

BC Lawyers' Continuing Professional Development, effective January 1, 2012

BC lawyers, on January 1, 2009, became the first in Canada to be subject to a comprehensive continuing professional development (CPD) requirement. A thorough review of the CPD program was completed in 2011 following extensive consultation, with the Benchers approving revisions effective January 1, 2012.

BC practising lawyers, both full-time and part-time, must complete 12 hours of accredited CPD within the calendar year. At least two of the 12 hours must pertain to any combination of professional responsibility and ethics, client care and relations, and practice management.

While the Law Society continues to encourage self-study, the 12 hour requirement does not include self-study, such as reading or reviewing recorded material on one's own, subject to the exceptions for writing and some online programs outlined in the summary below.

Lawyers record their accredited CPD activities online at the Law Society website. The system is paperless. Application for accreditation of courses and other professional development activities can be made both by education providers and individual lawyers, either before or after the event. Application for accreditation before rather than after the event is strongly recommended.

The Law Society has endeavored to implement a program with sufficient flexibility to permit lawyers to meet the requirement in a way that matches their own professional goals and learning preferences, and that is as straightforward as reasonably possible for lawyers and education providers. The details of the program are outlined below.

Questions and suggestions may be directed to the Member Services Department, 6th Floor, 845 Cambie Street, Vancouver, BC V6B 4Z9, at cpd@lsbc.org, or (604) 605-5311 or 1 (800) 903-5300, local 5311 (toll-free in BC).

1. CPD Requirement for Practicing Lawyers

- a. 12 hours of accredited continuing professional development within the calendar year
- b. At least 2 of the 12 hours must pertain to any combination of professional responsibility and ethics, client care and relations, and practice management. Stand

alone, as well as embedded professional responsibility and ethics, client care and relations, and practice management content satisfy the 2 hour requirement.

- c. While the Law Society continues to encourage self-study, the 12 hour requirement does not include self-study, such as reading or reviewing recorded material on one's own, subject to the exceptions for writing and some online programs listed below.

2. Overall Subject Matter Requirement for all Accredited Learning Modes

The subject matter of all accredited learning modes, including courses, must deal primarily with one or more of:

- i) substantive law
- ii) procedural law
- iii) professional ethics
- iv) practice management (including client care and relations)
- v) lawyering skills.

Accredited learning activities are not limited to subject matter dealing primarily with BC or Canadian law. Credit is available for subject matter related to the law of other provinces and countries.

The following activities will not be accredited:

- lawyer wellness topics
- topics relating to law firm marketing or profit maximization
- activity designed for or targeted primarily at clients
- pro bono activities

(See Appendix A for descriptions of Professional Ethics, Practice Management and Lawyering Skills, including further detail on excluded subject matter.)

3. Credit for Different Types of CPD Activity

a. Courses

Courses will be accredited on the following criteria:

- i. attending a course;

- ii. participating in online “real time” courses, streaming video, web and / or teleconference courses, if there is an opportunity to ask and answer questions; or
- iii. reviewing a previously recorded course with at least one other lawyer or an articling student, including by telephone or other real time communications technology
- iv. reviewing a previously recorded course, if at least two lawyers review it together, including by telephone or other real time communications technology.

b. Online Interactive Programs

A lawyer may apply for credit for individually completing an online program, including an audio, video or web program, for up to a pre-accredited limit per online program, if the program has the following characteristics:

- i. a quiz component, where questions are to be answered, and where either the correct answer is provided after the question is answered, or an answer guide is provided after the lawyer completes the quiz;
- ii. the quiz is at the end of or interspersed throughout the program;
- iii. the lawyer can email or telephone a designated moderator with questions, and receive a timely reply.

c. Listserv/forum /network site

Credit is not available for these forms of activity.

d. Local Bar and Canadian Bar Association Section Meetings

A lawyer may apply for credit for the actual time spent attending an educational program provided by a local or county bar association, as well as for section meetings of the Canadian Bar Association, excluding any portion of a meeting not devoted to educational activities.

To qualify, at least two lawyers or a lawyer and an articling student must participate in the activity at the same time, including by telephone or other real time communications technology.

e. Study Groups

Credit will be given for study group attendance at a meeting

- i. if at least two lawyers or a lawyer and articling student are together for educational purposes (including reviewing a recorded program) at the same time (including by telephone or other real time communications technology),
- ii. of an editorial advisory board for legal publications, but not as a part of regular employment, or
- iii. of a law reform body or group, but not as a part of regular employment,
- iv. if a lawyer chairs or has overall administrative responsibility for the meeting.

Credit will be not given for

- i. participation on committees, boards and tribunals,
- ii. any time that is not related to educational activity,
- iii. activity that is file specific,
- iv. time spent reading materials, handouts or PowerPoint, whether before or after the study group session.

f. Teaching

Lawyers may claim up to three hours of credit for each hour taught if the teaching is for

- i. an audience that includes as a principal component, lawyers, paralegals, articling students and / or law school students,
- ii. (a continuing professional education or licensing program for another profession, or
- iii. a post-secondary educational program,

but not if the teaching is targeted primarily at clients or is file specific.

If teaching is directed to an audience not listed in i. to iii. above, such as the general public, one hour of credit for each hour taught, but not if targeted primarily at clients or is file specific.

The following conditions apply:

- i. credit for volunteer or part-time teaching only, not as part of full-time or regular employment;
- ii. if the lawyer only chairs a program, the time spent chairing the program is all that may be reported, not three hours for each hour of chairing;
- iii. credit only for the first time in the year, and not for repeat teaching of substantially the same subject matter within the year
- iv. credit may be claimed for the same course year to year, whether or not there are changes to the course;
- v. a lawyer claiming teaching and preparation credit can also claim writing credit for additional time writing course materials;
- vi. no credit for setting or marking examinations, term papers or other assignments;
- vii. no credit for preparation time if the lawyer does not actually teach the course. Examples include
 - assisting someone else in preparation without actually teaching,
 - acting as a teaching assistant without actually teaching,
 - preparing to teach, but the course is then cancelled.

g. Writing

Lawyers may claim credit

- i. for writing law books or articles intended for publication or to be included in course materials intended for any audience
- ii. a maximum of 6 hours for each writing project, based on the actual time to produce the final product,
- iii. no cap on the overall credit hours available for writing,
- iv. in addition to credit for teaching and preparation for teaching,
- v. not for preparation of PowerPoint,
- vi. not for writing for law firm websites,

- vii. not for blogging or wikis (as there are no generally accepted standards for posting to blogs or wikis at present – this will be considered as part of the next CPD review).
- viii. for volunteer or part-time writing only, not as a part of full-time or regular employment.

h. Mentoring

The following provisions apply to mentoring:

- i. a lawyer who has engaged in the practice of law in Canada, either full or part-time, for 7 of the 10 years immediately preceding the current calendar year, and who is not the subject of an order of the Credentials Committee under Rule 3-18.31(4) (c), is eligible to be a mentor principal.
- ii. mentoring credit is available for mentoring another lawyer or an articling student, but not for an articling principal mentoring one's own articling student;
- iii. mentoring credit is not available for mentoring a paralegal;
- iv. mentoring goals must comply with the subject matter requirements applicable for any other CPD credit;
- v. mentoring must not be file specific or simply answer questions about specific files;
- vi. a mentor is entitled to 6 hours of credit per mentee, plus another 6 hours (for a total of 12 hours) if mentoring two mentees separately. If two or more mentees are mentored in a group, the mentor is entitled to 6 hours, and each mentee is entitled to 6 hours;
- vii. credit is for time actually spent together in the mentoring sessions, and can be face to face or by telephone, including real time videoconferencing.
- viii. mentoring by email or similar electronic means qualifies for credit;
- ix. there is no minimum time for each mentoring session;

i. Self study restriction

No credit is available for self-study, such as reading, and reviewing recorded material on one's own, subject to the prescribed exception above for approved interactive online programs. Lawyers are recommended to complete a minimum 50 hours of self-study annually, are not required lawyers to report this as it is not eligible for credit.

4. Accreditation Process

The Law Society considers applications for credit according to the following processes:

- i. A course provider may apply for pre-approved status, in which case the provider is responsible for ensuring the courses meet the prescribed accreditation above criteria, or may request that the Law Society review and approve each course. Pre-approval status is dependent on the provider maintaining integrity and quality according to standards.
- ii. A lawyer may apply individually for accreditation of a course if a provider has not done so.
- iii. A lawyer must individually apply for accreditation of group study, teaching, writing and mentoring plans.
- iv. All applications by providers and lawyers must be submitted electronically through the Law Society website log-in.
- v. Approval decisions are made by Law Society staff. A provider or lawyer may ask staff to review a decision a second time.

5. Compliance and Reporting Requirements

- i. The CPD requirement is based on the calendar year, with the compliance date being December 31 each year. Credits in excess of 12 hours cannot be carried over into a subsequent year.
- ii. Lawyers log on to the Law Society website and click on a link to the CPD program, where they are shown their individual credits obtained to date in the calendar year. After completing an accredited course or other accredited learning activity, lawyers should add that to their record.
- iii. Lawyers must keep their own record of the number of hours of professional responsibility and ethics, client care and relations, and

practice management they complete, and when they have completed at least 2 hours, should reply 'yes' to the specific question in their CPD report.

- iv. Lawyers are notified electronically of the approaching calendar deadline and, if the deadline is not met, are given an automatic extension to April 1 of the following year to complete the necessary requirement, in which case a late fee of will be charged as follows:
 - lawyers who complete their CPD hours by December 31 but do not report completion by the December 31 deadline will be levied a \$200 late fee plus applicable taxes; or
 - lawyers who do not complete the required CPD hours by December 31, and are therefore required to complete and report the required CPD hours by April 1 of the following year, will be levied a late fee of \$500 plus applicable taxes.
- v. If the requirement is not complete by April 1 of the following year, the lawyer is suspended until all required professional development is complete. The lawyer will receive a 60 day prior notice of the suspension. The Practice Standards Committee has the discretion to prevent or delay the suspension in special circumstances on written application by a lawyer.
- vi. The twelve hour requirement is subject to adjustment for entering or re-entering practice mid-year. Lawyers who are exempt during the reporting year, but resume practising law within the reporting year, must complete one credit hour for each full or partial calendar month in the practice of law. The professional responsibility and ethics, client care and relations, and practice management requirement is also adjusted.

6. Exemptions

Lawyers with a practising certificate, whether full or part-time, are subject to the full CPD requirement, with the following exemptions:

- i. lawyers with a practicing certificate who submit a declaration that they are not practising law in the reporting year. Examples of lawyers who might submit a declaration that they are not practising law are those who are
 - inactive;

- on medical or maternity leave;
 - taking a sabbatical.
- ii. new members who have completed the bar admission program of a Canadian law society during the reporting year;
- iii. lawyers who resume practising law within the reporting year after having been exempt and, subject to (ii), above, new members by way of transfer. These lawyers must complete one credit hour for each full or partial calendar month in the practice of law. The professional responsibility and ethics, client care and relations, and practice management requirement is also adjusted.
- iv. no exemption is available for
- being too busy (such as a long trial);
 - the practice of law being in another jurisdiction.

APPENDIX A

A GUIDE TO CRITERIA FOR ACCREDITING

1. PROFESSIONAL ETHICS
2. PRACTICE MANAGEMENT
3. LAWYERING SKILLS

I. PROFESSIONAL ETHICS

Content focusing on the professional and ethical practice of law, including conducting one's practice in a manner consistent with the *Legal Profession Act* and Rules, the *Code of Professional Conduct for British Columbia*, and generally accepted principles of professional conduct.

II. PRACTICE MANAGEMENT

Content focusing on administration of a lawyer's workload and office, and on client-based administration, including how to start up and operate a law practice in a manner that applies sound and efficient law practice management methodology.

Topics include

- (a) client care and relations, including managing difficult clients;
- (b) trust accounting requirements, including:
 - (i) trust reporting;
 - (ii) financial reporting for a law practice;
 - (iii) interest income on trust accounts;
 - (iv) working with a bookkeeper;
- (c) Federal and provincial tax remittances, including employee income tax remittances;
- (d) technology in law practice including:
 - (i) law office systems;
 - (ii) e-filing;
 - (iii) legal document preparation and management, including precedents;
- (e) retainer agreements and billing practices relating to Law Society requirements, including:
 - (i) unbundling of legal services;
 - (ii) permissible alternative billing arrangements;
- (f) avoiding fee disputes;
- (g) file systems, including retention and disposal;
- (h) succession planning;
- (i) emergency planning, including law practice continuity for catastrophic events and coverage during absences;
- (j) managing law firm staff, including:
 - (i) *Code of Professional Conduct for British Columbia* requirements;
 - (ii) delegation of tasks/supervision;
- (k) identifying conflicts, including:
 - (i) conflict checks and related systems;

- (ii) client screening;
- (l) diary and time management systems, including:
 - (i) limitation systems;
 - (ii) reminder systems;
 - (iii) follow-up systems;
- (m) avoiding “being a dupe”/avoiding fraud;
- (n) complying with Law Society Rules.

The following topics do not satisfy the practice management definition for CPD accreditation:

- (a) law firm marketing;
- (b) maximizing profit;
- (c) commoditization of legal services;
- (d) surviving a recession;
- (e) basic technology and office systems (unless in the specific context of practising law, as listed above);
- (f) attracting and retaining law firm talent;
- (g) alternate work arrangements in a law firm;
- (h) business case for retention of lawyers and staff, including retention relating to gender, Aboriginal identity, cultural diversity, disability, or sexual orientation and gender identity.
- (i) handling interpersonal differences within your law firm;
- (j) cultural sensitivity in working with your law firm staff;
- (k) training to be a mentor.

III. LAWYERING SKILLS

Lawyering skills include

- (a) effective communication, both oral and written;
- (b) interviewing and advising;
- (c) problem solving, including related critical thinking and decision making;
- (d) advocacy;
- (e) arbitration;
- (f) mediation;
- (g) negotiation;
- (h) drafting legal documents;
- (i) legal writing, including related plain writing;
- (j) legal research;
- (k) legal project management;
- (l) how to work with law practice technology, including:
 - (i) e-discovery;
 - (ii) in the courtroom;
 - (iii) client record management;

- (iv) converting electronically stored information into evidence;
- (v) social networking technology to facilitate client communication (but excluding marketing and client development);

but not

- (a) general business leadership;
- (b) chairing / conducting meetings;
- (c) serving on a Board of Directors;
- (d) general project management;
- (e) skills and knowledge primarily within the practice scope of other professions and disciplines.