

# Approved Bencher Public Minutes

Public Minutes of the Four Hundred and Ninety-Eighth Meeting of the Benchers of the Law Society of Alberta (the “Law Society”)

May 14, 2020

Videoconference

9:00 am

<p><b>Benchers present</b></p>	<p>Kent Teskey, President Darlene Scott, President-Elect Ryan Anderson Arman Chak Corie Flett Elizabeth Hak Bill Hendsbee Cal Johnson Linda Long Jim Lutz Barb McKinley Bud Melnyk Walter Pavlic Lou Pesta Corinne Petersen Stacy Petriuk Robert Philp Kathleen Ryan Deanna Steblyk Margaret Unsworth Cora Voyageur Ken Warren Louise Wasylenko</p>
<p><b>Executive Leadership Team members present</b></p>	<p>Elizabeth Osler, CEO and Executive Director Cori Gitter, Deputy Executive Director and Director, Professionalism and Policy Paule Armeneau, Director, Regulation, and General Counsel Nadine Meade, Chief Financial Officer</p>



	Andrew Norton, Director, Business Technology David Weyant, President and CEO, Alberta Lawyers Indemnity Association
<b>Staff present</b>	Barbra Bailey, Policy Counsel Nancy Bains, Associate General Counsel Colleen Brown, Manager, Communications Nancy Carruthers, Manager, Professionalism and Ethics Ruth Corbett, Governance Administrator Shabnam Datta, Policy Counsel Stephen Ong, Business Technology Christine Schreuder, Governance Coordinator
<b>Guest present:</b>	Carsten Jensen, Federation of Law Societies of Canada

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

	Item
<b>1</b>	<p><b>Opening Remarks from the Chair</b></p> <p>Mr. Teskey called the public meeting to order at 9:10 am. Mr. Teskey commended the Law Society's Communications department and Nancy Carruthers, Senior Manager for their responsiveness to the profession and the public in the face of the challenges created by the COVID-19 pandemic.</p> <p>Mr. Teskey outlined the meeting procedures and noted that a 2/3 majority is required for all votes taken at meetings held remotely.</p>
<b>2</b>	<p><b>Big Issues and Engagement Timelines</b></p> <p>Documentation for this item was circulated with the meeting materials. Ms. Osler advised the Benchers that the timelines were updated to reflect changes since the Law Society's office closure. The transition to remote operations went smoothly and business is continuing uninterrupted.</p>
<b>3</b>	<p><b>2020 Bencher Election Date</b></p> <p>Documentation for this item was circulated with the meeting materials. Ms. Osler provided the rationale for a November 16, 2020 election date.</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p><b>Motion: Petriuk/Scott</b>  <b>That the Benchers set the Bencher Election date as November 16, 2020</b>  <b style="text-align: right;">Carried unanimously</b></p> </div>



Mr. Ong left the meeting.

#### 4 **Rule Amendments for Ex Gratia Payments**

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the proposal for Rule changes to clarify the Rules for ex gratia payments, which was requested by the ALIA Board in response to a claim that is not barred by the indemnity program.

The Benchers discussed the types of situations in which ex gratia payments would be considered. Mr. Weyant provided examples of scenarios and clarified that ex gratia payments are allowed within the program; however, are outside ALIA's Group Policy.

**Motion: Hendsbee/Melnyk**

**That the Benchers amend Rule 150(2)(a) to strike out the words "group policy" and insert the words "indemnity program" in their place; and  
That the Benchers amend Rule 145.1, to insert the words "indemnity or" prior to "insurance".**

**Carried unanimously**

#### 5 **Continuing Professional Development (CPD) Rule Suspension**

Documentation for this item was circulated with the meeting materials. Ms. Freund introduced the proposal for the suspension of two Rules to operationalize the Benchers' February 20, 2020 decision to suspend the mandatory CPD filing requirement for 2020 and 2021. Ms. Freund confirmed that the CPD program will continue to be available for lawyers who want to complete their plans.

**Motion: Philp/Wasylenko**

**That the Benchers suspend the operation of Rules 67.2 and 67.3 for a period of two years.**

**Carried unanimously**

#### 6 **Alberta Lawyers Indemnity Association (ALIA) Board Appointments**

Documentation for this item was circulated with the meeting materials. Ms. Osler presented the proposal for reappointments to the ALIA Board recommended by the ALIA Executive Committee.

**Motion: Long/Philp**

**RESOLVED AS A RESOLUTION OF THE BENCHERS OF THE LAW SOCIETY OF ALBERTA:**



**1. The following persons are re-appointed to the ALIA Board and the ALIEX Advisory Board effective June 11, 2020 for terms as indicated, or their sooner resignation or removal from office:**

**Diane Brickner – 1 year, expiring June 12, 2021;**

**Linda Vennard – 2 years, expiring June 13, 2022;**

**Rob Armstrong – 3 years, expiring June 14, 2023; and**

**Michael Thompson – 3 years, expiring June 14, 2023.**

**2. This resolution shall be effective only if passed by the affirmative votes of at least 2/3 of the Benchers so voting and the Benchers so voting constitute a majority of the Benchers.**

**Carried unanimously**

Ms. Osler highlighted the accompanying report on ALIA activities submitted by Mr. Raby, ALIA Board Chair. Ms. Osler acknowledged Mr. Weyant's leadership and swift response to the Law Society's request that ALIA consider changes to the levy payment options in light of the pandemic. The resulting change was significant and had a meaningful impact on the profession.

Mr. Weyant commended the ALIA Board members for their expertise in dealing with the restructuring of the indemnity program over the past year; and, on April 22, 2020, approving a material reduction in the levy for 2020/2021, including a special reduction due to the pandemic.

**7 Audit and Finance Committee ("AFC") Report and Recommendation - Law Society Audited Financial Statements for the Year Ended December 31, 2019**

Mr. Warren, AFC Chair, presented the AFC's recommendation for approval of the annual financial statements. Mr. Warren advised the Benchers that AFC met with the auditors with and without staff present. The auditors expressed their opinion that the financial statements fairly represent the Law Society's financial position and complimented staff for their cooperation during the audit.

**Motion: Wasylenko/Philp**

**That the Benchers approve the Law Society of Alberta's audited financial statements for the year ended December 31, 2019.**

**Carried unanimously**

**8 Rule Changes for the Legacy Canadian Centre for Professional Legal Education (CPLED) Program and the Practice Readiness Education Program (PREP)**

Documentation for this item was circulated with the meeting materials. Ms. Datta presented the proposal, reviewed and recommended by the Policy and Regulatory Reform Committee,



for Rule changes for the legacy CPLED Program and the new PREP program. Highlights and discussion included the following:

- Despite the participating provinces' law societies each having different rules, policies and procedures in place regarding requirements for the bar admission course, the law societies collaborated to find a consistent and uniform process and policy for PREP.
- Rule changes are required to remove references to appeals in the legacy CPLED Program because the PREP program will have its own internal appeals process. The Law Society will maintain oversight and jurisdiction over admission and enrolment matters.
- Rule changes are also required to accommodate students caught in the transition phase between CPLED and PREP. The Benchers discussed the possible scenarios and Ms. McKay confirmed that students who are currently enrolled in and successfully complete the requirements of the legacy CPLED program are deemed to have successfully completed PREP for the purposes of enrolment with the Law Society. Ms. McKay also confirmed that the students who begin articling after commencing PREP and finishing the modules will not have to repeat the foundational modules.
- CPLED may use the Law Society's adjudicator training program for training the PREP adjudicators.
- The appointment of lawyers from each jurisdiction to the PREP Appeal Committee was discussed and it was noted that it is not yet confirmed if the member appointed to the Appeal Panel from the appellant's home jurisdiction will be a Bencher.
- The proposed motions include the rescission of the Law Society's guideline for CPLED appeals as it is no longer relevant or applicable.

**Motion: Melnyk/Warren**

**That the Benchers approve the amendments to the Rules as proposed in Appendix A of the meeting materials; and**

**That the Benchers rescind the Appeal Guidelines for the CPLED Program, Transfer Examinations and Reinstatement Examinations, in Appendix B.**

**Carried unanimously**

**9 Leadership Report**

Documentation for this item consisted of the Leadership Report and a Report on the Law Society's COVID-19 Pandemic Response. Ms. Osler highlighted the following:

- Ms. Osler commended the Communications team and the Policy group for their work in preparing and publishing the significant amount of information for the public and the profession since the beginning of the pandemic.
- Ms. Osler commended all staff for their commitment to their jobs and the work of the Law Society, which enabled the Law Society to transition to remote operations in less than a week.



- Since the decision was made to close the office and operate remotely, the Law Society's work has focused on budget, stakeholder engagement, and assessing organizational capacity.
- The collaboration and sharing of information among law societies and other regulators continues to be of positive mutual benefit.
- On March 5, 2020 a Law Society email account was subjected to a phishing attack. Mr. Norton and his team successfully dealt with the situation and applied enhanced security measures to the email service.

A Bencher commented that in his discussions with lawyers, there is a clear sense of satisfaction with the Law Society's response to the present circumstances.

#### **10 Access to Justice – Lawyer Referral Service**

Documentation for this item was circulated with the meeting materials. Ms. Ghitter advised the Benchers that the Law Society's Customer Service Team, with help from Business Technology and Communications, successfully launched the Lawyer Referral Service on schedule on March 30, despite the transition to remote operations on March 16. Ms. Ghitter confirmed that there are plans to evaluate the program and identify gaps. In the meantime, the team has observed that there is a renewed interest in the program from the membership.

#### **11 Bencher Election Task Force (“BETF”) Report**

A Communications Implementation Timeline was circulated with the meeting materials. Ms. Petriuk noted that the election timeline was minimally impacted by the pandemic. Ms. Petriuk provided an oral report on recent activities, including a review and status report on the BETF's mandate. Highlights and the Benchers' discussion included the following:

- Increasing the diversity of candidates continues to be a primary focus; however, is a complicated issue that requires a multi-pronged solution. The BETF is using materials from the Law Society of Saskatchewan's media campaign, which was effective in increasing candidate diversity.
- The Communications Plan includes strategies for increasing voter engagement and turnout and Bencher candidate education and orientation.
- The BETF reviewed a mock-up of the campaign website. Ms. Petriuk clarified that there will be parameters around campaign materials and all content will be vetted.
- The Benchers suggested that issues and questions around special interest groups might be worthwhile for the BETF to address.

#### **12 Equity, Diversity and Inclusion (“EDI”) Committee Report**

Documentation for this item was circulated with the meeting materials. Ms. Wasylenko, Chair of the EDI Committee, added that she and Mr. Johnson, Vice-Chair, were invited to the first



EDI Advisory Committee (“EDIAC”) meeting. The feedback and broad range of perspectives from this group of engaged lawyers will be valuable to the EDI Committee’s work.

### **13 Lawyer Competence Committee (“LCC”) Report**

Documentation for this item was circulated with the meeting materials. Mr. Warren, Chair, LCC, added background on the LCC’s recommendation that the indigenous training should not be mandatory. Subsequently, Mr. Warren met with the Lawyer Competence Advisory Committee (“LCAC”) whose members presented a different view. This issue will be discussed further by the LCC; however, in the meantime, the Benchers were asked to approve the revised mandate to remove the mandatory requirement.

**Motion: Warren/Petriuk**

**That the Benchers adopt the amended mandate of the Lawyer Competence Committee, as proposed.**

**Carried unanimously**

Mr. Warren then provided his report on the LCC’s activities, noting that the pandemic has provided an opportunity for the LCC to look at articling, lawyer formation, competence, wellness and principal training. Jordan Furlong has been retained to work with the LCC on these issues.

Bencher comments and questions were mainly around the importance of indigenous cultural competency training and when and how this will be addressed. Ms. Ghitter advised that a training course is currently being developed and more information will be available in the fall. The Benchers can also expect a report from the Indigenous Advisory Committee in the fall.

### **14 Advisory Committees Report**

Documentation for this item was circulated with the meeting materials. Ms. Ryan provided highlights from first meetings of the LCAC and EDIAC. For LCAC, the question of indigenous cultural competency training and the concept of subject matter expert advisors are priorities. EDIAC’s first meeting focused on the safe reporting process and the Federation of Law Societies of Canada’s Model Code of Professional Conduct consultation. The high level of engagement, knowledge and expertise on the advisory committees was noted and Ms. Ryan commended the Law Society for engaging the profession in this way.

### **15 Consent Agenda**

The consent agenda items were circulated with the materials and approved concurrently.





**Motion: Philp/Scott**

**15.1 To approve the February 20, 2020 Public Bencher Meeting Minutes;**

**15.2 To approve the April 6, 2020 Public Bencher Meeting Minutes;**

**15.3 To Disband the Pension Committee, effective immediately;**

**15.4 To approve the Law Society of Alberta Board and Regulatory Committees Terms of Reference, as circulated; and**

**15.5 To appoint Walter Pavlic, QC, to the Legal Education Society of Alberta Board of Directors, to fill the vacancy due to Cori Ghitter's resignation. The appointment is effective immediately and expires in September 2021.**

**Carried unanimously**

**16 Reports for Information**

16.1 Alberta Law Foundation report

16.2 Alberta Law Reform Institute report

16.3 Alberta Lawyers' Assistance Society report

16.4 Canadian Bar Association report

16.5 Federation of Law Societies of Canada report

16.6 Legal Education Society of Alberta report

16.7 Pro Bono Law Alberta report

**17 Other Business**

Mr. Johnson provided an oral update on the work of the Corporate Commercial Liaison to address an issue concerning a resident Canadian Director requirement for Limited Liability Companies incorporated in Alberta and the competitive disadvantage that creates for those types of incorporation in Alberta. Mr. Johnson reported a preliminary communication from a representative from the Corporate Registry which suggests that the Government may be favourably disposed to including an amendment to the Alberta legislation (by way of some miscellaneous statute amendments) that may come forward in the next sitting of the Legislature.

There being no further business the public meeting was adjourned at 11:40 am.