

Hot Topics: UPL and Confidentiality
January 12, 2010
CVCC Auditorium - 6:00 pm
Leslie D. McKesson, Presenter

1. Introduction: Definition and Purpose of Ethical Standards (10 minutes)
 - a. Introduction
 - i. Why have ethical standards?
 - ii. Who sets the standards?
 - iii. Who enforces the standards?
 - iv. What gives them authority to enforce these standards?
 - v. What happens when one fails to meet the standards?
 - b. Forms of Regulation
 - i. North Carolina State Bar
 1. Mandatory Attorney licensure
 2. Voluntary Paralegal certification
 - ii. Courts
 - iii. Voluntary Professional organizations
 1. NCBA, NCSB (NCCP) NALA, NFPA, NALS, AAPI, etc.
 - iv. Forms of discipline
 - v. How paralegals are impacted by the various regulatory efforts
2. Unauthorized Practice of Law (30 minutes)
 - a. "Defining" and limiting the practice of law (NCGS §84-2.1, 84-4,84-8)
 - b. Recognizing UPL
 - i. Know your supervising attorney
 1. Responsibility for preventing UPL (RPC 5.3, 5.5)
 2. Responsible for all interpretations of law
 - ii. Know the statutes and the Revised RPC (NCGS 84-37)
 - iii. Know the standards of your professional organization
 - iv. Avoid the following;
 1. Giving legal advice
 2. Drafting legal documents without supervision
 3. Representing others before a decision making body
 - c. Responding to UPL
 - i. Inform your supervising attorney of your concerns
 - d. Knowing what happens next

3. Confidentiality (RPC 1.6, 1.18) (15 minutes)
- a. Changing firms
 - i. Quarantine” aka “cone of silence”/“Chinese wall”
 - ii. Communication with supervisors
 - 1. Termination interview with old firm
 - i. Review office-specific memberships or appointments for possible termination or re-assignment
 - 2. Orientation and “troubleshooting” with new firm
 - iii. Electronic data
 - 1. Purge office documents from personal computers and portable media
 - 2. Determine new office policy on use of personal media (home PC, laptop, cell phone, etc.)
 - b. Confidentiality in the information age
 - i. Fax machines
 - ii. E-mail
 - iii. Internet (World wide web)
 - iv. Wireless internet access
 - v. Laptop/mini computers
 - vi. Document security
 - vii. CRT screens
 - viii. Flash drives and portable media storage
 - ix. Cell phones
 - x. Online conferencing/discussion groups
 - xi. Social and professional networking
4. Question and Answer Period (5 minutes)