



The Law Society of
Upper Canada

Barreau
du Haut-Canada

Report To Convocation September 20, 2007

Licensing and Accreditation Task Force

Task Force Members

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Purposes of Report: Information

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TASK FORCE PROCESS

1. Since its establishment in March 2007 the Task Force has met on the following occasions:
 - April 17, 2007
 - May 7, 2007
 - May 24, 2007
 - June 14, 2007
 - June 26, 2007
 - June 28, 2007
 - July 6, 2007 (all day meeting)
 - August 9, 2007 (al day meeting)
 - September 11, 2007

2. In addition to the Task Force members, the Treasurer and the Chief Executive Officer have attended some of the meetings. Staff members to the Task Force are Diana Miles and Sophia Sperdakos.

FOR INFORMATION

LICENSING AND ACCREDITATION TASK FORCE

Introduction and Background

3. In March 2007 Convocation approved the establishment of a Licensing and Accreditation Task Force whose mandate is to,
 - undertake an analysis of and make recommendations on the most effective means by which the Law Society's established competency requirements for call to the bar of Ontario can be achieved within the pre-and-post-call continuum of legal education;
 - review the criteria for approving law degrees, and make recommendations on more appropriate criteria; and
 - analyze the impact of increased numbers of applicants for admission to the bar of Ontario, from domestic and international sources, on the viability of the current licensing process, and make appropriate recommendations.
4. Pursuant to its terms of reference the Task Force was to provide an interim report to Convocation in September 2007. The purpose of this interim report is to,
 - a. update Convocation on the Task Force's activities to date, including the nature of its consultations; and
 - b. outline its budgetary needs for 2008.
5. At this stage of its deliberations, the Task Force has not yet discussed all the issues within its mandate nor has it reached any final recommendations on those issues it has begun to discuss. Its plan is to come to Convocation with recommendations as it concludes its deliberations on each issue. This will allow the Task Force's mandate to be more easily addressed.

Continuum of Legal Education issues

6. In its March 2007 report to Convocation recommending the establishment of a Task Force, the Professional Development and Competence Committee

highlighted the numerous issues that necessitated the establishment of a Task Force. Respecting the continuum of legal education it noted that there is,

the need to determine the most effective way for the Law Society's established competency requirements for call to the bar to be achieved within the pre-and-post-call legal education continuum. The consideration of this question necessitates an analysis of each level of the legal education continuum - law school, aspects of the licensing process (specifically the skills program and articling) and post-call learning – not as individual units, but as components of a whole that together should produce candidates with the required competencies for call to the bar;

7. The Task Force has begun its analysis with the view that to the extent possible the continuum of legal education should,
 - a. encompass law school, the licensing process and post-call learning;
 - b. avoid duplication among the components of the continuum;
 - c. ensure there are no gaps among the components of the continuum; and
 - d. position the learning at the point in the continuum when it will be most effective.

8. The Task Force is also of the view that a meaningful discussion of the continuum necessitates,
 - a. a willingness to consider new approaches;
 - b. accurate knowledge and an understanding of current law school curricula, particularly skills and professional responsibility offerings; and
 - c. a critical analysis of the current skills component in the licensing process, including consideration of whether it remains viable or necessary.

9. The Task Force has undertaken a consultation with the Ontario Law Deans and the Canadian Law Deans to determine the nature of their schools' instruction in professional responsibility and certain skills. This information will enable the Task Force to better analyze the continuum and be in a position to make recommendations to Convocation that address the principles set out in paragraph 7 and the analysis set out in paragraph 8 above.

10. In the course of its analysis the Task Force is also considering whether some of the learning undertaken during the skills component of the licensing process would be better shifted to the immediate post-call period.
11. The Task Force anticipates providing a report and recommendations to Convocation on this issue in October, for information, with the intention of seeking feedback on it from the profession, legal organizations, law schools and other interested parties before Convocation considers the Report for decision.

Approved Law Degree

12. The Task Force has devoted much of its time to date on the complex analysis of what should constitute an approved law degree. The requirements for an approved law degree date back to 1957, with some adjustments in 1969, and are woefully outdated to address the reality of the legal profession in the 21st century. In its report to Convocation recommending the establishment of the Task Force the Professional Development and Competence Committee noted,
 - No review of these requirements has been undertaken in more than 35 years. They reflect a reality of legal education that is outdated and does little to assist universities interested in opening law faculties to understand what is necessary to establish a faculty that will produce an approved law degree.
13. This issue is relevant not only to Ontario law schools, but also to all law schools and law societies across the country. The Federation of Law Societies of Canada has recently established its own Task Force to consider, among other issues, the approved law degree. Its membership includes representatives from across Canada. The Chair of the Law Society's Task Force is one of the members of the Federation Task Force. It is essential that the two Task Forces collaborate and agree on the end product to ensure that graduates with Canadian LL.B degrees continue to be eligible to enter common law bar admission or licensing programs across the country without further qualification.

14. To date, the Task Force's analysis of this issue has included a discussion of principles and a framework that should underlie the approved law degree. From such a framework the Task Force is developing options for how curriculum issues should be addressed and is also examining the current requirements for law school structures to assess their continued relevance. This latter analysis includes consideration of prerequisites for law school admission, the requisite number of credit hours in the LL.B degree, requirements for joint degrees and library and information technology requirements.
15. The Task Force is continuing to discuss the approved law degree and examining possible options with a view to their effect on current law school structures, future proposals for new law schools, National Committee on Accreditation candidates, requirements of the *Fair Access to Regulated Professions Act* and the continuum of legal education.

Implications of increased law school graduates on articling program

16. In its report to Convocation recommending the establishment of the Task Force, the Professional Development and Competence Committee noted,

the projected increase in the number of candidates entering the licensing process, from both domestic and international sources... will have a serious effect on the viability of the current licensing process. This issue has an urgency to it that cannot be ignored...

A number of factors are currently in play that will likely result in the number of candidates in the licensing program rising even more significantly. In addition there will continue to be pressures to facilitate quicker access to the licensing process. The factors in play include the following:

- i. The University of Ottawa has increased the size of its student body.
- ii. Bond University in Australia has a significant number of Canadian students who it is anticipated will return to Canada for admission. Although not all of them will come to Ontario, a significant number may.
- iii. Lakehead University has applied for a law school with an annual entry of 25-30 students.

- iv. There is likely to continue to be the standard 4% increase in registration levels, many from international jurisdictions.
 - v. Efforts are increasing by those seeking to have international law degrees apply on par with Canadian LLB degrees.
 - vi. The Law Foundation of Ontario is studying the desirability of part-time LLB studies.
17. Since it began its work the Task Force continues to receive information about the increasing interest in establishing new law schools in Ontario, international law schools seeking to attract Canadian students, and proposals for different delivery methods for the LL.B degree. These include,
- a. a proposal from Wilfred Laurier University for a law school;
 - b. interest expressed by a further law school in Australia in developing a program that caters to Canadian law students, similar to Bond University's program;
 - c. Athabaska University, which specializes in distance learning examining the possibility of a distance education law program;
 - d. an increasing number of distance education law schools in the United Kingdom, including London University and Wolverhampton;
 - e. an increasing number of Canadian students going abroad to law school who will return to Ontario and other parts of Canada through the NCA route.
18. The Task Force will begin its analysis of the articling issues shortly, but there is little doubt that the pressures on the program will continue to increase with the increase in the number of candidates seeking admission to the bar of Ontario. The Task Force will be taking a very comprehensive approach to examining the articling component of the licensing program, including examining the need for fundamental changes to the requirement.

National Committee on Accreditation (NCA)

19. The National Committee on Accreditation is a Committee of the Federation of Law Societies of Canada and is responsible for evaluating the legal training and professional experience of persons with international or Canadian non-common law legal credentials who wish to be admitted to a common law bar in Canada. In addition it is responsible for approving new law schools and new law school programs, with input from the law societies affected by any proposal.

20. Ontario has recently passed the *Fair Access to Regulated Professions Act*. It is likely that the Manitoba legislature will pass similar legislation in the near future.
21. The Act's purpose is stated as helping to ensure that regulated professions and individuals applying for registration are governed by registration practices that are transparent, objective, impartial, and fair. A positive duty is placed on regulated professions to meet the requirements of the Act. If a regulated profession makes its own assessment of qualifications it must do so in a way that is transparent, objective, impartial and fair. If it retains a third party, such as the NCA, it shall "take reasonable steps" to ensure the third party does the same.
22. As the Task Force considers the appropriate requirements for the approved law degree, it is considering the implications of this discussion on the NCA requirements. This issue is also part of the Federation Task Force's mandate as both groups seek to ensure that the NCA criteria for providing a certificate of accreditation are fair, transparent, objective and impartial.

Consultation Process

23. The Task Force's mandate includes a significant consultation component. It has already begun that process by engaging the Ontario Law Deans in discussion and by participating as a member of the Federation of Law Societies of Canada Task Force, which will also engage the Canadian Council of Law Deans and all law societies in the discussion.
24. Its consultation process is developing incrementally, with different groups to be engaged at points in time when issues relevant to their interests are addressed. As mentioned above, for example, it anticipates seeking input from the professions and legal organizations on the report it will provide to Convocation in October.

Budget for 2008

25. When the Task Force was established it was unsure how its work would unfold. It sought, and Convocation approved, a budget from the contingency fund of \$50,000 for the balance of the 2007 budget year, consisting of \$30,000 for consultation costs and \$20,000 for research.

26. The Task Force has not yet incurred costs for consultation or research, but anticipates that it will need these funds for 2008, although it is not clear if the specific allocation of the funds will be as originally anticipated. At the end of 2007, the balance of the unspent money will be transferred to the Special Projects Fund and those funds will be available to the Task Force for 2008.