

MINUTES OF CONVOCATION

Thursday, 6th August, 2020
9:00 a.m.
Via Videoconference

PRESENT:

The Treasurer (Teresa Donnelly), Adourian, Alford, Banack, Braithwaite, Brown, Burd, Charette, Chiumminto, Cooper, Corbiere, Corsetti, Desgranges, Epstein, Esquega, Fagan, Falconer, Ferrier, Goldstein, Graham, Groia, Horgan, Horvat, Klippenstein, Krishna, Lalji, Lau, Lean, LeSage, Lewis, Lippa, Lockhart, Lomazzo, Lyon, Marshall, Mercer, Merali, Minor, Murchie, Murray, Painchaud, Parry, Pawlitza, Pineda, Poliacik, Pollock, Prill, Rosenthal, Sellers, Sheff, Shi, Shin Doi, Shortreed, Spurgeon, Strosberg, Troister, Walker, Wellman, Wilkes, Wilkinson, B. Wright and N. Wright.

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Secretary: James Varro

The Reporter was sworn.

IN PUBLIC

TREASURER'S REMARKS

The Treasurer welcomed those joining Convocation by videoconference.

The Treasurer recognized that Convocation would normally be meeting in Toronto which is a Mohawk word that means "where there are trees standing in the water".

When Convocation meets in Toronto, the Treasurer advised that she acknowledges that Convocation meets on the traditional territory of the Mississaugas of the Credit First Nation. She also acknowledges the Haudenosaunee. She advised that for this Convocation, benchers are participating across the province and perhaps elsewhere, and across many First Nations territories. She recognized the long history of all the First Nations in Ontario and the Métis and Inuit peoples and thanks the First Nations people who lived and live in these lands for sharing them with us in peace.

The Treasurer addressed the protocol for Convocation via Zoom videoconference.

The Treasurer noted the passage of Bill 190 and the reforms to the *Notaries Act* and the *Commissioners for Taking Affidavits Act*, effective August 1, 2020, respecting paralegals and also remote commissioning.

The Treasurer reminded benchers that the 2020 Annual General Meeting is being held virtually at 5:15 pm on August 10, 2020. The Treasurer also advised that the three motions submitted to the Secretary for the meeting have been withdrawn.

The Treasurer noted the call by the Law Society for applicants for a number of external appointments made by the Law Society, and that applications can be made online through the Law Society's website.

The Treasurer advised that in light of David Wright's decision to move to a new role in the fall of this year, a recruitment process has begun and a committee created by the Treasurer to assist with the selection and appointment of a new Law Society Tribunal Chair.

The Treasurer referred to the consultation on the Family Legal Services Provider licensing model, and the deadline for comments on November 30, 2020.

The Treasurer informed benchers of her recent outreach initiatives since her election in June.

The Treasurer advised that she would be delivering greetings at the virtual gala for the Women's Law Association of Ontario this evening.

The Treasurer reminded benchers that the deadline for nominations for the Human Rights Award is September 30, 2020.

The Treasurer informed Convocation that from May 1 to July 31, 1594 lawyers and 120 paralegals have been licensed and congratulated them and welcomed them to the Law Society. The Treasurer also thanked the Professional Development & Competence Division staff under Priya Bhatia's leadership for the successful launch of the online examination platform.

The Treasurer congratulated Dr. Ryan Alford on the recent publication of his book "Seven Absolute Rights – Recovering the Historical Foundations of Canada's Rule of Law".

The Treasurer congratulated Gerard Charette for recently completing a Master of Arts in Theology.

MOTION – CONSENT AGENDA – Tab 1

It was moved by Ms. Corbiere, seconded by Ms. Murchie, that Convocation approve the consent agenda set out at Tab 1 of the Convocation Materials.

Carried

Tab 1.1 – DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of June 26, 2020 were confirmed.

Tab 1.2 - MOTIONS

Re: Tab 1.2.1 – Tribunal Appointments

THAT Teresa Donnelly be removed from the Hearing and Appeal Divisions of the Law Society Tribunal at her own request, as a result of her election as Treasurer on June 26, 2020.

THAT Michael LeSage and Atrisha Lewis be appointed to the Hearing Division of the Law Society Tribunal for a term ending May 28, 2021.

Carried

IN PUBLIC

MOTION – COMMITTEE AND OTHER APPOINTMENTS

It was moved by Mr. Poliacik, seconded by Mr. Esquega:

THAT the list of appointments and task force Terms of Reference, as indicated, under **Schedule A** be approved.

THAT Geneviève Painchaud be appointed to the Law Commission of Ontario Board of Governors for a term of three years effective October 15, 2020.

THAT Etienne Esquega be appointed to the Law Foundation of Ontario Board of Trustees, to replace Isfahan Merali at her request.

THAT Convocation approve Clare Sellers for election to the LawPRO Board of Directors, so that the Law Society nominees are Robert Adourian, Clare Sellers, Julia Shin Doi and Andrew Spurgeon.

THAT Geoff Pollock be appointed to the Ontario Justice Education Network Board of Directors for a three-year term.

SCHEDULE A
COMMITTEE, TASK FORCE, WORKING GROUP AND OTHER APPOINTMENTS

Not included in the list of appointments in Schedule A are appointments or reappointments not currently required because the appointments have not yet expired or no changes are being made to certain groups.

COMMITTEES

Access to Justice

Cathy Corsetti (Co-Chair)
Doug Wellman (Co-Chair)
Murray Klippenstein (Vice-Chair)
Robert Burd
Jean-Jacques Desgranges
Sam Goldstein
Shelina Lalji
Benson Lau
Marian Lippa
Michelle Lomazzo
Cecil Lyon
Barbara Murchie
Brian Prill
Jonathan Rosenthal

Audit & Finance

Joseph Groia (Chair)
Lubomir Poliacik (Vice-Chair)
Ryan Alford
Seymour Epstein
Gary Graham
Philip Horgan
Vern Krishna
Shelina Lalji
Michelle Lomazzo
Cecil Lyon
Clare Sellers
Sidney Troister
Tanya Walker

Compensation

Teresa Donnelly (Chair)
Robert Burd
Joseph Groia
Gerald Sheff
Jacqueline Horvat

Compensation Fund

Lubomir Poliacik (Chair)
Shelina Lalji (Vice-Chair)
Jack Braithwaite
Geneviève Painchaud
Clare Sellers

Equity and Indigenous Affairs

Dianne Corbiere (Chair)
Atrisha Lewis (Vice-Chair)
Jorge Pineda (Vice-Chair)
Robert Burd
Etienne Esquega
John Fagan
Julian Falconer
Murray Klippenstein
Nancy Lockhart
Megan Shortreed
Alexander Wilkes

Law Society Awards/LL.D. Advisory

Teresa Donnelly (Chair)
Gerard Charette
Dianne Corbiere
Cheryl Lean
Marian Lippa
Isfahan Merali
Geneviève Painchaud
Julia Shin Doi

Paralegal Awards

(External appointees not included)
Teresa Donnelly (Chair)
Joseph Chiumminto (Vice-Chair)
Robert Burd
Cathy Corsetti
Seymour Epstein
Shelina Lalji
Marian Lippa
Michelle Lomazzo

Paralegal Standing

Robert Burd (Chair)
Joseph Chiummiento (Vice-Chair)
Cathy Corsetti
Seymour Epstein
Sam Goldstein
Shelina Lalji
Marian Lippa
Michelle Lomazzo
Geneviève Painchaud
Geoff Pollock
Chi-Kun Shi
Doug Wellman
Claire Wilkinson

Priority Planning

Government and Public Affairs

Litigation

Teresa Donnelly (Chair)
Jacqueline Horvat (Vice-Chair)
Robert Burd
Joseph Chiummiento
Dianne Corbiere
Cathy Corsetti
Joseph Groia
Philip Horgan
Nancy Lockhart
Barbara Murchie
Lubomir Poliacik
Megan Shortreed
Andrew Spurgeon
Sidney Troister

Proceedings Authorization

Jacqueline Horvat (Chair)
Robert Adourian
Cathy Corsetti
Jonathan Rosenthal
Gerald Sheff
Claire Wilkinson

Professional Development and Competence

Barbara Murchie (Chair)
Philip Horgan (Vice-Chair)
Claire Wilkinson (Vice-Chair)
Ryan Alford
Jack Braithwaite
Jared Brown
Murray Klippenstein
Marian Lippa
Cecil Lyon
Trevor Parry
Sidney Troister
Doug Wellman
Alexander Wilkes

Professional Regulation

Megan Shortreed (Chair)
Jacqueline Horvat (Vice-Chair)
Michelle Lomazzo (Vice-Chair)
Robert Adourian
Gerard Charette
Etienne Esquega
Julian Falconer
Michael LeSage
Jorge Pineda
Jonathan Rosenthal
Clare Sellers
Andrew Spurgeon
Nicholas Wright

Tribunal

Julia Shin Doi (Chair)
Marian Lippa (Vice-Chair)
Ryan Alford (Vice-Chair)
Jared Brown
Jean-Jacques Desgranges
Paul Cooper
John Fagan
Michael LeSage
Isfahan Merali
C. Scott Marshall
Barbara Murchie
Chi-Kun Shi
Geneviève Painchaud
Tanya Walker
David Wright (*Ex Officio*)

Committee of Benchers under By-Laws 4, 7, 10 and 14

Gerard Charette
Cathy Corsetti
Seymour Epstein
C. Scott Marshall
Julia Shin Doi

Committee of Benchers under By-Law 11

Cathy Corsetti
C. Scott Marshall
Julia Shin Doi

TASK FORCES

Competence Task Force

Sidney Troister (Chair)
C. Scott Marshall (Vice-Chair)
Ryan Alford
Joseph Chiumminto
Dianne Corbiere
Cathy Corsetti
Cheryl Lean
Atrisha Lewis
Barbara Murchie
Geneviève Painchaud
Jorge Pineda
Megan Shortreed
Andrew Spurgeon
Claire Wilkinson
Alexander Wilkes

Competence Task Force - Terms of Reference

Mandate and Objective:

The Competence Task Force will examine the Law Society's regulatory approaches to ensuring and improving lawyer and paralegal post-licensure competence. It will examine the principles and rationales for regulating post-licensure competence and will study potential approaches in order to identify the most appropriate regulatory tools available.

The Task Force's objective is to recommend an effective, proportionate, and balanced regulatory framework addressing career long licensee competence, in a manner that protects the public interest and is responsive to the public's legal needs.

The Task Force will:

- identify the key components of professional competence in a dynamic and evolving environment for legal professionals;
- consider the Law Society's legislative mandate for regulating post-licensure competence, and identify the principles and rationales on which the Law Society should proceed;
- study approaches to post-licensure competence used in other jurisdictions and by other professional regulators;
- articulate a regulatory framework for post-licensure competence that:
 - prioritizes proactively identifying and mitigating risks and reducing demonstrated harms;
 - enables the achievement of competence benchmarks in a manner that is not duplicative, onerous or fails to address certain risks;
- consider whether, and if so how, the regulatory framework should include improving post-licensure competence as well as ensuring minimum competence
- assess the effectiveness of the post-licensure competence programs and procedures currently operated or supported by the Law Society, including assessing:
 - the validity of the program's policy objectives,
 - the effectiveness of the program in meeting its objectives,

- the efficiency of the program in delivering its outcomes,
- the efficiency, including cost-effectiveness, of the program's structure for its purpose,
- the proportionality of the program's operations and regulatory obligations in relation to its purpose and objectives, and
- whether the Law Society is or continues to be the appropriate body to support the program;
- determine which programs and procedures, based on the assessment, should continue, be modified or restructured, or be ended;
- identify and evaluate alternative post-licensure competence programs and procedures that would better achieve the regulatory framework articulated;
- identify any policy issues arising from these determinations that may require review by a standing or other committee;
- consider any budgetary implications arising from these determinations that may require referral to the Audit & Finance Committee;
- update Convocation from time to time on the Task Force's work; and
- submit a final report, including recommendations, to Convocation.

Parameters:

In undertaking this work the Task Force is expected to be open to re-evaluating the Law Society's approaches to post-licensure competence, in light of continuous changes in the legal landscape, in the profiles and practices of the legal professions, in the legal needs of the public, and in regulatory best practices.

The Task Force's work will involve evaluating current Law Society programs and procedures, as well as identifying and considering alternative options for regulating post-licensure competence, such as specialized licensing for certain types of practice and self-reported competence evaluations and learning plans.

Current Law Society programs and procedures include:

- continuing professional development programming and the annual CPD requirement;
- quality assurance programs, such as practice management reviews and spot audits;
- practice supports and resources, such as the Practice Management Helpline and the Coach and Advisor Network;
- the Certified Specialist program; and
- the Great Library and the Legal Information and Resource Network.

Methodology:

The Task Force will study potential regulatory approaches and tools using environmental scans and ongoing subject monitoring, data collection and assessment, review of leading reports, and engagement with subject matter experts. The Task Force will also consult widely as engages in its work and as it develops any recommendations.

Timetable:

The Task Force will commence its work under these terms of reference in the fall of 2020 and will meet regularly thereafter. The Task Force will report to Convocation from time to time on the Task Force's work, as appropriate, and will submit a status report to Convocation by September 2021. That report should include a plan and timetable for completing the Task Force's work by no later than June 2022.

Technology Task Force

Jacqueline Horvat (Chair)
 Jack Braithwaite (Vice-Chair)
 Gary Graham (Vice-Chair)
 Paul Cooper
 Seymour Epstein
 Cheryl Lean
 Michelle Lomazzo
 Brian Prill
 Clare Sellers
 Andrew Spurgeon
 Harvey Strosberg
 Nicholas Wright

WORKING/OTHER GROUPS

Human Rights Monitoring Group (Equity)

Julian Falconer (Co-Chair)
Tanya Walker (Co-Chair)
Paul Cooper
Atrisha Lewis
Marian Lippa
Isfahan Merali
Lubomir Poliacik
Doug Wellman

Mental Health Working Group (PRC)

Gerard Charette (Co-Chair)
Etienne Esquega (Co-Chair)
Jean-Jacques Desgranges
John Fagan
Sam Goldstein
Shelina Lalji
Benson Lau
Geoff Pollock
Brian Prill
Chi-Kun Shi
Andrew Spurgeon
Claire Wilkinson
Nicholas Wright

OTHER APPOINTMENTS

Summary Disposition

Atrisha Lewis
Chi-Kun Shi

Mr. Fagan moved, seconded by Mr. Desgranges, that the motion be amended to remove the Competence Task Force and its Terms of Reference.

Lost

Mr. Horgan, Mr. Klippenstein and Mr. Poliacik abstained.

The main motion carried.

Dr. Alford, Mr. Charette, Mr. Desgranges, Mr. Fagan, Ms. Lean, Mr. Lyon, Mr. Parry, Mr. Pollock and Ms. Shi abstained.

PRIORITY PLANNING COMMITTEE REPORT

Ms. Horvat presented the Report.

Re: Amendments to By-Law 3 Respecting Inter-Jurisdictional Mobility

It was moved by Ms. Horvat, seconded by Ms. Shortreed, that Convocation on the recommendation of the Priority Planning Committee make amendments to By-Law 3 to revoke

the mandate of the Inter-Jurisdictional Mobility Committee (IJMC) and add the function of the IJMC to the mandate of the Professional Development & Competence Committee as set out in the motion at Tab 3.1.1.

Carried

Re: Recommendations for Strategic Change

Ms. Miles presented the Report.

It was moved by Ms. Horvat, seconded by Ms. Shortreed, that on the recommendation of the Priority Planning Committee, Convocation adopt the following motions:

1. That amendments in principle to By-Law 8 be approved to require licensees to submit their reporting of trust account information electronically through the Law Society Portal, namely trust account opening and closing information throughout the year as applicable, and the detailed trust account information currently reported through the Annual Report, by March 31; and that the Law Society automate the reporting of trust account information by licensees.

Carried

2. That amendments in principle to By-Laws 5, 6.1 and 8 be approved to:
 - a. provide for a single standardized due date of March 31 for paying the Annual Fee, completing and reporting the Continuing Professional Development (“CPD”) requirements, and completing the Annual Report, beginning in 2021;
 - b. eliminate all late fees for non-compliance with the requirements in 2.a, above; and
 - c. reduce the default periods for the requirements in 2.a, above, to 30 days for 2021 and 2022 and to 15 days for 2023, so that the Law Society may promptly begin the suspension process of a licensee who fails to comply with the requirements by the due date.

Carried

Mr. Charette and Mr. Cooper abstained.

3. That amendments in principle to By-Law 5 be approved to remove the exemption from the requirement to pay the Annual Fee for licensees who are over 65 years of age and who do not practise law or provide legal services, beginning in 2021 and for subsequent years.

Carried

Mr. Adourian, Mr. Fagan, Mr. Groia, Ms. Lean, Ms. Lippa, Mr. Lyon, Mr. Parry and Mr. Pollock abstained.

4. That amendments in principle to By-Law 5 be approved to remove the exemption from the requirement to pay the Annual Fee for licensees who have practised law in Ontario for a period of 50 years, beginning in 2021 and for subsequent years.

Mr. Burd moved, seconded by Mr. Groia, that the motion be amended by adding the following at the end of the motion: “but that licensees who currently have achieved this status and who are currently exempt be grandparented and continue to be exempt.”

Mr. LeSage moved that fees be exempted for new licensees with less than five years of practice who are earning less than \$50,000 per year.

The Treasurer ruled the motion out of order as unrelated to the motion currently before Convocation.

The motion to amend was lost.

Mr. Braithwaite abstained.

The main motion carried.

Ms. Lean abstained.

5. That the Law Society exercise its authority in subsection 48(1) of the *Law Society Act* to revoke a licensee's licence if the licence has been administratively suspended for more than 12 months, beginning in 2021.

Carried

NOTICE OF MOTION

The Treasurer introduced the subject of the motion and referred to the Benchers Code of Conduct Working Group she created, as reflected in Tab 2 of the Convocation Materials, noting the intention to address a number of issues related to the Code.

Ms. Sellers, with the agreement of Ms. Lockhart, withdrew the motion, on the understanding that the issues raised in the motion are to be referred to the working group.

IN PUBLIC

REPORTS FOR INFORMATION ONLY

MOTION – COMMITTEE AND OTHER APPOINTMENTS:

- Schedule B – Other Appointments

CONVOCATION ROSE AT 12:13 P.M