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President's Message

Thank you!

by Valerie Wilus, RP, PA.C.P. NFPA President

I want to say thank you! As this is my last message to all of you in the Reporter as your President, I wanted to let you know how I felt about these past two (2) years. My service to you has been both challenging and rewarding. Many obstacles stood in our way when I first took this position back in 2016 — the biggest of which was a management company that did not share the NFPA vision. Luckily by the end of 2017, we found a new management company, that fit both our current vision and our future outlook. All of which could not be possible without the tireless efforts of the Board and the support of our members. Your support gave us the energy needed to reach new heights and accomplish many lofty goals.

As a member, your engagement with NFPA has been inspiring to me. I have heard from many of you, some with good comments and suggestions, and even some complaints. All have been received, discussed and thought through by the Board. For example, you have all asked for more access to the Board and we have given it to you in the form of monthly telephonic meetings. The meetings have been helpful in the sense that a lot more of the business of the board is getting done on a timely basis, instead of through endless email exchanges or only during the 4 in-person (or telephonic) meetings per year. I believe it definitely helped this Board connect and communicate better.

Some of the changes that we made over this period of time came from the need to make updates and seek consistency within our practices. Other changes were put in place to help NFPA carry forward into the future. Some adjustments were minor in nature, like the format of the treasurer’s report, and some larger, like updating certain deadlines and having the Inside Reports go quarterly, instead of bimonthly. Some of the shiny achievements of the Board was that new alliances were made with other paralegal associations, the military and the American Bar Association. The NFPA brand is being noticed here in America, Canada and even overseas.

I hope you are noticing the updates and the renewed energy of NFPA. It has been my honor serving you. I, for one, am looking forward to the future of NFPA.

Valerie A. Wilus is a Litigation Paralegal with Ross Feller Casey, LLP, and has over 22 years of experience. Valerie currently serves as President of the National Federation of Paralegal Associations. She has previously served as President and has held other board member positions with the Philadelphia Association of Paralegals. She has also served as Chairperson of the Keystone Alliance of Paralegal Associations. Valerie is a Registered Paralegal (R.P.) through the National Federation of Paralegal Associations. She also obtained her Pennsylvania Certified Paralegal (Pa.C.P.) designation through the Keystone Alliance of Paralegal Associations.

Mission Statement: The National Federation of Paralegal Associations, Inc. promotes a global presence for the paralegal profession and leadership in the legal community.

Purpose: To advance the paralegal profession.
Dear Readers:

This is the Healthcare issue and it has many educational and informative articles about healthcare and the legal profession. Of special interest are the articles on page 14 about paralegals and healthcare careers, on page 18 about the healthcare directive, and on page 34 about Medicare and Medicaid.

There is also an interesting article on invisible disabilities on page 26 and an article about reading nutrition labels on page 28.

Don’t miss the pre-convention article on page 22 and the recap article on the Equal Justice Conference on page 6.

The Paralegal Reporter has been published by ROI Marketing Services for over 18 years. The time has come for a new direction, so this will be the last issue published by ROI.

We have enjoyed our relationship with NFPA, the multiple presidents, many board members and the numerous members we have known. We cherish the fond memories and wish NFPA all the best in the future.

Please direct all future article submissions and advertising inquiries to rachel@paralegals.org.

Dan O’Leary, Editor

If you are interested in the resources used in an article in this issue, please contact the author.

CORRECTION
We regret that the Summer issue article, “Certified v Certificated Paralegals: What’s the Difference and Why You Should Care” contained inaccurate information about NFPA’s certification programs. Please note the following corrections.
• If a candidate’s bachelor’s degree is not in paralegal studies, three years’ experience of substantive paralegal work is required for both PACE and PCCE applicants.
• To maintain the CRP certification, the paralegal must complete 8 hours of CLE every 2 years, including at least 1 hour of ethics.
• The PCCE eligibility requires a high school diploma at minimum.

Please contact certifications@paralegals.org with any questions. These corrections can be found in the complete article posted online at www.paralegals.org.
The 2018 American Bar Association (ABA)/National Legal Aid & Defenders Association (NLADA) Equal Justice Conference was held on May 10-12, 2018 at the Hilton San Diego Bayfront. Christine Flynn, NFPA Chair of Pro Bono and Community Service and NFPA Liaison, along with Teresa Scharf, President of the Paralegal Association of Columbus, Ohio and NFPA Pro Bono Committee member, were invited by the American Bar Association (ABA) to present a paralegal pro bono session at the conference. We also attended the various workshops while at the conference. We arrived in San Diego on Wednesday, May 9, 2018.

Thursday, May 10, 2018

On Thursday, May 10, 2018, we headed to the conference location for registration.

Following completion of registration, the Opening Plenary Session was held. The session included the following speakers: (1) Tani G. Cantil-Sakauye, Chief Justice of California; (2) Robert K. Ross, M.D., President and Chief Executive Officer for the California Endowment, a private, state-wide health foundation addressing health needs. The Opening Plenary Session continued with remarks from Nalani Fujimori Kaina, Conference Co-Chair and the Executive Director of the Legal Aid Society of Hawaii as well as George T. (Buck) Lewis III, Chair of the ABA Standing Committee on Pro Bono and Public Service. We then each attended different workshops in order to maximize our information gathering process and overall experience.

Christine began the day by attending “Integrating Senior Attorney Volunteers into the Core Services of Your Organization.” This gathering included numerous panelists from the Legal Aid Society of Cleveland, Ohio. We discussed tapping into the senior volunteer population and how to engage and retain senior volunteers in your pro bono program. We thought this encounter might be particularly helpful to NFPA in recruiting retired paralegals for volunteer projects. In the meantime, Teresa attended the seminar “Educating Legislators About Legal Aid.” The panelists noted the significance of personal relationships with legislators, involving staff and inviting legislators to pro bono events.

Next we both attended the networking lunch “Combating Sexual Harassment in Housing.” This session consisted of a stimulating and frankly eye-opening presentation by R. Tamar Hagler with the U.S Department of Justice on Combating Sexual Harassment in Housing. We explored issues including the effects of stress, eviction and homelessness in the community. Following the session, we had an extensive conversation with Ms. Hagler on exploring new paralegal pro bono opportunities for our NFPA members in this area. We exchanged business cards and agreed to follow-up and continue our dialogue.
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During the afternoon, Christine attended “Anchoring Legal Aid in Health Centers through Medical Legal Partnership (MLP)” where an overview of MLP components was provided with a focus on community centers. We discussed case studies and focused on how the MLP approach identified legal needs directly associated with health issues. Teresa attended “Perfect Pro Bono Attorneys: Defining Greatness and More.” This session addressed the need to stay abreast of changes in technology with a discussion of software and the benefits of tools such as CLIO, virtual law office technology and other software products. Attendees were also encouraged to contact Probono.net (probono.net), a national non-profit organization dedicated to increasing access to justice through innovative uses of technology and increased volunteer lawyer participation. We closed out the day by attending the “Youth Homelessness” and “Anything But In Person,” noting the importance of the user experience in court planning and operations via on-line, by telephone or by video conference. The evening continued with the Conference Committee Party where we were able to catch up with old friends, including representatives from Legal Aid in Ohio as well as members of the Standing Committee on Pro Bono & Public Service, and become acquainted with new ones.

Friday, May 11, 2018

On Friday May 11, 2018, we were honored to present “Paralegal Pro Bono Roundtable.” Our workshop had good attendance, was well received and provided us with an opportunity to share some background information on NFPA, our pro bono committee, voluntary reporting of hours, the paralegal role in pro bono and some of our national (as well as local) projects. We also conducted an interactive question and answer session with the attendees and enjoyed extensive discussions with several attorneys who thanked us for sharing the information we provided. Some attendees were not even aware that there is a definition of “paralegal” and appreciated being advised. The session lasted an hour and a half and we were still talking with the attorneys well past that time limit!

We thereafter attended the concurrent workshops including “Latest News from ABA Free Legal Answers” (a national portal for low income individuals to pose civil legal questions). The panelists provided the status of this ABA project, developments and plans, including disaster response. We also discussed the great need for paralegal volunteers to serve as remote administrators. Teresa attended “Collaborating Pro Bono Services with the Courts.” This meeting included dialogue on the need, as well as the numerous benefits, of self-help centers and web sites.

During the conference on Friday we also had some time to network with the wonderful sponsors and vendors at the conference. We met with the representatives from the Animal Legal Aid Defense Fund (ALDF). ALDF’s Pro Bono Program is the nation’s largest pro bono network for animal protection. Working to expand the practice and understanding of animal law in the legal community, the Pro Bono Program partners with attorneys and pro bono coordinators across the country. The program utilizes these volunteers to support the Animal Legal Defense Fund’s litigation, criminal justice, and legislative goals. The representatives advised us that the project is in need of paralegal volunteers on a national basis to assist with pro bono projects. We were quick to advise that we would be happy to help! We exchanged information and documentation. We are proud to report that this new pro bono opportunity has been sent out to the NFPA membership with the assistance of NFPA Headquarters, Lisa Lynch, CRP, and our wonderful Region Directors. A true team effort!

We then headed to the Awards Presentation Luncheon, where several ABA employees were honored for their years of service and dedication. Hilarie Bass, American Bar Association President and Jo-Ann Wallace, President
and CEO of National Legal Aid & Defender Association provided remarks.

The afternoon continued with courses including “VetLex,” an innovation for connecting veterans to lawyers. NFPA is actively involved in this pro bono project through the Veterans Claims Assistance Network (VCAN). Teresa attended “Creating a Pro Bono Partnership to Close the School to Prison Pipeline.” Thereafter, Christine attended a brief meeting of the ABA Standing Committee on Pro Bono & Public Service. During this two hour meeting, the committee provided basic updates on projects and working groups. Teresa continued with a session on “Increasing Seniors’ Access to Justice in Rural Communities.” This class facilitated a discussion on ways to reach this community, including public announcements, community centers, and legal wellness check-ups. Potential issues were identified, including lack of transportation and communication. In fact, during that session, Teresa met the three speakers from West Tennessee Legal Services and inquired as to whether they considered utilizing paralegals to meet their goals and staffing needs. The panelists quickly noted that they were extremely interested but stated that they just did not know how to find or partner with local paralegals. Within seconds Teresa was able to provide information on the Middle Tennessee Paralegal Association, who is very active in pro bono. The speakers were beyond thrilled and agreed to reach out to the local association for some much-needed assistance.

The evening ended with a Tribute Reception for our ABA friends, Terry Brooks, Beverly Groudine, Will Hornsby and Steve Scudder. These individuals were honored for their long-standing service to the ABA. We then headed down on the town for a wonderful dinner at the Old Spaghetti Factory and Christine’s first taste of “mud pie” for dessert!

**Saturday, May 12, 2018**

On Saturday May 12, 2018, we returned for Concurrent Workshops #8, including a fascinating presentation on “Prison Justice” and the role of students, law clinics, community partners, and paralegals. We discussed the growing need for legal service delivery to prisoners and/or those on parole and understanding how best to partner with different groups. Teresa attended a very stimulating presentation “Success at Every Step: Developing Milestones for Legal Services Professionals.” This session provided a comparison on the various phases of your professional career. The session was interactive with a spirited discussion of milestones and lessons learned, as well as building relationships and how professional skills develop over time.

We then headed to the Closing Plenary Session and Brunch. Perla Ni, Esquire offered a thought-provoking overview of the upcoming 2020 Census: How Local Governments and Non-Profits Can Help Starting Now. Ms. Ni stressed issues such as how to ensure a fair and accurate 2020 Census (for funding purposes) and serious undercounting. The closing session allowed us to come together to discuss access to resources, ideas and inspiration to answer this important call to action. The conference concluded at noon. This provided us with just enough time for a quick trip to through Balboa Park outside the San Diego Zoo. We then travelled on to Old Town San Diego for an early dinner and to see the beautiful Coronado Beach before heading to the airport!

**Conference Conclusion**

We extend our heart-filled thanks to the NFPA Board, Armed Forces and Pro Bono Committees for allowing us to attend this conference and for their ongoing support. This conference was attended by over 1,000 individuals from every aspect of pro bono. The meaningful programming afforded us opportunities to network with fellow attendees, foster our skills and experience, increase dialogue, while garnering new ideas and approaches to pro bono and community service projects. However, we can truly attest that the most important take-away from this conference was our rekindled inspiration, passion, and appreciation for the importance of NFPA’s ongoing work and dedication to assist in the access to justice. As the leader of the paralegal profession, we look forward to continuing our crucial work in this area through NFPA.
The Health Insurance Portability and Accountability Act of 1996, commonly known as “HIPAA” is a group of regulations that operates to facilitate the safekeeping and transfer of patients’ Protected Health Information (PHI). The Act recognizes a patient’s right to medical privacy and sets forth the rules for portability of these confidential health records.

Now that I have your attention with that compelling introduction, let me explain why any of you should bother to read anything further about HIPAA. If you are an attorney and request medical records for your clients in the context of a lawsuit, the chances are you and your client are being ripped off and HIPAA’s regulations provide a solution. This article explains how to use HIPAA regulations to save significant money for both you and your clients.

The Problem

Medical record retrieval is nothing new for the civil plaintiff’s attorney. First, we obtain the treatment information from the client. Second, we send a request to the medical provider along with an executed HIPAA authorization permitting and directing the provider to release the records to us. Third, we get a ridiculous invoice for search, retrieval and/or copying fees. Fourth, we curse, and cut a check.

Our firm has received invoices for over a thousand dollars for a paper copy of a single client’s hospital record for one hospital stay. These charges are completely disproportionate to the actual cost of copying and transmitting the records, and have become a profit center for these
facilities, even spinning off an entire cottage industry of companies that obtain and upsell patients’ medical records for the purpose of litigation. This reduces the total recovery for your clients, and therefore reduces your fees. Remember, although your clients reimburse your costs at the end of the case, your contingency fee is calculated based on the recovery net of costs. This means that ultimately you pay for one third of the costs on your clients’ cases, so these charlatans are affecting your bottom line too!

**HIPAA Provides A Solution**

HIPAA’s Privacy Rule recognizes the importance of a patient’s right to access their Protected Health Information. The regulations provide patients with a legal, enforceable right to see and receive copies of their medical and other health records. Most importantly, the HIPAA regulations make clear that you can’t overcharge patients to obtain their records. Furthermore, any state statute or regulation that allows for charges or fees that exceed the federal limits are expressly preempted. See 45 CFR 160.203.

Requests for access to these records may be required to be made in writing. See 45 CFR

- 164.524(b)(1). Once the request is received, the medical provider must provide the individual with access to their PHI in the form and format requested by the patient, or if not feasible, in a legible hard copy form or other agreed upon format. See 45 CFR

- 164.524(c)(2)(i). Further, the provider must provide the records within 30 calendar days from receiving the patient’s request. See 45 CFR 164.524(b)(2).

It gets better. HIPAA’s privacy rule only permits the imposition of a reasonable, cost-based fee which may include only the cost of: (1) labor for copying the records requested by the patient whether in paper or electronic form; (2) supplies for creating the paper copy or electronic media (e.g. cost of paper, toner, CD-ROM), (3) postage, when the patient requests the records be mailed, and (4) preparation of an explanation or summary of the records (if requested/agreed to by the patient). See 45 CFR 164.524(c)(4). The charges cannot include a fee for search or retrieval of the records, storage, maintaining systems, costs associated with verification or documentation of the records or request, or any other costs even if such costs are authorized by State law. See 45 CFR 160.203; 45 CFR Part 160, Subpart B.

The Department of Health and Human Services elaborates on the above permitted costs. “Labor” for copying medical records, “includes only labor for creating and delivering the electronic or paper copy in the form and format requested…[l]abor for copying does not include costs associated with reviewing the request, or searching for and retrieving the PHI, which includes locating and reviewing the PHI and segregating or otherwise preparing the PHI that is responsive to the request for copying.” See [https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html#newly-releasedfaqs](https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html#newly-releasedfaqs), (emphasis added).

At this point you may be wondering why, if these reg-
ulations exist and preempt contrary state law, you are still paying hundreds of dollars for your client’s medical records? That’s because nothing in the regulations prohibits these medical providers from charging a patient’s attorney a gazillion dollars for the same records that they must give to patients for basically their cost.

Fear not, HIPAA again provides a solution! Pursuant to 45 CFR 164.524(c)(3), an individual has the right to direct the medical provider to transmit the PHI about the patient directly to another person or entity designated by the individual. The request must be in writing and clearly identify the designated person and where to send the PHI. The fee and time limitations described above apply as if the patient was directly receiving the records. The records can be directed to any “person”, you do not need to be the attorney of record, or even an attorney. Id. Accordingly, you can even obtain the PHI of prospective clients during your investigation phase without having to be formally retained or getting signed HIPAA authorizations from the potential client.

To utilize these regulations, we developed a template Patient Medical Record Request letter. We fill in the provider information, dates of service/treatment, the patient’s name, and designate that the records be sent directly to us. We send the letters for each provider to the client with pre-addressed, stamped envelopes. This makes it easy for the client, they simply review the inputted information to make sure it’s accurate, sign each request, and mail the letters out to the providers.

On occasion, we have encountered facilities that ignore the request, or have no knowledge of these regulations. They cite to New Jersey law and try to charge $1.00 per page or more for a patient’s records, or $50.00 for a film on CD. Our first step is to contact these providers and explain the law to them. Some are receptive and will send you a new invoice, however there are times when the provider just will not accept the limits imposed by these regulations. In that instance we have a zero tolerance policy. We immediately file a complaint with the Department of Health and Human Services. Complaint filing is online and very simple, and we have never lost when we have been forced to file.

We implemented this program at our office and have had great success in reducing the costs of medical record acquisition. We explain to the clients that this is being done in an effort to keep costs down, and the response has been overwhelmingly positive, clients are happy to work with you to help save them money. If you would like more information or a copy of our Request Letter template, please email me at jkincannon@lomurrofirm.com.

Joshua S. Kincannon heads the Mass Tort Department at Lomurro Law, in Freehold, New Jersey. He has helped recover millions of dollars for victims of defective medical device implants throughout the country. His practice centers on representing victims injured by defective medical devices and pharmaceutical drugs in addition to other serious personal injury, wrongful death cases and class actions. Josh won the prestigious Dean’s Merit Scholarship to Rutgers Law School in Camden as well as the Albert Blaustein Memorial Scholarship.

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June 7, 2018

National Federation of Paralegal Associations, Inc.
Attn: Angela Woodlee, RP

Dear Angela,

On behalf of Operation Gratitude and the recipients of our care packages, I thank you for your generous donation of $250.00. Your contribution will enable us to send over 250,000 ‘chock full’ Care Packages this year to the tens of thousands of brave men and women still deployed overseas in harsh and remote areas; to their children anxiously awaiting their return; and to new recruits, veterans, first responders, wounded heroes and their care givers.

With the help of supporters nationwide since 2003, we have sent more than 2 million Operation Gratitude Care Packages containing snacks, hygiene products, entertainment and hand-made items, and personal letters from appreciative Americans. These expressions of love and concern from fellow citizens offer our military & first responders a much-deserved ‘Thank You For Your Service’ and are always greeted with enthusiasm and great appreciation.

As one Navy Sailor and New York Police Department officer recently wrote:

"Every box, every piece of paper, every book, every letter, every piece of candy..... means a lot to us when we are away from home. It gives us Hope, Confidence, Happiness, and Strength and Pride that somebody think about us, that someone is there for us. Thank you all. God Bless America."

To read all the current letters of thanks from our troops and to see their photos with your Operation Gratitude care packages, please "Like" us on Facebook: www.facebook.com/OperationGratitude and "follow" us on Twitter: www.twitter.com/opGratitude and Instagram: www.instagram.com/operationgratitude/

On December 5, 2017 we celebrated the delivery of our Two Millionth Care Package - all made possible by your support! I hope you'll visit our Social Media sites to see pictures of the event!

Every single donation we receive furthers our mission of saying "Thank You" to those who serve. Many companies have matching gift programs that will match your donation, or maybe even double or triple it! Please check with your Human Resources/Personnel office to learn if your donation is eligible.

Thank you again for your thoughtfulness and wonderful patriotic spirit. The recipients of your generosity will remember your kindness forever. As a 20-year Marine and the new CEO of this amazing organization, I will always be appreciative of your support and encouragement for Operation Gratitude. You are truly making a difference!

With warm regards,

Kevin M. Schmiegel, CEO

P.S. To receive email updates on Operation Gratitude’s progress, please email info@operationgratitude.com or sign up directly on our website: www.OperationGratitude.com. Thank you for your continued interest.

Operation Gratitude has been granted non-profit status under Section 501 (c) 3 of the IRS Code. Your contribution to this organization is fully deductible in accordance with applicable law for federal income tax purposes as no goods or services were provided in exchange.
Healthcare law is broad and encompasses laws and regulations dealing with various aspects of healthcare providers, such as doctors, nurses, hospitals, long-term care facilities and the rights of patients. The healthcare industry is a complex field that continues to get more complicated as new procedures and capabilities become available and the medical insurance industry evolves.

Like attorneys, physicians historically have had a set of standards of care, conduct and ethical cannons generally focused on professional etiquette. Under the supervision of an attorney, paralegals who are employed in the healthcare industry may work in-house for hospitals and other healthcare companies assisting with the filing of administrative appeals, providing documentation to health insurers, and maintaining their workload under pressure.

Disputes in the healthcare industry can turn into high-dollar lawsuits. Medical malpractice insurance companies and law firms employ paralegals to deal with incidents on both sides. Along with government regulations comes compliance issues involved in the everyday practice of the healthcare industry. Let’s explore paralegal jobs in the health industry.

**Nurse Paralegal**

This individual performs duties under the direction of legal counsel and may work with minimal supervision on matters in any degree of complexity. This person typically interacts with internal and external entities, including outside counsel, law firms, government agencies, expert witnesses, and corporations to gather information or data. In addition to interacting with those entities, a nurse paralegal compiles information concerning pertinent issues and prepares written summaries, statistics, charts and/or graphs that clearly detail any findings. This role will also require updating databases with information pertinent to the process of cases, dates and deadlines, witness identification and coordinates discovery. Tasks may include performing legal, factual, medical and legislative research of any degree of complexity to identify issues and relevant information to a case. Completion of an accredited Registered Nurse academic program is required as medical terminology and understanding and analyzing medical records is vital to successfully perform duties in this position. A degree or certificate of completion from an accredited paralegal program is also preferred as legal process, terms and basic understanding of negligence as it relates to medical malpractice will help a nurse paralegal succeed.
**Paralegal Specialist for the Army**

This individual provides support for the Soldiers’ Medical Evaluation Board Counsel and legal services to soldiers undergoing disability processing and medical evaluation boards. This person acts as liaison with the Physical Evaluation Board (PEB) Office of Soldiers Counsel, the servicing PEB, and the U.S. Army Physical Disability Agency. Paralegals in this role provide assistance preparing drafts and outlines covering specific legal issues and assist with providing referrals for retired soldiers in Medical Evaluation Board counsel while assisting reserve attorneys on temporary active duty. It should be noted that the predominant use of paralegals in the military is in the Judge Advocate General’s (JAG) office.

Conditions for employment may be subject to a suitability or fitness determination and a completed background investigation. Immunization screening is required for all positions with direct patient contact. Specialized experience such as assisting in interpreting laws, regulations, and/or other guidance; reviewing principles, concepts, and/or methods of legal research and analysis; interviewing potential witnesses and/or other clients; preparing legal papers and conducting summaries of legal analysis is beneficial to this position. This paralegal may also need to attend legal briefings and be familiar with the Disability Evaluation process. Prospective candidates applying for this job should also be aware of the process by which they are evaluated on the basis of legal competency.

**Corporate Healthcare Paralegal**

This individual drafts various healthcare agreements which may include medical agreements, ancillary agreements and joinder agreements. Working directly with an attorney, these paralegals act as first point of contact for field operators on legal inquiries in obtaining critical information for drafting healthcare-specific agreements and participates in the agreement review process while tracking spreadsheets. Paralegals who work in this setting should also adhere to administrative reporting requirements and guidelines, be familiar with employment policies, and department or company procedures with at least 3-5 years’ experience in the healthcare and corporate legal environment.

This role also assists with completing necessary legal work within the bounds of legal and ethical rules while drafting contracts and performing legal research. Like many other paralegals, essential skills such as maintaining cases and files; monitoring calendars; meeting deadlines; documenting actions; inputting information into file database and case management software; confirm...
ing case status with attorney while having the ability to handle multiple assignments simultaneously and time management are critical skills.

**Contract Manager Paralegal**

This person administers the contracting process, including preparation of routine agreements, amendments, terminations, and correspondence, such as non-disclosure, consulting and service contracts. This position also requires the paralegal to be a point person for contract review requests, including performing reviews of simple agreements and triaging matters for in-house counsel and developing and maintaining contract database and filing systems. Experience in handling information requests to and from other company personnel, including research of legal matters and historical information from company records and information from other departments regarding corporate entities, commercial transactions and litigation are also skills needed to perform the duties of this position. This paralegal conducts legal research and resolves routine law questions under the guidance of supervising attorney. A Paralegal Degree or Certification is desired along with a Bachelor’s Degree and at least five years of contract review and management experience in Healthcare law or healthcare industry knowledge.

**Senior Healthcare Services Paralegal**

This individual supports attorneys and business teams on regulatory requirements related to pharmacy networks such as provider agreement contracting; network development and design, maintaining and updating laws regulating network design such as any willing provider, prompt pay, mandatory mail; respond to requests for information; managing arbitration related matters; and reviewing new legislation and assessing legislative impact. The person occupying this role should preferably have over seven years of experience researching regulatory requirements. Prior experience in legal, compliance, pharmaceutical industry and managed care contracting/regulatory matters is desired. Familiarity with the 340B Drug Discount Program (Federal Program) will assist this paralegal in providing support to attorneys. Paralegals with expertise in reviewing and translating regulations into actual practices assist with establishing a backbone and creating a foundation of healthcare provider policy and insurance coverage.

**Healthcare Paralegal**

This individual provides accurate research on a variety of topics, with the tenacity to persist when facing obstacles and deadlines. This person should possess skills that assist with tracking various licensure renewal dates and ensure compliance and handle all aspects of professional and premise liability insurance (application and renewal process, termination, updating coverage, etc.). Skills such as reviewing and drafting various contract language including employment agreements and leases will help this professional succeed with their job while being able to handle all aspects of due diligence related to opening medical clinics in new states, including licensure with applicable professional boards.
Medical-Legal Partnership

This is a model that’s popping up around the country. This model embeds lawyers and paralegals into healthcare teams to detect, address and prevent social conditions that improve health and well-being of underserved populations. Legal experts work on site in healthcare settings where they are able to access patients’ medical records and provide legal services. With legal experts in the healthcare facilities, the process is streamlined from the healthcare provider to handoff the patient to the legal team. Legal teams help the underserved populations in a variety of ways such as assisting with applying for food stamps or disability benefits; helping avoid eviction or advocating for education services; assisting with employment discrimination or immigration; child abuse or domestic violence which may undermine someone’s health. These programs are typically funded through a combination of philanthropy, law schools and legal aid agencies with contributions from healthcare partners.

Healthcare law paralegals can also be employed by insurers or law firms specializing in medical malpractice lawsuits. Government agencies, social services and regulatory agencies such as the Food and Drug Administration, or the Centers for Disease Control and Prevention also employ paralegals. The pharmaceutical industry is also actively looking for paralegals.

Paralegals employed by healthcare organizations or insurance companies work on reviewing the Health Insurance Portability and Accountability Acts of 1996 also known as HIPAA because of its complexity. Paralegals who are constantly reviewing this Act review practices and draft policy under the supervision of an attorney.

The healthcare industry is expansive in modern times, there are niche areas where paralegals are employed. The paralegal profession continues to strive and develop with other industries, persons wishing to branch off to the health industry with their legal experience should preserve the quality of substantive work and knowledge of legal concepts to succeed as paralegals. Other skills that will go hand in hand with performing your duties include proficiency with Microsoft Office, Outlook, legal research programs and other technology used for general paralegal practice. Having the ability to work under deadlines, multi-tasking skills and strong research capabilities will help you master your role.

Ronell B. Badua is dedicated to public service as a paralegal at the Department of the Corporation Counsel, City and County of Honolulu. As the transit paralegal, he works on the state’s largest public works project and first high-capacity rapid transit system. Ron is a graduate of the University of Hawai’i Kapi‘olani Community College Paralegal Program, an American Bar Association-approved program. He serves as the Region I Director and can be reached at ronbadua.nfpa@gmail.com
A Health Care Directive (HCD), sometimes referred to as a Living Will, allows one to state their wishes for medical care and treatment in the event they are unable to speak for themselves. It also allows you to appoint someone as your health care agent, or health care power of attorney, to speak for you. It is important to note that just because you are the spouse or parent of a patient, in most cases, you may not speak for them when they cannot, unless they have a health care directive that names you as their health care agent. The exceptions to this are a) if a child is under the age of 18, a parent has the legal right to determine what care and treatment will be provided for the child; and b) if the patient is under any type of guardianship, the guardian has the legal right to determine what care and treatment will be provided for the patient.

If your child is over 18, please make sure that they have an HCD; you should discuss this with your children as they approach age 18 and help them to prepare one. Likewise, your spouse. You have only to remember the battles over Terri Schiavo to realize how vital this decision is.

State Forms

Many states have some type of health care directive form that persons can fill out on their own; it is not strictly necessary to have an attorney prepare this document, unlike other parts of an estate plan (like a Will or a Trust). Since the choices of what types of medical care each person wants provided or withheld, and under what circumstances, are very personal, this document should be approached with all due consideration. Often, a person may want to take several days, or even longer, to make the decisions called for in the HCD; and they may or may not want to involve family members at this stage. At some point, though, family members need to know that you have an HCD, and if you choose to appoint a health care agent, you should talk this over with whom-
ever you want to appoint. Some people are comfortable with this role, others are not; and you want to appoint someone that you believe will carry out your wishes, even if those wishes are not what others in your family may want.

In some states, you may also need a psychiatric/mental health advance directive, that expresses your wishes in advance about what types of treatments, services, and other assistance you want during a personal mental health crisis. It is very important to determine whether your state has specific requirements &/or has a separate form you can fill out, or whether psychiatric care is covered in an HCD. You can obtain more information at the National Resource Center on Psychiatric Advance Directives (www.NRC-PAD.org), a non-profit organization that offers a state by state guide to laws, rules, forms and other resources.

Buried or Cremated?

Do you want to be buried, or would you prefer cremation? The HCD is one place to document your preference. In fact, the HCD is a much better place to document this particular preference than in your Will, which may not be read in time to honor your preference, especially if you haven’t discussed this with your family members.
Under what circumstances would you want care withheld? Do you want to be made comfortable, i.e. as pain-free as possible, but allowed to die with dignity; or do you want all heroic measures to be taken to prolong your life, no matter what? If you are not an organ donor, do you want your health care agent to be able to decide if your organs can be donated if possible? Do you want to be placed on a ventilator or not, and under what circumstances?

A Health Care Agent

Naming a health care agent also allows that person to access your medical records, which can be critical. Under the provisions of HIPAA, unless you have named an agent, your medical records cannot be accessed without a court order. Frequently, this just isn’t feasible given the time involved in obtaining a court order; by the time an order is obtained it may be too late.

It is important to discuss your wishes for health care with your health care providers, too, in order to make sure that they will honor your wishes. If your doctor is not comfortable with what you want done (or not done), perhaps you want to consider changing doctors to one who will respect your wishes. In any case, your HCD should be part of your medical record at your physician’s office and at the hospital, home care agency, hospice, or nursing facility where you receive your care. You should keep the original document with your personal papers in a safe place (not in a safe deposit box). Give signed copies to your doctors, family, close friends, health care agent, and alternate health care agent.

As legal professionals, we all know the value of estate planning documents (Will, Powers of Attorney, HCD), but often don’t have them ourselves. Don’t be like the shoemaker’s children - make sure you take care of yourself, and your family, by preparing, at a minimum, a health care directive and psychiatric advance directive (if a separate document is necessary in your state) and appoint a health care agent today!

Helen M. Federline is the owner of HMS Paralegal. She is a freelance paralegal, currently practicing in the area of franchise law; she practiced in the areas of probate, estate planning, and real estate for over 20 years. Helen has served as the NFPA Region II Director, Governing Documents Coordinator, and Bar Association Coordinator. She was an active member of the MN Paralegal Association and MN State Bar Association prior to relocating to Arizona.
Home Health and Safety Tips

Follow these ten strategies for reducing your personal exposure to suspect chemicals that are found in everyday products.

1. **Use only glass and ceramic containers in the microwave.** Some plastic containers contain chemicals that mimic or disrupt hormones. These chemicals can leach into food when they are heated.

2. **Use dry cleaning services that do not use perchloroethylene (PERC) or request “wet cleaning.”** Solvents such as PERC have been linked to various cancers. If you must use traditional dry cleaning with PERC, remove the plastic bags in an open space and air out your clothes before hanging them in a closet.

3. **Read the labels of products, avoiding phthalates and fragrance.** Phthalates are endocrine-disrupting compounds that have been associated with cancer, impaired fertility, and male birth defects. Phthalates are often an ingredient in fragrance, and they are found in hundreds of products, such as shampoos, lotions, perfume, cosmetics, vinyl, and plastics, including toys. Look for labels that say “phthalate-free.”

4. **When grilling foods, minimize char by reducing the heat level and using marinades.** Char contains PAHs, or polycyclic aromatic hydrocarbons, which are known to cause mammary tumors in animals. In the Long Island Breast Cancer Study, women who had more DNA damage from PAHs had a higher risk of breast cancer.

5. **Purchase organic foods.** Buying organic reduces your family’s exposure to pesticides. Many of these chemicals act as endocrine disruptors and are known to affect brain development and neurological function in humans.

6. **Monitor what goes down the drain in your home.** Help protect your indoor air and your community’s water supply by using minimal amounts of the least toxic cleaning products and pesticides. Never put cleaning solvents, pesticides, paint thinners, automobile oil, or gas down a drain.

7. **Choose vacuum cleaners wisely.** Carpets can harbor pesticides, flame retardants, other chemicals, and allergens such as mold. Cleaners with a strong suction, a brush on/off switch, and a multilayered bag for dust collection are the best at preventing the recycling of dust.

8. **Look for furnishings and electronic equipment without PBDEs.** PBDEs (polybrominated diphenyl ethers)—endocrine disruptors that affect thyroid hormones—are commercially produced flame retardants often added to polyurethane foam, various plastics, and electronics equipment. When possible, choose carpet pads, bedding, cushions, and upholstered furniture made from natural fibers, including wool, cotton, and hemp.

9. **Adopt organic practices for lawn care and gardening.** Children and pets that play on lawns are exposed to pesticides and herbicides. These chemicals are tracked into homes, and they can leach into waterways and drinking water wells.

10. **Encourage your town to use natural, non-toxic solvents in public buildings,** especially schools, and to follow organic practices in the care of green spaces. Using safer cleaners and eliminating pesticides on a town-wide basis helps reduce exposure to compounds that mimic estrogen or otherwise disrupt hormones.

*Reprinted courtesy of Silent Spring Institute.*
Planning for our national convention starts many years in advance and much of the work is all behind the scenes. Prior to the Dallas convention in 2014, the Washington State Paralegal Association (WSPA) worked diligently on a proposal for this year’s National Federation of Paralegal Associations (NFPA) Annual Convention and Policy Meeting. Having won the bid, WSPA began pulling together subcommittees to ensure that this year’s convention benefits students, current paralegals, paralegal associations, employers and the paralegal profession by offering Continuing Legal Education, networking opportunities, industry connections and inspiration.

CONTINUING LEGAL EDUCATION

The 2018 Convention offers four learning tracks: Litigation, IP/Immigration, Professional Development and LLLT/Ethics, with a total of 16 different courses from which to choose. The Litigation track offers courses in hot topics in E-Discovery, Utilizing Social Media to Strengthen Your Case and Effective Use of Evidence at Trial. One highlight of this track unique to Washington and few other states is a course highlighting the conflict in representing cannabis businesses: Litigation in a Field of Weeds, taught by Aaron Pelley. The second learning track focuses on the specialized and often complicated fields of Intellectual Property and Immigration law. Classes will address making you the most valued IP paralegal in the office, prosecuting US Trademark Registration Applications, Immigration Reform, and representing immigration clients in a changing political climate. Our professional development track offers courses in the role of Army paralegals in the military justice process, Cultural Competency and the Law, personal branding, and a presentation by the Courthouse ...
Dogs Foundation, Courthouse Facility Dogs: Justice with Compassion. The fourth and final education track is dedicated to Ethics, and another topic unique to the State of Washington: Sessions 1D and 2D — Limited License Legal Technicians (LLLT). Two courses are dedicated to the LLLT. One will discuss the development and implementation of Legal Technicians in the State of Washington and future practice areas. The other features three of the first LLLTs and their journey through the program and hopes for future practice expansion. Violence Against Women Act and Indian Country, Legal Ethics in Civil Litigation and Intellectual Property round out the fourth track.

In addition to the offered CLEs, the convention is presenting three workshops on Thursday afternoon: Student Workshop – Legal Etiquette and Courtroom Decorum; Failing at the Finish Line: How Law Firms Lose Prospective Clients at the Front Door; and Show Me the Money: Recruiting and Retaining Vendor Partners. These workshops focus on strengthening your practice and that of your organization. Friday morning, there will be a Policy Primer from 7:30-8:30am, for those new to the policy meeting or those who desire a refresher course for the weekend meetings.

No convention is complete without a forum for industry exhibitors. WSPA has already attracted over thirty local and national legal industry exhibitors for the convention. The exhibition hall is open Thursday 7:30am–7:00pm and Friday 7:00am–2:00pm. The exhibition room will also host all of the convention breaks. Make sure you stop by the different booths to make connections, see advancements in our industry and try your luck at winning a number of door prizes.

NFPA Region Meetings

These meetings will occur on Friday in preparation for the weekend’s policy meeting. The member associations that make up NFPA are broken down into five separate regions, giving you a chance to make personal connections with other paralegals in your region. Attending the region meetings enhances your knowledge and understanding of the weekend’s policy meetings. The Policy Meeting held on Saturday and Sunday, much like a congressional assembly, discusses policies affecting the paralegal profession and offers delegates from each credentialed association a chance to discuss, debate, and ultimately vote on policy. If attending, make sure you brush up on your Parliamentary Procedure!

Keynote Speaker

We are happy to have Rob McKenna as our Keynote Speaker this year. Mr. McKenna began his public service career with the King County Council in 1995, having retained his seat for three terms. In 2004, Mr. McKenna ran for and was elected as Washington State’s 16th Attorney General, a seat he held for two terms. As Attorney General, Mr. McKenna prioritized consumer protection including protecting individual rights threatened by identity theft and Internet fraud. As a public servant, Mr. McKenna was a strong proponent of the advancement of open government, supporting the public’s right to know what its government is doing. Mr. McKenna also used his position to counsel other government agencies on how they could avoid costly litigation. These focuses have followed Mr. McKenna into private practice at Orrick, where he is partner and co-head of the firm’s Public Policy Group and member of its Cyber, Privacy & Data Innovation practice. The theme of Mr. McKenna’s keynote speech “Lead from Where You Find Yourself” draws from his experience as Attorney General.

2018 Convention Charity

“Denim for Dogs” Courthouse Dogs Foundation is the 2018 Convention Charity. Courthouse Dogs Foundation is a nonprofit corporation headquartered in Bellevue, Washington. The Foundation promotes justice with compassion by helping legal professionals successfully implement courthouse facility dog programs using best practices in this field and provides expert education and guidance for legal professionals. Their professionally trained dogs provide a calming, legally neutral influe-
ence in potentially stressful legal proceedings. Participate in “Denim for Dogs” by donating $5 or more to the 2018 Convention Charity and wear jeans on Friday, October 26.

**MAGIC IN THE EMERALD CITY**

WSPA is proud to host this year’s Social Event at the Edgewater Hotel. Built for the 1962 World’s Fair, it is located on Pier 67, is a local landmark and has lodged music icons such as The Beatles, Led Zeppelin, Kiss, The Rolling Stones, The Village People, Pearl Jam, and many other entertainment celebrities. Our event will be in the Olympic Ballroom, which has an unobstructed view of Elliot Bay through floor to ceiling windows. The adjoining terrace room features a stone fireplace and one-of-a-kind views of the Seattle skyline. The dinner buffet will feature Pacific Northwest Cuisine for your enjoyment. This year’s entertainment is provided by local magician Nash Fung. Nash’s show will mesmerize you, combining magic tricks and quirky psychology ensuring his audiences’ awed smiles.

**BEYOND CONVENTION**

The NFPA Annual Convention will be held at the Hilton Seattle Airport Hotel & Conference Center; directly across from SeaTac Airport and near the Seattle Light Rail. Take the light rail to Seattle’s International District (I.D.), a short thirty minute trip. The I.D. is the locale that speaks to Seattle’s Asian American roots. Stop to see the Historic Chinatown Gate at the west end of Jackson Street, not far from Uwajimaya Grocery, an excellent place for a quick bite to eat or a cream puff the size of your head. Not far from Uwajimaya is the Panama Hotel, a named National Treasure, with a listing on the U.S. National Register of Historic Places. It is a remaining vestige of the Japanese community that was forcibly moved from the city during World War II. The Wing Luke Museum is also in the International District. It’s an affiliate of the Smithsonian Institute and the U.S. National Park Service. Its collections promote the history, culture and art of the Asian Pacific American Experience. If you like more bells and whistles, stop by Seattle’s Pinball Museum on Maynard Avenue South.

**EXPLORE SEATTLE**

Heading north from the I.D., you run straight into Pioneer Square, Seattle’s original heart. The area has recently undergone a revitalization of historic brick buildings. Many now house notable restaurants, galleries, and distinctive shops. At the corner of First Avenue and Yesler Way you will find yourself at the heart of this historic district. If you’ve the time, venture to see what lies Underground - tours are offered through Bill Speidel’s Underground tour (the original underground tour) or with Beneath the Streets. Find out why there were 2,700 seamstresses employed in this area from 1889-1903 and learn about the sewing machine tax...
which funded Seattle’s government.

**THE WATERFRONT**

Continuing your journey westbound following the salty sea air, a stroll along Seattle’s waterfront is worth the time, even in rainy weather. There are several places to stop along the way for a warm bowl of chowder or a nice robust espresso. Head east along any of the named streets or hike the hill to find yourself in downtown. Here you will find Seattle’s commercial core. You can shop to your heart’s content at boutiques and large flagships. If you are interested in seeing some of Seattle’s musical history, you should hop on the Monorail at Westlake Center and ride it north to Seattle Center.

Seattle Center was established for 1962’s World’s Fair. Here you will find the Space Needle, the Pacific Science Center and MoPop, formerly the Experience Music Project. MoPop houses permanent exhibits dedicated to Seattle Music. You’ll find background information and ephemera from many of Seattle’s music legends including Jimi Hendrix, Nirvana and Pearl Jam. Check out the Sound Lab and make your own jams! While at Seattle Center don’t forget to visit the Space Needle and view Seattle from 520 feet above the ground.

If you want to stay closer to the hotel and shop, visit Westfield Southcenter Mall in Tukwila. The mall features restaurants, department stores, boutiques, jewelry, and health & beauty stores. Be sure and bring your credit card.

**SHOPPING AND MUSEUMS**

Travel south to Tacoma and visit the Museum of Glass. Watch the live glass demonstrations showing the amazing process of creating works of art from molten glass. If you love cars, visit LeMay-American’s Car Museum and see exhibits of British cars, classics and customs, legends of motorsports, and Route 66.

Seattle has so much to offer you on your visit. NFPA and WSPA are excited to offer you this opportunity to visit the Emerald City, and to create and reestablish relationships with colleagues from across the country. We hope that you are able to attend and let yourself Shine in the Emerald City.
It’s the first day of your company’s annual sales meeting for 25 people. While you ate a hearty breakfast at home before the meeting, you’re starving and ready for lunch. As you walk into the break room, you see that your boss’ administrative assistant ordered pizza for lunch.

Your stomach flips and your heart sinks. Pizza is not a safe or viable meal for you because you have Celiac disease. What makes it worse is that despite the fact the pizza place she purchased from offers gluten-free pizza, she only ordered “regular” pizza and a large tossed “salad.” As you prepare to eat the salad, you read the ingredients on the salad dressing and find out it too, contains gluten. It will just be iceberg lettuce and a few tomatoes for lunch for you.

**Invisible Disabilities**

You felt very left out and overlooked—and now, even hungrier than before. You’ve worked here for a few years and the office is not that big. You thought she knew better.

Did you know that Celiac disease, food allergies and intolerances are considered invisible disabilities? Did you know that people with celiac disease, diabetes and/or food allergies have the same protections afforded by the ADA as others with disabilities?

The Americans With Disabilities Act of 1990 (ADA) defined a disability as any individual with a physical or mental impairment that substantially limits one or more major life activities. The 2008 extension of the Act was written to add additional terminology to major life activities — eating, digestive system, immune system, cardiovascular system — and, in turn, providing civil rights protections for individuals with allergies, including food allergies, and other dietary needs, like Celiac disease. In essence, it was updated to better recognize invisible disabilities.

These invisible disabilities affect many of your...
employees, and it’s important to be mindful of them when planning office activities, meals, or outside functions. Below are some of the most commonly encountered food-related invisible disabilities, and some ways to keep them in mind when hosting meals at the office.

**Food Allergies**

Triggered by eating, touching or inhaling a food protein, reactions can range from mild (hives, coughing) to severe (throat closing, chest pain, fainting) and can be potentially fatal.

While more than 170 foods are known to cause allergic reactions, eight foods — wheat, egg, milk, tree nuts, peanuts, fish, shellfish and soy — cause more than 90 percent of all allergic reactions.

Before food is served at work, ask employees if anyone has food allergies and what you need to avoid in order to keep them safe. Label all foods with the allergens they contain. Depending on the severity of the allergy and the trigger, inform all employees of the need to keep that food out of the workplace.

**Diabetes**

A life-long genetic disease requiring a person to closely manage their diet daily. A healthy meal for diabetics is generally the same as healthy eating for anyone – low in fat, moderate in salt and sugar, lean protein, non-starchy vegetables, whole grains, healthy fats and fruit. Avoid serving only heavily processed convenience foods — fried foods, food and beverages with added sugar and foods that have excess butter, cheese and/or oils — in the office.

**Digestive Disorders**

This includes Celiac disease, which is a disorder of the digestive system which cause a person’s gastrointestinal (GI) tract to not work properly or at all. There are many triggers for Celiac disease, Crohn’s, diverticular diseases, colitis, colon polyps and even cancer. They all require people to avoid specific foods to avoid severe pain, missing work or going to the hospital.

**Heart Conditions**

Diet is an important risk factor in avoiding and possibly reversing heart diseases. Some medications for heart disease do not interact well with specific foods and can decrease the effectiveness and/or cause adverse effects—high blood pressure, heart failure and/or strokes. If an employee lets you know that they must avoid specific foods, they may be doing so for an invisible medical disability.

These are just a few examples of the many diseases, conditions, dysfunctions, and alternative ways of experiencing the world that fall under the classification of invisible disabilities. Most who understand the world of invisible disabilities understand that the existence of ‘normal’ is an illusion.

The disability of extremely high importance is food allergies, food intolerances and other medically-necessary diets, like Celiac disease. Yes, these are protected under the ADA. And because they don’t require an assistive device, like a wheelchair, cane, glasses, or hearing aid, food allergies and intolerances are an invisible disability.

In most cases, participating in meetings and events at work or while traveling for work makes it close to impossible to completely avoid allergens, either because one can’t avoid the ingredient or the person can’t control cross-contamination.

When this discomfort or worse, life-threatening dangers, are ignored by those hosting meetings in the office, you are not only ignoring your duty of care, you are endangering people with an invisible disability.

Food allergies, Celiac disease, heart disease and diabetess are not choices your employees make. They are invisible diseases—and disabilities—that require managing their diet very closely and specifically so they can maintain their health, their life and their job.

As founder and chief connecting officer of thrive!, Tracy Stuckrath helps organizations worldwide understand how food and beverage (F&B) affects risk, employee/guest experience, company culture and the bottom line. As a speaker, consultant, author and event planner, she is passionate about safe and inclusive F&B that satisfies everyone’s needs. She has presented to audiences on five continents and believes that food and beverage provide a powerful opportunity to engage audiences on multiple levels. For more information about Tracy, please visit: www.thrivemeetings.com.
Solving the Ninth Mystery of the World

What do you look for when you’re checking out the nutrition facts on that macaroni and cheese box? Whether you’re one to zoom in on total calories or total carbs, you might be missing the real picture. Nutrition facts should be a part of your decision in what to eat or even what to buy. But interpreting the facts requires a bit of know-how, so make sure you aren’t misleading yourself.

Understand the Power of “Serving Size”

The most important rule is to know your serving size and the number of servings in the package or can. If the label says “one cup” per serving size and “two servings per container,” that means there are two cups in the whole package. If you know you’ll eat the whole package by yourself, you are going to consume two cups (1 cup x 2 servings/container = 2 cups). That means that you must double all the nutrition facts measurements to know your total intake of each nutrient – the good and the bad. Using the mac and cheese example, eating the whole package means you will have consumed 500 calories, 220 of which are from fat. You will have consumed 24 grams of fat, of which 6 grams are saturated fat.
The only time you can avoid doing the math is when you eat the exact serving size that is listed. Always compare the listed serving size to how much food you think you’ll eat and compute calories from there.

**Crack the Code “Percent Daily Value”**

Confused by what all those percents really mean? The percents refer to “percent daily value” and they’re a bit trickier to interpret. The FDA bases these percents on a 2,000 calorie-a-day diet. Looking at cholesterol on the mac and cheese label, the FDA says that you are getting 30 milligrams per serving, or 10% of the recommended amount of cholesterol for a person eating about 2,000 calories per day. (Remember, you’re getting 20% if you eat the whole package.) So how do you know if 10% is a good or bad number?

For ease of explanation, let’s break this down into a guide that will help us look at a percent and immediately know if it is high or low for one food source. The magic numbers are 5 and 20%. Anything listed in the percent daily value column that is 5% or less is a low number for nutrients. This is a good range for things that you want to limit (fat, saturated fat, cholesterol, and sodium), but too low for things you want to eat plenty of (fiber, calcium, and vitamins). Anything listed as 20% or more is high. This is a bad range for things that you want to limit (fat, saturated fat, cholesterol and sodium), but a good range for things you want to eat plenty of (fiber, calcium, and vitamins).

Look at “Total Fat” on the mac and cheese label. The 18% daily value is close to the high point, but if you ate the whole package, you actually ate 36% of the recommended daily amount of fat (well above our benchmark of 20%). That amount, coming from just one source of food in a day, contributes a lot of fat to your daily diet. It would leave you 64% (100% — 36% = 64%) of your fat allowance for all other meals, drinks, and snacks you would eat that day.

If your daily goal is well below 2,000 calories for your weight loss plan, then use the percents as a frame of reference (realizing you need to be below the percents shown, per serving). Or, you may find it simpler to keep track of grams and milligrams instead of the percents. The Nutrition Facts footnote gives a scale in grams and milligrams for recommended amounts of fat, cholesterol, sodium, carbohydrates, and fiber based on 2,000- and 2,500-calorie diets. (This footnote does not appear on small packages where there is no room for it.)

The percent daily value also offers a great way to watch your diet without completely giving up your favorite foods. For example, if you ate one serving of macaroni and cheese but ensured you had a low fat intake for all other foods you ate that day, you made a successful trade off. When you really want a food that is high in fat, always balance it with healthy low-fat foods in the same day.

**Quick Interpretation Guide**

- Start at the top with Serving Size and Servings Per Container. Adjust all measurements below this point according to the serving size you will eat.
- Look at the number of calories per serving (including how many calories are from fat).
- Limit these nutrients: total fat (including saturated and trans fat), cholesterol, and sodium.
- Get plenty of these nutrients: fiber, vitamins, calcium, and iron.
- Use the % Daily Value to determine what is a high or low number for your daily diet. 5% or less is low; 20% or more is high.

Don’t just use the nutrition facts to track the nutrients you want to cut back on. Use it to track the nutrients you want to increase (like fiber, calcium and vitamins)! Whether you’re a stickler for tracking every fat gram and calorie per day or someone who just wants a rough estimate of her daily nutrient intake, the nutrition facts label is a handy tool. Learn how to use it for foods you eat frequently and anything new that you are tempted to incorporate into your regular meal plan.

*Article reprinted with permission from SparkPeople.com*
Do you enjoy legal writing? Are you interested in the philosophy of law? Then appeals may be for you! Appellate work is very different from trial work — appeals involve more legal theory than trial litigation. As an appellate paralegal, I do not engage in discovery or schedule depositions; rather, I review and assess a case that has already gone through trial and where a ruling has been made.

**TRIAL v. APPEALS**

At trial, a judge determines what the facts are and then applies the relevant law to those facts. If a party appeals the trial judge’s ruling, the appellate court then reviews the case for legal issues, questions of fact, abuse of discretion, and plain error. The appellate court does not give any deference to the lower court’s judgment on legal issues, such as jurisdiction. The appellate court reviews questions of fact to see if the trial judge’s findings are clearly erroneous and without evidence to support them. The appellate court also assesses whether the trial judge applied the correct legal standard and evaluates whether the trial judge’s final decision is supported by the facts in the record. The appellate court further determines whether the trial judge abused his/her discretion in making certain decisions, such as settling procedural disputes to see if an abuse of that discretion influenced the outcome of the trial. Finally, the appellate court reviews the case for clear error, assessing whether defects in the trial proceeding are plainly wrong and need to be corrected at the appellate level.

Once the court of appeals reviews a case, it has three options: it can affirm, reverse, or remand the case. If the appellate court agrees with the lower court’s decision, it will affirm. If the appellate court disagrees with the lower court’s decision, it will reverse. And if the appellate court believes the lower court’s decision was not supported by the evidence or consisted of errors of law, it will remand the case for the lower court to review the case again. A full remand is when the appellate court orders an entirely new trial in the lower court. The appellate court will issue a partial remand when there is an error in the trial court’s reasoning, for example, and instruct the lower court to use the correct legal standard when considering the evidence that was entered at trial. A record remand sends the case back to the lower court to fix a specific issue, which avoids having to re-try the
entire case all over again. The court of appeals also has the option of deciding to do a combination of these three things. For example, it may affirm one of the trial judge’s rulings on one issue and reverse a ruling the trial judge made on a separate issue in the same case.

**THE PARALEGAL’S ROLE**

A paralegal plays a vital role in the appellate process. In addition to managing the logistical and procedural aspects of appellate practice for the attorneys, a paralegal also works on substantive projects, such as conducting legal research and drafting basic legal documents for filing with the court.

**PROCESS OF AN APPEAL**

The life of an appellate case is broken up into four main parts: (1) before an appeal is taken; (2) after an appeal is taken but before a brief is due; (3) writing the brief; and (4) after filing the brief but before oral argument. (Each party on appeal generally files one document, called a brief that sets forth the facts of the case and the legal argument for why the appellate court should affirm or reverse the trial judge’s ruling or remand the case for further proceedings.) The paralegal’s assignments vary depending on what stage the case is in. Set forth below are some assignments that an appellate paralegal does in the life of a case:

1. **Before appeal is taken:**
   - Attend trial and take notes.
   - Prepare and file the notice of appeal, if applicable.

2. **After appeal is taken but before a brief is due:**
   - Attend appellate litigation meeting with trial attorney to discuss strategy and next steps.
   - Order transcripts of the trial and other relevant hearings.
   - Read the transcripts and prepare transcript summaries for the attorney who will be writing the brief.
   - Create a timeline of events from the record.
   - Conduct legal research and prepare memorandum of results.
   - Prepare basic documents for filing, such as a motion for an extension of time to file the brief.
   - Engage in motions practice as needed; this may include, for example, opposing a party’s motion to dismiss the appeal.
   - Set up template of brief for the attorney writing the brief.
3. Writing the brief:

- Proofread the brief for typos, grammar, and style.
- Cite-check the brief multiple times, making sure all citations comply with the appellate court’s citations rules, if applicable, and the Bluebook.
- Shepardize all cases mentioned in the brief.
- Compile and redact documents that will be included in the appendix accompanying the brief. (An appendix is a compilation of the trial pleadings and exhibits to which the brief cites.)
- Prepare the Table of Contents and Table of Authorities.
- Ensure that the brief complies with all court rules and guidelines.
- Electronically file the brief with the court of appeals.

4. After filing the brief and before oral argument, if applicable:

- If the appellate court schedules oral argument for the case, the paralegal arranges moot courts, which involves finding attorneys to act as judges and a time that everyone is available, as well as helping the judges prepare for the moot court by outlining the issues on appeal and providing the relevant documents they should review.
- Attend an oral argument strategy meeting.
- Attend multiple moot courts and record the questions and answers for the arguing attorney to refer back to when preparing for oral argument.
- Create oral argument binders. There are usually two binders: one with pleadings, orders, and case law; and another with just the trial transcripts.
- Attend oral argument at the court of appeals and debrief with the arguing attorney back at the office.

**Additional Tasks**

An appellate paralegal also has a variety of additional responsibilities. Those tasks include creating and maintaining electronic case files, calendaring deadlines and tracking the status of open cases, developing and updating appellate training materials, and conducting trainings independently or in conjunction with appellate attorneys. Resource management is also a big part of an appellate paralegal’s job. This involves building a library of resource documents, which may include checklists on how to prepare an appellate brief and how to compile an appendix, a compilation of the appellate court’s rules and guidelines, and memoranda setting forth the results of research the paralegal and attorneys have conducted in the past that may be helpful for future appellate litigation.

**Skills Needed**

Success in appellate law requires that a paralegal have a specific skill set. Because a judge’s ruling can be overturned on appeal based on one tiny detail, the most important skill for an appellate paralegal to have is
intense attention to detail. An appellate paralegal must also have an extensive knowledge of the appellate court’s rules and procedures, as each appellate court has its own specific guidelines for the formatting of briefs and other documents that get filed with the court. Knowing the rules and procedures governing the logistics of appellate filings, for example, greatly minimizes the likelihood of encountering issues when filing and helps the appellate process move quickly and smoothly.

An appellate paralegal must be confident in his/her ability to conduct legal research. Arguments made on appeal must be based on solid legal reasoning and supported by legal precedent. A paralegal’s ability to provide exceptional cite-checking is a crucial part of this. Correct citations to the record, case law, and statutes, for example, shows the appellate judges that the filing party can be trusted to accurately represent the facts of the case at hand as well as the current status of the relevant law. Legislative history can be an important part of conducting legal research for a case. Understanding what the legislators’ intent was when creating the law applicable to an appeal at hand can be extremely helpful for convincing the appellate judges to do what the filing party asks in his/her brief.

An appellate paralegal must be able to anticipate the appellate attorneys’ needs. One example of this is discerning what the attorney needs to know versus what the paralegal can preemptively handle on his/her own. Finally, the paralegal must have excellent oral and written communication skills. As the point-person on the appellate court’s rules and procedures and the appellate process in general for the appellate attorneys, an appellate paralegal must be able to efficiently and charismatically communicate facts and ideas. Furthermore, being able to effectively communicate the results of legal research is vital for representing the usefulness of such research in an open appellate case. Fighting for or against an appeal can be an uphill battle, but it can also be a very rewarding endeavor. The appellate process combines detail-oriented tasks with legal theory, which makes being an appellate paralegal very satisfying and provides an opportunity to really make a difference.

Britt Curtis, CP, received her master’s degree in paralegal studies from George Washington University in 2017, where she was inducted into Lambda Epsilon Chi for superior academic performance. Britt currently works as the senior appellate paralegal at D.C.’s Children’s Law Center, where she works on appeals arising from abuse and neglect, adoption, custody, and special education proceedings. She became a certified paralegal through the National Association of Legal Assistants in 2015. Britt is very active in the National Capital Area Paralegal Association and sits on three of its various committees. She can be reached at bcurtis@childrenslawcenter.org.
The phone rings and on the other end of the line is a semi-hysterical individual. “My mom (or dad) is in the hospital and the doctor said she (or he) can’t go home and we can’t afford a nursing home!” This is an often-repeated call at Elder Law and Medicaid planning firms around the country. The individual on the other end may be a child, spouse, or sibling of the person in the hospital but regardless of relationship, they are experiencing something for which they likely never planned. With nursing home costs reaching $7-8,000 or higher per month, it is not hard to imagine the kind of panic this could cause for families. It is also easy to see that retirement savings could be depleted in short order.

Medicare and Medicaid are government programs that provide a type of medical insurance for qualified individuals. Both programs are established by the Social Security Act. Medicare is governed under 42 U.S.C § 1395. Medicaid is governed under 42 USC § 1396. Each program has a labyrinth of rules and regulations that could, and do, take up volumes. For that reason, I am going to focus on those aspects related to the above scenario and some of the client intake questions that will help you determine if this is an actual emergency.

**Medicare Options**

Medicare will pay for days 1-20 of nursing home care with a $0 co-pay, and days 21-100 with a per day co-pay, but only if there has been a qualifying hospital stay that precedes the nursing home stay. What is a qualified hospital stay? To qualify, an individual must have a 3 day stay, not counting the date of discharge. The entire 3 days must be in-patient. Observation days do not count toward the 3-day requirement. The first information that we need is when the potential client was admitted and if they are inpatient or outpatient (observation). If the individual is an inpatient, and has been in the hospital for 3 or more days, this is not an emergency because they will discharge to the nursing facility on “Medicare days.” This will buy some time to look at whether Medicaid will be needed and if so, when.
If there has not been a 3-day inpatient stay and there won’t be prior to discharge, then you need to consider if Medicaid Long Term Care (LTC) is an option. Medicaid LTC eligibility is subject to income and/or asset limits that can vary depending on the state in which the applicant resides. The average asset limit for a Medicaid LTC applicant is $2,000, although some states allow higher asset limits. We need to ask if there is a living spouse and where that spouse resides. Whether or not there is a spouse who will be living in the community is another factor for eligibility. Medicaid has implemented guidelines to avoid spousal impoverishment, which also vary from state to state. In 2015 the average maximum limit for assets to the community spouse was $119,220. The community spouse is also allowed certain assets that are considered exempt or excluded from the calculation. This includes the homestead, household goods, an automobile, and certain burial assets. The spouse in the community may also be able to keep assets that provide for self-support, such as tools, farm machinery, and livestock. Keep in mind that self-support assets must be providing financial support for the spouse, for example the farm machinery is not a self-support asset if the spouse is not farming. Check with your state to determine the current maximum asset level for the community spouse and use that to help determine if you are looking at a “crisis planning” situation or if this is a situation where asset reduction will need to take place.

**Community Spouse**

The community spouse may also be entitled to receive a portion of the institutional spouse’s income. This is dependent on various factors, including household costs. Again, as with all aspects of the Medicaid program, these amounts will vary from state to state. For intake purposes, you will want to know income, mortgage, homeowners insurance, utility, and other specific costs. As with the assets, there is a maximum limit to the amount of income that can be allocated to the community spouse. Knowing this

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information can help determine if the community spouse can afford to continue their living arrangement or if they need to downsize. It may also impact the decision regarding type of facility that the institutional spouse will reside in. This is because costs may vary depending on the type of facility. For example, in Minnesota, an institutional spouse in an assisted living would be required to pay toward their rent before an allocation could be made to the spouse. A nursing home resident would have no requirement to pay rent so more of their income would be available to the community spouse.

**Practice of Gifting**

Another aspect that will determine eligibility for Medicaid is the practice of gifting. The federal government frowns on the thought of individuals giving away assets that could have funded their skilled nursing. Remember, there is no legal right to an inheritance. Both federal and state governments have taken the stance that an individual who gave away something of value can afford to pay their own care costs. Currently, the look-back period is 60 months from the date of eligibility. This means that once an applicant would be eligible for Medicaid to pay the nursing home, the state will then impose a penalty based on all gifting or transfers during the prior 60 months. In reality, this means that after the applicant has spent their funds down to below the limit (and their spouse has too, if they have one) then they will be told they have to pay their bills on their own for a period of months. It is important to find out if there have been any transfers made so the potential client or their family can receive help to come up with a plan to deal with this before the penalty is imposed. The alternative is that the family will have to figure out a way to pay for the care either out of their own pockets, or in some cases by providing care themselves. Gifting or transfers can affect the whole family.

Medicaid planning is complex and varies state by state. Knowing the common factors involved in both Medicare and Medicaid can help ensure that your intake process gives a working picture of the situation, along with potential pitfalls for family members. It also should give you a picture of the timeframe involved so the bills do not fall behind during the process. This is also an ever changing area of law so it is important to keep current on changes both federally and at the state level.

Traci Sherman is a Minnesota Certified Paralegal working in the areas of Medical Assistance and Guardianship/Conservatorship for a rural firm. She has been working with clients to prepare for Medical Assistance applications since 2010. Traci has an Associate’s degree in Criminal Justice, her Bachelor’s degree in Legal Studies and has earned her paralegal certificate. She is a member of the Minnesota Paralegal Association (MPA), National Federation of Paralegal Associations (NFPA), and the Minnesota State Bar Association. She is currently a law student at Mitchell Hamline School of Law.

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Obtain a complete address listing of all NFPA member associations through www.paralegals.org
As a litigation paralegal you are almost guaranteed to have to obtain the medical records of the Plaintiff...how do you go about doing that?

Please be proactive...my favorite statement is “Lack of planning on your part, does not constitute an emergency on my part.” Obtain medical records early, and follow up in a timely manner, so you aren’t doing this at the 24th hour, when your attorney says the deposition is scheduled and you have no records. This I can not stress enough!! And you know darn well no matter how hard you try you’re not going to get those records at the last minute.

First you will need to get an idea of the injuries sustained. This can be done by looking at the Complaint or the Bill of Particulars in New York. Usually with the discovery demands/responses there will be HIPAA compliant medical authorizations for your state. Also, after the deposition you can determine what additional records you may want or need and then file a Motion for Authorizations to obtain.

Now you have your authorizations...do you know how to process them to get the quickest return on the records? A colleague of mine, taught me a winning way to obtain records promptly. It works about 95% of the time for me. Fax all requests, if you can!
Fax cover sheet should say at the top “URGENT REQUEST FOR MEDICAL RECORDS PLEASE RESPOND ASAP”… I include the name and date of birth of the patient on the fax cover (and every other page)…The fax cover also tells them “This is a time sensitive request for records. Your assistance in receiving these records as soon as possible would be greatly appreciated!” It also tells them exactly where to send the records either by fax, by email or by mail…and it tells them how to get paid for their records if they require payment.

Letter, which again states at the top “Time Sensitive Request – Your prompt response is greatly appreciated.” The letter spells out what I want with strategic underlining and bolding, where to send it (fax, email or mail), how to get paid, and that it is time sensitive and their prompt response would be super helpful and greatly appreciated.

I include a “no records certification” that they can fill out if they have NO records and simply fax back to me.

Attach the authorization.

Once you receive the records, there will most likely be an invoice with charges for the reproduction of the records. Ensure that the facility is charging you the right price. You can use this handy state by state guide as to what your state will allow for copy charges. https://medicopy.net/who-we-are/blog/guide-of-state-statutes-for-copies-of-medical-records

Another trick medical offices use is charging more for the plaintiff’s copy and a higher charge for defense firms.

A sample is below. FOLLOW UP FOLLOW UP Most states simply say, “reasonable amount of time,” so what exactly does that mean? In most situations it is 30 days.

If you need tax records, make sure you enclose everything required. IRS form 4506 will not be processed unless payment and two form of ID (such as Social Security card and Driver’s License) are included. Without the ID’s your request will just sit there and never be looked at and you will have no idea why you are not getting the tax returns. On the HIPAA authorization, make sure the sensitive information regarding HIV, drugs/alcohol and psych, are initialed, otherwise your authorization will get kicked back.

I wish you all good luck and hope these tips give you a greater return of obtaining your medical records promptly.

Raeann Bromark is a litigation paralegal at Fabiani Cohen & Hall in New York City. She is on the Board of the NYC Paralegal Association. Raeann can be reached at bromarkr@fcllp.com.
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