

## **The Changing Face of Human Resources Consulting in Ontario**

By Marcel C. Faggioni \*

Over the last year, there has been a little known change in the way human resources consultants in private practice operate in Ontario. Although the change may not be well known by most Ontarians, the change was quite dramatic. On May 1st, 2007, a law known as the *Access to Justice Act* (Bill 14) was passed by the Ontario Legislature. Under this *Act*, the Law Society of Upper Canada became responsible for regulating the paralegal profession in Ontario. Under provisions in the *Act*, some activities currently done by human resources consultants may be seen as providing legal services and thus would be subject to the Law Society's regulative, investigative, and disciplinary authority as part of the new paralegals licensing regime. The area most affected is the provision of labour relations and employee relations services.

The Act states that, "a person provides legal services if the person engages in conduct that involves the application of legal principles and legal judgement with regard to the circumstances or objectives of a person." Examples given in the *Act* of providing legal service are when a person,

1. *Gives a person advice with respect to the legal interests, rights or responsibilities of the person of another person*
2. *Selects, drafts, completes or revises, on behalf of a person, a document that affects a person's interests in or rights to or in real or personal property*
3. *Represents a person in a proceeding before an adjudicative body*
4. *Negotiates the legal interests, rights or responsibilities of a person*

As a result of the above definition, some human resources consultants may find themselves engaging in conduct now covered by the *Act*. Examples for such activities include, but are not limited to, handling employment contracts, terminations, benefits, pensions or representing clients at the Ontario Labour Relations Board, Human Rights Tribunal, Workplace Safety and Insurance Tribunal, Employment Standards Tribunal or deal with collective bargaining issues. Under certain conditions, anyone in Ontario, engaged in such activities, could be required to be licensed as a paralegal and become members of the Law Society of Upper Canada. Among other requirements, according to Law Society's guidelines, those individuals would need to also carry errors and omissions insurance. The *Act* also provides penalties for those caught providing legal services without the proper Paralegal designation and membership to the Law Society.

Prior to the passing of Bill 14, human resources consultants, especially those practicing labour/employee relations, were not regulated. This allowed anyone to hang out their shingle and call themselves human resources consultants, which offered little

assurance and protection to clients against would-be charlatans parading themselves as human resources professionals. However, with the enactment of the *Access to Justice Act*, the profession is being regulated to the extent that it deserves and is likely going to screen out those falsely claiming to possess the requisite skills and knowledge of a true human resources professional.

Despite the newly imposed statutory requirements, the consumer of human resources consulting services should exercise the same care and due diligence as it would when deciding to make any other substantial purchases. A potential client should check, check and check again – the firm’s credentials by virtue of the consultant’s educational achievement(s), work and consulting experience, quality of past projects as reflected in sample reports – with confirmation by reliable references. The old adage of “Buyer Beware” is very pertinent in the selection of a truly qualified and capable consultant.

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\* Marcel Faggioni possesses his designation as Paralegal and has been granted membership in the Law Society of Upper Canada, effective April 1, 2008.