

More on Legal Nurse Programs

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In our last issue, we reported on the development of legal nurse program options at many of our ABA-approved paralegal education programs. At this time, ten such programs have been approved by the Standing Committee and more are in development. In general, these program options are designed to provide the education and training required for nurses to work in the legal field performing paralegal functions in areas of practice that require both legal and medical expertise.

In March 1998, the Standing Committee issued a policy concerning the offering of paralegal education programs designed to train nurses to work as nurse paralegals, legal nurses and legal nurse consultants. The Standing Committee determined that such programs are "programs" or "program options" designed to educate persons for positions as "legal assistants\paralegals" under the ABA definitions of those terms. Based on this determination, G-105 of the Guidelines for the Approval of Legal Assistant Education Programs requires approved programs that offer such courses of study to design and operate them in accordance with the Guidelines.

At the recent annual conference of the American Association for Paralegal Education, it became clear that some paralegal educators do not understand the policy or the reasons for it, and others disagree with the characterization of their legal nurse programs as paralegal programs that fall under the ABA Guidelines for the Approval of Legal Assistant Education Programs.

A brief history of the Standing Committee's involvement with legal nurse programs may shed some light on the foundation for this policy and how it was developed. During 1996 and 1997, the Standing Committee on Legal Assistants, through its Approval Commission, received several requests from approved programs to approve their new legal nurse offerings. The curricula and other aspects of the new offerings were reviewed and, if they were in compliance, were approved as "program options." During 1997, mem-



bers of the Approval Commission chairing site teams visited several other approved programs that were offering paralegal nurse programs for which approval had not been sought.

The Approval Commission discussed this discrepancy in the treatment of programs at length and decided that a policy was required to ensure that all programs were treated fairly and consistently. After considerable discussion, the Approval Commission referred the question to the Standing Committee which reviewed an extensive amount of research on legal nurses and the programs in which they were being trained. Among these materials were detailed descriptions of existing and proposed curricula and extensive literature about the occupation published by the American Association of Legal Nurse Consultants. In addition to written material, several Standing Committee members were able to share their knowledge and experience about nurse paralegals gained through their work as lawyers employing or retaining legal nurses.

After in-depth discussions, the Standing Committee unanimously found that legal nurses and legal nurse consultants fall squarely within the ABA definition of "paralegal/legal assistant" and that the educational programs designed to train them are paralegal programs or program options as defined by the Guidelines for the Approval of Legal Assistant Education

Programs. Since Guideline G-105 provides that an institution with an approved program may not offer an unapproved program or program option, such nurse paralegal programs are required to meet the Guidelines and to be approved.

As indicated above, all ABA-approved programs were informed of this determination in a March 1998 letter that explained the decision and set forth the requirement that programs seek approval of such offerings. Several institutions with approved programs have since sought and been granted approval of these programs.

The Board of Directors of the American Association for Paralegal Education adopted a resolution at its June 1998 meeting to notify the Standing Committee that "it is of the opinion that legal nurse consultant programs are not the same as paralegal programs. . . and legal nurse consultants are not the same as paralegals" hence such educational offerings should not fall under the ABA Guidelines for the Approval of Legal Assistant Education Programs.

Based on this letter, the Standing Committee reconsidered the policy at its September 1998 meeting. The Committee once again examined curricula from various programs, literature and correspondence from the American Association of Legal Nurse Consultants, and a letter from the Association of Nurse Attorneys. After its deliberations, the Standing Committee affirmed the March 1998 policy.

The primary rationale for the policy rests with the nature of the work undertaken by legal nurses and legal nurse consultants and with the nature of the work for which they are being educated. The Standing Committee once again confirmed its belief that legal nurses are specialized legal assistants performing in a capacity that conforms to the existing widely accepted notions of what a paralegal is and what a paralegal does.

Related is the long-standing policy stated in G-105 that programs may not offer an approved and an unapproved

program. Two principles form the basis for this policy. First, ABA approval is a voluntary process that institutions choose to undertake. In doing so, these programs commit to the standards of quality that the ABA and its Standing Committee have promulgated. Given this underlying assumption, what is the rationale for allowing an approved program to offer an unapproved program that does not meet these standards? Second, G-105 seeks to protect the value and meaning of ABA approval by guarding against the likelihood that the public and the legal

community will be confused about the approval status of an offering, mistaking an unapproved program for an approved one. It seems quite unlikely that the public and the practicing bar would understand that one paralegal curriculum offered by an institution is approved and another offered by the same institution is not. It should be noted that recent revisions to G-105 permit the Standing Committee to grant waivers of the prohibition against offering approved and unapproved programs; however, no such waivers have yet been granted.

The Standing Committee and the American Association for Paralegal Education are continuing to have a constructive dialogue about these innovative new programs. The Standing Committee and the Approval Commission continue to endorse the development of specialized paralegal programs that respond to the needs of the legal community and to support the efforts of the forward-thinking educators who have developed such programs.