



TAB 9

**Report to Convocation
January 29, 2015**

Professional Development & Competence Committee

Committee Members

Howard Goldblatt (Chair)
Barbara Murchie (Vice-Chair)
Alan Silverstein (Vice-Chair)
Raj Anand
Constance Backhouse
Jack Braithwaite
Robert Burd
Mary Louise Dickson
Ross Earnshaw
Larry Eustace
Peter Festeryga
Susan Hare
Vern Krishna
Michael Lerner
Marion Lippa
Virginia MacLean
Judith Potter
Nicholas Pustina
Jack Rabinovitch
Joe Sullivan
Gerald Swaye
Peter Wardle

Purpose of Report: Information

**Prepared by the Policy Secretariat
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Information

PD&C Department Annual Resource and Program Report

[TAB 9.1](#)

COMMITTEE PROCESS

1. The Committee met on January 15, 2015. Committee members Howard Goldblatt (Chair), Barbara Murchie (Vice-Chair), Alan Silverstein (Vice-Chair), Constance Backhouse, Jack Braithwaite, Mary Louise Dickson, Ross Earnshaw, Larry Eustace, Susan Hare, Michael Lerner, Marian Lippa, Virginia MacLean, Judith Potter, Nicholas Pustina, and Joe Sullivan attended. Staff members Diana Miles and Sophia Spurdakos also attended.

INFORMATION

**PROFESSIONAL DEVELOPMENT AND COMPETENCE DEPARTMENT
ANNUAL RESOURCE AND PROGRAM REPORT**

2. The PD&C Department Annual Resource and Program Report is set out at [TAB 9.1.1: Annual Resource Report](#) for Convocation's information.
3. This report informs Convocation about the operational implementation of approved Professional Development & Competence policies and the extensive work done within the Professional Development & Competence Department.



Professional Development and Competence Division Resource and Program Report

FOR INFORMATION ONLY

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January 2015

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PROFESSIONAL DEVELOPMENT AND COMPETENCE DIVISION

The Professional Development and Competence (PD&C) Division 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-licensing 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.

LICENSING AND ACCREDITATION: LAWYER LICENSING

The following chart indicates the number of candidate registrations, and the number of L1 licences issued in the past five years of the Licensing Process. The Process is governed by the three-year rule which requires a registered lawyer candidate to be called to the bar within three years from the time of their entry into a licensing year. For the calendar year 2014, there were 2,357 candidates newly registered in the licensing process.

Year	Registrants	Licensed
2010	1,863	1,625
2011	1,949	1,707
2012	2,073	1,873
2013	2,211	1,995
2014	2,357	2,121

Articling Program

National/International Articles

Candidates may complete up to ten months of articles outside of Ontario (national) or outside of Canada (international). The total number of candidates who completed articles outside of Ontario is as follows:

Licensing Year	National Articles	International Articles
2010	18	22
2011	16	16
2012	18	16
2013	19	16
2014	29	15

Exemption from Articles and the Professional Conduct and Practice Course

In 2009, candidates became eligible to apply for and be granted a full exemption of articles if they have practice experience in a common law jurisdiction that exceeds 10 months. The majority of candidates who receive exemptions have gained their experience in the US, India, Nigeria, Australia, the United Kingdom and Pakistan.

Candidates who are exempted from articles must successfully complete a mandatory three-day course. The Professional Conduct and Practice course provides instruction on professional responsibility and practice management topics in an Ontario context using panel presentations, roundtable discussions and interactive case studies. In 2014, 137 candidates attended the course for a total of 630 exempted articling candidates who have completed the mandatory course since inception.

There have been 12 sessions of the Professional Conduct and Practice course since it began in May 2009:

Year	May	December	Total
2009	22 attendees	19 attendees	41 attendees
2010	51 attendees	45 attendees	96 attendees
2011	42 attendees	53 attendees	95 attendees
2012	54 attendees	53 attendees	107 attendees
2013	77 attendees	82 attendees	159 attendees
2014	71 attendees	61 attendees	132 attendees

Candidates exempted from articles must also successfully complete the two Licensing Examinations. As a result of this significant reform, candidates exempted from articles could be eligible for a call to the bar within six months depending on the timing of their receipt of the Certificate of Qualification from the National Committee on Accreditation.

Pathways Pilot Project

In 2014, the PD&C Division has been heavily engaged in the implementation of each of the components of the Pathways Pilot Project, which has resulted in significant changes to the Law Society's licensing processes and protocols. The key components include:

- a) Creation of a Law Practice Program (LPP) as a path to licensing;
- b) Enhancements to the Articling Program as a path to licensing;
- c) Implementation of an evaluation framework for the pilot project.

The development work with respect to each of these components has been both time sensitive and substantial. Work on these individual projects within the Pathways Pilot has been very intensive, taking significant time and effort of the licensing team and an extended group of the PD&C team.

Enhancements to the Articling Program

The Law Society's enhancements to the Articling Program consist of new reporting requirements designed to ensure fulfillment of the experiential training competencies and promote consistency in all placements. All Articling Principals are required to file an Experiential Training Plan at the beginning of the placement. Both candidates and principals must file a report on the candidate's exposure to the experiential training competencies by the end of the placement. And finally all principals must now formally evaluate and report on candidate performance of five core tasks, including activities related to client communication, matter management and advocacy.

To support these new administrative requirements, the Licensing and Accreditation team developed and launched the new online Articling Program Reporting Tool in July 2014. The tool was developed under a very tight timeframe and included consultation with articling principals from a variety of practice sectors and geographic areas of Ontario.

Feedback from the profession has been overwhelmingly positive and compliance with the new reporting requirements has been very high. As of December 31, 2014, approximately 96%, or 1,454 out of 1,516 placements have filed Experiential Training Plans.

Law Practice Program (LPP)

The Law Practice Program launched in September at Ryerson University in English and the University of Ottawa in French. A total of 243 candidates are enrolled in the program. The LPP consists of a four-month training course followed by a four-month work placement. The training course involves a virtual law firm model to support development of practical lawyering and practice management skills through a variety of file based assignments and simulated client interactions. Members of the profession have been engaged in the LPP as instructors, assessors and mentors.

The training course component concluded at the end of December and candidates will be commencing work placements by the end of January. Work placements are situated in a variety of settings and locations across Ontario, many of which do not typically offer articling positions, such as in-house legal departments, legal clinics, and public interest groups. Candidates are also completing work placements in traditional settings such as law firms and government.

LICENSING AND ACCREDITATION: PARALEGAL LICENSING

The following chart indicates the number of candidate registrations, and the number of P1 licenses issued in the past five years in the Licensing Process. The Licensing Process for paralegal candidates is governed by the three-year rule which requires a registered paralegal candidate to complete licensing requirements within three years from the time of their entry into a licensing three-year term. For the calendar year 2014, there were 1768 candidates newly registered in the licensing process.

Year	Registrants	Licensed
2010	1,087	894
2011	1,278	757
2012	1,416	1,051
2013	1,600	1,344
2014	1,768	1,414

The Integration Licensing Process for the Exempted Group/Collection Agents which commenced on October 1, 2010, formally closed on May 31, 2014. A total of 311 candidates providing legal services in-house at a variety of government, non-government and non-profit entities, were licensed as paralegals through this process.

Paralegal College Program Accreditation – New Standards for 2015

As part of its mandate to govern and regulate paralegals, the Law Society accredits paralegal education programs that have been approved by the Ministry of Training, Colleges and Universities (MTCU). Institutions must submit a detailed application package and participate in a rigorous audit process in order to demonstrate that the program's curriculum, infrastructure and systems support the accreditation criteria. The Law Society provides the Ministry with copies of accreditation approvals or denials of all college programs, with reasons, and liaises with the Ministry on accreditation issues as required.

As of December 31, 2014, PD&C has approved the accreditation of 28 paralegal college programs at 45 college campus locations throughout Ontario. Applications continue to be received and reviewed by the accreditation team, including resubmissions from colleges that have revised their program content and re-applied.

Following Convocation's approval of more stringent standards for accreditation and governance of paralegal college programs in February 2014, the Licensing and Accreditation team has been engaged in communicating the new requirements to college administrators via direct mail, website notices, and an information session held at the Law Society with over 80 attendees from community colleges, private career colleges and representatives from the MTCU. All accredited programs will be required to comply with the new standards by September 2015.

The audit process for accredited college paralegal programs began in November 2009. Audits consist of a documentation review and a two-day site visit at the institution to observe classes and facilities, and meet with program administrators, faculty and students. As of the end of December 2014, the paralegal accreditation team has conducted 32 college program audits at 43 of the 45 campus locations where programs are offered. Audit and reporting processes are conducted in a standardized, fair and transparent manner, with a draft audit report to be sent to colleges for clarification prior to the report being finalized. Under the current framework, all colleges will be audited within three years of the date of their accreditation and at least once every five years thereafter.

Expansion of Paralegal Licensing Examination

PD&C continues to prepare for the expansion of the paralegal licensing examination to include substantive areas of law, as approved by Convocation in the fall of 2012. In 2014, the licensing team worked with psychometricians and members of the professions to create, revise and validate over 400 substantive, procedural and practice management examination question items in preparation for their incorporation into the first offering of the expanded paralegal licensing examination in August 2015. In addition, PD&C utilized a network of experienced lawyers and paralegals to write over 50 new chapters for the examination study materials and self-study supports that will be provided to candidates.

CONTINUING PROFESSIONAL DEVELOPMENT

CPD Accreditation and Policy Development

As a result of the two-year review of the CPD requirement in May 2013, PD&C implemented a number of enhancements to the accreditation process beginning in January 2014, including an Accredited Provider framework. Under this framework, 58 education providers have received approval to deliver professionalism content without the requirement for individual program accreditation. Providers were approved based on a demonstrated track record of quality programming for lawyers and/or paralegals, familiarity with the accreditation criteria for professionalism hours, and usage of best practices in adult learning and professional development. The current list of Accredited Providers includes major providers such as the Ontario Bar Association, Osgoode Professional Development and The Advocates' Society as well as a number of law firms.

These policy and process changes have resulted in a reduction in the volume of applications by approximately 65% compared to 2013, such that PD&C was able to reduce its staff complement in this area by two full-time equivalent positions early this year. In 2014, 2,296 applications for accreditation were processed, compared to 6,288 in 2013. This includes 1,248 applications for program accreditation and 1,048 applications from members seeking accreditation of activities such as teaching, writing, mentoring and study groups.

The following table provides information only on program activity within which professionalism content appears; it does not reflect any substantive program activity. The previous year's numbers are provided for comparison purposes.

Applications for Program Accreditation – 2014

Category of Provider	Applications Received	Applications Approved
Education Providers (OBA, Advocates' Society, etc.)	146	138
Law Firms In-House	213	188
Professional Associations	290	260
Government In-House	163	153
Colleges and Universities	43	35
Private	397	345
Total	1,252	1,119

Applications for Program Accreditation – 2013

Category of Applicant	Applications Received	Applications Approved
Education Providers (OBA, Advocates' Society, etc.)	755	741
Law Firms In-House	926	908
Professional Associations	844	808
Government In-House	521	163
Colleges and Universities	43	43
Private	815	725
Total	3,904	3,725

The 1,048 applications received for accreditation of activities, as opposed to formal education programs, are broken down as follows:

Activity Type	Number of Applications Received	Number of Applications Accredited
Teaching	580	461
Writing/Editing	18	8
Mentoring/Articling	265	264
Study Groups	179	175
Other	6	5
Total	1,048	913

CPD Programs and Products

In 2014, PD&C produced 143 programs, including 85 live programs, 51 replays and 7 e-Courses. E-Courses are a new CPD format, offering members an opportunity for interactive, self-paced learning in various practice areas. In November, CPD launched its first 6 courses on ethical issues in key areas of the law, as well as a simulation game for lawyers and paralegals on Opening Your Practice. The courses each provide 1.5 hours of professionalism content. The promotional video for the e-Courses has had more than 1,600 views on YouTube and more than 2,600 e-Courses have been sold to date. Six additional courses are scheduled for release in 2015.

In 2014, the Law Society began charging a fee of \$25-\$50 for professionalism-only programs which were previously free of charge. The organization did hold two free programs on the amended *Rules of Professional Conduct*. Registrations for professionalism programs represented 32% of registrations in 2014 versus 58% in the previous year. Although total registrations dropped by 28% in 2014, registration levels for fee-based programs increased by 25% compared to the previous year.

CPD provides members with a variety of flexible options for fulfilling their CPD requirement. Members can attend most programs in person or via live webcast. Since the CPD Requirement was introduced in 2011, there has been a continual shift away from live attendance in favour of online viewing. In 2014 only 27% of registrants attended in person. Scheduled CPD programs all contain an interactive component, either in the form of a question and answer period, a poll of the audience or a live online chat. As many more members are viewing their CPD programs online there has also been an increase in members registering as a group and watching together. CPD offers discounts to support group sessions. In 2014, registration revenue was reduced by 16% through discounts provided to groups of learners.

Registration History

	2010	2011	2012	2013	2014
Registration for paid programs (all formats)	19,785	33,504	36,118	37,449	46,828
Registration for free programs (all formats)	n/a	60,732	47,582	51,244	9,460
Registration for \$25/\$50 programs	n/a	n/a	n/a	n/a	7,175
Total number of registrants	19,785	94,236	83,700	88,693	63,463
Total number of programs (all formats)	94	164	145	149	143
Average registrations at CPD programs	210	575	577	595	444

Members have a variety of post-program products from which to choose to obtain CPD program content. The formats have changed dramatically over the last several years, with printed copy sales continuing to decline and online viewing increasing. The move away from free professionalism programs has also had an impact on post-program on demand purchases. In 2013, 63%, or over 10,000 on demand purchases, were for free of charge products.

CPD works with the Law Association Librarians to arrange local group replay sessions. In 2014, 14 counties scheduled a total of 240 sessions, with a total of 747 members participating across the province.

Live In-Person and Webcast Programs

	2010	2011	2012	2013	2014
Number of live in-person programs	64	114	78	72	72
Number of registrants	6,554	14,306	9,562	8,595	9,517
Average registrations	102	125	123	119	132
Number of live webcasts and replay programs	65	150	137	144	136
Number of registrants	7,084	67,072	60,331	63,622	40,720
Average registrations	109	447	440	442	299

The CPD team works closely with volunteer lawyers and paralegals to develop programs for members across a variety of practice areas and different levels of experience. Each year, 25% of program presenters are new to Law Society CPD. In addition to 2-day Summit programs in the major practice areas and the well-known 6-Minute series, approximately 30% of the programs produced in 2014 were entirely new issues and content.

These new content programs included the following: Indigenous Law Issues, Representing Clients before the Social Benefits Tribunal, Understanding Pensions in Family Law, Tips from the Bench for Junior Lawyers, Achieving Court Approval of Settlements Affecting Parties Under Disability, Real Estate and the Elderly Client, Forensic Science and the Criminal Law, and Mental Health in the Workplace.

Post Program Products

	2010	2011	2012	2013	2014
On Demand (video stream, MP4)	1,510	4,946	13,832	16,476	13,226
Printed Publications	9,590	8,313	7,546	6,770	5,129
PDF Publications	1,434	1,521	1,816	775	1,112
CPD Program/Course Materials	5,718	5,818	9,287	7,764	4,314
Total	18,252	20,598	32,481	31,785	23,781

In 2014, the most popular CPD programs were dominated by free of charge offerings. They are as follows:

Program Name	Format	Registrations
Update on the Amended Rules of Professional Conduct for Lawyers – free of charge	Webcast	7,580
Update on the Amended Rules of Professional Conduct for Paralegals – free of charge	Webcast	1,878
11 th Annual Real Estate Summit – 2 Days	Live in-person and Webcast	1,198
Writing to Win: Pitfalls to Avoid - \$50	Live in-person and Webcast	1,070
22 nd Annual Immigration Law Summit – 2 Days	Live in-person and Webcast	1,070
The Six-Minute Real Estate Lawyer 2014	Live in-person and Webcast	1,048
8 th Annual Family Law Summit 2014 – 2 Days	Live in-person and Webcast	944
17 th Annual Estates and Trusts Summit	Live in-person and Webcast	881
Understanding Financial Statements – Parts 1 & 2	Live in-person and Webcast	746
The Oatley McLeish Guide to Motor Vehicle Litigation 2014 – 2 Days	Live in-person and Webcast	736

PRACTICE MANAGEMENT

Practice Management Helpline

The Practice Management Helpline (PMH) provides licensees with assistance and insight regarding the application of the *Rules of Professional Conduct*, the *Paralegal Rules of Conduct* and other Law Society regulations. 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 online FAQs, 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.

In 2014, the Practice Management Helpline received approximately 7,251 inquiries from licensees for an average of over 600 calls per month. Of the calls that were received, 85% were handled by representatives, meaning the question could be answered by reference to existing resources, and fifteen per cent were answered by counsel, meaning an interpretation of the *Rules of Professional Conduct* or a discussion of ethical issues was required.

The calls received as at December 31, 2014 can be broken down by size of practice:

PMH Calls from Lawyers

Size of Practice	Number of Calls	Percentage of Total
Sole Practitioner	2,791	45.8
Small Firms (2 to 5)	1,527	25.0
Medium firms (6 to 10)	371	6.1
Larger firms (more than 10)	634	10.4
Other	767	12.6
Total	6,090	100

PMH Calls from Paralegals

Size of Practice	Number of Calls	Percentage of Total
Sole Practitioner	623	53.7
Small Firms (2 to 5)	213	18.4
Medium firms (6 to 10)	36	3.0
Larger firms (more than 10)	23	2.0
Other	265	22.8
Total	1,160	100

The majority of lawyers who called the Helpline in 2014 defined their primary areas of practice (more than 30% of their practice) as real estate law and civil litigation. The most frequent calls from lawyers by practice management issue were:

- Conflicts of Interest
- Lawyer Annual Report
- Trust Accounts
- Confidentiality
- Withdrawal from Representation
- Client Identification and Verification
- File Ownership/Transfer
- Books and Record Keeping
- Client Property
- Referral Fees and Fee Splitting

The majority of paralegals who called the Helpline in the same period defined their primary areas of practice as Small Claims Court and *Provincial Offences Act* matters. The most frequent calls from paralegals by practice management issue were:

- Paralegal Scope of Practice
- Trust Accounts
- Conflicts of Interest
- Confidentiality
- Withdrawal from Representation
- Paralegal Annual Report
- Delegation and Supervision
- Practice Arrangements
- Advertising/Marketing
- File Ownership/Transfer

Practice Management Resources

In 2014, PD&C completed an intensive review of all lawyer and paralegal practice management resources to ensure their currency, relevance to the profession and effectiveness in the Law Society's newly streamlined website environment. Convocation's decision to revise the *Rules of Professional Conduct* and *Paralegal Rules of Conduct* to align with the Federation of Law Societies' *Model Code of Conduct* further necessitated a sweeping review of and revision of all resources, including over 300 individual pages and 10 practice guides, in English and French.

By tracking frequently asked questions, the Helpline identifies areas of concern within the lawyer and paralegal professions and responds to those concerns by developing new resources and relevant information pieces through the e-Bulletin and Manage Your Practice section of the Law Society Web site. In response to feedback from members, 12 new Technology Practice Tips were developed in 2014. The Technology Practice Tips are podcasts that provide practical information on a variety of issues in MP3 format and are also transcribed. The latest podcasts include tips on email encryption, anonymous browsers, phishing and ransomware.

Practice Mentoring Initiative

The Mentoring Initiative connects licensees to mentors where the caller's issue or matter falls outside the mandate of the Helpline. To be matched with a mentor, the licensee must have a unique and complex legal or procedural issue that the lawyer or paralegal has been unable to resolve through his or her own research. Though the program does not offer a traditional long term mentoring relationship, mentors are available for a focused discussion about the licensee's issue.

There are currently 173 lawyers and 7 paralegals on the Practice Mentoring roster, representing a number of practice areas. In 2014, only 18 lawyers were matched with a mentor. There were no mentor requests from paralegals.

CERTIFIED SPECIALIST PROGRAM

In order to qualify for the Certified Specialist Program, a lawyer must meet the following criteria:

- practised for a minimum of seven years prior to the date of the application
- 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.

The number of certified specialist lawyers in the profession has changed only marginally in the past 10 years and remains low at approximately 2.5% of practising lawyers.

	2010	2011	2012	2013	2014
Number of Specialists	714	775	763	766	797
Specialists in Toronto Area	402	443	442	459	460
Specialists outside Toronto	312	332	321	307	337
Number of Specialty Areas	15	15	15	15	15

The following chart breaks down the number of certified specialists by practice area in 2014.*

Areas of Specialization	Number of Specialists
Bankruptcy and Insolvency Law	10
Citizenship and Immigration Law	54
Civil Litigation	301
Construction Law	35
Corporate and Commercial Law	23
Criminal Law	96
Environmental Law	39
Estates and Trusts Law	39
Family Law	66
Health Law	18
Intellectual Property Law (Trademark/Patent/Copyright)	43
Labour Law	24
Municipal Law	33
Real Estate Law	26
Work Place Safety and Insurance Law	11

*The total number of specialists in this chart is slightly greater than the total number of specialists in 2014 (first chart above) as some specialists are certified in more than one area of law.

In 2014, PD&C began the development of a new Aboriginal Law specialty area, as approved by Convocation in June 2013. A working group consisting of practitioners and subject matter experts has been established to assist with the creation and validation of practice experience competencies and learning criteria. Development of this new area is scheduled to continue in 2015.

The ongoing program maintenance and promotional activities for the Certified Specialist program continue to be completed within an operating budget that maintains costs at the lowest possible levels. The program is supported by one full-time coordinator who is assisted by legal counsel in PD&C as required.

LEGAL INFORMATION

The Legal Information team supports research and information needs of Law Society licensees and staff. Lawyers and paralegals access the Great Library's large print collection and electronic databases, as well electronic resources available from within the library on the Great Library and licensees' personal computers. While the Great Library is the Law Society's primary legal research resource for paralegals, lawyers also use the Great Library's services through their local law associations.

Reference Questions Answered

Lawyers and paralegals ask reference librarians for assistance with legal research. The Reference team works primarily with Toronto-based lawyers, articling candidates, and law firm administrators. The team answered nearly 21,000 questions in 2014, down slightly from approximately 23,500 in 2013. They frequently provide lawyers, paralegals, and law association library staff with electronic documents and have sent nearly 37,000 electronic pages via e-mail in response to requests from around the province.

Growing Digital Library

Convocation's historic minutes and transcripts are now publicly available thanks to a collaboration between PD&C's Corporate Records and Archives and Great Library teams. Since February 2014, those interested in the official actions of Convocation can research back to 1988 – all minutes prior to 1988 are *in camera* - and access the documents as PDFs. The expert information staff have added metadata so that relevant documents will surface more easily if someone is searching for a particular activity or work by a committee.

Title	Minutes of Convocation: September 23, 1988
Contributor	Law Society of Upper Canada, Admissions Committee, Finance Committee, Special Committee on Citizenship Requirements, Special Committee on Foreign Lawyers, Discipline Committee, Professional Conduct Committee, Legal Aid Committee, Legal Education Committee, Clinic Funding Committee, Libraries and Reporting Committee, Unauthorized Practice Committee, Public Information Committee, Legislation and Rules Committee, Compensation Fund Committee, Professional Standards Committee, County and District Liaison Committee, Research and Planning Committee, Special Committee on J. Shirley Denison Bequest
Notes	Includes: Motions - Appointments - Committee reports - Call to the Bar - Orders: Stephen Lawrence Cappe, Herbert Sterling Stewart, Michael Alan Weller, Gregory Peter Linton Vanular, Allan Ian Wexler.
Date	1988-09-23

Example of metadata added by information staff to make using the Minutes easier

The same team is now working on the Professional Rules Handbooks. These publications stretch back to the 1960s and have only been available in print format until they were digitized by Corporate Records and Archives. Systems and reference staff from the Great Library are now preparing the documents so that a researcher who wants to understand what a particular rule looked like at a given time will be able to find it in the digital library. The Handbooks will be available in the first half of 2015.

The Great Library has contributed to other digital repositories as well. The Osgoode Hall Law School Library opened its digital repository this year and it incorporates digital copies of the Ontario Annual Statutes and Revised Statutes of Ontario. Both copies were provided by the Great Library's reference team. They had previously digitized the volumes and segmented them into chapters for internal use. When a lawyer or paralegal needed a legislative reference for historic research, the reference team was able to e-mail them the chapter. This resource is freely available to anyone doing Ontario legal research through the Osgoode Hall site. Corporate Records and Archives has also digitized the printed Minutes of Convocation. Working with the Internet Archive, the 25 volumes covering the period from the 1870s to the 1990s are now publicly available to researchers and can be downloaded either as PDFs or ebooks or viewed directly on the Internet Archive site:

<https://archive.org/search.php?query=collection%3Alawsocietyofuppercanada&sort=-publicdate>

AccessCLE now contains 10 years of CPD articles from Law Society educational events. The shift to free access after the article is 18 months old has generated significant interest. The site received over 85,000 visitors and more than 18,600 articles were downloaded in 2014.

Search Importance

The Great Library's investment in its discovery search continues to pay off. The search software powers both the Infolocate research tool and the Law Society's Web search. It handled more than 707,000 searches in 2014, up from over 690,000 in 2013. In addition, the Voyager catalogue continues to be a main source for legal researchers finding books and electronic resources available from the Great Library and law association libraries. The catalogue was searched over 382,000 times in 2014.

SharePoint and Document Management

The Law Society's adoption of Microsoft's SharePoint software has created a new opportunity for Corporate Records and Archives to assess the organization's management of electronic records. The team has worked with the Project Management Office responsible for SharePoint implementation to meet with Law Society staff teams and understand how they currently use and manage electronic records. This ongoing project will enable a review of gaps in the organization's records retention and management. Currently, only print records are managed by the organization according to the approved retentions policy.

Rebooted Intranet

The Law Society's intranet was redesigned and launched by the Web Content Management team in 2014. It required renewal and the new look enabled the team to deploy both their design and development skills. The front page was significantly simplified and a greater emphasis was placed on search. Popular resources like the cafeteria menu, a perennial top visited intranet page, were displayed on the home page for easier access. The intranet will be redeveloped in 2015 using SharePoint and the team has offered their services to help build the new site.



QUALITY ASSURANCE: SPOT AUDIT, PRACTICE MANAGEMENT REVIEW AND PRACTICE AUDIT PROGRAMS

The audit and review programs of the Law Society are an integral part of the Law Society's quality assurance activities in the public interest. 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.

Spot Audit Program: Lawyers

Spot Audit is a proactive quality assurance program that assesses a firm's compliance with financial record keeping requirements.

In 2014, the audit routines changed in accordance with Convocation's approval to streamline these activities. The Law Society had conducted a review of its operations with the intention of improving efficiency in the delivery of its programs. As a result, the Spot Audit program has refined its risk management strategy to focus on sole practitioners and two lawyer firms with a real estate practice, as they are the group of practitioners posing the

documented highest risk to the public. These firms will be audited every five years. The remaining lower risk sole practitioner and small firms (2-5 lawyers) will be audited every seven years, and the very low risk firms (mid-large sized firms) will be audited every ten years.

These changes to the Spot Audit program goals will generate savings of \$500,000 over 2014 and 2015, resulting in 230 fewer audits for 2014 and a further reduction of 170 audits in 2015.

The majority of the 2014 audit engagements found that the firm had either minor or no books and records' deficiencies (54%) or deficiencies that were readily remediated to the Law Society's satisfaction (32%).

Lawyers selected for an audit continue to report extremely high approval ratings for both the auditors (100%) and the overall experience (97%).

Some of the more significant books and records deficiencies are as follows:

Books and Records Issues	Percentage Failed to Meet Requirements (%)
Completeness of books and records	82
Completeness of client ID information	53
Inactive accounts managed	49
All cash receipts recorded	45
Currency of records	20
Transfer funds from trust account after delivery of fee bill	18
Maintained security over E-reg diskette	13

Practice Review Program

A Practice Review addresses an individual licensee's practice activities and management. The Law Society now conducts four separate types of reviews of a practice:

- 1) Focused Practice Review: for licensees showing significant signs of deterioration in their practices as evidenced by increases in complaints and other indicia. The number of focused reviews varies, but is generally between 20 and 40 per year;
- 2) Re-entry Review: replaced the former Private Practice Refresher Program. Lawyers re-entering the private practice of law after a hiatus of five (5) years are required to undergo a review within 12 months from their return to practice as a sole or small firm practitioner. It is anticipated that the number of re-entry reviews for 2015 will be less than 20;

- 3) Practice Management Review (PMR): risk based random selection process of lawyers in their first eight years of practice, and which also ensures that those selected reflect the percentage of law firms presented in Law Society conduct matters, segregated by firm size (50% soles, 25% firms with 2 to 5 lawyers, etc.). Over 400 practice management reviews will be conducted in 2015;
- 4) Practice Audits (PA): combined financial audit and practice management review conducted on Paralegal practices. Over 75 originating practice audits, and an additional 50 revisits, will be conducted in 2015.

Practice Management Review Program: Lawyers

Practice management reviews ensure that practitioners meet competency standards and identify areas for improvement in managing the lawyer's practice. Reviewers provide practical suggestions on how to maintain practice at optimal levels, leading to greater efficiencies, high quality service and greater lawyer and client satisfaction.

The Practice Management Review unit conducts over 400 original random reviews on individual lawyers and up to an additional 40-60 focused and re-entry to practice reviews per year.

In 2014, 530 practice management reviews were conducted (406 initial reviews plus 124 revisits). Approximately, 28% of initial attendances found that lawyers were not meeting standards of professional competence: sole practices at 38%; small firms at 26%; mid/large firms at 6%. As a result, a follow-up is required to assess the implementation of recommendations made in the initial reviewer's report.

Over 96% of lawyers that underwent a practice management review responded that they found the process to be constructive and value-added to managing their practice.

Common Practice Deficiencies: Lawyers

The majority of law firms in Ontario are either sole practices or small firms (2 to 5 lawyers), making up approximately 94% of all law firms in the province. The following charts provide information on the breakdown of deficiencies found in practice reviews of sole and small firm lawyers in 2014 compared to 2009 when the program first initiated a risk based approach in selecting lawyers, based on the percentage of law firms represented in Law Society conduct matters and LawPRO negligence claims. The specifics of each deficiency, the recommendations to remediate and reference to resources, are made in the Reviewer's report to the lawyer for response.

Practice Activity	Percentage Failed to Meet Minimum Standards		
	2009	2014	Difference
General Observations on Law Firm			
Power of Attorney to another lawyer	78	76	(2)
Written office manual	60	43	(17)
Written business arrangements	49	31	(18)
Contingency planning	34	25	(9)
Data security	22	12	(10)
Client Service and Communication			
Written retainer agreements	44	31	(13)
Sufficiency of written retainers	34	39	5
Phantom clients	32	27	(5)
Conflicts management	29	29	(-)
File Management			
Limitation periods and other key dates	27	16	(11)
Key information in files	25	9	(16)
Adequate documentation in file	17	22	5
File management system	12	9	(3)
Financial Management			
Duplicate cash receipts	45	14	(31)
Books and records are current	24	16	(8)
Manage financial health of the firm	23	21	(2)
Trust reconciliations done monthly	18	9	(9)

For many of these top practice management deficiencies, there has been a significant improvement for practitioners. A number of program initiatives have had a cumulative positive impact on making the membership more aware of the importance of effective practice management process in their firm and for their clients. The Review team had a presence at the annual Sole and Small Firm Conference and presented at many practice management CPD sessions. All have made a difference in getting the word out and making effective practice management top of mind.

Spot Audit and Practice Management Review Revisits: Lawyers

A follow-up by an Auditor or Reviewer is required any time the lawyer (practice 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. In some cases, a desk review would be conducted to assess the remediation implemented by the licensee. Under appropriate circumstances, this option is a more efficient application of our resources where compliance can be demonstrated

Of those lawyers who underwent a follow-up review, almost all of them (99%) were found to have implemented the recommendations from their initial practice management review report and were now meeting minimum competence standards.

Spot Audit History of Revisits for Sole and Small Firms	Number of Firms Audited	Follow-up Required	Follow-up Percentage(%) of Total
2010 – 2014	7,357	531	7
2005 – 2009	4,579	329	7

Practice Review History of Revisits for Sole and Small Firms	Number of Firms Audited	Follow-up Required	Follow-up Percentage (%) of Total
2012 – 2014	1,019	327	32
2009 – 2011	945	260	28

The rate of follow-ups in Practice Review for sole and small firms has slightly increased over the most recent three year period.

Paralegal Practice Audits: Paralegals

Practice audits of paralegals mirror the format of practice management reviews for lawyers, with the goal of providing targeted advice to achieve effective and efficient practices.

In 2014, there were 141 practice audits of paralegal practices conducted (81 initial audits plus 60 revisits). The program has been well received by paralegals, with over 98% of those who underwent a practice audit finding it to be constructive and value added.

Since the inception of the Practice Audit Program in late 2008 to December 31, 2014, 51% of initial attendances found that paralegals were not meeting standards of professional competence and a follow-up would be required to assess the extent of remediation. This would be conducted through a revisit scheduled after 6 months. For some engagements, a desk review would instead be conducted as a more appropriate and efficient means to assess the paralegal's remediation.

Practice Audits	Number of Audits	Percentage Revisit (%)
Number of paralegals reviewed since inception	528	
Follow-up Review Required	272	51

The top ten practice management deficiencies found in conducting a practice audit of paralegal practices in 2014 and compared to 2009 (the first full year of the practice audit program), are:

Practice Activity	Percentage (%) Failed to Meet Minimum Standards		
	2009	2014	Difference
Power of Attorney to another legal services provider	87	54	(33)
Written business arrangements	75	21	(54)
Phantom clients	72	37	(35)
Written office manual	80	10	(70)
Time docketing	62	10	(52)
Conflicts management	60	46	(14)
Duplicate cash receipts	51	40	(11)
Books and records comply with By-Law #9	53	44	(9)
Data security	37	24	(13)
File management	35	16	(19)

The type of practice management deficiencies found in paralegal practices is similar to those found in practice reviews of lawyers. The major difference is in the extent of failure in each of the categories where paralegal practices have failed to meet minimum competence standards. The percentage of practice management deficiencies in every one of these practice areas has declined significantly over the past five years.

Audit Process

Audit or Review engagements require significant planning and follow through. In order to provide perspective on the extent of the activities conducted in PD&C on quality assurance processes, the following information outlines the breadth and scope of a typical engagement in the Spot Audit and Practice Review departments, providing a sense of the detail and effort each individual audit or review entails, why they are so successfully supporting improvements in members' practices and are so well received.

General Summary of Practice Management Review Tasks and Timelines

1) Planning (4 to 7 hours)

Planning and due diligence by examining:

- Spot audit history of firm
- Practice review history of other licensees in the firm
- Lawyers/Paralegals' Annual Report
- Regulatory history and open cases
- Discipline flags
- Undertakings/Orders
- Practice status

Clearance from Professional Regulation, if there are any open regulatory matters, to avoid dual and possibly conflicting regulatory processes on the same member.

Contact licensee to schedule review, usually within 4 to 6 weeks:

- Provide an overview of the practice management review program, process, selection and expectation of licensee's involvement
- Advance preparation required (i.e., completion of Basic Management Checklist (BMC), financial records and documents, CPD)
- Letter is sent confirming scheduled attendance date and review process. Enclosed package includes applicable legislation and the BMC to be completed and returned prior to the attendance date.

2) Review Attendance (4 to 6 weeks from initial contact)

- Timing – engagements typically commence between 9:00 a.m. and 9:30 a.m. and conclude between 3:30 p.m. and 5:00 pm. The total time for the attendance varies and is significantly impacted by the level of engagement of the licensee and whether the office is paperless (e.g. many inquiries from the licensee or many interruptions can affect the timeline and a paperless office requires a greater degree of participation by the licensee through the entire process). The licensee's active involvement is required for the interview (usually completed between 9 a.m. and 12 p.m.). The licensee must be available for questions during the paper file review (usually completed between 12 p.m. and 3 p.m.). The licensee must be available for the exit interview (typically ½ hour).
- Interview – Practice Reviewer reviews the completed BMC with the licensee to confirm and elaborate on the responses; reviews the physical organization of the work space, and how electronic information is managed. The discussion prompts real case examples of how various issues have been addressed in the practice.
- File Review – Five to seven files are selected for review. This may be a truly random selection if the licensee has independent carriage of his or her entire caseload, or if the licensee is a junior, the file selection may be guided by input from the licensee to ensure the files selected are reflective of the scope and nature of their practice. The licensee is asked to provide an overview of the files. The Practice Reviewer then conducts a detailed, independent review of the physical client files. The practice reviewer will ask to see additional files if they are not satisfied with the information provided.
- Financial Review – In each engagement, the Practice Reviewer will examine examples of dockets, invoices and will review the licensee's client trust ledger for inactivity. If a full financial review is being conducted, then the licensee is also asked to have available: last journal entry posted to General; last journal entry posted to Trust and a copy of the most recent Trust deposit slip; most recent completed Trust Reconciliation, the related Bank statements, cheques, and associated Client Trust Listing; Client Trust Ledger showing the balance in trust and the last transaction date; and licensee's Client summary listing.

- Exit Interview – Practice Reviewer addresses questions that arose from the file review; provides feedback; confirms recommendations which will be included in the report; leaves a copy of the PR Survey and two pamphlets which include additional Law Society resources.

3) Report Writing and Submission for File Review

- Report is due 28 working days from date of attendance. On average, it takes between one and two days to draft, include references to relevant resources to assist the licensee, proofread, review related PMR reports for consistency and submit the draft with a recommended disposition.
- The file is then submitted to one of the Practice Review's Senior Counsel and Assistant Managers for review within three to four weeks' time from its submission. However, a file will be prioritized for immediate review if there are serious competence concerns.
- The Senior Counsel and Assistant Manager finalize the practice management review report containing an analysis and assessment of the practice, including recommendations for appropriate remedies.

4) Report Release and Opinion on Competence

- The report is submitted to the licensee with a covering letter requesting a response within 8 weeks on the identified issues and requesting the provision of evidence of, or commentary on, the implementation of the recommendations.
- If the report is a final report, an opinion on competence will be rendered. If the report is an initial report, then a re-attendance will be scheduled after six months. The re-attendance will permit an assessment of the implementation of recommendations made in the initial report.
- If at the first attendance or following the second attendance the licensee is failing to meet the standards of competence as defined by section 41 of the *Law Society Act*, then, Practice Review may ask the licensee to enter into a Proposal Order or may be obliged to refer the matter to Professional Regulation.

Summary of Spot Audit Tasks and Timelines

1) Audit Planning (approximately 3 to 4 hours)

Planning and due diligence by examining:

- Spot audit history
- Practice review history
- Lawyer's Annual Report
- Regulatory history and open cases
- Discipline flags
- Undertakings/Orders
- Real estate insurance coverage

Clearance from Professional Regulation, if there are any open regulatory matters, to avoid dual and possibly conflicting regulatory processes on the same member.

Contact lawyer to schedule audit within two to three weeks:

- Provide an overview of the spot audit process
- Outline/discuss type of financial records and documents to be available for the audit
- Letter sent by email/facsimile confirming scheduled audit date and outlining the spot audit process, timelines and documents under review.

2) Audit Field Work (2 to 3 weeks from initial contact)

Introductory meeting with the lawyer and any other person maintaining the books and records, to discuss the firm's financial management processes.

The audit is conducted following the guidelines and parameters set out in the Spot Audit Program.

The number of audit days is dependent on several factors, such as:

- Size of firm
- Type of practice
- Number of transactions
- Condition of financial records

On average, a simple audit (books and records) lasts one to two days, a complex audit (private mortgages and/or estates) lasts two to three days and, for the largest firms, as many as five days (two auditors in attendance).

At the beginning of the audit some time is spent with the lawyer, to establish rapport and to have upcoming audit questions answered in advance. The rest of the day is spent with the bookkeeper or a legal assistant, and the lawyer is only asked occasional questions during the audit.

If the lawyer does not have a bookkeeper present, the lawyer is asked to work with the auditor off and on, throughout the day.

Particularly for newly formed sole practices and small firm audits, sometime is usually spent during the day answering the lawyer's questions and discussing samples of journals and ledgers set out in the Bookkeeping Guide (an essential tool). This is critical due to the fact that these lawyers usually do not have staff or any bookkeepers, and have generally not maintained some or all of the required daily records themselves.

Often, even long-established firms' bookkeepers or lawyers have questions concerning books and records that they would like to have answered.

An exit meeting will then be conducted with the lawyer(s) and bookkeeper to discuss the audit findings. All deficiencies are communicated and solutions to rectify these concerns are presented. The Audit Report is provided to the lawyer.

Finally, the firm is provided with a Law Society information package including documents such as: (a) Spot Audit Process memorandum; (b) Unclaimed Trust Funds Application Form; (c) Land Transfer Tax Procedural Document; (d) The role of executor and solicitor with respect to Estate files; (e) Post Audit Survey; and (f) Bookkeeping Guide, among other supports that may be included as necessary and in light of the type of practice and any deficiencies noted by the auditor.

3) Finalize Report and Submit for Review

Once the audit is completed, the final process of writing up the file commences. At this time, follow up with the lawyer on any outstanding documents will be conducted. During this stage the auditor ensures the working papers are in proper order, accurately referenced and all items of concern are properly documented. Usually this requires one day of effort, however, complicated audits can take a few days to finalize.

The file is then submitted to a Supervisor for review on a first in/first out basis. On average, a file will receive its full review within one to two months following submission. However, a file will be prioritized for immediate review if there are serious concerns of possible misconduct. In such situations, the Supervisor will consider escalating the file to Investigations.

The majority of audit engagements are found to have no or insignificant financial deficiencies and the file is then closed.

If the Supervisor decides that additional information and documentation is required from the lawyer to confirm the closure of financial issues (i.e., registration of discharged mortgages, monthly trust reconciliations), then the file is placed in “monitoring”. The average duration of an audit file in monitoring is two months. Approximately 35% of all files require monitoring.

In some cases, the financial issues are serious enough to warrant a re-audit in nine to 12 months to assess their remediation.

Spot Audit and Practice Review Educational Initiatives

General aggregated information and trends on areas of deficiency encountered in reviews of lawyer and paralegal practices is exchanged with other areas of PD&C for the purpose of developing resources and tools that will assist practitioners to avoid/address these problems. Reviewers have presented to local law associations on key practice management deficiencies, the steps to remediate and a list of applicable resources.

Practice Review has worked with other PD&C departments to develop CPD programs on effective practice management processes. These seminars have been presented by experienced practice reviewers to various local law associations including the Estates Practitioners of Waterloo Region, County of Carleton Law Association (23rd Annual Institute of Family Law), The Canadian Association of Refugee Lawyers (Ottawa), the Ontario Bar Association (Toronto) and the Ontario Paralegal Association. In addition, outreach to paralegal practitioners included practice management and advocacy programming offered in London and Kanata, and a practice management primer through paralegal colleges in Kitchener and Toronto.

Spot Audit continues to be actively involved on a number of educational initiatives ranging from developing CPD courses and materials to presenting at CPD sessions on a variety of financial books and records topics to both lawyers and paralegals, providing their “on the ground” insights to ensure the resources are practical and user friendly.

Continuing Professional Development Compliance Audit Program

The CPD compliance audit program’s objective is to assess licensees’ compliance with the documentation requirements as proof of their CPD reported activities, as per section 4 of By-Law 6.1. The CPD Audit program’s goal is to conduct 1,000 CPD audits (lawyers: 900 and paralegals: 100) through a combination of desk audits and practice review engagements which assess a licensee’s compliance to the Law Society’s CPD documentation requirements.

Staffing complement for the CPD audits is included in the Practice Review and Practice Audits departments. For 2014, the team conducted 1,060 CPD compliance audits, comprised of 617 CPD desk audits and 443 audits integrated into practice reviews.

Approximately 96% of licensees were in full compliance with the Law Society’s CPD record keeping requirements, 3% were in partial compliance, and less than 1% were not compliant.

Detailed and specific information were provided to licensees to assist them in ensuring full compliance with their CPD record keeping requirements for future reported professional development activities.