



## **Professional Development and Competence Department Resource and Program Report**

FOR INFORMATION ONLY

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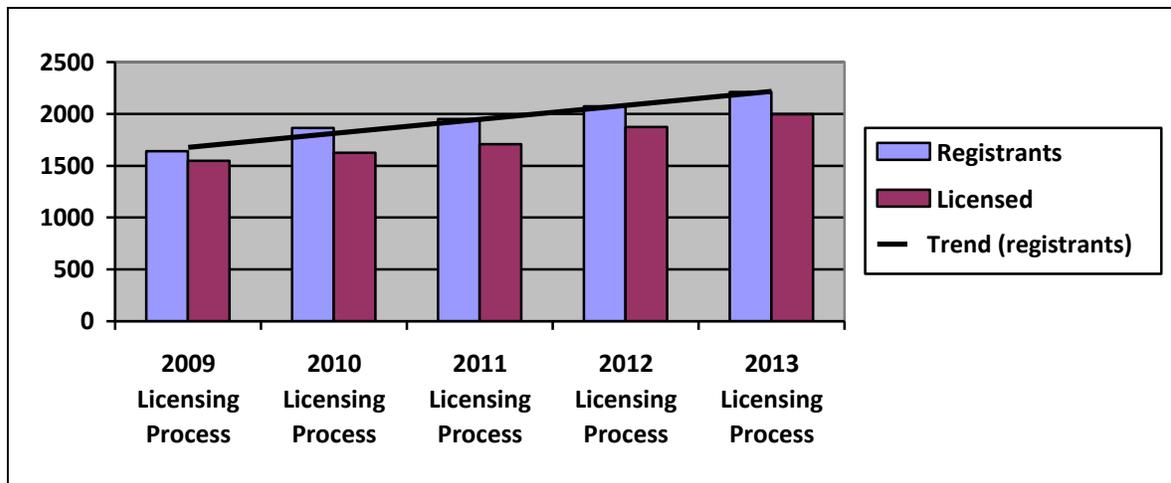
## PROFESSIONAL DEVELOPMENT AND COMPETENCE DEPARTMENT

The Professional Development and Competence (PD&C) Department 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 2013, there were 2212 candidates newly registered in the licensing process.



### 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
2009	15	23
2010	18	22
2011	16	16
2012	18	16
2013	19	16

### 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.

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 lectures, panel presentations and roundtable discussions. There were 159 candidates who attended the 2013 courses for a total of 498 exempted articling candidates who have completed the mandatory course since inception.

There have been eight 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

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

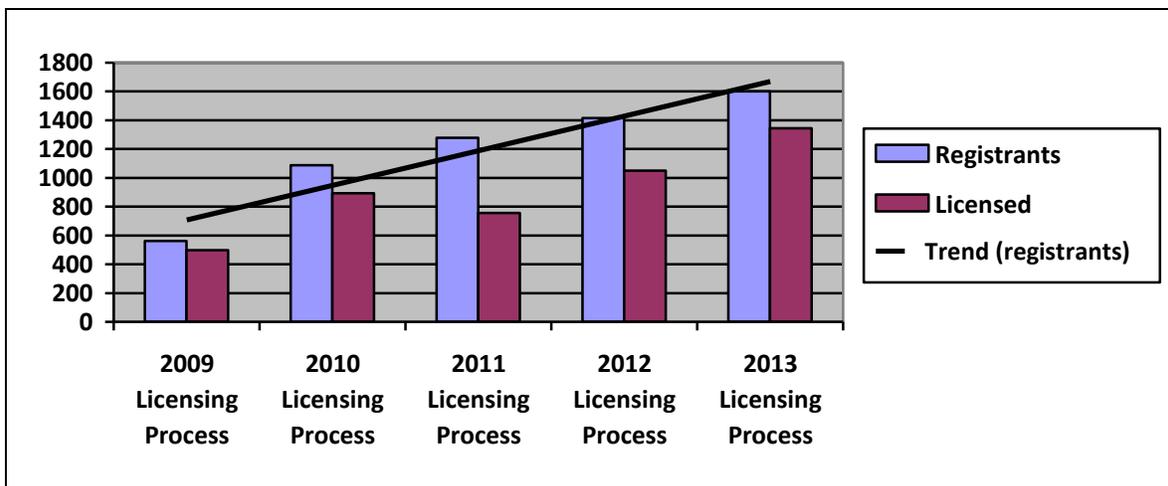
Since the approval of the Articling Task Force Report in November 2012, the PD&C department has been methodically working through the design and development of each of the components of the Pathways Pilot Project. This project is a three year pilot that will result in changes to the Law Society's licensing process that will be developed and implemented for the launch of the new system in 2014. These 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 is 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, in order to meet the deadlines for the new process. That work will continue through to August/September 2014, at which time both the LPP and the newly enhanced articling program will be launched.

**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 2013, there were 1600 candidates newly registered in the licensing process.



PD&C launched the Integration Licensing Process for the Exempted Group/Collection Agents on October 1, 2010. As of May 31, 2014 the three years allowed for the Integration Licensing Process will end for the Exempted Group/Collection Agents applicants.

The chart below indicates the distribution of candidates from the eligible groups for licensing as an exempted category identified in By-Law 4, and their current status.

Exempted Group Integration Category	Still Active	Licensed	Withdrawn
Appraisal Institute of Canada	11	1	0
Board of Canadian Registered Safety Professionals	12	16	3
Human Resources Professionals Association of Ontario	5	14	0
Trade union and/or Designated by OFL	8	13	0
Registered Collection Agent (Collection Agencies Act)	23	21	1
Advisor for Office of the Worker and Employer	25	14	1
Employee of a Legal Clinic (not a student)	15	31	7
In-house legal services provider	81	103	31
Injured Workers group funded by the WSIB	10	3	0
Legal services in a not-for-profit organization	11	11	8
Ontario Professional Planners Institute	1	0	0
<b>Total</b>	<b>202</b>	<b>227</b>	<b>51</b>

Note: 24 of the 34 withdrawals in the "in-house legal services provider" category represent 24 WSIB adjudicators who were assigned status by Convocation and are completing the paralegal licensing requirements under the new designation.

## Paralegal College Program Accreditation

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. 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, 2013, PD&C has approved the accreditation of 27 paralegal college programs at 44 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. Currently there are an additional four applications for accreditation being reviewed by PD&C.

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 2013, the paralegal accreditation team has conducted 27 college program audits. 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 2013, the licensing team worked with psychometricians and members of the profession to develop a new set of substantive competencies and create a blueprint for the expanded licensing examination. The competencies were validated through various focus groups and a survey that was sent to

approximately 2500 paralegal members. The new paralegal licensing examination is on track to be launched for the August 2015 writing of the examination.

## **CONTINUING PROFESSIONAL DEVELOPMENT**

### **CPD Accreditation and Policy Development**

PD&C has continued to receive a high volume of applications for accreditation of programs and activities during the third year in which the CPD requirement has been in effect. As at the end of December 2013, 6288 applications had been processed.

This includes approximately 3900 applications for program accreditation from education providers including approximately 2,400 activity applications from members seeking accreditation of activities such as teaching, writing, mentoring and study groups.

A total of 3,725 education programs received accreditation by the end of December 2013. Program applications were received from major education providers, law firms and in-house legal departments, government legal divisions and related agencies, non-profit entities and a number of legal associations at a provincial and national level.

The following table provides information only on program activity within which professionalism content appears; it does not reflect any substantive program activity.

<b>Category of Applicant</b>	<b>Number of Program Applications Received</b>	<b>Number of Program Applications Accredited</b>
<b>Education Providers (OBA, advocates' Society, etc.)</b>	755	741
<b>Law Firms In-House</b>	926	908
<b>Law Associations</b>	844	808
<b>Government In-House</b>	521	509
<b>Colleges and Universities</b>	43	34
<b>Private</b>	815	725
<b>TOTAL</b>	<b>3,904</b>	<b>3,725</b>

The 2,384 applications received for accreditation of activities, as opposed to formal education programs, are broken down as follows:

<b>Activity Type</b>	<b>Number of Activity Applications Received</b>	<b>Number of Activity Applications Accredited</b>
<b>Teaching</b>	1,305	1,234
<b>Writing/Editing</b>	21	20
<b>Mentoring/Articling</b>	706	703
<b>Study Groups</b>	323	315
<b>Other</b>	29	27
<b>TOTAL</b>	<b>2,384</b>	<b>2,299</b>

The Licensing and Accreditation team has been preparing for implementation of changes to CPD requirement processes and policies arising from the two-year review of CPD announced by Convocation in May 2013. In September 2013, a live webcast was delivered to education providers to explain the changes, which include a new Accredited Provider Framework, elimination of the New Member Requirement, and streamlining of the Law Society Portal. The response from education providers to these outreach efforts has been very positive.

### **CPD Programs and Products**

In 2013, PD&C produced 149 programs, including 111 combined substantive/professionalism programs and 38 free professionalism-only programs. Registration percentages for free (56%) and fee-based (44%) programs in 2013 very closely resembled the 2012 breakdown.

New professionalism programs for 2013 included “Dealing with the Self-Represented” (3,597 registrations) and “The First Client Interview” (2,258 registrations). While registrations for free programs are generally in the thousands, actual attendance can be as low as 50% of the registration total. In October 2013, Convocation approved charging a nominal fee of \$25-\$50 for professionalism-only programs, beginning in 2014. Professionalism programs are designed to give lawyers and paralegals the tools and information to avoid claims of negligence or misconduct. The assumption is that charging a small fee will increase the likelihood that members will honour their commitment to attend.

## 2013 CPD Registration Results

	2009	2010	2011	2012	2013
<b>Total number of CPD programs (all formats)</b>	69	94	164	145	<b>149</b>
<b>Attendance at paid CPD programs (all formats)</b>	15,382	19,785	33,504	36,118	<b>37,449</b>
<b>Attendance at free CPD programs (all formats)</b>	n/a	n/a	60,732	47,582	<b>51,244</b>
<b>Total number of all attendees</b>	15,382	19,785	94,236	83,700	<b>88,693</b>
<b>Average attendance at CPD programs (all formats)</b>	223	210	575	577	<b>595</b>

### Program Formats and Materials

CPD provides members with a variety of flexible options for fulfilling their CPD Requirement. Seventy-seven of the 2013 programs were accessible solely via webcast; 67 were presented both in person and via webcast; and five (5) were presented in person only. Almost all programs are also available for purchase on demand after the original presentation date. CPD also schedules a number of replay dates to fit member schedules. Since the CPD Requirement was introduced in 2011, there has been a continual shift away from live attendance in favour of online viewing. In 2013, 90% of registrants viewed programs online.

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. Closed captioning services are made available to members upon request. Both live attendees and webcast viewers receive access to the on demand video recording so they can review sections of the program if they wish. All registrants also receive access to the electronic program materials as part of their registration fee, with an option to purchase hard copy for a small additional fee. In 2013, only 8.8% of registrants purchased hard copy materials.

## Live (in person) Programs

	2009	2010	2011	2012	2013
<b>Total Number of programs</b>	56	64	114	78	<b>72</b>
<b>Total number of attendees</b>	5,607	6,552	14,306	9,562	<b>8,595</b>
<b>Average Attendance</b>	<b>100</b>	<b>102</b>	<b>125</b>	<b>123</b>	<b>119</b>

## Webcast

	2009	2010	2011	2012	2013
<b>Total Number of programs</b>	57	65	150	137	<b>144</b>
<b>Total number of attendees</b>	5,649	7,084	67,072	60,331	<b>63,622</b>
<b>Average Attendance</b>	<b>99</b>	<b>109</b>	<b>447</b>	<b>440</b>	<b>442</b>

## Post-Program Products

Once programs are held, electronic and hard copy materials, on demand webcasts, and MP4 video files are made available for members to purchase. CPD also works with the County Law Associations to arrange local group replay sessions. In 2013, 18 counties ordered a total of 405 replays with a total of 771 members participating across the Province. In conjunction with the Great Library, CPD produces AccessCLE, an online repository of articles from CPD programs. In 2013, PD&C began making articles from programs held 18 months or more in the past available free of charge. Although the mix of post-program product purchases has changed dramatically, overall sales continue to grow.

	2009	2010	2011	2012	2013
<b>On Demand</b>	1,419	1,510	4,946	13,832	<b>16,476</b>
<b>Hard Copy Publications</b>	10,379	9,590	8,313	7,546	<b>6,770</b>
<b>TOTAL</b>	<b>11,798</b>	<b>11,100</b>	<b>13,259</b>	<b>21,378</b>	<b>23,246</b>

## **CPD Program Development Highlights**

The CPD team works closely with volunteer lawyers and paralegals to develop relevant and timely programs. Programs are designed for a variety of practice areas and experience levels. In 2014, approximately 130 programs will be presented, including 40 live webcast programs and interactive online courses focusing on professional responsibility, ethics, and practice management issues in a variety of practice areas.

2013 CPD program highlights included the “Intensive Child Protection Training Program,” a 4-day program presented in cooperation with the Association of Family and Conciliation Courts (AFCC). In conjunction with the Equity Department, CPD presented “Droit au but! Parlons grammaire,” a legal writing program in French. “Enhancing Access to the Courts for People with Disabilities, Part II,” presented in conjunction with the Courts Disabilities Accessibility Committee and The Advocates’ Society, drew 1238 attendees. The 10<sup>th</sup> Annual Real Estate Law Summit attracted a record number of registrants for a fee-based program with 1,197 attendees.

## **PRACTICE MANAGEMENT**

### **Practice Management Helpline**

The Practice Management Helpline 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 2013, the Practice Management Helpline received approximately 7,090 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, 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, 2013 can be broken down by size of practice:

	Lawyers		Paralegals		Total Licensees	
	# of calls	% of total	# of calls	% of total	# of calls	% of total
<b>Sole practitioners</b>	2,740	46.0	604	53.3	3,344	<b>47.1</b>
<b>Small Firms (2 to 5)</b>	1,504	25.2	239	21.1	1,743	<b>24.6</b>
<b>Medium Firms (6 to 10)</b>	342	5.7	28	2.5	370	<b>5.2</b>
<b>Larger Firms (&gt;10)</b>	597	10.0	17	1.5	614	<b>8.7</b>
<b>Other</b>	776	13.0	246	21.7	1022	<b>14.4</b>
<b>Total calls for assistance</b>	5,959	100	1,134	100	7,093	<b>100</b>

The majority of lawyers who called the Helpline in 2013 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:

1. Conflicts of Interest
2. Confidentiality
3. Trust Accounts
4. Lawyer Annual Report
5. Client Identification and Verification
6. Withdrawal From Representation
7. Books and Record Keeping
8. Client Property
9. Fraud
10. File Ownership/Transfer

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:

1. Paralegal Scope of Practice
2. Conflicts of Interest
3. Trust Accounts
4. Confidentiality
5. Withdrawal from Representation
6. Firm Name
7. Paralegal Annual Report
8. Advertising/Marketing

9. Practice Arrangements
10. File Ownership/Transfer

## **Practice Management Resources**

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 Practice Tips, the e-Bulletin or the Manage Your Practice section of the Law Society Web site. Counsel and representatives have direct contact with the members on a daily basis and are in a unique position to assess the Law Society's resources and identify, recommend and create new, valuable and necessary resources.

The Technology Practice Tips are podcasts that provide practical information on a variety of issues in MP3 format. In response to feedback from members, twelve new podcasts were developed in 2013, including tips on texting, clean devices internet printing, browsing, news readers and RSS feeds.

In 2013, counsel also began an intensive review of all existing lawyer and paralegal practice management resources to ensure their currency, relevance to the profession and effectiveness in the new Web site environment. Reviewing, revising and streamlining of the existing practice management resources will continue in 2014, including the update of all resources in preparation for the implementation of the Model Code.

## **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 174 lawyers and 7 paralegals on the Practice Mentoring roster, representing a number of practice areas. In 2013, 35 lawyers and 3 paralegals were each matched with a mentor.

## **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.

	2009	2010	2011	2012	2013
Number of Specialists	720	714	775	763	766
Specialists in Toronto Area	408	402	443	442	459
Specialists Outside Toronto	312	312	332	321	307
Number of Specialty Areas	15	15	15	15	15

The following chart breaks down the number of certified specialists by practice area in 2013.\*

Areas of Specialization	Number of Specialists	Areas of Specialization	Number of Specialists
Bankruptcy and Insolvency Law	9	Family Law	64
Citizenship and Immigration Law	51	Health Law	19
Civil Litigation	294	Intellectual Property Law (Trademark/Patent/Copyright)	39
Construction Law	35	Labour Law	23
Corporate and Commercial Law	20	Municipal Law	30
Criminal Law	91	Real Estate Law	23
Environmental Law	39	Work Place Safety and Insurance Law	9
Estates and Trusts Law	39		

*\*The total number of specialists in this chart is slightly greater than the total number of specialists in 2013 (first chart above) as some specialists are certified in more than one area of law.*

The Certified Specialist Board continues to expend approximately \$40,000 per annum on marketing efforts to increase awareness of the Certified Specialist designation in the public and the profession. In 2013, Specialists were provided with new promotional tools, including a lapel pin and series of bookmarks designed to provide key information about the program.

Other recent activities have included a series of notices in the Ontario Reports and articles in the Ontario Lawyers Gazette.

PD&C has begun planning for the development of the Aboriginal Law specialty area, as approved by Convocation in June 2013. Practitioners and subject matter experts have been engaged to assist with the creation of the practice experience competencies and learning criteria, and a list of potential working group members has been compiled for use in validation activities.

All of 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 their desktops. While the Great Library is the primary legal research resource for paralegals, lawyers also use the Great Library's services through their local law associations.

### **Library Services**

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 number of reference questions received in 2013 increased. The library team answered 23,504 questions in 2013, up from 21,157 in 2012.

### **Rebooted Web Site**

The Great Library's team worked with the PD&C Web Content Management team to design a new, more streamlined Web site for the library. Reference staff culled much of the content from the old Web site, collapsing most of the content into a handful of pages. At the same time, they migrated pathfinders on how to find specific types of legal information to Libguides. This service is used by thousands of libraries to host this type of guide. By placing the Great Library's "finding" tools into Libguides, the Reference team achieves heightened visibility for those using the Libguides platform while also having an easier framework for maintaining these documents.

Library managers led the design process and usability testing to create a more modern and easy to navigate site. Visitors are presented with a variety of search tools as soon as they reach the library's home page. These tools highlight the depth of content that is accessible within the library, and much of this content can be accessed for free from anywhere.

The library team also started a blog on legal research topics for lawyers and paralegals. The Reference staff contributes a weekly post and the blog will act as a current awareness tool and proactive information sharing resource for Law Society members.

The Law Society of Upper Canada | Barreau du Haut-Canada

FOR THE PUBLIC | FOR LAWYERS | FOR PARALEGALS | Search the web site | SEARCH

## Great Library

Ask a Law Librarian | Order a Document

Today's Hours  
 Tuesday, January 14, 2014  
 9:00 AM to 10:00 PM  
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 E-mail: refstaff@lsuc.on.ca

Everything | Books | CPD | eJournals

Search for books, journals, Law Society CPD articles, and Web pages  
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Legal research guides, databases, print resources....  
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Latest Blog Posts

Research Beyond The Law Library  
 Public libraries in Canada are thriving knowledge and community centres, but did you know that they are also a great resource when preparing for a legal matter?

Access US State Case Law Free Thru Heinonline  
 Law Society members can access HeinOnline for free at their offices and can now access US state case law provided by Fastcase

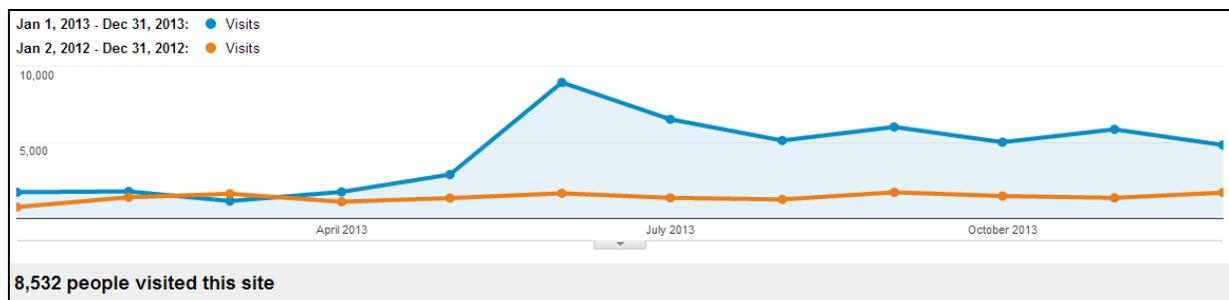
Social Search to Find Online Commentary  
 When legal publishing commentary lags behind the latest release by the courts, you can use social media search engines to help you find

## Searching More Content

Primo is the library's search tool, which provides access to a wide variety of information through the library's Infolocate.ca search site, and powers the Law Society's Web site search.

Convocation's minutes had been searchable in an outdated tool known as Folio Views and a replacement was required. Corporate Records and Archives converted the minutes into PDF documents, maintained the necessary security on *in camera* documents, and prepared them for access through Infolocate. The group worked with the systems team to import the content into the same database that provides access to the Law Society's CPD articles. The documents were then redefined so that Law Society staff will be able to search content securely while the public will be able to find minutes that are public records.

The library's collaboration with the CPD team on AccessCLE continued, with one significant change. Law Society CPD articles that are older than 18 months are now available to download for free. There was a huge surge of interest when the announcement occurred, and the policy change has increased the overall use of the service. There was an 83% increase in unique visitors to the site, from 4,649 in 2012 to 8,352 in 2013. These additional visitors led a 208% increase in visits and a 232% increase in page views.



## **Corporate Records and Archives**

The Corporate Records and Archives team has been involved in various projects within the Law Society in 2013. The Corporate Records team has supported the initial stages of the Law Society's move towards enterprise content management. The Archivist also supported ongoing research by the Heritage Committee into historic discipline matters.

In addition to collaborations with the Great Library's systems team on Convocation's Minutes, the Archives have been extending the information on the Web. Ontarians interested in the Law Society's history can watch video clips on You Tube of historic CLE seminars with well-known members of the legal profession. The Archives team also maintains a blog for current awareness on items within their collection.

## **Web Content Management**

The Web Content Management team focused on behind the scenes projects in 2013. Following the successful implementation of the Tribunals smart forms in 2012, the team adapted similar forms to enable Equity and Aboriginal Affairs staff to manage the Contract Lawyers Registry. The forms provide editorial control, to approve new positions or remove old ones, without requiring, technical expertise to make every change.

Another significant improvement will only be noticeable to those visitors who access the Law Society's Web site on mobile devices. The team converted the site to use responsive design, so that the Web pages resize depending upon the size of screen the visitor is using. Rather than creating a mobile version of the Law Society's Web site, it enables the Society to create one set of content, and the responsive design fits it to the particular device.

The team also worked on refreshing some sites. The Great Library Web site was migrated from its old server and into the content management system, and given a new look and feel that is more intuitive for users. At the same time, the team reconsidered the lay out of the Law Society's Intranet site. The revised navigation and functionality replaced the current site in early 2014.

## **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. The goal of the Spot Audit program in 2013 was to audit every law firm in the province once every five years. In 2013 over 1,815 audits were conducted.

The majority of the 2013 audit engagements found that the firm had either minor or no books and records' deficiencies (50%) or deficiencies that were readily remediated to the Law Society's satisfaction (44%).

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:

<b>Books and Records Issues</b>	<b>% Failed to Meet Requirements</b>
Completeness of books and records information	86%
Completeness of client ID information	52%
All cash receipts recorded	52%
Inactive accounts managed	46%
Currency of records	21%
Transfer funds from trust account after delivery of fee bill	19%
Maintained security over E-reg diskette	18%

As of 2014, the audit routines will change in accordance with Convocation's recent approval to streamline these activities. The Law Society has recently 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 from 230 fewer audits in 2014 and a further reduction of 170 audits in 2015.

### **Practice Review Program**

A Practice Review addresses an individual licensee's practice activities and management. The Law Society now conducts three 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 2014 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 2014;
- 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 2014.

### **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 2013, 549 practice management reviews were conducted (433 initial reviews plus 116 revisits). Approximately, 25% of initial attendances found that lawyers were not meeting standards of professional competence: sole practices at 37%; small firms at 15%; mid/large firms at 5%. As a result, a revisit is required to assess the implementation of recommendations made in the initial reviewer's report.

Over 98% 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 2013 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.

	% Failed to Meet Minimum Standards		
	2009	2013	Difference
<b>General Observations on Law Firm</b>			
Power of Attorney to another lawyer	78%	71%	( 7%)
Written office manual	60%	34%	(26%)
Written business arrangements	49%	39%	(10%)
Contingency planning	34%	30%	( 4%)
Data security	22%	12%	(10%)
<b>Client Service and Communication</b>			
Written retainer agreements	44%	26%	(18%)
Sufficiency of written retainers	34%	29%	( 5%)
Phantom clients	32%	22%	(10%)
Conflicts management	29%	28%	( 1%)
<b>File Management</b>			
Limitation periods and other key dates	27%	28%	1%
Key information in files	25%	9%	(16%)
Adequate documentation in file	17%	15%	( 2%)
File management system	12%	10%	( 2%)
<b>Financial Management</b>			
Duplicate cash receipts	45%	19%	(26%)
Books and records are current	24%	16%	( 8%)
Manage financial health of the firm	23%	23%	( 0%)
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, the Articling and Beyond 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 revisit 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.

Of those lawyers who underwent a revisit for a 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	Return Visits Required	Revisit Percentage of Total
2009 – 2013	6, 862	499	7%
2002 – 2008	6, 172	341	6%

Practice Review History of Revisits for Sole and Small Firms	Number of Firms Audited	Return Visits Required	Revisit Percentage of Total
2011 – 2013	999	313	31%
2008 – 2010	709	203	29%

Noticeably, the rate of revisits in Practice Review for sole and small firms has increased over the most recent five 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 2013, there were 181 practice audits of paralegal practices conducted (113 initial audits plus 68 revisits). The program has been well received by paralegals, with 100% 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, 2013, 55% of initial attendances found that paralegals were not meeting standards of professional competence and a revisit would be required to assess the extent of remediation.

Practice Audits		
Number of paralegals reviewed since inception (2008 – 2013)	436	
Return visit required	238	55%

The top ten practice management deficiencies found in conducting a practice audit of paralegal practices in 2013 and compared to 2009 (the first full year of the practice audit program), are:

Paralegal Practices – Areas of Review	% Failed to Meet Minimum Standards		
	2009	2013	Difference
Power of Attorney to another legal services provider	87%	71%	(16%)
Written business arrangements	75%	31%	(44%)
Phantom clients	72%	30%	(42%)
Written office manual	80%	9%	(71%)
Time docketing	62%	30%	(32%)
Conflicts management	60%	34%	(26%)
Duplicate cash receipts	51%	48%	(3%)
Books and records comply with By-Law #9	53%	46%	(7%)
Data security	37%	12%	(25%)
File management	35%	27%	(8%)

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.

### 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 units to develop CPD programs on effective practice management processes. These seminars have been presented by experienced practice reviewers to various local law associations. Three such seminars were conducted in 2013, in addition to six presentations to specific associations (Hamilton Family Law Association, Halton District, Sudbury District, Hamilton Criminal Law Association, Licensed Paralegal Association of Ontario, Ontario Bar Association).

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 5 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 units. For 2013, the team conducted 1,034 CPD compliance audits, comprised of 591 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.