



Lawyer Education Task Force – First Interim Report

Purpose of Report: **Information for the Benchers
Approval in Principle of Proposal for Mandatory
Reporting of Education Activities**

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LAWYER EDUCATION TASK FORCE

First Interim Report

I. Executive Summary

The Lawyer Education Task Force was created by the Benchers in June 2002 to examine post-call or continuing legal education issues facing the profession. The creation of such a Task Force was recommended by the Admission Program Task Force in its report of June 2002 as a way to develop proposals for a comprehensive, strategic approach to promoting the excellence and competence of lawyers through post-call learning and information support.

The Task Force has met on a regular basis since February 2003, and has identified, reviewed and discussed a great many issues and options on the topic of continuing legal education, particulars of which are outlined in this report.

Because of the wide-ranging variety of issues and options on this topic, the Task Force believes that waiting to report on everything in one final report would not be the optimal manner by which to proceed. As a result, the Task Force believes that it is appropriate at this time to make an interim recommendation to the Benchers.

After examining previous deliberations by the Law Society on this topic, and after determining that the Law Society, acting both in the public interest and in the interest of its members, ought to be taking more steps to more actively encourage continuing professional development and education within the profession, the Task Force recommends that the Benchers approve creating a mandatory requirement for lawyers to report annually on the voluntary continuing legal education activities each of them undertakes. This mandatory reporting requirement would entail reporting on continuing legal education activity through both course offerings and through self-study. The Task Force recommends that minimum expectations of 12 hours per year of course study and 50 hours per year of self study be approved.

While this would be a mandatory report, the Task Force does not recommend there be any requirement on a lawyer to actually have taken or engaged in any legal education activity. Continuing legal education activity will continue to be a purely voluntary endeavour. If a lawyer has not engaged in any education activity, no consequence will be brought to bear on the lawyer, **except that the information on the report could be considered by the Law Society when considering a practice review arising from complaints about that lawyer's lack of competency.**

This recommendation is designed to remind lawyers that education is important, that the Law Society promotes education activity within the profession, and that the Law Society deems it important enough to require all such activity to be reported. The recommendation will

- reconfirm the Law Society’s commitment to ensuring that lawyers treat their continuing education responsibilities seriously;
- reconfirm the Law Society’s commitment to encouraging lawyers to engage in career-long learning.

It will also assist the Law Society in gathering information about the educational patterns and needs within the profession. This gathering of information will assist the Task Force in its continuing examination of this topic.

II. Statutory Authority

The Law Society’s authority for addressing issues relating to the education of lawyers is found in sections 3 and 28 of the *Legal Profession Act*, which provides:

3 It is the object and duty of the society

(a) to uphold and protect the public interest in the administration of justice by

.....

(iii) establishing standards for the education... and competence of its members....

.....

28 The benchers may take any steps they consider advisable to promote and improve the standard of practice by lawyers, including but not limited to the following:

(a) establishing and maintaining or otherwise supporting a system of legal education, including but not limited to the following programs:

(i) professional legal training;

(ii) continuing legal education;

(iii) remedial legal education;

(iv) loss prevention;

III. Lawyer Education Task Force

The Lawyer Education Task Force was established by the Benchers in June 2002 and is composed of Patricia Schmit, QC (Chair), John Hunter, QC (Vice Chair), Gordon Turriff, QC, Ross Tunnicliffe, Dr. Maelor Vallance, Howard Berge, QC, Peter Warner, QC, Mary Childs and Susan Sangha. Ralston Alexander, QC was a member of the Task Force from its inception until December 31, 2003. Dirk Sigalet joined the Task Force in February 2004.

The Task Force was created by the Benchers as a result of two recommendations in the Final Report of the Admission Program Task Force (June, 2002) on the topic of post-call education. Those recommendations were:

RECOMMENDATION #27: The Law Society should recommend that newly qualified lawyers obtain a specific amount or type of continuing education, and that lawyers moving to sole practice obtain relevant continuing education.

RECOMMENDATION #28: Establish a Task Force to develop proposals for a comprehensive, strategic approach to promoting the excellence and competence of lawyers through post-call learning and information support.

The Task Force has kept these two recommendations in mind during its work to date leading up to this Interim Report. Beyond what is contained by way of recommendation of the Admission Program Task Force, the Task Force has also taken guidance from the following:

- (i) The Law Society's Strategic Plan initiative #5:

“To ensure that lawyers are competent throughout their careers to provide quality legal services.”

- (ii) The statement of “Ends” of the Law Society as articulated in the Benchers' Policies, which includes the statement

“Lawyers provide legal services competently after call to the bar.”

Included as a sub statement to this general end is the following:

“Post-call legal education that is relevant and of appropriate quality is available and voluntarily consumed.”

IV. Issues Considered by the Task Force

The Task Force has met monthly since February 2003, and has reviewed a great deal of literature on the subject of continuing legal education, including a review of the continuing legal education regimes of other provinces and states. The Task Force has also reviewed the continuing education regimes of some of the other professions such as medicine and accounting.

The Task Force has examined what services and materials are at the present time available to lawyers wishing to partake in continuing legal education activities (**Appendix 1**). The Task Force has also consulted with those who practice law in the

province as well as with those groups that provide legal education in the province. **(Appendix 2).**

After reviewing the literature and distilling the information gathered as a result of its consultations, the Task Force concluded that there were many general matters that need to be examined, including:

- what is the role of the Law Society in promoting or offering post call or continuing legal education programs?
- how can the public interest be protected by lawyer education programs?
- how do (or how should) educational programs interrelate with competency programs as part of the regulatory arm of the Law Society?
- should there be periodic retesting of a lawyer throughout his/her professional life?
- what educational resources are offered to lawyers? Who offers them? At what cost?
- in a geographically diverse area like British Columbia, how are those resources accessed? How can access problems be ameliorated?
- is there a relationship between education programs and specialization programs?

The Task Force concluded that, in the most general sense, the issues arising from its review of the present state of affairs concerning the question of continuing legal education include:

- a) What does the profession want, and what does the Law Society believe the profession needs from continuing legal education programs?
- b) What are the problems, if any, with the competency of lawyers in B.C. and how can the Law Society, through its Practice Standards Committee and/or Practice Advisors, focus on and solve these problems?
- c) What can be done to address the wants or needs of the majority of lawyers who are competent, but who wish to enhance their skill and proficiency? and
- d) What can the Law Society do to assist or improve continuing legal education programs? Can (or should) the Law Society take any steps to better motivate lawyers to participate in continuing legal education activities?

The consideration of these issues has occupied a considerable amount of time. The Task Force has examined the issues both from the point of view of the competent lawyer wishing to improve his or her skills as well as from the point of view of the Law Society's Practice Standards programs and the need for available education to improve the skills of lawyers with competency problems in one or more areas of law.

On the topic of Practice Standards needs, the Task Force devoted some considerable time to looking at, and ultimately supported a call for, an amendment to the *Legal Profession Act* to assist the Committee in its work. The Benchers have resolved to seek an amendment to s. 27(2) the *Act* to authorize the Benchers to adopt Rules for the imposition of practice restrictions and requirements on lawyers who have been the subject of a practice review ordered by the Practice Standards Committee.

The Task Force has therefore reviewed and considered a number of possible options for enhancing post-call lawyer education, including:

1. Mandatory continuing legal education, including;
 - Publication of recommended guidelines for lawyers regarding expected continuing legal education activities;
 - Mandatory reporting of voluntary continuing legal education activities;
 - Mandatory education for all lawyers as a condition of renewing a practicing certificate;
 - Mandatory continuing legal education in certain circumstances (such as when starting up a new practice) or on certain topics (such as trust accounting or professional responsibility);
2. Mandatory periodic retesting, including;
 - Periodic retesting of all lawyers on certain topics;
 - Periodic retesting of some particular group of lawyers on limited topics;
3. Self-assessment programs and peer-review programs;
4. Limited licensing provisions, including;
 - Limiting one's license to practice when called to the Bar to certain situations. Removing the limitation would be by way of taking/passing certain continuing legal education activity;
5. Specialist certification, including:
 - Specialist certification and licensing through qualification by meeting prescribed lawyer education standards;
 - Specialist certification obtained by passing prescribed education activities or other Law Society examinations.

These options have all been examined in a general, but preliminary, manner. They have at this stage only been looked at by the Task Force as possible options. With the

exception of the recommendation outlined in this report, the Task Force has not reached a stage in its deliberations with respect to making any recommendations on these options.

V. Task Force Recommendation to Benchers

The topic of post-call education is a wide-ranging one, and in analysing the topic many issues and options must be considered and addressed.

The Task Force therefore recognizes that there will be a great number of issues to report on at the end of the day. Waiting to report on all issues and options in one final report would not be the optimal manner by which to proceed.

To this end, the Task Force believes that it is appropriate at this time to make an interim recommendation to the Benchers that the Law Society establish a mandatory requirement for lawyers to report annually on the continuing legal education activities each of them undertakes. This recommendation is not meant to rule out the possibility of requiring mandatory continuing legal education for lawyers at some time in the future. The analysis underlying the recommendation for mandatory reporting follows below.

1. Recommendation – Mandatory Reporting of Continuing Legal Education Activity

The Task Force recommends that the Law Society require lawyers to report annually to the Society in the Annual Practice Declaration all continuing legal education courses or activity undertaken by that lawyer in the previous twelve month period.

The Task Force recommends that there be mandatory reporting in two categories:

- (i) continuing legal education through course study (and instructing). In this regard, the Task force recommends that “continuing legal education” include courses offered by the Continuing Legal Education Society, and through the Canadian Bar Association, the Trial Lawyers’ Association, local bar associations, the Federation of Law Societies, and commercial continuing education providers;
- (ii) continuing legal education through self-study. The Task Force recommends a broad range of self-study activity be included, such as studies of legal texts, legal journals, case law and statutes, and case-specific reading or research.

For each component, the Task Force recommends that the Law Society establish minimum expectations of study. After reviewing the programs of other jurisdictions (see below), and after considering the issue from the perspective of the Law Society of British Columbia, the Task Force recommends that minimum expectations be established at 12 hours annually for course study and 50 hours annually for self-study.

While this would be a mandatory report, the Task Force does not recommend that there be any requirement on a lawyer to actually take or engage in any legal education activity. Continuing legal education will continue to be a purely voluntary endeavour. If a lawyer has not engaged in any education activity, no consequence will be brought to bear on the lawyer, **except that the information on the report could be considered by the Law Society when considering a practice review arising from complaints about that lawyer's lack of competency.**

The proposal is meant primarily to remind lawyers that education is important, that the Law Society promotes educational activity within the profession, and that the Law Society deems it important enough to require all such activity to be reported. It is a well established business principle that an organization should measure and track the behaviours and outcomes that it values. The Task Force believes that a mandatory reporting provision will accomplish both goals.

A mandatory requirement to report to the Law Society what each member undertakes each year (on a voluntary basis) by way of legal education is a “middle ground” solution, lying between the *laissez-faire* approach of relying on lawyers to meet their professional obligations to keep up-to-date in the law, and the more interventionist approach of imposing a regulatory requirement that lawyers must take a certain amount of education each year.

Mandatory reporting of continuing legal education undertaken by a lawyer is not a new idea. As far back as 1980, for example, the report of the Committee on Mandatory Legal Education recommended against mandatory continuing legal education, opting instead to recommend that the Law Society consider publishing a guideline as to what would be a reasonable amount of annual continuing legal education, and that lawyers be required to file a statement each year as to the amount of educational activity undertaken in the previous year¹. This was aimed at the following purposes:

- It would cause the lawyer to realize how much or how little time and effort had been undertaken in staying up-to-date with the law and raising the level of practice;
- The information gathered could be used in determining the lawyer's insurance premiums for the following year;
- The information gathered might be made available on any subsequent competency hearings against the lawyer;
- The information gathered might be useful in subsequent consideration of a mandatory continuing legal education program.

It does not appear that this recommendation was ever considered by the Benchers.

¹ Report of the Committee on Mandatory Continuing Legal Education, September, 1980.

In 1984, a subcommittee of the Education Committee examined mandatory continuing legal education again, and a report was prepared². In February 1985 the Benchers, upon receiving the Education Committee's report, resolved³:

- That the Law Society include questions about members' participation in continuing legal education as a condition of having their practice certificate renewed; and
- That the membership be consulted about a proposal to "tax" every member \$75 per year, \$25 of which would be given to the CLE Society, and \$50 of which would be a CLE credit to be applied against the cost of a course or publication to be purchased by the member in the subsequent year. The results of the consultation were to be reported back to the Benchers.

It is unclear if further action taken with respect to either of these resolutions.

2. Policy Objectives to be Served by the Recommendation

The policy objectives that will be served by implementing a mandatory reporting model include:

- reconfirming the Law Society's commitment to ensuring that lawyers treat their continuing education responsibilities seriously
- reconfirming the Law Society's commitment to encouraging lawyers to engage in career-long learning
- gathering information about the educational patterns and needs within the profession. This will assist the Task Force in its continuing examination of this topic.

The Task Force considers that the protection of the public interest is enhanced by the proposal because it would remind lawyers about the importance of professional education, which the Task Force believes will encourage more lawyers to take courses. The hope is that the quality of legal services offered by *all* the profession as a whole will thereby improve.

By requiring members to report continuing legal education activity, the Law Society can also determine the commitment of members of the profession to career-long learning.

3. Key Comparisons relating to the Recommendation

Two North American jurisdictions – Ontario and Alaska - have introduced mandatory reporting of education while retaining the voluntary nature of continuing education.

(a) **Alaska**

² Memorandum from Keith Hamilton to Bruce I. Cohen, Q.C. November 20, 1984.

³ Benchers' Minutes, February 1, 1985, page 3.

In September 1999, the Alaska Bar Association included a Rule

to promote competence and professionalism in members of the Association....[and to] ...encourage all members to engage in Continuing Legal Education.

The Rule was initially established as a three-year pilot project, in part to determine whether a sanction-based mandatory CLE program is necessary. The pilot project therefore just recently completed. The Rule continues in force.

The Rule sets minimum standards for continuing legal education. Every active member, the Rule states, *should* complete at least 12 credit hours of *approved* continuing legal education, including one credit hour of education in ethics. Credits (up to a maximum of 12) can also be carried forward for one year, meaning that a lawyer could take 24 hours of credit one year and none the following year.⁴

The Alaska rule requires each member to certify annually when paying bar fees the member's approved CLE hours earned during the year. A modest reduction in bar fees is provided as an incentive for members who voluntarily comply with the prescribed education standard.⁵

(b) Ontario

⁴ The commentary to the Alaska rule states:

The Alaska Supreme Court and the Association are convinced that CLE contributes to lawyer competence and benefits the public and the profession by assuring that attorneys remain current regarding the law, the obligations and standards of the profession, and the management of their practices. But the Supreme Court is not convinced that a mandatory rule is necessary and believes that a CLE program can become successful by using incentives to encourage voluntary participation in CLE rather than sanctions to penalize non-compliance with a mandatory rule.

⁵ Various activities may be considered for credits when they meet the following conditions:

- (1) preparing for and teaching approved CLE courses (2 hours of preparation time for every 1 hour taught);
- (2) studying audio or video tapes or technology-delivered approved CLE courses;
- (3) writing published legal texts or articles in law reviews or specialized professional journals;
- (4) attendance at substantive Section or Inn of Court meetings;
- (5) participation as a faculty member in Youth Court;
- (6) attendance at approved in-house continuing legal education courses;
- (7) attendance at approved continuing judicial education courses
- (8) attendance at approved continuing legal education courses.

Ontario has recently implemented a mandatory reporting requirement of eligible continuing legal education activity. The Law Society of Upper Canada has established a *minimum* expectation of CLE (which includes self-study), and has required that members report whatever amount of education they complete in a given year, whether above or below the minimum expectation. The minimum expectation is intended to encourage members to take active steps to maintain competence.⁶

The minimum expectation is set at 12 hours of continuing legal education **and** 50 hours of self-study annually.⁷

⁶ In placing their recommendations to the Benchers in Upper Canada, the Professional Development and Competence Committee stated:

While there can be no legitimate debate, in the view of the Committee, that primary responsibility for maintaining continuing competence through professional development properly rests with the individual lawyer, it is also incumbent upon the Law Society, as regulator of the legal profession, to clearly articulate its expectations concerning continuing legal education and to emphasize the importance that such education plays in assuring competence. For this reason, the Committee recommends the clear articulation of such expectations by the Law Society and, further, that all members should report their educational activities to the Law Society on an annual basis.

⁷ Eligible Activities for the reporting requirement are established as follows:

Self-Study

- reading or conducting case specific or work-related research from,
- legal journals;
- case law;
- statutes and regulations;
- relevant interdisciplinary material;
- CLE materials;
- on-line sources; and
- texts.
- listening to CLE and other inter-disciplinary audiotapes; and
- watching CLE program videotapes (not in a group setting).

CLE Activities and Programs

- live CLE programs, workshops, conferences, in-house programs;
- telephone CLE;
- interactive on-line CLE;
- video replay programs in a group setting;
- discussion groups;
- participation in post-LLB degree programs;
- preparation for and teaching in CLE, BAC, or law school programs as adjunct faculty;
- writing published texts, articles, or CLE materials.

All members of the Law Society of Upper Canada are subject to the expectation. Members are given space on the reporting form to set out, should they wish to do so, reasons for not reaching the minimum expectations in a given year, but are not required to provide such an explanation.

However, in the event there are reasonable grounds for believing a member is failing or has failed to meet standards of professional competence within the meaning of section 41 of the *Law Society Act*, such that a practice review is ordered or a competence hearing authorized, the member's participation or lack of participation in CLE and self-study may be relevant.

The Law Society of Upper Canada also intends to establish a process through which CLE programs are accredited, as it is only accredited programs which count toward the reportable hours.

4. An Analysis of the Options

In both the Ontario and Alaska models, the regulatory body has established minimum *expectations* of education activity. The Alaska program requires the CLE course to be accredited by some process before it can be used toward reportable credit or hours. The Ontario program will eventually have such a requirement.

There are no sanctions in the Alaska program for failing to meet the minimum expectations. In fact, in Alaska, there is really no requirement even to file a statement, although a lawyer will get a reduction in fees if one is filed. The fact that a member does not comply with minimum recommended hours of approved continuing legal education may, however, "be taken into account in any Bar disciplinary matter relating to the requirements of Alaska Rule of Professional Conduct 1.1", a rule which is very similar to the provisions of Chapter 3, Rule 4 of the *Professional Conduct Handbook*.

There are also no sanctions in Ontario for failing to meet the minimum expectations. However, failing to meet the standards might be relevant in the event a practice review or competence hearing were to be ordered against a member. It is to be noted, though, that the reporting requirement is part of the Member's Annual Report Form with the Law Society of Upper Canada. Therefore, failing to make any report about education activities – even if just to say that no education activity was undertaken – would mean that the member's annual report would be incomplete. Failure to file a complete Report can result in suspension of membership.

In considering this matter and in making its recommendation, the Task Force has examined the following options:

1. mandatory reporting of *any* legal educational activity;
2. mandatory reporting of educational activity *prescribed* in some manner;

3. mandatory reporting of *accredited* activity (which would require an accreditation process);
4. establish no minimum expectations;
5. establish minimum expectations;
6. prescribe no sanctions;
7. make filing a regulatory requirement (failure to obey a rule can result in a finding by a hearing panel)
8. prescribe no sanctions but make failure to report or failure to meet minimum expectations relevant in Practice Standards reviews of a member's practice.

The Task Force concluded that continuing legal education activity should, at this stage, be viewed in an expansive manner, and that, at least for the time being, accreditation is not necessary. Courses and self-study should be addressed in the report because both are important educational tools. Courses offered by a wide-ranging group of providers should be included. Some further efforts will need to be made as to what, exactly, self-study will entail, but the Task Force recommends that a number of media, including studies of texts, legal journals, case law and statutes, and case-specific reading or research, be included.

The Task Force concluded that members are entitled to know what the Law Society sees as a reasonable expectation of continuing legal education in a given twelve month period so that members can measure themselves against the standard, and so that members have some idea as to what goals they should set for themselves. The Task Force believes the expectations recommended above (12 hours of courses and 50 hours of self-study) are reasonable. The course expectation roughly equates to two courses per year. The course expectation of 12 hours is also the number most commonly reflected in jurisdictions that have mandatory continuing legal education requirements. The self-study expectation should, in the opinion of the Task Force members, be reasonably attainable through the media referred to above. When this issue was considered at the Law Society of Upper Canada, the Professional Development and Competence Committee reported to the Benchers that 50 hours of self-study

averages out to approximately one hour of research per week, which the Committee is satisfied is an absolute minimum amount of self-study that lawyers should be undertaking, whether they are in private practice or working in other environments.

The Task Force agrees with this statement.

The Task Force believes it is important to *require* members to make a filing with the Law Society about their continuing legal education activity. One purpose for obtaining the information is to determine how much continuing legal education lawyers are

undertaking. It is important to get as accurate a response as possible in order to be able to determine if other measures are necessary. Making the filing mandatory will also emphasize the seriousness which the Law Society views the obligation that members engage in continuing education.

The Task Force believes that at this stage a member should not be sanctioned for failing to meet the minimum requirement. Imposing a sanction for failing to meet a minimum requirement of continuing education would be akin to making the minimum requirement mandatory, and the Task Force does not recommend mandatory requirements at this time. Members should be allowed some leeway, especially since this will be a new requirement and may take some getting used to. It is reasonable, though, to communicate clearly that the Law Society expects continuing education activity and, in the event a competency complaint were being reviewed in the future, a lawyer's failure to report any continuing legal education activity, or activity below that recommended by the Law Society, would be a relevant consideration for the reviewer to take into account.

It should be noted, however, that the report will be a mandatory annual filing. The Task Force recommends the report be included in the Annual Practice Declaration. Rule 2-6(3) prohibits the issuance of a practicing certificate to a lawyer who fails to deliver a complete Declaration, unless the Credentials Committee directs otherwise.

5. Implications of the Recommendation

The requirement recommended by the Task Force will result in some expense and administrative time on the part of the Law Society. A form will need to be created (the Task Force believes that the report could reasonably be included on an amended Form 30), and the results will have to be collected and tabulated. Some changes will be needed to the Law Society Rules in order to address the mandatory requirement to file.

The Task Force believes that there is some likelihood that not all members of the Law Society will have a favourable view of the recommendation. There may be some resistance to the imposition of another Law Society reporting requirement. The Task Force recognizes that suggestions for mandatory continuing legal education requirements have, in the past, elicited much negative reaction from members. In short, the Task Force recognizes that one implication of the recommendation may be an adverse reaction from some members.

In the view of the Task Force, this must be accepted. The Task Force believes that considerable effort must be made by the Law Society, acting in the public interest, to promote and encourage lawyers to undertake continuing legal education. This recommendation simply outlines what the Law Society views as reasonable education activity, and seeks the members' annual reporting as to whether that level is being met.

6. Implementation Plan

If the Benchers agree with the recommendation, the Task Force plans to implement it through proposing that the Form 30 be amended to include a section for annual reporting of continuing legal education activity. The Task Force will work toward developing this portion of the form and seeking approval to the changes from the Executive Committee (as required by Rule 2-6(1)), and inform the Benchers accordingly. The Task Force will also review the Rules to make recommendations concerning necessary rule changes to implement the recommendations, and report back to the Benchers as soon as possible for approval.

VI. **Conclusion**

The Task Force intends to continue its examination of the options outlined above in its report. At regular intervals the Benchers should expect to see further reports from the Task Force analyzing various education options and making recommendations on those options.

In the meantime, the Task Force believes that the interim recommendation for mandatory reporting of continuing legal education activity, if implemented, will accomplish a number of important objectives:

1. It will lay the groundwork for the development of a comprehensive, strategic approach to promoting the excellence and competence of lawyers through post-call learning and information support (as envisioned by Admission Program Task Force Recommendation 28);
2. Lawyers will be reminded by their regulatory body that continuing education is important, and that the Law Society deems it important enough to require such activity to be reported;
3. By implementing the recommendation, the Law Society will clearly articulate its expectations to lawyers and the public concerning continuing legal education, which will further emphasize the importance that such education plays in assuring competence;
4. The Law Society will be able to measure and track behaviours and outcomes that it values; and
5. The information gathered will assist the Law Society (through the Task Force) in discharging its statutory object and duty to uphold and protect the public interest in the administration of justice by establishing standards for education.

APPENDICES

Appendix 1

Post-call learning and information supports currently available in BC

a) *Continuing Education Courses*

The primary provider is the Continuing Legal Education Society of B.C. (co-sponsored by the Law Society, the Canadian Bar Association (CBA), and the two B.C. law schools), which offers live programs and video repeats, and is launching online programs.

Other providers of live courses, both non-profit and for-profit, include the Trial Lawyers' Association of B.C., the CBA, local bar associations, Pacific Business and Law Institute, Insight and the Federation of Law Societies.

b) *Publications*

The Continuing Legal Education Society, the principal legal publisher in B.C., publishes and sells a sizeable series of outstanding law practice manuals and course materials, and is moving into online publication.

The Law Society's Professional Legal Training Course (PLTC) publishes its *Practice Materials*, covering the core areas of practice dealt with in PLTC, and also sells them to the profession. The *Practice Materials* should be available in an online format within the next 12 months.

All lawyers in B.C. receive *The Advocate*, published by the Vancouver Bar Association.

The CBA publishes a range of materials supporting lawyers in the practice of law.

Other continuing legal education course providers typically publish course materials with their programs.

Commercial legal publishers also market to the BC legal profession.

c) *Library Resources*

The British Columbia Courthouse Library Society is funded by lawyers through the Law Society and through the Law Foundation of B.C., and is a valuable information resource for lawyers throughout the province.

The CanLII (Canadian Legal Information Institute) virtual law library is a relatively new project operated and funded by all Canadian law societies. Use of the virtual library is free to all lawyers and the public. There are also more extensive virtual libraries marketed by commercial legal publishers.

d) *Canadian Bar Association*

The B.C. branch provides a number of practice supports, including an extensive system of section meetings throughout the province, Practice Advisory Panels in a wide range of practice areas, web-based resources, and publications, such as *Bar Talk*, which include legislative update bulletins.

e) *Practice Advisory Services (Law Society program)*

The Law Society provides a telephone and e-mail service for practice management and ethical advice, hosts a practice and ethical advice resource section on the Law Society website, publishes articles in the *Benchers' Bulletin*, distributes practice advice papers and practice checklists to the profession, and periodically offers practice support courses.

f) *Professional Liability Insurance (Law Society program)*

The Law Society's Insurance Department publishes Insurance Risk Alert Bulletins for the profession.

g) *Practice Standards Program (Law Society program)*

The Practice Standards program is remedial for lawyers who are having significant difficulties in practice, and endeavours to assist those lawyers to overcome their difficulties and to practice competently. (The result in each case will be that the lawyer is assisted to perform at a competent level, has restrictions imposed on the lawyer's practice, or is referred to the Discipline Department.)

h) *Personal Assistance Programs*

The Law Society funds two independent confidential personal assistance programs for lawyers: Interlock (offering professional counseling and referrals for lawyers and their families on a range of personal or work-related problems, all on a self-referral basis), and the Lawyers Assistance Program (self-referral and interventions for substance abuse and other problems).

Appendix 2

Consultations with the Profession and within the Law Society

Consultations with the Profession

At the outset, the Task Force identified a need to consult with those who practice law in British Columbia, as well as with those groups that provide legal education in the province.

To this end, early on in the process each member of the Task Force contacted four or five members of the profession informally to discuss matters relating to continuing legal education, including matters such as how frequently courses were taken, what the member thought about the quality of courses offered, what impediments (if any) existed against taking courses, and other matters of general comment.

The Task Force followed up this informal survey with a survey conducted by Ipsos-Reid on behalf of the Law Society in 2003. The purpose of this study was to assist the Task Force to better understand lawyers' continuing education needs. Ipsos-Reid completed a total of 402 telephone interviews between October 20 and 24, 2003 with Law Society members. The overall margin of error for the study is ± 4.9 percent, 19 times out of 20. The following are the main findings:

1. Continuing Education Resources

The number one resource for learning is legal publications with 94% of the members using this resource. Course materials (89%), and courses seminars and workshops (69%) are also widely used.

The CLE Society is the major provider of continuing education. Over eight-in-ten (84%) of those members who have taken a course have taken one through this organization. Second is the Trial Lawyers Association (22%), followed by the Canadian Bar Association (13%).

Legal publications are rated as the highest quality continuing education resource with 86% of users saying their quality is good. Video repeats of courses (57% good) and online learning (55%) follow behind other resources when it comes to perceptions of quality.

The most frequent reason given for rating continuing education courses, seminars and workshops as good is the up-to-date information they provide (43%). Other popular reasons are the materials and organization of information (30%), expertise and quality of presenters (30%) and the quality and practicality of the information (30%).

The most frequent reasons given for rating the quality of courses, seminars and workshops as average to poor is that they are too general and need more detail (38%), and that presenters are poor or biased (29%).

Legal publications are also reported as being the most useful continuing education resource, as almost all users say they are useful (96%). In fact all resources are seen as useful by over eight-in-ten survey respondents, with the exception of online learning (65%).

The biggest barrier to participation in continuing education courses, seminars and workshops is reported as being the time required to attend (31%). The price of the course (28%) and the subject matter are reported as reasons (26%) for not attending.

The most important factor in deciding whether to participate in continuing education courses, seminars and workshops is the subject matter (99% important). The time involved (82%) and the location of the course (75%) are also significant factors. The opportunity cost of lost billing hours is reported as the least important factor (50%).

At this time 60% of members say they would be likely to register in online continuing education if it were available, including 18% who say they are very likely to do so.

2. Availability of Continuing Education Resources

The great majority of lawyers (86%) report being satisfied with the availability of continuing education resources in the province. When it comes to desired legal publications that are unavailable, the majority cannot think of any (84%). The same can be said for courses, seminars and workshops (86%).

3. Role of Law Society in Continuing Education

Nine-in-ten (90%) of Law Society members think the Law Society should be involved in ensuring that continuing education resources are available to lawyers. Approximately half (53%) think that the Law Society is giving about the right amount of support to the continuing education needs of lawyers.

4. Law Society Practice Advice Service

Four-in-ten (43%) have contacted a Law Society Practice Advisor for advice. On average, the members who have contacted advisors contact them 1.78 times per year. Three-in-four (75%) who have contacted a Practice Advisor say the quality of service is good, including 42% who say it is very good.

The Task Force has also met several times with representatives of the Continuing Legal Education Society, and has heard a great deal about the model upon which that Society operates, the programs that CLE now offers, and programs, including “on-line” and other distance programs, that the Society hopes to offer in the near future.

The Task Force has also met with the British Columbia Courthouse Library Society (BCCLS). Discussions focused on how the BCCLS has been fast-tracking the provision of electronic library resources to the profession, both in library facilities and through its redesigned website.

The Task Force plans to meet with local bar associations and other interested parties, including representatives of the law faculties in British Columbia, in order to discuss continuing legal education models and to enquire as to what such parties can offer members of the Law Society, how such programs might meet the needs of the Law Society itself and what, if anything, the Law Society may do to assist in the operation or development of any programs or continuing education materials.

Consultations within the Law Society

Recognizing that the Law Society is already involved, to a degree, with lawyer education, the Task Force has met with various departments in the Law Society itself. To date the Task Force has discussed lawyer education with the Professional Conduct and Practice Standards departments, as well as with the Lawyers Insurance Fund. The Task Force will also meet with the Law Society Practice Advisors.