



Bencher Public Minutes

Public Minutes of the Four Hundred and Ninety-Fourth Meeting of the Benchers of the Law Society of Alberta (the “Law Society”)

June 6, 2019

Jasper Park Lodge, Jasper, Alberta

9:00 am

Benchers present	Rob Armstrong, President Kent Teskey, President-Elect Ryan Anderson Arman Chak Elizabeth Hak Bill Hendsbee Cal Johnson Linda Long Jim Lutz Barb McKinley Bud Melnyk Walter Pavlic Corinne Petersen Stacy Petriuk Robert Philp Kathleen Ryan Darlene Scott Deanna Steblyk Margaret Unsworth Ken Warren Louise Wasylenko Nate Whitling
Regrets	Corie Flett Cora Voyageur
Executive Leadership Team members present	Elizabeth Osler, Executive Director and Chief Executive Officer Cori Ghitter, Deputy Executive Director and Director, Professionalism and Policy Paule Armeneau, Director, Regulation, and General Counsel Nadine Meade, Chief Financial Officer Andrew Norton, Director, Business Technology
Staff present	Barbra Bailey, Policy Counsel



	<p>Nancy Carruthers, Manager, Professionalism and Ethics Ruth Corbett, Governance Administrator Shabnam Datta, Policy Counsel Jennifer Freund, Policy Counsel Christine Schreuder, Coordinator, Governance Avery Stodalka, Senior Communications Advisor Ryan Stephanson, Business Technology</p>
Guests and observers present:	<p>Paul Paton, Dean, Faculty of Law, University of Alberta Sandra Petersson, Executive Director, Alberta Law Reform Institute Steve Raby, Federation of Law Societies of Canada representative Christine Sanderman, Interim Executive Director and Counsel, 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.

The meeting was called to order at 9:00 a.m.

	Item
1	<p>Opening Remarks from the Chair The Chair opened the meeting with the following statement: “We acknowledge that the land on which we gather is the traditional territory of the Aseniwuche Winewak Nation. This area is special to the traditional people of this territory. We would like to pay respect to all the Indigenous people whose footsteps have marked these lands for centuries.”</p>
2	<p>Timeline updates The timelines for Big Issues and Engagement were circulated with the meeting materials. Ms. Osler confirmed there have been no changes to the Big Issues timeline and reported the following updates to the Engagement timeline:</p> <ul style="list-style-type: none"> - The President of the Canadian Bar Association (CBA) Alberta Branch and the Law Society President hosted a lunch with members of the Lethbridge Bar while attending a swearing in in Lethbridge. - The Law Society's Trust Safety team are conducting a “Trust Safety 101” session for the paralegal students at McEwan University. Ms. Ufodike, Manager of Trust Safety, has contacted the paralegal program at SAIT to see if they are interested in running the same type of session. - Ms. Osler, Ms. Ghitter, Mr. Armstrong and Mr. Teskey met with the new Minister of Justice on May 29, 2019.



3 **Bencher Election Task Force**

Documentation for this item was circulated with the meeting materials. The President advised the Benchers that establishment of a task force is the first step to prepare for the 2020 Bencher election. The President will solicit interest from Benchers and the profession for representation on the task force and the Nominating Committee will prepare the Summary of Expectations and a recommendation to the Benchers for populating the task force.

Motion:

To approve the creation of a Bencher Election Task Force effective immediately.

**Seconded
Carried**

4 **Bencher Vacancies**

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the proposal for an amendment to Rule 17 of the Rules of the Law Society (the “Rules”) that is intended to increase the flexibility of the process for filling Bencher vacancies arising between elections. Ms. Freund summarized the current process and the proposed change, including amendments made to the proposal that were requested by the Policy Committee at its meeting on May 21, 2019.

The Benchers’ discussion included the following:

- A concern was expressed that, by creating the rule before dealing with the details, the Law Society would be shortcutting the steps required to address diversity at the Bencher table.
- A concern was expressed about the potential impact of the rule change on those members who want to put their name forward for election.
- Recent training received by some Benchers and staff on diversity and inclusion was cited as helpful in increasing peoples’ understanding of the difference between diversity and inclusion and the empirical evidence that inclusion positively impacts the quality of board decisions.
- It was suggested that the rule change would provide for an alternative path to the Board table and might encourage people to apply who would not consider running otherwise.
- It was suggested that diversity and inclusion should be managed through a larger policy process because this rule change alone will not address the systemic issues.



- Some Benchers saw the rule change as a positive opportunity to protect the public interest by ensuring a strong board is in place, through a more inclusive approach to filling vacancies that arise between elections.
- It was suggested that the proposed rule change is not the Law Society's only initiative to increase diversity; however, it is one option that would provide the Benchers with the ability to respond to the needs of the Alberta public.
- Some Benchers thought that the rule change is premature and should follow the work to be done by the Bencher Election Task Force. The President responded that the rule change is not intended to be the end of the process and would not preclude the issues raised. He noted that there has been significant discussion and work on this over the past few years.
- Communications to the profession and the public will be important to ensure understanding of the issues and the intention. It was recognized that if process changes are to be communicated to the profession well in advance of the election then the work needs to begin now.
- The work done in 2017 and 2018 on proposed amendments to the *Legal Profession Act* (LPA) was discussed in the context of the rule change. The President advised that if the Alberta Law Reform Institute (ALRI) moves forward with the LPA work, questions about Board composition, size, competencies and diversity will be addressed.

Motion:

That the Benchers approve the amendments to Rule 17, as proposed.

Seconded

Carried by a 2/3 majority

5 Eligibility Criteria for Approved Legal Services Providers

Documentation for this item was circulated with the meeting materials. Ms. Datta presented the proposal for eligibility criteria for Approved Legal Services Providers (ALSP), which were reviewed and recommended by the Innovating Regulation Task Force (IRTF).

At the February 21, 2019 Bencher meeting, the Benchers agreed that ALSPs would be pro bono legal services providers. The proposed eligibility criteria for ALSPs developed by the IRTF provides for an expansive inclusion of pro bono providers that deliver or facilitate the delivery of pro bono legal services, such as entities, organizations or programs, but excludes for-profit endeavours. In describing "pro bono", the eligibility criteria focus on the accessibility of legal services rather than on cost exclusively. The IRTF recommended a broad definition that would allow providers who break down barriers to accessing legal services, such as education, language, social and so on, not just financial barriers to qualify as ALSPs.



	<p>Motion:</p> <p>To approve the eligibility criteria for Approved Legal Services Providers, as proposed.</p> <p style="text-align: right;">Seconded Carried</p>
<p>6</p>	<p>Regulatory Objectives</p> <p>A memo on Regulatory Objectives for the Law Society was circulated with the meeting materials. Ms. Osler outlined the plan and purpose of the discussion of Regulatory Objectives during the Retreat program over the next two days.</p>
<p>7</p>	<p>Appointment of the Alberta Representative to the Council of the Federation of Law Societies of Canada (the “Federation”)</p> <p>Documentation for this item was circulated with the meeting materials. The President provided background information on the process for the appointment of the Law Society’s representative on the Council of the Federation to replace Steve Raby. The Nominating Committee discussed the competencies required, including familiarity with the Law Society and the Board, commitment to attend Bencher meetings, an understanding of the work of the Law Society and the ability to be an effective communicator at the Federation level. The Nominating Committee was unanimous in its recommendation of Carsten Jensen former Bencher and President, for the position.</p> <p>Motion:</p> <p>To appoint Carsten Jensen, QC, as the Law Society of Alberta representative to the Council of the Federation of Law Societies of Canada (FLSC) to replace Steve Raby, QC, effective upon Steve Raby becoming first vice-President of the FLSC on November 15, 2019.</p> <p style="text-align: right;">Seconded Carried</p>
<p>8</p>	<p>Alberta Lawyers Insurance Exchange Advisory Board Appointments and Report on recent Alberta Lawyers Insurance Association (ALIA) and Alberta Lawyers Insurance Exchange (ALIEX) Activities</p> <p>Documentation for this item was circulated with the meeting materials. Mr. Raby presented the proposal for appointments to the ALIEX Advisory Board and provided a report on ALIA/ALIEX activities, highlighting current strategic planning initiatives and the ALIEX Advisory Board’s April 24, 2019 decision on the annual levy for insured lawyers.</p>



Ms. Osler and Mr. Raby then recused themselves from the meeting.

RESOLVED AS A RESOLUTION OF THE BENCHERS OF THE LAW SOCIETY OF ALBERTA:

- 1. The number of Alberta Lawyers Insurance Exchange (“ALIEX”) Advisory Board members remain at 10.**
- 2. Don Thompson will complete his term effective June 10, 2019 and is not being reappointed.**
- 3. The following persons are appointed to the ALIEX Advisory Board effective June 6, 2019 for a term expiring on the date of the first Bencher meeting after May 31, 2022, or their sooner resignation or removal from office:
Elizabeth Osler;
Dr. Larry Ohlhauser; and
Steve Raby.**
- 4. This resolution shall be effective only if passed by the affirmative votes of at least 2/3 of the Benchers so voting and the Benchers so voting constitute a majority of the Benchers.**

**Seconded
Carried**

Ms. Osler and Mr. Raby rejoined the meeting.

9 Mandatory Conduct Advisory (MCA) Guideline (the “Guideline”)

Documentation for this item was circulated with the meeting materials. Ms. Freund provided background information on the Benchers’ approval of the Guideline on April 25, 2019, subject to the addition of language to paragraph 25. This amendment to paragraph 25 was subsequently reviewed and understood to permit a Bencher to review and respond to a lawyer’s response to an MCA Report. As this was a change from the current procedure, clarity was sought to ensure that this change was understood and intended by the Benchers. It was discussed and recommended that the Benchers reconsider the April 25, 2019 approval of the amendment to paragraph 25. Following discussion, the Benchers agreed to go back to the original wording in the Guideline that was proposed on April 25, 2019.



	<p>Motion: That the Benchers reconsider the decision made at the April 25, 2019 meeting with respect to a new Mandatory Conduct Advisory Guideline.</p> <p style="text-align: right;">Seconded Carried</p>
	<p>Motion: That the Benchers strike the amendment to the motion passed at the April 25, 2019 meeting with respect to a new Mandatory Conduct Advisory Guideline.</p> <p style="text-align: right;">Seconded Carried</p>
10	<p>President's Report</p> <p>The President's report was circulated with the meeting materials. The President provided an update on the Group Bar Call initiative, which was cancelled due to a low response rate.</p>
11	<p>Leadership Report</p> <p>Ms. Osler provided an oral report, highlighting the following:</p> <ul style="list-style-type: none">- The Law Society's office move project is progressing on time and budget.- As part of engagement activities, the Law Society requested regular meetings between the Law Society and CBA Alberta leadership. This is intended to enhance the scheduled meetings between the executive committees of both organizations.- Ms. Osler attended a meeting of the Reforming the Family Justice System initiative.- The Strategic Plan Task Force met in May to review an initial draft strategic plan. More work will be done over the summer in anticipation of the September Bencher meeting.- Ms. Osler discussed the 2019 Law Society of Ontario (LSO) Bencher election with the Treasurer and the CEO of the LSO to learn more about the election issues and challenges. The Bencher Election Task Force will discuss the outcomes of the LSO election as part of their work.- Ms. Osler encouraged the Benchers to review the material provided for the telephone meeting scheduled for June 12 regarding the ALIA "EEE Plan", noting that the materials are significant. Ms. Osler added that the proposal to terminate ALIEX will provide the Benchers with more time to review the delegation of authority to ALIA in the fall.



	<ul style="list-style-type: none"> - Ms. Osler thanked staff for their hard work to prepare the materials for today's meeting.
12	<p>Practice Foundations Task Force</p> <p>Ms. Ryan provided an oral report on behalf of the Practice Foundations Task Force, advising the Benchers that the joint survey with Saskatchewan and Manitoba law societies has been rolled out. The response rate from students and new lawyers is around 16% in Alberta so far. It is too early to determine what the data will show; however, early observations include the following:</p> <ul style="list-style-type: none"> - Most students are paid less than \$40,000 when articling; - Most articling students work an average of 54 hours per week; - Most new lawyers are given a job where they articulated; - Most respondents say they are "somewhat prepared" to practice law; - Most respondents say there is no mental health support; and - Most respondents indicated concerns in the areas of discrimination and harassment.
13	<p>CONSENT AGENDA</p> <p>The consent agenda item was circulated with the meeting materials.</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>Motion: That the Benchers approve the April 25, 2019 Public Bencher meeting minutes.</p> <p style="text-align: right;">Seconded Carried</p> </div>
14	<p>Reports for Information</p> <p>The following reports were circulated with the meeting materials for information:</p> <ul style="list-style-type: none"> 14.1 Alberta Law Reform Institute report 14.2 Alberta Lawyers' Assistance Society report 14.3 Audit and Finance Committee report 14.4 Canadian Bar Association report 14.5 Federation of Law Societies of Canada report 14.6 Legal Education Society of Alberta report 14.7 Pro Bono Law Alberta report
15	<p>Other Business</p> <p>There was no other business. The public meeting was adjourned at 11:45 am.</p>