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The Paralegal Profession:

An Examination of Its History and Viability in the
Current Job Market

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Advanced Final Project
April 21, 2011

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Like many industries, the legal profession is one that has evolved and expanded in response to the changing needs and ideals of our society. The increased demand for technology-based occupations that promote both efficiency and wide accessibility has created a number of new professions within many traditional fields. The position of paralegal or legal assistant is such a profession, adapted over the last forty years and currently practiced by over 250,000 members of the workforce nationwide (Bureau of Labor Statistics, 2010). The terms “paralegal” and “legal assistant” are generally synonymous and have come to take on many meanings, but the universally accepted definition is one who provides assistance to law practicing professionals or serves in a corporate, medical, or governmental setting in a legal but non-licensed capacity (Bouchoux, 2010). Since there are as many definitions for the term “paralegal” or “legal assistant” (hereinafter referred to as “paralegal” for brevity) as there are job descriptions, many steps have been taken to create a cohesive definition of the profession, and establish a set of standards for it to be practiced in a manner that is universally accepted by the legal industry. This research paper will examine that process as it explores the history of the paralegal profession, its impact on the practice of law, the challenges involved in pursuing it and its prospects as a sustainable career option over time.

History. Beginning in the 1950s, there were a number of socially conscious movements that sought to change the status quo and improve the quality of life for all races, genders and levels of socioeconomic status. These movements resulted in the dramatic reform of many laws that affected such issues as housing, education, voting, and civil rights. This created an increased need for the availability of legal services to people of all income levels. The legal industry responded to this need by using non-licensed employees to assist in legal work, making services less expensive and thus enabling attorneys to take on more cases (Astl, 2004). These employees were usually legal secretaries who were trained by attorneys to perform routine tasks of legal work, such as conducting simple research and drafting basic forms.

Over time, the pressure increased on law firms to reduce fees or face competition from other lower cost legal services that became available. Many private law firms that were once able to set the fees that they deemed themselves worthy of for their specialty had to concede to hiring non-attorney employees that could perform many of the time-consuming but essential tasks associated with legal work, and adjust fees accordingly (Estrin, 2002). Although the use of these trained employees now allowed many firms and government agencies to stay competitive, their use created a growing concern among legal professionals about the ethical dilemmas that could arise from using non-licensed individuals to perform duties once delegated to first-year attorneys or lower-level associates (ABA Committee on Ethics and Professional Responsibility, 1967). The American Bar Association (ABA) addressed these concerns by forming the Special Committee on Lay Assistants for Lawyers in 1968, renamed the Special Committee of Legal Assistants (SCOLA) in 1971. The purpose of this committee was to monitor the use of non-lawyer assistants, prevent the unauthorized practice of law and create a recommended standard

by which paralegals should be trained and educated (McCabe, 2007). By 1973, SCOLA constructed a specific set of guidelines for many colleges and vocational schools to follow in creating a curriculum for the rapidly growing profession. Many institutions sought to receive accreditation from the ABA by adhering to these guidelines, but those institutions that chose not to comply were not restricted from offering a paralegal program. In fact, the ABA did not create a formal definition of the term “legal assistant” until 1986. The lack of enforced standards for the education and use of legal assistants resulted in many requests for the establishment of mandatory federal regulations for licensing of paralegals (McCabe, 2007). In 1985, SCOLA issued the opinion that “guidelines... for mandatory regulation should be decided by the state courts or legislatures” (ABA Standing Committee on Legal Assistants, 1986). The rationale behind this opinion was that this would promote the continued growth of the legal assistant profession – now referred to as the “paralegal” profession- and establish it as a legitimate position, while affirming the value of the lawyers that they worked for (McCabe, 2007).

The Value of a Paralegal’s Work. According to the definition created by the ABA in 1986, the term “paralegal” or “legal assistant” refers to “a person, qualified through education, training or work experience, who is employed or retained by a lawyer, law office, governmental agency, or other entity in a capacity or function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically delegated substantive legal work, which work, for the most part, requires a sufficient knowledge of legal concepts that, absent such assistant, the attorney would perform the task”¹. Paralegals perform a variety of tasks that extend

¹ ABA Standing Committee on Legal Assistants, *Position Paper on Question of Legal Assistant Licensure or Certification at 4* (December 10, 1985, approved by ABA Board of Governors, February 1986).

far beyond the everyday administrative or clerical duties of a legal secretary. According to the *Occupational Outlook Handbook* issued by the U.S. Department of Labor, the most common assignments include: the preparation of legal pleadings, contracts, mortgages, and motions; the conducting of preliminary research of statutory and case law, and summarizing the opinions of the court for an attorney's use; the taking of depositions of clients and reviewing the facts and evidence of a given case before submitting them to an attorney; and the attendance at closings, hearings, trials and corporate meetings with an attorney (Bureau of Labor Statistics, 2010). In addition, a number of specialized positions exist for which a paralegal is required to master the knowledge of a specific field in addition to generally assisting the attorney, such as the legal nurse paralegal, whose understanding of medical terminology is invaluable to the in-house attorneys who represent hospitals in litigation (BLS, 2010).

The role of a paralegal is limited only by the direct practice of law, which is defined by the ABA as “the acceptance of case work on behalf of one’s employer, setting fees, providing legal advice that is not specifically dictated by an attorney, making a legal decision on a client’s behalf, or representing a client in court” (Standing Committee on Legal Assistants, 1986). Since paralegals perform work that is similar to that of an attorney, the value of their skilled labor often justifies the use of billable hours to charge for their time. In the article *Expanding the Role of Paralegals: The Profitable Paralegal*, author Arthur Greene (2005) outlines a number of methods for law firms to utilize paralegals in order to maximize profit. He states that an experienced paralegal earning an annual salary of \$60k can generate a profit of \$35k for 1,500 hours of billable work at a rate of \$100 per hour (minus 10% in uncollectible fees and overhead costs). For this reason, Greene (2005) emphasizes that law firms and other employers should

make careful consideration of the assignments given to a paralegal, and not relegate them to menial tasks. This reinforces the concept of the paralegal as a legitimate professional that should be distinguished from less skilled employees.

Educational Requirements. In spite of the complex nature of paralegal work, a universally accepted model for the curriculum of paralegal education is not enforced by any state except California, and institutions offering paralegal programs are not bound by the recommendations of any bar association (Cheeseman, 23). However, in order for an institution's paralegal program to receive accreditation from the ABA, the program must satisfy a set of minimum qualifications established by ABA's SCOLA organization and the American Association for Paralegal Education (AAfPE), an association created in 1981 that includes over 400 participating paralegal institutions (McCabe, 2007). The guidelines state that paralegal education must be taught at a post-secondary level, and consist of a minimum of 60 semester hours, at least 18 of which must be legal specialty courses. Adhering to these guidelines provides the school accreditation from the ABA, which is voluntary but does enhance employment prospects for its graduates (BLS, 2010). The curriculum for these programs must include courses in several particular fields of law, such as real estate, civil litigation, family and criminal law, and instruct on legal process and procedure, legal theory, document production, and involve exercises in legal research, analysis and writing (Cheeseman, 20). Degree programs must also offer courses that enhance the much needed skills of organization, written and verbal communication, critical thinking, and computer and software proficiency.

The most common method of obtaining a paralegal education is earning an Associate's degree in Paralegal Studies, which is typically completed in two years through a community college or vocational school (Bouchoux, 2010). The Paralegal Associate in Applied Science (A.A.S.) degree is usually earned by individuals with little or no previous post-secondary education who are looking to enter the legal environment, or enhance their career prospects while working in an entry level position in the field. Over the last two decades, however, a growing preference for individuals with a four-year degree has developed, primarily due to the expansion in fields such as environmental science and technology (Bouchoux, 2010). Candidates who have received additional training in science, information technology, and psychology through a baccalaureate degree program are most likely better prepared to work in legal areas such as environmental law, intellectual property, and family and criminal law (Cheeseman, 14). As a result, an increasing number of four-year colleges and universities are offering Paralegal Studies as a concentration for a bachelor's degree. For individuals who have already earned a bachelor's degree, certificate programs are an option used by many to expand their knowledge and become specialized. Many certificates are a complement to the existing skills of many professionals in areas such as nursing, computer science, and business (Bureau of Labor Statistics, 2010). The certificate is not the same as a degree, and programs are often taught at an accelerated pace to be completed in a year or less.

In order to ensure that active paralegals maintain a practice of continuing education in order to stay current with the ever-changing trends in the legal profession, many state and local bars and organizations strongly recommend (and in some states, require) examinations for certification with an ABA-approved association (Monke, 2005). Not to be confused with the

certificate programs offered by colleges, voluntary certification programs offer a valuable and widely recognized credential for paralegals to stay competitive. Exams for certification are typically several hours in length and are taken over a period of two days or more. The “certified” credential typically lasts for two to five years and must be renewed with additional education. A number of organizations offer this certification and each require a unique set of requirements to participate. The National Association of Legal Assistants (NALA) is the largest organization geared toward the professional advancement of paralegals, and produces the largest number (over 15,000 as of 2008) of certified paralegals in the nation (BLS, 2010). NALA offers the designation of Certified Legal Assistant (CLA) or Certified Paralegal (CP) depending on an individual’s preference, and requires completion of education in an Associate or Baccalaureate degree program, with a relative number of years in working experience (six years for an Associate’s and three years for a Bachelor’s, with fifteen semester hours of legal coursework being the equivalent of one year of experience) to take the exam (Cheeseman, 15). Once NALA certification is obtained, it must be maintained with fifty hours of continuing education every five years.

The curriculum of these certification programs typically expand on the knowledge of legal concepts and procedure, and sharpen the paralegal’s skills in writing, legal research techniques, ethics, and use of judgment. For example, the National Association for Legal Secretaries (NALS, currently known as the Association for Legal Professionals) offers three certifications, each testing for written, legal and ethics knowledge, with the latter two focusing more in depth on substantive (or specialized) law (Cheeseman, 18). NALA’s Advanced Paralegal Certification Program is also provided for specialized areas of law – such as bankruptcy, intellectual property, civil litigation, probate, and estate planning- with courses that are offered

online. Other organizations with similar prerequisites – such as the National Federation of Paralegal Associations (NFPA) and the American Alliance of Paralegals (AAPI) also offer certification in general or specialized areas of law, and the designation they provide informs prospective employers that the candidate is committed to expanding their scope of legal knowledge, as well as holding themselves to high ethical and professional standards.

Mandatory regulation. Since the inception of the paralegal profession in the 1960s, the question of whether to establish mandatory state regulations for employment has been a recurring debate among paralegals, bar associations, and state lawmakers (Durgin, 2007). Since the ABA’s Special Committee on Paralegals (SCOLA) rejected a mandate for federal licensing requirements in 1985, several states have called for mandatory licensing within their own jurisdictions (McCabe, 2007). Similar to the way an attorney must obtain a license from the state bar in order to practice, mandatory regulations would make it unlawful for an individual to assume the title of “paralegal” unless he/she met minimum educational and/or experiential requirements. Currently, the only state to adopt a statute of this nature is the state of California, which did so in 2001 (Durgin, 2007). Many other states, such as Michigan, New Jersey, Ohio, Washington, and Wisconsin are considering similar statutes (Cheeseman, 23). The arguments in support of these regulations are that the use of licensed paralegals will protect the safety of the public, ensure the quality of job candidates, and raise the profile on the profession (Durgin, 2007). Opponents of such regulation argue that employers are capable of selecting competent individuals for paralegal work, and that enforced standards may hurt the profession and drive up the cost of legal services (Cheeseman, 23). Paralegal associations such as NALA and NFPA endorse the use of their voluntary guidelines as a model for qualifying prospective candidates in place of regulation, and

support mandatory guidelines only if they are directed towards specific duties in specialty areas of law (Durgin, 2007). A form of this type of regulation currently exists in California and Arizona, where certain non-lawyer services such as legal document assistants and unlawful detainer (eviction) assistants must be registered and bonded under the appropriate codes of the state (Cheeseman, 23). Whether or not additional states adopt mandatory regulation remains to be seen, however, the ongoing debate is arguably a sign that the paralegal profession is one that will likely endure over time.

Avoiding unauthorized practice of law. The extensive list of options that are available for a paralegal to receive education and refresher training exist partly for the growth and promotion of the field, but the primary reason for such rigorous requirements is to reduce the risk of costly ethical and professional violations, especially the unauthorized practice of law (UPL) (Cheeseman, 40). In every state, the license for an attorney to practice law must be obtained through that state's bar association, which requires, after the initial passing of that state's bar exam, an acceptance and adherence to that state's rules of professional conduct and ethics. These rules are modeled after the American Bar Association's Model Rules of Professional Conduct, and violation of these rules can result in the revocation of the license and in some cases, criminal prosecution (Cheeseman, 41). With the exception of California, no mandatory system of licensing exists as a condition of employment for paralegals. Therefore paralegals are bound only by the ethical guidelines of the employers they work for, and careful consideration must be made by both the paralegal and the supervising attorney to determine what specific tasks or duties may constitute the practice of law.

According to Bonnie Hamp, a paralegal and member of the Utah State Bar's Unauthorized Practice of Law Committee, the unauthorized practice of law (UPL) can take place in many forms, many of which are not always readily recognizable (2006). In the article *The Unauthorized Practice of Law: A Paralegal's Duty and Responsibility-Know the Limits*, Hamp states that the most common occurrences of UPL take place when a paralegal is interacting with a client and responds to general questions on standard procedure – i.e. filling out a form- and quickly turns to legal advice when those questions take on a nature that is specific to the facts of that client's case (2006). Hamp advises that the paralegal refrain from responding until the supervising attorney is consulted, allowing the advice relayed to be that of a licensed authority. In some states, the filling out of forms itself constitutes UPL – in Florida, the preparation and correction of documents performed by an agency that provided legal forms was found to be in violation of the state (*Florida Bar v. We the People Forms and Service Center of Sarasota, No. SC02-1675*). Additionally, “holding oneself out” or interacting with clients without immediately and directly disclosing one's non-attorney status is considered UPL in several states as well (Cheeseman, 43). To safeguard against this, the Business and Professional Code in the state of California requires a disclosure statement to be made by every paralegal when speaking to clients to inform them of non-attorney status and the limitations on the legal services that can be provided. Finally, the representation of clients by a paralegal before an administrative agency or court is permitted in certain circumstances in many states when permission is obtained, but this can easily be construed as UPL if certain conditions are not met (Cheeseman, 45).

To prevent confusion in any of these areas, NALA offers a list of Guidelines that clearly define what duties paralegals should and should not perform in many cases, as well as outlining the roles that an attorney should play when supervising a paralegal's appearance on a client's

behalf. These guidelines are modeled after the *ABA Model Guidelines for the Utilization of Paralegal Services*, which was published by the Standing Committee on Legal Assistants in 2004 (Bouchoux, 2010). The guidelines in this manual are in agreement with the view that the supervising attorney is primarily responsible for the prevention of UPL, as stated in Guideline 1: “A lawyer is responsible for all of the professional actions of a paralegal performing services at the lawyer’s direction, and should take reasonable measures to ensure that the paralegal’s conduct is consistent with the lawyer’s obligations under the rules of professional conduct of the jurisdiction in which the lawyer practices” (Standing Committee on Legal Assistants, 2004). In every case, however, a paralegal should familiarize his or herself with the state and local bar definitions independently and pursue ongoing education in order to maintain awareness and prevent malpractice, harm to the client and criminal negligence (Hemp, 2006).

Skill requirements. In addition to providing legal knowledge, the education of a paralegal will need to prepare them for a host of challenging duties, enhancing their proficiency in areas such as computer and software applications, writing, research, human interaction, and organization. The advanced knowledge of software utilization will prove invaluable to a paralegal, since many firms, courts and governmental agencies aim for a “paperless” office to improve efficiency (Cheeseman, 128). According to the International Paralegal Management Association (IPMA), the majority of the most common functions in a legal environment – document production, electronic court filing, docket review, client data maintenance, billing, and legal research – are preformed using software (Cheeseman, 128). For document production, paralegals will be expected to have advanced knowledge of commonly used office software such as Microsoft Word, WordPerfect, Quattro Pro X4, Excel, Access, PowerPoint, and Visio. Paralegals who review case information and file electronically will need to become familiar with the electronic

docket and court filing websites in their jurisdiction. The maintenance of client data is often handled by applications such as Microsoft Access and Corel DB, and billable hours are often entered and invoiced using programs such as Abacuslaw, ProLaw, PCLaw, and Timeslips (Bouchoux, 2010). For legal research, the most commonly used online databases are Westlaw and LexisNexis, with access to online legal journals and the Federal Code of Regulations being available on HeinOnline. In NALA's *Manual for Paralegals and Legal Assistants*, it is recommended that aspiring paralegals research the types of software that are commonly utilized in their chosen field of law, and become familiar with several programs to increase their marketability (p.72).

The skill of locating and analyzing legal information that is relevant to a case is critical to a paralegal's success. Attorneys frequently rely on paralegals to conduct research on a legal matter and interpret findings accurately, as well as determine whether it applies to the legal question at hand (Bouchoux, 32). Paralegals must be adept at finding case law, verifying that it is current and not overruled by more recent case law – a process known as “shepardizing”— and identifying the relative facts to make sure they are similar to the issue being researched. They must also know how to use effective search terms and phrases in order to find answers quickly. The use of Westlaw and LexisNexis has greatly improved the speed and accuracy of researching the law, provided that one understands the correct search methods to find the desired information. However, a skilled paralegal should also be able to conduct traditional research with the use of law books, since electronic research may not be available or may not yield complete information (Cheeseman, 372).

Writing is yet another essential skill that paralegals must perfect in order to be useful and productive. Paralegals are often required to prepare briefs, memoranda and legal opinions on behalf of the attorney (Bouchoux, 44). Therefore, their writing must be clear, direct and include all the necessary facts and details that are applicable to the legal issue at hand. The ability to communicate and take accurate notes is critical, particularly when conducting client interviews and discovery (the exchange of information between parties in a case) or receiving dictation from an attorney to summarize a legal opinion. Familiarity with the format of common legal documents such as captions are imperative, and the paralegal must always be mindful of the audience for which a writing is tailored in order to determine the appropriateness of using legal terminology (Cheeseman 415).

Last but not least, a paralegal's ability to adapt to the fast-paced and often stressful environment of law may be the most critical skill he or she may need to develop. The various skills obtained through education and experience will mean little if a paralegal is poorly organized, unable to handle multiple tasks, or responds poorly to criticism (Bouchoux, 110). A paralegal must also develop a "thick skin" in dealing with attorneys, judges and often upset clients. In her book *The Paralegal Profession*, Chere Estrin (2002) states that a paralegal's interpersonal skills, ability to develop the sensitivity to understand the needs of others, and understanding one's own temperament and tolerance for mental and emotional challenges are often the biggest factor in determining their success (p.10).

Career resources. There are a number of resources available that are dedicated to the paralegal profession, providing educational resources, job postings, options for continuing education, and career statistics. The American Bar Association is the authority on paralegal education; having

been the first to establish a committee directed towards the profession and create voluntary guidelines for it. It provides an option for membership for active paralegals, lists ABA-approved institutions that provide paralegal education programs, and includes job postings and certification requirements for various legal fields (Bureau of Labor Statistics, 2010).

The National Association of Legal Assistants is the largest association for paralegal professionals, providing members with CLA/CP certification and ethics training (Monke, 2005). Its yearly manual also serves as a reference guide for the latest trends in the field. The National Federation of Paralegal Associations (NFPA) and the American Association for Paralegal Education both provide similar certification and training (BLS, 2010). State and local bar associations are the best resource for obtaining certification information for specialty fields of law in a given state, and most provide local ethical guidelines online.

Job Outlook. By all accounts, the paralegal profession is one that shows strong projections for future growth, as the diversity of its employers continues to expand and add more job opportunities to the field. According to the Bureau of Labor Statistics, there are currently over 250,000 workers employed in the field, and the rate of growth was expected to increase by about 28% between the years of 2008 and 2018, which is greater than the projections for many other occupations (BLS, 2010). Industries such as technology, nonprofit agencies, financial institutions, medical providers, news media, and government agencies are expected to balance the cost of legal counsel with the use of paralegals to reduce expenses (BLS, 2010). Even during times of economic downturn, paralegals can expect additional opportunities due to increases in bankruptcy filings, foreclosures, fraud, and employment discrimination claims (BLS, 2010). Many paralegals operate as independent contractors for corporations on a case-by-case or short

term basis, which allows them to broaden their experience in multiple legal fields. For paralegals employed outside of the traditional law firm, the most common positions are found in corporate legal departments and not-for-profit agencies (McCabe 2007). The largest number of government-employed paralegals are with the U.S. Department of Justice, the Social Security Administration and the U.S. Department of the Treasury (BLS, 2010).

The salary range for paralegals is dependent on factors such as education level, work experience, the size of the employer and the field of law chosen for employment. Location is another factor that affects earning potential, since paralegals in large metropolitan areas tend to earn more than those in rural areas. As of May 2008, the range of paralegal salaries ran between \$29,260 at the lowest and \$73,450 at the highest, with the average full time annual salary at \$46,120. The top five fields of paralegal employment and their salary averages were the Federal Executive branch (\$58,540); Management (\$55,910); Insurance (\$52,200); Employment services (\$50,050); and litigation (\$44,480) (BLS, 2010). Many paralegals can also expect increases in the form of bonuses.

In conclusion, the greatest challenge that is presented in the pursuit of a successful paralegal career seems to be determining interest and motivation to achieve it. Given the seemingly endless options a paralegal has, it appears that there should be little problem finding a position that complements a particular set of skills and interests. The ongoing debate regarding regulation of the trade and necessary education requirements implies that the paralegal profession will continue to evolve as a viable option in the job market. It is also fair to say that the work of the paralegal profession can provide a prospective employee with job security,

upward mobility and fulfillment, and if desired, can also lead to even greater career paths in the future.

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