

Banack's Benchers News #55

Volume 3
Issue 9

September 23, 2004

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REGULATING PARALEGALS: A task force completed an extensive, province-wide consultation in respect of a regulatory, proposed approach tabled in May, 2004. The task force report was extensively reviewed by Benchers on September 14th and debated in Convocation today. The model extends the Law Society mandate to regulate the provision of all legal services, including those performed by paralegals. The most thorny issues involve the definition of the practice of law, the scope of permissible paralegal activities and the cost associated with the regulation. It will ultimately be up to the Attorney General to propose the legislative framework. It appears clear that the Government believes that the public is not well served by an unregulated, uninsured paralegal community. However, as a profession, we must ensure that there remains a clear distinction between the services that can be performed by a university trained lawyer having participated in an articling program and passed bar admission exams, in contrast with a community college graduate. The licensing of paralegals must not confuse the public. The current proposal only extends to paralegals performing work as "litigation agents". The proposed framework expressly omits the many paralegals providing service to the public in areas of conveyancing, wills and corporate work. If the public is to be protected and lawyers' specialized training in these areas recognized, ultimately, all paralegals must be subject to regulatory oversight.

LAWPRO PREMIUMS: After a 10 year decline in the base rate from \$5,600.00 per lawyer in 1995 to \$2,500.00 this year, LawPRO base premiums will be increased by \$125.00 to \$2,625.00 per lawyer for 2005. Further increases are projected for 2006 (\$2,825.00) and 2007 (\$3,200.00). Lawyers will still be able to receive up to \$100.00 per lawyer premium credit by successfully completing pre-approved educational courses. An additional \$50.00 per insured lawyer saving can be obtained by e-filing with LawPRO and \$150.00 by paying in one instalment, by cheque or pre-authorized payment. As in the past, sole practitioners and small practices represent a greater risk than large firms. New practitioners, however, represent a disproportionately lower risk than those in practice for 10 years and more. It is still the case that 20% of Ontario lawyers report 80% of the claims made to LawPRO.

NEW LICENSING PROGRAM: Work continues on the development of the new licensing process to commence in 2006. Over 1600 Ontario lawyers have had substantial input into the process and Convocation received outline documents for the discrete Barrister and Solicitor licensing examinations. Content of examinations will undergo ongoing review by subject matter experts. A Barrister Advisory Group and a Solicitor Advisory Group will be selected by the Professional Development, Competence and Admissions Committee.

STUDIES: The Law Society commissioned and has now received 2 significant reports entitled "The Contemporary Legal Profession in Ontario" and "Women's Careers in the Legal Profession". These documents, available on request, provide a longitudinal survey of Ontario lawyers from 1990 to 2002. They contain important empirical research from which future changes in the Profession can be tracked. It will now be possible to identify changes in the composition of the Profession and the nature of the work performed by lawyers in order to assess issues such as the image of the Profession, balancing career and family, stress, compensation, ethics and relations among lawyers.

UNCLAIMED TRUST FUNDS: This program enables lawyers to apply to have trust funds they have held for at least 2 years to be taken over and held by the Law Society thus eliminating the perpetual bookkeeping required in our offices for dormant trust accounts. Approximately 90% of all applications received by the Law Society for transfer of funds have been accepted. In the last 12 month period, over \$900,000.00 has been transferred from lawyers' trust accounts to the Law Society. You may wish to examine your trust accounts to determine whether you would be assisted by this program.

PROFESSIONAL REGULATION: Recent complaints received by the Law Society predominantly deal with problematic relations with clients. The next most frequent complaint relates to financial issues followed by breach of confidence and quality of service which highlights the source for many public relations problems faced by the Profession. Rarely do complaints relate to substandard legal knowledge of lawyers.

LIBRARYCO.: Gavin MacKenzie has assumed the Chair of LibraryCo., succeeding Gregory Mulligan, former Benchers, whose vision and strong leadership guided the organization since its inception. LibraryCo. hired Wendy Herder-Moan, a roving law librarian in July, 2002 to help the staff in the 28 "local" libraries throughout the Province. In addition, she assists in area and regional libraries when requested in respect of special projects. Since July 2002, she has made more than 105 library visits, travelling over 30,000 kilometers by car, as well as flying to Sault Ste. Marie, Thunder Bay and Ottawa. For more information, visit www.libraryco.ca.

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