



Approved Benchers Public Minutes

Public Minutes of the Five Hundred and First Meeting of the Benchers
of the Law Society of Alberta (the “Law Society”)

December 3, 2020

Videoconference

8:30 am

Benchers present	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 Ken Warren Louise Wasylenko
Regrets	Cora Voyageur
Executive Leadership Team members present	Elizabeth Osler, Chief Executive Officer and Executive Director Cori Gitter, Deputy Executive Director and Director, Policy and Education Nancy Carruthers, General Counsel and Director, Regulation Nadine Meade, Chief Financial Officer Andrew Norton, Chief Information Officer and Director, Business Operations David Weyant, President and Chief Executive Officer, Alberta Lawyers Indemnity Association



<p>Staff present</p>	<p>Barbra Bailey, Policy Counsel Nancy Bains, Tribunal Counsel and Privacy Officer Colleen Brown, Manager, Communications Ruth Corbett, Governance Administrator Shabnam Datta, Manager, Policy John Eamon, General Counsel and Senior Manager, Risk, Alberta Lawyers Indemnity Association Jennifer Freund, Policy Counsel Sharon Heine, Senior Manager, Regulation Tina McKay, Senior Manager, Business Operations Andrea Menard, Indigenous Initiatives Liaison Kendall Moholity, Senior Manager, Professionalism Stephen Ong, Business Technology Len Polsky, Manager, Legal Technology and Mentorship Laura Scheuerman, Governance Assistant Christine Schreuder, Governance Coordinator</p>
<p>Guests present</p>	<p>Barbara Billingsley, Dean, University of Alberta Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society Jordan Furlong, Consultant Carsten Jensen, Federation of Law Societies of Canada Bianca Kratt, Vice-President, Canadian Bar Association Alberta Nonye Opara, Executive Director, Pro Bono Law Alberta Sandra Petersson, Executive Director, Alberta Law Reform Institute Christine Sanderman, Executive Director, Legal Education Society of Alberta</p>

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

	Item
<p>1</p>	<p>Opening Remarks from the President Mr. Teskey called the public meeting to order at 8:40 a.m. and delivered the Indigenous land territorial acknowledgement statement for Alberta.</p> <p>Mr. Teskey recognized that the Bencher three-year term of office ends at the February 2021 meeting. He acknowledged this as the last meeting for Walter Pavlic, Corinne Peterson, Kathleen Ryan, Arman Chak, Lou Pesta, Linda Long and Bob Philp and thanked them for their significant contributions and thoughtful advice over the terms of their service to the Law Society.</p>
<p>2</p>	<p>Leadership Report The Leadership Report included a report on the Law Society's accomplishments over the past year and the timelines for Big Issues and Engagement.</p>



Ms. Osler thanked Mr. Teskey for his leadership, acknowledging that his trusted opinion and commitment to taking a long view of the issues have led to thoughtful decision-making. She recognized his care for the organization and its mandate to protect the public interest.

Ms. Osler thanked departing Benchers for contributing meaningfully to advancing the Law Society's strategic work through their service, commitment, diversity of thought, and engagement. Ms. Osler thanked all the Benchers and staff for their consistent support.

Ms. Osler provided a summary of the 2020 year, highlighting the Law Society's innovative and forward-looking Strategic Plan and its efficient and effective response to the pandemic.

3 Election of the President-Elect and the Executive Committee

Documentation circulated for this item included the Statements of Intention, approved election procedures, and the applicable Rules of the Law Society (the "Rules"). Mr. Teskey advised the Benchers that Mr. Warren put his name forward for President-Elect. Mr. Teskey called for nominations from the floor in accordance with Rule 27(1) and there were none.

Motion: Melnyk/Johnson

To close the nominations for President-Elect.

Carried unanimously

Mr. Warren was acclaimed as the President-Elect pursuant to Rules 27(1)(b) and 28(2)(a).

Mr. Teskey confirmed that the nominees for the Executive Committee were Bill Hendsbee, Cal Johnson, Deanna Steblyk, and Stacy Petriuk. He outlined the procedures for the election of the Executive Committee and called for nominations from the floor. There were no new nominations.

Motion: Anderson/Melnyk

To close the nominations for the Executive Committee.

Carried unanimously

In accordance with Rule 26(2), Bill Hendsbee, Cal Johnson, Deanna Steblyk, and Stacy Petriuk were acclaimed as the four elected Benchers on the Executive Committee.

Ms. Unsworth joined the meeting.

Mr. Warren was invited to address the Benchers. In his remarks he emphasized the effect of the pandemic on the work of the Law Society and the need to continue advancing the Strategic Plan. He expressed his confidence in the Executive Leadership Team ("ELT") and Law Society staff. Mr. Warren expressed thanks to the Benchers for all he has learned from them and for placing their trust in him.



Mr. Teskey advised that the Lay Benchers appointed Barbara McKinley to the Executive Committee for one year to replace Louise Wasylenko.

4 Appointment of the Bencher-at-Large to the Nominating Committee

Documentation for this item was circulated with the meeting materials.

Motion: Hendsbee/Lutz

That the Benchers appoint Louise Wasylenko to the Nominating Committee, effective immediately.

Carried unanimously

5 2021 Business Plan and Budget

Documentation for this item was circulated with the meeting materials. Mr. Warren, Chair of the Audit and Finance Committee (AFC), advised the Benchers that there have been no changes to the draft Budget since the special Bencher budget meeting on November 5, 2020. Mr. Teskey credited AFC and ELT for preparing a strong and ambitious Budget in such challenging times.

Motion: Philp/Steblyk

To approve the 2021 Law Society of Alberta Business Plan and Budget as presented and to set the 2021 Practice Fee at \$2,340.

Carried unanimously

Ms. Flett joined the meeting.

6 Membership Fee Rule Amendments

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the proposal.

The Benchers questions focused on the proposed change to Rule 165.1 (1) (4); specifically, the rationale for reducing the timeframe for seeking reinstatement from an administrative rules suspension from three months to fifteen days. Ms. Freund explained that the amendment is proposed for practical reasons, on the assumption that members intending to practise will reinstate immediately. It was suggested that this Rule change could engage possible mandatory professional development in some situations and Ms. Freund advised that staff would keep this in mind going forward.

Motion: Long/Philp

That the Benchers adopt amendments to Rules 1, 75, 79, 147, 149.2, 161, 163, 164, 164.1, 165, 165.1, as proposed.

Carried unanimously



7 Alberta Lawyers Indemnity Association (ALIA) Civil Litigation Filing Levy (CLFL) Rule Changes

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the proposal for new Rules required for the implementation of the CLFL which was approved by the ALIA Board on November 2, 2020.

The Benchers' questions were mainly around the administration of the program, how to ensure compliance, and comparisons with practices followed in other jurisdictions for similar programs. Ms. Freund noted that sanctions will not be applied during the pilot program. With respect to auditing, Ms. Freund advised that ALIA or the Law Society's Trust Safety department could undertake this work. Mr. Weyant and Mr. Eamon provided details about ALIA's planned processes for the CLFL.

Motion: Philp/Steblyk

That the Benchers adopt the new Rules 149.5, 149.6 and 149.7 and the consequential amendments to Rules 119.33, 160, 162, 164, 165, 165.1, 168, as proposed.

Carried unanimously

8 ALIA Articles Amendment for Board Meeting Notice Period

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the rationale for the proposed amendments to the ALIA Articles. The three motions were presented and passed concurrently.

Motion 1: Philp/Steblyk

That article 7.1 of the Articles of Association of the Alberta Lawyers Indemnity Association be amended by inserting "or held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other as determined by the Board" after the second instance of "Board" in the first sentence of the article.

Motion 2: That article 7.2 of the Articles of Association of the Alberta Lawyers Indemnity Association be amended by striking out "seven (7) business days" and inserting "72 hours" in its place.

Motion 3: That article 7.5.2 of the Articles of Association of the Alberta Lawyers Indemnity Association be amended by inserting "a meeting of the Board may be held or" before the words "any Director may participate".

Carried unanimously

Mr. Eamon left the meeting.



9 Lawyer Licensing and Lawyer Formation – Implementation Proposal

Documentation for this item was circulated with the meeting materials. Mr. Warren, Chair of the Lawyer Competence Committee (LCC), introduced the proposal for Lawyer Licencing and Lawyer Formation. Mr. Warren advised the Benchers that Mr. Furlong's report had not changed since it was presented and discussed at the October 1 Bencher meeting; however, the results of a focused survey were added to the package of materials for this item. Mr. Warren highlighted the concerns raised in the survey; however, noted there was nothing raised in the survey that the LCC had not considered. Some of the recommendations in Mr. Furlong's report were recognized as ambitious and challenging.

Mr. Furlong provided an overview of the report and recommendations. Ms. Ghitter then presented the Implementation Proposal memo, outlining the short, medium, and long-term priorities.

Christine Sanderman joined the meeting.

The Benchers' discussion and questions focused on the communications aspects of the mandatory training requirements and the importance of clear communications to ensure the membership is fully informed.

Motion: Warren/Petriuk

That the Benchers adopt the recommendations, framework, and timeline for implementation of the recommendations, as set out in Jordan Furlong's Report on Lawyer Licensing and Competence in Alberta and in the implementation proposal memorandum.

Carried unanimously

Mr. Furlong left the meeting at 10:00 a.m.

10 Rule Amendment to Mandate Indigenous Cultural Competency Education

Documentation for this item was circulated with the meeting materials.

10.1 Exemptions

Mr. Warren, LCC Chair, introduced the proposal for parameters and exemptions to the Indigenous Cultural Competency Education, highlighting the Benchers' October 1, 2020 decision in favour of mandatory training. The Benchers then discussed each proposed parameter separately.

During the Benchers' discussion, a Bencher commented that some members believe that the Law Society is not prepared to implement the mandatory training and that there is a lack of clarity regarding how to and who will determine exemptions. Ms. Ryan, Chair of the LCC Advisory Committee, advised that similar concerns were voiced by some members of the LCC and the LCC Advisory Committee and that these concerns were addressed in the meeting



materials. The LCC's recommendation was intended to balance the Truth and Reconciliation Commission's calls to action with the desire to enable lawyers to undertake their own path to achieve a base level of competency.

Mr. Jensen added that the Federation of Law Societies of Canada's Standing Committee on the Model Code of Professional Conduct is actively considering adding an ethical obligation to the Model Code with respect to Indigenous cultural competency. Any proposed revisions will be done with full consultation to ensure clarity with respect to any new requirements.

Motion: Scott/Warren

That the Benchers accept the recommendations of the Lawyer Competence Committee and adopt the proposed 7 parameters for mandatory Indigenous Cultural Competency Education, as follows:

Parameter 1: that the timeline for completion of ICCE for active lawyers be 18 months from the date the program is made available

Parameter 2: that the 18 month timeline apply to lawyers who become active after January 2021, effective the date they become active, so that all lawyers have an equal timeframe to complete the education program

Parameter 3: that inactive lawyers or suspended lawyers who take The PATH while inactive meet the requirements of the mandatory education upon reinstating to active

Parameter 4: that the cost for inactive lawyers to take The PATH be covered by the Law Society while the cost for suspended lawyers to take The PATH not be covered by the Law Society

Parameter 5: that lawyers who have already completed The PATH through the CBA or other organization will not be reimbursed for the cost of the program

Parameter 6: that lawyers who have completed The PATH through the CBA or another organization or who have completed Indigenous Canada at the University of Alberta be considered to have completed the mandatory education requirement and be exempt from taking The PATH through the Law Society but they will be encouraged to complete the Law Society's version of The PATH due to its Alberta specific content

Parameter 7: that in addition to the exemption provided for completion of The PATH through the Law Society of Alberta through the previous completion of The PATH through the CBA or another organization or completion of Indigenous Canada at the University of Alberta that an exemption be provided to lawyers who certify that they have previous education or knowledge equivalent to The PATH and sufficient to address Call to Action 27 through education on or knowledge about:



- a) the history and legacy of residential schools;
- b) the United Nations Declaration on the Rights of Indigenous Peoples;
- c) Treaties and Aboriginal rights;
- d) Indigenous law [Indigenous legal traditions]; and
- e) Aboriginal–Crown relations

and that includes training in intercultural competency, conflict resolution, human rights, and anti-racism

and that an audit program be established to review and assess such certifications.

Carried

10.2 Rule Changes

Ms. Freund presented the proposal for the adoption of a new Rule to provide the authority to mandate education for lawyers.

Motion: Long/Hendsbee

That the Benchers adopt Rule 67.4, as proposed.

Carried unanimously

11 Adjudicator Appointment Guideline Amendments

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the proposal and rationale for amendments to the *Adjudicative Panel Appointment Guideline* and the renaming of the guideline to the *Adjudicator Roster and Adjudicative Panel Appointment Guideline*. The Benchers discussed appointment terms and the role of Benchers and past Benchers on panels.

Motion: Scott/Melnyk

That the Benchers approve the amendments to the Adjudicative Panel Appointment Guideline, renamed Adjudicator Roster and Adjudicative Panel Appointment Guideline, as proposed.

Carried unanimously

Secretary's note: items 13 through 16 were dealt with at this point in the proceedings. Item 12, "New Hearing and Related Rule Amendments", was dealt with following item 16; however, is recorded here to provide consistency in the order of business in the minutes.

12 New Hearing and Related Rule Amendments

Documentation for this item was circulated with the meeting materials. Mr. Hendsbee, Chair of the Policy and Regulatory Reform Committee (PRRC), introduced the proposal and advised the Benchers that the materials are the result of the PRCC's work throughout the summer and the fall. He encouraged Benchers to ask questions at any point throughout the presentation. Ms.



Bailey then presented each piece of the proposal separately as outlined in the memo and paused for questions on each. Ms. Bailey provided clarification on the new Rules with respect to the disclosure of documents, witnesses, exhibits and authorities, and the Hearing Committee. The proposed motion sought Bencher approval in principle. The following corrections/changes were suggested, to be incorporated into the final version that will be before the Benchers for approval at the February 25, 2021 Bencher meeting:

- The definition of “pre-hearing conference chair” is not used in all references – the term should be consistent throughout; and
- The term “lawyer” should be changed to “member” to be consistent with the rest of the rule amendments.

Motion: Hendsbee/Lutz

That the Benchers approve, in principle, the proposed:

- (a) amendments to Rules 2.4, 49, 86, 90, 90.1, 96, 97, 100.2, 103, 104, 119.15, and 142.1;**
- (b) new Rules 2.5, 90.2, 90.3, 90.4, 90.5, 90.6, 90.7 and 90.8; and**
- (c) repeal of Rules 48.5, 91, 94 and 95.**

Carried unanimously

13 Equity, Diversity and Inclusion Committee Update

Documentation for this item was circulated with the meeting materials.

14 Indigenous Initiatives Liaison Update

Documentation for this item was circulated with the meeting materials.

15 Tribunal Office Update

Documentation for this item was circulated with the meeting materials. Ms. Bains highlighted the increased rigor in the process for public attendance at hearings.

16 Consent Agenda

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

Motion: Hendsbee/Melnyk

16.1 That the Benchers approve the October 1, 2020 Public Bencher Meeting Minutes; and

16.2 That the Benchers repeal the Governance Policy for the Law Society of Alberta Pension Plan for Executive Leadership Team Employees, dated December 2015, and replace it with the Governance Policy for the Law Society of Alberta Pension Plan for Executive Leadership Team Employees, dated September 2020.

Carried unanimously

17 Reports for Information

- 17.1 Alberta Law Foundation report
- 17.2 Alberta Law Reform Institute report
- 17.3 Alberta Lawyers' Assistance Society report
- 17.4 Canadian Bar Association report
- 17.5 Federation of Law Societies of Canada Report
- 17.6 Legal Education Society of Alberta report
- 17.7 Pro Bono Law Alberta report

18 Other Business

There being no further business the public meeting was adjourned at 1:15 p.m.