

PCCE SCHOLARSHIP SUBMISSION:

The Role of Certifications and Licensure in the Evolution of the Paralegal Profession

By Julianne Di Benedetto

Since the emergence of the paralegal in the 1960s, the paralegal profession has continuously evolved.¹ The earliest paralegals were existing law firm employees who were provided additional training.² Since then, the legal field has adopted different names for legal support staff including “legal assistant,” “legal secretary,” and “paralegal.” Over time, the profession grew and the responsibilities of the paralegal became more complex. This resulted in the necessity of formal education in the form of college degrees and certificate programs. After the formation of national paralegal organizations, certifications emerged. Similarly, some state organizations began to offer their own certifications. These organizations allowed paralegals to demonstrate their developed skills and higher knowledge. Within the last several years, the profession has evolved yet again to implement more advanced certifications and licensures with the purpose of assisting in the access to justice.

The access to justice has been a continuing obstacle in both civil and criminal matters in the United States, and the statistics are staggering. According to the Legal Services Corporation, in 2017, “86% of the civil legal problems reported by low-income Americans received inadequate or no legal help.”³ The report further states that “71% of low-income household experienced at least one civil legal problem

in the last year.”⁴ Professions outside of the legal field have addressed the issue of providing access to low-income households. Accounting firms offer different levels of personnel, and certain staff members are assigned to cases depending on the client’s needs. In the medical field, some nurse practitioners are able to perform many of the same services as physicians. In both instances, these professionals provide similar services to those of their advanced counterparts but at a reduced rate.⁵

Some states have already seen the value of allowing independent paralegals to provide select substantive legal services. Washington established the Limited License Legal Technician (“LLLT”) program where non-lawyers were permitted to offer specific family law services to assist with the access to justice.⁶ Though the Washington Supreme Court has since decided to cease licensing new LLLT candidates, those who have already earned the recognition will be permitted to continue practicing.⁷ Since the emergence of the LLLT program, nine other states have implemented licensing programs for paralegals with additional states reviewing options for increased access to justice.⁸ Further, state paralegal associations have executed their own credentialing programs. In total, six associations offer certifications while one state paralegal organization (located in Illinois) offers an accredited designation.⁹

Further still, national paralegal organizations offer certifications and recognition. These include the National Federation of Paralegal Associations (NFPA); NALA: The Paralegal Association; NALS: The Association for Legal Professionals; the American Alliance of Paralegals, Inc.; and the Association of Legal Administrators.¹⁰

Until recently, the terms “paralegal” and “legal assistant” had been synonymous. In February 2020, the American Bar Association updated the definition of “paralegal” by removing the term “legal assistant” from the description.¹¹ In addition to this revised definition, a state certification or licensing requirement would further differentiate paralegals from other legal professionals, such as legal secretaries and clerks. Some paralegals argue that they provide substantive legal services exceeding those provided by other legal support staff; therefore, they should be credentialed in order to demonstrate their advanced skills and knowledge.¹²

Furthermore, a candidate that is considered a paralegal in one firm may be deemed a legal secretary in another firm. This vagueness leads to a challenge for future employers: How is a prospective employer able to determine the applicant’s worth to the firm? The difference in the levels of skills and knowledge may vary greatly among paralegals.¹³ Additional licensure or certification would define any

ambiguities, as a set standard would be available on which to judge the paralegal.

Existing certification programs (such as those offered by the National Federation of Paralegal Associations) and licensing programs (such as the LLLT in Washington) require continuing legal education. Whether the paralegal is certified by a paralegal organization or licensed through the state, continuing legal education is required. This condition ensures that the paralegal is current on the newest developments in the law. This is similar to the continuing education requirements of lawyers.

The paralegal profession has evolved from performing clerical and administrative duties to preparing substantive legal work. Through education, certifications, and licensing, paralegals are more qualified than ever to perform legal services to clients. Whether the motivation is to provide an increased access to justice, to set standards in the profession, or to demonstrate advanced knowledge and skill, the role of the paralegal will continue to evolve.

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