

MEMBER'S MANUAL

The Law Society
of British Columbia



AMENDMENT PAGES

2014: No. 1 March

Highlights

Legal Profession Act: The *Wills, Estates and Succession Act* comes into force on March 31, 2014 and includes a minor amendment to the definition of “practice of law” in the *Legal Profession Act* (pp. 5-8).

Law Society Rules: Changes brought by the October 2013 National Mobility Agreement include recognition of a Canadian civil law degree as sufficient academic qualification for a member of the Barreau du Québec to transfer to full membership in the Law Society, and the end of Canadian legal advisor status for members of the Barreau (definitions of “Barreau,” “Chambre” and “National Mobility Agreement” and Rules 2-16(2), 2-22.1, 2-22.2(2), 2-49(1), 2-49.3(1) and (3) and 3-25(4) and (6): pp. 11, 38.2, 39, 40, 50.6, 53 and 70.2); new procedures will guide preliminary questions at credentials hearings (Rule 2-63.01: p. 59) and attendance of witnesses and production of documents at credentials and discipline hearings (Rules 2-63.02, 2-63.1(6), 4-26.2, 4-27(5.1) and 5-4(2): pp. 59, 60, 108.2, 109 and 112); minor changes address how hearing panel and review board decisions are published (Rules 2-69.1(1) to (3) and 4-38(3) and (4): pp. 60.3 and 110.6); the procedures for service and delivery of documents are clarified (Rule 10.1(1), (3), (3.1) and (3.2): p. 128); the Table of Contents is updated (pp. 1-10).

Code of Professional Conduct for British Columbia: The Table of Contents is updated (pp. i – vi).

Filing: File the amended pages in your *Member’s Manual* as follows:

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[continued over]

Updates: This amendment package updates the *Member's Manual* to **March 3, 2014**. The previous amendment package was 2013: No. 4 December.

To check that your copy of the Manual is up to date, consult the contents checklist on the next page. If you have further questions about updating your Manual, contact Jenna Kirouac in the Communications department: telephone 604.697.5838 or toll-free 1.800.903.5300 or email communications@lsbc.org.

Website: The *Legal Profession Act*, Law Society Rules and *Code of Professional Conduct for British Columbia* can be accessed in the Publications section of the Law Society website at lawsociety.bc.ca in both HTML (for online use) and PDF (for printout, including printout of *Member's Manual* replacement pages).

Refer to the Law Society website for the most current versions of the Act, Rules and Code.

MEMBER'S MANUAL CONTENTS CHECKLIST

2014: No. 1 March

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Definitions

1 (1) In this Act:

“**applicant**” means a person who has applied for

- (a) enrollment as an articled student,
- (b) call and admission, or
- (c) reinstatement;

“**articled student**” means a person enrolled in the society’s admission program;

“**bencher**” means a person elected or appointed under Part 1 to serve as a member of the governing body of the society;

“**chair**” means a person appointed to preside at meetings of a committee or panel;

“**conduct unbecoming a lawyer**” includes a matter, conduct or thing that is considered, in the judgment of the benchers, a panel or a review board,

- (a) to be contrary to the best interest of the public or of the legal profession, or
- (b) to harm the standing of the legal profession;

“**disbar**” means to declare that a lawyer or former lawyer is unsuitable to practise law and to terminate the lawyer’s membership in the society;

“**executive committee**” means the committee established under section 10;

“**executive director**” means the executive director or acting executive director of the society;

“**foundation**” means the Law Foundation of British Columbia continued under section 58 (1);

“**law corporation**” means a corporation that holds a valid permit under Part 9;

“**law firm**” means a legal entity or combination of legal entities carrying on the practice of law;

“**lawyer**” means a member of the society, and

- (a) in Part 2, Division 1, includes a member of the governing body of the legal profession in another province or territory of Canada who is authorized to practise law in that province or territory,
- (b) in Parts 4 to 6 and 10 includes a former member of the society, and
- (c) in Part 10 includes an articled student;

“**member**” means a member of the society;

“**officer**” means the executive director, deputy executive director or other person appointed as an officer of the society by the benchers;

“**panel**” means a panel appointed in accordance with section 41;

LEGAL PROFESSION ACT

“practice of law” includes

- (a) appearing as counsel or advocate,
- (b) drawing, revising or settling
 - (i) a petition, memorandum, notice of articles or articles under the *Business Corporations Act*, or an application, statement, affidavit, minute, resolution, bylaw or other document relating to the incorporation, registration, organization, reorganization, dissolution or winding up of a corporate body,
 - (ii) a document for use in a proceeding, judicial or extrajudicial,
 - (iii) a will, deed of settlement, trust deed, power of attorney or a document relating to a probate or a grant of administration or the estate of a deceased person,
 - (iv) a document relating in any way to a proceeding under a statute of Canada or British Columbia, or
 - (v) an instrument relating to real or personal estate that is intended, permitted or required to be registered, recorded or filed in a registry or other public office,
- (c) doing an act or negotiating in any way for the settlement of, or settling, a claim or demand for damages,
- (d) agreeing to place at the disposal of another person the services of a lawyer,
- (e) giving legal advice,
- (f) making an offer to do anything referred to in paragraphs (a) to (e), and
- (g) making a representation by a person that he or she is qualified or entitled to do anything referred to in paragraphs (a) to (e),

but does not include

- (h) any of those acts if performed by a person who is not a lawyer and not for or in the expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed,
- (i) the drawing, revising or settling of an instrument by a public officer in the course of the officer’s duty,
- (j) the lawful practice of a notary public,
- (k) the usual business carried on by an insurance adjuster who is licensed under Division 2 of Part 6 of the *Financial Institutions Act*, or
- (l) agreeing to do something referred to in paragraph (d), if the agreement is made under a prepaid legal services plan or other liability insurance program;

“practising lawyer” means a member in good standing who holds or is entitled to hold a practising certificate;

“president” means the chief elected official of the society;

DEFINITIONS

“**resolution**” means a motion passed by a majority of those voting at a meeting;

“**respondent**” means a person whose conduct or competence is the subject of a hearing or an appeal under this Act;

“**review board**” means a review board appointed in accordance with section 47;

“**rules**” means rules enacted by the benchers under this Act;

“**society**” means the Law Society of British Columbia continued under section 2;

“**suspension**” means temporary disqualification from the practice of law;

“**written**” or “**in writing**” includes written messages communicated electronically.

(2) In Parts 1 to 5, “**costs**” means costs assessed under a rule made under section 27 (2) (e) or 46.

[2003-70-209; 2007-14-216; 2012-16-1; 2009-13-235, effective March 31, 2014]

Application

1.1 This Act does not apply to a person who is both a lawyer and a part time judicial justice, as that term is defined in section 1 of the *Provincial Court Act*, in the person’s capacity as a part time judicial justice under that Act.

[2008-42-33]

PART 1 – ORGANIZATION

Division 1 – Law Society

Incorporation

- 2** (1) The Law Society of British Columbia is continued.
- (2) For the purposes of this Act, the society has all the powers and capacity of a natural person.

Object and duty of society

- 3** It is the object and duty of the society to uphold and protect the public interest in the administration of justice by
- (a) preserving and protecting the rights and freedoms of all persons,
 - (b) ensuring the independence, integrity, honour and competence of lawyers,
 - (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
 - (d) regulating the practice of law, and
 - (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

[2012-16-2]

Benchers

- 4** (1) The following are benchers:
- (a) the Attorney General;
 - (b) the persons appointed under section 5;
 - (c) the lawyers elected under section 7;
 - (d) the president, first vice-president and second vice-president.
- (2) The benchers govern and administer the affairs of the society and may take any action they consider necessary for the promotion, protection, interest or welfare of the society.
- (3) The benchers may take any action consistent with this Act by resolution.
- (4) Subsections (2) and (3) are not limited by any specific power or responsibility given to the benchers by this Act.

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DEFINITIONS

Definitions

1 In these Rules, unless the context indicates otherwise:

“**Act**” means the *Legal Profession Act*, S.B.C. 1998, c. 9;

“**admission program**” means the training program for articulated students administered by the Society or its agents, commencing on an articulated student’s enrolment start date and including the period during which the student is

- (a) articulated to a principal, or
- (b) registered in the training course;

“**advertising**” includes letterhead, business cards and the use of paid space or time in a public medium, or the use of a commercial publication such as a brochure or handbill, to communicate with the general public or a group of people, for the purpose of promoting professional services or enhancing the image of the advertiser;

“**agreed statement of facts**” means a written statement of facts signed by discipline counsel and by or on behalf of the respondent;

“**applicant**” means a person who has applied under Part 2 for enrolment as an articulated student, for call and admission or for reinstatement;

“**appointed Bencher**” means a person appointed as a Bencher under section 5;

“**articled student**” means a person who is enrolled in the admission program;

“**articling agreement**” means a contract in a form approved by the Credentials Committee executed by an applicant for enrolment and his or her prospective principal;

“**articling start date**” means the date on which an articulated student begins employment with his or her principal;

“**articling term**” means the 9 month period referred to in Rule 2-32;

“**Barreau**” means the Barreau du Québec;

“**Bencher**” does not include the Attorney General unless expressly stated;

“**chair**” means a person appointed to preside at meetings of a committee or panel;

“**Chambre**” means the Chambre des notaires du Québec;

“**company**” means a company as defined in the *Business Corporations Act*;

“**complainant**” means a person who has delivered a complaint about a lawyer or a law corporation to the Society under Rule 3-2;

“**complaint**” means an allegation that a lawyer or a law corporation has committed a discipline violation;

“**conduct unbecoming a lawyer**” includes any matter, conduct or thing that is considered, in the judgment of the Benchers, a panel or a review board,

- (a) to be contrary to the best interest of the public or of the legal profession, or
- (b) to harm the standing of the legal profession;

“**costs**” includes costs assessed under Rule 3-18 or 3-74.1 or Part 5;

“**disbarred lawyer**” means a person to whom section 15(3) of the Act applies;

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“disciplinary record” includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a governing body as a result of
 - (i) professional misconduct,
 - (ii) incompetence,
 - (iii) conduct unbecoming a lawyer,
 - (iv) lack of physical or mental capacity to engage in the practice of law, or
 - (v) any other breach of a lawyer’s professional responsibilities;
- (b) disbarment;
- (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings;
- (d) restrictions or limits on a lawyer’s entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;
- (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing;

“discipline violation” means any of the following:

- (a) professional misconduct;
- (b) conduct unbecoming a lawyer;
- (c) a breach of the Act or these Rules;
- (d) incompetent performance of duties undertaken by a lawyer in the capacity of a lawyer;
- (e) conduct that would constitute professional misconduct, conduct unbecoming a lawyer or a contravention of the Act or these Rules if done by a lawyer;

“enrolment start date” means the date on which an articulated student’s enrolment in the admission program becomes effective;

“Executive Committee” means the Committee elected under Rule 1-39;

“Executive Director” includes a person designated by the Executive Director to perform any of the duties assigned to the Executive Director in these Rules;

“firm” includes one lawyer or two or more lawyers practising together, including in the following arrangements:

- (a) a sole proprietorship;
- (b) a partnership, including a limited liability partnership or a partnership of law corporations;
- (c) an arrangement for lawyers to share certain common expenses but otherwise practise as independent practitioners;
- (d) a law corporation;
- (e) a public body such as government or a Crown corporation;
- (f) a corporation that is not a law corporation, or other private body;
- (g) a multi-disciplinary practice;

DEFINITIONS

- “foreign jurisdiction”** means a country other than Canada or an internal jurisdiction of a country other than Canada;
- “Foundation”** means the Law Foundation of British Columbia continued under section 58 (1) of the Act;
- “funds”** includes current coin, government or bank notes, bills of exchange, cheques, drafts, money orders, charge card sales slips, credit slips and electronic transfers;
- “general”** in relation to accounts, books, records and transactions means those pertaining to general funds;
- “general funds”** means funds other than trust funds, received by a lawyer in relation to the practice of law;
- “governing body”** means the governing body of the legal profession in another province or territory of Canada;
- “insolvent lawyer”** means a lawyer who
- (a) is the respondent of a petition for a receiving order under section 43,
 - (b) has made an assignment of all his or her property for the general benefit of the lawyer’s creditors under section 49,
 - (c) has made a proposal under section 50 or 66.11,
 - (d) has filed a notice of intention to make a proposal under section 50.4, or
 - (e) has applied for a consolidation order under section 219
- of the *Bankruptcy and Insolvency Act*, S.C. 1992, c. 27;
- “inter-jurisdictional law firm”** means a firm carrying on the practice of law in British Columbia and in one or more other Canadian or foreign jurisdictions, unless all lawyers in all offices of the firm are practising lawyers;
- “inter-jurisdictional practice”** includes practice by a member of the Society in another Canadian jurisdiction;
- “investigate”** includes authorizing an investigation and continuing an investigation in progress;
- “law clerk”** means a law clerk employed by a judge appointed under section 96 of the *Constitution Act, 1867*, or a judge of the Supreme Court of Canada, the Federal Court of Canada or the Tax Court of Canada;
- “lawyer”** means a member of the Society;
- “limited liability partnership”** or **“LLP”** means a limited liability partnership under Part 6 of the *Partnership Act*, including an extraprovincial limited liability partnership registered under that Part;
- “multi-disciplinary practice”** or **“MDP”** means a partnership, including a limited liability partnership or a partnership of law corporations, that is owned by at least one lawyer or law corporation and at least one individual non-lawyer or professional corporation that is not a law corporation, and that provides to the public legal services supported or supplemented by the services of another profession, trade or occupation;
- “National Mobility Agreement”** means the National Mobility Agreement, 2013, of the Federation of Law Societies of Canada, as amended from time to time;

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- “net interest”** means the total interest earned on a pooled trust account, minus any service charges and transmittal fee that the savings institution charges to that account;
- “officer”** means the Executive Director, a Deputy Executive Director or other person appointed as an officer by the Benchers;
- “Ombudsperson”** means a person appointed by the Executive Director to provide confidential dispute resolution and mediation assistance to lawyers, articulated students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital or family status, disability or age, and includes anyone employed by the Ombudsperson to assist in that capacity;
- “panel”** means a panel established in accordance with Part 5;
- “practice review”** means an investigation into a lawyer’s competence to practise law ordered under Rule 3-12(3)(d) or 3-13(1);
- “practice year”** means the period beginning on January 1 and ending on December 31 in a year;
- “practitioner of foreign law”** means a person qualified to practise law in a foreign jurisdiction who provides foreign legal services in British Columbia respecting the laws of that foreign jurisdiction;
- “principal”** means a lawyer who is qualified to employ and employs an articulated student;
- “pro bono legal services”** means the practice of law not performed for or in the expectation of a fee, gain or reward;
- “professional conduct record”** means a record of all or some of the following information respecting a lawyer:
- (a) an order under Rule 2-30(4), prohibiting the lawyer from acting as a principal for an articulated student;
 - (b) any conditions or limitations of practice or articles accepted or imposed under the Act or these Rules;
 - (c) a decision by a panel or a review board to reject an application for enrolment, call and admission or reinstatement;
 - (c.1) a decision by the Credentials Committee to reject an application for an inter-jurisdictional practice permit;
 - (c.2) any suspension or disbarment under the Act or these Rules;
 - (d) recommendations made by the Practice Standards Committee under Rule 3-14;
 - (d.1) to (f) [rescinded 11/2008]
 - (g) an admission accepted by the Discipline Committee under Rule 4-21;
 - (h) an admission and consent to disciplinary action accepted by a hearing panel under Rule 4-22;

[“Barreau” and “Chambre” added, “National Mobility Agreement” amended 12/2013]

Responsibilities of visiting lawyer

- 2-14.1** (1) The Act, these Rules and the *Code of Professional Conduct* apply to and bind a visiting lawyer providing legal services.
- (2) It is the responsibility of a visiting lawyer providing legal services to
- (a) record and verify the number of business days in which he or she provides legal services, and
 - (b) prove that he or she has complied with these Rules.

[added effective 07/2003; (1) amended effective 01/2013]

Enforcement

- 2-15** (1) On the request of a governing body that is investigating the conduct of a lawyer, former lawyer or visiting lawyer or has initiated disciplinary proceedings against a lawyer, former lawyer or visiting lawyer, the Executive Director must provide all relevant information.
- (1.1) When the Executive Director provides information to a governing body under subrule (1), the Executive Director may inform any person whose personal, confidential or privileged information may be included of that fact and the reasons for it.
- (2) A fine imposed on a lawyer or former lawyer by a governing body may be enforced under Rule 4-36(4).
- (3) [rescinded]
- (4) A lawyer who practises law in another Canadian jurisdiction must comply with the applicable legislation, regulations, rules and *Code of Professional Conduct* of that jurisdiction.
- (5) The Executive Director may require a visiting lawyer to
- (a) account for and verify the number of business days spent providing legal services, and
 - (b) verify compliance with any Rules specified by the Executive Director.
- (6) If a visiting lawyer fails or refuses to comply with a requirement under subrule (5) within 20 days, or such longer time that the Executive Director may allow in writing,
- (a) the visiting lawyer is prohibited from providing legal services without a permit,
 - (b) any permit issued to the visiting lawyer under Rule 2-11 is rescinded, and
 - (c) the Executive Director must advise each of the governing bodies of which the visiting lawyer is or has been a member, of the visiting lawyer's failure to comply and the consequences.
- (7) A visiting lawyer who is affected by subrule (6) may apply to the Credentials Committee for restoration of any or all rights lost under that subrule and the Committee may, in its discretion, grant the application, subject to any conditions or limitations it considers to be in the public interest.

[(3) and (4) added 11/1999; (1) and (2) amended 06/2001; (3) rescinded, (5) to (7) added effective 07/2003; (1) and (2) amended, (1.1) added 10/2003; (7) amended 07/2012; (4) amended effective 01/2013]

Trust funds and compensation fund

2-16 A visiting lawyer providing legal services must not maintain a trust account in British Columbia, and must

- (a) promptly remit funds received in trust to the visiting lawyer's trust account in the home jurisdiction, or
- (b) ensure that trust funds received are handled
 - (i) by a practising lawyer in a trust account controlled by the practising lawyer, and
 - (ii) in accordance with the Act and these Rules.

(2) [rescinded]

[rule amended and numbered (2), (1) added 11/1999; (1) amended 06/2001; effective 07/2003;
(2) rescinded 12/2013]

Dispute resolution

2-17 If a dispute arises with a governing body concerning any matter under the Protocol, the Credentials Committee may do one or both of the following:

- (a) agree with a governing body to refer the matter to a single mediator;
- (b) submit the dispute to arbitration under Appendix 5 of the Protocol.

National Registry of Practising Lawyers

2-17.1 (1) The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required under the National Mobility Agreement.

(2) No one may use or disclose information obtained from the National Registry except for a purpose related to enforcement of the Act and these Rules.

[added effective 07/2003]

Practitioners of foreign law

Definitions

2-17.2 In Rules 2-17.2 to 2-22,

“business day” means any calendar day or part of a calendar day in which a practitioner of foreign law provides foreign legal services;

“permit” means a practitioner of foreign law permit issued under Rule 2-18;

“resident” has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada).

[added 06/2013]

Renewal of permit

- 2-22** (1) In order to renew a practitioner of foreign law permit, a practitioner of foreign law must apply to the Executive Director for a renewal of the permit before his or her permit expires.
- (2) A renewal application must include
- (a) a completed permit renewal application in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society,
 - (b) evidence satisfactory to the Executive Director that the practitioner of foreign law continues to comply with the requirements set out in Rule 2-18(2), and
 - (c) the renewal fee specified in Schedule 1.
- (3) The Executive Director may renew the permit of a practitioner of foreign law who has complied with the Act and these Rules.
- (4) Subject to subrule (5), a permit renewed under subrule (3) is valid for one year.
- (5) Rule 2-18(6) applies to a permit renewed under subrule (3).
- (6) A practitioner of foreign law who fails to pay when due the fee for renewal of a permit under subrule (2), including applicable taxes, or any part of it, must pay the late payment fee specified in Schedule 1.

Canadian legal advisors

Scope of practice

2-22.1 (1) [rescinded]

- (1.1) A Canadian legal advisor may
- (a) give legal advice on
 - (i) the law of Québec and matters involving the law of Québec,
 - (ii) matters under federal jurisdiction, or
 - (iii) matters involving public international law, or
 - (b) where expressly permitted by federal statute or regulation
 - (i) draw, revise or settle a document for use in a proceeding concerning matters under federal jurisdiction, or
 - (ii) appear as counsel or advocate before any tribunal with respect to matters under federal jurisdiction.
- (2) A Canadian legal advisor must not engage in the practice of law except as permitted under subrule (1.1).

[added effective 07/2010; amended, (1.1) added 03/2012; (1) rescinded, (1.1) and (2) amended 12/2013]

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Requirements

- 2-22.2** (1) A member in good standing who is admitted as a Canadian legal advisor has all the duties and responsibilities of a practising lawyer under the Act, these Rules and the *Code of Professional Conduct*.
- (2) A Canadian legal advisor must
- (a) be a member in good standing of the Chambre authorized to practise law in Québec,
 - (b) undertake to comply with Rule 2-22.1, and
 - (c) immediately notify the Executive Director in writing if he or she ceases to be authorized to practise law in Québec.

[added effective 07/2010; (2) amended 03/2012; (1) amended effective 01/2013;
(2) amended 12/2013]

Non-resident partners

Inter-jurisdictional law firms

- 2-23** (1) A lawyer who practises law as a member of an inter-jurisdictional law firm must ensure that the firm does the following respecting the firm's practice of law in British Columbia:
- (a) complies with the Part 3, Division 7 of these Rules;
 - (b) makes its books, records and accounts, wherever they are located, available on demand by the Society or its designated agent.
- (2) An inter-jurisdictional law firm is subject to discipline under Part 4 in the same way as a law corporation, except that the penalties that a panel may impose are the following:
- (a) a reprimand of the firm;
 - (b) a fine in an amount not exceeding \$100,000;
 - (c) an order prohibiting members of the firm who are not members of the Society from practising in British Columbia.
- (3) On certification by a governing body that an inter-jurisdictional law firm has failed to pay, by the date on which it was due, a fine imposed under a provision similar to subrule (2), the Credentials Committee may make an order prohibiting lawyers from practising as members of the firm.

[(3) added 11/1999; (1) amended 12/2003]

First call and admission

- 2-48** (1) An articled student who applies for call and admission must deliver the following to the Executive Director:
- (a) the following in the form approved by the Credentials Committee:
 - (i) a petition for call and admission;
 - (ii) a declaration of the principal;
 - (iii) a declaration of the applicant;
 - (iii.1) a joint report of the principal and the applicant certifying completion of their obligations under the articling agreement;
 - (iv) a completed questionnaire;
 - (v) written consent for the release of relevant information to the Society;
 - (b) [rescinded]
 - (c) an errors and omissions insurance application or exemption form;
 - (d) the following fees:
 - (i) the call and admission fees specified in Schedule 1;
 - (ii) the prorated practice fee specified in Schedule 2;
 - (iii) the prorated annual insurance fee specified in Schedule 2, unless exempt under Rule 3-25;
 - (e) any other information and documents required by the Act or these Rules that are requested by the Credentials Committee or the Benchers.
- (2) An application under this Rule may be made at any time.
- (3) If an articled student fails to meet the requirements of this Rule, including the delivery of all documents specified, the Executive Director must summarily
- (a) reject the application for call and admission, and
 - (b) terminate the student's enrolment.
- (4) When the Credentials Committee has initiated a review under Rule 5-13 of a hearing panel's decision to enrol an articled student, the articled student is not eligible for call and admission until the review board has issued a final decision on the review or the review is withdrawn by the Credentials Committee.

[(2) amended 11/1999; (4) added 05/2002; (1) amended 03/2003, 06/2012; (4) amended 09/2012, effective 01/2013]

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Law school faculty

- 2-48.1** (1) A full-time lecturer in a faculty of law of a university in Canada who has the academic qualifications required under Rule 2-27 may apply for call and admission without completing the admission program.
- (2) On an application under this Rule, the Credentials Committee may approve the application subject to the condition specified in subrule (3).
- (3) A lawyer called and admitted under this Rule who ceases to be a full-time lecturer in a faculty of law of a university in Canada must complete the admission program unless the Credentials Committee otherwise orders.
- (4) The Benchers may require a lawyer who fails to comply with subrule (3) to resign from the Society.

[added 11/2009]

Transfer from another Canadian jurisdiction

- 2-49** (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
- (a) an application for call and admission on transfer in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
- (b) a certificate of character;
- (c) a certificate of standing from each body regulating the legal profession, in any jurisdiction, in which the applicant is or has been a member of the legal profession;
- (d) an errors and omissions insurance application or exemption form;
- (e) proof of academic qualification
- (i) as required of applicants for enrolment under Rule 2-27(4), or
- (ii) for a member of the Barreau, proof that he or she has earned
- (A) a bachelor's degree in civil law in Canada, or
- (B) a foreign degree and a certificate of equivalency from the Barreau;
- (f) the following fees:
- (i) the application fee and call and admission fees specified in Schedule 1;
- (ii) the prorated practice fee specified in Schedule 2;
- (iii) the prorated annual insurance fee specified in Schedule 2, unless exempt under Rule 3-25;
- (iv) [rescinded]
- (g) any other information and documents required by the Act or these Rules that are requested by the Credentials Committee or the Benchers.

[(1) amended 12/2013]

- (3) To qualify for call and admission, an applicant under this Rule must certify in a prescribed form that he or she has reviewed and understands all of the materials reasonably required by the Executive Director.
- (4) A lawyer called and admitted under this Rule has no greater rights as a member of the Society than
 - (a) the lawyer has as a member of the governing body of his or her home jurisdiction, or
 - (b) any other member of the Society in similar circumstances.

[added effective 07/2003; heading amended 11/2006]

Transfer as Canadian legal advisor

2-49.3 (1) Subject to subrule (3), a member of the Chambre may apply for call and admission on transfer as a Canadian legal advisor by delivering to the Executive Director the following:

- (a) a completed application for call and admission as a Canadian legal advisor in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) a certificate of character;
 - (c) a certificate of standing from the Chambre and each other body regulating the legal profession, in any jurisdiction, in which the applicant is or has been a member of the legal profession;
 - (d) an errors and omissions insurance application or exemption form;
 - (e) the following fees:
 - (i) the application fee and call and admission fees;
 - (ii) a prorated practice fee;
 - (iii) a prorated annual insurance fee, unless exempt under Rule 3-25;
 - (f) any other information and documents required by the Act or these Rules that are requested by the Credentials Committee or the Benchers.
- (2) Subject to subrule (1), Rules 2-49 to 2-51 apply, with any necessary changes, to an application for call and admission on transfer as a Canadian legal advisor.
- (3) This Rule does not apply to a member of the Chambre unless he or she has earned a bachelor's degree in civil law in Canada or a foreign degree and a certificate of equivalency from the Chambre.

[added effective 07/2010; (1) amended 12/2011; (1) and (3) amended 03/2012;
(1) amended 06/2012; (1) and (3) amended 12/2013]

Consideration of application for call and admission

- 2-50** (1) The Executive Director must consider an application for call and admission by a person meeting the requirements under this division, and may conduct or authorize any person to conduct an investigation concerning the application.
- (2) On an application for call and admission, the Executive Director may
 - (a) authorize the call and admission of the applicant without conditions or limitations, or
 - (b) refer the application to the Credentials Committee.

- (3) When an application is referred to the Credentials Committee under subrule (2), the Committee may
 - (a) authorize the call and admission of the applicant without conditions or limitations,
 - (b) authorize the call and admission of the applicant with conditions or limitations on the practice of the applicant, if the applicant consents in writing to those conditions or limitations, or
 - (c) order a hearing.

Barristers and solicitors' roll and oath

- 2-51** (1) The Executive Director must maintain the barristers and solicitors' roll in paper or electronic form, or a combination of both.
- (2) Every lawyer who is called to the Bar of British Columbia and admitted as a solicitor of the Supreme Court must,
 - (a) before beginning the practice of law, take the barristers and solicitors' oath in a form approved by the Benchers before a judge of the Provincial Court or a superior court in British Columbia or before a practising lawyer, and
 - (b) be presented in open court before one or more of the judges of the Supreme Court.
 - (3) The Executive Director must enter in the barristers and solicitors' roll the full names of all persons who are called as barristers and admitted as solicitors.
 - (4) On proof that an applicant who has otherwise qualified for call and admission has taken the oath required under subrule (2)(a), the Executive Director must issue to the applicant a practising certificate, a non-practising certificate or a Canadian legal advisor certificate, as the case may be.
 - (5) The Executive Director must not renew a practising certificate or a Canadian legal advisor certificate issued under subrule (4) unless the lawyer has been presented in open court as required under subrule (2)(b).
 - (6) As an exception to subrule (5), the Executive Director may renew a certificate issued under subrule (2)(b) within four months of its expiry date.

[(1) and (2) amended, (4) to (6) added 11/1999; (4) and (5) amended effective 07/2010]

Reinstatement

Reinstatement of a former lawyer

- 2-52** (1) A former lawyer may apply for reinstatement as a member of the Society by delivering the following to the Executive Director:
- (a) an application for reinstatement in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) the appropriate application fee specified in Schedule 1.

Law Society counsel

2-63 The Executive Director must appoint an employee of the Society or retain another lawyer to represent the Society when

- (a) a hearing is ordered under this Division,
- (a.1) a review is initiated under section 47 of the Act,
- (b) a person appeals a decision to the Court of Appeal under section 48 of the Act, or
- (c) the Society is a respondent in any other action involving an application relating to sections 19 to 22 of the Act or this Division.

[amended 09/2012, effective 01/2013]

Preliminary questions

2-63.01 (1) Before a hearing begins, the applicant or Law Society counsel may apply for the determination of a question relevant to the hearing by delivering to the Executive Director and to the other party written notice setting out the substance of the application and the grounds for it.

(2) The Executive Director must promptly notify the President of an application under subrule (1).

(3) When an application is made under subrule (1), the President must do one of the following as appears to the President to be appropriate:

- (a) appoint a panel to determine the question;
- (b) refer the question to a prehearing conference;
- (c) refer the question to the panel at the hearing of the application.

(4) The President may designate another Bencher to exercise the discretion under subrule (3).

(5) A panel appointed under subrule (3)(a) is not seized of the application or any question pertaining to the application other than that referred under that provision.

[added 12/2013]

Compelling witnesses and production of documents

2-63.02 (1) Before a hearing begins, the applicant or Law Society counsel may apply for the an order under section 44(4) of the Act by delivering to the Executive Director and to the other party written notice setting out the substance of the application and the grounds for it.

(2) The Executive Director must promptly notify the President of an application under subrule (1).

(3) When an application is made under subrule (1), after considering any submissions of counsel, the President must

- (a) make the order requested or another order consistent with section 44(4) of the Act, or
- (b) refuse the application.

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- (4) The President may designate another Bencher to make a decision under subrule (3).
- (5) On the motion of the applicant or Law Society counsel, the President or another Bencher designated by the President may apply to the Supreme Court under section 44(5) of the Act to enforce an order made under subrule (3).

[added 12/2013]

Pre-hearing conference

- 2-63.1** (1) The President may order a pre-hearing conference at any time before a hearing ordered under this Division commences, at the request of the applicant or counsel for the Society, or on the President's own initiative.
- (2) When a conference has been ordered under subrule (1), the President must
 - (a) set the date, time and place of the conference, and
 - (b) designate a Bencher to preside at the conference.
 - (3) Counsel for the Society, and the applicant or applicant's counsel or both, must be present at the conference.
 - (4) Any person may participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present under subrule (3).
 - (5) The conference must consider
 - (a) the possibility of agreement on facts in order to facilitate the hearing,
 - (b) the discovery and production of documents,
 - (c) the possibility that privilege or confidentiality might require that all or part of the hearing be closed to the public, or that exhibits and other evidence be excluded from public access,
 - (d) setting a date for the hearing,
 - (e) any application by counsel for the Society to withhold the identity or locating particulars of a witness, and
 - (f) any other matters that may aid in the disposition of the application.
 - (6) The Bencher presiding at a pre-hearing conference may
 - (a) adjourn the conference to a specified date, time and place,
 - (b) order discovery and production of documents, including an order under section 44(4) of the Act,
 - (c) set a date for the hearing, and
 - (d) allow or dismiss an application under subrule (5)(f).

[added 02/2004; (6) amended 12/2013]

Appointment of panel

- 2-64** When a hearing is ordered under this Division, the President must appoint a panel in accordance with Rule 5-2.

Adjournment of hearing

- 2-65** (1) Before a hearing commences, the applicant or counsel for the Society may request that the hearing be adjourned by delivering to the Executive Director a notice in writing that sets out the reasons for the request.
- (2) The Executive Director must promptly notify the following of a request under subrule (1) and the reasons for it:
- (a) the party not making the request;
 - (b) a person given written notice of the application under Rule 2-52(10);
 - (c) the President;
 - (d) anyone else who, in the Executive Director's opinion, should be notified.
- (3) Before a hearing commences, the President must decide whether to grant the adjournment, with or without conditions, and advise the parties accordingly.
- (4) The President may designate another Bencher to make a determination under subrule (3).
- (5) After a hearing has commenced, the chair of the panel may adjourn the hearing, with or without conditions, to a specified date, time and place.

[(2) amended 10/2007]

Attendance at the hearing

- 2-66** Unless the chair of the panel otherwise orders, the applicant must personally attend the entire hearing.

Onus and burden of proof

- 2-67** (1) At a hearing under this Division, the onus is on the applicant to satisfy the panel on the balance of probabilities that the applicant has met the requirements of section 19(1) of the Act and this Division.
- (2) A panel must reject an application for enrolment if it considers that the applicant's qualifications referred to in Rule 2-27(4) are deficient.

Procedure

- 2-68** (1) Following completion of the evidence, the panel must invite the applicant and counsel for the Society to make submissions on the issues to be decided by the panel.
- (2) If the circumstances of the applicant have changed so as to make the outcome of the hearing moot, the panel may do one of the following after hearing submissions on behalf of the Society and the applicant:
- (a) adjourn the hearing generally;
 - (b) reject the application;
 - (c) commence or continue with the hearing.

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- (3) After submissions under subrule (1), the panel must determine the facts and decide whether to
 - (a) grant the application
 - (b) grant the application subject to conditions or limitations that the panel considers appropriate, or
 - (c) reject the application.
- (4) The panel must prepare written reasons for its findings.
- (5) The Executive Director must promptly deliver a copy of the panel's reasons prepared under subrule (4) to the applicant and counsel for the Society.

[(3) to (5) added 07/2007]

Inactive applications

- 2-68.1** (1) When the Credentials Committee has ordered a hearing under this Division and the applicant has taken no steps to bring the application to a hearing for one year, the application is deemed abandoned.
- (2) When an application is abandoned under this Rule, Law Society counsel may apply for an order that some or all of the funds paid under Rule 2-62 as security for costs be retained by the Society.
 - (3) An application under subrule (2) is made by notifying the following:
 - (a) the applicant;
 - (b) the Executive Director.
 - (4) On an application under subrule (3), the President may order that some or all of the funds deposited as security for costs be retained by the Society, and the remainder, if any, be refunded to the applicant.
 - (5) The President may designate another Bencher to make a determination under subrule (4).

[added 01/2012]

Variation or removal of conditions or limitations

- 2-69** (1) A lawyer or articled student on whom conditions or limitations have been imposed by a panel under this Division may apply to the President to have them varied or removed.
- (2) The President must refer an application under subrule (1) to the same panel that conducted the hearing or to the Credentials Committee, as the President considers appropriate.

Publication of credentials decision

- 2-69.1** (1) Subject to Rule 2-69.2, the Executive Director may publish and circulate to the profession a summary of the circumstances and of any final or interlocutory decision of a hearing panel or review board on an application under this Division and the reasons given for the decision.
- (2) When a publication is allowed under subrule (1), the Executive Director may also publish generally
- (a) a summary of the circumstances of the decision of the hearing panel and the reasons given for the decision, or
 - (b) all or part of the written reasons for the decision.
- (3) [rescinded]
- (4) This Rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

[added 02/2004; (1) and (2) amended, (3) rescinded 01/2014]

Anonymous publication

- 2-69.2** (1) Except as required or allowed under this Rule, a publication under Rule 2-69.1 must identify the applicant.
- (2) If the application that is the subject of the hearing is rejected, the publication must not identify the applicant unless the applicant consents in writing.
- (3) The panel may order that publication not identify the applicant if
- (a) the application is approved without conditions or limitations on the practice or articles of the applicant, and
 - (b) publication will cause grievous harm to the applicant or another identifiable individual that outweighs the interest of the public and the Society in full publication.
- (4) An applicant may apply to the panel for an order under subrule (3)
- (a) in writing or on the record in the course of a hearing, and
 - (b) no later than 7 days after the written hearing report is issued or oral reasons delivered.
- (5) The Executive Director must not publish under Rule 2-69.1 until
- (a) 7 days after a hearing report is issued or oral reasons given, unless the applicant waives the right to apply under subrule (4), or
 - (b) an application under subrule (4) is resolved or withdrawn.
- (6) If a panel orders that an applicant's identity not be disclosed under subrule (3), the panel must state in writing the specific reasons for that decision.
- (7) If, on a review of a panel decision rejecting an application, the review board approves the application, the applicant may apply to the review board under subrule (4), and subrules (3) to (6) apply as if the review board were a panel.

[added 02/2004; (3) amended 07/2012; (7) amended 09/2012, effective 01/2013]

Division 3 – Fees and Assessments

Annual practising fees

- 2-70** (1) The annual practising fee and insurance fee are payable in respect of each calendar year.
- (2) The date for payment of the annual practising fee and first insurance fee instalment is November 30 of the year preceding the year for which they are payable.
- [(2) amended 05/2004; (1) and (2) amended 06/2012]

Assessments

- 2-71** (1) The Benchers may, by resolution, set a special assessment of all
- (a) practising lawyers,
 - (b) practising lawyers and applicants,
 - (c) members of the Society, or
 - (d) members of the Society and applicants.
- (2) A resolution under subrule (1) must set a date by which the assessment must be paid.

Application fees

- 2-71.1** On application from a person who has paid an application fee under these Rules, the Executive Director may refund all or part of the fee if, in the view of the Executive Director, it is fair to make the refund in all the circumstances, including the extent to which Society resources have been expended to process the application for which the fee was paid.
- [added 12/2011]

Late payment

- 2-72** (1) A lawyer who fails to pay fees by the date required under Rule 2-70 but pays all required fees before December 31 of the year preceding the year for which they are payable, together with the late payment fee under this Rule, continues to be a member of the Society.
- (2) The Executive Director may extend the time for a lawyer or class of lawyers to pay fees or a special assessment and, if the lawyer pays
- (a) the annual fee or special assessment by the date to which the time is extended, and
 - (b) the late payment fee under this Rule,
- the lawyer is deemed to be a member of the Society in good standing and to have been in good standing during the period of time that the lawyer's fee or special assessment was unpaid.

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- (5) For the purpose of this Rule,
- (a) the average number of hours per week that a lawyer engages in the practice of law and associated activities is calculated over successive 6 months periods, beginning on the effective date of the undertaking referred to in subrule (2), and
 - (b) “**associated activities**” includes practice management, administration and promotion and voluntary activities associated with the practice of law.
- (6) The Executive Director may, in the Executive Director’s discretion, reduce the time that a lawyer is not eligible under subrule (3) to pay the part-time insurance fee or, in extraordinary circumstances, allow the lawyer to pay the part-time insurance fee despite subrule (3).

[(3) amended, (6) added 06/2003]

Payment of annual insurance fee by instalments

- 3-23** (1) A lawyer must pay the insurance fee in two equal annual instalments as follows:
- (a) the first instalment on or before November 30 of the year preceding the year for which it is paid;
 - (b) the second instalment on or before June 30 of the year for which it is paid.
- (2) A lawyer who fails to pay the second instalment by the date prescribed in subrule (1) must immediately cease the practice of law in accordance with section 30(7) of the Act and surrender to the Executive Director his or her practising certificate and any proof of professional liability insurance issued by the Society.

[(2) added 05/2000; (1) amended 07/2004]

Insurance fee credit

- 3-24** (1) The Benchers may approve an annual insurance fee credit and set the conditions that a lawyer must meet to be entitled to the credit.
- (2) When a lawyer is entitled to an annual insurance fee credit, the first instalment of the insurance fee payable by the lawyer is reduced by the amount of the credit.

Exemption from liability insurance

- 3-25** (1) A lawyer is exempt from the requirement to maintain professional liability insurance and pay the insurance fee if the lawyer is
- (a) not engaged in the practice of law, other than pro bono legal services, anywhere in his or her capacity as a member of the Society, or
 - (b) employed by one of the following and is not engaged in the practice of law, other than pro bono legal services, except in the course of that employment:
 - (i) a government department;
 - (ii) a corporation other than a law corporation;
 - (iii) a society, trade union or a similar organization.
- (2) A lawyer is not exempt under subrule (1)(b) if the lawyer engages in the practice of law, other than pro bono legal services, in any way other than as described in those provisions.

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- (3) Subrule (4) applies to a lawyer who is entitled to practise law in the jurisdiction of a reciprocating governing body of which the lawyer is a member.
- (4) A lawyer may apply to the Executive Director for exemption from the requirement to maintain professional liability insurance and pay the insurance fee, if, in another Canadian jurisdiction in which the governing body allows a similar exemption for members of the Society, the lawyer
 - (a) is resident or is deemed resident under the National Mobility Agreement, and
 - (b) maintains the full mandatory professional liability insurance coverage required in the other jurisdiction that is reasonably comparable in coverage and limits to that required of lawyers in British Columbia and extends to the lawyer's practice in British Columbia.
- (5) A Canadian legal advisor may apply to the Executive Director for exemption from the requirement to maintain professional liability insurance and pay the insurance fee.
- (6) On an application under subrule (5), the Executive Director must grant the exemption, provided the Canadian legal advisor maintains the full mandatory professional liability insurance coverage required by the Chambre that extends to the Canadian legal advisor's practice in British Columbia.

[(3) and (4) added effective 07/2003; (5) and (6) added effective 07/2010; (6) amended 03/2012; (1) and (2) amended 06/2012; (4) and (6) amended 12/2013]

Transition

3-25.1 A lawyer who has provided pro bono legal services between May 14, 2012 and June 16, 2012 does not lose the exemption under Rule 3-25(1) for that reason alone.

[added 06/2012]

Deductible, surcharge and reimbursement

- 3-26** (1) If a deductible amount has been paid under the Society's insurance program on behalf of a lawyer, the lawyer must reimburse the Society in full.
- (2) If indemnity has been paid under the Society's insurance program, the lawyer on whose behalf it is paid must
- (a) pay the insurance surcharge specified in Schedule 1 for each of the next 5 years in which the lawyer is a member of the Society and not exempt from the insurance fee, and

Demand for disclosure of evidence

- 4-25** (1) In this Rule, “**evidence**” does not include any information or document about any discussion or other communication with the Ombudsperson in that capacity.
- (2) At any time after a citation has been issued and before the hearing begins, a respondent may demand in writing that discipline counsel disclose the evidence that the Society intends to introduce at the hearing.
- (3) On receipt of a demand for disclosure under subrule (2), discipline counsel must provide the following to the respondent by a reasonable time before the beginning of the hearing:
- (a) a copy of every document that the Society intends to tender in evidence;
 - (b) a copy of any statement made by a person whom the Society intends to call as a witness;
 - (c) if documents provided under paragraphs (a) and (b) do not provide enough information, a summary of the evidence that the Society intends to introduce;
 - (d) a summary of any other relevant evidence in discipline counsel’s possession or in a Society file available to discipline counsel, whether or not counsel intends to introduce that evidence at the hearing.

[(3) amended 09/1999; (2) and (3) amended 10/2010]

Application for details of the circumstances

- 4-26** (1) Before a hearing begins, the respondent may apply for disclosure of the details of the circumstances of misconduct alleged in a citation by delivering to the Executive Director and discipline counsel written notice setting out the substance of the application and the grounds for it.
- (2) The Executive Director must promptly notify the President of an application under subrule (1).
- (3) If the President is satisfied that an allegation in the citation does not contain enough detail of the circumstances of the alleged misconduct to give the respondent reasonable information about the act or omission to be proved, and to identify the transaction referred to, the President must order discipline counsel to disclose further details of the circumstances.
- (4) Details of the circumstances disclosed under subrule (3) must be
- (a) in writing, and
 - (b) delivered to the respondent or respondent’s counsel.
- (5) The President may designate
- (a) another Bencher to make a determination under subrule (3), or
 - (b) refer the application to a prehearing conference.

[(1), (2) and (5) amended 10/2010]

Preliminary questions

- 4-26.1** (1) Before a hearing begins, the respondent or discipline counsel may apply for the determination of a question relevant to the hearing by delivering to the Executive Director and to the other party written notice setting out the substance of the application and the grounds for it.
- (2) The Executive Director must promptly notify the President of an application under subrule (1).
- (3) When an application is made under subrule (1), the President must do one of the following as appears to the President to be appropriate:
- (a) appoint a panel to determine the question;
 - (b) refer the question to a prehearing conference;
 - (c) refer the question to the panel at the hearing of the citation.
- (4) The President may designate another Bencher to exercise the discretion under subrule (3).
- (5) A panel appointed under subrule (3)(a) is not seized of the citation or any question pertaining to the citation other than that referred under that provision.

[added 10/2010]

Compelling witnesses and production of documents

- 4-26.2** (1) Before a hearing begins, the respondent or discipline counsel may apply for an order under section 44(4) of the Act by delivering to the Executive Director and to the other party written notice setting out the substance of the application and the grounds for it.
- (2) The Executive Director must promptly notify the President of an application under subrule (1).
- (3) When an application is made under subrule (1), after considering any submissions, the President must
- (a) make the order requested or another order consistent with section 44(4) of the Act, or
 - (b) refuse the application.
- (4) The President may designate another Bencher to make a decision under subrule (3).
- (5) On the motion of the respondent or discipline counsel, the President or another Bencher designated by the President may apply to the Supreme Court under section 44(5) of the Act to enforce an order made under subrule (3).

[added 12/2013]

PART 4 – DISCIPLINE

Pre-hearing conference

- 4-27** (1) The President may order a pre-hearing conference at any time before the hearing on a citation begins, at the request of the respondent or discipline counsel, or on the President's own initiative.
- (2) When a conference has been ordered under subrule (1), the President must
- (a) set the date, time and place of the conference, and
 - (b) designate a Bencher to preside at the conference.
- (2.1) The Executive Director must notify the respondent and discipline counsel of the time and place of the conference.
- (3) Discipline counsel must be present at the conference.
- (3.1) The respondent may attend the conference in person, through counsel or both.
- (3.2) If the respondent fails to attend the conference, the Bencher presiding may proceed with the conference in the absence of the respondent and may make any order under this Rule, if the Bencher is satisfied that the respondent had notice of the conference.
- (4) Any person may participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this Rule.
- (5) The conference may consider
- (a) the simplification of the issues,
 - (b) the necessity or desirability of amendments to the citation,
 - (c) the possibility of obtaining admissions that might facilitate the hearing,
 - (d) the discovery and production of documents,
 - (d.1) the possibility that privilege or confidentiality might require that all or part of the hearing be closed to the public, or that exhibits and other evidence be excluded from public access,
 - (e) setting a date for the hearing to begin, and
 - (f) [rescinded]
 - (g) any other matters that may aid in the disposition of the citation.
- (5.1) The respondent or discipline counsel may apply to the Bencher presiding at the conference for an order
- (a) for discovery and production of documents, including an order under section 44(4) of the Act,
 - (b) to withhold the identity or contact information of a witness,
 - (c) to adjourn the hearing of the citation,
 - (d) for severance of allegations or joinder of citations under Rule 4-16.2,
 - (e) for disclosure of the details of the circumstances of misconduct alleged in a citation under Rule 4-26, or
 - (f) concerning any other matters that may aid in the disposition of the citation.

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- (6) The Bencher presiding at a pre-hearing conference may
 - (a) adjourn the conference generally or to a specified date, time and place,
 - (b) [rescinded]
 - (c) set a date for the hearing to begin, and
 - (d) allow or dismiss an application made under subrule (5.1) or referred to the conference under this Part.

[(5) amended 05/2003; (1) and (3) to (6) amended, (2.1), (3.1), (3.2) and (5.1) added 10/2010;
(5.1) amended 12/2013]

Appointment of panel

4-28 When a citation is issued under Rule 4-13(1), the President must establish a panel to conduct a hearing, make a determination under Rule 4-34 and take action, if appropriate, under Rule 4-35.

Adjournment

- 4-29** (1) Before a hearing begins, the respondent or discipline counsel may apply for an order that the hearing be adjourned by delivering to the Executive Director and the other party written notice setting out the grounds for the application.
- (2) The Executive Director must promptly notify the President of an application under subrule (1).
- (3) Before the hearing begins, the President must decide whether to grant the adjournment, with or without conditions, and must notify the parties accordingly.
- (4) The President may
 - (a) designate another Bencher to make a determination under subrule (3), or
 - (b) refer the application to a prehearing conference.

PART 4 – DISCIPLINE

- (6) When the Executive Director provides information or documentation to a governing body under subrule (4) or (5), the Executive Director may inform any person whose personal, confidential or privileged information may be included of that fact and the reasons for it.

[added effective 07/2003; (4) amended, (6) added 10/2003]

Public notice of suspension or disbarment

- 4-37** (1) When a person is suspended under this Part or Part 5 or becomes a disbarred lawyer, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation by means including but not limited to the following:

- (a) publication of a notice in
 - (i) the *British Columbia Gazette*,
 - (ii) a newspaper of general circulation in each municipality and each district referred to in Rule 1-20, in which the person maintained a law office, and
 - (iii) the Society website;
- (b) notifying the following:
 - (i) the Registrar of the Supreme Court;
 - (ii) the Public Guardian and Trustee.

- (2) When a person is suspended under Part 2 or 3, the Executive Director may take any of the steps referred to in subrule (1).

- (3) A lawyer who is suspended under this Part or Part 5 must inform all clients who reasonably expect the lawyer to attend to their affairs during the period of the suspension and clients or prospective clients who inquire about the availability of the lawyer's services during the suspension period of the following:

- (a) the period the lawyer will not be practising;
- (b) the arrangements the lawyer has put in place to protect the clients' interests during the time the lawyer will not be practising;
- (c) the fact that the lawyer is not practising during the relevant period because of the suspension.

- (4) A panel that suspends a lawyer may relieve the lawyer of any of the obligations set out in subrule (3) if the panel is satisfied that it is consistent with the public interest and imposing the obligation would be unreasonable in the circumstances.

[amended 03/1999; amended effective February 28, 2000; amended 10/2006;
(1) amended, (2) added 04/2007; (3) and (4) added 11/2007]

Publication of disciplinary action

- 4-38** (1) The Executive Director must publish and circulate to the profession a summary of the circumstances and of any decision, reasons and action taken

- (a) at the conclusion of the facts and determination portion of a hearing on a citation,
- (a.1) at the conclusion of the disciplinary action portion of a hearing on a citation,

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- (a.2) at the conclusion of a hearing on a citation under Rule 4-24.1.
 - (b) at the conclusion of a hearing before a review board under section 47 of the Act,
 - (c) at the conclusion of an appeal to the Court of Appeal under section 48 of the Act,
 - (d) when an order is made or refused under Rule 4-19(13) or (14),
 - (e) when a lawyer or former lawyer is suspended or disbarred under Rule 4-40, or
 - (f) when an admission is accepted under Rule 4-21 or 4-22.
- (2) The Executive Director may publish and circulate to the profession a summary of any decision, reasons and action taken not enumerated in subrule (1), other than
 - (a) a decision not to accept a conditional admission under Rule 4-21 or 4-22, or
 - (b) any decision under Rule 4-17(1).
 - (3) When a publication is required under subrule (1) or permitted under subrule (2), the Executive Director may also publish generally
 - (a) a summary of the circumstances of the decision, reasons and action taken,
 - (b) all or part of the written reasons for the decision, or
 - (c) in the case of a conditional admission that is accepted under Rule 4-21, all or part of an agreed statement of facts.
 - (4) [rescinded]
 - (5) This Rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

[heading and (1) amended, (2) and (3) rescinded and replaced, (4) and (5) added 05/2003;
(1) and (2) amended 10/2006; (1) amended 07/2007; (1) and (2) amended 12/2009;
(1) and (4) amended 10/2010; (1) and (3) amended 09/2012, effective 01/2013; (3) amended,
(4) rescinded 01/2014]

Anonymous publication

- 4-38.1** (1) Except as allowed under this Rule, a publication under Rule 4-38 must identify the respondent.
- (2) If all allegations in the citation are dismissed by a panel, the publication must not identify the respondent unless the respondent consents in writing.
 - (3) On an application under subrule (4) or on its own motion, the panel may order that publication not identify the respondent if
 - (a) the panel has imposed a disciplinary action that does not include a suspension or disbarment, and
 - (b) publication of the identity of the respondent could reasonably be expected to identify an individual, other than the respondent, and that individual would suffer serious prejudice as a result.

PART 5 – HEARINGS AND APPEALS

Application of Part

5-1 This Part applies to

- (a) a hearing on an application for enrolment, call and admission or reinstatement,
- (b) a hearing on a citation, and
- (c) unless the context indicates otherwise, a review by a review board of a hearing decision.

[amended 05/2002; amended 09/2012, effective 01/2013]

Hearing panels

5-2 (1) A panel must consist of an odd number of persons but, subject to subrule (2), must not consist of one person.

(2) A panel may consist of one Bencher who is a lawyer when

- (a) no facts are in dispute,
- (b) the hearing is to consider a conditional admission under Rule 4-22,
 - (b.1) the hearing proceeds under Rule 4-24.1,
 - (b.2) the hearing is to consider a preliminary question under Rule 4-26.1,
- (c) it is not otherwise possible, in the opinion of the President, to convene a panel in a reasonable period of time, or
- (d) one or more of the original panel members cannot complete a hearing that has begun.

(3) A panel must be chaired by a Bencher who is a lawyer.

(4) Panel members must be permanent residents of British Columbia over the age of majority.

(5) The chair of a panel who ceases to be a Bencher may, with the consent of the President, continue to chair the panel, and the panel may complete any hearing or hearings already scheduled or begun.

(6) [rescinded]

(7) Two or more panels may proceed with separate matters at the same time.

(8) The President may refer a matter that is before a panel to another panel, fill a vacancy on a panel or terminate an appointment to a panel.

(9) Unless otherwise provided in the Act and these Rules, a panel must decide any matter by a majority, and the decision of the majority is the decision of the panel.

[(1), (2) and (4) amended 09/2005; (2) amended 07/2007; (2), (4) and (5) amended, (6) rescinded 10/2010; (8) amended 09/2012, effective 01/2013]

Disqualification

- 5-3** (1) The following persons must not participate in a panel hearing a citation:
- (a) a person who participated in the decision that authorized issuing the citation;
 - (b) one of the Benchers who made an order under Rules 3-7.1 to 3-7.3 or Rule 4-17 regarding the respondent;
 - (c) a member of a panel that heard an application under Rule 4-19 to rescind or vary an interim suspension or practice condition or limitation in respect of the respondent.
- (2) A person who participated in the decision to order the hearing on an application for enrolment as an articulated student, for call and admission or for reinstatement must not participate in the panel on that hearing.
- (3) [rescinded]
- (4) A person must not appear as counsel for any party for three years after
- (a) serving as a Bencher, or
 - (b) the completion of a hearing in which the person was a member of the panel.
- [(4) added 02/2002; (1) amended 09/2012; (3) rescinded 09/2012, effective 01/2013]

Compelling witnesses and production of documents

- 5-4** (1) In this Rule, “**respondent**” includes a shareholder, director, officer or employee of a respondent law corporation.
- (2) At any time during a hearing, a panel may
- (a) compel the applicant or respondent to give evidence under oath,
 - (b) order the applicant or respondent to produce all files and records that are in the applicant’s or respondent’s possession or control that may be relevant to the matters raised by the application or in the citation, or
 - (c) make an order under section 44(4) or an application under section 44(5) of the Act.
- (3) A person who is the subject of an order under subrule (2)(a) may be cross-examined by counsel representing the Society.
- (4) A party to a proceeding under the Act and these Rules may prepare and serve a summons requiring a person to attend an oral or electronic hearing to give evidence in the form prescribed in Schedule 5.
- [heading amended 10/2010; rule amended, (1) and (3) added 07/2011; (4) added 07/2012, effective 01/2013; (2) amended 12/2013]

Procedure

- 5-5** (1) Subject to the Act and these Rules, the panel may determine the practice and procedure to be followed at a hearing.
- (2) Before a court reporter begins reporting the proceedings of a hearing, the chair of the panel must ensure that the reporter takes an oath or makes a solemn affirmation to faithfully and accurately report and transcribe the proceedings.
- (3) The applicant, respondent or counsel for the Society may call witnesses to testify.

- (4) When a firm is registered as an extraprovincial limited liability partnership under Part 6 of the *Partnership Act*, the firm must promptly take reasonable steps to notify in writing each existing client of the firm in British Columbia of the registration and any change, resulting from the registration, in the liability of the partners.
- (5) Subrule (4) does not apply to a client outside of British Columbia if the firm provides legal services to the client primarily through lawyers outside of British Columbia.
- (6) The notice required under subrule (2) or (4) may be
 - (a) mailed by regular or registered mail to the client at the client's last known address,
 - (b) delivered personally to the client,
 - (c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number,
 - (d) transmitted by electronic mail to the client at the client's last known electronic mail address, or
 - (e) published in a newspaper distributed in the area in which the client resides or carries on business.

[added 09/2004, effective January 17, 2005; (3) amended 12/2004]

Change in LLP information and annual reports

9-18 A limited liability partnership must deliver to the Executive Director copies of the following at the same time that they are filed under Part 6 of the *Partnership Act*:

- (a) an annual report;
- (b) an amendment to the registration statement.

[added 09/2004, effective January 17, 2005]

Disclosure of LLP information

9-19 (1) All information and documents received by the Society under this Division are confidential, and no person is permitted to disclose them to any person.

- (2) As an exception to subrule (1), the Society may
 - (a) use information and documents for a purpose consistent with the Act and these Rules,
 - (b) disclose information and documents to a governing body, and
 - (c) disclose to any person on request the name and place of business of a limited liability partnership.

[added 09/2004, effective January 17, 2005]

Notification of non-compliance

9-20 With the consent of the Credentials Committee, the Executive Director may notify the Registrar of Companies if the Executive Director becomes aware of the failure of a limited liability partnership or one or more of its partners to maintain compliance with the requirements of Part 6 of the *Partnership Act*.

[added 09/2004, effective January 17, 2005]

PART 10 – GENERAL

Service and notice

- 10-1** (1) A lawyer, former lawyer, articled student or applicant may be served with a notice or other document personally, by leaving it at his or her place of business or by sending it by
- (a) registered mail, ordinary mail or courier to his or her last known business or residential address,
 - (b) electronic facsimile to his or her last known electronic facsimile number,
 - (c) electronic mail to his or her last known electronic mail address, or
 - (d) any of the means referred to in paragraphs (a) to (c) to the place of business of his or her counsel or personal representative or to an address given to discipline counsel by a respondent for delivery of documents relating to a citation.

(1.1) [rescinded 04/2013]

(1.2) If it is impractical for any reason to serve a notice or other document as set out in subrule (1), the President may order substituted service, whether or not there is evidence that

- (a) the notice or other document will probably
 - (i) reach the intended recipient, or
 - (ii) come to the intended recipient's attention, or
- (b) the intended recipient is evading service.

(1.3) The President may designate another Benchers to make a determination under subrule (1.2).

- (2) A document may be served on the Society or on the Benchers by
- (a) leaving it at or sending it by registered mail or courier to the principal offices of the Society, or
 - (b) personally serving it on an officer of the Society.

(3) A document sent by ordinary mail is deemed to be served 7 days after it is sent.

(3.1) A document that is left at a place of business or sent by registered mail or courier is deemed to be served on the next business day after it is left or delivered.

(3.2) A document sent by electronic facsimile or electronic mail is deemed to be served on the next business day after it is sent.

(4) Any person may be notified of any matter by ordinary mail, electronic facsimile or electronic mail to the person's last known address.

[heading amended, (4) added 10/2007; (1) amended, (1.1) added 10/2010; (1) and (2) to (4) amended, (1.1) rescinded, (1.2) and (1.3) added 04/2013; (1) and (3) amended, (3.1) and (3.2) added 01/2014]

Duty not to disclose

10-2 A person performing any duty or fulfilling any function under the Act or these Rules who receives or becomes privy to any confidential information, including privileged information,

- (a) has the same duty that a lawyer has to a client not to disclose that information, and
- (b) must not disclose and cannot be required to disclose that information except as authorized by the Act, these Rules or an order of a court.

10-3 [rescinded 07/2008]

LAW SOCIETY RULES

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