

# Paralegal Focus

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Paralegal Focus is the quarterly newsletter of the Vermont Paralegal Organization.

Vermont Paralegal Organization is a Member of the National Federation of Paralegal Associations (NFPA).

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## President's Message

*By Carie Tarte, RP®*

As previously reported, the **VPO's 2014 Annual Meeting and Conference will be Thursday, May 15, 2014 at the Double-Tree on Williston Road in South Burlington.** We will have updates in the areas of real estate, criminal, family, and employment law, two sessions with an ethics component, as well as a presentation on cloud computing. Brochures with a registration form will be circulated via the listserv and posted to our website, so be on the lookout!

We are still looking for volunteers interested in assisting with the 2016 convention that Vermont will be hosting for the National Federation of Paralegal Associations. I realize 2016 seems like a lifetime away, however, by this time next year, NFPA will be looking to us for our logo, our motto, and a comprehensive list of potential vendors and sponsors. We need your help! As a reminder, you do not have to be a member of the VPO to assist on a committee. If you have a friend or relative in the marketing field who is artistic, or who knows Burlington like the back of his or her hand and would like to be on the welcome committee, or the marketing committee, please, please, please, encourage him or her to join a committee. Information regarding the committees and their functions are posted on the VPO Website under News + Events.

Last, but certainly not least, as you may have noticed in the 2014 Vermont Bar Association (VBA) Directory on page 9, we have a Paralegals Section/Division chaired by our own Professional Liaison, Melissa Young Wilcox. Last June, Melissa submitted a proposal to the VBA Board of Directors asking to establish a Paralegal Section in the VBA, and it was approved at the VBA Meeting of Directors held on July 19, 2013. There are currently 32 members of the Paralegals Section. VBA Sections are encouraged to submit articles for publication in *The Vermont Bar Journal* and to coordinate CLE opportunities. The Paralegals Section has already accomplished both items. The Section published an article titled "Equal Access to Justice: Paralegals and Limited Legal Licensure" in the Winter Edition of *The Vermont Bar Journal* (a copy of which is being published in this edition of our newsletter). The Section has also coordinated a CLE presentation on the same topic. It will be held on April 11th at the Capitol Plaza in Montpelier. The presenters include Supreme Court Justice Marilyn Skoglund, Attorneys Sandra Baird and Darby Herrington, and paralegals Laurie Noyes, RP, Kristin Mattes, RP and Melissa Young Wilcox. If you are not already an associate member of the VBA, I encourage you to join and become a part of the Paralegals Section.

## Editor's Message

*By Louise Reese*

I hope everyone has been keeping warm this winter. We are starting this year off with a one-two punch. First, we welcome Evelyn Wetzel as the new Membership Committee chairperson. Second, we have an article on paralegal licensing written by Melissa Young Wilcox, Carie Tarte, RP, and Heather Moreau, RP. Please take the time to read the complete article; it contains important information. Corinne Deering, RP, also brings to our attention that Carie Tarte and Kristin Mattes have passed PACE. Carie shares her insight into preparing for and taking the exam. We also have some reminders in the Did You Know column about changes in the rules, both federal and state.

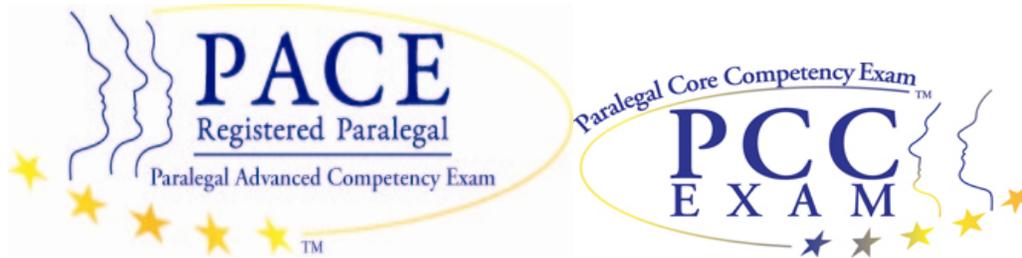
Remember that anyone can submit something for the newsletter. *The Paralegal Focus* is made great by the contributions of all of its members. If you have something to share, please email me at [lreese@dinse.com](mailto:lreese@dinse.com).



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*Remember Evelyn Wetzel, our Member Spotlight from last issue? She is now the face of the Membership Committee as the new chairperson, so I thought it was worth reprinting her photograph. Welcome, Evelyn!*



## **THE PCCE™ / PACE® POSTING**

*By Corinne Deering, RP®*

*Paralegal Certification Ambassador*

It's official; we have two new PACE Registered Paralegals® (RPs®). Congratulations to Carie Tarte, RP and Kristin Mattes, RP, who both recently received official notice that they passed PACE. Carie and Kristin can now use the RP designation and identify themselves as PACE Registered Paralegals. Carie has agreed to share her reasons for taking PACE and her experience taking the exam.

### ***Carie Tarte, RP***

I've been a paralegal now for almost 20 years. My career started as a Trust Administrator fresh out of my four-year Paralegal Studies program at Rivier College (now Rivier University) in Nashua, New Hampshire. I worked for a couple of years in the Trust Department for Chittenden Trust (now People's United Bank), but eventually I applied for and accepted a job in the area of my true passion—litigation.

I had been working at Paul Frank + Collins as a litigation paralegal for about three years when PACE first came out. While PACE piqued my interest, since I had a bachelor's degree from an ABA-approved program, I wasn't in any rush to grandfather myself into the exam. Whether it was laziness or intimidation, I decided to sit out the exam for a bit and see how others around me fared. No one from my firm even attempted PACE, and the only people I knew who had taken the exam had failed. It wasn't until I attended a paralegal leadership and regulatory conference that I really gave PACE a great deal of thought.

Over time, it occurred to me that until or unless there was some form of regulation for paralegals, anyone could say he or she was a paralegal, and hence, everyone would be considered on the same playing field in terms of pay. In an effort, both to elevate my status and earnings potential, and the paralegal field in general, I began to research ways in which paralegals could distinguish themselves from each other. I found that the best and easiest way to separate the "haves" from the "have-nots" was through some form of standardized knowledge-based testing and regulation. Before I knew it, I was singing the praises of certification exams—there was only one problem—I had never taken one myself.

Let's fast forward to the summer of 2013. Ever since college, I felt like my life had become a series of incomplete projects. I went through four years doing the Vermont Bar "Law Office Study" Program, but failed to take the bar exam. I had taken three out of four insurance examinations to get an Associate in Claims designation, but I just couldn't bring myself to take the last exam for the certification. Was PACE going to become another incomplete project for me? Luckily, I had Kristin Mattes in my office to push me to take the on-line prep course and eventually, the exam (spoiler alert: Kristin passed too).

To prepare for the exam, I read the assigned reading and answered the practice questions each week offered by the Advanced Paralegal Institute (API) on-line course. Once I completed the seven week course, I took the practice exam to determine my weaknesses. I also practiced the "flashcards" that the API course offered containing over 500 vocabulary words. I separated them by category into the various "domains" and areas of law (business law/corporations, employment law, intellectual property, conflict of interest/ethics, legal research and writing, family law, torts). In addition, for each area of law, I took comprehensive notes from the manual, and then supplemented those notes with additional information from outside sources. For example, I have never worked in the area of bankruptcy, so I accessed the "Bankruptcy Process and Procedure FAQs" on the website for United States Bankruptcy Court for more information. After allowing myself two weeks to study (studying one topic a night for 14 nights), I went to the Prometric Testing facility in Williston early on a Monday morning to take my exam.

The exam is in electronic form. You select responses with the click of a mouse, and you are able to "mark" the questions of which you are uncertain, which tells the computer that you wish to review only those marked questions when you are done (rather than re-review all 200 questions). I found the best strategy with the PACE questions is to look for clues in the question that help you to focus on the answer. Some examples are as follows: "It is best practice to *first* do," "all of the following *except*," "the *best* place to look," or "the *easiest* way to find." Also, there are generally two answers that have nothing to do with the question and those can be quickly eliminated. I actually used my fingers to cover up the two answers on the monitor that had nothing to do with the question so I could focus my eyes on the only two likely answers. Lastly, there were questions that were simply bad questions, whether they were poorly worded or they offered scenarios or answers that simply did not bear out in the real world. In those instances, go with the best of the worst. In other words, whichever answer is least controversial or would make the most sense given the circumstances.

It was an anxious 60 seconds as I waited for my "unofficial" pass or fail on the exam (and even when I did receive the news, it was sandwiched in small font in the middle of the screen). I couldn't recall a time when I was happier to see the word "PASS." Although my firm did support my taking the exam by reimbursing me for the exam and online course, my passing the exam has not impacted me at the firm. I am billed out at the same hourly rate as other paralegals in my office that neither have the certification, nor the same level of experience. I also did not receive any increase in pay as a result of passing the exam. Nevertheless, my main reasons for taking PACE were to prove to myself that I could complete something, and more importantly, that when I argue for examination-based certification to further the paralegal field for paralegals, my arguments no longer ring hollow. (Taking PACE also pushed me to complete the last exam to get my Associate in Claims designation.)

It is my personal hope that Vermont will eventually have some form of regulation for paralegals (whether it's registration, certification or licensure). If and when that day comes, it should include some knowledge-based component. I feel it is only at that point that we will truly be considered professional and be treated and compensated as such.

## **EQUAL ACCESS TO JUSTICE: PARALEGALS AND LIMITED LEGAL LICENSURE**

*By Melissa Young Wilcox, Carie Tarte, RP® & Heather Moreau, RP®*

Equal justice for all is the foundation of Vermont's legal system. In September 2001, the Vermont Supreme Court's Committee on Equal Access to Legal Services determined that there is limited access to civil legal assistance for Vermont residents. The Equal Access to Justice Coalition was formed in 2004 and has since strived to address this need. Vermont Legal Aid, Vermont Law Line, Have Justice Will Travel, free legal clinics, and attorneys offering pro-bono and low-bono services are important resources. Unfortunately, there still remain a significant number of Vermonters in need of legal services without access to representation.

According to recent data obtained from the Court Administrator's Office, there are a large number of pro se litigants in both the Civil and Family Divisions of Vermont Superior Court. Of active divorce cases 54% are pro se. 84 % of active parentage cases are pro se. Of foreclosure actions 1% of plaintiffs and 74% of defendants are pro se. 2% of plaintiffs and 85% of defendants in collections cases are pro se. Of landlord tenant cases, 24% of plaintiffs and 90% of defendants are pro se. Of small claims actions 64% of plaintiffs and 94% of defendants are pro se. It is clear from these statistics that there is a noticeable discrepancy between represented plaintiffs and pro se defendants. Vermont paralegals want to help bridge this gap and be able to provide direct limited legal assistance to the self-represented.

Board members of both the Vermont Paralegal Organization (VPO) and the Vermont Bar Association (VBA) met this past spring to discuss, among other things, the potential stratification of the legal profession, paralegal licensure, pro bono clinics, and the ethical considerations related to these issues. Both organizations agreed that continued communication and collaboration between them would be beneficial. The VPO Board submitted a proposal to the VBA requesting the creation of a paralegal section. The VBA approved the proposal and established the Paralegals Section in July of 2013. The Section's first order of business is planning a dinner and CLE event regarding the topic of limited legal licensure. This topic was addressed at the VBA's 2013 mid-year meeting and it is the Section's goal to continue the dialog until a solution is implemented.

### **Washington State Is Doing It; Is Vermont Ready?**

In November 2001, the Washington State Supreme Court made a historic decision commissioning the Task Force on Civil Equal Justice Funding. The Task Force was, in part, directed to conduct a study of the civil legal needs of Washington's low-income residents, determine the degree to which these needs were being addressed, and develop proposals for long-term sustainable funding to ensure that basic legal assistance is available.

In September 2003, the Task Force concluded its study and published its findings in the *The Washington State Civil Legal Needs Study*. The study concluded that low income residents of Washington State had limited access to affordable legal services despite having important legal problems. The results of the study prompted an initiative to find ways to reduce the cost of legal services while continuing to maintain quality and reliability of services. The concept of limited legal licensure for non-lawyers emerged.

On September 3, 2013, upon the recommendation of the Washington Practice of Law Board, the Washington State Supreme Court adopted New APR 28 – Limited Practice Rule for Limited License Legal Technicians (New APR 28).<sup>1</sup> New APR 28 authorizes certain non-lawyers to render limited legal assistance or advice in approved practice areas.

### **Regulations for Limited License Legal Technicians Application Requirements**

Under New APR 28, in order for a non-lawyer to render limited legal assistance and become a Limited License Legal Technician (LLLT) in Washington State, an applicant must:

- 1.) *Age.* Be at least 18 years of age;
- 2.) *Moral Character and Fitness to Practice.* Be of good moral character and demonstrate fitness to practice as an LLLT;
- 3.) *Education.* Have the following education, unless waived by the Limited License Legal Technician Board<sup>2</sup> (the Board) through regulation:
  - a.) an associate level degree or higher;
  - b.) 45 credit hours of core curriculum instruction in paralegal studies as approved by the Board with instruction to occur at an ABA approved law school or ABA approved paralegal education program;
  - c.) In each practice area in which an applicant seeks licensure, instruction in the approved practice area, which must be based on a curriculum developed by or in conjunction with an ABA approved law school. For each approved practice area, the Board shall determine the key concepts or topics to be covered in the curriculum and the number of credit hours of instruction required for admission in that practice area.
  - d.) For the purposes of satisfying the education requirements, one credit hour shall be equivalent to 450 minutes of instruction.
- 4.) *Application.* Submit an application under oath to the Board.
- 5.) *Examination Fee.* Pay the examination and any other application fees.

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<sup>1</sup> For a complete copy of New APR 28 with more details regarding licensing fees, malpractice insurance, financial responsibility and core curriculum requirements for LLLTs see: [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=APR&ruleid=gaapr28](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaapr28).

<sup>2</sup> The Limited License Legal Technician Board consists of 13 members appointed by the Washington State Supreme Court, 9 members are active lawyers, 4 members are non-lawyer residents and at least one member shall be a legal educator (note in original).

### **Licensing Requirements**

Under New APR 28, in order for a non-lawyer to obtain licensure as a Limited License Legal Technician, an applicant must:

1. *Examination.* Take and pass the examination provided for in New APR 28;
2. *Experience.* Acquire 3,000 hours of substantive law-related work experience supervised by a licensed lawyer. The experience must be acquired no more than three years prior to licensure and no more than three years after passing the examination.
3. *Annual License Fee.* Pay the annual license fee.
4. *Financial Responsibility.* Show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rule. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe; and
5. Meet all other licensing requirements set forth in the rules and regulations proposed by the Board and adopted by the Supreme Court.

In addition to providing education, experience and licensing regulations for applicants, New APR 28 also prescribes the specific scope of practice authorized, the conditions under which a LLLT may provide services, specific prohibited acts, continuing licensing requirements, the professional responsibility of LLLTs and the parameters of the LLLT-Client relationship.

### **Vermont Paralegals Are Not Regulated**

As noted in Washington's New APR 28, safeguarding the general public from incompetent legal assistance means requiring legal professionals to obtain and maintain certain education and experience. Currently, there are no regulations or mandatory standards in Vermont to become a paralegal. While the VPO does require a certain level of combined education and experience in order to be a voting member of its organization, one does not have to become a VPO member to work as a paralegal in Vermont. Likewise, the VBA has requirements that must be met before a paralegal may become an associate member of the VBA but VBA membership is also not a requirement to work as a paralegal.

Although paralegals are not required to obtain certification in Vermont, voluntary certification is available. The Paralegal Advanced Competency Examination (PACE) is a national certification examination administered by the National Federation of Paralegal Associations. PACE was developed by a professional testing firm in conjunction with an independent task force of paralegals, lawyers, paralegal educators and legal advocates. It is administered by computer in a proctored testing facility, consists of two-hundred multiple-choice questions and must be completed in four hours. The questions on PACE are not practice-area specific. They often involve hypothetical scenarios that require advanced application of general legal knowledge, paralegal experience, and critical analysis to identify the correct answer. The exam is organized into five domains: (1) administration of client legal matters (23%); (2) development of client legal matters (30%); (3) factual and legal research (22%); (4) factual and legal writing (20.5%), and (5) office administration (4.5%). Ethics, technology, and legal terminology are incorporated into each domain.

Nine Vermont paralegals have voluntarily taken PACE and have successfully obtained their Registered Paralegal (RP®) designation. Other certification exams exist for paralegals but because the VPO is affiliated with the National Federation of Paralegal Associations, most Vermont paralegals who have decided to seek certification have done so by passing PACE.

Many other Vermont paralegals are certificated, meaning they have completed and passed a certificate or degree program in paralegal studies.

### **Paralegals and Equal Access to Civil Justice**

Through their website the VPO receives approximately two requests per month from people in need of legal assistance. These requests range from preparing Family Division forms to legal research. To do such tasks, Vermont paralegals are required to have attorney supervision or they risk engaging in the unauthorized practice of law. A question from a potential client as seemingly innocuous as, “should I sign and return this form?” is problematic for a paralegal. Answering such a question could be considered legal advice and the unauthorized practice of law. In every instance for direct legal assistance, the VPO must respectfully decline and point the individual to another resource. If Vermont adopts limited legal licensure, paralegals will be able to provide limited direct legal assistance.

Vermont paralegals also volunteer at free legal clinics in both Chittenden and Washington Counties. In Chittenden County, Women Helping Battered Women offers free legal clinics every Monday night. In Washington County, a clinic is being run through the collaborative efforts of the VPO, the firm of Primer Piper Eggleston & Cramer, and a non-profit group called Circle (formerly known as Battered Women’s Service and Shelter). In addition, Burlington College holds free legal clinics on Saturday mornings as part of its Paralegal Certificate Program under the supervision of Attorney Sandy Baird. These clinics are invaluable, but their resources are limited and the need for services is great.

The primary role of the paralegals in these clinics is legal triage. Paralegals interview the service users to determine their needs and the scope of assistance required. This helps to better prepare the attorneys and saves time. The paralegals also prepare necessary forms for attorney review and help to determine if there are other area resources that may be available. Paralegals with limited licensure status could contribute significantly more in needed legal services and the demand for attorney involvement could be directed to the more complex matters.

### **Paralegals: A Valuable Resource**

According to the Bureau of Labor Statistics’ 2011 employment survey, there are over five hundred paralegals working in Vermont. Despite the lack of regulation, many of these paralegals have voluntarily sought legal education, a paralegal certificate, or even national certification. Vermont paralegals care about their work. They care about the legal profession. Most importantly, they care about providing Vermonters with high quality, cost-effective legal services. If the Vermont Supreme Court adopts a limited licensure regulation, many paralegals will complete the necessary requirements and prove to be outstanding legal resources for Vermonters.

**About the Authors:** **Melissa Young Wilcox** is Section Chair of the VBA Paralegals Section. Melissa is a civil litigation paralegal and law clerk at Darby, Thorndike, Kolter & Nordle, LLP in Waterbury. She serves on the Board of the VPO as Professional Liaison and Ethics Committee Chair and is a member of the Central Vermont American Inn of Court (CVAIC). **Carie Tarte, RP®** is the President of the VPO. Carie is a civil and criminal litigation paralegal at Sheehy Furlong and Behm, PC in Burlington, Vermont. In addition to being Board President, Carie is also the VPO's Scholarship Committee Chair, Continuing Legal Education Committee Chair, and Sponsorship Committee Chair. **Heather Moreau, RP®** is the Senior Paralegal and Firm Manager at Maley and Maley, PLLC in Burlington, Vermont. Heather earned her Registered Paralegal designation after passing the Paralegal Advanced Competency Exam in 2012. She previously held various positions on the VPO board, including being former Professional Liaison and Ethics Committee Chair and serving as Vermont's representative to the National Federation of Paralegal Associations, Inc.

This article was originally published in the Vermont Bar Journal, Winter, 2014, at p. 18.

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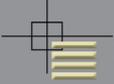



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## Did you Know?

Please do not forget that the Federal Rules of Civil Procedure 45 which relates to subpoenas was amended effective December 1, 2013. There are several changes of which you should be aware, so please go online and review the revised rule. You can find a link to the federal rules on the District of Vermont court's website.  
[www.vtd.uscourts.gov](http://www.vtd.uscourts.gov)

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### Order Promulgating Amendments to Rules 7 and 7.1 of the Vermont Rules for Family Proceedings

This Order promulgated on January 22, 2014, is effective March 24, 2014. Rule 7, applicable to appointment of guardians ad litem (GALs) and attorneys for minors in proceedings under Rules 4 and 9, is replaced by a revised version intended to address issues that have arisen under the original rule.

This Order and can be found on our website at the following address:

<https://www.vermontjudiciary.org/LC/Statutes%20and%20Rules/PROMULGATEDVRF7and7.1.pdf>



**NFPA's 2014 convention is in Dallas, Texas!**

REMINDERS:

Convention registration will open July 1, 2014.

Awards and scholarship details will be announced in the Spring.

Submissions for both must be postmarked by July 1, 2014.



## National Pro Bono Celebration

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### October 19 - 25, 2014

*"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." ~ Margaret Mead*

NFPA's **Pro Bono Coordinator** for 2013-2014 is Christine Flynn. She can be reached at [probono@paralegals.org](mailto:probono@paralegals.org).

#### Duties and Responsibilities

NFPA®'s *Pro Bono* Coordinator is responsible for researching and reviewing *pro bono* programs throughout the country in order to determine the types of programs available, the roles and responsibilities of paralegals in said programs, jurisdictional laws and rules governing the roles and responsibilities of paralegals involved in said programs; and new ways for paralegals to become involved in the delivery of *pro bono* services.

Additional duties and responsibilities include

- Increasing individual, association, and overall national awareness of the importance of *pro bono* services by submitting articles regarding paralegal involvement as well as overall trends in the national *pro bono* sector.
- Assisting member associations with the development of *pro bono* programs.
- Serving as a liaison for NFPA® with *pro bono* committees of allied legal professional organizations, such as the American Bar Association, in order to develop communications, promote paralegal involvement in *pro bono* programs, and share information.
- Assisting the Vice President and Director of Profession Development as necessary and appropriate to respond to inquiries and provide information concerning *pro bono* programs.
- Coordinating, as well as presenting information and materials, at the NFPA® *Pro Bono* Workshop during the NFPA® Convention (at the request of the NFPA® Board of Directors).
- Serving as the liaison to the ABA Standing Committee on *Pro Bono* and Public Service which includes attending Committee meetings (organized four times a year, including once during the ABA Equal Justice Conference).



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<sup>1</sup>Discounts and savings are available where state laws and regulations allow, and may vary by state. Certain discounts apply to specific coverages only. To the extent permitted by law, applicants are individually underwritten; not all applicants may qualify.

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# Vermont Paralegal Organization

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