

The Supreme Court of South Carolina

Re: Certification Program for South Carolina Paralegals

Appellate Case No. 2015-001110

ORDER

The Chief Justice's Commission on the Profession has requested that this Court adopt a program for the voluntary certification of paralegals in South Carolina. The purpose of a paralegal certification program is to assist in the delivery of legal services to the public by identifying individuals who are qualified by education, training, and experience and who have demonstrated knowledge, skill, and proficiency to perform substantive legal work under the direction and supervision of a lawyer licensed in South Carolina.

Pursuant to Article V, § 4 of the South Carolina Constitution, we hereby adopt Rule 429, SCACR, and Appendix G to Part IV, SCACR.

Rule 429 and the regulations contained in Appendix G are effective immediately. A copy of the rule and the regulations is attached.

s/ Jean H. Toal _____ C.J.

s/ Costa M. Pleicones _____ J.

s/ Donald W. Beatty _____ J.

s/ John W. Kittredge _____ J.

s/ Kaye G. Hearn _____ J.

Columbia, South Carolina
November 12, 2015

RULE 429

CERTIFICATION OF PARALEGALS

(a) Purpose. The purpose of certification of South Carolina's paralegals is to assist in the delivery of legal services to the public by identifying individuals who are qualified by education, training, and experience and who have demonstrated knowledge, skill, and proficiency to perform substantive legal work under the direction and supervision of a lawyer licensed in South Carolina.

(b) Board of Paralegal Certification. The South Carolina Board of Paralegal Certification (Board) shall have jurisdiction over the certification of paralegals in South Carolina. The responsibility for operating the paralegal certification program rests with the Board, subject to regulations approved by the Supreme Court of South Carolina ("Court").

(c) Size and Composition of Board. The Chief Justice shall appoint the members of the Board based on nominations from the Board of Governors of the South Carolina Bar. The Board shall have nine members, five of whom must be Regular members of the South Carolina Bar in good standing. Four members of the Board shall be paralegals certified under the program, provided, however, that the paralegals appointed to the inaugural Board shall be exempt from this requirement during their initial terms, but shall be eligible for certification by the Board.

(d) Responsibilities of the Board. Subject to the jurisdiction of the Court, the Board shall have the responsibility to:

- (1) prepare and publish applications and other forms required by the regulations for certification of paralegals;
- (2) certify paralegals or deny or revoke the certification of paralegals;
- (3) evaluate and approve continuing paralegal education courses for the purpose of meeting the continuing paralegal education requirements established by the regulations; and
- (4) recommend to the Court any changes regarding fees set forth in the regulations.

(e) Regulations. Regulations may be promulgated by the Court or the Board. Regulations will be effective only upon approval by the Court.

REGULATIONS FOR CERTIFICATION OF PARALEGALS

I. SCOPE AND PURPOSE

These regulations implement Rule 429, SCACR.

II. MEMBERSHIP

A. The Board of Governors of the South Carolina Bar shall nominate persons to serve on the South Carolina Board of Paralegal Certification ("Board") for appointment by the Chief Justice. Terms shall be for three years, and initial appointments and subsequent appointments may be for terms less than three years to accomplish staggered terms and so that three members are appointed each year with a mix of lawyers and paralegals in rotation. Terms shall continue until successor members are appointed.

B. Vacancies occurring by reason of death, resignation, or removal shall be filled by appointment of the Chief Justice following nomination by the Board of Governors.

C. Any member of the Board may be removed at any time by order of the Chief Justice.

D. The members of the Board are absolutely immune from suit for acts carried out under their duties pursuant to these regulations.

III. CHAIRPERSON

The Board of Governors of the South Carolina Bar shall nominate a lawyer member of the Board as chairperson for appointment by the Chief Justice. The chairperson shall preside and present the annual report of the Board to the Supreme Court. The chairperson may appoint a vice-chairperson from members of the Board.

IV. FISCAL RESPONSIBILITY

Funding for the program carried out by the Board shall come from such application fees, annual fees, or renewal fees as the Court may establish.

V. MEETINGS; QUORUM; VOTING

A. The Board will meet at least once annually at the call of the chairperson. Notice of the time and place of the annual meeting will be given at least two weeks in advance of the meeting. Special meetings of the Board may be called at any time upon notice given by the chairperson. Notice of meeting shall be given at least twenty-four (24) hours prior to the meeting by electronic mail or telephone. Meetings may be convened by telephone conference call, videoconference, or Internet conference.

B. At all meetings, five members will constitute a quorum. The latest edition of Robert's Rules of Order will govern proceedings.

C. Voting may be in person, by letter, by telephone, by fax, or by email. Members may vote by proxy if the proxy is in writing, signed, and received by the chairperson prior to the convening of the meeting.

VI. ANNUAL REPORT

The Board shall prepare a report of its activities for the preceding year and submit the report to the Clerk of the Supreme Court no later than August 1 of each year.

VII. LIMITATIONS

A. No person shall be required to be certified as a paralegal to be employed by a lawyer as a paralegal to assist the lawyer in the practice of law.

B. Any person certified as a paralegal under this plan shall be entitled to represent that he or she is a "South Carolina Certified Paralegal."

VIII. STAFF; COMMITTEES

A. The South Carolina Bar will provide administrative assistance to the Board and any committees from funds provided through the certification process. The Bar may use the funds for purposes necessary to support administrative staff and may deposit the funds at interest in federally insured banks or savings and loan associations located in the State of South Carolina. The Board may delegate to staff administrative responsibilities for certification and other matters in these regulations.

B. The Board may establish a separate certification committee and such other committees as it requires to conduct its work. The certification committee shall be composed of members appointed by the Board, one of whom shall be designated annually by the chairperson of the Board as chairperson of the certification committee.

C. Meetings of the certification committee shall be held at regular intervals at such times, places, and upon such notices as the committee may from time to time prescribe or upon direction of the Board.

D. The certification committee shall advise and assist the Board in the implementation and regulation of this program. The certification committee shall be charged with actively administering the program as follows:

(1) upon request of the Board, the certification committee may make recommendations to the Board for certification, continued certification, denial of certification, or revocation of certification of paralegals and for procedures with respect thereto; and

(2) perform such other duties and make such other recommendations as may be delegated to or requested by the Board.

IX. STANDARDS FOR CERTIFICATION OF PARALEGALS

A. To qualify for certification as a paralegal, an applicant must:

(1) Pay an annual fee of \$50.00; and

(2) At the time of application, be designated as a Certified Legal Assistant (CLA)/Certified Paralegal (CP) or PACE-Registered Paralegal (RP).

B. No individual may be certified as a paralegal if:

(1) the individual's certification or license as a paralegal in any state is under suspension or has been revoked;

(2) the individual is or was licensed to practice law in any jurisdiction and has been disbarred, is suspended from the practice of law, or resigned in lieu of discipline;

(3) the individual has been convicted of a criminal act that reflects adversely on the individual's honesty, trustworthiness, or fitness as a paralegal, or has engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; provided, however, the Board may certify an applicant if, after consideration of mitigating factors, including remorse, reformation of character, and the passage of time, the Board determines that the individual is honest, trustworthy, and fit to be a certified paralegal; or

(4) the individual is not a legal resident of the United States.

C. Applications shall be typewritten on forms provided by the Board. Each question shall be answered responsively or shown as "not applicable." Applications and the information included therein shall be sworn to by the applicant as being true and complete.

D. An applicant shall complete all requirements prior to application.

E. To assist in determining an applicant's entitlement to certification, the Board or the certification committee may require an applicant to submit information in addition to that called for on the application form.

F. All matters concerning the qualification of an applicant for certification, renewal, or matters related to revocation, including, but not limited to, applications, files, reports, investigations, hearings, findings, recommendations, and adverse determinations shall be confidential and shall not be disclosed except as necessary for the Board, the certification committee, or the Clerk of the Supreme Court to carry out their responsibilities.

X. CONTINUED CERTIFICATION; RENEWAL

A. The period of certification as a paralegal shall be one (1) year, and each certification year shall run from July 1 to June 30. During such period the Board may require evidence from the paralegal of his or her continued qualification for certification as a paralegal, and the paralegal must consent to inquiry by the Board regarding the paralegal's continued competence and qualification to be certified. Application for and approval of renewal of certification shall be required annually and shall be typewritten on forms provided by the Board. To qualify for renewal of certification as a paralegal, an applicant must demonstrate completion of the continuing paralegal education (CPE) requirements during the certification year within which the application for renewal is made.

B. Applications for renewal must be filed on or before July 1. A late fee of \$50.00 will be charged to any certified paralegal who fails to file the renewal application by July 31; provided, however, a renewal application will not be accepted after August 31. Failure to timely submit an application for renewal shall result in lapse of certification until the paralegal submits an application for renewal and pays any renewal fees and late fees. A certified paralegal who fails to file an application for renewal on or before August 31 must reapply for initial certification in accordance with Regulation IX.

XI. REVOCATION OF CERTIFICATION

A. The Board may revoke its certification of a paralegal, after a hearing before the Board on appropriate notice, upon a finding that:

- (1) the certification was made contrary to the rules and regulations of the Board;
- (2) the individual certified as a paralegal made a false representation, omission, or misstatement of material fact to the Board;
- (3) the individual certified as a paralegal failed to abide by these regulations;
- (4) the individual certified as a paralegal failed to pay the fees required;
- (5) the individual certified as a paralegal no longer meets the standards established by the Board for the certification of paralegals; or
- (6) the individual is not eligible for certification on one or more of the grounds set forth in Regulation IX(B).

B. An individual certified as a paralegal has a duty to inform the Board within thirty (30) days of any fact or circumstance described in Regulation XI(A).

C. If an individual's certification lapses, or if the Board revokes a certification, the individual cannot again be certified as a paralegal unless he or she so qualifies upon application made as if for initial certification and upon such other conditions as the Board may prescribe.

XII. CONTINUING PARALEGAL EDUCATION (CPE)

A. Each certified paralegal subject to these regulations shall complete twelve (12) hours of approved continuing education during each year of certification.

B. Of the twelve (12) hours, at least one (1) hour shall be devoted to the areas of professional responsibility or professionalism or any combination thereof.

(1) A professional responsibility course or segment of a course shall be devoted to:

(a) the substance, the underlying rationale, and the practical application of the Rules of Professional Conduct;

(b) the professional obligations of the lawyer to the client, the court, the public, and other lawyers, and the paralegal's role in assisting the lawyer to fulfill those obligations;

(c) the effects of substance abuse and chemical dependency, or debilitating mental condition on a lawyer's or a paralegal's professional responsibilities; or

(d) the effects of stress on a paralegal's professional responsibilities.

(2) Professionalism courses should address principles of competence and dedication to the service of clients, civility, improvement of the justice system, advancement of the rule of law, and service to the community.

XIII. CPE STANDARDS

A. Continuing education activities will be approved when the education experience is an organized program of learning dealing with matters directly related to the practice of law, professional responsibility, professionalism, or ethical obligations of paralegals, has significant intellectual or practical content, and has the primary objective of increasing the participant's professional competence and proficiency as a paralegal.

B. A certified paralegal may receive credit for continuing education activities in which live instruction or recorded material is used. Recorded material includes

videotaped or satellite transmitted programs and programs on electronic replay formats. A minimum of three certified paralegals must register to attend the presentation of a replayed prerecorded program. This requirement does not apply to participation from a remote location in the presentation of a live broadcast by telephone, satellite, or video conferencing equipment.

C. A certified paralegal may receive credit for participation in a course online. An online course is an educational seminar available on a provider's website reached via the internet.

D. Continuing education materials are to be prepared, and activities conducted, by an individual or group qualified by practical or academic experience in a setting physically suitable to the educational activity of the program and, when appropriate, equipped with suitable writing surfaces or sufficient space for taking notes.

E. Thorough, high quality, and carefully prepared written materials must be distributed to all attendees at or before the time the course is presented. These may include written materials printed from a computer presentation, computer website, or CD-ROM.

F. Any continuing legal education activity approved for lawyers by the South Carolina Commission on Continuing Legal Education and Specialization meets these standards.

G. In-house continuing education offered by the paralegal's employer solely for the paralegal and self-study shall not qualify for CPE credit.

H. A certified paralegal may receive credit for completion of a course offered by an ABA accredited law school for which academic credit may be earned. No more than six (6) CPE hours in any year may be earned by attending such courses. Credit shall be awarded as follows: 3.5 hours of CPE credit for every quarter hour of credit assigned to the course by the educational institution, or 5.0 hours of CPE credit for every semester hour of credit assigned to the course by the educational institution.

XIV. GENERAL COURSE APPROVAL

A. Continuing education activities may be approved by the Board, including those recommended by the certification committee, upon the written application of a

sponsor or of a certified paralegal on an individual program basis. An application for CPE approval shall meet the following requirements:

- (1) If advance approval is requested by a sponsor, the application and supporting documentation (i.e., the agenda with timeline, speaker information, and a description of the written materials) shall be submitted at least forty-five (45) days prior to the date on which the course or program is scheduled. If advance approval is requested by a certified paralegal, the application need not include a complete set of supporting documentation.
- (2) If more than five certified paralegals request approval of a particular program, either in advance of the date on which the course or program is scheduled or subsequent to that date, the program will not be accredited unless the sponsor applies for approval of the program and pays the accreditation fee set forth in XV.
- (3) Where advance approval is not requested, the application and supporting documentation must be submitted not later than forty-five (45) days after the date the course or program was presented.
- (4) The application shall be submitted on a form furnished by the Board.
- (5) The application shall contain all information requested on the form.
- (6) The application shall be accompanied by a course outline or brochure that describes the content, identifies the teachers, lists the time devoted to each topic, and shows each date and location at which the program will be offered.
- (7) The application shall include a detailed calculation of the total CPE hours and the hours of professional responsibility for the program.
- (8) If the sponsor has not received notice of accreditation within fifteen (15) days prior to the scheduled date of the program, the sponsor should contact the South Carolina Board of Paralegal Certification via telephone or e-mail.

B. Sponsors who have advance approval for courses from the Board may include in their brochures or other course descriptions the information contained in the following illustration:

This course [or seminar or program] has been approved by the South Carolina Board of Paralegal Certification for continuing paralegal education credit in the amount of ____ hours, of which ____ hours will also apply in the area of professional responsibility. This course is not sponsored by the Board of Paralegal Certification.

XV. FEES

Sponsors seeking accreditation for a particular CPE program that has not already been approved or accredited by the South Carolina Commission on Continuing Legal Education and Specialization shall pay a non-refundable fee of \$75.00.

XVI. TEACHING CREDIT

A. CPE credit may be earned for teaching an approved continuing education activity. Three CPE credits will be awarded for each thirty minutes of presentation. Repeat live presentations will qualify for one-half of the credit available for the initial presentation. No credit will be awarded for video replays.

B. CPE credit may be earned for teaching a course at a qualified paralegal studies program. Two (2) CPE credits will be awarded for each semester credit (or its equivalent) awarded to the course.