

CHAPTER 1: TODAY'S PROFESSIONAL PARALEGAL

INTRODUCTION

Chapter 1 first defines what a paralegal is and explains what paralegals do. Next it covers the various paralegal educational options and discusses the substantive and procedural nature of the paralegal curriculum, mentions the roles of the American Bar Association and the American Association for Paralegal Education in paralegal education, and defines certification and presents the NALA, NFPA, and state certification options. This is followed by a discussion of paralegal skills and attributes. The chapter ends with a discussion of the future of the profession.

SUPPLEMENTAL MATERIAL

1. **TEST BANK**—Assign test questions for this chapter using either the test bank posted on the Instructor Companion Site or in the Cognero online system.
2. **POWERPOINT® PRESENTATION**—Use the slides for this chapter in face-to-face or online lectures. The slides are available on the Instructor Companion Site.

LECTURE OUTLINE

I. Introduction

A. The Paralegal Profession

1. The paralegal profession is an exciting and growing profession. Career opportunities for paralegals are expanding beyond the traditional law office environment into the corporate world and government agencies. As the profession has grown, so has the salary of a paralegal. According to a recent survey, experienced paralegals earned an average compensation of \$73,400.

—**TEACHING SUGGESTION:** As the economy is recovering at varying rates around the country, it would be a good idea to provide your students with state and local salary statistics for entry-level paralegals. One good source is *The Paralegal Today* magazine found at <http://paralegaltoday.com/>.

2. This chapter provides basic definitions of what paralegals are and what they do, paralegal education and certification, and what skills and personal attributes are necessary or desirable to become a successful paralegal.

B. Note to Instructor

1. Throughout this manual, the following organizations will be referred to in their abbreviated forms—that is, by their initials only:
 - a. American Bar Association (ABA)
 - b. National Association of Legal Assistants (NALA)
 - c. National Federation of Paralegal Associations (NFPA)
 - d. American Association for Paralegal Education (AAfPE)

II. What Is a Paralegal?

A. Definition of Paralegal

1. The ABA and NALA agree on the following definition: A legal assistant or paralegal is a person qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity and who performs specifically delegated substantive legal work, for which a lawyer is responsible.

B. Expanding Roles

1. The terms *paralegal* and *legal assistant* are interchangeable.
2. Paralegals perform many functions originally performed by attorneys.
3. The NFPA prefers the term *paralegal* to distinguish paralegals from legal secretaries who may also be called legal assistants by attorneys.
—**TEACHING SUGGESTION:** Use *Question for Review 1* to discuss with the class the issue of what label—paralegal or legal assistant—members of the profession should be given.

III. What Do Paralegals Do?**A. A Sampling of Paralegal Tasks**

1. Some of the types of tasks that paralegals perform are:
 - a. Conducting client interviews and maintaining contact with clients.
 - b. Locating and interviewing witnesses.
 - c. Conducting legal investigations.
 - d. Calendaring and tracking important deadlines.
 - e. Organizing and maintaining client files.
 - f. Conducting legal research.
 - g. Drafting legal documents.
 - h. Filing legal documents with courts.
 - i. Summarizing witness testimony.
 - j. Coordinating litigation proceedings.
 - k. Attending legal proceedings.
 - l. Using computers and technology.

—**TEACHING SUGGESTION:** Ask how many in the class have been working as paralegals. Ask the paralegals in the class which of the tasks (listed above) they perform at work.

B. Paralegals' Duties Vary

1. Work performed varies by job and size of firm.
 - a. In a small firm, a legal assistant's tasks may include some secretarial work.
 - b. In a large firm, the paralegal may have a legal secretary.

—**TEACHING SUGGESTION:** Ask students whose law firm's size is apparent from the answers to the previous teaching suggestion to describe their jobs. Point out the similarities and differences between large firms and small firms.

2. Common paralegal tasks include:
 - a. Drafting legal documents.
 - b. Handling client relations.
 - c. Conducting legal research.

—**TEACHING SUGGESTION:** Ask students whose paralegal jobs are similar to those of paralegals working for other parties involved in the lawsuit (and apparent from the answers to previous teaching suggestions) to comment on what specific tasks they would be asked to perform in a similar case.

C. Paralegals and Technology

1. Technology is one of the foremost areas of expanding paralegal responsibility, and those entering the profession should know that technological skills will greatly enhance their marketability.

2. Paralegals are often in the best position to know the firm's needs, and many take a lead role in reviewing and recommending new legal software programs and online databases.
3. In this course, the use of computers, software, and the Internet by paralegals will be discussed.
4. The following is a brief overview of computer topics covered in this text:
 - a. Internal case management
 - b. Time and billing matters
 - c. Performing legal research and investigation using the Internet and CD-ROM products
 - d. Retrieving, organizing, and indexing documents for trial using litigation support software

IV. Paralegal Education

The first paralegals were competent legal secretaries who were trained on the job to perform more complex legal tasks. No formal paralegal education programs existed until the late 1960s. As attorneys realized the cost-effectiveness of using paralegals, the number of paralegal education programs increased. Currently, there are more than 1,000 paralegal programs in the United States, according to the ABA's Standing Committee on Paralegals.

—**TEACHING SUGGESTION:** Ask the class how many of those currently working as paralegals are returning to school to obtain or complete a degree as an employment requirement, or for career development.

A. Educational Options

1. Two-year community college programs, leading to the award of an associate of arts degree or a paralegal certificate.
2. Four-year bachelor's degree programs with a major or minor in paralegal studies.
3. Certificate programs offered by private institutions, usually three to eighteen months in length.
4. Postgraduate certificate programs, usually three to twelve months in length, resulting in the award of a paralegal certificate.
5. Master's degree programs, usually two years in length, which are offered by several universities, including an increasing number of online programs. These programs prepare students to work as paralegals, paralegal supervisors, or law office administrators.

—**TEACHING SUGGESTION:** Do the *Ethics Question* at the end of the reading in class to give students the opportunity to consider and explain to each other or to the class the differences in the degree and certificate options available and the ethics involved in representing the type of certificate or education that they have obtained.

—**TEACHING SUGGESTION:** The degrees that are required vary by geographic location. Give students information on which degrees are the most marketable in your geographical area. Be prepared with salary statistics—the students always ask!

—**TEACHING SUGGESTION:** Provide students with the degree requirements and options available through your program in the form of printed materials or links to websites.

B. Curriculum—A Blend of Substantive and Procedural Law

1. The paralegal curriculum consists of both substantive and procedural law.
 - a. Substantive law is the law that defines the rights and duties of individuals.
 - b. Procedural law is the law that specifies the methods (or procedures) to be used to enforce those rights and duties.

—**TEACHING SUGGESTION:** Point out to students that paralegal education gives them the advantage of practical, hands-on knowledge about how to implement legal actions—knowledge that takes most new attorneys several years to acquire.

C. The Role of the AAFPE and the ABA in Paralegal Education

1. The AAFPE and the ABA are the two major national organizations that set standards and curriculum for paralegal education.
2. California was the first state to require that a paralegal meet minimum educational requirements. In other states, employers require certain levels of education and sometimes select only graduates from established programs.

—**TEACHING SUGGESTION:** Indicate whether your program belongs to AAFPE and the reasons for this decision.

3. In 1974, the ABA established a set of educational standards for paralegal training programs, which have been revised to keep pace with changes in the profession. Schools are not required to be approved by the ABA, but those that meet the ABA's quality standards are referred to as ABA-approved programs.

D. Certification

1. Introduction

- a. Certification is the formal recognition by a private group that an individual has satisfied the group's standards of proficiency, knowledge, and competence—usually demonstrated by taking a test.
- b. Certification is not the same as the paralegal certificate discussed previously, which indicates that a paralegal has successfully completed a program of study.
- c. Voluntary certification can lead to a competitive advantage in the labor market and possibly a higher salary.

—**TEACHING SUGGESTION:** If you have access to a computer and projection equipment, do *Internet Projects 1* in class, so that students have an opportunity to visit the NALA and NFPA websites. If you do not have access to this equipment, assign the questions for homework and discuss the answers the next time the class meets.

2. NALA and NFPA certification

- a. Paralegals who meet the background qualifications set by NALA are eligible to take a two-day, comprehensive examination to become a Certified Legal Assistant (CLA) or a Certified Paralegal (CP).
- b. NALA also sponsors the Advanced Paralegal Certification (APC) program (previously called the Certified Legal Assistant Specialty, or CLAS).
- c. Paralegals who have at least two years of work experience and who have met specific educational requirements can take the Paralegal Advanced Competency Exam (PACE) through NFPA. Those who pass the exam use the designation Registered Paralegal (RP).

—**TEACHING SUGGESTION:** Give the class information on whether your local job market requires a CLA or an APC. You might also hand out membership applications for local paralegal associations with student members.

3. Certification by other paralegal organizations

- a. NALS (the association for legal professionals) offers three different certifications:
 - i. Paralegals who have completed an accredited curriculum course or who have one year of work experience may take the basic certification exam (ALS) for legal professionals.
 - ii. Paralegals who have three years of work experience or who have earned a prior certification may take the advanced certification exam (PLS) for legal professionals.
 - iii. Paralegals who have five years of work experience may take an examination to obtain Professional Paralegal certification, which was developed by paralegals.

- b. The American Alliance of Paralegals, Inc. (AAPI), also offers a certification program for paralegals who have at least five years of work experience and have met specific educational requirements.

4. State certification

- a. Several states, including California, Florida, Louisiana, North Carolina, and Ohio, have implemented voluntary, state-specific certification programs. Details for state programs can be found online.
- b. In 2012, the Washington State Supreme Court adopted APR 28, entitled "Limited Practice Rule for Limited License Technicians." Under the new rule, persons who are trained and authorized by a newly established Limited License Legal Technician Board will be able to provide technical help to the public on civil cases.
- c. Generally, paralegal organizations (such as NALA and NFPA) are in favor of voluntary certification and oppose mandatory (legally required) certification or state licensing.

—**TEACHING SUGGESTION:** Give students information on the trends toward certification in your state.

E. Continuing Legal Education

1. Continuing legal education (CLE) programs, offered by state bar associations, commercial providers, law schools, and paralegal organizations, are usually seminars and workshops that focus on specific topics or areas of law.
2. Such programs supplement formal education, provide updates on law and technology, and provide information on new or highly specialized practice areas.
3. Employers may encourage and often pay for CLE courses.
4. Both NALA and NFPA require certified paralegals to take CLEs annually to maintain their status.
5. The NFPA requires certified paralegals to complete twelve hours of continuing education every two years.
6. California requires a minimum number of CLE hours from all working paralegals.
7. Attorneys also have CLE requirements established by their respective state bar associations.

V. Paralegal Skills and Attributes

—**TEACHING SUGGESTION:** Show in class the *Erin Brockovich* video clip found in MindTap to discuss the tasks that Ms. Brockovich performs and the skills and attributes that she uses. Discuss with the class and have students reflect on which paralegal skills and attributes students have and which practice areas would be a "good fit" for them as paralegals.

—**TEACHING SUGGESTION:** Point out that not all paralegals have all of the skills described in the text and that many can be learned, and discuss the *In the Office* feature regarding time management on page 15.

A. Analytical Skills

1. These skills include the ability to take complex theories and fact patterns and simplify them by breaking them down into their components.
2. These skills are used in legal research and writing, as well as in investigating and trial preparation.

—**TEACHING SUGGESTION:** Stress that analytical and organizational skills are among the more important skills for a legal assistant to have.

B. Communication Skills

The ability to speak and listen, read and analyze, and write well are all important skills for a paralegal to have.

1. Reading skills

Paralegals need to be able to read and comprehend many different types of written materials. It is also crucial to be able to read documents carefully to look for fine distinctions in meaning as well as to check for errors (proofreading).

2. Speaking skills

Speaking skills include verbal as well as nonverbal communication.

3. Interpersonal skills

The ability to communicate and interact effectively with other people—from the attorneys in the office, to the secretaries, to the clients—is an important part of a paralegal's job. Good listening skills and the ability to follow directions are also an important part of paralegal work.

4. Writing skills

Good writing skills are crucial to success as a paralegal.

—**TEACHING SUGGESTION:** Emphasize the importance of proofreading not only what you write but also legal documents that others prepare. See the *Developing Paralegal Skills* insert on page 12.

C. Computer Skills

1. Word-processing skills, at a minimum, are critical in the law office. Most law offices are computerized, so paralegals may be using other types of software for tasks such as calendaring and client billing.

2. It is extremely important to become as knowledgeable as possible about online communications.

—**TEACHING SUGGESTION:** Stress that computer skills are one of the easier skills to learn. If students have little or no exposure to computers, tell them that it is better to learn now than to have to struggle to learn computer skills on the job. Encourage students to take computer courses now.

D. Organizational Skills

It is important to be able to organize documents, checklists, and procedures to keep things running smoothly in the law office. Practice now!

E. The Ability to Keep Information Confidential

One of the requirements of the legal profession mandated by the ethical rules of professional responsibility—covered in Chapter 4—is keeping client information confidential. It is essential to the work of paralegals.

F. Professionalism

This means being:

1. Responsible and reliable.

2. Honest and assertive.

3. Detail-oriented and accurate even when working under pressure.

4. Maintaining a professional appearance and attitude.

—**TEACHING SUGGESTION:** Point out to students that it is critical to always understand the meaning of what they are reading and that at first they might not understand everything. If this happens, they should consult a supervisor for guidance on how to obtain information to help them understand the material.

VI. The Future of the Profession

- A.** The paralegal profession is dynamic and changing, with growth that stems from the fact that law firms and other employers are hiring more paralegals to lower the cost and increase the availability and efficiency of legal services.
- B.** The U.S. Department of Labor has projected that the employment of paralegals should grow “much faster than the average for all occupations,” and that “formally trained paralegals should have the best employment opportunities.”
- C.** It is estimated by the Department of Labor that between 2008 and 2018, paralegal positions will increase by 28 percent.

—**TEACHING SUGGESTION:** Invite a paralegal as a guest speaker to talk about his or her work experiences, so that your students have the opportunity to meet and talk to a working paralegal. You can ask the invited paralegal what he or she thinks are the most important skills and characteristics that paralegals should have.

ANSWERS TO THE END-OF-THE-CHAPTER QUESTIONS**QUESTIONS FOR REVIEW**

1. What is a paralegal? Is there any difference between a paralegal and a legal assistant?

Answer: A paralegal is essentially a lawyer's assistant. A paralegal may be qualified by education, training, or work experience for employment by a lawyer, law office, corporation, government agency, or other entity, and is an assistant who performs specifically delegated substantive legal work for which a lawyer is responsible.

Paralegals (or legal assistants) are employed by lawyers or other law offices, or assist attorneys in the delivery of legal services, but are not required to work for a lawyer.

The terms *paralegal* and *legal assistant* are used synonymously.

2. What types of educational programs and training are available to paralegals? Must a person meet specific educational requirements to work as a paralegal?

Answer: The types of educational programs and training available to paralegals include certificate programs and degree programs. The degree options include an associate's degree and a bachelor's degree. An associate's degree is a two-year degree, typically obtained from a community college. A bachelor's degree is a four-year degree obtained from a college or university.

There are two types of certificate programs: postgraduate certificate and paralegal certificate programs. The postgraduate certificate is available to students who have already obtained a bachelor's degree from a college or university. A paralegal certificate is available to anyone who has obtained, at a minimum, a high school diploma or its equivalent.

Currently, California is the only state with specific educational requirements for paralegals. In the other states, the job market, however, typically demands that a paralegal obtain a certain level of education in order to be employable.

3. What role does the American Bar Association play in paralegal education?

Answer: The ABA plays the role of ensuring quality in paralegal education through its paralegal program approval process. The ABA has played an active role in paralegal education programs since 1974, when it first established a set of educational standards for paralegal programs. Paralegal programs that meet standards established by the ABA are called ABA-approved programs.

4. What does *certification* mean?

Answer: Certification means recognition by a private professional group or a state agency that an individual has met specific standards of proficiency by taking and passing an exam administered by this group. It is not the same as a paralegal certificate, which means that a paralegal has successfully completed a specific course of study.

A CLA is a certified legal assistant (a CP is a certified paralegal for those who prefer the term *paralegal*) whose legal competency has been certified by NALA following an examination to test the legal assistant's knowledge and skills.

An APC program is a credential awarded by NALA to a CP or CLA whose competency in a legal specialty has been certified based on an examination of his or her knowledge and skills in the specialty area.

PACE stands for Paralegal Advanced Competency Exam. This is a certification exam that was developed by NFPA for those with two years of experience who have met specific educational requirements. Those who pass it are designated as Registered Paralegals or RPs.

5. List and describe the skills that are useful in paralegal practice. Do you have these skills?

Answer: Skills that are useful for paralegals include the following:

- Analytical skills are needed for legal investigation, legal research, and legal writing. Also helpful is the ability to synthesize, or put together, facts and legal concepts.
- Communication skills (including reading, writing, speaking, and listening skills) are critical to the legal profession. Interpersonal skills, including good listening skills, are needed to communicate and interact effectively with supervising attorneys, legal secretaries, and other support staff in the law office, as well as other legal professionals outside of the office, clients, and witnesses.
- Computer skills are necessary for survival in today's law office. Word processing, document control, calendaring, and client billing procedures are all tasks that may be done on computers in law firms.
- Organizational skills are essential for organizing your time, calendaring cases, creating procedural checklists, getting documents filed, and other similar tasks.
- One important skill is the ability to keep confidences, which is the ability to keep client information confidential. It is a requirement of the legal profession that is imposed on attorneys and indirectly on their paralegals by the ethical rules that will be discussed in Chapter 4.
- Another important skill is the ability to behave professionally at all times, which means being reliable, responsible, honest, unbiased, assertive, detail-oriented, and accurate even under pressure, as well as professional in appearance, demeanor, and attitude.

ETHICS QUESTION

1. Richard attends a six-month paralegal course and earns a certificate. In the West Coast city where he lives, certified paralegals—those with a CP or a CLA designation—are in great demand in the job market. Richard responds to a newspaper advertisement for a certified paralegal, indicating that he is one. Has Richard done anything unethical? What is the difference between a certificate and certification?

Answer: Richard has not violated any of the ethical or legal rules of the legal profession. Assuming that he knew the difference between holding a paralegal certificate and a CLA designation, however, he has violated personal ethics in misrepresenting his status as a CLA. The difference between a certificate and certification is that a certificate indicates a level of education, like a degree. Certification, on the other hand, indicates that a person has passed an exam evidencing that the person has attained a certain level of knowledge and/or skill in a particular area.

PRACTICE QUESTIONS AND ASSIGNMENTS

1. Using the material found in the chapter, identify which of the following employees are paralegals:
- a. Graciela works in the file room of a major law firm checking out and returning files as they are needed by attorneys.
 - b. Maria does all of the typing, filing, and answering phones for two attorneys in a small law office.
 - c. Tameko drafts legal documents, meets with clients, and assists her supervising attorney with trials.
 - d. Majora, who has an MBA, supervises the day-to-day operations of a 250-attorney law firm.

Answer: A paralegal is a person qualified by education, training, or work experience who is employed or retained by a law office, corporation, government agency, or other entity and who performs specifically delegated substantive legal work, for which a lawyer is responsible. Only Tameko (answer c.) is performing substantive legal work and would be considered a paralegal.

2. Using the material in the chapter, identify which of the following laws are substantive laws and which are procedural laws:
 - a. A law requiring a person to be 16 years old to obtain a driver's license.
 - b. A court rule requiring that an answer to a complaint be filed within 21 days of receipt of service of process.
 - c. A law requiring a manufacturer of an automobile to replace the vehicle or refund the purchase price if it cannot be repaired.
 - d. A law requiring civil lawsuits exceeding \$25,000 to be filed with the circuit court.

Answer: Substantive law includes all laws that define, describe, regulate, and create legal rights and obligations. Procedural laws establish the methods of enforcing the rights established by substantive law. Answers a. and c. create legal rights and obligations, while b. and d. establish methods to enforce these rights.

3. Which national paralegal organizations offer paralegal certification exams and what are the certifications called? Do states offer certifications for paralegals? Is a state certification a license to practice law? Explain your answer.

Paralegals who meet the background qualifications set by NALA are eligible to take a two-day, comprehensive examination to become a Certified Legal Assistant (CLA) or a Certified Paralegal (CP). NALA also sponsors the Advanced Paralegal Certification (APC) program (previously called the Certified Legal Assistant Specialty, or CLAS). Some states, including California, Florida, Louisiana, North Carolina, and Ohio have implemented voluntary state certification programs. Certification refers to formal recognition by a professional group or state agency that a person has met the standards of ability specified by the organization, but does not provide a license to practice law.

4. Tom and Sandy are having coffee after their first paralegal class. The instructor discussed the ongoing debate within the profession about whether to use the term *paralegal* or *legal assistant*. Tom says he agrees with NFPA that the term *paralegal* is preferable because no one will confuse paralegals with legal secretaries. Sandy, who has been working as a legal secretary for the last few years, is offended by Tom's remarks. What label do you prefer—*legal assistant* or *paralegal*—and why? Is it an important issue?

Answer: Opinions will vary by student.

There are four national paralegal organizations, each having its own definition of the term *paralegal* or *legal assistant*. All four organizations define a paralegal or legal assistant as someone who is qualified by education, training, or work experience to perform, at a minimum, substantive legal work.

NALA restricts paralegals to working under the supervision of an attorney. Likewise, the ABA requires that paralegals do work for which a lawyer is responsible. The NFPA's definition does not require or mention attorney supervision. The AAFPE's definition allows paralegals to perform legal work as authorized by law. Thus, the AAFPE's definition avoids the issue of attorney supervision. Legal assistants have been defined as those who work under the supervision of attorneys, whereas not all of those who call themselves paralegals do so. Some paralegals—known as “independent paralegals” or “legal technicians”—work independently, providing certain legal services directly to the public. This has led to a growing distinction between the terms *paralegal* and *legal assistant* among some paralegals and paralegal educators.

GROUP PROJECT

This project asks the group to review information on the websites of NALA (www.nala.org) and NFPA (www.paralegals.org) about the organizations' certification programs. The members of the group will do the following tasks to complete the project:

- Student one will determine and summarize the requirements of the NALA certification exams.
- Student two will determine and summarize the requirements of the NFPA certification exams.
- Student three will compile the results in a chart or graph in PowerPoint or Excel.
- Student four will present the results to the class.

INTERNET PROJECTS

1. Browse through the materials on the websites of the National Association of Legal Assistants, or NALA (at www.nala.org), and the National Federation of Paralegal Associations, or NFPA (at www.paralegals.org).
 - a. Is there an affiliate of the National Association of Legal Assistants or the National Federation of Paralegal Associations in your city? Where is the nearest affiliate of either of these organizations located?
 - b. Are there any regional or local paralegal associations in your area? If so, what are their names, street and e-mail addresses, and phone numbers?
 - c. If you located a paralegal organization, does it accept student members, and are there networking opportunities for students?
 - d. What other member benefits are offered by these organizations?

Answer: While the specific answers to these questions will vary from student to student, based on location, some general information applies to all. The NALA website states the following: "NALA is the nation's leading professional association for paralegals. As a non-profit organization, NALA provides continuing education and professional development programs for paralegals—from novice to experienced professionals." NALA describes professional certification as a "time honored process" that is voluntary and time limited, meaning that the certification must be kept current through ongoing education. There are several categories of NALA programs, which are supported by membership dues and program fees. Each NALA member agrees to be bound by the association's Code of Ethics and Professional Responsibility.

The NFPA website states the following: "NFPA is an issues-driven, policy-oriented professional association directed by its membership. It is comprised of more than 50 member associations and represents over 9,000 individual members reflecting a broad range of experience, education and diversity." The NFPA offers two credentialing exams: the Paralegal CORE Competency Exam and the Paralegal Advanced Competency Exam. The NFPA created the Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement in 1993.

The main differences between the two organizations are as follows:

- NALA calls its standards "guidelines," whereas NFPA refers to its standards as "rules."
- NFPA is more focused on the professional conduct of paralegals, while NALA seems more concerned with the moral code of paralegals.
- NFPA opposes certification for entry-level paralegals, while NALA has a certification exam for individuals with no paralegal experience.

NALA believes that the terms *paralegal* and *legal assistant* are synonymous, but NFPA disagrees.

2. Review the AAFPE website at www.aafpe.org, and the American Bar Association website for paralegals at www.americanbar.org/groups/paralegals.html. Answer the following questions:
- What role does each of these organizations play in paralegal education?
 - Click on the link to Paralegal Education on the AAFPE website and to the general approval process information (under Resources) on the ABA website. Review the information on paralegal education and print the first page located for each site. List the benefits of a paralegal education program, or having the approval, of each organization. Can you think of any reasons why a paralegal program would not belong to, or seek the approval of either organization?

Answer:

- The American Association for Paralegal Education (AAFPE) was formed to promote high standards for paralegal education. The AAFPE and the ABA are the two major organizations responsible for developing standards and curriculum for paralegal education programs across the nation. In 1974, the ABA established educational standards for paralegal training programs. A list of schools offering paralegal programs is available at the AAFPE website, www.aafpe.org, in the "Need Help Finding a School?" menu. The ABA guidelines have been revised over time to keep pace with changes in the profession. Paralegal schools are not required to be approved by the ABA. Rather, ABA approval is a voluntary process that gives extra credibility to the schools that successfully apply for it. Programs that meet the ABA's quality standards and that are approved by the ABA are referred to as ABA-approved programs.
- The benefits of attending a paralegal program chosen by each student will vary, though the benefit of attending one that is approved by one of these organizations should certainly include the national recognition of the quality of the particular program. Additionally, attending a program approved by one of these national organizations will also improve the marketability of the program on a resume.

ANSWERS TO THE MINDTAP ADDITIONAL QUESTIONS

QUESTIONS FOR REVIEW

1. What kinds of tasks do paralegals perform? Are the same tasks performed in all paralegal jobs, or do the tasks vary by the job? What do paralegals spend the bulk of their time doing?

Answer: The following is a sampling of some of the tasks that paralegals typically perform:

- Conduct client interviews and maintain contact with clients—provided that the client is aware of the status and function of the legal assistant and the legal assistant does not give legal advice.
- Locate and interview witnesses—to gather relevant facts and information about a lawsuit, for example.
- Conduct legal investigations—to obtain, organize, and evaluate information from sources such as police reports, medical records, photographs, court documents, experts' reports, technical manuals, and product specifications.
- Update calendar and track important deadlines—such as the date by which a certain document must be filed with the court or the date by which the attorney must respond to a settlement offer.
- Organize and maintain client files—to keep the documents in each client's file accessible.
- Conduct legal research—to identify, analyze, and summarize the appropriate laws, court decisions, or regulations that apply to a client's case.
- Draft legal documents—such as legal correspondence, interoffice memoranda, contracts, wills, mortgages, and documents to be filed with the court.
- File legal documents with courts—such as complaints, answers, and motions.
- Summarize witness testimony—such as when depositions (sworn testimony) are taken of individuals out of court or when the parties have given written statements.
- Coordinate litigation proceedings—communicate with opposing counsel, court personnel, and other government officials; prepare necessary documents for trial; and schedule witnesses.

- Attend legal proceedings—such as trials, depositions, real estate closings, executions of wills, and court or administrative hearings.
- Use computers and technology—to perform many of the tasks listed here.

Paralegals perform different functions depending on where they work and on their abilities and experience. Duties also vary according to the size of a law firm and the kind of law practiced by the firm. Paralegals commonly spend the bulk of their time performing document management, client relations, and research.

2. What role within the legal profession do paralegals fill?

Answer: Paralegals fill the role within the legal profession of permanent, full-time legal assistant at a reasonable cost to the firm, filling the gap between an attorney and a legal secretary. Paralegals perform substantive legal work that they are trained to perform through education, experience, or (usually) both.

3. What is the most significant area of expanding paralegal responsibility?

Answer: Technology. Because lawyers are busy with the practice of law, paralegals are often in the best position to know the firm's needs. Increasingly, paralegals take a leading role in reviewing and recommending new specialized legal software programs and online databases. Computer skills and technical knowledge are highly valued. Those entering the profession should know that technological skills will greatly enhance their marketability.

4. What is the American Bar Association?

Answer: The American Bar Association (ABA) is a voluntary national association of attorneys. The ABA plays an active role in developing educational and ethical standards for attorneys and in pursuing improvements in the administration of justice.

5. What is the American Association for Paralegal Studies, or AAfPE?

Answer: AAfPE is a national organization of paralegal educators; AAfPE was established in 1981 to promote high standards for paralegal education.

6. Do the major organizations involved in paralegal education agree on the definition of a paralegal? If not, do some agree? What about the others? Give the definition of a paralegal from the organizations that do agree.

Answer: Only the ABA and the National Association of Legal Assistants (NALA) agree on the definition of the term *paralegal*. The NFPA and AAfPE have different definitions from each other and from the ABA and NALA definition.

The definition that the ABA and NALA agree on is as follows: A legal assistant, or paralegal is a person qualified by education, training, or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity who performs specifically delegated substantive legal work, for which a lawyer is responsible.

7. Define substantive law and procedural law and give an example of each. What role do they play in paralegal education?

Answer: Substantive law includes all laws that define, describe, regulate, and create legal rights and obligations. For example, a law prohibiting employment discrimination on the basis of age falls into the category of substantive law. Procedural law establishes the methods of enforcing the rights established by substantive law. Questions about what documents need to be filed to begin a lawsuit, when the documents should be filed, which court will hear the case, which witnesses will be called, and the like are all procedural law questions. A legal assistant's education includes the study of both substantive law and procedural law.

8. When did the first paralegal programs come into existence? Why did they expand? What are the two national organizations involved in paralegal education?

Answer: No formal paralegal education programs existed until the late 1960s. Once attorneys realized that using paralegals was cost effective and benefited the client and the firm, paralegal education programs expanded. AAfPE and the ABA are the two national organizations involved in paralegal education.

9. What is continuing legal education, or CLE?

Answer: CLE consists of courses offered by state bar associations, commercial providers, law schools, and paralegal associations, and they are usually seminars and workshops that focus on specific topics or areas of law. The courses can be a good way to learn more about a specialized area of law or keep up to date on the latest developments in the law and in technology. CLE is required by NALA and the NFPA and California for paralegals to maintain their certified paralegal status.

ETHICS QUESTION

1. Your next-door neighbor's son was beaten up while at school. The boy's mother is facing over \$3,000 in medical and dental expenses as a result of his injuries, which she cannot afford to pay. She knows that you work as a paralegal in a law firm that specializes in personal-injury litigation, so she asks you if you will help her. She wants you to write a letter threatening legal action, which she will then sign, and she also wants to know whether she can sue the parents of the boys who beat up her son. Should you write the letter? Should you advise her on what action she might take against the other boys' parents? What are your ethical obligations in this situation? How could you help her without violating professional ethical standards?

Answer: You should not write the letter, because doing so would be representing a client without being licensed to practice law. You should not answer her questions about suing the boy's parents, because doing so would involve giving legal advice, and your ethical obligations are to not engage in the unauthorized practice of law. You could help her by referring her to a legal aid clinic, or a local law school clinic, where she could get free or low-cost legal services.

PRACTICE QUESTIONS AND ASSIGNMENTS

1. Which of the following are tasks that a paralegal might perform?
- Interview a witness.
 - Select and use software in a law office.
 - Give legal advice to clients.
 - File documents with a court.

Answer: All but c. Giving legal advice to clients involves the unauthorized practice of law.

2. Which of the following are degrees awarded to paralegals?
- Bachelor's degree
 - Associate's degree
 - Master's degree
 - Juris Doctorate degree

Answer: All but d. A Juris Doctorate degree is awarded by a law school to an attorney.

3. Using the material in the chapter, identify which national organization's definition of a paralegal appears as follows:

Paralegals perform substantive and procedural legal work as authorized by law, which work, in the absence of the paralegal, would be performed by an attorney. Paralegals have knowledge of the law gained through education, or education and work experience, which qualifies them to perform legal work. Paralegals adhere to recognized ethical standards and rules of professional responsibility.

- ABA
- AAfPE
- NALA
- NFPA

Answer: b.

4. Using the material in the chapter, which of the following states have implemented voluntary state certification programs?
- Texas
 - Michigan
 - Illinois
 - Florida

Answer: a and d. Texas and Florida are two of the six states that have implemented voluntary certification programs for paralegals. California, Louisiana, North Carolina, and Ohio are the other four states.

VIDEO QUESTIONS

Watch the video clip for Chapter 1 and answer the questions below.

Erin Brockovich was a paralegal who became famous in the movie *Erin Brockovich* for her hard-hitting legal investigation of the water pollution by a public utility in Hinkley, California, and the resulting toxic tort lawsuit that her firm won.

- Which of the paralegal tasks identified in the chapter is Erin Brockovich performing in the video clip?
Answer: Conducting legal investigations and maintaining client contact are the tasks performed.
- Which of the skills and attributes discussed in the chapter is Erin Brockovich using in the video clip?
Answer: Erin Brockovich uses her strong speaking skills in the community meeting and her analytical skills in gathering and analyzing the water pollution data in Midland, Texas. She also uses her interpersonal skills in working with the clients who initially complained of “yellow water.”
- Do you think that you would be comfortable holding a large community meeting and speaking in front of large groups as Erin Brockovich does in this video clip? Meeting one on one with clients? Investigating environmental law violations, or other client claims? If not, what other paralegal tasks interest you? Which ones are you comfortable with, and which ones are a “good fit” with your personality?
Answer: Answers will vary. You might encourage students to think about their answers to this question throughout the semester.

Instructor's Note: Question 3 is similar to Questions for Review 5 in the textbook. The questions should be assigned accordingly.