

## **GUIDELINE 6: COMPETENCE**

### **General**

1. A licensed paralegal is held out to be knowledgeable, skilled and capable in his or her permissible area of practice. A client hires a legal service provider because the client does not have the knowledge and skill to deal with the legal system on his or her own. When a client hires a paralegal, the client expects that the paralegal is competent and has the ability to properly deal with the client's case.

### **The Required Standard of Competence**

**Rule Reference: Rule 3.01(1)  
Rule 3.01(4)**

### **Knowledge**

**Rule Reference: Rule 3.01(4)(a) & (b)**

2. The competent paralegal will ensure that only after all necessary information has been gathered, reviewed and considered does he or she advise the client as to the course(s) of action that will most likely meet the client's goals, taking care to ensure that the client is made aware of all foreseeable risks and/or costs associated with the course(s) of action.

### **Client Service and Communication**

**Rule Reference: Rule 3.01(4)(d), (e), (f) & (g)**

3. Client service is an important part of competence. Most of the complaints received by the Law Society relate to client service, such as not communicating with a client, delay, not following client instructions and not doing what the paralegal or lawyer was retained to do.
4. Rule 3.01(4) contains important requirements for paralegal-client communication and service. In addition to those requirements, a paralegal can provide more effective client service by
  - keeping the client informed regarding his or her matter, through all stages of the matter and concerning all aspects of the matter,
  - managing client expectations by clearly establishing with the client what the paralegal will do or accomplish and at what cost, and
  - being clear about what the client expects, both at the beginning of the retainer and throughout the retainer.

### Practice Management

#### Rule Reference: Rule 3.01(4)(h) By-Law 9

5. In a busy office, practice management includes ensuring that there is sufficient staff to assist the paralegal in fulfilling his or her professional responsibilities, for example, ensuring that communications from clients, other paralegals or lawyers are responded to and that financial records are kept in accordance with the requirements of By-Law 9.
6. Competent practice management requires that the paralegal effectively manage his or her staff, time, finances and client information. A paralegal should consider the following practice management tools:
  - workplace policies and business procedures for staff,
  - planning and reminder systems, and time docketing systems for time management, and
  - filing, organizational and storage systems for management of client information and a system for effectively identifying and avoiding conflicts.

### Applying Skills & Judgment

#### Rule Reference: Rule 3.01(4)(c), (i) & (l)

7. When serving clients, or otherwise acting in a professional capacity, a competent paralegal should understand the legal concepts, issues and facts, give careful consideration to the matters he or she handles and make decisions that are reasoned and make sense in the client's circumstances.
8. A competent paralegal knows the *Rules* and understands why each *Rule* is important. The paralegal uses this knowledge and understanding to guide his or her own conduct.

### Continuing Education / Professional Development

#### Rule Reference: Rule 3.01(4)(j) & (k)

9. A paralegal is responsible to remain competent throughout his or her career. A competent paralegal understands that maintaining competence is an ongoing professional commitment that requires the paralegal to constantly assess his or her knowledge and skills.

### Failing to be Competent

#### Rule Reference: Rule 3.01

10. The *Rules* do not require a standard of perfection. An error or omission, even though it might be actionable for damages in negligence or contract, will not necessarily constitute a breach of Rule 3.01. Conversely, incompetent professional practice may constitute professional misconduct whether or not the error or omission is actionable through the courts for professional negligence.