



MINUTES

Benchers

Date:	Thursday, February 8, 2024	
Time:	12:30 pm	
Location:	Law Society Offices and via Videoconference	
Present:	Wayne Onchulenko, President Gerri Wiebe, Vice President Sacha Paul, Past President Miriam Browne, Officer-at-Large Kathrine Basarab Susan Boulter Mason Broadfoot Kyle Dear Blair Filyk Mason Geddes Sharyne Hamm Kameron Hutchinson	Teresa Jaenen Tehani Jainarine Dr. Richard Jochelson Mathieu Lafreniere Christopher Lange Brian McLeod Kenneth Mandzuik Christian Monnin Joëlle Pastora Sala Kelli Potter Leah Unruh
Regrets:	Serena Ehrmantraut	Carmen Nedohin
Guests:	Liza Worthington	
Staff Present:	Leah Kosokowsky Rennie Stonyk Sandra Alleyne Noelia Bernardo Pat Bourbonnais Tana Christianson	Colleen Malone Deirdre O'Reilly Richard Porcher Sean Rivera Karen Sawatsky Alissa Schacter

Eileen Derksen
Joan Holmstrom

Darcia Senft

1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Mr. Onchulenko, President, called the meeting to order at 12:35 pm and welcomed Ms Worthington, Chief Executive Officer of the Canadian Centre for Professional Legal Education, benchers and staff to the meeting. Treaty territories 1, 2 and 5 were acknowledged with gratitude.

2.0 IN MEMORIAM

Benchers observed a moment of silence for Dunlop Harry Kells and Bernarr Ivan Klapman.

3.0 CONSENT AGENDA

3.1 Minutes of December 14, 2023 Meeting

Benchers considered the minutes of the benchers' meeting held on December 14, 2023

3.2 Approval of Translated Rule Amendments – Election and Nomination Process

Benchers considered the amendments to Part 2: Division 2 – Bencher Elections; Division 5 – Election of Officers, Benchers and Committee Appointments; Division 6 – Bencher Vacancies and Removal; and Division 7 – Committees presented in final form in both English and French.

3.3 Report of the Complaints Investigation Committee

Benchers were advised that the report of the Complaints Investigation Committee had been corrected to indicate that the committee had considered four complaints pertaining to Member #6 rather than five complaints as originally reported.

3.4 Reports of the Discipline Committee

Benchers considered the reports of the Discipline Committee.

Motion: That the consent agenda items be approved as presented.

MOVED: Ms Boulter
Seconded: Mr. Lange
Carried.

4.0 EXECUTIVE REPORTS

4.1 President's Report

Benchers received for information Mr. Onchulenko's report dated January 31, 2024.

4.2 Chief Executive Officer's Report

Benchers received for information Ms Kosokowsky's report dated January 29, 2024. Ms Kosokowsky advised that this was the last meeting of the benchers Ms Malone would be attending. She was thanked for her service to the Law Society over the past 30 years in her capacity as auditor-inspector and Chief Financial Officer. Benchers were advised that members of the Executive would be meeting with the Minister of Justice and Attorney General of Manitoba on March 5, 2024 to discuss issues of mutual interest. Ms Kosokowsky reported that on March 5, 2025 she would also be meeting with the Chief Justice of Manitoba to develop a strategy to address recent incidents of racism experienced by Indigenous members of the profession while attending at the Law Courts Building.

4.3 Strategic Plan Progress Report

Benchers received for information the Strategic Plan Progress Report covering the period January 2022 to February 2024.

5.0 PRESENTATION

5.1 CPLED

Ms Worthington provided a detailed presentation on the operations of the Canadian Centre for Professional Legal Education over the past three years and plans for the organization moving forward.

6.0 DISCUSSION/DECISION

6.1 Permitting Retired Lay Benchers and Public Representatives to Sit on Discipline Hearing Panels

Benchers considered a memorandum prepared by Ms Stonyk, dated January 24, 2024. Benchers were reminded that at the November 2, 2023 meeting they had directed that staff explore whether it is appropriate for retired lay benchers to continue to serve as public representatives on hearing panels. Benchers were advised that historically, the Law Society has never received a complaint concerning the impropriety of life benchers and retired lay benchers serving on hearing panels. Consultation with the Law Society of Alberta confirmed that retired lay benchers are permitted to serve as public representatives on hearing panels, primarily because it is difficult to find members of the public with the necessary skillset for this role. Accordingly, it was recommended that benchers continue to allow retired lay benchers to serve as public representatives on hearing panels.

Motion: That retired lay benchers remain eligible to serve as public representatives on hearing panels if they wish to do so.

MOVED: Mr. Monnin
Seconded: Ms Unruh
Abstention: Ms Boulter and Mr. McLeod
Carried.

6.2 Proposed Rule Amendments – Bencher Discretion to Delay Filling Vacancies

Benchers considered a memorandum prepared by Ms Stonyk, dated December 5, 2023. Benchers were reminded that at the December 14, 2023 meeting they had directed that

further consideration be given to amending the rules such that they clearly provide benchers with discretion to delay the filling of a bencher vacancy and to also codify the factors which are to be considered in the filling, or delay in filling, a bencher vacancy. Accordingly, benchers were asked to consider and approve a draft amendment to Rule 2-62 which clearly provides benchers with such discretion and also consider and approve a new bencher policy (#6 – Filling Bencher Vacancy) which sets out the factors to be considered when exercising discretion in the filling of a vacancy. It was recommended that if benchers approve of the new bencher policy, that bencher policy #1 (Appointment of Benchers - Practising) and bencher policy #2 (Appointment of Benchers – Lay) be amended to reference the new bencher policy.

While the majority of benchers were satisfied that the proposed amendment to Rule 2-62 along with the addition of bencher policy #6 adequately addressed the concerns expressed by benchers, it was recommended that the second sentence of the new bencher policy be amended as follows: “However, there are occasions where it ~~would~~ could be impractical to fill the vacancy prior to the next regular election or appointment process.”

Motion: That the draft amendment to Rule 2-62 be approved in principle as presented and that Bencher Policy #6 be approved as drafted, subject to the recommended amendment to the draft policy. Bencher policies #1 and #2 should also be amended as recommended.

MOVED: Mr. Paul
Seconded: Ms Unruh
Carried.

Benchers were advised that the amendments to the Rules and the bencher policies would be presented for approval in final form once the translated version of Rule 2-62 is received.

7.0 MISCELLANEOUS BUSINESS

7.1 Review of Part-time Practising Fees Pilot Project

Benchers considered a memorandum prepared by Ms Schacter, dated January 31, 2024, which provided a detailed report and analysis of the two-year part-time practising fees pilot project which will conclude on March 31, 2024. Benchers were reminded that the main objective of the pilot was to encourage practitioners with primary responsibility for the care of young children or are caregivers to remain in or return to private practice. While limited in terms of quantity and scope, the data collected at the conclusion of the pilot confirmed that it had reached its targeted demographic (primarily female practitioners). Benchers were

asked to consider extending the pilot for a further period of three years to obtain additional data and to also survey the profession in 2026 to (a) assess whether the pilot has been effective in meeting its objective; (b) consider whether changes should be made to the eligibility criteria to better meet its objectives; and (c) consider the feedback received from the profession, including members of other equity seeking groups. At that time staff would be equipped with additional data to better inform a decision on the permanency of the program and the applicable criteria for eligibility.

Benchers expressed support for extending the pilot project and discussed expanding the eligibility criteria to target other demographic areas. It was also suggested that consideration be given to increasing the maximum gross billings cap.

Benchers ultimately agreed that the pilot project should be extended for an additional three years and that the Equity Committee should immediately begin to explore creating an “exceptional circumstances” eligibility category which would allow lawyers who have had to reduce their hours of practice due to their own chronic illness or disability to qualify for part-time practice. A provision should be included which affords the chief executive officer discretion to approve applications which fall within this category. Staff were advised that they would be in the best position to decide whether a survey of the profession was needed at or near the conclusion of the pilot.

Motion: That the pilot program be extended for an additional three years. During this time the eligibility criteria for the pilot should be expanded to include an exceptional circumstances category of participation, and that the qualifying criteria for this category be established as soon as practicable.

MOVED: Mr. Monnin
Seconded: Mr. Lafreniere
Carried.

7.2 FLSC Model Code Consultation – Establishment of Special Committee

Benchers considered a memorandum prepared by Ms Kosokowsky, dated January 29, 2024, which provided an update on the review of proposed amendments to the Federation of Law Societies' *Model Code of Professional Conduct* in response to TRC Call to Action 27. Ms Kosokowsky confirmed that law societies are currently awaiting confirmation on the new deadline to provide feedback, but in the interim the Executive Committee was recommending that a special committee be struck to review the proposed amendments and provide a draft response for benchers to consider. The Executive Committee recommended

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that the membership of the special committee be as follows: Mr. Onchulenko (chairperson), Ms Potter (vice-chairperson), Ms Ehrmantraut, Mr. Mandzuik, Ms Wiebe and Ms Boulter.

Motion: That a special committee, comprised of Mr. Onchulenko (chairperson), Ms Potter (vice-chairperson), Ms Ehrmantraut, Mr. Mandzuik, Ms Wiebe and Ms Boulter, be struck to conduct a review of the draft amendments to the Federation of Law Societies' *Model Code of Professional Conduct* in response to TRC Call to Action 27 and report back to benchers with recommendations in due course.

MOVED: Mr. Paul
Seconded: Mr. Hutchinson
Carried.

Ms Potter was excused from the meeting at 2:20 pm.

7.3 2024-2025 Bencher Expense Budget

Benchers considered a memorandum prepared by Ms Kosokowsky and Ms Malone, dated February 1, 2024, which reported on the setting of the bencher expense budget for the period April 1, 2024 to March 31, 2025.

Motion: That the bencher expense budget for the 2024-2025 fiscal period be approved as presented.

MOVED: Ms Boulter
Seconded: Mr. Paul
Carried.

7.4 2024-2025 Budget

Benchers received for information a memorandum prepared by Ms Kosokowsky and Ms Malone, dated February 1, 2024, which provided a detailed report on the setting of the Law Society's operating budget for the period April 1, 2024 to March 31, 2025. Benchers were advised that a substantial increase in the annual statutory grant received from the Manitoba Law Foundation has placed the Society in a unique position to provide financial assistance in the development and furtherance of several exciting initiatives aimed at improving access to justice and lawyer competence. While it is mandated that these funds be used in furtherance of work related specifically to the Reimbursement Fund and the Education Fund, benchers will have an opportunity to provide direction on usage as part of their strategic planning process.

Ms Kosokowsky reported that practising fees for the new fiscal period have been set at \$2,645, representing a \$15 reduction in the practising fees set for the 2023-2024 fiscal period.

8.0 MONITORING REPORTS

8.1 Investment Compliance – December 31, 2023

Benchers considered a memorandum prepared by Ms Kosokowsky, dated January 30, 2024, which confirmed that investments within the Office Staff Pension Plan and the Reserve Fund remain in compliance with the Society's investment policies.

9.0 COMMITTEE REPORTS

9.1 Indigenous Advisory Committee

Ms Schacter reported to benchers on the meeting of the Indigenous Advisory Committee which was held on January 25, 2024. At this meeting the committee: (a) received an update on member participation in The Path; (b) discussed the filling of two vacancies on the committee; (c) provided direction on the most effective means of communicating with Indigenous youth about the pre-law program to be delivered at the University College of the North; and (d) provided direction on how the Law Society might address the incidences of racism experienced by Indigenous members of the profession at the Law Courts Building.

10.0 IN CAMERA

With the exception of Ms Kosokowsky, Ms Stonyk, Ms Bourbonnais and Mr. Rivera, all staff and guests were excused from the meeting at 3:00 pm. Dean Jochelson and Ms Pastora Sala were also excused from the meeting at this time.

10.1 Miscellaneous Matters

Motion: That this agenda item be discussed in camera.

MOVED: Mr. McLeod
Seconded: Mr. Lange
Carried.

Ms Kosokowsky reported to benchers on matters relating to the Staff Pension Plan and a single legal regulator structure which has been proposed by the provincial government in British Columbia.

Motion: That the meeting proceed out of camera.

MOVED: Ms Basarab
Seconded: Mr. Monnin
Carried.

Ms Wiebe and Mr. Filyk were excused from the meeting at 3:30 pm and 3:40 pm, respectively.

11.0 FOR INFORMATION

Benchers considered the materials provided for information.

There being no further business, Mr. Onchulenko adjourned the meeting at 3:50 pm.