

For Immediate Release
Attention: News Editors

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Law Society Proposes New Model for Regulation of Legal Services

TORONTO, Sept. 23 – The Law Society of Upper Canada today delivered to the Attorney General a report outlining a regulatory model that would provide consumer protection to those using the services provided by paralegals.

The report provides details of a model that would expand the Law Society's consumer protection mandate to include all legal service providers, including paralegals, as requested earlier this year by Ontario Attorney General Michael Bryant.

The Attorney General asked the Law Society in January to determine what needed to be done to expand the Law Society's current public interest mandate of regulating the province's 35,000 lawyers to include others who provide legal services.

As of now, paralegals are not regulated and there have been incidents of improper advice or criminal behaviour on the part of some paralegals. Currently, anyone can offer paralegal services in Ontario without any training or qualification. Consumers have no protection and no recourse if something goes wrong when using paralegal services, unlike when they use the services of a lawyer.

The Law Society is mandated to regulate in the public interest and is currently empowered to govern lawyers and their staff. The Law Society, founded in 1797, has the existing infrastructure, expertise, and experience in all of the key regulatory areas: education and training, accreditation and licensing, insurance, a code of conduct, a disciplinary process and a compensation program.

“In turning to us, the Attorney General made clear his view that the Law Society is well-positioned to act on a widespread consensus that consumers of all legal services be protected and that paralegals be regulated,” said Law Society Treasurer Frank Marrocco, Q.C. “The same standards and protections that exist for the public when they use a lawyer must also extend to legal services provided by paralegals.”

Ontario Attorney General Michael Bryant said: “I look forward to reviewing the recommendations contained in the report and working with the Law Society to put in place a new mechanism for regulating paralegals. The Law Society is to be commended for embracing this fundamental change in its role, which is decidedly in the public interest, and which will extend the Law Society of Upper Canada's deserved reputation as an innovator and an organization that embraces change.”

The proposed model, developed after extensive consultations, calls for independent paralegals to be licensed by the Law Society. It recommends that paralegal regulation should mirror the existing regulation of lawyers wherever possible, to avoid confusion and duplication.

Features of the Proposed Model for Paralegal Regulation

According to the proposed model:

- Paralegals would be authorized to provide services in permitted areas of practice – e.g. Small Claims Court, tribunals, and matters and appeals under the *Provincial Offences Act*. This means paralegals could work on such matters as highway traffic cases and workers' compensation claims;
- To ensure their competence, paralegals would be required to complete an approved college program including a field placement, and pass a licensing examination;
- Applicants for a paralegal licence would have to demonstrate they are of good character;
- Paralegals would be required to adhere to a code of conduct, carry insurance and contribute to a compensation fund;
- A process for receiving and investigating consumer complaints would be developed to mirror the system already in place for lawyers. Paralegals found to have engaged in misconduct would be subject to the same types of penalties lawyers face, including the possible loss of their license; and
- Paralegals would elect representatives from amongst themselves to sit on a Standing Committee on Paralegal Regulation and have seats on the Law Society's governing body, giving them a formal role in the regulation of all legal service providers.

The proposed model contains “grandparenting” provisions that would allow paralegals with three years' work experience gained within the last five years in permitted areas of practice to omit the required college courses when applying for a licence. Accommodation will also be given under the grounds in the *Ontario Human Rights Code*, in which case the requirement would be three years within the last seven years. Such applicants would still be required to pass the licensing examination.

Implementation of the model will require the passage of legislation by the Ontario government.

Further details about the proposed model for paralegal regulation are outlined in a September 2004 report submitted to Convocation, the Law Society's governing body, by the Law Society Task Force on Paralegal Regulation. The full report can be accessed online at www.lsuc.on.ca.

For more information, please contact: Lucy Rybka-Becker, 416-947-7619, lrybka@lsuc.on.ca or David Gambrill, 416-947-3317, dgambril@lsuc.on.ca. Visit us online at www.lsuc.on.ca.

BACKGROUND

The Origins of the Proposed Model:

For more than a decade, there have been calls for and discussions about the need to regulate paralegals as a measure to protect consumers. Various studies and consultations have been conducted resulting in several reports over the years. The courts have also recognized the need for some form of regulating paralegals.

For example, in August 1999, the Ontario Court of Appeal commented in the case of *R. v. Romanowicz*:

“A person who decides to sell t-shirts on the sidewalk needs a licence and is subject to government regulation. That same person can, however, without any form of government regulation, represent a person in a complicated criminal case where that person may be sentenced to up to 18 months imprisonment. Unregulated representation by agents who are not required to have any particular training or ability in complex and difficult criminal proceedings where a person’s liberty and livelihood are at stake invites miscarriages of justice.”

Earlier this year, Ontario’s Attorney General Michael Bryant expressed interest in moving forward on this important consumer protection issue. Following is a brief summary of recent events:

- In January 2004, the Attorney General asked Convocation (the Law Society’s governing body) to determine “what needs to be done to create a self-funding regulatory model within the Law Society” to expand its role to include the regulation and licensing of paralegals. Convocation responded by approving a motion that said the Law Society would be prepared in principle to regulate and license paralegals.
- Law Society Treasurer Frank Marrocco, Q.C., established the Law Society Task Force on Paralegal Regulation on February 10, 2004.
- Convocation then directed the Task Force to research the matter further and report back to Convocation with its findings. On April 22, 2004, the Task Force presented an interim report to Convocation that formed the basis of a May 2004 Consultation Paper.
- Convocation agreed the May 2004 Consultation Paper should provide the basis for widespread public consultation, which occurred over the summer. Within four months, the Task Force conducted consultation meetings with more than 60 stakeholders – including paralegal organizations, members of the legal profession, legal organizations, the courts, community colleges, adjudicative tribunals and other interested parties – and received more than 70 written submissions.

- On the basis of these consultations, the Task Force prepared its final report, which was submitted to Convocation today (September 23, 2004).
- Following adoption of the report by Convocation, this proposed, expanded regulatory model for all legal services was delivered to the Attorney General.

To read the report, please go to the Law Society's Web site at: www.lsuc.on.ca

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