

## MINUTES OF CONVOCATION

Thursday, 28<sup>th</sup> October, 2010  
9:00 a.m.

## PRESENT:

The Treasurer (Laurie H. Pawlitza), Aaron (by telephone), Anand, Backhouse, Banack, Boyd, Braithwaite, Bredt, Campion, Caskey, Chilcott, Conway, Copeland, Crowe, Dickson, Dray, Elliott, Epstein, Eustace, Falconer, Finkelstein (by telephone), Fleck, Go, Gold, Gottlieb, Haigh, Hainey, Halajian (by telephone), Hartman, Heintzman, Henderson, Krishna, Lewis, McGrath, Marmur, Millar, Minor, Murphy, Murray, Porter, Potter, Pustina (by telephone), Rabinovitch, Ross, Ruby, Sandler, Schabas, Sikand, Silverstein, Simpson, C. Strosberg, Swaye, Symes, Tough (by telephone), Wardlaw, Wright (by telephone) and Yachetti (by telephone).

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer announced that James Varro has been appointed Director, Policy and Tribunals.

The Treasurer also announced that Mr. Varro has been appointed the Elections Officer for the 2011 Bencher Election.

Condolences were extended to the family of Laura Legge, a former Treasurer who passed away on October 5, 2010.

The Treasurer introduced guests, Robert Burd and Kenneth Mitchell.

Best wishes were extended to Dan Murphy who turned 80 years old today.

MOTION – APPOINTMENT OF SECRETARY TO CONVOCATION

It was moved by Raj Anand, seconded by Glenn Hainey, –

THAT James Varro, the Acting Secretary to Convocation, be appointed Secretary to Convocation.

Carried

DRAFT MINUTES OF CONVOCATION

The draft minutes of September 22 and 29, 2010 were confirmed.

REPORT OF THE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE

To the Benchers of the Law Society of Upper Canada Assembled in Convocation

The Director of Professional Development and Competence reports as follows:

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CALL TO THE BAR AND CERTIFICATE OF FITNESSLicensing Process and Transfer from another Province – By-Law 4

Attached is a list of candidates who have successfully completed the Licensing Process and have met the requirements in accordance with section 9.

All candidates now apply to be called to the bar and to be granted a Certificate of Fitness on Thursday, October 28th, 2010.

ALL OF WHICH is respectfully submitted

DATED this 28th day of October, 2010

CANDIDATES FOR CALL TO THE BAR  
October 28, 2010

Brandon Leslie Barnes  
Ted Thomas Whitmore Bethune  
James David Thomas Jermyn  
Jeffrey Christopher Johns  
Geneviève Marie Lay  
Douglas Vincent Tyler  
Lauren Jane Wihak

It was moved by Ms. Dickson, seconded by Mr. Silverstein, that the Report of the Director of Professional Development and Competence listing the names of the Call to the Bar candidates be adopted.

Carried

MOTION – REAPPOINTMENT TO ONTARIO LAWYERS' ASSISTANCE PROGRAM BOARD OF DIRECTORS

It was moved by Raj Anand, seconded by Glenn Hailey, –

THAT Janet Minor be reappointed to the Ontario Lawyers' Assistance Program Board of Directors effective November 23, 2010.

Carried

REPORT ON THE CONDUCT OF THE BENCHER ELECTION AND THE PROVISIONS OF BY-LAW 3

Mr. Millar presented the Report.

Report to Convocation  
October 28, 2010\*

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Conduct of the Bencher Election and the  
Provisions of By-law 3

Purpose of Report: Decision

Prepared by the Policy Secretariat  
(Sophie Galipeau and Jim Varro)

\*Deferred from September 29, 2010 Convocation

FOR DECISION

CONDUCT OF THE BENCHER ELECTION AND THE  
PROVISIONS OF BY-LAW 3

MOTION

1. That Convocation approve the following for the bencher elections:
  - a. Beginning in 2011, the election materials shall be distributed to voters electronically;

- b. If a. is approved,
  - i. the distribution shall be done by e-mail only, or
  - ii. the distribution shall be done by e-mail with the addition of a paper ballot sent by regular mail;
- c. the Law Society may make available to candidates
  - i. voters' e-mail addresses only, or
  - ii. address labels of voters only, or
  - iii. voters' e-mail addresses and address labels;
- d. the names of candidates on the ballot shall not include any titles or other honorific designations.

## BACKGROUND

- 2. A number of issues related to the conduct of the bench election require Convocation's attention. Treasurer Pawlitza asked Derry Millar to review the issues with Katherine Corrick, the former Elections Officer<sup>1</sup>, and report to Convocation.
- 3. Some of the issues dealt with in this report may require by-law amendments. The purpose of this report is to have Convocation consider the following issues at a policy level and make decisions. Amendments to the by-law reflecting those decisions will then be drafted, if necessary.

## THE ISSUES

Issue 1 – The method of distributing the election information to voters

Issue 2 – The method by which the Law Society facilitates election campaigning

Issue 3 – The manner in which candidates' names appear on the election ballot

Issue 1 – The method of distributing the election information to voters

- 4. Section 21 of By-Law 3 sets out the Elections Officer's obligation to distribute election materials.<sup>2</sup>

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<sup>1</sup> Jim Varro has been assigned as the Elections Officer for the 2011 bench election.

<sup>2</sup> 21. As soon as practicable after the Elections Officer has prepared the polling list, the Elections Officer shall  
distribute to every person whose name appears on the polling list,

- (a) the election materials prepared under section 19;
- (b) voting instructions; and
- (c) a return envelope

5. In 2007, the cost to conduct the bench election was \$275,000. Of this amount, \$210,000 (or 76%) was spent on printing and postage for distribution of the election materials to voters, and pre-paid return postage for the paper ballots. It is estimated that the cost of the 2011 election will be approximately \$300,000<sup>3</sup>.
6. Given the high cost associated with mail distribution, Convocation may wish to consider some options, discussed below, for distributing election materials electronically in 2011.

Option 1 – All election materials distributed by e-mail only

7. This option would mean that the bench election is conducted entirely electronically. The election materials containing voting information, photographs, biographies and statements of candidates, and ballots would be sent to voters by e-mail only, subject to individual accommodation requests under the *Human Rights Code* for materials in alternate format. The same information would be posted on the Law Society website. Voters would be directed to a website where they would vote online. There would be no voting by mail, subject to individual accommodation requests for paper ballots, or telephone voting. In the 2007 bench election, 53% of voters voted by mail, 43% voted by internet and 4% voted by telephone.
8. The use of e-mail and the Internet has increased significantly over the last several years. It is expected that the number of lawyers who will vote on-line in the 2011 election will be higher than in the 2007 election.
9. To vote in the online election, all eligible voters must be able to receive the election materials by e-mail. Currently, of 42,065 lawyers who are eligible to vote, 39,125 or 93% have provided their e-mail addresses to the Law Society.
10. Beginning with the 2010 reporting year, lawyers will be required to file their annual report electronically and the Law Society will send information about the annual report by e-mail only. Only in exceptional circumstances will paper filing be accepted. Lawyers will need to ensure that the Law Society has up-to-date information about their e-mail address. Before the end of 2010, every lawyer whose email address is not in the Law Society's records will be contacted and required to provide an email address. The Law Society hopes to have an email address for every lawyer by the end of 2010, well in advance of the election.
11. The greatest advantage of an online election is the cost saving, as it is the most cost-effective manner of conducting the election. It also eliminates delays in returning ballots and late voting, as there is no delay between voting and receipt of the completed ballot. The electronic vote is immediately recorded the moment the voter submits his or her selection by clicking on the appropriate button. In the 2007 election, 507 paper ballots were received by mail within one week of the close of voting. Electronic voting also prevents errors that could invalidate the ballot, such as inappropriately marking the ballot or voting for more than 20 candidates.

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<sup>3</sup> After the 2007 election, \$75,000 per year has been budgeted for the four year term leading to the 2011 bench election.

12. Electronic voting also eliminates delays associated with mailing election packages to voters. In previous elections, some voters and candidates in remote regions complained that the mail took longer to be delivered and that they received their election package later than those in major urban areas.

Option 2 – Election materials distributed by email only with a paper ballot sent by mail

13. Under this option, the election materials containing candidates' photos, biographies and election statements, and voting instructions would be sent by e-mail only, subject to individual accommodation requests under the *Human Rights Code* for materials in alternate format. The same information would be posted on the Law Society website. A paper ballot and a return envelope would be sent by regular mail to all voters. Voters would choose to vote either electronically or by mail.
14. This process would provide flexibility to voters while saving substantial costs, as follows.
  - a. Printing:  
The election materials cost \$72,859 to print in 2007 (26% of the total cost). The materials consisted of a paper ballot and a booklet containing five pages of voting information and 101 pages of candidates' information including photographs, biographies and election statements. That cost is estimated to be approximately \$90,000 in 2011 as there are now approximately 42,000 lawyers compared to 38,000 in 2007. Of that amount, it is estimated that \$65,000 will be the cost of printing the booklet.
  - b. Postage:  
\$113,823 was spent to mail the election materials to voters in 2007 (41% of the total cost). It is estimated that the mailing cost will be \$120,000 in 2011<sup>4</sup>. Reducing the weight and size of the package would decrease the cost of postage.
  - c. Stationery:  
Mailing only the ballot to voters would allow for a smaller envelope and save stationery costs. In 2007, envelopes cost \$8,400.

Issue 2 – The methods by which the Law Society facilitates election campaigning

15. The by-laws are silent on the manner in which candidates communicate with voters.
16. In the past, the Law Society's practice has been to produce in-house mailing lists of all voters' addresses. The lists were made available to candidates who wished to mail campaign materials directly to voters. In 2007, the Law Society used a third party provider who made address labels available to candidates. Candidates could buy labels for all voters, or by electoral region. The cost to purchase labels for all voters was \$1,140.97. It is estimated that the postage cost to candidates for mailing campaign materials to all voters was over \$18,500.

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<sup>4</sup> At the rate of \$2.75 per package.

17. Since the 1999 election, candidates have asked the Law Society to provide voters' e-mail addresses for campaigning purposes. Convocation considered the issue for the 2007 bench election when it discussed whether to impose limits on campaign spending by candidates to enhance the fairness of the bench election process. The Equity and Aboriginal Issues Committee was of the view that providing access to voters' e-mail addresses would reduce the barriers faced by those who cannot afford the exorbitant costs of mailing campaign materials and would provide greater access to electors.
18. However, the Committee did not recommend providing e-mail addresses of voters to candidates for the 2007 bench election. The Committee referred to the Industry Canada 2004 Task Force on Spam that outlined best practices for marketing email use, including the recommended practice that campaign or marketing emails should only be sent to recipients who have provided their express consent to receiving the information. The Law Society had not obtained the prior consent of voters to use their e-mail addresses for the 2007 bench election. There was also insufficient time to set up the system prior to the 2007 election.
19. Since 2007, lawyers have been asked the following question on their Annual Report:
  4. Bench Election Privacy Option (non-mandatory response)

During the bench election, many candidates want to communicate with voters by e-mail. Fill in the oval if you give the Law Society permission to allow the use of your e-mail address for bench election campaigning purposes.
20. To date, 12,454 lawyers have given that permission<sup>5</sup>. This represents 29% of lawyers eligible to vote.
21. E-mail campaigning was made available for the first time during the 2010 paralegal election<sup>6</sup>. The Law Society did not provide directly to the candidates the e-mail addresses of voters because it would have had no control over the use of this information by the candidates. Instead, the Law Society contracted a third party e-mailing house that managed e-mail campaigning for paralegal candidates. Under a confidentiality agreement, the Law Society provided the company with the e-mail addresses of the voters who had given permission to allow the use of their e-mail addresses for campaigning purposes. Candidates who wished to send campaign information to voters by e-mail retained the services of the company at their own expense<sup>7</sup>. The company sent the e-mail campaign messages to voters on behalf of the candidates.

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<sup>5</sup> Based on responses received on the 2009 Annual Report filed in 2010.

<sup>6</sup> Approximately 43% of paralegals eligible to vote gave their consent to use their e-mail addresses for the 2010 paralegal election.

<sup>7</sup> In the 2010 paralegal election, there were 2,600 eligible voters. The base cost to the candidates for sending an e-mail to the 1,100 eligible voters who gave their consent to receive campaigning e-mails was \$250.00. For an additional cost of \$250 the company designed the message. The option to have the company host the images also cost \$250.

22. A similar arrangement could be made for the 2011 bench election. To access the 12,454 lawyers who have consented to the use of their e-mail addresses for election campaigning purposes, it is estimated that the cost for the candidates would be approximately \$100 per 1000 e-mail addresses<sup>8</sup> (approximately \$1,250). For an additional fee, the third party provider could help candidates design a message.
23. Convocation is asked to decide whether to allow the use of e-mail addresses for campaigning purposes for the 2011 bench election.
24. If e-mail campaigning is available to candidates in the 2011 election, Convocation is also asked to decide whether the Law Society should continue to provide access to address labels if candidates have access to the voters' e-mail addresses. The arguments in favour and against the different options are presented below.

Option 1 – Making voters' e-mail addresses available to candidates

25. Affordability is a major advantage of e-mail campaigning. This practice may reduce the barriers faced by those who cannot afford the high costs of mailing campaign materials and makes access to voters easier. Even if a minority of eligible voters have agreed to the use of their e-mail address, the number of lawyers who have agreed to this use is proportional to the number of lawyers who voted in the last bench election<sup>9</sup>.
26. The number of candidates in the 2011 bench election who would use e-mail campaigning is unknown. During the 2010 paralegal election, of a total of 39 candidates, 10 used e-mail campaigning. In all, a total of 12 e-mails were sent to the voters who had consented to receive campaigning e-mails. This means that one or two candidates sent more than one e-mail. A large number of candidates in the bench election using e-mail campaigning may result in voter fatigue and may have an adverse effect on voter turnout.

Option 2 – Continue making address labels available to candidates

27. The main advantage of address labels is that candidates can reach all voters. This method is also the most costly. As mentioned earlier, in 2007 the cost of purchasing address labels for all eligible voters and mailing exceeded \$18,500 not including the cost of the promotional material itself. This may be prohibitive for some candidates and may create an unlevel playing field, especially if e-mail campaigning is not available.

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<sup>8</sup> Based on quotes received for the 2011 bench election. It would be possible for candidates to request e-mail addresses by electoral regions.

<sup>9</sup> 30% of eligible voters voted in the 2007 bench election while 29% have consented to the use of their e-mail address for election campaigning.



28. In its report of January 2007, the Equity and Aboriginal Issues Committee did not recommend that address labels of voters continue to be made available in the 2007 bench election because most candidates did not use the service.<sup>10</sup> The committee also found that the majority of those who purchased address labels of all voters were already incumbent benchers or in large firms and already had opportunities to communicate their campaign message. The others only ordered labels of voters in their region and were generally not successful candidates.
29. The Committee was of the view that offering the address labels service may have a negative impact on candidates in sole practices, in rural areas and those with lower incomes.
30. Convocation is asked to decide whether the Law Society should continue to offer to candidates address labels of voters.

Option 3 – Making voters' e-mail addresses and address labels available to candidates

31. This option is the most flexible. Candidates would be able to send their campaigning messages either by e-mail or by mail. Candidates could even choose to use both the e-mail and the mail options.
32. Arguably, making both options available, with their different cost levels, would be the most equitable approach for the Law Society

Issue 3 – The manner in which candidates' names appear on the election ballot

33. Convocation is asked to determine whether the way candidates names appear on the ballot should be regulated and, if so, how it should be done.
34. Section 19(1) of By-Law 3 sets out the Elections Officer's obligation to prepare election materials, including the ballots:
  - 19 (1) The Election Officer shall cause to be prepared,
    - (a) an election ballot, showing the names of all candidates who may be eligible to be elected as bencher for each electoral region; and
    - (b) an election booklet, containing the names of all candidates and, if available, the photograph, biography and, subject to subsection (4) election statement of each candidate.
35. This section is silent on the form of the candidates' names on the ballot.
36. The number of candidates asking that certain titles appear on the ballot, for example, The Honourable, QC, LSM, O.C., is growing. The issue with the use of such titles relates to the fairness of the bench election process.

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<sup>10</sup> Based on the analysis of the 2003 bench election results, 20% of candidates used mailing labels.

37. It is not clear whether adding titles on the ballot gives candidates any advantage, but it risks creating an unlevel playing field. In the 2010 paralegal election, the issue of ballot titles was raised when certain paralegal candidates asked that LL.B. or J.D. be added after their name on the ballot. The Elections Officer decided that names only would appear on the ballot.
38. Currently, a bench candidate who wishes to add LL.M., Ph.D., MBA or C.S. (Certified Specialist) to his or her name on the ballot may technically do so. However, titles and other honorific designations are part of a candidate's biography and are already contained in the election materials with the candidates' photographs and election statements. Candidates may use this material as a campaigning tool. The ballot is not a campaigning tool. It is issued by the Law Society to identify the candidates for the purpose of the vote. The ballot must be and must be seen to be a neutral document in this process.

Examples of legislation addressing titles on election ballots

39. A brief review of the legislation regulating the election process at the federal, provincial and municipal levels provides some light on the issue of ballot titles.
  - a. Under the *Election Act*<sup>11</sup>, no occupation, title, honour, decoration, degree, brackets or quotation marks can be included with a candidate's name on the ballot.
  - b. The *Municipal Elections Act*<sup>12</sup> provides that only the names of candidates can appear on the ballot without reference to a candidate's occupation, degree, title, honour or decoration.
  - c. The *Canada Elections Act*<sup>13</sup> is of the same effect but provides that the address or the occupation of candidates may be added in certain cases to distinguish two candidates with the same name.
40. The form of the candidates' names appearing on the election ballot is not regulated in the by-laws. For consistency, Convocation may wish to decide that only the names of candidates, without any titles, are to appear on the election ballot.

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<sup>11</sup> R.S.O. 1990, Ch. E.6, s. 34(3).

<sup>12</sup> S.O. 1996, Ch. 32, s. 41(2) 4.

<sup>13</sup> S.C. 2000, c. 9, Form 3 of Schedule.

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MOTION

1. a. Beginning in 2011, the election materials shall be distributed to voters electronically;
- b. If a. is approved,
  - i. the distribution shall be done by e-mail only, or
  - ii. the distribution shall be done by e-mail with the addition of a paper ballot sent by regular mail;

Not Put
- c. the Law Society may make available to candidates
  - i. voters' e-mail addresses only, or
  - ii. address labels of voters only, or
  - iii. voters' e-mail addresses and address labels;
- d. the names of candidates on the ballot shall not include any titles or other honorific designations.

It was moved by Mr. Millar, seconded by Mr. Banack, that paragraph 1(d) of the Motion be approved.

Carried

Mr. Wright abstained.

It was moved by Mr. Millar, seconded by Mr. Banack, that paragraph 1(c)iii. of the Motion be approved.

Carried

ROLL-CALL VOTE

Anand	For	Heintzman	For
Backhouse	For	Krishna	For
Banack	For	Lewis	For
Boyd	For	McGrath	For
Braithwaite	For	Marmur	For
Bredt	For	Millar	For
Campion	For	Minor	For
Caskey	For	Porter	For

Chilcott	For	Potter	For
Conway	For	Pustina	For
Crowe	For	Rabinovitch	For
Dickson	For	Ross	For
Dray	For	Ruby	For
Elliott	For	Sandler	For
Epstein	For	Schabas	For
Eustace	For	Sikand	For
Falconer	For	Silverstein	For
Fleck	For	Simpson	For
Go	For	C. Strosberg	For
Gottlieb	For	Swaye	For
Haigh	For	Symes	For
Hainey	For	Tough	For
Halajian	For	Wright	Against
Hartman	For		

Vote: 46 For; 1 Against

It was moved by Mr. Wright, seconded by Mr. Gottlieb, that paragraph 1(a) of the Motion be amended by adding the words “provided that members who request the materials in paper form shall receive them in paper form”.

Carried

#### ROLL-CALL VOTE

Anand	For	Hartman	For
Backhouse	For	Heintzman	For
Banack	For	Krishna	For
Boyd	For	Lewis	For
Braithwaite	For	McGrath	For
Bredt	For	Marmur	For
Campion	For	Millar	Against
Caskey	For	Minor	For
Chilcott	For	Porter	For
Conway	For	Potter	For
Crowe	For	Pustina	For
Dickson	For	Rabinovitch	For
Dray	For	Ross	Against
Elliott	For	Sandler	For
Epstein	For	Schabas	Against
Eustace	For	Sikand	For
Falconer	For	Silverstein	For
Fleck	For	Simpson	For
Go	For	C. Strosberg	For
Gottlieb	For	Swaye	For

Haigh  
Hainey  
Halajian

For  
For  
For

Symes  
Tough  
Wright

For  
For  
For

Vote: 43 For; 3 Against

The main motion as amended carried.

Convocation adjourned and reconvened as a Committee of the Whole in camera.

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INTER-JURISDICTIONAL MOBILITY COMMITTEE REPORT

Ms. McGrath presented the Report.

Report to Convocation  
October 28, 2010

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Inter-Jurisdictional Mobility Committee

COMMITTEE MEMBERS

Paul Henderson (Chair)  
Susan McGrath (Vice Chair)  
Carl Fleck  
Thomas Conway  
Vern Krishna

Purpose of Report:    Decision

Prepared by the Policy Secretariat  
(Sophia Sperdakos 416-947-5209)

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For Decision

Amendments to By-Laws Respecting the Quebec Mobility Agreement ..... TAB A

### COMMITTEE PROCESS

1. The Committee met on October 14, 2010. Committee members Paul Henderson (Chair), Susan McGrath (Vice Chair), Tom Conway and Carl Fleck attended. Staff members Elliot Spears and Sophia Sperdakos also attended.

### AMENDMENTS TO BY-LAWS RESPECTING THE QUEBEC MOBILITY AGREEMENT

#### MOTION

2. That Convocation approve the proposed amendments to By-laws 3, 4, 5, 7.1, 11, 13 and 14 to implement the Québec Mobility Agreement, the official bilingual version of which will be provided under separate cover to Convocation for approval, the English version of which is set out at Appendix 2.

#### Introduction and Background

3. In February 2010 Convocation approved the Québec Mobility Agreement to permit lawyers from Québec to become members of the Law Society of Upper Canada entitled to practise the law of their home jurisdiction, federal law or public international law. A copy of the Agreement that Convocation approved is set out at Appendix 1. Lawyers from the common law jurisdictions in Canada, including Ontario, are also eligible to become members of the Barreau du Québec pursuant to the Agreement.
4. Québec lawyers licensed pursuant to the Agreement will be classified as L-3 licensees. To implement the Agreement the Law Society must amend by-laws 3, 4, 5, 7.1, 11, 13 and 14. The English version of the motion to amend the by-laws is set out at Appendix 2. The black-lined sections of the relevant by-laws are set out at Appendix 3.
5. Québec has already implemented the Agreement.

Appendix 1

### Quebec Mobility Agreement

### **FEDERATION OF LAW SOCIETIES OF CANADA**

October 15, 2009  
Winnipeg, Manitoba

#### Introduction

The purpose of this Agreement is to extend the scope of the National Mobility Agreement (the

“NMA”) in facilitating reciprocal permanent mobility between the common law jurisdictions and the Barreau du Québec (“the Barreau”). Clause 40(b) of the NMA provides that “a signatory governing body, other than the Barreau, will admit members of the Barreau as members on one of the following bases:...(b) as permitted by the Barreau in respect of members of the signatory governing body.”

The Barreau has implemented a scheme under which members of the law societies of the other provinces and the territories may become members of the Barreau and practise federal law and the law of their home jurisdictions as Canadian Legal Advisors. It is the intention of the signatories to this Agreement that the other provincial and territorial law societies will reciprocate with the Barreau by implementing provisions that will permit members of the Barreau to become members of other law societies and practise federal and Quebec law in other jurisdictions.

The signatories recognize that,

- they have a duty to the Canadian public and to their members to regulate the inter-jurisdictional practice of law so as to ensure that their members practise law competently, ethically and with financial responsibility, including professional liability insurance and defalcation compensation coverage, in all jurisdictions of Canada,
- differences exist in the legislation, policies and programs pertaining to the signatories, particularly between common law and civil jurisdictions, and
- it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law to promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

## **Background**

In August 2002 the Federation of Law Societies of Canada (the “Federation”) accepted the report of the National Mobility Task Force for the implementation of full mobility rights for Canadian lawyers.

Eight law societies, including the Barreau, signed the NMA on December 9, 2002. The Agreement recognized that special circumstances applicable to the Barreau would necessitate additional provisions to implement mobility between the Barreau and the common law jurisdictions. The signatories also recognized that the requirement for the Barreau to comply with regulations applicable to all professions in Quebec would delay implementation of the NMA with respect to the Barreau.

In 2006, the law societies of all 10 provinces, including the Barreau, signed the Territorial Mobility Agreement, along with the law societies of all three territories. Under that agreement, provisions were mandated for reciprocal permanent mobility between the law societies of the territories and the provinces, for a five-year period ending January 1, 2012.

## Quebec Mobility

In June 2008 Quebec enacted a “Regulation respecting the issuance of special permits of the Barreau du Québec”, which is stated to be “made in order to facilitate the mobility of advocates.” The Regulation provides, *inter alia*, that a member in good standing of a bar of another Canadian province or territory may apply for a “special Canadian legal advisor permit” in Quebec. A person granted such a permit may engage in the following activities on behalf of another person:

- (1) give legal advice and consultations on legal matters involving the law of the Canadian province or territory where he or she is legally authorized to practise law or involving matters under federal jurisdiction;
- (2) prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts, but only with respect to matters under federal jurisdiction;
- (3) give legal advice and consultations on legal matters involving public international law; and
- (4) plead or act before any tribunal, but only with respect to matters under federal jurisdiction.

Recognizing the provisions of the Quebec Regulation, the signatories to this Agreement agree to enter into an arrangement with the Barreau to enable its members to exercise mobility in the common law jurisdictions on a reciprocal basis. It is recognized that members of other governing bodies will not be able to exercise the reciprocal right to practise public international law unless they have professional liability insurance coverage that specifically includes such practice.

THE SIGNATORIES AGREE AS FOLLOWS:

### Definitions

1. In this Agreement, unless the context indicates otherwise:

“**Advisor**” means a Canadian Legal Advisor;

“**Barreau**” means the Barreau du Québec;

“**Canadian Legal Advisor**” means a member of a governing body who holds a current Canadian Legal Advisor certificate issued by another governing body;

“**governing body**” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, and the Barreau;

“**home governing body**” means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “**home jurisdiction**” has a corresponding meaning;

**“lawyer”** means a member of a signatory governing body;

**“liability insurance”** means compulsory professional liability errors and omissions insurance required by a governing body;

**“National Mobility Agreement”** or **“NMA”** means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada;

**“permanent mobility provisions”** means clauses 32 to 36, 39 and 40 of the NMA; Quebec

## **General**

2. The signatory governing bodies will
  - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this Agreement;
  - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this Agreement;
  - (c) comply with the spirit and intent of this Agreement to facilitate mobility of Canadian lawyers in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
  - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.
3. Signatory governing bodies will subscribe to this Agreement and be bound by means of the signature of an authorized person affixed to any copy of this Agreement.
4. A signatory governing body will not, by reason of this agreement alone,
  - (a) grant to a lawyer who is a member of another governing body greater rights to provide legal services than are permitted to the lawyer by his or her home governing body; or
  - (b) relieve a lawyer of restrictions or limits on the lawyer's right to practise, except under conditions that apply to all members of the signatory governing body.
5. Amendments made under clause 2(b) will take effect immediately on adoption with respect to members of signatory governing bodies that have adopted reciprocal provisions.



**Canadian Legal Advisor**

6. The Barreau will continue to issue Canadian Legal Advisor certificates to qualifying members of governing bodies, and the other signatories will establish and maintain an equivalent program in order to issue Canadian Legal Advisor certificates to qualifying members of the Barreau.
7. Members of the Barreau whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted as equivalent by the Barreau are not qualifying members of the Barreau for the purpose of clause 6.
8. The permanent mobility provisions of the NMA apply with respect to requirements and qualifications to obtain a Canadian Legal Advisor Certificate, except that a signatory governing body must require that an Advisor continue to maintain practising membership in the home governing body.
9. A signatory governing body that has adopted regulatory provisions giving effect to the requirements of clauses 6 and 8 of this Agreement is a reciprocating governing body for the purposes of this Agreement, whether or not the signatory governing body has adopted or given effect to the NMA or any provision of the NMA.

**Liability Insurance**

10. A governing body will continue to make available to its members who are also Advisors in another jurisdiction ongoing liability insurance as required in the governing body's jurisdiction that provides occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member aggregate.
11. If a member of more than one governing body becomes an Advisor member of a third governing body, the governing body that makes ongoing liability insurance available to the member at the time or did so most recently, will continue to do so or resume doing so, whether or not the member continues to be a resident of that jurisdiction.
12. On application, a signatory governing body will exempt an Advisor member from liability insurance requirements if the Advisor maintains, in another signatory jurisdiction, ongoing liability insurance that provides occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member aggregate.

**Transition Provisions**

13. This agreement is a multi-lateral agreement, effective respecting the governing bodies that are signatories, and it does not require unanimous agreement of Canadian governing bodies.
14. This Agreement is intended to implement clauses 39 and 40 of the NMA. It does not affect the obligations of any party under others provision of the NMA or other agreements in effect.

15. Provisions governing temporary and permanent mobility in effect at the time that a governing body becomes a signatory to this agreement will continue in effect

(a) until this Agreement is implemented, and

(b) when this Agreement is implemented, except to the extent modified by this Agreement.

### Dispute Resolution

16. Signatory governing bodies adopt and agree to apply provisions in the Inter-Jurisdictional Practice protocol in respect of arbitration of disputes, specifically Clause 13 and Appendix 5 of the Protocol.

### Withdrawal

17. A signatory governing body may cease to be bound by this agreement by giving each other signatory governing body written notice of at least one clear calendar year.
18. A signatory governing body that gives notice under clause 17 will immediately notify its members in writing of the effective date of withdrawal.

SIGNED as of the dates indicated below.

#### LAW SOCIETY OF ALBERTA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

#### LAW SOCIETY OF BRITISH COLUMBIA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

#### LAW SOCIETY OF MANITOBA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

#### LAW SOCIETY OF NEW BRUNSWICK

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

#### LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

## NOVA SCOTIA BARRISTERS' SOCIETY

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## LAW SOCIETY OF THE NORTHWEST TERRITORIES

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## LAW SOCIETY OF NUNAVUT

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## LAW SOCIETY OF UPPER CANADA

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## LAW SOCIETY OF PRINCE EDWARD ISLAND

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## BARREAU DU QUÉBEC

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## LAW SOCIETY OF SASKATCHEWAN

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## LAW SOCIETY OF YUKON

Per: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Date

## APPENDIX 2

## THE LAW SOCIETY OF UPPER CANADA

BY-LAWS MADE UNDER  
SUBSECTIONS 62 (0.1) AND (1) OF THE LAW SOCIETY ACTMOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON OCTOBER 28, 2010

MOVED BY

SECONDED BY

THAT the By-Laws, made by Convocation under subsections 62 (0.1) and (1) of the Law Society Act, in force on this day, be amended as follows:

## BY-LAW 3

1. Section 1 of the English version of By-Law 3 is amended by revoking the definition of “licensee” and substituting the following:

“licensee” means a person licensed to practise law in Ontario as a barrister and solicitor.

## BY-LAW 4

2. Subsection 1 (1) of the English version of By-Law 4 is amended by adding the following paragraph:

3. Class L3.

3. Section 2 of the English version of By-Law 4 is amended by adding the following subsection:

Class L3

(3) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class L3 licence is authorized to do any of the following:

1. Give a person advice with respect to,
  - i. the laws of Quebec,
  - ii. the laws of Canada, and
  - iii. public international law.

2. Select, draft, complete or revise a document for use in a proceeding with respect to matters concerning the laws of Canada.
3. Represent a person in a proceeding before an adjudicative body with respect to matters concerning the laws of Canada.
4. The marginal note to section 3 of the English version of By-Law 4 is deleted and the following substituted:

Terms, *etc.*: Class L1 licence

5. The English version of By-Law 4 is further amended by adding the following section:

Terms, *etc.*: Class L3 licence

- 4.1 A licensee who holds a Class L3 licence is subject to the following terms, conditions, limitations and restrictions:

1. The licensee is subject to any term, condition, limitation or restriction imposed on the licensee's authority to practise law in Quebec.
2. The licensee is prohibited from practising law in Ontario as a barrister and solicitor if the licensee is prohibited from practising law in Quebec.
3. The licensee is prohibited from practising law in Ontario as a barrister and solicitor if the licensee does not maintain the full mandatory professional liability insurance coverage required by the Barreau du Québec.

6. Section 10 of the English version of By-Law 4 is amended by adding "licence" after "Class L2" wherever it occurs.

7. The English version of By-Law 4 is further amended by adding the following section:

Requirements for issuance of Class L3 licence

- 10.0.01 The following are the requirements for the issuance of a Class L3 licence:

1. The applicant must be a member of the Barreau du Québec, other than a member who qualified for membership under the Entente entre le Québec et la France en matière de reconnaissance mutuelle des qualifications professionnelles.
2. The applicant must be authorized to practise law in Quebec.

8. Subsection 21 (1) of the English version of By-Law 4 is amended by,
  - (a) in the marginal note, striking out "Class L1 licence" and substituting "licence to practise law in Ontario as a barrister and solicitor"; and

- (b) in the introductory portion, striking out “Class L1 licence under the Act” and substituting “licence to practise law in Ontario as a barrister and solicitor”.
9. Subsection 21 (2) of the English version of By-Law 4 is amended by,
- (a) in the marginal note, striking out “Class P1 licence” and substituting “licence to provide legal services”; and
  - (b) in the introductory portion, striking out “Class P1 licence under the Act” and substituting “licence to provide legal services in Ontario”.
10. Section 22 of the English version of By-Law 4 is amended by striking out “under the Act” and substituting “to practise law in Ontario as a barrister and solicitor or a licence to provide legal services in Ontario”.

#### BY-LAW 5

11. Subsection 4 (1) of the English version of By-Law 5 is revoked and the following substituted:

Application for exemption from payment of annual fee: over sixty-five years of age

4. (1) A licensee who is over sixty-five years of age and does not practise law in Ontario as a barrister and solicitor or practises law in Ontario as a barrister and solicitor only as described in subsection 3 (2) of By-Law 4 [Licensing] may apply to the Society for an exemption from payment of an annual fee.

#### BY-LAW 7.1

12. Subsection 1 (1) of the English version of By-Law 7.1 is amended by revoking clause (a) of the definition of “non-licensee” and substituting the following:
- (a) in the case of the assignment of tasks and functions by a person licensed to practise law in Ontario as a barrister and solicitor, is not a person licensed to practise law in Ontario as a barrister and solicitor and, in the case of the assignment of tasks and functions by a person licensed to provide legal services in Ontario, is not a licensee,
13. Subsection 4 (1) of the English version of By-Law 7.1 is amended by adding “or provision of legal services” immediately before “in relation to the affairs of each client” at the end.
14. The definition of “suspended licensee” in section 8 of the English version of By-Law 7.1 is amended by striking out “who holds a Class L1 licence or a Class P1 licence and”.

## BY-LAW 11

15. Subsection 27 (1) of the English version of By-Law 11 is amended by,
- (a) deleting “or” at the end of clause (c);
  - (b) striking out the period and substituting “; or” at the end of clause (d); and
  - (c) adding the following clause:
    - (e) the licensee holds a Class L3 licence and is required to pay the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].

## BY-LAW 13

16. Section 10 of the English version of By-Law 13 is amended by revoking clause (a) and substituting the following:
- (a) every person licensed to practise law in Ontario as a barrister and solicitor, regardless of whether the person is also a member of an Association;

## BY-LAW 14

17. Section 1 of the English version of By-Law 14 is amended by revoking the definition of “licensee” and substituting the following:

“licensee” means a person licensed to practise law in Ontario as a barrister and solicitor.

Attached to the original Report in Convocation file, copies of:

- (1) Copy of the black-line sections of the proposed amendments.  
(Appendix 3, pages 20 – 38)

Re: Amendments to By-Laws Respecting the Quebec Mobility Agreement

It was moved by Ms. McGrath, seconded by Mr. Fleck, that By-Laws 3, 4, 5, 7.1, 11, 13 and 14 be amended to implement the Québec Mobility Agreement as set out in the motion distributed under separate cover.

Carried

## THE LAW SOCIETY OF UPPER CANADA

**BY-LAWS MADE UNDER  
SUBSECTIONS 62 (0.1) AND (1) OF THE *LAW SOCIETY ACT***

THAT the By-Laws, made by Convocation under subsections 62 (0.1) and (1) of the *Law Society Act*, in force on this day, be amended as follows:

**BY-LAW 3**

**1. Section 1 of the English version of By-Law 3 is amended by revoking the definition of “licensee” and substituting the following:**

“licensee” means a person licensed to practise law in Ontario as a barrister and solicitor.

**2. Section 1 of the French version of By-Law 3 is amended by revoking the definition of “titulaire de permis” and substituting the following:**

« titulaire de permis » Personne pourvue d'un permis l'autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate.

**BY-LAW 4**

**3. Subsection 1 (1) of the English version of By-Law 4 is amended by adding the following paragraph:**

3. Class L3.

**4. Subsection 1 (1) of the French version of By-Law 4 is amended by adding the following paragraph:**

3. La catégorie L3.

**5. Section 2 of the English version of By-Law 4 is amended by adding the following subsection:**

**Class L3**

(3) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class L3 licence is authorized to do any of the following:

1. Give a person advice with respect to,



- i. the laws of Quebec,
  - ii. the laws of Canada, and
  - iii. public international law.
2. Select, draft, complete or revise a document for use in a proceeding with respect to matters concerning the laws of Canada.
3. Represent a person in a proceeding before an adjudicative body with respect to matters concerning the laws of Canada.

**6. Section 2 of the French version of By-Law 4 is amended by adding the following subsection:**

**Catégorie L3**

(3) Sous réserve des conditions applicables ou des restrictions imposées à une catégorie de permis ou aux titulaires de permis et de toute ordonnance rendue en vertu de la Loi, les titulaires de permis qui détiennent un permis de catégorie L3 sont autorisés à poser les actes suivants :

1. Donner des conseils concernant :
  - i. le droit du Québec,
  - ii. le droit du Canada,
  - iii. le droit international public.
2. Choisir, rédiger, achever ou réviser un document devant servir dans une instance tenue à l'égard d'affaires concernant le droit du Canada.
3. Agir pour autrui dans le cadre d'une instance tenue devant un organisme juridictionnel à l'égard d'affaires concernant le droit du Canada.

**7. The marginal note to section 3 of the English version of By-Law 4 is deleted and the following substituted:**

**Terms, etc.: Class L1 licence**

**8. The marginal note to section 3 of the French version of By-Law 4 is deleted and the following substituted:**

**Conditions : permis de catégorie L1**

**9. The English version of By-Law 4 is further amended by adding the following section:**

**Terms, etc.: Class L3 licence**

4.1 A licensee who holds a Class L3 licence is subject to the following terms, conditions, limitations and restrictions:

1. The licensee is subject to any term, condition, limitation or restriction imposed on the licensee's authority to practise law in Quebec.
2. The licensee is prohibited from practising law in Ontario as a barrister and solicitor if the licensee is prohibited from practising law in Quebec.
3. The licensee is prohibited from practising law in Ontario as a barrister and solicitor if the licensee does not maintain the full mandatory professional liability insurance coverage required by the Barreau du Québec.

**10. The French version of By-Law 4 is further amended by adding the following section:**

**Conditions : permis de catégorie L3**

4.1 Les titulaires d'un permis de catégorie L3 sont assujettis aux conditions et aux restrictions suivantes :

1. Les titulaires de permis sont assujettis aux conditions et aux restrictions dont est assorti leur pouvoir d'exercer la profession d'avocat au Québec.
2. Il est interdit aux titulaires de permis d'exercer le droit en Ontario à titre d'avocat ou d'avocate s'il leur est interdit d'exercer la profession d'avocat au Québec.
3. Il est interdit aux titulaires de permis d'exercer le droit en Ontario à titre d'avocat ou d'avocate s'ils ne souscrivent pas dans son intégralité la protection d'assurance responsabilité professionnelle obligatoire du Barreau du Québec.

**11. Section 10 of the English version of By-Law 4 is amended by adding "licence" after "Class L2" wherever it occurs.**

**12. The English version of By-Law 4 is further amended by adding the following section:**

**Requirements for issuance of Class L3 licence**

10.0.01 The following are the requirements for the issuance of a Class L3 licence:

1. The applicant must be a member of the Barreau du Québec, other than a member who qualified for membership under the Entente entre le Québec et la France en matière de reconnaissance mutuelle des qualifications professionnelles.
2. The applicant must be authorized to practise law in Quebec.

**13. The French version of By-Law 4 is further amended by adding the following section:**

**Exigences relative à la délivrance d'un permis de catégorie L3**

10.0.01 Les exigences suivantes s'appliquent à la délivrance d'un permis de catégorie L3 :

1. Le requérant ou la requérante doit être membre du Barreau du Québec, mais n'y est pas admissible dans le cadre de l'Entente entre le Québec et la France en matière de reconnaissance mutuelle des qualifications professionnelles.
2. Le requérant ou la requérante doit être autorisé à exercer la profession d'avocat au Québec.

**14. Subsection 21 (1) of the English version of By-Law 4 is amended by,**

- (a) in the marginal note, striking out "Class L1 licence" and substituting "licence to practise law in Ontario as a barrister and solicitor"; and
- (b) in the introductory portion, striking out "Class L1 licence under the Act" and substituting "licence to practise law in Ontario as a barrister and solicitor".

**15. Subsection 21 (1) of the French version of By-Law 4 is amended by,**

- (a) in the marginal note, striking out "Permis de catégorie L1" and substituting "permis d'exercer le droit en Ontario à titre d'avocat ou d'avocate"; and
- (b) in the introductory portion, striking out "permis de catégorie L1 en vertu de la Loi" and substituting "permis l'autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate".

**16. Subsection 21 (2) of the English version of By-Law 4 is amended by,**

- (a) in the marginal note, striking out "Class P1 licence" and substituting "licence to provide legal services in Ontario"; and
- (b) in the introductory portion, striking out "Class P1 licence under the Act" and substituting "licence to provide legal services in Ontario".

17. Subsection 21 (2) of the French version of By-Law 4 is amended by,
- (a) in the marginal note, striking out “Permis de catégorie P1” and substituting “permis autorisant à offrir des services juridiques en Ontario”; and
  - (b) in the introductory portion, striking out “permis de catégorie P1 en vertu de la Loi” and substituting “permis l’autorisant à offrir des services juridiques en Ontario”.
18. Section 22 of the English version of By-Law 4 is amended by striking out “under the Act” and substituting “to practise law in Ontario as a barrister and solicitor or a licence to provide legal services in Ontario”.

19. Section 22 of the French version of By-Law 4 is amended by striking out “en vertu de la Loi” and substituting “l’autorisant à exercer le droit en Ontario à titre d’avocat ou d’avocate ou d’un permis l’autorisant à offrir des services juridiques en Ontario”.

#### **BY-LAW 5**

20. Subsection 4 (1) of the English version of By-Law 5 is revoked and the following substituted:

##### **Application for exemption from payment of annual fee: over sixty-five years of age**

4. (1) A licensee who is over sixty-five years of age and does not practise law in Ontario as a barrister and solicitor or practises law in Ontario as a barrister and solicitor only as described in subsection 3 (2) of By-Law 4 [Licensing] may apply to the Society for an exemption from payment of an annual fee.

21. Subsection 4 (1) of the French version of By-Law 5 is revoked and the following substituted:

##### **Demande d’exonération du paiement de la cotisation annuelle : personnes âgées de plus de 65 ans**

4. (1) Les titulaires de permis âgés de plus de 65 ans qui n’exercent pas le droit en Ontario à titre d’avocat ou d’avocate ou qui ne le font que conformément au paragraphe 3 (2) du Règlement administratif n° 4 [Octroi de permis] peuvent présenter au Barreau une demande d’exonération du paiement de la cotisation annuelle.

#### **BY-LAW 7.1**

22. Subsection 1 (1) of the English version of By-Law 7.1 is amended by revoking clause (a) of the definition of “non-licensee” and substituting the following:

- (a) in the case of the assignment of tasks and functions by a person licensed to practise law in Ontario as a barrister and solicitor, is not a person licensed to practise law in Ontario

as a barrister and solicitor and, in the case of the assignment of tasks and functions by a person licensed to provide legal services in Ontario, is not a licensee,

**23. Subsection 1 (1) of the French version of By-Law 7.1 is amended by revoking clause a) of the definition of “non-titulaire de permis” and substituting the following:**

- a) dans le cas de l'assignation de tâches et de fonctions par une personne pourvue d'un permis l'autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate, n'est pas une personne pourvue d'un tel permis et, dans le cas de l'assignation de tâches et de fonctions par une personne pourvue d'un permis l'autorisant à offrir des services juridiques en Ontario, n'est pas un ou une titulaire de permis,

**24. Subsection 4 (1) of the English version of By-Law 7.1 is amended by adding “or provision of legal services” immediately before “in relation to the affairs of each client” at the end.**

**25. The definition of “suspended licensee” in section 8 of the English version of By-Law 7.1 is amended by striking out “who holds a Class L1 licence or a Class P1 licence and”.**

**26. The definition of “titulaire de permis suspendu” in section 8 of the French version of By-Law 7.1 is amended by striking out “qui détient un permis de catégorie L1 ou P1 et”.**

**BY-LAW 11**

**27. Subsection 27 (1) of the English version of By-Law 11 is amended by,**

- (a) deleting “or” at the end of clause (c);
- (b) striking out the period and substituting “; or” at the end of clause (d); and
- (c) adding the following clause:
  - (e) the licensee holds a Class L3 licence and is required to pay the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].

**28. Subsection 27 (1) of the French version of By-Law 11 is amended by,**

- (a) striking out the period and substituting a semi-colon at the end of clause d); and
- (b) adding the following clause:

- e) la ou le titulaire de permis détient un permis de catégorie L3 et est tenu de payer le montant total de la cotisation annuelle qui est fixé en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle].

### **BY-LAW 13**

**29. Section 10 of the English version of By-Law 13 is amended by revoking clause (a) and substituting the following:**

- (a) every person licensed to practise law in Ontario as a barrister and solicitor, regardless of whether the person is also a member of an Association;

**30. Section 10 of the French version of By-Law 13 is amended by revoking clause a) and substituting the following:**

- a) toutes les personnes pourvues d'un permis les autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate, qu'elles soient ou non également membres d'une association;

### **BY-LAW 14**

**31. Section 1 of the English version of By-Law 14 is amended by revoking the definition of "licensee" and substituting the following:**

"licensee" means a person licensed to practise law in Ontario as a barrister and solicitor.

**32. Section 1 of the French version of By-Law 14 is amended by revoking the definition of "titulaire de permis" and substituting the following:**

« titulaire de permis » Personne pourvue d'un permis l'autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate.

### **PROFESSIONAL DEVELOPMENT AND COMPETENCE COMMITTEE REPORT**

Mr. Conway presented the Report.

Report to Convocation  
October 28, 2010

## COMMITTEE MEMBERS

Thomas Conway (Chair)  
 Mary Louise Dickson (V-Chair)  
 Alan Silverstein (V-Chair)  
 Constance Backhouse  
 Larry Banack  
 Jack Braithwaite  
 Marshall Crowe  
 Aslam Daud  
 Paul Dray  
 Lawrence Eustace  
 Gary Lloyd Gottlieb

Jennifer A. Halajian  
 Susan Hare  
 Thomas Heintzman  
 Paul Henderson  
 Dow Marmur  
 Susan McGrath  
 Janet Minor  
 Daniel Murphy  
 Nicholas Pustina  
 Heather Ross  
 Catherine Strosberg  
 Bonnie Tough

Purpose of Report: Decision/Information

Prepared by the Policy Secretariat  
 (Sophia Sperdakos 416-947-5209)

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 Professional Development and Competence Department Resource and Program Report

## COMMITTEE PROCESS

1. The Committee met on October 14, 2010. Committee members Tom Conway (Chair), Mary Louise Dickson (Vice-Chair), Constance Backhouse, Larry Banack, Jack Braithwaite, Marshall Crowe, Paul Dray, Gary Lloyd Gottlieb, Tom Heintzman, Paul Henderson, Dow Marmur, Susan McGrath, Daniel Murphy, Nicholas Pustina, and Heather Ross attended. Cathy Corsetti, the Chair of the Paralegal Standing Committee, also participated in part of the meeting. Staff members Lisa Hall, Diana Miles, Elliot Spears, Sophia Sperdakos and Jim Varro also attended.

## AMENDMENTS TO BY-LAW 6.1 RESPECTING CONTINUING PROFESSIONAL DEVELOPMENT REQUIREMENT

## MOTION

2. That Convocation approve the proposed amendments to By-law 6.1 [Continuing Legal Education], the bilingual version of which will be provided under separate cover to Convocation for approval, the English version of which is at Appendix 1.

## Introduction and Background

3. In February 2010 Convocation approved the introduction of a Continuing Professional Development (CPD) requirement commencing January 1, 2011 for lawyers who practise law and paralegals who provide legal services (those lawyers and paralegals in the 100% fee paying category). The approved recommendations set out the provisions of the program as follows:

### Recommendation 1

That the Law Society introduce a CPD requirement for lawyers and paralegals who practise law and provide legal services, respectively, (those in the 100% fee paying category) commencing on January 1, 2011, with the first reporting of hours due on December 31, 2011. Lawyers who are excused from paying fees who practise law will also be subject to the requirement.

### Recommendation 2

That for the purposes of the requirement CPD is defined as follows:

Continuing professional development is the maintenance and enhancement of a lawyer or paralegal's professional knowledge, skills, attitudes and ethics throughout the individual's career.

### Recommendation 3

That lawyers and paralegals subject to the requirement be required to fulfill 12 hours of CPD annually, with 3 of the 12 hours to be taken in topics related to ethics, professionalism and/or practice management.

### Recommendation 4

That lawyers or paralegals subject to the requirement may seek an exemption from the requirement in circumstances coming within the Human Rights Code and/or such other or additional circumstances as the Director of Professional Development and Competence, or her designate, deems appropriate.

### Recommendation 5

That in calculating the exemption a lawyer or paralegal will be exempted from the requirement on the basis of one credit hour for each month for which the exemption is granted.

### Recommendation 6

That the activities in paragraph 52 be considered eligible activities for the CPD requirement. That the activities set out in paragraph 62 be considered ineligible activities for the CPD requirement.

### Recommendation 7

That lawyers and paralegals fulfill their CPD requirements from the list of eligible activities and in compliance with the definition of CPD set out at Recommendation 2. Subject to Recommendation 9 and 19 there is no program or provider accreditation.



**Recommendation 8**

That the Law Society assume primary responsibility for delivery of the required ethics, professionalism and practice management content that those subject to the CPD requirement must meet, without charging program registration or materials fees.

**Recommendation 9**

That providers other than the Law Society that wish to provide stand-alone programs or program content in ethics, professionalism and practice management must apply for and obtain program approval.

**Recommendation 10**

That lawyers continue to report annually on the Lawyers Annual Report the number of self-study hours they complete and that commencing in 2011 paralegals report annually on the Paralegal Annual Report the number of self-study hours they complete. The number of hours is not mandatory, but reporting is. This reporting is not part of the CPD requirement.

**Recommendation 11**

That lawyers and paralegals who are not otherwise exempted from the CPD requirement report their CPD activities annually by December 31 on the lawyer and paralegal portal, commencing December 31, 2011. They may not carry over credits from one year into the next.

**Recommendation 12**

That lawyers and paralegals be entitled to report their eligible activities at any time on or before December 31.

**Recommendation 13**

That lawyers and paralegals be provided with notices at regular intervals throughout the calendar year advising them how many credits they have obtained and how many credits remain outstanding.

**Recommendation 14**

That if a lawyer or paralegal is exempted from the requirement at any time during the year compliance will be calculated on a pro rata basis of one hour for each month in the year during which he or she is not exempted. He or she will be exempted from the balance of hours and will not be required to make them up when the exemption ends.

**Recommendation 15**

That following the completion of the calendar year the summary suspension benchers will be provided with the names of the lawyers and paralegals who have failed to comply with the requirement and who are subject to administrative suspension from practice. If administratively suspended the lawyer or paralegal may be re-instated by completing the missing credit hours.

**Recommendation 16**

That there be provision for random annual CPD audits to monitor compliance with the CPD requirement, to be undertaken as part of a practice management review or paralegal practice audit; and by random selection chosen from among all paralegals and lawyers subject to the requirement.

**Recommendation 17**

That the randomly selected CPD audits take the form of a written request for proof of completion.

**Recommendation 18**

That there be a total of 500 audits of lawyers and 25 audits of paralegals annually respecting CPD compliance.

**Recommendation 19**

That beginning in January 2011 new lawyers and paralegals be required to take 12 hours per year (for the equivalent of two full years of practice or providing legal services, respectively) of programming accredited by the Law Society, 3 hours of which per year will be in topics of ethics, professionalism, and practice management and will be integrated within the other 12 hours of accredited programming.

**Recommendation 20**

That Certified Specialists be required to obtain a total of 12 hours of CPD annually, with 3 of those hours to be taken in topics related to ethics, professionalism and/or practice management.

**Recommendation 21**

That the Law Society further investigate the issue of CPD registration subsidies for inclusion in discussions of the 2011 Law Society budget.

**Recommendation 22**

At regular intervals in 2010, the PD&C Committee and the PSC should receive reports on the implementation process. An annual information report should be provided to the Committees and Convocation in 2011 and 2012. An assessment report should be provided to the Committees and Convocation by the end of April 2013 addressing the first two years of operation, including but not limited to the issues set out in paragraph 96.

**Recommendation 23**

That the Law Society implement a communications plan in accordance with paragraphs 98-101 of this report.

4. In May 2010 Convocation approved an amendment respecting new lawyers and paralegals to provide that in fulfilling their CPD hours for the first two calendar years of practice following their call to the bar or licensing, new lawyers and paralegals may begin acquiring and calculating the 12 hours for their first calendar year immediately upon call to the bar or licensing.
5. The Paralegal Standing Committee has also considered and agrees with the proposed by-law.
6. A black-lined version of By-law 6.1 is set out at Appendix 2. The official bilingual version of the By-law, as set out in English at Appendix 1, will be distributed at Convocation for Convocation's approval.

## APPENDIX 1

## THE LAW SOCIETY OF UPPER CANADA

BY-LAWS MADE UNDER  
SUBSECTIONS 62 (0.1) AND (1) OF THE LAW SOCIETY ACT

## BY-LAW 6.1

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON OCTOBER 28, 2010

MOVED BY

SECONDED BY

THAT By-Law 6.1 [Continuing Legal Education], made by Convocation on January 29, 2009 and amended by Convocation on October 29, 2009, be revoked and the following substituted:

## BY-LAW 6.1

## CONTINUING PROFESSIONAL DEVELOPMENT

Continuing professional development requirement

1. (1) Beginning January 1, 2011, the following licensees shall complete the number of hours of eligible activities each year required under subsection (2):

1. A licensee who is required to pay the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].
2. A licensee who is exempt from payment of the full amount of the annual fee under section 3.1 of By-Law 5 [Annual Fee].
3. A licensee who is exempt from payment of the annual fee under subsection 4 (1) of By-Law 5 [Annual Fee] and who practises law as described therein.
4. A licensee who is exempt from payment of the annual fee under subsection 4 (6) of By-law 5 [Annual Fee] and who practises law in Ontario as a barrister and solicitor.

Number of required hours per year

(2) Each year, a licensee to whom subsection (1) applies shall complete one hour of eligible activities for each calendar month in the year during which for any amount of time the licensee practises law in Ontario as a barrister and solicitor or provides legal services in Ontario, of the total of which hours at least twenty-five percent shall consist of eligible activities that are accredited by the Society covering ethics, professionalism or practice management topics.

#### Exemption from or reduction in required number of hours

(3) On application by a licensee, in any year, the Society may, for that year, exempt the licensee from the requirement under subsection (1) or reduce the number of hours of eligible activities that the licensee is required to complete under subsection (2).

#### No carry-over

(4) A licensee may not carry over from one year to any other year any hours of eligible activities that the licensee completes in the one year.

#### Application

(5) Section 1 does not apply to a licensee for the period of time during which section 2 applies to the licensee.

#### New licensees: twenty-four hour requirement

2. (1) A licensee who after May 31, 2010 is licensed to practise law in Ontario as a barrister and solicitor or licensed to provide legal services in Ontario shall complete twenty-four hours of eligible activities that are accredited by the Society, of which at least twenty-five percent shall consist of eligible activities that are accredited by the Society covering ethics, professionalism or practice management topics, within a period of twenty-four months.

#### Twenty-four month period

- (2) The twenty-four month period mentioned in subsection (1),
  - (a) begins on the day on which the licensee is paying the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee] and that is on or after the first day of January of the year immediately following the day on which the licensee is licensed; and
  - (b) includes only those whole or part calendar months during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].

#### Exemption from or reduction in required number of hours

(3) On application by a licensee, the Society may exempt the licensee from the requirement under subsection (1) or reduce the number of hours of eligible activities that the licensee is required to complete under subsection (1).

#### Eligible activities completed prior to January 1

(4) Where the start of the twenty-four month period described in subsection (2) is January 1 of the year immediately following the day on which a licensee is licensed and where, for the period of time commencing on the day immediately following the day on which the licensee is licensed and ending on December 31 of the year in which the licensee is licensed, the licensee pays the full amount of the annual fee, the licensee may include, in the required

number of hours of eligible activities accredited by the Society to be completed by the licensee under subsection (1), any hours of eligible activities that are accredited by the Society that the licensee completes after he or she is licensed but before the start of the twenty-four month period.

No carry-over

(5) Except as permitted under subsection (4), a licensee may not carry over from one year to any other year any hours of eligible activities that are accredited by the Society that the licensee completes in the one year.

Number of hours completed in year: determining compliance with subs. (1)

(6) Subject to subsection (7), in any year, if a licensee completes more hours of eligible activities that are accredited by the Society than the number of whole or part calendar months in that year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee], for the purposes of determining compliance with subsection (1), the licensee shall be deemed to have completed a number of hours of eligible activities that are accredited by the Society that is equal to the number of whole or part calendar months in that year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].

Same

(7) In the first year immediately following the day on which a licensee is licensed, if subsection (4) applies to the licensee and the licensee has completed more hours of eligible activities that are accredited by the Society than the number of whole or part calendar months in the first year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee], for the purposes of determining compliance with subsection (1), the licensee shall be deemed to have completed a number of hours of eligible activities that are accredited by the Society that is equal to the lesser of,

- (a) the total of the number of whole or part calendar months in that year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee] and the number of hours of eligible activities that are accredited by the Society that are completed by the licensee in the circumstances mentioned in subsection (4); and
- (b) the total of the number of hours of eligible activities that are accredited by the Society that are completed by the licensee in the first year and the number of hours or eligible activities that are accredited by the Society that are completed by the licensee in the circumstances mentioned in subsection (4).

Application

(8) This section does not apply to a licensee who, on the day on which he or she is licensed to practise law in Ontario as a barrister and solicitor, has practised law outside Ontario for a period of time exceeding twenty-four months.

Interpretation: “eligible activity”

3. For the purposes of sections 1 and 2, an “eligible activity” is an activity that serves to maintain or enhance a licensee’s professional knowledge, skills, attitudes or ethics as determined by the Society.

Reporting: licensees to whom s. 1 applies

4. (1) Every licensee to whom section 1 applies shall file a report with the Society, by December 31 of each year, in respect of the eligible activities completed by the licensee in each year.

Reporting: licensees to whom s. 2 applies

(2) Every licensee to whom section 2 applies shall file a report with the Society, by December 31 of each year, commencing with the year immediately following the day on which the licensee is licensed, in respect of the eligible activities completed by the licensee in each year.

Eligible activities included under subs. 2 (4)

(3) A licensee to whom subsection 2 (4) applies shall report the eligible activities mentioned in that subsection in the first year in which the licensee is required under subsection (2) to file a report with the Society in respect of eligible activities completed by the licensee in that year.

Form, format and manner of filing

(4) The report required under subsection (1) or subsection (2) shall be in a form provided, and in an electronic format specified, by the Society and shall be filed electronically as permitted by the Society.

Documents required to be kept

5. (1) A licensee shall keep all documents substantiating the licensee’s completion of the eligible activities reported by him or her in a year until December 31 of the year following the year in which the activities were reported.

Providing documents to Society

(2) If requested by the Society to do so, a licensee shall provide to the Society all documents kept by the licensee under subsection (1).

Requirement to provide information

6. (1) The Society may require a licensee to whom section 1 or section 2 applies to provide to it specific information about the licensee’s completion of the required number of hours of eligible activities.

#### Notice of requirement

(2) The Society shall notify a licensee in writing of the requirement to provide information under subsection (1) and shall send to the licensee a detailed list of the information to be provided by him or her.

#### Time for providing information

(3) Subject to subsection (4), the licensee shall provide to the Society the specific information required of him or her not later than ten days after the date specified on the notice of the requirement to provide information.

#### Extension of time for providing information

(4) On the request of the licensee, the Society may extend the time within which the licensee is required to provide to the Society the specific information required of him or her.

#### Request for extension of time

(5) A request to the Society to extend time under subsection (4) shall be made by the licensee in writing and by not later than the day by which the licensee is required under subsection (3) to provide information to the Society.

#### Additional authority to provide information

(6) The Society's authority to require a licensee to provide information contained in this section is in addition to, and does not limit, the Society's authority to require a licensee to provide information contained elsewhere in this By-Law, in any other by-law or in the Act.

### FOR INFORMATION

#### PROFESSIONAL DEVELOPMENT AND COMPETENCE DEPARTMENT RESOURCE AND PROGRAM REPORT

7. The PD&C Department's bi-annual report is provided under separate cover for Convocation's information.

Attached to the original Report in Convocation file, copy of:

Copy of a black-lined version of By-Law 6.1.

(Appendix 2, pages 13 – 17)

#### Re: Amendments to By-Law 6.1 Respecting Continuing Professional Development Requirement

It was moved by Mr. Conway, seconded by Ms. Dickson that By-Law 6.1 be amended as set out in the motion distributed under separate cover.

Carried

## THE LAW SOCIETY OF UPPER CANADA

**BY-LAWS MADE UNDER  
SUBSECTIONS 62 (0.1) AND (1) OF THE *LAW SOCIETY ACT*****BY-LAW 6.1**

THAT By-Law 6.1 [Continuing Legal Education], made by Convocation on January 29, 2009 and amended by Convocation on October 29, 2009, be revoked and the following substituted:

**BY-LAW 6.1****CONTINUING PROFESSIONAL DEVELOPMENT****Continuing professional development requirement**

1. (1) Beginning January 1, 2011, the following licensees shall complete the number of hours of eligible activities each year required under subsection (2):

1. A licensee who is required to pay the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].
2. A licensee who is exempt from payment of the full amount of the annual fee under section 3.1 of By-Law 5 [Annual Fee].
3. A licensee who is exempt from payment of the annual fee under subsection 4 (1) of By-Law 5 [Annual Fee] and who practises law as described therein.
4. A licensee who is exempt from payment of the annual fee under subsection 4 (6) of By-law 5 [Annual Fee] and who practises law in Ontario as a barrister and solicitor.

**Number of required hours per year**

(2) Each year, a licensee to whom subsection (1) applies shall complete one hour of eligible activities for each calendar month in the year during which for any amount of time the licensee practises law in Ontario as a barrister and solicitor or provides legal services in Ontario, of the total of which hours at least twenty-five percent shall consist of eligible activities that are accredited by the Society covering ethics, professionalism or practice management topics.

**Exemption from or reduction in required number of hours**

(3) On application by a licensee, in any year, the Society may, for that year, exempt the licensee from the requirement under subsection (1) or reduce the number of hours of eligible activities that the licensee is required to complete under subsection (2).



**No carry-over**

(4) A licensee may not carry over from one year to any other year any hours of eligible activities that the licensee completes in the one year.

**Application**

(5) Section 1 does not apply to a licensee for the period of time during which section 2 applies to the licensee.

**New licensees: twenty-four hour requirement**

2. (1) A licensee who after May 31, 2010 is licensed to practise law in Ontario as a barrister and solicitor or licensed to provide legal services in Ontario shall complete twenty-four hours of eligible activities that are accredited by the Society, of which at least twenty-five percent shall consist of eligible activities that are accredited by the Society covering ethics, professionalism or practice management topics, within a period of twenty-four months.

**Twenty-four month period**

- (2) The twenty-four month period mentioned in subsection (1),
  - (a) begins on the day on which the licensee is paying the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee] and that is on or after the first day of January of the year immediately following the day on which the licensee is licensed; and
  - (b) includes only those whole or part calendar months during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].

**Exemption from or reduction in required number of hours**

(3) On application by a licensee, the Society may exempt the licensee from the requirement under subsection (1) or reduce the number of hours of eligible activities that the licensee is required to complete under subsection (1).

**Eligible activities completed prior to January 1**

(4) Where the start of the twenty-four month period described in subsection (2) is January 1 of the year immediately following the day on which a licensee is licensed and where, for the period of time commencing on the day immediately following the day on which the licensee is licensed and ending on December 31 of the year in which the licensee is licensed, the licensee pays the full amount of the annual fee, the licensee may include, in the required number of hours of eligible activities accredited by the Society to be completed by the licensee under subsection (1), any hours of eligible activities that are accredited by the Society that the licensee completes after he or she is licensed but before the start of the twenty-four month period.

**No carry-over**

(5) Except as permitted under subsection (4), a licensee may not carry over from one year to any other year any hours of eligible activities that are accredited by the Society that the licensee completes in the one year.

**Number of hours completed in year: determining compliance with subs. (1)**

(6) Subject to subsection (7), in any year, if a licensee completes more hours of eligible activities that are accredited by the Society than the number of whole or part calendar months in that year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee], for the purposes of determining compliance with subsection (1), the licensee shall be deemed to have completed a number of hours of eligible activities that are accredited by the Society that is equal to the number of whole or part calendar months in that year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee].

**Same**

(7) In the first year immediately following the day on which a licensee is licensed, if subsection (4) applies to the licensee and the licensee has completed more hours of eligible activities that are accredited by the Society than the number of whole or part calendar months in the first year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee], for the purposes of determining compliance with subsection (1), the licensee shall be deemed to have completed a number of hours of eligible activities that are accredited by the Society that is equal to the lesser of,

- (a) the total of the number of whole or part calendar months in that year during which the licensee pays the full amount of the annual fee under subsection 2 (2) of By-Law 5 [Annual Fee] and the number of hours of eligible activities that are accredited by the Society that are completed by the licensee in the circumstances mentioned in subsection (4); and
- (b) the total of the number of hours of eligible activities that are accredited by the Society that are completed by the licensee in the first year and the number of hours or eligible activities that are accredited by the Society that are completed by the licensee in the circumstances mentioned in subsection (4).

**Application**

(8) This section does not apply to a licensee who, on the day on which he or she is licensed to practise law in Ontario as a barrister and solicitor, has practised law outside Ontario for a period of time exceeding twenty-four months.

**Interpretation: “eligible activity”**

3. For the purposes of sections 1 and 2, an “eligible activity” is an activity that serves to maintain or enhance a licensee’s professional knowledge, skills, attitudes or ethics as determined by the Society.

**Reporting: licensees to whom s. 1 applies**

4. (1) Every licensee to whom section 1 applies shall file a report with the Society, by December 31 of each year, in respect of the eligible activities completed by the licensee in each year.

**Reporting: licensees to whom s. 2 applies**

(2) Every licensee to whom section 2 applies shall file a report with the Society, by December 31 of each year, commencing with the year immediately following the day on which the licensee is licensed, in respect of the eligible activities completed by the licensee in each year.

**Eligible activities included under subs. 2 (4)**

(3) A licensee to whom subsection 2 (4) applies shall report the eligible activities mentioned in that subsection in the first year in which the licensee is required under subsection (2) to file a report with the Society in respect of eligible activities completed by the licensee in that year.

**Form, format and manner of filing**

(4) The report required under subsection (1) or subsection (2) shall be in a form provided, and in an electronic format specified, by the Society and shall be filed electronically as permitted by the Society.

**Documents required to be kept**

5. (1) A licensee shall keep all documents substantiating the licensee's completion of the eligible activities reported by him or her in a year until December 31 of the year following the year in which the activities were reported.

**Providing documents to Society**

(2) If requested by the Society to do so, a licensee shall provide to the Society all documents kept by the licensee under subsection (1).

**Requirement to provide information**

6. (1) The Society may require a licensee to whom section 1 or section 2 applies to provide to it specific information about the licensee's completion of the required number of hours of eligible activities.

**Notice of requirement**

(2) The Society shall notify a licensee in writing of the requirement to provide information under subsection (1) and shall send to the licensee a detailed list of the information to be provided by him or her.

**Time for providing information**

(3) Subject to subsection (4), the licensee shall provide to the Society the specific information required of him or her not later than ten days after the date specified on the notice of the requirement to provide information.

**Extension of time for providing information**

(4) On the request of the licensee, the Society may extend the time within which the licensee is required to provide to the Society the specific information required of him or her.

**Request for extension of time**

(5) A request to the Society to extend time under subsection (4) shall be made by the licensee in writing and by not later than the day by which the licensee is required under subsection (3) to provide information to the Society.

**Additional authority to require information**

(6) The Society's authority to require a licensee to provide information contained in this section is in addition to, and does not limit, the Society's authority to require a licensee to provide information contained elsewhere in this By-Law, in any other by-law or in the Act.

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**RÈGLEMENT ADMINISTRATIF N° 6.1****PERFECTIONNEMENT PROFESSIONNEL PERMANENT****Obligation de perfectionnement professionnel permanent**

1. (1) À compter du 1<sup>er</sup> janvier 2011, les titulaires de permis suivants sont tenus de compléter le nombre annuel d'heures d'activités admissibles qui est exigé dans le cadre du paragraphe (2) :

1. Les titulaires de permis qui sont tenus de verser le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle].
2. Les titulaires qui sont exonérés du paiement du montant total de la cotisation annuelle en application de l'article 3.1 du Règlement administratif n° 5 [La cotisation annuelle].

3. Les titulaires de permis qui sont exonérés du paiement de la cotisation annuelle en application du paragraphe 4 (1) du Règlement administratif n° 5 [La cotisation annuelle] et qui exercent le droit de la manière qui y est décrite.
4. Les titulaires de permis qui sont exonérés du paiement de la cotisation annuelle en application du paragraphe 4 (6) du Règlement administratif n° 5 [La cotisation annuelle] et qui exercent le droit en Ontario à titre d'avocat ou d'avocate.

### **Nombre d'heures obligatoires par année**

(2) Chaque année, le ou la titulaire de permis visé par le paragraphe (1) complète une heure d'activité admissible par mois civil de l'année pendant lequel, à un moment donné, il ou elle exerce le droit en Ontario à titre d'avocat ou d'avocate ou fournit des services juridiques en Ontario; au moins vingt-cinq pour cent du nombre total de ces heures doit être consacré à des activités admissibles reconnues par le Barreau qui touchent à la déontologie, au professionnalisme ou à la gestion des activités professionnelles.

### **Dispense de respecter le nombre d'heures obligatoires ou réduction de ce nombre**

(3) À la demande du ou de la titulaire de permis, une année donnée, le Barreau peut, pour cette année, le ou la dispenser de l'obligation prévue au paragraphe (1) ou réduire le nombre d'heures d'activités admissibles qu'il ou elle est tenu de compléter en application du paragraphe (2).

### **Interdiction du report**

(4) Le ou la titulaire de permis ne peut pas reporter à une autre année les heures d'activités admissibles qu'il ou elle complète au cours d'une année.

### **Application**

(5) Le présent article ne s'applique pas aux titulaires de permis pendant la période au cours de laquelle ils sont visés par l'article 2.

### **Nouveaux titulaires de permis : obligation de compléter vingt-quatre heures**

2. (1) Les personnes qui, après le 31 mai 2010, sont titulaires d'un permis les autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate ou d'offrir des services juridiques en Ontario complètent vingt-quatre heures d'activités admissibles reconnues par le Barreau au cours d'une période de vingt-quatre mois; au moins vingt-cinq pour cent de ces heures doit être consacré à des activités admissibles reconnues par le Barreau qui touchent à la déontologie, au professionnalisme ou à la gestion des activités professionnelles.

### **Période de vingt-quatre mois**

- (2) La période de vingt-quatre mois prévue au paragraphe (1) :

- a) d'une part, commence le jour où le ou la titulaire de permis verse le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle] et qui tombe le 1<sup>er</sup> janvier suivant le jour où il ou elle devient titulaire de permis ou après ce 1<sup>er</sup> janvier;
- b) d'autre part, ne comprend que les mois civils ou parties de mois civil au cours desquels le ou la titulaire de permis verse le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle].

### **Dispense de respecter le nombre d'heures obligatoires ou réduction de ce nombre**

(3) À la demande du ou de la titulaire de permis, le Barreau peut le ou la dispenser de l'obligation prévue au paragraphe (1) ou réduire le nombre d'heures d'activités admissibles qu'il ou elle est tenu de compléter en application de ce paragraphe.

### **Activités admissibles complétées avant le 1<sup>er</sup> janvier**

(4) Les titulaires de permis peuvent inclure, dans le nombre d'heures d'activités admissibles reconnues par le Barreau qu'ils doivent compléter en application du paragraphe (1), toutes celles qu'ils ont complétées après être devenus titulaires de permis, mais avant le début de la période de vingt-quatre mois prévue au paragraphe (2) si celle-ci commence le 1<sup>er</sup> janvier de l'année suivant le jour où ils sont devenus titulaires de permis et qu'ils versent le montant total de la cotisation annuelle pour la période commençant le lendemain du jour où ils sont devenus titulaires de permis et se terminant le 31 décembre de l'année pendant laquelle il ou elle est titulaire de permis.

### **Interdiction du report**

(5) Sauf si le paragraphe (4) l'y autorise, le ou la titulaire de permis ne peut pas reporter à une autre année les heures d'activités admissibles reconnues par le Barreau qu'il ou elle complète au cours d'une année.

### **Nombre d'heures complétées au cours d'une année : observation du par. (1)**

(6) Sous réserve du paragraphe (7), si, au cours d'une année, le ou la titulaire de permis complète un plus grand nombre d'heures d'activités admissibles reconnues par le Barreau que le nombre de mois civils ou de parties de mois civil de l'année au cours desquels il ou elle verse le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle], il ou elle est réputé, lorsqu'il s'agit de statuer sur l'observation du paragraphe (1), avoir complété le nombre d'heures d'activités admissibles reconnues par le Barreau qui est égal au nombre de mois civils ou de parties de mois civil de l'année au cours desquels il ou elle verse le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle].

**Idem**

(7) Si, au cours de la première année suivant le jour où il ou elle devient titulaire de permis, le ou la titulaire de permis qui est visé par le paragraphe (4) et qui a complété un plus grand nombre d'heures d'activités admissibles reconnues par le Barreau que le nombre de mois civils ou de parties de mois civil de l'année au cours desquels il ou elle verse le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle], il ou elle est réputé, lorsqu'il s'agit de statuer sur l'observation du paragraphe (1), avoir complété le nombre d'heures d'activités admissibles reconnues par le Barreau qui est égal au moindre des nombres suivants :

- a) la somme du nombre de mois civils ou de parties de mois civil de l'année au cours desquels il ou elle verse le montant total de la cotisation annuelle en application du paragraphe 2 (2) du Règlement administratif n° 5 [La cotisation annuelle] et du nombre d'heures d'activités admissibles reconnues par le Barreau qu'il ou elle a complétées dans les circonstances visées au paragraphe (4);
- b) la somme du nombre d'heures d'activités admissibles reconnues par le Barreau qu'il ou elle a complétées au cours de l'année et du nombre d'heures d'activités admissibles reconnues par le Barreau qu'il ou elle a complétées dans les circonstances visées au paragraphe (4).

**Application**

(8) Le présent article ne s'applique pas aux titulaires de permis qui, le jour où ils deviennent titulaires d'un permis les autorisant à exercer le droit en Ontario à titre d'avocat ou d'avocate, ont exercé le droit hors de l'Ontario pendant plus de vingt-quatre mois.

**Interprétation : « activité admissible »**

3. La définition qui suit s'applique aux articles 1 et 2.

« activité admissible » Activité qui, selon le Barreau, sert à maintenir ou à rehausser les connaissances professionnelles, les aptitudes, l'attitude ou la déontologie des titulaires de permis.

**Déclaration : titulaires de permis visés par l'art. 1**

4. (1) Le ou la titulaire de permis visé par l'article 1 dépose auprès du Barreau, avant le 31 décembre, un rapport sur les activités admissibles qu'il ou elle a complétées pendant l'année écoulée.

**Déclaration : titulaires de permis visés par l'art. 2**

(2) À compter de l'année suivant le jour où il ou elle devient titulaire de permis, le ou la titulaire de permis visé par l'article 2 dépose auprès du Barreau, avant le 31 décembre, un rapport sur les activités admissibles qu'il ou elle a complétées pendant l'année écoulée.

**Activités admissibles à inclure en application du par. 2 (4)**

(3) Le ou la titulaire de permis visé par le paragraphe 2 (4) déclare les activités admissibles visées à ce paragraphe pendant la première année au cours de laquelle il ou elle est tenu, en application du paragraphe (2), de déposer auprès du Barreau un rapport sur les activités admissibles qu'il ou elle a complétées pendant l'année.

**Modalités du dépôt**

(4) Le rapport exigé au paragraphe (1) ou (2) est rédigé selon le formulaire que fournit le Barreau et sur le support électronique qu'il précise et il est déposé électroniquement de la manière qu'il l'autorise.

**Conservation obligatoire des documents**

5. (1) Le ou la titulaire de permis conserve tous les documents attestant sa participation aux activités admissibles qu'il ou elle a déclarées pendant une année jusqu'au 31 décembre de l'année suivant l'année de la déclaration des activités.

**Mise des documents à la disposition du Barreau**

(2) À la demande du Barreau, le ou la titulaire de permis lui fournit tous les documents qu'il ou elle conserve en application du paragraphe (1).

**Obligation de fournir les renseignements**

6. (1) Le Barreau peut exiger qu'un ou une titulaire de permis visé par l'article 1 ou 2 lui fournisse des renseignements particuliers sur sa participation au nombre d'heures obligatoires d'activités admissibles.

**Avis de l'exigence**

(2) Le Barreau avise le ou la titulaire de permis par écrit du fait qu'il exige qu'il ou elle lui fournisse des renseignements en application du paragraphe (1) en lui envoyant une liste détaillée de ceux qu'il ou elle doit lui fournir.

**Délai**

(3) Sous réserve du paragraphe (4), le ou la titulaire de permis fournit au Barreau les renseignements particuliers exigés de lui ou d'elle dans les dix jours de la date précisée dans l'avis où est formulée cette exigence.

**Prorogation du délai**

(4) À la demande du ou de la titulaire de permis, le Barreau peut proroger le délai qui lui est imparti pour fournir les renseignements particuliers qui sont exigés de lui ou d'elle.



**Demande de prorogation**

(5) Le ou la titulaire de permis présente au Barreau la demande de prorogation de délai prévue au paragraphe (4) par écrit, au plus tard le jour où il ou elle est tenu de lui fournir les renseignements en application du paragraphe (3).

**Pouvoir additionnel d'exiger des renseignements**

(6) Le pouvoir d'exiger qu'un ou une titulaire de permis lui fournisse des renseignements que le présent article confère au Barreau s'ajoute, sans lui porter atteinte, au pouvoir d'exiger que le ou la titulaire lui fournisse des renseignements que les autres dispositions du présent règlement administratif, un autre règlement administratif ou la Loi confèrent au Barreau.

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*Item for Information*

- Professional Development and Competence Department Resource and Program Report



## **Professional Development and Competence Department Resource and Program Report**

FOR INFORMATION ONLY

Diana C. Miles  
Director  
Professional Development and Competence  
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dmiles@lsuc.on.ca

**October 2010**

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## **PROFESSIONAL DEVELOPMENT AND COMPETENCE DEPARTMENT**

The Professional Development and Competence (PD&C) Department supports policy development and operational implementation for all activities, products and programs related to practice management and supports, continuing professional development, legal information services, the lawyer and paralegal licensing processes, and post-call quality assurance.

The Department focuses on the relationship between pre- and post-call substantive, procedural, practice management and professional responsibility competencies within the profession and strives to create a platform of services that assists lawyers and paralegals to maintain viable practices and provide competent service.

The Department has six units: The Office of the Director, Office of the Registrar (licensing administrative processes), Professional Development (content for all products); Program Delivery (production of all products); Legal Information (information and research supports) and Practice Audits (quality assurance).

## **PRACTICE MANAGEMENT**

### **e-Bulletin Resources for Lawyers**

Since October 2004, The Law Society has been publishing the e-Bulletin Resources for Lawyers. The e-Bulletin is an electronic newsletter designed to provide lawyers with need-to-know and timely information about the Law Society's products, resources and services. It is e-mailed to all members 10 or more times each year. In 2008, practice specific e-Bulletins were developed to showcase resources for certain areas of law.

The e-Bulletin is sent to over 30,000 lawyers each month that it is published. Since its inception in October 2004, only 501 recipients have unsubscribed to the e-Bulletin Resources for Lawyers. This resource continues to receive very positive feedback.

## FAQ - The Knowledge Tree

### Web traffic report

	2006	2007	2008	2009	2010 (to July 31)
Visits to the Knowledge Tree	4,963	7,694	8,560	11,715	8,297

FAQ - The Knowledge Tree is a custom-designed resource for lawyers and paralegals in Ontario. A comprehensive, online listing of the most common practice management questions that legal professionals have asked and the answers to those questions are posted on the Law Society Resource Centre website. In addition to FAQs on more than 20 practice management topics, links to relevant Rules, By-laws, Law Society articles, guidelines and other useful resources can be found on the Knowledge Tree. The Knowledge Tree continued to expand in 2009 with the addition of more questions, articles, and links to various resources that originate both externally and internally and was revised to support paralegals.

An example of a typical practice tip developed to support members: as HST took effect on July 1, 2010, new questions were drafted to reflect practice concerns regarding the implementation and effect on billings. All questions which included references to the GST were revised and updated. A teleseminar, *HST- The Ontario Harmonized Sales Tax and Your Practice*, was also offered, a Practice Tip for the Ontario Reports was created and an e-Bulletin was circulated to address members' concerns about the impact of HST on practice.

## The Resource Centre Website

*Easy access to the resources lawyers need.*

The online Resource Centre is a member's access point to the resources they need to practise law. This one-stop shop has been created for members to easily find a wide range of information and resources designed to assist in their practice. The society is currently restructuring its website and the new and improved Resource Centre will provide more direct taxonomy/search term capabilities that will enhance and speed the search process for resources and supports. Access to the Law Society of Upper Canada's Resource Centre is through the Law Society website at [www.lsuc.on.ca](http://www.lsuc.on.ca).

The screenshot displays the Law Society of Upper Canada's Resource Centre website. The browser window shows the address <http://rc.lsuc.on.ca/jsp/home/>. The page has a blue header with the Law Society of Upper Canada logo and navigation links. A left sidebar contains a 'Membership Services' menu with links to Fees, Filings, Insurance, Status Changes, Name, Address, Mailing Changes, Practising in Ontario, Inter-jurisdictional Practice, and Value-added Services. Below this is a 'Professional Development' section with links to Practice Resources and Continuing Legal Education. The main content area features a 'Welcome' message and a 'Membership Services' section with links to Fees, Filings, Insurance, Practising in Ontario, Status Changes, Name, Address, and Mailing Changes, and Value-added Services. A 'Professional Development' section at the bottom includes links to Practice Resources, Legal Research, Continuing Legal Education, Licensing Process, and Sole and Small Firm Practitioners. The footer contains links to Home, Legal Notices, Site Map, and Contact Us.

## Practice Guides

The Lawyer's *Guide to Opening Your Practice* and the Lawyer's *Guide to Closing Your Practice* have been updated and similar Guides are being developed for paralegals. The Practice Guides are references designed for both lawyers and paralegals to assist them with specific practice concerns offering step-by-step guidance, examples, precedents and checklists. In 2010, the Lawyer's *Guide to the Retention and Destruction of Closed Client Files* and the Paralegal's *Guide to the Retention and Destruction of Closed Client Files* were created. A teleseminar, *New Guide to File Retention and Destruction*, was also offered in conjunction with the launch of these Guides. This free teleseminar attracted 1,890 attendees.

## How-To Briefs

*How to Prepare an Affidavit*, *How to Bring a Motion* or *How to Reconcile a Trust Account* – these are just three of the 52 How-To Briefs that have been developed for members' use. These checklists provide a step-by-step guide to the issues and questions that arise in the context of various legal proceedings and transactions. Sample documents, useful links, and practical suggestions are included in the briefs.

How-To Briefs have been developed for tasks in the following areas of law:

Administrative Law

Business Law

Civil Litigation

Criminal Law

Family Law

Legal Research

Practice Management

Real Estate

Wills and Estates

### Sample Business Law How-To Briefs

- How to Bring an Initial Public Offering to Market
- How to Choose the Right Business Vehicle
- How to Create a Partnership in Ontario

### Sample Criminal Law How-To Briefs

- How to Prepare for and Conduct a Preliminary Inquiry
- How to Prepare to Defend a Provincial Offences Case
- How to Prepare and Conduct a Crown Pre-trial

## Resources Developed for the Sole and Small Firm Practitioner

- Articling Registry
- Lawyer Bookkeeping Guide
- Paralegal Bookkeeping Guide
- Continuing Professional Development Programs and Materials
- e-Bulletin Resources for Lawyers
- Guide to Opening Your Practice
- Guide to Closing Your Practice
- **NEW in 2010**  
Guide to Retention and Destruction of Closed Client Files
- Contract Lawyers' Registry
- Join / Renew your Lawyer Referral System Subscription
- **NEW in 2009**  
Litigation Cost Estimate Template
- Practice Management Helpline
- Practice Portals
- Real Estate Practice Resources
- Reference Assistance
- Succession Planning Toolkit
- FAQ - Knowledge Tree
- Lawyer and Paralegal Directory
- How-To Briefs
- Mentorship Program
- Practice Management Guidelines
- Technology Resources
- Retention of Women Lawyers Resources and Supports

A lawyer and a paralegal **Guide to Retention and Destruction of Closed Client Files** were developed in 2010. These guides will assist lawyers and paralegals to develop policies for the closure, retention and destruction of client files. Such policies assist lawyers and paralegals to control the volume and type of records retained, manage risk and meet professional responsibilities.

PD&C has compiled links to the most popular resources and reference tools for specific areas of law and put them all in one place. **Practice Portals** provide easy and immediate access to the information most important for practice.

**Take the Easy Way Out** is a free online tutorial that takes a lawyer through all the necessary steps in planning for a successful retirement. It addresses client retention, benefits of selling internally or externally, firm management and more.

### Some **Technology Resources** offered:

- Data Encryption - Slip Sliding Away
- Ethical Considerations and Technology
- Legal Software and Other Online Resources for Your Practice
- Top Ten Technology Tools (and Tips on How to Use Them - from LawPRO)

## Practice Management Helpline

	2006	2007	2008	2009	2010 (to July 31)
Sole practitioners	2,322	2,098	2,641	2,278	1,563
Other lawyers	2,088	1,903	2,445	2,669	1,503
Non-lawyers <sup>1</sup>	746	307	690	649	287
Paralegals	-	-	410	797	386
Total calls for assistance	5,156	4,308	6,186	6,393	3,739

## Role of the Practice Management Helpline

The Practice Management Helpline provides licensees with assistance and insight regarding the application of the *Rules of Professional Conduct*, Law Society legislation and by-laws. The service is confidential and the Helpline strives to return all calls within 24 hours.

Representatives screen the call, assist the caller to identify the issue(s), refer the caller to existing resources such as articles, professional development programs, the Knowledge Tree, and other resources (including transferring the call to other more appropriate departments for additional information or recommending alternatives for additional support, such as LAWPRO, Legal Aid, Teranet, etc.) and escalate the call to Counsel, if necessary. Counsel will discuss the ethical issues, applicable legislation, potential options and the advantages and disadvantages of each option with the caller.

The Helpline also links licensees who have specific substantive legal issues to mentors. The licensee must have a unique legal issue and must show that he or she has completed some legal research prior to being matched with a mentor. The Helpline makes continuous efforts to recruit new mentors, including overtly soliciting the time and assistance of new Certified Specialists and others.

In addition, by tracking frequently asked questions, the Helpline identifies areas of concern within the profession and responds to those concerns by offering related professional development programs or information through Practice Tips, the e-Bulletin or the Knowledge Tree. Counsel and representatives have direct contact with the members on a daily basis and are in a unique position to assess the Law Society's resources and identify, recommend and create new, valuable and necessary resources.

## Number of Calls and Criticality of Issues

From January 1, 2010 to July 31, 2010, the Practice Management Helpline received 3,739 calls in total for an average of 534 calls per month. Of the 3,739 calls that were received, 2,705 (72%) were handled by Representatives (meaning the question could be answered by reference

<sup>1</sup> Non-lawyer category consists of the following: Articling Candidates, Administrative Assistant or Bookkeeper at firm, Manager or Administrator at firm or Law Society staff

to existing resources) and 1,034 (28%) by Counsel (meaning an interpretation of the *Rules of Professional Conduct* or a discussion of ethical issues was required).

### **Average Call Time**

Calls into the Helpline can last from 5 minutes to 45 minutes, depending on the complexity of the issue, the temperament of the caller and the availability of existing resources. On average, calls range from 10 to 20 minutes. This does not include time that is spent prior to the call reviewing the applicable Rules, Acts or By-laws.

### **Most Frequent Inquiries by Issue**

#### **Lawyers**

The most frequent calls from lawyers received from January 2005 to present by issue are:

1. Trust Accounting
2. Conflicts
3. Confidentiality
4. Real Estate – General
5. Accounting – General/Books and Records
6. File Management and Destruction
7. Practice Arrangements
8. Member's Annual Report
9. File Ownership and Transfer
10. Fraud

As issues affecting the practice of law change or evolve, so to do the queries into the Helpline. More recently, from January 2010 onward, the most frequent calls from lawyers by issue are:

1. Fraud
2. Trust Accounting
3. Client Identification and Verification
4. Confidential Information
5. Conflicts
6. Real Estate – General
7. Preservation of Client Property
8. Withdrawal from Representation
9. Communication with Represented Party
10. Client with Disability

#### **Paralegals**

The most frequent calls received from January 2008 to the present from paralegals by issue are:

1. Paralegal Scope of Practice
2. Trust Accounting
3. Bookkeeping Requirements



4. Paralegal Annual Report
5. Practice Arrangements
6. File Ownership/Transfer
7. Communication - general
8. Confidentiality
9. Conflicts
10. Advertising

More recently, from January 2010 onward, the most frequent calls from paralegals by issue are:

1. Paralegal Scope of Practice
2. Paralegal Annual Report
3. Delegation/Supervision
4. Practice Arrangements
5. Name of Firm
6. Withdrawal from Representation
7. Trust Accounting
8. Bookkeeping Requirements
9. Conflicts
10. Professional Corporations

### **Mentoring Programs**

The Mentorship Program at the Law Society is comprised of three initiatives that match volunteer lawyers with those interested in becoming lawyers, practising lawyers in need of advice, and licensing candidates.

#### **Equity and Diversity Mentorship Initiative**

The Law Society's Equity Initiatives Department coordinates the Equity and Diversity Mentorship Program which matches lawyers with high school, university representatives including law school students, and Licensing Process candidates.

#### **Articling Mentorship Initiative**

The Articling Mentorship Initiative provides licensing candidates seeking articling positions with a support link by pairing them with a lawyer who will provide advice and encouragement in their search for an articling position. Mentorship requests are supported by the Articling Office in PD&C.

#### **Practice Mentoring Initiative**

The Practice Mentoring Initiative connects lawyers with experienced practitioners in relevant areas of law to help them deal with a complex substantive legal issue or a specific procedural issue outside of the Law Society's Practice Management Helpline mandate. Total number of mentors on the mentor roster as of August 2010 is 182.

### Certified Specialist Program

	2006	2007	2008	2009	2010
Number of Specialists	719	726	732	720	714
Specialists in Toronto Area	408	412	415	408	402
Specialists outside Toronto	311	314	317	312	312
Number of Specialty Areas	15	15	15	15	15

The Certified Specialist Program assists lawyers to acquire the requisite skills and knowledge to qualify for certification as a specialist in a given practice area. To that end each specialty has:

- Learning criteria setting out required procedural and substantive knowledge and skills at the essential, intermediate and advanced levels of activity;
- A wide range of programs accredited on the basis of the learning criteria. Program providers, whose individual programs have been accredited will have the right to advertise that fact in the materials; and
- Detailed experience requirements for certification used to assess a lawyer's eligibility for certification.

The learning criteria, accredited programs and standards for certification are grouped by Areas of Specialization.

### Qualifications for Certification

A lawyer may submit an application for certification when he/she has:

- practised for a minimum of seven years prior to the date of the application.
- had substantial involvement in the specialty area during five of the seven years, i.e.,
  - mastery of substantive law, practices and procedures, and
  - concentration of practice in the specialty area;
- complied with the professional development requirements; and
- complied with the professional standards requirements.

### Status of Certified Specialist Program

The number of certified specialist lawyers in the profession has changed very little in the past 10 years and remains very low at only 2.4% of practising lawyers. In 2004, the program was completely overhauled into a competencies-based assessment system requiring specified developmental and experiential achievements prior to certification. In addition to the change in the assessment process, new practice specialties were added to fill what was perceived to be a gap in the system given the significant number of lawyers practising in these areas of law: Real Estate (currently the area has only 23 specialists), Corporate/Commercial (17 specialists), Estates and Trusts (32 specialists). Other new areas were added as a result of expressions of interest from the profession, including Health Law (8 specialists) and Municipal Law (41 specialists).

The Certified Specialist Board continues to expend approximately \$40,000 per annum on marketing efforts to bolster awareness within the public and the profession. Current efforts include a Yellow Pages advertising campaign directed at increasing top of mind awareness within the public. Operational costs for the Certified Specialist Program have been reduced to their lowest possible levels to ensure quality of service and support without any “extras”, and dedicated staffing has been reduced to the equivalent of one full-time equivalent.

Areas of Specialization	Number of Specialists
Bankruptcy and Insolvency Law	10
Citizenship and Immigration Law (Immigration/ Refugee Protection)	56
Civil Litigation	294
Construction Law	28
Corporate and Commercial Law	17
Criminal Law	83
Environmental Law	34
Estates and Trusts Law	32
Family Law	64
Health Law	8
Intellectual Property Law (Trademark/Patent/Copyright)	80
Labour Law	26
Municipal Law	41
Real Estate Law	23
Workplace Safety and Insurance Law	10

## CONTINUING PROFESSIONAL DEVELOPMENT

	2006	2007	2008	2009	2010 (to July 31)
Total number of programs ( <i>all formats</i> )	71	77	77	69	52
Attendance at all programs ( <i>all formats</i> )	18,340	16,961	18,598	15,382	11,518
Average attendance at all programs ( <i>all formats</i> )	258	220	242	223	222

In 2009 the Law Society held slightly fewer professional development programs in order to ensure that all areas of PD&C were directing attention to the most critical Convocation-approved activities, including changes to the licensing process, sole and small firm supports and retention of women lawyers' supports. Despite this small reduction in programming and the poor economic climate the business achieved full cost recovery, as required by policy.

For 2010 the department is putting a major focus back on PD programming in anticipation of the Continuing Professional Development (“CPD”) Requirement coming into effect in January 2011. PD&C has increased the number of planned programs to 90 and testing staff and systems to ensure that they can perform efficiently under an increased program load in 2011. To date the area is experiencing strong attendance levels and anticipates exceeding 18,000 in total attendances.

### Preparing for the Implementation of the CPD Requirement

For 2011 PD&C is planning 130 programs, including approximately 20 programs which will be offered on two alternate dates in order to meet members' needs for scheduling flexibility

(repeats are included in total number). This represents a 70% increase in the number of programs offered and is expected to generate a revenue increase of \$1.7 million over the previous year. Approximately 30 programs on professional responsibility, ethics and practice management (“professionalism”) topics will be offered to the membership free of charge, 10 of those programs will be repeated thorough the year for a total of 40 free of charge opportunities.

To ensure that CPD programs meet the professional development needs of members, PD&C counsel worked with focus groups of paralegals and lawyers from a variety of practice areas to review and update the learning objectives for the Essential, Intermediate and Advanced levels of practice that were originally developed for the Certified Specialist Program. The focus groups conducted a gap analysis of current programming; identified relevant professionalism program topics; recommended optimal program formats and times for practitioners; and approved a competency-based curriculum for each of the practice areas.

PD&C is currently developing a new series of materials called “Case Studies on Professionalism.” Each case study contains a fictionalized description of an actual professional responsibility, practice management or ethical decision that a member has been required to make in his or her career. The cases will enable members in a variety of practice areas to put themselves in the position of the decision maker, analyze the situation with reference to the *Rules* and other legal principles, identify alternatives, and formulate an action plan for solving the problem. Starting in January 2011, the Case Studies, along with guides for facilitators and participants, will be available on the Law Society’s website for members to download at no charge and use as the basis for one-hour CPD Study Group discussion sessions with other members. These sessions may be counted toward the New Member or regular CPD requirement.

An invitation-only training session for professionalism program instructors will be held via teleseminar on November 8, 2010 to provide them with guidance on the goals and objectives of professionalism programs, the preparation required to teach professionalism topics, and tips for making persuasive presentations and for facilitating group discussions. This teleseminar is just one of a series of programs, resources and tools being developed to assist CPD instructors to deliver practical and relevant professionalism programs that will engage and inspire members.

In the first half of 2010, PD&C developed and posted detailed information for members and program providers on how to comply with the CPD obligations for the New Member Requirement, as well as FAQ’s for CPD providers on how to obtain accreditation for professionalism programs. Providers can now use an online form to apply for accreditation or to notify the Society about a repeat accredited program. PD&C has also developed online forms for members who wish to apply for accommodation or for accreditation of alternate eligible educational activities, such as writing, teaching or mentoring. Additional online resources and tools for providers and members will be developed by the end of 2010 and posted on the CPD homepage.

As of August 15, 2010, the Law Society has accredited 22 New Member programs and the professionalism content of 4 programs. Ten law firms have applied for and obtained accreditation for their associate orientation programs.

There are a number of dates in the 2011 schedule on which the Lamont Learning Centre is unavailable or already booked for another Law Society CPD program. On those occasions PD&C will be holding the programs off-site at locations equipped for webcast delivery. The organization is also upgrading its webcast capability by installing a broadcast fibre connection in

the Learning Centre to enhance the quality and security of the connection for webcast viewers. Webcast continues to be an attractive delivery method for attendees and will be expanded further in the compulsory environment.

PD&C, along with Membership Services and Information Services, is currently developing a new web-enabled portal environment that will allow members to track their CPD credit hours and keep track of how many hours they have remaining in a calendar year. Client service staff will also have access to the portal to support members in updating their activities if required. All accredited programs offered by external providers, as well as those offered by the Law Society will be entered into the portal. There will also be free-form fields for members to enter other activities for which they can receive professional development credit.

PD&C is holding several programs in fall 2010 which members licensed in 2010 can attend and credit the hours toward the fulfillment of their 2011 New Member CPD Requirement.

CPD will require six additional staff positions in the program development, coordination, accreditation and client service areas. PD&C is also evolving the business model for the development of program content and will be outsourcing the development of approximately 15 programs allowing for high quality programming without the need to incur salary and benefits costs.

## Learning Formats and Attendance

The Law Society's professional development programming has come a long way with respect to achieving the goal of assisting legal professionals to maintain competence through learning opportunities that are relevant, flexible and affordable. In particular, PD&C has strived to address the needs of practitioners across the Province by supporting a reduction in the need for travel to obtain this education. The number of learning options now available for practitioners has been significantly increased and continues to evolve.

Set out below are the various options, marketing copy and branding presented to the membership and a breakdown of purchases by format.



	2006	2007	2008	2009	2010 (to July 31)
Total Number of programs	53	64	59	56	36
Total number of attendees	10,473	8,597	7,378	5,607	3,401
Average Attendance	198	134	125	100	94

Join us in person as we examine current substantive legal issues across a range of practice areas, and explore important topics in professionalism, practice management and client service. Live CPD is a fully interactive experience – get the information you need and meet your peers in a collegial setting. All registrants – whether live or by webcast – receive 30-day

online access to the video recording following the program so they can review particular sections or see any parts they may have missed.



	2006	2007	2008	2009	2010 (to July 31)
Total Number of programs	37	57	57	57	35
Total number of attendees	2,884	3,409	5,883	5,649	3,612
Average Attendance	78	60	103	99	103

Enjoy the convenience of watching live programs without the hassle and expense of travel. All you need is Internet access to participate in a great selection of events delivered directly to your computer desktop. Live webcasts offer the opportunity to submit questions to the presenters and materials are posted online in electronic format\* so you can follow along with the program. As an added bonus, you will receive access to the webcast for 30 days after the program – go back and view it whenever you like, as often as you like.

\* Hard copy materials are offered for an additional fee and are shipped immediately after the program. Online access to the PDF materials will be available prior to the program.



Teleseminar	2006	2007	2008	2009	2010 (to July 31)
Total Number of programs	11	15	22	15	10
Total number of attendees	2,502	3,326	3,498	2,062	3,268
Average Attendance	227	222	159	137	327

It's easy to stay current on the latest legal issues affecting your practice without leaving your home or office. Teleseminars are focused and interactive programs delivered in audio format by leading practitioners in the field. As an added bonus, you will receive access to the audio recording for 30 days after the program and can download it onto a portable device to listen on the go.



	2008	2009	2010 (to July 31)
Total Sales	195	337	478

Introduced late November 2008, this new online resource provides **full electronic access** to papers presented at Law Society CLE programs from 2004 to the present, with new papers added after each CLE program. AccessCLE allows users to enter search criteria or click on a

practice area to browse the entire collection of Law Society CLE materials dating back to 2004. A listing of articles that match the search criteria is displayed by individual article and the user can click on the article title to preview the first three pages for relevance. Once the user determines that the article is relevant, a purchase can be made by adding the article to their “shopping cart” and processing through the checkout.



	2006	2007	2008	2009	2010 (to July 31)
Total Sales	10,162	12,249	11,979	10,463	5,791

Timely, practical and specific information on hand when you need it. Written by top professionals in your area of law, our published program materials are one of the most current, comprehensive and valuable reference resources available.

Most publications are now available in hard copy or as an electronic PDF (Portable Document Format) file, giving you immediate electronic access to the information.



	2006	2007	2008	2009	2010 (to July 31)
Total Sales	1,221	1,140	1,090	1,186	698

Did you miss a CPD program? Now you can view video recordings of past programs any time from the convenience of your home or office computer. Video stream purchases include either hard copy or a PDF of the written materials from the program.



	2006	2007	2008	2009	2010 (to July 31)
Sales of CLE Audio Streams/Media Stream	82	195	494	237	177

Listen to audio recordings of our past teleseminars entirely at your own pace from the convenience of your computer desktop. No numbers to dial - you can start, stop and replay any part of the program. Plus, all audio stream purchases include informative online program materials.

Beginning Fall 2008, all new Audio and Media Stream resources will include access to a DRM-free MP3 file of the discussion so you can download it onto a portable device to listen on the go.

## LEGAL INFORMATION

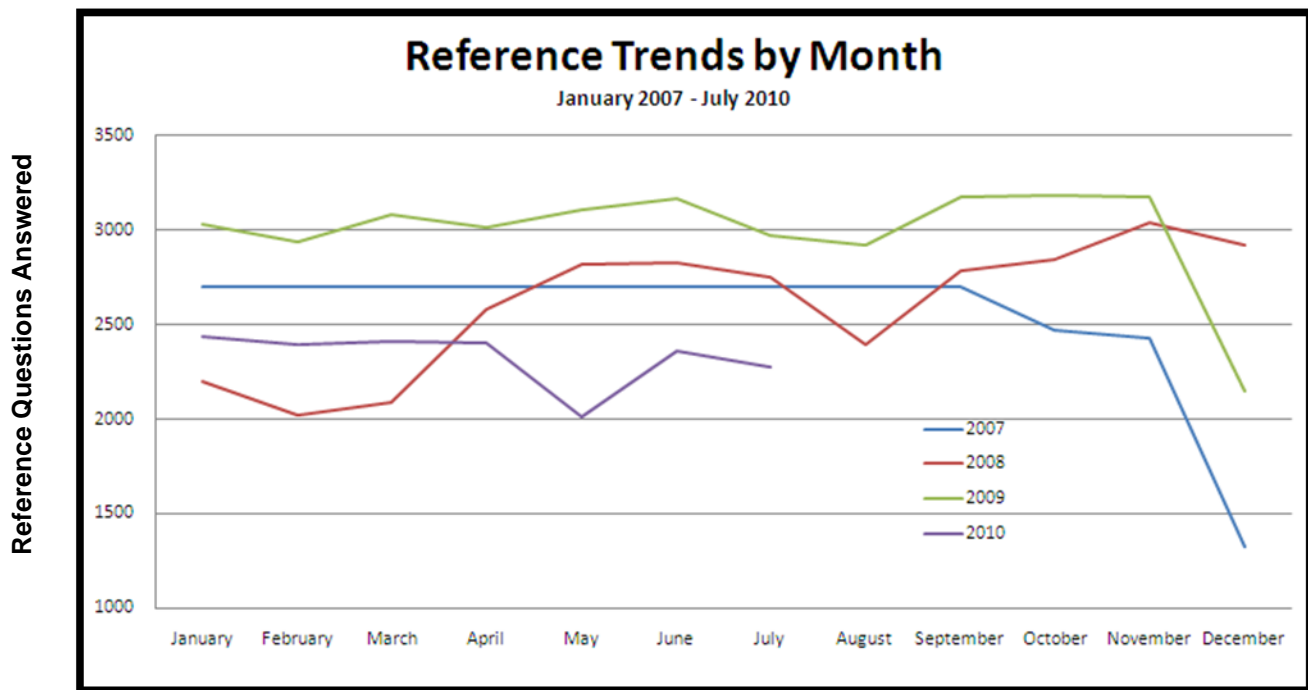
### Legal Information Services Provision

Lawyers and paralegals access Great Library services physically and virtually. Law Society licensees research using the Great Library's physical and electronic collection in Toronto as well as electronic resources available at their desktops. Lawyers also access Great Library services through law association libraries.

### The Great Library is a Metropolitan Library

The Great Library's traditional resources are used primarily by Greater Toronto Area lawyers, their articling candidates, and staff. There has been a slight rise, from 6.5% to 9%, of Law Society members outside the GTA using the reference department in 2010. Legal professionals comprise 42% of users, articling candidates 49%, and librarians and other staff make up 9%.

While the Internet has changed how Law Society licensees do research, it has not changed how they seek out research assistance. PD&C provides multiple channels for support, including phone, e-mail, and chat reference. 80% of Great Library users walk in to the physical library and access services and resources themselves. 13.5% of reference questions are answered by phone and nearly 6% are answered by e-mail. Chat reference remains an option but is relatively rarely used (55 chats in 2010 to date), although still more frequently than fax (6 faxes in 2010 to date). The relatively low usage of chat led the Great Library and LibraryCo to discontinue using an expensive chat service. A number of law association libraries and the Great Library now provide chat reference using a free service that can be justified by the low use it receives.



Reference  
Questions  
Answered

**2007**  
**30,524**

**2008**  
**31,240**

**2009**  
**35,893**

**2010 YTD**  
**16,287**

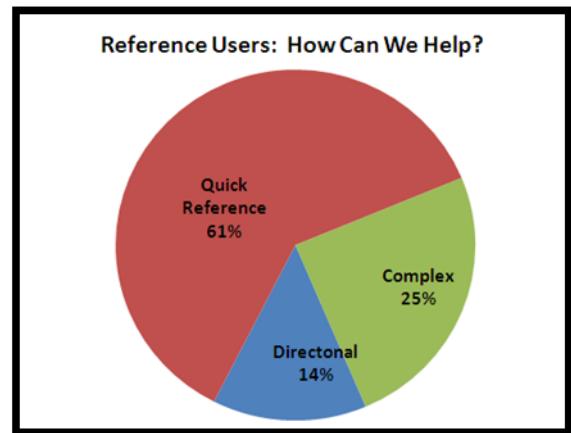


Reference requests tend to be straight-forward, with a significant majority involving directional reference (“where can I find”) and quick reference questions. Only about 25% of reference questions involve complex topics or research, including legislative histories.

### Space and Cost Savings

The Great Library is making physical and collection assessments to try to improve service delivery. Some initiatives being implemented or planned for 2011-2012 include:

- Increased staff availability in the Main Reading Room by shifting staff from other locations in the library, in order to ensure there is always a staff person available to assist Law Society members as soon as they enter the library.
- Continue to balance print and electronic subscriptions, making cancellations to the print collection where it is possible to provide access to the information more affordably and effectively using electronic services. Some examples include:



- In 2008, the cancellation of a substantial number of print law reviews and journals because of their availability in an online database, HeinOnline. This cancellation enabled the Great Library to forego spending \$65,000 on compact shelving that had been budgeted as a solution to space constraints. The HeinOnline subscription means that there is far more law journal and bar journal access than previously available in our print collection.
- In 2010, cancellation of the U.S., U.K., and other non-Canadian print loose-leaf services that are accessible from within existing electronic subscriptions to Westlaw Canada and LexisNexis Canada. This creates a net savings in print expenditures of over \$90,000 but also frees up staff time for more service-oriented activities.
- The Great Library will shift the law reports out of the Main Reading Room, where they are rarely used, and replace them with the secondary materials (texts, treatises, journals, form books) that are currently on the library's lower floor. This will improve the customer experience by making the most sought after material the most accessible, and within easy reach of professional staff and photocopyers.

### Continued Importance of Website

Visitors to our Website continue to look for practical information and appear to be finding what they are looking for more often. The Great Library's website *bounce rate*, which measures how many visitors looked in at a page and then immediately left, dropped from 51% to 46%.

Web traffic continues to increase, with about 30,500 unique visitors in the first six months of 2010, an 11% increase over the 27,500 that visited the site during the same period in 2009.

There were more than 60,000 visits in the first six months of 2010, an 11% increase over 2009. Most of our visitors reach the content directly from Web search engines such as Google.



### More Comprehensive Research

The economic realities of modern legal research mean that it is not possible to provide every licensee with desktop access to databases like LexisNexis Canada or Westlaw Canada. Instead, it is important to create a broad baseline of online resources that every licensee can utilize. CanLII is the foundation of this online collection, providing high quality case law and legislative content and basic note-up support.

The Great Library has complemented CanLII's information with a province-wide subscription to HeinOnline. This provides every Law Society licensee – lawyers and paralegals, unlike the LibraryCo remote access offering – with access to hundreds of Canadian, U.S., and foreign law journals, historic U.S. primary law, and treaties. Law Society licensees can access this from anywhere with an Internet connection. This type of information would normally be unavailable in a solo or small firm environment, but is heavily used by government and large law firm researchers. In both cases, the Law Society license enables licensees to save by avoiding their own license fee.

The difficulty with proliferating resources is that each resource – CanLII, HeinOnline, the library catalogue – has to be searched or used individually. PD&C is nearing the completion of the first phase of a solution to this problem. A new search interface that will overlay multiple other resources has now been installed and is being finalized. Rather than doing a search in AccessCLE for full-text CPD articles and then repeating that search in the Great Library's catalogue, members will be able to run a single search and retrieve results from both databases at once.

The new resource is called InfoLocate and the first phase ties together Great Library databases. Implementation of the second phase will start this fall, and will enable users to index and return search results from other, non-Law Society resources. The plan is to include HeinOnline, CanLII, government Websites (including the Ontario Legislative Library's bill database), and

other law-related blogs and information sites. These will be selected for inclusion to ensure that results are of the greatest relevance to practitioners.

Search results can be narrowed in ways that are familiar to anyone who has purchased online. Researchers can select search categories to narrow the results. The Great Library is enhancing the results with additional links. If a member returns results for a book or resource in the Great Library's catalogue – which includes all law association library collections as well – that member may see links to a free online version of the resource, or links to Amazon or other sources where a copy may be purchased. The Great Library understands that it may be more efficient for Law Society members to get the resource immediately rather than having to work with library staff to access it.

**Results for All Libraries** RSS

86 Results, sorted by: relevance

- Levy surcharge and exemption forms : real estate, civil litigation, volume levy.** (View details)  
 Lawyers' Professional Indemnity Company.  
 Toronto, Ont. : Lawyers' Professional Indemnity Company [1996]  
 Available at GL Closed Stacks--See Reference Staff (KF 1215 L389 1996 ) (GetIt)  
☐ Add to e-Shelf Additional locations
- Using Case Management Forms** (View details)  
 Dash, Ronald M.  
 LSUC, CLE  
 Document ☐ Add to e-Shelf Online access (GetIt)
- Pleadings, Forms and Service** (View details)  
 Lowenberger, Lois J.  
 LSUC, CLE  
 Document ☐ Add to e-Shelf Online access (GetIt)
- Advanced Statutory Accident Benefits for Law Clerks: Forms** (View details)  
 Romanowski, Tracy M.  
 LSUC, CLE  
 Document ☐ Add to e-Shelf Online access (GetIt)
- [http://rc.lsuc.on.ca/library/research\\_guides\\_forms.htm](http://rc.lsuc.on.ca/library/research_guides_forms.htm)** (View details)  
 Law Society of Upper Canada. Great Library  
☐ Add to e-Shelf Online access (GetIt)

**Refine My Results**

Narrow my results by limiting the search to:

**Online Availability:**

- > [Online Resource \(6\)](#)
- > [Online Law Society CLE articles \(56\)](#)

**Resource Type:**

- > [Books \(24\)](#)
- > [Web Sites \(6\)](#)

**Subject:**

- > [Civil procedure \(29\)](#)
- > [Actions and defenses \(17\)](#)
- > [Practice of law \(9\)](#)
- > [Small claims courts \(8\)](#)
- > [Costs \(Law\) \(7\)](#)

[Show 15 more](#)

**Author:**

- > [Law Society of Upper Canada \(5\)](#)
- > [Law Society of Upper Canada Great Library \(4\)](#)
- > [Ontario Bar Association. Continuing Legal Education \[CLE Program\] \(4\)](#)
- > [Law Society of Upper Canada. Continuing Legal Education \[CLE Program\] \(3\)](#)

Researchers will be able to save their results as RSS feeds. When a new result matches their original search query, it will appear in their RSS feed. It eliminates the need to return to the Law Society repeatedly to look for the same information, as the feed will automatically “push out” relevant information to users.

## Promoting Library Services

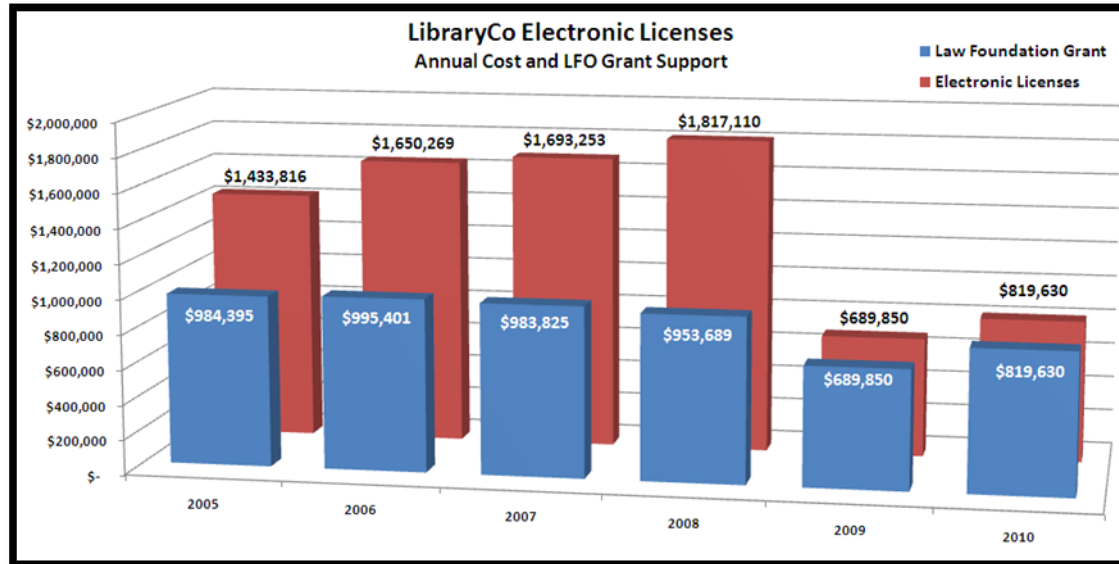
PD&C has been promoting library services available across the province since January 2010 through a creative marketing campaign and placement of advertisements. A set of six advertisements has appeared and rotated on a weekly basis in the print and digital Ontario Reports. They highlight resources and services available from the Great Library, through the LibraryCo-funded Toolkit, and from law association libraries.

The print advertising campaign has not been successful to the extent that it is possible to measure interest by reader follow up. Each advertisement has incorporated a link that shows when it is clicked. Although the link has been clicked 2,771 times, most of those clicks have

been on the order of one to five per day. Most clicks occurred on two specific occasions. Both represent occasions when the e-Bulletin featured a library service advertisement.

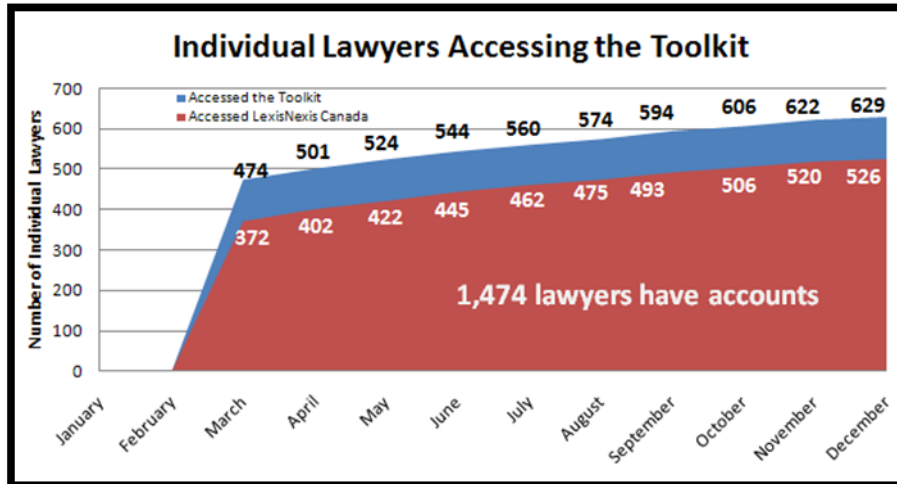
PD&C is not able to connect physical visits to the law association libraries or the Great Library with the advertisements' appearance in the Ontario Reports. It is a good first step in undertaking additional promotion of library services and creating higher awareness in the membership of the resources that they may be funding through the library levy but are not using.

### A Service Provider for LibraryCo



The Legal Information unit of PD&C serves a dual role with its law association colleagues across the province. It is both a provider of information – document delivery, reference support – but is also a provider of operational support. This is provided in a variety of ways:

- Great Library staff negotiates electronic licenses for LibraryCo as well as providing expertise in library collection and research trends. This led to a decision by the LibraryCo Board of Directors to turn to competitive bids for electronic products for their 2009 contracts. This enabled the Board to eliminate over \$1 million in license costs and reduce its grant request to the Law Foundation of Ontario.



- PD&C realizes the value of having data to support decision-making. As a result, the department moved the LibraryCo Toolkit website onto Law Society servers to provide greater control and the ability to measure usage. Statistics are available measuring where the remote access service is used most heavily, by county or district or individual lawyer, and to understand when it is being used. For example, PD&C reported to the LibraryCo Board that only 629 lawyers had accessed the Toolkit of remote access resources in 2009 even though their license was based on nearly 1,600 users, 1,474 of whom had created an account. In addition, the information indicates that 20 lawyers account for nearly one-third of all remote access.

While there are more active accounts, the 2010-11 contract with LexisNexis raised the number of prospective users to 2,300 from 1,600. However, LexisNexis usage in 2010 appears to be following the pattern in 2009. In reality, there has only been an increase of about 75 lawyers using the remote access resources compared to this period in 2009.

Surprisingly, use of Canada Law Book's Criminal Spectrum product has fallen off from 2009. Canada Law Book has been unable to provide detailed statistics and PD&C has used Google's free Web analytics product to monitor traffic from the LibraryCo Toolkit going to the Criminal Spectrum database. There has been a 35% drop in usage, from nearly 1,100 visits between March 1 and June 30, 2009 to just over 700 visits in the same period in 2010. Tracking started in late February 2009.

- The Great Library staff includes a roving law librarian who is available to law association staff and executives as a resource. In the past year, she has assisted in staff transitions in Oxford and Nipissing, and has made visits to law associations requesting assistance. She has also worked with the law association leadership in Durham on their renovation project. The Roving Law Librarian coordinates quarterly conference calls that highlight best practices among the law associations, and the discussions are led by the law associations whose ideas are being discussed. As she travels around the province, she is able to see trends and issues and share information broadly among both law association and Law Society staff.

## LICENSING PROCESS FOR LAWYERS

### Licensing Process Candidates

For 2009, 1,618 lawyer applications were processed of which 1,504 were new candidates registered for the Licensing Process. Of this “new” registrant group, 1443 lawyer candidates were called to the bar. A total of 1544 lawyer candidates were called to the bar in 2009, including academics, mobility, transfer, and Licensing Process candidates originally registered in previous years and who exercised the ability to take the components of the process over a longer period or failed components and required additional time to complete the process.

As of the end of July 2010, 1759 lawyer applications have been processed. This is an increase of 8.7% over 2009. It appears that the registered lawyer candidates for 2010 will also increase over 2009 when final registration statistics will be determined at the end of September 2010, which will include previously registered candidates who continue to complete outstanding components of the Licensing Process.

	2006	2007	2008	2009	2010 (to July 31)
Enrolment (applications received)	1,457	1,476	1,516	1,618	1,759
Licensing Fee	\$2,600	\$2,750	\$2,940	\$2,400	\$2,400
National Mobility Agreement (transfer candidates)	30	75	60	56	38
Non-National Mobility Agreement (transfer candidates)	14	25	26	41	19
Total Transfer candidates	44	100	86	97	57
Total number of candidates called to the Bar in Ontario	1,400	1,484	1,479	1544	1,457

### Professional Responsibility and Practice Course

The new online Professional Responsibility and Practice Course that was available to lawyer licensing candidates as of August 4, 2009, was accessed by 1,422 candidates between August 4, 2009 and June 30, 2010 and 1,261 have completed the Course. The Course, designed to enhance the training that candidates receive during their articling term by expanding their knowledge of lawyers’ duties, tasks, and challenges, and by providing them with a suggested approach for analyzing common ethical and practice dilemmas, was accessible to any of the candidates who have confirmed having an articling placement on their 2010-11 Licensing Process application and commenced articling in July 2010. The Course takes approximately 30 hours to complete.

### Professional Conduct and Practice Course

The three day mandatory course for internationally trained common law candidates who are granted an exemption from articles based on experience (more than 10 months), was attended by a total of 99 candidates during the course offering in May 2009 (29 attended), November/December 2009 (19 attended) and May 2010 (51 attended). The length of time that the internationally trained common law candidates must complete requirements for a call to the bar has been significantly reduced as a result of the exemption from articles. Candidates who are exempted from articles must successfully complete the 3-day course, the two Licensing Examinations and could be eligible for a call to the bar within 6 months depending on the timing of their receipt of the Certificate of Qualification from the National Committee of Accreditation.

### Articling Program Statistics

	2006	2007	2008	2009
International articles completed	22	13	11	5
National articles completed	10	8	4	6
Part-time articles completed	12	7	9	2
Joint articles completed	5	4	7	9
Biographic paragraphs posted for articling job search	38	49	76	51
Unplaced candidates as at <b>Dec 31</b> of each year	97	118	153	141
Unplaced candidates as at <b>June 30</b> of the year following candidate's registration	56	69	125	102*

\*as at June 30, 2010

By June 2010, 93.1% of all 2009 Licensing Process candidates had secured an articling placement. The remaining 6.9% of those unplaced candidates are actively seeking articles, had accepted deferred articles, were pursuing other career and educational opportunities or were classified as "status unknown". PD&C contacts all unplaced candidates to determine their status and at the end of June 2010, 51 of the 102 unplaced candidates indicated they were no longer actively seeking a placement. A substantial number of those candidates indicated that they have deferred articles until next year or are looking for opportunities outside of Canada. The June 2010 articling placement rate is consistent with the 93.4% rate for June 2009.

PD&C continues to hire ZSA Legal Recruitment (ZSA) to conduct a job search skills workshop for interested candidates. These workshops are designed by ZSA as an interactive session in order to assist candidates with market research, cover letter, resumé writing, networking and interviewing skills. The recent session for 2010 licensing candidates was held on August 31, 2010.



## Post-Articling

At the time of call, candidates are asked to complete a voluntary survey of their employment status. The survey had an 84% response rate and results for June 2010 indicate that the hire-back rate of candidates returning to the firm with which they articulated was 42.8%, a slight decrease of 1.5% since last year's survey conducted at this time. In addition, 55.5% of the June 2010 call candidates indicated that they had secured some type of employment. This is a further decrease of 2.1% to last year's survey in this category (57.6%) and a 10.2% decrease since June 2008.

Date of call	Response to survey - % of class	% of respondents hired back by articling firm	% of respondents employed elsewhere	% of respondents employed at time of call
June 2010	84	42.8	12.7	55.5
June 2009	84	44.3	13.3	57.6
June 2008	80	49.4	16.3	65.7
June 2007	75.0	49.0	16.6	65.6
July 2006	89.3	49.1	18.5	65.1
July 2005	89.3	52.3	14.0	66.3
July 2004	61.5	49.7	16.7	66.4
July 2003	60.3	49.6	12.9	62.5
Sept. 2002	26.1	39.4	25.1	64.5
Feb. 2002	48.5	52.5	25.4	77.9
Feb. 2001	63.3	51.3	26.9	78.2
Feb. 2000	59.9	46.7	23.1	69.7
Feb. 1999	55.5	44.5	19.4	63.9
Feb. 1998	56.5	38.7	28.4	67.2
Feb. 1997	60.1	37.5	26.3	63.7
Feb. 1996	77.0	35.3	30.7	66.0
Feb. 1995	54.6	38.4	28.8	67.2

Note: 2002 double cohort effect resulting from revisions to the Bar Admission Course.

## Articling Registry

In June 2009, the Articling Registry, located on the Law Society's website, was launched. Employers may post a job opportunity on the Registry and search through candidate profiles. Licensing candidates and law students may post a personal profile and search available articling postings using different search criteria. This service is free of charge and allows the users more flexibility and independence to edit profiles or job descriptions, as necessary. There have been 161 articling positions posted on the Articling Registry since June 2009 to the end of June 2010.

## Articling Survey

The Task Force on Licensing and Accreditation recommended that an Articling Survey be conducted in 2009-10 to collect information about articling positions in Ontario and to effectively assess the scope of the articling market across the Province. The results from the survey would enable the profession to examine the possibility of increasing placements in certain regions. The



Articling Survey would also provide an opportunity to educate more lawyers about the Law Society's articling supports and the possibility of joint articles when hiring an articling candidate.

7749 out of 8209 firms in the province (as of May 2009) participated in the telephone survey. The results of articling placements across the province are indicated below.

<b>Regions*</b>	<b>Total Firms in Region</b>	<b>Total Firms Contacted &amp; completed Survey</b>	<b>Firms Contacted with no Articling Placements</b>	<b>Firms Contacted with Articling Placements</b>	<b>Total Articling Candidates in Region (% of total placements)</b>
(1) Metropolitan Toronto	3279	3140	2793	347	830 (64%)
(2) Northwest Region	104	93	86	7	11 (1%)
(3) Northeast Region	226	207	197	10	13 (1%)
(4) East Region	1005	926	816	110	180 (14%)
(5) Central East Region	1151	1089	1039	50	57 (5%)
(6) Central West Region	960	908	856	52	61 (5%)
(7) Central South Region	773	715	670	45	65 (5%)
(8) Southwest Region	711	671	631	40	63 (5%)
<b>Totals:</b>	<b>8209</b>	<b>7749</b>	<b>7088</b>	<b>661</b>	<b>1280</b>

\*see Appendix 1 for a breakdown of regions.

During the survey, firms who indicated that they did not have an articling placement were asked if they would consider joint articles if there was a firm in their region willing to share an articling candidate. Firms who indicated an interest in joint articles were provided with information and further follow up was conducted in selected cities across each region in an effort to match firms who are committed to a joint articling placement. The follow-up of firms in Phase 1 of the project has resulted in only 11 (4%) of the 277 firms contacted expressing a commitment to joint articles. Of the 11, PD&C has only been able to match four firms, equating to two placements and continues to work with the other firms to try and find a match.

### Joint Articling Survey Results – Follow-up

Regions - Number of Cities followed up for firm interest on joint articles	Number of Firms that expressed interest in joint articles	Firms no longer interested	Firms did not return calls	Firms considering joint articles but no commitment	Firms that expressed a commitment to joint articles
(1) Northwest Region – 1	17	12	2	3	0
(2) Northeast Region – 2	17	8	7	0	2
(3) East Region – 4	39	22	11	6	0
(4) Central East Region – 6	122	63	26	28	5
(5) Central West Region – 1	17	7	6	4	0
(6) Central South Region – 4	56	28	16	8	4
(7) Southwest Region – 1	9	2	5	2	0
Seven Regions – 19 Cities	277	142(51%)	73(26%)	51(18%)	11(4%)

### Licensing Administration: Document Management Scanning Project

Development and implementation of a document scanning and management system for the Office of the Registrar was undertaken by PD&C in 2009.

The document scanning and management system will enable electronic storage and access to all Licensing Process documents through the iLAWS system (online licensing system) for lawyer and paralegal candidates. The project will also allow the Office of the Registrar to securely share specific information between users and eliminate the need to move paper files from the Office of the Registrar when required. Staff and licensing candidates will be able to view documents without having to deal hard copies.

Paper filing systems are susceptible to being misplaced, stolen, lost or destroyed. Once implemented, the project will support the move towards a paperless recordkeeping environment where all candidate documents would be electronically stored and then archived once the candidate is licensed. The electronically stored documents will permit viewing privileges to other departments in the Law Society whose processing needs rely on information gathered by the Office of the Registrar. The initiative is also extremely beneficial from a document recovery and storage perspective, as the scanned documents are automatically backed up and integrated into the LSUC disaster recovery and storage process.

Access to these documents electronically is also expected to increase efficiency, improve productivity and save time. It will also enhance customer service by enabling users to respond

to customer needs faster and more efficiently and allowing candidates secure access to information within their file where applicable.

Starting in September 2010, the project team will address the business requirements for the major enhancements to iLAWS system including storage, production of bar coded documents and management of the documents via a candidate account.

The development of the document management within the iLAWS system is expected to commence in early 2011 when management of the documents will be integrated into the iLAWS system.

### **Office of the Fairness Commissioner (OFC) - Activities and Audit**

The OFC requires each regulatory body to undergo an audit of registration practices, procedures and processes. The Law Society completed its first audit final for the OFC and the independent auditor provided the Commissioner with the audit report covering the period January 1, 2009 to December 31, 2009).

The reporting information and changes to Fair Registration Practices Report - Lawyers and Paralegals by the OFC have been numerous and growing. The Report took a significant amount of senior management and licensing staff time to organize, develop and respond to the 20 pages and 13 sections querying Lawyer and Paralegal Licensing Process policies, procedures, processes, registration and call statistics as well as administrative fees and schedules related to internationally-trained lawyer applicants.

For 2009, the Fair Registration Practices Report - Lawyers (2009) required the Law Society to report the source country for the greatest number of internationally-trained lawyer applicants to the Licensing Process. The following chart provides that information:

<b>Country of Training</b>	<b>2009</b>
United States	33
United Kingdom	28
Australia	28
India	15
Nigeria	7
Bangladesh	6
Sri Lanka	4
Pakistan	4
Israel	3
Ireland	3

## **LICENSING PROCESS FOR PARALEGALS**

### **Paralegal Licensing Process**

The 2010 Paralegal Licensing Process applications totalled 1033 applications as of July 31, 2010. This is an increase of 108% over the same period of time when candidates applied to the 2009 Paralegal Licensing Process.

In 2009, there were 500 writers of the Paralegal Licensing Examination for the three scheduled sessions in March 2009, August 2009 and October 2009. In 2010, during two of three scheduled sessions in March 2010 and August 2010, there have been 851 writers of the Paralegal Licensing Examination.

The increase in examination writings for 2010 is due largely to the fact that this was the final opportunity for graduates of the non-accredited college paralegal programs to write the licensing examination. The application deadline of June 30, 2010 was applicable to these graduates and many wrote the licensing examination in August 2010 while others selected either October 2010 or February 2011 to write the licensing examination.

In 2009, there were 435 candidates issued a P1 Licence, a total of 285 female and 150 male licensees. As of July 31, 2010, 191 candidates have been issued a P1 Licence of which 142 were female candidates and 49 were male.

### **Paralegal College Program Accreditation**

The Paralegal Licensing process completed an important transition period on June 30, 2010. Prior to that date, students who had graduated from a non-accredited legal services education program within the previous three years were permitted to apply for Paralegal Licensing. The legal services program must have had a minimum of 18 courses, the majority of which provided instruction on legal services within the permitted scope of practice for paralegals. The program also had to have the following:

- A course on ethics and professional responsibility; and
- A field placement component, where the college student spent a minimum of 120 hours working within a legal environment (e.g., law office, court, tribunal, paralegal office, etc.)

The college that offered the program must also have been approved by the Ministry of Training, Colleges and Universities.

After June 30, any individual who wants to apply for Paralegal Licensing is required to have graduated from a Paralegal education program that has been accredited by the Law Society. Accreditation may be granted by the Law Society upon the successful completion of an application process in which PD&C team members review all aspects of the program. A Paralegal program will only be accredited by the Law Society if it provides, at a minimum, specific fundamental competencies with respect to the essential elements of procedural and substantive practice, as well as ethics, professional responsibility and practice management.

Specifically, accredited programs must offer a minimum of 830 program hours of instruction, comprised of the following:

- 590 instructional hours of compulsory legal courses within a paralegal's permitted scope of practice,
- 120 hours of field placement/practicum work experience, and
- 120 instructional hours of additional (non-legal) courses that support a well-rounded college graduate.<sup>2</sup>

In addition, the PD&C Accreditation reviewers assess the qualifications of faculty, including whether or not they are current members of the Law Society (if they are teaching substantive law courses), the rigour of assessment practices and examinations, and the suitability of the program's Field Placement process.

Paralegal education programs at private career and community colleges began submitting their program applications for accreditation review in spring 2008 when accreditation became available. There has been significant growth in this area, especially prior to the transition date of June 30, 2010, with the PD&C team members reviewing higher than expected numbers of accreditation applications from institutions across the province. Currently, there are 21 accredited programs offered in Ontario (with some programs being offered at multiple campus locations), representing 18 community colleges and private career academies. This group also includes accreditation of the first French language Paralegal education program which will be offered starting in the fall of 2010. At this time, there are another three program applications being assessed for accreditation. Interest in accreditation remains high; the administrators of at least four other colleges whose first application was denied have indicated that they plan to reapply.

The Law Society has been and continues to liaise regularly with the Ministry of Training, Colleges and Universities on the issues of accreditation and audit of paralegal education programs. The MTCU is copied on accreditation approvals or denials of all college programs, with reasons. This relationship has been extremely beneficial in ensuring that the new system of training and regulation for Paralegals supports the achievement of validated competencies in the public interest.

### **Paralegal College Program Audits**

Commencing November 2009, the Law Society began to audit accredited college paralegal programs to ensure that their curriculum, infrastructure and systems continue to support the required training expectations prior to entry into the Licensing Process. Audits – including Site Visits and submission of updated documentation – are an integral part of the paralegal education program accreditation process that reinforces quality in all aspects of education program delivery.

PD&C auditors review the current status of the Paralegal program, including whether competencies continue to be met and faculty qualifications and field placement standards are maintained. Each accredited program will be audited at least once within three years from the date of its accreditation and then at least once every five years thereafter.

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<sup>2</sup> These are usually "general education" courses, however, some institutions have chosen to offer either additional legal courses or additional hours in core legal courses. This approach is acceptable to the Law Society, as long as the additional courses/hours are within a paralegal's scope of practice.

At the date of this Report, the PD&C group has substantially completed five audits. Each audit is comprised of the following:

- Documentation Review of selected materials (e.g. up-to-date course descriptions, completed assessments, faculty lists and Field Placement reports) to ensure that current documentation meets or exceeds minimum standards of quality and competencies found in the program's approved accreditation application, and
- 2-day Site Visits to each campus that delivers the accredited Paralegal program, during which the PD&C auditors interview the program's Administrators, faculty, students, Field Placement Coordinator and observe Paralegal classes in operation.

Subsequent to completion of the Site Visits, a draft Audit Report on the current status of the Paralegal program is drafted. Each Report contains recommendations and commentary regarding the program's elements and is sent to the audited institution for review and clarification prior to the issuance of a final Audit Report. The Audit Team has experienced good compliance from each of the audited institutions regarding the recommendations and commentary made within the process.

The PD&C Audit team has scheduled three more audits of accredited Paralegal education programs for fall 2010, and will continue this process for all programs until each accredited education program is audited. PD&C is committed to ensuring that all audit activities are conducted in a standardized, fair and transparent manner.

### **Paralegal CPD Programs**

In fall 2009 and spring 2010, the PD&C department offered four CPD programs specifically designed for paralegal attendees. These programs addressed issues in Landlord and Tenant, Small Claims Court, and Provincial Offences practice areas, as well as a cross-practice program for the "New Paralegal" that discussed concerns for new licensees. Another CPD program on Workplace Safety and Insurance Board issues was offered to experienced paralegals and lawyers in this field.

Each program had good response with an average of 100 participants. The annual Small Claims Court program exceeded that number significantly, and continues to be very successful with over 300 attendees in 2010. The PD&C department is putting on another three CPD programs for paralegals in fall 2010, including a teleseminar on property tax law, a half-day program on Human Rights practice and the first interactive workshop program offered to paralegals to help promote advocacy skills.

### **Integration Program**

In February 2010, Convocation approved the introduction of an Integration Program to enable members of certain previously exempted paralegal groups to apply for licensing. Eligible candidates will be required to apply between October 1, 2010 and September 30, 2011 and will then have until December 31, 2014 to pass not only the Paralegal Licensing Examination, but also the new online Paralegal Conduct and Advocacy Course.

PD&C staff members are currently developing the Course, which consists of 15 three-hour modules:

1. Introduction to the Legal System
2. Legal Research and Writing
3. Evidence
4. Introduction to the Litigation Process
5. Pre-Trial/Pre-Hearing Advocacy
6. Court/Tribunal Advocacy
7. Introduction to ADR and Negotiation
8. Mediation and Arbitration
9. Introduction to Legal Accounting
10. Record Keeping and Trust Accounting
11. Introduction to Ethics and Professional Responsibility and Rule Two: Professionalism
12. Duty to Clients, Part I
13. Duty to Clients, Part II
14. Advocacy
15. Rule Six (Duty to the Administration of Justice), Rule Seven (Duty to Licensees), and Rule Nine (Duty to the Law Society)

Course content will be taught in a variety of formats, including readings, exercises, videotaped mini-lectures, vignettes, demonstrations, and interviews with licensed paralegals (called “Practice Tips”), as well as exercises. Candidates will be required to pass a 20-minute multiple-choice assessment at the end of each module. Video production was completed in August 2010 and Course development will be completed by the end of 2010.

The administrative application details and systems development requirements that will accommodate candidates, who will qualify to apply for the Integration Licensing Process, have been completed. Communications and PD&C recently posted the notification of eligibility and criteria requirements on the Law Society’s Website. Candidates, when reading this online general information, will determine their eligibility to apply as one of the exempted group categories and the documents required to support their eligibility for the specific category.

The supporting documents will form part of the application process. The online application will be available to eligible candidates on October 4, 2010. A step-by-step procedural document has been prepared to assist qualified candidates in completing the online application. Information on filing the completed application and required documents, and the licensing requirements that must be successfully completed by each candidate, will be contained in the online application information document.

## **QUALITY ASSURANCE: SPOT AUDIT, PRACTICE REVIEW AND PRACTICE AUDIT PROGRAMS**

The various audit and review programs of the Law Society are an integral part of the Law Society’s quality assurance activities in the public interest. In the case of the legal professions, these programs have also received extremely positive feedback from lawyers and paralegals. The programs are making a measurable impact on law practices and legal services practices – with sole and small firm sustainability significantly improved for those firms that receive an audit.

## Lawyer Audits and Reviews

The goal of the Spot Audit unit is to audit every law firm in the province once every five years. The Practice Management Review unit conducts 400 random reviews on individual lawyers and up to an additional 100 focused and re-entry to practice reviews per year.

### Practice Deficiencies for Sole and Small Firm Practitioners

In 2009, the Law Society refined the selection criteria for the Practice Management Review program to ensure that the selection was more closely aligned with risk. As a result, a greater percentage of sole and small firm practitioners are now selected, proportionate to the percentage of sole and small firm lawyers involved in conduct proceedings and negligence claims at the Law Society and through LAWPRO.

The following charts provide information on the breakdown of deficiencies found in practice reviews of sole and small firm lawyers. The specifics of each deficiency, the recommendations to remediate and reference to resources will be made in the Review Counsel's report to the lawyer for response.

General Observations on Law Firm	% Failed to Meet Minimum Standards
POA to another lawyer	80%
Written office manual	59%
Written business arrangements	46%
Arrangements with other lawyer	34%
Data security	25%

Client Service and Communication	% Failed to Meet Minimum Standards
Written retainer agreements	42%
Sufficiency of written retainers	34%
Phantom Clients	32%
Conflicts Management	32%



<b>File Management</b>	<b>% Failed to Meet Minimum Standards</b>
Time docketing	47%
Limitation periods and other key dates	30%
Key information in files	26%
Adequate documentation in file	19%
File management system	17%

<b>Financial Management</b>	<b>% Failed to Meet Minimum Standards</b>
Duplicate cash receipts	36%
Books & records are current	25%
Manage financial health of the firm	24%

### **Practice Review Observations**

The information on areas of deficiency encountered in reviews is exchanged with other areas of PD&C for the purpose of developing resources and tools that will assist lawyers to avoid these problems. Reviewers have presented to local associations and written articles on key practice management deficiencies, the steps to remediate and a list of applicable resources. PD&C is currently developing practice management CPD seminars to be presented by the Practice Audit group's experienced Reviewers in the counties. Plans are also underway for the May 2011 *Sole and Small Firm Conference and Expo* to include a conference stream dedicated to a variety of practice management topics, such as contingency planning and Power of Attorney, client management, file management, etc. Each of these sessions will be chaired by a Reviewer who will address the deficiencies found in practice reviews, the associated risks, the minimum competency standards, various approaches to ensure compliance to those standards, and a list of resources.

Generally, PD&C finds the following common risks associated with law practices:

### **Most Common Issues Creating Public Risk**

- Failure to recognize the need for, identify the components of, and implement a comprehensive conflict checking procedure
- Failure to recognize and deal appropriately with common situations in practice that may give rise to conflict situations
- Failure to recognize and deal appropriately with joint retainer situations
- Inadequate bring-forward system
- Inadequate reminder/tickler system
- Failure to advise clients of risks of electronic communications

### **Issues Creating Risks to the Lawyer**

- Contingency planning and having a POA to another lawyer
- Lack of written retainer agreement or written confirmation of retainer
- Failure to confirm client instructions in writing

- Failure to maintain dockets (especially lawyers with Legal Aid practices)
- Failure to properly document discussions and meetings
- Failure to document and record dealings with prospective clients
- Failure to organize files and file contents
- Development of office policies
- Backing-up and securing of electronic data

### Revisit of Spot Audits and Practice Management Reviews

A revisit by an Auditor or Reviewer is required any time the lawyer (review) or law firm (spot audit) fails to meet minimal expectations of competence and the issues are significant enough (contrary to the public interest, could result in direct harm to clients) to warrant another visit to assure improvements have been made in the public interest.

Spot Audits		
Sole and small firms audited (2008 – June 2010)	2,441	
Return visit required	172	7.1%
Practice Management Reviews		
Sole and small firm lawyers reviewed (2007 – June 2010)	644	
Return visit required	169	26.3%

### Paralegal Practice Audits

In November 2008, Convocation implemented an audit program for paralegals, approving 75 practice audits per year on paralegal practices. As a result of the high percentage rate of revisits for paralegal practice audits, for 2009 Convocation increased the total number of audits to 125 per year, including at least 75 original visits and up to 50 additional revisits. This ensures that an appropriate number of new paralegal practices are audited annually.

At this time, 54% of paralegal practices require a revisit due to failure to meet minimum standards of practice.

Practice Audits		
Number of paralegals reviewed (Nov 2008 – June 2010)	99	
Return visit required	53	53.5%

The top ten practice management deficiencies found in conducting a practice audit of paralegal practices are:

<b>Paralegal Practices – Areas of Review</b>	<b>% Failed to Meet Minimum Standards</b>
POA to another legal services provider	86%
Written business arrangements	71%
Phantom Clients	70%
Written office manual	69%
Time Dockets	67%
Conflicts Management	60%
Duplicate cash receipts	58%
Books and records comply with By-Law #9	49%
Data security	48%
Arrangements with other provider	47%

The type of practice management deficiencies found in paralegal practices is similar to those found in practice reviews of lawyer firms. The major difference is in the extent of failure in each of the categories where paralegal practices have failed to meet minimum competency standards.

For both sole and small firm lawyers and for paralegals, the failure to grant a Power of Attorney to another colleague ranks as the top practice management deficiency that poses a risk to protecting clients' interests and practice operations.

## **Appendix 1**

### **Regions**

#### **1. Northwest Region**

Kenora (Kenora) - Thunder Bay (Thunder Bay) - Rainy River (Fort Frances)

#### **2. Northeast Region**

Cochrane (Timmins) - Algoma (Sault Ste. Marie) - Sudbury (Sudbury) - Temiskaming (Haileybury) - Nipissing (North Bay) - Parry Sound (Parry Sound)

#### **3. East Region**

Prescott/Russell (L'Orignal/Hawkesbury) - Ottawa-Carleton (Ottawa) - Renfrew (Pembroke) - Stormont/Dundas/Glengarry (Cornwall) - Lanark (Perth) - Lennox & Addington (Napanee) - Frontenac (Kingston) - Leeds & Grenville (Brockville) - Hastings (Belleville)

#### **4. Central East Region**

Muskoka (Bracebridge) - Victoria & Haliburton (Lindsay) - Simcoe (Barrie) - Durham (Whitby) - Peterborough (Peterborough) - Northumberland (Cobourg)

**5. Central West Region**

Bruce (Walkerton) - Grey (Owen Sound) - Dufferin (Orangeville) - Wellington (Guelph) - Peel (Brampton) - Halton (Milton)

**6. Southwest Region**

Bruce (Walkerton) - Grey (Owen Sound) - Dufferin (Orangeville) - Wellington (Guelph) - Peel (Brampton) - Halton (Milton)

**7. Central South Region**

Huron (Goderich) - Perth (Stratford) - Oxford (Woodstock) - Middlesex (London) - Lambton (Sarnia) - Elgin (St. Thomas) - Kent (Chatham) - Essex (Windsor)

**8. Toronto Region***REPORT NOT REACHED*

## Finance Committee Report

- Amendment to By-Law 3 Respecting Benchers Remuneration
- For Information*
- 2011 Budget

Report to Convocation  
October 28, 2010

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Finance Committee

**COMMITTEE MEMBERS**

Carol Hartman, Chair  
Linda Rothstein, Vice-Chair  
Raj Anand  
Larry Banack  
Marshall Crowe  
Paul Dray  
Larry Eustace  
Carl Fleck  
Susan Hare  
Janet Minor  
Ross Murray  
Judith Potter  
Paul Schabas  
Catherine Strosberg  
Gerald Swaye  
Brad Wright

Purpose of Report: Decision and Information

Prepared by the Finance Department  
Wendy Tysall, Chief Financial Officer, 416-947-3322

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### For Decision

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### For Information

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## COMMITTEE PROCESS

1. The Finance Committee ("the Committee") met on October 14, 2010. The Committee members in attendance were: Carol Hartman, Chair, Linda Rothstein, Vice-Chair, Raj Anand, Larry Banack, Marshall Crowe, Paul Dray, Carl Fleck, Janet Minor, Ross Murray, Judith Potter (teleconference), Paul Schabas, Catherine Strosberg, Gerald Swaye and Brad Wright (teleconference).
2. Staff in attendance: Malcolm Heins, Wendy Tysall, Diana Miles, Jim Varro, Fred Grady and Andrew Cawse.

## FOR DECISION

### AMENDMENT TO BY-LAW 3 [BENCHERS, CONVOCATION AND COMMITTEES]

### MOTION

3. That Convocation approve the amendment to By-Law 3 as set out in the motion following paragraph 5 of this report.
4. The amendment to By-Law 3 is being made to clarify the remuneration year for paralegal benchers and members of the Paralegal Standing Committee whose election is at a different date (end of March) than lawyer benchers.
5. The motion to amend the By-Law is as follows:

THAT By-Law 3 [Benchers, Convocation and Committees], made by Convocation on May 1, 2007 and amended by Convocation on June 28, 2007, September 20, 2007, November 22, 2007, June 26, 2008, April 30, 2009, September 24, 2009, February 25, 2010 and May 27, 2010, be further amended as follows:

1. Subsection 49 (1) of the English version of the By-Law is amended by adding “this section and in” after “In” at the beginning.
2. The definition of “bencher year” in subsection 49 (1) of the English version of the By-Law is revoked.
3. Subsection 49 (1) of the English version of the By-Law is amended by adding the following definition:

“remuneration year” means,

  - (a) in the case of a payee other than an elected bencher licensed to provide legal services in Ontario and a person who is elected as a member of the Paralegal Standing Committee, as applicable,
    - (i) the period beginning on the day, in one calendar year, on which Convocation has its first regular meeting after an election of benchers licensed to practise law in Ontario as barristers and solicitors and ending, in the following calendar year, on May 31,
    - (ii) the twelve-month period beginning on June 1 in one calendar year and ending on May 31 in the following calendar year, and
    - (iii) the period beginning on June 1 in one calendar year and ending, in the following calendar year, on the day before the day on which Convocation has its first regular meeting after an election of benchers licensed to practise law in Ontario as barristers and solicitors, and
  - (b) in the case of a payee who is an elected bencher licensed to provide legal services in Ontario or a person who is elected as a member of the Paralegal Standing Committee, as applicable,
    - (i) the period beginning on the day, in one calendar year, on which the Paralegal Standing Committee has its first regular meeting after an election to the Committee of five persons licensed to provide legal services in Ontario and ending, in the following calendar year, on May 31,
    - (ii) the twelve-month period beginning on June 1 in one calendar year and ending on May 31 in the following calendar year, and
    - (iii) the period beginning on June 1 in one calendar year and ending, in the following calendar year, on the day before the day on which the Paralegal Standing Committee has its first regular meeting after an election to the Committee of five persons licensed to provide legal services in Ontario;
4. The definition of “work” in subsection 49 (1) of the English version of the By-Law is amended by,

- (a) striking out “for benchers” and substituting “exclusively for all or any group of payees” in paragraph 4;
  - (b) striking out “benchers” and substituting “payees as such” in paragraph 5;
  - (c) striking out “bencher” and substituting “person” the first time it occurs in paragraph 11;
  - (d) striking out “a bencher” and substituting “that person” the second time it occurs in paragraph 11; and
  - (e) striking out “bencher” and substituting “payee” in paragraph 13.
5. Subsection 50 (1) of the English version of the By-Law is amended by deleting “bencher” and substituting “remuneration” wherever it occurs.
6. Clause 51 (2) (b) of the English version of the By-Law is amended by,
- (a) deleting “shall” at the beginning; and
  - (b) deleting “bencher” and substituting “remuneration” wherever it occurs.
7. Section 52 of the English version of the By-Law is revoked and the following substituted:
- Disbursements
52. Every bencher and every person who is elected as a member of the Paralegal Standing Committee is entitled to be reimbursed by the Society for reasonable expenses incurred by him or her in the performance of his or her duties for or on behalf of the Society.

#### FOR INFORMATION

#### 2011 LAW SOCIETY BUDGET PROCESS

- 6. The Committee reviewed the draft summary and draft detailed 2011 Law Society budget.
- 7. The Society’s draft 2011 budget will be presented to all benchers at an information session on October 28, 2010.

Attached to the original Report in Convocation file:

A copy of the red-line version of the amendments to By-Law 3.

(pages 7 – 11)

*REPORTS FOR INFORMATION*

Equity and Aboriginal Issues Committee/Comité sur  
l'équité et les affaires autochtones Report

- Career Choice Survey
- Equity Public Education Series Calendar

Report to Convocation  
October 28, 2010

Equity and Aboriginal Issues Committee/  
Comité sur l'équité et les affaires autochtones

Committee Members  
Janet Minor, Chair  
Raj Anand, Vice-Chair  
Constance Backhouse  
Paul Copeland  
Avvy Go  
Susan Hare  
Thomas Heintzman  
Dow Marmur  
Judith Potter  
Heather Ross  
Mark Sandler  
Paul Schabas  
Baljit Sikand  
Beth Symes

Purpose of Report: Information

Prepared by the Equity Initiatives Department  
(Josée Bouchard – 416-947-3984)

**COMMITTEE PROCESS**

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones ("the Committee") met on October 13, 2010. Committee members Janet Minor, Chair, Raj Anand, Vice-Chair, Constance Backhouse, Avvy Go, Thomas Heintzman, Dow Marmur, Judith Potter, Heather Ross, Paul Schabas and Beth Symes participated. Treasurer Laurie Pawlitza, bencher Derry Millar and Chief Executive Officer Malcolm Heins also attended. Staff members Josée Bouchard, Sophie Gallipeau, Rudy Ticzon, Susan Tonkin, JimVarro, Aneesa Walji and Mark Wells attended. Members of the Equity Advisory Group were invited to attend. The following members attended: Milé Komlen, Chair, Sandra Yuko Nishikawa, Vice-Chair, Joseph Cheng, Kathryn Hendrikx, Sandra Lozano, Dania Majid, Chantal Morton, Tariq Remtulla and Paul Saguil.



## FOR INFORMATION

## CAREER CHOICE SURVEY

2. In 2007, the Law Society retained the Strategic Counsel to conduct a study that investigated a broad range of issues surrounding the career choices made by recent law graduates. The findings were reported in 2008. In 2009, the Law Society requested a proposal from the Strategic Counsel to conduct the study on an annual basis. The study will be conducted among recent calls to the bar and will be done entirely via email. The study will survey, lawyers called to the bar in 2009, 2010 and 2011. The survey will be conducted in the fall of 2010, 2011 and 2012.
3. The budget for this study is included within the Equity Initiatives Department budget for 2011 and no additional increase in budget will be required to continue this study.

PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES  
2010 - 2011

WOMEN'S LAW ASSOCIATION & LAW SOCIETY PROFESSIONAL NETWORKING  
RECEPTION WITH THE TREASURER

October 28, 2010

Upper and Lower Barristers' Lounge (5:30 p.m. – 7:00 p.m.)

WOMEN'S LAW ASSOCIATION, COUNTY OF CARLETON LAW ASSOCIATION & LAW  
SOCIETY PROFESSIONAL NETWORKING BREAKFAST WITH THE TREASURER

November 9, 2010

Ottawa, Lord Elgin (8:00 a.m. – 10:00 a.m.)

CANADIAN ASSOCIATION OF BLACK LAWYERS FALL SEMINAR

November 9, 2010

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Topic: Alternative Dispute Resolution through the Prism of Diversity

Chair: Patricia DeGuire, Director of Professional Excellence, CABL

Moderator: Sashu Clacken, Associate, Koch Thornton LLP

Speakers: Sandi Bell, Antoinette Clarke, Claude Grimmond, Frederick Zemans

LOUIS RIEL DAY

November 16, 2010

Convocation Hall (4:30 p.m. – 8:00 p.m.)

Topic: Year of the Métis

BLACK HISTORY MONTH

February 8, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

## INTERNATIONAL WOMEN'S DAY

March 2, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

## RULE OF LAW SERIES

March 29, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

## HOLOCAUST MEMORIAL DAY

April 27, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

## ASIAN AND SOUTH ASIAN HERITAGE MONTH

May 24, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

## ACCESS AWARENESS - DISABILITY ISSUES AND LAW FORUM

June 8, 2011

Lamont Learning Centre (4:00 p.m. – 8:00 p.m.)

## NATIONAL ABORIGINAL DAY

June 16, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

## PRIDE WEEK

June 23, 2011

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

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CONVOCATION ROSE AT 1:25 P.M.

Confirmed in Convocation this 25<sup>th</sup> day of November, 2010.

Treasurer