

Workshop #5
Paralegals: Making the Legislation Work on the Ground

Moderator: Anne Somerville, Workplace Safety Insurance and Appeals Tribunal
Speakers: Lois Delia Figg, Immigration and Refugee Board
Mike Johnston, Workplace Safety and Insurance Board
David Draper, Financial Services Commission of Ontario
Zeynep Onen, Law Society of Upper Canada

This workshop reviewed the impact of Bill 14 and the Law Society's regulation of paralegals. This topic has been discussed at the COBA conference in the past and most of the attendees were very familiar with the regulation process and its implications.

Zeynep Onen commenced the workshop by explaining that the regulation of the paralegal profession includes grandparent applicants, transitional applicants and graduates from fully accredited paralegal programs of instruction. The regulation will ensure that the applicants are of good character, have successfully completed a criminal background search, have a certificate of E & O insurance, undertake to obey the Law Society rules and pass the licensing exam.

Ms. Onen recognized that there are some exceptions and that determining whether employees of various agencies fall under an exception is difficult.

Next, David Draper spoke about paralegals with the Financial Service Commission of Ontario. According to Mr. Draper, paralegals are extremely involved with the Commission. Recognizing this, *Insurance Act - O. Reg. 7/00* regulates all Statutory Accident Benefit (SAB) Representatives. For example, SAB Representatives must file information with the Superintendent, carry E & O insurance and must not act in cases involving catastrophic injuries.

According to Mr. Draper, the Commission will continue to be bound to *Insurance Act - O. Reg. 7/00* until May of 2008 at which time the Commission will become bound by the same paralegal regulations as all other agencies.

Mike Johnston from the Workplace Safety and Insurance Board, spoke about the existence of a Board Code of Conduct, and about the Board's efforts of working with the new regulation. According to Mr. Johnston, any representative contact will classify as a "legal service." To ensure that the paralegals or employees who are performing legal services are in compliance with the regulation, authorization forms will be completed for each file. If an employee is already working on a file and is providing legal services, no authorization form will be required. Instead, the application number or appropriate exception will have to be indicated in the file.

If an employee is providing legal services but is not on the approved paralegal list and does not classify as an exception, the Board will speak to the paralegal and will notify the person who has been represented. If appropriate, alternative representation will be arranged.

Finally, Lois Delia Figg from the Immigration and Refugee Board spoke about the impact the regulation may have on those who appear before the Board. Prior to this regulation, the *Immigration and Refugee Protection Regulations* (SOR/2002-227) requested that only authorized representatives, for a fee, represent, advise or consult with a person who is the subject of a proceeding. A person who was not authorized could continue to represent, consult or advise a person for a fee if the person was providing those services in a proceeding that commenced prior to the coming into force of the regulations. While these regulations were helpful, they did not provide for any recourse action.

With the new paralegal regulation, the immigration consultants who appear before the Board will have to meet a higher standard of knowledge of the law, language skills and professional ability.

The Board is in the final stages of drafting a policy that addresses the mechanism for handling complaints about unauthorized paid representation.