

The Law Society of British Columbia



Report of the Lawyer Education Advisory Committee: Continuing Professional Development Review and Recommendations

APPROVED BY THE BENCHERS ON SEPTEMBER 9, 2011

For: The Benchers

Date: September 9, 2011

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Purpose of Report: Discussion and Decision

Prepared on behalf of: Lawyer Education Advisory Committee

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I. BACKGROUND

1. On November 16, 2007, the Benchers approved the former Lawyer Education Committee's recommendations for a mandatory continuing professional development ("CPD") program, to begin on January 1, 2009. Approval of CPD was premised, above all, on assuring the public and the profession that the Law Society is committed to establishing, maintaining and enhancing standards of legal practice in the province.
2. Although CPD requirements for lawyers exist in many other jurisdictions, including England, Wales, Scotland, Ireland, 45 American states and 4 Australian jurisdictions, the Bencher decision marked the first time that a Canadian law society had introduced a comprehensive CPD requirement.
3. Today, seven provinces and one territory have or are about to introduce comprehensive CPD requirements.

II. PURPOSE OF THIS REPORT

4. This is the third year of the CPD program. The Committee conducted a comprehensive review of the program in 2011, and is reporting the results to the Benchers, together with recommendations for some specific modifications, in time to ensure that changes are in place beginning January 1, 2012.

III. CONSULTATION

5. The Committee surveyed BC lawyers in the spring of 2011 to assess the CPD program. Of the 1,419 lawyers who participated in the survey, 78% agreed that continuing education should be mandatory for lawyers, with more than half agreeing that the annual requirement is likely to strengthen the quality of legal services that BC lawyers provide to their clients. The results show that the overall assessment of the program has been very positive.
6. The Committee has also received input from lawyers and law-related organizations. That input has been mainly positive. Where concerns have been raised, they are mostly in connection with questions relating to approved subject-matter, cost and geographic barriers.
7. Some lawyers and law-related organizations suggest harmonizing the BC requirements with other provinces and territories, to reflect the increasing inter-jurisdictional mobility of lawyers. The Committee is recommending that such an initiative be the subject of the next CPD program review, which would include examining a role for other law societies and the Federation of Law Societies.

IV. COMMITTEE RECOMMENDATIONS AND COMMENTARY

8. The Committee has been guided in its analysis of a considerable number of options by wanting to ensure that the CPD program is as straight-forward and stream-lined as reasonably possible for lawyers, legal education providers, and the Law Society.

9. The Committee has developed the following detailed recommendations, to take effect January 1, 2012. Commentary is included as background or to explain the reasons for any proposed changes.

10. Recommendation 1 - The 12 Hour Requirement

- (a) Continue the annual 12 hour requirement.
- (b) Amend current Rule 3-18.3(1) so that the Benchers no longer need to approve on an annual basis the minimum number of CPD hours a practising lawyer is required to meet.

Comment: Rule 3-18.3(1) currently reads as follows: "Before the commencement of each calendar year, the Benchers must determine the minimum number of hours of continuing education that is required of a practising lawyer in the following calendar year." The Committee has concluded that requiring annual Bencher approval serves no practical purpose.

11. Recommendation 2 – The Two Hour Requirement for Professional Ethics, Practice Management, Client Care and Relations

- (a) Continue the requirement that at least two of the annual 12 hours required must pertain to any combination of professional responsibility and ethics, practice management and client care and relations.
- (b) Professional responsibility and ethics, practice management, and client care and relations content that is embedded in the overall credit available for a course continues to comply with the two hour requirement.

Comment: CPD providers continue to be encouraged to also offer non-embedded or "stand-alone" content and courses that meet the two hour requirement.

12. Recommendation 3 - Overall Subject Matter Requirement

Eliminate the "audience test" requirement, so that the overall subject matter requirement would read as follows:

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

- (a) substantive law,
- (b) procedural law,
- (c) professional ethics,
- (d) practice management (including client care and relations),

- (e) lawyering skills.

Comments:

This revised subject matter requirement focuses on subject matter content, and eliminates the current “audience test” component, which reads “... material primarily designed and focused for an audience that includes, as a principal component, lawyers, paralegals, articling students and/or law school students, but not if the subject matter is targeted primarily at clients, the public, other professions, or other students.” The revised subject matter requirement eliminates, for example, denial of credit for attending an Institute of Chartered Accountants’ tax course designed and focused at accountants.

See appendix A for the guiding descriptions, adopted by the Committee, of the following subject matter:

- *professional ethics,*
- *practice management (including client care and relations),*
- *lawyering skills.*

Credit continues to be available for subject matter related to the law of other countries, provinces and territories, and is not limited to BC or Canadian law.

13. Recommendation 4 - Subject Matter Exclusions

Continue to exclude credit for the following:

- (a) lawyer wellness topics,
- (b) topics relating to law firm marketing or profit maximization,
- (c) any activity designed for or targeted primarily at clients.

Comments:

The Committee’s rationale for continuing exclusions (a) and (b) is that accredited CPD should primarily enhance a lawyer’s legal knowledge and related legal skills.

The Committee discussed in detail whether content relating primarily to lawyer wellness or resiliency, for which CPD credit is not currently available, should be accredited for any or all of

- *courses and other educational programs,*
- *study groups,*
- *teaching,*
- *writing,*
- *mentoring.*

The Committee noted that although lawyer wellness is not currently an accredited subject matter, wellness content is not a complete barrier to accreditation. For example, a mentoring relationship that includes at least 6 hours of accredited subject matter, such as

a combination of family law and ethics, would be accredited for 6 hours, even though the balance of the time beyond the minimum 6 hours might focus on wellness.

The Committee concluded that engaging in wellness and resiliency activities can be of significant value to lawyers, and therefore serve the public interest, but decided that because wellness activity is not fundamentally professional education, it should continue to be ineligible for CPD credit.

The Committee observed, however, that there would be value in the Law Society developing initiatives that encourage lawyers to engage in activities promoting health and resiliency as they relate to law practice, and endorsed the idea of recommending such initiatives.

The Committee rationale for continuing exclusion (c), activity designed for or targeted primarily at clients, is that the CPD requirement is intended primarily to encourage lawyers to maintain and enhance their professional competence, not to encourage them to choose CPD activities on the basis that they will sustain and perhaps expand the firm's client base.

14. Recommendation 5 - Credit for Courses

(a) Continue to accredit courses based on the following criteria:

- (i) actual time in attendance,
- (ii) online real time courses, streaming video, webcast and / or teleconference courses, if there is an opportunity for lawyers to ask and receive answers to questions,
- (iii) local or county bar association educational programs, and CBA section meetings: credit for actual time, but excluding time not directed to educational activity,
- (iv) reviewing a previously recorded course, if at least two lawyers review it together, including by telephone or other real time communications technology.

(b) Extend accreditation to reviewing a previously recorded course if a lawyer and articling student review it together, including by telephone or other real time communications technology.

Comments:

Credit for reviewing a recorded course with an articling student extends the two lawyer requirement. The Committee decided against extending credit to a lawyer who reviews a recorded program with a paralegal, on the basis that there is no paralegal accreditation or licensing in BC.

Lawyers continue to receive credit for repeating the same courses, including online courses year over year, but not for repeating a course within the same reporting year.

15. Recommendation 6 - Self Study Restriction

- (a) Continue to exclude self-study, such as reading, and reviewing recorded material on one's own, subject to the prescribed exception in recommendation 7 for approved interactive online programs;
- (b) Continue to recommend a minimum 50 hours of self-study annually, but not require lawyers to report their self-study, as it is not eligible for credit.

Comments: The Committee continues to see considerable value in lawyers meeting together to engage in continuing professional development. While this requirement can present an obstacle because of geography or scheduling demands, the wide range of ways to engage in continuing professional development, including through electronic means, study groups, mentoring, local bar events, teaching and writing, considerably alleviates such a concern.

16. Recommendation 7 - Credit for an Interactive Online Self Study Program

Continue credit for interactive online self-study education for up to a Law Society pre-assigned limit per online program, as well as for completing on one's own an audio, video or web program if the program includes each of the following characteristics:

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

Comment: For the quiz component, the lawyer is not required to submit the quiz responses for review.

17. Recommendation 8 - Study Group Credit

- (a) Continue credit for study group attendance at a meeting
 - (i) if at least two lawyers or a lawyer and articling student are together for educational purposes at the same time (including by telephone or other real time communications technology),

- (ii) of an editorial advisory board for legal publications, but not as a part of regular employment, or
- (iii) of a law reform body or group, but not as a part of regular employment,

if a lawyer chairs or has overall administrative responsibility for the meeting.

Comment: An educational purpose includes reviewing a recorded program.

(b) Continue to exclude credit for:

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

Comment: The Committee's rationale for continuing to exclude (b)(i), participation on committees, boards and tribunals, is that although there may be some professional development value in volunteering on some boards and committees, the primary focus of accrediting CPD activity should be focused on enhancing legal knowledge and legal skills.

18. Recommendation 9 - Mentoring Credit

(a) Continue the following provisions relating to mentoring:

- (i) a lawyer who has engaged in the practice of law in Canada, either full or part-time, for 7 of the 10 years immediately preceding the current calendar year, and who is not the subject of an order of the Credentials Committee under Rule 3-18.31(4) (c), is eligible to be a mentor;

Comment: This mirrors the requirement for approval as an articling principal.

- (ii) mentoring credit is available for mentoring another lawyer or an articling student, but not for an articling principal mentoring one's own articling student;
- (iii) mentoring credit is not available for mentoring a paralegal;

- (iv) mentoring goals must comply with the subject matter requirements applicable for any other CPD credit;
- (v) mentoring must not be file specific or simply answer questions about specific files;
- (vi) a mentor is entitled to 6 hours of credit per mentee, plus another 6 hours (for a total of 12 hours) if mentoring two mentees separately. If two or more mentees are mentored in a group, the mentor is entitled to 6 hours, and each mentee is entitled to 6 hours;
- (vii) credit is for time actually spent together in the mentoring sessions, and can be face to face or by telephone, including real time videoconferencing.

Comment: (ii) and (v) continue to exclude CPD credit for mentoring law school students, including students in law school clinical programs. The Committee's rationale for this exclusion is that such mentoring, while providing an important service, does not achieve the goal that accredited CPD should meaningfully enhance the mentor's legal knowledge and related skills.

(b) Implement the following changes to mentoring:

- (i) mentoring by email or similar electronic means qualifies for credit;
- (ii) no minimum time for each mentoring session. This waives the current 30 minute minimum;
- (iii) if less than 6 hours is spent in the year, continue the restriction that no time can be claimed for the mentoring relationship, but with a new exception for when the mentoring relationship ends prematurely under unexpected circumstances.

Comment: These changes are intended to reduce constraints on mentoring, thereby encouraging growth in the mentoring program.

19. Recommendation 10 - Teaching Credit

- (a) Continue to provide up to three hours of credit for each hour taught if the teaching is for
 - (i) an audience that includes as a principal component, lawyers, paralegals, articling students and / or law school students,
 - (ii) a continuing professional education or licensing program for another profession, or

(iii) a post-secondary educational program,

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

(b) Implement the following change if teaching is directed to an audience not listed in (a) (i), (ii), and (iii) above, such as the general public:

one hour of credit for each hour taught, but not if targeted primarily at clients or is file specific.

Comments:

Extending credit to teaching the general public is based on the rationale that there is professional development value in teaching to any audience and, in the case of the public, to doing so in a way that requires the skill to communicate to people who typically lack legal training. There would continue to be no credit if the teaching is targeted primarily at clients or is file specific.

The Committee's rationale for continuing to exclude credit for teaching designed for or targeted primarily at clients is that the CPD requirement is intended to encourage lawyers to maintain and enhance their professional competence, not to encourage them to choose CPD activities on the basis that they will sustain and perhaps expand the firm's client base.

(c) Continue the following provisions:

- (i) credit for volunteer or part-time teaching only, not as part of full-time or regular employment;
- (ii) if the lawyer only chairs a program, the time spent chairing the program is all that may be reported, not three hours for each hour of chairing;
- (iii) no cap on the number of hours for teaching;
- (iv) credit only for the first time in the year, and not for repeat teaching of substantially the same subject matter within the year;
- (v) credit for the same course from year to year, whether or not there are changes to the course;
- (vi) a lawyer claiming teaching and preparation credit can also claim writing credit for additional time writing course materials;
- (vii) no credit for setting or marking examinations, term papers or other assignments;

- (viii) no credit for preparation time if the lawyer does not actually teach the course. Examples include
 - assisting someone else in preparation without actually teaching,
 - acting as a teaching assistant without actually teaching,
 - preparing to teach, but the course is then cancelled.

20. Recommendation 11 - Writing Credit

- (a) Continue writing credit, as follows:
 - (i) for writing law books or articles intended for publication or to be included in course materials,
 - (ii) a maximum of 6 hours for each writing project, based on the actual time to produce the final product,
 - (iii) no cap on the overall credit hours available for writing,
 - (iv) in addition to credit for teaching and preparation for teaching,
 - (v) not for preparation of PowerPoint,

Comment: Time spent preparing PowerPoint is to be accounted for in teaching preparation time.

- (vi) not for writing for law firm websites,
- (vii) not for blogging or wikis,

Comment: At this time there are no generally accepted standards for posting to blogs or wikis, although postings typically range from informal chat to thoughtfully articulated expression in the nature of typical print publication. The Committee does not see it as feasible at this time to prescribe quality standards. The Committee resolved to reconsider this restriction as a part of the next CPD review.

- (viii) for volunteer or part-time writing only, not as a part of full-time or regular employment.
- (b) Extend credit to writing for any audience, except when targeted primarily at clients, thereby eliminating the current restriction that the writing must be for
 - (i) an audience that includes as a principal component, lawyers, paralegals, articling students and/or law school students,
 - (ii) a continuing education or licensing program for another profession, or
 - (iii) a post-secondary educational program.

Comment: The Committee concluded that this change would be consistent with its recommendation to accredit teaching to the general public, which is based on the rationale that there is professional development value in teaching to any audience and, in the case of the public, to doing so in a way that requires the skill to communicate to people who lack legal training.

21. Recommendation 12 - Pro Bono Exclusion

Continue to exclude CPD credit for providing pro bono legal services.

Comments:

The Committee concluded that engaging in pro bono, while highly laudable, is the practice of law, and not primarily continuing professional development. In so deciding, the Committee considered submissions arguing that providing legal services to lower income or impoverished clients has professional development and ethical responsibility value.

No other Canadian jurisdiction provides CPD credit for pro bono activity. Approximately 12 of the 45 American states with MCLE requirements provide some credit for pro bono.

22. Recommendation 13 - Compliance and Reporting Requirements

(a) Continue to base the CPD requirement on the calendar year, with a reporting date of December 31.

(b) Continue to exclude credit carry forward or averaging to a subsequent CPD reporting year.

Comments:

The Committee considered the following additional options for a CPD reporting cycle:

- *a multi-year reporting requirement,*
- *credit carry over or averaging from year to year,*
- *a three year reporting requirement, with a minimum number of hours required in each of the 3 years,*
- *a 15 hour CPD requirement with permitted carry over.*

The Committee discussed a concern that carry forward could be seen by the public as watering down the annual requirement, and that some lawyers would reduce what might otherwise be their annual 12 hour CPD consumption in ensuing years.

The Committee resolved to reconsider the restriction as a part of the next CPD review.

(c) Continue the following requirements:

- (i) a lawyer who fails to complete and report the requirements by December 31 is required to pay a late fee, and receives an automatic 3

month extension to complete the CPD requirement, without being suspended;

- (ii) the lawyer receives a 60 day prior written notice of the possible suspension;
- (iii) if the requirement is not met by April 1, the lawyer is administratively suspended until all required CPD requirements are completed;
- (iv) the Practice Standards Committee has the discretion to prevent or delay a suspension in special circumstances on application by the lawyer to do so;
- (v) a lawyer who is completing the prior year's CPD requirement by April 1 of a current year is subject to the provisions governing the prior year's CPD.

Comments:

Lawyers report their CPD hours by logging in to the Law Society website, and clicking on the CPD link, where they can review their individual credits and the time remaining to comply with the annual CPD requirement. After completing an accredited learning activity, lawyers add the credits to their record.

Lawyers are notified by email before the end of the year of the approaching deadline, and they are reminded of the consequences of non-compliance.

- (d) Implement the following revised late fee structure:
 - (i) lawyers who complete their CPD hours by December 31 but fail to report completion by the December 31 deadline will be levied a \$200 late fee plus applicable taxes;
 - (ii) lawyers who fail to complete the required CPD hours by December 31, and are therefore required to complete and report the required CPD hours by April 1 of the following year, will be levied a late fee of \$500 plus applicable taxes.

Comment: The \$500 late fee levy would be new, reflecting the differing gravity of failure to report and failure to complete the required CPD hours by the deadline. In 2012, "Schedule 1 – 2012 Law Society Fees and Assessments," would include this change.

There are two other instances in which lawyers are currently charged late fees: at annual fee billing and on filing of trust reports.

- *Lawyers are charged a late fee if they do not pay the annual fee by November 30 of the year preceding the year for which it is payable. (Practising lawyers are charged \$100 and non-practising lawyers are*

charged \$25. There is no late fee on a retired membership.) If the annual fee and late fee are not received by December 31, the lawyer's membership is ceased and the lawyer must apply to be reinstated. The reinstatement application fee is \$415.

- *A lawyer who fails to deliver a trust report by the date required is charged a late fee of \$200. If the trust report is not delivered within 30 days after it is due, the lawyer is subject to an additional assessment of \$400 per month or part of a month until the report is delivered. A lawyer who does not deliver the trust report within 60 days of its due date is suspended until the report is completed.*

23. Recommendation 14 - Exemptions and Extensions

Continue to require all lawyers with a practicing certificate, whether full or part-time, to fulfill the CPD requirement, subject to the following exceptions:

- (a) lawyers with a practicing certificate who submit a declaration that they are not practising law are exempt, such as lawyers who are
 - (i) inactive,
 - (ii) on medical or maternity leave,
 - (iii) taking a sabbatical;
- (b) lawyers who resume practice within the reporting year after having been exempt and, subject to (c), below, new lawyers by way of transfer, must complete one credit hour for each full or partial calendar month in the practice of law;
- (c) newly called lawyers who complete the bar admission program of a Canadian law society during the reporting year are exempt;
- (d) no exemption or reduction for
 - (i) being too busy (such as a long trial),
 - (ii) the practice of law being in another jurisdiction,
 - (iii) part-time practice.

Comments:

There has been little demand for a CPD reduction or exemption from BC lawyers who are also members in other jurisdictions, because educational activities in other jurisdictions generally meet the requirements for accreditation on BC. The Committee decided not to recommend at this time an exemption for lawyers who are also members in other jurisdictions, primarily practise law in another jurisdiction, and comply with a similar CPD requirement in that other jurisdiction. The Committee resolved to reconsider this restriction as a

part of the next CPD review, in consultation with other law societies and the Federation of Law Societies of Canada.

The Committee considered the issue of reduction for lawyers in part-time practice, including the discussion at the 2010 Law Society Annual General Meeting, and concluded that because part-time practitioners must perform at the same level of competence as full-time practitioners, there is no convincing rationale for reducing the requirement for part-time practitioners.

24. Recommendation 15 - Accreditation Model

Continue the current accreditation model, whereby

- (a) all applications by providers and lawyers are submitted electronically, and approval decisions are made by Law Society staff;
- (b) all credits are approved in either of two ways:
 - (i) pre-approve the provider (an individual course or other educational activity offered by a pre-approved provider does not require further approval); or
 - (ii) approve (before or after the event) individual courses and other educational activities on the application of either the provider or an individual lawyer;
- (c) an individual course or other educational activity offered by a pre-approved provider does not require further approval unless requested by the provider;
- (d) providers are pre-approved and remain pre-approved if they maintain integrity and quality.

Comments:

BC, Saskatchewan, New Brunswick and Quebec have adopted an accreditation model. Manitoba, Nova Scotia and Northwest Territories have decided on a non-accreditation model. Ontario has a partial non-accreditation model combined with a paper-based spot audit.

All but one of the U.S. jurisdictions with mandatory CLE have an accreditation model, as do England, Wales, Scotland, Ireland, and the Australian jurisdictions with CPD requirements.

The Committee resolved to review the continuation of the accreditation model as a part of the next CPD review, when the Law Society has more experience with the current model and is able to compare its experience with other Canadian

jurisdictions that are introducing a non-accreditation and spot audit approach. If the Law Society were to move to a non-accreditation model, lawyers would, for example,

- *list the educational activities they complete without an accreditation step, but be guided by subject-matter criteria published by the Law Society, and*
- *possibly be subject to a random spot audit. For example, a paper-based CPD spot audit is a feature of the Ontario program, which is in its first year of operation.*

V. BUDGET IMPACT

25. The Committee proposals, if adopted and implemented, would not increase Law Society budgetary expenses, including required staffing resources.

VI. WHAT THE BENCHERS ARE BEING ASKED TO DO

26. The Committee requests that the Benchers approve the following recommendations.

27. Recommendation 1 – The 12 Hour Requirement

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- (a) Continue the requirement that at least two of the annual 12 hours required must pertain to any combination of professional responsibility and ethics, practice management and client care and relations.
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Eliminate the “audience test” requirement, so that the overall subject matter requirement would read as follows:

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if a lawyer chairs or has overall administrative responsibility for the meeting.

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 - (ii) a maximum of 6 hours for each writing project, based on the actual time to produce the final product,
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 - (vi) not for writing for law firm websites,
 - (vii) not for blogging or wikis,
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- (b) Extend credit to writing for any audience, except when targeted primarily at clients, thereby eliminating the current restriction that the writing must be for
- (i) an audience that includes as a principal component, lawyers, paralegals, articling students and/or law school students,
 - (ii) a continuing education or licensing program for another profession, or
 - (iii) a post-secondary educational program.

38. Recommendation 12 – Pro Bono Exclusion

Continue to exclude CPD credit for providing pro bono legal services.

39. Recommendation 13 – Compliance and Reporting Requirements

- (a) Continue to base the CPD requirement on the calendar year, with a reporting date of December 31.
- (b) Continue to exclude credit carry forward or averaging to a subsequent CPD reporting year.
- (c) Continue the following requirements:
 - (i) a lawyer who fails to complete and report the requirements by December 31 is required to pay a late fee, and receives an automatic 3 month extension to complete the CPD requirement, without being suspended;
 - (ii) the lawyer receives a 60 day prior written notice of the possible suspension;
 - (iii) if the requirement is not met by April 1, the lawyer is administratively suspended until all required CPD requirements are completed;

- (iv) the Practice Standards Committee has the discretion to prevent or delay a suspension in special circumstances on application by the lawyer to do so;
 - (v) a lawyer who is completing the prior year's CPD requirement by April 1 of a current year is subject to the provisions governing the prior year's CPD.
- (d) Implement the following revised late fee structure:
- (i) lawyers who complete their CPD hours by December 31 but fail to report completion by the December 31 deadline will be levied a \$200 late fee plus applicable taxes;
 - (ii) lawyers who fail to complete the required CPD hours by December 31, and are therefore required to complete and report the required CPD hours by April 1 of the following year, will be levied a late fee of \$500 plus applicable taxes.

40. Recommendation 14 – Exemptions and Extensions

Continue to require all lawyers with a practicing certificate, whether full or part-time, to fulfill the CPD requirement, subject to the following exceptions:

- (a) lawyers with a practicing certificate who submit a declaration that they are not practising law are exempt, such as lawyers who are
 - (i) inactive,
 - (ii) on medical or maternity leave,
 - (iii) taking a sabbatical;
- (b) lawyers who resume practice within the reporting year after having been exempt and, subject to (c), below, new lawyers by way of transfer, must complete one credit hour for each full or partial calendar month in the practice of law;
- (c) newly called lawyers who complete the bar admission program of a Canadian law society during the reporting year are exempt;
- (d) no exemption or reduction for
 - (i) being too busy (such as a long trial),
 - (ii) the practice of law being in another jurisdiction,
 - (iii) part-time practice.

41. Recommendation 15 – Accreditation Model

Continue the current accreditation model, whereby

- (a) all applications by providers and lawyers are submitted electronically, and approval decisions are made by Law Society staff;
- (b) all credits are approved in either of two ways:
 - (i) pre-approve the provider (an individual course or other educational activity offered by a pre-approved provider does not require further approval); or
 - (ii) approve (before or after the event) individual courses and other educational activities on the application of either the provider or an individual lawyer;
- (c) an individual course or other educational activity offered by a pre-approved provider does not require further approval unless requested by the provider;
- (d) providers are pre-approved and remain pre-approved if they maintain integrity and quality.

APPENDIX A

PROFESSIONAL ETHICS, PRACTICE MANAGEMENT, LAWYERING SKILLS

The Committee has adopted the following guiding descriptions of the following items listed in the revised subject matter test:

- professional ethics,
- practice management (including client care and relations),
- lawyering skills.

I. PROFESSIONAL ETHICS

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

II. PRACTICE MANAGEMENT

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

The Committee adopted the following list of topics that would satisfy the practice management requirement for CPD accreditation, working from and revising a list developed by the former Committee on December 10, 2009:

- (a) client care and relations, including managing difficult clients;
- (b) trust accounting requirements, including:
 - (i) trust reporting;
 - (ii) financial reporting for a law practice;
 - (iii) interest income on trust accounts;
 - (iv) working with a bookkeeper;
- (c) HST and income tax remittances, including employee income tax remittances;
- (d) technology in law practice including:
 - (i) law office systems;
 - (ii) e-filing;
 - (iii) legal document preparation and management, including precedents;
- (e) retainer agreements and billing practices relating to Law Society requirements, including:
 - (i) unbundling of legal services;
 - (ii) permissible alternative billing arrangements;
- (f) avoiding fee disputes;
- (g) file systems, including retention and disposal;
- (h) succession planning;

- (i) emergency planning, including law practice continuity for catastrophic events and coverage during absences;
- (j) managing law firm staff, including:
 - (i) *Professional Conduct Handbook* requirements;
 - (ii) delegation of tasks/supervision;
- (k) identifying conflicts, including:
 - (i) conflict checks and related systems;
 - (ii) client screening;
- (l) diary and time management systems, including:
 - (i) limitation systems;
 - (ii) reminder systems;
 - (iii) follow-up systems;
- (m) avoiding “being a dupe”/avoiding fraud;
- (n) complying with Law Society Rules.

The Committee identified a list of topics that would not satisfy the practice management definition for CPD accreditation, working from and revising a list developed by the former Committee on December 10, 2009:

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

III. LAWYERING SKILLS

The Committee decided that to be eligible for CPD credit, lawyering skills include:

- (a) effective communication, both oral and written;
- (b) interviewing and advising;
- (c) problem solving, including related critical thinking and decision making;
- (d) advocacy;
- (e) arbitration;
- (f) mediation;
- (g) negotiation;
- (h) drafting legal documents;
- (i) legal writing, including related plain writing;

- (j) legal research;
- (k) legal project management;
- (l) how to work with practice technology, including:
 - (i) e-discovery;
 - (ii) in the courtroom;
 - (iii) client record management;
 - (iv) converting electronically stored information into evidence;
 - (v) social networking technology to facilitate client communication (but excluding marketing and client development);

but not

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