

**DO PARALEGALS NEED TO BE CERTIFIED?**  
*By Carolyn M. Saenz and Deborah M. McKinney, RP*

The paralegal profession has grown significantly since its humble beginnings in the 1960's. Overworked and harried lawyers typically handled many of the routine tasks performed by paralegals. Now these tasks can be passed directly to a person who has the skills, training and education in the legal field and who can complete assignments in a quick and efficient manner. Although the paralegal profession has gained recognition in the legal community, there are no formal educational requirements for entering the profession. Anyone can "walk" in the door of your law firm and identify himself/herself as a paralegal, without having to produce a certificate or license showing that he/she is qualified in any sort of legal capacity.

Many paralegals in the Greater Cincinnati area have graduated from colleges and universities and others have also obtained a paralegal certificate from an ABA approved program. However, how is the employer able to "ferret out" the "walk-in" paralegals from the "genuine product?" One way might be to have the Ohio State Bar Association or some other regulatory agency institute a certification program for paralegals. Currently there is no regulation for paralegals in Ohio, although other states have adopted voluntary certification. North Carolina's certification is voluntary and Wisconsin's Supreme Court is reviewing proposed certification. California and Maine have laws that regulate nonlawyers who perform specific legal tasks.

Today there are three nationally recognized paralegal associations that offer voluntary certification programs, namely the American Alliance of Paralegals ("AAPI"), the National Association of Legal Assistants ("NALA") and the National Federation of Paralegals ("NFPA"). NALA and NFPA offer a testing program, while AAPI's standards require a college degree and a minimum of five years' substantive paralegal experience. Once the paralegals attain the certification they must acquire a minimum number of continuing legal education credits each year, including ethics, to maintain the certification.

The Paralegal/Legal Assistant Committee of the Ohio State Bar Association has been looking into the benefits to be gained by employers and paralegals, if such a voluntary certification program were put in place in Ohio. The five paralegal associations in Ohio (Cincinnati, Cleveland, Columbus, Dayton and Toledo) have unanimously agreed that guidelines and standards for the education and professional

conduct of paralegals are important to the profession. A voluntary program would identify individuals who are qualified by education and training and who have demonstrated knowledge, skills and proficiency to perform substantive legal work, supervised by a lawyer.

So, what would be the *quid pro quo*? What would lawyers gain by employing a paralegal who had been certified by the Ohio State Bar, or some other regulatory body? Since the recovery of lawyer fees and paralegal fees are important to many law firms, all employers should be aware that many courts are looking at paralegals' education and experience before granting such awards.

In 1989, the United States Supreme Court issued a landmark decision awarding fees for paralegal time at market rates. *Missouri et al. v. Jenkins et al.*, 491 U.S. 274, 109 S.Ct. 2463 (1989), Justice Brennan stated “[B]y encouraging the use of lower-cost paralegals, rather than attorneys wherever possible, permitting market-rate billing of paralegal hours, encourages cost-effective delivery of legal services . . .”

In *Harris Trust & Svgs. Bank v. American Nat'l Bank & Trust Co. of Chicago*, 230 Ill.App.3d 591, 595 (1<sup>st</sup> Dist. 1992), the court considered facts such as the skills and qualifications of the legal professionals, the nature of the case, the novelty and difficulty of the issues involved, the degree of responsibility required, and the usual and customary charges for similar services. It stands to reason that the court would consider a “certified” paralegal as having the skills and qualifications necessary to warrant the awarding of paralegal fees.

In *McGreevy v. Oregon Mutual Insurance Co.*, 951 P.2d 798 (C.A. Wash. 1998) paralegal fees were denied because the only information provided was the number of hours worked and the hourly rate. The court said it needed to consider the paralegal's qualifications and description of the work performed before it could award fees.

What benefits would paralegals and lawyers get from such certification? One of the obvious benefits would be the recognition that paralegals would receive by having “gone the extra mile.” Law firms and corporations could list its paralegals' names on their letterhead showing that they have “certified” paralegals in their employ. Such a notation would surely add to the firm's prestige. One thing that clients appreciate is interacting with a “certified paralegal.” Paralegals would also gain recognition from their peers.

The five Ohio paralegal associations and the OSBA Paralegal/Legal Assistant Committee have recognized that any voluntary certification program will need to be administered in an efficient and cost-effective manner. It would not make sense to put a cumbersome program into place which would add to the overhead expenses of law firms and corporations. Therefore, reliance on post-high school education and legal experience may be the criteria for voluntary certification.

Paralegals have long recognized that any type of professional certification is not designed to be a substitute for a license to practice law. Those paralegals desiring to practice law, have used their legal skills to assist them in gaining entry to law school.

As a vital member of the legal services team, paralegals want to validate their experience and job skills through the creation of a program which will enhance and develop their profession. Thus it is hoped that lawyers will welcome the arrival of "certified paralegals."

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