



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

Professional Development, Competence & Admissions Committee **February 24, 2005**

Report to Convocation

Purpose of Report: Decision

Committee Members
George D. Hunter (Chair)
Gavin A. MacKenzie (Vice-Chair)
William J. Simpson (Vice-Chair)
Robert B. Aaron
Peter N. Bourque
Kim A. Carpenter-Gunn
E. Susan Elliott
Alan D. Gold
Gary Lloyd Gottlieb
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Robert Martin
Bonnie R. Warkentin

Prepared by the Policy Secretariat
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LICENSING PROCESS –FINAL DESIGN APPROVAL

Request to Convocation

1. **That Convocation, having approved in December 2003 the model for the new Licensing Process for admission to the Law Society of Upper Canada, approves the design of that model, as fully described in the Information reports listed in paragraph 8 below, and summarized in Appendix 1 to this report.**

Summary of the Issue

2. In December 2003 Convocation approved a model for a new Licensing Process for admission to the Law Society of Upper Canada, to begin in 2006. The three components of the process that Convocation approved are:
 - a. A skills and professional responsibility program and assessments;
 - b. 2 licensing examinations: a barrister examination and a solicitor examination, each including a professional responsibility component; and
 - c. the continuation of the articling program.
3. The Committee was to return to Convocation with the proposed design of the components for Convocation's approval. Since December 2003 the design of the new Licensing Process has been ongoing, with Convocation receiving detailed information reports on the progress of various design components in June 24, 2004 (Skills and Professional Responsibility competencies and Licensing Examination competencies), September 23, 2004 (Licensing Examinations), November 25, 2004 (Articling) and January 27, 2005 (Skills and Professional Responsibility Program). A summary of the proposed design of the components is set out at **Appendix 1** to this report.
4. The design work has now been completed.

THE REPORT

Terms Of Reference/Committee Process

5. The Committee met on February 10, 2005. Committee members George Hunter (Chair), Bill Simpson (Vice-Chair), Peter Bourque, Kim Carpenter-Gunn, Laura Legge and Bonnie Warkentin attended. Staff members Diana Miles and Sophia Sperdakos also attended.
6. The Committee is reporting on the following matter:

Policy – for Decision

- New Licensing Process – Final Design Approval

POLICY – FOR DECISION

NEW LICENSING PROCESS – FINAL DESIGN APPROVAL

7. In December 2003 Convocation approved a model for a new Licensing Process for admission to the Law Society of Upper Canada, to commence in 2006. The three components of the process that Convocation approved are:
 - a. A mandatory attendance skills and professional responsibility program and assessments;
 - b. 2 licensing examinations: a barrister examination and a solicitor examination, each including a professional responsibility component; and
 - c. The continuation of the articling program.
8. The Committee was to return to Convocation with the proposed design of the components for Convocation's approval. As the Committee developed each design component it provided detailed information reports to Convocation:
 - a. In June 2004 Convocation received a report setting out the competencies that will underlie the new process;

- b. In September 2004 Convocation received a report on the blueprinting portion of the Licensing Examination development process;
 - c. In November 2004 Convocation received a report on enhanced articling educational supports and the length of the articling term. In addition, Convocation was advised of the Director of Professional Development and Competence's plan to establish advisory groups to provide ongoing annual assessment of the examination process and the skills and professional responsibility component of the process; and
 - d. In January 2005 Convocation received a report on the proposed curriculum plan for the skills and professional responsibility program, including the proposed length of the program.
9. A summary of the design described in the reports referred to above is set out at **Appendix 1.**
10. To date, over 1700 lawyers in Ontario have had substantial input into the development of the new Licensing Process. Lawyers will continue to be substantially involved in the process over the coming months.
11. To complete Convocation's consideration and approval of the policy components of the new Licensing Process, the Committee seeks approval of the design for the Licensing Process, as fully described in the information reports listed in paragraph 8 above, and summarized in **Appendix 1.**

Request to Convocation

12. **That Convocation, having approved in December 2003 the model for the new Licensing Process for admission to the Law Society of Upper Canada, approves the design of that model, as fully described in the information reports listed in paragraph 8 above, and summarized in Appendix 1 to this report.**



The Law Society of
Upper Canada

Barreau
du Haut-Canada

APPENDIX 1

LICENSING PROCESS FOR ADMISSION TO THE BAR IN ONTARIO

Prepared for:
Convocation

Prepared by:
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February, 2005

Executive Summary

1. Design and development of the components of the new Licensing Process began immediately following Convocation's approval in December 2003. The three components are:
 - a) Mandatory Skills and Professional Responsibility Program;
 - b) Licensing Examinations: Barrister Examination and Solicitor Examination;
 - c) Articling Term.
2. The first step in the design process was to establish the competencies that would be tested or otherwise assessed in the Licensing Process. Competencies are the knowledge, skills, abilities, attitudes and judgment to be expected of an entry-level lawyer.
3. The involvement of the profession has been a key component in determining the core competencies for entry-level lawyers. Involving subject matter experts has brought a comprehensive and essential perspective to competency identification.
4. To facilitate the development process, lawyers from across the province were recruited to participate in competency development teams, focus groups, surveys and examination teams. These lawyers assisted the Law Society to define and confirm (validate) the competencies that will be instructed, tested or otherwise supported.
5. To date, 1782 lawyers from across the province have been involved in the development of the various components of the new Licensing Process.
6. Many of these lawyers were asked to participate in substantial group work, such as advisory/development groups, focus groups and panels. This type of work involved many days of focused effort on the part of the lawyers who participated.
7. Specifically, the lawyers who have participated to date have supported the following activities:
 - a) Defining the substantive and professional responsibility competencies for the licensing examinations: 19 lawyers met in two groups for four consecutive full days per group;
 - b) Undertaking the first confirmation (validation) of the competencies for the licensing examinations: 46 lawyers met in six groups for one full day per group;

- c) Undertaking the second confirmation (validation) of the competencies for the licensing examinations: 421 lawyers spent two and one-half hours per lawyer;
 - d) Undertaking the third confirmation (validation) of the competencies for the licensing examinations: 12 lawyers met in two groups for two full days per group;
 - e) Reviewing and weighting competencies and establishing blueprints for the examinations: 14 lawyers met in two groups for four consecutive full days per group;
 - f) Examination question writing: 103 lawyers met in nineteen subject matter specific groups for three consecutive full days per group;
 - g) Assessing and reviewing the examination questions to confirm their validity: 65 lawyers spent three hours per lawyer;
 - h) Defining the skills and professional responsibility program competencies: 39 lawyers met in seven groups for one full day per group;
 - i) Confirming (validating) the skills and professional responsibility competencies: 50 lawyers representing five groups of differing firm sizes and the judiciary spent four hours per lawyer/judge;
 - j) Participating in a survey to confirm the length of Articling term and define Articling enhancements: 1013 lawyers spent two hours per lawyer.
8. To date, these lawyers have spent over 7300 business hours assisting the Law Society to validate the framework for the new Licensing Process.
 9. Participating lawyers reached a full consensus on every component of the design and development work that required group work and debate on the issues.
 10. The amount of time and effort that members of the Law Society have devoted to this process is unprecedented. Members' dedication to supporting the licensing framework for the profession has substantially enhanced the quality of the development process for the new Licensing Process.
 11. Attached at **Appendix A** to this report are various comments that lawyers who participated in the design have offered about their experience in the development process.
 12. Information about the Licensing Process has been disseminated widely and will continue to be provided as development continues. In addition to the continuing

work with the profession, the following steps to inform law school students, law school staff and the profession have been taken:

- a) An information bulletin including questions and answers about the new Licensing Process was circulated to law schools students, Deans of the law schools, career development officers at the law schools, managers of students, Articling and associates at law firms across Ontario, and to education staff at law societies across Canada;
- b) On October 1, 2004, December 8, 2004 and January 28, 2005, the bulletin was updated and re-circulated to reflect information provided in each of the PDC&A Committee's Reports to Convocation on the design of the Licensing Process;
- c) All information is also posted on the Law Society Web site. This information is critical for law school students who are already making plans to apply to enter the Licensing Process;
- d) PD&C Department staff have also visited each Ontario law school at least twice since Convocation's approval in December 2003 to outline the new process and respond to questions.

Attached at **Appendix B** is the most recently circulated bulletin (January 2005).

13. An ongoing communication and information plan has been developed to support the implementation of the new Licensing Process. These communications will provide continuing updates about the new system to candidates and members.

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The Licensing Process: Design and Development

14. The new Licensing Process for admission to the bar in Ontario is scheduled to be implemented in 2006. To meet this deadline, design and development has been ongoing since January of 2004.
15. A synopsis of the final design for each component follows. Convocation has already received detailed information in its Convocation materials on the work undertaken to support development and decision-making related to each component: June 24, 2004 (Skills and Professional Responsibility competencies and Licensing Examination competencies), September 23, 2004 (Licensing Examinations), November 25, 2004 (Articling) and January 27, 2005 (Skills and Professional Responsibility Program).

Component 1: Skills and Professional Responsibility Program

16. In December 2003 Convocation approved a mandatory Skills and Professional Responsibility Program, the framework of which was contained in the report to Convocation dated October 23, 2003. The only outstanding issue for Convocation's later approval was the length of the program, which was to be determined as part of the design and development process.
17. In summary, the format of the Skills and Professional Responsibility Program design is as follows:
 - Begins in May, approximately one full week after law school, which allows candidates to take advantage of OSAP (Ontario Student Assistance Program) support;
 - Will be offered in Windsor, London, Ottawa (English and French) and Toronto;
 - Five weeks in length;
 - Four hours per day;
 - Attendance is mandatory;
 - Employs a problem based learning method focusing on teamwork using file scenarios that reflect the realities of daily practice;
 - Provides instruction and testing on practice skills in both the solicitor and barrister environment, professional responsibility and ethics, and practice and client management;

- Includes assessments, assignments and other methods of developing and testing the knowledge, skills and abilities of the candidates throughout the program;
 - Final scoring designations will be pass or fail along with commentary and input from assessors;
 - A remedial week, which will be the week immediately following the program of instruction (week six), allows candidates who are unsuccessful on an assessment or assignment to reassess or resubmit their work and complete the program prior to Articling.
18. The competencies to be instructed and assessed in the Skills and Professional Responsibility Program were developed through a series of focus group discussions with members throughout Ontario in the spring of 2004.
 19. The first draft of the competencies was further refined and validated using a panel or group consensus approach. This approach is used to achieve consensus among panels of practitioner experts and has been successfully used by other professions, including the judiciary, in order to determine essential skills and knowledge and to plan the teaching and development of professional standards.
 20. The final version of the competencies and the priority of skills identified by the lawyer participants were consistently viewed as most important for a newly called lawyer to possess. These priorities form the core of the curriculum design plan.
 21. Convocation received the final list of competencies for the Skills and Professional Responsibility Program for information on June 24, 2004.
 22. There are two concepts upon which all curriculum design decisions for this Program are based:
 - a) That future lawyers should be effective, self-initiated problem-solvers who are able to identify the elements of what they need to know and should be able to carry out a task, even if they are approaching it for the very first time; and
 - b) That future lawyers should be cognizant and respectful of their obligations as professionals in the service of the public.
 23. The learning objectives for this Program will be achieved using a problem-based learning method (PBL) in combination with other instructional methods such as self-directed learning, small group activities, teaching sessions, and web-based exercises. All of the learning activities will be designed to:

- a) provide the candidates with opportunities to increase their awareness of issues relating to ethics and professionalism;
 - b) improve their ability to identify issues when they arise; and
 - c) develop their analytical skills in dealing with the issues they will confront in the practice of law.
24. Problem-based learning requires that candidates work collaboratively and efficiently to develop strategies for handling client matters. Each of the files developed for the Program will be designed to raise both explicit and implicit professional responsibility, ethical and practice management issues. Candidates will be expected to identify those issues as they arise and propose ways to deal with them that are consistent with the *Rules of Professional Conduct* and within their own ethical framework.
25. The focus on collaborative work in this Program will reinforce for all candidates the importance of establishing and maintaining relationships with colleagues in the legal profession regardless of the type of environment in which they will eventually practice – sole practice, small firm, mid-sized firm, large firm, in-house, government or other.
26. All PBL instructors involved in this Program will be practising lawyers. Prior to the commencement of the Program, all PBL instructors will receive comprehensive training on facilitation in a small group learning environment, group dynamics, conflict resolution, skills development and how to apply the assessment criteria consistently. Candidates will be asked to evaluate the instructors and constructive feedback will be provided to facilitate instructor improvements.
27. The defined competencies have been integrated into the design of the Skills and Professional Responsibility Program. The learning objectives can best be achieved in a program that is five weeks long and consists of half-day sessions. In keeping with Convocation’s decision, attendance at the Program will be mandatory during the five weeks.
28. A sixth week will be built into the Program to enable candidates who are unsuccessful on assessments or assignments to redo the assessment or resubmit their work. This will ensure that all candidates have a full opportunity to successfully complete the Program without any uncertainty as to their standing as they enter the other components of the Licensing Process. Reassessments will be scheduled throughout the sixth week and candidates will attend only at the time of their scheduled reassessment. Reassessments will take approximately one hour.
29. Attached at **Appendix C** is an excerpt from the Curriculum Plan which was provided in full to Convocation, for information, in January 2005. The excerpt

provides the Program overview including scheduling and structure and outlines a typical week of instruction.

Component 2: Barrister Examination and Solicitor Examination

30. In December 2003 Convocation approved the examination component of the Licensing Process. Candidates are required to pass two examinations, a Barrister Examination and a Solicitor Examination. There are no further approval issues related to this component for Convocation to consider.

31. The format of the Licensing Examinations will be as follows:

- Barrister and Solicitor Examinations will be offered three times per licensing year in June/July, November and March;
- Candidates may take the Barrister and Solicitor Examinations in the same examination period or separately in different examination periods;
- Examinations will consist of four-option multiple-choice questions;
- Questions are presented in two formats: independent items where the text that is provided is used to answer one question; case based items where the text provided is used to answer between four and ten items linked together by a scenario;
- Examinations will be open book;
- Each examination will be one day, or approximately 7 hours, in length;
- Reference materials will be provided to support study and will be given to candidates at the beginning of the licensing year (the first day of the Skills and Professional Responsibility Program);
- An Advisory Group of practising lawyers who are subject matter experts will set examination pass scores for each individual test question;
- Candidates will receive a pass or fail score on an examination;
- Unsuccessful candidates will receive an evaluation form that will identify their relative strengths and weaknesses in the major competency categories which will assist in preparation for taking the examination again;
- Articling Principals must permit candidates five uninterrupted business days to study for each examination, one business day to write each examination and one free day per examination for a total of fourteen business days. This requirement must form a part of the Articling

Contract between firm and student-at-law. An uninterrupted business day is a day that is free from the obligations of Articling employment;

- Candidates will be allowed three years within which to pass the examinations (and complete all other components of the Licensing Process), for a potential total of nine sittings of each examination.
32. As in the case of the Skills and Professional Responsibility Program design, many practising lawyers have been involved in the development of the licensing examinations. In the spring of 2004, approximately 500 lawyers from the profession participated in various group and survey activities to define and validate the entry-level substantive and professional responsibility competencies to be tested in two licensing examinations, a Barrister Examination and a Solicitor Examination.
33. The focus of this assessment was to ensure that the competencies that the examinations would test are those that:
- a) have the most direct impact on public protection;
 - b) influence effective and ethical practice; and
 - c) can be measured reliably and validly by the question format used in the examinations.
34. Convocation received the final list of competencies, for information, on June 24, 2004.
35. Using the validated competencies as the starting point for developing a Barrister and a Solicitor Examination, lawyers then worked with expert facilitators to derive a blueprint for each examination, ensuring that:
- a) what is being assessed is replicated as closely as possible from examination to examination; and
 - b) all test questions on an examination are linked to validated competencies.
- This activity resulted in the examination format decisions outlined above in paragraph 30, among others.
36. Examination question development began immediately following the presentation of the Blueprint Document to Convocation in September 2004. Examination question writers are lawyers. They have been invited to join the process of drafting questions to measure the established and validated competencies.
37. Examination question writing for the first sitting of the examinations was completed mid-February 2005. The next step in the process is to conduct an

examination question assessment with practising lawyers to revisit every question and confirm validity and fairness. Approved questions will then be placed in the examination bank and will be re-evaluated annually.

38. In support of the preparation for Licensing Examinations as well as ongoing skills development and Articling activities, the Law Society's e-Learning site will be enhanced and will offer a wide range of learning supports. These supports will include archived video presentations on skills, substantive and procedural areas, precedent documents and practice examination questions. Resources on the site will address the knowledge, skills and abilities required of entry-level lawyers in support of their licensing activities.

Component 3: Articling Term and Enhancements

39. In December 2003 Convocation approved a continuation of the current Articling system with enhancements. The only outstanding issue for Convocation's subsequent approval was the length of the Articling term.
40. As part of the Law Society's commitment to ensure that candidates involved in Articling continue to receive relevant and practical educational supports in the new Licensing Process and during their articles, consultants were retained to conduct two surveys, one to past and current principals and one to recently called members. The surveys were conducted in July 2004.
41. The overall objectives of the surveys were to:
- a) investigate impressions of the Articling experience, and in particular, to assess the sufficiency of the ten month Articling term; and
 - b) assess the usefulness of current and proposed educational supports to enhance the Articling experience.
42. The survey results indicate that a strong majority of principals (78%) and of recently called members (84%) feel that the current ten month Articling term is sufficient and that the Articling experience is a valuable process in preparing candidates for the practice of law.
43. On that basis the program design recommends that the Articling term be ten months in length, including two weeks paid vacation.
44. The Articling contract between principal and candidate will include provision for the candidate to receive the required uninterrupted study time to prepare for the licensing examinations that are designed to be written during the Articling term.
45. In both surveys, members were also provided with a list of proposed educational enhancements and asked to indicate those they believe would be most useful in

strengthening the Articling experience and preparing candidates for the practice of law.

46. The preferred enhancements members suggested were:

- Making available precedents and supplemental materials related to skills development;
- Connecting candidates with a skills mentor who would be designated to provide ongoing support throughout the Articling process;
- Creating CLE programming suitable for Articling and early practice stages;
- Continuing to supplement the Law Society's e-Learning site to provide self-study on demand webcasts, supplementary documents, precedents, checklists and other supports;
- Providing materials and/or seminars on expectations in the workforce, dealing with difficult people, taking direction, eliciting quality feedback and other similar tasks;
- Offering CLE programs on the business aspects of law firms targeted to candidates and new lawyers.

47. The Law Society already provides many of these supports. The Education Support Services Office offers placement support in the form of job search skills workshops, a job postings Web site, one-on-one career counseling and a mentorship program. Education Support Services also provides materials on personal and professional development. For example, there are resources on stress management, meeting a Principal's expectations and a guide for Principals on giving constructive feedback. These important supports will be continued and enhanced to ensure that candidates receive the assistance they require to move through Articling and other Licensing Process components.

48. In addition, a number of continuing legal education programs geared specifically to newly called lawyers are offered on a regular basis, for instance, the New Lawyer Experience Workshop. There are also several other resources available for lawyers to "bridge the gap" between licensing and actual practice such as the Opening Your Practice Workshop, Bookkeeping Guide, Practice Management Guidelines, and other tools.

49. The e-Learning site will also be enhanced with Articling supports and will continue to be an easily accessible online tool for both candidates and Principals to find information that will add value to the Articling term.

50. The PD&C Department will continue to build on existing educational supports for candidates in the Licensing Process. Candidates will have access to tools and resources to assist them in their preparation for entry into the profession and in their first few years of practice.
51. Attached at **Appendix D** is the summary information from each of the two Articling Surveys outlining the findings on the sufficiency of the 10 month Articling term and the preferred enhancements.

Ongoing Evaluation and Development of the Licensing Process

52. A standardized set of evaluation activities will be instituted leading up to and during the implementation of the first licensing year for the new Licensing Process.
53. The following outlines the ongoing annual evaluation that will take place in the Licensing Process.
54. Advisory Groups of between eight and ten subject matter expert lawyers will be established for the Skills and Professional Responsibility Program, the Barrister Examination and the Solicitor Examination. These three groups will meet at various times each year to:
 - a) review the competencies that are being assessed or tested and confirm ongoing relevance and importance of those competencies;
 - b) provide input and feedback on developments in the profession and impact on the validated competencies for entry-level lawyers;
 - c) review the reference materials and curriculum used to support licensing preparation and provide input on improvements or revisions in accordance with required competencies;
 - d) confirm the pass scores for all test questions and examinations and define the evaluation criteria for assessments and assignments;
 - e) provide input on and assist with recruiting lawyers to support the continuing development of the Licensing Process, including question writing and all validation activities required to maintain the examination bank; skills and professional responsibility file scenario development; reference materials developers; appraisals of test questions and instructional content; supplementary online educational resources; and other requirements.

55. With respect to the Skills and Professional Responsibility Program and the Barrister and Solicitor Examinations, candidate results will be presented to the PDC&A Committee for review and consideration on an annual basis. PDC&A Committee continues to work closely with the Equity and Aboriginal Issues Committee on matters related to candidate results. This assessment will include:
- a) Review and analysis of overall candidate results in the Licensing Process and specifically for candidates from equality-seeking communities;
 - b) Comparative tracking of candidate results year to year;
 - c) Review and consideration of changes in the profession that may impact the presentation or organization of the process.
56. The Articling program will continue to assess and enhance supports based on input that Principals and candidates provide. Candidates are and will continue to be surveyed three times per licensing year on issues related to the Articling experience. The three surveys are:
- a) Hiring Practices Survey: addressing perceptions relating to hiring practices, discrimination in hiring and general input on the overall hiring process;
 - b) Articling Feedback Survey: assessing overall perceptions of the Articling experience including such issues as the amount of time spent in rotations, the type and quality of workload;
 - c) Placement Report: queries on placement locations, hire back practices, and similar matters.
57. The PD&C Department will also continue to track and to benchmark all licensing activity year to year. This information is presented to Convocation on a quarterly basis.

Continuing Involvement of the Profession

58. The development of the new Licensing Process would not have been possible without the assistance of members of the profession. The willingness of Ontario lawyers to participate in this activity has been outstanding and the Law Society is grateful to all those who have given their time to assist.
59. The input and support of members will be required on an ongoing basis. Every year the Licensing Process will require the assistance of lawyers from across the province to:

- a) instruct in the mandatory Skills and Professional Responsibility Program to be held in Windsor, London, Ottawa (English and French) and Toronto;
- b) develop required materials to update the Skills and Professional Responsibility Program and the reference materials for the Barrister and Solicitor Examinations;
- c) participate in Advisory Groups as appointed and provide input and assistance with the continuing development of each of the components;
- d) develop and validate new examination questions and skills, professional responsibility and practice management assessments and assignments;
- e) act as tutors to support candidates;
- f) act as mentors to support candidates;
- g) act as Principals for the Articling term.

60. It is anticipated that the PD&C Department will work with a minimum of 400 lawyers during a licensing year to support licensure. This does not include Articling Principals who number over 1000 every year. This joint effort, combined with continuing liaison with legal groups and associations, will ensure that the Licensing Process continues to validly confirm entry-level competence.

Scheduling of the Licensing Process

61. The Licensing Process schedule for the 2006 - 2007 licensing year will be as follows:

Activity	Date
Law School completed	April 28, 2006
Skills and Professional Responsibility Program <ul style="list-style-type: none"> ▪ 5 weeks of instruction and assessments 	May 8 to June 9, 2006 inclusive
Available to begin Articling	June 12, 2006
Examination dates <ul style="list-style-type: none"> ▪ Solicitor Examination ▪ Barrister Examination ▪ Solicitor Examination 	June 26, 2006 July 6, 2006 November 6, 2006

<ul style="list-style-type: none"> ▪ Barrister Examination ▪ Solicitor Examination ▪ Barrister Examination 	November 15, 2006 March 19, 2007 March 28, 2007
Completion of articles <ul style="list-style-type: none"> ▪ includes required examination preparation time of 14 business days and two-week vacation 	May 3, 2007
Activity	Date
Anticipated Call to the Bar dates in 2007 <ul style="list-style-type: none"> ▪ subject to change based on Convocation's schedule and candidate requirements ▪ scheduled to provide call dates as soon after completion of Licensing Process as possible ▪ Regular Convocation sittings can accommodate a maximum of 60 candidates ▪ Large calls in Toronto accommodate up to 250 per call 	Thursday, May 24 Regular Convocation Tuesday, June 12 Ottawa Monday, June 18 London Thursday, June 21 Toronto Friday, June 22 2 calls - Toronto Thursday, June 28 Regular Convocation

Financial Implications

62. The financial implications of the new Licensing Process format as set out in this report have been assessed. The licensing fees are anticipated to be in the range of \$2,600, reduced \$1,800 from the current fee of \$4,400. This savings is coupled with a reduction in the length of the process by two months which permits candidates to be called to the bar and eligible for employment or to open their practices sooner.

63. This licensing fee calculation is based on an assumption that the Law Foundation of Ontario will provide a continuing grant of no less than \$1million to support access to legal education and that members will continue to support the Licensing Process by a comparable amount through membership fees.
64. The Skills and Professional Responsibility Program will be offered immediately after law school and the Ministry of Training, Colleges and Universities has confirmed that candidates will be eligible for OSAP assistance to support the Program fee.
65. The Law Society and Law Society Foundation will continue to offer bursaries and the Repayable Loan Allowance.
66. The final budget for the launch of the Licensing Process in 2006 including proposed licensing fees will be presented in the normal course of the budgeting process in the Fall of 2005 for Convocation's approval.

LICENSING PROCESS DEVELOPMENT

TESTIMONIALS

“I was fascinated by the competency profile development process. The group brainstorming was very good and very detailed. The process commenced by defining seven competency categories and sub-categories for solicitors and concluded with an exhaustive list of 206 competencies for entry-level solicitors and barristers. I was particularly impressed with how quickly the consultants picked up on the legal terms and asked questions when things were unclear. I also felt that they paid attention to details such as having us identify statute sections and ensuring that we were consistent with the information throughout the profile.

I certainly feel the consensus we achieved on the competencies was driven by the group. I am very sorry that I was not able to participate in the Blueprint Development meeting due to other commitments. I am pleased that we are no longer tinkering with the bar admission course but embarking on a fresh new process.”

Donald V. Thomson (Solicitor Competency Profile)
Walker Ellis, Toronto

“I thought there was a good cross section of practitioners and good expertise to help build the competency model. The exam consultants were very efficient in getting the work done. They were quite qualified and kept us focused and moving forward – not an easy task with a group of lawyers. It was good that they were not lawyers because they brought in an outside perspective in terms of ‘is this competency model workable?’ and ‘will it make sense to others?’ I have no concerns about the process and the model we developed.”

May Cheng (Barrister Competency Profile)
Fasken Martineau, Toronto

“In March of 2004, I was invited to discuss entry-level skills competencies, professionalism and ethics related to the new licensing process for lawyers. I found the experience to be valuable, in that it provided me with an opportunity to have meaningful input into the substantial changes that were being made with the licensing process for new lawyers. It was clear to me as one of the participants in the process that a real attempt was being made to get meaningful input from lawyers from many different aspects of the practice, and this included sole practitioners and those practising in firms.

From my review of the final list of skills that has been completed, the involvement of lawyers was more than simply lip service to the profession, and has resulted in concrete, meaningful skill sets that will be emphasized and required of new lawyers. I will be watching with great interest to see how the new licensing process develops, in light of the profession's input through the assistance of the facilitators provided by the Law Society."

*J. Douglas Shank (Skills & Professional
Responsibility Focus Group)
Cheadles LLP, Thunder Bay*

"It was a pleasure and an honour to participate. I think that by and large, the process used to identify and describe the competencies worked well. It was important - and a critical part of the success of this task, I believe - that there be a group of lawyers with very different practice experiences, which we had. The facilitators were important too. They were able to efficiently synthesize our discussions; help articulate the competencies; describe the educational objectives and needs to us so that we could take them into account; and ensure we used consistent language to capture the competencies in a way that allowed for defensible and rational testing. They picked up quite quickly on legal language and brought the necessary professional educational expertise to the exercise that the lawyers did not have. I hope the results will be useful for the profession."

*Douglas Watters (Barrister Competency
Profile)
Ministry of Environment, Toronto*

"I enjoyed being able to provide input at this stage. Reviewing and discussing the survey results was a great opportunity to reflect on what one does in every day practice. The solicitor blueprint group was a good group. I liked the fact that I was able to draw upon my own practice experience as well as give objective input.

I have never given it much thought on why and how we assess people. I was very impressed with the knowledge and expertise of the facilitators and how they explained assessment processes. It gives me great satisfaction that our viewpoints were heard. After going through this experience, the way we will be going about testing people will have a lot more integrity. I believe the end result will be an excellent process."

*Wendy O'Neill (Solicitor Blueprint)
Chong & O'Neill, Kingston*

"I have spoken very positively about my experience to others. In fact, I was honoured to have been asked to participate. The Blueprint Panel had very strong individuals on it and while we weren't afraid to state our opinions, we did reach consensus on the important

issues. The facilitators were excellent and provided the necessary guidance the panel required to ensure a fair and defensible examination.

It was an intense and exhausting experience. I don't think the process could be improved upon. I would very much like to continue being involved in the development of the new examinations.”

*Henny Harmsen (Barrister Blueprint)
Legal Aid Ontario, Kingston*

“It was a great process. The facilitators know a lot about the psychological aspects of testing and getting a room full of lawyers to agree on everything was amazing. If I had had any hesitancy on what we were asked to do, I would have spoken out or left. I think this new process is a good shift in what we are doing now.”

*Jeffery G. Hewitt (Barrister Blueprint)
Mnjikaning First Nation, Rama*

“It was my pleasure to be a part of the new Licensing Process in which we worked to develop skills and professional responsibilities. The experience was very enriching. Both of the facilitators stimulated meaningful discussions and guided the participants through this important task.

The Law Society of Upper Canada, by choosing this method of determining the transition to new practices and procedures, has set a valuable precedent of transparency. Those of us who have not had the chance to make a direct contribution before, were given the opportunity to be a part of change. Thank you.”

*Marion Korn (Skills & Professional
Responsibility Focus Group)
Queen Street Law Centre, Toronto*

“I was very pleased to be asked by the Law Society of Upper Canada, my governing body, to participate on the Solicitors' Licensing Examination Blueprint Committee. The practitioners were respectful, competent professionals. The facilitators understood their function and provided the pointers to get us through the process to our destination. They had a thorough understanding of examination development and they were able to answer questions we had about testing and examinations in other professions as well. They had extensive knowledge in their area of expertise and were comfortable discussing the examination processes in the educational system at large, even at high school and

university levels. I appreciated that expertise. My involvement in this part of the Licensing Examination Development process was a positive, enriching, learning experience.”

*Margarett R. Best (Solicitor Blueprint)
Sole Practitioner, Toronto*

“Being involved in both the competency profile and the Blueprint sessions was a positive exercise. I was flattered to be asked and to be able to put in my 2 cents worth. It all seemed a little daunting at first but the facilitators had the ability to pace out the process. The facilitators were very professional, well organized, very open and easy to work with. They gave us just enough guidance but didn’t influence the decisions we made. They deferred to the group on content issues and listened to alternative ideas. They have the knowledge and understand the science of assessments and testing. During the sessions I felt we were building something that is strong and we can defend it. I am confident that at the end of all of this, we’ll have a fair process.”

*Raymond Leclair (Solicitor Competency
Profile and Blueprint)
Kanata Research Park, Ottawa*

“At first, the task of developing competencies seemed overwhelming. Through the facilitators’ masterful management of the discussion, by posing appropriate and results-driven questions, yet giving each an opportunity to contribute, they were able to illicit relevant and useful information. This combined with their respect for the schedule and our time, allowed us to actually accomplish what we set out to do. It was a valuable experience.”

The Blueprint process involved the equally difficult task of refining the results of the barrister survey. Here also, the consultants managed time effectively, allowing for comments, concerns and opinions to be heard. I was impressed with their ability to use the computer to track the discussion and record our thoughts directly into a working document. This allowed us to immediately appreciate the context in which each subject was being discussed and it greatly facilitated the progress of the task at hand. As in the competency development meeting, they were respectful of time lines. The experience working with the group and the facilitators was very positive at both levels.”

*Josee Forest-Niesing (Barrister Competency
Profile and Blueprint)
Lacroix Forest LLP, Sudbury*

“I thoroughly enjoyed writing examination questions. It was very challenging, great group interaction and the exchange of ideas very good. I think the questions we drafted

are very practical. The facilitator is very intelligent and competent and I think the fact he is not a lawyer is good. He had no biases and brought forth an objective viewpoint on what we were doing. I would like to come and do this again”.

*Alexandra Ngan (Item Writer)
Sole Practitioner, Toronto*

“I’ll admit that I was skeptical, but pleasantly surprised by this process. I was in a unique position given my academic and practice perspectives and teaching experience, and I wasn’t sure whether this would all work. Because of the practice experience the people recruited to write the items brought to the table, they’ve been well positioned to ensure that the competencies are being tested at an entry level, and that the questions reflect both the reference materials and practice realities.

It helps that the facilitators are not lawyers. They bring an important perspective to the process and were able to extract themselves from the arguments about statutes and procedure. Their focus on creating exam questions that test the competencies helped rein in the groups I worked with. And that was the key -- lawyers may know the law and what competencies are important, but don’t necessarily know how to test on it.”

*Paul Paton (Item Writer)
Assistant Professor, Faculty of Law,
Queens University*

“I was very pleased to participate in the session with your consultants respecting entry-level skills competencies, professionalism and ethics. I felt fortunate to have been asked to contribute my views, informed by a number of years of both government and private practice, to this exercise. The mix of experiences of the participating lawyers provided, I believe, a solid basis for the answers we proposed to the questions posed. We all had full opportunity to contribute, thanks both to the consultants and to the cooperative mood established from the outset (not always a feature of lawyerly discourse!).

It was a privilege to be able to make this contribution. There are no worthier objectives for the future of the legal profession than those raised by the questions we attempted to answer.”

*John B. Edmond (Skills & Professional
Responsibility Focus Group)
Commission Counsel
Indian Claims Commission, Ottawa*



LICENSING PROCESS INFORMATION BULLETIN

For 2006 Law School Graduates

Updated January 31, 2005

The Licensing Process

A competency-based Licensing Process for admission to the bar in Ontario will be implemented in May 2006. Professional competency is achieved through a combination of knowledge, skills, abilities and judgment. The focus of the Licensing Process is to ensure that candidates have demonstrated that they possess the required competencies at an entry-level in order to provide legal services effectively and in the public interest.

Structure

This Licensing Process will consist of four mandatory requirements:

1. Skills and Professional Responsibility Program with assignments and assessments
2. Barrister Licensing Examination
3. Solicitor Licensing Examination
4. Articling term (10 months)

You must successfully complete all mandatory requirements and submit all required documents in order to be eligible to be called to the bar.

Registration

If you plan to enroll in the Licensing Process in the 2006/07 licensing year, you will be required to register and complete, in sequence, the **mandatory** Skills and Professional Responsibility Program in May 2006 before the Articling Term. You will not be allowed to commence the Articling Term or write the licensing examinations unless you have completed the Skills and Professional Responsibility Program (certain exceptions apply, see the Q & A section in this Bulletin).

Application packages to enroll in the Licensing Process for 2006/07 will be available from the Law Society of Upper Canada's Office of the Registrar in the fall of 2005 and will be distributed at your law school.

The Skills and Professional Responsibility Program

The emphasis of the Skills and Professional Responsibility Program will be on building, developing and assessing skills that are essential for a lawyer in the first few years of practice. You will be expected to develop skills for client interactions, interviewing, writing, drafting, dispute resolution, managing a practice, and for identifying, analyzing and resolving legal and ethical problems in a manner consistent with the appropriate professional conduct of a lawyer. You will be challenged to apply your analytical thinking and professionalism throughout the process.

Attendance at, and participation in all parts of the Skills and Professional Responsibility Program is mandatory. There will be a number of assignments and assessments to verify that a candidate has attained the necessary knowledge, skills, abilities, attitude and judgment for entry into the legal profession.

The Skills and Professional Responsibility Program will be offered once a year concurrently in Toronto, Ottawa, London and Windsor. The French Skills and Professional Responsibility Program will be held in Ottawa only.

The Licensing Examinations

The licensing examinations will consist of a self-study Barrister Examination and a self-study Solicitor Examination. The competencies tested are those required for entry-level practice, that have the most direct impact on the protection of the public and that influence an effective and ethical practice.

The Barrister Examination will assess competencies in the following categories: ethical and professional responsibility, knowledge of the law (public law, criminal procedure, family law and civil litigation) and establishing and maintaining the barrister-client relationship.

The Solicitor Examination will assess competencies in the following categories: ethical and professional responsibility, knowledge of the law (real estate, business law, wills, trusts and estate administration and planning) and establishing and maintaining the solicitor-client relationship.

It is expected that each examination will be a full day in length. The Law Society will provide you with the necessary reference materials to study for the examinations. You will be permitted to mark the materials and bring them to the examinations. The examinations will also be available in French.

The licensing examinations will be offered in late June/early July, November and March of each licensing year. The examinations can be written during your articling term.

You and your Articling Principal will agree on the scheduled examination session in which you will write the licensing examinations. You will be allowed five (5) uninterrupted business days to study for each examination, 1 day to write the examination and 1 free day. This designated

time (which totals 14 business days) will be in addition to the articling term and must form part of the articling contract.

The academic requirements to be eligible to write the licensing examinations as a student-at-law are as follows:

- a) Graduation from a common law program, approved by the Law Society, in a university in Canada; or
Certificate of Qualification issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Committee of Canadian Law Deans; and
- b) Attendance at the Skills and Professional Responsibility Program.

The Articling Term

The articling term will consist of 10 months, which includes up to two (2) weeks of vacation and occurs after completion of the Skills and Professional Responsibility Program. (The 10-month term is subject to Convocation's approval on February 24, 2005). It is your responsibility to ensure that you article with an approved Principal who has filed the required education plan with the Law Society. More information on the articling process will be provided in the application package.

Frequently Asked Questions

1. When will the Skills and Professional Responsibility Program be offered and how long is it?

It will be offered once a year starting in early May 2006 and it will be approximately five (5) weeks long, half-day sessions, Monday to Friday. (Length of the Program is subject to final approval of Convocation on February 24, 2005).

2. Can I register for and attend the Skills and Professional Responsibility Program if I have not secured articles?

Yes.

3. Why is completion of the Skills and Professional Responsibility Program a prerequisite to commencing articles?

The Program is designed to provide you with basic entry-level lawyer skills that you will build upon and enhance during your articling term and into your first years in practice. During the Program you will have many opportunities to participate in problem-based learning, practice various skills and receive constructive feedback.

The scheduling of the Skills and Professional Responsibility Program is timed to allow candidates to take advantage of continued OSAP assistance to help cover the cost of the Program.

4. What do I do if I cannot attend on the start date of the mandatory Skills and Professional Responsibility Program because I have not completed my law school classes or examinations?

We are aware that some candidates are involved in joint degree or co-operative programs, academic exchanges or other activities that may require their attendance going beyond the anticipated early May 2006 start date of the Skills and Professional Responsibility Program. We are supportive of such endeavours and we realize that the start date of the Program may pose some difficulty for these candidates.

If you feel that you are going to miss **more than two full days** of the mandatory Skills and Professional Responsibility Program, you should make an application in writing to the Office of the Registrar at the Law Society of Upper Canada that you would like to take the Program out of sequence. This means that you may then be allowed to commence articles first and take the Program second, in May 2007. You should make this request well in advance of the May 2006 start date of the Licensing Process and preferably at the same time you submit your application as a candidate.

Your request to take the process out of sequence should indicate to the Registrar the reason why you cannot attend the Skills and Professional Responsibility at the scheduled time. As the Program is designed to be a prerequisite to commencing articles, we will require a written confirmation from your Articling Principal that he/she understands the circumstances of your request to take the Program out of sequence and that he/she has agreed to allow you to commence articles without the benefit of the Skills and Professional Responsibility Program.

We strongly suggest that if you must take the Skills and Professional Responsibility Program out of sequence due to one of the above-noted circumstances, you should arrange to commence your articles by **June 15, 2006** at the latest in order to fulfill the articling term requirement of ten (10) months plus the designated study time and be ready to attend the Skills and Professional Responsibility Program in May of 2007.

5. What if I fail an assessment(s) in the Skills and Professional Responsibility Program?

You will be able to do supplemental assessments after the Program has finished and at the time they are scheduled. You may still write the licensing examinations and begin articling.

6. How do I prepare to write the licensing examinations?

In addition to the reference materials which you will receive a minimum of 1 month in advance of the examinations, the Law Society will offer tutorials on how to study for and write the competency-based licensing examinations.

There will also be a number of other substantive/procedural and skills resources available on the Law Society's e-Learning site, which you may find useful during articles. Accommodation and special needs supports will be offered through the Education Support Services Office.

7. Can I write the licensing examinations if I have not yet secured articles?

Yes.

8. Can I write one examination, for example, the barrister examination in late June/early July and the solicitor examination in November?

Yes. You may write both examinations at one of the scheduled sessions or you may write one at a time in any session you prefer.

If there are circumstances that prevent you from attending the examination session you have registered for, you must notify the Registrar in writing and in advance of the examination date that you wish to defer writing the examination(s).

9. What happens if I fail one or both examinations?

You will be able to rewrite the examination(s) using the same reference materials, at any scheduled session in the licensing period (May 2006 – April 2007).

Please note that if you write the examinations for the first time in March 2007 and you fail, your next opportunity to write will be late June/early July 2007. You will then be required to purchase the 2007 updated reference materials to study for the examinations.

10. Will I receive the same amount of study time for a failed examination if I am articling and will that constitute an amendment to my articling contract with the articling employer?

No, you will not receive any formal uninterrupted study time for a rewrite. You will be responsible for studying on your own time and to make personal arrangements to do so either independently or in conjunction with your articling employer.

11. How many times am I permitted to write one or more failed examination(s) or redo an assessment(s)?

You are required to complete all components of the Licensing Process within three years. Therefore, you have the potential opportunity to rewrite or be re-assessed a total of nine times per failed examination or assessment (three (3) sessions of each per licensing year x three (3) years).

If your rewrite of an examination takes you into the next licensing period (May 2007 – April 2008), you will be required to purchase the reference materials for that new licensing period.

12. What is the tuition fee?

At this time, the tuition fee is estimated at \$2600 plus GST and covers the Skills and Professional Responsibility Program, reference materials, one sitting of each of the two licensing examinations, access and use of all articling and other Licensing Process supports available online on the e-Learning Site and access to Law Society staff who provide support during the process. There will be a separate fee schedule for reassessments and examination rewrites.

13. Will I be able to apply for OSAP to help cover the tuition fee?

The Law Society has made an application to the Ministry of Training, Colleges and Universities requesting an extension of OSAP eligibility, which if approved, will cover only the Skills and Professional Responsibility Program, as it is a course of instruction.

Should you require financial assistance for your third year of law school, apply for OSAP through your financial aid office at your university and add the Skills and Professional Responsibility Program to your third year funding request. You will be unable to apply for OSAP for only the Skills and Professional Responsibility Program.

The Law Society Repayable Allowance Program and bursaries will continue to be available to eligible candidates.

14. Where can I obtain more information on the Licensing Process?

As the Law Society continues to develop and implement each component of the Licensing Process, you will be able to access this information at the Law Society's Education Web site (<http://education.lsuc.on.ca/newlicensingprocess/home.jsp>). When you apply in the fall of 2005 for the Licensing Process, your application package will contain detailed information on the documentation you will need, important dates, who to contact, etc.

15. I have applied for my permanent resident card but I do not think I will obtain it before May 2006. Can I attend the mandatory Skills and Professional Responsibility Program and also write the licensing examinations before I obtain my card?

Yes, you may attend the Skills and Professional Responsibility Program and write the licensing examinations. However, if you wish to be called to the Bar of Ontario, the *Law Society Act* requires you to be a permanent resident of Canada.

16. When and where do the Call to the Bar ceremonies take place?

Once you have successfully completed all mandatory requirements and submit all required documents, you will be eligible to be called to the bar.

The Law Society schedules a Call to the Bar ceremony in Toronto at each sitting of Convocation, which is the Society's governing body. A larger Call to the Bar ceremony is also conducted once a year in Toronto, Ottawa and London. It is anticipated that this large ceremony will take place in May or June of 2006 and onward.

17. I have heard that over 50% of the candidates fail the current Bar Admission Course (BAC) examinations. Is this true?

No, it is not true. Candidates are entitled to rewrite failed examinations in the current process and in the new process. In the current process, following rewrites, less than 1% of candidates have a failed standing in the program. These candidates may then consider taking the course over and writing examinations again. Candidates have three years in which to complete all of the licensing requirements.

18. How will I be able to pass the barrister examination and the solicitor examination in the new process if there is no instruction as is offered in the current BAC?

Attendance rates during the 2004 BAC were, on average, below 35%. The majority of candidates do not attend the lectures nor participate in the instructional seminars and attendance continues to fall. In the Licensing Process, reference materials and the scope of the examined issues will be streamlined and will focus only on entry-level competencies.

The reference materials support all examined competencies – no external material or information is required for preparation to write the examinations. There will also be educational supports provided through the e-Learning site. In addition, the examinations will continue to be open book.

New Questions and Answers (January 2005)

19. At the time I register for the Licensing Process in the fall of 2005 I will not have completed my law degree. Can I attend the Skills and Professional Responsibility Program even if I have not received confirmation that I have met all the academic requirements to be granted an LL.B. or the National Committee on Accreditation's Certificate of Qualification?

Yes, you may attend the Skills and Professional Responsibility Program and write the licensing examinations. However, if prior to completing the Licensing Process, you receive notification that you will not be graduating from an approved law course or that you will not be receiving a certificate of qualification from the NCA, you must immediately notify the Office of the Registrar and withdraw from the Licensing Process.

A candidate who withdraws from the Licensing Process will retain all standings of pass for assessments and/or licensing examinations received during the licensing year (May to April) during which time they will be expected to have fulfilled the requirement of an LL.B. or NCA qualification and notify the Office of the Registrar accordingly.

20. What does the Skills and Professional Responsibility Program entail?

The Skills and Professional Responsibility Program will run half-days for approximately five (5) weeks (subject to approval by Convocation on February 24, 2005).

In Toronto and Ottawa, candidates will be divided into morning and afternoon sessions. In Windsor, London, and for Francophone candidates in Ottawa, the Program will only be offered in the morning. When you register for the Licensing Process, you will be required to indicate your preference for either the morning or afternoon session. Once you have chosen a session you will not be allowed to switch back and forth.

21. What other time commitment is there other than the mandatory attendance?

In addition to the scheduled hours of in-class instruction, you will be required to complete individual, self-directed learning activities outside of the classroom including preparing for daily in-class participation, assignments and web-based exercises, or the scheduled assessments.

22. What will I learn at the Skills and Professional Responsibility Program?

The learning objectives of the Skills and Professional Responsibility Program are to ensure that students-at-law can :

- a) demonstrate effective problem-solving skills that have been applied to a range of tasks and functions and shall form the foundation of continued professional development; and
- b) function effectively and ethically as newly called lawyers in relation to:
 - i. legal research, both paper-based and computer-based;

- ii. legal writing, including memoranda, opinion letters and drafting simple legal documents;
- iii. personal client contact, including interviewing, offering options and advice, and keeping the client informed;
- iv. the management of transactions and applications including fact investigation, the preparation of relevant documents and strategic planning regarding dispute resolution;
- v. the management of dispute settlement processes including planning with the client, reviewing a range of possible processes, and preparing and implementing the chosen dispute resolution approach;
- vi. practice management tasks including time and file management; and
- vii. the recognition and analysis of ethical and professional issues which arise in the course of file management.

23. What is the instructional format for Skills and Professional Responsibility Program?

In the Program, candidates will be divided into groups of approximately twenty-four (24) candidates per classroom and within that group you will work in groups of six (6). Much like in a legal practice environment, you and your colleagues will work on barrister and solicitor sample file scenarios that reflect the realities of daily practice. The group composition will change throughout the Program.

Problem-based learning (PBL) is the primary method of instruction in the Skills and Professional Responsibility Program. You will also be exposed to other types of instructional methods such as self-directed learning, small group activities, teaching sessions, and web-based exercises. All of the learning activities will be designed to provide you with opportunities to increase your awareness of issues relating to ethics and professionalism, to improve your ability to identify issues when they arise and to develop your analytical skills in dealing with the issues you will confront in the first years of practising of law.

Each classroom will have a practitioner instructor or facilitator. His or her role is to guide candidates through the challenges they will encounter working on the files and to encourage the groups to approach all difficulties by using problem-solving and appropriate professional attitudes.

24. Who evaluates the assignments and assessments?

In addition to the facilitation role, the practitioner instructor will also provide both informal feedback on your assignments and conduct the formal assessments. All assessments will be based on a candidate's individual work and performance. Assessments and assignments are evaluated on a pass/fail basis.

25. What happens if I fail an assessment or I have to defer an assignment or assessment during the five weeks? When can I redo it?

A sixth week will be built into the Program for reassessment in the event of a failed standing or you have had to defer an assignment or assessment. This will ensure that all candidates have a full opportunity to successfully complete the Program without uncertainty as to their standing extending into their articling term. Candidates will be scheduled to attend reassessments on an as needed basis during the sixth week.

26. When will a schedule be available with the precise start and end date for the Skills and Professional Responsibility Program, the licensing examination dates, and Calls to the Bar?

A detailed schedule will be published following Convocation's final approvals on February 24, 2005 and will be found at

<http://education.lsuc.on.ca/newlicensingprocess/home.jsp>

If you have specific questions about the Licensing Process, you may also contact:

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Professional Development and Competence
The Law Society of Upper Canada
130 Queen Street West, Toronto, Ontario M5H 2N6
E-mail: abuahene@lsuc.on.ca
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Toll Free: 1-800-668-7380, extension 3994
Fax: 416-947-3329

**EXCERPT FROM CURRICULUM DESIGN PLAN FOR SKILLS-BASED
PROFESSIONAL LEGAL EDUCATION**

(Dr. J. Macfarlane and Professor J. Manwaring)

c. Course Overview: Scheduling and Structure

We are proposing a five-week course with a sixth week which will allow any students who have failed any required assessment to redo any failed assessment(s) (see details above at 2 (d)), and therefore satisfy the requirements for successful completion of the course. A five-week course is required to enable students to practice and improve the skills identified by the practitioners consulted in the process of developing the skills taxonomy which forms the basis of this proposal. The skills identified by our consultations are extremely varied and sophisticated and, in our opinion, cannot be learned to the required threshold level of an articling lawyer in a shorter time.

The sixth week will ensure that all students have a full opportunity to successfully complete the course in a reasonable period of time without any uncertainty extending into the articling period. The exact content of the sixth week will not be examined here because it will depend in part on the areas where failing students encounter difficulties; and these will vary from year to year. However, the Curriculum Plan recognizes the need to provide students who encounter difficulties with a full and fair opportunity to remedy their failing marks and will build in the required opportunities to rectify failing performance. Moreover, the use of continuous feedback during the course will also enable students to revise any products that will be included in the student Portfolio in order to meet the criteria for successful completion of the course. In the event that a student's final submitted Portfolio is deemed to be a fail, they will have an opportunity to produce new work for inclusion in a revised Portfolio submitted at the end of week 6.

This section will describe the overall structure of the proposed program. At this stage it is premature to provide a detailed description of the teaching units and the course materials. The outline below suggests a progression through the teaching units and exercises but it is important to stress at the outset that the actual content of the units has not yet been decided definitively.

i. Contact hours

The Task Force Report envisages 96 hours of instruction during the skills program. The Curriculum Plan for the program is designed to achieve that objective. There are a number of constraints that have been taken into consideration in designing the course. For example, the availability of classrooms and rooms for small group work will definitely have an impact on the organization of the program. The number of students who will be taking the program each year will be substantial. We are estimating that approximately 1400 students will take this five week program in any given year.

Because of these constraints, we are proposing that the program be offered in a half-day format over five weeks with four instruction days and one assessment day each week. In our opinion, a five week course is necessary given the varied and diverse number of skills identified by focus groups, and the complexity and range of professional responsibility issues that need to be addressed. This format will also enable the LSUC to maximize the efficient use of available space, personnel and resources.

In each centre, the students will be divided into two groups - one group of students will attend in the morning and the other in the afternoon. The morning section would meet from 8.30am – 12.30pm, the afternoon section from 1.00pm-5.00pm.

This will mean that students receive 16 hours of training a week for a total of 80 contact hours over five weeks. All required firm or group work will take place during the mandatory attendance hours. In addition, Fridays will be devoted to assessment for which attendance will be mandatory. While the exact amount of time required to complete the

assessment activities will depend on the nature of the assessment, the maximum would be 4 hours per week for a total of 20 hours devoted to assessment. The total number of hours of instruction including assessment time (100 hours) meets the target envisaged in the Task Force Report.

In addition, the scheduled hours of instruction will be supplemented by individual learning activities outside the classroom including completion of in-tray exercises and web-based learning exercises. We estimate that this work will require approximately 5 to 8 hours per week for a total of 25 to 40 hours over the five week period. If the maximum estimated number of hours required to complete individual work outside course time is added to the hours of mandatory attendance, students will be required to devote at most 140 hours over 5 weeks to this course, or 28 hours per week (1).

ii. Course structure

Because the course will be organized on the basis of the PBL methodology, most of the learning will occur in the context of work in teams or firms on files which simulate the realities of the practice of law. The format of the course will be flexible and students will not follow the same schedule each day. Students will engage in structured learning activities for four hours each day. There will often be some initial time devoted to didactic instruction addressing issues related to skills development, professional responsibility and professionalism. This didactic component can be delivered in different ways:

- i. a short lecture by an invited expert;
- ii. an archived video of an expert lecturing on the topic which the students can watch out of class time;

¹ Students will also be asked to reserve a sixth week in case they are required to repeat one or more assessments.

- iii. a briefing by their PBL tutor (perhaps with a group of 24 students) at the start of each day's exercises during which the tutor can review the material, provide information, answer questions and so on.

The rest of the time students will engage in work in their firms on the files. This work will be focused on the development of the skills identified in our consultations with practitioners.

iii Files

The students will be placed in firms of at most 6 lawyers. Students will have the opportunity to change firms at specified times during the course. This will help deal with any intra-firm conflicts. This approach will also permit the inclusion of conflict of interest issues as students changing firms and the firms themselves ensure that they meet the requirements of Rules 2.04 and 2.05.

The firms will be expected to deal with a number of files over the five weeks of the program. Students will handle at most 6 files during the five weeks. There is no magic in the number of files and the amount of work required on each file depends on its design. The decision as to the number of files must be made in light of the achievement of the program's learning objectives. It will be important to develop files which provide opportunities to work on all of the skills identified by our consultation, including practice management. Each file will also include professional responsibility issues and ethical dilemmas which the students will be expected to identify and respond appropriately to, sometimes with the guidance of their PBL tutor.

The substantive law content of these files has not yet been decided but will vary from year to year. The program stresses the development of skills in relation to these files and is not designed to teach the substantive law, although students will do research and have to understand relevant legal concepts. The files will rotate from year to year. We recommend the initial development of sufficient files for three years of instruction. If it is

not possible to develop three sets of completely different files, it would be possible to add new information and “twists” to files to ensure that the exercises are not the same each year. In addition, different products could be required from the students in relation to the files. (For example, one year file 1 could be used for memo drafting while the following year it would be the basis of a client interview and the drafting of an advice letter.)

It will be important for students to work on more than one file at one time at some point during the program in order to practice time and file management skills. There must be a sufficient number of files to allow the structuring of the firm work in such a way that the students have to make choices about the appropriate handling of files and establish priorities.

iv. A Typical Week

To illustrate how the learning activities would be structured, we will describe a hypothetical “typical week”. The course will consist of learning activities designed to permit a progression through the skills identified as essential to success as a lawyer in the Taxonomy of Skills based on consultation with the legal profession and members of the Bench. Each week of the course will be designed to help students develop their skills in a specific area. For purposes of our example, the week described would focus on writing and drafting, managing the client relationship and file management in relation to dispute resolution. This would not be the first week of the course and is offered here only as an illustration of how the program might unfold. Note that students would have already been introduced to client interviewing prior to the beginning of this week.

Day One

Instruction on day One begins with an overview of dispute resolution strategies ranging from negotiation to litigation, and the criteria for choice of strategy in light of client objectives. Additional themes include the development of a dispute resolution strategy and the management of client expectations.

When students move into their firms, the PBL component of this day would include a second interview with the client for one current file (File 1). The PBL group would prepare for the interview (in which the client would be played by an actor) by reviewing the initial client interview (which took place the previous week) and any legal research conducted subsequently. In the second interview the client would present some new information and an ethical issue will be raised. The interviewer would work with the client to develop a strategy for dispute resolution and help the client to develop realistic expectations for the outcome.

At the end of the interview the PBL group along with their tutor would debrief review the skills, substantive and ethical issues raised by the interview. Also following the interview, the students would prepare an advice letter to the client. The group would decide on next steps in File 1 and distribute work accordingly. They will review these next steps and their “game plan” with the tutor.

Students would receive an In-Tray Exercise assignment which would have to be completed and handed in for assessment on the following Friday. The exercise will require legal research and legal writing on a specific topic.

Day Two

The instructional component of Day Two would focus on the development of a dispute resolution strategy and client communication issues. For example, students could be asked to listen to a pre-recorded practitioner “panel” or a lecture by a single expert discussing the role of advice letters in the relationship with the client and the types of ethical issues which the lawyer can encounter when working with the client on dispute resolution strategy. Alternatively these issues could be reviewed with a large group (perhaps four PBL groups or 24 students) by their PBL tutor.

The PBL component on this day would deal with a second file (File 2). The firm members receive a letter from the lawyer representing the other party. The firm may not have taken any action on this file at this point so that they will be required to suddenly pay attention to a file that has been on the back burner. The students would have to analyse the information they have available quickly and plan for a first interview with the client (played by an actor).

In order to make this exercise more challenging, the client actors would be instructed to raise more difficult communication issues. Within File 2, there could be a limitation period issue which students will be expected to uncover and respond to in an appropriate manner. Finally, they would be expected to draft a letter in response to counsel for the opposing party which could be reviewed with their PBL tutor.

Day Three

On Day Three the focus would shift to negotiation theory and practice. The instructional component would focus on negotiation styles and strategies with a discussion of different theories of negotiation, including interest-based and position-based theories. Some models for planning for negotiation, regardless of the strategy chosen, would be described and applied to fictional situations. This component of instruction on Day Three could involve negotiation exercises in the group of 24, as well as more theoretical presentations. The program could also make use of web-based exercises here to help students learn negotiation theory.

The PBL component of Day Three would require students to engage in file-related negotiation. The firm would either send a proposal to, or receive a proposal from, the firm representing the other side regarding a negotiation meeting regarding File 1 (see above). Students would be required to communicate appropriately with opposing counsel to discuss the parameters of the meeting. They would also have to make choices about the information they may want to exchange in advance of negotiation. They would also decide the composition of the negotiating team and the role of each member. For the

purposes of this exercise, clients would not be present. Students would be expected to clarify the extent of their bargaining authority ahead of time. This exercise could include ethical issues relating to the desire of the client to hide information and the demands of professionalism in the context of negotiation.

Day Four

Day Four would be a continuation of the previous day's work on negotiation theory and practice. The PBL component will involve the actual negotiation meeting which students prepared for yesterday. The firm's negotiators will meet with the negotiators for counsel representing the opposing side of File 1 (students from another PBL group). The remainder of each group will watch the negotiation, in order to provide feedback. The PBL tutor for these groups will watch at least part of the negotiation.

Students will then debrief their negotiation performance back in their firms, with their PBL tutor participating for some of this time. Students would receive feedback on their performance in preparation for Friday's assessed negotiation simulation. In addition, the firm would have to follow up on the limitation issue raised by File 2 (see Day Two) and deal with it appropriately. The final assignment for the week would be the individual preparation of a file analysis including a proposed plan for future action on File 2 to be submitted on Friday.

Day Five

Day Five would be devoted to assessment. Students would work in their firms to complete any research and other tasks relating to the handling of their ongoing files. Because practice management issues will be built into the course, students would be expected to docket their time spent on each file for the week and perhaps prepare client billing.

The analysis and plan for future action on File 2 (above) would be submitted to their PBL tutor and students would receive feedback. Students would also hand in their completed In-Tray Exercise. Note that both the file analysis and the In-Tray Exercise would be completed individually.

The main assessment activity for this week would be a “live” negotiation simulation where students would negotiate with one another in relation to a new problem, and their performance assessed on the basis of stipulated criteria. Students would be given a fixed period to prepare for and then conduct the negotiation. Students would be expected to act ethically and with appropriate professionalism in the context of this negotiation. The evaluation criteria communicated to the students ahead of time would explicitly include professional ethics and professionalism.