

2008 National Federation of Paralegal Associations (NFPA) Convention Results

By: Heather Moreau, VPO Primary Representative

As most of you know, from my summary in the last VPO newsletter, I attended NFPA's national convention in northwest Arkansas from October 9 – 12. The conference was divided into a day of educational seminars and a tradeshow that focused on cutting edge issues, a day of workshops that advised delegates on ways to strengthen local paralegal associations, and two days of policy meetings where issues impacting our profession were formally debated and new policies were enacted.

Attending this conference, as Vermont's delegate, was both an enormous honor and responsibility. To all of you who contacted me via e-mail before the convention or attended the membership meeting that took place on September 25, I want to thank you for your input. Having an understanding of your point of view is fundamental as I participate in voting and events at the national level.

The results of the 2007 convention, the proposed 2008 resolutions, and this summary have been posted to the VPO website under the National Affiliation tab. As always, if you have any questions or concerns about the conference or another NFPA issue, please contact me.

Below are the major polices that were created or changed in 2008:

Paralegal Definition

The NFPA Ad Hoc Committee on Practicing Paralegals presented a proposal to add language (describing paralegals' growing roles) to NFPA's definition of paralegals. They also proposed to delete the word "practicing" from the sections of NFPA's bylaws that delineate who can be a voting member of NFPA. The proposed resolution was bifurcated. It passed in-part and failed in-part.

The Committee noted that paralegal job descriptions have expanded. They articulated concerns that some individuals, who are performing paralegal work, are no longer called paralegals and are therefore not adequately encompassed within NFPA's paralegal definition. The Committee argued that such paralegals should be able to take active roles within NFPA.

NFPA's paralegal definition is: "A Paralegal is a person, qualified through education, training or work experience to perform substantive 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. Substantive shall mean work requiring recognition, evaluation, organization, analysis, and communication of relevant facts and legal concepts."

Debate ensued related to whether the current definition included individuals who are conducting paralegal work but may not be called paralegals (i.e. legal contract administrators, government workers who do not carry the title paralegal but perform legal work, etc.) Most delegates, including Vermont, felt that NFPA standing definition was adequate as written as it already focuses on an individual's duties, not their title; therefore, *the resolution to amend the paralegal definition failed.*

However, the delegation voted to delete the word "practicing" from the NFPA bylaws. It was felt that the word "practicing" limited who could be a voting member of NFPA (and therefore serve as a NFPA coordinator). Vermont was among the handful of organizations that voted against this resolution, believing that non-practicing paralegals (which could include those that have transitioned into roles in which they no longer perform substantive paralegal work), despite education and previous work experience, could have interests that are significantly different than individuals who are currently performing paralegal work and should not have the voting power to direct the future of our profession. Despite our vote to the contrary, this bylaw revision passed as resolution 08-01.

Creation of an Entry Level Paralegal Exam

The Arkansas Paralegal Association proposed that NFPA create and fund a committee to study the feasibility of an entry level exam. Discussion related to whether there is a need for such an exam and whether NFPA's financial and human resources should be taken away from their Paralegal Advanced Competency Exam (PACE).

NFPA paralegal educators (who are also paralegals) argued that students are demanding such an exam. Students believe that such a credential would enhance their marketability; some are gaining this credential via the National Association of Legal Assistants (NALA). NALA created an entry level exam in 1975. Delegates debated NFPA's need to compete with NALA. Many believe that we lose members to NALA: if a student takes NALA's entry level exam, this person is likely to remain NALA-aligned during their paralegal career.

Other delegates argued for the creation of the exam as they felt it would hasten regulation efforts, one of NFPA's goals. Several Connecticut organizations noted that Connecticut is considering voluntary regulation and such an exam would be beneficial.

Further consideration of this topic was postponed so that it could be discussed informally in evening caucus. It was brought back to the assembly the following day in a simplified, and for many, a more palatable form. *Resolution 08-08, which passed by a large margin, will allow NFPA to form a committee to study the need to establish such an exam; however, "the committee is responsible for seeking sponsorship funding for any costs associated with their research."* The VPO supported the final resolution that was presented.

Changing the Educational Requirements re PACE Eligibility

Before the agenda topic regarding indefinitely extending the PACE grandparenting clause was introduced, the NFPA President clarified that past delegates previously voted to make the grandfathering clause permanent. This clause allows paralegals who obtained four years of paralegal work experience before December 31, 2000 to take the exam at any time, as long as the applicant has at least a high school education.

The Oregon Paralegal Association moved to remove the December 31, 2000 date and indefinitely extend the grandfathering period, essentially eliminating an educational requirement for the exam. The topic caused intense debate. Ann Price, the Director of PACE, supported the proposal noting that she receives “several” requests per month from people who wish to take PACE, but are ineligible due to the exam’s educational requirement. A few delegates agreed with Oregon and Ms. Price and spoke out in support of removing the educational prerequisites, stating that the exam itself should be a measure of a paralegal’s competency and that a person who passes the exam, regardless of their educational background, should be “qualified” as a paralegal.

However, most delegates argued against supporting this proposed resolution stating that:

- the purpose of the exam is to set standards for the profession, not to qualify individuals to be paralegals;
- by definition, having a standard means some people will be ineligible to take the exam; and,
- it would be unfair to those who have already taken and passed the exam to change the standards (set by prior delegates) at this point.

Others argued against doing away with the educational component by stating that most professional certification exams require education as part of their eligibility requirements. Delegates were asked to ponder whether, in other professions (i.e. a doctor), if someone were able to pass an exam, without obtaining formal education, would this be an acceptable means of certification?

In the end, most delegates, including Vermont, agreed that eliminating the educational requirement would not serve NFPA’s goals of promoting the future of the paralegal profession and was inherently unfair to those who had already taken the exam under the current standards. *The proposal to eliminate an educational requirement was defeated in a 34 to 8 vote.*

Defining When NFPA Can Support Proposed Regulation

Pennsylvania brought this year’s agenda topic that requested an amendment to the conditions that were established in 2002 and specify when NFPA can assist with proposed regulation. Pennsylvania requested NFPA be allowed to support regulation if requested by associations and most, but not all, of NFPA’s criteria were addressed in the regulatory proposal.

Currently, voluntary regulation is being proposed in Pennsylvania; however, because there is not a testing component to the proposed plan (which is one of NFPA's criteria), NFPA cannot assist the Pennsylvania organizations with establishing regulation. Pennsylvania contended that NFPA was established to help members and that the resolution passed by the 2002 delegates, setting out the criteria, "tied the hands" of NFPA with regard to helping associations establish regulation.

Others argued that NFPA must put the needs of the profession above individual organizations and most felt that any regulation plan, without all five criteria, would harm the professional standards of the paralegal profession.

Dialogue developed about the definitions of "assist" and "support." Most delegates and NFPA board members felt that the resolution passed in 2002 not only prevented NFPA from supporting proposed plans, but also prevented them from helping organizations via any of their resources - unless the proposed plan contained the five criteria. With that in mind, many organizations, including Vermont, voted to support a revised resolution. *Resolution 08-07 passed, allowing NFPA to assist organizations or states in establishing regulation if "at least 4 of the 5" NFPA criteria are met by a proposed regulatory plan.*

Model Plan for Voluntary Regulation

Resolution 08-05 was passed, after being sent back to the committee last year for further development. *The resolution approves a model plan for voluntary regulation.* It is NFPA's hope that their model, containing national goals, would be used in whole or in part by states or organizations that wish to establish voluntary regulation for paralegals.