



## **Mental Health Task Force 2019 Year-End Report**

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# Introduction

1. The Mental Health Task Force (the “Task Force”) is responsible for coordinating and assisting the Benchers in implementing the Law Society’s strategic goals in relation to improving the mental health of the profession, namely: reducing stigma around mental health and substance use issues and developing an integrated mental health review concerning regulatory approaches to discipline and admissions.<sup>1</sup>
2. Over the course of 2019, the Task Force has continued to pursue its mandate as it relates to these two key goals. The Year-End Report provides a high-level update of its recent activities, with a particular focus on the Task Force’s work since the Mid-Year Report.<sup>2</sup>

# Discussion

## Implementing Recommendations from the First Interim Report

3. In December 2018, the Benchers approved the Task Force’s First Interim Report,<sup>3</sup> which contained a series of recommendations (the “2018 Recommendations”) falling into two broad categories: educational strategies that increase awareness and understanding of mental health and substance use within the legal profession, and regulatory strategies that focus on how these issues are addressed in the regulatory context.
4. In addition to the implementation work undertaken earlier this year,<sup>4</sup> in recent months the Task Force has focused on three key areas relating to the 2018

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<sup>1</sup> See Law Society of BC 2018-2020 Strategic Plan, online at:

[https://www.lawsociety.bc.ca/Website/media/Shared/docs/about/StrategicPlan\\_2018-2020.pdf](https://www.lawsociety.bc.ca/Website/media/Shared/docs/about/StrategicPlan_2018-2020.pdf) and the Mental Health Task Force Terms of Reference, online at: [https://www.lawsociety.bc.ca/Website/media/Shared/images/initiatives/MentalHealthTaskForce\\_termsofreference.pdf](https://www.lawsociety.bc.ca/Website/media/Shared/images/initiatives/MentalHealthTaskForce_termsofreference.pdf)

<sup>2</sup> Pursuant to section 3(b) of its Terms of Reference, the Task Force is required to produce a mid-year and year-end report to the Benchers on its activities.

<sup>3</sup> Mental Health Task Force First Interim Report (December 2018), online at:

<https://www.lawsociety.bc.ca/Website/media/Shared/docs/initiatives/MentalHealthTaskForceInterimReport2018.pdf>

<sup>4</sup> See the 2019 Mid-Year Report, online at:

<https://www.lawsociety.bc.ca/Website/media/Shared/docs/initiatives/2019MentalHealthTaskForceMidYearReport.pdf>

Recommendations, namely: mental health education and training initiatives for Law Society staff (Recommendations 2, 3, 4 and 5); improving the accessibility of LifeWorks services (Recommendation 9); and eliminating the stigmatizing language in the *Code of Professional Conduct for British Columbia* (the “BC Code”) (Recommendation 13).

## **Education and training**

5. Over the course of the past year, the Law Society, primarily through the work of its Human Resources Department, has worked with the Canadian Mental Health Association (“CMHA”) to develop training programs that improve staff awareness and understanding of, and responses to, mental health and substance use issues that they may encounter during their interaction with lawyers.
6. In September and October, the CMHA delivered a series of customized three hour workshops to over 80 Law Society employees that examined the signs and prevalence of major mental health issues, stigma, risk and protective factors, and the availability of support resources. Programming on compassion fatigue was also delivered to over 60 staff members in November.
7. A half-day training program that provides participants with tools and resources to identify and support persons at risk of suicide (SafeTALK), and an eight hour online module designed to assist non-experts dealing with individuals facing substance use and addiction challenges, has also been organized for Law Society employees.
8. At the conclusion of each training program, staff will review the feedback from participants and develop additional phases of programming, as required to address the recommendations made by the Task Force.

## **Accessing LifeWorks services**

9. Members of the Task Force have continued to participate in meetings with LifeWorks representatives in an effort to further understand the scope of its services and the extent to which counselling and other resources are available to lawyers.
10. Staff reports that it has also progressed on implementing the 2018 Recommendation that lawyers not be required to use the Law Society’s member portal to access LifeWorks services. This recommendation was based on concerns that lawyers’

apprehensions about the confidentiality of this process may be preventing some practitioners from accessing support.

11. To address this concern, information enabling practitioners to directly access LifeWorks by phone or online will be posted on the Law Society's website by the end of 2019, and lawyers will no longer be required to utilize the member portal or their Law Society ID and password to access these services.
12. The Communications Department will continue to ensure that this change, along with additional information about the nature of scope of LifeWorks' services, are promoted to the profession, and will keep the Task Force informed of its progress.

### **Eliminating stigmatizing language from the *BC Code***

13. Throughout 2019, the Task Force has been engaged in ongoing consultations with the Ethics Committee with respect to amending Rule 7.1-3 of the *BC Code* and its associated Commentary. During the latter portion of this year, this work focused on identifying an exemption from the duty to report for lawyer-counsellors serving in a professional peer-support program, such as the Lawyers Assistance Program ("LAP").
14. The rationale for the proposed changes was two-fold: to eliminate stigmatizing language and to address aspects of the Commentary that may prevent lawyers from seeking peer support based on concerns about what information, if shared, a lawyer-counsellor would be required to disclose to the Law Society. Additionally, the Task Force observed that the existing Commentary may deter lawyers who wish to act as counsellors in such programs from doing so, while at the same time failing to provide the Law Society with meaningful information that would serve to protect the public.
15. In October, the Ethics Committee presented a recommendation to the Benchers addressing the problematic language in Rule 7.1-3 and the Commentary that was endorsed by the Task Force in its Second Interim Report.

### **New Recommendations and the Second Interim Report**

16. In addition to its implementation activities, the Task Force has been engaged in consultations, research and policy discussions concerning the development of a

second set of recommendations that address the Law Society’s strategic goals in relation to mental health.

17. The culmination of this work is the Task Force’s Second Interim Report, which contains seven new recommendations (the “2019 Recommendations”), that were presented to the Benchers for preliminary discussion, *in camera* in October 2019 and will be returned to the Benchers for further discussion and decision at a later date..

## **Information-sharing strategies**

18. The majority of the 2019 Recommendations focus on information-sharing strategies that seek to enhance the exchange of ideas and information between the Law Society and other stakeholders in the legal profession in relation to mental health, substance use and stigma reduction.
19. Information strategies have been a key focus for the Task Force for two inter-related reasons. First, enhancing the manner in which lawyers and firms talk about mental health and substance use issues, and increasing the forums in which these conversations occur, can improve the professions’ awareness and understanding of these issues. Second, increasing opportunities for open dialogue reduces stigma and, in doing so, may encourage those practitioners that need support to seek it.
20. Following a review of several recent studies that reveal that law students and young lawyers have an elevated risk of experiencing poor mental health and substance use issues,<sup>5</sup> the Task Force developed two recommendations that specifically address the wellness challenges facing many of the newest member of the profession:
  - that the Law Society consult and collaborate with BC law schools to improve the exchange of information about the availability of support services for mental health and substance use issues within the profession and to assist

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<sup>5</sup>J. M. Organ, D. Jaffe, & K. Bender, “Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns” (2016) 66 J. Legal Educ. 116; Krill P.R., Johnson R. & Albert L., “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys” (2016) 10 J. Addiction Med. 46 (“ABA Study”), online at: [http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The\\_Prevalence\\_of\\_Substance\\_Use\\_and\\_Other\\_Mental.8.aspx](http://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx). The Barreau du Québec also conducted a study based on more than 2,500 lawyers in relation to psychological distress, burnout and well-being. For an English summary of the findings, see Luis Millan, *Lawyer’s Daily* (August 2017), online at: <http://secure.campaigner.com/CSB/public/ReadmoreContent.aspx?id=28522621&campaignid=36930416&ac=580325>. The full report is available online at: <https://www.barreau.qc.ca/media/1886/rapport-sante-psychologique-travail-avocats.pdf>. (French only).

students in transitioning to these supports from those provided during law school; and

- that the Law Society enhance both the content of the Bencher Orientation Manual and in-person Bencher training in an effort to improve the manner in which mental health and substance issues are addressed as part of Benchers' interviews with articling students.

21. During the latter portion of 2019, the Task Force also developed a series of additional recommendations focusing on information sharing and stigma-reduction:

- that the Law Society host a town hall event to facilitate a discussion between lawyers, legal employers, support service providers and the Law Society about mental health within the profession;
- that the existing guidelines for firms on the use of respectful language be reviewed and revised, in consultation with the Equity, Diversity and Inclusion Advisory Committee, including the provision of additional guidance with respect to how to avoid the use of stigmatizing language in relation to mental health and substance use issues;
- that the Law Society develop a style guide for staff and Benchers to provide general guidance on the use of non-discriminatory and non-stigmatizing language in all future Law Society publications; and
- that the Law Society address the paucity of data on the state of mental health within the legal profession in BC by conducting a voluntary, confidential survey of lawyers to establish a reliable set of BC-specific data in relation to mental health within the profession .

## **Regulatory strategies**

22. Over the past year, the Task Force has focused on the development of two new regulatory recommendations, namely: supporting specific amendments to the duty to report provisions in the *BC Code* and removing or replacing the medical fitness questions in the Law Society Admission Application Form ("LSAP Application Form").

23. As discussed earlier in this report, the Task Force's progress on the former issue resulted in a new recommendation supporting the Ethics Committee's proposed amendments to Rule 7.1-3 and its associated Commentary, which eliminates stigmatizing language and creates an exemption from the duty to report for lawyer-counsellors serving in the LAP or another Law Society approved peer assistance program.
24. The development of a further recommendation in relation to the medical fitness questions contained in the LSAP Application Form has also been a central focus for the Task Force.
25. The Task Force began a consultation with the Credentials Committee on the subject in May 2019, and has presented a recommendation to the Benchers as part of its Second Interim Report that was given preliminary consideration, *in camera*, at the Benchers' October 2019 meeting.<sup>6</sup>
26. The Benchers' consideration of the policy issues surrounding the medical fitness questions is ongoing, and the matter will be subject to further discussion by the Benchers at a later date.

## **Outreach and consultation**

27. Throughout 2019, the Task Force engaged in a number of outreach and consultation activities, the most recent of which are summarized below.
28. Over the course of the summer and fall months, as part of the Task Force's ongoing consideration of the development of an alternative discipline process, the Task Force benefited from a presentation from key staff in the Professional Regulation Department that outlined the range of regulatory tools that the Law Society currently employs to address mental health and substance use issues facing lawyers.
29. Several members of the Task Force also met with the Practice Standards Department to discuss the remedial work undertaken by this group to assist lawyers experiencing these issues.
30. Members of the Task Force have also participated in a number of outreach activities across various regions of the province to raise awareness about mental health and

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<sup>6</sup> A detailed overview of the Task Force's position on this issue is articulated in both its 2019 Mid-Year Report *supra* note 4 and the Second Interim Report.

substance use issues within the profession, providing presentations to firms, government departments, Inns of Court and local bar associations.

31. The Task Force's leadership was also highlighted at the Federation of Law Societies' conference on lawyer well-being in St. John's, Newfoundland, which provided a valuable opportunity for all law societies to come together to discuss the impact of mental health and substance use on the profession and the role of regulator in responding to these issues.

## Next Steps

32. Looking towards the third year of the Law Society's Strategic Plan, the Task Force aims to focus on two streams of work: continuing to implement its previous recommendations and developing new recommendations that support the Task Force's mandate.
33. With respect to implementation, in addition to monitoring progress on the 2019 Recommendations, the Task Force will continue to monitor its 2018 Recommendations, including the merits of a mandatory CPD requirement for mental health and substance use disorder programming; the potential addition of wellness-related resources to law firm regulation's Self-Assessment Report prior to its finalization and profession-wide implementation; and the development of further educational and training opportunities for Law Society staff and Benchers.
34. With respect to the development of new recommendations, the Task Force will continue to examine the policy issues surrounding the creation of an alternative discipline processes to address lawyer conduct issues that arise from mental health or substance use issues, with the goal of presenting a recommendation to the Benchers in 2020.
35. The Task Force also expects to finalize the development of a recommendation pertaining to the creation of a best practices framework that will establish a series of evidence-based guidelines to assist the Law Society to address mental health and substance use issues across its various processes.