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**APPROVED Public Minutes
of the Four Hundred and Eightieth Meeting
of the Benchers Board of the Law Society of Alberta (Law Society)
held at the Law Society Offices
Calgary, Alberta
February 2-3, 2017**

Benchers Present:

Anne Kirker, Outgoing President*
Anthony Young, Incoming President
Donald Cranston, President-Elect
Robert Armstrong
Glen Buick
Arman Chak
Sandra Corbett* (phone)
Nancy Dilts
Robert Dunster
Dennis Edney
Fred Fenwick
Josh Hawkes
Cal Johnson
Sarah King-D'Souza*
Adam Letourneau*
Walter Pavlic
Kathleen Ryan*
Darlene Scott
Hugh Sommerville*
Kent Teskey
Amal Umar
Margaret Unsworth
Louise Wasylenko

Regrets:

Brett Code
Robert Harvie

Executive Leadership Team:

Don Thompson, QC, Executive Director and CEO
Elizabeth Osler, Deputy Executive Director and
Director, Regulation
Cori Ghitter, Director, Professionalism and Policy
Andrew Norton, Director, Business Technology
Drew Thomson, Chief Financial Officer
David Weyant, Chief Operations Officer, Alberta
Lawyers Insurance Association

Staff:

Colleen Brown, Acting Manager, Communications
Ruth Corbett, Governance Administrator

Guests, Presenters and Observers:

Kendall Moholityny, Executive Director, Pro Bono
Law Alberta*
Kevin Feth, President, Pro Bono Law Alberta Board*
Nonye Opara, Program Manager, Pro Bono Law
Alberta*
Jennifer Flynn, Executive Director, Legal Education
Society of Alberta*
Jenny McMordie, Vice-President, CBA Alberta
Branch*
Sandra Petersson, Executive Director, Alberta Law
Reform Institute*
Steve Raby, Representative, Federation of Law
Societies of Canada
Paule Armeneau, General Counsel*
Nancy Carruthers, Acting Tribunal Counsel*
Shabnam Datta, Policy Counsel*
Jennifer Freund, Policy Counsel*

**Secretary's Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.*

The public meeting was called to order at 9:00 am on February 2, 2017.

1 Outgoing President's Remarks

Anne Kirker

The outgoing President referred the Benchers to the written report included in the public meeting package. Ms. Kirker remarked that although there is challenging work ahead, in her opinion there is no better group of people to handle the challenges than those around the Board table. Ms. Kirker expressed her gratitude for the opportunity to work with Benchers and staff and to contribute to the evolution of the legal profession in Alberta.

The Benchers applauded Ms. Kirker as she left the meeting.

2 Incoming President's Remarks

Anthony Young

The President assumed the Chair. A summary of the President's inaugural address to the Board follows:

Mr. Young recognized Ms. Kirker's outstanding leadership and guidance, on behalf of the Board and on a personal level, during her term as President.

The Law Society's Strategic Plan is the foundation for all the work that the Benchers do and sets out the components for the Law Society's regulatory work. The President spoke to the Benchers about the strategic goals and how these will inform discussions and impact the work of the Board during 2017.

The Law Society's goal to be a model regulator requires the confidence of the public, members, and other stakeholders, to uphold and support access to justice and the rule of law for Albertans. Although the Law Society only plays one part in access to justice, it is important to comment and guide others where possible.

The Law Society will continue to strive to create an innovative governance and management culture that positions the Law Society as a leader in the regulation of professions.

The Law Society has determined to regulate in the public interest by promoting excellence, high ethical standards, and diversity within the legal profession. The Law Society is able to set standards for how legal services are delivered. One of our stated outcomes is "*innovation in the delivery of legal services*". Some of the strategies for this

are statutory reform and entity regulation. The goal to be a “model regulator” should also include the notion of being a “modern” regulator, requiring the Law Society to facilitate innovation and change in the delivery of legal services and to continue to evolve overall. The Law Society has an obligation to encourage modernization in the delivery of legal services and to plan for how that may occur. It will be important to take small steps forward, while at the same time be able to respond nimbly to challenges and opportunities as they present themselves.

Challenges for 2017 include:

- Responding to the TRC recommendations in a thoughtful and collaborative way;
- Continuing initiatives for proactive regulation;
- Continuing work in innovation and regulation consultations;
- Continuing trust safety program improvements and funding for trust safety; and
- Continuing to assist Legal Aid Alberta (LAA) in access to justice and to seek clarity regarding the Law Society’s role in LAA.

In summary, the President expressed his hope that regulation continues to modernize, and asked Benchers to embrace, promote, and communicate this vision, stressing the importance that Benchers are part of the solution as the Law Society navigates the issues during 2017. The President invited everyone to feel free to contact him at any time to talk about any issue.

The Benchers welcome their new President through a round of applause.

Secretary’s note: the public meeting was adjourned at 9:15 am on February 2, 2017 and the Board went in-camera. The public meeting was reconvened at 9:05 am on February 3, 2017 and guests and observers joined the meeting. Ms. Corbett, Ms. King-D’Souza, Ms. Ryan and Mr. Sommerville were absent on Friday February 3, 2017.

3 Pro Bono Law Alberta (PBLA) Presentation

Kevin Feth/Kendall Moholityn

Ms. Moholityn and Mr. Feth provided a presentation on PBLA’s history, vision, mission, values, and progress on strategic goals during 2016. Highlights included how the mission is advanced, the extent of the PBLA network, and the success of the Civil Claims Duty Counsel project and Queen’s Bench Amicus project.

The results of an evaluation of PBLA were positive, demonstrating that PBLA is meeting its objectives to engage lawyers and increase pro bono activity in Alberta. Outcomes of the evaluation include increased opportunities for strengthening relationships with service providers and furthering connections with other organizations provincially and nationally. PBLA’s dramatic growth has required organizational rationalization and

restructuring, including the establishment of governance and risk management committees, board governance training and succession planning.

Key findings from an engagement study demonstrate that most lawyers are familiar with pro bono opportunities, are providing pro bono services and feel a responsibility to do so; however, lack of time was noted as a barrier to providing more pro bono services.

PBLA will begin strategic planning in April 2017 with a view to rationalizing and clarifying their mission while maintaining the commitment to being a leader and partner in facilitating access to justice through pro bono contributions.

4 Consent Agenda

Anthony Young

The Chair read the list of Consent Agenda items and asked if anyone wished to move any of the items from the Consent Agenda to the regular agenda for discussion. A request was made to remove the item *Date Approval and Rule Amendments for the Bencher Election* from the Consent Agenda so discussion can take place.

The following Consent Agenda items were then approved concurrently:

Motion:

To approve:

- **Rule 23.1 Amendment – Adjudicators – at Tab 13.2 of the meeting materials;**
- **Rule 149.4 Amendments – Part B ALIA Investigations – Trust Safety Insurance – at Tab 13.3 of the meeting materials;**
- **Rule Amendments – Membership and Articling Application Improvements – at Tab 13.4 of the meeting materials;**
- **Code of Conduct Amendments – at Tab 13.5 of the meeting materials;**
- **2017 Committees, Task Forces and Liaisons – at Tab 13.6 of the meeting materials;**
- **2018 Bencher Board Meeting Dates Amendments – at Tab 13.7 of the meeting materials; and**
- **2017 Law Society Annual General Meeting Date – at Tab 13.8 of the meeting materials.**

**Seconded
Carried**

5 Date Approval and Rule Amendments for Bencher Election Jennifer Freund

Documentation for this item was circulated with the meeting materials. The proposed Rule amendments are intended to facilitate the election process and clarify the election

rules. The proposed amendments included removal of all references to forms as a result of the move to an electronic election system, and clarification of boundaries so that districts are clearly defined.

The Board discussed the proposed district revisions. It was suggested that the amendments will not address the challenges inherent in the definition of the boundaries and will not necessarily encourage people to run in the three districts. Management advised the Board that the new boundaries remove nominee and voter confusion about the districts; however, encouraging people to run in the election was suggested to be a separate challenge.

Concerns about the proposed changes to Rule 10 were discussed, particularly the proposal to shift the responsibility for application compliance from the President to the Executive Director. Management's rationale for this change was because this task is seen as an administrative function, not a policy function, and is intended to provide a degree of standardization of candidate information so that the profession can more equitably compare candidates.

Ms. Moholityny, Ms. Opara and Mr. Feth left the meeting at this point.

The Chair advised the Board that Rule amendments require a two-thirds majority vote.

Motion:

To set the Bencher Election date as November 15, 2017, and to amend rules 7, 8, 10.1, 12.1, 13.1, and 15 as proposed.

Seconded
4 opposed
1 abstention
Carried

6 National Discipline Standards (NDS) Amendments

Paule Armeneau

Documentation circulated for this item included a recommendation to adopt and implement the revised NDS approved by the FLSC Council, a presentation on the Law Society's progress on NDS, and an annual status report. Standards not currently being met by the Law Society were highlighted and discussed. The Standing Committee on NDS monitors law societies' performance and seeks input on potential amendments or additional standards. As a result of this monitoring and feedback, the Standing Committee on NDS introduced amendments to Standards 3 and 9 which the FLSC approved in June 2016. The Law Society's goal is to meet or exceed all standards, to continue to feedback to the Standing Committee and to report regularly to the Benchers.

Motion:

To adopt and implement the revised National Discipline Standards approved by the Federation Council in June 2016, effective January 1, 2017.

**Seconded
Carried**

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| 7 | Innovation in Regulation Task Force (IRTF) update and resolution | Kent Teskey/ Don Thompson/Cori Gitter |
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A written report and recommendation from the IRTF was circulated with the meeting materials. The intention behind the resolution is to reaffirm the Board's commitment to address entity regulation.

Motion:

That the Benchers adopt the following resolution:

WHEREAS:

The Law Society of Alberta regulates lawyers to protect the public interest by promoting excellence, high ethical standards, diversity and equity in the legal profession,

The Law Society of Alberta, together with other Canadian law societies, recognize that current regulatory frameworks require modernization to allow for appropriate regulation and to facilitate innovation in the delivery of legal services,

The Law Society of Alberta believes that innovation in the delivery of legal services may improve access to justice for Albertans,

The Law Society of Alberta, through its Innovation in Regulation Task Force, has been exploring the regulation of organizations through which lawyers provide service to the public, and

The Law Society of Alberta has consulted with the legal profession on changes to regulation and has undertaken to continue that consultation.

BE IT RESOLVED THAT:

Changes are needed in our regulatory framework in order to move beyond the regulation of individual lawyers and enable the regulation of entities through which lawyers deliver legal services, and

The Law Society of Alberta is committed to proactive consultation with the legal profession as these innovative changes in regulation are considered.

**Seconded
Carried**

Management provided a brief update on the status of the Self-Assessment pilot program that was developed in collaboration with prairie colleagues in Manitoba and Saskatchewan.

8 Rule Amendments for improvements to Lawyer Directory Shabnam Datta

The Law Society is enhancing the Lawyer Directory on its website in order to improve the ability of the public to find lawyers in specific areas of practice. An enhanced Lawyer Directory will enable the Law Society to transition away from the Lawyer Referral Service, which has been inefficient in its goal of connecting members of the public with a lawyer. The enhancements to the Lawyer Directory support the strategic goals of access to justice and stakeholder confidence in the 2017-2019 Strategic Plan.

With respect to the publication of disciplinary information on the Lawyer Directory, management confirmed that this information is already published elsewhere on the Law Society's website. The Board asked management to ensure that the changes to the Lawyer Directory are highlighted in the e-bulletin going out to the profession. It was confirmed that the Policy Committee reviewed and recommended the proposed rule amendments, new rule, and the consequential rule amendments.

Motion:

To amend rules 39 and 40, as proposed in Appendix 1 of the meeting materials.

To establish a new rule, 40.1, as proposed in Appendix 2 of the meeting materials.

To amend rules 42, 45 and 118, as proposed in Appendix 3 of the meeting materials.

**Seconded
Carried**

Mr. Letourneau left the meeting.

9 Appointment of the Auditor for 2017 Darlene Scott

A report and recommendation from the Audit and Finance Committee was circulated with the meeting materials. The Chair of the Audit and Finance Committee advised the Board that it is best practice to tender for audit services every 5 years; however, coordination with the Alberta Lawyers Insurance Association and the Alberta Lawyers Insurance Exchange is required to determine the most appropriate timing for tendering. Accordingly, if there are any changes to the recommended audit service provider for 2017, the Audit and Finance Committee will report back to the Benchers.

Motion:

That the Benchers re-appoint PricewaterhouseCoopers as the external auditors for the Law Society's fiscal year ending December 31, 2017.

**Seconded
Carried**

10 Intake and Early Intervention Pilot update

Cori Ghitler/Lorraine Champion

The Benchers received a presentation on the progress of early intervention initiatives and the intake pilot project. Staff are enthusiastic about the initiatives and are utilizing new titles and language to move away from talking about complaints. The public's response to the initiative has been positive overall. While some people don't agree, most are pleased that the Law Society is taking proactive steps to help lawyers do their work better. Serious matters continue to go through the formal complaint system; however, the number of formal complaints has dropped significantly. The data requires further analysis to determine the cause(s) of this downward trend; however, there is cautious optimism that the good results will continue.

Benchers also received a short demonstration of the new online Small Firm Practice Course. Management is aware of concerns some lawyers have that the course, which is open source, could be improperly used by members of the public to hold lawyers to an inappropriate standard. An e-bulletin will go out to the profession dealing with some of these concerns and clarifying that the course does not set any new standards. Benchers were encouraged to review the e-bulletin when it goes out and if they receive questions from lawyers to refer them to the Law Society.

11 Adjournment

Anthony Young

There being no further business the Chair adjourned the public meeting at 11:45 pm.