

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENT TO THE FLORIDA
RULES REGULATING THE FLORIDA BAR:

Case No: SC06-1622

FLORIDA REGISTERED PARALEGAL
PROGRAM

**COMMENT ON PROPOSED CHAPTER 20, FLORIDA RULES
REGULATING THE FLORIDA BAR-----
FLORIDA REGISTERED PARALEGAL PROGRAM**

I am an academically-trained paralegal who has been performing paralegal work for attorneys since 1979 in both the private and public sectors. I support the proposed rule, which will finally provide a uniform standard for the practice of paralegal services. I offer the following substantive comments:

**I.
The Rule Excludes ABA-Approved Post-Baccalaureate
Paralegal Certificate Programs**

Paragraphs (1) and (3) of Proposed Rule 20-3.1(a) establishes that a person with either a bachelor's degree or an associate's degree from an "approved paralegal program" may be registered as a paralegal provided such person also has the commensurate work experience. The term "approved paralegal program" is then defined in Proposed Rule 20-2.1(d) as an otherwise accredited program that is "approved by the American Bar Association ("ABA")." So, a person with a bachelor's or associate's degree from an accredited ABA-approved paralegal

program satisfies the education requirement of the proposed rule. Evidently, the putative purpose of this requirement is that a program approved by the ABA establishes a high standard of quality that such program provides legitimate, substantive paralegal training by a competent faculty. See ABA Approval: A Reference Manual For Paralegal Educators (Oct. 2004) at www.abanet.org/legalservices/paralegals.

However, the ABA also approves accredited paralegal programs that do not offer a bachelor's or associate's degrees, but certificates of completion. As a result, Proposed Rule 20-3.1(a) is incomplete because it does not recognize graduates of accredited ABA-approved paralegal programs that do not provide a bachelor's or associate's degrees. Most importantly, there are accredited ABA-approved paralegal programs that are *post-baccalaureate* that provide certificates of completion of a paralegal study program rather than a bachelor's or associate's degree. These accredited ABA-approved post-baccalaureate programs do not provide a bachelor's or associate's degree for the obvious reason that the program's students already have such degrees and thus the program's education focuses solely on paralegal training. Some examples of accredited ABA-approved post-baccalaureate paralegal certificate programs are: the UCLA Attorney Assistant Training Program associated with the UCLA School of Law; Syracuse University; Georgetown University; Villanova University; the University of San

Diego; Long Island University; Queens College; Duquesne University; Auburn University; University of Oklahoma; University of Tulsa; Kent State University; University of Cincinnati; Boise State University; and many other post-secondary and private proprietary programs. See www.abanet.org (list of ABA-approved paralegal programs). Indeed, the ABA's 2005 survey of approved paralegal programs indicates that 43 percent of the approved programs offer a post-baccalaureate certificate, while only 24 percent provide a bachelor's degree. Id.

Simply put, proposed Rule 20-3.1(a) excludes persons from its scope that complete equivalent ABA-approved paralegal programs that do not offer bachelor's or associate's degree. If the purpose of the proposed rule is that ABA approval of an accredited paralegal program presumptively signifies a uniform high standard of quality, then it should not matter whether an accredited ABA-approved program results in a bachelor's degree, an associate's degree, or a certificate---each program meets the same standard of ABA guidelines for paralegal training. The satisfaction of an ABA-approved paralegal certificate program is not uncommon as an acceptable qualifying credential for States that regulate, or propose to regulate, paralegals. See North Carolina Bar Rule, Certification of Paralegals, Subchapter G.0119(a)(1) (an associate's degree, bachelor's degree, or a post-baccalaureate certificate from an ABA-approved paralegal studies program); Rule 20-115 A.(3), New Mexico Rules Governing

Legal Assistant Services (a bachelor's degree, associate's degree, or a post-baccalaureate certificate program in paralegal studies); § 6450(c)(1), Cal. Bus. & Prof. Code Cal. Code (a paralegal may have a certificate of completion of a paralegal program approved by the ABA); Proposed Indiana Bar Rule 2.2, s.3(c) (an associate's degree, bachelor's degree, or a post-baccalaureate certificate from an ABA-approved paralegal program); Arizona Code of Judicial Admin. 7-208 E.3.(e) (certificate of completion from an ABA approved paralegal program).

The Bar's Petition provides no explanation as to why an accredited ABA-approved associate or bachelor's degree program is of less quality than an accredited ABA-approved certificate program, particularly a post-baccalaureate certificate program. See Florida Bar Petition at 5-6. While the Petition notes "that the quality of certificate programs vary" and that there is a "difficulty in quantifying the quality of the program," these statements correctly characterize the many paralegal education programs that *are not ABA-approved*. See Florida Bar Petition at 6. It is the fact that an accredited paralegal program is approved by the ABA that establishes the benchmark of quality, therefore all accredited ABA-approved programs should be considered an "approved paralegal program," whether a degree or certificate program.

Accordingly, I respectfully suggest the following amendment:

RULE 20-3.1. REQUIREMENTS FOR REGISTRATION

In order to be a Florida Registered Paralegal under this chapter, an individual must meet 1 of the following requirements.

(a) Educational and Work Experience Requirements. A person may become a Florida Registered Paralegal by meeting 1 of the following education and paralegal work experience requirements:

(1) a bachelor's degree in paralegal studies from an approved paralegal program plus a minimum of 1 year of paralegal work experience;

(2) a bachelor's degree from an institution accredited by a nationally recognized accrediting agency approved by the United States Department of Education or the Florida Department of Education plus a minimum of 3 years of paralegal work experience;

(3) an associates' degree in paralegal studies from an approved paralegal program plus a minimum of 2 years of paralegal work experience;

(4) an associates' degree from an institution accredited by a nationally recognized accrediting agency approved by the United States Department of Education or the Florida Department of Education plus a minimum of 4 years of paralegal work experience;

(5) a post-baccalaureate certificate in paralegal studies from an approved paralegal program plus a minimum of 1 year of paralegal work experience; or

(6) a juris doctorate degree from an American Bar Association accredited institution plus a minimum of 1 year of paralegal work experience.

II.

There Is No Rule To Enjoin Paralegal Work By Unregistered Persons

While the proposed rules contains a process for disciplinary actions against registered paralegals, there are no provisions for the Florida Bar to enjoin persons performing paralegal work under an attorney's supervision without a registration certificate. This enforcement mechanism is essential to the integrity of the proposed rule's purpose that only registered and attorney-supervised persons perform paralegal work. The authority for enforcement action against such

persons lies under Article V, section 15, Florida Constitution, since through these proposed rules, if adopted, this Court would be prescribing the standards for services related to the practice of law performed by qualified persons under the supervision and direction of a member of the Florida Bar. State ex rel. The Florida Bar v. Sperry, 140 So.2d 587 (Fla.1962), vacated on other grounds, 373 U.S. 379 (1963) (Florida's constitution grants the Supreme Court the power to prevent the practice of law by those not admitted to that practice and that power may be enforced by injunction or contempt proceedings); cf. Prof'l Ethics of the Florida Bar, Op. 86-5 (1986) (the canons, ethical considerations, and disciplinary rules cannot apply to nonlawyers).

I respectfully suggest the Florida Bar propose rules similar to Florida Bar Rule 10, or alternatively amend Rule 10, establishing a complaint process for injunctive relief against persons performing paralegal work under an attorney's supervision without a registration certificate.

III. Judicial Review Of Disciplinary Actions

The proposed rules currently provide final disciplinary action against a registered paralegal by either the designated reviewer [Proposed Rule 20-8.7(a)], or the Board of Governors [Proposed Rule 20-8.7(c)]. Notably, there is no provision in the proposed rules for a respondent to seek judicial review of a disciplinary action that may suspend or revoke registration. Such disciplinary

actions substantially affects the livelihood of the respondent. State ex rel. Hosack v. Yocum, 186 So. 448, 451 (1939) (the fundamental right to earn a livelihood in pursuing some lawful occupation is protected by the Constitution); Ferris v. Turlington, 510 So.2d 292 (Fla. 1987) (proceedings against a professional license implicate the loss of livelihood requiring an elevated standard of proof).

I respectfully request the Florida Bar amend the proposed rules to provide a right of judicial review for disciplinary actions against registered paralegals comparable to Florida Bar Rule 3-7.7 which creates a right of judicial review for disciplinary actions against Florida Bar members.

Respectfully submitted this 29st day of August, 2006.

P. Kevin Seamon
307 Harvard Road
St. Augustine, Florida 32086
(386) 329-4019

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was filed with the Clerk and a copy mailed on 29 August 2006 to John F. Harkness, Jr., Esquire, Executive Director, Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300.

P. Kevin Seamon