

Ian Mulgrew: B.C. lawyers hope to end their monopoly on practicing law

Public would benefit from greater access to legal advice

BY IAN MULGREW, VANCOUVER SUN COLUMNIST DECEMBER 28, 2014



While lawyers can charge hundreds of dollars an hour, paralegals, for example, work for a fraction of that. The Law Society of B.C. hopes to expand legal services to non-lawyer legal service providers.

The Law Society of B.C. wants to end the lawyers' monopoly on practicing law and is asking Victoria to give it the power to open up its business to competition.

The Society wants the provincial government to change the Legal Profession Act to permit new classes of service providers and authorize the regulatory body to set the credentialing requirements and govern them.

The landmark Dec. 5 decision sees the benchers who govern the legal profession acting in the public interest even though some of the province's roughly 13,000 lawyers are howling.

It is the culmination of several years' work, though the Society task force that recommended the move cautioned there remains much more to be done.

"There must be some standards to the services provided," concluded a 48-page report from the 11-member blue ribbon group led by former Law Society president Art Vertlieb.

"There is no point in creating a system that enables people to retain uninformed legal advice, as that advice will in most cases exacerbate already existing legal problems."

The task force acknowledged some lawyers opposed the proposal and raised valid concerns.

"Much as public need cannot be viewed in a one size fits all fashion, legal service providers have vastly different incomes," the report said.

"There is a risk that creating new categories of legal service providers will create competition for legal services not only in areas of unmet need but for underserved and for served areas as well."

But it added: "If an expansion of legal services to non-lawyer legal services providers is in the public interest, the fact that it creates competition with existing legal services providers is extraneous to the consideration."

Over the last year, the task force consulted with major legal players and conducted research to figure out where the greatest need was, what new services might be provided, who might provide them and how they would be credentialed and regulated.

It delivered its report earlier this month recommending the Law Society open up several areas of legal work: family law, employment law, debtor/creditor law, advocacy before administrative tribunals, advocacy in Small Claims Court, Traffic Court infractions in Provincial Court and representation in mediations and arbitrations.

What was almost universally acknowledged, the group said, was that the public would benefit from greater access to legal advice, assistance with preparing and interpreting documents, and advocacy services.

While lawyers can charge hundreds of dollars an hour, paralegals, for example, work for a fraction of that because they have far less legal education and handle less serious work.

But in B.C. they handle only minor legal tasks or poverty law services such as welfare rights, EI appeals or landlord-tenant disputes — areas where lawyers traditionally don't practise or are too expensive to consult.

This move envisions a marketplace like Ontario's, where nearly 6,000 paralegals, for instance, handle proceedings in small claims courts, matters under the Provincial Offences Act, Highway Traffic Act, issues in a summary conviction court under the Criminal Code, and can appear before various tribunals.

In this province, the lawyers' hegemony on legal services has led to a situation in which the poor and middle class can't afford to defend or assert their rights, creating a serious justice deficit.

With access to justice slipping out of reach for so many British Columbians, the Law Society thinks these changes can help remedy that.

The task force spent some time considering whether the Law Society was the right body to act as regulator of all legal service providers.

In England, there are multiple legal service regulatory bodies operating under an omnibus regulator.

Similarly, B.C. health care providers have different regulators all operating under the aegis of an omnibus regulator.

The task force said the Law Society was the proper body to regulate new classes of legal service providers in order to best ensure consistency of standards and provide maximum transparency.

Still, don't expect to see relief from high lawyer's fees soon — the legislative agenda for the spring is filled, which means the government probably won't have the necessary amendments ready until 2016.

There are also myriad details to work out and extensive consultation to occur with various tribunals, courts, schools and a wide range of stakeholders.

The education requirements and the scope of practice, for example, will take concerted effort and consultation to develop.

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