II	02/19/2003	SB 688	Amends the Attorney Act. Provides that an unlicensed person or entity may not advertise or hold itself out to practice law, give legal advice, or own, conduct, or maintain a facility to practice law or give legal advice. Provides that the remedies available for the unauthorized practice of law include, but are not limited to: (i) appropriate equitable relief; (ii) a civil penalty not to exceed $5,000; (iii) actual damages; (iv) reasonable attorney's fees and costs; (v) punitive damages if the conduct was willful, intentional, or done with reckless disregard to the rights of others; and (vi) other relief deemed necessary to remedy the wrongdoing.	Yes	Yes – pending approval of IPA	Passed Senate with amendment on 03/20/2003; Referred to House Rules Committee on 03/21/2003; Assigned to House Judiciary Committee on 04/16/2003; Amended in House on 05/13/2003; Re-referred to Rules Committee on 06/01/2003
LA	II	04/08/2003	SB 1008	To amend and reenact R.S. 33:2451, relative to the civil service system and personnel administration in Rapides Parish; to authorize the civil service board, by rule, to exempt positions from provisions of law regarding appointment, promotion, and dismissal; to provide limitations; and to provide for related matters – does not change language related to the parish attorney and his legal assistant	No	No	n/a
ME	V	06/11/2003	LD 1614 HP 1190	An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2003, June 30, 2004 and June 30, 2005" (Emergency)(Governor's Bill) – allows for employment of part-time paralegals	No	No	n/a
NC	III	04/02/2003 04/08/2003	SB 922 HB 957	A bill enacting the Paralegal Profession Act, which would restrict who may use the term "paralegal"	Yes	Yes/ Testimony filed on 06/19/2003	Referred to Senate Judiciary I Committee on 04/03/2003; Referred to House Judiciary IV Committee on 04/09/2003
ND	II	12/30/2003	HB 1159	A bill related to unlicensed practice as a private investigative or security service and seeks to amend	No	No	n/a

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

				various sections of ND Code (in which the terms "paralegal" and "legal assistant" are already part of the statute)			
NE	II	01/22/2003	Legislative Bill 790	A BILL FOR AN ACT relating to natural gas; to adopt the State Natural Gas Regulation Act; (creates the Office of Public Advocate, an independent division of the Public Service Commission, to represent the interests of Nebraska citizens and all classes of jurisdictional utility ratepayers, and shall act as trial staff before the Commission. This bill grants the Public Advocate the right to hire or contract with attorneys, *legal assistants*, experts, etc. as necessary to discharge duties.	Yes	No	Approved by Governor on 05/30/2003
NH	V	01/30/2003	SB 83	A bill relating to paralegals and legal assistants, excepting those working under the supervision of an attorney from the prohibitions to the unauthorized practice of law	Yes	Yes/ Testimony filed on 05/21/2003	Passed Senate on 04/03/2003; Died in committee as House voted "inexpedient to legislate"
NM	II	02/03/2003	HB 501	Increases attorneys fees in workers compensation cases from $12,500 to $16,500 to adjust for average cost-of-living increase. This section already provided that paralegal fees are recoverable as attorneys fees; and allows for recovery of attorney fees, including paralegal fees, for representation before appellate courts not to exceed $10,000	Yes	No	Passed House; Passed Senate; Approved by Governor on 04/07/2003; Effective July 1, 2003
NM	II	02/10/2003	HB 612	Notary Public Act – prohibits notaries public from committing the unauthorized practice of law, and allows the governor to revoke the commission of any notary public if he/she engages in the unauthorized practice of law	No	No	n/a
NV	I	02/10/2003	AB 65	Establishing a collective bargaining unit for state administrative and clerical employees, including paralegals	Yes	Yes – if reintroduced	Referred to Committee on Governmental Affairs on 02/10/2003; Passed Assembly on 04/21/2003 with amend.; Referred to Senate; Indefinitely postponed on 05/14/2003; Pursuant to Joint

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

							Standing Rule 14.3.3 – no further action allowed
NY	V	02/04/2003	S01484 A01064	A bill that would criminalize the unauthorized practice of law and allow the Attorney General to bring both civil and criminal actions against defendants for UPL	Yes	No	Referred to Judiciary Committee on 02/04/2003; Ordered for 3rd reading on 02/11/2003; Died – Session concluded on 06/20/2003
NY	V	02/13/2003	HB 1894	Establishes the New York state public defense commission to oversee the provision of public defense services in the state – specifically provides for training to or facilitate training of non-legal public defense professionals in investigation, sentencing, advocacy, paralegal skills and other relevant issues.	Yes	Yes – if reintroduced	Read twice by Senate; Referred to Finance Committee on 02/13/2003; No further action
NY	V	02/19/2003	AB 4591	Requires attorneys to provide clients with written "retainer contracts" to inform clients of attorneys of the nature of the agreement and the services to be provided by the attorney, including paralegal fees and other fees, and the anticipated expenses and charges, the method of billing, the legal steps to be taken and the client's right to discharge the attorney at any time	Yes	Yes – if reintroduced	Referred to Judiciary Committee on 02/19/2003; No further action taken
OK	II	02/02/2003	SB 724	Creates a new section of law to be codified in the Oklahoma Statutes as Section 1-101 of Title 71, to be known and may be cited as the "Oklahoma Uniform Securities Act of 2004". This bill relates to paralegals only in that they (along with attorneys, legal secretaries et al.) "are not subject to any of the provisions of the Merit System of Personnel Administration or the rules promulgated by the Office of Personnel Management except those relating to leave regulations.	Yes	No	Passed the Senate on 05/20/2003; Passed the House on 05/22/2003; Approved by the Governor on 05/30/2003; Becomes effective 07/01/2004
OK	III	02/03/2003	HB 1101	An Act relating to state government; amending 74 O.S. 2001 – this bill amends Section 840-5.10 exempts law clerks and legal assistant positions employed by the state from being classified under the Merit System of Personnel Administration.	No	No	n/a

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

OH	III	03/19/2003	HB 135	A bill that amends various sections of the Ohio Code dealing with Condominium Act – amendments allow for the recovery of attorney's fees and paralegal fees incurred by the unit owners association from the owner of the individual units	Yes	No	Passed House on 06/11/2003; Introduced in the Senate on 06/12/2003
OH	III	05/01/2003	Sub SB 80	A bill dealing with tort reform; also enacts Legal Consumer's Bill of rights	Yes	Yes – pending approval from OH associations	Passed by the Senate on 06/11/2003; Introduced in the House on 06/12/2003
OR	1	01/14/2003	SB 43	Creating new provisions and amending ORS 9.160, 9.166 and 9.241 exempting of title insurers, title insurance agents and escrow agents from prohibitions on unauthorized practice of law., and out-of-state attorneys).	Yes	No	Governor signed on 06/10/2003: becomes effective on 01/01/2004
OR	I	01/14/2003	HB 2163	Relating to dismissal of hearings on unemployment benefits This bill already mentions "paralegal" -- amendments to the bill do not affect those sections already state law	No	No	n/a
OR	I	01/16/2003	SB 253	Bill amending 703.411, et al., relating to licensing of certain professions, and excepts a legal assistant or paralegal engaged in activity which the person is employed by an attorney admitted to practice law in this state from ORS 703.401 to 703.490, 703.993 and 703.995	Yes	No	Passed Senate on 03/13/2003; Passed House on 05/19/2003; Approved by the Governor on 06/13/2003; becomes effective 01/01/2004
OR	I	01/22/2003	HB 2391	Included in SB 253	--	--	n/a
PA	IV	02/11/2003	HB 190	Provides that an attorney-in-fact under power of an attorney signed by a person who has the right to appeal the board of assessment (tax) may file the appeal for the person and represent that person in all aspects of the appeal – and such attorney-in-fact shall not be construed to be committing the unauthorized practice of law	No	No	n/a
RI	V	01/30/2003	H 5314	Relating to state affairs and government – establishing an office of inspector general – allows for the employment of assistant inspector general, chief and deputy counsels, clerks, paralegals, *et al.* to perform	No	No	n/a

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

				duties of office			
RI	V	01/30/2003	S 0205 Substitute A	Creating a special legislative commission to study the feasibility of establishing the office of inspector general (see H 5314, above).	No	No	n/a
SD	II	01/29/2003	SB 136	Revises certain format standards for real estate documents filed at the register of deeds – includes language re: document preparer in real estate transactions	No	No	n/a
TN	III	02/24/2003	HB 2040	Collection of costs of investigation and prosecution in disciplinary actions before the division or various boards, councils, and/or committees regulated pursuant to the authority of the Department of Health – includes language to specifically recover Office of General Counsel all attorney and paralegal time;	Yes	No	Passed Senate on 04/16/2003; Passed House on 04/23/2003; Approved by the Governor on 05/07/2003; Became effective 05/07/2003
TX	II	11/20/2002	SB 127; Enrolled version contains this language	Bill dealing with the licensing of public insurance adjusters, and prohibits licensees from giving legal advice or other acts that constitute the practice of law	No	No	n/a
TX	II	01/14/2003	HB 392	A bill relating to licensing of public insurance adjusters. Provides for the appointment of an advisory board, which consists of the presiding officer of the UPL Committee of the State Bar of Texas	No	No	n/a
TX	II	02/17/2003	HB 4	Amended the Civil Practice & Remedies Code regarding class actions. The bill that discusses "paralegals" etc. deals with an authorization form to release protected health information	No	No	n/a
VA	IV	01/08/2003 prefiled	HB 2546	Allows corporations, partnerships or LLCs, (when amount in controversy does not exceed $15,000) to prepare file and have served on other parties, warrant for debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, etc. The section also specifically states that "nothing in this section shall allow a nonlawyer to file a bill of particulars or grounds of defense or to argue motions, issue a subpoena, rule to show cause or capias; file or interrogate at debtor	No	No	n/a

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

				interrogatories; or to file, issue or argue any other paper, pleading or proceeding not set forth in subsection A"			
VA	IV	01/08/2003 prefiled	SB 984	Revises statute that grants civil immunity for persons assisting in Lawyers Helping Lawyers to reflect its change in status from an entity of the Virginia Bar Association to a free-standing Virginia nonprofit, nonstock corporation. Lawyers Helping Lawyers provides help to members of the legal profession who have substance abuse problems or are suffering from mental illness. – now specifically include paralegals as those subject to Lawyers Helping Lawyers	--	--	Passed Senate on 02/04/2003; Passed House on 02/19/2003; Approved by Governor on 03/24/2003; Effective 07/01/2003
VA	IV	01/08/2003 prefiled	SB 1017	Permits employees of a state agency, who are not attorneys but are acting in the matter at the direction of the attorney general, to represent state agencies in various civil proceedings pending before, or which may be instituted in, courts not of record, including filing suit against a negligent party to collect the costs of fire suppression. The bill amends the definition of "practice of law" to provide that such representation does not constitute the unauthorized practice of law.	Yes	No	Referred to Senate Committee for Courts of Justice on 01/08/2003; Stricken at request of member of CJ Committee on 02/02/2003
VT	V	03/31/2003	HB 464	Appropriations Act for FY 2004; creates Study Committee on Standards for Municipal Land Records, which is to consist of a member of the Vermont Paralegal Association	Yes	--	Passed House on 04/02/2003; Sent to Senate on 04/03/2003; Approved by Governor on 06/18/2003
WA	I	01/20/2003	HB 1186	Revising provisions for the conduct of lawyers and establishing disclosure requirements to clients; disputes regarding fee agreements with clients in collection of those fees, a lawyer may only bring a claim in a small claims department of the district court and must be represented by a nonlawyer employee or agent – must prove by clear and convincing evidence that client had been informed and agreed to any contractual terms that were not explained and agreed to in writing by client	Yes	No	Referred to House Judiciary Committee on 01/20/2003; Reintroduced and retained in present status in 1st Special Session on 06/04/2003; Reintroduced and retained in present status in 2nd Special Session on 06/11/2003
WA	I	01/22/2003	SB 5336 & HB 1333	Changing the membership of the commission on judicial conduct – to include six nonlawyer members appointed by the governor	No	No	n/a
WA	I	01/28/2003	HB 1497	Defines and criminalizes UPL – single violation is a	Yes	No	House passed in Third

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.

				gross misdemeanor, any subsequent violation is a class C felony			Reading on 03/15/2003; First reading in Senate on 03/17/2003 – recommended pass by Senate Judiciary Committee; Reintroduced and retained in present status in 1st Special Session on 06/04/2003; Reintroduced and retained in present status in 2nd Special Session on 06/11/2003
WA	I	02/17/2003	HB 1927	Concerning mandatory mediation of health care claims – allows for stipulation of use of nonlawyer mediator	No	No	n/a
WV	IV	06/12/2003	SB 2013	A bill amending various sections of the West Virginia Code to allow for the hiring of attorneys to represent the Commissioner of the Bureau of Employment Programs and the Executive Director of the Workers Compensation Commission, and allowing payment for overhead, including use of paralegals, and other office staff	Yes	No	On 06/14/2003, Bill was amended to include provisions of HB 200 (below) Passed 06/14/2003
WV	IV	06/10/2003	HB 200	Same at SB 2013 as it specifically relates to hiring of attorneys, and allowing payment for overhead, including use of paralegals, and other office staff	Yes	No	Included in SB 2013 (above)
WY	II	01/23/2003	SF 121	Civil actions and award of attorneys fees in civil actions involving death or personal injury – allows for recovery of paralegal fees for legal work customarily performed by an attorney but delegated to and performed by an investigator, paralegal or law clerk	Yes	Yes – if reintroduced	Referred to Senate Committee on 01/23/2003; Died in committee on 03/06/2003

Copyright © 2003 by the National Federation of Paralegal Associations, Inc. All rights reserved. This document is an NFPA internal work-product and publication. Neither this document nor the information contained herein may be reproduced or distributed without express written permission of the NFPA President or Vice President & Director of Positions and Issues.