

MEMORANDUM

State of Alaska Department of Law

TO: The Honorable Tom Cashen
Commissioner
Department of Labor

DATE: April 2, 1998

FILE No.: 661-97-0326

TEL. NO.: 269-5136

SUBJECT: Attorney Fee Awards for
Unsupervised Paralegals

FROM: Robert A. Royce
Assistant Attorney General
Governmental Affairs Section, Anchorage

You have asked whether unsupervised paralegals can collect a fee for legal services under AS 23.30.145 and 8 AAC 45.180. The short answer to your question is no. An unsupervised paralegal would be engaging in the unauthorized practice of law if he or she collected a fee for legal services rendered before the Alaska Workers' Compensation Board (Board).

BACKGROUND

AS 23.30.145(c) grants the Board authority to award "fees for legal services rendered in respect to a claim" which is controverted "in whole or part" Under AS 23.30.145(b) "[i]f an employer fails to file timely notice of controversy or fails to pay compensation or medical and related benefits within 15 days after it becomes due" and "if the claimant has employed an attorney in the successful prosecution" of a claim, the Board has the authority to award attorney fees.

The Board's regulations 8 AAC 45.180(b) and (d) limit fee awards under AS 23.30.145(a) and (b) to "an attorney licensed to practice law in this or another state." In addition, the Board may award, under 8 AAC 45.180(f), costs for the services of a paralegal or law clerk, but only if the paralegal or law clerk: (A) is employed by an attorney licensed in this or another state; (B) performed the work under the supervision of a licensed attorney; (C) performed work that is not clerical in nature; (D) files an affidavit itemizing the services performed and the time spent in performing each service; and (E) does not duplicate work for which an attorney's fee was awarded.

DISCUSSION

The Board does not have the authority under the existing statutory and regulatory scheme to award unsupervised paralegals fees for services rendered in workers' compensation cases. Moreover, the Board cannot create such authority by having the legislature amend the Alaska Workers' Compensation Act, AS 23.30 *et seq.* or by changing its regulations. A person who has not been admitted to the practice of law in Alaska or another state would be engaging in the unauthorized practice of law if that person collected fees for legal services provided in Board cases. Alaska law expressly prohibits a person from engaging in the practice of law unless the person is licensed to practice. *See* AS 08.08.210. *See also* AS 08.08.230 (misdemeanor for unlawful practice of law). The Board cannot therefore award fees to anyone other than a licensed attorney.

CONCLUSION

The Board does not have nor could it have the authority to award legal fees to unsupervised paralegals. Accordingly, unsupervised paralegals or anyone other than a licensed attorney cannot collect legal fees under the Act.

RAR:ls