



December 19, 2002

Via email agarwin@staff.abanet.org

Mr. Arthur Garwin
Counsel on Publications and Professionalism
American Bar Association
Task Force on the Model Definition of the
Practice of Law
750 North Lake Shore Drive
Chicago, Illinois 60611

Re: Draft definition of "practice of law"

Dear Mr. Garwin:

The Hawaii Paralegal Association ("HPA") was formed in 1978 to meet the need for a professional association for paralegals, and its purposes include the maintenance of high standards of performance in the paralegal profession and the promotion of awareness regarding the effective use of paralegals. HPA's commitment to increase the quality and efficiency of legal services and its recognition of the profession's responsibilities to the public and to the legal community is manifest, for example, in the daily efforts of its members, and in its Code of Ethics and Professional Responsibility. For more information about HPA, please visit www.hawaiiparalegal.org.

We agree that the public needs to be protected from unqualified, unregulated nonlawyers. We also appreciate that both national and state legal needs studies, including the ABA's 1994 Comprehensive Legal Needs Study, have demonstrated a tremendous access to legal services problem that has not been adequately addressed. These needs assessments confirm that the legal needs of most people in the United States of moderate income or below go unmet. Regulated adjunct legal service providers could meet many of these needs. We therefore suggest that improved protection of the public from the unqualified, through a definition of "practice of law," must be complemented by attention to improved public access to legal services. We emphasize that expanded roles for regulated paralegals, comparable to those of analogous regulated adjunct providers

Mr. Arthur Garwin
December 19, 2002
Page 2

in the medical field, represent a significant potential for further improvement in access to legal services that has been relatively neglected to date.

The HPA observes that a definition of "practice of law" cannot properly be undertaken independently of the access to legal services dimension, and encourages the American Bar Association and its Task Force on the Model Definition of the Practice of Law to provide, closely associated with any proposed definition of "practice of law," a proposed method for identifying legal services that can be performed by qualified regulated adjunct nonlawyer providers, for improved delivery of legal services. Examples of possible approaches to this aspect of a proper definition of "practice of law" include an administrative agency format as long ago suggested by Alan B. Morrison ("Revising the definition of the practice of law as a way of increasing the availability of 'legal' services," 66 ABA Journal 248, 1980), or a practice of law board format as recently established in the state of Washington (see <http://www.wsba.org/rules/2001/gr25.htm>).

The 1995 ABA Commission on Nonlawyer Practice affirmed: "When adequate public protections are in place, nonlawyers have important roles to perform in providing the public with access to justice." Expanded roles for paralegals is one of the first initiatives established in the ABA's 1996 Agenda for Access, that articulates the implications of the ABA's 1994 Comprehensive Legal Needs Study. We encourage the ABA Task Force on the Model Definition of the Practice of Law to explicitly provide for the utilization of the significant potential of more evolved roles for paralegals as qualified, regulated adjunct providers, to better help attorneys to address the ____ longstanding access to legal services crisis in the United States.

The Hawaii Paralegal Association thanks the Task Force for the opportunity to comment on this important matter.

Very truly yours,

Susan D. Alden

Susan D. Alden, RP
President
Hawaii Paralegal Association
(808) 523-2500