



TAB 5

**Report to Convocation
April 28th, 2016**

Paralegal Standing Committee

Committee Members
Michelle Haigh, Chair
Susan McGrath, Vice-Chair
Marion Boyd
Robert Burd
Cathy Corsetti
Janis Criger
Brian Lawrie
Marian Lippa
Malcolm M. Mercer
Barbara Murchie
Baljit Sikand
Catherine Strosberg
Anne Vespry

Purpose of Report: Decision and Information

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COMMITTEE PROCESS

1. The Committee met on April 13th, 2016. Committee members present were: Michelle Haigh (Chair), Susan McGrath (Vice-Chair), Marion Boyd, Robert Burd, Cathy Corsetti, Janis Criger, Brian Lawrie, Marian Lippa (by telephone), Malcolm Mercer, Barbara Murchie, Catherine Strosberg and Anne Vespry.
2. Staff in attendance were: Lesley Cameron, Naomi Bussin, Jim Varro and Julia Bass.

FOR DECISION

AMENDMENT TO *PARALEGAL RULES OF CONDUCT*: INCRIMINATING PHYSICAL EVIDENCE

Motion

3. That Convocation approve the addition of a subrule (5.2) regarding incriminating physical evidence to Rule 4 of the *Paralegal Rules of Conduct*, as set out at paragraph 8.

Rationale

4. The work of the Federation of Law Societies on the *Model Code of Professional Conduct* has led to a review of a number of provisions of the rules governing both lawyers and paralegals. On February 25, 2016 Convocation approved the addition of a new provision on incriminating physical evidence to the lawyers' *Rules of Professional Conduct*.
5. Convocation has approved the principle that the rules for lawyers and paralegals should be consistent where possible.
6. It is now proposed that a similar provision be added to the paralegal Rules. (This proposal addresses the *Paralegal Rules* only - if the amendment is approved, it would then be appropriate to consider companion changes to the *Paralegal Guidelines*).
7. The February Report approved by Convocation may be found at:
http://www.lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2016/convocation-february-2016-profession-reg.pdf
8. The proposed amendment would be a new provision under Rule 4 "The Paralegal as Advocate", reading as follows:

Incriminating Physical Evidence

(5.2) A paralegal shall not counsel or participate in the concealment, destruction or alteration of incriminating physical evidence or otherwise act so as to obstruct or attempt to obstruct the course of justice.

9. A redline version of Rule 4 is shown at **TAB 5.1.1**.

TAB 5.1

10. The Rule provides that a paralegal must not counsel or participate in the concealment, destruction, or alteration of incriminating physical evidence or otherwise act so as to obstruct or attempt to obstruct the course of justice.

Existing Provision on Client Property

11. Rule 3.07 (6) of the Rules currently provides “if a paralegal is unsure of the proper person to receive a client’s property, the paralegal shall apply to a tribunal of competent jurisdiction for direction.” Convocation left the corresponding provision in the lawyers’ Rules in place, to provide additional, broader guidance to lawyers regarding their duties respecting client property, and it is proposed that the parallel provision in the Paralegal Rules should also remain.

Paralegal Rules of Conduct

Rule 4: The Paralegal as Advocate

...

Duty as Prosecutor

(5.1) When acting as a prosecutor, a paralegal shall act for the public and the administration of justice resolutely and honourably within the limits of the law while treating the tribunal with candour, fairness, courtesy, and respect.

[New - May 2010]

Incriminating Physical Evidence

(5.2) A paralegal shall not counsel or participate in the concealment, destruction or alteration of incriminating physical evidence or otherwise act so as to obstruct or attempt to obstruct the course of justice.

Disclosure of Documents

(6) If the rules of a tribunal require the parties to produce documents, a paralegal, when acting as an advocate,

(a) shall explain to his or her client the necessity of making full disclosure of all documents relating to any matter in issue and the duty to answer to the best of his or her knowledge, information and belief, any proper question relating to any issue in the action;

(b) shall assist the client in fulfilling his or her obligation to make full disclosure; and

(c) shall not make frivolous requests for the production of documents or make frivolous demands for information.

TAB 5.2

FOR INFORMATION

PARALEGAL STANDING COMMITTEE CHAIR

12. Sections 130.1 to 130.13 of By-law 3 provide for the annual election of the Chair of the Paralegal Standing Committee. The By-Law requires the election of the Chair to be the first item of business at the meeting one year from the last Committee Chair election, or, in a year in which the paralegal members of the Committee are elected, the first meeting of the Committee following that election.
13. Since the last election of the Committee Chair was in April 2015, election of the Chair was required to be the first item of business at the meeting in April 2016.
14. In accordance with section 130.4 of the by-law, the Director of Policy, Jim Varro, was appointed Elections Officer by the CEO, Robert Lapper. Mr Varro attended the meeting and administered the election.
15. The By-law further requires that the person elected be appointed Chair.
16. Since there was only one nomination for the position, Ms Michelle Haigh, Ms Haigh was declared elected and was appointed Chair of the Committee for a further one year term.