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COURT OF APPEAL
REGISTRY

COURT OF APPEAL FILE NO. CA51535

Trial Lawyers Association of British Columbia, et al v.

The Attorney General of British Columbia, et al

Factum of the Intervener, Canadian Bar Association

COURT OF APPEAL

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

RESPONDENTS
(Defendants)

COURT OF APPEAL FILE NO. CA51536

Law Society of British Columbia v. The Attorney General of British Columbia, et al

Factum of the Intervener, Canadian Bar Association

COURT OF APPEAL

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

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA

APPELLANT
(Plaintiff)

AND:

ATTORNEY GENERAL OF BRITISH COLUMBIA and
LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA

RESPONDENTS
(Defendants)

**FACTUM OF THE INTERVENER,
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TABLE OF CONTENTS

TABLE OF CONTENTS.....	iii
CHRONOLOGY	iv
OPENING STATEMENT	v
PART 1 - STATEMENT OF FACTS.....	1
A.) The Canadian Bar Association	1
B.) Bill 21's History	1
PART 2 - ISSUES	2
PART 3 - ARGUMENT.....	3
A.) The institutional component of the independence of the bar protects the structural conditions under which lawyers can discharge their duties.....	3
i.) The case law already recognizes the institutional component	3
ii.) The institutional component protects both independence and public confidence	4
iii.) The constitutional inquiry is structural	5
iv.) Institutional independence requires institutional safeguards.....	5
v.) Bill 21 engages these institutional considerations.....	6
B.) Bill 21 is a regulatory outlier in Canada	7
PART 4 - NATURE OF ORDER SOUGHT	9
LIST OF AUTHORITIES	11
APPENDICES: ENACTMENTS.....	12

CHRONOLOGY

Nil.

OPENING STATEMENT

The Canadian Bar Association (the “**CBA**”) is the national voice of Canada’s legal profession. It appears as an intervener to make submissions on two issues: (1) the institutional component of the constitutional principle of the independence of the bar; and (2) the place of Bill 21 within the national landscape of legal-profession regulation.

First, the constitutional principle of independence of the bar protects the structural conditions under which lawyers can discharge their duties to their clients, the courts, and the administration of justice. In addition to protecting individual lawyers’ ability to discharge those duties, it guards against structures that expose the profession to a reasonable perception of undue influence. In doing so, it preserves public confidence that lawyers remain independent from the state, whose actions they may be called upon to challenge. In these ways, independence of the bar protects the public interest.

Second, the national regulatory landscape provides objective comparative context. Although no single Canadian model is constitutionally prescribed, Bill 21 departs from its provincial counterparts in several respects: for example, elected lawyers hold a minority of the regulator’s seats; disciplinary panels may force medical treatment; and executive regulations prevail over the regulator’s own rules. The court below found that the government had offered no clear rationale for these significant changes to lawyer regulation or to the jettisoning of the long-established practice of consultation and collaboration with the legal profession about changes to their governing legislation.

PART 1 - STATEMENT OF FACTS

A.) The Canadian Bar Association

1. Founded in 1896, the CBA represents more than 40,000 lawyers, jurists, Québec notaries, academics, and law students across Canada, including more than 8,000 legal professionals in British Columbia. The CBA has a long history advocating for and protecting independence of the bar, promoting high ethical standards for the practice of law, and fostering public confidence in the administration of justice. Its national membership gives it a distinct perspective on the issues raised in these appeals.¹

B.) Bill 21's History

2. In March 2022, the Government of British Columbia announced its intention to change the regulatory model governing legal professionals in British Columbia.² Six months later, it published an Intentions Paper identifying only high-level intentions.³

3. Over the following months, this paper attracted several responses, including from the CBA's B.C. branch.⁴ That response noted that any proposed changes must involve meaningful engagement with the bar and must respect the independence of the bar.⁵

4. In May 2023, the government published a "What We Heard Report" summarizing at a high level some of the results of the province's public engagement and public survey related to the proposal.⁶ About a year later, the government released a public update on the proposal, again identifying only high-level intentions.⁷

¹ *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2026 BCCA 383 [**BCCA Leave to Intervene Reasons**] at paras 96-103.

² Affidavit #1 of Brook Greenberg, KC [**Greenberg #1**] at para 76, ex 23.

³ Greenberg #1 at para 77, ex 24.

⁴ Greenberg #1 at paras 78-80, ex 25-30.

⁵ Greenberg #1, ex 28.

⁶ Greenberg #1 at para 81, ex 31.

⁷ Greenberg #1 at para 83, ex 33.

5. Despite calls for drafts,⁸ no draft legislation was provided to the public until Bill 21 was introduced in the legislature on April 10, 2024.⁹ The bill passed with little debate or discussion, despite expressions of concern from members of the bar.¹⁰

6. Bill 21 changes the regulation of the legal profession in British Columbia.¹¹ For example, under the *Legal Profession Act*, the Law Society's 32-member board consisted primarily of lawyers elected by lawyers, together with the Attorney General and up to six government-appointed benchers.¹² Under Bill 21, however, the new single regulator will be governed by a 17-member board that includes only five lawyers elected by lawyers, two notaries elected by notaries, two regulated paralegals, three directors appointed by the Lieutenant Governor in Council, and five directors appointed by the other directors, four of whom must be lawyers.¹³ Bill 21 authorizes the Lieutenant Governor in Council to make regulations that prevail over any conflicting rule made by the regulator.¹⁴ And Bill 21 removes lawyers' ability to pass resolutions binding on the regulator by referendum.¹⁵

PART 2 - ISSUES

7. The CBA addresses two issues consistent with the terms of the leave order:
- a. What does the institutional component of the constitutional principle of the independence of the bar protect and require?
 - b. How does Bill 21 fit within the national landscape of legal-profession regulation?

⁸ See, eg, Greenberg #1 at paras 82 and 84, ex 32 and 34.

⁹ Greenberg #1, at para 85.

¹⁰ Greenberg #1, at paras 89–94, 96–99.

¹¹ *Legal Professions Act*, SBC 2024, c 26, [Bill 21].

¹² *Legal Profession Act*, SBC 1998, c 9, ss 4, 5, 7.

¹³ Bill 21, s 8(1)(a).

¹⁴ Bill 21, ss 211–214.

¹⁵ *Legal Profession Act*, ss 12(3), 13.

PART 3 - ARGUMENT

A.) **The institutional component of the independence of the bar protects the structural conditions under which lawyers can discharge their duties**

8. The constitutional principle of independence of the bar protects not only individual lawyers' ability to provide independent advice and advocacy to their clients, but also the structural conditions under which lawyers can discharge their duties.¹⁶ As the lower court recognized, the ability of lawyers to provide impartial advice and zealous advocacy is linked to—and depends on—the structures governing the legal profession itself.¹⁷

i.) **The case law already recognizes the institutional component**

9. The Supreme Court of Canada has repeatedly recognized the significance of those institutional safeguards. In *Andrews*, Justice McIntyre held that lawyers play a “fundamentally important” role in the administration of justice and observed that in the “absence of an independent legal profession, skilled and qualified to play its part in the administration of justice and the judicial process, the whole legal system would be in a parlous state”.¹⁸ In *Jabour*, Justice Estey held “the independence of the Bar from the state in all its pervasive manifestations is one of the hallmarks of a free society” and observed that lawyers are officers of the courts who are “the object of public trust daily”.¹⁹ In *Fortin*, Justice Gonthier underlined the “essential role that the advocate is called upon to play in our society” in serving their clients, their profession, and the administration of justice.²⁰

10. While these authorities all concern the everyday functions performed by individual lawyers, they also concern an institutional premise underpinning those functions. Lawyers cannot reliably perform those functions unless the regulatory environment in which they practise preserves sufficient independence from the state. The court below captured that

¹⁶ See, by analogy, *Valente v The Queen*, [1985] 2 SCR 673 at para 20.

¹⁷ *Law Society of British Columbia v British Columbia (Attorney General)*, 2026 BCSC 779 [BCSC Reasons] at paras 108–109.

¹⁸ *Andrews v Law Society of British Columbia*, 1989 CanLII 2 at 187, [1989] 1 SCR 143 (SCC) [Andrews].

¹⁹ *Attorney General of Canada v Law Society of British Columbia*, 1982 CanLII 29 at 335-36, [1982] 2 SCR 307 (SCC) [Jabour].

²⁰ *Fortin v Chrétien*, 2001 SCC 45 at paras 50–54 [Fortin].

premise when it held that lawyers “cannot be said to be truly independent if they are subject to regulation by a body which is itself controlled, or unduly influenced, by outside forces, particularly those exerted by the state”.²¹

ii.) **The institutional component protects both independence and public confidence**

11. The institutional component serves both a substantive function and a confidence-building function. Both functions are essential to the administration of justice in Canada.

12. Substantively, the institutional component safeguards the conditions necessary for lawyers to discharge their professional obligations without improper external influence. Lawyers—litigators and solicitors alike—may be required to challenge legislation, executive action, prosecutions, regulatory decisions, or other exercises of state authority. Their regulatory environment must permit them to perform those functions independently.

13. Institutionally, independence must also be reasonably perceived by the public. The court below held that “lawyers must be, *and must be seen to be*, independent from outside influences, including, in particular, the influence of the state”.²² That requirement reflects the public character of the principle. Independence of the bar is not protected for the benefit of *lawyers*. Rather, it is protected for the benefit of the *public*: it supports public confidence that lawyers can advise and represent clients, including clients whose interests conflict with those of the state, without improper state influence.

14. The distinction is important. Institutional independence does not entail insulation from public accountability. Nor does it constitutionalize lawyers’ preferred form of professional governance. The relevant concern is whether the regulatory structure preserves the independence necessary for lawyers to perform their constitutional and professional functions in the public interest, and public confidence that they can do so.

²¹ BCSC Reasons at para 108.

²² BCSC Reasons at para 106 [emphasis added].

iii.) The constitutional inquiry is structural

15. The institutional component necessarily directs attention to the regulatory structure, rather than only to particular exercises of statutory power.

16. The lower court's formulation at paragraph 108 is itself structural: lawyers cannot be truly independent if the body regulating them is "controlled, or unduly influenced" by the state. The question therefore includes the allocation of authority within the regulatory scheme and the safeguards separating professional regulation from executive control.

17. That approach is consistent with the distinction between the constitutionality of legislation and the legality of particular administrative decisions. As the lower court noted, a court cannot avoid reviewing the constitutionality of legislation on the basis that unconstitutional applications of the legislation may later be judicially reviewed.²³

18. The institutional inquiry therefore asks whether the statutory architecture itself preserves the conditions necessary for an independent bar. The availability of judicial review of a future exercise of statutory authority addresses a different question.

iv.) Institutional independence requires institutional safeguards

19. To be sure, institutional independence does not prescribe a single regulatory model that must be adopted in the same format across the country—that would be too rigid. But institutional independence requires structural conditions under which lawyers can discharge their duties to their clients, the courts, and the administration of justice. Several institutional considerations flow from that basic requirement.

20. First, the bar must be both separate from the state and self-governing. This requirement finds expression in *Jabour's* recognition that "the independence of the Bar from the state in all its pervasive manifestations is one of the hallmarks of a free society".²⁴ It also finds expression in *Pearlman*, where a unanimous Supreme Court of Canada acknowledged "the particular importance of an *autonomous* legal profession to a free and

²³ BCSC Reasons at para 75.

²⁴ *Jabour* at 335.

democratic society”, stressing that “the *self-governing status* of the professions, and of the legal profession in particular, was created in the public interest”.²⁵ While there is no single regulatory model required to protect self-governance, any regulatory model selected by the government, in making policy choices, must respect that basic condition.

21. Second, the bar must have regulatory authority independent of executive direction. Institutional independence is engaged where the executive possesses authority to determine rules governing matters bearing on the provision of legal services or to displace rules adopted by the professional regulator. The acceptability of any such authority depends on its scope, subject matter, and the safeguards surrounding its exercise.

22. Third, public accountability must be maintained alongside independence. Canadian regulatory models, including the *Legal Profession Act*, commonly combine professional participation with appointed public representatives and statutory oversight. In this way, accountability can be achieved while preserving independence.

v.) Bill 21 engages these institutional considerations

23. Several features of Bill 21 engage these considerations. The CBA identifies them to assist the Court in applying the institutional component, without submitting that any feature, alone or in combination, determines the constitutional validity of the legislation.

24. **Board composition.** Bill 21 establishes a 17-member board. Five directors are lawyers elected by lawyers; two are notaries elected by notaries; two are regulated paralegals; three are appointed by the Lieutenant Governor in Council; and five are appointed by the other directors, four of whom must be lawyers.²⁶ Elected lawyers therefore constitute a minority of the board. That structure raises concerns about the need for sufficient separation and self-governance in maintaining institutional independence.

25. **Executive regulation-making authority.** Sections 211–213 authorize the Lieutenant Governor in Council to make regulations on specified matters, including the

²⁵ *Pearlman v Manitoba Law Society Judicial Committee*, 1991 CanLII 26 at 887-88, [1991] 2 SCR 869 (SCC) [emphasis added].

²⁶ Bill 21, s 8.

designation of legal professions, exemptions from unauthorized-practice restrictions, and scopes of practice. Section 214 provides that a regulation prevails over an inconsistent rule of the regulator. The lower court construed these powers as confined to the matters specifically contemplated by Bill 21.²⁷ Even on that narrow construction, the allocation of authority between the executive and the regulator engages the institutional relationship between the profession and the state.

26. **Professional accountability mechanisms.** Under the *Legal Profession Act*, members could, through prescribed procedures, pass resolutions binding on the Law Society.²⁸ Bill 21 does not preserve an equivalent mechanism. This change illustrates how Bill 21 reduces the degree of professional accountability mechanisms available.

27. These concerns—which are illustrative and not exhaustive—are amplified by the lower court’s observation that the government “offered no clear rationale for the significant changes brought about to the regulation of lawyers under Bill 21 or to the jettisoning of the long-established practice of consultation and collaboration with the legal profession about changes to their governing legislation”.²⁹ Without a compelling justification—or even *any* justification—for abandoning longstanding institutional safeguards, concern about the effect of Bill 21 on the independence of the bar is all the more real.

28. In sum, the CBA submits that the institutional component of independence of the bar is best understood functionally and structurally. The question is not whether Bill 21 reproduces the traditional law society model. It is whether Bill 21 preserves the institutional conditions necessary for lawyers to discharge their duties independently of the state and to be seen by the public as able to do so. The answer to that question matters because the public interest depends on access to independent lawyers.

B.) Bill 21 is a regulatory outlier in Canada

29. The CBA’s national perspective provides relevant constitutional context for assessing Bill 21. The comparative question is not whether BC must adopt the regulatory

²⁷ BCSC Reasons at paras 194-201.

²⁸ *Legal Profession Act*, ss 12(3), 13.

²⁹ BCSC Reasons at para 76.

model used elsewhere, but whether Bill 21 departs from the institutional safeguards that Canadian jurisdictions have generally maintained to protect the independence of the bar.

30. The lower court acknowledged that Canadian legal regulators generally share several features: governance by elected lawyers, control over admission and discipline, and authority to regulate the profession without government approval.³⁰ Although the court below viewed deviations from that model as matters of legislative choice, legislative choice remains subject to constitutional limits.³¹ The national comparison is therefore not an appeal to uniformity or preferred policy. It provides objective context for assessing whether Bill 21's cumulative departures from prevailing Canadian safeguards expose the bar to state influence in a manner incompatible with its institutional independence.

31. At least three features of Bill 21 make that comparison instructive: the composition of the regulator's board, the disciplinary power to force medical treatment, and the executive's regulation-making authority. The cumulative effect of these features places Bill 21 outside the prevailing Canadian approach to legal-profession regulation.

32. First, across Canada, regulatory structures currently in place provide for substantial participation by elected members of the legal profession in the governance of their regulators.³² The precise arrangements differ: some jurisdictions provide for significant numbers of appointed public representatives, others regulate more than one category of legal professional, and the mechanisms for selecting governing members are not uniform. But at least one common feature unites them: they all preserve a substantial institutional role for elected members of the profession in the governance of the body that regulates their professional obligations. Bill 21 takes a different approach. Under Bill 21, only five of the regulator's 17 directors will be lawyers elected by lawyers. Thus, it replaces elected-lawyer control with a model in which elected lawyers hold fewer than one-third of the seats. This makes Bill 21 a regulatory outlier in Canada.

³⁰ BCSC Reasons at para 49.

³¹ BCSC Reasons at paras 49-57.

³² BCSC Reasons at paras 49-54.

33. Second, Bill 21 gives disciplinary panels an unusual power. Section 122(3)(c)(ii) permits a hearing panel that finds professional misconduct, conduct unbecoming, or incompetent practice to require a licensee to undergo “counselling or medical treatment”. Those terms are undefined, and Bill 21 does not require the panel to include a medical professional. No equivalent disciplinary power exists elsewhere in Canadian legal regulation, and an analogous power to force treatment under the B.C. *Mental Health Act*³³ and related legislation has been declared unconstitutional.³⁴ This underscores the exceptional degree of control Bill 21 confers over licensees and the need to assess that control in light of the institutional independence protected by the Constitution.

34. Third, Bill 21 gives the executive significant authority over legal-services regulation. As noted, the bill gives the Lieutenant Governor in Council the power to regulate matters including the designation of legal professions, exemptions from unauthorized-practice restrictions, and the scopes of practice of notaries and regulated paralegals,³⁵ and those regulations prevail over inconsistent rules of the Regulator.³⁶ By contrast, Ontario’s *Law Society Act* provides a regulatory power for the Lieutenant Governor in Council, but does not establish any general rule that executive regulations prevail over rules of the regulator.³⁷ Again, this makes Bill 21 a regulatory outlier.

35. The significance of these features is their cumulative effect. Differences among provincial regulatory models may reflect legislative choice, but the national comparison shows that Bill 21 combines at least three departures from the prevailing Canadian approach that make it an outlier. The constitutional issue should be assessed by reference to the structure as a whole, not solely by considering each provision in isolation.

PART 4 - NATURE OF ORDER SOUGHT

36. As an intervener, the CBA requests that no costs be awarded for or against it.

³³ RSBC 1996, c 288.

³⁴ *Council of Canadians with Disabilities v British Columbia (Attorney General)*, 2026 BCSC 1416.

³⁵ Bill 21, ss 211-213.

³⁶ Bill 21, s 214.

³⁷ *Law Society Act*, RSO 1990, c L8, s 63.

ALL OF WHICH IS RESPECTFULLY SUBMITTED



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DATED at Vancouver, British Columbia, this 5th day of October, 2026.

LIST OF AUTHORITIES

Authorities	Factum Page #
Case Law	
<i>Andrews v Law Society of British Columbia</i> , 1989 CanLII 2, [1989] 1 SCR 143	3
<i>Attorney General of Canada v Law Society of British Columbia</i> , 1982 CanLII 29, [1982] 2 SCR 307	3
<i>Council of Canadians with Disabilities v British Columbia (Attorney General)</i> , 2026 BCSC 1416	9
<i>Fortin v Chrétien</i> , 2001 SCC 4	3
<i>Law Society of British Columbia v British Columbia (Attorney General)</i> , 2026 BCSC 779	3, 4, 5, 7, 8
<i>Pearlman v Manitoba Law Society Judicial Committee</i> , 1991 CanLII 26, [1991] 2 SCR 869	6
<i>Trial Lawyers Association of British Columbia v British Columbia (Attorney General)</i> , 2026 BCCA 383	1
<i>Valente v The Queen</i> , [1985] 2 SCR 673	3
Legislation	
<i>Law Society Act</i> , RSO 1990, c L 8	9
<i>Legal Profession Act</i> , SBC 1998, c 9	2
<i>Legal Professions Act</i> , SBC 2024, c 26	2, 6
<i>Mental Health Act</i> , RSBC 1996, c 288	8

APPENDICES: ENACTMENTS

Law Society Act, RSO 1990, c L 8

Regulations

63(1) Convocation, with the approval of the Lieutenant Governor in Council, may make regulations,

1. prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Society;
2. respecting anything that, under this Act, may or must be prescribed or done by the regulations;
- 3.-7. REPEALED: 1998, c. 21, s. 30 (3).
8. providing for the establishment, operation and dissolution of county and district law associations and respecting grants and loans to such associations;
9. REPEALED: 1998, c. 21, s. 30 (4).
10. REPEALED: 1998, c. 18, Sched. B, s. 8 (4).
11. prescribing service charges and other fees, other than amounts charged for issuing certified cheques against the joint account, for the purpose of paragraph 1 of subsection 56 (3.1);
12. designating any or all of the following, or any class or classes thereof, as financial institutions in which joint accounts must be established for the purposes of section 57.1,
 - i. banks listed in Schedule I or II to the *Bank Act* (Canada),
 - ii. registered trust corporations,
 - iii. REPEALED: 2006, c. 21, Sched. C, s. 96 (1).
 - iv. credit unions and central to which the *Credit Unions and Caisses Populaires Act, 2020* applies;
13. governing the appointment of the Complaints Resolution Commissioner;
14. governing the assignment of members of the Hearing Division and members of the Appeal Division to hearings, including the number of persons required to hear and determine different matters;
15. REPEALED: 2021, c. 4, Sched. 6, s. 56 (2).

Legal Professions Act, RSBC 1998, c 9

Benchers

4 (1) The following are benchers:

- (a) the Attorney General;
- (b) the persons appointed under section 5;

- (c) the lawyers elected under section 7;
 - (d) the president, first vice-president and second vice-president.
- (2) The benchers govern and administer the affairs of the society and may take any action they consider necessary for the promotion, protection, interest or welfare of the society.
- (3) The benchers may take any action consistent with this Act by resolution.
- (4) Subsections (2) and (3) are not limited by any specific power or responsibility given to the benchers by this Act.
- (5) The benchers may
- (a) use the fees, assessments and other funds of the society, including funds previously collected or designated for a special purpose before this Act came into force, for the purposes of the society,
 - (b) raise funds by the issue of debentures, with or without a trust deed, for the purposes of the society,
 - (c) provide for a pension scheme for its officers and employees out of the funds of the society, and
 - (d) approve forms to be used for the purposes of this Act.

Appointed benchers

- 5** (1) The Lieutenant Governor in Council may appoint up to 6 persons to be benchers.
- (2) Members and former members of the society are not eligible to be appointed under this section.
 - (3) A bencher appointed under this section has all the rights and duties of an elected bencher, unless otherwise stated in this Act.
 - (4) If a bencher appointed under this section fails to complete a term of office, the Lieutenant Governor in Council may appoint a replacement to hold office for the balance of the term of the bencher who left office.
 - (5) A bencher appointed under this section is not eligible to hold the position of president, first vice-president or second vice-president.

Elections

- 7** (1) The benchers may make rules respecting the election of benchers and of the second vice-president.
- (2) The rules made under subsection (1) must be consistent with the following:

- (a) voting is by secret ballot;
 - (b) the right of each member to vote for a benchner or the second vice-president carries the same weight as any other member who is entitled to vote for that benchner or the second vice-president;
 - (c) only members in good standing are entitled to vote.
- (3) Section 11 (4) applies to the rules made under subsection (1) of this section unless they deal directly with a matter referred to in section 12.
- (4) Section 12 applies to the rules made under subsection (1) of this section that deal directly with a matter referred to in that section.

Rules requiring membership approval

12

...

(3) The benchers may amend or rescind rules made under subsection (1) or enact new rules respecting the matters referred to in subsection (1), in accordance with an affirmative vote of 2/3 of those members voting at a general meeting or in a referendum respecting the proposed rule, or the amendment or rescission of a rule.

Implementing resolutions of general meeting

13 (1) A resolution of a general meeting of the society is not binding on the benchers except as provided in this section.

- (2) A referendum of all members must be conducted on a resolution if
- (a) it has not been substantially implemented by the benchers within 12 months following the general meeting at which it was adopted, and
 - (b) the executive director receives a petition signed by at least 5% of members in good standing of the society requesting a referendum on the resolution.
- (3) Subject to subsection (4), the resolution is binding on the benchers if at least
- (a) 1/3 of all members in good standing of the society vote in the referendum, and
 - (b) 2/3 of those voting vote in favour of the resolution.
- (4) The benchers must not implement a resolution if to do so would constitute a breach of their statutory duties.

Legal Professions Act, SBC 2024, c 26

Board of directors

- 8** (1) The board of directors of the regulator is to consist of 17 directors, as follows:
- (a) 5 directors elected by and from among lawyers;
 - (b) 2 directors elected by and from among notaries public who are not also lawyers;
 - (c) 2 directors as follows:
 - (i) if the total number of regulated paralegals in British Columbia is less than 50, appointed by a majority of the other directors holding office;
 - (ii) if the total number of regulated paralegals in British Columbia is 50 or more, elected by and from among regulated paralegals;
 - (d) 3 directors appointed by the Lieutenant Governor in Council, of whom at least one must be an individual of a First Nation;
 - (e) 5 directors appointed, after a merit-based process, by a majority of the other directors holding office, of whom
 - (i) 4 must be lawyers,
 - (ii) one must be a notary public who is not also a lawyer, and
 - (iii) at least one must be an Indigenous person.
- (2) The 2 directors referred to in subsection (1) (c) (i) must be appointed on the recommendation, if any, of the board of directors of the BC Paralegal Association made after a merit-based process.
- (3) The 3 directors referred to in subsection (1) (d) must be appointed on the recommendation of the Attorney General made after a merit-based process.
- (4) Before making a recommendation for the purposes of the appointment of a person under subsection (1) (d), the Attorney General must
- (a) consult the board respecting the desired skills, attributes and experience of persons to be appointed, and
 - (b) for the purpose of the appointment of a director who is an individual of a First Nation, seek nominations by First Nations.

General regulation-making authority

- 211** (1) The Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Act.
- (2) The authority to make regulations under another provision of this Act does not limit subsection (1).
- (3) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) establish or define classes of persons, places, things, circumstances, decisions or activities;
 - (d) make different regulations for different persons, places, things, circumstances, decisions or activities, or for different classes of persons, places, things, circumstances, decisions or activities.

Regulations respecting exceptions

- 212** (1) The Lieutenant Governor in Council may, on the recommendation of the Attorney General, make regulations prescribing classes of persons for the purposes of section 38 (1) (i) [*exceptions from prohibition against unauthorized practice*].
- (2) Before making a recommendation referred to in subsection (1) of this section, the Attorney General must consult the board.

Regulations respecting scopes of practice

- 213** (1) The Lieutenant Governor in Council may, on the recommendation of the Attorney General, make regulations prescribing activities for the purposes of sections 46 (1) (e) [notaries public scope of practice] and 47 (1) [regulated paralegals scope of practice].
- (2) Before making a recommendation referred to in subsection (1) of this section, the Attorney General must consult the board.

Application

- 214** If there is a conflict or inconsistency between a regulation made by the Lieutenant Governor in Council under this Act and a rule made under this Act, the regulation prevails.