

## Comment on APR 28—Legal Technician and the New Non-Lawyer Practice Commission Regulations

I am generally in favor of this initiative because it allows defined paralegals to provide meaningful assistance to pro-se clients. I am a paralegal who just finished the Paralegal Plus program at Highline College last December. I have volunteered in Pierce County to provide limited legal assistance to low income individuals who cannot afford legal services from an attorney. It is virtually impossible to provide any assistance or effectively answer any legal questions individuals may have without crossing the line into the practice of law as it is currently restricted. Consequently, this rule change is long overdue. However, I have reservations about allowing unsupervised paralegals to staff a limited practice office.

Before I began my paralegal coursework toward my certificate, I used the services of what I call a "forms shop" (Do It Yourself Legal in Mukilteo, Washington) where court forms were provided and limited access to an attorney was available as an additional service. As a result of taking my first legal class, Professional Ethics, I understood my experience with the "forms shop" to be a complete violation of current statutory regulation. For example, I had written a three page letter to the paralegal in an effort to explain the details of my daughter's meretricious relationship as it was a complex fact pattern. The paralegal lifted excerpts from my letter and incorporated them into a declaration I did not request and which the court would have no reason to consider. The paralegal wanted to charge me \$75.00 for her effort. I did not pay her even though she insisted. Further, her supervising attorney was a lawyer who came by her office two or three times per week to ostensibly review her form completion work. Consequently, she was only loosely supervised, if that, and by my experience she was routinely explaining forms, defining legal terms of practice, advising about the best course of legal action and completing forms on behalf of the client without client input.

I am not relating my experience as a way of making a formal complaint, but rather to illustrate how difficult it must be for the bar to enforce the rules that presently exist. Clients like me would not be inclined to complain about the "forms shop" because they do not know what rules exist to govern the legal forms business. The "forms shops" are essentially self-policing and my experience tells me that there are currently many ways to game the existing system. Consequently, I do not think it is realistic to expect that staffed offices of limited practice paralegals will govern themselves and stay within the new rule, as proposed, any more than "forms shop" do now.

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This is not to say, however, that I do not generally support the rule change. I think it is helpful to have this rule change so paralegals can provide meaningful and effective limited legal information to pro se clients without treading on the sacred ground of providing legal advice. Additionally, I think that paralegals need direct supervision from attorneys. Accordingly, the new rule needs to define what legitimate and permissible attorney supervision means. While direct daily oversight by an attorney may not be required, some kind of attorney consultation and document review should be required before documents are filed with the court to initiate an action or manage a case that is ongoing. This would allow paralegals to provide:

- more effective assistance to attorneys,
- greater range of assistance and advice to clients in the defined limited practice area and
- increased public access to justice, especially for the indigent and low income individuals.

The new rule limits the paralegal to operate within the defined scope of a practice area. I think that it is essential for the scope of practice be clearly defined with unambiguous language so this aspect of the rule cannot be easily compromised by those who might not appreciate the limited role they play in the law practice environment. It is also a positive element of the proposed rule to require that funds be handled according to RPC 1.15B. Additionally, since legal assistance is limited to pro se clients, it may be advisable to address how paralegals may use process service businesses and whether or not paralegals are allowed to file documents on behalf of clients (as previously suggested, after they have been adequately reviewed by an attorney).

I have raised the issue about effective attorney supervision. To that end, I think it is advisable to define what attorney supervision specifically means and what is required by the rule. In this regard, the new rule should contain language that delineates particular attorney supervision responsibilities and describes what activities or actions for attorney supervisors are proscribed. The new rule, as I envision it, would allow clients increased access to justice in the defined practice areas by creating a system where an attorney can supervise one to many paralegals who maintain the pro se client relationship. The paralegals could be in-house or off-site as long as mandatory and defined attorney supervision requirements are satisfied. A successful model of this type would have paralegals certified in the practice areas following a well defined protocol for each client case that would consist of the following:

- making the initial pro se client contact and establishing a relationship

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- analyzing the legal situation and the individual needs of the pro se client
- developing a suggested course of action
- assisting the client with forms completion
- meeting regularly with a supervising attorney to
  - provide the attorney with a documented case synopsis
  - obtain attorney review of paralegal document preparation
  - gain attorney concurrence for a course of action suggested to the client
- waiting to file documents until the attorney has approved them
- managing case development
- administering client funds received for services provided.

This model would allow clients more affordable and expanded access to the legal system. It would also allow an attorney an increased ability to leverage their law practice to serve more people. It would also limit the ability of some paralegals who might be inclined to game the system as revealed by my personal experience with “forms shops.”

I appreciate the opportunity to respond to this proposed rule and offer what I hope will be considered helpful comment.

Thank you very much.

Douglas R. Wright  
Paralegal  
13632 SE 274 Place  
Kent, WA 98042-9078