

Approved Benchers Public Minutes

Five Hundred Eighteenth Meeting of the Benchers of the Law
Society of Alberta (Law Society)

April 25, 2024

In person in Calgary, AB and by videoconference

ATTENDANCE

Benchers

- Deanna Steblyk, President
- Ryan Anderson, President-Elect
- Sony Ahluwalia (videoconference)
- A. Danielle Bourgeois
- Glen Buick (videoconference)
- Arman Chak
- Stephanie Dobson (videoconference)
- Kene Ilochonwu (videoconference)
- Levonne Louie
- Jim Lutz
- Scott Matheson
- Bud Melnyk
- Kelsey Meyer
- Sharilyn Nagina
- Mary Ellen Neilson (videoconference)
- Sandra Petersson
- Stacy Petriuk
- Erin Runnalls
- Ron Sorokin



ATTENDANCE

Nicole Stewart (videoconference)

Moira Váně

Grant Vogeli

Louise Wasylenko

Executive Leadership Team

Elizabeth Osler, CEO and Executive Director

Cori Ghitler, Deputy Executive Director and Director, Policy and Education

Nadine Meade, Chief Financial Officer

Kendall Moholitny, Director, Regulation and Professionalism

Andrew Norton, Chief Information Officer and Director, Business
Operations

David Weyant, President and CEO, Alberta Lawyers Indemnity Association
(ALIA)

Staff

Grace Ajele, Membership and Compliance Counsel

Susannah Alleyne, Equity, Diversity and Inclusion Counsel and Equity
Ombudsperson

Nancy Bains, Tribunal Counsel & Privacy Officer

Barbra Bailey, Manager, Education

Reed Bjerkseth, Support Staff, Business Technology

Colin Brandt, Senior Communications Advisor, Communications

Jessica Buffalo, Indigenous Initiatives Counsel

Shabnam Datta, Manager, Policy

Jennifer Freund, Policy & Governance Counsel

Karen Hansen, Legal Counsel, Office of the General Counsel

Sharon Heine, Senior Manager, Regulation

Nicholas Maggisano, Senior Manager, Professionalism

Calvin McCarron, Support Staff, Business Technology

Andrew McGrath, Support Staff, Business Technology

Noria Neuhart, Policy Counsel

Rachel Provencher, Senior Communications Advisor, Communications

Christine Schreuder, Supervisor, Governance



ATTENDANCE

Naina Singh, Membership and Compliance Counsel

Karly Walker, Governance Coordinator

Tera Yates, Manager, Practice Management

Rebecca Young, Education Counsel

Guests

Robert Bassett, Canadian Bar Association Alberta

Carla Caro, Program Director, Credentialing and Career Services, ACT

Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society

Hyder Hassan, Executive Director, Pro Bono Law Alberta

Carsten Jensen, Law Society of Alberta representative to the Federation of Law Societies of Canada

Patricia Muenzen, Director, Credentialing and Career Services, ACT

Regrets

David Tupper, Bencher

Observer

Ian Burns, Digital Reporter, The Lawyer's Daily

Secretary's Note: All Bencher and Executive Leadership Team attendees were in person unless otherwise stated. All guests and observers attended via videoconference unless otherwise stated. The arrival or departure of participants during the meeting are recorded in the body of these minutes.

Call to Order and Introduction

The public meeting convened at 9:00 a.m.

1. Opening Remarks from the President

Ms. Steblyk thanked all for attending and welcomed Ms. Muenzen and Ms. Caro as guests from ACT.

Ms. Petersson delivered the Indigenous land acknowledgment.

2. Leadership Report

Documentation for this item was circulated with the materials prior to the meeting. There were no questions.

3. Western Canada Competency Profile

Documentation for this item was circulated with the materials prior to the meeting. Ms. Bailey introduced this item, provided an overview of the Western Canada Competency Profile (WCCP) and noted that if approved by the Benchers, the WCCP would be foundational to the continued development of the Continuing Professional Development program. Ms. Bailey noted that the Canadian Centre for Professional Legal Education

has been involved in the process. The development of the WCCP is directly related to the Law Society's strategic objective to collaborate with stakeholders, explore enhancements to current articling processes, and explore alternatives to articling that ensure compliance with entry-level competency for enrolment in the Law Society. A communication plan to the profession is underway pending Benchers approval of the WCCP, with the key message that the profile will enhance the current bar admission program rather than add a layer of requirements. Discussions in Jasper will assist in developing the implementation framework.

Ms. Bailey introduced Ms. Muenzen and Ms. Caro, who presented the WCCP development process and highlighted the following:

- The process adhered to best practices in measurement and competency modeling;
- Development incorporated oversight and involvement of the profession at each step;
- Validation findings supported the work of the Task Force;
- The Advisory Group made reasoned and data- and policy-informed decisions on the final form and content of the WCCP; and,
- Involved Law Societies are considering next steps towards implementation.

Motion: Melnyk/Ilochonwu

That the Benchers adopt the final draft of the Western Canada Competency Profile, as written, as the competencies to be demonstrated at entry to legal practice in Alberta.

The Benchers' key discussion and staff responses included confirmation that developing an implementation framework and setting standards will be informed by discussions during the June 2024 Jasper retreat and will be ongoing over the next few years. Thanks were extended to all involved in developing the WCCP.

Carried

Ms. Muenzen and Ms. Caro left the meeting at 9:45 a.m.

4. Practice Review Committee Guideline

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

Ms. Dobson joined the meeting at 9:46 a.m.

Ms. Freund introduced Mr. Maggisano and Ms. Yates as subject matter experts available for questions and provided an overview of why the Benchers are being asked to repeal and adopt the guidelines as proposed.

Motion: Petersson/Sorokin

That the Benchers repeal the *Practice Review Panel Guideline for Statutory Referrals* and adopt the *Practice Review Committee Guideline*.

Carried

5. Pre-Appeal and Appeal Guideline

Documentation for this item was circulated with the materials prior to the meeting. Ms. Freund introduced Ms. Hansen and Ms. Bains as subject matter experts and provided an overview of why the Benchers are being asked to repeal, adopt and amend the guidelines as proposed.

The following motions were made concurrently.

Motion 1: Petersson/Sorokin

That the Benchers repeal the *Pre-Appeal Guideline, Lawyer Conduct Appeals Guideline* and *Section 76(11) Appeal Dismissal Guideline* and adopt the *Pre-Appeal and Appeal Guideline*.

Motion 2:

That the Benchers amend the *Pre-Hearing and Hearing Guideline*, to strike “*Appeal Guideline*” in paragraph 4 and insert “*Pre-Appeal and Appeal Guideline*” in its place.

The Benchers’ key discussion and staff responses included:

- In response to a Bencher question, staff responded that paragraph 35 of *Yee v Chartered Professional Accountants of Alberta, 2020 ABCA 98 (CanLII)* (*Yee*) (reproduced at paragraph 66 of the guideline) appears to enhance the reasonableness standard and agreed that amendments to the guideline may be needed as this jurisprudence continues to develop.
- The case law provided is helpful as a starting point when writing decisions. The guideline provides guidance and is not binding.

Motion to Amend: Lutz/Chak

To amend the proposed *Pre-Appeal and Appeal Guideline* by striking out paragraph 66.

The Benchers’ key discussion and staff responses included:

- Maintaining the paragraph in the proposed guideline makes the guideline easier to use.
- The time needed to amend guidelines is subject to meeting cycle timing and until the guideline is amended, Tribunal Counsel will advise if there is a change.
- The proposed guideline includes the *Yee* excerpt as guidance on the standard of review to provide a current standard for reference as a starting point.

- A question was asked whether there was the potential for added work and extended appeals hearings if paragraph 66 remains.

The Chair called the question.

Defeated

The Chair called the question for the original motion.

Motion 1: Petersson/Sorokin

That the Benchers repeal the *Pre-Appeal Guideline, Lawyer Conduct Appeals Guideline* and *Section 76(11) Appeal Dismissal Guideline* and adopt the *Pre-Appeal and Appeal Guideline*.

Motion 2:

That the Benchers amend the *Pre-Hearing and Hearing Guideline*, to strike “*Appeal Guideline*” in paragraph 4 and insert “*Pre-Appeal and Appeal Guideline*” in its place.

Carried

6. Articling Placement Program Update

Documentation for this item was circulated with the materials prior to the meeting. Ms. Bailey provided background information and an update on the Articling Placement Program (APP), noting that delivery of the APP is not sustainable without increased Roster firm participation.

Ms. Petriuk, Equity, Diversity and Inclusion Committee Chair, encouraged the Benchers to promote the APP to their networks and stressed the urgency of getting more Roster firms to take on students who have met the APP criteria for urgent action without question.

The Benchers’ and staff key discussion and recommendations included:

- Ensure that Law Society communications stress the urgency of the APP.
- Consider changing the name of the program to communicate the urgent nature without stigmatizing the students.
- It is important to maintain students’ privacy and not share details with the Roster firm. The priority is to protect students’ identity and urgently remove them from a tenuous or unstable situation.
- Consider whether the Law Society can subsidize the APP and what the potential financial impacts would be. Law Society or other private subsidies could allow organizations and small firms who do not have the budget to take on a student to support the program.



- Clearly communicate to Roster firms that they can take on APP students for a composite article portion of the 12-month articling term. There is no hire-back expectation and students can complete the remainder of their articling term with another firm.
- Consider contacting the Alberta Civil Trial Lawyers Association to place a student ad hoc.
- Reconsider the threat of removing firms from the Roster and brainstorm ways to encourage firms to participate, including consultation.
- Ms. Runnalls offered to assist Benchers with communicating to their network the seriousness of the situation and Roster firm commitment.
- Communicate the importance for Roster firms to budget funding for potential mid-cycle placements, and perhaps bring forward any unused budget to the following year.
- Consider how rural firms could join the Roster and how student housing and other related potential expenses could be managed.

The Benchers are supportive of the APP and committed to finding ways to keep the program running.

Staff committed to a stakeholder piece and an educational communication plan to explain the urgent, mid-cycle, potential composite articles with no commitment to hire back. The APP is not a typical recruitment exercise, and this is an opportunity to make a difference in a tangible, charitable way.

Ms. Osler thanked all for the conversation and encouraged the Benchers to take the lead and potentially have an impact nationally and internationally.

The meeting recessed for lunch at 11:54 a.m.

7. Audit and Finance Committee Report and Recommendation

The meeting reconvened at 12:45 p.m.

Documentation for this item was circulated with the materials prior to the meeting. Mr. Lutz, Chair, Audit and Finance Committee (AFC), confirmed that the AFC was satisfied that the financial statements properly reflected the Law Society's financial position for the 2023 fiscal year.

Ms. Meade provided a high-level overview of the financial statements, highlighting the variances to budget, the surplus, income, and expenses. She noted that improved investment returns were due in part to the improved market compared to 2022 and the long-term alternative real estate investment into Fiera. The investment return was slightly below benchmark and the investment manager will continue to be monitored by the CFO, AFC and external investment consultants, George & Bell. The Law Society is in a healthy financial position and positioned for long-term sustainability.

Motion: Lutz/Neilson

That the Benchers approve the Law Society of Alberta's audited financial statements for the year ended December 31, 2023, as attached to this report.

Carried

8. Equity, Diversity and Inclusion Committee Update

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

9. Lawyer Competence Committee Update

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

10. Policy and Regulatory Reform Committee Update

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

11. Federation of Law Societies of Canada Update

Documentation for this item was circulated with the materials prior to the meeting. Mr. Jensen reported on the work being done at the Federation of Law Societies of Canada with respect to the Model Code and Indigenous cultural competency arising from the Truth and Reconciliation Commission's Call to Action 27. Mr. Jensen also updated the Benchers on the Duty to Report project that is underway.

In response to a question, Mr. Jensen explained that the goal of the Duty to Report project is in the context of wellness and providing more clarity around the thresholds.

12. Indigenous Initiatives Counsel Update

Documentation for this item was circulated with the materials prior to the meeting. Ms. Buffalo provided an overview of her activities since the February 29, 2024 Bencher meeting.

13. Real Estate Practice Advisory Update

Mr. Anderson provided an oral update about issues arising, including how to deal with payments on closing of transactions due to banks putting holds on funds and the Ministerial request to help reduce the number of errors in registering at the Land Titles Office and improve efficiencies.

14. CONSENT AGENDA

Documentation for this item was circulated with the materials prior to the meeting. No requests were made to remove the item from the consent agenda.

Motion: Lutz/Wasylenko

That the Benchers approve the February 29, 2024 Public Bencher Meeting Minutes.

Carried

15. EXTERNAL REPORTS

The following external agency reports were circulated with the materials prior to the meeting:

15.1 Alberta Law Reform Institute Report

15.2 Alberta Lawyers' Assistance Society (Assist) Report

Ms. Champion reported that the Assist Board approved their 2023 financial statements and that Assist has relocated. She expressed gratitude to JSS Barristers for housing Assist for so many years.

15.3 Canadian Bar Association Report

15.4 Canadian Centre for Professional Legal Education Report

15.5 Legal Education Society of Alberta Report

Other Business

Ms. Steblyk acknowledged Benchers Chak, Runnalls, Sorokin, and Váně as well as LSA Manager, Legal Technology and Mentorship, Mr. Polsky, for their new King's Counsel appointments.

There was no other business and the public meeting adjourned at 1:20 p.m.