

A Discussion Paper on Introducing Paralegals into the Saskatchewan Legal Market

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Lindsay Beaudry, Tyne Hagey, Stefanie Kingsbury,
Brooklyn Thorpe & Stacey Walker



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Executive Summary

Introducing paralegals in Saskatchewan has the potential to expand the *delivery* of legal services to individuals who are currently unable to access these services as a result of *cost* or *rural location*.

This report begins by exploring Saskatchewan's current legal system and identifying the issues and target audience that paralegals could potentially address. With the intent to learn from other jurisdictions, the report provides a comparison of the scope of practice, regulation, licensing process, and educational requirements of paralegals working in British Columbia, Alberta and Ontario. By identifying the different approaches and their success rates, Saskatchewan has the opportunity to either build off an existing model of paralegals or create their own unique system.

British Columbia regulates paralegal practice through lawyers using a triage approach, where lawyers approve particular paralegals to work on certain files based on that paralegal's knowledge. All paralegals must work under the scope of a lawyer and the Law Society has guidelines for how many paralegals a lawyer may supervise. There are no formal educational requirements for paralegals in British Columbia, but many choose to take some sort of educational program pertaining to legal administration or paralegal work.

Alberta has no set regulation or organizational structure for paralegal services and the Law Society of Alberta remains uninvolved in this process. Paralegals working independently have no set scope of practice and may work without the supervision of a lawyer. Paralegals working under a lawyer have a defined scope of practice. Similar to British Columbia, there are no formal educational requirements for paralegals in Alberta but some paralegals choose to participate in some form of relevant education.

Ontario paralegals are entitled to work independently or with lawyers, and provide clients with a wide range of services. The Law Society of Upper Canada (LSUC) is responsible for the regulation of paralegals. The scope of paralegal practice is evaluated by LSUC and all paralegals must graduate from an accredited educational program.

After examining the approaches of these jurisdictions and presenting the varying options regarding the scope of paralegal practice, regulation, licensing and education requirements, steps and considerations for implementing these changes are then explored.

It is important to consider the implementation of paralegal services in Saskatchewan in a way that improves the delivery of legal services to those currently not using the legal system, particularly people living in rural areas. Paralegals working in Saskatchewan in novel situations such as in courts, retail settings, and in homes could increase the range of the delivery of legal services. Community based paralegals – paralegals working in and connecting with a specific community – could increase access to justice in rural settings.

This report does not provide any specific recommendations. It is meant to present different options, create discussion and initiate some actions towards improving access to Saskatchewan's legal services.

Introduction

What is the problem?

The cost and availability of legal services is a barrier for many people across Saskatchewan requiring access to legal services. *Access to Civil and Family Justice: A Roadmap for Change* (the Cromwell Report) established short-term goals to address this problem, including:

1. **Making essential legal services available to everyone; and**
2. **Focusing the justice system to reflect and address everyday legal problems by 2018.**¹

The report recommends innovations to consider in achieving these goals, which include **increased opportunities for paralegal services** and increased legal information services by qualified non-lawyers.²

What is a paralegal?

Saskatchewan has legal assistants performing duties similar to regulated paralegals in other provinces. Legal assistants in Saskatchewan do not have educational requirements and are not regulated.

The definition of a paralegal differs from province to province. For the purposes of this report, the term paralegal will be used to describe **an individual who is not a lawyer and is permitted to provide legal services.**

The situation in Saskatchewan

Saskatchewan has a thriving legal market. However, many people are unable to access legal services because they are too expensive or are not provided in an accessible location.³ **These gaps in legal services must be addressed.**

Goal – Introducing paralegals in Saskatchewan to expand the *delivery* of legal services to include individuals who are currently impeded from accessing these services as a result of *cost or rural location*

Stakeholders – Law Society, lawyers, legal assistants, public, government, courts and court workers

Target Audience – Individuals who are unable to afford or access a lawyer, who do not qualify for Legal Aid's services

¹ The Access to Civil and Family Justice Action Committee, *Access to Civil and Family Justice: A Roadmap for Change* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, October 2013) at 7 [Cromwell Report].

² *Ibid* at 11.

³ For a discussion of the difficulties people have accessing legal services, see the Cromwell Report or: Julie Macfarlane, *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants* (Final Report, May 2013).

In order to be effective, paralegal services will have to be accessible both geographically (addressed later in this report) and in terms of cost.

Will the use of paralegals reduce the cost of legal services?

The price of paralegal services is one of the most criticized aspects of the current models in other jurisdictions. The lack of restriction on the amount paralegals may charge has led to some paralegals charging fees for services on par with lawyer fees. Introducing paralegals in the legal service community does not automatically ensure that the high costs of legal services will be addressed or improved.⁴

There is no data available in British Columbia on paralegal fees. In Alberta, polling data indicates that the average mean cost differential on the final bill for a service from a lawyer and an independent paralegal is not substantially different, at approximately \$350.⁵ In Ontario, costs vary from paralegal to paralegal and fluctuate significantly.⁶

Points to Ponder

1. *What are some ways to ensure that paralegals in Saskatchewan address not only issues of accessibility, but also affordability?*
2. *Should restrictions be placed on the amount paralegals are permitted to charge for their services?*

Consultations and Research

In our investigations we gathered input from legal representatives in Saskatchewan. These consultations were conducted as informal interviews with a focus on:

- Current gaps in legal services;
- How the use of paralegals could be integrated to address access to justice issues; and
- Obstacles in implementing the suggested models.

An identified area of concern was rural Saskatchewan. Generally, interviewees indicated that paralegals might be able to bridge this gap in legal services. When asked to consider the feasibility of implementation of such a project, interviewees drew comparisons between paralegals and other professions. Some examples are:

- Nurse practitioners who practice in rural areas where communities do not have a doctor;
- Oral hygienists who provide hygiene services to patients instead of dentists; and
- Trademark agents, who work independently and represent clients before the registrar.

⁴ Law Society of Alberta, *Public Legal Education*, "Lawyers Or Paralegals" online: Law Society of Alberta <<http://www.lawsociety.ab.ca>>.

⁵ Law Society of Alberta, *Alternative Delivery of Legal Services Final Report* (February 2012) online: Law Society of Alberta <http://www.lawsociety.ab.ca/files/adls/ADLS_Final_Report.pdf>.

⁶ Law Society of Upper Canada, *Choosing the Right Legal Professional*, "Lawyers and Paralegals: Helping You With Your Legal Needs" online: Law Society of Upper Canada <http://www.lsuc.on.ca/media/lawyers_paralegals_public.pdf>.

The Scope of Paralegal Practice in Other Jurisdictions

Determining the scope of paralegal services in Saskatchewan is crucial because the scope of practice will determine the amount of regulation and education required for paralegals. Some jurisdictions have chosen a dependent model, allowing a paralegal to work only under the supervision of a practicing lawyer, while other jurisdictions operate under an independent model, where paralegals work independently without any supervision from a lawyer.

While a **dependent model** reduces additional risk to the public and is easier to implement and regulate, dependent models do little to lower the cost of legal services and improve accessibility. Under the dependent model, a supervising lawyer determines the scope of practice for the paralegal.

An **independent model** has the potential to allow paralegals to lower the cost of services and serve a larger group of clients. Opening the legal field to independent paralegals increases risk to the public. However, with proper regulation, education and a defined scope of practice, these concerns can be addressed and minimized. An independent model, managed appropriately, allows for much more flexibility to address need.

There are many different approaches that could be taken under the independent model. For example, similar to trademark agents, paralegals could specialize in certain areas of law. This would restrict their services to only those areas that they have expertise in. By narrowing the scope to specialized areas, the production of high quality paralegal services is encouraged and the risk to public is reduced.

In implementing an independent model, public education is a necessary consideration. It would be important to clearly define the scope of service between paralegals and lawyers and the differences between these professions.

The following question must be addressed: **What are paralegals specifically authorized to do and what falls outside their scope?**

What are other jurisdictions doing?

For the purposes of this report we have focused on comparing the approaches taken by British Columbia, Alberta and Ontario.

British Columbia currently uses a dependent model of paralegals. They have amended their *Code of Conduct* to expand the scope of service, permitting *designated paralegals* to give legal advice and appear before a court or tribunal in certain circumstances. By definition, a designated paralegal is a paralegal who can perform additional duties, under a lawyer's supervision, such as give legal advice to clients, give and receive undertakings and make limited tribunal appearances. To determine the scope of practice of designated paralegals, supervising lawyers engage in file triage to determine whether the designated paralegal has the proper experience and knowledge to give legal advice on a particular matter. If the lawyer deems it appropriate, the designated paralegal may give legal advice directly to a client.

As part of a pilot project beginning January 1, 2013, designated paralegals are also able to make courtroom appearances limited to family law proceedings.⁷ With the court controlling the right to appear, very specific rules of court were created to guide the pilot project. For any legal advice and courtroom appearances provided, the lawyer is responsible for the conduct of the paralegal.⁸

The scope of the project allows designated paralegals to appear in family law proceedings that deal primarily with non-contentious procedural matters.⁹ ¹⁰ This pilot project ended in the B.C. Supreme Court on December 31, 2014; the B.C. Provincial Court has allowed the project to continue until October 1, 2015. Feedback from the pilot project has not yet been released.

British Columbia has taken a conservative approach, ensuring that clients are still protected through the supervising lawyers' insurance. The idea is that this liability scheme will ensure quality services, because lawyers will check the work of their paralegals with the same level of attention they would their own work.

Alberta allows both dependent and independent models of paralegals. Alberta has the largest per capita independent legal service industry in Canada. There are a variety of legal services provided by independent paralegals for a fee. Currently in Alberta there is no set regulation or organizational structure of the independent paralegal services being provided.

To date, the Law Society of Alberta has remained uninvolved in this process. As a result, data is difficult to collect regarding non-lawyer legal service delivery and there is no clear "scope of practice" for independent paralegals. However, reports indicate that the public is willing to use independent paralegals and are happy with the legal services provided by non-lawyers in areas of low risk and low complexity.¹¹ Paralegals working under lawyers are limited in their practice and perform tasks similar in nature to those performed by legal assistants in Saskatchewan.

Overall, Alberta has taken an open market approach, allowing the public to choose their service providers. To address the concern of public risk they have recommended redefining the practice of law, but have not signaled any intent to regulate independent paralegal services. To date, Alberta and Saskatchewan are the only jurisdictions in Canada not to have a clear definition of the practice of law in the provincial statute. If independent paralegals are introduced into Saskatchewan, this is a concern that needs to be addressed.

Ontario has the most sophisticated model of paralegal licensing and regulation in Canada, allowing both dependent and independent paralegals. In 2007 Ontario became the first jurisdiction in North

⁷ Law Society of Alberta, *Alternative Delivery of Legal Services Final Report* (February 2012) online: Law Society of Alberta <http://www.lawsociety.ab.ca/files/adls/ADLS_Final_Report.pdf>.

⁸ *Supra* note 6.

⁹ Paralegals: Pilot Project, The Law Society of British Columbia <[http://www.lawsociety.bc.ca/page.cfm?cid=4029&t=Paralegals:-Pilot Project#sthash.qXRy5aNf.dpuf](http://www.lawsociety.bc.ca/page.cfm?cid=4029&t=Paralegals:-Pilot+Project#sthash.qXRy5aNf.dpuf)>.

¹⁰ A full list of authorized appearances through the BC Pilot Project practices can be found at <<http://www.lawsociety.bc.ca/docs/lawyers/paralegal-courts.pdf>>.

¹¹ *Supra* note 7. Although no definition of "practice of law", Saskatchewan has clear direction on the unauthorized practice of law in their legislation.

America to recognize and regulate non-lawyer providers of legal services.¹² Paralegals are entitled to work independently, providing a range of services such as:

- Litigation in Small Claims Court;
- Traffic and other offences heard in Provincial Offences Court;
- Hearings before tribunals (e.g. the Landlord and Tenant Board or the Workplace Safety and Insurance Board); and
- Minor criminal charges under the Criminal Code heard in the Ontario Court of Justice.¹³

Please see Appendix 2 for a complete list of services paralegals are authorized to practice.

Ontario has gradually made improvements to their independent model and is continually trying to improve the use of paralegals in their jurisdiction. Through the LSUC, they have tried to promote the use of paralegals but also clarify the difference in scope between paralegals and lawyers. There are guidelines found online for when clients may choose to use a paralegal as opposed to a lawyer, and when a lawyer is the only qualified option. The current scope of paralegal practice has been evaluated by the LSUC to match the level of education being received. LSUC has completely excluded family law, indictable criminal code offenses, and real estate transactions from the scope of paralegal services.

An independent approach to paralegals has more potential to address the issues of access and affordability. However, without proper regulation and education this approach creates a higher risk to the public. Although the models used in other jurisdictions are helpful, there is no *right* model and adjustments will need to be made to accommodate Saskatchewan's demographics and primary concerns.

Points to Ponder

1. *What model would best address Saskatchewan's needs?*
2. *Should Saskatchewan take a different approach?*
3. *Are there areas of law that paralegals should be restricted from practicing in?*

The Regulation of Paralegals

Paralegal regulation has become a relevant consideration in the discussion regarding paralegals and their potential effect on access to justice issues because of the risk and reward assessment. In order to have a positive and noticeable effect on access to justice issues, paralegals would have to be able to practice in areas they are currently not permitted to practice in Saskatchewan. This tends to favour implementing an independent model of paralegals. While this could benefit access to justice, there would be increased risk to the consumer. Regulation is a way to address that risk.

¹² The Law Society of Upper Canada: *Paralegal Regulation Resources*.
<<http://www.lsuc.on.ca/with.aspx?id=2147491237>>.

¹³ *Supra* note 6.

There are several options for paralegal regulation available, all are discussed in Appendix 4. The three most common options for the regulation of paralegals are: regulation by the Law Society; self-regulation; and regulation under the supervision of lawyers. Which option is best depends on whether a dependent or independent model of paralegals is chosen. Some of these regulatory schemes have been implemented in different common law jurisdictions. Each option has advantages and disadvantages.

Options for an Independent Model of Paralegals:

Regulation by the Law Society

With paralegals working independent of lawyers, regulation by the Law Society is favourable because of the existing infrastructure that is in place to regulate lawyers and law students. It is a generally efficient and effective system. This would limit the start-up costs, as it would be a matter of duplicating or adjusting the framework to suit paralegals. This would also have the potential to address issues about preserving the independence of the legal profession.¹⁴ Fees for paralegals would be lower because the framework for regulation already exists. This would allow paralegals the option to charge lower fees to clients.

There are potential concerns that paralegals might not respect the legitimacy of the Law Society Regulation. This was a concern that was addressed by the LSUC Task Force before they implemented their system,¹⁵ and it is likely that this would translate to Saskatchewan as well. This could be addressed by providing paralegals representation within the Benchers. The LSUC took this approach and made recommendations to provide proportional representation to paralegals to remedy this concern.¹⁶

Paralegal Self-Regulation

Allowing paralegals to self-regulate would provide autonomy within a framework that holds paralegals professionally accountable. There is potential for this to be low cost to the public as it would be funded by fees from paralegals. It could also allow for faster and more flexible responses to the marketplace.¹⁷ Self-regulation could be beneficial because it could address the needs of paralegals quicker and more efficiently.

Enacting a self-regulating system does raise some concerns because the industry is so new.¹⁸ The profession is only developing in Saskatchewan. A new, self-regulating framework would need time to work out the finer details and imperfections in the system. Implementing a new profession and giving them the power to entirely self-regulate could be potentially be high-risk.

¹⁴ Law Society of Upper Canada, "Paralegal Task Force Report" *Convocation Reports* (March 2000) online: Law Society of Upper Canada <<http://www.lsuc.on.ca>>.

¹⁵ *Ibid.*

¹⁶ Law Society of Upper Canada, "Progress report on five year review" *Convocation Reports* (April 2013) online: Law Society of Upper Canada <<http://www.lsuc.on.ca>>.

¹⁷ *Supra* note 14.

¹⁸ *Ibid.*

Options for Dependent Model of Paralegals:

The Triage Approach

The triage approach permits paralegals to work under the supervision of a lawyer. Essentially, the lawyer is responsible for the paralegal's work. The lawyer receives the file and assesses whether the case is within the scope and competency of the paralegal.¹⁹ The client is protected by the lawyer's discretion and professional liability insurance.²⁰

British Columbia has implemented this approach; setting up rules and regulations surrounding how the process works and how many paralegals the lawyer can supervise.²¹ This approach may not meet the needs of Saskatchewan as there is no evidence that it would make legal assistance more available to the public, nor is there any evidence that this approach would lower fees. The triage approach is not a long-term solution, but has potential value as a transitional process. This model could address issues of ensuring competency and capability as the industry begins to mature.

The LSUC rejected this approach because their marketplace assessment found a consumer need for independently regulated paralegals.²² This is an important consideration for Saskatchewan from an access to justice perspective. Identifying the gaps in access to justice will impact what kind of regulation scheme is appropriate.

After assessing the options explored by the LSUC and the options implemented in other jurisdictions, it seems that regulation by the Law Society would be the most viable option in Saskatchewan. While this model is not perfect, looking at other jurisdictions allows us to pre-emptively identify some weak spots in this model and work to improve them.

Points to Ponder

1. *Are there circumstances that make Saskatchewan unique from Ontario and other jurisdictions that have implemented regulatory schemes for paralegals?*
2. *Is there potential for a blending of these systems permanently or during a transitional period?*

Licensing of Paralegals

Licensing paralegals is relevant to the regulation discussion because it determines the conditions under which paralegals are entitled to practice law. The appropriate licensing process will vary according to which model of scope of practice is used (an independent or dependent model) as well as which regulation system is implemented.

¹⁹ The Law Society of British Columbia, Code of Professional Conduct for British Columbia: Law Society of British Columbia, 2013, Appendix E.

²⁰ Ibid.

²¹ The Law Society of British Columbia, Code of Professional Conduct for British Columbia: Law Society of British Columbia, 2013, r 2-9.2(2)

²² *Supra* note 14

Options for an Independent Model of Paralegals:

Regulation by the Law Society

Under the Law Society, the licensing process would be similar to that of lawyers. Individuals would be required to complete an accredited education program, pass a licensing examination, and meet good character requirements similar to the process set up by the LSUC.²³ In the initial stages of regulation, general licences could be advantageous, as they will limit the amount of specific standards that have to be met for education. For the first five years, the LSUC allowed a general licence to be obtained and on review of their system, are looking into offering specialized or sub-classes of licences to better improve access to justice.²⁴ Particularly, they are looking into permitting sub-classes of licences in areas that paralegals currently are not allowed to practice in.²⁵

Self-Regulation

Under this method, it is likely that the licensing process would be similar to how the Law Society regulates lawyers. Presumably paralegals would have to pay a fee and meet certain standards before they could practice. There would need to be formal processes for reviewing conduct and dealing with complaints. To oversee the regulation a body consisting of members from various backgrounds could be created.

Grand-parenting

Under a licensing scheme, an issue that arises is the integration of individuals who are working within the current scope of paralegal practice. This has been addressed in other jurisdictions through grand-parenting. This process provides individuals with time to challenge a licensing examination or complete requirements without ending their current practice.²⁶ Credit could be granted for practical experience in place of education.²⁷ The LSUC permitted individuals who had worked three of the previous five years to apply for the grand-parenting option.²⁸ They had six months to apply and had to pass the licensing exam and meet good character requirements.²⁹

Options for a Dependent Model of Paralegals:

Triage Approach

In jurisdictions where this approach has been implemented there is no formal licensing process. Paralegals are differentiated from legal assistants based on paralegals meeting the competencies set out by the Law Society and having a lawyer agree to supervise them. The lawyers are regulated and the paralegals work underneath them.³⁰ Paralegals would have more responsibility than legal assistants and be able to do a greater range of legal work.

²³ Law Society of Upper Canada, *Licensing Process Policies – Paralegal*, parts 3, 4 &6.

²⁴ *Supra* note 16.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid* at 242.

²⁹ *Ibid* at 241.

³⁰ *Supra* note 19

As mentioned, in British Columbia, supervising lawyers determine if individuals are competent to be what they refer to as designated paralegals. The Law Society of British Columbia has set out general guidelines in determining competency from a standard paralegal (what Saskatchewan refers to as a legal assistant), to a designated paralegal.³¹ Ultimately, it is up to the supervising lawyer to make that assessment, as they are the ones assuming responsibility.

Point to Ponder

1. *Would there be sufficient interest in a similar grand-parenting scheme in Saskatchewan?*

Educational Requirements for Licensing

If paralegals are going to be licensed in Saskatchewan, it is important that they have sufficient education. There are several decisions that must be made before implementing an educational program for paralegals. Practical decisions will need to be made regarding who will create the program, where the program will be implemented, and how the program will be created. Policy decisions will also need to be made regarding the accreditation and evaluation standards of the program.

British Columbia has no formal educational requirements.³²

Alberta similarly has no formal educational requirements for paralegals.³³

Ontario is currently the only province that has formal educational requirements for paralegals. As previously discussed, Ontario is the only province in Canada that regulates and licenses independent working paralegals. To become a licensed paralegal in Ontario, the LSUC has established three basic qualifications:

1. Completing an accredited paralegal education program which includes a field placement;
2. Passing the Paralegal Licensing Exam; and³⁴
3. Submitting a Good Character Form.³⁵

The Canadian Association of Paralegals (CAP) recommends completing paralegal education in the province the individual wishes to work.³⁶ Given this inconsistency in educational requirements across jurisdictions, paralegals may find it difficult to relocate as their education may not be recognized in their new jurisdiction.

³¹ *Ibid.*

³² For more information regarding education of paralegals in Alberta see *How to Become a Paralegal in Alberta*, online: ParalegalEdu <www.paralegaledu.org/alberta/> and the chart in Appendix 3 of this report.

³³ For more information regarding education of paralegals in British Columbia see *How to Become a Paralegal in British Columbia*, online: ParalegalEdu <www.paralegaledu.org/british-columbia/> and the chart in Appendix 3 of this report.

³⁴ For an explanation of how the licensing exam was created see Law Society of Upper Canada, "Law Society Five year review of Paralegal Regulation" *Convocation Reports* (June 2012) online: Law Society of Upper Canada <<http://www.lsuc.on.ca>> at 12.

³⁵ *How to become a Paralegal in Ontario*, online: ParalegalEdu <<http://www.paralegaledu.org/ontario/>>.

³⁶ *Paralegal Programs and Schools in Canada*, online: ParalegalEdu <<http://www.paralegaledu.org/canada-schools/>>.

Points to Ponder

1. *Would creating uniform educational requirements across Canada be beneficial, or should there be some flexibility to allow programs to address the unique needs of individual provinces/territories?*
2. *How should Saskatchewan address paralegals trained in other provinces who wish to work here given the diversity of training programs across the country?*
3. *Which licensing scheme would be in the best interests of the public in Saskatchewan? Is it best to follow an existing model or create our own?*

Requiring the completion of an accredited educational program ensures that applicants to the licensing process have obtained an acceptable level of education and are competent to write the licensing exam. For this reason, **it is suggested that a similar approach could be taken in Saskatchewan when it comes to the educational requirements for licensure.** If completion of an accredited educational program is one of the requirements of licensure, the next considerations are how an educational program is created and subsequently accredited and evaluated.

Creating an Educational Program

Who creates educational programs?

In other jurisdictions, educational programs are created by the educational institution wishing to implement them. Whether the institution ventures to create the program independently or seeks outside assistance is at the discretion of the institution.

Point to Ponder

1. *Who should be involved in the creation of educational programs in Saskatchewan?*

Where are educational programs implemented?

Educational programs vary greatly across jurisdictions and from institution to institution. Programs offer a range of outcomes from legal assistant certificates, diplomas and degrees to paralegal certificates, diplomas and degrees. Even in Ontario, where there are formal educational requirements, the programs offered vary. Despite these differences, it is most often colleges that implement such programs. Appendix 2 provides some examples of different institutions that implement legal assistant/paralegal programs and exemplifies the high degree of variance among those programs.

Point to Ponder

1. *Where could paralegal educational programs be implemented in Saskatchewan?*

How is an educational program created?

There are multiple considerations to take into account when designing an educational program. The first and perhaps the most important consideration is the way in which the educational program will be carried out. The chart below describes some potential training models along with the advantages and disadvantages associated with each particular design.

Training Model	Description	Pros	Cons
Generalized Training	Students complete one educational program covering a wide range of subjects	Well-rounded education Education may inform the student regarding what area they want to work in Ability to specialize in a particular area later (continuing education)	Higher degree of supervision/regulation required due to lack of specialized knowledge Training on several topics takes more time and is more expensive
Specialized Training	Students complete single educational program that covers one topic extensively (e.g. real estate, divorce, wills)	Graduates require less supervision/regulation based on the specialized nature of their training Training would be relatively short and inexpensive	Education will be restricted to one area of law Students may not know what area they want to work in before they begin their education
Module-based Training	Students would complete specialized modules in intervals, having the option to complete as many modules as they desire	Graduates require less supervision/regulation based on the specialized nature of the training Students can easily control their education Training length can suit an individual student's needs and is cost effective	May be difficult to implement (i.e. Would students have to choose whether to continue immediately or could they return to the program at any time?)

Considerations for designing a paralegal program

What courses (mandatory and optional) should be designed?

The ultimate course content and requirements will be influenced by the desired training model. Ontario's educational program is similar in nature to the generalized training model described above. Accredited educational programs in Ontario must offer 18 required courses that cover the essential elements of procedural and substantive practice as well as ethical and responsible practice.³⁷ Accredited programs must offer a minimum of 830 hours of instruction, comprised of:

³⁷ For a list of these courses see Law Society of Upper Canada, "Trust accounts, fee categories and college course accreditation" *Convocation Reports* (September 2007) online: Law Society of Upper Canada <<http://www.lsuc.on.ca>> at 48.

1. 590 instructional hours in compulsory legal courses within the permitted scope of practice;
2. 120 hours of field placement/practicum work experience; and
3. 120 instructional hours in additional (non-legal) courses that support a well-rounded college education.³⁸

Having these requirements as a reference is helpful, however, emphasis on certain substantive content and skills may need to be modified to reflect the specific priorities of the program. For example, an educational program with a goal to address gaps of legal services in rural populations may place greater emphasis on topics of concern to those communities. Or if Saskatchewan chooses to implement paralegals with a very specific and limited scope of services, this will need to be addressed.

Ideally, at minimum course content should cover the necessary legal knowledge and required paralegal skills.³⁹ Having a good understanding of the law would assist paralegals in determining whether a particular problem is a legal problem, or if the problem should be addressed through a non-legal mechanism. This would allow paralegals to strategically decide who they will deliver their services to.

Educating paralegals about the government and how government services work, will also be important, so that they can advise their clients accordingly. If, for example, paralegals are going to be providing legal services to people who do not qualify for legal aid, then it is important that they understand who does and does not qualify for legal aid. This will allow paralegals to understand who they can deliver their services to.

Will there be a continuing professional development (CPD) requirement?

Ontario is the only jurisdiction that requires their paralegals to participate in CPD, and as of 2011, this requirement consists of 12 hours of educational activities, 3 hours of which must be dedicated to accredited professionalism-related content.⁴⁰ CPD has many benefits including:

- Ensuring the competency of workers;
- Maintaining and enhancing skills and knowledge required in the profession;
- Building confidence and credibility in workers;
- Creating opportunities for advancement within the profession;
- Signaling of changing trends and directions in the profession;
- Encouraging effectiveness in the workplace;
- Improving public perception of the profession; and
- Familiarizing employees with new technology.

These are just a few of the many benefits of CPD, and it is suggested that having a CPD requirement for paralegals would be beneficial.

³⁸ *Supra* note 34 at 13.

³⁹ For a list of skills and knowledge that paralegals should be acquired by paralegals see Open Society Foundations, "Community-based Paralegals: A Practitioner's Guide" (December 2010) online: Open Society Foundations <<http://www.opensocietyfoundations.org/sites/default/files/paralegal-guide-20101208.pdf>> at 83 and 84.

⁴⁰ *Supra* note 34 at 14.

Who should teach the program?

In other jurisdictions, individuals that have taught paralegal educational courses include:

- Paralegal Program Directors;
- Legal Specialists;
- Mediation Specialists;
- Activists and NGO Staff with related experience;
- Government Representatives; and
- Writers who helped develop the instructional materials.⁴¹

One important consideration when deciding who should teach paralegal courses is whether they are qualified and knowledgeable about the subject and can produce sufficiently educated and competent graduates. The type of training model adopted would impact who would be an ideal candidate to teach the program.

Point to Ponder

1. *Who else could instruct these types of programs?*

How long should the program be?

Accredited paralegal programs in Ontario range from 2 -4 years. The length of the training program will be influenced by:

- The type of training model adopted
- Pre-requisite educational requirements
- The graduates desired scope of practice

Point to Ponder

1. *What would be the ideal length of a training program in the Saskatchewan context?*

How much will the program cost?

The cost of the program will depend on the length and intensity of the program. The chart in Appendix 3 can be used as a reference point for how much current legal assistant/paralegal programs cost. The cost of these programs varies greatly across jurisdictions and even from program to program. Implementing a standardized tuition scheme within Saskatchewan might be one way to address these inconsistencies. It will be important to ensure that tuition is not a barrier for people from rural or low-income backgrounds who want to become a paralegal.

⁴¹ *Supra* note 39 at 90.

Program Accreditation and Evaluation

How does an educational program get accredited?

After an educational program is created it must then be approved and accredited. In Ontario, the criteria that an educational program must meet to get accredited were developed by the Professional Development & Competence Department of the LSUC in consultation with many colleges and with the Ministry of Training, Colleges and Universities.⁴² These accreditation standards set out the following:

- Requirements related to program infrastructure (such as amount of faculty needed and faculty qualifications);
- Acceptability of the institution's assessment practices and examinations;
- Aptness of the field placement component; and
- Course requirements (as outlined above, including required course content and instructional hours).⁴³

Colleges that wish to implement such programs are subsequently required to fill out a detailed application package⁴⁴ and participate in an audit process to prove that their proposed program's curriculum and infrastructure satisfy the accreditation criteria.⁴⁵

Who accredits educational programs?

If the program satisfies the criteria and passes the audit, the Ministry of Training, Colleges and Universities approves the program and the LSUC accredits it.⁴⁶ A similar approach could be taken in Saskatchewan with the Ministries of Education and Advanced Education approving curriculums, followed by accreditation by the Law Society of Saskatchewan.

Points to Ponder

1. *Should institutions with legal assistant programs already in place be given accreditation priority?*
2. *Should there be a cap on the initial number of programs that can get accredited? What would this accomplish?*
3. *Should accreditation be permanent or subject to audits that when failed would result in revocation of accreditation?*
4. *Would the Ministry of Justice play any part in the accreditation process?*

⁴² *Supra* note 34 at 13.

⁴³ *Ibid* at 13.

⁴⁴ For an example of an accreditation package that colleges would be required to fill out see *supra* note 37 at 29–91. <http://www.lsuc.on.ca/media/convsept07_psc.pdf> at 71-133.

⁴⁵ *Supra* note 34 at 13.

⁴⁶ *Paralegal Education Program Accreditation*, online: Law Society of Upper Canada <<http://www.lsuc.on.ca/For-Paralegals/About-Your-Licence/Paralegal-Education-Program-Accreditation/>>.

How will educational programs be evaluated?

Evaluation of paralegal programs is essential to address the programs quality, credibility, and sustainability. In Ontario, accredited programs are audited within the first 3 years of being accredited, and at the discretion of the LSUC every 5 years thereafter.⁴⁷ Evaluating programs through an auditing process ensures that educational programs are maintaining appropriate standards of training and assessment.⁴⁸ Some sort of program evaluation scheme would be beneficial in the Saskatchewan context, to enhance public perception of the credibility of the profession.

Point to Ponder

1. *Should audits be discretionary? Who will scrutinize this discretion?*

Implementation of Paralegals in Saskatchewan

A focus of the Cromwell Report is to make essential legal services available to everyone by 2018, with an emphasis on programs to promote justice services to aboriginal and rural populations⁴⁹ as well as rural and remote communities.⁵⁰ In Saskatchewan, approximately 33.2% of residents live rurally⁵¹ compared to 18.9% rural residency nationally.⁵² It is particularly vital in Saskatchewan that programs that promote access to justice to residents in rural Saskatchewan are implemented in order to meet the recommendations of the Cromwell Report.

It is important to think about where paralegals may be implemented in Saskatchewan. The following question must be addressed: **How can the use of paralegals improve the delivery of legal services to people in Saskatchewan, and in particular, rural Saskatchewan?**

Community-Based Paralegals

The use of paralegal services to improve the delivery of legal services to rural environments has been addressed in multiple countries, including South Africa, Serra Leone, Hungary and Tanzania. The Open Society Justice Initiative has published guidelines for countries interested in using paralegals to increase justice in rural environments.⁵³ They advocate for the use of *community-based paralegals*.

A community-based paralegal is a person who:⁵⁴

⁴⁷ *Supra* note 37 at 19.

⁴⁸ For further explanations of what an audit of an accredited Ontario educational program consists and how it is carried out see *supra* note 34 at 13.

⁴⁹ Cromwell Report, *supra* note 1 at 7.

⁵⁰ *Ibid* at 14.

⁵¹ Based on data from 2011 where 343,398 out of 1,033,381 Saskatchewan residents lived rurally; "Saskatchewan Population Report: 2011 Census of Canada", online: Government of Saskatchewan <<http://www.stats.gov.sk.ca/stats/population/Censuspop2011.pdf>>.

⁵² "Canada's rural population since 1851," online: Statistics Canada <http://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-310-x/98-310-x2011003_2-eng.cfm>.

⁵³ The Open Society Justice Initiative, *Community-based Paralegals: A Practitioner's Guide*, online: Open Society Foundations <<http://www.opensocietyfoundations.org/sites/default/files/paralegal-guide-20101208.pdf>>.

⁵⁴ *Ibid* at 16.

1. Has basic knowledge of the law, the legal system and its procedures, and has basic legal skills
2. Is a member of the community or part of an organization that works in the community and has basic knowledge of the ways community members access justice services (including through traditional or informal justice mechanisms)
3. Has skills and knowledge on alternative dispute resolution mechanisms, including mediation, conflict resolution, and negotiation
4. Is able to communicate ideas and information to community members using interactive teaching methods
5. Can have working relationships with local authorities and service delivery agencies
6. Has community organizing skills that can be used to empower communities to address systematic problems on their own in the future

Points to Ponder

1. *Who would make a good community-based paralegal?*
2. *Do you think a community-based paralegal is a good description of a paralegal's role?*

Rural Initiatives

The success of initiatives to promote the delivery of paralegal services to rural Saskatchewan may vary depending on the types of regulation, education, and funding utilized.

The World Health Organization published policy recommendations for increasing access to health workers in remote and rural areas through retention and incentive programs. They recommend focusing on the education of students with rural backgrounds,⁵⁵ and developing continuing education programs to meet the needs of rural workers.⁵⁶

The following are examples⁵⁷ of potential rural initiatives and incentives:

Relocation incentive: A one-time payment of moving costs for paralegals who move to an identified rural community

Recruitment incentive: A one-time recruitment incentive for paralegals who decide to work in a designated rural community⁵⁸

Rural retention program: An annual incentive to paralegals for remaining in a community

⁵⁵ *Ibid* at 18.

⁵⁶ *Ibid* at 21-22.

⁵⁷ Many of these ideas come from Northern Health, a group of doctors who serve over 300,000 people in rural Northern British Columbia; Northern Health, online: <<https://physicians.northernhealth.ca/PracticeHere/RuralProgramsIncentives.aspx>>.

⁵⁸ Although monetary incentives are effective, long-term commitment requires that professionals feel a connection to the community and have opportunities for professional development; *Recruitment Incentives*, online: SaskDocs <http://www.saskdocs.ca/web_files/discussion-paper---recruitment-incentives.pdf>.

Continuing education: Free or subsidized continuing education or grants to pay back student loans, in particular, providing heavily subsidized or free education for people from rural communities who wish to become paralegals and practice in their community.⁵⁹ It will be important to ensure that education is accessible to people living in rural communities, while they are living in those communities.⁶⁰

Points to Ponder

1. Do you think we need to use incentives for paralegals to increase the delivery of legal services to rural Saskatchewan? Will paralegals be drawn to work in these areas?
2. How do you think these incentives would work in Saskatchewan? What are the pros and cons?
3. Would the overall success of these incentives be measured by an increase in the number of paralegals employed in rural communities and the longevity of their employment?

Where could paralegals practice?

It is important to think about the locations where paralegals could practice in Saskatchewan: in court access points; retail settings; companies providing in-home services; law firms; or separate paralegal firms. When considering these locations, it is important to consider how the delivery of services would be enforced or regulated, if there is a need for additional government funding, and how the location will increase the delivery of legal services to Saskatchewan residents, with a particular emphasis on marginalized and rural residents. A description of the more novel locations is provided below:

1. Court Access Points

Research has been done on the use of court access points to increase access to legal services. The Dean's Forum has made previous recommendations that an integrated service centre, a centre providing accessible legal information, would be beneficial if located in a courthouse.⁶¹

Many jurisdictions have legal service centres in courthouses. Maryland has operated a District Self-Help Centre since 2009. The self-help centre utilizes on-site lawyers to assist people with small claims, landlord tenant issues, and domestic violence matters, without actually representing them.

⁵⁹ The local rural governance bodies in India may select a rural woman to train as a midwife for free in exchange for service in that community for a number of years; Thiagarajan Sundararaman and Garima Gupta, *Indian approaches to retaining skilled health workers in rural areas*, online: World Health Organization <<http://www.who.int/bulletin/volumes/89/1/09-070862/en/>>.

⁶⁰ A position paper about doctors in rural United States indicates that being prepared for rural life socially through education seems to help with retention in rural practice. The ability to adapt to rural practice and life is the key determinant of retention. *Rural Practice, Keeping Physicians In*, online: American Academy of Family Physicians <<http://www.aafp.org/about/policies/all/rural-practice-paper.html>>.

⁶¹ The Dean's Forum on Dispute Resolution and Access to Justice, *Bridging the Gap: The Prospect of Integrated Service Centres*, University of Saskatchewan (March 2014).

Clients fill in forms using touchscreens while they wait for assistance and have access to legal information websites.⁶²

The Supreme Court of British Columbia's Self Help Information Centre provides centralized legal assistance and resources to unrepresented litigants in Vancouver.⁶³ In the Netherlands, Legal Service Counters provide free legal services to the general public through the use of both paralegals and lawyers. Clients can receive general information, clarification on a legal problem, information on their legal options, and referrals to lawyers or other service agencies.⁶⁴

In Saskatchewan, self-represented litigants have access to legal information but are not able to access free legal advice or assistance filling out forms when involved in a civil matter, or as family law litigants (subject to Legal Aid's coverage). Court Access Points have the potential to greatly increase the resources available to self-represented litigants in Saskatchewan. Court Access Points, however, would not serve many residents in rural Saskatchewan unless those residents travelled or were able to access materials online or by phone.

Points to Ponder

1. *Do you think that Court Access Points would work in Saskatchewan?*
2. *What is the role, if any, of paralegals in Court Access Points?*

2. Other Access Points

Courts may be daunting for many people who require legal services. It is important to consider the delivery of legal services at other points and innovative solutions to increase the range of delivery of legal services by paralegals in Saskatchewan. In Ontario, many paralegals operate in a manner similar to a law office. They have offices located downtown as well as more residential locations. Walking into an office is intimidating for some people, while others are unable to visit during regular work hours.

Law-Mart (Paralegals in Retail Environments)

No, Wal-Mart doesn't have a law firm! In Ontario, Axxess Law operates law firms inside Wal-Mart locations.⁶⁵ At Axxess Law, lawyers assist clients with real estate, wills, power of attorneys, notary services, incorporations, family law/divorce, and refinancing. Clients pay set fees for services completed the same day. Axxess Law is successful because they are accessible, efficient and affordable. They have longer hours of operation and are open 7 days a week.

Paralegals operating in a retail environment would put clients at ease – accessing legal services could be accomplished in the same trip as going grocery shopping. This removes much of the fear and uncertainty people face accessing legal services.

⁶² Pamela Cardullo Ortiz, "Courts and Communities: How Access to Justice Promotes a Healthy Community" 72:4 Md L Rev 1096 at 1097.

⁶³ Ministry of Justice, online: <<http://www.ag.gov.bc.ca/justice-access-centre/vancouver/>>.

⁶⁴ *Supra* note 58 at 13.

⁶⁵ Axxess Law, online: Axxess Law <<http://www.axesslaw.com>>.

In-Home Services

Saskatchewan's population is aging. It is important that legal services can be delivered to people with mobility issues at an affordable price. There is potential to have paralegals offer in-home legal services to people who are unable to visit an office or store.

Point to Ponder

1. *In Saskatchewan, where could paralegals work that would benefit the community?*

Measuring Success

The Cromwell Report has set the following goals: To make essential legal services available to everyone and to refocus the justice system to reflect and address everyday legal problems by 2018.⁶⁶ There has been an exploration of ways throughout this report in which the use of paralegals could increase the delivery of legal services in Saskatchewan through making legal services more cost friendly and geographically available.

It is important to establish criteria on which a paralegal program may be evaluated for success and effectiveness in order to **receive continuing support from stakeholders**. Given that the goal of paralegals is to address access to justice by filling gaps, the purpose of evaluation would be to determine whether the implementation of paralegals has achieved this outcome.

Methods for evaluation

1. Compiling internal data and case files
2. Individual and focus group interviews
3. Observations
4. 5-year report

Questions for evaluation

1. *How many people are using paralegal services, and what is the average income of this group?*
2. *Has the number of self-represented litigants been reduced, and/or are self-represented litigants more informed?*
3. *Where are paralegals practicing within Saskatchewan? Have paralegals moved into rural practice?*

⁶⁶ Cromwell Report, *supra* note 1 at 11.

Appendix 1

Paralegal Courses in Canada

Institution	Program/Tuition	Length	Pre-Requisites	Curriculum
Saskatoon Business College Saskatoon, Saskatchewan	Legal Assistant Diploma \$12,256	40 weeks	Grade 12 with a minimum 60% overall average of GED 12 Pre-enrollment Information Session	http://www.sbcollege.ca/Data/files/Legal_Assistant-Paralegal_Program_September_2014.pdf
Academy of Learning College Saskatoon, Saskatchewan	Legal Assistant Diploma International \$12,075	52 weeks	Grade 12 transcripts Mature admissions: work experience and maturity are taken into account; references are required	http://www.academyoflearning.com/sk/legal-assistant1-under-program-courses-tab
HCC Choice College, Spruce Grove, Alberta	Legal Office Assistant Certificate \$13,590	21 weeks in class classroom instruction and 4 weeks of practicum	Students must meet ONE of the following criteria: Alberta High School Diploma, with 50% or better in Grade 12 English and Mathematics; OR Successful completion of the General Equivalency Diploma with a standard score of 50 or better in English and Mathematics; OR Mature Admission	http://www.choicecollege.ca/legal-office-assistant
Reeves College Calgary, Alberta	Paralegal Diploma \$25,130	65 weeks	Alberta high school diploma or equivalent Mature students must have 33 credits on high school transcript or can take an aptitude test	http://www.reevescollege.ca/programs-and-courses/paralegal/
North Island College Vancouver Island, British Columbia	Legal Administrative Assistant Certificate \$1,690	30 weeks (online)	Completion of Office Assistant I Certificate which requires: C in Eng 12 or equivalent and C in Math 10 or equivalent	http://www.nic.bc.ca/program/legal_administrative_assistant_certificate
CDI College Surrey, British Columbia	Paralegal Diploma \$15,000	65 weeks	No GED requirement On campus assessment is conducted to assess eligibility	http://www.cdicollege.ca/programs-and-courses/paralegal-bc/
Conestoga College Institute of Technology and Advanced Learning Kitchener, Ontario	Paralegal College Graduate Certificate Domestic: \$5,153 International: \$21,723	1 year	You must have completed a diploma or degree from college or university; OR 3-5 years of related full-time work experience Preference may be given to applicants with a law-related degree	http://www.conestogac.on.ca/fulltime/1297.jsp#international-fees-link

Durham College Oshawa, Ontario	College Graduate Certificate Domestic: \$4,666 International: \$14,713	1 year	Legally related college diploma or university degree with min 2.7 GPA; OR Non-legal related diploma or degree inc. min. 3 legally related courses with minimum 2.7 GPA; OR 3-5 yrs. of related experience and a high school diploma	http://www.durhamcollege.ca/programs/paralegal-graduate-certificate
George Brown Toronto, Ontario	Paralegal College Certificate \$7,327	2 years on a part time basis 6 modules with 3 courses and field placement	You must have completed ENGL 1030 (Skills for College English), COMP 9191 (Microsoft Word I) and COMP 9208 (Microsoft Word II) or approved equivalents.	http://coned.georgebrown.ca/owa_prod/cewskcrss.P_Certificate?area_code=PA0040&cert_code=CE0192
Humber Institute Toronto, Ontario	Paralegal Bachelor of Applied Arts Degree Domestic: \$6,838 International: \$14,400 (for 2 semesters in 2014/15)	4 years	High school diploma including these required courses: Grade 12 English min 65% Five Grade 12 U or M courses in addition to those listed above (GPA) 65 per cent; OR Mature student status; OR College or University transfer status	http://www.humber.ca/program/bachelor-applied-arts-paralegal-studies

For a list of all accredited programs in Ontario see:

<http://www.lsuc.on.ca/For-Paralegals/About-Your-Licence/Paralegal-Education-Program-Accreditation/>.

The Difference between Certificates, Diplomas, and Degrees

Generally speaking, certificates, diplomas and degrees differ in 2 main ways, the length of programs required to obtain them, and the educational requirements of those programs. Certificate programs can usually be completed in about 1 year, and they focus exclusively on paralegal education (no general education requirements). Diploma programs can usually be completed in about 2 years, and they focus mostly on paralegal education (only some general education requirements). Degree programs usually take about 4 years to complete. This is because there are both general education and paralegal education requirements.

Appendix 2

Paralegal Models in Canada

	Ontario	Alberta	British Columbia
Regulation	<ul style="list-style-type: none"> Regulated through LSUC. Subject to the same rules for fees, advertising, conduct, confidentiality, advocacy, competency, and trust account management as lawyers. Paralegals are required to pay into a compensation fund for clients who suffer loss as a result of their work. They are also required to have professional liability insurance. 	<ul style="list-style-type: none"> Paralegals are unregulated in Alberta. They are not permitted to give legal advice. 	<ul style="list-style-type: none"> Regulated through lawyers. Use triage approach where a lawyer determines whether the paralegal has the requisite skill to work on a file. The lawyer is responsible for everything the paralegal does. The Law Society has rules for how many paralegals a lawyer can supervise.
Licensing	<ul style="list-style-type: none"> To be licensed through LSUC paralegals must graduate from an accredited program, meet good character requirements, and pass the licensing examination. 	<ul style="list-style-type: none"> No regulatory body so no licensing process. 	<ul style="list-style-type: none"> No real licensing process; it is up to the lawyers who are hiring to determine if the paralegal has the requisite experience.
Scope of Practice	<p>Independent Paralegals are permitted to represent clients in matter of:</p> <ul style="list-style-type: none"> Small Claims Court; Traffic Tickets and charges like speeding or trespassing; Some tribunal appearances; Minor criminal offences with a max 6 month term of imprisonment or some offences by way of summary conviction; Compulsory Automobile Insurance Act, Liquor Licence Act, Environmental Protection Act, Occupational Health and Safety Act, Municipal by-laws. <p>Paralegals are NOT permitted to:</p> <ul style="list-style-type: none"> Give legal advice about family matters or represent in Family Court. Manage real estate transactions including title searches, document preparation and registration, or the closing of the transaction. 	<ul style="list-style-type: none"> Independent paralegals are unregulated and therefore have an undefined scope of practice. <p>Paralegals supervised under a lawyer are permitted to:</p> <ul style="list-style-type: none"> Draft legal documents; Submit documents for registration with appropriate agencies; Conduct tax, land title and other legal searches; Assist with real estate, mortgage, estate administration, corporate, tax and intellectual property transactions; Assist in personal injury litigation, civil litigation and family law; Attend pre-trial and trial proceedings to assist with document management; and Interview witnesses and assemble documentary evidence for trials. <p>Paralegals are NOT permitted to represent people in court</p>	<ul style="list-style-type: none"> The supervising lawyer determines the scope of a paralegals practice. For the scope of the Pilot Project allowing paralegal to appear on family matters, and more information about the project please visit The Law Society of BC's website: http://www.lawsociety.bc.ca/page.cfm?cid=4029&t=Paralegals:-Pilot-Project.
Education	<ul style="list-style-type: none"> To practice paralegals must complete an accredited educational program that includes a practical component Only students who complete an accredited educational program will be eligible to write the licensing exam Current educational programs offer paralegal certificates, diplomas and degrees 	<ul style="list-style-type: none"> Paralegals are not regulated so they do not need to pass an examination or meet minimum educational standards to work Paralegals begin their careers with on-the-job training or by seeking post-secondary education Current educational programs offer paralegal certificates, diplomas, and degrees 	<ul style="list-style-type: none"> No formal educational requirement Paralegals often have some education or training, but what will be considered sufficient is ultimately at the discretion of the lawyer Programs offer paralegal certificates, diplomas, and degrees

Appendix 3

Paralegal Regulatory Options

Type of Regulation	Pros	Cons
Law Society	<p>Favourable option because of the existing infrastructure. Law Society already has an effective and efficient system. This would preserve the independence of the legal profession and limit costs of implementation.</p> <p>Most popular option in a survey conducted by the LSUC before their system was implemented.</p> <p>It has been successfully implemented in Ontario, with extensive reports and review regarding the system. We have a system and research we can use in Saskatchewan and a jurisdiction that we can learn from.</p>	<p>Potential hesitation of paralegals to be regulated by lawyers; issues of whether the paralegals would respect the legitimacy. (This is combatted by the results of the Law Society of Upper Canada review; 71% of the paralegals surveyed believe that regulation was beneficial).</p>
Independent Body	<p>Paralegals may view this as more favorable. Law Society could be involved without playing a primary role. Funding would come from paralegals paying fees.</p>	<p>Expensive to start up; may have to be covered by public funding until it was established.</p>
Under the Supervision of a Lawyer	<p>This would make sure that paralegals would be adequately supervised; scope of practice would be limited to what the lawyer deems appropriate for the individual paralegals. The client would be protected through the lawyer’s professional liability. This is a “triage” approach; the lawyer assesses each file to determine if it is within the paralegal’s abilities. The lawyer is responsible for everything the paralegal does.</p>	<p>This method doesn’t really address the issue at hand; doesn’t help access to justice because it doesn’t improve it. Just adds another layer to the bureaucracy. Unlikely to greatly reduce fees, as the funds will have to be split between the paralegal providing the work and the lawyer who is supervising.</p>
Government Ministry	<p>This could build on existing infrastructure; other paraprofessional contexts this has been done.</p>	<p>Too much of a “one fits all” approach; doesn’t really address degrees of specialization within the law.</p>
Self-Regulation	<p>This would be low cost. It would provide the ability for flexible and fast responses to marketplace demand</p>	<p>Industry isn’t mature; there is concern that this would be an issue of consumer protection.</p>
Status Quo (Unregulated)	<p>Essentially none. Independence of paralegals to do work as they please, but they are not permitted to give legal advice.</p>	<p>Consumer protection arguably not equivalent to the risks involved here.</p>