

PRACTICE TIP SHEETS

Paralegal Regulation: Burden or Professional Opportunity?

Paralegal regulation has been a controversial subject for many years. The argument in favor is usually twofold.

Rationale. One goal is to codify standards for the profession which increase our status while preventing unqualified individuals from passing themselves off as paralegals. The other goal is to expand the roll of paralegals to provide greater - and more affordable - access to legal services by the public.

California. Thus far, California is the only state to legislate the mandatory regulation of paralegals. In California, paralegals must meet specific educational and/or work experience requirements, and must complete mandatory continuing legal education (MCLE) seminars. ([Bus. & Prof. Code §6450](#))

Other states. Montana has legislation restricting use of the title of paralegal to those meeting specified educational requirements, and legislation regarding inclusion of reasonable paralegal fees in fee awards. Further, New Mexico's Court Rules establish minimum educational and/or experience requirements for paralegals.

Bar Associations. Numerous states' Bar Associations have voluntary guidelines regarding educational and/or utilization standards for paralegals. Among them are Colorado, Connecticut, Florida, Indiana, Kansas, Missouri, New York, North Carolina, North Dakota, Ohio, Oklahoma, Texas, Utah, and Virginia.

Document Assistants. Both the Arizona and California legislatures have created categories of registered [Legal Document Preparers](#) and [Legal Document Assistants](#), respectively, authorized to assist individuals not represented by an attorney in preparing legal documents.

Legislative efforts. Legislation has been introduced in the following states to register, certify or license paralegals or document preparers, so far without success: Connecticut, Florida, Illinois, Maryland, Minnesota, Missouri, Nevada, New Mexico, Oregon, Tennessee, Vermont, Washington, and West Virginia.

Teeth: Fee Awards. In California, recent court decisions have reduced or stricken paralegal fees from fee awards on the grounds that the requesting parties failed to show the billing paralegals were qualified under Business and Professions Code §6450. (See, e.g., *Martinez v. G. Maroni Co., dba Church's Chicken #948*, 2007 LEXIS 32366 (E.D. Cal.).)

Voluntary Certification. In Florida, Kentucky, North Carolina, Ohio and Texas, the legislatures, the court systems or the state Bars have adopted mechanisms, usually through the state Bar Association, whereby paralegals can pursue voluntary certification or registration. A voluntary certification program is also pending in Kansas. Of course, *many* state paralegal associations have instituted voluntary certification programs for their members, and all of the national paralegal associations have certification programs.

Benefits. I believe regulation of the paralegal profession benefits the legal community, as well as its clients. It assures that paralegals are competing for jobs with professional peers with adequate training or work experience. It adds an extra layer of protection against the unlicensed practice of law. Attorneys' clients can be confident that the paralegals whose fees they are paying possess a basic level of competency. And the educational requirements, association memberships and certification programs provide great opportunities for professional development, assisting us in keeping abreast of trends, technology and new laws.

I am indebted to the National Federation of Paralegal Associations' (NFPA's) incredibly useful [webpage on regulation](#), and in particular, its [Regulation Chart by State](#) for much of the information in this article.