

PARALEGAL PERSPECTIVES: “WHO, WHAT, HOW AND WHY?”

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The author on the job. (Photo courtesy of Conni J. Hebert)

Did you know that there is a State Bar of Nevada Paralegal Division?

The concept began in 1992 and became reality in 1994, when the bar’s Board of Governors passed a proposal to create the Legal Assistants Division (later renamed the Paralegal Division).

The mission of the Paralegal Division has remained unchanged since 1994: to enhance paralegals’ participation in the administration of justice, professional responsibility and public service in cooperation with the State Bar of Nevada. The Paralegal Division is the first statewide organization of working, attorney-supervised paralegals in Nevada.

What is a paralegal?

According to the American Bar Association (ABA), a “legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.”

What should attorneys know about paralegals?

Most importantly, a paralegal is trained to assist attorneys in a variety of legal capacities; however, the most important thing to remember is that the lawyer must supervise the paralegal and remains responsible at all times for his or her work. Paralegals are able to conduct factual research, summarize electronically stored information (ESI), draft legal documents, work with clients and manage cases. Paralegals play a key role in the efficiency of a law firm. They can free up your time, allowing you the opportunity to increase your caseload, while permitting associates and partners to focus on complex legal work and client interaction. Paralegals reliably track case deadlines and make sure tasks are completed on time. They can also improve

client satisfaction by being accessible to clients on a regular basis when you are unavailable.¹

What can a paralegal not do?

It's really quite simple: paralegals may not establish an attorney's relationship with a client or set fees to be charged, may not appear in court and may not give anyone legal advice. That's it. Paralegals must always avoid the unauthorized practice of law. You can delegate any task normally performed by an attorney to a paralegal, except those tasks specified above. Attorneys are ultimately responsible for the work product of their paralegals. Attorneys are also responsible for the ethical conduct of the paralegals they employ. Any transgressions by a paralegal may subject the attorney to professional discipline. See Rule 5.3 of the Model Rules of Professional Conduct. Paralegals who are members of national and/or local paralegal associations are required to follow the ethical codes of those associations, such as the AAPI Code of Ethics, the NALA Guidelines, the NFPA Guidelines or the NALS Guidelines. Of course, any unethical conduct by a paralegal will have a direct impact on an attorney's practice. A PDF of the ABA Model Guidelines for the Utilization of Paralegal Services is available for download on the ABA's website, at www.americanbar.org.

How can a paralegal benefit my practice?

A paralegal is a profit center for your law practice. Paralegals provide increased profitability for you and your firm by increasing revenue and decreasing expenses. You pay a paralegal less than you would an attorney, yet the paralegal can handle many of the tasks (under an attorney's supervision) that would otherwise be performed by an attorney. Their time can be billed out separately to the client at a lower cost. It's a win-win for the client and for your practice.

To determine if your paralegal is of economic benefit to your firm, just apply the "Rule of Three." This simple analysis states that the test of profitability is passed if the revenues generated by the paralegal equal three times the paralegal's salary. This classic rule may have suffered some erosion over the years due to increasing law firm costs, so the equation may, at this point, be closer to a "Rule of Three-and-a-Half." Nevertheless, the model may help you determine how to best set your firm's financial goals and costs. Taking a serious look at the composition of your practice, your client base, and your future plans for building and expanding your practice should include an analysis of the utilization of paralegals in your firm. Look at the "dollars and sense" questions regarding how to increase the profitability and efficiency of your

practice. Paralegals can be of value, financially and in other ways, if properly utilized.²

What education or qualifications should I look for when hiring a paralegal?

Some paralegals have earned their titles by working their way up through the ranks, learning the ropes from on-the-job training, sometimes progressing from legal secretary to paralegal. Others have successfully completed formal education, and have, for example, an Associate Degree in Paralegal Studies or a Certificate in Paralegal Studies. Some colleges offer ABA-approved paralegal programs. There are many paralegals that possess a combination of informal and formal training. You will want a person with excellent organizational skills and good communication skills, both oral and written. A paralegal with a genuine interest in law is a valuable member of any legal team.

Are paralegals regulated or licensed?

Paralegals are not currently licensed as attorneys are, nor are they subject to any other regulatory scheme. Since

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paralegals already work under the supervision of licensed attorneys, many of them oppose licensing, stating that such regulation is unnecessary. There is no single authority in the U.S. that oversees the paralegal profession. Also, at the time of this writing, no state has paralegal licensure. As an extension of an attorney, a paralegal's work falls under an attorney's license. That doesn't mean, however, that paralegals have no oversight or responsibility; as with all other legal professionals, paralegals are required to adhere to the same codes of ethics and rules of professional conduct as their employing attorneys. California has set the stage; the California legislature has enacted regulatory

provisions for paralegals under CA Business and Professions Code §6450-6456. The code outlines rules and regulations, along with standards of education that all California paralegals must meet. California legislation (AB 1761) makes it unlawful for persons to identify themselves as paralegals unless they meet certain requirements.

What is a “Certified Paralegal?”

Technically, a certified paralegal is a paralegal that has completed the voluntary certification process of a professional association by developing a specified level of professional competency. The professional

associations that offer certification exams are: The National Association of Legal Assistants (NALA), National Federation of Paralegal Associations (NFPA), National Association of Legal Secretaries (NALS), and American Alliance of Paralegals Inc. (AAPI). The term “certified” is sometimes mistakenly used when referring to a paralegal who has earned a certificate by completing a college course of study. The ABA does not certify individual paralegals. If your paralegal does not have credentials after his or her name (e.g. CP®), then your paralegal is not certified. Paralegals who seek certification through a national or state program take charge of their professional and career development, and demonstrate a commitment to professional growth. Firms employing paralegals with CP®, ACP®, RP® or PP® credentials can be confident that their interests are being well served.

Why should my paralegal join the State Bar of Nevada’s Paralegal Division?

The most important reason of all—it will make your life easier! Paralegals able to network with other paralegals at seminars, community service or pro bono events, for example, are better at building rapport with other paralegals. When working on high-stress cases, it's important to have a paralegal that can get along with the other side. What better way to develop this rapport than joining an organization through which they will get to know other paralegals? Speaking from personal experience, when the adverse side's paralegal and I know one another, we have common respect and are able more efficiently deal with our clients' issues. As a result, membership in the bar's Paralegal Division could be a great cost-saver for your clients.³ I am hopeful that most attorneys will recognize its value. However, it is important to note that simply belonging to the organization isn't enough. Paralegals only benefit from membership in the Paralegal Division if they participate in the programs it offers. Volunteering for and even leading its activities is another way for paralegals to get to know the industry more intimately. Membership also offers

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an opportunity to network with attorneys and other legal professionals in Nevada, something that could help your paralegal advance his or her career down the road. The main benefits of membership in the Paralegal Division are networking, continuing legal education, job postings, community recognition and promotion of the profession. Ultimately, if your paralegal is a member of the Paralegal Division of the State Bar of Nevada, he or she will be better equipped make your life easier. **NL**

1. "Why Hire a Paralegal," American Bar Association Standing Committee on Paralegals, 2012.
2. "Leveraging with Legal Assistants: How to Maximize Team Performance, Improve Quality, and Boost Your Bottom Line" ©1993 by the American Bar Association. Reprinted with permission. All rights reserved. This

information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association.

3. "What's Good for the Goose May Be Good for the Gander," Heather J. Allen, Utah Bar Journal, Vol. 27, Nov/Dec 2014.

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PRO BONO Honor Roll

The State Bar of Nevada Board of Governors and the Access to Justice Commission extend a special thanks to the following attorneys who generously accepted cases in October 2017, through the Legal Aid Center of Southern Nevada, Washoe Legal Services, Nevada Legal Services and Volunteer Attorneys for Rural Nevadans.

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