Law Society
of British Columbia

Alternative Discipline Process (ADP) Consent Agreements

The ADP diverts lawyers from the regular discipline process into an alterative, remedial pathway focused on the support and management of health issues that have contributed to misconduct through an ADP consent agreement. Lawyers who participate in the ADP regularly meet one-on-one with the ADP Staff Lawyer to provide up-to-date information on their health issue, their practice, and their progress in fulfilling the terms of their consent agreement. All information disclosed in the ADP is confidential, however, the publication of anonymized summaries of completed ADP consent agreements, below, is permitted under Rule 3-9.8(3).

ADP Consent Agreement 1

The lawyer self-reported to the Law Society that they had submitted false benefit claims to their employer in order to address personal debt incurred as the result of an opioid addiction that had developed during a period of treatment for chronic pain. The addiction developed following treatment for chronic pain and was compounded by co-occurring mental health issues, including depression and anxiety related to both the addiction and their financial distress.

Recognizing the significance of their health issues, prior to their involvement in the ADP the lawyer sought intensive treatment, stabilized their financial circumstances, and committed to a monitoring regime to address their substance use.

Based on information provided by the lawyer and corroborated by supporting health-care professionals, which confirmed a clear connection between the lawyer's conduct and their substance use issues, the lawyer was found eligible for the ADP. The lawyer subsequently entered into a 12-month consent agreement that set out a structured recovery plan, including ongoing health monitoring and mandatory attendance at weekly support group meetings. As part of the agreement, the lawyer also undertook not to operate a sole practice, not to have access to trust accounts or trust funds, and not to be responsible for, or have access to, any employer funds or accounts.

ADP Consent Agreement 2

The lawyer self-reported to the Law Society that they had improperly withdrawn trust funds without first preparing a bill for the client, as well as failing to notify the Executive Director that they had not satisfied a garnishing order issued against them, contrary to the Law Society Rules. Health information provided to the ADP by the lawyer's treating psychiatrist confirmed that

during the period in which these conduct issues arose, the lawyer was experiencing active psychosis that required in-patient treatment, and that this had contributed to their conduct.

At the time the lawyer's eligibility for the ADP was determined, they had taken significant steps to address their health issues and had developed a treatment plan in collaboration with their health-care providers.

The lawyer entered into a 12-month consent agreement in which they agreed to continue psychiatric treatment and to abstain from illicit substances. The agreement also included a structured return-to-work plan tailored to the lawyer's practice and personal circumstances. The agreement required the lawyer to arrange for a designated representative at their firm to support their return to practice and to act as a liaison with the ADP should the lawyer experience a recurrence of health or practice-related issues. Additionally, for the duration of the agreement, the lawyer committed not to work as a sole practitioner, not to operate trust accounts, and not to bill directly for contract work (e.g., legal aid files) while employed by their firm.

ADP Consent Agreement 3

The lawyer self-reported to the Law Society that they had inappropriately billed clients approximately $4,000 for disbursements and overcharged their firm for personal expenses of a similar amount. The lawyer provided the ADP with a psychiatric report outlining how various mental health issues, including depression, anxiety, and an eating disorder, had contributed to the misconduct.

Based on the connection between the lawyer's health and conduct issues, the lawyer was found eligible for the ADP and entered into a nine-month consent agreement that incorporated recommendations from both a psychiatrist and therapist. Under the agreement, the lawyer committed to ongoing psychiatric and clinical care for their mental health conditions and to continuing with psychotherapy sessions that had commenced prior to the lawyer's involvement with the ADP.

The lawyer also agreed to identify a lawyer-mentor who would be available to provide guidance on practice management and other professional matters throughout the duration of the agreement. Additionally, the lawyer consented to refrain from providing legal services in certain areas of law and undertook not to accept fiduciary property or trust funds, except for payments directly related to legal services provided to clients or disbursements made on their behalf. The lawyer further agreed to promptly provide the Law Society with any information or documents requested in connection with trust transactions, client files, or other practice records.

ADP Consent Agreement 4

The lawyer was involved in a road-rage incident that was reported to the Law Society by a complainant and self-reported by the lawyer. The lawyer acknowledged that poor mental health had contributed to the conduct and identified the steps they had since taken to address their health concerns, including attending wellness-related professional development courses and reducing their workload.

Following a positive ADP eligibility assessment, the lawyer entered into a consent agreement requiring them to attend a series of appointments with a psychologist and to identify a lawyer within the community—ideally a lawyer-counsellor from the Lawyers Assistance Program (LAP) —who could provide ongoing support as needed.

ADP Consent Agreement 5

The lawyer was the subject of two successive complaints over a three-month period. The first complaint alleged that the lawyer failed to respond to communications and to disclose information that was critical to advancing work on a family law dispute. The second complaint similarly involved a failure to take timely steps on a family law matter.

The lawyer reported experiencing significant mental health challenges, including anxiety and panic attacks, which were attributed to their practice setting and area of practice. To address these health concerns, the lawyer took a leave of absence and subsequently left their firm. The lawyer actively transitioned out of family law and joined a new firm that provided a different practice focus and additional professional supports.

Based on the established connection between the lawyer's health issues and their conduct, the lawyer was found eligible for the Alternative Discipline Program (ADP) and entered into a three-month consent agreement. As part of the agreement, the lawyer committed to providing the ADP with regular updates regarding any changes to their support system, employment status, or health.

ADP Consent Agreement 6

The lawyer was the subject of a complaint from an opposing party, which raised several concerns, including the lawyer's failure to clearly communicate with opposing counsel, ineffective oversight of an articled student, and a technical breach of the Law Society Rules related to client billing. The lawyer attributed their conduct issues to anxiety and depression that developed following a sudden and significant personal loss. The lawyer's diagnosis was confirmed by both their physician and therapist.

Prior to their referral to the ADP, the lawyer took a number of proactive steps, including leaving their firm and starting their own practice in an attempt to gain greater control over their schedule and allow more time for mental health care, attending psychotherapy sessions, and engaging in regular physical activity.

Based on the nexus between the lawyer's health issues and their practice challenges, the lawyer was found eligible for the ADP and entered into a six-month consent agreement. Under the agreement, the lawyer committed to following a structured health plan, which included continued attendance at therapy appointments. The lawyer also agreed to identify a designated individual within their firm, to whom they would disclose their participation in the ADP and provide consent for this individual to notify the ADP if the lawyer's mental health challenges began to affect their practice. Additionally, the lawyer committed to reviewing practice management course materials and relevant sections of the *Trust Accounting Handbook*, and completing professional development focused on the responsibilities of serving as a principal.

ADP Consent Agreement 7

The lawyer was the subject of a complaint from an opposing party regarding the delayed drafting and filing of an order. The complaint arose during a time when the lawyer was experiencing a number of health issues that impacted their conduct, including anxiety and depression stemming from prior trauma and triggered by the nature of the file at issue.

Prior to their referral to the ADP, the lawyer had sought medical care and took steps to improve their health and keep track of tasks better. The lawyer also stopped taking on files that were triggering to them and began taking on files in a new practice area that they found rewarding.

Based on the connection between the lawyer's health issue and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP. The lawyer entered into a 10-month consent agreement which, among other things, required the lawyer to attend appointments with their therapist, not to provide legal services on certain types of files, and to complete a number of professional development program offerings, including some on lawyer well-being.

ADP Consent Agreement 8

The lawyer self-reported to the Law Society that they had failed to move several client matters forward, misrepresented to clients that their matters were moving ahead, and made multiple false statements to conceal that work had not been done on their matters.

The lawyer struggled with anxiety, depression and alcohol use. After the end of a personal relationship, the lawyer began to consume more alcohol and experienced increased anxiety and depression. Eventually, the lawyer began drinking throughout the work day. After self-reporting

the delay, misrepresentations, and false statements to the Law Society, the lawyer took a leave from practice and attended a residential treatment program.

Based on the connection between the lawyer's health issue and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP.

The lawyer entered a three-year consent agreement which included a recovery plan, medical monitoring for alcohol use, and a gradual return to work plan. Under the agreement, the lawyer could not work as a sole practitioner nor have access to any trust funds, and the lawyer's files were subject to regular review.

ADP Consent Agreement 9

The lawyer was the subject of a failure to respond complaint made by their client. Further, the lawyer failed to respond to the Law Society's initial letter about the complaint. During subsequent contact with the Law Society, the lawyer advised that they felt frozen and unable to respond to the client. The lawyer disclosed that a feeling of paralysis and subsequent non-responsiveness had occurred on a few previous files as well. The lawyer's counsellor provided information to the ADP indicating that the lawyer's paralysis on certain files was connected to the lawyer's experiences of trauma, vicarious trauma and compassion fatigue, which led to feeling overwhelmed, and patterns of escape and avoidance.

Based on the connection between the lawyer's health issue and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP.

The lawyer entered an eight-month consent agreement which included terms for continued therapy, psychoeducation, and, on files that raised psychological issues for the lawyer, working with their therapist and ADP counsel to ensure the lawyer communicated with the client in a timely manner.

ADP Consent Agreement 10

The lawyer self-reported to the Law Society that they consumed alcohol shortly before the commencement of a trial in which they were to represent a client, and as a result the trial was adjourned.

Prior to their referral to the ADP, the lawyer received counselling through the Lawyers Assistance Program related to their alcohol use and also sought the assistance of their family doctor, who prescribed medication. After self-reporting their misconduct to the Law Society, the lawyer consented to an independent medical exam and was diagnosed with substance use disorders.

Based on the connection between the lawyer's health issue and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP.

The lawyer entered into a consent agreement and agreed to a minimum of 24 months of remote alcohol monitoring, with the monitoring results being provided directly to the ADP by the service provider.

ADP Consent Agreement 11

The lawyer, who represented the plaintiff in a motor vehicle accident file, was the subject of a complaint relating to their failure to sufficiently respond to client inquiries. During the Law Society investigation, the Lawyer admitted their delay and procrastination led to an unsatisfactory level of communication with the client. The lawyer recognized that they had personal and health issues that contributed to similar communication lapses on other files, and proactively sought a psychiatric assessment.

The psychiatric assessment confirmed several diagnoses, including depression and anxiety. The report also noted a number of personality traits, such as perfectionism, that generally supported the lawyer's delivery of high-quality legal services, but when the lawyer became overwhelmed, could contribute to professional difficulties.

The lawyer was highly motivated to address their health issue, and took numerous positive steps after the complaint, including connecting with the Lawyer's Assistance Program and apologizing directly to the complainant.

Based on the nexus between the lawyer's health issues and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP. The lawyer agreed to a six-month consent agreement which set out health and practice action plans. The health action plan required the lawyer to attend regular appointments with a therapist and a psychiatrist, and to complete educational programing relating to topics such as anxiety, depression, and perfectionism. The practice action plan required the lawyer to not take on any new file work during the first three months of the consent agreement, and thereafter to gradually resume new file work if supported by the therapist or psychiatrist. The lawyer was also required to complete educational programming related to lawyer procrastination.

ADP Consent Agreement 12

The lawyer self-reported that they had misled their clients, the defendants in a civil action, on two occasions, by advising them that they had attended court on the clients' behalf when they had not done so. The misconduct occurred during a period when the lawyer's workload was extremely high, and the lawyer was dealing with some stressors in their personal life. The lawyer felt consistently stressed and overwhelmed.

After the misconduct occurred, the lawyer sought help from colleagues and the Lawyers Assistance Program. They also were assessed for and diagnosed with Attention Deficit/Hyperactivity Disorder (ADHD). The lawyer's health care provider opined that the

lawyer's undiagnosed and untreated ADHD likely played a significant role in their misconduct by impairing their planning, prioritization, impulse control, time management, and stress tolerance. ADHD also likely contributed to the lawyer's avoidance of difficult tasks, such as delivering difficult news to clients.

Based on the nexus between the lawyer's health issues and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP. The lawyer agreed to a six-month consent agreement which included a health action plan and a practice action plan. The health action plan included terms that the lawyer continue to attend appointments with a therapist, follow their healthcare provider's recommendations for treating their ADHD, and complete professional development programs on lawyers with ADHD. The practice action plan included terms that the lawyer receive regular support from a professional lawyer-coach for the duration of the agreement and develop a pro-active plan for dealing with conflicts with a client.

ADP Consent Agreement 13

The lawyer was the subject of three complaints regarding delay, avoidance and poor communication. In numerous instances, the lawyer failed to respond to communications and complete other tasks in a timely manner.

The lawyer sought eligibility in the ADP, and provided the ADP with a psychiatrist's report. The psychiatrist diagnosed the lawyer with post-traumatic stress disorder, a mood disorder, and generalized anxiety disorder, which contributed to patterns of delay and avoidance in the lawyer's practice.

After the misconduct, the lawyer took numerous steps to address their mental health issues, including regularly attending sessions with a psychiatrist and a psychotherapist. The lawyer found that following the psychiatrist's treatment recommendations and attending sessions with the psychotherapist reduced their anxiety and improved their ability to take on tasks in their professional and daily life.

Based on the nexus between the lawyer's health issues and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP. The lawyer entered into a six-month consent agreement which included supports to address the issues contributing to the lawyer's conduct. For instance, along with continued sessions with the psychiatrist and psychotherapist, the lawyer completed professional development modules on vicarious trauma, compassion fatigue, and mental health in the legal profession, and reviewed the Law Society's *Practice Management Course* and *Communications Toolkit*, as well as other continuing professional development activities related to time management, procrastination, and managing challenging client relationships. Further, the lawyer established a structured process for managing time-sensitive client communications that had the potential to trigger psychological stress or avoidance behaviours.

ADP Consent Agreement 14

A police officer filed a complaint with the Law Society about the lawyer's conduct toward them at a public event. The lawyer attended the event in their personal capacity and not as a lawyer.

The lawyer sought diversion to the ADP, and provided the ADP with medical records demonstrating that they had been diagnosed with bipolar disorder a number of years earlier. The lawyer believed that they had suffered a reoccurrence of bipolar symptoms which contributed to their actions toward the police officer.

The lawyer consented to an independent medical exam with a psychiatrist. The psychiatrist found the lawyer had bipolar disorder and Attentive Deficit/Hyperactivity Disorder, and confirmed the lawyer's health issue contributed to their conduct toward the police officer. At the time of the psychiatric assessment, both conditions were in full remission.

On the basis of the nexus between the lawyer's health issue and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP.

The lawyer entered into an eight-month consent agreement that included authorizing the lawyer's psychiatrist and family doctor to advise the ADP if the lawyer experienced a reoccurrence of their bipolar symptoms. Under the consent agreement, the lawyer would monitor their daily sleep and mood, and report to the ADP if there were marked changes to their mood, sleep, energy or behaviour. The consent agreement also required the lawyer to work under a supervisor and not practice as a sole practitioner.

ADP Consent Agreement 15

The lawyer was the subject of an incivility complaint made by opposing counsel in a family matter after the lawyer had an outburst of anger and insulted the opposing counsel. After the incident, the lawyer verbally apologized for their behaviour, and later sent a written apology to the opposing counsel.

Subsequent to their conduct, the lawyer sought assistance from the Lawyer's Assistance Program for anger management and also obtained a psychological assessment. The psychologist diagnosed the lawyer with PTSD, which was connected to the long period of time the lawyer had worked on files dealing with highly distressing human circumstances. The PTSD led to the lawyer to be in a state of hyperarousal, with symptoms of irritability and angry outbursts.

The lawyer sought eligibility into the ADP. A second psychologist confirmed that the lawyer's PTSD played a significant role in the lawyer being reactive and insulting during the incident with opposing counsel.

On the basis of the nexus between the lawyer's health issue and their conduct, and a determination that it was in the public interest, the lawyer's matter proceeded through the ADP.

The lawyer entered a nine-month consent agreement which included a term that the lawyer continue attending appointments with their therapist and examine the relationship between their health and practice issues, with a focus on developing strategies to manage their PTSD symptoms and minimize the risk of vicarious trauma. The consent agreement also contained a significant psychoeducational component, and required the lawyer to complete education programs on trauma informed practice, vicarious trauma, and indigenous cultural competency.