

Approved Benchers Public Minutes

Public Minutes of the Five Hundred and Thirteenth Meeting of the Benchers of the Law Society of Alberta (Law Society)

April 27, 2023

Calgary, AB and by videoconference

8:30 a.m.

ATTENDANCE

Benchers:

Bill Hendsbee, President
Deanna Steblyk, President-Elect
Sony Ahluwalia
Ryan Anderson
Glen Buick
Lou Cusano
Ted Feehan
Corie Flett
Kene Ilochonwu
Cal Johnson
Levonne Louie
Jim Lutz
Bud Melnyk
Sharilyn Nagina
Mary Ellen Neilson
Sanjiv Parmar
Sandra Petersson
Stacy Petriuk
Erin Runnalls
Ron Sorokin
Margaret Unsworth
Moirá Váně
Grant Vogeli
Louise Wasylenko

Executive Leadership Team (ELT):

Elizabeth Osler, CEO and Executive Director
Cori Ghitler, Deputy Executive Director and Director, Policy and Education
Nadine Meade, Chief Financial Officer
Kendall Moholityny, Director, Regulation and Professionalism
Andrew Norton, Chief Information Officer and Director, Business Operations



ATTENDANCE

	David Weyant, President and CEO, Alberta Lawyers Indemnity Association (ALIA) (by videoconference)
Staff:	<p>Barbra Bailey, Manager, Education (in person) Reed Bjerkseth, Business Technology (in person) Colin Brandt, Senior Communications Advisor (in person) Colleen Brown, Manager, Communications and Stakeholder Engagement (in person) Shabnam Datta, Manager, Policy Jennifer Freund, Policy and Governance Counsel Julie James, Coordinator, Governance (in person) Andrew McGrath, Business Technology (in person) Noria Neuhart, Policy Counsel Eleanor Platt, Custodianship Counsel Christine Schreuder, Supervisor, Governance (in person) Tera Yates, Manager, Practice Management Rebecca Young, Education Counsel</p>
Guests:	<p>Ian Burns, Digital Reporter, The Lawyer’s Daily Loraine Champion, Executive Director, Alberta Lawyers’ Assistance Society Carsten Jensen, Law Society of Alberta representative to the Federation of Law Societies of Canada Kyle Kawanami, Treasurer, Canadian Bar Association Alberta Nonye Opara, Executive Director, Pro Bono Law Alberta</p>

Secretary’s Note: All Benchers and ELT attendees were in person unless otherwise stated. All staff and guests attended via videoconference unless otherwise stated. The arrival or departure of participants during the meeting are recorded in the body of these minutes.

	Item
	<p>Call to Order Mr. Hendsbee called the meeting to order at 8:35 a.m. Mr. Parmar delivered the Alberta Land Acknowledgement statement.</p>
1	<p>Opening Remarks from the President Mr. Hendsbee welcomed the Benchers and guests.</p>
2	<p>Leadership Report Documentation for this item was circulated with the materials prior to the meeting.</p>



	Item
3	<p>Audit and Finance Committee Report and Recommendation</p> <p>Documentation for this item was circulated with the materials prior to the meeting.</p> <p>Mr. Anderson reported on the activities at the April Audit and Finance Committee meeting where the audited financial statements were reviewed and are being recommended for approval.</p> <p>Ms. Meade reported that external auditors, PricewaterhouseCoopers (PwC) audited the financial statements for approval. PwC concluded that there were no material misstatements and no internal control deficiencies. Ms. Meade provided a high-level overview of the financial statements highlighting the variances to the budget, surplus, income and expenses. The Law Society is well positioned for long-term financial sustainability due to robust contingency reserves.</p> <div data-bbox="180 722 1500 890" style="border: 1px solid black; padding: 5px;"><p>Motion: Anderson/Ahluwalia That the Benchers approve the Law Society of Alberta’s audited financial statements for the year ended December 31, 2022, as proposed.</p><p style="text-align: right;">Carried unanimously</p></div>
4	<p>Board Relations Guideline Amendments</p> <p>Documentation for this item was circulated with the materials prior to the meeting.</p> <p>Mr. Hendsbee reported that the Board Relations Guideline amendments for decision reflect discussions at the Board table and at the Executive Committee.</p> <div data-bbox="180 1108 1500 1402" style="border: 1px solid black; padding: 5px;"><p>Motion: Petriuk/Melnyk That the <i>Board Relations Guideline</i> be amended as proposed.</p><p>Discussion: In response to a question regarding the meaning of <i>Attendance Norms, b. ‘When feasible...’</i>, Mr. Hendsbee responded that the provision is to consider situations such as whether a facilitator will lead the meeting or whether virtual attendance is technologically feasible.</p><p style="text-align: right;">Carried unanimously</p></div>
5	<p>Part-time Membership Status</p> <p>Documentation for this item was circulated with the materials prior to the meeting.</p> <p>Ms. Datta provided an overview of the part-time membership status pilot program, and summarized the work completed by the Equity, Diversity and Inclusion Committee leading to the proposed part-time membership status eligibility criteria to take force once the pilot ends in December 2023.</p> <div data-bbox="180 1717 1500 1850" style="border: 1px solid black; padding: 5px;"><p>Motion: Váně/Vogeli That the Benchers approve a part-time membership status option based on the recommended eligibility criteria.</p></div> <p>The Benchers discussed the part-time membership status eligibility criteria while considering the strategic goals and the purpose of the part-time membership status. The</p>



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Benchers were mostly in favour, with opposition expressed to the payor criteria due to the following reasons:

- The payor criteria may be punitive to firms, agencies and bodies who want to expand part-time opportunities for lawyers, particularly those lawyers who are equity seeking.
- There is potential for employers to refuse to pay full-time fees for part-time work and the financial burden may shift onto the employees.
- Employers may choose to increase the employee's salary by half of the full-time fee so the lawyer may personally pay the part-time fee, which would shift the tax-free benefit to taxable income.
- The burden of lawyer fees may disproportionately affect the not-for-profit sector delivering access to justice services. Part-time is part-time no matter who pays the fees. Encourage all employers to pay fees whether full or part-time.
- The availability of a part-time membership status is a wellness issue.

There was a question whether part-time insurance fees would be possible, and Mr. Weyant responded that insurance companies do not offer part-time insurance. The actuaries would need three to five years of data without the criteria changing to consider how part-time insurance may be offered and at what price.

The following subsequent motion was made.

Motion: Flett/Váně

To remove the payor criteria from the proposed part-time membership status eligibility criteria.

**Carried
One opposed**

The Benchers then returned to the original motion.

Motion: Váně/Vogeli

That the Benchers approve a part-time membership status option based on the recommended eligibility criteria.

Carried unanimously

6 Continuing Professional Development (CPD) Rule and Guideline Amendments

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

Ms. Bailey provided a CPD program update which included the planned launch of a new CPD planning tool in July 2023 and related activities. The launch is dependent on the approval of the Rule amendment and adoption of the *Continuing Professional Development Program Guideline* (Guideline).

Ms. Freund explained that the Rule amendments were made to modernize the language, amend the retention period from five to three years, implement a review process and general housekeeping purposes. The accompanying Guideline sets forth the CPD program's



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	<p>mandatory nature, requirements, and exemption and review processes. The Guideline will be published for transparency that the Law Society’s goal is to coach and support lawyers in their learning.</p> <p>In response to a question, Ms. Bailey confirmed that there will be no exemptions for government agencies or firms that have internal employee training requirements. The tool will be useful despite potential duplication of creating CPD plans and the Tool is very easy to use. The Board was complimentary of the Education Department and Lawyer Competence Committee work which led to a CPD program encompassing a balance between accountability, commitment to professional development and self-reflection.</p> <p><i>Secretary’s note: The following motions were approved concurrently.</i></p> <div style="border: 1px solid black; padding: 5px;"> <p>Motion 1: Cusano/Melnyk That Rule 67.2 be amended, as proposed, and that subrule 67.3(1) be amended to insert “(1)” after “67.2” and before “(2)”; and</p> <p>Motion 2: That the <i>Continuing Professional Development Program Guideline</i> be adopted.</p> <p style="text-align: right;">Carried unanimously</p> </div>
7	<p>Innovation Sandbox Update</p> <p>Mr. Polsky’s Innovation Sandbox update video was presented which included an applications update, jurisdictional scan, 2022 outreach, current limits and next steps.</p> <p>The Bencher discussion included a suggestion that the Law Society re-examine the exclusion of paralegals and more creatively meet unmet needs. The Sandbox provides an opportunity to test-drive ideas and improve access. Further work should be done to determine why some lawyers are hesitant to trust the Sandbox and how to alleviate hesitancy. Ensuring lawyer oversight of technological platforms for things such as electronic signing of documents could help reduce the perceived risk.</p>
8	<p>Equity, Diversity and Inclusion Committee (EDIC) Update</p> <p>Documentation for this item was circulated with the materials prior to the meeting.</p> <p>Ms. Wasylenko thanked the former external volunteers of the disbanded Equity, Diversity and Inclusion Advisory Committee for their contributions and recognized the participation and contributions of the three external volunteers who now sit on the EDIC. She reported that the EDIC is considering the launch of an EDI toolkit and is thinking about how it relates to the strategic plan, helps lawyers and is relevant to firms.</p>
9	<p>Lawyer Competence Committee Report</p> <p>Documentation for this item was circulated with the materials prior to the meeting.</p> <p>Mr. Cusano reported that the Lawyer Competence Committee’s work has centred around the CPD planning tool and early years of practice CPD consultation phase. Staff have met with</p>



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	<p>Alberta Lawyers' Assistance Society, ALIA and the Canadian Bar Association, Alberta regarding the National Well-Being Study and the Law Society's role with regards to well-being. He added that the Law Societies of British Columbia, Saskatchewan, and Manitoba will be working with the Law Society on the Western Canada Competency Profile for Entry to Practice initiative starting in June.</p>
<p>10</p>	<p>Policy and Regulatory Reform Committee Update</p> <p>Documentation for this item was circulated with the materials prior to the meeting.</p> <p>Ms. Petriuk expressed thanks to last year's Policy and Regulatory Reform Committee (PRRC) for the Board Relations Guideline. The current PRRC is working on discrimination, harassment and <i>ex parte</i> communications amendments to the Code of Conduct. The PRRC will consider the <i>Labour Mobility Act</i> Rule changes which will be brought to the Benchers at a future date.</p>
<p>11</p>	<p>CONSENT AGENDA</p> <p>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.</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>Motion: Ahluwalia/Melnyk</p> <p>11.1 That the Benchers approve the February 23, 2023 Public Bencher Meeting Minutes;</p> <p>11.2 Rules and Guidelines Terminology Amendments – “Provincial Court” to “Alberta Court of Justice”</p> <p>MOTION 1: That the introductory phrase in subrules 53(5), 53(6), 53(7), and 53(8) be amended to strike “Provincial Court” and insert “Alberta Court of Justice” in its place.</p> <p>MOTION 2: That clauses 53(5)(c) and 53(6)(c) be amended to strike out “a Provincial Court” and insert “an Alberta Court of Justice” in its place.</p> <p>MOTION 3: That clause 110(2)(b) be amended to strike “Provincial Court” and insert “Alberta Court of Justice” in its place.</p> <p>MOTION 4: That paragraph 30 of the Publication and Redaction Guideline for Adjudicators be amended to strike “Provincial Court” and insert “Alberta Court of Justice” in its place.</p> <p>MOTION 5: That the Appendix to the Adjudicators Guideline – Resignations be struck out in its entirety.</p> </div>



Item

MOTION 6:

That clauses 53(3)(h) and 53(7)(e) be amended to strike “Provincial Court Act” and insert “Court of Justice Act”

11.3 Rescind Old Guiding Documents to the Profession

MOTION:

That the Benchers rescind the following four documents:

1. Guidelines for Drafting and Implementing Bereavement Leave, Compassionate Leave and Family Responsibility Leave Policies (2003)
2. Guidelines for Drafting and Implementing a Diversity and Equality Policy in Legal Workplaces and the Sample Diversity and Equality Policy (2005)
3. Guidelines for Drafting and Implementing a Workplace Violence Policy (2004)
4. Guidelines for Equality in Employment Interviews (1998, 2012 update)

Carried unanimously

12 EXTERNAL REPORTS

The following External Agency Reports were circulated with the materials prior to the meeting:

- 12.1 Alberta Law Foundation (ALF): Ms. Váně reported that Deborah Duncan will be retiring as Executive Director and encouraged attendance at ALF’s 50 Anniversary party in May.
- 12.2 Alberta Law Reform Institute Report
- 12.3 Alberta Lawyers’ Assistance Society Report
- 12.4 Canadian Bar Association Report
- 12.5 Canadian Centre for Professional Legal Education Report
- 12.6 Federation of Law Societies of Canada Report
- 12.7 Legal Education Society of Alberta Report
- 12.8 Real Estate Practice Advisory Committee Liaison Report

Other Business

There being no further business, the public meeting was adjourned at 11:20 a.m.