



The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

**TAB 4**

## **MENTAL HEALTH STRATEGY TASK FORCE**

**April 28, 2016**

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### **Final Report to Convocation**

#### **Task Force Members**

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**Purpose of Report:      Decision**

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## **MENTAL HEALTH STRATEGY TASK FORCE EXECUTIVE SUMMARY**

Mental illness and addictions issues are present in significant numbers within the general Canadian population. There is increasing evidence suggesting that legal professionals may be at an even higher risk than the general population of experiencing career and life challenges and struggles with mental illness and addictions. The culture of and stressors on the legal professions raise barriers to openly addressing these issues for those who may be affected by them and those with whom they work and interact. The stigma surrounding mental illness and addictions, the too common confusion of diagnosis with impairment and the concerns that careers will be permanently and negatively affected by disclosure have a particular impact on lawyers' and paralegals' willingness to reveal such illness or addictions.

Regulators must reflect on the relevance and importance of mental health to the ability of individuals to meet their professional responsibilities and to serve the public.

In this vein, the Law Society has been engaged in addressing wellness, mental illness and addictions issues among licensees for some time. It recognizes that its ability to meet its obligation to ensure that the public of Ontario is served by licensees who meet standards of learning, professional competence and professional conduct may be affected by these issues. It has made many important, but incremental additions to its activities, as reflected in the Inventory of Law Society Initiatives Addressing Wellness, Mental Illness and Addictions referenced in this Report. In June 2015, however, Convocation established a Task Force to articulate a Mental Health Strategy (the "Strategy") for the Law Society's approach to wellness and mental illness and addictions issues. The Strategy would support the efforts the Law Society is already undertaking and enable it to consider and implement other initiatives in this area, linked to its mandate to regulate lawyers and paralegals in the public interest. Convocation also determined that the development of mental health initiatives should be included as part of its Strategic Plan for the 2015-2019 term. By including the Strategy in the Plan it would actively monitor implementation.

The Strategy includes a Vision and Commitment to underpin the Law Society's work, two Strategic Directions with a focus on preventive/management strategies and regulatory strategies and a number of Key Elements and Initiatives that will advance those Directions. Included among the Key Elements is consideration of the role that diversionary and confidential processes, including capacity proceedings held in the absence of the public, may play in appropriate circumstances.

The Strategy is a long-term process that will evolve as attitudes toward mental illness and addictions issues continue to shift. It recognizes that it is beyond the scope of any single group or body to address all the complexities of wellness, mental illness and addictions issues. Successful efforts may be more likely when organizations, such as the Law Society, focus on those areas in which they are able to make a difference, relevant to their mandates.

At the same time, efforts must exist across groups to address gaps, assist in providing information on appropriate sources of assistance and continue a broader conversation addressing mental health and addictions in the legal professions. The Task Force urges the Law Society, law schools and paralegal colleges, legal organizations and associations, law and paralegal firms and other entities, government, Legal Aid Ontario, legal clinics and licensees, while each focusing on their individual roles, to engage in an ongoing conversation that will bring these multi-layered streams together. In this context, the Law Society may also play a valuable role in facilitating such dialogue and discussion.

## **PROPOSED MENTAL HEALTH STRATEGY (Discussed in the Report that follows)**

### **VISION AND COMMITMENT**

To further address licensee mental health and addictions issues to improve professional outcomes, in the public interest.

### **STRATEGIC DIRECTIONS**

#### **(a) Preventive and Management Strategies**

- Increase awareness of *wellness strategies* among the Ontario legal professions and those with whom they work (employers, partners, associates and staff).
- Increase awareness of *mental illness and addictions* issues among the Ontario legal professions and those with whom they work (employers, partners, associates and staff).
- Address the existence and impact of stigma on those licensees experiencing mental illness and addictions issues and reduce stigma.
- Enhance knowledge of and improve access to available assistance for those licensees with mental illness and addictions issues and those with whom they work.

#### **(b) Regulatory Strategies**

- Examine how mental illness and addictions issues are most appropriately addressed in the regulatory context to meet the Law Society's Vision and Commitment.
- Consider how to support early identification and treatment while continuing to protect the public.
- Consider the role that diversion from regulatory proceedings and/or capacity proceedings held in the absence of the public, could play in appropriate circumstances.

### **KEY ELEMENTS AND INITIATIVES UNDER EACH STRATEGIC DIRECTION**

#### **(a) Preventive and Management Strategies**

- Continue to build on the current Law Society preventive and management strategies described in the "Inventory of Law Society Initiatives Addressing Wellness, Mental Illness and Addictions." (included with this Report)
- Develop a comprehensive and proactive Communication Strategy for increasing mental health awareness, generally, and awareness of mental illness and addictions issues, specifically.
  - Provide information on accessing assistance, addressing issues of stigma related to mental illness and addictions and possible systemic causes within the legal professions' cultures that engender or exacerbate these issues.

- Focus on early, repeated and pervasive communication, education and attitudinal change.
- Develop ongoing consultation with stakeholders in a wide range of communities (e.g. racialized, Aboriginal, sole practitioners, large, medium and small firms, aging licensees, government, legal organizations, legal clinics, Legal Aid Ontario), to refine the Communication Strategy.
- Coordinate the plan across relevant Divisions of the Law Society.
- Further enhance awareness and understanding of the Members Assistance Program (“MAP”) among licensees and legal organizations, law schools and paralegal colleges, in a variety of venues and media, promoting its confidentiality and range of services.
- Consider and report on whether and how the range of confidential MAP services might be expanded to further assist licensees.
- Consider the most effective ways to regularly inform about MAP and other mental health services at Continuing Professional Development (“CPD”) and other events.
- Investigate the merits of and, where appropriate, develop or update a model policy or policies to educate the legal professions, law firms, employers and organizations on,
  - tools for advancing mental health;
  - possible systemic causes within the legal professions’ culture and employment practices that engender or exacerbate these issues;
  - risks/signs of problems related to mental illness, including dementia, and addictions;
  - appropriate licensee accommodation practices;
  - differences between illness and impairment and whether the illness is situational, episodic or chronic;
  - addressing and avoiding stigma; and
  - strategies to assist licensees and enable them to assist themselves or others.
- Using the activities already in place in the Professional Development & Competence Division, the Equity Public Education Rule of Law Series and other educational programming,
  - consider and enhance the ongoing role that Continuing Professional Development and practice management supports can play in a number of areas including,
    - i. increasing awareness of wellness and of mental illness; and
    - ii. addictions issues and in addressing stigma.
- Provide organization-wide *general* training for staff on mental illness and addictions.

- Provide *specialized* training for staff who interact with licensees on mental illness and addictions.
- Provide awareness sessions for Convocation, as part of Directors' education, on wellness, mental illness and addictions issues and on accommodation requirements.
- Provide training for Law Society Tribunal adjudicators on mental illness and addictions issues and on accommodation requirements.
- As part of the recently approved Coach and Advisor Initiative's incremental implementation, develop a mental illness and addictions training component for coaches and advisors and consider the role of mental health issues in the development of coaching curricula.
- As a participant in The Action Group (TAG) Mental Health Cluster, encourage the exploration and development of a Mental Health Conference to discuss the continuum of mental health issues and initiatives from law school to retirement, with participation of a range of stakeholders.
  - Consider possible systemic causes within the legal professions' cultures and employment practices that engender or exacerbate these issues.
  - Consider the possible role of the Law Society to facilitate ongoing dialogue and discussion on a yearly or other basis.
- Consider whether and how the Discrimination and Harassment Counsel's mandate could be more effectively used or expanded to address mental illness and addictions issues.

**(b) Regulatory Strategies**

- Continue to build on the current Law Society preventive and management strategies described in the "Inventory of Law Society Initiatives Addressing Wellness, Mental Illness and Addictions." (included with this Report)
- Consider a policy and operational continuum that provides guidelines for addressing mental illness and addictions issues from intake, including early diversion from regulatory processes in appropriate circumstances.
  - Analyze current early processes in place to identify and address possible mental illness, including dementia, or addictions issues in licensees.
  - Consider best practises to support early diversion and treatment, in keeping with the public interest.
  - Consider whether there are aspects of the Nova Scotia Barristers' Society's Fitness to Practice Program and the Ontario Medical Association's Physician Health Program that might be adaptable to Law Society approaches.

- Ensure regulatory focus is on impairment, not mere presence of a diagnosis or seeking of care.
- Consider appropriate handling of licensee information respecting mental illness and addictions issues, whether within the Law Society or in the public domain, balancing considerations of privacy and regulatory accountability.
- Consider proactive steps to address repeated licensee failure to respond to Law Society correspondence, where mental illness or addictions issues are suspected.
- Analyze the 2007 Convocation policy that approved all capacity proceedings be held in public, with a view to determining,
  - whether there are reasons to reverse the policy, while continuing to address the public interest;
  - if not, whether greater discretion might be provided to hearing panels to consider hearings in the absence of the public in appropriate cases; and
  - the impact of any proposed change to the policy on Rule 18 of the Law Society Tribunal Hearing Division Rules of Practice and Procedure.
- Ensure that regulatory staff have specialized mental illness and addictions training, appropriate for the functions they perform, such that necessary skills are applied to the assessment and handling of cases from first contact with licensees.
- Review the Rules of Professional Conduct and Paralegal Rules of Conduct to ensure that they do not stigmatize those with mental illness and addictions.
- Ensure that all Law Society application forms, including for licensing and good character, do not stigmatize those with mental health illness and addictions.
- Continue to develop the role of the Capacity Program Manager in the Professional Regulation Division to facilitate the Strategic Directions on mental illness and addictions.
- Consider an enhanced role for duty counsel for licensees at an early stage of the regulatory process where mental illness and addictions may be issues.
  - Consider the development of specialized duty counsel training.
- For the Tribunal process,
  - review all Law Society Tribunal Rules and processes to ensure that they are responsive to the needs of those with mental illness and addictions;
  - provide clear authority for a hearing panel to convert a conduct application to a capacity application where appropriate; and

- ensure that the release and publication of reasons and orders and the release of file materials respecting licensees do not reinforce stigma and/or interfere with treatment. This could include consideration of the possible role that anonymization of identifying information might play, in appropriate circumstances.

## **RESOURCES FOR AND IMPLEMENTATION OF KEY ELEMENTS AND INITIATIVES**

- Provide appropriate human and other resources for the implementation of the Strategy, including but not limited to,
  - when necessary from time to time, contracting for dedicated or specialized assistance or resources to assist Law Society Divisions in the implementation of the Strategy; and
  - adequate financial resources over the balance of the 2015-2019 benchers term and beyond to implement recommendations, including those that address training, model policies, a regulatory policy and operational continuum for addressing mental illness and addictions, access to duty counsel at an early stage, a TAG Mental Health Conference, the Communications Strategy and any MAP enhancements.
- Establish a Mental Health Strategy Implementation Task Force of no more than five benchers to provide guidance on implementation-related issues.
- Include reporting on the Strategy's Implementation as part of the CEO's Reports to Convocation to ensure regular monitoring.



## THE REPORT

### MOTION

1. That Convocation approve the proposed Mental Health Strategy, the component parts of which are set out at [pages 4 to 8](#) of this Report.
2. That Convocation approve the approach to funding for the Strategy, set out in [paragraphs 27 to 34](#) of this Report.

### INTRODUCTION AND TASK FORCE CONTEXT

3. Mental illness and addictions issues are present in significant numbers within the general Canadian population.<sup>1</sup>
4. The Centre for Addiction and Mental Health (CAMH) statistics on mental illness and disability reveal how serious and prevalent these issues are in society at large, making it apparent that mental health, mental illness and addictions issues should be the concern of everyone, both individually and as a society.<sup>2</sup>
5. There is increasing evidence suggesting that legal professionals may be at an even higher risk than the general population of experiencing career and life challenges and struggles with mental illness and addictions. The culture of and stressors on the legal professions raise barriers to openly addressing these issues for those who may be affected by them and those with whom they work and interact. The stigma surrounding mental illness and addictions, the too common confusion of diagnosis with impairment and the concerns that careers will be permanently and negatively affected by disclosure have a particular impact on licensees' willingness to reveal such illness or addictions.
6. A 1995 study on the prevalence of major depression among occupational groups found the rate of major depression among lawyers during the year prior to the survey was 10% or three-and-one-half times the expected rate based on a comparison with the general population.<sup>3</sup> In a 2012 article entitled "Killing Ourselves," Megan Seto noted

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<sup>1</sup>The Mental Health Commission of Canada notes the following facts on its website: In any given year, one in five people in Canada experiences a mental health problem or illness, with a cost to the economy of well in excess of \$50 billion. Only one in three people who experience a mental health problem or illness — and as few as one in four children or youth — report that they have sought and received services and treatment. Of the 4,000 Canadians who die every year as a result of suicide, most were confronting a mental health problem or illness. In a recent study, only 63 per cent of people who had been hospitalized for depression had a follow-up visit with a physician within 30 days after discharge, compared to 99 per cent of people with heart failure. In the same 30 days, 25 per cent of people who had been hospitalized for depression either visited an emergency room or were readmitted to hospital. Peer support for people living with mental health problems and illnesses can help to reduce hospitalization and symptoms, offer social support, and improve quality of life. <http://strategy.mentalhealthcommission.ca/the-facts/>

<sup>2</sup> [http://www.camh.ca/en/hospital/about\\_camh/newsroom/for\\_reporters/Pages/addictionmentalhealthstatistics.aspx](http://www.camh.ca/en/hospital/about_camh/newsroom/for_reporters/Pages/addictionmentalhealthstatistics.aspx)

<sup>3</sup>Edgar P. Nace. Achievement and Addiction: A Guide to the Treatment of Professionals. 1995. Chapter 9 Attorneys. The Chapter also noted at pages 107-108,

that, “approximately 20% of the entire legal profession suffers from clinically significant levels of substance abuse, depression, anxiety or some other form of psychopathology.”<sup>4</sup>

7. A recent survey of 12,865 licensed, employed U.S. attorneys found “substantial rates of behavioral health problems” with,  
  
20.6% screening positive for hazardous, harmful and potentially alcohol-dependent drinking...with 28%, 19% and 23% experiencing symptoms of depression, anxiety, and stress, respectively.<sup>5</sup>
8. A 2015 Australian study reveals equally concerning statistics on rates of mental illness and addictions problems, but goes on to consider possible systemic causes of these issues, noting in particular, the “focus on individual-level psychosocial risk factors affecting mental health has been to the detriment of the acknowledgement of and research on, alternative or additional causal factors.” Examples of known psychosocial risk factors are described as “dysfunctional workplace cultures, [including] destructive leadership styles, and poor interpersonal behaviours.” The Report notes that “anecdotal evidence suggests that a number of these organizational or work-related psychosocial risks are prevalent within the profession.” The failure to “investigate these organisationally-bound risk factors means a range of primary risk management (i.e. prevention) strategies to address the mental health problems within the profession are potentially being underutilised.”<sup>6</sup>
9. A number of lawyer associations have begun to focus their attention on mental health. The Canadian Bar Association (“CBA”) and the Ontario Bar Association’s (“OBA”) websites illustrate the emphasis they are placing on mental health issues.<sup>7</sup> Governments and organizations in Ontario are also advancing mental health and addictions initiatives and wellness strategies.<sup>8</sup> Even the insurance industry is beginning

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...prospective law students did not differ from population norms in regard to the incidence of depression. However, by the end of the first year of law school, 32% reported depression and 40% reported depression when surveyed near the end of the third year of law school.

A random sample of lawyers in the State of Washington found that 17% were depressed...and 12% were “problem drinkers.” Six percent were both depressed and had alcohol problems...Concern about alcohol use increases as an attorney’s career advances....

<sup>4</sup> Megan Seto, "Killing Ourselves: Depression as an Institutional, Workplace and Professionalism Problem", (2012) 2:2 online: UWO J Leg Stud 5 <<http://ir.lib.uwo.ca/uwojls/vol2/iss2/5>>.

<sup>5</sup> Krill, Patrick, Ryan Johnson and Linda Albert, “The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys,” *J Addic Med* 2016; 10: 46-52.

<sup>6</sup> R.T. Michalak. Causes and Consequences of Work-Related Psychosocial Risk Exposure. 2015.

<sup>7</sup>See <http://www.cba.org/CBA-Wellness/Home> and <http://www.oba.org/openingremarks/Home>

<sup>8</sup> Recent legal sector initiatives include:

to examine and change policies that deny benefit payments to people who try to kill or injure themselves.<sup>9</sup>

10. Articles, blogs, press releases or news and editorial commentaries as well as announcements of new initiatives appear regularly, seeking to highlight, demystify, destigmatize and address mental illness and addictions issues. Recently, the Prime Minister was part of a television discussion on the critical need to remove stigma from this topic.<sup>10</sup> These public conversations denote greater openness on mental illness and addictions and are an essential component of changing attitudes. The work that many bodies are undertaking seeks to harness this changing mood and convert it to action.
11. Regulators must reflect on the relevance and importance of mental health and wellness to the ability of individuals to meet their professional responsibilities and to serve the public. In this vein, the Law Society has been engaged in addressing wellness, mental illness and addictions issues among licensees for some time. It recognizes that its ability to meet its mandate and obligation to ensure that the public of Ontario is served by licensees who meet standards of learning, professional competence and professional conduct may be affected by these issues.
12. The Law Society has made many important, but incremental additions to its activities respecting issues of wellness and mental illness and addictions, as reflected in the “Inventory of Law Society Initiatives Addressing Wellness, Mental Illness and Addictions,” set out at **TAB 4.1: Inventory**.

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- a. The *Accessibility for Ontarians with Disabilities Act, 2005* S.O. 2005, Chapter 11, seeks to make Ontario fully accessible by 2025. online: [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_05a11\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_05a11_e.htm). Certain AODA accessibility standards and service delivery requirements have already come into force.
  - b. The Law Commission of Ontario’s September 2012 report *A Framework for the Law as It Affects Persons with Disabilities, Advancing Substantive Equality for Persons with Disabilities through Law, Policy and Practice*, September 2012, online: <http://www.lco-cdo.org/persons-disabilities-final-report.pdf>.
  - c. The OHRC released *Minds that matter: Report on the consultation on human rights, mental health and addictions* in 2012. online: [www.ohrc.on.ca/en/minds-matter-report-consultation-human-rights-mental-health-and-addictions](http://www.ohrc.on.ca/en/minds-matter-report-consultation-human-rights-mental-health-and-addictions) and the OHRC Policy in January 2014.
  - d. Legal Aid Ontario has developed a Mental Health Strategy. online: <http://legalaid.on.ca/en/policy/mentalhealth.asp>. As part of this initiative, it has developed a new Mental Health and Addictions Intake Tool in partnership with the Canadian Mental Health Association and Provincial Human Services and Justice Coordinating Committee. online: [http://www.legalaid.on.ca/en/news/newsarchive/1407-08\\_mhintaketool.asp](http://www.legalaid.on.ca/en/news/newsarchive/1407-08_mhintaketool.asp).
  - e. In the fall of 2014, Ontario’s law schools launched [www.justbalance.ca](http://www.justbalance.ca) to promote law student wellbeing. See also: <http://campusmentalhealth.ca/project/ontario-law-student-mental-health-initiative/> and <https://www.justbalance.ca/school/osgoode-hall-law-school>

<sup>9</sup> <http://www.cbc.ca/news/health/insurance-mental-health-suicide-policies-self-harm-1.3510407>

<sup>10</sup> January 27, 2016. The Social. Bell Let’s Talk Day.

13. In June 2015, however, Convocation established a Task Force to articulate a Mental Health Strategy (the “Strategy”) for the Law Society’s approach to wellness and mental illness and addictions issues. The Strategy would support the efforts the Law Society is already undertaking and enable it to consider and implement other initiatives in this area linked to its mandate to regulate lawyers and paralegals in the public interest.<sup>11</sup> Convocation also determined that the development of mental health initiatives should be included as part of its Strategic Plan for the 2015-2019 term. By including the Strategy in the Plan it would actively monitor implementation.
14. Although the studies address only the experiences of lawyers, it is reasonable to believe that paralegals are exposed to many, if not all, of the factors that are affecting lawyers’ professional and personal lives, as well as some that may be unique to the paralegal profession. The Task Force considers the information on lawyers’ experiences to be relevant to paralegals. In this Report, the Strategy applies equally to lawyers and paralegals.
15. In undertaking its work, the Task Force has benefited from the depth and breadth of work done by others in this area, some of which is described in this Report. In addition, a number of professionals who deal with these issues, as well as people affected by mental illness or addictions issues attended Task Force meetings to provide information, insight and advice. The Task Force has considered a number of relevant reports, reflected on the strategic approaches taken by other regulators, organizations and professions and considered what focus it might choose to most effectively address the issues in its role as regulator.

#### **INVENTORY OF LAW SOCIETY ACTIVITIES ON WELLNESS, MENTAL ILLNESS AND ADDICTIONS**

16. The Law Society regulates over 49,000 lawyers and over 7,600 paralegals. It is a large regulatory body with numerous Divisions that are responsible for a wide range of issues related to licensing, licensee status, professional regulation, competence, professional development, practice support, equity and access to justice.
17. As described above, in furtherance of its mandate the Task Force amassed the Inventory, set out at **TAB 4.1: Inventory**, which outlines the Law Society’s activities related to wellness and mental illness and addictions. In considering the Inventory’s connection and relevance to the development of the Strategy, the Task Force noted the following:
  - a. Each division within the Law Society has developed a number of approaches to wellness and mental illness and addictions, within the scope of its responsibility.

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<sup>11</sup> Since its establishment, the Task Force has met on September 8, 2015, October 22, 2015, November 10, 2015, December 3, 2015, January 15, 2016, February 9, 2016 and March 7, 2016.

These activities range across the Law Society's Divisions: initial contact with licensees (e.g. Client Service Centre), remedial and preventive supports (Professional Development & Competence), regulatory (Professional Regulation Division) and the Law Society Tribunal. This means that an infrastructure for the Strategy and a foundation for its elements are already in place. A number of activities that are currently undertaken individually or within a single Division, could become part of an integrated effort or lead to other inter-divisional interaction across the organization.

- b. Supportive and regulatory activities each trigger different responsibilities for the Law Society. In the case of supportive activities, the focus is on quality improvement – offering tools that make professionals more competent, resilient, organized and better able to withstand the pressures and stress in their work lives that, left unaddressed, can lead to problems. In the case of regulatory activities, the Law Society must focus directly on its public interest mandate, given the potential and actual risks to clients. The Task Force has identified the tension that exists for the Law Society when it considers how to assist with a mental illness or addictions issue where public protection is also at issue. This may affect the Law Society's approach to addressing mental illness and addictions, making it at least in part different from that of an organization that represents the professions' interests and has no regulatory mandate.
- c. A communication plan that fully illustrates the Law Society's approach to these issues and its component parts is essential to any strategy. With information overload, licensees may simply not be aware of what is already available to them or what will be included in any strategy. It is not easy to reach over 56,000 professionals, some of whom will already be experiencing mental illness, including dementia, and addictions issues. As with many of the reports the Task Force read, engagement with licensees on an ongoing basis may be the key to creating a culture of greater openness, awareness and understanding of the Law Society's various roles on this issue.
- d. The regulatory response may in certain circumstances be legislatively prescribed. Moving forward with the Strategy, it will be important to consider if any policy changes to implement the Strategy require legislative or by-law amendment.
- e. Staff training and staff awareness arise frequently in describing the activities within the various divisions. The Task Force believes that this grounding for staff, as well as for Convocation and for Tribunal adjudicators, including updated, focused, and organization-wide additional training, is essential to the implementation of the Strategy.
- f. The appropriate treatment of licensee information respecting mental illness and addictions issues, whether within the Law Society or in the public domain, is a

complex issue that requires consideration of both privacy and regulatory accountability.

18. The Task Force's proposed Strategy builds on the areas of activity within the existing Inventory, considers how they can be developed further, shifted or prioritized and sets out additional approaches and activities.

## ASSISTANCE TO TASK FORCE

19. The Task Force has benefited from hearing from a number of professionals on issues related to mental illness and addictions, particularly in a regulatory context. They attended Task Force meetings and provided helpful perspectives on the various issues for a regulator to consider. The Task Force thanks them for their assistance and insight.<sup>12</sup>
20. While each person brought a particular perspective to the issues, and in some cases their own experiences with mental illness or addictions, there were many points on which they agreed. The following are the key considerations the Task Force found most relevant to developing its proposed Strategy:
  - a. Across all the discussions, the speakers emphasized that a strategy should reflect those areas of focus in which an organization is best equipped to act. This is essential to avoid duplication, taking on too much or adopting an approach that is not the appropriate fit for the organization's mandate.
  - b. Mental illness and addictions are complex issues that cannot be addressed in a one-size-fits-all approach. It is essential that any strategy recognizes that there are factors specific to each mental health diagnosis with symptoms manifesting differently and with different consequences. Addictions may arise from a wide range of circumstances and result in a variety of behaviours. Licensees may be experiencing both mental illness and addictions.

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<sup>12</sup> **Lisa Brownstone**, co-director of the legal office at the College of Physicians and Surgeons of Ontario; **Michael Bryant**, Chair, Public Accountants Council (Ontario); Principal at Ishkonigan Inc; former Attorney General for Ontario, Cabinet Minister and MPP, Ontario; **Lesley Cameron**, Acting Director, Professional Regulation Division, Law Society of Upper Canada; **Dr. Graeme Cunningham**, Fellow of the Royal College of Physicians of Canada and of the American Society of Addiction Medicine; Clinical Professor, Department of Psychiatry at McMaster University; consultant to the Council of the Royal College of Dental Surgeons; **Orlando Da Silva**, trial lawyer with 21 years' experience at Borden Ladner Gervais LLP and the Ministry of the Attorney-General; past President Ontario Bar Association; **Dr. Graham Glancy**, member of the Manasa clinic, providing consultation to the legal/medical community, correctional facilities, and others; Assistant Professor of Psychiatry at the University of Toronto; Assistant Clinical Professor at McMaster University; past President of the Canadian Academy of Psychiatry and the Law; **Doron Gold**, Staff Clinician at Homewood Health (provider of the Ontario legal profession's Member Assistance Program); Registered Social Worker, Certified Professional Coach and psychotherapist; previously practised law; **George Shipley**, Vice President and Canadian National Commercial Leader of Aon Hewitt, Health & Benefits; **Amanda Worley**, Discipline Counsel and Practice Lead, capacity and misappropriation cases, Law Society of Upper Canada.

- c. The discussion around mental illness must not exclude cognitive impairments, such as Alzheimer's disease and other forms of dementia. These pose particular diagnosis and treatment challenges and may be coupled with other mental health or addictions diagnoses. There are,
- i. 10,290 licensees between the ages of 50 and 59;
  - ii. 6,732 licensees between the ages of 60 and 69;
  - iii. 1,664 licensees between the ages of 70 and 79;
  - iv. 382 licensees between the ages of 80 and 89; and
  - v. 91 licensees over the age of 90.<sup>13</sup>
- Of the total of 19,159 licensees in these categories, 17,470 are lawyers and 1,689 are paralegals. Given an aging profession, particularly that of lawyer licensees, new strategies need to be developed to address cognitive warning signs.
- d. Stigma remains an enormous challenge to efforts to reach affected licensees. This was discussed by all the speakers and noted as a particularly difficult question for the regulator to address because licensees are afraid frankness will lead to disciplinary responses. At the same time, it was agreed that slow and steady progress can be made if it is done thoughtfully, incrementally and proactively.
- e. *Diagnosis* of a mental illness or addiction must be differentiated from *impairment* resulting from the diagnosis. They do not necessarily go together and a person may be receiving treatment or be under medical care such that there is no, or only minimal, impairment. In addition, in some cases the diagnosis might not explain the behaviour at all. Attention should also be paid to whether the illness is situational, episodic or chronic.
- f. Wherever possible, focus should be on recovery issues and avoid notions of stigma and shame. At the same time the Law Society must address regulatory obligations to protect the public. All of these complex factors point to the need for the regulator to be sophisticated in its approach and to have continued access to medical experts when circumstances merit this.
- g. Wellness is a significant and distinct topic. Focused on preventive activities, the topic and initiatives developed within it may elicit different reactions from licensees, depending upon the realities they face. As with other topics, one size will not fit all, but it is important for the Law Society's Strategy to contain elements respecting wellness. The role of continuing professional development was emphasized.

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<sup>13</sup> These statistics cover licensees who are employed in private practice, employed in other occupations and Canadian Legal Advisors (L3 lawyer licensees). They do not include licensees who are retired, not currently working or who are suspended.

- h. The regulator is not an expert in mental health and cannot treat or remedy the illnesses or addictions of its licensees. It should, instead, have in place tools that will allow for diversion in the appropriate circumstances, with appropriate confidentiality protocols.
  - i. Use of the MAP is increasing, but there is still a need for increased awareness and trust – ongoing communication, greater emphasis on confidentiality of the services, eligibility for the services, and continuing efforts to proactively address the effect of stigma on willingness of licensees to contact MAP.
  - j. It may be worthwhile to consider possible reasons that may underlie licensee failure to reply to Law Society correspondence. The reason may not be ungovernability, but rather mental illness or addictions issues.
  - k. The Law Society may wish to consider initiatives in other professions, such as those offered for physicians, which are focused on treatment rather than punishment and are confidential, while still operating in a public interest context.
  - l. Consideration should be given to whether it is necessary in discipline proceedings or other regulatory contexts to disclose details of medical conditions and treatments.
  - m. Given the Law Society's regulatory role, attention must be paid to public perception of assistance to licensees where clients have been affected. Programs and policies can only be developed properly with an understanding of the complexity of various perspectives. Preventive and competence-based initiatives and communication of mental health, mental illness and addictions issues are vital because they may provide guidance before regulatory issues arise. On the other hand, the awareness of and, where appropriate, assistance to those already struggling or in regulatory difficulty will engage more complex regulatory considerations.
21. The Task Force also found the recommendations of the Canadian Medical Association's *Physician Health Matters* Report of 2010 that applied to regulators, useful to its work:
- Consider how existing policies, screening questions, investigations and public communication of decisions may reinforce the existing stigma that remains a barrier to the early identification of, and intervention for, mental health issues and illness among physicians.
  - Review [the regulatory] approach to mental health issues in physicians to ensure that it focuses on impairment and not the mere presence of a diagnostic label or seeking of care.
  - Create a regulatory environment that protects the public while removing the barriers that currently exist for physicians seeking diagnosis and treatment for mental illness. Working with medical associations, PHP [Physician Health Program] and governments, a licensure process could



be established that creates a “safety net” for both the public and those who care for the public.<sup>14</sup>

## THE TASK FORCE’S PROPOSED STRATEGY

22. The Task Force has developed the proposed Mental Health Strategy, set out at pages 4 to 8 of this Report, for Convocation’s consideration and approval. This section details the components of the proposed Strategy.

### The Vision and Strategic Directions

23. It is in the public interest that all licensees achieve optimal mental health, but there are many components to such a vision, not all of which the Law Society is equipped to address or the most appropriate organization to advance. Its regulatory obligations may not always coincide with all the steps, accommodations, tools and timelines required to satisfy this holistic and broad a vision.<sup>15</sup> The Law Society’s legislative mandate includes ensuring that, “all persons who practise law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide.”<sup>16</sup>
24. At the same time, it is essential that within the scope of the Law Society’s regulatory activities and responsibilities it be cognizant of how mental illness and addictions issues may interact with and affect licensees’ professional activities. Its Strategy should dedicate attention and resources to improving professional outcomes. With this in mind, the Task Force’s proposed Strategy includes a Vision and Strategic Directions that fit within those areas in which the Law Society is in the best position to act. The following features underpin the Vision and the Strategic Directions set out at page 4 of this Report:
- a. Licensee wellness and issues around mental illness and addictions are the central components of the vision, but set within the context of the public interest.
  - b. Many activities are already being undertaken at the Law Society in the areas of wellness, mental illness and addictions, but by articulating an overarching statement for the Strategy, a coordinated and complementary approach across divisions and activities is highlighted. A clear focus on preventive and regulatory

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<sup>14</sup> Canadian Medical Association. *Physician Health Matters*. February 2010, p.11. “PHPs” referred to are Physician and Professionals Health Programs of the Ontario Medical Association.

<sup>15</sup> The CMA’s 2010 vision is broad, but the CMA is a national, voluntary association of physicians that advocates on behalf of its members and the public for access to high-quality health care. It is not a regulator. It noted in 2010 that its strategy is dependent on a collaborative approach among many related organizations to bring about change. As noted in the section above, its recommendations recognize medical regulators playing a specific part in the overall vision.

<sup>16</sup> The *Law Society Act*, R.S.O. 1990, c.L.8, section 4.1

activities enables resources to be devoted where they can make the most difference.

- c. “Improving professional outcomes” further hones the Vision and Commitment. As those who assisted the Task Force noted, the Law Society is not an expert in mental health and cannot treat or remedy illnesses and addictions. It can, however, focus attention on the professional role of the licensee and use its mandate in competence and regulation to,
  - i. consider ways in which its activities can advance mental health; and
  - ii. examine how its regulatory context can address licensee mental illness and addictions issues while still protecting the public interest.
- d. The elements are stated as proactive rather than reactive features. The goals envision increasingly proactive behaviours that will,
  - i. support prevention;
  - ii. facilitate earlier identification of mental illness and addictions issues and assistance with them before they become regulatory, described as “upstream efforts;”
  - iii. implement active steps to address stigma;
  - iv. facilitate analysis of barriers with a view to minimizing them; and
  - v. enable diversionary regulatory approaches, in appropriate circumstances.

### **The Elements and Initiatives**

- 25. The Strategic Directions at page 4 guide the Law Society’s commitment to a Strategy focusing on preventive and regulatory approaches. At pages 4 to 8 the Strategy identifies Elements and Initiatives that the Task Force recommends for each of those Strategic Directions. Some components are already in place, as reflected in the Inventory. Some additional Elements can build on those or otherwise be operationalized without need for further Convocation approval, once the Vision and Strategic Direction are approved. Some will require further policy analysis, costing and Convocation approval at a future date. The development of future Elements and Initiatives will be guided by the Vision and Strategic Directions.

### **Considerations Underlying the Elements and Initiatives**

- 26. The following considerations have guided the specific Elements and Initiatives the Task Force has developed:
  - a. The focus of the Elements and Initiatives under the Preventive and Management Strategic Direction should be on,
    - i. communication;

- ii. staff, adjudicators and Directors' training;
- iii. licensee supports; and
- iv. professional development.

Progress around reducing stigma and barriers, building and fostering awareness, ensuring ongoing learning and activities to address issues of mental illness and addictions, continued development of responsive and supportive tools in a wide range of topics (e.g. wellness, succession planning, coach and advisor services, model policies, CPD, MAP) and promoting a culture shift are best advanced through these four areas.

- b. Facilitating ongoing dialogue and meetings among a wide range of stakeholders is a means to evolve and expand this Strategic Direction and provide a forum for enhancing cross-pollination of views.
- c. Elements and Initiatives under the Regulatory Strategic Directions include components within Professional Regulation, Administrative Processes, Rules and the Law Society Tribunal.
- d. Consideration should be given to the role that diversion from regulatory processes could play in appropriate circumstances, including capacity proceedings held in the absence of the public where there is mental illness or addiction. This should be a focus of the Elements and Initiatives under the Regulatory Strategic Directions. The cumulative effect of the Elements and Initiatives exploring this approach should be to encourage diversion where the public interest can be served. As those who assisted the Task Force noted, wherever possible, focus should be on recovery issues and avoid notions of stigma and shame. At the same time, the Law Society must address regulatory obligations to protect the public. All of these complex factors point to the need for the regulator to be sophisticated in its approach and to have continued access to medical experts when circumstances merit this.
- e. The Elements and Initiatives should also address,
  - i. the issue of appropriate supports for licensees affected by mental illness and addictions, such as duty counsel at an early stage (intake); and
  - ii. the importance of specialized training for staff.
- f. At the Tribunal level the Elements and Initiatives should focus on processes that are appropriately responsive to the needs of those with mental illness and addictions. This should include ensuring that the release and publication of reasons and orders and the release of file materials respecting licensees do not reinforce stigma and/or interfere with treatment. This could include consideration of the possible role that anonymization of identifying information might play, in appropriate circumstances. They should also consider enhancements to a

hearing panel's ability to convert a conduct hearing into a capacity hearing where appropriate.

### **Implementation, Monitoring and Financial Considerations**

27. The Mental Health Strategy crosses a number of Law Society Divisions and areas. In the Task Force's view there will be aspects of implementation that will require contracted resources from time to time to assist Divisions in conducting the necessary research and developing possible approaches for Convocation's consideration and approval. Specifically, as set out at page 8, the Strategy recommends:
- Provide appropriate human and other resources for the implementation of the Strategy, including but not limited to,
    - when necessary from time to time, contracting for dedicated or specialized assistance or resources to assist Law Society Divisions in the implementation of the Strategy; and
    - adequate financial resources over the balance of the 2015-2019 bench term and beyond to implement recommendations, including those that address training, model policies, a regulatory policy and operational continuum for addressing mental illness and addictions, access to duty counsel at an early stage, a TAG Mental Health Conference, the Communications Strategy and any MAP enhancements.
28. The proposed Strategy consists of three types of Elements and Initiatives:
- a. Those that can be developed and implemented within ongoing annual operational budgets (e.g. Communications plan or CPD initiatives).
  - b. Those that are within the scope of initiatives for which budgets have already been approved (e.g. Coach and Advisor Initiative).
  - c. Those that will likely require additional resources at a future point when in-depth consideration of the Element or Initiative is undertaken (e.g. enhanced duty counsel model) either for developing proposals or for the future costs of implementing such proposals.
29. The implementation of the Strategy is a long term process that was contemplated as part of the 2015-2019 Strategic Plan. For the balance of 2016, implementation will focus on,
- a. those activities under paragraph 28(a) and (b); and
  - b. planning for those that will require more in-depth work and policy analysis contemplated in paragraph 28(c).

30. The Task Force has considered the specific Elements and Initiatives of the Strategy that may require additional resources as mentioned in paragraph 28(c). This is important so that the 2017 budget development process can include appropriate funding for these elements, including in particular contracting for dedicated or specialized assistance or resources, where needed.
31. Without seeking to limit the Elements or Initiatives that might require additional resources, the Task Force recommends that the 2017 budgeting process include consideration of funding that might be required for at least the following Elements or Initiatives, set out on pages 4 to 8:
- a. Possible assistance to investigate the merits of and, where appropriate, develop model policy(ies) on wellness, mental illness and addictions.
  - b. Development and/or coordination across the Law Society of staff, benchers and adjudicator training on mental illness and addiction.
  - c. Where necessary, additional funding respecting a stakeholder conference(s) on mental health through the TAG Mental Health Cluster.
  - d. Consideration of enhanced role for duty counsel for those with mental illness or addictions.
  - e. Consideration of a policy and operational continuum that provides guidelines for addressing mental illness and addictions from intake, including early diversion from regulatory processes in appropriate circumstances.
32. In the Task Force's view, the operational areas that will be responsible for undertaking a number of these Elements or Initiatives will be in the best position to reflect on the budgetary requirements as part of the 2017 budget process and, with one exception, the Task Force does not make recommendations in this Report respecting specific budgetary allocations.
33. The one exception to this approach is with respect to the Element described in paragraph 31(e). In the Task Force's view, this is a substantial item. In all likelihood it will require contracting for dedicated or specialized assistance or resources to assist Law Society Divisions in considering it. The Task Force is of the view that someone with expertise in mental health, as well as knowledge and understanding of regulatory requirements, will be needed to devote dedicated time to this Element.
34. To ensure this Element can be properly considered and reported on, the Task Force recommends that Convocation allocate \$100,000 to it in the 2017 budget. This number may be refined during the actual budget process, but in the Task Force's view Convocation's approval of the allocation of this amount for 2017 in this Report is an

important recognition of the need for dedicated resources to the Strategy where appropriate.

35. In addition to budgetary considerations the Task Force has considered steps that will facilitate implementation. It recommends the appointment of a Mental Health Strategy Implementation Task Force of no more than five benchers to provide guidance on implementation-related issues.
36. Finally, to ensure regular monitoring of implementation, the Task Force recommends reporting on the Strategy's Implementation as part of the CEO's regular Reports to Convocation.

### **Conclusion**

37. Addressing licensee wellness and mental illness and addictions issues is both challenging and complex. The Strategy that the Mental Health Task Force recommends is a long-term process that will evolve as attitudes toward mental illness and addictions issues continue to shift. It recognizes that it is beyond the scope of any single group or body to address all the complexities of wellness, mental illness and addictions issues. Successful efforts may be more likely when organizations, such as the Law Society, focus on those areas in which they are able to make a difference, relevant to their mandates.
38. At the same time, however, given that no single entity can individually address all the issues, efforts must exist across groups to address gaps, assist in providing information on appropriate sources for assistance and continue a broader conversation addressing mental health and addictions in the legal professions. The Task Force urges,
  - a. the Law Society;
  - b. law schools and paralegal colleges;
  - c. legal organizations and associations;
  - d. law and paralegal firms and other entities;
  - e. government;
  - f. Legal Aid Ontario and legal clinics; and
  - g. licensees;

while each focusing on their individual roles, to also engage in an ongoing conversation that will bring these multi-layered streams together. In this context, the Law Society may also play a valuable role in facilitating such dialogue and discussion.



**TAB 4.1**

**INVENTORY OF LAW SOCIETY INITIATIVES ADDRESSING WELLNESS, MENTAL ILLNESS AND ADDICTIONS ISSUES**

**I. ASSISTANCE FOR LEGAL PROFESSIONALS REGARDING MENTAL HEALTH AND ADDICTIONS ISSUES**

1. The Law Society provides several different forms of support for members of the legal professions experiencing mental health issues. Some of these support mechanisms are available for personal use, while others are aimed at providing employers and managers with assistance in supporting and accommodating lawyers, paralegals and students under their supervision.

**I) CLIENT SERVICE CENTRE SUPPORTS FOR LEGAL PROFESSIONALS**

2. The Law Society's Client Service Centre ("CSC") is the front line for providing information to licensees and the general public.<sup>1</sup> When appropriate, the CSC advises licensees of the resources available to them. For example, staff in the Call Centre and Membership Services provide information about the Member Assistance Program ("MAP") and information available on the Law Society's website for lawyers and paralegals who may be experiencing mental health or addictions issues. Staff in Membership Services, the Call Centre, Administrative Compliance and By-Law Administration Services also provide licensees with information about the exemption process if a licensee indicates that he or she is unable to work due to mental health or addictions issues.
3. The CSC must exercise a certain level of discretion when fielding calls or emails. Depending on the situation, a licensee who indicates that he or she is struggling to maintain practice due to health issues might be referred to Trustee Services for assistance if they wish. If a family member of a licensee contacts the Law Society, staff in the CSC could mention some of the resources available above, depending on the situation.
4. It should be noted that in addition to providing general support to licensees, in some cases, if CSC staff recognize capacity issues they will refer the matter to the Professional Regulation Division ("PRD"). This may lead to PRD evaluation of the situation to determine

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<sup>1</sup> The CSC is comprised of (1) the Call Centre; (2) Membership Services; (3) Administrative Compliance; (4) By-Law Administration Services; (5) Complaints Services; and (6) the Law Society Referral Service. The Law Society Referral Service is discussed below.

whether remedial and or regulatory response may be necessary. Staff in Complaints Services are particularly aware of the need to recognize information that suggests a licensee may need assistance dealing with a mental health issue.

5. Certain CSC staff have received training from the Centre for Addiction and Mental Health to recognize mental health issues, and Corporate Services is considering offering the training again. Moreover, the CSC regularly receives training developed by the Corporate Resource & Training Centre on related issues, in order to provide quality front line services. All staff in Corporate Services recently had the opportunity to attend a safeTALK session, a three and a half hour alertness training session designed to help identify warning signs that indicate a risk of suicide and provide connections to available resources. Corporate Services is also looking into providing Mental Health First Aid training to their management team.
6. The CSC has special procedures in place to protect Law Society staff in the event that a person has made threats and to address abusive or vexatious complainants. It also has developed special protocols in the event that it should receive communications from a licensee or member of the public when there are signs of potential acute mental health or addiction issues that may cause imminent harm. For example, when a licensee expresses suicidal thoughts, the matter is brought to a manager, and ultimately the Law Society may contact the police to request that the police conduct a wellness check on the licensee. A similar process is used if a licensee who is in the regulatory stream expresses suicidal thoughts, but in that case PRD is involved and decides whether to contact the police.

## II) PRACTICE MANAGEMENT HELPLINE

7. The Law Society's Practice Management Helpline in the Professional Development and Competence Division provides licensees with confidential assistance in interpreting obligations under the *Rules of Professional Conduct* ("Lawyer Rules") or the *Paralegal Rules of Conduct* ("Paralegal Rules"). When licensees express concerns about their own mental health or addictions issues, they may be referred to the Member Assistance Program or other supports.

## III) MEMBER ASSISTANCE PROGRAM (MAP)

8. The Law Society funds a fully confidential service, the Member Assistance Program ("MAP"), for licensees' personal use. The service is provided by Homewood Health™ ("Homewood")<sup>2</sup> and is available to all Ontario lawyers, paralegals, law students, judges, and members of their families.<sup>3</sup> Through MAP, members have personal access to information, tools, and resources on mental health topics such as wellness, psychological challenges, depression and anxiety.<sup>4</sup>

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<sup>2</sup> Law Society of Upper Canada, "Member Assistance Program", online: [www.lsuc.on.ca/map/](http://www.lsuc.on.ca/map/).

<sup>3</sup> *Ibid.*

<sup>4</sup> Homewood Health, "Your Member Assistance Program", online: <http://www.myassistplan.com/>.



9. MAP also provides its members with access to the following:
- a. *Health and Wellness Companion* - Members can access comprehensive health risk self-assessments, get a better understanding of their health risk factors, and develop a personal health improvement program.
  - b. *Counselling* – available in person, by telephone or online. Map has a provincial network of hundreds of counsellors, offices are local and appointments are made quickly. MAP will accommodate any preferences. Members have two options for secure and private online counselling: 1) private conversations e-counselling (similar to email messaging) and 2) chat e-counselling, which involves communicating with a counsellor via real-time chat.
  - c. *Health Library* – Members have access to a comprehensive library of articles and other resources written by experts in their fields.
  - d. *Childcare/Eldercare Resource Locators* – Members have access to childcare and eldercare locators that allow for customized searches for resources.
  - e. *Interactive e-Learning Courses* – A variety of self-paced courses are available that focus on health and wellness and are designed to improve personal health and wellness and/or workplace effectiveness.
  - f. *Peer Support Program* – The Law Society encourages its members to volunteer for the MAP's confidential Peer Support Program, which offers peer-to-peer support to lawyers and paralegals.

#### **IV) PERSONAL MANAGEMENT GUIDELINE**

10. The Law Society has also published an online Personal Management Guideline to assist lawyers and paralegals in recognizing the sources and indicia of mental illness and provides basic suggestions, strategies and resources to manage personal well-being.<sup>5</sup> The guideline focuses on the following topics:
- a. Risks of emotional or mental disturbances or substance abuse.
  - b. Recognizing sources of stress in the legal professions.
  - c. Recognizing symptoms of dysfunction.
  - d. Reducing or managing stress.
  - e. Managing physical health and well-being.
  - f. Managing personal and emotional life.
  - g. Seeking assistance.
11. The Personal Management Guideline directs Ontario lawyers and paralegals seeking personal assistance to contact MAP and/or the Legal Profession Assistance Conference ("LPAC"), a Canada-wide service funded by the CBA that helps lawyers, judges and law

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<sup>5</sup>Law Society of Upper Canada, "Personal Management Practice Management Guideline", online: [www.lsuc.on.ca/For-Lawyers/Improve-Your-Practice/Personal-Management-Practice-Management-Guideline/](http://www.lsuc.on.ca/For-Lawyers/Improve-Your-Practice/Personal-Management-Practice-Management-Guideline/).

students. The initiative offers a confidential toll-free helpline, which is available 24-hours a day, seven days a week.<sup>6</sup>

#### **V) DISCRIMINATION AND HARASSMENT COUNSEL**

12. As part of the Law Society's efforts in promoting equity and diversity in the legal profession, and in the workplace, the Law Society provides a Discrimination and Harassment Counsel ("DHC") service free-of-charge.<sup>7</sup> The DHC keeps all information received in strict confidence and works independently from the Law Society.<sup>8</sup> Members of the Law Society experiencing mental health or addictions issues who have experienced discrimination and/or harassment by lawyers or paralegals, can contact the DHC for assistance.<sup>9</sup> The DHC will listen to concerns and review a person's options, which for example, may include filing a complaint with the Law Society or with the Ontario Human Rights Tribunal.<sup>10</sup> Although the DHC does not currently report specific statistics on discrimination and/or harassment based on mental health disabilities, this form of discrimination, and mental health issues generally factor into the DHC's role.

#### **VI) SUPPORT SERVICES – LICENSING CANDIDATES**

13. The Law Society's Support Services provides assistance to licensing candidates by overseeing special needs accommodation or providing alternative ways candidates can meet the requirements of the licensing process, up to the point of undue hardship.<sup>11</sup> These services are available to persons experiencing mental health issues. Licensing candidates are required to advise Support Services of the need for their accommodation related to one of the enumerated grounds in the Code, and cooperate with the Law Society in managing the accommodation process.<sup>12</sup> The process is confidential. The Law Society is able to track the basis for accommodation requests on an aggregate basis.
14. When the Law Society licensing department becomes aware that a licensing candidate is experiencing mental health issues, it also refers the candidate to the Member Assistance Program.

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<sup>6</sup>Canadian Bar Association, "About LPAC," *Legal Profession Assistance Conference*, online: <http://www.lpac.ca/main/main/lpac.aspx>.

<sup>7</sup> Law Society of Upper Canada, *Discrimination and Harassment Counsel*, online: [www.lsuc.on.ca/with.aspx?id=2147487009](http://www.lsuc.on.ca/with.aspx?id=2147487009) [DHC].

<sup>8</sup> *Ibid.*

<sup>9</sup> The DHC assists anyone, not just lawyers or paralegals, who may have experienced discrimination or harassment from a lawyer or paralegal (see *DHC supra*).

<sup>10</sup> *DHC supra*.

<sup>11</sup> Law Society of Upper Canada "Special Needs Accommodation", online: [www.lsuc.on.ca/SpecialNeedsAccommodation/](http://www.lsuc.on.ca/SpecialNeedsAccommodation/) [*Special Needs Accommodation*].

<sup>12</sup> *Ibid.*

15. In addition, Law Practice Program candidates at both the University of Ottawa and Ryerson University are provided with full access to university student services, including student counselling and coaching services.

#### **VII) EQUITY MODEL POLICIES, PUBLICATIONS & REPORTS**

16. The Law Society's Equity Model Policies, Publications & Reports<sup>13</sup> webpage provides firms with model policies that support the rights of persons experiencing mental health issues. Guides relevant to mental health issues in the workplace include,
- Preventing Harassment, Discrimination and Violence in the Legal Workplace;
  - Guide to Developing a Law Firm Policy Regarding Accommodation Requirements;
  - Summary of Fair Hiring Practice Guidelines;
  - AODA Integrated Standards - Legal Obligations for Law Firms of Fewer than 50 Employees; and
  - AODA Integrated Standards - Legal Obligations for Law Firms of 50 or more Employees.

## **II. INITIATIVES TO ENHANCE COMPETENCY IN ADDRESSING MENTAL HEALTH AND ADDICTIONS ISSUES**

### **I) MENTAL HEALTH AND ADDICTIONS ISSUES - ENTRY LEVEL COMPETENCIES**

17. The Law Society's entry level competencies for lawyers set some basic competency requirements that relate to addressing mental health and addiction issues. The competency set includes demonstrating an understanding of,
- representing clients with mental health issues in the criminal law context;
  - capacity issues in the family law context;
  - capacity and parties under disability in the civil litigation context;
  - the roles of The Office of the Children's Lawyer and the Public Guardian and Trustee in the civil litigation context;
  - capacity law;
- and, more generally,
- acting with integrity in dealings with others (e.g., clients, other licensees, the Law Society, the court or tribunal, staff members, law students, the public);
  - asking questions during client interviews to determine whether the client is capable of giving instructions;
  - recognizing and being sensitive to clients' circumstances, special needs and intellectual capacity (e.g., diversity, language, illiteracy, socioeconomic status, disability, health);
  - ensuring capacity of the client to execute documents; and

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<sup>13</sup> Law Society of Upper Canada "Equity Model Policies, Publications & Reports", online: [www.lsuc.on.ca/with.aspx?id=2147487014](http://www.lsuc.on.ca/with.aspx?id=2147487014) [Equity Model Policies].

- making appropriate arrangements through powers of attorney and/or otherwise for succession/contingency planning (e.g., death, disability, business interruption, disaster).<sup>14</sup>

18. The Law Society's stated entry-level paralegal competencies include,

- understanding the obligation owed to clients with diminished capacity (e.g., maintain normal relationship, take appropriate steps to have a lawfully authorized representative appointed);
- demonstrating an understanding of capacity, litigation guardians and parties under a disability; and
- making appropriate arrangements for succession/contingency planning (e.g., death, disability, business interruption, disaster).<sup>15</sup>

19. Both lawyer and paralegal entry-level competencies include understanding the reporting of one's own or another licensee's mental instability when clients are likely to be materially prejudiced. This reporting requirement stems from the Lawyer Rules and Paralegal Rules of Conduct and is discussed further below.

20. The Law Society's Articling Program and Law Practice Program require lawyer licensing candidates to meet the following experiential training competencies:

- Having the ability to interpret the client's nonverbal behaviours and responds in a way (verbally and nonverbally) that further establishes rapport and trust.
- Help the client to manage the client's expressed emotions and behaviours.
- Determine the level of sophistication and communication needs of the client and tailor the general level of discourse accordingly.<sup>16</sup>

## **II) PRACTICE MANAGEMENT HELPLINE**

21. Practice Management Helpline staff can provide licensees with confidential guidance regarding ethical and practice management issues related to providing legal services where there may be a mental health and/or addiction issue.

## **III) CONTINUING PROFESSIONAL DEVELOPMENT PROGRAMMING**

22. There are a range of Continuing Professional Development ("CPD") programs addressing mental health issues. In October, 2014, the Law Society offered a CPD program fully dedicated to issues of mental health entitled "Mental Health in the Workplace: Challenges

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<sup>14</sup> Law Society of Upper Canada, "Entry-Level Barrister Competencies", online: <http://www.lsuc.on.ca/BarristerCompetencies/> and "Entry-Level Solicitor Competencies" online: <http://www.lsuc.on.ca/SolicitorCompetencies/>.

<sup>15</sup> Law Society of Upper Canada, "Paralegal Competencies", online: <http://www.lsuc.on.ca/licensingprocessparalegal.aspx?id=2147495422>.

<sup>16</sup> Law Society of Upper Canada, "Sample copy of the report on the performance appraisal competencies", online: <http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147499141>.

and Solutions.” The program was webcast again as a replay with live chat in December 2014.<sup>17</sup> It remains available online. In May 2015, as part of Mental Health Week, the Law Society offered a program entitled, “Fostering Wellness – A Discussion of Mental Health in the Legal Profession,” which is also available on-line.<sup>18</sup>

23. In addition, the Law Society offers numerous CPD programs in which parts of programs directly engage with mental health issues. For example,

- The *Six Minute Lawyer 2014* program (June 6, 2014) included presentations on “*Accommodating Mental Health Issues: The Expanding Challenge*” and “*Ethical Issues That Arise When a Grievor Lacks Capacity*,”
- The *15<sup>th</sup> Annual Employment Law Summit* (October 23, 2014) included a presentation on “*Mental Stress Claims in Ontario: Implications of the Recent WSIAT Ruling*,”
- The *3<sup>d</sup> Annual In-House Counsel Summit* (February 25, 2013) included a presentation on “*Implementing the AODA: Now and Later*,” and
- The *Six Minute Family Law Lawyer 2012* program included a presentation on “*Enhancing Access to Courts for People with Disabilities*”<sup>19</sup> and “*Identifying and Managing Mental Health Disorders*.”

### III. PROFESSIONAL REGULATION AND MENTAL HEALTH AND ADDICTIONS ISSUES

#### I) RESPONDING TO MENTAL HEALTH AND ADDICTIONS ISSUES IN THE REGULATORY PROCESS

24. The Professional Regulation Division is responsible for responding to breaches of ethical, capacity and competence requirements. Much of the Division’s work is based on information received from complaints. Complaints are addressed and closed at various stages in the process, depending on the seriousness of the issues and whether they are amenable to early resolution. Issues of mental health and addiction may emerge at any stage in the complaints, investigation and discipline processes and may be the subject of a complaint, disclosed by a licensee during an ongoing investigation or they may arise during the discipline process.

25. Professional Regulation has a mental health and addiction strategy in place to address these issues. The strategy includes training, staff expertise, external medical resources, a resource manual and protocols to be followed where mental health and addiction issues may be present. Additional supports for this process are developed on an ongoing basis.

<sup>17</sup> Law Society of Upper Canada, “Mental Health in the Workplace: Challenges and Solutions” online: <http://ecom.lsuc.on.ca/cpd/product.jsp?id=CLE14-0121800>.

<sup>18</sup><http://www.lawsocietygazette.ca/event/mhw/>

<sup>19</sup> In *Minds that Matter*, the OHRC recommended that the Law Society, the Ministry of the Attorney General and the Ontario Bar Association arrange training for lawyers and court staff on human rights issues and accommodating people with mental health issues or addictions during court or tribunal hearings (See OHRC *Minds that matter: Report on the consultation on human rights, mental health and addictions* in 2012 online: [www.ohrc.on.ca/en/minds-matter-report-consultation-human-rights-mental-health-and-addictions](http://www.ohrc.on.ca/en/minds-matter-report-consultation-human-rights-mental-health-and-addictions) Recommendation 50). This program appears to help meet this recommendation.

In 2015 the Division developed the position of Capacity Program Advisor to provide expert support and coordinate professional regulation capacity resources and activities.

26. In August 2015 the Capacity Program Advisor was hired. She is a lawyer with a nursing background, mainly in psychiatric emergency care. Given that the work of the Capacity Program Advisor involves all processes within the Division, the position reports to the Manager, Risk Strategy. The Capacity Program Advisor is an internal resource for Division staff. Creation of the position does not obviate the need for an expert medical opinion for specific cases.
27. Among her responsibilities, the Capacity Program Advisor, along with the Manager, Risk Strategy, reviews the relevant processes and materials on an ongoing basis to ensure that they meet the needs of the Division based on current issues. Goals for 2016 include the following:
  - Review and update the Professional Regulation Division Staff Resource Manual.
  - Develop a communication strategy for sharing of information with Division staff.
  - Identify additional staff training needs and develop and implement Divisional training plan.
  - Consider the impact of aging on the practice of law and provision of legal services, in particular taking into consideration the report entitled Analysis of Complaints received in 2013. This report demonstrated that there was a disproportionate number so complaints about lawyers who have been in practice for more than 30 years. The impact of aging on paralegal licensee will be part of the considerations.

**(A) BACKGROUND: STATUTORY AUTHORITY**

28. The *Law Society Act* (“Act”) establishes a separate capacity investigations and hearings stream which recognizes that mental health and addiction issues require a tailored response. This governs the Society’s response in the complaints, investigations and discipline processes.
29. A licensee is incapacitated under section 37(1) of the Act if by reason of physical or mental illness, other infirmity or addiction to or excessive use of alcohol or drugs, he or she is incapable of meeting any of his or her obligations as a licensee.
30. Under section 49.3(4) of the Act, the Law Society may conduct an investigation into a licensee’s capacity, which is a distinct process from an investigation into a licensee’s conduct or competence.
31. Under section 38(1) of the Act, the Proceedings Authorization Committee may authorize the Law Society to bring a capacity application to the Hearing Division. Under section 39(1), the Hearing Division may, on a motion, make an order requiring the licensee to

undergo an assessment. A licensee who refuses to attend the assessment may be ordered suspended until he or she complies.

32. Following a finding of incapacity, a variety of orders may be made, including orders that suspend the licensee, require a licensee to obtain treatment or counselling, restrict a licensee's practice, require a licensee to practise as an employee or under supervision, and any other order the Hearing Division considers appropriate.
33. All of the foregoing require that Law Society staff are trained to identify mental health and addiction issues and understand and apply the processes that are required to address them.

***(B) RESOURCES, SUPPORTS AND TOOLS AVAILABLE TO PROFESSIONAL REGULATION STAFF***

34. Issues of incapacity arise at all stages of a regulatory matter and are complex and challenging in a regulatory context. Professional Regulation staff have tools and supports available to them when they need to identify and address issues of incapacity arising in a regulatory matter. These were formalized through a project started in 2011 to improve documentation, training materials, processes and supports. Resources, tools and templates were prepared by an addiction and mental health expert who at the time was also serving as the manager responsible for capacity issues with the College of Physicians and Surgeons. The Capacity Program Advisor is building on the work started in 2011.

*(a) Referrals to the Member Assistance Program (MAP)*

35. Every licensee who is the subject of a complaint is provided with information about the MAP through template letters and information on the Law Society's website. Staff also directly provide this information to any licensee if during an investigation or resolution they have a concern that a capacity issue may exist.

*(b) Professional Regulation Division Staff Resource Manual*

36. The Resource Manual ("Manual") contains information and tools for identifying and managing capacity issues at the investigative, discipline and monitoring stages. The general categories of information in the Manual are as follows:
  - Guidelines and protocols for investigators.
  - Selecting and working with experts.
  - Management of health records.
  - Monitoring capacity matters.
  - Templates.
  - Tools such as assessor selection criteria.

The Manual is being updated in 2016 based on the work of the Capacity Program Advisor.

37. The Manual also provides assistance in selecting experts. Professional Regulation has a number of rosters of medical experts including psychiatrists, addictionists, psychologists, neurologists, geriatricians, and otolaryngologists. Maintenance of the rosters of medical experts has been centralized with the Capacity Program Advisor. Division staff consult with her before retaining an assessor. This supports process and quality improvements and allows for centralized tracking of the quality of the reports, including timeliness, and avoids the potential for overuse of individual assessors.

*(c) Staff Training*

38. Members of Professional Regulation staff have received extensive training on the Manual and related capacity issues and will continue to receive training in this area. In June 2012, department managers received training from an external expert and in October 2012, the expert presented at an all-staff professional development day. Each department has designated “Super-Users” to act as a resource for staff and these Super-Users have received specialized training. Training materials are available for staff. The Capacity Program Advisor spoke at the Professional Regulation Division’s professional development day in November 2015. Additional staff training is planned for 2016.

**(C) PROCESSES AVAILABLE TO ADDRESS MENTAL ILLNESS AND ADDICTION ISSUES IN THE REGULATORY PROCESS**

*Intake*

39. A significant part of the assignment for Intake staff is issue identification. As such they are trained to identify issues of mental health and addiction and to start the appropriate process for these types of matters. These could include,
- collection of additional relevant information to substantiate the complaint;
  - knowing the threshold is met for authorization of an investigation under section 49.3(4) of the Act;
  - assessing risk to determine likelihood of injury or harm; and
  - establishing case priority.

*Investigations*

40. Cases in which a capacity issue is identified are referred to Investigations. This department has staff specifically trained to work on capacity investigations. Sometimes capacity issues become apparent during the investigation process. There are a number of options available to staff to identify, assess and resolve cases. Processes available to Investigations staff include,
- closure of the case after investigation on the basis that there is no risk and the licensee’s illness is well managed;
  - asking the licensee to consent to an independent expert assessment;
  - seeking an undertaking to restrict or cease practice;



- seeking an undertaking to obtain treatment and to periodically report;
- transferring to Discipline for a capacity application; and
- seeking a trusteeship of the licensee's practice under section 49.44 of the Act.

The Capacity Program Advisor is available to Investigations staff at all stages of the Investigation.

### *Discipline*

41. Staff of the Discipline Department represent the Law Society in various types of proceedings before the Law Society Tribunal, including lawyer and paralegal incapacity, which may include an application for an assessment under section 39(1)) of the Act and applications for interlocutory suspension. Regulatory proceedings are statutorily mandated and rules for the process are set out in the *Rules of Practice and Procedure*. Discipline staff make use of the staff resources for identification and assessment of mental health and addiction issues, management of medical information concerning mental health, and work with medical and other health experts.
42. The Capacity Program Advisor has been consulted by Discipline staff on numerous matters, including identification of appropriate medical assessors and required testing, evaluating medical reports for completeness and researching case specific issues, such as the suitability of assessments via Skype.

### *Monitoring and Enforcement*

43. Monitoring and Enforcement is responsible for the enforcement of Law Society Tribunal orders and monitoring licensee compliance with undertakings. Staff work with the licensee to obtain agreements, consents, reports and other information necessary for compliance. Staff rely on the Manual and resources including templates, rosters of experts and guidelines.
44. The Manual includes best practices for the monitoring of licensees who have undertaken not to practise due to incapacity or have been found by a hearing panel to be incapacitated. Effective monitoring of incapacitated licensees is a highly technical and challenging activity. An effective monitoring program for substance abuse, for example, would ideally last five years and would include a workplace monitor, an addictionist, a psychotherapist, a structured recovery program, and regular and random urine and other sample testing.
45. The tools available to Monitoring and Enforcement include,
  - templates including an Assessor Retainer Letter, an Acknowledgement and Consent to Cooperate with Capacity Assessment;
  - a template for a Health Care Provider's Undertaking with the Law Society; and
  - guidelines to evaluate expert reports and reports of treating physicians and other specialists.

46. The Capacity Program Advisor is available to Monitoring and Enforcement staff as required.

#### *Trustee Services*

47. Trustee Services responds in situations where a licensee has abandoned his/her practice or is unable to practise due to serious health problems, or where there are regulatory issues such as a suspension or revocation of licence. As part of its services, the department provides information and assistance to licensees and their personal representatives who are closing their practices. The department frequently works with individuals with capacity issues, for example a licensee who is unable to continue in practice due to mental illness or addiction. Staff are guided by the resources and training available to Professional Regulation described earlier.

## **II) AMENDMENTS TO THE LAWYER AND PARALEGAL RULES**

48. Currently, both the Lawyer Rules<sup>20</sup> and Paralegal Rules<sup>21</sup> include the reporting of a licensee with a “mental instability” as part of duty to report requirements. The rule includes “mental instability” together with, among others, the “misappropriation or misapplication of trust monies”, and “participation in serious criminal activity related to a licensee’s practice.”<sup>22</sup>
49. The Law Society recognizes that current framing of the rules may have the unintended consequence of stigmatizing those with mental health issues. It received feedback in recent consultations that highlighted the problem in the current wording. In addition, in 2014 the Standing Committee on the Model Code of Professional Conduct of the Federation of Law Societies of Canada (“Federation Model Code Committee”) conducted a full review of the rules to identify and address language that may inadvertently discriminate or reinforce stigma, and based on its review has proposed a revised rule on the duty to report in part to “address concerns that the current rule stigmatizes mental health issues.” The Law Society’s Professional Regulation Committee and relevant staff considered the Federation Model Code Committee’s proposed rule change, and has provided feedback that generally supports the proposed revised rule.
50. The Federation adopted amendments to the rule on the duty to report in 2016 and the Law Society will be considering these rules and potential amendments to its lawyer and paralegal rules and entry level competency requirements regarding reporting obligations accordingly.

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<sup>20</sup> *Lawyer Rules* at Rule 7.1-3: “A lawyer shall report to the Law Society, unless to do so would be unlawful or would involve a breach of solicitor-client privilege, [...] (d) the mental instability of a licensee of such a serious nature that the licensee’s clients are likely to be materially prejudiced.”

<sup>21</sup> *Paralegal Rules* at Rule 9.01(2): (2) A paralegal shall report to the Law Society, unless to do so would be unlawful or would involve a breach of confidentiality between the paralegal and his or her client, [...] (d) the mental instability of a licensee of such a serious nature that the licensee’s clients are likely to be materially prejudiced.”

<sup>22</sup> *Lawyer Rules* *supra* note 22 state at Rule 7.1-3; *Paralegal Rules*, at 9.01(2).

#### D) LAW SOCIETY TRIBUNAL PROCESSES AND MENTAL ILLNESS AND ADDICTIONS

51. The Law Society Tribunal has a number of initiatives related to mental health and addictions issues, including,
- (i) the Law Society Tribunal website contains plain language Guides to the Tribunal Process, including a Guide to Capacity Proceedings;<sup>23</sup>
  - (ii) as a matter of policy, Convocation approved the administration of a duty counsel program by The Advocates' Society. Pursuant to this duty counsel program, pro bono duty counsel may be available to assist self-represented licensees at Proceeding Management Conferences and play a limited role at hearings. Discussion are underway regarding updating the duty counsel programs;<sup>24</sup>
  - (iii) Rule 23.04 of the Hearing Division Rules expressly addresses accommodation, stating that "A party or a non-party participant shall notify the Tribunal as early as possible of any needs of the party or the non-party participant or his, her or its witnesses that may require;"<sup>25</sup>
  - (iv) adjudicators have received various forms of training on mental illness and addictions issues; and
  - (v) Proceedings Management Conference adjudicators and Pre-Hearing Conference adjudicators interact with licensees at earlier points in the proceeding to identify and address issues such as the impact of mental health and addiction issues on the proceedings. Among these, a number have expertise in addressing issues related to mental health;
  - (vi) knowledge and expertise in mental illness and addictions issues is an important factor in assigning panels; and
  - (vii) accessibility, including accessibility to those who may have mental illness or addictions issues, has been and remains an important consideration in designing and amending Tribunal processes and communications.

#### IV. LAW SOCIETY ACCESS TO JUSTICE INITIATIVES RELATED TO MENTAL HEALTH AND ADDICTIONS

##### I) LAW SOCIETY REFERRAL SERVICE

52. The Law Society Referral Service ("LSRS"), operated by the CSC, is the front-line access to justice portal run by the Law Society. It now provides online referral services that facilitate access to legal services for persons with mental health or addictions issues, as

<sup>23</sup> Law Society Tribunal, Guides and Useful Links, under "Resources" <https://lawsocietytribunal.ca/>

<sup>24</sup> Convocation's 1997 policy decision is available online at [www.advocates.ca/assets/files/pdf/probono/MinutesofConvocation-281197-re-DutyCounsel.pdf](http://www.advocates.ca/assets/files/pdf/probono/MinutesofConvocation-281197-re-DutyCounsel.pdf). See The Advocates' Society, "Materials to Duty Counsel", online: [www.advocates.ca/new/advocacy-and-practice/pro-bono/materials-to-duty-counsel.html](http://www.advocates.ca/new/advocacy-and-practice/pro-bono/materials-to-duty-counsel.html). Also note that the Criminal Lawyers Association administers a pro bono duty counsel program to assist unrepresented licensees at the Proceedings Authorization Committee: see Law Society, "If You are Subject to a Complaint", online: [www.lsuc.on.ca/subject-of-a-complaint/](http://www.lsuc.on.ca/subject-of-a-complaint/).

<sup>25</sup> Law Society Tribunal Hearing Division Rules of Practice and Procedure, under Resources online: <https://lawsocietytribunal.ca/>.

well as persons requiring legal services with respect to matters in which mental health or addictions issues arise.

53. The CSC is able to maintain statistics on the types of areas of law for which legal referrals are being sought, together with other site analytics. This may assist in monitoring legal needs with respect to mental health and addictions issues.

#### **II) THE ACTION GROUP ON ACCESS TO JUSTICE MENTAL HEALTH CLUSTER**

54. The Action Group on Access to Justice (“TAG”) is a forum supported by the Law Society that facilitates collaboration with institutional, political and community stakeholders with an interest in advancing access to justice in Ontario.<sup>26</sup> TAG has developed “a mental health cluster” of organizations with particular shared interests and/or expertise with respect to mental health. As one of a number of TAG “clusters,” this group will focus on mental health issues and access to justice from the point of view of serving clients and the public. It is expected that this group will consider the barriers to access to justice related to mental health issues, and develop concrete steps to overcome these barriers.
55. Policy, Equity and Public Affairs continues to identify potential organizations to participate in a TAG mental health cluster. In November 2015, TAG’s mental health cluster sponsored a conference *Opening Minds to Mental Health*. Details of the event and a webcast are available at <http://theactiongroup.ca/2015/11/opening-minds-to-mental-health-conference/>.

#### **III) LAW SOCIETY EQUITY ADVISORY GROUP**

56. The Law Society’s Equity Advisory Group (“EAG”) provides advice to the Law Society on a range of equity and diversity issues and facilitates communications between the Law Society and equity seeking groups within the professions. Members are individuals and representatives from various organizations. ARCH Disability Law Centre is a member of EAG. It is a speciality legal aid clinic specializing in defending and advancing equality rights of people with disabilities, and brings particular expertise with respect to mental health and capacity law.<sup>27</sup>

#### **IV) EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES – ACCESS AWARENESS FORUM**

57. The Law Society’s Equity Legal Education and Rule of Law Series includes an Access Awareness Forum. Typically this annual event is delivered in partnership with ARCH Disability Law Centre. Previous Access Awareness events have included, “*Advancing Disability Rights in Theory and Practice*” (2014),<sup>28</sup> “*UnChartered Territory: Legal*

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<sup>26</sup> Law Society of Upper Canada “TAG - The Access Group on Access to Justice,” <http://theactiongroup.ca/about>.

<sup>27</sup> ARCH Disability Law Centre, online: <http://www.archdisabilitylaw.ca/>.

<sup>28</sup> Law Society Gazette, “Access Awareness Symposium” online: [www.lawsocietygazette.ca/event/access/](http://www.lawsocietygazette.ca/event/access/).

*mechanisms beyond the Charter to Advance Disability Rights” (2011)<sup>29</sup> and “The International Convention on the Rights of Persons with Disabilities and its Implications in Litigation,” (2008).<sup>30</sup>*

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<sup>29</sup> Law Society of Upper Canada “Law Society of Upper Canada Public Education Equality Series” online, [www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485258&langtype=1033](http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485258&langtype=1033).

<sup>30</sup> Law Society of Upper Canada “Activités publiques 2008” online: [www.lsuc.on.ca/with.aspx?id=2531&langtype=1036](http://www.lsuc.on.ca/with.aspx?id=2531&langtype=1036) . A webcast of this event is available online.