

Approved Benchers Public Minutes

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

October 1, 2021

Videoconference

8:30 am

ATTENDANCE

Benchers:

Darlene Scott, President
Ken Warren, President-Elect
Sony Ahluwalia
Ryan Anderson
Lou Cusano
Ted Feehan
Corie Flett
Elizabeth Hak
Bill Hendsbee
Kene Ilochonwu
Cal Johnson
Jim Lutz
Barb McKinley
Bud Melnyk
Sandra Petersson
Stacy Petriuk
Deanna Steblyk
Margaret Unsworth
Moira Váně
Grant Vogeli
Cora Voyageur
Louise Wasylenko

Executive Leadership Team:

Elizabeth Osler, CEO and Executive Director
Cori Ghitter, 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



ATTENDANCE	
	David Weyant, President and CEO, Alberta Lawyers Indemnity Association (“ALIA”)
Staff:	<p>Sharon Allard, Executive Assistant to the Deputy Executive Director and Director, Policy and Education</p> <p>Susannah Alleyne, Equity, Diversity & Inclusion Counsel</p> <p>Barbra Bailey, Manager, Education</p> <p>Nancy Bains, Tribunal Counsel and Privacy Officer</p> <p>Catherine Bennett, Executive Assistant to the Executive Director</p> <p>Colin Brandt, Senior Communications Advisor</p> <p>Colleen Brown, Manager, Communications</p> <p>Bernadette Charan, Manager, Trust Safety, Finance</p> <p>Ruth Corbett, Governance Administrator</p> <p>Shabnam Datta, Manager, Policy</p> <p>Kate Fiori, Governance Assistant</p> <p>Jennifer Freund, Policy & Governance Counsel</p> <p>Sharon Heine, Senior Manager, Regulation</p> <p>Tina McKay, Senior Manager, Business Operations</p> <p>Amanda Miller, Policy Counsel</p> <p>Stephen Ong, Business Technology</p> <p>Christine Schreuder, Governance Coordinator</p> <p>Chioma Ufodike, Senior Manager, Trust Safety and Compliance, Finance</p> <p>Rebecca Young, Education Counsel</p>
Guests:	<p>Loraine Champion, Executive Director, Alberta Lawyers’ Assistance Society</p> <p>Carsten Jensen, Law Society of Alberta representative to the Federation of Law Societies of Canada</p> <p>Amanda Lindberg, Vice-President, Canadian Bar Association Alberta</p> <p>Nonye Opara, Executive Director, PBLA</p> <p>Bob Philp, Indigenous Advisory Committee Bencher Liaison</p> <p>Kathleen Ryan, Chair, Equity Diversity and Inclusion Advisory Committee and Lawyer Competence Advisory Committee</p>
Regrets:	Salimah Walji-Shivji

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

	Item
1	<p>Opening Remarks from the President</p> <p>Ms. Scott called the meeting to order at 8:32 am. Ms. Voyageur delivered the land acknowledgement statement for Alberta.</p> <p>Ms. Scott’s opening remarks included:</p>



- The Law Society was honoured to host guest speaker Eugene J. Creighton, QC, and over 380 attendees for a virtual event to commemorate National Day for Truth and Reconciliation.
- Congratulations went to Kene Ilochonwu for being named one of Canada's Top 25 most Influential Lawyers and to Cori Ghitter for receiving a Women in Law Leadership Award for Leadership in the Profession (Broader Roles).

2 Leadership Report

Documentation for this item was circulated with the materials prior to the meeting. Ms. Osler highlighted the Jasper Retreat summary and thanked the Communications staff for creating an interactive format.

3 Articling Placement Program

Documentation for this item was circulated with the materials prior to the meeting. Ms. Ghitter provided introductory remarks and Ms. Datta presented the recommendation from the Equity, Diversity and Inclusion Committee (EDIC).

The Benchers' discussion included the following:

- In response to a suggestion that there could be a risk of reputational damage to principals, Ms. Scott advised that the EDIC discussed and concluded that the default position should be presumptive belief because often there is no other evidence. Ms. Datta added that the eligibility criteria provide parameters.
- Ms. Ghitter clarified that the draft amendments to the Model Code Provisions in Appendix A of the materials only provide context for the Articling Placement Program and cannot be approved by the Benchers. Amendments to the Model Code will be debated by the Benchers in the future as part of the Federation of Law Societies of Canada's process. However, the Benchers are approving the inclusion of Appendix A in the Articling Placement Program.
- It was suggested that the language in the eligibility criteria for Roster Firms could be stronger with respect to principal behaviour/failure to protect. It was also suggested that the website definition of confidentiality might be more appropriate in the document.

Motion: Wasylenko/Johnson

That the Benchers approve the Articling Placement Program.

Carried

One Bencher voted against the motion.

Ms. Váně joined the meeting at 9:30.



4 Innovation Sandbox

Documentation for this item was circulated with the materials prior to the meeting. Ms. Datta presented the proposal for the establishment of an Innovation Sandbox and corresponding eligibility criteria, as recommended by the Policy and Regulatory Reform Committee (“PRRC”). Ms. Datta’s presentation covered background on the work; the rationale for and benefits of an Innovation Sandbox; the proposed eligibility criteria; framework; risk management; and the status of innovation in other jurisdictions.

The Benchers’ discussion included the following:

- In response to questions about the application process, Ms. Datta advised that the number and types of applications can’t be predicted and there is no plan to limit the number of applications of the same type of service; however, the applications will be reviewed to monitor and evaluate the implementation of all delivery models during the pilots.
- The purpose to support the strategic goal to promote access was discussed, particularly whether the criteria might be too broad to advance access effectively. Ms. Datta advised that the PRRC also debated this issue and concluded that the focus of the Innovation Sandbox should be broad and that new delivery models that benefit the public will facilitate access to justice.
- Aspects of the program such as insurance needs, required Rule changes, and the application process, will evolve over time and return to the Benchers for approval as required.
- Ms. Datta clarified that the framework is an operational document to provide guidance to the application process and is for information for the Benchers at this time.

Motion: Hendsbee/Melnyk

That the Benchers approve the establishment of an Innovation Sandbox, and the eligibility criteria in Appendix A of the meeting materials.

Carried unanimously

5 Trust Safety Rule Amendments

Documentation for this item was circulated with the materials prior to the meeting. Ms. Ufodike and Ms. Charan introduced the proposed Trust Safety Rule Amendments as recommended by the PRRC, highlighting the mandate of the Trust Safety Department and the key components and overall purpose of the proposed amendments. Ms. Freund then provided a detailed overview of the changes and Mr. Brandt summarized the communications plan.

Ms. Freund, Ms. Ufodike and Ms. Charan provided clarification in response to a question about the Rule amendment for cheque authorization. The Benchers agreed to vote on the four motions concurrently.



Steblyk/ Ahluwalia

Motion 1:

That the Trust Accounting Rules 119 through 119.16; 119.18 through 119.25; 119.27 through 119.37; and 119.40 through 119.46 and all headings in Part 5 of the Rules of the Law Society of Alberta be struck out and replaced with the proposed headings and proposed Rules 119 through 119.18; 119.20 through 119.43; and 119.59 through 119.63, with these amendments taking effect on January 1, 2022.

Motion 2:

That the Rules related to Client Identification and Verification, as well as Cash Transactions, Representative Capacity and Prohibition on the Use of Trust Accounts, be amended, as detailed, so that:

(a) Rules 118.1 through 118.11: i. are renumbered as Rules 119.45 through 119.55, ii. are amended as proposed, and iii. have “- National Rule” added to each of their headings:

(b) Rule 119.17 is renumbered as Rule 119.19 and has “- National Rule” added to its heading;

(c) Rule 119.26 is renumbered as Rule 119.44 and amended as proposed;

(d) Rule 119.38: i. is divided into two Rules, separating subrule (1) from subrules (2), (3), (4) and (5), and renumbered as Rules 119.56 and 119.57, ii. is amended as proposed, and iii. has “- National Rule” added to each of the headings; and

(e) Rule 119.39 is renumbered as Rule 119.58 and amended as proposed, with these amendments taking effect on January 1, 2022.

Motion 3:

That Rules 2,42, 69 and 92 be amended, as proposed, with immediate effect.

Motion 4:

That subrules 1(1), 75(3), 115(1), 115(1.3). 138(3), 149.7(6), 165.1(1), and 167(1) be amended, as proposed, with these amendments taking effect on January 1, 2022.

Carried unanimously

6 Continuing Professional Development (CPD) Filing Requirement Suspension

Documentation for this item was circulated with the materials prior to the meeting. Ms. Bailey presented the proposal to extend the current two-year suspension of the CPD filing requirement



for an additional one-year period, ending May 2023, on the recommendation of the Lawyer Competence Committee (the “LCC”). Ms. Bailey explained that since the Benchers’ February 2020 decision to suspend the CPD filing requirement, it has become clear that it would not be possible to meet the targeted completion date of February 2022, due to time required to complete the foundational work of the competency profile.

In response to a concern about the continued delay in implementing a new CPD program, Mr. Warren, LCC Chair, advised Benchers that the LCC discussed the same concerns; however, concluded that it is important that the work is done well to ensure that the new program serves the profession and the public in today’s environment. Ms. Bailey added that there are many ongoing development opportunities within law firms currently and within the profession at large, and the evidence shows that lawyers are seeking out learning opportunities. The Law Society will continue to emphasize the importance of CPD in its communications with the profession and any lawyers who wish to continue using the ‘old’ CPD tool are welcome to do so.

Motion: Warren/Petersson

That the Benchers extend the current two-year suspension of the operation of Rules 67.2 and 67.3, pursuant to Rule 3, for an additional one-year period, ending May 2023.

Carried

One Bencher voted against the motion.

7 Access to Justice Update

Documentation for this item was circulated with the materials prior to the meeting.

8 Audit and Finance Committee Update

Documentation for this item was circulated with the materials prior to the meeting.

9 Equity, Diversity and Inclusion Committee Update

Documentation for this item was circulated with the materials prior to the meeting.

10 Indigenous Initiatives Liaison Update

Documentation for this item was circulated with the materials prior to the meeting.

11 Lawyer Competence Committee Update

Documentation for this item was circulated with the materials prior to the meeting.

12 Tribunal Office Update



Documentation for this item was circulated with the materials prior to the meeting.

13 CONSENT AGENDA

Documentation for this item was circulated with the materials prior to the meeting. There were no requests to remove any items from the consent agenda and the items were approved concurrently.

Motion: Melnyk/Sony

13.1 To approve the June 2, 2021 Public Bencher Meeting Minutes.

13.2 To approve the following Bencher meeting dates:

February 23 - 24, 2023

April 27 - 28, 2023

June 7 - 11, 2023 – Jasper

October 5 - 6, 2023

November 9, 2023 – Budget review via videoconference (1 - 4 pm)

November 30 - December 1, 2023

All meetings will be held in Calgary unless otherwise indicated, or, if necessary, such other date and time and place (or means) as the CEO and Executive Director of the Law Society may determine.

13.3 That paragraph 233 of the Pre-Hearing and Hearing Guideline be amended to replace “76(8)” with “78(6)”.

Carried unanimously

14 AGENCY REPORTS

14.1 Alberta Law Foundation Report

14.2 Alberta Lawyers' Assistance Society Report

14.3 Canadian Bar Association Report

14.4 Federation of Law Societies of Canada Report

14.5 Legal Education Society of Alberta Report

14.6 Pro Bono Law Alberta Report

Other Business

There being no further business, the public meeting was adjourned at 11:50 a.m.