



PARALEGALS: WELL ON THEIR PROFESSIONAL WAY

FIVE YEARS AFTER ONTARIO'S PARALEGALS BECAME A REGULATED profession and joined the ranks of legal services providers licensed by the Law Society of Upper Canada, many people find themselves with very different perspectives and in very different places. Take, for example, paralegals Cathy Corsetti of Mississauga, and Paul Cappa of London.

Whereas she was once sometimes reluctant to talk socially about what she did for a living, Corsetti is now one of her profession's public faces as elected Chair of the Law Society's Paralegal Standing Committee (PSC). And Cappa, a self-described former skeptic on the topic of regulation, recently became quite likely the first paralegal in Ontario to be made a law firm partner.

"There have been dramatic changes in the state and status of paralegal work," says Corsetti. "I take a lot of pride in being part of what has clearly become a profession, and regulation has been a big driver of the progress over the last several years."

That sentiment is echoed in the findings of a recent Law Society review of the implementation of regulation. It concluded that, collectively, the more than 4,000 licensed paralegals in the province are "well on the way to establishing a prestigious and well-regarded profession."

A PRECEDENT-SETTING MOVE

Ontario was the first and remains the only North American jurisdiction to regulate paralegals (and possibly the only common law jurisdiction to do so). The need for regulation was deliberated as far back as the early 1990s. Growth in the number of paralegals appearing in Small Claims Court and elsewhere heightened the need for action, but consensus on choice of regulator and scope of practice was elusive.

In 2004, the Attorney General asked the Law Society to take on the responsibility. A task force report later that year outlined a regulatory framework that was ultimately reflected in amendments to the *Law Society Act*. Passage of these amendments in 2006 created a six-month window to put the comprehensive framework in place for a May 1, 2007 effective date.

This daunting task was guided and facilitated by several key principles. Practice in existing permitted areas of law was adopted as the starting point. Within that scope, regulation was to provide consumer protection, enhance access to

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justice and ensure paralegal competence. It was also to be as uncomplicated as possible and to mirror the regulation of lawyers as fully as possible.

PUTTING THE PUBLIC INTEREST FIRST

As with the regulation of lawyers, the underlying and foremost objective was to protect the public interest. While many paralegals competently provided services pre-regulation, some clearly did not and, unfortunately, there were instances of client exploitation.

The simple reality, Corsetti says, was that "anybody could be a paralegal — anybody." There were no educational or other entrance requirements, and very limited means of dealing with the incompetent and unethical, and providing recourse for their clients.

John Tzanis, President of the Paralegal Society of Ontario, cites improved protection of the public as the most important benefit of regulation, and says the previous inability to deal with rogue practitioners was a source of great frustration.

"We all wanted those bad practitioners out and regulation has accomplished that," he says. "With good character and other requirements, only those who are operating legally and ethically are going to pass muster."



John Tzanis, President of the Paralegal Society of Ontario

< The Law Society of Upper Canada presented a copy of its five-year review of paralegal regulation to the Attorney General of Ontario on June 28. Here, from left to right are: Law Society Treasurer Thomas G. Conway, Law Society Paralegal Standing Committee Chair Cathy Corsetti, and Attorney General John Gerretsen.

The licensing process itself is key among the competency assurances now in place. Rules of conduct, continuing professional development (CPD) requirements, practice audits and trust accounting requirements provide additional, ongoing safeguards.

And, as a result of regulation, investigative and disciplinary procedures, an insurance requirement and recourse through a Law Society compensation fund are also available when concerns and problems arise.

GOOD FOR CLIENTS, GOOD FOR BUSINESS

Among 1,000 recent users of paralegal services surveyed during the Law Society review, 80 per cent were confident that regulation ensures the competence of such services. Those who participated in focus groups also said they were more confident dealing with regulated paralegals; “people expect a standard from a profession,” one said.

And what benefits the public tends to benefit paralegals themselves. “Having the public confidence is paramount for any business structure,” says Robert Burd, President of



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Cappa says he’s observed a higher comfort level among his clients at Cohen Highley: “They have more confidence in engaging paralegals to carry their matters forward. And that’s been positive from a marketing and practice development perspective, to be able to say ‘yes I am regulated and I have the Law Society behind me.’”

RAISING THE BAR

There’s reason to believe that public confidence will increase further over time, since regulation was designed not just to set but to help raise professional standards.

All applicants must now graduate from a Law Society-accredited college paralegal program before writing their licensing exam. Programs are regularly audited against specific requirements relating to such things as hours and mix of instructional time, suitability of field placements and faculty expertise.

There’s been strong interest in paralegal education from both colleges and prospective students. Currently, 22 institutions across Ontario, up from nine just three years ago, offer a total of 24 accredited programs. Graduates of these programs already make up about half of all paralegals in Ontario.

Algonquin College in Ottawa was eager to transition an existing part-time program to a full-time accredited program. Business School Dean Dave Donaldson says the program is strengthened by the clarity of the accreditation requirements, and that students are attracted to an alternative entry point to the legal field. He notes that waiting lists are long, entry competitive and growth in demand “almost exponential.”

RIGOROUS STANDARDS

The five-year review elicited some suggestions that college program standards should be made more rigorous. Survey and focus group findings (see chart below) also indicate mixed views among graduates on the effectiveness of their preparation for practice.

Taking the Pulse

ONLINE SURVEY FINDINGS: 1,320 LICENSED PARALEGALS

% AGREEING

- Regulation has been beneficial overall for the profession. **71%**
- Regulation has improved the competence and conduct of paralegals. **70%**
- Regulation has improved the public credibility/stature of paralegals. **67%**
- The grandparenting process for obtaining licences was fair. **83%**
- My college program was adequate preparation to practise as a paralegal. **49%**
- The Law Society is the appropriate agency to regulate paralegals. **74%**

ONLINE SURVEY FINDINGS: 1,001 RECENT PARALEGAL CLIENTS

- The results of the case were favourable the last time I used paralegal services. **59%**
- Regardless of outcome, I was satisfied with the paralegal services I received. **74%**
- The paralegal knew how to do their job and did it well. **74%**
- Overall, the use of paralegal services was good value. **68%**
- The justice system is made better by having regulated, licensed paralegals. **53%**
- The regulation of paralegal services increased my access to justice. **45%**



Paralegal benchers Michelle Haigh, Paul Dray and Paralegal Standing Committee Chair Cathy Corsetti were early advocates of paralegal regulation. Former bencher and Chair of the Law Society's Paralegal Task Force William Simpson was instrumental in shaping the model on which the legislation is based. From left to right: Michelle Haigh, Paul Dray, Law Society Treasurer Thomas G. Conway, Attorney General of Ontario John Gerretsen, Cathy Corsetti and William Simpson.

Practising paralegals, however, say they are impressed with the calibre of recent graduates. Corsetti of the PSC, for example, regularly provides placements for students and says she's struck by the level and relevance of their skills.

And it's not only among these more recent entrants to the profession that regulation has improved professional standards and outlooks. Long-term paralegals note there's been enthusiastic uptake on the range of CPD opportunities now available, and that there's a higher level of networking and collaboration among paralegals generally.

Corsetti suggests this began to take root at the very outset of regulation, when some long-standing paralegals formed study groups to prepare for the licensing exams taken as part of the grandparenting process.

A PROFESSIONAL IDENTITY EMERGES

Whatever the precise origin, there are clear and varied indications of a growing sense of professional identity and collegiality among paralegals — such as a large and active Ontario paralegal group on LinkedIn, and new interest in events such as association golf tournaments and other social events.

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Added opportunities for connections and cross learning are especially welcome within a profession where there are a particularly high number of sole practitioners, and where new entrants typically have to be ready to establish practices without the benefit of an existing firm's infrastructure.

That reality also increases the value to paralegals of the services the Law Society provides. These include a helpline and other practice management resources, mentoring opportunities, and the recent expansion of the Law Society Referral Service to include paralegals.

And at the same time that paralegals have begun to forge a stronger professional identity, they have earned enhanced respect within the broader legal world. Both Tzanis and Burd cite the example of recent meetings with the Attorney General — a level of access they say they did not have pre-regulation.



Justice Frank Marrocco (left), a former Law Society Treasurer, established the Paralegal Task Force that led to the Society's regulation of paralegals. Malcolm L. Heins LSM, (right), former Law Society CEO, oversaw the successful implementation of paralegal regulation during his tenure.

More than half of the roughly 1,300 paralegals surveyed during the Law Society's review agreed that regulation has already improved their credibility in the eyes of judges, lawyers and others in the tribunal process. And Law Society outreach to those stakeholders and submissions to the review confirm that they see improved professional standards among paralegals.

COMPLEMENTARY PRACTICES AND WIDER ACCESS

Corsetti senses increased comfort on the part of lawyers about referring clients to paralegals — a view reinforced by the review research — and anticipates relationships between the two sets of licensees will continue to strengthen.

Cappa's recent elevation to the partnership at Cohen



Paul Cappa, Partner, Cohen Highley LLP, London, Ontario

Highley in London is a noteworthy example of the potential for complementary and even integrated practices, and reflects broader and ongoing trends.

Lawyer and Cohen Highley partner Joe Hoffer has worked closely with Cappa and other paralegals employed by Hoffer's firm through more than two decades of residential tenancy practice. He says this makes good business sense and promotes access to justice.

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"The rationale is really that we want to find a way to deliver certain types of legal expertise and advocacy services at a reasonable cost," Hoffer says. He adds that this is especially important in a regional market where many clients have cost thresholds.

While there are certain legal matters that require the services of a lawyer, paralegal regulation has provided consumers throughout the province with more options and improved access to justice.

Hoffer points out that having licensed paralegals at boards and tribunals, and with consultative advice, makes justice affordable for many people who might otherwise give up on their matters or choose self-representation.

Hoffer says the case for making paralegals part of a broader legal team has become stronger with higher small claims limits, and with the devolution of more adjudicative functions from courts to administrative tribunals. And with greater client confidence post-regulation, he expects to see more practice arrangements of this type.

LOOKING AHEAD

As the surveys and other review findings confirm, overall satisfaction with both the implementation and impact of paralegal regulation is very high. And there are equally strong indications that the public and the broader legal community have benefitted.

Paralegals and Lawyers: COMPARE AND CONTRAST

	PARALEGALS	LAWYERS
TOTAL NUMBER	4,096	43,393
% Under Age 30	25%	6%
% Female	54%	39%
% Sole Practitioners	30%	23%
% Outside Metro Toronto	62%	42%

Outstanding issues and improvement opportunities, of course, remain. The one that is perhaps most consistently and forcefully raised by paralegals is the current lack of proportionate representation on Convocation. Two voting paralegal benchers represent more than 4,000 paralegals, whereas 40 lawyer benchers represent about 44,000 lawyers.

That particular disparity — which would require a *Law Society Act* amendment to address — is a function in part of the much larger-than-anticipated number of long-standing paralegals who qualified through grandparenting provisions, and of the substantial influx of new graduates from accredited college paralegal programs in the years since the outset of regulation.

And those factors are themselves among the clearest evidence of the emergence of an important new profession in Ontario — one that draws on long-standing expertise, meets a range of vital client needs, and whose future is widely seen as very bright indeed.

“I was maybe one of the skeptics back when regulation was first contemplated,” Cappa acknowledges. “But once it rolled out and we could see that expectations would mirror those of lawyers — and that the opportunities would as well — I think it has been refreshing and beneficial.”

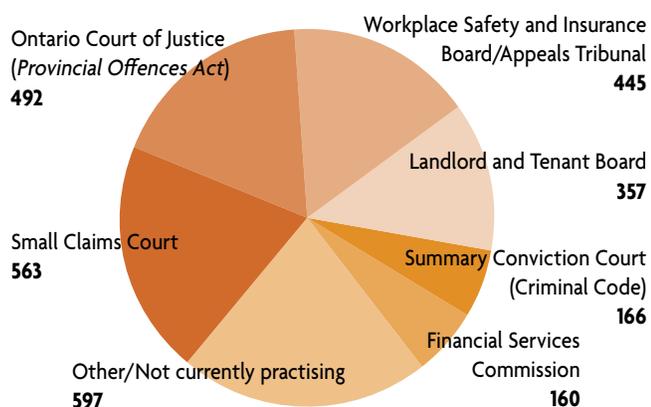
Paralegals: What’s in Scope?

The paralegal scope of practice includes matters within the jurisdiction of:

- Small Claims Court
- Traffic Court and Provincial Offences Court
- Tribunals — including most federal or provincial tribunals (e.g. Landlord and Tenant Board, Workplace Safety and Insurance Board)
- Criminal Court — for Criminal Code matters with maximum penalty of \$5,000 and/or a prison term of up to six months

Matters excluded from the paralegal scope of practice include family law, real estate, wills and powers of attorney.

Major Areas of Practice*



Law Society Review of Paralegal Regulation

MAIN CONCLUSIONS

- Regulation has advanced the public interest by balancing consumer protection with access to justice, and paralegals are establishing a well-regarded profession.
- The Law Society was the right choice of regulator, and has implemented regulation at a reasonable cost and without undue burden on paralegals.
- Paralegals who were providing legal service pre-regulation were integrated into the profession through a fair and transparent grandparenting process.
- Some submissions suggested a need for refinements to college programs, which will be considered through ongoing Law Society reviews of competency standards.
- Public awareness — particularly of the distinction between services provided by lawyers and paralegals — needs to be further improved.
- The governance structure is working well, with constructive relationships among Paralegal Standing Committee members and between the PSC and Convocation.
- Paralegals are largely satisfied with the overall progress of regulation and are benefitting from enhanced prestige and a range of Law Society services.



KEY OUTSTANDING ISSUES

- Paralegals feel they are under-represented at Convocation relative to lawyers.
- Some anomalies remain in older statutes (e.g. *Solicitors Act* restricts charging fees for legal representation to lawyers).
- Exemptions to regulation continue to pose challenges, particularly the “friends” exemption, which remains open to some abuse.
- While 62 per cent of surveyed paralegals were satisfied with the existing scope of practice, some paralegals expressed the view that it should be expanded.

*Among 1,320 paralegals surveyed as part of the Law Society review. Respondents could select more than one major area.