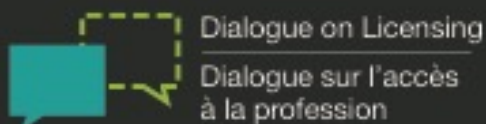


Dialogue on Licensing

Discussing the realities, challenges and opportunities of lawyer licensing in Ontario

Topic 3

Reference Materials Licensing Examinations: Assessment of Entry-level Competence



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



Reference Materials Summary

Licensing Examinations: Assessment of Entry-level Competence

Overview of the Lawyer Licensing Process in Ontario

Completion of the Law Society of Upper Canada's lawyer licensing process is the final phase of a candidate's path to becoming a lawyer. This step is directed toward assuring entry-level competence and is one of many regulatory evaluations and requirements that will occur during a lawyer's career. This document provides an overview of the components of the licensing process. See also Federation of Law Societies – National Requirement – 2011.

Primer on the Purpose of Licensure

This primer discusses the importance of licensure in the provision of legal services in Ontario. It presents the general purpose of licensure, discusses the role of the Law Society of Upper Canada and addresses the components for effective systems of licensure as a means for protecting the public.

Licensing Examinations Best Practices and the Ontario Assessment Model

While the general purpose of licensing examinations may be understood by the profession, the requirements for setting fair and defensible examinations, and the technical components of examinations, are less well known and prone to misunderstanding.¹ The purpose of this primer is to draw attention to the key attributes of effective licensing examinations as an instrument for credentialing lawyers in Ontario.² The primer will describe technical and administrative best practices that support fair, transparent, and defensible licensing examinations.

Lawyer Licensing Examination Outcomes in Ontario

The licensing process requires that all candidates successfully complete a summative Barrister Examination and Solicitor Examination. The competencies tested are those

¹ The Council on Licensure, Enforcement and Regulation, *Development, Administration, Scoring and Reporting of Credentialing/Registration Examinations*. 3rd Edition 2016, p.1.

² Although beyond the scope of the Dialogue on Licensing, the best practices described in this document are also employed with respect to the licensing process for paralegals in Ontario.



required for entry-level practice, have the most direct impact on the protection of the public, and influence an effective and ethical practice. This document provides aggregate results of Ontario's lawyer licensing examinations.

The Evolution of Lawyer Licensing Examinations in Ontario

The Law Society has used a range of assessment formats to measure entry-level competence of lawyer licensing candidates over the last few decades. As the legal licensing environment in Ontario has changed frequently during this period, these formats have also evolved significantly. Through the course of developing these successive evaluative frameworks, the Law Society has maintained a focus on reflecting the current needs and standards of professional practice, while also ensuring defensibility of the licensing examinations and adherence to established best practices for professional licensing assessments. The focus in this document is on the evolution over the past three decades of the Law Society's evaluative tools for licensing.

Licensing Examination Frameworks in Other Professions

Professional regulators have developed numerous tools for assessing entry-level competence. While a wide variety of evaluation frameworks are considered defensible in general, each regulator tends to focus on designing and implementing frameworks that best allow for measurement of competence standards in light of the unique considerations of its regulatory context. This primer outlines several commonly used assessment frameworks, and discusses their employment by other professions in Ontario.

Licensing Process Statistics

This document provides key data points pertaining to licensing process applicants over the past six years, including education paths, demographics, experiential training and licensing process outcomes.



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DIALOGUE TOPIC: Licensing Examinations: Assessment of Entry-level Competence

NAME: Overview of the Lawyer Licensing Process in Ontario

PURPOSE: To provide an overview of the lawyer licensing process in Ontario.

DATE OF DISCUSSION:

NOTES:



Overview of the Lawyer Licensing Process in Ontario

Introduction

Completion of the Law Society of Upper Canada's lawyer licensing process is the final phase of a candidate's path to becoming a lawyer. This step is directed toward assessing entry-level competence and is one of many regulatory evaluations and requirements¹ that will occur during a lawyer's career. By-Law 4 and the Lawyer Licensing Process Policies set out the specific protocols and requirements for licensure.

Prerequisite Education

Currently, candidates applying for entry to the Law Society's licensing process must have either completed an approved Canadian JD/LL.B. degree that, as of 2015, meets the Federation of Law Society's National Requirement, or obtained a Certificate of Qualification from the National Committee on Accreditation.

Application Process

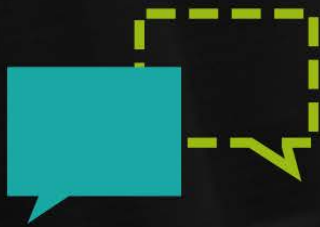
Candidates who have acquired the prerequisite education may apply to the licensing process through an online form. Most Canadian law school graduates apply in the fall of each year, during their third year of law school. Many internationally trained candidates apply at this time as well, although the process also allows for continuous intake at any point during the year.

Components of the Licensing Process

Candidates are permitted three years from their registration into the licensing process to complete the following components:

1. Successfully complete two licensing examinations – a Barrister Examination and a Solicitor Examination;
2. Complete the experiential training requirement by articling with an approved principal for 10 months, by attending the 8-month Law Practice Program, or by

¹ Others include annual reporting, spot audits, practice reviews, compulsory insurance and CPD requirements.



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graduating from the integrated practice curriculum at Lakehead University, unless otherwise exempted; and

3. Be of good character at the time of licensing, as required by the Law Society Act.

Licensing Examinations

The Barrister Examination and Solicitor Examination are multiple-choice, open-book examinations. Each examination is 7 hours in length. The competencies tested are those required for entry-level practice and that have the most direct impact on the protection of the public and that influence an effective and ethical practice. The entry-level [barrister](#) and [solicitor](#) competencies are posted on the Law Society's website. Candidates may attempt each examination up to three times, with a fourth attempt permitted only based on exceptional circumstances.

The Barrister Examination assesses competencies related to: application of law and procedure; issue identification, analysis and assessment; litigation process and alternative dispute resolution; and ethics, professional responsibility and practice management as they arise in the areas of civil litigation, family law, public law, and criminal law.

The Solicitor Examination assesses competencies related to: application of law and procedure; establishing and maintaining the client relationship; fulfilling the retainer; and ethics, professional responsibility and practice management as they arise in the areas of real estate law, business law, and estates and trusts law.

Experiential Training

The experiential training component of the licensing process is a requirement focused on assisting candidates to become prepared for entry-level practice. Experiential training enables candidates to apply their formal learning and develop their skills, professional abilities and judgment, and to transition from student to lawyer. Both the Articling Program and the Law Practice Program are required to support fulfillment of the Experiential Training Competencies, established by the Law Society.



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The Articling Program

Articling is the most common pathway to obtaining the required experiential training in order to be licensed to practise law in Ontario. The Articling Program requires candidates to work consecutively for 10 months with an approved articling principal. In order to qualify as an articling principal, lawyers must meet several criteria, including being actively engaged in the practice of law, and not being the subject of an open investigation, suspension or open disciplinary proceeding.

Principals are required to submit an experiential training plan at the start of the placement to ensure training will align with the experiential training competencies. In addition, principals and candidates are required to report to the Law Society on the fulfillment of competencies before the end of the placement. Articling principals are expected to supervise candidates and provide feedback on a regular basis. In addition to a traditional 10 month, full-time articling placement in Ontario, candidates have the option to fulfill the program requirements through a joint articling placement, a part-time articling placement, a national placement or an international placement.

Candidates are responsible for finding their own articling placement, and the Law Society offers tools such as the Articling Registry and the Mentorship Program to help with their search. The Law Society also sets out procedures governing the recruitment of students for summer positions in the City of Toronto as well as procedures for the recruitment of articling candidates across the province of Ontario, to facilitate a fair and orderly process for all participants. These procedures are binding on lawyers, students and licensing process candidates.

Law Practice Program

The Law Practice Program was introduced by the Law Society in September 2014 as an alternative to the traditional articling program.

The Law Practice Program consists of a four-month training course and a four-month work placement. The program runs from late August/early September until the end of April. Ryerson University provides the English program, which is primarily online with a few weeks of mandatory attendance, and the University of Ottawa provides the French program, which requires in-person attendance throughout. Candidates who wish to complete the program in French must have a sufficient level of language proficiency as evidenced by prior education or a language test.



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The training course component uses file based activities, simulated client interactions and a law firm model to create an authentic practice environment. The work placement phase allow candidates to apply the lawyering skills obtained in the training course to a practice setting and is similar to articling.

Exemptions from Experiential Training

An exemption from the Experiential Training Program is a waiver of the requirement to complete either Articles or the Law Practice Program, based on the minimum requirement of 10 months of common law practice experience in another jurisdiction. Exemptions are assessed and granted on a case-by-case basis through an application process. Specifically, candidates may qualify for an exemption if their practice experience aligns with the Law Society's Experiential Training Competencies.

Candidates who have been approved for an exemption must attend at three-day, in person Professional Conduct and Practice in Ontario course which addresses professional responsibility and practice management issues in an Ontario context through discussion, case scenarios and panel presentations.

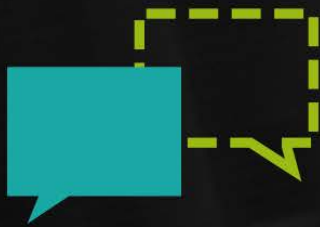
Candidates may also apply for abridgements of their experiential training requirement based on prior practice experience that aligns with the Experiential Training Competencies or for compassionate reasons.

Lakehead University Integrated Practice Curriculum

As of 2014, law students enrolled in the Bora Laskin Faculty of Law at Lakehead University who complete the integrated practice curriculum are able to fulfill the experiential training component of the licensing process through a 15-week practice placement embedded in their third year of law school. Practice placements take place in legal settings located primarily in Northern Ontario. Students and practice placement supervisors agree to an education plan and provide reports to the Faculty on a regular basis. Candidates are required to pass the practice placement in order to graduate from the integrated practice curriculum.

Good Character Process

The *Law Society Act* requires that all licensees be of good character. In the application for the licensing process, all candidates must answer questions which assist the Law Society in determining whether the applicant is of good character. These questions allow



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candidates to self-report conduct or circumstances that may raise issues about their character. The questions seek information about criminal conduct, academic dishonesty, professional discipline and other criteria relevant to integrity and honesty.

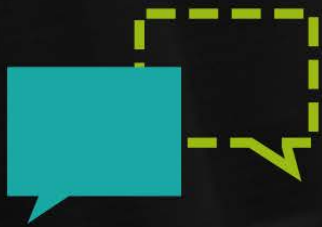
If a candidate provides an affirmative answer to any of these questions, he or she must provide full and detailed particulars, which may include supporting documentation. Information provided by each applicant is thoroughly reviewed by the Law Society's Professional Regulation department. Candidates are expected to cooperate in any subsequent investigations into the issues raised by their application. Where the issues raised are of a serious nature, a good character hearing will be held before the Law Society's Hearing Division. Where the Hearing Division makes an order refusing an applicant's application for a licence, the Law Society will remove the candidate from the licensing process.

Issuance of Licence

Most candidates are issued a licence via a ceremonial call to the bar following successful completion of all components of the licensing process. At the ceremony, candidates are presented with the Degree of Barrister-at-Law by the Law Society, a Court Certificate of Qualification and are sworn to an oath² set out in By-Law 4. Candidates are required to wear court apparel to the ceremony, which consists of a special sitting of Law Society Convocation and of the Superior Court of Justice. Call ceremonies are held in June in Toronto, Ottawa and London and September, and January in Toronto only. Candidates who are unable to attend the call to the bar ceremony as result of extenuating circumstances may seek an administrative or "paper" call in any month that Law Society Convocation is held.

Following the conclusion of the call, the newly called lawyers are entitled to practise law in Ontario and are subject to the rules and regulations set out and enforced by the Law Society in its regulatory role to ensure the competence of the profession.

² "I accept the honour and privilege, duty and responsibility of practising law as a barrister and solicitor in the Province of Ontario. I shall protect and defend the rights and interests of such persons as may employ me. I shall conduct all cases faithfully and to the best of my ability. I shall neglect no one's interest and shall faithfully serve and diligently represent the best interests of my client. I shall not refuse causes of complaint reasonably founded, nor shall I promote suits upon frivolous pretences. I shall not pervert the law to favour or prejudice any one, but in all things I shall conduct myself honestly and with integrity and civility. I shall seek to ensure access to justice and access to legal services. I shall seek to improve the administration of justice. I shall champion the rule of law and safeguard the rights and freedoms of all persons. I shall strictly observe and uphold the ethical standards that govern my profession. All this I do swear or affirm to observe and perform to the best of my knowledge and ability."



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DIALOGUE TOPIC: Licensing Examinations: Assessment of Entry-level Competence

NAME: Primer on the Purpose of Licensure

PURPOSE: To provide a primer on the purpose and features of licensure.

DATE OF DISCUSSION:

NOTES:



Primer on the Purpose of Licensure

This primer discusses the importance of licensure in the provision of legal services in Ontario. It presents the general purpose of licensure, discusses the role of the Law Society of Upper Canada and addresses the components for effective systems of licensure as a means for protecting the public.

Introduction

Rooted in legislation, such as the *Law Society Act*¹, professional regulation delegates to governing bodies, like the Law Society of Upper Canada, the power to administer a regime that controls the services members of a profession may offer and the manner in which they offer them.² Licensing, which not only commonly reserves for qualified practitioners an exclusive use of a title, also grants them the exclusive right to provide specific services to the public as part of their participation in a regulated activity.³ Since the legislation that empowers self-governing bodies to regulate a profession also enables them to prosecute its members for unauthorized practice, significant control is granted to create and administer the conditions of licensure, in addition to establishing the practice standards that govern its licensees.

For lawyers, licensure plays a vital role in ensuring minimal competence to practise at the entry-level stage. Entry standards established by the *Law Society Act*, and the Law Society's regulations, rules and guidelines, ensure that lawyers are capable of applying the requisite knowledge, skills and attributes to provide legal services competently. While even the best entry and practice standards can never guarantee that new lawyers will always act ethically and in a professionally responsible way, licensing, when properly designed and implemented, serves to safeguard the public's expectation that lawyers are competent to provide professional legal services.

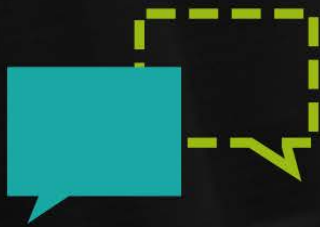
The Role of the Law Society

Created by an act of the Legislative Assembly in 1797, the Law Society of Upper Canada governs Ontario's lawyers and paralegals in the public interest by ensuring that

¹ R.S.O. 1990, c. L.8

² Ontario, Royal Commission Inquiry into Civil Rights *McRuer Report*, (Report No. 1, Vol 3) Commissioner, James Chalmer McRuer (Toronto, Queen's Printer, 1968-1971).

³ Harold Dick, *Paradigm Lost: A Summary of the Manitoba Law Reform Commission's Regulating Professions and Occupations*, (1996) 24 Man. L.J. 263-281.



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the people of Ontario are served by lawyers and paralegals who meet high standards of learning, competence and professional conduct. The Law Society has a duty to protect the public interest, to maintain and advance the cause of justice and the rule of law, to facilitate access to justice for the people of Ontario, and to act in a timely, open and efficient manner. The Law Society regulates, licenses and disciplines Ontario's more than 55,000 lawyers and over 7,900 licensed paralegals pursuant to the *Law Society Act* and the Law Society's rules, regulations and guidelines.

Like many professionals in Ontario, lawyers and paralegals in Ontario are self-governing. This means that lawyers and paralegals oversee their own regulation through the Law Society in accordance with the *Law Society Act* and its regulations, passed by the Ontario government.

The Law Society is funded through lawyer and paralegal licensing fees. To maintain the privilege of self-governance, the public interest must always be of paramount concern to the Law Society.

Basic Components of Effective Licensure

The primary purpose for the establishment of self-governing professions is the protection of the public.⁴ Consequently, the privilege of professional self-regulation imposes significant responsibilities on any regulator to ensure that only the qualified and the competent are licensed to practise. If there is any perception that a profession is not properly functioning in the public interest at any stage of its regulatory processes, pressure to re-examine, or in the extreme revoke, self-governing status may result.⁵

Since licensure is the official recognition by the Law Society that an individual is approved to practise as a lawyer in Ontario, the activities that comprise licensure are critically important to the public interest and the legal profession as a whole. The proper functioning of the profession is premised, first and foremost, on ensuring that those who enter it meet minimum standards of entry-level competence. While licensing architecture varies across professions and jurisdictions, robust licensing structures tend to be implemented where the risk of harm from incompetent or unethical performance of professional service is most acute.

⁴ Casey, James T. *The Regulation of Professions in Canada*. Scarborough, Ont: Carswell, 1994, p.1-2.

⁵ *Ibid.*



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As an additional measure, licensing activities must be governed by principles⁶ of:

- **Fairness** – access to the profession must be available to all qualified candidates.
- **Objectivity** – licensing standards are well defined, clear and relevant.
- **Transparency** – licensing requirements and processes are readily available.
- **Accountability** – licensing requirements must safeguard the public interest.

The following is a list of individual components that constitute licensing practices for admission to practice within a profession. When combined and operating together with one or more components, they serve as an integrated “systems approach” for licensure for any given profession:

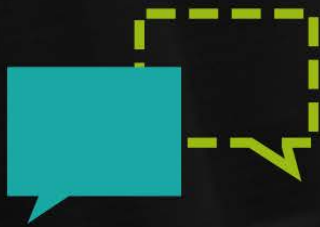
I. Legislative and Regulatory Restrictions on Practice

A common feature in most self-regulating professions is the presence of legislative and regulatory restrictions on who may become a member of a profession. These restrictions are largely in place to ensure applicants to the profession are capable of meeting minimum criteria for competence. For example, the *Law Society Act* requires that an applicant for admission as a licensee of the Law Society of Upper Canada be of good character. This is an ongoing requirement for applicants throughout their licensing term. Additionally, the By-laws, made by the Law Society pursuant to its authority under the *Law Society Act*, set out requirements for the issuance of a licence. The By-laws also establish the types of licences that may be applied for and the terms and conditions of each.

II. Minimum Educational Requirements Upon Application to the Profession

At the most basic level, lawyer licensure assures the public that individuals calling themselves lawyers have met basic educational requirements to practise law in Ontario. Generally, the first responsibility in licensing lawyers is to ensure that applicants have graduated from approved Canadian law schools, or as in the case of applicants with international degrees, to prescribe the terms and conditions for those candidates accredited by the National Committee on Accreditation (NCA). The steps in the licensure process used to verify educational requirements or equivalent educational requirements protects against admitting someone into a regulated profession who has not

⁶ Ontario Regulators for Access Consortium, <http://regulatorsforaccess.ca/resources/guidprincipal.aspx>



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successfully acquired the requisite academic credentials for membership in the profession.

III. Licensing Examinations

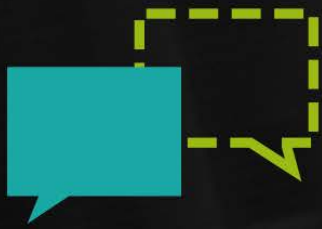
Another licensing component for most regulated professions in Ontario is the requirement to pass a secure, high stakes, psychometrically sound licensing examination. For example, pursuant to the Law Society's licensing policies, all candidates registered in the lawyer licensing process are required to successfully complete both the Barrister Licensing Examination and the Solicitor Licensing Examination in order to be eligible to become licensed to practise law in Ontario. Licensing examinations are designed to assess whether a candidate can demonstrate a minimum level of competence required to enter the profession. The competencies that are tested during licensing examinations are those required for entry-level practice, and those that have the most direct impact on the protection of the public and that influence effective and ethical practice.

IV. Experiential or Transitional Training

While academic credentials serve to provide a base of knowledge and intellectual skill upon which information can be correctly interpreted and sound judgment applied, the skills, knowledge and attitudes acquired through education must still be performed in the context of the roles and duties performed by licensees actually engaged in practice. Regardless of the modality that is used, many professions require applicants to complete a period of experiential training either as a feature of a profession's licensing requirement or as a component of a post licensing condition. Presently, as a licensing component for Ontario lawyers, experiential or transitional training can be met either through Articling or the Law Practice Program (LPP). Regardless of the pathway, each of these experiential approaches serve to gauge whether an individual can perform ethically, competently and in a professionally responsible manner under actual performance conditions, or conditions that closely approximate the intended performance environment of practising lawyers.

V. Other Features

So long as the licensing practices implemented by the profession are fair, defensible, transparent and accountable, there are a broad array of activities that might be considered as part of a licensing process. For example, in some jurisdictions, licensing requirements for health professionals require additional screening measures at the



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application stage. New York State has recently introduced a period of supervised pro bono legal service for new lawyers as a means inculcating the value of public service in the licensing process while supporting readiness to practise. Other regulators require bridging programs and courses to be completed to educate new licensees on the exigencies of practice in the jurisdiction of licensure. Additional regulators, such as those regulating lawyers in Scotland and Australia, impose systems of post-licensing credentialing, requiring new practitioners to practise under supervision and restrictive licences following their call to the bar. All of these are examples of features that might be found in licensing processes.

Conclusion

Licensing plays a vital role in safeguarding the public's expectation that lawyers are competent to provide professional legal services. Without licensure, the public has no assurance that lawyers, serving in positions of trust in significantly complex and dynamic legal environments, have met minimum standards to provide the legal services they offer. This primer has been drafted with a view to addressing the purpose of licensure, its components, and the role the Law Society plays in supporting a fair, objective, accountable and transparent system for licensing in Ontario.



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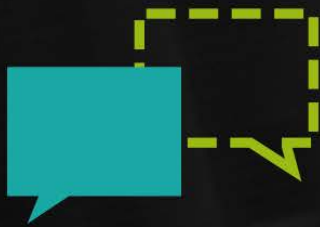
DIALOGUE TOPIC: Licensing Examinations: Assessment of Entry-level Competence

NAME: Licensing Examinations Best Practices and the Ontario Assessment Model

PURPOSE: To draw attention to the key attributes of effective licensing examinations as an instrument for credentialing lawyers in Ontario.

DATE OF DISCUSSION:

NOTES:



Licensing Examinations Best Practices and the Ontario Assessment Model

Introduction

Licensure is the official recognition that a candidate has met all qualifications specified by a professional regulator and is approved to practise a profession. Licensing examinations are high stakes activities that assist in determining whether a candidate has attained the minimum entry-level competence. Licensing examinations play a vital role in the Law Society of Upper Canada's lawyer licensing process.

While the general purpose of licensing examinations may be understood by the profession, the requirements for setting fair and defensible examinations, and the technical components of examinations, are less well known and prone to misunderstanding.¹ The purpose of this primer is to draw attention to the key attributes of effective licensing examinations as an instrument for credentialing lawyers in Ontario.² The primer will describe technical and administrative best practices that support fair, transparent, and defensible licensing examinations.

Constructing the Licensing Examination

Licensing examinations perform a major role in determining whether an applicant to a profession is competent upon his or her entry to practice. If they are to serve the public interest in this regard, licensing examinations must be both valid and defensible. The validity and defensibility of a licensing examination is contingent on its ability to measure the degree to which a candidate possesses competence for entry-level job performance, as well as the ability of the examination to distinguish candidates who do not.³ Consequently, the critical element for any process that utilizes licensing examinations as a central component is determining which entry-level competencies the practitioner must possess.

Consistent with licensing best practices, the Law Society uses the term "competency" to describe any knowledge, skill, ability, attitude or judgment required for entry-level practice. Lawyer candidates in Ontario must demonstrate proficiency in respect of 527 individual competencies that were determined to be the most critical and frequently

¹ The Council on Licensure, Enforcement and Regulation, *Development, Administration, Scoring and Reporting of Credentialing/Registration Examinations*. 3rd Edition 2016, p.1.

² Although beyond the scope of the Dialogue on Licensing, the best practices described in this document are also employed with respect to the licensing process for paralegals in Ontario.

³ The Council on Licensure, Enforcement and Regulation, *supra* note 1, p.1.



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performed, and which reflect the minimum requirements expected of both barristers and solicitors entering the profession.

These competencies have been developed by the Law Society with the assistance of hundreds of subject matter expert practitioners across the legal profession using a process of practice analysis to determine the entry-level requirements and the scope of practice for new lawyer licensees. Utilizing a rigorous development and validation process, and with the assistance of the profession, the Law Society has established these competencies as the optimal or desired level of knowledge and performance required for new lawyers to the profession.

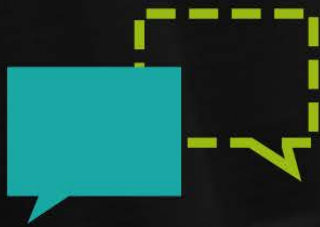
With a critical understanding of scope of practice and the entry-level performance requirements expected of the minimally competent lawyer, the process of constructing the examination can take place. This process includes a number of critical elements that include:

- The Design of Test Specifications
- Test Question Development
- Standard Setting
- Examination Format and Content
- Timing the Examination
- French Translation

The Design of Test Specifications: Once defined and established, competencies form the basis for the design of test specifications for licensing examinations.⁴ The test specification, or “Blueprint”, that is designed for the Law Society’s licensing examinations ensures that the competencies being assessed are representative of legal practice at the entry-level stage to the legal profession. It also ensures that the same categories of competencies are being assessed, to the same standard, in every administration of the examination, even though questions on the examination change from one administration to another. The Blueprint provides consistency between each sitting of the licensing examination, and enhances the examination’s reliability, validity, fairness and defensibility from one licensing cycle to the next.

Additionally, both the competencies and the Blueprint parameters are maintained through review by Advisory Groups on a regular basis, in accordance with established best practices for professional licensing examinations. A Barrister Advisory Group and a Solicitor Advisory Group, each comprised of exemplary practitioners representing a cross-section of all relevant practice areas, contexts and firm sizes in Ontario, conduct these reviews. The Advisory Groups operate with the guidance and assistance of

⁴*Ibid.*, p. 3.



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psychometricians with expertise in professional licensing test development and validation.

Test Question Development: Individual licensing examination questions (referred to as “items”) are developed by practitioners representing all relevant practice areas that make up the licensing examination. The development of items is performed in a highly structured setting under the guidance of psychometricians. These items reflect the established competencies for the licensing examination. All licensing examination items undergo a rigorous review and validation process by independent practitioner appraisers, Law Society counsel trained in assessment best practices, and the Advisory Groups. Only once an examination item has been validated will it be formally added to the Law Society’s secure item bank for use on an examination. A small number of new items are piloted on each licensing examination as “experimental” items, which are not counted towards a candidate’s final score. The majority of items on the examination are “operational” items on which the candidate’s score is based.

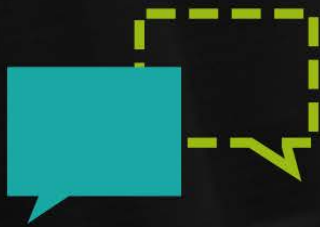
Standard Setting: The Advisory Groups set the Barrister and Solicitor licensing examinations according to the Blueprint parameters. Setting a licensing examination requires that the Advisory Groups approve the items that will comprise each examination. Advisory Groups meet several times per year to perform this activity under the guidance of psychometricians.

Equally important to the sound development of a licensing examination is the identification of a defensible standard, or a minimum passing score.⁵ A defensible standard must be clearly linked to minimal competence and must not be arbitrarily set.⁶ At the same time that it sets a licensing examination, the Advisory Group formally sets and approves the passing mark for that licensing examination. The passing mark represents the expected performance of a minimally-competent, entry-level lawyer. To ensure consistency between each sitting of the licensing examinations, the Advisory Group applies this same standard to the particular set of items on each examination. The setting of a passing mark is based on the judgment of these informed subject matter experts, and is determined through rigorous consultation and dialogue. The Law Society’s procedures in this regard are consistent with those most commonly used in credentialing examinations.

The licensing examinations require entry-level competence to be assessed against a fixed standard that is set for the licensing examination (i.e., a criterion-referenced examination). Each examination is marked on a pass/fail basis, with scores lower than the passing mark receiving a “fail” result and scores equal to or higher than the passing mark receiving a “pass” result. The passing mark represents a single overall score for

⁵ *Ibid.* p.10.

⁶ *Ibid.* p.10.



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the licensing examination, and candidates are not required to individually pass separate sections or areas of law on a licensing examination.

Candidates are not assessed in comparison to the performance of other candidates, as the Law Society does not use bell curves or pre-determined rates for the proportion of candidates who will pass a licensing examination. These are examples of “quota-based” standards or “norm-referenced” examinations that are considered inappropriate for assessing whether a given candidate has demonstrated competence on a professional licensing examination.⁷ Similarly, the Law Society does not employ arbitrary standards such as a standard passing mark of 50%, 60% or 70%. While a standard passing mark may be used in tests in other contexts, it does not meet established best practices for licensing examinations. A defensible standard must be able to ascertain, with evidence, that individuals who score below the passing mark are not competent and individuals who score above the passing mark are competent.⁸

Examination Format and Content: All items on each licensing examination are in a multiple-choice format. Candidates must choose the best answer from four possible options provided. Each item has only one best answer, and candidates receive credit only when they have selected the best answer. There are no “all of the above” or “none of the above” multiple-choice options in licensing examination items.

The items on each licensing examination assess the following three levels of cognitive ability: knowledge/comprehension, application, and critical thinking. Each licensing examination includes items in both independent multiple-choice and case-based multiple-choice format. Both independent and case-based items provide a prompt in the form of a fact scenario that requires candidates to apply their understanding of law and procedure, client management principles, and professional responsibility obligations, to select the best answer. Case-based items are longer and comprised of several sub-parts.

For every sitting of each licensing examination, multiple different versions of the licensing examination are developed and set. Every candidate who is registered for that sitting is randomly assigned a version of that licensing examination. Each version complies with the Blueprint parameters.

Timing the Examination: Nearly all professional credentialing examinations establish time limits to complete a licensing examination. Best practices require that examination time limits be appropriate and provide a sufficient amount of time to complete an examination.

⁷ *Ibid.* p.11.

⁸ *Ibid.* p.11.



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Each of the Law Society's licensing examinations is seven hours (420 minutes) in length, and is comprised of approximately 240 multiple-choice items. Each examination sitting is comprised of two parts of 3.5 hours (210 minutes) in length. Part 1 takes place during the morning, and Part 2 takes place during the afternoon, with a break between the two parts. During Part 1, candidates write only Part 1 of the examination, and during Part 2, candidates write only Part 2 of the examination. The licensing examinations are administered in an open-book format. Candidates are permitted to bring any printed materials prepared for the purpose of assisting them (including any study materials, notes and textbooks) into the testing area.

French Translation: The Law Society takes its responsibilities and obligations pertaining to the use of both official languages in the licensing process very seriously. As a result, steps are taken to ensure that all examinations that are produced are translated into French. Translated examination development generally involves having the examination development activities carried out in English, with translations occurring once the English version of the examination has been approved by the Advisory Group and the pass mark has been set. Upon the finalization and approval of the English version of each examination, the examinations are translated into French using a professional, accredited translator, and in accordance with a style guide that sets out standards on legal terminology, spelling and feminization. Upon completion of the translation activity, as a quality control measure, a Translation Review Committee consisting of bilingual lawyers conducts a final, item-by-item review of both the English and French examinations.

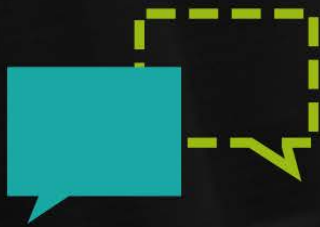
Administering Licensing Examinations

The requirements of fairness and defensibility that provide a foundation for the development of licensing examinations used by the Law Society must also extend to the administration of the examination itself. Examination administration includes all activities that support the conduct of the examination on the test day. Steps are taken at this stage to ensure that these activities and the testing environment are conducive to good performance.

Administration of the licensing examinations includes the following attributes:

- Providing Information to the Candidate
- Supporting Examination Performance – Licensing Examination Study Materials
- Accommodations
- Implementing Defensible Protocols for Examination Day

The Provision of Candidate Information: In order to support candidates attempting the licensing examinations, they are provided with detailed information pertaining to examination administration. Most professional governing bodies that use a licensing



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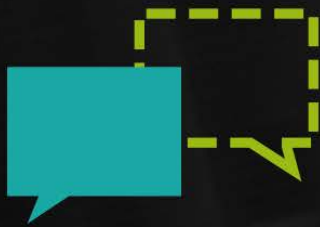
examination as part of their credentialing process provide candidates with bulletin information as well as other services to support a candidate's registration for an examination. The Law Society provides candidate information using a variety of media, including print, web-based and structured information sessions. The information that is provided to candidates sets out, among other details:

- Application and registration procedures
- Licensing and examination fee information, including information on billing, refunds, credits, tax receipts and bursaries
- Examination schedules, site locations and deadlines
- Examination rules and protocols applicable on the day of the examination, and
- Information pertaining to scoring and reporting procedures, as well as sufficient information to prepare for the examination itself.

Moreover, in order to meet obligations under human rights legislation in Ontario, professional governing bodies, such as the Law Society, must also provide information on how candidates with disabilities or special testing needs can apply for accommodations.

Licensing Examination Study Materials: The Law Society's licensing examinations are self-study and administered in an open-book format. Although candidates are permitted to bring any printed materials they wish into the examination area, the Law Society provides all registered candidates with extensive study materials that support all examined competencies on each licensing examination. The study materials are updated every year, in preparation for each new licensing year, which begins in May. Candidates who have registered and paid for licensing examination study materials are provided with access to these study materials approximately six weeks prior to the sitting of a licensing examination. Since the study materials are specifically developed to support candidates' successful completion of the licensing examination, it is essential that they review these study materials carefully in preparation for the licensing examinations.

Requests for Accommodation: In Ontario, professional governing bodies that implement licensing examinations must ensure that their licensing process complies with relevant human rights legislation. The Law Society is committed to ensuring that the requirements of the licensing process are directly and logically connected to the competent practice of law, and further, that persons who wish to practise law in Ontario are not effectively barred from qualifying because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. Consequently, the Law Society provides accommodation for the licensing examinations to candidates based on conditions arising from enumerated grounds listed in the Ontario Human Rights Code. To support accommodation requests, candidates are provided with sufficient information



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on the Law Society's policy and procedures for seeking accommodations in the lawyer licensing process. This information also sets out the protocol for appealing a decision made by the Law Society where an accommodation cannot be made or where the candidate considers the accommodation to be unsatisfactory.

Examination Day: In order to ensure that candidates are enabled to fully demonstrate competence, steps are taken to ensure that the environment and testing procedures appropriately support good performance on the day of the examination. There are a multitude of considerations that must be effectively managed on the day of the examination in order to ensure the smooth operation of the examination for all candidates. For any given examination, the Law Society must successfully manage:

- **Physical site requirements** – This includes not only securing appropriate accessible examination locations to accommodate all registered candidates, but also ensuring that these locations are well lit, ventilated, free of distracting noises, promote sufficient privacy to complete the examination, and have services conveniently located for candidates and staff.
- **Personnel requirements** – Each sitting of a licensing examination requires the services of a large team of proctors and examiners who must be trained in the test procedures to ensure all candidates are treated appropriately on examination day. The ratio of proctors and examiners must also be sufficient in order to properly monitor candidates in the examination environment. Depending on the location, physical site, time of the examination, and number of candidates registered, the Law Society may need to employ 25 to 150 additional contracted personnel to proctor a given examination.
- **Security** – Security policies and procedures must be designed and implemented to prevent premature access to individual examination questions, examinations, and individual candidate information. Policies and procedures must be in place to ensure the integrity of the examination and the examination process. During the examination itself, measures must be implemented to screen and identify candidates, mitigate collaboration during the examination, and enforce examination rules and protocols. Appropriate procedures include secure storage of examinations, secure packaging and shipping, continuous proctor observation, policies for handling examination misconduct, and procedures for the distribution and collection of examination materials following completion of the examination. Policies must also be developed to govern entry and exit, late admissions, possible emergencies at the examination site, and the location and use of restrooms. The Law Society has developed extensive and nuanced protocols in these areas to ensure the security and integrity of the licensing examinations.
- **Examination Materials and Equipment** – In addition to ensuring that all examination materials are correctly assembled, as well as easy to read and understand, any equipment (e.g., pencils, erasers, etc.) that is provided to



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candidates must be in good working condition and available in sufficient quantities on the day of the examination. The Law Society's licensing examinations are paper-based, and candidates mark their answers on a Scantron bubble sheet using a pencil.

Licensing Examination Scoring and Reporting

The post-administrative process for the licensing examinations must also conform to established best practices. Following the administration of the examination, the examination results must be tabulated, collated, validated, and reported to candidates. All of these activities must be done in a timely matter and be subjected to thorough quality control measures. This final portion of the primer will address post examination administration related to:

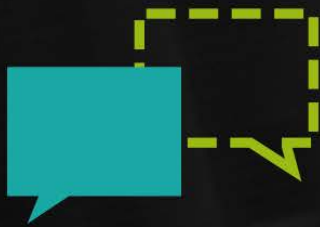
- Scoring and Reporting Results
- Item and Test Analysis
- Re-Examination and Candidate Supports

Scoring and Reporting: Immediately following the examination, results must be scored and reported on. Scores must accurately reflect a candidate's performance, and these results must be verified. The Law Society uses computerized scoring devices to scan and score all licensing examination answer sheets.

The scoring process utilized by the Law Society also includes manual marking of certain answer sheets. Every answer sheet that, when scored using the computerized scoring device, returns a result that falls below the passing mark, or within a certain percentage of the passing mark, is subjected to this manual marking process. The manual marking process involves Law Society staff comparing each answer indicated by the candidate to the verified answer key to confirm the computerized scoring device's accuracy. Examination results (i.e., pass/fail outcomes) are reported by the Law Society as expeditiously as possible, within six to eight weeks after each sitting of the licensing examination.

Best practices dictate that candidates who are unsuccessful on a licensing examination should be provided with additional information on their performance to help them prepare for subsequent attempts. It is recommended that performance reports be provided based on subcategories consistent with the examination specifications.⁹ The Law Society provides all candidates who receive a "fail" result with a Licensing Examination Profile, which depicts the candidate's performance as compared to the entire group of test writers across the different competency categories and area of law categories on the licensing examination. The primary purpose of these Profiles is to allow candidates to carefully review their performance in order to assist them in focusing

⁹ *Ibid.* p. 23



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their study efforts for their next attempt. Candidates requiring assistance with interpreting their Profiles are provided the opportunity to discuss them with counsel at the Law Society.

Item and Test Analysis: During the scoring and reporting process, and prior to the release of results, statistical analysis is performed on individual questions and on the overall examination. Item analysis is conducted to determine how effectively each item functioned on the examination. This information is useful for identifying ambiguity in items, flawed questions, and implausible answer choices that may have been overlooked by psychometricians, by item writers, item assessors or advisory group practitioners prior to the examination being set.¹⁰ As an additional feature of the item analysis process utilized by the Law Society, counsel review of individual candidate feedback from the examination is conducted at this stage to determine if any anomalies have been identified by any examination takers. Item analysis is also useful for assessing the performance of experimental questions that might be used on future examinations. Test analysis serves to determine how effectively the examination, as a whole, functioned. It requires the statistical evaluation of the scores resulting from the administration of the examination. The products of test analysis include the calculation of mean score, score standard deviation, test reliability, standard error measurements, and score distribution. Like item analysis, the statistics derived from the test analysis process serve to find possible errors in the examination, gauge candidate performance, and the stability of scores resulting from the examination's administration.¹¹

Re-Examination and Candidate Supports: Candidates who have failed a licensing examination must be given a reasonable number of opportunities to be re-examined, and must be informed of the procedures for doing so. In order to be fair, transparent and defensible, the process for repeating the examination should be the same as, or as equivalent to, the process that is applied for first time candidates, and meet the same standards of examination development and administration. Law Society licensing candidates have three attempts to successfully complete each licensing examination within their three-year licensing term. If a candidate has failed a licensing examination and still has attempts remaining, they will be eligible to attempt that licensing examination again at the next scheduled sitting. Candidates who have been unsuccessful after three attempts at a licensing examination may request a fourth attempt based on demonstrating extenuating circumstances that would affect, or could be expected to affect, the candidate's ability to successfully complete the licensing examination.

¹⁰ *Ibid.* p.19.

¹¹ *Ibid.* p.21.



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Additionally, for those candidates who have been unsuccessful on a licensing examination, the Law Society provides access to tutoring from practising members of the profession to support a subsequent attempt at the examination.

For More Information

- The Law Society of Upper Canada's *Guide to Barrister and Solicitor Licensing Examinations* <http://www.lsuc.on.ca/LawyerExaminationGuide/>
- The Council on Licensure, Enforcement and Regulation, *Development, Administration, Scoring and Reporting of Credentialing/Registration Examinations*. 3rd Edition 2016
- The Council on Licensure, Enforcement and Regulation, *Principles of Fairness: An Examination Guide for Credentialing Boards*



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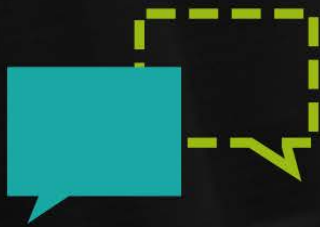
DIALOGUE TOPIC: Licensing Examinations: Assessment of Entry-level Competence

NAME: Lawyer Licensing Examination Outcomes in Ontario

PURPOSE: To provide aggregate results of Ontario's lawyer licensing examinations.

DATE OF DISCUSSION:

NOTES:



Lawyer Licensing Examination Outcomes in Ontario

The licensing process requires that all candidates successfully complete a summative Barrister Examination and Solicitor Examination. The examinations are multiple-choice and open book. The competencies tested are those required for entry-level practice, have the most direct impact on the protection of the public, and influence an effective and ethical practice. Candidates may attempt each examination up to three times, with a fourth attempt permitted only based on extenuating circumstances. Candidates who are unsuccessful on a licensing examination after three attempts (or four attempts, in extenuating circumstances) are withdrawn from the licensing process and must wait a year before reapplying to the licensing process.

Table 1: Three-Year Aggregate Licensing Examination Results by Education Path – FIRST ATTEMPTS

	Barrister Licensing Examination				Solicitor Licensing Examination			
LL.B./J.D.	Mar	Jun	Nov	3-YRS	Mar	Jun	Nov	3-YRS
Total Candidates	351	4126	369	4846	344	4066	382	4792
Number Passing	293	3743	298	4334	297	3585	307	4189
Percent Passing	83.48%	90.72%	80.76%	89.43%	86.34%	88.17%	80.37%	87.42%
Internationally Trained	Mar	Jun	Nov	3-YRS	Mar	Jun	Nov	3-YRS
Total Candidates	613	462	640	1715	574	484	615	1673
Number Passing	326	232	343	901	350	256	331	937
Percent Passing	53.18%	50.22%	53.59%	52.54%	60.98%	52.89%	53.82%	56.01%

Table 1 shows the three-year (2014, 2015, 2016) aggregate results for first attempts on the licensing examinations, by education path. These results indicate that over the last three years, Canadian law school graduates exhibited significantly higher passing rates



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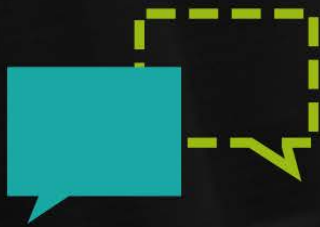
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than internationally trained applicants. The majority of candidates from Canadian law schools write the licensing examinations in June, shortly after graduation, and tend to exhibit a stronger performance than candidates who write the examinations in November and March.

Table 2: Three-Year Aggregate Licensing Examination Results by Education Path – REPEAT ATTEMPTS

	Barrister Examination				Solicitor Examination			
LL.B./J.D.	Mar	Jun	Nov	3-YRS	Mar	Jun	Nov	3-YRS
Total Candidates	248	115	284	647	297	150	345	792
Number Passing	173	66	201	440	206	90	246	542
Percent Passing	69.76%	57.39%	70.77%	68.01%	69.36%	60.00%	71.30%	68.43%
Internationally Trained	Mar	Jun	Nov	3-YRS	Mar	Jun	Nov	3-YRS
Total Candidates	397	272	420	1089	341	216	368	925
Number Passing	199	125	201	525	220	127	195	542
Percent Passing	50.13%	45.96%	47.86%	48.21%	64.52%	58.80%	52.99%	58.59%

Table 2 indicates that on repeat attempts at the Barrister and Solicitor Examinations over the last three years (2014, 2015, 2016), candidates from Canadian law schools exhibited higher passing rates than internationally trained candidates across all administrations (March, June and November).



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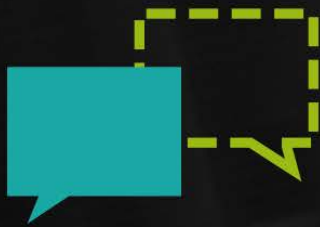
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Table 3: Three-Year Aggregate Licensing Examination Results by Country of Training for Internationally Trained Applicants – FIRST ATTEMPTS

	Barrister Examination	Solicitor Examination
Australia	3-YRS	3-YRS
Number of Candidates	220	213
Number Passing	146	141
Percent Passing	66.36%	66.20%
Canada (Quebec Civil Law degree)	3-YRS	3-YRS
Number of Candidates	31	28
Number Passing	16	12
Percent Passing	51.61%	42.86%
United Kingdom	3-YRS	3-YRS
Number of Candidates	788	770
Number Passing	403	425
Percent Passing	51.14%	55.19%
Other International	3-YRS	3-YRS
Number of Candidates	408	393
Number Passing	139	171
Percent Passing	34.07%	43.51%
United States	3-YRS	3-YRS
Number of Candidates	268	269
Number Passing	197	187
Percent Passing	73.51%	69.52%

Table 3 displays licensing examination results for internationally trained candidates by country of training based on first attempts over the last three years (2014, 2015, 2016). Caution should be exercised when relying on data based on small numbers of candidates.

In recent years, the top five source countries for internationally trained applicants to the Law Society's lawyer licensing process have been as follows: United Kingdom – 58%, United States – 18%, Australia – 12%, India – 9%, and Nigeria – 3%. Approximately **50%** of all internationally trained applicants are Canadian born. Between **60-65%** of applicants who completed their legal education in Australia and the United Kingdom are Canadian born.



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Table 4: Three-Year Aggregate Licensing Examination Results by Experiential Training Pathway – FIRST ATTEMPTS

	Barrister Examination	Solicitor Examination
Articling	3-YRS	3-YRS
Total Candidates	5305	5272
Number Passing	4514	4401
Percent Passing	85.09%	83.48%
Law Practice Program	3-YRS	3-YRS
Total Candidates	577	562
Number Passing	327	351
Percent Passing	56.67%	62.46%
Articling Exemption	3-YRS	3-YRS
Total Candidates	287	297
Number Passing	179	185
Percent Passing	62.37%	62.29%
Actively Seeking Articles	3-YRS	3-YRS
Total Candidates	163	135
Number Passing	76	66
Percent Passing	46.63%	48.89%
Not currently Articling or enrolled in Law Practice Program	3-YRS	3-YRS
Total Candidates	107	87
Number Passing	47	42
Percent Passing	43.93%	48.28%
Quebec Transfer/ Mobility	3-YRS	3-YRS
Total Candidates	48	45
Number Passing	42	38
Percent Passing	87.50%	84.44%

Table 4 provides the licensing examination results for candidates by experiential training pathway over the last three years (2014, 2015, 2016). Note that candidates may complete the components of the licensing process requirement—the licensing examinations and experiential training—in their preferred order. A significant majority of candidates complete their licensing examinations immediately after graduating from law school or receiving their certificate of qualification from the National Committee on Accreditation and before commencing experiential training.

Caution should be exercised when relying on data based on small numbers of candidates.



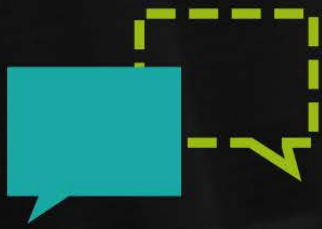
Table 5: Withdrawal from the Licensing Process

Application Cycle	Total Number of Candidates Withdrawn	Basis for Withdrawal from the Licensing Process			
		Exceeding 3-Year Term	Failed Licensing Examinations	At Candidate Request	Academic Deficiency*
2010/2011 (1963 candidates)	124	41.94% (52/124)	4.03% (5/124)	37.90% (47/124)	16.13% (20/124)
2011/2012 (2053 candidates)	118	38.14% (45/118)	10.17% (12/118)	45.22% (51/118)	8.47% (10/118)
2012/2013 (2172 candidates)	144	41.67% (60/144)	14.58% (21/144)	38.19% (55/144)	5.56% (8/144)

*Academic deficiency indicates failure to file a JD or certificate of qualification from the National Committee on Accreditation with the Law Society.

Table 5 provides a breakdown of withdrawals from the licensing process for the most recent fully constituted application cycles (three-year term has passed). The data indicates that between 6 to 7% of candidates from each application cycle are withdrawn from the licensing process.

Out of the number of candidates who do not complete the licensing process, approximately 40% are withdrawn for not completing the licensing process components within three years, and approximately 40% are withdrawn based on the candidate's request. An increasing percentage of candidates have been withdrawn from the licensing process due to inability to successfully complete the licensing examinations within the permitted number of attempts (three attempts, or in exceptional cases, four attempts).



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DIALOGUE TOPIC:	Licensing Examinations: Assessment of Entry-level Competence
NAME:	The Evolution of Lawyer Licensing Examinations in Ontario
PURPOSE:	To provide information about of the Law Society's evaluative tools for licensing over the past three decades.
DATE OF DISCUSSION:	
NOTES:	



The Evolution of Lawyer Licensing Examinations in Ontario

Introduction

Over the last few decades, the Law Society has used a range of assessment formats to measure entry-level competence of lawyer licensing candidates. As the legal licensing environment in Ontario has changed frequently during this period, these formats have also evolved significantly. Through the course of developing these successive evaluative frameworks, the Law Society has maintained a focus on reflecting the current needs and standards of professional practice, while also ensuring defensibility of the licensing examinations and adherence to established best practices for professional licensing assessments.

The focus in this document will be on the evolution over the past three decades of the Law Society's evaluative tools for licensing.¹

Prior to 1990

Regulated professions have long sought to ensure that new practitioners possess appropriate levels of knowledge and skill and can demonstrate an understanding of ethics and professional responsibility obligations. Traditionally, the legal profession and most other professions relied on an apprenticeship model to transfer knowledge to, and develop skills in, new practitioners. In the 20th century, most professions introduced an educational degree requirement, to be followed by a post-graduation transitional training component, in order to ensure that training was more rigorous, standardized and defensible. For the Ontario legal profession, the requirement to first obtain formal legal education from a university began in 1957.

In later decades, concerns emerged that educational programs and transitional training components were insufficiently standardized to ensure competency across all licensing candidates. This led to the development in most professions of pre-licensure assessments and evaluations, which sometimes included training courses prior to the assessment stage. The evolution of the Law Society's licensing requirements has also followed this basic arc.

1990 – 2001

Between 1990 and 2001, the Law Society's licensing process, then referred to as the Bar Admission Course, was structured in three phases. Phase 1 consisted of a one-month course on basic lawyering skills, followed by Phase 2, a 12-month articling placement, followed by Phase 3, a three-month course on substantive and procedural law issues. The courses focused primarily on simulated problems and transactions arising in various areas

¹ This document will not discuss the transitional training component of the licensing process, which remained relatively fixed during this period until the introduction of the Pathways Pilot Project in 2014.



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of law, presented as “client files”. In-person attendance was initially mandatory but later became optional for the instructional components of the courses (it remained mandatory for the assessments and examinations). The courses emphasized small-group instruction and individual work, de-emphasizing the traditional lecture format. Drawing from correspondence, agreements, memoranda and client interviews, candidates were instructed on learning to identify and resolve legal issues.

The evaluative components of the program consisted of seven skills assessments and eight substantive law examinations, written at intervals throughout the courses. These evaluations encompassed a wide variety of legal practice tasks and areas of law. The Bar Admission Course relied heavily on the participation of practitioner instructors, who were paid honouraria for instructing and marking assessments. These courses were held in several centralized locations in Ontario.

The Law Society received significant feedback on the mandatory attendance policy from candidates who found the need to travel to course locations to attend in person onerous as they attempted to balance competing obligations such as employment, family and personal commitments. When the Law Society modified the policy to allow optional attendance, classroom participation decreased significantly, and it was common for candidates to complete evaluations without having attended the relevant training sessions.

2001 – 2006

Beginning in 2001, the three components of the Bar Admission Course were restructured to consist of an eight-week skills component, followed by a ten-month articling placement, followed by a ten-week substantive and procedural law component. Some skills-related content was transferred from the previous Phase 3 to the newly configured skills course in order to offer exposure to relevant skills training prior to candidates starting articling.

In this restructured Bar Admission Course, the number and type of evaluative components of the program did not substantially change from the previous period. Phase 1 included a number of skills assessments. Of the eight substantive law examinations, three were completed during the skills phase, and the remaining five were completed during the substantive and procedural law phase.

The format of the substantive law examinations was changed at this time to primarily consist of multiple-choice questions, which were selected from a confidential bank of questions. By 2005, 70% of the licensing examination was multiple-choice. This change was seen to be required due to the difficulties in administering the examinations for an increasing number of candidates, as well as a perceived lack of rigour and consistency in the marking of the examinations by practitioners. Although the examination questions were not formally validated, they were still considered more objective and less prone to faults in content or marking.

Candidates were also required to complete a self-study course in accounting during the licensing process.



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2006 – 2009

Following a comprehensive review of licensing requirements completed in 2002 and the development of new protocols created and approved in 2003², the Law Society introduced major reforms which took effect in 2006. Most significantly, these reforms replaced the eight substantive law courses and examinations, which were determined to be duplicative of law school coursework and outdated in approach, with a standardized, summative assessment framework focussed on assuring competence in the public interest. The Barrister Licensing Examination and Solicitor Licensing Examination became the primary evaluative tools in the lawyer licensing process. The examinations were based on a formally validated competency profile focussed on the most critical and frequently required competencies at entry-to-practice. A competency is defined as a “knowledge, skill, ability, attitude or judgment required for entry-level practice.”

The examinations were open-book format, and the Law Society provided all candidates with study materials that included all relevant information necessary to support the competencies on the two licensing examinations.

The development of these two licensing examinations involved the input of expert practitioners from the legal community, and the guidance of psychometricians, experts in the field of testing and measurement. The Law Society consulted with hundreds of practitioners over 2004 and 2005 in order to identify the competencies that would form the basis for these licensing examinations. A final version of the competencies was sent to 4000 randomly-chosen practising lawyers representing a variety of practice areas, firm sizes, geographic locations and perspectives, with an accompanying survey that allowed participants to rate the competencies according to their importance to entry-level practice. For each licensing examination, the Law Society also formed working groups composed of exemplary practitioners to develop blueprints, which set the parameters for how the competencies are assessed.

This new regime retained an instructional component in the form of a five-week (and then four-week) skills program that focussed on client service, professional responsibility and practice management topics. The move away from the traditional classroom model acknowledged that changes to the nature of legal education had narrowed the gap that the Law Society had customarily filled in educating candidates to prepare them to demonstrate pre-call competence. It also responded to increasing concerns about the cost and length of the Bar Admission Course, which required candidates to travel and/or relocate to attend.

The shift in emphasis towards strictly assessing candidates' pre-call competence was premised on, among other considerations,

- enhancing the validity of licensing standards by focusing on standardized competencies;

² The Task Force on the Continuum of Legal Education, Report to Convocation, December 5, 2003



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- improving equity and access to admission for an increasingly large and diverse body of candidates; and
- reducing costs to candidates.

The structure of the examinations, which could now be written in any order and at any time before, during or after a candidate's articling placement, also allowed candidates to complete the licensing requirements in a more flexible manner.

2009 – Present

In 2009, the five/four-week instructional program was removed as a licensing requirement. The program had experienced low levels of support for mandatory, in-person training, as well as issues with subjective skills assessment criteria. In its place, an online Professional Responsibility and Practice Course was implemented. This online course could be completed by candidates during their articling placement on their own schedule. Upon completion, core professional responsibility concepts were assessed through a Professional Responsibility Assessment administered by the articling principal. The Assessment provided scenarios for discussion, along with an answer key to highlight key principles.

The two licensing examinations were maintained and now operate as the evaluative mechanism for entry-level competence. In 2011, the Law Society approved a re-validation and revision of the entry-level lawyer competency profiles for these examinations. This process introduced increased complexity to examination items to better reflect increasing complexity within legal practice. This review process involved further extensive consultation with the profession.

The profession remains integrally involved in the development and validation of the licensing examinations, as item writers, item appraisers and advisory group members. The process continues to be guided by psychometricians to ensure that the examinations continue to be valid, reliable and defensible.

For More Information

[Law Society of Upper Canada Lawyer Examination Guide](#)

[Continuum of Legal Education Task Force Report to Convocation – December 2003](#)

[Licensing and Accreditation Task Force Report to Convocation – September 2008](#)



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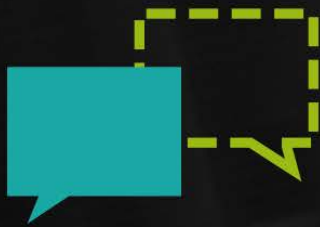
DIALOGUE TOPIC: Licensing Examinations: Assessment of Entry-level Competence

NAME: Licensing Examination Frameworks in Other Professions

PURPOSE: To outline several commonly used assessment frameworks and to discuss their employment by other professions in Ontario.

DATE OF DISCUSSION:

NOTES:



Licensing Examination Frameworks in Other Professions

Introduction

Professional regulators have developed numerous tools for assessing entry-level competence when licensing new professionals. While a wide variety of evaluation frameworks are considered defensible in general, each regulator tends to focus on designing and implementing frameworks that best allow for measurement of competence standards in light of the unique considerations of its regulatory context. An assessment tool that works well for one profession may not be as defensible or effective for another.

This primer will outline several commonly used assessment frameworks, and will discuss their employment by other professions in Ontario.

Considerations for Developing Evaluation Frameworks

Purpose of Assessments: Across professions and jurisdictions, regulatory bodies tasked with governing licensure have typically developed tools to assess entry-level competence based on specific needs and issues unique to their professional practice. Determining the purpose of the assessment—an important initial consideration—requires defining the competencies necessary for licensure and how those competencies should best be measured. In many cases, regulators have implemented more robust evaluative frameworks where the risk of harm from incompetent or unethical performance of professional service is most acute.

Core Characteristics: Pursuant to best practices for licensure and certification testing, modern evaluative assessments should be competency-based, formal, standardized, fair, and transparent. More information about best practices can be found in Licensing Examinations Best Practices.

Criterion-Referencing: Another core quality for any defensible licensing assessment is that it be “criterion-referenced”. This means that the test focuses on tasks associated with established and validated competency standards, and assesses a candidate’s performance in relation to those standards. Criterion-referenced assessments can be defined in opposition to “norm-referenced” assessments, which measure a candidate’s performance relative to the other test-takers in their test-taking group. A norm-referenced test effectively adjusts the rate of test-takers who achieve a passing score so that the same specified rate of test-takers passes each time. Leading psychometric experts recommend that the passing standard for a professional licensing examination should depend on candidates’ demonstration of the knowledge and skills necessary for



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entry-level competence, and should not be adjusted to control the number or proportion of candidates who pass.

Balancing: In determining the most appropriate evaluation formats, regulators seek to balance logistical considerations with psychometric rigour. Some key logistical factors include: feasibility, in terms of available infrastructure and resources; fairness and accessibility for candidates; acceptability by both candidates and the profession at large; and sustainability. Key psychometric considerations include: ensuring defensible competency profiles and examination blueprints; reliability and validity of the examinations; alignment between the licensing examination format and the methods by which candidates have previously learned and been assessed; and adequate training and structures to ensure the testing environment allows for reliable and error-free administration.

Expense: Cost considerations are also important in decisions about licensure testing, as expenses are present in all elements of an assessment. The amounts of these expenses can vary significantly depending on the format. Costs are associated with: the development of the assessment; assessment implementation; scoring; and assessment governance and maintenance. Overall, costs at all of these stages tend to be more expensive for performance-based and constructed-response formats than they are for written, selected-response formats. These formats are described in more detail below.

Timing: A regulator must also consider the timing of its licensing examinations. Where there is only one assessment, coupled with other requirements for licensure, such as a transitional training period, the regulator must consider whether the assessment can be completed before, after, and/or during the completion of other licensing components. Moreover, where regulators employ multiple assessments, consideration must be given to their required sequencing, if any.

Some professions use a final culminating assessment of competence, positioned as a “capstone” event that follows the completion of requisite educational credentials, transitional training, and in some cases earlier competence assessments or examinations. These types of assessments are most typically used where there is heterogeneity across degree-granting educational programs and transitional training programs, to provide a final assurance that all candidates possess the requisite qualifications for licensure. These qualifying examinations require rigorous development of competency profiles, examination blueprints, and assessment items. The formats of these final culminating assessments can involve written examinations, case-based simulated assignments, performance assessments, or a hybrid of these formats.

Common Licensing Examination Formats

Multiple-Choice Examinations: Many professional regulators use a written licensing examination composed of several hundred multiple-choice items. Multiple-choice is a



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“selected-response” format, meaning that test-takers choose the correct answer from among several options supplied within the test. Multiple-choice items can be independent from one another, or they can be case-based, where several items grouped together are preceded by a case scenario that will also apply to the other items in the group.

The multiple-choice format, when well-structured, can perform well in terms of ensuring validity and reliability, and it is considered efficient in terms of content coverage and use of resources. While this format is most commonly used to test basic knowledge and comprehension, it is also possible to structure multiple-choice items so that they test higher-order thinking skills.

Task-Based Performance Assessments: Some regulators employ written evaluations that present test-takers with lengthier tasks to accomplish. This framework assesses a candidate’s ability to perform a task that should be within the capabilities of an entry-level practitioner. It uses a “constructed-response” format, which requires candidates to produce an answer or perform a task that demonstrates the necessary knowledge, skills or abilities being tested. Typically, in task-based performance assessments, candidates are provided with a simulated file or fact scenario, as well as substantive information relevant to making decisions about how to perform the task most effectively.

This type of assessment is considered particularly effective for evaluating higher-order thinking skills, such as analysis, synthesis and evaluation. The problem-solving components of a task-based performance assessment can particularly enhance the validity of the evaluation if they match the kinds of realistic scenarios that entry-level practitioners would face. However, the reliability of this format risks being lower than a more standardized, selected-response, multiple-choice format due to the potential for variances in scoring procedures and subjectivity in assessments across multiple examiners. Careful calibration of scoring procedures can help to mitigate this risk.

Performance Assessments: Some regulators, particularly in health-related professions, use performance-based assessments that require candidates to demonstrate skills in designated competency areas. The most common example of this format is an “objective structured clinical examination” or “OSCE”. This type of assessment usually involves candidates being presented with case-based information to prepare for the task(s), and requires other participants to simulate interactions with candidates. Candidates rotate through a series of tasks that require the application of practitioner skills in a range of settings, and adjudicators observe and score candidates’ performances.

This type of performance assessment is another example of a “constructed-response” format, and is also considered particularly effective for measuring higher-order thinking skills and interactive skills. Objective structured clinical examination formats tend to be the most resource-intensive, expensive, and logistically-complex of all evaluative formats to implement and administer. The benefits and risks to reliability and validity in



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these assessments are similar to those present in task-based performance assessments.

Common Trends in Other Professions in Ontario

Most professional regulators implement multiple assessments in order to measure entry-level competence. In many cases, these licensing bodies use different testing formats between the multiple assessments. Most regulators use a written examination, which could include both paper-based and computer-based formats, composed of a large number of multiple-choice questions. Some regulators also supplement these multiple-choice assessments with a performance assessment format, such as an OSCE.

It is typical for licensing examinations to be offered with multiple sittings scheduled each year, and for assessment costs to be borne by candidates.

It is also common, particularly across the health professions, for the provincial regulatory body to be separate from the body responsible for administering professional licensing evaluations required by the regulator. Those arms-length testing bodies are often national or international in operation.

Examples of Professional Assessment Environments

Psychologists

The College of Psychologists of Ontario is the governing body for psychologists in Ontario. All candidates for licensure must complete three assessments (regardless of their prior educational path). Like most other Canadian and American jurisdictions, the College requires all psychologist candidates to pass the Examination for Professional Practice in Psychology, which is developed and administered by the Association of State and Provincial Psychology Boards. This computer-based written examination consists of 225 multiple-choice questions, testing knowledge in eight content areas. The fee for this examination is \$687.50 USD, and it can be attempted by candidates throughout the year at any designated testing centre.

Psychologist candidates must also complete two Ontario-specific assessments administered by the College. The Jurisprudence and Ethics Examination contains 60 multiple-choice questions, focusing on applicable legislation, regulations, standards, guidelines, and codes of ethics. Each question is independent of the others. The fee for this examination is \$200 CDN, and it is administered twice per year.

The third assessment is an Oral Examination. Candidates may be examined by assessors on the following topics: the candidate's area of intended practice; the preparation the candidate has made; readiness for professional work, including the ability to formulate and communicate a diagnosis (candidates are presented with diagnostic scenarios to consider in this component); grasp of ethical and jurisprudence issues, the standards of the profession in Ontario, and ability to apply this knowledge in



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professional practice; appreciation of the societal, statutory, and legal context of psychological practice in the province; and other relevant issues related to the candidate's intended practice in psychology. The fee for the Oral Examination is \$550 CDN, and it is administered twice per year.

The two written assessments may be attempted in any order. The Oral Examination must be completed after successfully completing all other requirements for licensure, including the two written assessments and a period of supervised practice.

Physicians and Surgeons

Like the regulatory bodies for doctors in all other Canadian jurisdictions, the College of Physicians and Surgeons of Ontario requires its applicants for licensure to complete a two-part Qualifying Examination administered by the Medical Council of Canada. All medical graduates must successfully complete both parts of the Qualifying Examination in order to continue their post-graduate specialty training and to ultimately be licensed as a physician.

Part I is a computer-based examination consisting of 196 multiple-choice questions, as well as short-answer questions that focus on decision-making skills. The multiple-choice portion of the test is three-and-a-half hours in length, and the short answer portion is four hours. Part I is offered three times per year, and the fee for candidates is \$1,030.

Part II of the Qualifying Examination is delivered in an OSCE format, consisting of a series of five- and ten-minute clinical stations. At each station, a written statement introduces a clinical problem and directs the candidate to examine and address a standardized, simulated patient who is presenting certain issues. This component relies heavily on the participation of physicians as assessors, as well as trained professional actors as simulated patients, all of whom are paid for their involvement. The assessment takes place over two days. Part II is offered twice per year, and the fee for candidates is \$2,470.

Following the successful completion of the Qualifying Examination and specialty training, applicants to specialty medical disciplines must also complete certification examinations administered by the Royal College of Physicians and Surgeons of Canada. These national assessments combine theoretical and practical skills and knowledge, and use combinations of multiple-choice, short answer, and clinical performance assessment formats. Dates and fees vary depending on the assessments.

Chartered Professional Accountants

The Chartered Professional Accountants of Canada is the national body responsible for regulating the unified Canadian accounting profession. The Chartered Professional Accountants of Ontario is the provincial branch of this regulatory body, and it requires the same components for licensure as the other Canadian jurisdictions.



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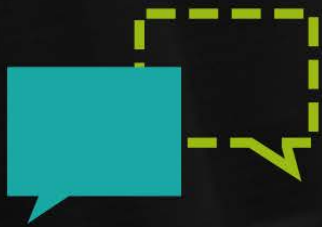
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Candidates for the chartered professional accountant credential must complete the Professional Education Program, which consists of two mandatory core modules, two elective modules (chosen by each candidate from four options), and two mandatory capstone modules. Those modules must be completed in that sequence. Each of the core and elective modules culminates in a written examination that is four hours in length. The examinations feature both selected-response and “case-based” questions that test candidates’ skills and knowledge based on professional competency profiles. The selected-response items are presented in a variety of formats, including four-option multiple-choice questions, short answers, matching, true or false and task-based simulations. Case-based questions cases require 60 and 120 minutes to complete and assess cross-competency integration, problem-solving and communication.

Having successfully completed all required modules, candidates must then write the Common Final Examination. This culminating assessment is written over three days, and assesses competencies in various technical areas from the professional competency profiles.

This examination comprises a set of simulations that are both essential and effective in evaluating the candidates with regard to entry-level competence. On the first day, candidates complete a four-hour examination, consisting of a single simulation that is linked to a group case from the first capstone module. The second day consists of a five-hour examination considering a different single case, which introduces more analytical complexity than the prior day. The third day is a four-hour examination, consisting of three multi-competency area simulations. These are constructed-response format assessments, with candidates providing lengthy written responses having been provided with simulated case information.

This examination is offered once per year, and the fee is \$1,695.



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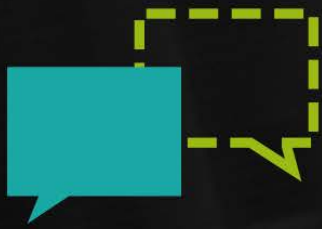
DIALOGUE TOPIC: Licensing Examinations: Assessment of Entry-level Competence

NAME: Licensing Process Statistics

PURPOSE: To provide key data points pertaining to licensing process applicants over the past six years, including education paths, demographics, experiential training and licensing process outcomes.

DATE OF DISCUSSION:

NOTES:



Licensing Process Statistics

Education Path

A new application cycle for the lawyer licensing process begins every October. Most law students in Canadian law school programs apply to the licensing process in the fall during their third year of law school and will formally begin their licensing activities in the spring, immediately after graduation. Each new licensing process term formally begins on May 1 and concludes on April 30 of the following year. For example, candidates applying to the licensing process in 2010/2011 would typically begin their licensing activities in May 2011, after graduation. Many internationally trained applicants who have obtained a certificate of qualification from the National Committee on Accreditation also apply to the licensing process in the fall, and others will apply during various points in the year, as the application process allows for continuous intake. Candidates are permitted three years from their commencement of the licensing process to successfully complete the two licensing examinations, fulfill the experiential training requirement and be confirmed to be of good character. As a result of the three-year time frame permitted for completion of the licensing process requirements, and the fact that candidates may determine the order in which they complete the requirements, there are approximately 4000 - 5000 candidates actively completing the licensing process throughout the year.

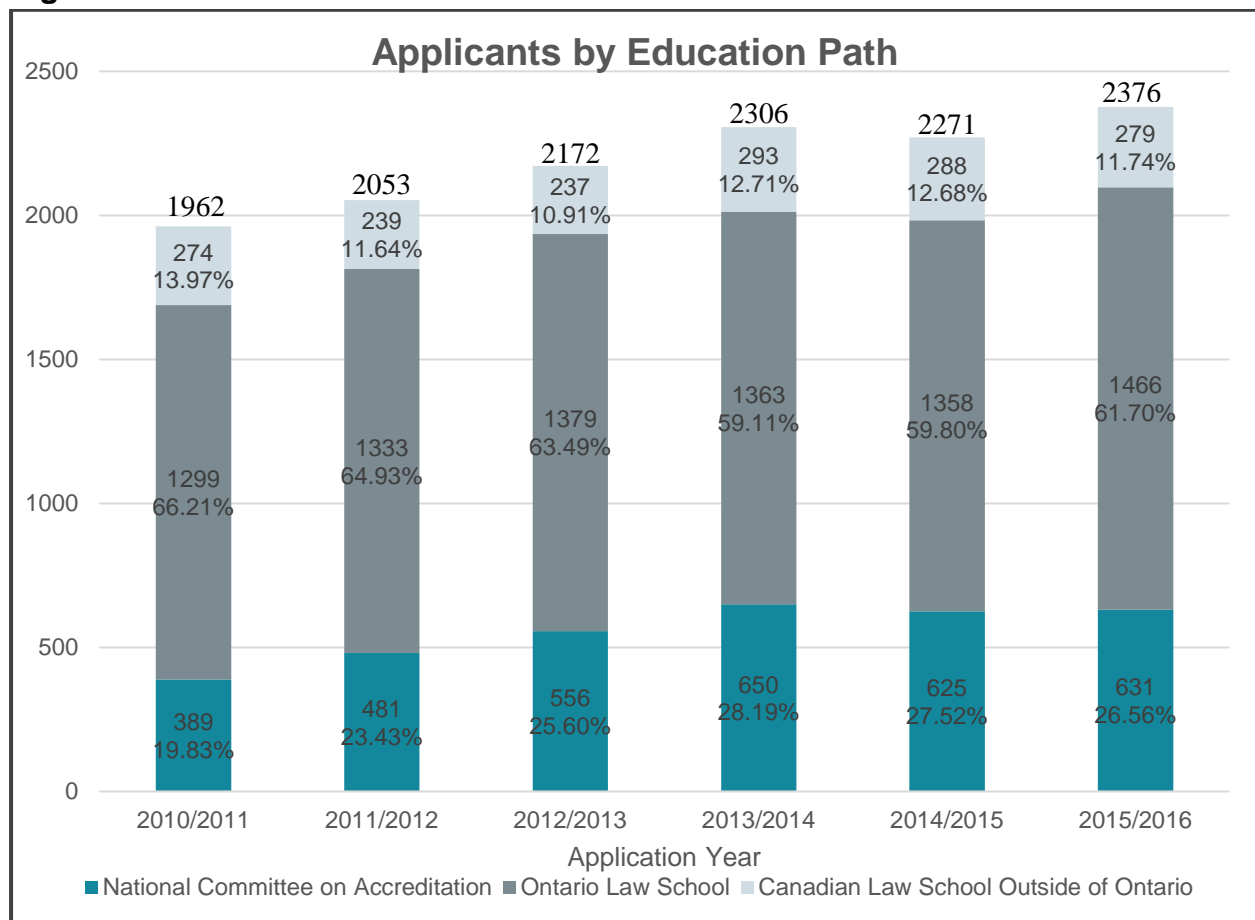


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Figure 1 provides a breakdown of applicants to the licensing process by education path over the past six application cycles (October 1 to September 30 of the following year). Over that time, the proportion of internationally trained applicants has increased by approximately 10% to nearly 30% of each application cohort. As a proportion of total pool of applicants, Canadian law school applicant representation has decreased by approximately 7% over the same time frame.

Figure 1:



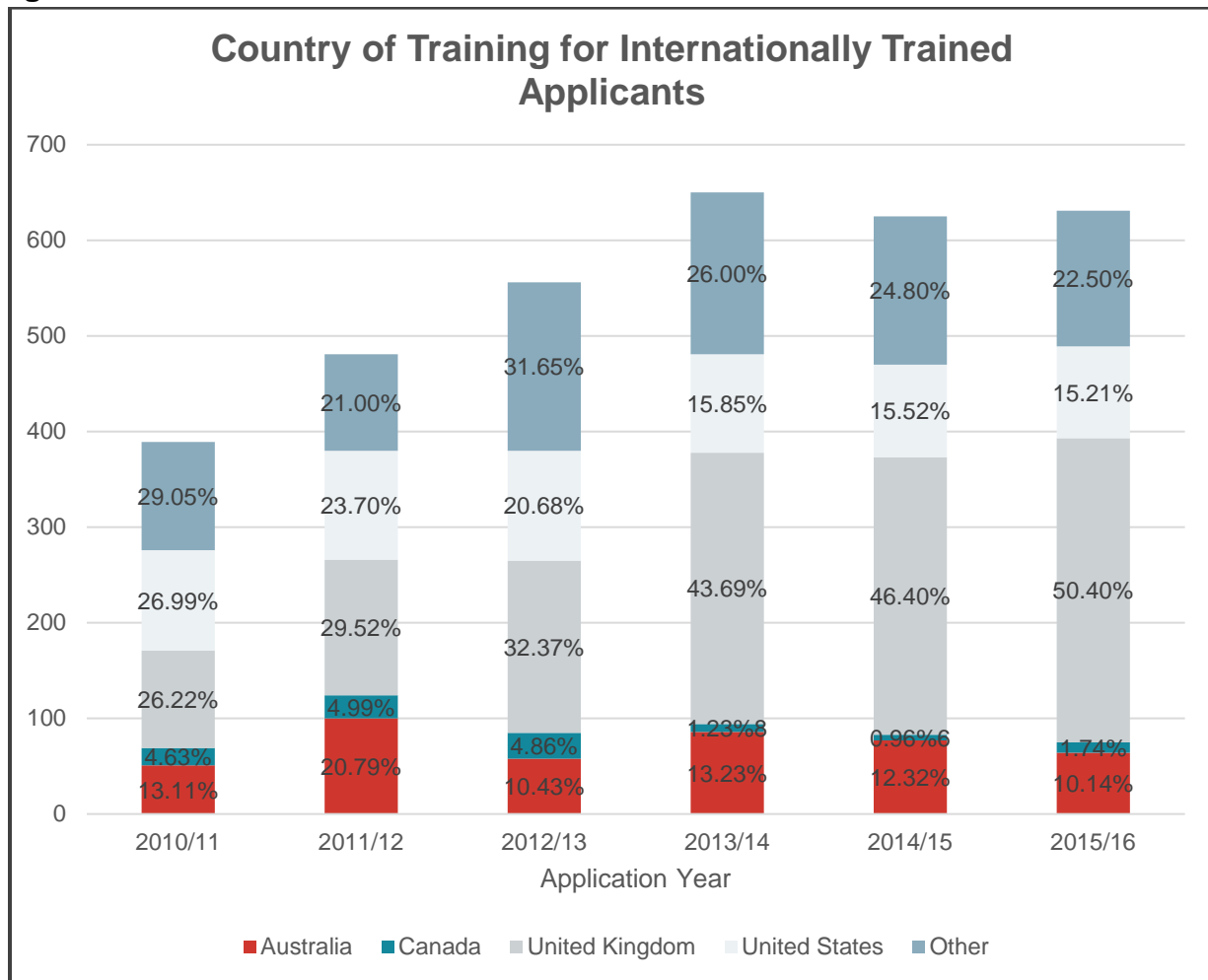


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Figure 2 provides a breakdown of country of training for internationally trained applicants over the past six application cycles. On average, approximately half, or 47% of all internationally trained applicants were born in Canada. The most significant change over that time period has been the 100% increase in the number of applicants from the United Kingdom from 26.2% of the whole group to just over 50%. Note that applicants who have graduated from a civil law degree program in the province of Quebec are not currently covered by the National Mobility Agreement and are required to complete the same credentialing process through the National Committee on Accreditation as internationally trained applicants.

Figure 2:



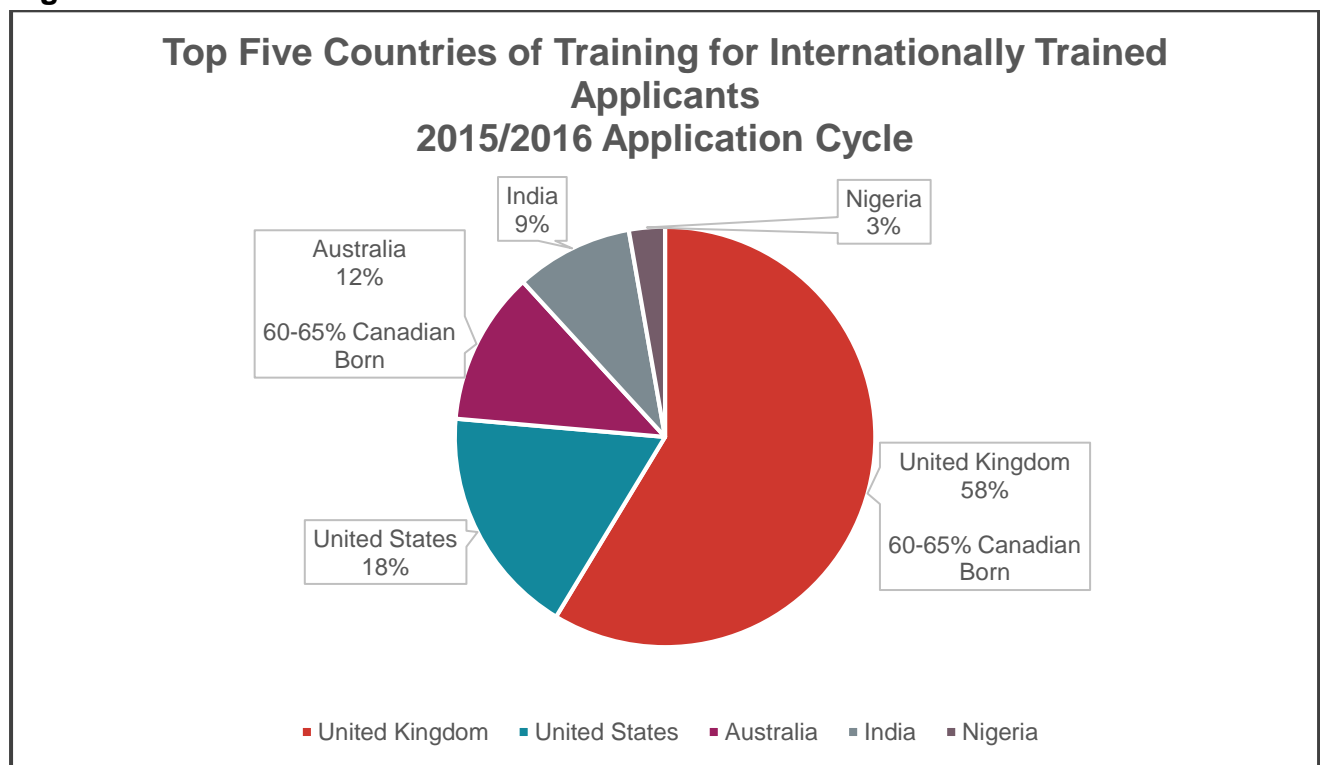


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Figure 3 indicates that the top five countries of training in the 2015/2016 application cycle were the United Kingdom, the United States, Australia, India and Nigeria. This is consistent with the proportion of source countries observed in application cycles in recent years. Between 60-65% of applicants from the United Kingdom and Australia were born in Canada.

Figure 3:

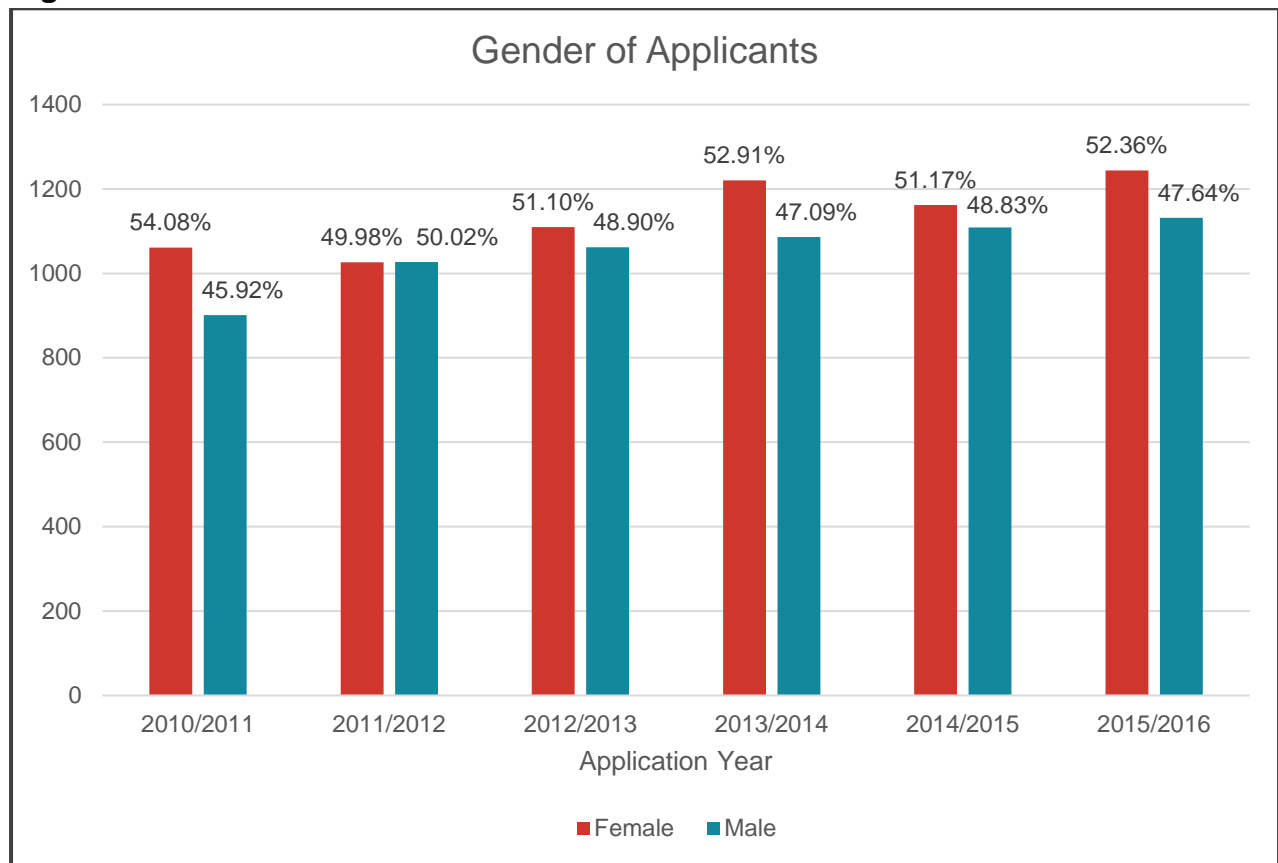




Applicant Demographics

Figure 4 provides a breakdown of applicants by gender. In recent years, more than 50% of applicants to the licensing process have been female.

Figure 4:





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Table 1 provides a breakdown of the demographic data of candidates in the past six application cycles. All data presented, except for age, is based entirely on voluntary self-identification by candidates. Candidates are free to select more than one demographic category. In the 2015/2016 application cycle, 31.02 %, or 737 out of 2376 candidates self-identified in at least one category.

Table 1: Applicant Demographics

Application Year	Racialized Community		Indigenous		Francophone		Person with a Disability		Gay/Lesbian/ Bisexual/Transgender/ Transsexual		Aged 40 or Over	
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
2010/2011	374	19.06%	27	1.38%	116	5.91%	35	1.78%	67	3.41%	109	5.56%
2011/2012	409	19.92%	31	1.51%	110	5.36%	61	2.97%	63	3.07%	120	5.85%
2012/2013	423	19.48%	24	1.10%	120	5.52%	69	3.18%	71	3.27%	154	7.09%
2013/2014	457	19.82%	26	1.13%	118	5.12%	64	2.78%	80	3.47%	148	6.42%
2014/2015	464	20.43%	35	1.54%	136	5.99%	72	3.17%	99	4.36%	140	6.16%
2015/2016	477	20.08%	44	1.85%	143	6.02%	73	3.07%	93	3.91%	120	5.05%

Experiential Training

The experiential training component of the licensing process is designed to assist candidates to become prepared for entry-level practice. Experiential training enables candidates to apply their formal learning and develop their skills, professional abilities and judgment. Completion of the Articling Program, the Law Practice Program, the integrated practice curriculum at Lakehead University or an equivalent length of prior practice experience in a common law jurisdiction are permissible experiential training paths in the licensing process.

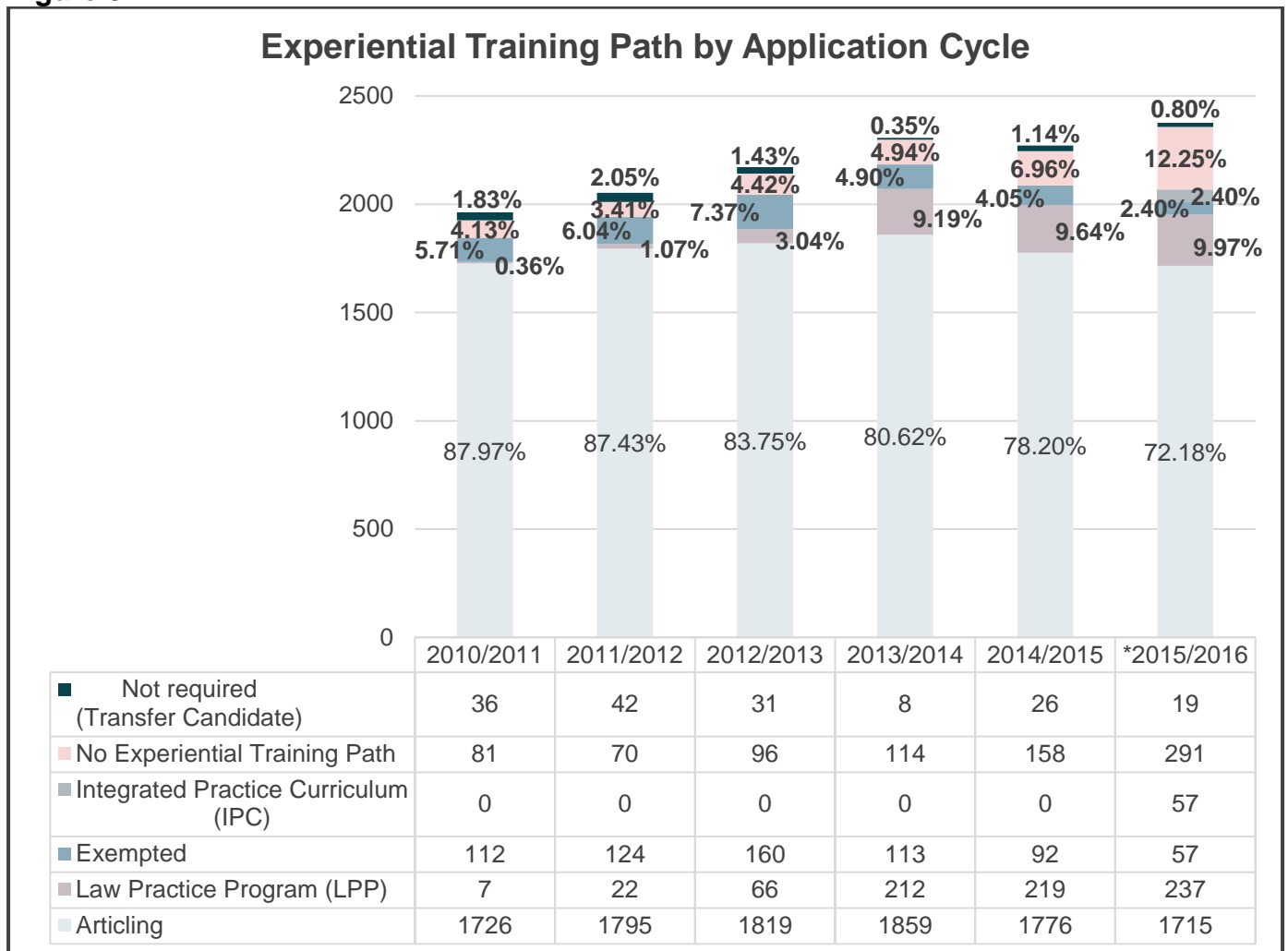


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Figure 5 indicates that articling is the most common path for experiential training across all application cycles. Although the first offering of the Law Practice Program was in September 2014, candidates from earlier application cycles were eligible to participate if they were still enrolled in the licensing process. Approximately 10% of applicants from recent application cycles have chosen the Law Practice Program. In each application cycle, there remain candidates who are still seeking articles or who have not selected an experiential training path.

Figure 5:



* Using current data as of March 2017, this cohort has not yet completed a full licensing year.

Note: 'No Experiential Training Path' includes candidates who are actively seeking Articles and candidates who have not selected an Experiential Training Path.



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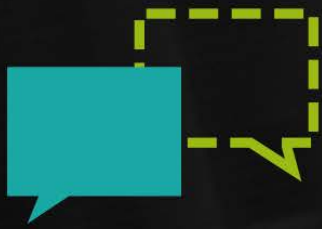
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Table 2 provides a breakdown of experiential training paths by candidate education path. The data indicates that articling is the main experiential training path for Ontario law school graduates. As a proportion of the candidate group selecting the Law Practice Program, the number of internationally trained applicants and graduates from Canadian law schools outside of Ontario appears to be increasing. In recent years, there has also been a notable decrease in the number of exemptions from the experiential training requirement for internationally trained applicants.

Table 2: Candidate Experiential Training Path by Education Path

	Experiential Training Path	National Committee on Accreditation		Ontario Law School		Canadian Law School Outside of Ontario	
2010/2011	Articling	254	65.30%	1235	95.07%	237	86.50%
	Exempted	97	24.94%	8	0.62%	7	2.55%
	Law Practice Program	4	1.03%	3	0.23%	0	0.00%
	No Experiential Training Path	25	6.43%	42	3.23%	14	5.11%
2011/2012	Articling	326	67.78%	1262	94.67%	207	86.61%
	Exempted	109	22.66%	13	0.98%	2	0.84%
	Law Practice Program	13	2.70%	8	0.60%	1	0.42%
	No Experiential Training Path	19	3.95%	41	3.08%	10	4.18%
2012/2013	Articling	309	55.58%	1299	94.20%	211	89.03%
	Exempted	145	26.08%	13	0.94%	2	0.84%
	Law Practice Program	45	8.09%	20	1.45%	1	0.42%
	No Experiential Training Path	46	8.27%	38	2.76%	12	5.06%
2013/2014	Articling	392	60.31%	1227	90.02%	240	81.91%
	Exempted	95	14.62%	12	0.88%	6	2.05%
	Law Practice Program	105	16.15%	79	5.80%	28	9.56%
	No Experiential Training Path	57	8.77%	42	3.08%	15	5.12%
2014/2015	Articling	343	54.88%	1209	89.03%	224	77.78%
	Exempted	84	13.44%	4	0.29%	4	1.39%
	Law Practice Program	112	17.92%	85	6.26%	22	7.64%
	No Experiential Training Path	85	13.60%	49	3.61%	24	8.33%
2015/2016	Articling	302	47.86%	1219	83.15%	194	69.53%
	Exempted	54	8.56%	1	0.07%	2	0.72%
	Integrated Practice Curriculum	0	0.00%	57	3.89%	0	0.00%
	Law Practice Program	128	20.29%	80	5.46%	29	10.39%
	No Experiential Training Path	140	22.19%	107	7.30%	44	15.77%

Note: Percentages do not include Quebec Transfer Candidates (under subsection 9(1) of By-Law 4) who are not required to complete the Experiential Training component of the Licensing Process.



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Licensing Examinations

Candidates are required to successfully complete both a Barrister Examination and Solicitor Examination, which are multiple-choice, open-book examinations. Each examination is 7 hours in length. The competencies tested are those required for entry-level practice and that have the most direct impact on the protection of the public and that influence an effective and ethical practice. Candidates may attempt each examination up to three times, with a fourth attempt permitted only based on exceptional circumstances.

Tables 3a and 3b provide aggregate results on first, second and subsequent attempts on the Barrister and Solicitor Licensing Examinations, respectively, for candidates in the last six application cycles and indicates their current status. The aggregate data indicates that, across all groups, a large percentage of candidates are successful on their first attempt at the licensing examinations, and the majority of these candidates are now licensed.



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Table 3a

BARRISTER LICENSING EXAMINATION PASSING RATES									
Cohort	Attempt	ALL		Active		Licensed		Withdrawn	
2010/2011	1	1584	83.90%	1	0.05%	1567	83.00%	16	0.85%
	2	187	9.90%	4	0.21%	183	9.69%	0	0.00%
	3 or more	77	4.08%	3	0.16%	70	3.71%	4	0.21%
2011/2012	1	1612	80.92%	2	0.10%	1592	79.92%	18	0.90%
	2	238	11.95%	0	0.00%	233	11.70%	5	0.25%
	3 or more	79	3.97%	4	0.20%	75	3.77%	0	0.00%
2012/2013	1	1673	79.59%	7	0.33%	1650	78.50%	15	0.71%
	2	238	11.32%	3	0.14%	231	10.99%	4	0.19%
	3 or more	78	3.71%	2	0.10%	75	3.57%	1	0.05%
2013/2014	1	1780	80.43%	33	1.49%	1747	78.94%	0	0.00%
	2	230	10.39%	16	0.72%	213	9.62%	1	0.05%
	3 or more	70	3.16%	7	0.32%	63	2.85%	0	0.00%
2014/2015	1	1703	80.10%	110	5.17%	1588	74.69%	5	0.24%
	2	214	10.07%	38	1.79%	176	8.28%	0	0.00%
	3 or more	46	2.16%	6	0.28%	39	1.83%	1	0.05%
*2015/2016	1	1612	82.29%	1473	75.19%	137	6.99%	2	0.10%
	2	87	4.44%	77	3.93%	10	0.51%	0	0.00%
	3 or more	3	0.15%	3	0.15%	0	0.00%	0	0.00%

* Using current data as of March 2017, this cohort has not yet completed a full licensing year.



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Table 3b

SOLICITOR LICENSING EXAMINATION PASSING RATES									
Cohort	Attempt	ALL		Active		Licensed		Withdrawn	
2010/2011	1	1575	83.82%	3	0.16%	1559	82.97%	13	0.69%
	2	183	9.74%	1	0.05%	182	9.69%	0	0.00%
	3 or more	84	4.47%	0	0.00%	79	4.20%	5	0.27%
2011/2012	1	1560	78.59%	0	0.00%	1544	77.78%	16	0.81%
	2	254	12.80%	0	0.00%	252	12.70%	2	0.10%
	3 or more	109	5.49%	3	0.15%	104	5.24%	2	0.10%
2012/2013	1	1634	78.44%	6	0.29%	1615	77.53%	12	0.58%
	2	255	12.24%	10	0.48%	242	11.62%	3	0.14%
	3 or more	107	5.14%	4	0.19%	99	4.75%	4	0.19%
2013/2014	1	1716	78.82%	34	1.56%	1681	77.22%	1	0.05%
	2	289	13.28%	11	0.51%	276	12.68%	2	0.09%
	3 or more	67	3.08%	1	0.05%	66	3.03%	0	0.00%
2014/2015	1	1711	81.21%	112	5.32%	1596	75.75%	3	0.14%
	2	221	10.49%	36	1.71%	185	8.78%	0	0.00%
	3 or more	28	1.33%	3	0.14%	22	1.04%	3	0.14%
*2015/2016	1	1541	82.49%	1404	75.16%	133	7.12%	4	0.21%
	2	83	4.44%	69	3.69%	14	0.75%	0	0.00%
	3 or more	2	0.11%	2	0.11%	0	0.00%	0	0.00%

* Using current data as of March 2017, this cohort has not yet completed a full licensing year.



Dialogue on Licensing

Dialogue sur l'accès à la profession

Candidates Licensed

Table 4 indicates the licensing status of candidates licensed from each application cycle. Candidates withdraw from the licensing process for a variety of reasons, including career changes, inability to successfully complete one or more of the licensing process requirements, and personal circumstances.

Table 4: Licensing Status by Application Cycle

Application Year	Licensed from Cohort		In Progress		Withdrawn	
	Count	Percentage	Count	Percentage	Count	Percentage
2010/2011	1820	92.76%	18	0.92%	123	6.27%
2011/2012	1901	92.60%	32	1.56%	118	5.75%
2012/2013	1956	90.06%	69	3.18%	146	6.72%
2013/2014	2023	87.73%	177	7.68%	105	4.55%
2014/2015	1803	79.39%	388	17.08%	80	3.52%
*2015/2016	147	6.19%	2165	91.12%	64	2.69%

* Using current data as of March 2017, this cohort has not yet completed a full licensing year.



Dialogue on Licensing

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Table 5 shows the percentage and number of new licensees for each application cycle by education path. The data indicates that the percentage of internationally trained applicants who become licensed is slightly lower than those candidates who receive their legal education in Canada.

Table 5: Licensing Status by Education Path

Application Year	Status	% of National Committee on Accreditation Group	% of Ontario Law School Group	% of Canadian Law School Outside of Ontario
2010/11	In Progress	3.08%	0.23%	0.37%
	Licensed	87.15%	95.22%	90.11%
	Withdrawn	9.77%	4.55%	9.52%
2011/2012	In Progress	3.53%	0.90%	1.30%
	Licensed	88.77%	94.37%	94.78%
	Withdrawn	7.69%	4.73%	3.91%
2012/2013	In Progress	7.73%	1.60%	1.69%
	Licensed	78.96%	94.63%	89.87%
	Withdrawn	13.31%	3.77%	8.44%
2013/2014	In Progress	14.95%	4.70%	5.46%
	Licensed	75.96%	92.74%	90.78%
	Withdrawn	9.09%	2.57%	3.75%
2014/2015	In Progress	34.56%	9.20%	16.32%
	Licensed	60.64%	88.29%	78.13%
	Withdrawn	4.80%	2.50%	5.56%
*2015/2016	In Progress	83.52%	94.41%	91.04%
	Licensed	13.79%	3.34%	3.94%
	Withdrawn	2.69%	2.25%	5.02%

* Using current data as of March 2017, this cohort has not yet completed a full licensing year.

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

National Requirement

2011



National Requirement

A. STATEMENT OF STANDARD

1. Definitions

In this standard,

- a. "bar admission program" refers to any bar admission program or licensing process operated under the auspices of a provincial or territorial law society leading to admission as a lawyer in a Canadian common law jurisdiction;
- b. "competency requirements" refers to the competency requirements, more fully described in section B, that each student must possess for entry to a bar admission program; and
- c. "law school" refers to any educational institution in Canada that has been granted the power to award an LL.B. or J.D. degree by the appropriate provincial or territorial educational authority.

2. General Standard

An applicant for entry to a bar admission program ("the applicant") must satisfy the competency requirements by either;

- a. successful completion of an LL.B. or J.D. degree that has been accepted by the Federation of Law Societies of Canada ("the Federation"); or
- b. possessing a Certificate of Qualification from the Federation's National Committee on Accreditation.

B. COMPETENCY REQUIREMENTS

1. Skills Competencies

The applicant must have demonstrated the following competencies:

1.1 Problem-Solving

In solving legal problems, the applicant must have demonstrated the ability to:

- a. identify relevant facts;
- b. identify legal, practical, and policy issues and conduct the necessary research arising from those issues;
- c. analyze the results of research;
- d. apply the law to the facts; and
- e. identify and evaluate the appropriateness of alternatives for resolution of the issue or dispute.

National Requirement

1.2 Legal Research

The applicant must have demonstrated the ability to:

- a. identify legal issues;
- b. select sources and methods and conduct legal research relevant to Canadian law;
- c. use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;
- d. identify, interpret and apply results of research; and
- e. effectively communicate the results of research.

1.3 Oral and Written Legal Communication

The applicant must have demonstrated the ability to:

- a. communicate clearly in the English or French language;
- b. identify the purpose of the proposed communication;
- c. use correct grammar, spelling and language suitable to the purpose of the communication and for its intended audience; and
- d. effectively formulate and present well reasoned and accurate legal argument, analysis, advice or submissions.

2. Ethics and Professionalism

The applicant must have demonstrated an awareness and understanding of the ethical dimensions of the practice of law in Canada and an ability to identify and address ethical dilemmas in a legal context, which includes:

2.1 Knowledge of:

- a. the relevant legislation, regulations, rules of professional conduct and common or case law and general principles of ethics and professionalism applying to the practice of law in Canada. This includes familiarity with:
 1. circumstances that give rise to ethical problems
 2. the fiduciary nature of the lawyer's relationship with the client;
 3. conflicts of interest;
 4. the administration of justice;
 5. duties relating to confidentiality, lawyer-client privilege and disclosure;
 6. the importance of professionalism, including civility and integrity, in dealing with clients, other counsel, judges, court staff and members of the public; and
 7. the importance and value of serving and promoting the public interest in the administration of justice.



National Requirement

- b. the nature and scope of a lawyer's duties including to clients, the courts, other legal professionals, law societies, and the public;
- c. the range of legal responses to unethical conduct and professional incompetence; and
- d. the different models concerning the roles of lawyers, the legal profession, and the legal system, including their role in the securing access to justice.

2.2 Skills to;

- a. identify and make informed and reasoned decisions about ethical problems in practice; and
- b. identify and engage in critical thinking about ethical issues in legal practice.

3. Substantive Legal Knowledge

The applicant must have undertaken a sufficiently comprehensive program of study to obtain an understanding of the complexity of the law and the interrelationship between different areas of legal knowledge. In the course of this program of study the applicant must have demonstrated a general understanding of the core legal concepts applicable to the practice of law in Canada, including as a minimum the following areas:

3.1 Foundations of Law

The applicant must have an understanding of the foundations of law, including:

- a. principles of common law and equity;
- b. the process of statutory construction and analysis; and
- c. the administration of the law in Canada.

3.2 Public Law of Canada

The applicant must have an understanding of the principles of public law in Canada, including:

- a. the constitutional law of Canada, including federalism and the distribution of legislative powers, the Charter of Rights and Freedoms, human rights principles and the rights of Aboriginal peoples of Canada;
- b. Canadian criminal law; and
- c. the principles of Canadian administrative law.

3.3 Private Law Principles

The applicant must demonstrate an understanding of the principles that apply to private relationships, including:

- a. contracts, torts and property law; and
- b. legal and fiduciary concepts in commercial relationships.



National Requirement

C. APPROVED CANADIAN LAW DEGREE

The Federation will accept an LL.B. or J.D. degree from a Canadian law school as meeting the competency requirements if the law school offers an academic and professional legal education that will prepare the student for entry to a bar admission program and the law school meets the following criteria:

1. Academic Program

- 1.1 The law school's academic program for the study of law consists of three full-time academic years or equivalent, which presumptively, is 90 course credits.
- 1.2 The course of study consists primarily of in-person instruction and learning and/or instruction and learning that involves direct interaction between instructor and students.
- 1.3 Holders of the degree have met the competency requirements.
- 1.4 The academic program includes instruction in ethics and professionalism in a course dedicated to those subjects and addressing the required competencies.
- 1.5 Subject to special circumstances, the admission requirements for the law school include, at a minimum, successful completion of two years of post-secondary education at a recognized university or CEGEP.

2. Learning Resources

- 2.1 The law school is adequately resourced to enable it to meet its objectives, and in particular, has appropriate numbers of properly qualified academic staff to meet the needs of the academic program.
- 2.2 The law school has adequate physical resources for both faculty and students to permit effective student learning.
- 2.3 The law school has adequate information and communication technology to support its academic program.
- 2.4 The law school maintains a law library in electronic and/or paper form that provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives.

