

# PARALEGALS: AN ETHICAL CONUNDRUM

By Jameson Rehm

Being a paralegal is great. We can do whatever we want and if anything is wrong, well, we just blame it on the lawyer. Missed a filing deadline? I didn't go to law school; how was I supposed to know. Surly with a client? Doesn't matter to me, the attorney gets the next angry phone call. Documents aren't ready for the court case? The attorney has to face the judge, not me. We don't have CLE's, bar exams, and certified grievance committees to worry about. Yes friends, paralegal is the way to go. (Please, for the sake of my career, please detect the tongue in cheekness of the preceding paragraph.).

As the profession continues to grow, both in the number of participants and the scope of responsibilities, paralegals are being pushed to the forefront as the bright and smiling faces of the law firm. Many times, we are the first person a client meets, a client's main contact throughout the case, and the person the attorney relies on for documents and case updates. With this level of responsibility, how important is ethics to the paralegal profession?

When explaining to friends and family what a paralegal does, I like to explain us as the "physician's assistants of the legal world." PA's require extra schooling in order to do their jobs; they assist the doctor by meeting with patients, often with no doctoral supervision and are able to do most of the doctor's job with few exceptions. There is, however, one major difference between the physician's assistant and a paralegal. Physician's assistants are personally liable for their certificate to practice. If an ethical complaint is filed against physician's assistants and they are found guilty, they can lose their certificate to practice.

Currently, unlike attorneys, paralegals do not have to report to any ethical regulatory body if a complaint is raised. While some associations (National Association of Legal Assistants and Illinois Paralegal Association) have a Code of Ethics, there is no governing body at either the state or national level that enforces them. While attorneys can be pulled into the Supreme Court to answer for an incorrect filing or rudely handling a client, the paralegal may merely be disciplined or fired but otherwise remain free to pursue a life of continued paralegal fulfillment. Unlike attorneys, I did not have to endure an interview with other paralegals to determine if I have the character to handle the responsibilities I have been entrusted.

Now it's time to step off the ledge. Based on our responsibilities and the current lack of oversight, paralegals should be held to the same standards as attorneys. We should be personally held to an ethical code that directly correlates to our ability to work in the legal field. All paralegals took either one or two years of extra schooling to earn a certificate. And just like our medical brothers, we should be responsible for having the privilege of holding on to our credential.

Now, as much fun as it would be to throw around such a statement and then leave it for you to determine the solution, allow me to offer my proposal. The State of Washington has something called a Limited License Legal Technician. This is a title you can receive for a bit more schooling beyond paralegal school, but less than law school, and it allows the holder to prepare rudimentary legal documents and provide

elementary advice without the need of an attorney's signature. This added responsibility means the LLLT (catchy?) is held to the same legal and ethical standards as an attorney. An LLLT is also responsible for maintaining his/her license through CLEs. The Washington State Supreme Court has set up a board of nine attorneys and four non-attorneys, with at least one being an educator, to act in much the same way as our Certified Grievance Committee. They screen LLLT applicants, set forth the areas of the law the LLLT can practice, and establish rules for grievances and disciplinary proceedings.

While I am not asking that Ohio copy and adopt the LLLT idea, there are certain aspects that will help provide a solution. First, setup a board to oversee the ethical standards of paralegals. The board does not have to be large and doesn't even need to be governed by attorneys. If attorneys can govern themselves why can't paralegals? This board would operate in the same way a certified grievance committee operates, meeting once a month to discuss any necessary disciplinary actions and the profession as a whole.

Second, require a certain number of CLE hours a paralegal must attend in order to keep our certificates. As we are usually doing the grunt work in cases, shouldn't we also be responsible for keeping up with the latest techniques and rules so we do our jobs correctly and efficiently? While the CLE requirements should not be as great as the attorneys, the paralegal should still be on the cutting edge and fully informed of the field we're working in.

Finally, a paralegal should go through a character and fitness interview before we are given a certificate. The practice of the law and all those people who work in it are held to a higher standard in the public's eyes than many other professions. Many people find it hard to trust strangers to handle matters for them that they cannot handle for themselves. The general public would be more trusting of the legal field if they knew that not only did their attorney go through a character and fitness interview, but the person they talk to on a regular basis and receive updates from has been put through a similarly rigorous process.

Being a paralegal is a privilege. It is one of the fastest growing careers in America and is still being defined on a day to day and job to job basis. As this career continues to expand, a structure needs to be put in place that not only gives the career the esteem it deserves, but sets a bar that must be met before they can call themselves paralegal. Just as the PA working in the medical field, a paralegal must be held to a higher standard due to the work that we do, the field we have chosen, and the responsibilities we undertake.



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