



Implementation of the Mental Health Task Force recommendations

Mental Health Task Force

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Purpose: For Information

Purpose

1. As the Mental Health Task Force’s term nears completion, and as required by the Task Force’s 2022 mandate letter, this report provides an overview of the status of the implementation of the Task Force’s previous recommendations and provides context for the Task Force’s forthcoming recommendation regarding the Law Society’s future engagement with mental health issues.

Background

2. To address the prevalence of mental health and substance use issues in the profession as they relate to the Law Society’s public interest mandate, the Mental Health Task Force was established in 2018 and issued with a mandate to identify ways to reduce stigma and to develop an integrated review of regulatory approaches to discipline and admissions in relation to mental health.
3. The Task Force has since authored three reports containing a total of 21 recommendations that address mental health and substance use issues within the profession and the potential implications for lawyers and the public they serve.¹ These recommendations —listed at **Appendix A** —fall into two broad categories: regulatory strategies that focus on how health issues are appropriately addressed in the Law Society’s processes, and educational strategies that increase awareness and understanding of mental health and substance use issues and reduce stigma. The recommendations aim to protect the public by taking supportive steps such as educational, information-sharing and stigma-reduction initiatives and modifying the Law Society’s regulatory approaches in ways that reduce the likelihood that a health issue will contribute to negative outcomes for lawyers, their clients or the justice system as a whole.
4. Having completed the policy work necessary to develop these recommendations, the focus necessarily shifts to implementation. This work is typically undertaken by staff, as is expected based on the separation of policy and operational roles within the Law Society. It is within this context that the implementation status of the Task Force’s recommendations is discussed and reviewed.

¹ See the Mental Health Task Force’s [First Interim Report](#) (December 2018), [Second Interim Report](#) (January 2020) and the [Alternative Discipline Process Report](#) (September 2021).

Discussion

5. The remainder of this report summarizes the implementation status of the Task Force's past recommendations. This material is organized in relation to the degree to which this operational work is complete, and discusses those recommendations that have been fully implemented, those that will be implemented in the short-term and those requiring ongoing efforts by the Law Society, respectively.

I. Fully implemented or otherwise concluded recommendations

Amending the *BC Code*

6. One of the Task Force's early regulatory recommendations was to eliminate the stigmatizing language and approaches to the "duty to report" provisions in the *BC Code* by amending Rule 7.1-3 and the associated Commentary. In addition to addressing problematic language, the recommendation sought to revise aspects of the Commentary that may have deterred some lawyers from seeking peer support for mental health or substance use issues based on concerns about the confidentiality of information shared with a lawyer-counsellor. In collaboration with the Ethics Committee, a series of amendments to both the rule and the Commentary were approved by the Benchers to address these issues and the *BC Code* has been revised accordingly.

Amending the Admission Program enrollment application

7. The Task Force discussed a re-evaluation of the Law Society's approach to inquiries into mental health and substance use in the Admission Program enrolment application form. This resulted in a recommendation to remove the medical fitness questions and the enrolment application form was subsequently modified in manner consistent with this policy direction. At the meeting in which the Benchers approved the recommendation to remove the questions, the consensus was that replacement questions, if any, could be considered separately at a later date.

Amending the Law Firm Regulation self-assessment tool

8. The Task Force also recommended that the self-assessment tool developed for the purposes of law firm regulation include specific guidance encouraging legal employers to put in place policies, processes and resources to assist lawyers experiencing mental health and substance use issues, in recognition of the important role that access to appropriate resources can play in obtaining support and treatment. Following the approval of this recommendation, additional content was added to the draft self-assessment and is anticipated to be included in the finalized tool when it is rolled out to the profession.

Hosting a Mental Health Forum

9. Pursuant to the Task Force's recommendation to host a town hall-type event to engage legal employers in constructive dialogue regarding mental health within the profession, the Law Society partnered with the Continuing Legal Education Society of BC to co-host the Mental Health Forum for Legal Professionals. The forum comprised three parts: a panel devoted to lawyers' lived experience of mental health and substance use issues, a series of sessions tailored to exploring opportunities and challenges for legal employers in addressing these issues and a panel of experts providing information about the mental health resources and supports available to lawyers. The event attracted over a thousand registrants, underscoring the leadership role the Law Society can play in facilitating dialogue and reducing stigma around these issues.

Expanding the role of Practice Advisors and improving access to LifeWorks

10. In order to improve information-sharing and to reduce barriers to lawyers accessing support, the Task Force recommended that the Law Society develop a targeted communications campaign to advertise an expanded role for Practice Advisors to include availability for confidential consultations about mental health and substance use issues and referrals to appropriate resources. The implementation of this recommendation has been addressed in a number of ways, including ensuring that Practice Advisors are promoted on the Law Society's website and other communications platforms as offering support for stress and personal coping mechanisms in addition to traditional forms of practice advice. As discussed later in this report, Practice Advisors are also provided with enhanced training to assist them in fulfilling this expanded role.
11. In developing additional initiatives for reducing barriers to accessing support, the Task Force also recommended making changes to the manner in which lawyers access the information and services offered by the LifeWorks member assistance program. A series of changes were subsequently made to the member portal and the Law Society website and, as a result, lawyers are no longer required to utilize their Law Society username and password to connect with LifeWorks. Information about accessing these services is now prominently displayed on the Law Society's website and has been highlighted in a number of communications to the profession. Supplemental materials have also been developed to provide lawyers with additional details about the scope of LifeWorks' services in an effort to encourage use.

Considering the role of CPD

12. To improve awareness and reduce stigma in relation to mental health and substance use issues, the Task Force recommended exploring of the merits of introducing continuing

professional development requirements in relation to these topics. In the context of the recent expansion of professional development opportunities in this area and the Law Society's evolving approach to CPD, as well as the establishment of the Lawyer Development Task Force, the Mental Health Task Force has not actively considered this issue further, effectively deferring to the Lawyer Development Task Force on this matter.

Enhancing communications strategies

13. Pursuant to the Task Force's recommendation, the Law Society has integrated addressing mental health and substance use issues into its overall communications strategy. Examples of this work include: establishing a dedicated webpage profiling the work of the Mental Health Task Force; coordinating a communications campaign for Mental Health Week; promoting resources to the profession; developing communications relating to mental health issues in the *Benchers' Bulletin*, E-brief and *Notice to the Profession* and ensuring appropriate language is used in relation to these issues; promoting participation in the Federation's National Well-Being study, and; facilitating messaging from successive Law Society presidents in relation to mental health awareness.
14. Recognizing that the pandemic has exacerbated and created new stressors for many practitioners, the Law Society also hosted two virtual sessions to bring together lawyers to participate in a discussion on mental health and wellness during this unprecedented time. As part of the Law Society's pandemic response updates, lawyers have also been regularly reminded of the importance of being aware of, and addressing, their health and stress, as well as the availability of support services and other resources. Given the critical role that communication plays in reducing stigma and increasing awareness about these issues, mental health-related content will continue to be included in the Law Society's communications with the profession.

II. Recommendations expected to be implemented within 12 months

Developing inclusive language resources

15. The Task Force recommended that the Law Society develop additional resources providing guidance on best practices for the use of non-discriminatory and non-stigmatizing language in order to foster an inclusive and respectful workplace and profession and to combat stigma, each of which the Task Force's research showed was important to the mandate it was given. To implement this recommendation, a practice resource for the profession is under development that sets out guiding principles and suggestions to support the use of language that is free from words, phrase or tones that reflect prejudiced, stereotyped or discriminatory views. A draft of the resource has been

reviewed by the Task Force, the Truth and Reconciliation Advisory Committee and the Equity, Diversity and Inclusion Advisory Committees, and is currently the subject of external consultations with equity-seeking groups. Once finalized, the respectful language guidelines will be published on the Law Society's website.

16. Work is also underway to update the Law Society's internal style guide to similarly support the use of non-stigmatizing and non-discriminatory language in all its publications. Once finalized, training on the use of the style guide will be provided to staff, Benchers and non-Bencher committee and Tribunal members.

Improving guidance for Benchers' interviews with articulated students

17. To better support Benchers in addressing mental health and substance use issues that may be discussed in the course of interviews with articulated students, the Task Force recommended a series of changes to the content of the Benchers' orientation manual. The orientation manual and related materials were subsequently revised to ensure the use of non-stigmatizing language and to provide Benchers with supplemental information and resources in relation to these issues. Further work is required to ensure that Benchers receive this information at regular intervals, rather than only during the initial orientation period, and to expand these materials in regard to substance use issues.

Providing staff with access to appropriate resources

18. The Task Force has endorsed the Law Society taking steps to improve the guidance available to staff that may interact with lawyers experiencing mental health and substance use issue in the course of their regulatory roles. It was proposed that one of the ways that this goal could be achieved was by creating a roster of qualified mental health professionals who would be available to provide arms-length assistance to staff responding to situations in which a mental health issue arises.
19. However, several of the individuals approached for the roster indicated that in many circumstances they would be unable to provide staff with this type of support in a professionally responsible manner. It was suggested that the goals of the recommendation could instead be achieved through a modified approach in which Law Society staff are provided with additional training from qualified professionals and recognized service providers to better equip them to respond directly to these issues as they arise and to make referrals to appropriate resources and support.
20. Based on this feedback, a comprehensive mental health resource is being developed for Law Society staff that includes information about training, resources and referrals. Training opportunities are also being expanded for staff that regularly interact with licensees to

ensure that they can skillfully respond to information or disclosures about mental health and substance use issues and emergent situations such as suicidal ideation.

Collaborating with law schools to enhance information about resources

21. Due to the prevalence of mental health and substance use issues among law students and young lawyers, the Benchers approved the Task Force's recommendation that the Law Society consult and collaborate with BC law schools to improve the exchange of information about the support resources available within the profession and to assist students in transitioning to these supports from those provided by the law schools. Work has begun on implementing this recommendation through Law Society staff meetings with counselors, career advisors and program administrators in each of BC's law schools to identify opportunities to provide new entrants to the profession with this type of information. Staff also provided assistance to one of the law schools in developing a resource for students that identifies mental health supports that are available to new lawyers.
22. Conversations with the law schools about enhancing this type of information-sharing are expected to be ongoing. Information about the mental health supports available to lawyers also continues to be provided to students in the course of the PLTC, in presentations on the Law Society's practice advice and support program and as part of mental health-related presentations by the Task Force's Chair to upper year law students enrolled in ethics courses.

III. Recommendations with an implementation period of 18 months or more

Enhancing education and training within the Law Society

23. A number of the Task Force's past recommendations focus on improving mental health training for Law Society staff, Benchers and other committee and Tribunal members. Efforts to implement these recommendations commenced with a focus on developing a series of educational and training modules for Law Society staff in collaboration with several providers, including the Canadian Mental Health Association. Steps have also been taken to ensure that all new employees are provided with mental health and substance use training as part of their orientation, and to promote mental health-related continuing professional development across the organization. Those working in roles that are more likely to encounter a lawyer experiencing these issues are encouraged to participate in a more intensive set of training opportunities, including those addressing addictions, suicide alertness and mental health first aid.

24. Unfortunately, the pandemic has caused delay to more fully implementing training related initiatives due to the inability to attend in-person events and the associated disruptions in program delivery. Several of the Task Force’s other education-based recommendations, including those extending this type of training to Bencher and non-Bencher committee and Tribunal members have been affected. As organizations adapt to remote and hybrid learning models, and opportunities to travel and gather increase, additional training opportunities will be expanded to these groups.
25. Recognizing that ad-hoc educational programming is not an effective way to create sustained organizational change, training initiatives must be frequent and ongoing and integrated into all aspects of the Law Society’s operations.

Alternative Discipline Process pilot project

26. The Alternative Discipline Process (“ADP”), which represents the most complex and ambitious aspect of the Task Force’s work to date, was approved by the Benchers in October 2021. Designed to address circumstances in which a health issue has contributed to lawyer misconduct, the ADP aims to place lawyers in a stronger position to meet their professional responsibilities and, in this regard, has the potential to realize significant public interest benefits by reducing the likelihood that problematic behaviour will escalate or reoccur. Rules and associated operational steps necessary to implement the program have been completed, and intakes have taken place. The program, however, is designed as a three-year pilot project and ongoing work will be required to support the operational aspects of the program, evaluate its effectiveness and communicate these findings to the Benchers.

Improving evidence-based understanding of mental health issues

27. To improve evidence-based understanding of mental health and substance use issues affecting lawyers, and to support data-driven decision-making, the Task Force recommended that the Law Society conduct a survey, in partnership with a third party, to explore the prevalence and impact of these issues within the legal profession in BC. Implementation of this recommendation was re-directed to supporting the National Well-Being study developed by the Federation of Law Societies and researchers at the Université de Sherbrooke, which is the first research of its kind to examine the psychological health and well-being risk factors specific to the practice of law in Canada. With significant contributions from the Law Society, the survey has completed, and the Task Force is pleased to note that BC responses exceeded the target response rate. The data is now being reviewed by the researchers and recommendations for the law societies and others are being developed.

28. The survey results and associated recommendations are expected to be provided to the law societies in the fall, following which, the Task Force will review the results and will make additional recommendations to the Benchers with respect to the findings. The Law Society has also committed to participating in the second phase of the study, which entails the collection of qualitative data to contextualize the national survey data and generate further recommendations for BC later in 2023 that are tailored to regional factors.

Conclusion

29. Over the past five years, the Task Force has made significant progress in fulfilling its mandate, developing 21 recommendations that address mental health and substance use issues within the legal profession. Considerable work continues to take place across the Law Society to implement these proposals. Many of the Task Force's recommendations have been fully implemented, while others require ongoing work to achieve their objectives. The differing degrees to which these recommendations have been operationalized is both a product of the diversity of initiatives, and reflects that creating systemic change in how the profession understands and responds to these issues requires considerable and sustained efforts from all members of the legal community. In this regard, the Task Force's final report will include a series of additional recommendations, including a transition plan for the Law Society's engagement with mental and substance use issues once the Task Force's term concludes.

Mental Health Task Force Recommendations 2018 - 2021

First Interim Report (December 2018)

Educational strategies

- Recommendation 1: Promote, through a targeted communication campaign, an expanded role for Practice Advisors to include availability for confidential consultations about mental health and substance use issues and referrals to appropriate support resources.
- Recommendation 2: Provide Practice Advisors with specialized education and training to enhance their knowledge, skills and access to resources related to mental health and substance use issues.
- Recommendation 3: Provide Practice Standards lawyers and support staff with specialized education and training to enhance their knowledge, skills and access to resources related to mental health and substance use issues.
- Recommendation 4: Provide lawyers and paralegals in the Professional Regulation Department with specialized education and training to enhance their knowledge, skills and access to resources related to mental health and substance use issues.
- Recommendation 5: Provide Credentials Officers, auditors in the Trust Assurance Program and staff lawyers in the Lawyers Insurance Fund with basic education and training to improve their awareness of mental health and substance use issues.
- Recommendation 6: Establish a roster of qualified mental health professionals that Practice Advisors, Practice Standards lawyers, Credentials Officers and staff in the Professional Regulation Department may consult to assist them in addressing mental health and substance use issues that arise in the course of Law Society processes involving lawyers or applicants.
- Recommendation 7: Provide members of the Credentials Committee, the Practice Standards Committee and the Discipline Committee and their associated hearing panels, as well as individuals who are responsible for practice reviews, conduct meetings and conduct reviews, with basic education and training to improve awareness and knowledge of mental health and substance use issues.

- Recommendation 8: Develop a comprehensive, profession-wide communication strategy for increasing awareness about mental health and substance use issues within the legal profession.
- Recommendation 9: Seek assistance from LifeWorks to help the Law Society better explain to the profession what services are available and who may benefit from them, and to explore alternate means for lawyers to connect with LifeWorks support services that do not require access through the Law Society’s member portal.
- Recommendation 10: Collaborate with the Lawyer Education Advisory Committee to explore the merits of the Law Society introducing a mandatory continuing professional development requirement for mental health and substance use disorder programming.

Regulatory strategies

- Recommendation 11: Collaborate with the Law Firm Regulation Task Force to consider developing additional guidance for the self-assessment tool that encourages firms to put in place policies, processes and resources designed to support lawyers experiencing mental health 46 DM2114189 and substance use issues, and to promote the use of these policies, processes and resources within firms.
- Recommendation 12: Collaborate with the Credentials Committee in re-evaluating the Law Society’s current approach to inquiries into mental health and substance use in the Law Society Admission Program Enrolment Application.
- Recommendation 13: To eliminate stigmatizing language and approaches to the reporting requirements in BC Code provision 7.1-3(d) [Duty to report] and the associated Commentary.

Second Interim Report (January 2020)

Educational strategies

- Recommendation 1: The Law Society will consult and collaborate with BC law schools to improve the exchange of information about the availability of support resources for mental health and substance use issues within the profession and to assist students in transitioning to these supports from those provided during law school.
- Recommendation 2: Revise the material in the Benchers Orientation Manual and expand in-person training to improve the manner in which mental health and substance use issues are addressed during the Benchers interview process.

- Recommendation 3: Host a town hall to encourage lawyers and firms and other legal employers to engage in a discussion about mental health and substance use within the profession, including the role that legal employers can play in improving lawyer wellness.
- Recommendation 4: Staff will develop a style guide that provides guidance on the use of non-stigmatizing and non-discriminatory language in all future Law Society publications and communications and update the current practice resource on respectful language and ensure that this material is prominently displayed on the Law Society’s website.
- Recommendation 5: Conduct a voluntary, confidential member survey exploring mental health and substance use among BC lawyers.

Regulatory strategies

- Recommendation 6: Amend BC Code Rule 7.1-3 (“duty to report”) and the associated Commentary.
- Recommendation 7: The medical fitness questions in Schedule A of the LSAP Application Form be removed.

Recommendation on the Development of an Alternative Discipline Process (October 2021)

- Recommendation 1: No later than September 2022, the Law Society will implement an alternative discipline process (“ADP”) to address circumstances in which there is a connection between a health condition and a conduct issue that has resulted in a complaint investigation. The ADP will comport with the purpose, principles, design features and policy rationale described in the Mental Health Task Force’s September 2021 recommendation report and commence as a three year pilot project. Following an interim and final review of the pilot project in 2023 and 2025, respectively, the matter will return to the Benchers for a final determination as to whether to establish the ADP as a permanent regulatory program.