

Preamble: A Licensed Paralegal Practitioner's Responsibilities.

1 [1] A licensed paralegal practitioner is a representative of clients, an officer of the legal system
2 and a public citizen having special responsibility for the quality of justice. Every licensed paralegal
3 practitioner is responsible to observe the law and the Licensed Paralegal Practitioner Rules of
4 Professional Conduct, shall take the Licensed Paralegal Practitioner's Oath upon licensure as a
5 licensed paralegal practitioner, and shall be subject to the Rules of Licensed Paralegal Practitioner
6 Discipline and Disability.

7 Licensed Paralegal Practitioner's Oath

8 "I do solemnly swear that I will support, obey and defend the Constitution of the United States
9 and the Constitution the State of Utah; that I will discharge the duties of licensed paralegal
10 practitioner as an officer of the courts of this State with honesty, fidelity, professionalism, and
11 civility; and that I will faithfully observe the Licensed Paralegal Practitioner Rules of Professional
12 Conduct and the Standards of Professionalism and Civility promulgated by the Supreme Court of
13 the State of Utah."

14 [2] As a representative of clients, a licensed paralegal practitioner performs various functions.
15 As advisor, a licensed paralegal practitioner provides a client with an informed understanding of
16 the client's legal rights and obligations and explains their practical implications. As advocate, a
17 licensed paralegal practitioner zealously asserts the client's position under the rules of the
18 adversary system. As negotiator, a licensed paralegal practitioner seeks a result advantageous to
19 the client but consistent with requirements of honest dealings with others. A licensed paralegal
20 practitioner's representation of a client does not constitute an endorsement of the client's political,
21 economic, social or moral views or activities.

22 [3] In addition to these representational functions, a licensed paralegal practitioner may serve
23 as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other
24 matter. Some of these Rules apply directly to licensed paralegal practitioners who are or have
25 served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are rules that apply
26 to licensed paralegal practitioners who are not active in the practice of law or to practicing licensed
27 paralegal practitioners even when they are acting in a nonprofessional capacity. For example, a
28 licensed paralegal practitioner who commits fraud in the conduct of a business is subject to
29 discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See
30 Rule 8.4.

31 [4] In all professional functions a licensed paralegal practitioner should be competent, prompt
32 and diligent. A licensed paralegal practitioner should maintain communication with a client
33 concerning the representation. A licensed paralegal practitioner should keep in confidence
34 information relating to representation of a client except so far as disclosure is required or permitted
35 by the Licensed Paralegal Practitioner Rules of Professional Conduct or other law.

36 [5] A licensed paralegal practitioner's conduct should conform to the requirements of the law,
37 both in professional service to clients and in the licensed paralegal practitioner's business and
38 personal affairs. A licensed paralegal practitioner should use the law's procedures only for
39 legitimate purposes and not to harass or intimidate others. A licensed paralegal practitioner should
40 demonstrate respect for the legal system and for those who serve it, including judges, attorneys,
41 other licensed paralegal practitioners and public officials. While it is a licensed paralegal

42 practitioner's duty, when necessary, to challenge the rectitude of official action, it is also a licensed
43 paralegal practitioner's duty to uphold legal process.

44 [6] As a public citizen, a licensed paralegal practitioner should seek improvement of the law,
45 access to the legal system, the administration of justice and the quality of service rendered by the
46 legal profession. In addition, a licensed paralegal practitioner should further the public's
47 understanding of and confidence in the rule of law and the justice system because legal institutions
48 in a constitutional democracy depend on popular participation and support to maintain their
49 authority. A licensed paralegal practitioner should be mindful of deficiencies in the administration
50 of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford
51 adequate legal assistance and, therefore, all licensed paralegal practitioners should devote
52 professional time and resources and use civic influence in their behalf to ensure equal access to
53 our system of justice for all those who because of economic or social barriers cannot afford or
54 secure adequate legal counsel. A licensed paralegal practitioner should aid the legal profession in
55 pursuing these objectives and should help the Bar regulate itself in the public interest.

56 [7] Many of a licensed paralegal practitioner's professional responsibilities are prescribed in
57 the Licensed Paralegal Practitioner Rules of Professional Conduct, as well as substantive and
58 procedural law. However, a licensed paralegal practitioner is also guided by personal conscience
59 and the approbation of professional peers. A licensed paralegal practitioner should strive to attain
60 the highest level of skill, to improve the law and the legal profession and to exemplify the legal
61 profession's ideals of public service.

62 [8] A licensed paralegal practitioner's responsibilities as a representative of clients, an officer
63 of the legal system and a public citizen are usually harmonious. Thus, a licensed paralegal
64 practitioner can be sure that preserving client confidences ordinarily serves the public interest
65 because people are more likely to seek legal advice, and thereby heed their legal obligations, when
66 they know their communications will be private.

67 [9] In the nature of law practice, however, conflicting responsibilities are encountered.
68 Virtually all difficult ethical problems arise from conflict between a licensed paralegal
69 practitioner's responsibilities to clients, to the legal system and to the licensed paralegal
70 practitioner's own interest in remaining an ethical person while earning a satisfactory living. The
71 Licensed Paralegal Practitioner Rules of Professional Conduct often prescribe terms for resolving
72 such conflicts. Within the framework of these Rules, however, many difficult issues of
73 professional discretion can arise. Such issues must be resolved through the exercise of sensitive
74 professional and moral judgment guided by the basic principles underlying the Rules. These
75 principles include the licensed paralegal practitioner's obligation zealously to protect and pursue a
76 client's legitimate interests, within the bounds of the adversarial system, while maintaining a
77 professional, courteous and civil attitude toward all persons involved in the legal system.

78 [10] The legal profession is largely self-governing. Although other professions also have been
79 granted powers of self-government, the legal profession is unique in this respect because of the
80 close relationship between the profession and the processes of government and law enforcement.
81 This connection is manifested in the fact that ultimate authority over the legal profession is vested
82 largely in the courts.

83 [11] To the extent that licensed paralegal practitioners meet the obligations of their professional
84 calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the

85 legal profession's independence from government domination. An independent legal profession is
86 an important force in preserving government under law, for abuse of legal authority is more readily
87 challenged by a profession whose members are not dependent on government for the right to
88 practice.

89 [12] The legal profession's relative autonomy carries with it special responsibilities of self-
90 government. The profession has a responsibility to ensure that its regulations are conceived in the
91 public interest and not in furtherance of parochial or self-interested concerns of the Bar. Every
92 licensed paralegal practitioner is responsible for observance of the Licensed Paralegal Practitioner
93 Rules of Professional Conduct. A licensed paralegal practitioner should also aid in securing their
94 observance by other licensed paralegal practitioners and lawyers. Neglect of these responsibilities
95 compromises the independence of the profession and the public interest which it serves.

96 [13] Licensed paralegal practitioners play a vital role in the preservation of society. The
97 fulfillment of this role requires an understanding by licensed paralegal practitioners of their
98 relationship to our legal system. The Licensed Paralegal Practitioner Rules of Professional
99 Conduct, when properly applied, serve to define that relationship.

100 Scope

101 [14] The Licensed Paralegal Practitioner Rules of Professional Conduct are rules of reason.
102 They should be interpreted with reference to the purposes of legal representation and of the law
103 itself. Some of the Rules are imperatives, cast in the terms "shall" or "shall not." These define
104 proper conduct for purposes of professional discipline. Others, generally cast in the term "may,"
105 are permissive and define areas under the Rules in which the licensed paralegal practitioner has
106 discretion to exercise professional judgment. No disciplinary action should be taken when the
107 licensed paralegal practitioner chooses not to act or acts within the bounds of such discretion. Other
108 Rules define the nature of relationships between the licensed paralegal practitioner and others. The
109 Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they
110 define a licensed paralegal practitioner's professional role. Many of the Comments use the term
111 "should." Comments do not add obligations to the Rules but provide guidance for practicing in
112 compliance with the Rules.

113 [15] The Rules presuppose a larger legal context shaping the licensed paralegal practitioner's
114 role. That context includes court rules and statutes relating to matters of licensure, laws defining
115 specific obligations of licensed paralegal practitioners and substantive and procedural law in
116 general. The Comments are sometimes used to alert licensed paralegal practitioners to their
117 responsibilities under such other law.

118 [16] Compliance with the Rules, as with all law in an open society, depends primarily upon
119 understanding and voluntary compliance, secondarily upon reinforcement by peer and public
120 opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The
121 Rules do not, however, exhaust the moral and ethical considerations that should inform a licensed
122 paralegal practitioner, for no worthwhile human activity can be completely defined by legal rules.
123 The Rules simply provide a framework for the ethical practice of law.

124 [17] Furthermore, for purposes of determining the licensed paralegal practitioner's authority
125 and responsibility, principles of substantive law external to these Rules determine whether a
126 licensed paralegal practitioner-client relationship exists. Most of the duties flowing from the

127 licensed paralegal practitioner-client relationship attach only after the client has requested the
128 licensed paralegal practitioner to render legal services and the licensed paralegal practitioner has
129 agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach
130 when the licensed paralegal practitioner agrees to consider whether a licensed paralegal
131 practitioner-client relationship shall be established. See Rule 1.18. Whether a licensed paralegal
132 practitioner-client relationship exists for any specific purpose can depend on the circumstances
133 and may be a question of fact.

134 [18] Reserved.

135 [19] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for
136 invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a licensed
137 paralegal practitioner's conduct will be made on the basis of the facts and circumstances as they
138 existed at the time of the conduct in question and in recognition of the fact that a licensed paralegal
139 practitioner often has to act upon uncertain or incomplete evidence of the situation. Moreover, the
140 Rules presuppose that whether or not discipline should be imposed for a violation, and the severity
141 of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the
142 violation, extenuating factors and whether there have been previous violations.

143 [20] Violation of a rule should not itself give rise to a cause of action against a licensed
144 paralegal practitioner nor should it create any presumption in such a case that a legal duty has been
145 breached. In addition, violation of a rule does not necessarily warrant any other nondisciplinary
146 remedy. The Rules are designed to provide guidance to licensed paralegal practitioners and to
147 provide a structure for regulating conduct through disciplinary agencies. They are not designed to
148 be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are
149 invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a licensed
150 paralegal practitioner's self-assessment, or for sanctioning a licensed paralegal practitioner under
151 the administration of a disciplinary authority, does not imply that an antagonist in a collateral
152 proceeding or transaction has standing to seek enforcement of the rule. Nevertheless, since the
153 Rules do establish standards of conduct by licensed paralegal practitioners, a licensed paralegal
154 practitioner's violation of a rule may be evidence of breach of an applicable standard of conduct.

155 [21] The comment accompanying each rule explains and illustrates the meaning and purpose
156 of the rule. The Preamble and this note on Scope provide general orientation. The comments are
157 intended as guides to interpretation, but the text of each rule is authoritative.

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