

Legislative Study Committee on Paralegal Regulation

Proposed Revisions to GS 84-37

February 20, 2004

§ 84-37. State Bar may investigate and enjoin unauthorized practice activities.

(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints (i) of unauthorized or unlawful practice of law or (ii) use of the designations "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules of the North Carolina State Bar. ~~The Council or any committee of its members appointed for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law.~~ The Council may bring or cause to be brought and maintain in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity against any person or entity that engages in rendering any legal service, holds himself or herself out as a North Carolina certified paralegal by use of the above-noted designations or other designations implying certification by the North Carolina State Bar, or makes it a practice or business to render legal services which are unauthorized or prohibited by law or statutes relative thereto. No bond for cost shall be required in the proceeding.

(b) In an action brought under this section the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the act or acts complained of. A temporary injunction to restrain the commission or continuance thereof may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the laws or statutes applicable to unauthorized or unlawful practice of law or the unauthorized use of the designations noted in paragraph (a) or other designations implying certification by the North Carolina State Bar. The provisions of statute or rules relating generally to injunctions as provisional remedies in actions shall apply to a temporary injunction and the proceedings thereunder.

(c) The venue for actions brought under this section shall be the superior court of any county in which the relevant acts constituting unauthorized or unlawful practice of law are alleged to have been committed or in which there appear reasonable grounds that they will be committed or in the county where the defendants in the action reside or in Wake County.

(d) The plaintiff in the action shall be entitled to examination of the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for the examination of parties.

(e) This section shall not repeal or curtail any remedy now provided in cases of unauthorized or unlawful practice of law, and nothing contained herein shall be construed as disabling or abridging the inherent powers of the court in these matters.

(f) The Council or its duly appointed committee has the authority to issue advisory opinions in response to inquiries from members or the public regarding whether contemplated conduct would constitute the unauthorized practice of law.

(1939, c. 281; 1979, c. 570, s. 9; 1995, c. 431, s. 26.)