



White **Paper on the
Licensing and
Governance
of Paralegals**

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**A Roadmap to Self-management of
Paralegal Practitioners**

Presented by

Paralegal Society of Ontario

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Executive Summary

Self-management –Balancing Consumer and Industry Needs

The Paralegal Society of Ontario proposes self-regulation of the paralegal profession as the best way to protect the public interest, safeguard the consumer, and enable the growth and professional development of paralegal practitioners. Self-regulation is a superior model to any other model proposed to date, enabling the representation of a broad range of public stakeholders. It will bring every licensed paralegal in Ontario into compliance and establish appropriate standards for licencing and professional certification.

A Model Act

The PSO is proposing new legislation – the Paralegal Professionals Act (PPA) – to govern the practice of non-lawyer legal services when performed as a commercial transaction. The PPA will establish the Ontario Institute of Paralegals (OIP) of which every licensed paralegal will be a member.

The OIP will be comprised of a Licensing Board and a Board of Governors. The Licencing Board will be empowered to establish eligibility criteria for obtaining a licence to practice as a paralegal, issue licences, receive and investigate complaints, conduct hearings and impose and enforce sanctions. The Licencing Board, through administrative regulations will be empowered to establish measures for the protection of the public as conditions of licencing. These may include: a Code of Professional Conduct, errors and omissions insurance, bonding, trust accounts and compensation funds. The Licencing Board will represent a broad spectrum of stakeholders, including lawyers, judges, educators, consumer advocates, and paralegals.

The Board of Governors will manage the OIP, and will be responsible for professional development programs, specialist certification programs, member benefits, and organizational funding. The Board of Governors will be comprised of practicing paralegals in good standing.

Governing Principals

The PPA is founded upon five governing principles, which have been articulated, time and again, in every government study relating to the practice of paralegals:

- ?? The people of Ontario have the right to affordable access to the justice system.
- ?? Paralegals have the right provide to consumers any legal service authorized by federal or provincial statute, or which the public is otherwise invited to provide for itself.
- ?? The people of Ontario are best served and better protected when minimum standards of professional competency and business practice protocols are in place.
- ?? Any regulatory regime must be effective, accountable and transparent.

?? The cost of consumer protection, through the self-regulation of the paralegal profession, should be born by consumers of paralegal services, and not by the taxpayer.



White Paper on the **Licensing and Governance of Paralegals**

Part I – The Paralegal Society of Ontario

The Paralegal Society of Ontario is one of several organizations representing paralegals in Ontario. In August 2005 PSO merged with the Paralegal Society of Canada (PSC), and the Association of Legal Document Agents (ALDA). As a result of this merger and the subsequent dissolution of the Professional Paralegal Association of Ontario (PPAO), PSO now has the largest membership, including paralegals from every area of professional practice. Other organizations representing paralegals include: the Prosecutors' Association of Ontario (PAO), the Ontario Association of Professional Searchers of Record (OAPSOR), the Institute of Law Clerks of Ontario (ILCO), and the Institute of Agents at Court (Ontario) (IAC).

Part II - The Role of Paralegals in Ontario Society

Paralegals are professional practitioners providing the public with an affordable alternative to the costly services of the legal profession. Persons faced with matters in family law, before regulatory tribunals, traffic court, and small claims court need the affordable services of competent individuals. Where affordable services are not available, people represent themselves, often with unfortunate consequences: unjust decisions as a result of inadequate representation, and inefficiencies in the trial or hearing process, as unskilled persons try to cope with unfamiliar and cumbersome processes.

Affordable access is fundamental to a fair and just legal system. Paralegals satisfy this manifest need when the services of lawyers are beyond the public's financial reach. The Sole Practitioner and Small Firm Task Force of the Law Society of Upper Canada identified this reality, noting "...a market environment characterized by the growing inability of the client population to purchase legal services and/or pay *adequate* fees for those services?" (emphasis added). Paralegals bridge the affordability gap. The average per capita income of \$31,133 in Ontario demonstrates that the high hourly rates of the legal profession are beyond the reach of many Ontario residents. Most

affected are low-income women and their children. The lower hourly rates of paralegals (\$93.00 per hour¹) are more attractive and for many, the only affordable legal assistance.

Not all users of paralegal services do so because of price. Many choose to use paralegals for expertise in a particular area, because the matter seems to be one better served by paralegals or simply because they find paralegals more approachable than lawyers (supported by the Environmental Scan, 2000, LSUC), the ability to choose is a substantial public benefit.

The shift from an industrial to an information/knowledge-based economy may have begun with the proliferation of the personal computer; it accelerated with the globalization of world markets in the 1990's. In Canada, this shift included the element of corporate and government streamlining including a concentration on core competencies; non-core business functions were often outsourced. Skilled employees whose competencies were not central to the core business were released into the information economy; SOHO (Small Office Home Office) businesses became the fastest growing segment of the economy as skilled middle level professionals began to leverage their expertise in the broader marketplace. Concurrent with this development were the advent of the Internet, and the proliferation of on-line information sources. Today, persons who once worked full time on insurance claims, in family court, for collection agencies, or as police officers and law clerks bring high levels of expertise to concentrated areas of paralegal practice.

The Environmental Scan went further. It clearly demonstrated that paralegals operating in advocacy and non-advocacy areas provide clients with satisfactory service; 81% of clients were satisfied and 82% would refer family, friends or peers. This Scan shows that while public awareness of regulation for paralegals was low (61% reported either not knowing if paralegals were regulated or were under the mistaken impression paralegals were regulated) the public was able to ascertain the level of legal services they required, with 96% choosing a lawyer over a paralegal for a serious criminal matter.²

Part III - Background

The Ianni Report

In 1988, the Attorney General for Ontario appointed Dr. Ron Ianni, then President of the University of Windsor, to lead a Task Force in preparing a comprehensive study of the activities of paralegals in Ontario. The Task Force held numerous public hearings and commissioned a number of studies by leading academics, including an empirical study on paralegal practice in Ontario. In spite of finding, in general, a high level of satisfaction among consumers of paralegal services, the Task Force concluded that a comprehensive system of regulation was nevertheless necessary.³ Ianni concluded:

¹ A Report to the Law Society of Upper Canada, *Environmental Scan and Review of Awareness and Attitudes Pertaining to the Regulation of Paralegal Service Providers in Ontario* (March 2000) [*Environmental Scan*]

² *Environmental Scan*

³ *Ianni Report*, *supra* note 3 at 23-25, 36-40.

In adopting a minimalist approach to regulation, the Task Force specifically recommends against the highly structured self-governance model in place for the legal profession. The less complex nature of the work performed by independent paralegals, their non-professional status and the lower nature of the risk to the public warrant a different mode of regulation. Besides, too much regulation would likely erode whatever potential such services have to increase threshold access to legal services. Regulation of Ontario's independent paralegal activity should not result in the loss of a viable, economically attractive option presently available for consumers of legal services.⁴

Ianni further concluded:

Moreover, the Law Society would be placed in the potentially difficult position of having to make decisions on issues where the interest of independent paralegals and those of the legal profession are in conflict? Beyond this advisory role, however, the Law Society should exercise no authority over independent paralegals in Ontario.⁵

The Cory Report

In 1999 the Attorney General commissioned a study on the regulation of paralegals by a highly respected former Justice of the Supreme Court of Canada, the Honorable Peter Cory. The Cory Report considered numerous written and oral submissions, including a detailed Report of the Law Society's Task Force on Paralegals. In his report, Justice Cory states:

At the outset, I would empathize that it is of fundamental importance that paralegals be independent of both the Law Society of Upper Canada and the Province of Ontario. The degree of antipathy displayed by members of legal organizations towards the work of paralegals is such that that the Law Society should not be in a position to direct the affairs of the paralegals. Yet paralegals would be remiss in their duty to themselves and the public if they did not seek out the advice of the Law Society on many topics and take the opportunity of consulting with them. Paralegals can and should benefit from the experience and learning of the Law Society.

Insofar as the Province is concerned, it must be remembered that, in their work before provincial boards and tribunals and in the specified courts, paralegals may often be required to oppose the interests of the Province. They must remain independent of the Province. It follows that the Province should not be in a position to direct the affairs of licensed paralegals.

⁴ *Ibid.* at 40.

⁵ R.W.Ianni, *Report of the Task Force on Paralegals prepared for the Ontario Ministry of the Attorney General* (Toronto: Queen's Printer, 1990) [*Ianni Report*]

I am in agreement with the suggestion of the Law Society of Upper Canada that the composition of the governing body of the paralegals should resemble that of Legal Aid Ontario. At the outset, I would envisage a governing body composed of 15 people. The Attorney General should appoint two nominees from the Law Society. In the interim period, the Attorney General should appoint four paralegal members. In addition, the Attorney General should appoint four members as his representatives and four members appointed by the Attorney General to represent the public. The fifteenth member, the chairperson should be an independent person appointed by the Attorney General, perhaps a retired member of the Ontario Court of Justice or the Ontario Superior Court of Justice, Divisional Court.

The governing body must be able to function independently of the Province of Ontario and the Law Society of Upper Canada. A board comprised in the manner I have suggested should provide that independence. The difficult interim period will, I expect, last at least two years. Whenever it is completed, the composition of the board may vary by regulation to provide for two additional members elected by licensed paralegals. Perhaps these two members could replace two of those appointed to represent the Attorney General. Eventually, perhaps after ten years, the paralegals will become self-governing. This should not occur until the institution is well established and has the confidence of the public and the provincial government.⁶

Law Society of Upper Canada

At the time of the Ianni Report, the Law Society in its submissions objected to serving as regulator of paralegals, citing the potential for conflict of interest. By the time of its Paralegal Task Force Report in 2000, the Law Society was prepared to recommend regulation of paralegals by the Law Society as one of two possible options. The second option was regulation of paralegals by an independent legal services corporation, similar to the Ontario Legal Aid Plan - the option that Cory ultimately recommended.⁷

In October 2001 LSUC approached the Professional Paralegal Association of Ontario with a view to holding discussions on regulatory issues. After several such discussions between the Working Group and the PPAO, in April 2002 the Working Group produced a document containing its conclusions, entitled *A Consultation Document on a Proposed Regulatory Framework*.

The 2002 proposed Framework departs from the recommendations of the Cory Report in several crucial respects. The most obvious departure, as already noted, recommends there should be one body responsible “for regulating the provision of all legal services in Ontario” and that “the Law Society should be the appropriate body.”⁸

⁶ The Honourable Peter deC Cory, *A Framework for Regulating Paralegal Practice in Ontario: Report prepared for the Ontario Ministry of the Attorney General* (Toronto: Queen’s Printer, 2000) [*Cory Report*]

⁷ Cited in Zemans pp.18-19

⁸ Cited in Fredrich H. Zemans, *Paralegals in Ontario: Research Report*, (Professional Paralegal Association of Ontario, 2004) pp. 18-19[*Zemans Report*]

In January 2004 Attorney General Michael Bryant, a lawyer, asked the Law Society of Upper Canada to assume the responsibility for regulating paralegals in Ontario.⁹ Convocation voted to accept regulatory responsibility for independent paralegals, and in January 2004 authorized the establishment of a working group to develop detailed proposals on paralegal regulation. This Task Force reported to Convocation on April 22, 2004. Convocation then authorized the Task Force to proceed with consultations with stakeholders based on its preliminary proposals embodied in the consultation paper of May 2004, entitled *Regulating Paralegals: A Proposed Approach*.

The Zemans Report

In 2004 the Professional Paralegal Association of Ontario (“PPAO”), a not for profit corporation incorporated pursuant to the Corporations Act (Ontario), originally established as an umbrella organization for a number of associations of paralegal service providers to promote the cause of paralegals in the province, commissioned Professor Frederick Zemans to investigate the services appropriate for independent paralegals to provide to the Ontario public as a regulated profession.

Professor Zemans recommends, “... the creation of an independent self-governing legal services corporation, similar to Legal Aid Ontario, for the regulation of paralegals in Ontario. Such a body might be known as Paralegals Ontario. It would ultimately be self-funded through the fees of licensed paralegals, but would require start-up funding from the provincial government.”¹⁰ Professor Zemans further found, “There is no evidence that the regulation of paralegals by the Law Society (of Upper Canada) will provide a cost saving to the Ontario taxpayers.”¹¹

Part IV – Where We Are Today

The Law Society of Upper Canada

Discussions between the LSUC and the PPAO, which heretofore has taken the lead role in negotiations on behalf of paralegals, are at an impasse. The LSUC has steadfastly refused to discuss the scope of practice for paralegals as it relates to non-advocacy services. The LSUC reasons are threefold:

1. The LSUC takes the position that this issue is too contentious and refuses to discuss non-advocacy work by paralegals until the government passes framework legislation. Of course, if framework legislation gives the LSUC the authority to make regulations governing the practice of paralegals, it will no longer need to negotiate on this point.
2. The LSUC takes the position that non-advocacy work is too complex for paralegal practitioners. This position ignores the fact that paralegals have been preparing

⁹ <<http://www.lsuc.on.ca>>.

¹⁰ *Zemans Report*

¹¹ *Ibid.*

simple wills, filing incorporations, settling simple estates and completing real estate transactions for many years, without serious complaint.

3. The LSUC contends that there is no evidence of a scarcity of lawyers to provide such services. This position betrays the Law Society's conflict of interest in the regulation of paralegals.

Options for Regulation

At present, there are two options on the table for regulation of the paralegal profession:

1. Regulation by the Law Society of Upper Canada. This is the preferred option of the Attorney General.
2. Regulation by a legal services corporation, similar to the Ontario Legal Aid Plan. This is the recommended option of Professor Ianni, Justice Cory, and Professor Zemans.

Preparations for Self-Regulation

In anticipation of government-imposed regulation of the paralegal profession, the Paralegal Society of Ontario has taken significant steps to prepare, in the event that the government selects self-regulation of the profession. The Safety and Consumer Statutes Administration Act, 1996 provides for the self-regulation of professions in Ontario. This model has been successfully used in the regulation of travel agents, real estate agents, used car dealers, funeral directors, and other previously unregulated professions. This Act allows the government to delegate regulatory powers to a non-profit corporation by granting administrative authority to enforce existing legislation. Administrative authority would be granted with conditions, including:

- ?? membership accessibility,
- ?? transparency and accountability,
- ?? an enforceable Code of Conduct,
- ?? a consumer protection orientation,
- ?? testing and accreditation, and
- ?? mandatory professional development.

For self-regulated professions, membership in the non-profit organization becomes mandatory and is synonymous with licensing. Assessments are levied against members and are paid to the organization to finance its operations. A Board of Directors including representatives of the profession, key stakeholders and the appropriate government ministry governs the organization. The Board's authority is restricted to enforcing the Act. It would require the approval of the Ministry to introduce new, or modify existing by-laws. The organization is required to enforce business practice standards through audits, investigation of complaints, and adjudication of disputes.

In its 1996 report, the Ministry of Consumer and Commercial Relations recommends self-regulation only for those industries that could be categorized as "mature". Factors to be considered in making this assessment included:

- ?? How an industry is represented
- ?? How it has performed to date at governing itself or at solving marketplace or public safety problems
- ?? Resources available to the industry for self-governance; and
- ?? The quality of self-regulatory proposals made to date.

The Paralegal Society of Ontario has taken the following steps to prepare for self-regulation and to advance a quality proposal for self-regulation to the government of Ontario:

- ?? Amalgamated three associations representing the interests of paralegals into one such organization;
- ?? Established a Code of Conduct for paralegals equal to the Code of Conduct for members of the Law Society of Upper Canada;
- ?? Developed a business plan for a self-regulated profession, including a funding model that requires no permanent funding by the taxpayers of Ontario;
- ?? Developed 'Areas of Practice' guidelines consistent with:
 - The principle of affordable access to justice
 - The principle of competition in the marketplace
 - Demonstrable need for competent and competitive services in specified areas
- ?? Adopted Community College educational programs as the minimum standard for admission to practice;
- ?? Developed 'Grandfather' provisions including a peer review protocol.

Part V - A Proposal for Self-Regulation of Paralegal Practitioners

There is a trend throughout Canada towards a self-management model of regulation for professional practitioners addressing most of the issues raised with respect to the regulation of paralegals. The self-regulation model, described above, allows those with the most significant stake in the legal and ethical practice of the profession – paralegal professionals – to play a major part in regulating the profession, at the same time creating public accountability and transparency through government participation and oversight.

The PSO is proposing new legislation – the Paralegal Professionals Act (PPA) – to govern the practice of paralegal practitioners.

The PPA will establish the Ontario Institute of Paralegals (OIP) of which every licensed paralegal will be a member. The OIP will be comprised of a Licensing Board and a Board of Governors. The PPA will:

- ~~///~~ Define the scope of practice of paralegals
- ~~///~~ List exemptions from licensing
- ~~///~~ Establish a Licensing Board

- ✍ Define powers and duties of the Licensing Board
- ✍ Establish qualifications for licensing
- ✍ Establish protocols for applications for licensing including application forms, testing, renewals, and fees
- ✍ Establish a Board of Governors
- ✍ Define powers and duties of the Board of Governors
- ✍ Define the statutory duties and rights of a licensee

Definition of a paralegal

The PPA should prohibit any person who is not licensed under this Act from acting as a paralegal for any money, fee, commission or thing of value, and should provide appropriate sanctions.

Eligibility

Licensed paralegals should be of the highest personal character and probity. Licensed paralegals should be able to demonstrate a minimum level of education, knowledge, skill and training.

Licensing Board

The PPA will include a Licensing Board to administer and enforce the licensing provisions of the Paralegal Professionals Act. The Licensing Board should include a balance of appointees from the public sector, the paralegal profession, and persons with skill sets specific to a self-regulated environment as described in Schedule “D” attached.

Duties and Powers of the Board

The duties and powers of the Licensing Board includes receiving applications for licenses, investigating applicants, testing for competency, issuing licenses and renewals, receiving and investigating complaints, and administering sanctions. The Licensing Board should conduct its business in a manner described in Schedule “E” attached.

Application For Licensing

An application for a paralegal license shall be filed with the Licensing Board on the prescribed form as established by administrative regulation. The application shall include the information regarding the applicant as shown in Schedule “F” and which shall be subscribed and sworn to by the applicant.

Board of Governors

The PSO recommends that a Board of Governors be established for the purpose of managing the business affairs of the OIP, facilitating professional development, and representing the interests of paralegals. The Board of Governors should be established as described in Schedule “H” attached. The Board of Governors shall manage the business affairs of the Institute and represent the interests of paralegals. The Board of Governors shall design, endorse or sponsor education programs, manage certification programs,

provide advocacy at all levels of government, and manage revenue-generating programs for the benefit of its members. The duties and powers of the Board of Governors are listed in Schedule "I" attached.

Rights and Duties of Licensed Paralegals

This PPA will impose, and the Licencing Board will enforce a Code of Conduct upon paralegals as set out in Schedule "J" attached. The PPA will codify in provincial statute the right to practice in specified areas of legal services as listed in Schedule "K" attached.

Revenue Model

The PPA will authorize the OIP to levy an assessment against all paralegal practitioners. The levy will be a percentage of gross revenue and will be determined upon the approval of an operating budget by the Board of Governors. The budget will include all operational expenses, establishment of a compensation fund, and retirement of start up loans.

The PPA will authorize the government to provide loan guarantees to facilitate the establishment of the regulatory infrastructure. This loan will be retired over five years.

Please see the Business Plan attached as Schedule "L" hereto.

Part VII - Our Vision

The Paralegal Society of Ontario envisions a profession with a commitment to lifetime learning, continuous professional development, the highest of ethical standards, and an effective role in governing the industry in order to secure these objectives. We envision a body public, confident in the expertise of our members, and clients secure in our probity and professionalism.

Ontario will be stronger when we succeed. Businesses and individuals will seek our services more readily. Courts and regulatory tribunals will function more effectively, and make fairer rulings, as more persons have access to affordable justice. Clients will be better protected when compliance with a Code of Conduct are conditions of licensing.

For the last twenty years federal and provincial governments of all stripes have shown a bias towards self-regulation of professional practitioners. The public is better served when those with a stake in an industry have a say in its governance. The public purse is better served when those who benefit from the governance of an industry pay the cost. For Ontario's paralegals, the time has come to step forward and work in partnership with government to strengthen this vital profession.

The "new" paralegal

The self-management regime described in these pages is the best way to protect the public interest, safeguard the consumer, and enable the growth and development of the paralegal profession. The Premier of Ontario will appoint the majority of seats on the Licensing Board, with representation from several government ministries, the Law Society of Upper Canada and from the general public. This is a model superior to any yet proposed enabling

the representation of a broad range of public stakeholders. The three seats on the Licensing Board representing the paralegal profession ensure that the needs of paralegals in a rapidly changing business environment are always considered. Stringent application of a Code of Conduct is a substantial improvement over the present voluntary Codes of Conduct offered by associations representing the interests of paralegals, and brings new protections to the public and to consumers of paralegal services.

Minimum requirements for professional development and new avenues for continuing education and professional certification will strengthen the industry. Through membership in the OIP, every licensee will be able to participate in the public policy process that affects his or her profession.

In this model, the public is better protected. Stakeholders have a voice in the licensing process, complaint procedures are more accessible, paralegals will be better qualified, better trained, better educated, and will have statutory obligations to their clients.

Costs to the taxpayer decrease or are eliminated as funding comes from OIP membership or from business activities of the Institute.

Why this model works

A constantly changing business environment places increased demands on the paralegal. The PSO has been effective in representing the interests of Ontario's paralegals and responding to these demands. This self-regulation model establishes significant protections for consumers, ensures considerable government participation, and shifts the responsibility for funding to the private sector.

The PSO, in consultation with its members and stakeholders has effected substantial changes upon the paralegal profession. The PSO is developing training programs and holds regular professional development seminars for its members. The PSO has demonstrated its will and ability to partner with the provincial government in the governance of this industry.

This new governance model ensures that paralegals will be able to continue their crucial role in providing affordable access to justice in Ontario.

Schedule “A” - Definition of a Paralegal Practitioner

A paralegal practitioner is a person, other than a lawyer or a person itemized in Schedule “B” hereto, who provides legal services for a fee.

Schedule “B” - Exemptions

The Paralegals Act will not apply to:

1. Non-lawyers who provide legal services for a consumer in a non-commercial transaction including:
 - 1.1. Family members and friends
 - 1.2. Employees of the John Howard and Elizabeth Fry Societies
 - 1.3. Volunteer Special Education Advocates
 - 1.4. Victim Service Workers
 - 1.5. Directors of a corporation acting on behalf of the corporation
2. Non-lawyers who provide legal services on behalf of a consumer in a commercial transaction, and are regulated under other federal or provincial legislation including:
 - 2.1. Workers at Legal Aid funded clinics
 - 2.2. Adult Protective Service Workers
 - 2.3. Immigration consultants
3. Non-lawyers who provide legal services on behalf of an employer in his/her regular course of employment, and the employer uses such legal services in its normal business operations and not as part of a commercial transaction. These may include:
 - 3.1. Trade union employees
 - 3.2. Bank and Insurance Company employees
4. Non-lawyers who provide legal services on behalf of a consumer while under the direct supervision of a lawyer including:
 - 4.1. Students-at-law
 - 4.2. Law clerks
 - 4.3. Legal assistants
 - 4.4. Persons working for independent service providers whose only clients are law firms
5. Public employees who provide legal services as part of their regular course of employment including
 - 5.1. Police officers
 - 5.2. Peace officers
 - 5.3. Federal, provincial and municipal employees
 - 5.4. Municipal prosecutors
 - 5.5. Employees of the Office of Child & Family Service Advocacy

Schedule “C” - Eligibility for Licensing

Persons licensed under this Act must meet all of the following conditions:

1. Have attained the age of majority;
2. Be a citizen of Canada or a landed immigrant;
3. Have relevant education including any of the following:
 - 3.1. a law school graduate, or
 - 3.2. a graduate of paralegal studies at a Community College or a private college program approved by the Ministry of Colleges and Universities, or
 - 3.3. a Fellow of the Institute of Law Clerks of Ontario,
or comparable work experience including
 - 3.4. qualifications for licencing under ‘grandparenting’ provisions of the Act or
 - 3.5. five years of relevant training and experience and approval of the Licensing Boardand
 - 3.6. pass an examination administered by the Licensing Board
4. Having been convicted of any offence involving moral turpitude or for which dishonesty is a necessary element, not apply for a licence within ten years of the date of conviction.
5. Not have had his or her certification as a peace officer revoked in this or another province;
6. Not have had his/her licence to practice revoked by any government or self-regulatory body;
7. Be of good moral character;
8. Submit proof of errors and omissions insurance coverage, written by an insurance company which is lawfully engaged to provide insurance coverage in Ontario, with a combined single-limit in the amount of at least one million dollars, and which insures for liability all of the applicant's employees while acting in the course of their employment.

Schedule “D” - Licensing Board

1. The Licensing Board shall consist of eleven (11) members appointed by the Premier of Ontario as follows:
 - 1.1. One member who shall be a representative of the Ministry of Consumer and Business Services, to be nominated by the Minister thereof;
 - 1.2. One member who shall be a representative of the Ministry of Colleges and Universities, to be nominated by the Minister thereof;
 - 1.3. Two (2) members who shall be Benchers of the Law Society of Upper Canada;
 - 1.4. Four (4) members, nominated by the Board of Governors, who shall be practicing paralegals for at least five (5) years prior to the date of their appointment;
 - 1.5. Two members who shall be deputy judges of the Ontario Court, and
 - 1.6. A Chairman who shall be a citizen at large nominated by the Board of Governors, being a person who is not associated with or has a financial interest in a paralegal practice or the practice of law.
2. All members shall be residents of Ontario and possess good moral character.
3. The original members of the board shall be appointed by no later than January 1, 2007, as follows:
 - 3.1. One (1) member to a one (1) year term;
 - 3.2. Three (3) members to a two (2) year term;
 - 3.3. Three (3) members to a three (3) year term; and
 - 3.4. Three (3) members, and the Chairman, to a four (4) year term.
 - 3.5. After the initial appointments to the board, all members shall serve a 2-year term.
4. The Premier and the Board of Governors shall fill vacancies occurring on the Licensing Board depending upon the nature of the vacancy.
5. No member may serve more than two (2) full consecutive terms.

6. Licensing Board members shall be paid an honorarium commensurate with that paid to a Director of a private corporation of similar size.
7. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.
8. The Licensing Board shall hold at least twelve (12) meetings annually and additional meetings as the Licensing Board may deem necessary. Additional meetings may be held upon call of the Chairman or upon written request of a quorum.
9. Seven (7) members of the Licensing Board shall constitute a quorum to conduct business.
10. Upon recommendation of the Board of Governors, the Premier may remove any member of the Licensing Board for neglect of duty or malfeasance in office.
11. The Licensing Board may purchase professional liability insurance for the Licensing Board members and agents and staff of the board.

Schedule “E” - Duties and Powers of the Licensing Board

The Licensing Board shall:

1. Establish administrative regulations for the implementation of the Act in accordance with the provisions of the Act.
2. Establish administrative regulations to prescribe fees, which shall not exceed the amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of the Act.
3. Establish administrative regulations prescribing an examination to be administered at least four times annually to license applicants. The examination shall be designed to measure knowledge and competence in paralegal practice, including but not limited to the following subject areas:
 - 3.1. Applicable federal and provincial law;
 - 3.2. The Rules of Civil Procedure
 - 3.3. The Statutory Powers and Procedures Act
 - 3.4. Additional subject areas as determined by the Board.
4. Establish by administrative regulation a Code of Conduct governing professional practice that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.
5. Establish by administrative regulation requirements for professional liability insurance, fidelity bonds, and a compensation fund.
6. Upon receipt of a license application accompanied by a nonrefundable fee in an amount established by the Licensing Board in an administrative regulation, the Licensing Board shall:
7. Conduct an investigation to determine whether the statements made in the application are true. A licensee shall be required to submit a criminal background check and the applicant for licencing shall bear the cost thereof.
8. Following the investigation process, the Licensing Board shall either deny or approve the application.
9. If the application for a license is denied, the board:
 - 9.1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so

state and specify a reasonable period of time within which the applicant must make the correction; and

- 9.2. Shall grant a hearing to the denied applicant in accordance with the provisions of the Statutory Powers and Procedures Act.
10. If the application for a license is approved, the Licensing Board shall issue:
 - 10.1. A license to be posted in the licensee's principal place of business; and
 - 10.2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in paralegal practice. Information on the card shall include the expiration date of the license and the licensee's:
 - 10.2.1. Name;
 - 10.2.2. Photograph;
 - 10.2.3. Physical characteristics; and
 - 10.2.4. License number.
 - 10.2.5. Professional certifications awarded under this Act.
 - 10.2.6. A statement certifying that the areas of practice in which the licensee is entitled to practice.
11. The Licensing Board shall investigate allegations of licensee wrongdoing upon complaint from any person. The Licensing Board shall establish administrative regulations regarding the receiving and investigating of complaints.
12. If the Board's investigation reveals evidence supporting the complaint, the Licensing Board shall set the matter for hearing pursuant to the provisions of the Statutory Powers and Procedures Act before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any other combination of actions regarding any license under the provisions of this Act.
13. If, after an investigation that includes an opportunity for the licensee to respond, the Licensing Board determines that a violation took place but was not of a serious nature, it may issue a written reprimand to the licensee. A copy of the reprimand shall be placed in the board's permanent licensure file. The licensee shall have the right to file a response to the reprimand within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may, within thirty (30) days of receipt, file a request for hearing with the Board. Upon receipt of this request the Licensing Board shall set aside the written reprimand and set the matter for hearing under the provisions of the Statutory Powers and Procedures Act.
14. The Licensing Board may refuse to issue a license, or suspend, revoke, impose probationary conditions, impose an administrative fine, issue a written reprimand, or

any combination thereof regarding any licensee upon proof that the licensee or applicant has:

- 14.1. Violated any provision of this Act or any administrative regulation established by the board;
 - 14.2. Knowingly and willfully made a material misstatement in connection with an application for license or renewal;
 - 14.3. Been convicted of any offence involving moral turpitude or for which dishonesty is a necessary element;
 - 14.4. Practiced fraud, deceit, or misrepresentation;
 - 14.5. Committed any act that would have been cause for refusal to issue the license had it existed and been known to the Licensing Board at the time of issuance;
 - 14.6. Been incompetent or negligent in the practice of paralegal services;
 - 14.7. Violated the Code of Conduct established by administrative regulation by the Board.
15. In addition to or in lieu of any other lawful disciplinary action under this section, the Licensing Board may assess a civil penalty not exceeding ten thousand dollars (\$10,000).
16. When the Licensing Board issues a written reprimand to the licensee a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.
17. At any time during the investigative or hearing processes, the Licensing Board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.
18. The Licensing Board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.
19. Any party aggrieved by a disciplinary action of the Licensing Board may bring an action in the Ontario Court pursuant to the provisions of the Statutory Powers and Procedures Act.
20. A license shall be subject to expiration and renewal during any period in which the license is suspended.

The Licensing Board may:

1. Contract with the Ministry of Consumer and Business Services or the Law Society of Upper Canada for the provision of administrative services;
2. Employ any persons it deems necessary to carry on the work of the Board. The Licensing Board may define their duties and fix their compensation;
3. Approve and certify a forty (40) hour preparation course covering the subject areas of the licensing examination;
4. Renew licenses and require continuing professional education as a condition for renewal;
5. Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees,
6. Impose administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;
7. Issue subpoenas, examine witnesses, pay witness fees, and administer oaths; and
8. Investigate allegations of practices violating the provisions of the Act;
9. Conduct hearings pursuant to the Act and keep records and minutes necessary to carry out the board's functions;
10. Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the Licensing Board and the hearing panel may exercise all powers granted to the Licensing Board pursuant to the Act;
11. Utilize mediation as a technique to resolve disciplinary matters;
12. Issue cease and desist orders and/or seek injunctive relief in the Ontario Court of the judicial district where the alleged unlawful practice occurred to stop the unlawful practice by unlicensed persons; and
13. Negotiate and enter into reciprocal agreements with appropriate officials in other provinces, territories or states of the United States to permit licensed paralegals who meet or exceed the qualifications established in the Act to operate across provincial, national, or state boundaries under mutually acceptable terms.

Schedule “F” - Application for Licensing

An application for a paralegals license shall include the applicants:

1. Full name and address;
2. Date and place of birth;
3. Social Insurance number;
4. All residences during the past five (5) years;
5. All employment and occupations engaged in during the past five (5) years;
6. Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and
7. Any other information as the Licensing Board may reasonably require by administrative regulation.

Schedule “H” - Board of Governors

1. The Board of Governors shall consist of seven (7) Governors elected by the membership.
2. Each Governor shall be a practicing paralegal for at least five (5) years prior to the date of their election; and
3. Each Governor shall be a resident of Ontario and possess good moral character.
4. The original Governors of the Board shall be elected by no later than January 1, 2006, as follows:
 - 4.1. One (1) member to a one (1) year term;
 - 4.2. Two (2) members to a two (2) year term;
 - 4.3. Two (2) members to a three (3) year term; and
 - 4.4. Two (2) members to a four (4) year term.
 - 4.5. After the initial appointments to the board, all members shall serve a 2-year term.
5. Any vacancy occurring on the Board shall be filled by vote of the remaining Governors.
6. No Governor may serve more than two (2) full consecutive terms.
7. All Governors shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.
8. The Board of Governors shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the membership of the Board.
9. The Board of Governors shall hold at least ten (10) meetings annually and additional meetings as the Board may deem necessary. Additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the Board shall constitute a quorum to conduct business.
10. Upon recommendation of the Board, the Members may remove any member of the Board for neglect of duty or malfeasance in office.
11. The Board may purchase professional liability insurance for the Board members and agents and staff of the board.

Schedule "I" - Duties and Powers of the Board of Governors

1. The Board of Governors shall manage the business of the Institute including:
2. Design, sponsor, or endorse professional development programs for paralegals.
3. Design, sponsor, or endorse certification programs for paralegals, test graduates, award professional certification, and administer a professional certification program.
4. Represent the interests of Ontario paralegals in the public policy process at the federal and provincial levels.
5. Negotiate contracts, administer programs and otherwise provide services to members as may be approved by the membership at an Annual General Meeting or a Special Meeting called for such a purpose.
6. Prepare an annual budget for the operation of the Institute and submit this budget for membership approval at the Annual General Meeting or a Special Meeting called for such purpose.
7. Collect all fees and other moneys prescribed by the Licensing Board and Board of Governors pursuant to the provisions of this Act and deposit these in a revolving fund account in a Canadian financial institution for the use of the Institute. No part of this revolving fund shall revert to the general fund of the Province of Ontario. The revolving fund may be used to pay for:
 - 7.1. The compensation and reimbursement of members of the Licensing Board and the Board of Governors for actual and necessary expenses incurred in the performance of official duties;
 - 7.2. The compensation of all of the employees of the board;
 - 7.3. Those operational and capital expenses incurred in fulfilling the board's duties as described in the Act and in administrative regulations;
 - 7.4. A compensation fund for persons found to have suffered financial loss due to the improper actions of a licenced paralegal.

Schedule “J” - Code of Conduct (Short Form) ¹²

Paralegals practitioners in Ontario have varying types of backgrounds, experience, education and responsibilities, which reflect the diversity of the paralegal profession. The OIP promotes the growth, development and recognition of the paralegal profession as an integral member of the legal community in the delivery of legal services. The OIP recognizes that the creation of guidelines and standards for professional conduct are important to the development and expansion of the paralegal profession.

This Code of Conduct expresses the commitment of the OIP to improving the quality and efficiency of legal services and recognizes the paralegal’s responsibilities to the public, the legal community, and to fellow paralegal practitioners. These principles are not immutable laws, for the ethical paralegal practitioner needs no such laws, but standards by which he or she may determine the propriety of conduct with all stakeholders.

Paralegals perform many different functions, differing substantially among diverse areas of practice. In addition, each Court, Board or Tribunal may have within its own unique legal authority, practices and procedures governing ethical conduct and professional responsibilities.

Every paralegal must strive for the highest standards of personal and professional conduct and encourage this within the profession. In all instances:

1. A Paralegal shall achieve and maintain a high level of competence.
2. A Paralegal shall achieve competency through education, training and work experience.
3. A Paralegal shall participate in continuing education to keep informed of current legal, technical and general developments.
4. A Paralegal shall perform all assignments promptly and efficiently.
5. A Paralegal shall ensure that any person or designate under their employ or direction also achieves and maintains a high level of competence.
6. A Paralegal shall maintain a high level of personal and professional integrity.
7. A Paralegal shall maintain a high standard of professional conduct.
8. A Paralegal shall refrain from engaging in any conduct that offends the dignity and decorum of proceedings before a court or other adjudicatory body and shall be respectful of all rules and procedures.
9. A Paralegal shall advise the proper authority of any action of another legal professional, which clearly demonstrates fraud, deceit, dishonesty, or misrepresentation.

¹² The complete version of the OIP Code of Conduct, as proposed by the PSO may be viewed at <http://www.paralegalsociety.on.ca/first.html>

10. A Paralegal should work to enhance the good reputation of the Paralegal profession.
11. A Paralegal should not give opinions or make statements that might bring the Paralegal profession into disrepute.
12. A Paralegal shall not maliciously injure the reputation or business of another legal practitioner.
13. A Paralegal shall serve the Public interest by contributing to the delivery of quality legal services and the improvement of the legal system.
14. A Paralegal shall be sensitive to the legal needs of the Public and shall promote the development and implementation of programs that address those needs.
15. A Paralegal is encouraged to support bona fide efforts to meet the need for legal services by those unable to pay reasonable or customary fees.
16. A Paralegal shall support efforts to improve the legal system and shall assist in making changes.
17. A Paralegal shall where appropriate collaborate with other legal practitioners toward the ideal of teamwork, in which the rights of both the Public and the profession will be respected equally.
18. A Paralegal shall preserve all confidential information provided by the client or acquired from other sources before, during, and after the course of the professional relationship.
19. A Paralegal shall be aware of and abide by all legal authority governing confidential information.
20. A Paralegal shall not use confidential information to the disadvantage of the client.
21. A Paralegal shall not use confidential information to the advantage of the Paralegal or of a third party.
22. A Paralegal may reveal confidential information only after full disclosure and with the client's written consent; or, when required by law or court order; or, when necessary to prevent the client from committing an act which could result in death or serious bodily harm.
23. A Paralegal shall not engage in any indiscreet communications concerning clients.
24. A Paralegal shall avoid conflicts of interest and shall disclose any possible conflict to the client, as well as prospective clients.
25. A Paralegal shall act within the bounds of the law, solely for the benefit of the client, and shall be free of compromising influences and loyalties. Neither the Paralegal's personal or business interest, nor those of other clients or third persons, should compromise the Paralegal's professional judgment and loyalty to the client.

26. A Paralegal shall avoid conflicts of interest, which may arise from previous engagements.
27. A Paralegal shall avoid conflicts of interest, which may arise from family relationships and from personal and business interests.
28. A Paralegal shall not participate in or conduct work on any matter where a conflict of interest has been identified.
29. A Paralegal shall not knowingly act as, practice as, or hold himself or herself out as a barrister and solicitor.

Schedule “K” - Rights of Licenced Paralegal Practitioners (Areas of Practice)

Paralegals licensed by the OIP shall be permitted to practice in the following areas:

1. Family Law

To practice in the area of Family Law, licensed paralegals shall be required to be certified by passing a specialist examination to be developed by the regulatory body, in consultation with family law educators, judges and the legal profession.

- 1.1 Licensed and certified paralegals shall be authorized to prepare, file and otherwise assist the public in the preparation of all paperwork for all matters to be taken before the Unified Family Court of the Superior Court of Justice, the Ontario Court of Justice and the Superior Court of Justice.
- 1.2 Licensed and certified paralegals shall be permitted to prepare draft separation agreements resolving all issues provided that the parties are then referred to a lawyer to obtain the certificate of independent legal advice.
- 1.3 Licensed and certified paralegals with the appropriate training shall be permitted to assist in the area of Family Mediation
- 1.4 Licensed and certified paralegals shall be permitted to represent the parties in both the Ontario Court of Justice and the Superior Court of Justice at all stages of the process in the following matters:
 - 1.4.1 All Applications and Motions for Child Support, Child Access and for Spousal Support including divorce applications.
 - 1.4.2 All Applications and Motions dealing with property issues including division of matrimonial home where the value of the property excluding the matrimonial home is less than \$25,000.
 - 1.4.3 Matters involving the Family Responsibility Office including default hearings and motions to vary existing support orders
 - 1.4.4 Matters under the Child and Family Services Act dealing with child protection cases.
 - 1.4.5 Licensed and certified paralegals shall be entitled to obtain legal aid for qualified clients at approved paralegal rates.
 - 1.4.6 Licensed and certified paralegals shall be permitted to act as representatives in the court under the Legal Aid Duty “counsel” program.

2. Criminal Law

- 2.1. Licenced paralegals be permitted to appear on applications and adjournments in Ontario Court of Justice.
- 2.2. Licenced paralegals be permitted to appear in summary conviction matters in the court of first instance, and on remands in indictable offences
- 2.3. Licenced paralegals be permitted to appear and conduct bail hearing on summary conviction matters and assignment courts
- 2.4. Licenced paralegals to be permitted to attend and conduct resolution meetings and setting trial dates for summary convictions.

3. Provincial Offences Act (POA)

- 3.1. Licensed paralegals shall be permitted to appear in the Ontario Court of Justice in proceedings relating to the Provincial Offences Act and the Highway Traffic Act.
- 3.2. Licensed paralegals shall be permitted to appear at the first level of appeal upon conviction or acquittal in these proceedings. .
- 3.3. Licensed paralegals and their clients on such appeals may be awarded costs for their representation.

4. Small Claims Court and Superior Court

- 4.1. Licensed paralegals shall be permitted to appear in all Small Claims Court proceedings.
- 4.2. Contested motions, consent motion, and matter before the Masters and Registrars of the Court of Ontario and before the Registrar of the Court of Appeal for Ontario, including references and assessments of costs.
- 4.3. Matters brought without notice, provided no substantial rights will be affected, and consent matter before the Court of Ontario and before the Registrar of the Court of Ontario.
- 4.4. Motions before the Court of Ontario and the Registrar of the Court of Ontario.
- 4.5. Examinations for discovery, examinations in aid of execution, examinations of witnesses on pending motions and cross-examinations on affidavits in support of interlocutory motions.
- 4.6. Assignment court matters in the Court of Ontario

- 4.7. The Courts of Justice Act shall be amended to provide that only licensed paralegals shall be authorized to appear in Small Claims Court as agents for a fee.
- 4.8. Licensed paralegals and their clients on such appeals may be awarded costs for their representation at the same rate as Students-at-law.
- 4.9. A licensed paralegal shall be entitled to enforce all orders and judgments of the Superior Court.
- 4.10. A licensed paralegal shall be entitled to appear on motions before a Master and to attend at Assignment Court when acting on behalf of a lawyer for that purpose.
- 4.11. A licenced paralegal who is accredited as a mediator shall be added to court mediation roster where such rosters are maintained.
- 4.12. A licenced paralegal shall be permitted to appear on behalf of a corporation engaged in the provision of paralegal services where the licenced paralegal is an employee, officer, director or shareholder in the corporation.
- 4.13. A licenced paralegal may be permitted, with leave of the Court, to appear on behalf of a not-for-profit corporation or charitable organization.

5. Provincial Administrative Boards and Tribunals

- 5.1. Licensed paralegals shall be authorized to appear before those boards and tribunals where rules or legislation permit representation by an “agent”.
- 5.2. Licensed paralegals otherwise qualified to appear before any of the province’s Boards and Tribunals should be permitted to appear in the first level of appeal from a decision of that Board or Tribunal.

6. Personal Injury Claims Settlement and Statutory Accident Benefits

- 6.1. Licensed paralegals shall be allowed to practice before the Financial Services Commission of Ontario, except in matters involving ‘catastrophic cases’ as defined in the Insurance Act, subject to complying with the provisions of The Insurance Act and passing a specialized examination in this area to be developed by the regulatory body, in consultation with legal educators, the Financial Services Commission of Ontario and the legal profession.

7. Real Estate

- 7.1. Licensed paralegals shall be permitted to assist persons with the conveyancing of residential properties and the mortgage thereof, where the title is insured, in the Land Titles system .

- 7.2. Licensed paralegals who have been certified to practice in the area of conveyancing shall be allowed to undertake:
 - 7.2.1. Property investigation and writ searches;
 - 7.2.2. Drafting of requisition letters and off-title inquiries;
 - 7.2.3. Preparation of electronic documents of any nature and kind, including, but not limited to: transfers, charges, notices, notices of lease, claims for lien, condominium liens, discharge of mortgages, discharges of liens, survivorship applications, and transmission applications;
 - 7.2.4. Preparation of transactional documentation, other than or in addition to registration documentation;
 - 7.2.5. Co-ordination of execution of documentation;
 - 7.2.6. Co-ordination and facilitation of closing and/or registration of electronic documentation;
 - 7.2.7. Registration of electronic documentation;
 - 7.2.8. Giving of opinions of title to Title Insurance Companies, Mortgagees and Purchasers; and
 - 7.2.9. Transaction reporting.

8. Wills and Estates and Powers of Attorney

- 8.1. Licensed paralegals who have passed a specialist examination in wills and estates law, to be developed by the regulatory body in consultation with wills and estates educators and the legal profession, shall be entitled to assist persons with limited assets and uncomplicated estates in preparing their wills and powers of attorney that are within the competence of licensed paralegals in the following circumstances:
 - 8.1.1. The value of the estate, exclusive of real estate value, is less than five hundred thousand dollars;
 - 8.1.2. The distribution of the assets as set out in the will does not contravene the Family Law Act;
- 8.2. Licensed paralegals who have passed a specialist examination in wills and estates law, to be developed by the regulatory body in consultation with wills and estates educators and the legal profession, shall be entitled to prepare and file the necessary papers and to do all that is required in order to administer an

estate with or without a will in circumstances that meet the following conditions:

- 8.2.1. The paralegal is appointed by the next of kin or their appointed administrator;
- 8.2.2. The value of the estate, exclusive of real estate, is less than five hundred thousand dollars;
- 8.2.3. The public guardian is put on notice if any of the beneficiaries are minor children or mentally incompetent persons;
- 8.2.4. The distribution of the assets as set out in the will is in accordance with the Succession Law Reform Act;

9. Corporate and Commercial

- 9.1. Licensed paralegals shall be entitled to assist corporations with business filings including, but not limited to:
 - 9.1.1. Incorporations, amendments, dissolutions, continuances, extra-provincial registrations and all government filings related to Federal or Provincial private, non-profit or charitable corporations, which forms are made available to the general public ;
 - 9.1.2. Business name registrations, changes and cancellations and all government filings, which forms are made available to the general public;
 - 9.1.3. Organization and maintenance of corporate minutes, resolutions and business records; and
 - 9.1.4. Contracts and Leases.

10. Commissioners of Oaths

- 10.1. Licensed paralegals shall be made Commissioners of Oaths.
- 10.2. Licenced paralegals who otherwise meet the qualifications of a Notary Public, may be entitled to apply and receive such designation.