

BY-LAWS OF THE PARALEGAL SECTION OF THE STATE BAR OF MONTANA

ARTICLE I NAME AND PURPOSE

1.1 - NAME

The name of the Section shall be the Paralegal Section of the State Bar of Montana. References herein to "the Section" are to the Paralegal Section and references to the "State Bar" are to the State Bar of Montana. References herein to "Legal Assistant" are interchangeable with the term "Paralegal."

1.2 - PURPOSE

The purpose of this Section shall be to encourage a high order of ethical and professional attainment; to further education among members of the Section; to support and carry out the programs, purposes, aims, and goals of the State Bar of Montana; and, to establish good fellowship among Section members, the State Bar of Montana, and the members of the legal community at large.

ARTICLE II MEMBERSHIP AND VOTING ELIGIBILITY

2.1 - MEMBERSHIP

Membership in the Section shall be open to the following persons and no others.

2.1.1 Any member of the State Bar.

2.1.2 Any person who meets the definition of Paralegal as defined in Mont. Code Ann. § 25-10-301, *et seq.* (2009), effective October 1, 2009, as amended.

2.1.3 Any person who meets the following ABA definition of legal assistant or paralegal: "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."

2.1.4 Any person who has achieved and complies with the requirements to maintain the Certified Legal Assistant status of the National Association of Legal Assistants.

2.1.5 Any person who has graduated from an ABA approved program of study for paralegals.

2.1.6 Any person who has received a baccalaureate or associate degree in paralegal studies from an educational institution approved by the Section Council.

2.1.7 A paralegal educator from an ABA approved program of study for paralegals, or from an educational institution approved by the Section Council.

2.1.8 Membership shall be granted to those eligible persons who have paid Section dues.

2.2 - MEMBERSHIP QUALIFICATIONS

2.2.1 All Section members must be Montana residents.

2.2.2 Section membership will exclude any non-attorney who provides any type of legal services directly to the public without the supervision of an attorney.

2.2.3 Section members shall conform to the Rules of Professional Conduct adopted by the State Bar. This shall not create any right or obligation to perform legal services as a lawyer.

2.3 - REQUIREMENTS FOR MAINTAINING SECTION MEMBERSHIP

2.3.1 With the exception of lawyer and paralegal educator members, all Section members must submit evidence of completion of ten (10) credits of Continuing Legal Education (CLE)

annually to maintain Section membership. The CLE credits must qualify as an "Approved Legal Education Activity" approved by the Board of Continuing Legal Education.

2.3.2 Approval of annual CLE requirements. Section members shall establish their compliance with the annual CLE requirements of Section 2.3.1 by conforming with the reporting requirements established in Rule 5 of the Rules of Continuing Legal Education.

A. CLE credits earned in previous years over the ten (10) credit yearly requirement may be carried forward up to a total of fifteen (15) CLE credits.

B. An active member shall be exempt from the continuing legal education requirements and the reporting requirements of this rule during the balance of the year of admission to the Section.

2.4 - APPLICATION PROCESS

2.4.1 Lawyer members of the State Bar shall be granted Section membership upon payment of the Section dues.

2.4.2 Non-lawyer applicants shall submit their application on forms approved by the Council.

2.4.3 Non-lawyer applicants who do not meet the requirements of 2.1.3, 2.1.4, 2.1.5, 2.1.6 or 2.1.7 shall submit a statement from a lawyer member of the State Bar certifying as follows:

"(Applicant) has served as a legal assistant or paralegal under my supervision for at least one year and is known to me to be qualified by education, training or work experience to perform specifically delegated substantive legal work for which a lawyer is responsible."

2.5 - REMOVAL FROM MEMBERSHIP

The Council shall cancel the membership of any member by a majority vote of the Council upon determining that such member has (a) failed to meet annual CLE requirements; (b) violated any portion of the Rules of Professional Conduct; (c) no longer meets membership qualifications as identified in Article II.

2.6 - VOTING ELIGIBILITY

All members of the Section shall have full voting rights within the Section.

2.7 - SECTION DUES

2.7.1 Dues shall be set each year by the Council in an amount sufficient to pay all expenses for the creation and maintenance of the Section. The State Bar shall not be responsible for payment of any expenses or obligations of the Section. The State Bar may deposit Section funds in State Bar accounts and issue payments from such accounts at the direction of the Section Council. The State Bar shall be reimbursed by the Section for all expenses the State Bar may incur on behalf of the Section.

2.7.2 The date for payment of Section dues shall be April 1 of each year.

2.7.3 The annual Section dues shall be paid to the State Bar office.

ARTICLE III OFFICERS

3.1 - OFFICERS

The officers of the Section shall be the Chairperson, Vice-Chairperson, Secretary-Treasurer, Professional Development Officer and the State Bar Liaison.

3.2 - DUTIES OF OFFICERS

3.2.1 Chairperson. The Chairperson shall be the chief executive officer of the Section. He or she shall be a member

of the Council of the Section and shall preside at all meetings of the Section and the Council. He or she shall prepare a report of the activities of the Section for the previous year for presentation at the annual meeting of the Section and for submission to the Board of Trustees of the State Bar. He or she shall certify to the State Bar such amounts as have been authorized by the Council to be paid out of the Section dues.

3.2.2 Vice-Chair. The Vice Chair shall perform the duties of the Chairperson at any time the Chairperson is unable to perform such duties. He or she shall be a member of the Council of the Section and shall perform other duties as may be as signed by the Chairperson.

3.2.3 Secretary-Treasurer. The Secretary Treasurer shall be a member of the Council of the Section. He or she shall be responsible for the proper keeping of minutes and records, including records of all expenditures out of the Section dues.

The Secretary-Treasurer shall assist the Council in preparing the annual budget and in presenting it to the Board of Trustees of the State Bar. The Secretary-Treasurer shall maintain a roster of members of the Section.

3.2.4 State Bar Liaison. The State Bar Liaison shall be a member of the Council of the Section and shall act as a liaison between the Section and the State Bar.

3.2.5 Professional Development Officer. The Professional Development Officer shall be a member of the Council of the Section and shall promote educational and leadership programs to support the Purpose identified in these By-laws.

3.3 - TERMS OF OFFICE

All officers shall serve one-year terms commencing with their election. At the annual meeting, a Chairperson, Vice-Chairperson, Secretary -Treasurer, Professional Development Officer and State Bar Liaison shall be elected by the membership of the Section. Any vacancy in an office shall be filled by an interim appointment by a majority vote of the Council of the Section until the next meeting of the Section, at which time a new officer shall be elected to serve for the balance of the term.

ARTICLE IV COUNCIL

4.1 - COUNCIL

The council shall be composed of two council members and the four officers of the Section. Of the two council members, at least one shall be a current voting member of the Montana Association of Legal Assistants and the other shall be designated as Member-at-Large.

4.2 - DUTIES OF THE COUNCIL

The Council shall have general supervision and control of the affairs of the Section, subject to the provisions of the Constitution and By-laws of the State Bar. The Council shall direct all expenditures to be made out of the Section dues. The Council shall be responsible for membership eligibility, including but not limited to CLE monitoring and screening Section applicants.

4.3 - ELECTION AND TERMS OF OFFICE

The Council officers shall be elected at the annual meeting of the Section held in conjunction with the Annual Meeting of the State Bar. The term of office of council members shall be one year. The Montana Association of Legal Assistants shall designate its Council members pursuant to its organizational bylaws. The Section members shall ratify the Council members so designated by the Montana Association of Legal Assistants.

4.4 - MEETING OF THE COUNCIL

The Council shall meet each year at the time and in the place of the Annual Meeting of the State Bar. There shall be other such meetings of the Council as are determined necessary by the Chairperson of the Section. Notice of the time and place of regular and special meetings shall be given to each member by the Secretary-Treasurer by mail or by telephone, or electronically at least five (5) days before the meeting. The Council may take action by mail, telephone or electronic vote, without a meeting. A majority of the Council shall constitute a quorum.

ARTICLE V MEETINGS

5.1 - ANNUAL MEETING

The annual meeting of the Section shall be held at the same time and in the same place, and in conjunction with, the Annual Meeting of the State Bar. At the meeting, reports of officers and committees shall be delivered. Officers of the Section and council members to serve on the Council of the Section shall be elected at the annual meeting.

5.2 - SPECIAL MEETINGS

Special meetings may be called by the Chairperson of the Section or upon the request of five members of the Section.

5.3 - QUORUM

At all meetings, members of the Section present shall constitute a quorum for the transaction of business. The latest edition of Robert's Rules of Order shall govern the proceedings.

ARTICLE VI COMMITTEES

The Chairperson, with the approval of the Council, shall designate committees, define their duties, and appoint committee heads and members. The terms of all committees shall end at the expiration of the term of the Chairperson by whom they were designated.

ARTICLE VII AMENDMENTS

These by-laws may be amended at any meeting of the Section by a majority vote of the members of the Section present and voting, provided that notice of the substance of the proposed amendments shall have been mailed to all members of the Section at least two (2) weeks before the meeting.

Original By-laws approved by the Board of Trustees of the State Bar of Montana, December 11, 1998.

By-laws amended at the Paralegal Section Annual Meeting, September 14, 2000, and approved by the State Bar Board of Trustees in April 2001.

Amended June 8, 2007.

By-laws amended at the Paralegal Section Special Meeting, August 17, 2009.

PARALEGAL RULES OF PROFESSIONAL RESPONSIBILITY

Paralegal Section of the State Bar of Montana

It is the responsibility of every paralegal to adhere to all court rules, agency rules and state and federal statutes as well as the Montana Rules of Professional Conduct. All paralegals belonging to the Paralegal Section of the State Bar of Montana shall also be governed by these Rules:

RULE 1

A paralegal may perform any task that is properly delegated and supervised by an attorney provided that the attorney maintains responsibility for the work product and maintains a direct relationship with the client.

RULE 2

A paralegal shall not:

- a. Establish an attorney-client relationship;
- b. Establish the amount of a fee to be charged for legal services;
- c. Give legal opinions or advice;
- d. Represent a client before a court or agency unless so authorized by that court or agency;
- e. Engage in, encourage, or contribute to any act which would constitute the unauthorized practice of law;
- f. Engage in any conduct or take any action, which would involve an attorney in a violation of professional ethics or give the appearance of professional impropriety;
- g. Perform duties that only attorneys may do; or
- h. Perform functions that attorneys themselves are prohibited from performing.

RULE 3

A paralegal should assist attorneys in providing Pro Bono services to the public.

RULE 4

A paralegal shall take reasonable measures to ensure that his or her status as a paralegal is established at the outset of any professional relationship with a client, court or administrative agency, a member of the general public or with other attorneys.

RULE 5

A paralegal shall preserve all client confidences.

RULE 6

A paralegal shall prevent a conflict of interest resulting from his or her employment affiliations or outside interests.

RULE 7

A paralegal shall maintain a high degree of competency through continuing education in substantive areas of law, professional responsibility and ethics, and rules of practice.

Adopted September 16, 1999