

MODEL PLAN FOR PARALEGAL LICENSURE

Licensure of Paralegals is defined by NFPA as the process by which a governmental or other entity authorizes general practice in the Paralegal profession and the use of the title "Paralegal", to individuals meeting predetermined qualifications that include: a) an educational requirement; b) the passage of a proficiency based examination; c) continuing legal education; d) adherence to a code of ethics; and e) other criteria as required by the governmental or other entity.

This Model Plan is provided for assistance in developing and drafting a Paralegal Licensure Plan and reflects NFPA's policy on paralegal regulation. Each jurisdiction should modify this Model to its particular needs and requirements.

I. PURPOSE

[ORGANIZATION] acknowledges that there is a need for cost effective legal services. [ORGANIZATION] further recognizes that the use of qualified paralegals by lawyers, law firms, judicial, educational, and governmental entities is the best way to provide the community with such cost effective legal services. In recognition of the above, [ORGANIZATION] enacts the following [ORGANIZATION] Licensed Paralegal Plan.

II. DEFINITIONS

As used in this Plan, unless the context otherwise requires:

1. "Plan" shall mean the [ORGANIZATION] Licensed Paralegal Plan;
2. "Board" shall mean the "State Board of Licensed Paralegal Practice";
3. "Code of Ethics" shall mean the rules of professional conduct for paralegals as adopted by the Board;
4. "Continuing Legal Education" ("CLE") shall mean any legal or other educational activity or program which is designed to maintain and improve the professional competency of practicing Paralegals and is defined and approved by the Board, and/ or is accredited CLE for attorneys;
5. "Lawyer" or "Attorney" shall mean any person licensed or authorized to practice law under the laws of this state;
6. "License" shall mean authority granted by the Board under this Plan to practice as a paralegal in this state, as evidenced by issuing of a license document;

7. "Licensed Paralegal" shall mean a Paralegal who holds a valid License under the provisions of this Plan;
8. "Paralegal"⁽¹⁾ shall mean a person qualified through education, training or work experience to perform substantive ⁽²⁾ legal work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. This person may be retained or employed by a lawyer, law office, governmental agency or other entity or may be authorized by administrative, statutory or court authority to perform this work;
9. "Paralegal Practice" shall mean offering to provide or providing any substantive legal service or work not prohibited by any other state or federal statute or Supreme Court Rule, the adequate performance of which requires Paralegal education, training, and experience in the application of special knowledge of legal concepts and skills to that legal service;
10. "Paralegal School" shall mean an institution of post-secondary education or program either approved by the American Bar Association or in substantial compliance with the ABA Guidelines for Paralegal Programs, that offers the minimum educational requirements necessary for qualification for licensure as determined by the Board;
11. "Person" shall mean any individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, estate, or other entity whatsoever;
12. "State" shall include any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(1) Historically, the terms paralegal and legal assistant have been used synonymously, but recently two separate professions have emerged. For the purposes of this Plan, a legal assistant meeting the definition set forth herein for paralegal, shall be included within the definition.

(2) Substantive shall mean work requiring recognition, evaluation, organization, analysis, and communication of relevant facts and legal concepts.

III. LICENSE REQUIRED -- RESTRICTION ON USE OF NAME OR TITLE

A. No person shall purport to be, assume the duties incident to, or use the title "Paralegal", "Licensed Paralegal," or any words or letters which indicate that the person is a Paralegal unless the requirements of this Plan are met and such person holds a valid, current License from the [ORGANIZATION].

B. **NON LAWYER DISCLOSURE.** No Paralegal licensed under this Plan shall engage in the practice of law, nor shall such Paralegal

1. represent himself/herself or allow himself/herself to be represented as a licensed attorney; OR
2. use the title of attorney; OR
3. associate or allow to be associated with his/her name any term which would suggest that he/she is qualified to engage in the practice of law.

The Paralegal shall clearly identify himself/herself by appropriate identification as a Paralegal.

IV. STATE BOARD OF PARALEGAL PRACTICE

A. BOARD MEMBERSHIP -- APPOINTMENT -- TERM -- OATH -- QUORUM

1. There is hereby created an independent Board of state government to be known as the "State Board of Licensed Paralegal Practice," which shall promulgate and administer administrative regulations necessary to effectuate the provisions of this Plan and shall have complete supervision over the administration of the provisions of this Plan. The Board shall consist of (number to be specified) members, appointed by the Governor or Chief Justice of the highest Court in this state.
2. All members of the Board shall be residents of this State. (Number to be specified) members shall be Licensed Paralegals as defined by this Plan, (to be specified) members shall be Attorneys and licensed to practice in this State and can demonstrate that they have been actively involved with the Paralegal profession as an employer of Paralegals; one (1) member of the Board shall be a paralegal educator, *who is not an attorney* from an institution that is either ABA approved or in substantial compliance with the ABA Guidelines for Paralegal Programs; and one (1) member shall be a citizen at large who is not associated with or financially interested in Paralegal or legal practice.

3. The Board members shall be appointed by the Governor or Chief Justice of the highest Court in this state with initial appointments for (to be specified) members including the citizen at large, for terms of three (3) years; (to be specified) for terms of two (2) years; and (to be specified) members for a term of one (1) year. Thereafter, the members shall be appointed by the Governor or Chief Justice of the highest Court in this state for staggered terms of three (3) years. No member shall serve more than two (2) full consecutive terms. Initial terms shall begin on the effective date of this Plan. Every unexpired term shall be filled only for the remainder of that term and the person appointed to fill such vacancy shall be eligible for reappointment for one full term only.
4. The initial Paralegal appointees to the Board shall not be required to be Licensed, but rather shall, by their sworn statement in writing, signed, and verified, have engaged in continuous Paralegal Practice for at least ten (10) years immediately preceding their appointment, the last five (5) of which were within this State, and be eligible to be Licensed under Chapter 1, Section V(B) of this Plan. All subsequent Paralegal members shall be Licensed Paralegals as defined under this Plan.
5. Whenever an appointment of a Licensed Paralegal is to be made to the Board, the Paralegal Association(s) in this State shall be requested to submit to the Governor or Chief Justice of the highest Court in this state the names of three (3) persons for each vacancy to be filled by a Licensed Paralegal. Whenever an appointment of an attorney is to be made to the Board, the Bar Association(s) in this State shall be requested to submit to the Governor or Chief Justice of the highest Court in this state the names of three (3) persons for each vacancy to be filled by an attorney. Whenever an appointment of a paralegal educator is to be made to the Board, the institutions offering ABA approved paralegal education programs in this State shall be requested to submit to the Governor or Chief Justice of the highest Court in this state the names of three (3) persons for each vacancy to be filled by a paralegal educator. Whenever an appointment of a citizen at large is to be made to the Board, the appointment shall be made at the pleasure of the Governor or Chief Justice of the highest Court in this state. All persons recommended shall be qualified for membership on the Board, and the Governor or Chief Justice of the highest Court in this state shall appoint one (1) of the three (3) recommended. Names shall be submitted to the Governor or Chief Justice of the highest Court in this state at least sixty (60) days prior to the appointment date or within thirty (30) days of a vacancy.
6. A majority of the Board shall constitute a quorum. The concurring vote of a majority of the Board shall be considered as the action of the Board, except in matters involving suspension, revocation or reinstatement of a License, in which case, an affirmative vote of at least (to be specified) members of the Board shall be required. Once a quorum has been established all votes of the Board shall be deemed valid even if the number of members present is less than (to be specified)

7. The Governor or Chief Justice of the highest Court in this state may suspend or remove any member of the Board for misfeasance, malfeasance, gross inefficiency or misconduct, or upon any of the constitutional grounds upon which officers may be suspended by the Governor or Chief Justice of the highest Court in this state of this State.
8. In the event a Board member is removed, the removal shall be effective and a vacancy shall be deemed to exist as of the date of the Governor's finding. Any Board member so removed shall be entitled to appeal the removal in a court of competent jurisdiction.
9. Any vacancy which occurs on the Board for any reason shall be filled for the unexpired term according to Section (5), above.

B. MEETINGS OF THE BOARD

The Board shall meet annually for the purpose of electing from its members a President, a Vice President, and a Secretary/Treasurer. The Board shall hold at least two (2) regular meetings each year. Additional meetings may be held upon call of an officer of the Board or at the written request of any two (2) members of the Board.

All meetings of the Board shall be open to the public in accordance with this State's Open Meetings Law or such similar laws except that the Board may hold executive sessions to prepare, approve, grade or administer examinations, or upon the request of an applicant who fails an examination, prepare a response indicating the cause of such failure; personnel issues or other reasons for privacy as allowed by law.

All meeting notices and agendas shall be made known to the public at least 5 days prior to the date of the meeting unless otherwise provided by law.

C. POWERS AND DUTIES OF THE BOARD

1. The Board shall administer, coordinate, and enforce the provisions of this Plan; evaluate the qualifications of applicants; supervise the administration of the examination of applicants, including setting, assessing and collecting reasonable fees for examination, licensing and renewals, penalties and other monies; create and maintain a log or database of persons who are issued a License; and may issue subpoenas, examine witnesses, and administer oaths, and shall conduct confidential investigations of persons engaging in practices which may violate the provisions of this Plan.
2. The Board shall prescribe the time, place, method, manner, scope and subjects of examinations; provided, however, at least two (2) examination sessions shall be held each calendar year.

3. The Board shall conduct such hearings and keep such records and minutes as shall be necessary to affect an orderly dispatch of business.
4. The Board shall adopt and interpret rules and regulations, which include but are not limited to, qualifications for a license, renewal of a license, discipline and enforcement proceedings, establishment of ethical standards of practice, and may amend or repeal the same.
5. The Board shall create and adopt a Code of Ethics that shall govern and control every person who holds a License to practice as a Paralegal in this State
6. The conferral or enumeration of specific powers elsewhere in this Plan shall not be construed as a limitation of the general powers conferred by this Plan.

D. LICENSE -- BOARD TO ISSUE -- WHEN

The Board shall have the power to issue a License to all applicants who meet the requirements set forth in this Plan. All applicants must include with their application the initial fee and any subsequent fees assessed by the Board. The License shall be issued within sixty (60) days of completion of all requirements.

E. REVOLVING FUND FOR BOARD

It is the intent of this act that the Board be independent and self sustaining. In that respect, all monies received by the Board under this Plan shall be paid to the Secretary/Treasurer of the Board. All monies shall be deposited into a separate fund for the exclusive use of the Board. No part of this fund shall revert to the general funds of this State or organizing body except for the initial appropriation for start up costs. The Board shall be financed solely and individually from income accruing to it from fees, licenses, and other charges collected by the Board and all such monies are hereby appropriated to the Board. All salaries and expenses as approved by the Board shall be paid from the monies deposited in this fund, the amounts of which shall be set by the Board.

F. BOARD MEMBERS -- COMPENSATION

Board members shall be compensated in accordance with applicable state laws and regulations.

G. BOARD TO EMPLOY NECESSARY PERSONNEL

The Board may employ those persons necessary to discharge the responsibilities set forth in this Plan as necessary in accordance with all applicable state laws and regulations.

H. INDEMNIFICATION

Members of the Board, its agents, and employees shall be indemnified from suit in any action civil or criminal, which is based upon any official act or acts performed by them in good faith.

I. REQUEST TO BOARD FOR OPINION ON ACTIONS WHICH MAY CONSTITUTE UNACCEPTABLE CONDUCT

1. In order to assist a Licensed Paralegal in determining if an action would constitute unacceptable conduct under the provisions of this Plan, the Licensed Paralegal may request opinion of the Board by written request submitted to the Secretary/Treasurer. The Board may, at its discretion, cause a formal written opinion to be written and distributed publicly if the request addresses an issue of such public interest that the Board's opinion on the subject is deemed desirable. Otherwise, an informal letter opinion to the requester shall become a part of the procedural record of the Board.
2. In formulating a response to a request, the Board may request an opinion from any related professional association or consumer related interest group; however, the Board shall not be bound by the supplemental opinion.
3. The Board shall keep a permanent record of all the requests made and the response thereto. The Board may publish its opinions.

V. QUALIFICATIONS FOR LICENSURE

A. MANDATORY REQUIREMENTS

Any person, to be eligible for Licensure under this Plan, shall:

1. Be eighteen (18) years of age or older; AND
2. Be of good moral character pursuant to paragraph C below; AND
3. Pass a proficiency based exam, as promulgated by a national paralegal organization, a state or commonwealth, an accredited educational institution, a national, state or local bar association or any additional testing to be reviewed or approved by The Board; AND
4. Meet one of the following minimum educational requirements:
 - (a) An associates degree in paralegal studies obtained from an institutionally accredited school, and/or ABA approved paralegal education program; and (a minimum of two years of substantive paralegal experience; recognizing that a person who is not regulated could not perform substantive paralegal work, the proposed plan would need to include an “apprentice” type exception to allow that individual with a two-year degree to perform the requisite substantive paralegal work to become eligible to apply for licensure); OR
 - (b) A bachelor's degree in any course of study obtained from an institutionally accredited school and three (3) years of substantive paralegal experience; OR

(c) A bachelor's degree and completion of a paralegal program which said paralegal program may be embodied in a bachelor's degree; and two (2) years substantive paralegal experience.

B. WAIVER OF REQUIREMENTS

As of the date of the enactment of this Plan, paralegals with a (to be specified number) consecutive years of experience as a Paralegal immediately prior to application for a License may waive the minimum educational requirements.

Paralegals who have obtained and maintained at all times prior to application the designation PACE-Registered Paralegal (RP) and with a minimum of (to be specified) years of experience as a Paralegal immediately prior to application for a License may waive the minimum education requirements.

A signed and notarized Affidavit, setting forth the applicant's qualifications for waiver under this Section, must be submitted to the [ORGANIZATION] with each request for a waiver under this Section. The applicant must also submit Affidavit(s) from an attorney for all legal employment positions held for the _____ (number of years to be specified by drafter) year period in which the applicant intends to use to qualify for the waiver. Said Affidavits shall swear to the following: (1) Applicants dates of employment with that employer; (2) Applicant's duties while employed with that attorney/law firm/company; and (3) Applicant's good moral character.

This Section shall expire (to be specified number of years) from the effective date of this Plan.

C. BOARD'S DETERMINATION ON CHARACTER AND FITNESS CRITERIA

Upon application, the board shall make a determination that the applicant is of good moral character and fitness consistent with what is required to sit for PACE and to maintain the RP credential.

The application shall be rejected immediately if the Applicant:

1. Has been convicted of a felony or comparable crime as defined by an individual state that does not have a felony designation;

OR

2. Is currently under suspension, termination, or revocation of a certificate, registration, or license to practice by a professional organization, court, disciplinary board, or agency in any jurisdiction

D. APPEAL

An applicant has the right to appeal a denial based on the provisions of this Section V through [voluntary, independent arbitration], within [sixty (60)] days from the date of denial, the cost of which shall be borne as determined by the Commercial Arbitration Rules as published by the American Arbitration Association.

VI. FEES

A. EXAMINATION FEE

Any person who qualifies under the provisions of this Plan and who desires to take the proficiency-based examination shall pay to the Board a reasonable fee for the initial examination. This fee shall be determined by the Board and shall be payable at the time of application for examination.

Re-examination, as provided in this Plan, shall be given to the same applicant for an additional fee, as determined by the Board, for each subject or part thereof in which the applicant is re-examined.

B. LICENSE FEE

Any person who qualifies to be a Licensed Paralegal under the provisions of this Plan and who desires to apply for a License in this State shall pay to the Board a reasonable fee as determined by the Board. The License shall be renewed every [to be specified] by the Board. Any renewal of the License as provided for in this Plan shall be subject to payment of a reasonable renewal fee as determined by the Board. The Board may, in its discretion, reduce or waive the above fee requirements in extraordinary circumstances.

VII. APPLICATION FOR AND METHOD OF EXAMINATION

A. An applicant for a License under this Plan, shall file with the [ORGANIZATION] an application, a certified transcript that he or she meets the minimum educational requirements as set forth in Section V, and a statement made under oath or affirmation that the representations made are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration. The application fee, as determined by regulation of the [ORGANIZATION], shall accompany the application, and shall not be refundable.

B. Examinations shall be administered at least [___] times annually as determined by the [ORGANIZATION]. Notice of each examination session shall be given at least [sixty (60)] days prior to the scheduled date of examination.

C. Examinations shall consist of an ethics examination and a proficiency based general legal knowledge examination.

D. Within [sixty (60)] days of the examination date, the [ORGANIZATION] shall notify the applicant of the results and issue the License, if appropriate.

VIII. EXPIRATION DATE OF LICENSE; RENEWAL; AND CONTINUING LEGAL EDUCATION REQUIREMENTS

Every License issued to a Paralegal in this State shall expire [____ years] after the issue date unless sooner revoked, suspended, or canceled. The date of expiration shall be printed on such License.

All Licensed Paralegals shall, on or before the License expiration, renew his/her License by payment to the Board of a renewal fee as set by regulation of the Board, and upon submission of proof and a statement of compliance with the mandatory Continuing Legal Education requirements as set forth herein. If the Licensed Paralegal fails to timely renew, notice of this failure shall be sent to the Paralegal by certified mail notifying the Paralegal that failure to renew his/her License within ____ days will result in automatic suspension. Any License thus suspended may be restored within _____ after the automatic suspension upon application to, and approval by, the Board and compliance with the requirements of renewal and the payment of a reinstatement fee as determined by regulation of the Board.

All Paralegals Licensed under this Chapter are required to earn a minimum of _____ Continuing Legal Education credits to satisfy the requirements for renewal of his/her License. At least _____ of the required Continuing Legal Education Credits shall be in Ethics. Only those Continuing Legal Education Credits obtained from an entity/organization approved by the Board as a proper entity/organization to grant Continuing Legal Education credits will be accepted by the Board for renewal.

Inactive status may be granted to a Licensed Paralegal upon application to the Board and for good cause shown. Such a request will be considered only if the Licensed Paralegal is in good standing at the time of application. The Board shall determine the period of time in which a Licensed Paralegal shall be granted inactive status. Removal from inactive status shall occur at the earlier of: (1) the expiration of the inactive period granted by the Board, or (2) application to the Board by the Licensed Paralegal requesting removal from inactive status. Upon reactivation of the License, the term of the Paralegal's License before renewal is required shall be the time that remained on the License at the time of application for inactive status.

IX. COMPLAINTS –NOTICE

Upon a written complaint, verified by affidavit, of any person setting forth facts which, if proven, would constitute grounds for discipline, suspension or revocation of the License under this Plan, the Board shall investigate the actions of the Licensed Paralegal.

Complaints may be found to be:

- a. Unfounded. No further Action.
- b. Alleged Violation, not sustained;
- c. Minor Violation, written reprimand placed in file for specified period of time;
- d. Major Violation, specific discipline including loss of license recommended or imposed.

A hearing by the Board must be held within ninety (90) days of receipt by the Board of the written complaint. At least sixty (60) days prior to the date set for a hearing concerning the written complaint, the Board must serve written notice of the scheduled hearing and a copy of the written complaint on the Licensed Paralegal. Service may be accomplished by personal delivery or by registered or certified mail to the Licensed Paralegal's last known address. The Board shall direct the Licensed Paralegal to file a written answer to the complaint within twenty (20) days of receipt of the service. Failure to file such answer may result in the automatic suspension or revocation of the License prior to the scheduled hearing. The paralegal has a right to counsel.

Except for automatic suspension, no License shall be revoked, suspended or reinstated without a hearing. The Board may at any time proceed against a Licensed Paralegal on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its investigation, utilizing the process described in the preceding paragraph. Such information shall be held strictly confidential until such time as a License is revoked or suspended. The Board shall keep a certified record of the proceedings of any hearing held.

X. REVOCATION OR SUSPENSION OF, OR REFUSAL TO GRANT, ISSUE, OR RENEW LICENSE

After notice and hearing as provided in this Plan, the Board may revoke or suspend any License issued under this Plan; may refuse to grant, issue or renew any License; may censure the Licensed Paralegal; or may place any Licensed Paralegal on probation for any one or any combination of the following causes:

- (a) Fraud or deceit in procuring or attempting to procure the License;
- (b) Dishonesty, fraud or willful, wanton misconduct resulting in negligence in Paralegal Practice;
- (c) Deception, misrepresentation or unethical conduct in Paralegal Practice;
- (d) Violation of any of the provisions of this Plan or rules or regulations promulgated by the Board under this Plan;
- (e) Violation of any section of the Code of Ethics promulgated by the Board;
- (f) Conviction of any felony or a crime involving moral turpitude under the laws of any State or of the United States;
- (g) Revocation or suspension of, or refusal to grant, issue or renew the authority to practice as a Licensed Paralegal in any State, territory or foreign nation, if at least one of the grounds for that action is the same as or equivalent to of one of the grounds for the same action as set forth in this Plan;

- (h) Suspension or revocation of the right to practice before any State or Federal agency;
- (i) Failure of a Licensed Paralegal to renew an expired License to practice within five (5) years from the expiration date of the License to practice last obtained or renewed by said Licensed Paralegal.
- (j) Advertising paralegal services in a manner that is false or misleading to the public.

XI. VIOLATIONS -- PENALTIES

1. Any person who practices or offers to practice as a Licensed Paralegal without being duly certified according to this Plan, or whose License had been suspended or revoked, is guilty of a crime as defined by this State.
2. Notwithstanding the existence or pursuit of any other remedy, civil or criminal, the Board may institute rules and administrative regulations, and/or orders of the Board, and maintain actions to restrain or enjoin any violation of this Plan.
3. Any person who willfully makes any false representation to the Board in applying for a License under this Plan is guilty of a violation of this Plan and, upon notice by the Board, shall post a bond in an amount sufficient to cover any judgment, criminal penalties and interest which may be assessed by the Board in its sole discretion.
4. The Board may impose penalties for violations of this Plan, including any false representation to the Board in an application for a License under this Plan, in an amount determined at the Board's discretion, and may require a bond to be posted in an amount sufficient to cover any judgment, interest and penalties which may be assessed

XII. APPEAL FROM AN ORDER OF THE BOARD

1. Any person aggrieved by an order of the Board may, within (a time to be specified), appeal to a court of competent jurisdiction. The court shall decide the appeal upon the certified record received from the Board and no new evidence or additional evidence shall be heard or considered by the court.
2. A party aggrieved by a final order of a court of competent jurisdiction may appeal further in accordance with the Rules of Civil Procedure.

XIII. VOLUNTARY SURRENDER OF LICENSE

Any [ORGANIZATION] Licensed Paralegal may voluntarily surrender his/her License at any time, for any reason.

Any [ORGANIZATION] Licensed Paralegal notified of impending revocation of his/her License for violation of any of the rules, regulations or provisions of this Plan, may apply to surrender his/her License in lieu of revocation.

XIV. PETITION FOR NEW LICENSE AFTER REVOCATION -- PROBATION PERIOD

1. Except for those Licensed Paralegals who have been disciplined pursuant to this Plan, causes for denial, probation, suspension or revocation of a License, a Licensed Paralegal whose License has been revoked or voluntarily surrendered in lieu of revocation may, (a time to be specified) from the effective date of the revocation order, petition the Board for a reinstatement of such License.
2. Reinstatement shall be at the sole discretion of the Board. Reinstatement shall not be issued unless the applicant submits evidence satisfactory to the Board that the applicant meets the requirements of this Plan and is able to resume Paralegal Practice.
3. If the Board reinstates such License under the circumstances described in this section, the Licensed Paralegal shall be under probation for a period of not less than (a time to be specified) as determined by the Board. Any subsequent violation during the probation period shall result in automatic revocation of the License.

XV. RECIPROCITY

1. The Board may, upon application and payment of a fee to be established by regulation of the Board, issue a License to persons who hold a certificate of qualification or valid License issued to them by proper authority of any state which has Licensing and educational standards equal to or greater than this State, as set forth herein. Such persons may be Licensed without examination upon payment of the regular application fee, the successful completion of the written ethics examination, and meeting the character and fitness requirements as described by this Plan.
2. The Board may promulgate regulations governing the matter of reciprocity with other States.