

Partnerships With paralegals -
Successful Utilization of Legal
Assistants in *Pro Bono* Programs

ABA/NLADA Equal Justice Conference

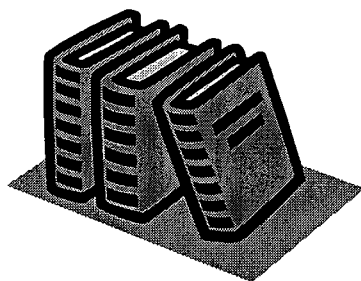


April 14-17, 2004

Paralegals and *Pro Bono*

Paralegals and *Pro Bono*

Ethics



Paralegals and *Pro Bono* Ethical Considerations and Conflicts of Interest¹

Paralegals are not attorneys and therefore are not permitted to provide legal advice.

- Paralegals who volunteer in *pro bono* efforts are subject to the same laws, rules and ethical considerations that apply to paralegals in their employment situations.
- Paralegals also should keep in mind that unauthorized practice of law statutes in each jurisdiction apply to *pro bono* participation.
- It is also extremely important that malpractice insurance be provided for paralegals by the agency or organization for which you are volunteering.
- Be sure to check with the agency or organization to determine whether paralegals are specifically covered under their malpractice insurance.
- American Bar Association – How To Utilize Legal Assistants in *Pro Bono Publico* Programs (<http://www.abanet.org/legalassts/newpamphlet.html>)
- National Federation of Paralegal Associations - *Model Code Of Ethics And Professional Responsibility And Guidelines For Enforcement* (<http://www.paralegals.org/Development/modelcode.html>)
- National Association of Legal Assistants - *Model Standards and Guidelines for Utilization of Legal Assistants* (<http://www.nala.org/whatis.htm#Professional%20Standards>)

Resources

ETHICS

American Bar Association (ABA)

Center for Professional Responsibility
<http://www.abanet.org/cpr/home.html>

Legal Ethics and Technology: Areas Where Technology Affects Ethics
<http://www.abanet.org/tech/ltrc/research/ethics/>

Links to Other Legal Ethics and Professional Responsibility Pages
<http://www.abanet.org/cpr/links.html>

¹ Information organized by Lori Thompson, Pro Bono Co-Coordinator and NFPA Liaison to the ABA Standing Committee on Pro Bono Public Service.

National Federation of Paralegal Associations

The Ethical Wall Its Application to Paralegals

(<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=388>)

Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement (updated 5/15/02)

(<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=133>)

NFPA Guidelines for Rendering Ethics and Disciplinary Opinions

(<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=329>)

Paralegals and Conflicts of Interest

(<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=390>)

Opinions – National Federation of Paralegal Associations (NFPA)

(Available at: <http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=330>)

NFPA Informal Ethics and Disciplinary Opinion No. 95-1

May an individual employed by a corporation use the title "paralegal" when the corporation does not employ in-house counsel to supervise or be accountable for the individual's work?

NFPA Informal Ethics and Disciplinary Opinion No. 95-2

Is it ethical for a legal assistant to have her/his name appear on the law firm letterhead provided that the legal assistant's designation is clearly indicated?

NFPA Informal Ethics and Disciplinary Opinion No. 95-3

May a paralegal with whom a conflict of interest in a legal matter has been identified erect an ethical wall? If so, what steps should be taken to erect and adhere to that ethical wall?

NFPA Informal Ethics and Disciplinary Opinion No. 95-4

Is it ethical for a paralegal to bill clients for tasks which are more clerical and non-professional than substantive in nature?

NFPA Informal Ethics and Disciplinary Opinion No. 95-5

Are contract paralegals retained by attorneys in law firms, corporations and other legal entities, required to comply with the same ethical obligations as employed or traditional paralegals?

NFPA Informal Ethics and Disciplinary Opinion No. 95-6

What are the ethical implications, if any, of freelance paralegal solicitation of attorney clients?

NFPA Informal Ethics and Disciplinary Opinion No. 96-1

What are the ethical implications concerning client confidentiality, if any, of paralegals communicating in cyberspace?

NFPA Informal Ethics and Disciplinary Opinion No. 96-2

What are the ethical implications concerning the unauthorized practice of law as it relates to paralegals communicating in cyberspace?

NFPA Informal Ethics and Disciplinary Opinion No. 2000-1

What language relating to a paralegal's education, training, experience or recognition can be included in advertising to the general public?

National Federation of Paralegal Associations - *Paralegal Reporter*
www.paralegals.org

Some Different Types of Conflicts, by Anita Haworth (August/September 2003)

Conflicts of Interest When Changing Employment, by Mary Creekmore
<http://www.paralegals.org/Reporter/DecJan03/ethics.htm>

It's Ok to Talk About Ethics, by Pamela J. Raybourn Packard
<http://www.paralegals.org/Reporter/DecJan02/ethics.htm>

If a Document Is Marked "Privileged," Tell Someone, by Pamela Packard
<http://www.paralegals.org/Reporter/AprMay02/ethics.htm>

Confidentiality and Attorney-Client Privilege, by Anita G. Haworth, RP
<http://www.paralegals.org/Reporter/JunJul02/ethics.htm>

It's Not Just Opinions, by Pamela J. Raybourn
<http://www.paralegals.org/Reporter/FebMar01/ethics.htm>

Ethical Considerations in Dealing with Government Agencies, by Pamela J. Raybourn
<http://www.paralegals.org/Reporter/AprMay01/ethics.htm>

Document Preparation, by Pamela J. Raybourn
<http://www.paralegals.org/Reporter/JuneJuly01/ethics.htm>

Sexual Ethics, by Pamela J. Raybourn
<http://www.paralegals.org/Reporter/AugSept01/ethics.htm>

Dramatic Situations Can Arise in Real Life, by Pamela Raybourn
<http://www.paralegals.org/Reporter/Summer00/ethics.htm>

Ethics for the Freelance Paralegal, by Cathy Heath, RP (Part 1)
<http://www.paralegals.org/Reporter/Fall00/ethics.htm>

Ethics for the Freelance Paralegal, by Cathy Heath, RP (Part 2)
<http://www.paralegals.org/Reporter/Winter00/ethics.htm>

NFPA Informal Ethics and Disciplinary Opinion No. 2000
<http://www.paralegals.org/Reporter/Year-end00/ethics.htm>

Paralegal Ethics We Walk a Fine Line ... A Tight Tightrope, by Susan Daugherty
<http://www.paralegals.org/Reporter/Year-end99/ethics.htm>

Ethical Walls May Not Always Be Enough, by Mary Kay Rivera, RP
<http://www.paralegals.org/Reporter/Winter99/ethics.htm>

Dear Ethics Board, by Mary Kay Rivera, RP
<http://www.paralegals.org/Reporter/Fall99/ethics.htm>

Playing by the Rules: Adventures in Professional Responsibility, by M. Lynn Wigton
<http://www.paralegals.org/Reporter/Spring99/ethics.htm>

Loose Lips Sink Ships ... or Paralegals, by Susan Daugherty
<http://www.paralegals.org/Reporter/On-line98/ethics.htm>

Am I Being Ethical?
<http://www.paralegals.org/Reporter/Year-end98/ethics.htm>

Ethical Quandaries - May a paralegal with whom a conflict of interest is identified erect an ethical wall? If so, what steps should be taken to construct and adhere to that ethical wall?, by Nancy Heller
<http://www.paralegals.org/Reporter/Winter98/ethics.htm>

Ethical Quandaries - Can Paralegals Sign Legal Pleadings?, by Nancy Heller
<http://www.paralegals.org/Reporter/Fall98/ethics.htm>

Cyberlegalethics, by Susan D. Kligerman (Spring 1997)

How to Implement an Ethics and Standards Committee, by Nancy Heller (Spring 1992)

Legal Assistant Today

Conflict Principles, by Therese A. Cannon (January/February 2003) - Paralegals must be diligent to avoid conflicts of interest

Corporate Ethics, by Debbie Skolaski, CLA (September/October 2003) - Upholding standards for in-house legal assistants

The Ethics of Pro Bono Work, By Therese A. Cannon (September/October 2002) - With proper preparation, paralegals can conquer ethical challenges of *pro bono* work.

A Career Alternative for Beginning Paralegals – Deborah K. Orlik (January/February 1998)

Internet Ethics, by Deborah K. Orlik (March/April 1998)

The Ethics Dilemma, by Andrea B. Yelin (July/August 1998)

Committing Malpractice with Your Computer, by Daryl Teshima (September/October 1998)

The Theory of Indispensability, by Deborah K. Orlik (January/February 1997)

Tainted Work Product, by Deborah K. Orlik (May/June 1997)

Big Dog: No Teeth?, by Deborah K. Orlik (July/August 1997)

Ethics: Then and Now, Deborah K. Orlik (September/October 1997)

Ethics and Glass Houses, by Deborah K. Orlik (November/December 1997)

Miscellaneous

Paralegal Ethics White Paper, International Trademark Association
http://www.inta.org/downloads/tma_ethicspaper2003.pdf

Unauthorized Practice of Law

MALPRACTICE AND ETHICAL ISSUES IN *PRO BONO* WORK

- ❖ The Need for Malpractice Liability Insurance
- ❖ Required Attorney Supervision
- ❖ Avoiding Unauthorized Practice of Law
- ❖ Identifying and Avoiding Conflicts of Interest



Paralegals and *Pro Bono*

Paralegals and *Pro Bono* Unauthorized Practice of Law¹

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Resources

UNAUTHORIZED PRACTICE OF LAW

National Federation of Paralegal Associations

Position Statement on the Unauthorized Practice of Law in New York State (Feb. 1, 2003) - <http://www.paralegals.org/associations/2270/files/empire.pdf>

Unauthorized Practice of Law (1996 article) - <http://www.paralegals.org/associations/2270/files/upl.html>

How Much Is Too Much? Paralegals' Duties and the Unauthorized Practice of Law (1999 article) - <http://www.paralegals.org/associations/2270/files/much.htm>

¹ Information organized by Lori Thompson, *Pro Bono* Co-Coordinator and NFPA Liaison to the ABA Standing Committee on Pro Bono Public Service.

Model for State Statute to Exempt Paralegals from Unauthorized Practice of Law -
<http://www.paralegals.org/associations/2270/files/statute.htm>

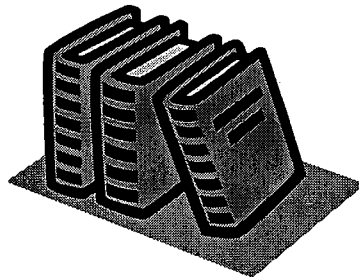
National Federation of Paralegal Associations - *Paralegal Reporter*
www.paralegals.org

- *In-House Paralegals and the Unauthorized Practice of Law*, by Deborah K. Orlik (March/April 1997)
- *Hawaii Attacks Document Prep Services*, by Susan Howery (May/June 1999)
- *Nevada Increases Unauthorized Practice of Law Penalty*, Rod Hughes (July/August 1999)
- *Parent Advocate Accused of UPL*, by Debra Levy (March/April 1999)
- *Proposed Tougher Law Aims to Protect Nevada Legal Consumers*, by Rod Hughes (May/June 1999)
- *Texas Bans Legal Software*, by Mary Micheletti (May/June 1999)
- *Virginia Approves UPL Opinion*, by Natasha Emmons (March/April 1999)
- *Georgia Bar Files Proposed UPL Opinion*, by Shaunta Grimes (July/August 2000)
- *UPL Enforcement Amendment Declined*, by Debra Levy (March/April 2000)
- *UPL Panel Recommends Cease and Desist Order for NonLawyer Advocates*, by Debra Levy (March/April 2000)
- *UPL Suit Dropped Against Las Vegas Paralegal*, by Shaunta Grimes (November/December 2000)
- *Federal Judge Recommends Closure of Paralegal Kit Company*, by Debra Levy (March/April 2001)
- *Florida Bar Prosecutes Paralegal for UPL*, by Randi D. Bemiss (May/June 2001)
- *Paralegals May Be Added to Tennessee Bar Roster*, by Debra Levy (May/June 2001)
- *California Bar President Calls for Tougher UPL Laws*, by Karen Coleman (January/February 2002)
- *Judge Upholds Ruling on UPL Case*, by John Caldwell (March/April 2002)

- *Illinois Supreme Court Mulls UPL Commission*, by Lincoln Brunner (May/June 2002)
- *Florida Supreme Court Weighs-in on UPL*, by Tim Pareti (September/October 2002)

Paralegals and *Pro Bono*

Resources



Resources¹

American Bar Association

“How to Utilize Legal Assistants in *Pro Bono Publico* Programs:
(http://www.abanet.org/legal_services/legalassistants/probonoborchure.html)

“Policies - Voluntary *Pro Bono Publico* Service”
(<http://www.abanet.org/legalservices/probono/rule61.html>)

“State Pro Bono Reporting: A Guide for Bar Leaders and Others Considering Strategies for Expanding *Pro Bono*”
(<http://www.abanet.org/legalservices/probono/reportingguide.html>)

“Arguments For and Against *Pro Bono* Reporting”
(<http://www.abanet.org/legalservices/probono/reportingarguments.html>)

“Overview of State *Pro Bono* Reporting Policies”
(<http://www.abanet.org/legalservices/probono/reporting.html>)

“Policies - State CLE/*Pro Bono* Rules”
(<http://www.abanet.org/legalservices/probono/clerules.html>)

Press Release – “ABA Survey Shows Lawyers Depend on Legal Assistants to Help Deliver Client Legal Services” (<http://www.abanet.org/media/sept98/leg-asst.html>)

Local Paralegal Associations

A local paralegal association has the option to become an affiliated member of the National Federation of Paralegal Associations (NFPA), the National Association of Legal Assistants (NALA), or remain unaffiliated. Many local associations are members of a state alliance with other local paralegal associations.

National Federation of Paralegal Associations (NFPA) -

<http://www.paralegals.org/displaycommon.cfm?an=1&subarticlenbr=92>

As the largest paralegal organization, with over 15,000 members, NFPA is the association's partner in progress. NFPA members work together toward one common goal-- enhancing and expanding the role paralegals play in the delivery of legal services. NFPA is divided into five geographical regions; each region is comprised of local associations. As a member benefit, NFPA gives each association an Internet presence with World-wide Web home pages. By selecting the state of your choice on the U.S. map above, you can access a local association and their home page if

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applicable. Through this home page you can visit that association and use the e-mail address to contact them directly for membership or other information. NFPA offers its member affiliated associations: (1) Timely, (2) Critical Information; (3) A Voice and A Vote; and (4) A Partner In Progress.

National Association of Legal Assistants (NALA) -
http://www.nala.org/Affiliated_Associations_Info.HTM (click on "Roster of Current Affiliated Associations)

The structure of the National Association of Legal Assistants, Inc. permits the affiliation of organizations whose objects, aims, constitutions and bylaws are in harmony with the objects and aims of NALA. Through affiliating with NALA, state and local organizations receive the support and assistance of NALA in advancing the legal assistant career within their geographic areas. Affiliated associations are provided a voice in the management of NALA through their election of a member of the NALA Board of Directors. Affiliated associations are also offered a voice in developing policies and positions of NALA not only through their representative on the NALA Board of Directors but through the annual meeting of NALA affiliated associations held during the national convention in July. NALA affiliated associations may present resolutions to the NALA membership for consideration during the annual membership meeting. Resolutions are adopted by the voting membership of NALA. Affiliates are represented in this body through their own NALA liaison and any other members who may also be voting members of NALA.

Miscellaneous Resource

From the 'Lectric Law Library's stacks - U.S. Paralegal Organizations By State -
<http://www.lectlaw.com/files/pap09.htm>