

A publication  
from the  
ABA Standing  
Committee  
on Paralegals

# UPdate

## The Evolution of Paralegal Education in North Carolina

by Marisa S. Campbell

Director, Paralegal Program, Meredith College

### Upcoming events

**AAfPE Annual Conference**  
10/20 - 10/23, 2004  
Albuquerque, NM

**LAMA Annual Conference**  
11/3 - 11/6, 2004  
Montréal, Québec, Canada

**NALS 53rd Annual  
Educational Conference &  
National Forum**  
11/4 - 11/7, 2004  
Biloxi, MS

**ABA Standing Committee/  
Approval Commission Joint Fall  
Meeting, 11/12 - 11/13, 2004**  
Chicago, IL

**NFPA  
2005 Annual Convention**  
4/28 - 5/1, 2005  
Las Vegas, NV

**NALA 30th Annual Convention**  
7/13 - 7/16, 2005  
Kansas City, KS

*NOTE: Further information and links to the enabling statutes and administrative rules can be found at [www.apps-nc.org](http://www.apps-nc.org)*

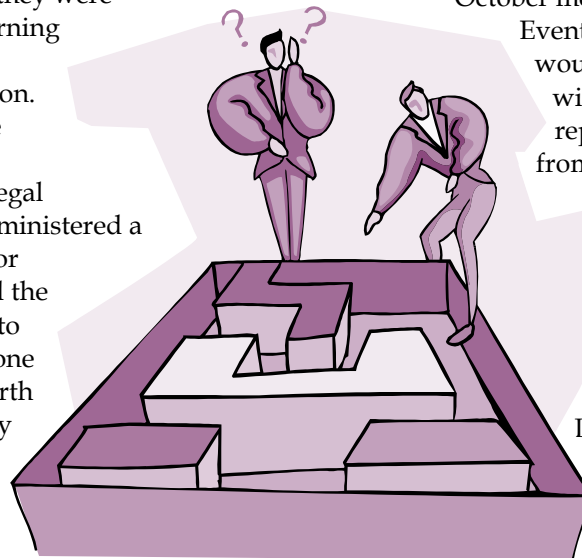
### Background

In October 2000, the North Carolina Paralegal Association (NCPA) invited all known paralegal organizations and paralegal educators in North Carolina to attend a meeting they were sponsoring concerning the creation of paralegal regulation. For five years, the NCPA had been researching paralegal education and administered a number of polls for paralegals around the state. In addition to the work being done by NCPA, the North Carolina Academy of Trial Lawyers (NCATL) and the North Carolina Bar

Alliance for Paralegal Professional Standards (APPS). The attendees at that first meeting were enthusiastic about developing new regulation and determined that any regulation must have broad popular support and take into account the needs of the paralegals, attorneys, paralegal educators, and the public.

I was one of the attendees at the October meeting.

Eventually, APPS would be a group with representatives from each of the following groups: the NCPA, the North Carolina Academy of Trial Lawyers Legal Assistants Division (NCATL-LAD), the



Association (NCBA), through its real property section, had been involved in similar activity. A consensus was forming that the idea of paralegal regulation was generally supported in theory, but that creating such regulation would take an additional level of commitment and support. The meeting in October 2000 led to the creation of the North Carolina

North Carolina Bar Association's Legal Assistants Division (NCBA-LAD), the Raleigh-Wake Paralegal Association, Metrolina Paralegal Association, Freelance Paralegals, and Paralegal Educators. The APPS representatives met for one Saturday every month and a half (including subcommittee work and special

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Coming soon! Updated edition

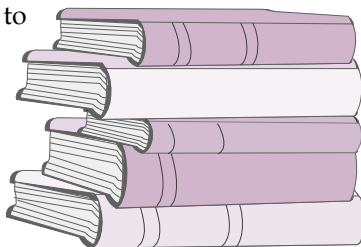
## A Reference Manual for Paralegal Educators

The ABA Standing Committee on Paralegals will be releasing the new edition of *ABA Approval: A Reference Manual for Paralegal Educators* in mid-October. The first edition of the *Reference Manual* was published in 1998, just after revisions to the *Guidelines for the Approval of Legal Assistant Education Programs* went into effect. This second edition, written in response to major revisions adopted in 2003, contains detailed explanations of new guideline provisions on such issues as assessment, including surveys of employers and graduates; online, compressed and hybrid courses; expectations about faculty involvement in meetings and professional development; placement assistance and new record keeping requirements; and electronic research requirements.

The book contains detailed explanations of the meaning, interpretation, and application of the *Guidelines for the Approval of Paralegal Education Programs* and describes in depth all phases of the approval process, from preliminary assessment through the formal action by the ABA House of Delegates.

The book has three major sections:

- ◆ Chapters 1 through 3 describe some background to the ABA's involvement in paralegal education, explain how to assess readiness for approval, and how to prepare the self-evaluation report and exhibits to apply for approval and reapproval. Detailed timelines and cost estimates are covered. This section also contains the highlights of the recent revisions to the *Guidelines*.
- ◆ Chapters 4 through 10 explain the meaning and application of



the *Guidelines for the Approval of Paralegal Education Programs*.

The chapters coincide with Sections 1 through 7 of the *Guidelines*, covering basic information, administration, organiza-

tion, resources, policies prohibiting discrimination and encouraging diversity, advisory committees, curriculum and academic policies, faculty, program director, student services, including placement, student recruitment and admissions, library and physical plant.

- ◆ Chapters 11 and 12 describe preparation for the site visit, the conduct and hosting of the site visit, site visit reports, evaluation of the approval process by the program, and actions of the ABA regarding the approval or reapproval of a program's application.

Each chapter also contains samples and models of various documents and other information relevant to the approval process. In addition, each chapter provides practical advice on complying with guideline provisions, including: descriptions of how different kinds of programs operate, what staff and site teams look for in their evaluation of a program, and common problems encountered in the review of reports and on site visits.

The book will be sold at the upcoming annual conference of the American Association for Paralegal Education (to be held in Albuquerque, NM, October 20-23, 2004). To order from the ABA, call 800-285-2221, or use the order form on page 7. Price: \$100. Please refer to product code 4230043P when ordering. ◆

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## Deciding to hire a paralegal

### *Views of a solo/small firm practitioner*

by Jimmy Brill (Houston, TX)

**Update** asked Jimmy Brill, former Chair of the ABA's Law Practice Management Section, to describe the hiring and use of paralegals in his small law practice in Houston, TX.

Attorney Jimmy Brill may be reached at JEB Brill@aol.com

**Briefly describe your law practice. Small town/large city? Types of clients? Work in own office/home/shared space? Multiple offices?**

I concentrate on probate, estate planning, and real estate in Houston, Texas, representing individuals and families. I have a single office in a building that I built and own, located on one of Houston's best known streets (Westheimer). It is out of the downtown area and is bordered by two of Houston's premier residential subdivisions.

**How did you handle the recruitment process? Did you place an ad, depend on word of mouth, seek help from local school/bar associations/placement offices?**

Actually, my paralegals are homegrown. One paralegal, Linda Bennett, was transformed from an entry level secretary in 1969 to my office manager, and then became my co-author in 1983

of a "cookbook" for handling probate in Texas that was published by the State Bar of Texas. She learned by on-the-job training. Another paralegal, Dixie Dixon, has been with me since 1979 when she was hired as a word processor. She now prepares most probate documents without close supervision and obtains asset valuations that she uses to prepare federal estate tax returns. I chose to capitalize on their talents rather than hiring associates or getting partners because they were already on board, they were interested in career development, we had a substantive system that could be utilized for training, and the economics seemed to work out.

**What particular skills do you always look for in a paralegal? What kinds of credentials or qualities are particularly important (education, work experience, etc) in your practice?**

The qualities that will make someone into a good paralegal are attention to detail, willingness to follow procedures, the willingness to provide constructive criticism and suggestions, and the ability to get along with clients (particularly those who have lost a loved one).

**If you had to hire a new paralegal today, are there particular skills you would definitely look for (specific computer program**



**literacy, analytical skills, foreign language skills, etc.)?**

If I had to hire someone today, I would need someone who was capable of heavy word processing, who had had experience in probate administration, and knew or could learn our timekeeping, billing, contact, and estate tax return preparation systems. It also would be helpful for such a person to know much more about technology than I do.

**Any advice to job-seeking paralegals who want to work in a small firm? How can they provide value and become an asset to the firm?**

Small firms might not have any idea how best to use a paralegal to assist in client matters, and might want someone who does only administrative or secretarial functions, at least at the beginning. The quickest way to make an impact, even during the interview, would be to get the lawyer to describe the major workflow problems in the firm, and then not only suggest solutions, but also be able to implement those solutions. ♦



*Paralegal Education in North Carolina*  
(continued from page 1)

meetings). I was elected and have served as Secretary/Treasurer of APPS.

The APPS Mission Statement is:

- ◆ To develop and facilitate implementation of generally acceptable professional standards for the paralegal profession in North Carolina.
- ◆ To advance, foster, and promote the paralegal profession in North Carolina.
- ◆ To provide a unified voice to accomplish the mission.
- ◆ To monitor developments and to collect and disseminate information from any source affecting the mission.

When the Paralegal Profession Act was introduced in the NC General Assembly in April 2003, the North Carolina State Bar (NCSB), the agency tasked with the regulation of the practice of law in North Carolina, expressed to APPS its belief that regulation of paralegals should be within its jurisdiction. Following preliminary discussions with APPS, the NCSB formed its Legislative Study Committee on Paralegal Regulation in July, 2003 to study the need for paralegal regulation in North Carolina and draft regulation within the NCSB's framework that all affected parties could endorse. The Study Committee worked closely with APPS to develop statutory authority for the NCSB to regulate paralegals and to create administrative rules. Those rules in large part incorporated APPS original proposal and are supported by APPS.

In July 2004 the North

Carolina State Bar received the statutory authority to regulate North Carolina Certified Paralegals and to seek injunctive relief for the improper use of the title. This authority becomes effective October 1, 2004. The Rules have been submitted to the North Carolina Supreme Court for final approval. It



is anticipated that the initial Board of Paralegal Certification, which will implement the Plan for Paralegal Certification, will be appointed in late October 2004.

### **The Paralegal Plan**

The Paralegal Regulation creates a new paralegal designation: "North Carolina Certified Paralegal (NCCP)", or "North Carolina State Bar Certified Paralegal (NCSB/CP)" or "Paralegal Certified by the North Carolina State Board of Paralegal Certification." I will use "NCCP" for the designation for the remainder of this article. The designation is not mandatory, and attorneys may still hire whomever they wish to perform substantive legal work and call them a paralegal, legal assistant, etc. The regulation only limits the use of the new paralegal designations.

The main certification requirements will be education,

continuing education, and testing. The NCSB is also tasked with the oversight and enforcement of those requirements.

*What type of education will be required?* An associate's, bachelor's or master's degree or post-baccalaureate certificate from a qualified paralegal studies program, or an associate's or bachelor's degree in any discipline from any institution of post-secondary education and successful completion of 18 or more semester credits at a qualified paralegal studies program.

*What is a qualified program?* A program of paralegal or legal assistant studies that has been approved by the House of Delegates of the American Bar Association, or that offers at least the equivalent of 18 semester credits of coursework in paralegal studies as prescribed by the ABA *Guidelines for the Approval of Paralegal Education Programs* and is an institutional member of SACS or other regional accrediting agency as recognized by the US Department of Education.

I believe that this basic educational requirement represents a profound shift in attorney attitudes towards paralegal education. Not only does the regulation identify the need for education, it shows a commitment to the standards that have been articulated by the ABA and the recognition that the ABA has expertise in this area.

The regulation also will create a market for continuing education courses for paralegals - those certified under the plan will be required to complete at least six hours of continuing education per year. Meredith College, for example, is growing its continuing education program to meet the requirements. However, we are

(continued on page 8)

Excerpt from the updated edition

## The Legal Assistant's Practical Guide to Professional Responsibility

by Art Garwin and Kathleen Maher

The following article on client confidentiality is excerpted from the just released, updated edition of *The Legal Assistant's Practical Guide to Professional Responsibility*, produced by the ABA's Center for Professional Responsibility. Aside from confidentiality, co-authors Art Garwin and Kathleen Maher discuss other topics of interest to paralegals, including conflicts of interest, the unauthorized practice of law, advertising, and client funds and property.

### Confidentiality

A fundamental principle of the client-lawyer relationship is that a lawyer will not disclose a client's confidential information. This cornerstone of legal representation enables a client to speak freely without fear that embarrassing or legally damaging information will be revealed. This, in turn, enables the lawyer to provide the client with the most informed and effective assistance possible. The client's full disclosure is necessary before the lawyer can offer sound legal advice.

The principle of confidentiality is found in two related bodies of law. One is the evidentiary rule of attorney-client privilege, which includes the lawyer work product doctrine. The other is the fiduciary duty of confidentiality established under the rules of legal ethics.

The duty to maintain client confidences is imposed upon all law firm personnel. By extending

the attorney-client privilege to include a lawyer's agents, courts recognize that the effectiveness of lawyers depends upon their ability to rely on the assistance of other law firm personnel.

### The Legal Assistant and Confidentiality

Although the ABA Model Rules establish a complex web of principles governing confidential-



ity, legal assistants can be guided initially by two simple precepts: they should treat all client information as confidential, and they should not discuss client matters with anyone other than the lawyers and other staff who they know are working on the matter. Even discussing the matter with lawyers in the firm who are not involved with the matter may create problems if, for example, those lawyers are supposed to be screened from that matter (see discussion under Screening Measures in Chapter 8). Breach of the attorney-client privilege or the

duty of confidentiality can have serious consequences for both the client and the law firm.

The attorney-client privilege differs from the ethical duty of confidentiality in that it only applies in the context of a judicial proceeding and only to information given by the client for the purpose of securing legal advice. The ethical duty of confidentiality, on the other hand, protects all information received by a lawyer in the course of representing a client, regardless of the source, and it prevents disclosure of the information in any setting, not just court proceedings.

### Attorney-Client Privilege

Under the attorney-client privilege, information given by a client to a lawyer is protected from disclosure to third parties. In order for information to be protected under the privilege, it must have been given by a client to a lawyer for the purpose of obtaining legal advice. Initial consultations are covered. Thus, material is privileged even if the prospective client does not hire the lawyer or if the lawyer declines the representation.

The privilege can only be invoked in the context of a judicial proceeding to exclude confidential communications between lawyers and clients from evidence at trial and other judicial proceedings. The privilege extends to legal assistants and other employees of the lawyer who receive confidential informa-

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Comments and proposed articles should be directed to wallacep@staff.abanet.org

## Welcome to our new Standing Committee Appointees

*Profiles of Kenyon E. Luce and Robert A. Weeks*

**Kenyon E. Luce** is the founder of the law firm of Luce, Lombino & Riggio, P.S., located in the City of Fife, Washington. His practice focuses on elder law and estate planning. During his career Mr. Luce worked for

OEO Legal Services as a staff attorney, served ten years as a City Prosecutor, five years as a City Attorney, and ten years as a Municipal Court Judge. Ken is

admitted to practice before the Federal Tax Court, all Washington, Oregon, and Idaho state courts, the Federal District Court for Western Washington, and the U.S. Supreme Court. He received his JD from Willamette Law School.

Ken has held positions as a member of the ABA's Legal Services to the Armed Forces Committee, as Special District Counsel, and as Hearings Officer for the State Bar Disciplinary Board. He also has served on the ABA Standing Committee on Legal Assistance for Military Personnel (LAMP), is a member of the Alzheimer's Association of Washington, and served on the board of directors of the National Academy of Elder Law Attorneys (Washington State Association). He is a frequent speaker on estate planning, elder law, and Medicaid issues and is on the board of directors of Vadium Technology Inc., a company specializing in encryption.

His contributions to the legal profession have been recognized by numerous organizations. In 1995,



Kenyon E. Luce

he was a recipient of the AARP "Community Partnership Award," a national award given by AARP for his help in protecting seniors from financial abuse. In 1998 and 2004 he was a recipient of the "Legal Assistance Distinguished Service Award," a national award presented by the ABA's Standing Committee on Legal Assistance for Military Personnel. He was selected, in 2000, by *Washington Law & Politics* as a "Super Lawyer" in the fields of probate and estate planning. In addition, Ken was presented with a Superior Civilian Service medal by Admiral Lohr in 2002, and the Army Patriotic Civilian Service medal by Colonel Rouse in 2003.

**Robert A. Weeks** served in the Santa Clara County Public Defender's office from 1970 until 1999. As a public defender, he represented thousands of people on cases ranging from traffic tickets to capital murder, became a certified criminal law specialist, and earned an A-V rating in Martindale-Hubbell. In addition to his work trying felony and misdemeanor cases, he supervised the Research Division, Training Program, Juvenile Division, Mental Health Calendar and Felony Probation Violation Calendars and was a Supervisor for the Felony Plea & Arraignment Calendar and the Misdemeanor Trial Team.

Bob retired from the Public Defender's office in 1999 and was honored by both the California Legislature and the Santa Clara County Board of Supervisors for his decades of public service. In his long career, Bob also has enjoyed acting as a mentor to new attorneys, law students, and paralegal interns. Graduates from the "Bob Weeks School of Law,

Justice and Ethics" include Superior Court judges, Santa Clara County Counsel, practicing lawyers, social workers, and an FBI agent.

Though retired, Bob's legal involvement is still unusually active. One of his first post-retirement adventures included pedaling his bicycle 3,200 miles across the country with a group of people over the age of 50. Bob used the bike excursion as a fundraiser for Community Legal Services in San Jose, now part of BayLegal. This effort, *Wheels of Justice for Access to Justice*, raised nearly \$10,000. Ever-prepared, Bob carried a pocket copy of the U. S. Constitution and Declaration of Independence in his handlebar bag!

As a volunteer, Bob represents the Santa Clara County Bar Association in the ABA House of Delegates (2000-present), served on the HOD Select Committee (2003-2004), and has coached the mock trial team for Downtown College Prep, a new charter



Robert A. Weeks

high school for inner-city youth. His inspirational efforts in the community and the legal profession led to his selection as an Olympic Torchbearer for the 2002 Winter Olympics. Long active in local and state bar affairs, Bob was given the Byrl Salsman Award by the Santa Clara County Bar Association, its highest award for community service, and also served as Chair of the State Bar of California's Conference of Delegates. Bob is a Fellow of the American Bar Foundation and the Foundation of the State Bar of California. ♦

*Excerpt from Legal Assistant's Practical Guide to Professional Responsibility*  
(continued from page 5)

tion. Canon 7 of the NALA Code of Ethics and Professional Responsibility states that it is unethical for a legal assistant to violate any statute controlling privileged communications.

The attorney-client privilege includes the lawyer work product doctrine. This principle holds that any notes and work produced by a lawyer that contain or reveal the lawyer's mental impressions about a client's case are also covered by the attorney-client privilege. Accordingly, papers developing trial strategy, notes revealing thoughts of the lawyer, and the like are protected from disclosure in the judicial process. Any similar materials prepared by a legal assistant are also protected.

**Chapter Summary**

- ◆ The duty to maintain client confidences is imposed upon all law firm personnel.
- ◆ Anything a legal assistant hears or learns as a result of his or her

employment is strictly confidential.

- ◆ Office matters should not be discussed with anyone other than the client whose matter is involved or other employees of



the firm known to be working on the matter (and then subject to any limitations required by the conflicts rules discussed in Chapter 8).

- ◆ The prohibition against discussing client matters outside the firm extends not only to information, but also to deliberations within the firm as to the ways in which the firm intends to proceed in the handling of

the representation.

- ◆ Material is privileged even if the prospective client does not hire the lawyer.
- ◆ If the client is an organization, the legal assistant should not share information with someone at the client organization unless the lawyer has stated specifically that it is permissible to do so.
- ◆ If a legal assistant mistakenly receives information that appears to be confidential, whether through the mail or via fax or e-mail, he or she should consult with the supervising lawyer to determine what course to take.
- ◆ A legal assistant should not handle evidence related to a criminal matter absent specific direction from the supervising lawyer.

To order copies of *The Legal Assistant's Practical Guide to Professional Responsibility*, contact the ABA's Service Center at 800-285-2221. 220 pages, 6x9, spiral-bound. ISBN: 1-59031-392-5. Price: \$39.95. Refer to Product Code 215-0006.



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looking at the offering of continuing education programs not just as a source of revenue, but as a way to develop closer ties to the legal community and better serve the needs of that community.

Finally, a test will be developed to make certain that regulated paralegals have developed competency in North Carolina law. The test will serve as a benchmark for basic standards that all paralegals, regardless of type of paralegal program attended, will have to meet.

The regulation provides for a two-year grandfather clause which will allow those paralegals with experience to become certified upon application as long as they have completed a minimum number of hours of work in the paralegal field and take a three



hour class in professional responsibility.

I have worked with APPS and with the NCSB on this regulation since October 2000. While I would have liked to have seen the term "paralegal" regulated, I believe this regulation meets the needs and concerns of all of the members of the legal community in North Carolina. It clearly recognizes education and continuing education as the bedrock of necessary training for paralegals. It is my hope that the regulation will not be seen as the gold standard for paralegals in the state of North Carolina, but as the minimum standard. ♦

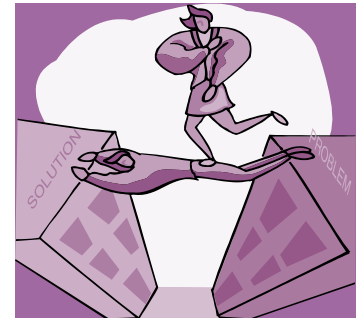
*Marisa S. Campbell is the Director of Meredith College's Paralegal Program, an ABA-approved post-baccalaureate certificate program in Raleigh, North Carolina. She may be reached at [campbellma@meredith.edu](mailto:campbellma@meredith.edu)*

## Article ideas?

**W**e're interested in your work! Tell us if you've started a



new program, have an interesting approach, or know someone whose work would inspire other educators or paralegals. Contact Peggy Wallace at the ABA's Standing Committee on Paralegals at: [wallacep@staff.abanet.org](mailto:wallacep@staff.abanet.org), or Paula Tsurutani, editor of *Update*, at: [ptsurutani@sbcglobal.net](mailto:ptsurutani@sbcglobal.net) with your article ideas. ♦



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