COURT OF APPEAL

ON APPEAL FROM the order of the Honourable Chief Justice Skolrood of the Supreme Court of British Columbia pronounced on April 29, 2026

BETWEEN:

Trial Lawyers Association of British Columbia and Kevin Westell

APPELLANTS
(Plaintiffs)

AND:

The Attorney General of British Columbia and
The Lieutenant Governor in Council of British Columbia

RESPONDENTS
(Defendants)

AND:

Workers For Ethical Substance Use Policy

INTERVENER

INTERVENER'S FACTUM
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OPENING STATEMENT

Workers for Ethical Substance Use Policy ("WESUP") is a worker-led, non-profit society whose members include workers affected by workplace substance use policies. WESUP intervenes by order of Madam Justice Horsman made September 18, 2026.[1]

WESUP's intervention is limited to the legal issues arising from the Chief Justice's conclusion that ss. 68, 88, and 122 of the *Legal Professions Act* ("Bill 21")[2] do not infringe s. 7 of the *Charter*.[3] WESUP takes the record as it is. It takes no position on the facts, their application to the law, or the disposition of the appeal. It does not address the interpretation of s. 68, the analogy to the COVID-19 cases, or ss. 198 and 202.

WESUP's submission concerns the Chief Justice's statement, at para. 216 in his Reasons that, under the definition of practising "incompetently" in s. 68, "[t]he focus remains conduct, not condition."[4] This conclusion is central. If the provisions are directed at conduct, s. 7 is not engaged. If they are, the s. 7 analysis proceeds.

WESUP submits that this distinction requires a clear legal framework. The central question is: what engages the exercise of the regulatory power? A scheme is directed at conduct where the power is triggered by an individualized assessment of a person's actual functional capacity. It is directed at a condition where the existence of the condition is itself sufficient to trigger the power. The label given to the scheme does not determine the answer.

WESUP asks this Court to articulate and apply the appropriate framework for distinguishing between legislation directed at conduct and that directed at a condition.

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[1] *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2026 BCCA 383 at para 118.
[2] *Legal Professions Act*, SBC 2024, c 26 at ss 68, 88, 122 [Bill 21].
[3] *Canadian Charter of Rights and Freedoms* at s 7, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c 11 (UK) [*Charter*].
[4] *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779 at para 216 [Reasons], Joint Appeal Record at p 321 [JAR].

PART 1 - STATEMENT OF FACTS

A. Bill 21: Professional Conduct and Competence

1. WESUP accepts the appellants' description of the statutory scheme.

2. Section 68 defines "incompetently" as a manner that demonstrates either: (a) deficiencies in the licensee's practice that gives rise to a reasonable apprehension of significantly adverse effect on client service; or (b) a health condition that prevents a licensee from practising with reasonable skill and competence.[5]

3. Section 88 authorizes the Chief Executive Officer to impose a broad range of measure where a licensee, trainee, or law firm has practiced law "incompetently", including a practice review, remedial program, counselling or medical treatment, conditions on a licence, and suspension.[6] Medical treatment may include treatment for a substance use problem or a substance use disorder.[7]

4. Section 122 authorizes the Legal Professions Tribunal to impose significant sanctions where a licensee has practiced law "incompetently," including a practice review, remedial program, counselling or medical treatment, licence conditions, fines, suspension, and cancellation of the licence.[8] Medical treatment may include treatment for a substance use problem or a substance use disorder.[9]

B. Reasons of Chief Justice Skolrood

5. At para. 216 of his Reasons, the Chief Justice concluded that the definition of practicing "incompetently" in s. 68 focuses on the effect of the health condition on the licensee's ability to practice law with reasonable skill and competence, rather than the

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[5] Book of Enactments at pp 46-47 [BE], Bill 21 at s 68; JAR at p 274, Reasons at para 11(b).
[6] BE at pp 53-55, Bill 21 at s 88.
[7] BE at p 53, Bill 21 at s 88(1)(c); JAR at p 274, Reasons at para 11(c).
[8] BE at pp 56-58, Bill 21 at s 122.
[9] BE at p 56, Bill 21 at s 122(3)(c)(ii).

existence of the condition itself.[10] He accepted the government's submission that the regime is grounded in "compassion, not stigmatization."[11]

6. Based on this characterization of what constitutes practicing "incompetently", the Chief Justice concluded that ss. 68, 88, and 122 of Bill 21 did not engage s. 7 of the *Charter*.[12] In doing so, the Chief Justice did not articulate a legal framework for distinguishing between provisions directed at conduct and those directed at a condition.

7. The expert evidence addressed the provisions' stigmatization effects on legal professionals with a substance use problem or substance use disorder. Moreover, the evidence showed that treatment imposed as a condition is less effective than voluntary treatment.[13] In fact, in some cases, compulsory treatment increases stigma and discourages the individual from seeking help.[14] That bears directly on the notion that the regime is grounded in "compassion, not stigmatization."

PART 2 - ISSUES ON APPEAL

8. The issue WESUP addresses is framed around what legal framework a court should apply when determining whether a statutory scheme that refers to a health condition is directed at conduct or at the health conditions itself, for the purpose of determining whether s. 7 of the *Charter* is engaged.

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[10] JAR at p 321, Reasons at para 216.
[11] JAR at p 321, Reasons at paras 217-218.
[12] JAR at p 322, Reasons at para 222.
[13] Joint Appeal Book at p [●] [JAB], Affidavit #1 of Doron Gold at pp 12-14 [Gold Report]; JAB at p [●], Cross-Examination of Doron Gold (16 September 2025) at Q113; JAB at p [●], Affidavit #1 of Dr. Soma Ganesan (29 March 2025), Ex A at pp 4-8 [Ganesan Report]; JAB at p [●], Cross-Examination of Dr. Michael Colleton (7 October 2025) at Q203-205 [Colleton Cross-Examination].
[14] Ganesan Report at pp 5-6.

PART 3 - ARGUMENT

A. The Text of the Act Triggers the Power on Condition, Not Conduct

9. The Chief Justice drew the line between conduct and condition at para. 216. He did not say how he drew it. “Focus” is not a legal test. It names a conclusion. It does not supply a standard for telling a provision aimed at what a lawyer does from a provision aimed at what a lawyer has. The standard matters, because the whole of the s. 7 analysis turned on which side of that line these provisions fall.

10. WESUP submits the standard is this. A regulatory power is directed at conduct only where it cannot be exercised until the regulator finds that the licensee has in fact failed to meet the professional standard in the work the licensee has done. A power is directed at a health condition where it can be exercised on the strength of the condition itself, or on a predicted incapacity inferred from the condition, with no finding that the licensee has practised below the standard. The question is not what the scheme is called. The question is what the scheme requires before the power may be used.

11. On that standard the text answers the question. Branch (a) is about conduct. It requires deficiencies in the licensee’s knowledge, skill, judgment, attention to clients, or office systems, serious enough to raise a reasonable apprehension that client service may be significantly affected. Branch (b) is not about conduct. Its subject is the condition. The words that follow the condition do not require the licensee to have practised deficiently. They ask whether the condition is one that would prevent competent practice. That is a judgment about condition. It is not a finding about work.

13. The rest of the scheme confirms that reading. Section 85(1)(g) lets the regulator compel a licensee to “undergo an examination by a medical practitioner in order to determine if the licensee or trainee has sufficient capacity to practise law competently.” That is an inquiry into capacity, carried out by examining the person. It is not a review of the person’s files. Section 88 then provides that, if the chief executive officer determines that a licensee has practised law incompetently, the officer may order the licensee to “receive counselling or medical treatment, including treatment for a substance use

problem or substance use disorder." Section 122 gives the Tribunal the same power on the same defined term.

14. Read together, these provisions permit a straight line from condition to compelled treatment. The regulator may compel a medical examination to assess the licensee's capacity. It may find incompetence under branch (b) on the strength of that assessment. It may then order treatment, including treatment for a substance use disorder. At no point in that sequence must the regulator identify a single deficient act in the licensee's practice. A scheme directed at conduct would require that finding. This scheme does not.

15. The Chief Justice read the words "that prevents a licensee from practising law with reasonable skill and competence" as though they required a demonstrated effect on the licensee's actual work. They do not. They require a condition of a certain kind. A predicted incapacity inferred from a health condition is not a proven failure in the performance of professional duties. The Chief Justice treated the two as the same. They are not. Once the conflation is removed, branch (b) is what it says. It is a power triggered by the existence of a qualifying health condition, exercised through an assessment of the condition, with no finding of deficient conduct required.

16. Because the power can be engaged on condition alone, s. 7 is engaged. The characterization at para. 216 is the only reason the Chief Justice did not continue the analysis. That characterization cannot stand on the text. The balance of the s. 7 inquiry must be undertaken.

B. The Distinction Is Common Ground on This Record

17. The standard WESUP argues should be applied is not novel on this record. It is the standard both parties' experts adopted. WESUP identifies it to show the distinction between a health condition and its effect on capacity is not contested. What is absent is a legal test giving the distinction practical effect.

18. The respondent's expert, Dr. Michael Colleton, addressed the point directly. Responding to the opinion of Mr. Gold, he wrote:

> I agree with this, as it is not the presence of a health condition but rather the resulting impairment that is determinative.[15]

19. Dr. Colleton had earlier adopted the proposition that a diagnosis of a mental illness or addiction must be differentiated from impairment resulting from it.[16]

20. The appellants' expert, Mr. Doron Gold, put the distinction in terms of what a regulator may properly examine:

> In my professional opinion, the fact that an individual suffers with Depression, Anxiety, Bipolar Disorder, Substance Use Disorder, or any other mental health conditions, does not necessarily correlate with their ability to practice competently as lawyers. Their competence should be determined through examination of the conduct of their professional duties. … Competence is performance-based, not mental health dependent.[17]

21. The convergence is not accidental. Mr. Gold adopts the formulation of the Law Society of British Columbia's Mental Health Task Force that diagnosis must not be incorrectly correlated with impairment. Dr. Colleton adopts the parallel formulation of the Law Society of Upper Canada's task force. He cites the British Columbia report as well. Both experts, and the task forces of two regulators, treat the distinction as fundamental.

22. Dr. Colleton maintained that where a health condition does affect a licensee's practice, the regulator must be able to intervene.[18] WESUP does not dispute that. It is consistent with the test WESUP advances. The test answers a different question: what follows where a scheme permits the power to be engaged without that demonstration.

23. When the distinction was put to Dr. Colleton in cross-examination, in substantially the terms the Chief Justice later adopted, he accepted it:

> Q: Right. The "why" doesn't matter. It's the "what are they doing wrong?" In this situation what they're doing wrong is they don't have the mental faculties to practice law, but the "why" is basically irrelevant?

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[15] JAB at p [●], Expert Report of Dr. Michael Colleton (27 June 2025) at para 54 [Colleton Report].
[16] JAB at p [●], Colleton Report at para 31.
[17] JAB at p [●], Gold Report at p 10.
[18] JAB at p [●], Colleton Report at para 71.

A: On some level, yes, that's correct.[19]

24. WESUP says that the distinction drawn at para. 216 is real and as consequential. A distinction of that kind calls for a legal standard. Canadian law has supplied one, and it is to that law WESUP now turns.

C. Canadian Law Provides the Test: What Triggers the Power?

25. The distinction between regulation based on what a person does, and regulation based on what a person is, is not unique to professional regulation. Canadian law has confronted that distinction in several contexts involving mental disability, discrimination, and state intervention. Although those cases arise in different settings, they identify a common principle: where a health condition is relevant to the exercise of state power, the decisive question is whether the power turns on the person's actual capacity or on the existence of a condition itself.

26. In *Winko v British Columbia (Forensic Psychiatric Institute)*,[20] the Court upheld the Part XX.1 regime governing persons found not criminally responsible because the regime does not permit deprivation of liberty based on mental disorder alone. The regime requires a positive finding that the individual poses a threat to public safety:

> There is no presumption that the NCR accused poses a significant threat to the safety of the public. Restrictions on his or her liberty can only be justified if, at the time of the hearing, the evidence before the court or Review Board shows that the NCR accused actually constitutes such a threat.[21]

27. *Winko* establishes two important distinctions. The first is that the harm must be established, not assumed. The Court was explicit that "a past offence committed under the influence of mental illness may often bear little connection to the likelihood of reoffending."[22] The second is that the Court expressly rejected reliance on stereotypical

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[19] JAB at p [●], Colleton Cross-Examination at Q265.
[20] *Winko v British Columbia (Forensic Psychiatric Institute)*, 1999 CanLII 694, [1999] 2 SCR 625 at paras 47-49 (SCC) [*Winko*].
[21] *Winko* at para 62.
[22] *Winko* at para 60.

assumptions about the dangerousness of persons with mental illness. What made the regime constitutionally tolerable was that the condition operated only as the occasion for individualized inquiry, not as its answer. [23] The verdict "is not a finding of dangerousness. It is rather a finding that triggers a balanced assessment."[24]

28. The discrimination jurisprudence applies a similar principle in a different setting. In *British Columbia (Public Service Employee Relations Commission) v BCGSEU*[25] and in *British Columbia (Superintendent of Motor Vehicles) v British Columbia (Council of Human Rights)*, [26] the Court addressed standards that operate by reference to individual characteristics. *Grismer* is the closer analogy. The Superintendent cancelled a driver's licence based on a visual condition, under a blanket policy that did not permit individual assessment. The Court held that the Superintendent was required to assess the individual unless doing so would impose undue hardship. The relevant inquiry was therefore the individual's demonstrated ability, not the mere existence of the visual condition. The privilege of driving, the Court said, "must not be removed on the basis of discriminatory assumptions founded on stereotypes of disability, rather than actual capacity to drive safely."[27]

29. *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Montréal (City)*[28] completes the picture from the other direction. The Court held that a "handicap" as used in the *Charter*, "can include both an ailment, even with no resulting functional limitation, as well as the perception of such an ailment," and that legislation "also prohibits discrimination based on the actual or perceived possibility that an individual

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[23] *Winko* at paras 35, 43, 49, 57, 60, 88-89.
[24] *Winko* at para 43.
[25] *British Columbia (Public Service Employee Relations Commission) v BCGSEU*, 1999 CanLII 652, [1999] 3 SCR 3 at paras 54, 68 (SCC).
[26] *British Columbia (Superintendent of Motor Vehicles) v British Columbia (Council of Human Rights)*, 1999 CanLII 646, [1999] 3 SCR 868 at paras 1, 4, 19, 38, 42-44 (SCC) [*Grismer*].
[27] *Grismer* at para 1.
[28] *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Montréal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v Boisbriand (City)*, 2000 SCC 27 [*Mercier*].

may develop a handicap in the future."[29] The absence of demonstrated incapacity therefore does not prevent a scheme from operating on the basis of a condition. What matters is whether the condition itself, or the perception of it, is the operative basis for the measure.

30. Each of these authorities answers the same question by looking at what the state must establish before it may act. Where a health condition bears on the exercise of state power, the power is permissible when it turns on the person's demonstrated capacity and suspect when it turns on the existence of the condition.

31. That is the standard set out above. It is the legal expression of the proposition both experts accepted. The distinction must be drawn before s. 7 is addressed, not after.

D. Workplace Substance Use Jurisprudence Shows the Label is not Decisive

32. WESUP's members work under workplace substance use policies that raise the same conduct-versus-condition distinction at issue here. WESUP relies on this jurisprudence not to ask the Court to make findings about its members' experiences, but to identify authorities that have considered when a measure directed at substance use operates on conduct and when it operates on the underlying condition.

33. In *Stewart v Elk Valley Coal Corp.*,[30] the Supreme Court of Canada was divided on whether an employee's termination under a drug-disclosure policy was properly characterized as a consequence of his conduct or of his addiction. The policy was framed in terms of conduct. The majority upheld that characterization on the tribunal's finding that the employee "had the capacity to comply with the terms of the Policy," and cautioned that the connection between an addiction and adverse treatment "cannot be assumed and must be based on evidence."[31] *Elk Valley* therefore illustrates why the language of a

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[29] *Mercier* at paras 72, 81.
[30] *Stewart v Elk Valley Coal Corp.*, 2017 SCC 30 (CanLII), [2017] 1 SCR 591 [*Elk Valley*].
[31] *Elk Valley* at paras 5, 35, 39, 50, 60.

policy cannot, by itself, determine whether a measure is directed at conduct or at a condition.

34. In *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd.*,[32] the Court considered random alcohol testing in a dangerous workplace and held that dangerousness alone did not establish the justification for the measure. Dangerousness was "only the beginning of the inquiry." The Court required "evidence of enhanced safety risks," not a risk assumed from the category of workplace.

35. Similarly, *Entrop v Imperial Oil Ltd.*[33] distinguished between measures directed at present impairment and those triggered by presence or history of substance use. An employee in remission for over 7 years was automatically reassigned on disclosing past alcohol abuse. The Court held that he was not incapable of performing his job because of his past alcohol abuse. These authorities, read with *Winko*, *Grismer*, and *Mercier*, support examining what must be established before the regulatory power may be exercised, rather than relying on the label assigned to the measure.

E. A Compassionate Purpose Does Not Resolve the Characterization Question

36. At para. 218 of his Reasons, the Chief Justice set out, without disagreement, the defendants' submission that the secondary purpose of the competence provisions is "based on compassion, not stigmatization." WESUP submits that purpose does not determine whether a scheme is directed at conduct or condition.

37. A therapeutic or protective purpose does not remove a measure from s. 7 scrutiny. In *Winko*, for example, the Court considered a regime with protective and rehabilitative purposes and upheld it based on how it operated, including a requirement for an individualized assessment. As the Court put it in its equality analysis, "good intentions, while important, are not enough to establish lack of discrimination."[34] Purpose and

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[32] *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd.*, 2013 SCC 34 at paras 31, 45.
[33] *Entrop v Imperial Oil Ltd.*, 2000 CanLII 16800 at paras 86, 99, 121-123, 50 OR (3d) 18 (ONCA) [*Entrop*].
[34] *Winko* at paras 86, 88-89.

characterization are thus distinct inquiries. The Court must first determine what triggers the power before considering whether the objectives justify the effects.

F. The Framework Has Application Beyond This Appeal

38. The provisions at issue apply to the legal profession, but the legal framework for characterizing them may apply wherever legislation links a health condition to professional or workplace capacity. Such schemes arise across regulated and safety-sensitive occupations. WESUP therefore asks the Court to state the standard set out above, so that it is available in those settings as it is here.

39. This approach focuses on the operative trigger rather than the terminology used in the legislation. It provides a principled basis for determining whether a statutory scheme responds to the effects of a health condition or operates on the condition.

PART 4 - NATURE OF ORDER SOUGHT

40. The intervener does not seek costs and asks none be awarded against it.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this 5th day of October 2026.

Kyla Lee

Kyla Lee

Counsel for the Intervener
Workers for Ethical Substance Use Policy

APPENDICES: LIST OF AUTHORITIES

Authorities	**Page # in factum**	**Para # in factum**
British Columbia (Public Service Employee Relations Commission) v BCGSEU, 1999 CanLII 652, [1999] 3 SCR 3 (SCC).	11	28
British Columbia (Superintendent of Motor Vehicles) v British Columbia (Council of Human Rights), 1999 CanLII 646, [1999] 3 SCR 868 (SCC).	11, 13	28, 35
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Legislation		

Canadian Charter of Rights and Freedoms, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c 11 (UK).	4, 6–8, 12, 13	6, 8, 9, 16, 31, 37
Legal Professions Act, SBC 2024, c 26.	4–8	2–6, 11–15

APPENDICES: ENACTMENTS

LEGAL PROFESSIONS ACT

[SBC 2024] CHAPTER 26

Definitions

68 In this Part:

"incompetently", in relation to the practice of law, means in a manner that demonstrates either of the following:

(a) deficiencies, in any of the following, that give rise to a reasonable apprehension that the quality of service to clients of a licensee or law firm may be significantly adversely affected:

(i) the knowledge, skill or judgment of the licensee or law firm;

(ii) the attention to the interests of clients of the licensee or law firm;

(iii) the records, systems or procedures of the professional business of the licensee or law firm;

(iv) other aspects of the professional business of the licensee or law firm;

(b) a health condition that prevents a licensee from practising law with reasonable skill and competence;

Competence orders

88 (1) If the chief executive officer determines that a licensee, trainee or law firm has practised law incompetently, the chief executive officer may, by order, do one or more of the following:

(a) require the licensee to submit to a practice review;

(b) require the licensee or trainee to complete a remedial program;

(c) require the licensee or trainee to receive counselling or medical treatment, including treatment for a substance use problem or substance use disorder;

(d) impose limits or conditions on the licensee's licence or on the trainee's enrolment as a trainee;

(e) suspend the licensee's licence, the permit of the law firm or the trainee's enrolment as a trainee

(i) for a specified period,

(ii) until the licensee or trainee meets a requirement imposed under paragraph (a), (b) or (c) or a condition imposed under paragraph (d),

(iii) from a specified date until the licensee or trainee meets a requirement imposed under paragraph (a), (b) or (c) or a condition imposed under paragraph (d), or

(iv) for a specified minimum period and until the licensee or trainee meets a requirement imposed under paragraph (a), (b) or (c) or a condition imposed under paragraph (d);

(f) subject to subsection (2), take any other action the chief executive officer considers appropriate in the circumstances.

(2) In an order under subsection (1) (f), the chief executive officer may not cancel the licence of a licensee or the permit of a law firm.

(3) Before the chief executive officer makes an order under subsection (1), the chief executive officer must

(a) give the licensee, trainee or law firm who is the subject of the order notice of the proposed order, including written reasons, and

(b) give the licensee, trainee or law firm a reasonable opportunity to make submissions to the chief executive officer on the proposed order.

(4) An order under subsection (1) must

(a) be in writing,

(b) include reasons for the order,

(c) be delivered to the licensee, trainee or law firm subject to the order, and

(d) if applicable, inform the licensee, trainee or law firm of the right to apply for a review of the order under subsection (6).

(5) An order under subsection (1) is not effective until the date the order is received by the licensee, trainee or law firm subject to the order.

(6) A licensee or trainee subject to an order under subsection (1) (c), (d), (e) or (f) or a law firm subject to an order under subsection (1) (e) or (f) may, no later than 30 days after the date the order is received, apply to the tribunal for a review of the order.

Actions after discipline hearing

122 (1) In this section, **"conduct unbecoming a professional"**, **"incompetently"**, **"professional conduct violation"** and **"professional misconduct"** have the same meaning as in section 68 *[definitions]*.

(2) A hearing panel must take one of the following actions after a discipline hearing:

(a) dismiss the citation;

(b) determine that the respondent has done one or more of the following:

(i) committed professional misconduct or conduct unbecoming a professional;

(ii) practised law incompetently;

(iii) committed a professional conduct violation other than professional misconduct or conduct unbecoming a professional.

(3) If a hearing panel makes a determination under subsection (2) (b) (i) or (ii) in relation to a licensee, the panel may, by order, do one or more of the following:

(a) reprimand the licensee;

(b) require the licensee to submit to a practice review;

(c) require the licensee to do one or both of the following:

(i) complete a remedial program to the satisfaction of the board;

(ii) receive counselling or medical treatment, including treatment for a substance use problem or substance use disorder;

(d) impose limits or conditions on the licensee's licence;

(e) impose a fine, in an amount not exceeding $250 000, to be paid to the regulator;

(f) suspend the licensee's licence

(i) for a specified period,

(ii) until the licensee meets a requirement imposed under paragraph (b) or (c) or a condition imposed under paragraph (d),

(iii) from a specified date until the licensee meets a requirement imposed under paragraph (b) or (c) or a condition imposed under paragraph (d), or

(iv) for a specified minimum period and until the licensee meets a requirement imposed under paragraph (b) or (c) or a condition imposed under paragraph (d);

(g) cancel the licensee's licence;

(h) subject to the fine limit specified in paragraph (e), make any order it considers necessary in the public interest, including an order for restitution.

(4) If a hearing panel makes a determination under subsection (2) (b) (i) or (ii) in relation to a trainee, the panel may, by order, do one or more of the following:

(a) reprimand the trainee;

(b) require the trainee to complete a remedial program to the satisfaction of the board;

(c) impose limits or conditions on the trainee's enrolment as a trainee;

(d) impose a fine, in an amount not exceeding $10 000, to be paid to the regulator;

(e) suspend the trainee's enrolment as a trainee

(i) for a specified period,

(ii) until the trainee completes a remedial program required under paragraph (b) or meets a condition imposed under paragraph (c),

(iii) from a specified date until the trainee completes a remedial program required under paragraph (b) or meets a condition imposed under paragraph (c), or

(iv) for a specified minimum period and until the trainee completes a remedial program required under paragraph (b) or meets a condition imposed under paragraph (c);

(f) cancel the trainee's enrolment as a trainee;

(g) subject to the fine limit specified in paragraph (d), make any order it considers necessary in the public interest, including an order for restitution.

(5) If a hearing panel makes a determination under subsection (2) (b) (i) or (ii) in relation to a law firm, the panel may, by order, do one or more of the following:

(a) reprimand the law firm;

(b) require the law firm to submit to a practice review;

(c) impose limits or conditions on the permit of the law firm;

(d) impose a fine, in an amount not exceeding $5 000 000, to be paid to the regulator;

(e) subject to the fine limit specified in paragraph (d), make any order it considers necessary in the public interest, including an order for restitution.

(6) If a hearing panel makes a determination under subsection (2) (b) (iii) in relation to a licensee, trainee or law firm, the hearing panel

(a) may make any order the chief executive officer could have made under section 87 *[professional conduct orders]* in relation to the licensee, trainee or law firm, but

(b) may not make any other order.

(7) In making an order under this section, a hearing panel must consider the following purposes:

(a) the protection of the public interest;

(b) general and specific deterrence;

(c) the making of reparation for harm done to victims.