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Clients will suffer if articling program is abolished

Imagine hiring a newly minted real estate lawyer for the largest purchase transaction of your lifetime a new home only to find out that he or she has had no exposure to any real estate transactions beyond a law school course in the theory of real estate law.

Within a year or two, this scenario could be a distinct possibility if the Law Society of Upper Canada, the governing body of Ontario lawyers, proceeds with a proposal to abolish the articling program because there aren't enough jobs available.

To me, this would be like letting doctors enter private practice right after medical school because there aren't enough residency positions available.

Here's how the legal education process works at present. After graduating from an accredited law school, a student spends four weeks in a skills and professional responsibility program, which teaches ethics, professionalism, managing client relationships, legal research, writing and practice management but not substantive law.

This is followed by 10 months of employment, called articling, with a practising lawyer approved by the Law Society. At the end of this process, the student writes two full-day, multiple-choice examinations to test entry-level competency as a barrister (court lawyer) and as a solicitor (office lawyer).

Three years ago, the Law Society abandoned the teaching portion Bar Admission Course, an excellent skills training program. The intensive, 18-week course taught budding lawyers the core skills and mechanics of practising law. It exposed students to the teaching talents of practising lawyers acting as role models in a "real world" context.

Following this blunder, a Law Society task force report earlier this year recommended termination of the four-week skills and professional responsibility course, and invited comment on the option of terminating the articling program as well.

It's all a case of numbers there aren't enough articling jobs. Last year, the Law Society had 1,408 students who were eligible for articling positions. This year, the number is about 1,464 and next year it could reach 1,733.

Unfortunately, there are only about 1,300 articling jobs available every year in Ontario. As a result, within a year or two, there will be a shortfall of 400 or more placements of students who are nearing the end of their legal education and cannot graduate for lack of a training position.

This summer, Law Society staff are collating responses to the report that proposes four alternatives: articling be continued with no placement guarantee; the Society develop an alternate stream for students without placements; articling be abolished; or other possibilities be considered such as a shortened articling period, which would allow job sharing.

This fall, the Law Society's board will consider the recommendations of the task force and determine a course of action. I have been a benchler, or elected director of the Law Society, for the last 13 years and will vote to retain articling in its present form.

If the Law Society abolishes articling, it will have serious repercussions on the ability of newly graduated lawyers to serve their clients properly, not just in real estate but in virtually every area of law.

The Law Society has an obligation to govern the legal profession in the public interest and produce competent law graduates. If it abolishes articling, it will have failed in this duty.

This is just the sort of action that has resulted in law societies in other Commonwealth jurisdictions forfeiting their rights to self-government.

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