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**PARALEGALS:
WHAT THEY CAN AND CANNOT DO**
**From gathering facts to trial preparation
and organization along the way**

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WHAT A PARALEGAL CANNOT DO

Unauthorized Practice of Law

In Texas, legal assistants can only work under the supervision of a licensed attorney. They are not permitted to represent or contract with any member of the public. Doing so would constitute a violation of the provision prohibiting the Unauthorized Practice of Law.¹

In addition to not engaging in the practice of law or giving legal advice, paralegals cannot accept cases or clients, set fees, or solicit legal business on behalf of the attorney.

This means that paralegals cannot approach people about hiring the attorneys or firms for which they work. A paralegal also cannot set fees and should not quote fees, even if the fees are flat rate.

A paralegal should not sign any pleading or legal document for an attorney, even with the attorney's permission. TRCP 57 states that pleadings shall be signed by the attorney if the person is represented by an attorney. Signing a pleading or other legal document could be considered UPL.

Attorneys and paralegals know that paralegals should not give legal advice. This also include telling the client what to do, except when it is stated that the attorney asked the paralegal to give the client this information

Conflict of Interest

Paralegals should know who the clients are that you represent and notify you of any potential conflict of interest. They should also notify you if they have worked on a particular case or on behalf of another party.

Certificate of Service

Paralegals/Legal Assistants may not sign certificates of service no matter how reasonable it may sound. TRCP21 specifies that only an attorney or a party may sign.

Texas Rules of Appellate Procedure states that the certificate of service must be signed by the person who made the service but does not specify that it must be an attorney. Since Texas Rules of Appellate-Procedure are based on the Texas Rules of Civil Procedure, the safest course is for the attorney to sign both the pleading and the certificate of service.

Federal Rules of Civil Procedure 5(d) does not specify that only an attorney may sign but does not designate who else may sign. Rule 11 state that all papers shall be signed by an attorney or the party if not represented by an attorney.

Business Cards or Letterhead

Paralegals may have a business card that includes the name of the employer provided the status of the legal assistant is clearly disclosed. The lawyer employer is charged with the

¹ 1. Tex. Gov't Code Ann., tit. 2, subtit. G app. (Vernon Supp. 1993) (State Bar Rules art. X, Sec. 9). 2. The purpose of the Division shall be to enhance legal assistant's participation in the administration of justice, professional responsibility and public service in cooperation with the State Bar of Texas.

responsibility of ensuring the card meets the same standards of dignity and accuracy as would be required for the lawyer's own card.²

Firms may include the names of paralegals and their certification on the letterhead but must also include a designation that the person is a paralegal and is not licensed to practice law.³

If you are interested in purchasing the Attorneys' Guide To Practicing With Legal Assistants, please contact the State Bar Sales desk. The cost is a mere \$15.00. The Guide is full of useful, practical information regarding the economics and effectiveness of utilizing legal assistants.

STATE BAR OF TEXAS (NAME OF DEPARTMENT) P.O. BOX 12487
AUSTIN, TEXAS 78711 800/204-2222 or 512/463-1463

² Texas Ethics Opinion 403

³ Texas Ethics Opinion 436