LPBC Transitional Board and Transitional Indigenous Council

Joint Meeting

Agenda

Meeting Date: October 22, 2025

Meeting Time: 9:00 AM – 4:00 PM PST

Meeting Location: Society of Notaries Public of BC: 700-625 Howe St, Vancouver, V6C 2T6

Attendees:

Board Members

Bruce LeRose KC (Chair)
Johanne Blenkin
Jeevyn Dhaliwal KC
Katrina Harry KC
Elizabeth Kollias
Scott Simpson
Sarah Westwood KC

Indigenous Council Members

John Borrows
Christina J. Cook KC
Andrea Hilland KC
Carly Teillet

Advisory Committee Members

Paul Craven
John Mayr
Josh Paterson KC
Adam Whitcombe KC

Participants and Attendees:

Michael Johnston	Legal Advisor to the Indigenous Council
Jaxxen Wylie	Legal Advisor to the Indigenous Council
Cary Ann Moore	Policy Development
Jared Friedman	Project Management
Lindsey Ogilvie	Project Management
Maddie Holm-Porter	Project Support

#	Discussion Points	Lead	Est. Start Time	Est. Time	Materials
1	Welcome and Acknowledgements	Board Chair	9:00AM	5 min	
	Consent Agenda				
2	Sept 17, 2025 Meeting Minutes	Board Chair	9:05AM	5 min	Draft Minutes
	Updates				
3	Update from the Project Director	Project Director	9:10AM	10 min	
	Discussion/Decision				
4	Investigations	Advisory Committee	9:20AM	30 min	Policy Paper
	Break		9:50AM	20 min	

5	Public Disclosure	Advisory Committee	10:10AM	60 min	Policy Paper
6	Pathways to Licensure	Advisory Committee	11:10AM	120 min	Policy Paper
	Lunch		1:10PM	**45 Mins**	
7	Continuing Competence and Education	Advisory Committee	1:55PM	40 min	Policy Paper
8	Business Structures	Advisory Committee	2:35PM	40 min	Policy Paper
	Break		3:15PM	15 min	
	In-Camera *(Transitional Board and Transitional Indigenous Council only)*				
9	Other Business				

SLR Board and Indigenous Council

Minutes of Meeting

Meeting Date: September 17, 2025

Meeting Time: 13:00

Meeting Type: Hybrid

Meeting Location: Law Foundation of BC

Board Members in Attendance:

Bruce LeRose, KC (Chair)	Elizabeth Kollias
Johanne Blenkin	Scott Simpson
Jeevyn Dhaliwal, KC	Sarah Westwood, KC
Katrina Harry, KC	

Indigenous Council Members in Attendance:

John Borrows	Andrea Hilland, KC
Christina J. Cook, KC	Regrets: Carly Teillet

Advisory Committee Members in Attendance:

John Mayr	Adam Whitcombe, KC
Josh Paterson, KC	Paul Craven

Participants and Attendees:

Michael Johnston	Legal Advisors to the Indigenous Council
Jaxxen Wylie	Legal Advisors to the Indigenous Council
Cary Ann Moore	Policy Development
Jared Friedman	Project Management
Lindsey Ogilvie	Project Management
Maddie Holm-Porter	Project Support

Observers:

Name	Organization	Name	Organization
Alan Treleaven	SNPBC, Director	Joan Letendre	Staff, SNPBC
Alexander Burton	Staff, LSBC	Joyce Johner	Staff, LSBC
Brook Greenberg, KC	President, LSBC	Kerryn Holt	COO, LSBC
Carolyn Anderson	Staff, LSBC	Lesley Small	Senior Director, LSBC
Carrie Robinson	Staff, LSBC	Michael Lucas	Staff, LSBC
Catherine Morris	Lawyers' Rights Watch	Michael Welsh	VP, LSBC
Claire Marchant	Staff, LSBC	Michèle Ross	Bencher, LSBC

Name	Organization	Name	Organization
Derek LaCroix, KC	ED, LAPBC	Su Forbes	COO, LIF
Gail Davidson	Lawyer's Rights Watch	Tara McPhail	CLO, LSBC
Gavin Hoekstra	Staff, LSBC	Terry Becker	Okanagan College
Jeannette McPhee	CFO, LSBC	Thomas L. Spraggs	Bencher, LSBC
Jeff Hoskins, KC	Staff, LSBC	Trevor Kaatz	Staff, LSBC

1.0 Welcome and Acknowledgements

The meeting was called to order at 13:04

The Chair welcomed the Board, Indigenous council, and members of the Advisory Committee and delivered a territorial acknowledgement.

2.0 Approval of Minutes from the previous meeting

The June 18, 2025 meeting minutes were approved.

3.0 Update from the Project Director

The Cascadia Partners project director delivered a brief update on process, and proposed committees.

4.0 Updated Workplan

Updates to the workplan were presented. The board approved the workplan and authorized its publication to the LPA transition website.

5.0 Consent Resolution: Board Meeting Schedule

The proposed meeting date of March 9, 2026 was amended to March 18, 2026 and the proposed meeting date of June 15, 2026 was amended to June 8, 2026.

The transitional board and the transitional Indigenous council hereby ratify and authorize extending the length of regular Board meetings, adding an additional meeting in November, and confirming a schedule of meetings for 2026.

6.0 Consent Resolution: Hiring Committee

The consent resolution was amended to add Jeevyn Dhaliwal as a member of the committee.

The transitional board and the transitional Indigenous council hereby ratify and authorize the establishment of the Hiring Sub-Committee with the purpose of overseeing and carrying out the recruitment, evaluation, and selection of a Transition Manager and Tribunal

Chair, in accordance with the principles and requirements set out under the Legal Professions Act.

7.0 Consent Resolution: Communications Committee

The transitional board and the transitional Indigenous council hereby ratify and authorize the establishment of the Communications Sub-Committee with the purpose of overseeing communications and stakeholder engagement on their behalf.

8.0 Policy (Broad)

A written response to the policy paper on General Policies for the Rules and Code of Conduct from the Legal Advisors to the Indigenous Council formed the basis for dialogue on this topic. The legal advisors to the Indigenous council introduced their written commentary to the transitional board and transitional Indigenous council. The response presented several questions and recommendations for consideration:

a. Should it be explicit in the draft policy that the Indigenous Council and their Legal Advisors are to be included in advising on and collaborating on all the rules, policies, and the Code of Conduct?
   Recommendation: Yes. This is to ensure regard for the Guiding Principles, to facilitate the Indigenous Council's role at ss. 30, 224, and 226, and to ensure coherence with DRIPA. It will also assist the Transitional Board in their s. 223 mandate to "prepare for and facilitate the transition from the operation of the former acts to the operation of (the LPA)" by building in a governance framework that has regard for the Guiding Principles.
   Direction: Adopted
b. Should the regulator have universal standards across licensees that include Indigenous considerations?
   Recommendation: Yes. This should include a minimum standard that has regard for the Guiding Principles and is developed with the Indigenous Council and their Legal Advisors. Considerations related to Indigenous peoples and their rights should be built into the make-up of an ethical, professional, and competent licensee.
   Direction: Adopted
c. Should the Model Code be used as a template for the new Code of Conduct?
   Recommendation: Yes. However, because the Model Code is limited on Indigenous content there will need to be regard for substantial redrafting of Indigenous-specific material throughout the commentaries and in new sections for coherence with the Guiding Principles and to facilitate the role of the

Indigenous Council.
Direction: Adopted

d. Should the Transitional Team, the Transitional Indigenous Council, and their support staff and advisors work together strategically to find solutions that brings in the Indigenous considerations without creating barriers for Indigenous peoples and their legal orders?
Recommendation: Yes. The co-drafters, Transitional Team, and Transitional Indigenous Council, should work together throughout to strategically create the rules, policies, and Code of Conduct to establish regulatory co-governance that follows the mandate of the LPA and DRIPA.
Direction: Adopted

9.0 Unauthorized Practice

A written response to the policy paper on Unauthorized Practice from the Legal Advisors to the Indigenous Council formed the basis for dialogue on this topic. The legal advisors to the Indigenous council introduced their written commentary to the transitional board and transitional Indigenous council. The response presented several recommendations for consideration:

a. Introduce a new exception under section 38 or, alternatively, recommend a regulation under section 212 permitting Indigenous communities or legal institutions to authorize legal practitioners within their own systems. This approach would favourably echo the intention, if not the implementation, of the First Nations and Inuit Policing Program (FNIPP), that seeks to bolster on-reserve policing with self-administered police service agreements and community tripartite agreements. Just as the FNIPP seeks to rebuild the trust of Indigenous peoples in policing services, recognizing and authorizing Indigenous legal orders and practitioners would be instrumental in building trust in the Canadian justice system. It would also meaningfully advance the mandate of s. 7 of the Act, which requires the new regulator to facilitating access to legal services: supporting reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples; (c) identifying, removing or preventing barriers to the practice of law in British Columbia that have a disproportionate impact on Indigenous persons and other persons belonging to groups that are underrepresented in the practice of law;
Direction: Subject to further consideration of a potential exception. It was agreed that more work and thinking is required to determine how best to implement this recommendation within the legislation or rules.

b. Codify a broad definition of "legal information" that protects culturally grounded communication of Indigenous legal concepts, including oral teachings and non-textual knowledge transmission. The transitional Indigenous council should be expressly empowered to define the cultural boundaries of such information provision.
   Direction: Adopted
c. Require that any enforcement action involving Indigenous communities or legal actors be reviewed in consultation with the Indigenous council or its delegate. Consider a rule under section 203 stipulating that harm to Indigenous legal autonomy must be considered in assessing "significant risk of harm to the public."
   Direction: Adopted
d. Include interpretive guidance clarifying that participation in Indigenous legal traditions, or processes authorized by Indigenous nations, is not, by itself, unauthorized practice. Include a carve-out stating that licensees are not required to report or interfere with culturally grounded Indigenous legal practices conducted under community sanction.
   Direction: This recommendation is subsumed under recommendation 'a'.
e. Add safeguards requiring consultation with the Indigenous council before public disclosure involving Indigenous persons. Adopt a policy of minimum disclosure pending resolution, and require cultural safety impact assessments prior to naming.
   Direction: Adopted

10.0 Custodianships

A written response to the policy paper on Custodianships from the Legal Advisors to the Indigenous Council formed the basis for dialogue on this topic. The legal advisors to the Indigenous council introduced their written commentary to the transitional board and transitional Indigenous council. The response presented several questions and recommendations for consideration:

Overall Direction: Rule indicating the regulator 'may' consult with the s.22 employee and Indigenous Council on a custodianship of an indigenous licensee or licensee with Indigenous clients

a. Should the Transitional Board and Transitional Indigenous Council create rules that require communication and transparency with clients and cooperation with the Custodianship process?
   Recommendation: Yes.

Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

b. Should there be rules that refer the matter to the Indigenous Council where an Indigenous licensee or a licensee with Indigenous clients is subject to a Custodianship order?
Recommendation: Yes.
Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

c. Should the regulator consider post amalgamation action to create guidance frameworks in consultation with the Indigenous Council on observing intercultural competency in regard to Custodianships?
Recommendation: Yes.
Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

d. Should there be a rule that permits the regulator to require succession planning for practices similar to succession plans required by the Society of Notaries?
Recommendation: Yes. If a rule is created, there should be a sub-clause referring the matter to the Indigenous Council for guidance when the licensee is Indigenous or has Indigenous clients.
Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

e. Should there be rules that prevent Custodians from acting to protect a client's interests?
Recommendation: No. Custodians should be able to act to avoid a prejudicial effect on client files.
Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

f. Should the Transitional Board and Transitional Indigenous Council decide whether to employ in-house Custodians for Custodianships?
Recommendation: Yes.
    a. If the regulator does not have in-house Custodians there should be a referral program created with the Indigenous Council, employee under s. 22, and Indigenous navigators such as those employed by the Law Society Tribunal to facilitate access to competent legal services for Indigenous clients.
    b. If the Regulator goes to a model of "in-house" Custodians as the Law Society has done, there should be "in-house" Licensees who are experienced working with:
        i. Aboriginal Law,

ii. Indigenous legal orders and Indigenous legislation,
iii. Indigenous peoples in family and criminal law and the unique relationships Indigenous people have with those systems,
iv. Indigenous cultural competence,
v. Civil and Criminal procedural timelines, and
vi. any other experiences determined to be necessary upon further consultation with the Indigenous Council.

c. In either case, the regulator can have regard for the Guiding Principles, facilitate the role of the Indigenous Council, and adhere to DRIPA by referring the matter for inclusion of the Indigenous Council where an Indigenous Licensee has their practice subject to a Custodianship order or a practice with Indigenous clients is subject to a Custodianship order.
    i. As with the recommendation above, this should be supported by the employee appointed under s. 22, and by creating Indigenous navigators such as those employed by the Law Society of BC Tribunal.

Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

g. Should rules be drafted that have a duty to disclose potential misconduct or grounds for indemnification with clients?
Recommendation: Yes. This will uphold public confidence in the legal professions. This will also close the potential gap between the Code of Conduct binding licensees and the Board having non-licensee directors.
Direction: Refer to overall direction. Regulator 'may' consult with the s. 22 appointee as required.

11.0 Practice Advice

A written response to the policy paper on Practice Advice from the Legal Advisors to the Indigenous Council formed the basis for dialogue on this topic. The legal advisors to the Indigenous council introduced their written commentary to the transitional board and transitional Indigenous council. The response presented several recommendations for consideration:

a. Establish an Indigenous Practice Advisor role or team within LPBC with experience and/or training in Indigenous legal systems, and provide materials and educational opportunities in cultural competency and providing trauma-informed legal services to licensees. This advisory stream should be available to any licensee serving Indigenous clients.

Direction: Deferred – main policy regarding practice advisors is being revised.

b. The regulator should establish a permanent Practice Advice Advisory Panel with reserved Indigenous seats. This body would aid regulator staff in reviewing and shaping advice protocols and guidance notes that incorporate Indigenous legal orders.

   Direction: Not adopted

c. Any "trusted advisor" function performed by directors should be subject to
    a. Training in Indigenous cultural competency and protocols, as mandated by the *Legal Professions Act*, s.74(2);
    b. Written record of the interaction or advice given, anonymized to remove identifying information of the licensee receiving advice;
    c. Monitored to ensure equitable access across the profession; and
    d. Oversight by an advisory committee with Indigenous representation

   LPBC should also make clear that advice from directors is not privileged or authoritative and subject to the same limitations as the Practice Advisor program.

   Direction: Not adopted – board members will not perform "trusted advisor" function in the new regulatory body.

d. LPBC should explicitly extend confidentiality protections to all information gathered by practice advice providers and, when necessary, specifically to disclosures of Indigenous legal traditions that are community based and customary. This would encourage frank discussion between Indigenous licensees and advisors, including Indigenous legal traditions, and help normalize Indigenous legal reasoning within the profession.

   Direction: Adopted

e. The practice advice regime should document, maintain and provide advisory outcomes on request. Communications between licensees and advisors, including queries and advice given, should be confidential between the licensee and advisor and barred from use in disciplinary proceedings. This does not preclude the regulator gathering the same evidence through other means under the rules for Complaints and Investigations. Practitioners should be indemnified against disciplinary consequences for following in good faith advice given to them by advisors, subject to exceptions for wilful misconduct or ongoing harm.

   Measures directed specifically at Indigenous concerns should include:

   - Codify a confidentiality standard that recognizes cultural as well as professional concerns;
   - Permit anonymous or third-party facilitated advice queries;

- Extend confidentiality protections explicitly to culturally sensitive disclosures that accord with Indigenous law; and
- Ensure internal handling practices are consistent with Indigenous law confidentiality norms.

Direction: Request to soften the language of the last sentence starting, "Practitioners should be indemnified.."

h. The Practice Advice program should include Indigenous advisors who are familiar with Indigenous legal traditions and/or communities. All practice advisors should receive training on common Indigenous client issues, including challenges with legal literacy, trauma-informed communication, and systemic barriers to legal access. The practice advice mandate should be developed to include an explicit public interest impact lens that includes Indigenous communities.
Direction: Adopted policy statement in the first sentence. The rest of the paragraph speaks to operational guidance.

i. Develop a framework for the incorporation of Indigenous legal principles into the practice advice framework. This could include Indigenous-led guidance notes, advisory memoranda on Indigenous law contexts, and direct engagement with Indigenous knowledge holders in forming the substance of advice.
Direction: Adopted

12.0 Investigations

The Advisory Committee introduced the policy paper and led the discussion respecting investigations. The paper presented several questions for consideration:

a. Should there be a rule that permits the CEO to treat information received from any source that might indicate a licensee, trainee or law firm has committed a professional conduct violation or has practised law incompetently as a complaint?
Recommendation: Yes
Direction: Adopted

b. Should there be a rule to place limits or conditions on the CEO's exercise of section 78 entry and inspection power?
Recommendation: No
Direction: Adopted. It was noted that this direction may be impacted by the discussion and direction regarding Indigenous Recommendation 'c'.
    a. If yes, should the limits and conditions be enumerated in the rules?
    Recommendation: Yes
    b. If yes, what should those limits and conditions be?

Recommendation: Discuss the list provided an any options will be returned in a version 2 paper with further analysis.

c. Should there be a rule drafted that allows the CEO to dismiss a complaint following an investigation?
Recommendation: Yes
Direction: Rule as an interim measure, with a proposal to amend the LPA to address the matter on a permanent basis.
    a. If yes, what should those specific instances be?
    Recommendation: Similar circumstances to those provided by the current Notaries Society and Law Society rules
    Direction: Adopted
    b. If yes, should a complainant be allowed to access the complaints review process following a complaint dismissed post-investigation?
    Recommendation: Yes
    Direction: Adopted

Indigenous Recommendations

We recommended that rules be made under s. 84 of the Act in line with the following principles, with Indigenous Council consultation as mandated by s. 26, and that the Board and Indigenous Council commit to robustly implementing these rules.

a. With regard to the complaints process, we recommend establishing oral and written intake procedures, making available Indigenous language interpretation, accommodating Indigenous storytelling formats for statements, and trauma-informed interviewing. We also recommend encoding discretion to vary the process to accommodate individual circumstances, and for the accommodation to be documented.
Direction: Deferred to October board meeting.
b. With regard to screening and investigation initiation, we recommend creating a standing screening and initiation committee with reserved Indigenous seats. The regulations should require recorded reasons for complaints dismissals and also for CEO-initiated investigations, with mandatory notification to the Indigenous Council for matters concerning Indigenous complainants or licensees. Decisions on such matters should be deferred until the Indigenous Council has been notified or the committee with its Indigenous seats filled is able to consider the matter.
Direction: Not adopted
c. With respect to practice entry and observation protocols, we recommend imposing rule based limits and conditions on s. 78(1) powers whenever Indigenous places, things, or practices are subject to an investigation. The regulations must mandate

notice to the Indigenous Council, respect for community entry protocols to Indigenous spaces, and Indigenous supervision of inspections. It must be prohibited to observe Indigenous ceremonies unless the Indigenous Council confirms that the observation is permitted and protective conditions have been established
Direction: Deferred to the October board meeting.

Discussion of the remaining recommendations in the Investigations paper was deferred to the October board meeting.

13.0 Public Disclosure

Discussion of this topic was deferred to the October board meeting.

14.0 Licensing & Enrolment – Pathways to Licensure

Discussion of this topic was deferred to the October board meeting.

15.0 *In Camera* Session

Transitional Board and Transitional Indigenous Council

Investigations – Policy Report

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion/Direction**
Date:	**September 17, 2025**
Version:	**V1**

I. Context and background

Background

1. The ability of the regulator to investigate a trainee, licensee, or law firm is essential to the execution of its duties and responsibilities to the public and the legal professions. The authority to investigate allows the regulator to respond to complaints, monitor competency and conduct, and gather evidence of professional misconduct, conduct unbecoming, and competency.

2. Working alongside this core responsibility of the regulator is a trainee or licensee's right to privacy[1] and their constitutional protection against unreasonable search and seizure. Both the Society of Notaries Public of British Columbia (the "Notaries Society") and the Law Society of British Columbia (the "Law Society") have long histories of exercising their investigatory functions against this backdrop.

3. The Notaries Society investigates complaints and concerns as is provided for in the *Notaries Act*.[2] The Act provides for the Notaries Society to inquire into the conduct of a member or former member for specific conduct,[3] or under its own motion.[4] The language in the Act is dated, however. Licensees are cooperative and generally amenable to inquiries by the Notaries Society including unannounced in-person visits. The Act also provides for sections 34(3) and (4), 48 and 49 of the *Administrative Tribunals Act* to apply, respecting the ability to compel a witness and evidence.[5] Should the Notaries Society have cause for concern with respect to money or property held in trust by a member, they seek a court order for the purpose of search and seizure.

4. The Law Society receives and investigates complaints in accordance with the *Legal Profession Act*[6] and the Law Society Rules. That Act provides that a person who believes a lawyer, former lawyer or articled student has practised law incompetently or been guilty of

[1] *A Lawyer v. The Law Society of British Columbia*, 2021 BCCA 437 at paras 32-42.
[2] *Notaries Act*, RSBC 1996, c 334 (the "*Notaries Act*").
[3] *Notaries Act*, section 28.
[4] *Notaries Act*, section 28(2).
[5] *Notaries Act*, section 27(1.1).
[6] *Legal Profession Act*, SBC 1998, c 9 (the "*Legal Profession Act*").

professional misconduct, conduct unbecoming the profession or a breach of this Act or the rules, or law firm has been guilty of professional misconduct, conduct unbecoming the profession or a breach of this Act or the rules may make a complaint to the Law Society. The Benchers have made rules setting out procedures to be followed in connection with the receipt and investigation of complaints and authorizing an investigation into the conduct of a law firm or the conduct or competence of a lawyer, former lawyer or articled student, whether or not a complaint has been received. Parts 3, 4 and 5 of the current Law Society Rules provide a comprehensive regulatory framework within which the Law Society staff currently receive, investigate, prosecute and manage the adjudication of allegations of misconduct, conduct unbecoming, breach of the rules or incompetence.[7]

5. Overall, both the Notaries Society and the Law Society take seriously the obligation to take notice of and investigate possible allegations of misconduct, conduct unbecoming, breach of the rules or incompetence. This remains a key obligation of the regulator under the new *Legal Professions Act* while also recognizing that the board may take steps to promote and improve the standard of practice by licensees and trainees by establishing, maintaining and supporting programs to assist licensees and trainees in managing or avoiding personal, emotional or health issues and to assist licensees and trainees with issues arising from their practice of law.

6. Through an Indigenous justice lens, the primary statutory lever for co-design and subsequent oversight of culturally-safe complaint and investigation processes is the Indigenous Council, via the *Legal Profession Act's* rule-making authority set out in s. 84(1)-(2) and general consultation obligations elsewhere in the Act. Rule-making under s. 84(2)(a)-(b), (d)-(e) expressly anticipates and enables (i) multiple accessible complaint intake methods; limits and conditions on warrantless entry and inspection; and (iii) procedures for the initiation and conduct of investigations. The report of the Law Society's Indigenous Engagement in Regulatory Matters (IERM) Task Force concluded that the regulator is a "colonial institution [whose] policies and processes are inconsistent with Indigenous legal principles of dispute resolution",[8] and that the Society must decolonize and Indigenize,

[7] Law Society Rules, Part 3 – Protection of the Public, Part 4 – Discipline and Part 5 – Tribunal, Hearings and Appeals.

[8] McPherson, Christopher A et al, *Report of the Indigenous Engagement in Regulatory Matters Task Force*, by Christopher A McPherson et al (Law Society of British Columbia, 14 July 2023) at p 7.

build trust and relationships, and prevent harm to Indigenous clients.[9] The report emphasizes barriers to participation for Indigenous people and the need for culturally safe, trauma-informed regulatory processes, which must favour relational approaches to investigations rather than purely adversarial ones.

II. Alignment to the Act

7. Part 6 of the *Legal Professions Act* addresses professional conduct, competence, and discipline. Division 2 of Part 6 concerns the complaints and investigations processes. The transitional board and transitional Indigenous council considered a policy paper on complaints at their May 2025 meeting. This policy paper on investigations follows the initiation of a complaint, and the beginning of the disciplinary considerations for the new regulator.

8. Section 77(1) of the Act sets out that unless the CEO has dismissed a complaint, the CEO must investigate the complaint to determine if the licensee, trainee, or law firm has committed a professional conduct violation or practised law incompetently. Section 77(2) authorizes the CEO to investigate on their own initiative. A complaint does not necessarily have to have been received by the regulator for the CEO to exercise this power.

9. Section 84 provides the board with the general authority to make rules respecting complaints and investigations, with subsection (2)(d) providing that the board may consider drafting rules respecting the initiation and conduct of an investigation, whether or not a complaint under section 76 or a report by a licensee or trainee has been received.

10. Section 78 of the Act concerns the CEO's power of entry and inspection of a licensee, trainee, or law firm's business. Section 78(1) sets out that, subject to any limits or conditions established in the rules, the CEO may enter the business premises of a licensee, trainee or law firm during business hours, inspect or examine the records of the licensee, trainee or law firm, and observe the practice of law or supervision of the practice of law by the licensee, trainee or law firm, without a warrant. If the business is located in a private residence, then the CEO needs the consent of the licensee or trainee or a warrant to

[9] *Ibid* at p 28.

enter.[10] Section 78(3) sets out the CEO's power to order a licensee, trainee, law firm representative or other person to attend before the CEO to answer questions, provide written answers to written questions, or produce a record in their custody or control. Section 78(4) and (5) addresses how the CEO may apply to the Supreme Court for an order directing a person to comply with the CEO's order under subsection (3). Section 78(6) to (8) allows the CEO to suspend a licensee, trainee, or law firm if they do not comply with an order under subsection (3), specifies requirements of that suspension order and establishes a right to have the suspension order reviewed by the tribunal.

11. Section 84(2)(e) provides that the board may make rules imposing limits or conditions on the exercise by the CEO of the power of warrantless entry and inspection under section 78(1).

12. The remainder of Part 6, Division 2 sets out the CEO's ability to apply to the Supreme Court for a warrant authorizing a search and seizure,[11] the requirements respecting things seized,[12] the treatment of personal information in an investigation or seizure,[13] the regulator's request for evidence from someone located outside of British Columbia,[14] and immunity of persons required to report to the regulator in accordance with any rules made by the board.[15]

III. Discussion

Initiation of an investigation

13. Section 77(2) of the *Legal Professions Act* states that the CEO may, on their own initiative, conduct an investigation to determine whether a licensee, trainee or law firm has committed a professional conduct violation or practised law incompetently. Section 84(2)(d) permits the board to make rules respecting the initiation and conduct of an investigation, whether or not a complaint or a report from a licensee or trainee has been received. Both

[10] *Legal Professions Act*, section 78(2).
[11] *Legal Professions Act*, section 79.
[12] *Legal Professions Act*, section 80.
[13] *Legal Professions Act*, section 81.
[14] *Legal Professions Act*, section 82.
[15] *Legal Professions Act*, section 83.

sections 77(2) and 84(2)(d) are similar in effect to the power conferred by the current *Legal Profession Act*, section 26(2).

14. There is value in having a flexible and permissive power that allows the CEO to initiate an investigation without the formality of an official complaint or report from those who are regulated. One example of a situation which may benefit from this flexibility is following up on news articles or media reports, including social media, that concern a legal professional's conduct. Another example is when notice is provided by another agency, for example, another legal regulator or law enforcement agency. It would be an awkward occurrence when there is a matter involving a legal professional's conduct discussed in the public realm, but the regulator is unable to open an investigation as there has been no formal complaint.

15. Another instance of when the CEO may decide to initiate an investigation without a complaint is when the conduct of the licensee, trainee or law firm comes to notice of the CEO through an audit, practice inspection, or similar process. Both the Law Society and the Notaries Society have processes that may lead to the CEO (or regulator) being notified of conduct that may require further investigation. For example, the Law Society has a compliance audit process to determine whether a lawyer meets the standards of financial responsibility,[16] and the Notaries Society conducts practice inspections of its members that are intended, amongst other things, to identify notaries who do not meet the standard of practice and to make recommendations for remedial measures.[17]

16. For this policy paper's purposes, the details of those individual processes are not necessary as they will be considered in future policy papers when the topic of the paper is relevant to the process. For example, audits will be discussed as part of the trust accounting policy paper. What is important to note at this point is that, depending on the audit and monitoring processes continued or established by Legal Professions BC, there will be instances when the CEO may receive a report or notice of conduct that may warrant further investigation. It may be worthwhile to include a provision in each rule respecting an audit or monitoring process that the CEO may consider a report as a complaint.

[16] Law Society Rules, Rule 3-85.

[17] Rules of the Society of Notaries Public of British Columbia, Rules 9.1 to 9.7.

17. Another way to address the power of section 77(2) is to consider a rule like the Law Society's rule that responds to an equivalent power given by the current *Legal Profession Act*. Law Society Rule 3-4(2) requires that information received from any source that indicates a lawyer's conduct may constitute a discipline violation must be treated as a complaint. One benefit of this type of provision is that it standardizes the treatment of information by the regulator into a clear, transparent complaints process. This allows the regulator the benefit of considering any information that may warrant further investigation, regardless of the source, while also providing for administrative fairness to the licensee, trainee, or law firm in how the investigation is conducted. Another benefit is that such a rule is simple, clear, and straightforward, and found in one place in the rules.

18. It is worthwhile to our discussion to briefly revisit the complaints sections of the Act. Per s. 76(1), any person may complain if they believe a licensee, trainee, or law firm may have committed a professional conduct violation or practised incompetently. Indigenous complainants may not have a sophisticated understanding of what constitutes professional incompetence. A complaint may not be made in a situation where it is warranted, and conversely a made complaint may be dismissed for lack of cause. This can lead to misclassification and frustration with the process, potentially amplifying inequities that Indigenous complainants already face. The IERM Task Force identified low awareness of the complaints process and text heavy processes as barriers and stresses that many Indigenous clients prefer verbal to textual communication.[18] To ameliorate these risks, rules made under s. 84(2)(a)–(b) of the Act should require multiple accessible intake methods, including oral complaints taken by trained staff, Indigenous language interpreters as needed, and the option for Indigenous-styled complaint narratives, with authority granted to the regulator to vary the process to accommodate a complainant's individual circumstances.

19. Further, per s. 76(3) the CEO may dismiss a complaint without investigation if it is trivial, not in jurisdiction, or would not amount to a breach even if proven. The risk (although not the guarantee, of course) of systemic bias is inescapable when a single decision maker exercises dismissal discretion. This gatekeeping function should be vested in a standing committee with reserved seats for Indigenous members. The proposed committee should refrain from considering matters involving self-identified Indigenous licensees or complainants until the

[18] McPherson, Christopher A et al, *Report of the Indigenous Engagement in Regulatory Matters Task Force*, by Christopher A McPherson et al (Law Society of British Columbia, 14 July 2023) at p 20.

reserved Indigenous seats are filled. The Act supports this architecture as s. 26 mandates the Board to consult the Indigenous Council before making such rules,[19] and the Indigenous Council advises on appointments to the discipline committee and tribunal.[20] This provides a mechanism for ensuring Indigenous representation on any complaints intake or screening committee.

20. Per s. 77(1)–(3) the CEO must investigate complaints that are not dismissed, and may also initiate investigations on the CEO's own initiative, which subsequently imposes an obligation on the investigation subject to cooperate. There is again a risk of bias when the CEO initiates investigations unilaterally and we recommend shifting decisions on whether to launch investigations to the same standing committee with Indigenous seats, referred to above. Rules made under s. 84(2)(d), which deals with the initiation and conduct of an investigation, should prescribe consistent initiation criteria, require recorded reasons, and, for matters affecting Indigenous complainants or Indigenous licensees, require the CEO to seek concurrence from a committee that includes Indigenous members while also giving notice to the Indigenous Council.

Recommendation
There should be a rule that permits the CEO to treat information received from any source that might indicate a licensee, trainee or law firm has committed a professional conduct violation or has practised law incompetently as a complaint.

Limits and conditions for CEO entry and inspection without warrant

21. Section 78(1) of the *Legal Professions Act* allows the CEO to enter, without a warrant, a licensee, trainee, or law firm's business to inspect or examine records, and to observe the practice of law or the supervision of the practice of law by the licensee, trainee, or law firm. The Act also provides that the board may impose limits or conditions on the exercise of this power in the rules through section 84(2)(e).

[19] "Bill 21 – 2024: Legal Professions Act", SBC 2024, c 6, s. 26, online: <https://www.bclaws.gov.bc.ca/civix/document/id/bills/billsprevious/5th42nd:gov21-1#part4>.
[20] *Ibid*, at s. 30.

22. At first glance, section 78(1) may raise concerns about the regulator's ability to enter the business premises without obtaining a warrant. The Trial Lawyers Association of British Columbia has included a *Charter* challenge on section 8's search and seizure protections respecting section 78(1) as part of its constitutional challenge against the *Legal Professions Act*. The specifics of the Trial Lawyer's position, and the results of that challenge, are unknown. The transitional board and transitional Indigenous council consider the legislation as valid until otherwise determined by the courts. There is also a risk under the new legislation of a future *Charter* section 8 challenge to any exercise of such power by the new regulator.

23. When considering section 78(1), the transitional board and transitional Indigenous council should note that section 78(1) is an amalgamation of an entry and inspection power that already exists for the Law Society.[21] Under the current *Legal Profession Act*, the Benchers have the authority to make rules authorizing an investigation.[22] Law Society Rule 3-5, and specifically subrule (8), allows for the Executive Director to enter the business premises of a lawyer during business hours, without a warrant. The Law Society has also faced a *Charter* section 8 challenge to Law Society Rule 3-5, but the power to enter without a warrant has been upheld.[23]

24. There may be situations when the regulator needs to enter a business premises without a warrant. For example, when the regulator believes there is imminent destruction of records occurring, and delay in obtaining a without notice order may risk the investigation's integrity. The regulator may also be in the best position to determine whether it should obtain a warrant or not, based on the different circumstances of the investigation, including the safety of staff participating in the search.

25. The *Notaries Act* does not include specific language related to search and seizure; however, section 24 provides for an audit of books and accounts. Additionally, the Notaries Society has a practice inspection program which includes in-person visitations. These may be pre-arranged, but they also occur without notice. A member refusing entry to a practice inspector or auditor would be in violation of various sections of the *Notaries Act* and the

[21] Ministry of Attorney General, *Response to Civil Claim* (7 June 2024).
[22] *Legal Profession Act*, section 26(2).
[23] *A Lawyer v. Law Society of BC*, 2021 BCCA 437.

rules. It should be noted that, if the Notaries Society has sufficient concerns, it would seek an *ex-parte* hearing to obtain an order from the court.

26. One way to address concern over the exercise of a warrantless entry and inspection power is to draft a rule that requires the CEO to consider some factors before exercising such power. [24]of administrative law, there is a presumption of reasonableness in the exercise of power by the regulatory authority. The transitional board and transitional Indigenous council may wish to consider enumerating what factors may make such a decision reasonable in a rule; however, it may not be necessary given the presumption and ability for those impacted by a search to have the decision judicially reviewed. Common examples of limits and conditions for consideration of the exercise of a warrantless entry power include:

    - Scope restrictions:
        - Entry and inspection are limited to specific circumstances (i.e. not a general investigation)
    - Reasonable grounds requirement:
        - CEO must have reasonable grounds to believe that a professional conduct violation or incompetent conduct has occurred prior to entry
        - CEO must have reasonable grounds to believe that relevant records are present at place of entry
    - Least intrusive means:
        - The CEO must use the least intrusive means as possible for entry and inspection
    - Right to accompaniment:
        - The trainee, licensee or law firm must be allowed to accompany the inspector on the premises

27. The transitional board and transitional Indigenous council may decide to incorporate some or other limits or conditions on the exercise of the CEO's entry and inspection power under section 78 into the draft rules. Unlike other sections of the rules, the limits and conditions on this power, if listed, should be explicitly stated. If the transitional board and transitional Indigenous council are going to remove the CEO's power under the Act to apply discretion, then that limit needs to be clear on the face of the rules.

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[24] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

28. There are additional factors to consider when viewing the Entry and Inspection clauses of the Act through an Indigenous lens. Per s. 78(1), without a warrant and subject to limits, the CEO may enter business premises during business hours, inspect records or any other thing, and observe the practice of law. Important Indigenous concerns include.

29. The "place of practice" may include sacred places with protocols or reserve lands closed to non-citizens of the Nation, so entry rules must respect community authority.[25]

30. A "thing" may be an object or record used in the practice or administration of Indigenous law that cannot be examined by a non-Indigenous inspector without permission, and if examined, processes must safeguard privacy and sacred character.

31. Observing the "practice of law" may involve Indigenous ceremony that does not permit outside observation. If observation is allowed, the privacy and sacred character of the practice must be protected and not disseminated.

32. With these concerns in mind, rules under s. 84(2)(e) should impose explicit limits and conditions on exercise of the warrantless powers in s. 78(1) when Indigenous places, things, or practices are implicated. These rules should include: required prior engagement with the Indigenous Council to determine the appropriate community protocol; presence of a relevant Indigenous cultural liaison; the minimum necessary intrusion into the cultural space; and written undertakings to protect the privacy of culturally sensitive information.

33. Section 78(2) concerns entry into business premises located in a private residence which requires consent of the resident or a warrant under s. 79(3). Where the residence is Indigenous and sought evidence may have cultural significance, any court order should seek input from the Indigenous Council and apply conditions constructed to protect cultural significant evidence to every reasonable degree. The rules should direct the CEO to notify and invite the court to consider the Council's submissions on the cultural significance of sought evidence, as well as any non-relevant thing inadvertently caught by the warrant,

[25] E.g. Entrance to a Coast Salish longhouse during the winter dance cycle is by invitation and according to protocol only. See "Our Culture | Xwelmexw | Sqwélqwel | Sq'éwlets - A Stó:lō-Coast Salish Community in the Fraser River Valley", online: <http://digitalsqewlets.ca/sqwelqwel/xwelmexw/culture-eng.php>.

when applying under s. 79. This respects judicial independence while implementing the statutory consultation architecture of the Act in a practical fashion.

34. Per s. 78(3)–(5) the CEO may compel attendance, answers, and production from any person with information relevant to an investigation, and may apply to the Supreme Court to enforce such direction. The court may modify existing orders and award costs. Rules should require the CEO, when Indigenous persons are requested to provide evidence, or Indigenous cultural materials are sought, to consult the Indigenous Council before applying to the court, and to propose conditions that safeguard cultural integrity, consistent with the reconciliation mandate of the Act and Articles 9,11 and 12 of UN Declaration of the Rights of Indigenous Peoples.[26]

35. Section 78(6)–(8) gives the CEO authority to suspend a licensee, trainee or permit to practice for noncompliance with an order. The CEO must provide written reasons, including the duration of the suspension and the licensee's, etc. right of review to the tribunal, and they must be delivered to the subject. Summary suspension can have a disproportionate impact in remote regions with primarily Indigenous client bases, where a practitioner may be one of few or even the sole service provider. It is recommended that the CEO consider impacts on Indigenous clients and seek input from the Indigenous Council before issuing a suspension, and that any suspension order made must record those considerations and the Indigenous resources consulted. Rules made under s. 84(2) should codify the thresholds of the CEO's discretion and make explicit the requirement to give reasons addressing potential Indigenous community impacts.

Recommendation
The transitional board and transitional Indigenous council should not draft a rule place limits or conditions on the CEO's exercise of the section 78 entry and inspection power.

[26] United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous People: resolution / adopted by the General Assembly* (2 October 2007), online: <http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf>.

If the transitional board and transitional Indigenous council decide to draft a rule and place limits or conditions on the CEO's exercise of the section 78 entry and inspection powers, then the limits and conditions should be enumerated in the rules.

Dismissal of complaint post-investigation

36. Under section 76(3) of the *Legal Professions Act*, the CEO may dismiss a complaint without an investigation if the complaint is frivolous, vexatious, trivial, not made in good faith, not within the jurisdiction of the regulator, or does not contain allegations that if admitted or proven would constitute a professional conduct violation or the incompetent practice of law. The Act also provides for actions that the CEO may take after an investigation, through section 86, which includes making a professional conduct order, making a competence order, or submitting a citation to the discipline committee.

37. However, the Act does not address the situation when, post-investigation, the CEO may decide to dismiss the complaint. It would not make sense to say that if following an investigation, a complaint disclosed no violation or incompetence, the CEO could not or must not dismiss the complaint. Both the Notaries Society and the Law Society have rules that allow for that action. Rule 6.2 of the Notaries Society Rules permits the Society to dismiss a complaint after a preliminary inquiry if the complaint is not within the jurisdiction of the Society. Rule 3-8(1) of the Law Society Rules states that the Executive Director must take no further action after an investigation if they are satisfied that the complaint is not valid or the validity cannot be proven, or it does not disclose conduct serious enough to warrant further action. In 2024, of the approximately 1,200 complaints received, the Law Society dismissed approximately 400 complaints through the exercise of this power (with roughly 200 being not valid or unproven, and the other 200 requiring no further action).

38. This may be an area where instead of drafting a rule, the transitional board and transitional Indigenous council may wish to note it for future legislative changes to address this gap in power in section 86 in the legislation prior to amalgamation. In lieu of any legislative changes, one benefit of a rule permitting the CEO to dismiss a complaint following investigation is that it allows for a check on the disciplinary process. Without an equivalent rule for Legal Professions BC, under the Act, once an investigation is opened, under section 86, the only available actions post-investigation involves disciplinary outcomes. The regulator should be allowed to cease the disciplinary process if it is demonstrated throughout the investigation that there is no merit in continuing with the process. The

licensee, trainee or law firm will also benefit from such a rule, as it means that the outcome of an investigation is not predetermined from the outset of an investigation. Administrative fairness also requires that there must be an off-ramp to the disciplinary process if there are issues that are raised during the investigation stage.

39. This type of rule creates a discretionary decision by the regulator, which opens the door to judicial review. However, the transitional board and transitional Indigenous council agreed at the May 2025 meeting that there should be review process for complainants that have had their complaint dismissed by the regulator. That review process should be made available to a dismissed complaint regardless of the stage at which it was dismissed by the regulator.

40. From an Indigenous perspective, the discretionary authority invested in the CEO to dismiss a complaint lies in parallel to the CEO's capacity to open an investigation without a formal complaint. The rules should cover the dismissal of complaints more fully, but the potential for systemic bias and opaque decisions exists in any structure that invests the CEO with broad discretionary authority. Similar to a provision suggested above that the new rules require the CEO to delegate her discretionary powers to open investigations to a committee, the rules should grant the same committee authority to also dismiss complaints with written reasons provided to the complainant and subject. Where necessary or appropriate for an Indigenous complainant, the decision to dismiss a complaint should also be translated and available orally through an Indigenous liaison of the regulator.

Recommendations
There should be a rule that allows the CEO to dismiss a complaint following an investigation in specific instances not set out in the Act. There should be a rule permitting a complainant to access a complainant review process if the complaint is dismissed following an investigation.

Section 79 (Search and seizure)

41. Under section 79(1)–(3) of the Act the CEO may, on reasonable grounds, apply for a warrant to search premises or require the production of evidence wherever it is located, as well as seize materials for further examination. Warrant applications may proceed without notice

to the subject unless the court directs otherwise. An Indigenous practitioner's "place of practice" can include sacred places or reserve lands with restrictive protocols for entering. In an Indigenous legal practice a "thing" (evidence) may also be culturally significant. In cases where Indigenous places or things with potential cultural significance the court should hear from the Indigenous Council to determine the appropriate conditions to be placed on the warrant. The new rules should require the CEO to draw the court's attention to any cultural issues and invite the court to receive the Indigenous Council's submissions. The rules should also instruct the CEO not to proceed ex parte where cultural materials are in issue, unless urgency makes such notice impossible and the warrant conditions can still sufficiently protect cultural integrity.

42. Section 79(4)–(6) of the Act provides that the warrant must specify locations and generally describe the things sought. The court may impose limits and conditions and direct that s. 80 does not apply if its conditions are satisfied. Notwithstanding that direction, the person from whom a thing is seized may request that s. 80 be applied if the person applies in writing by personal service or registered mail within 21 days. While this may seem a narrow circumstance, personal service or registered mail could be an onerous requirement for remote reserves and may disenfranchise Indigenous holders of culturally significant things who are unfamiliar with this Rule. Rules drafted under s. 84(2)(b) (authorizing variation of the s. 76 complaint process) should authorize alternative and flexible delivery and acknowledgment methods for s. 79(6) requests. They should also require the CEO to give plain-language notice, orally and in writing, of the right to invoke s. 80, in English and, where appropriate, in Indigenous languages. These policies are consistent with the IERM Task Force's relational approach to Indigenous participation.

Section 80 (Detention of things seized)

43. We identify two important concerns with section 80. First, s. 80(2)(b) does not define a test for determining the necessity of seized evidence, which may lead to the unnecessary or over-detention of culturally significant objects that are not strictly material to an investigation. Second, s. 80(5) allows for inspection at a "reasonable time," but again does not provide a definition. The rules should outline a balancing test for determining whether evidence is "required for the purposes of the Act" that weighs the investigative probative value of the thing against its cultural significance and the potential community harm of detaining it. The test should incorporate a strong bias toward least-intrusive alternatives,

provide strict conditions on handling, place limits on detention periods, and require culturally appropriate storage. The rules should also define the "reasonable time" for investigation collaboratively with the Indigenous Council, including notice windows, ceremonial constraints on investigation times, and options for observation by a Council-designated Indigenous liaison.

Sections 81–83 (Personal records; extra-provincial evidence; immunity)

44. Two provisions in sections 81-83 of the Act deserve mention. The detailed structure in s. 82 for letters of request to obtain evidence outside British Columbia includes translation requirements at 82(6)(d) and cost considerations at s. 82(7). These should be coordinated using culturally appropriate processes if members of the subject Indigenous community are available as witnesses outside the province. With the same consideration, immunity for persons who are required to report under rules made by s. 84(2)(c) should be coordinated, whenever possible, with trauma-informed, culturally competent institutions or organizations that are safe for Indigenous licensees and trainees to report perceived misconduct in the investigation. This is consistent with the goal of prevention of harm to the public, described in Recommendation 4 of the IERM Task Force report.

Section 84 (Rules respecting complaints and investigations)

45. Section 84 is the primary enabling provision of the Complaints and Investigations division of the Act, authorizing rules to establish a complaint process; to vary that process to accommodate individual circumstances; to specify mandatory reporting; to regulate initiation and conduct of investigations even without a complaint; and to impose limits or conditions on the CEO's warrantless entry powers. Section 84 should be read with s. 26 (mandatory consultation with the Indigenous Council before making rules) and ss. 29–34 (describing the Indigenous Council's advisory role, participation in strategic planning, and independent review of alignment with guiding principles).

Helping and hindering Indigenous practitioners and clients

46. The Act builds Indigenous governance into regulation through the Indigenous Council, which has a mandated advisory role in incorporating Indigenous legal traditions and

addressing systemic challenges, as well as participation in strategic planning and appointments to committees and the tribunal. We want to highlight that s. 84(2)(b) explicitly authorizes the variation of complaint processes to accommodate individual circumstances. Section 21 directs the CEO to collaborate with the Indigenous Council to identify and remove barriers that disproportionately impact Indigenous persons. The Act generally, through these provisions, opens a statutory door to relational, trauma-informed regulation that begins to implement the recommendations of the IERM report, to decolonize the regulator, Indigenize its processes, build trust, and be proactive in preventing harm to the public.

47. In counterpoint, we are wary of the level of CEO discretion in s. 76(3) and s. 77(2) that, lacking safeguards in the form of defined tests, principles or reasons, could embed bias in the regulator at the highest level. The warrantless entry and observation powers of s. 78(1) may be invasive to Indigenous communities or legal orders if those powers are unguided by respectful protocols. Sections like s. 79(2) and 99(6) that allow for ex parte warrants and establish strict personal service requirements may disenfranchise holders of culturally significant things and undermine trust of Indigenous persons or groups, contravening recommendation 3 of the IERM report.27 Further, the lack of a defined test in s. 80 for determining if evidence detention is required and a vaguely described "reasonable time" for investigation, risks the unnecessary detention of Indigenous evidence (with cultural significance) and could suggest disrespect for Indigenous protocols pertaining to sacred places or things.

IV. Decisions required

48. In summary, the main discussion and direction items for the transitional board and transitional Indigenous council respecting investigations are:

[27] McPherson, Christopher A et al, *Report of the Indigenous Engagement in Regulatory Matters Task Force*, by Christopher A McPherson et al (Law Society of British Columbia, 14 July 2023) at p 28.

1) Should there be a rule that permits the CEO to treat information received from any source that might indicate a licensee, trainee or law firm has committed a professional conduct violation or has practised law incompetently as a complaint?

   Recommendation: Yes

2) Should there be a rule to place limits or conditions on the CEO's exercise of section 78 entry and inspection power?

   Recommendation: No

   a. If yes, should the limits and conditions be enumerated in the rules?

      Recommendation: Yes

   b. If yes, what should those limits and conditions be?

      Recommendation: Discuss the list provided and any options will be returned in a version 2 paper with further analysis

3) Should there be a rule drafted that allows the CEO to dismiss a complaint following an investigation?

   Recommendation: Yes

   a. If yes, what should those specific instances be?

      Recommendation: Similar circumstances to those provided by the current Notaries Society and Law Society rules

   b. If yes, should a complainant be allowed to access the complaints review process following a complaint dismissed post-investigation?

   Recommendation: Yes

Indigenous Recommendations

49. We recommended that rules be made under s. 84 of the Act in line with the following principles, with Indigenous Council consultation as mandated by s. 26, and that the Board and Indigenous Council commit to robustly implementing these rules.

    1) With regard to the complaints process, we recommend establishing oral and written intake procedures, making available Indigenous language interpretation, accommodating Indigenous storytelling formats for statements, and trauma-informed interviewing. We also recommend encoding discretion to vary the process to accommodate individual circumstances, and for the accommodation to be documented.

    2) With regard to screening and investigation initiation, we recommend creating a standing screening and initiation committee with reserved Indigenous seats. The regulations should require recorded reasons for complaints dismissals and also for CEO-initiated investigations, with mandatory notification to the Indigenous Council for matters concerning Indigenous complainants or licensees. Decisions on such matters should be deferred until the Indigenous Council has been notified or the committee with its Indigenous seats filled is able to consider the matter.

    3) With respect to practice entry and observation protocols, we recommend imposing rule-based limits and conditions on s. 78(1) powers whenever Indigenous places, things, or practices are subject to an investigation. The regulations must mandate notice to the Indigenous Council, respect for community entry protocols to Indigenous spaces, and Indigenous supervision of inspections. It must be prohibited to observe Indigenous ceremonies unless the Indigenous Council confirms that the observation is permitted and protective conditions have been established.

    4) With respect to court applications in respect of Indigenous cultural materials, we recommend that the CEO be directed to alert the court when cultural issues arise and to invite the court to receive submissions from the Indigenous Council on the cultural significance of the materials and appropriate protective conditions. *Ex parte* applications should be avoided where cultural materials are at issue, except where urgency is demonstrated and appropriate protections are built into the order of the court.

    5) With respect to suspensions and reviews, we recommend that before issuing a suspension under s. 78(6), the regulations require an analysis of the service impacts of

the suspension on Indigenous communities, consultation with the Indigenous Council, and that the reasons demonstrate the analysis and proportionality of the suspension. Review panels must include Indigenous members, consistent with the Indigenous Council's advisory role on tribunal appointments.

6) With respect to alternative service and notice, we recommend permitting flexible delivery methods for s. 79(6) requests and requiring the CEO to provide plain-language notice, orally and in writing, particularly to Indigenous subjects, about the right to invoke s. 80 in regard of seized materials. Such notice should including interpretation as needed.

7) With respect to the balancing test for detention and handling standards, we recommend substantively defining "required for the purposes of the Act", such definition to include a balancing of the probative value of seized materials against their Indigenous cultural significance and the potential community harm that could result from seizing Indigenous cultural materials. The rules should prefer the least-intrusive alternative, time-limit detention of seized materials, and adopt handling, copying, and storage protocols that have been approved by the Indigenous Council. The "reasonable time" for inspection should also be defined in a way that respects Indigenous ceremony and community schedules and avoids conflict.

8) With respect to education and staffing within the regulator, we recommend requiring intercultural competence[28] and trauma-informed training[29] for all complaints and investigations personnel and designate Indigenous liaison roles within the regulator,[30] consistent with the IERM Task Force's recommendations on trust, relationships, and harm prevention.

[28] McPherson, Christopher A et al, *Report of the Indigenous Engagement in Regulatory Matters Task Force*, by Christopher A McPherson et al (Law Society of British Columbia, 14 July 2023). See recommendations 4.1, 1.1. and 1.2.

[29] McPherson, Christopher A et al, *Report of the Indigenous Engagement in Regulatory Matters Task Force*, by Christopher A McPherson et al (Law Society of British Columbia, 14 July 2023). See recommendations 2.4, 4.2 and 4.3.

[30] *Ibid*, see recommendations 3.2, 2.2 and 1.2.

9) Per the IERM Task Force recommendations, we recommend that the regulator explicitly state its recognition that Indigenous places, things, words, songs, and stories are law.[31] The rules should codify that these are not merely cultural artifacts but sources and instruments of Indigenous law in practice. The institutional recognition of Indigenous legal orders is foundational to designing appropriate protocols for inspection, observation, and handling of Indigenous spaces, ceremonies and materials, and interviewing Indigenous subjects and witnesses during investigations.

50. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with a follow-up version of this paper in the future.

[31] *Ibid*, see recommendations 1.1 and 2.3.

Transitional Board and Transitional Indigenous Council

General Policy on Public Disclosure

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion/Direction**
Date:	**September 17, 2025**
Version:	**V1**

I. Context and Background

Introduction

1. The purpose of this general policy paper is to provide the transitional board and transitional Indigenous council with an overview of the legal obligations and restrictions that will apply to Legal Professions BC under the *Freedom of Information and Protection of Privacy Act*[1] ("*FIPPA*") upon amalgamation. This overview is intended to be used as a starting point and resource for the transitional board and transitional Indigenous council when considering future policies, programs and rules of the new regulator. Although the paper is intended as an informational piece, there are a few recommendations and questions for discussion at the end.

2. The transition to a single regulator under the *Legal Professions Act* (the Act) requires two parallel commitments. First, the regulator must safeguard the public through clear, principled transparency. Second, it must design that transparency in a manner that does not systematically disadvantage Indigenous peoples, Indigenous licensees, or Indigenous communities who depend on them. Public disclosure is not a free-standing good. It is an instrument that must be calibrated to the risks at hand, the statutory scheme, and the social context in which the scheme operates. If disclosure rules are insufficiently attentive to Indigenous contexts, they can produce foreseeable harms, including chilling effects on the availability of Indigenous community counsel, the erosion of trust by Indigenous communities in legal processes, and a reduction in culturally safe access to justice.

3. The goal is to ensure compliance with both the access to information and protection of privacy components of *FIPPA*, whilst maintaining public confidence, statutory compliance and accountability.

4. The review that follows identifies disclosure powers within the Act and *FIPPA*, as well as existing practice levers in the Law Society Rules, and proposes a disclosure architecture that achieves required transparency while avoiding unnecessary harm. We inspect the

[1] RSBC 1996, c 165.

distinctive position of Indigenous licensees and communities, whose interests are often vulnerable to unwarranted reputational damage from premature or overbroad publication.

II. Alignment to the Act

5. There are many operations and processes of Legal Professions BC that will require the collection and disclosure of personal information. The following is a non-exhaustive list of when information may reasonably be presumed may be collected by the new regulator in some form:

    - Governance matters (director applications, appointments to boards, voting records, meeting minutes, etc.)
    - Licensing and enrolment matters (licensing applications, enrolment applications, review processes and committee meeting notes, limited licence applications, unauthorized practice of law matters, etc.)
    - Complaints and investigations (complaint details, investigation steps and notes, search and seizure records, etc.)
    - Discipline matters (deliberation of discipline processes, mental health or similar alternative processes, practice reviews, etc.)
    - Assistance programs (e.g. practice advice)
    - Indemnification claims
    - Custodianship matters
    - Financial standards and trust account audits
    - Applications for business permits

6. In addition to the logistics of operations that will require collection of some information, the *Legal Professions Act* has several sections that specifically allow the CEO or regulator to collect information or records from a licensee, trainee or law firm. For example, section 170 allows the CEO to collect information from a licensee, former licensee or law firm through the process of a trust account review and audit. Section 78(3) permits the CEO to order that a licensee, trainee, law firm or any other person produce a record or thing in the custody or control of that person to the regulator. Section 29 of the *Interpretation Act* defines the use of "record" in an enactment to include books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise.

7. Contrasting with the collection of information needs of the regulator is the duty of the regulator to publish information. Section 61 requires that, subject to any rules made under the rule-making power of section 62(2)(f), the following information must be published respecting each licensee: name; business telephone and email address; class of licence held; notation of any limits or conditions on licence; notation of each suspension or cancellation under the Act; notation of any suspension, disbarment or termination of membership under the *Legal Profession Act* or *Notaries Act*; and a notation of any and each other disciplinary action taken in relation to a licensee under the *Legal Profession Act* or *Notaries Act* if made public before coming into force of the new Act. Section 61(f) also allows for any additional information to be included in the registry if specified by the rules.

8. Section 66 of the *Legal Professions Act* also provides a broad power for the board to make rules authorizing the CEO to disclose to the public certain information relating to a licensee, trainee or law firm if the CEO is satisfied that it is in the public interest to do so. However, the Act does not provide a definition or suggestions as to what "certain information" may mean and leaves it for the transitional board and transitional Indigenous council to consider in any rules or policies of the new regulator.

9. Section 7 provides guiding principles for the regulator that are relevant to public disclosures of licensee information in general, and Indigenous licensees, or those primarily serving Indigenous licensees, in particular:

> ***7*** *In exercising powers and performing duties under this Act, the regulator must have regard to the following principles:*
>
> *(a) facilitating access to legal services;*
>
> *(b) supporting reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples;*
>
> *(c) identifying, removing or preventing barriers to the practice of law in British Columbia that have a disproportionate impact on Indigenous persons and other persons belonging to groups that are under-represented in the practice of law;*
>
> *(d) regulating the practice of each legal profession in a manner that is*
>
> *(i) transparent,*

(ii) timely, and

(iii) proportionate to the risk of harm to the public posed by the practice.[2]

10. The board's authority under s. 62(f) to make exceptions to the disclosure requirements of s. 61 is a critical tool for the board to use in satisfying the regulator's mandate under s. 7, particularly s. 7(c). The discretion granted by the sections identified are enabling powers, not mandates to publish everything that can be published. The discretion authority should be structured by the rules, guided by necessity and proportionality, and applied with attention to potential impacts on Indigenous licensees and clients.

11. Overlaying the needs of Legal Professions BC to collect information from licensees, trainees, law firms and others, as well as the duty to disclose information under the Act or rules, is the impact of the statutory requirements provided by *FIPPA*.

III. Discussion

Background to *FIPPA*

12. *FIPPA* details how public bodies in British Columbia collect, use, disclose and protect personal information.[3] *FIPPA* has applied to both the Law Society and the Notaries Society since 1995 when it was extended to "local public bodies". Section 262 of the *Legal Professions Act* will extend *FIPPA* to Legal Professions BC in their place.

13. The purpose of *FIPPA* is to make public bodies more accountable to the public and to protect personal privacy by:

    a) Giving the public a right of access to records,
    b) Giving individuals a right of access to, and a right to request correction of, personal information about themselves,
    c) Specifying limited exceptions to the right of access,
    d) Preventing the unauthorized collection, use or disclosure of personal information by public bodies, and

[2] "Bill 21 – 2024: Legal Professions Act", SBC 2024, c 6, s. 7.

[3] *FIPPA*, section 3.

e) Providing for an independent review of decisions made under this Act.[4]

14. *FIPPA* is designed to balance transparency, by granting the public the right to information held by a public body, and privacy, by restricting how a public body manages personal information.

Key aspects of *FIPPA*

Access to information

15. Under section 4(1) of *FIPPA*, a person has a right of access to a record in the custody or under the control of a public body, including their own personal information. Personal information means recorded information about an identifiable individual other than contact information.[5] Following an application, the public body must respond within 30 business days unless there is an authorized extension.[6]

16. The public body has a duty to assist any applicant and to make reasonable efforts to help the applicant.[7] In addition, the public body is also responsible for the maintenance of records.[8] A record includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.[9]

Protection of personal information

17. A public body may only collect personal information in accordance with section 26 of *FIPPA*, which states a limited number of circumstances, including if the collection is authorized by law, necessary for the operation of a program, or if it is being collected for law enforcement purposes.

[4] *FIPPA*, section 2.
[5] *FIPPA*, Schedule 1, "personal information".
[6] *FIPPA*, sections 7 and 10.
[7] *FIPPA*, section 6.
[8] *FIPPA*, section 31.
[9] FIPPA, Schedule 1, "record".

18. Once collected, that personal information may only be used for: the purpose for which it was obtained (or for a use consistent with that use); if the person whose personal information it is consents to the use; or, for a purpose the information may be disclosed to a public body.[10] A consistent purpose is defined as when there is a use of personal information that is consistent with the purpose for which the information was obtained or compiled if the use has a reasonable and direct connection to that purpose and is necessary for performing the statutory duties of, or for operating a program or activity of, the public body.[11]

19. *FIPPA* also prescribes the limited circumstances as to when personal information may be disclosed by the public body. These circumstances include, but are not limited to, situations such as when the person consents to the disclosure, for law enforcement purposes, or to comply with another law or a subpoena.[12] It is important to note an additional way that information may be disclosed by the public body. Under section 71 of *FIPPA*, the head of the public body must establish categories of records that are in the custody or under the control of the public body and that are available to the public without a request for access. Once established, under section 33.3(1) of *FIPPA*, the public body may then disclose a record to the public without a request. Section 77 of *FIPPA* requires that Legal Professions BC, as a local public body, to designate a head in the rules.

Limits on access

20. A person's right to access information under *FIPPA* is not unlimited. Part 2, Division 2 of *FIPPA* provides a list of either mandatory or optional exceptions to disclosure. In general and the most relevant for the purpose of a legal regulator, a public body must refuse disclosure of cabinet and local public body confidences,[13] information harmful to the interests of an Indigenous people,[14] information harmful to the business interests of a third

[10] *FIPPA*, section 32.
[11] *FIPPA*, section 34.
[12] *FIPPA*, section 33.
[13] *FIPPA*, section 12.
[14] *FIPPA*, section 18.1.

party,[15] and information that would be an unreasonable invasion of a third party's personal privacy.[16]

21. *FIPPA* provides for more discretionary exceptions to disclosure. The ones most relevant for Legal Professions BC include policy advice or recommendations,[17] legal advice,[18] disclosure harmful to law enforcement,[19] disclosure harmful to the financial or economic interests of a public body,[20] or if the information will be published within 60 days.[21]

22. One of the potentially most significant mandatory disclosure powers under *FIPPA* is section 25, which states that whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, an affected group of people or an applicant, information about the risk of significant farm to the environment or to the health or safety of the public or a group of people, or if for any other reason, disclosure is in the public interest. The *Legal Professions Act* has a similar provision under section 66 that states that the board may make rules authorizing the CEO to disclose to the public certain information relating to a licensee, trainee or law firm if the CEO is satisfied that it is in the public interest to do so.

Office of the Information and Privacy Commissioner

23. The Office of the Information and Privacy Commissioner (OIPC) is an independent body that monitors a public body's compliance with *FIPPA.* The OIPC may initiate investigations, audits and reviews either on their own initiative or in response to a complaint.[22] In addition, the OIPC may make an order requiring a person to attend before the commissioner to answer questions under oath or affirmation, or produce a record in the custody or under the control of the person, including a record containing personal information.[23]

[15] *FIPPA*, section 21.
[16] *FIPPA*, section 22.
[17] *FIPPA*, section 13.
[18] *FIPPA*, section 14.
[19] *FIPPA*, section 15.
[20] *FIPPA*, section 17.
[21] *FIPPA*, section 20.
[22] *FIPPA*, section 42.
[23] *FIPPA*, section 44.

24. Following an investigation, the OIPC may issue an order requiring the public body, amongst other things, to grant or refuse access to records, amend personal information, or destroy personal information.[24]

25. It is integral that a public body, such as Legal Professions BC, take steps to develop and maintain a strong working relationship with the OIPC, to avoid the escalation of complaints. Both the Notaries Society and Law Society have experience in this area.

Indigenous Considerations

26. *FIPPA* provides three mandates (of many) relevant to the consideration of Indigenous interests with respect to disclosure. First, section 71 authorizes proactive categories of routine disclosure, so that predictable, low-risk information can be published without case-by-case requests.

> ***71*** *(1) Subject to subsection (1.1), the head of a public body must establish categories of records that are in the custody or under the control of the public body and are available to the public without a request for access under this Act.*
>
> *(1.1)The head of a public body must not establish a category of records that contain personal information unless the information*
>
> *(a)may be disclosed under section 33, or*
>
> *(b)would not constitute, if disclosed, an unreasonable invasion of the personal privacy of the individual the information is about.*
>
> *(1.2)Section 22 (2) to (4) applies to the determination of unreasonable invasion of personal privacy under subsection (1.1) (b) of this section.*
>
> *…*

27. Second, section 25 requires disclosure without delay where there is a genuine and significant risk to public health or safety.

[24] *FIPPA*, section 58.

25 *(1)Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information*

(a)about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or

(b)the disclosure of which is, for any other reason, clearly in the public interest.

…

28. Third, section 18.1 specifically protects Indigenous heritage and community-held information interests. *FIPPA's* exceptions to default disclosure require a structured analysis before disclosing information that would reasonably be expected to cause harm to Indigenous people.

18.1 *(1)The head of a public body must refuse to disclose information if the disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop any of the following with respect to the Indigenous people:*

(a)cultural heritage;

(b)traditional knowledge;

(c)traditional cultural expressions;

(d)manifestations of sciences, technologies or cultures.

(2)Subsection (1) does not apply if the Indigenous people has consented in writing to the disclosure.

29. These mandates, applied appropriately, permit transparency where it serves safety and accountability, while constraining disclosure that would unnecessarily reveal sensitive or community-protected Indigenous information.

The *Notaries Act*

30. The publication regime of the *Notaries Act*, employs tighter triggers, narrower categories, and more explicit constraints on naming at early stages. The *Notaries Act* requires the secretary to explicitly publish only suspensions and terminations of licensees following a disciplinary decision.

> ***40*** *In every case of suspension or termination of membership, the secretary must*
>
> *(a)publish notice of the suspension or termination of membership at the earliest reasonable opportunity, in the manner set out in the regulations, and*
>
> *(b)notify all the following persons of the action taken:*
>
> *(i)the Attorney General;*
>
> *(ii)the registrar;*
>
> *(iii)the district registrars of the Supreme Court;*
>
> *(iv)the registrars of the land title offices;*
>
> *(v)the members of the society.*[25]

31. The Notaries disclosure process illustrates that staged transparency, rather than all or nothing, can be both workable and consistent with the goal of public protection.

Current LSBC publication practice

32. The Discipline Rules of the Law Society currently employ staged transparency, differentiating between screening, investigation, citation, hearing, and disposition. Sanctions and conditions are published with reasons at the end of the process. At earlier stages, the current LSBC Rules use tools such as anonymized notices in some contexts and case-specific publication where public safety is engaged. Rule 4-20.1, in particular, recognizes the power to publish anonymously in appropriate circumstances.

[25] *Notaries Act*, [RSBC 1996] CHAPTER 334, s. 40.

4-20.1 *(1) A party or an individual affected may apply to the Tribunal for an order that publication under Rule 4-20 [Publication of citation] not identify the respondent.*

(2) When an application is made under this rule before publication under Rule 4-20, the publication must not identify the respondent until a decision on the application is issued.

(3) On an application under this rule, where, in the judgment of a motions adjudicator, there are extraordinary circumstances that outweigh the public interest in the publication of the citation, the motions adjudicator may

(a) grant the order, or

(b) order limitations on the content, means or timing of the publication.

(4) [rescinded]

(5) The motions adjudicator making a determination on an application under this rule must state in writing the specific reasons for that decision.

33. The staged nature of the LSBC disclosure rules demonstrates that levels of disclosure are familiar in practice and exceptions to disclosure can be extended by rule where justified by a risk of harm to the licensee or public. The new rules should incorporate a similar approach.

IV. Disclosure Through an Indigenous Lens

Two-part test for contemplated disclosure

34. Any decision to disclose information about a licensee should satisfy two criteria.

35. **Necessity**. Publication of the information must be necessary to achieve a legitimate regulatory purpose that cannot reasonably be achieved by a less intrusive measure, such as direct client notice, licensee practice conditions or monitoring, or delayed publication until facts have been established. For example, a fact could be a determinate finding of a breach of professional conduct. Mere allegations of a breach, or an investigation into allegations, are not facts.

36. **Proportionality**. The scope and form of the publication of information must be proportionate to the risk to the public and the licensee, the stage of proceedings, and the quality of the information. Publication should be narrowly tailored to the identified purpose and time-limited where the risk is temporary.

37. This two-part test satisfies the Board's discretion under the Act, s. 66, and is also consistent with *FIPPA's* harm-analysis based approach, including *FIPPA's* section 25 urgent safety trigger and *FIPPA's* section 18.1 protection for Indigenous information.

Confidentiality

38. The Act preserves privilege and confidentiality throughout much of the investigative process. Investigations are fact-finding endeavours, not adjudications. At the investigation stage, premature disclosure of information regarding an Indigenous licensee (or a licensee primarily serving Indigenous clients) may mislead the public, produce irreversible reputational damage to the licensee in the community being served. Importantly, it could also limit access to legal counsel in Indigenous communities that already face barriers by discouraging Indigenous clients from retaining "bad" counsel, even if the licensee being investigated is the only local service provider. Confidentiality in the early stages of the investigation and disciplinary process should therefore be preserved except where public safety requires otherwise, and any publication before adjudication should be justified by a concrete and significant risk.

Disclosure Categories

39. Defining granular categories of information to be disclosed will allow the regulator to satisfy its mandate under section 7 of the Act.

Using *FIPPA* s. 71 for routine publication

40. Categories can help prevent harmful over-disclosure of information related to Indigenous licensees or clients by disclosing only as much information as warranted and justified in each case. Section 71 of *FIPPA* requires the creation of pre-defined, low-risk categories for proactive publication (without a request). For the regulator, this information should contain only facts, not allegations, such as final disciplinary outcomes for licensees, conditions imposed after a finding, or aggregate data about complaints and timelines. Designing

appropriate categories will improve the regulator's clarity and consistency in information publication, will limit or eliminate ad hoc decisions about what information should be published, and will support meaningful public accountability without requiring the naming of licensees at preliminary stages.

Defining "certain information"

41. The rules should clarify the meaning of "certain information" by specifying exactly what may be published at each stage, along with the safeguards and exceptions of each stage. For example, final decisions and reasons should ordinarily be published with names. Interim practice conditions should be published with names only where naming is necessary for efficacy and safety, and otherwise may be communicated directly to affected clients and counterparties without general publication. Screening outcomes that involve no citation should not be published with names.

Indigenous Community Counsel and Reputational Harm

The specific risk profile

42. A unique concern arises where an Indigenous lawyer, often the sole provider of culturally grounded services to a First Nation or Indigenous organization, is publicly named or identified in relation to a pending, minor, or technical matter. It should also be noted that in small or rural communities, where there are few if any other counsel Indigenous communities may reasonably react to the by shifting work to non-Indigenous counsel from outside the jurisdiction, who cannot offer equivalent cultural insight or long-standing relationships. The result is a predictable, but avoidable, reduction in culturally safe access to justice. Where publication of information is not required for safety, the regulator should avoid practices that deter communities from retaining Indigenous counsel.

Safeguards for pending and minor matters

43. To address this foreseeable harm, rules made under section 66 of the Act should incorporate the following safeguards.

44. **Defer Identification**: The names of licensees or other identifying information should not be published at the screening or investigation stages unless there is a concrete and significant

safety risk that cannot be mitigated through direct notice to clients and counterparties or conditions on the licensee.

45. **Anonymous Publication:** Where public information about a process stage would promote accountability or general deterrence, it should be published, but without names or identifying information. Rule 4-20.1 already recognizes this technique. The rule should be broadened in its ordinary application to pending and minor matters.

46. **Written Reasons**: When information is anonymized or withheld in a context where identification would otherwise occur, the regulator should also publish reasons that explain the necessity and proportionality analysis that resulted in the decision to anonymize the information. This supports the regulator's transparency with the public, without sacrificing safeguards.

47. **Direct Client Notice**: Where practice conditions are imposed, current clients and affected counterparties should receive direct notice from the regulator, sufficient to protect their interests. Direct notice can be more effective at protecting safety than public posting as it directly informs the parties that could be at risk.

48. **Time Limits and Review Periods:** Any publication deferral should include a review date as well as reasons for the deferral. If the matter advances to a citation or hearing that triggers safety or integrity concerns, an elevated category of disclosure can then be considered.

Statutory Support

49. The proposed safeguards are supported by the Act and *FIPPA*. Section 62 of the Act authorizes the board to draft rules regarding exceptions to the mandated information disclosure set out in section 61, while section 66 of the Act authorizes the CEO to disclose information in the public interest. The result is that the regulator has functional discretion in both disclosure and non-disclosure of information, allowing it to finely calibrate the amount of information published to best serve its mandate.

50. Section 71 of *FIPPA* permits proactive, category-based publication that can specify anonymity for early stages. Section 25 of *FIPPA* also supports rapid disclosure where urgent safety risks arise. The section 18.1 harm-based exceptions of *FIPPA* reinforce that the regulator must attend to the risks of disclosing information that affects Indigenous communities.

Use-cases

51. Some example scenarios can illustrate how the proposed safeguards for Indigenous information are both practical and necessary.

52. **Case 1: Minor Trust-accounting Breach** - A solo Indigenous community counsel is cited for a reconciled shortfall that is promptly corrected. Public naming at the screening stage could cause the Indigenous community members to refrain from engaging the licensee, although safety is not in this case. A more nuanced approach, in line with the Act and *FIPPA*, is non-identifying publication, direct client notice if conditions are imposed on the licensee, and identification of the licensee only upon a final disposition of the matter, and only if warranted by a disciplinary action.

53. **Case 2: Advertising Technicality** - An Indigenous community lawyer is cautioned for wording on her website that implies a prohibited practice specialty. The risk to the public is technical, low, and correctable. Publication of the matter should be non-identifying at most, with guidance to the licensee and profession if necessary.

54. **Case 3: Safety Concern -** Where a significant and imminent risk to clients or the public exists, the regulator should use *FIPPA* section 25 and act quickly, publish what information is necessary to mitigate the safety issue, and revisit ongoing publication once the risk subsides, including removing identifying information where consistent with statutory limits and the public interest.

Governance

Role of the Indigenous Council

55. Section 26 of the Act is explicit in its requirement that the Indigenous Council be consulted on rule-making.

> ***26*** *Before making a rule, the board must consult the Indigenous council respecting the extent to which the rule accords with the principles set out in section 7 (b) and (c) [guiding principles].*

56. In service of this mandate, the rules should also require the Indigenous Council to be consulted on the design of disclosure categories, on the application of anonymity and

deferral policies that engage Indigenous interests, and on periodic review of disclosure metrics. This includes Indigenous perspectives in both rule-making and oversight.

Screening Thresholds

57. The regulator should establish clear thresholds for when matters move from screening to investigation to citation, with publication triggers tied to each defined threshold. Safety-sensitive circumstances can be fast-tracked for the appropriate level of publication. Information should be shared with other authorities where authorized by statute and demanded by necessity, recognizing the Act's confidentiality foundations and FIPPA's limits on disclosure.

Monitoring and Metrics

58. The regulator should publish aggregate data on complaints, timelines, outcomes, and the use of anonymity and deferral, disaggregated where appropriate. This supports public accountability while still protecting at-risk Indigenous individuals and communities.

V. Recommendations Regarding Indigenous Considerations

59. **Specify information to be published by stage**: The rules made under s. 66 of the Act should specify what is published at each stage, with the publication of identifying information deferred at screening and investigation unless real and imminent safety risks exist that cannot be mitigated by alternatives.

60. **Incorporate *FIPPA* s. 18.1 and harm tests:** Disclosure decisions should reference *FIPPA* section 18.1 and the relevant harm-based provisions so that those decisions account for Indigenous community interests and other protected Indigenous information.

61. **Implement *FIPPA* s. 71 categories:** The regulator should create categories for routine, low-risk, proactive publication of licensee information. The category design should default to anonymous, non-identifying or aggregate publication at early stages, with escalating levels of disclosure for more serious and factual information.

62. **Apply a necessity-and-proportionality test to all discretionary disclosure:** The rules should require written reasons that specifically address the necessity and proportionality of disclosure whenever names or identifying information are published before a final decision is reached.

63. **Use anonymous publication more often:** The new rules should expand the use of anonymous publication (as under current LSBC Rule 4-20.1) for pending and minor matters, with reasons explaining the decision to publish only non-identifying information.

64. **Favour direct client notice over general posting when appropriate:** When practice conditions are imposed, use direct notice to current clients and affected parties rather than general public naming, unless identification is necessary for the condition to be effective to achieve the regulator's goals in the matter.

65. **Create structured procedures for culturally safe communication:** Where matters requiring disclosure affect Indigenous clients or communities, provide information to them that is accurate, minimally intrusive, and culturally safe, including plain-language explanations of the regulator's screening, investigation and citation processes.

66. **Institutionalize Indigenous Council participation:** The board should consult with the Indigenous Council on the drafting of the disclosure rules, and design of disclosure categories and metrics. The rules should require the participation of the Indigenous Council in periodic reviews of the disclosure process elements. The Indigenous Council should always be notified of the application of the rules in cases with Indigenous impacts.

67. **Adopt time-limits and reviews:** The rules should require that the necessity and proportionality tests applied to a matter be reviewed at defined intervals and at key procedural milestones.

68. **Maintain uniform confidentiality protections:** The rules should preserve investigative confidentiality except where risks as contemplated by *FIPPA*, section 25 require disclosure, and cease publication where harm to Indigenous licensees, clients or communities would unreasonably exceed benefit.

69. **Remain congruent with other regulators:** The regulator should follow the publication practices of other Canadian regulators to ensure that the regulator's disclosure rules are no

more expansive than necessary and are in-line with professional standards in other jurisdictions.

70. **Educate the profession and the public:** The regulator should publish guidance for the public and profession that explains what information is published at each stage of the complaints and discipline process, and why. The guidance should include understandable examples that show how anonymous publication, direct notice, and publishing identifying information are chosen.

VI. General recommendations

71. In summary, the main discussion items for the transitional board and transitional Indigenous council respecting public disclosure requirements under *FIPPA* and the *Legal Professions Act* are:

    1) When considering draft rules, the transitional board and transitional Indigenous council should adopt a necessity test for each rule:
        a. Is the information explicitly authorized by the *Legal Professions Act* to collect or publish?
        b. Is the information essential to collect to carry out the program or process?

    2) The transitional board and transitional Indigenous council should consider what "certain information" means in relation to the publication of information about a licensee, trainee or law firm in the public interest under section 66:
        a. Does "certain information" need to be defined in the rules, or do you prefer leaving that discretion for the CEO to decide?

Implementation and transitional issues

72. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with another policy paper and incorporate the discussion into the draft rules impacted by public disclosure considerations.

73. The implementation of effective disclosure rules, categories and metrics that will satisfy the regulator's mandate with respect to Indigenous licensees, clients and communities, will require an approach that combines sound legal drafting, policy maturity, operational

readiness by the regulator, and substantial Indigenous governance. The disclosure process rules, drafted in consultation with the Indigenous Council, will necessarily include communications standards, regulator staff training, databases, document templates, draft and review schedules, and more. The process must reliably produce defensible decisions under the Act and *FIPPA* and generate administrative records that can withstand a reasonableness review under *Vavilov*-style principles.[26] The design of the disclosure process is out of scope for this paper, but can be elaborated on in future work.

[26] In which the Supreme Court of Canada found "that the determination of reasonableness may depend on the impact of a decision on an affected party." Sossin, Lorne, "The Impact of Vavilov: Reasonableness and Vulnerability" (2021) 100:1 The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference, online: <https://digitalcommons.osgoode.yorku.ca/sclr/vol100/iss1/12> at p 266.

Transitional Board and Transitional Indigenous Council

Licensing and Enrolment – Pathways to Licensure – Policy Report

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion/Direction**
Date:	**September 17, 2025**
Version:	**V1**

I. Context and Research

Background

1. Pathways to licensure form the foundation of the regulatory framework of Legal Professions BC. A pathway determines not only who may enter one of the legal professions, but also the competencies and values those professionals bring in the delivery of legal services. For the transitional board and transitional Indigenous council, it is integral that the rules respecting licensing follow the guiding principles set out in section 7 of the *Legal Professions Act*.

2. The pathways should balance the rigorous entry requirements necessary to protect the public interest in competent legal services against the flexible and inclusive approaches proposed by the guiding principles that require the regulator to have regard for facilitating access to legal services, supporting reconciliation and the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* ("***UNDRIP*"**), identifying, removing, and preventing barriers to the practice of law that have a disproportionate impact on Indigenous peoples and other under-represented groups, and regulating the profession proportionally to the risk to the public. Both the Guiding Principles and the *Declaration of the Rights of Indigenous Peoples Act* ("***DRIPA***") which states at s. 2 that *UNDRIP* applies to the laws of BC, bring in *UNDRIP* as an important piece of the regulator's mandate. For pathways to licensure, some relevant sections of *UNDRIP* are articles 5, 18, 20, and 40 which hold that Indigenous peoples have rights to guide decision-making and shape institutions that impact their rights. The legislative framework in the *Legal Professions Act* that facilitates these rights within the regulator will be best implemented by inclusion of the Indigenous Council, the employee under s. 22, or an Indigenous Committee if one is created under s. 9(3) in making decisions and developing institutional mechanisms that impact Indigenous peoples.

3. This policy paper is focused on how licensing for lawyers, regulated paralegals and notaries public, as well as limited practice licences, will work under the new regulator, along with associated considerations for those licences, such as mobility, suitability for the practice of law and transferring from practising to non-practising status.

4. One consideration for each sub-topic is whether this is an area best addressed during the transition work toward Legal Professions BC, or if it should wait until after amalgamation

occurs. The main objective of this policy paper is to inform the drafting of the first set of rules. However, pathways to licensure pose an opportunity for more transformational change, which if pursued, would require substantive work and resources to operationalize outside of rule drafting. There may be circumstances where the Transition Team's desired approach is best facilitated with rules that require post-amalgamation action by the regulator. Given the breadth of topics covered in this policy paper, the transitional board and transitional Indigenous council may decide to select a few of the sub-topics for further analysis as to whether an option is feasible to pursue prior to amalgamation, and if determined possible, then instructions may be provided at that time respecting the rules needed to support the option. A table including the topics, recommendations and timing is included at the end of this paper.

II. Alignment to the Act

Authority

5. Part 5 of the *Legal Professions Act* deals with licensing and authority to practise. The principal provisions that apply to pathways to licensure are found in Division 4, on licensing and enrolment. The relevant sections of the Act will be discussed in greater detail in each of the sub-topics of this paper. However, it is important to consider a few sections at the outset.

6. The first section to note is the mandatory requirement that the board must establish eligibility requirements for a licence and for enrolment as a trainee, in section 50(1). Section 50(2) uses permissive language to say that eligibility requirements may include requirements for licensee education, examinations and suitability for practice. This gives the Board the discretion to develop pathways that do not strictly adhere to the pre-existing pathways to licensure.

7. Because the Transitional Board has the “powers necessary to prepare for and facilitate the transition from the operation of the former Acts to the operation of this Act,” at s. 223(3) of the *Legal Professions Act,* there is an assumption that the Transitional Board has discretion to shape the pathways to licensure where appropriate so that the regulator starts governing from a position that has regard for the Guiding Principles. This should include rules that create space for the Indigenous Council and the employee appointed under s. 22 of the *Legal Professions Act*.

8. Section 59 provides the CEO with a summary order power and section 67 authorizes the board to make rules respecting undertakings. Although listed in Division 4 of the Act, these powers will be considered under future policy papers on discipline and trust accounting, as they are more relevant to those topics. Similarly, sections 61 and 66 concern the registry requirements and rule-making power to disclose information in the public interest, which are discussed in the policy paper on public disclosure. Section 51 provides the authority to create a licensing committee, which was the subject matter of a policy paper considered by the transitional board and transitional Indigenous council at its June 2025 meeting.

9. The focus for this paper is on sections 62 (rules respecting licences) and 63 (rules respecting trainees). Both sections authorize the board to make rules on these topics and include suggestions of rules that the board may consider making. Combined with this specific rule-making authority is the power under section 27(1) of the Act, that states that the board may make any rules that it considers necessary or advisable for the performance of its duties as a regulator. Section 27(2) states that the authority to make rules under another provision of the Act, like sections 62 and 63, does not limit the general rule-making power provided by subsection (1).

10. At its May 2025 meeting, the transitional board and transitional Indigenous council also decided, when possible, to approach the drafting of the rules and treatment of the legal professions in as uniform a manner as possible. Pathways to licensure is one of the main topics that may require different approaches to each legal profession, but opportunities for standardization and the need for distinction will be highlighted throughout this paper. Section 27(3) permits the board to make different rules for different legal professions, if necessary.

III. Discussion

Current eligibility requirements for each profession

11. The new *Legal Professions Act* provides an opportunity to create new pathways to licensure, but it also provides an opportunity to review, improve and harmonize the current existing pathways to become a licensed lawyer or notary public. Continuing the already existing licensing programs of the Notaries Society and the Law Society is essential to uphold fairness, maintain trust and honour the commitments made by individuals who have already invested significant time, resources and effort into pursuing entry to their chosen profession through those established pathways.

12. Abruptly discontinuing these pathways upon amalgamation would create uncertainty and hardship for applicants who have structured their professional development and employment income around the existing requirements. Preserving these pathways, for both current and future participants, ensures that Legal Professions BC's processes remain predictable and equitable, while also allowing for an established and robust pathway to licensure for at least two of the legal professions to exist from day one of the new regulator. Preservation does not mean that aspects of those pathways cannot be improved upon or harmonized across the legal professions, but rather the general pathway is maintained.

13. Since regulated paralegals will be licensed for the first time following amalgamation, a new pathway will need to be developed. This paper touches on aspects of the regulated paralegal licensing requirements, but more information is required to help inform the transitional board and transitional Indigenous council's decisions once the scope of practice for a regulated paralegal is determined. Creating a regulated paralegal pathway will require considerable work and resources, including substantial consultation with various stakeholders.

14. This section of the paper will discuss the current existing pathways for licensure for lawyers, notaries public, and to a degree, paralegals. The intention is to provide the transitional board and transitional Indigenous council an overview of those pathways. This will help lay the foundation for discussion of developing additional or alternative pathways to licensure, discussed in the section following this one.

15. Section 50 of the *Legal Professions Act* states that the board must establish eligibility requirements for a licence and for enrolment as a trainee. The subheadings below mirror the suggested eligibility requirements provided by section 50(2) of the Act for each of the three legal professions. S. 50(2) is a permissive clause that the requirements "may include":

    (a) Education, training, experience, and other qualifications;
    (b) Examinations and assessments; and
    (c) Evidence of a person's suitability for the practice of law.

16. While there should be standards for entering professions to protect the risk to the public, s. 50(2) gives the regulator discretion to decide what the requirements include. Ultimately, the regulator has the discretion to do away with or keep any of the existing requirements or create an entirely new set of requirements.

17. The Guiding Principles hold that the regulator must have regard for facilitating access to legal services, identifying, preventing, and removing barriers for Indigenous peoples and other under-represented groups, supporting reconciliation and the implementation of *UNDRIP*, and regulating the profession proportional to the risk of harm to the public. Regulating with regard for the Guiding Principles should require a robust inclusion of Indigenous input throughout the development of the mechanisms of becoming a trainee and licensee. Reconciliation, the implementation of *UNDRIP*, and the interests of the public could face a high degree of risk if licensees are not prepared to grapple with the legal landscape as it pertains to Indigenous peoples. Some of the factors the regulator must have regard for when analyzing current and potential pathways are:

    - Indigenous people are the fastest growing population group in the province;
    - Indigenous people are over-represented in the criminal justice and family welfare systems;
    - Indigenous people are more likely to face financial or other barriers to accessing legal services;
    - Indigenous nations are creating their own legislations and revitalizing their indigenous legal orders as their rights and inherent jurisdictions continue to gain recognition;
    - *DRIPA* applies to all laws in BC; and
    - much of British Columbia is unceded land and the make-up of Aboriginal Title is governed by a developing area of law that potentially implicates individuals' fee simple and other interests, the provincial and federal Crown, municipal governments, and First Nations.

Recommendation

The transitional board and transitional Indigenous council should continue to recognize the existing pathways to licensure for lawyers and notaries. To prepare and facilitate the transition to shift to operation under the LPA as per s. 223(3), the transitional board and transitional indigenous council must have regard for potential pre- and post-amalgamation opportunities for regulating in coherence with the Guiding Principles.

Lawyer

18. For lawyers in BC, there are a few pathways to licensure. The main pathway, which is the focus of this section of the paper, has two entry points, depending on where you obtained

your law degree. Additional pathways will be discussed further on in this paper, under the mobility section.

Prerequisites: Education, training, experience and other qualifications

Education

19. To practise law as a lawyer in BC, you must have a law degree. Entry into the profession depends on where you have obtained your law degree, but regardless of the location, there is always the requirement of a law degree. Canadian law degrees are now juris doctorates (JD), which are graduate level degrees, and usually take 3 years to complete. Prior to being accepted to a JD program in Canada, you will have had to obtain an undergraduate (bachelor's) degree.

20. Persons who have studied law abroad may complete an undergraduate or graduate law degree, depending on the jurisdiction in which they studied. As part of the lawyer licensing process in Canada, those students are required to have their degree assessed by the National Committee on Accreditation (NCA), which is run by the Federation of Law Societies of Canada.[1] Depending on the components and jurisdiction of the law degree, NCA students complete either examinations or further study in certain topics, primarily focusing on Canadian law content (e.g. constitutional law, criminal law, etc.). Once those equivalencies are achieved, the NCA student is issued a Certificate of Qualification, which puts them at the same starting position in the pathway as students who have obtained a JD from a Canadian law school.

21. In BC, there are 3 law schools: University of British Columbia, University of Victoria and Thompson Rivers University. Approximately 600 law students graduate with a JD each year in the province. It is important to note that many, but not all, law students will seek entry to the profession, although they may not all stay in BC for that process.

Training and experience

22. The Law Society requires an applicant to enrol in the Law Society Admission Program (LSAP). There are two main components of LSAP: articling and the Professional Legal Training Course (PLTC). The entire LSAP program runs for 12 months, with 9 months articling, 10

[1] Federation of Law Societies of Canada, "National Committee on Accreditation" (2025) https://nca.legal.

weeks at PLTC, and the remaining 2 weeks (or 10 days) as vacation for the student.[2] Entry to the LSAP program is conducted on a rolling basis, meaning that each person has a different start date depending on the timing of their application.

23. The *Articling Program Assessment* published by LSBC in November 2024 was a self-report survey reviewing the previous 5 years of articling and the PLTC. Feedback from that assessment include findings that:

    - 60% of new lawyers felt less than fully prepared for entry level practice;
    - 19% of new lawyers felt not very prepared or not prepared at all for entry level practice;
    - 55% of articled students, new lawyers, and individuals who completed PLTC but were non-practising felt that the PLTC training was inadequate; and
    - 57% of Principals, recruiters, and mentors felt that the PLTC training was inadequate.[3]

24. This is not to say the Transition Team should do-away with the current processes. That could interrupt current trainees and cause significant distress and confusion. Instead, this report highlights that perfection in enrolment processes is not a necessary standard. Ultimately, there is always a risk when admitting new licensees into the legal professions.

25. In 2020, the Law Society of BC's Lawyer Development Task Force recommended that the Board explore alternative pathways to articling. The recommendations used two examples. The first case study was the Legal Practice Program used by the Law Society of Ontario. The second was an Integrated Practice Program that was embedded into the law school curriculum, with examples at Lakehead and Ryerson Universities.[4] To date, new pathways have not been created.

[2] Law Society of British Columbia, "Admission Program" (2025) https://www.lawsociety.bc.ca/licensing/admission-program/.

[3] Law Society of British Columbia, *Articling Program Survey Full Report*, December 2024 (Vancouver: Law Society of British Columbia, 2024), online: Law Society of British Columbia.

[4] Law Society of British Columbia, *Exploring the Development of Alternatives to Articling: Recommendations of the Lawyer Development Task Force* (Vancouver: Law Society of British Columbia, 2020), online: Law Society of British Columbia.

Articling

26. Articling is the experiential training portion of the LSAP program. Students are supervised by practising lawyers in the real world. Essentially, it is a supervised practicum where the supervisor acts as a mentor to and trainer of the articled student.

27. Prior to applying to the LSAP program, students must secure their own articling positions.[5] The Law Society does not assist students in finding articling positions. Securing an articling position has been consistently noted as one of the greatest barriers to entry to the profession.[6] Often, there are not enough lawyers or law firms able to take on the additional time, training and financial burden of supervising an articled student. The difficulty in securing an articling position is especially true for racialized students or those who have completed the NCA process. According to self-reporting in the *Articling Program Assessment,* 30% of respondents encountered discrimination or harassment during articling, with an over-representation from those identifying as being part of "equity-deserving" groups. While law schools in BC hold 30 total seats for Indigenous law students per year, the Law Society of BC's *Demographics of the Legal Profession* show an increase of 11 lawyers identifying as Indigenous from 2021 to 2023.[7] This includes lawyers who return to practice or transfer to practice in BC for other jurisdictions. This indicates that there are post-educational barriers to entering the profession that disproportionately impacts Indigenous peoples. In 2000, the Law Society of BC reported that while 2-5% of non-Indigenous people articled with the Government, 25% of Indigenous students did. Additionally, 55% of Indigenous students reported they either experienced greater difficulty in finding articles or did not know whether they had greater difficulty. During articling, 40% of Indigenous students reported a barrier such as cultural insensitivity, racial slurs, discrimination or favouritism in assigned work, being channelled into an area of law that was not of interest to them, or other. Furthermore, 67% of indigenous articling students were not retained afterwards at the firm they articled at.[8] As per the Guiding Principles, the transitional board

[5] Law Society of British Columbia, "Details of Articling" (2025) https://www.lawsociety.bc.ca/licensing/admission-program/articling-centre/details-of-articling.

[6] For example, see: E. Sadowski, "The Growing Demand for Articling Positions and What You Can Do About It" (2016) Issue 149 *the Verdict*.

[7] Law Society of British Columbia, Demographics of the Legal Profession, online: Law Society of British Columbia https://www.lawsociety.bc.ca/about-us/priorities/equity-and-diversity-centre/demographics-of-the-legal-profession/

[8] **Law Society of British Columbia**, *Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers* (Vancouver: Law Society of British Columbia, April 2000), online: LINK

and transitional Indigenous council must have regard for whether more support is required to help applicants secure this experiential training requirement. Removing this barrier could also be facilitated by creating alternatives to articling.

28. Articling supervisors, also called principals, are responsible for training the articled student for the 9-month articling period. Principals are generally allowed to supervise up to 2 articled students at a time.[9] To be a principal, a lawyer must be either in full-time or part-time practice for at least 5 of the 8 years immediately preceding the articling start date, and 3 of those years must be in BC or in the Yukon (while the lawyer was a member of the Law Society of BC). The lawyer must also not be prohibited from practising law to be a principal. If there are exceptional circumstances, the Law Society's Credentials Committee may allow a lawyer to act as a principal, and the Credentials Committee has the authority to inquire into a lawyer's suitability to act or continue as a principal.[10]

29. Once articles are commenced, the principal must ensure that the articled student achieves practical training in legal ethics, practice management, and lawyering skills, including research, writing, drafting, advocacy, negotiation or mediation, interviewing and problem-solving. The principal and articled student submit a self-evaluated report at the midpoint and end of the articling term. In the *Articling Program Assessment* 17% of lawyers reported Aboriginal or Indigenous law as their primary area of practice but Aboriginal and Indigenous considerations are not in the enumerated Lawyering skills or Practice Areas as part of the Articling Skills Checklist that all students must complete. [11]

30. The transitional board and transitional Indigenous council may also note that there are other concerns respecting articling, such as consistency in the standards of training, articled students' hours and remuneration, and experiences of harassment and discrimination. The Law Society has explored some ways to address these concerns. When using its s. 50(2) discretion to consider importing current pathways, supplementing existing pathways, or creating new pathways, the regulator must have regard for how the placement experience in private practice could be a barrier that pushes away Indigenous peoples or other under-represented groups. However, there will always need to be regard for the proportional risk to the public.

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[9] Law Society Rules, Rule 2-57(1).

[10] Law Society Rules, Rule 2-57.

[11] Law Society of British Columbia, Articling Skills and Practice Checklist (Vancouver: Law Society of British Columbia, n.d.), online: Law Society of British Columbia

Recommendation
The transitional board and transitional Indigenous council should increase the level of support offered by Legal Professions BC to assist students in finding articling positions to remove and prevent barriers to entering the practice.

PLTC

31. PLTC is the training portion of the LSAP process, when students attend a 10-week bar admission course, which includes examinations and assessments (discussed below). The Law Society runs the course in-house, with three sessions offered per year. PLTC has been the Law Society's mandatory training program since 1985. Since COVID, PLTC is conducted remotely, using virtual classrooms and online software programs. Approximately 675 students enrol in PLTC each year, which is a separate enrolment process from general admission to the LSAP. Students may apply to the Credentials Committee for exemption from PLTC or portions of PLTC if they have completed a bar examination course in another Canadian jurisdiction or have practised law in a common law jurisdiction outside of Canada for at least 5 full years.

32. The learning portion of PLTC consists of classes and assignments focused on the core practice areas that represent typical areas of practice for articled students and newly called lawyers. Subjects include topics on barrister practice (civil, criminal, family), solicitor practice (commercial, company, real estate and wills), professionalism (ethics and practice management) and an introduction to Indigenous law.

33. S. 7 of the *Legal Professions Act* holds that the regulator must have regard for supporting reconciliation, the implementation of *UNDRIP*, and regulating in a manner that is proportionate to the risk of harm to the public, which is an important consideration when examining licensee training in BC.

34. As was previously mentioned, 17% of lawyers self-reported Aboriginal or Indigenous Law as their primary area of practice. However, the PLTC is sparse on substantive examinable content related to Indigenous peoples. Aboriginal and Indigenous laws are unique fields of statutory rules and common law precedents that may be sidelined to a single sentence at the end of a chapter of materials or with a link instructing students to conduct their own research. The introduction to Indigenous law and cultural competency assignment are on a pass/fail basis. In 2000, a Law Society of BC working group recommended embedding anti-

discrimination and Indigenous law materials into the substantive law materials, skills sessions, and assessments.[12]

35. Recent case law such as *Cowichan Tribes v. Canada* 2025 BCSC 1490 indicates that Aboriginal Rights and Title and Indigenous rights are a live and important legal question for everyone in BC.[13] *DRIPA* also affirms the application of *UNDRIP* to all laws of BC at s. 2, which brings in consideration for Indigenous rights to their traditional lands, territories, resources. *UNDRIP* also holds that states shall provide redress for depriving people of their culture, dispossessing them of their lands, and any forced assimilation or integration. Furthermore, Indigenous Nations are seeing their jurisdiction restored such as in Bill C-92 *An Act respecting First Nations, Inuit, and Metis children, youth and families*, and are drafting their own accompanying legislation. The potential impacts of these principles will be felt throughout the legal system in BC.

36. Without educational materials that prepare licensees across areas of law to understand Indigenous related content, the regulator may disproportionately offload a high degree of risk onto the public. This could serve as a barrier to reconciliation and the implementation of *UNDRIP*. The risk to the public may compound on itself in a feedback loop if materials continue to sideline Indigenous considerations in a way that perpetuates biases against the over-arching implications of Aboriginal and Indigenous rights in BC.

37. Therefore, s. 7 indicates that if PLTC is kept, or another pathway is created, curriculum for entry as a lawyer must have regard for including more substantial Indigenous and Aboriginal law materials to promote reconciliation, implement *UNDRIP*, and to address the risk to the public. The Transitional Team could address this using s. 50(2) discretion and creating rules that require the development of curriculum on any pathways to licensure in consultation with the Indigenous Council, the employee appointed under s. 22 of the *Legal Professions Act*, or an Indigenous Committee if one were created. Alternatively, requirements for licensure could mandate that an existing course like *The Path – Indigenous Cultural Awareness Course* offered by the Canadian Bar Association is a standard part of the educational pathway, then work in the future in the development of new material that are developed with regard for the Guiding Principles. The transitional board and transitional Indigenous council may want to note that additional commentaries and critiques have been

[12] **Law Society of British Columbia**, *Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers* (Vancouver: Law Society of British Columbia, April 2000), online: LINK

[13] *Cowichan Tribes v. Canada (Attorney General),* 2025 BCSC 1490 (Canlii). Online: LINK

raised about the delivery of PLTC. Some criticisms include that the course has not been substantially revised since its inception, that it focuses on and examines substantive law as opposed to legal skills, that the structure is a barrier to Indigenous and other under-represented peoples who may have family or community obligations that present a challenge related to the timeline and workload, and that delivery through an online only format is limiting for some while beneficial for others who may prefer remote learning opportunities. There should also be considerations for how the PLTC format could be a barrier for people with different learning abilities or disabilities. The transitional board and transitional Indigenous council may wish to recommend that Legal Professions BC conducts a more substantial review of the PLTC program post-amalgamation.

Recommendation
The transitional board and transitional Indigenous council should recommend that Legal Professions BC conduct a review of the PLTC program post-amalgamation. The transitional board and transitional Indigenous council should create rules that refer the discussion of educational content to the Indigenous Council, the employee appointed under s. 22, or an Indigenous Commitee created under s. 9(3) to supplement educational materials to trainee lawyers at a rate proportional to the risk to the public, supporting reconciliation, and the implementation of UNDRIP.

Prerequisites: Examinations and assessments

38. As part of PLTC, students complete 4 skills assessments and 2 bar examinations. The skills assessments include: advocacy (chambers application); writing (draft an opinion letter); drafting (draft a contract); and interviewing (advise a new client). Both the writing and drafting assessments moved to an online 3-hour examination to address the impact of ChatGPT on those skills assessments. In the last week of PLTC, students take the 2 bar examinations which are 3-hours each. One exam is on barristers' practice areas (30% each for family, civil, criminal), the other on solicitors' practice (30% each for commercial and company, real estate and wills), with professionalism and Indigenous law constituting 10% of each of those exams. Approximately 75% of students pass PLTC's assessments the first time. In addition to these assessments and examinations, LSAP students are also required to complete a Practice Management Course, which includes a series of 17 self-directed modules on topics such as accounting practices, taxes, and retainers, with each module having a quiz at the end, requiring 100% correct answers to pass.

39. As with the learning materials, the examinations and assessments are sparse on Aboriginal and Indigenous law content. If the existing pathways for becoming a lawyer are imported, the Transition team and the board of the new regulator must have regard for how educational materials can support reconciliation with Indigenous peoples, the implementation of *UNDRIP*, and regulate in a way proportional to the risk to the public. As in the previous section, this could be facilitated with rules that refer the matter to the Indigenous Council, the employee appointed under s. 22, or a committee created under s. 9(3), to supplement exam material. This could also be addressed by using the board's s. 50(2) discretion mandating an additional course.

Prerequisites: Evidence of a person's suitability to practise law

40. Under the current *Legal Profession Act*, the Law Society has the onus to screen all prospective articled students, as well as all other applicants, to ensure that they are of good character and repute, and are fit to become a barrister and solicitor of the Supreme Court.[14] This is often referred to as the good character assessment. Under the new *Legal Professions Act*, the requirements may include evidence of a person's suitability for the practice of law.[15]

41. The initial screening method that the Law Society uses to conduct its good character assessment is the LSAP enrolment application, which asks a series of questions of the applicant.[16] Questions include topics such as identification information, education and employment experience, and good character questions. The good character section includes questions on criminal history (including speeding and parking tickets if over a certain amount or any alcohol or drug related driving prohibitions); bankruptcy and insolvency questions for the applicant or any company they have been a director, officer or employee of; questions relating to being a defendant in a civil action, having a judgment against you, or failing to obey a court order; and questions relating to any history of disciplinary outcomes or similar in relation to professional organizations, other licences, or law student related activities.

[14] *Legal Profession Act*, SBC 1998, c 9, at section 19.

[15] *Legal Profession Act*, SBC 1998, c 9, at section 50(2)(c).

[16] Law Society of British Columbia, *Application: Law Society Admission Program Enrolment* (2025).

42. If staff have concerns respecting an application, the matter is referred to the Credentials Committee, which after review of the application, may approve the application, approve the application with conditions, defer consideration until further information is provided or an investigation is completed, or order a credentials hearing.[17] The credentials hearing is held before the Tribunal, with an average of 1 hearing per year.

43. The "good character" requirement has been noted as a barrier to entering the practice for Indigenous and racialized peoples. There are questions as to its efficacy, with some lawyers critiquing it for not being an appropriate evidentiary standard and its failure to weigh the reality that racialized minorities and Indigenous peoples are over-policed. Some Indigenous lawyers have described the experience of proving their good-character as traumatic. The Transitional Team must have regard for how the "good character" requirement has created barriers for Indigenous peoples and other under-represented groups.

44. If the Board continues to use personal character as a factor in determining suitability for the profession, there must be regard for how those factors could become barriers. To remove and prevent potential barriers, the Transitional Team should create rules that include the Indigenous Council, the employee appointed under s. 22, or an Indigenous Committee if one were created. They could inform the development of suitability standards. Alternatively, a rule for the inclusion of the Indigenous Council and the employee in decision-making should be made for situations where an Indigenous person has an issue in their application related to the suitability analysis. The development of equity-informed standards for suitability rather than being implicated in every decision may have the added benefit for all would-be licensees and under-represented groups.

45. Ultimately, the Board could do away with the suitability standard completely using its discretion under s. 50(2). However, this decision must have regard for the proportional risk this could put on the public.

Recommendation
The transitional board and transitional Indigenous council should review the suitability requirements for lawyers (and all licensees) to protect the public whilst removing barriers against entry to the professions.

[17] Law Society Rules, Rule 2-56.

If the transitional board and transitional Indigenous council decide to maintain the suitability standards for lawyers or draft new suitability standards there should be inclusion by rules that refer matters to the Indigenous Council, the employee appointed under s. 22, or an indigenous-based committee created under s. 9(3). This can assist with preventing the suitability standards from becoming a barrier and to facilitate Indigenous inclusion in decision making for coherence with *UNDRIP*.

Issuance of licence

46. Thirty days before the anticipated end date of the LSAP program, students submit an application to the Law Society which includes a petition for call and admission to the bar. After completion of all of the requirements for call and admission and the Law Society's approval of the documentation, students must take the barristers and solicitors oath. Students are eligible to practise following that oath, which can be administered by a practising lawyer or judge from anywhere within the province. Currently, the oath reaffirms s. 35 constitutional Aboriginal and Treaty rights.

47. Students and newly practising lawyers have the option to attend a call ceremony, but the requirement, which includes a presentation in open court, is no longer mandatory. Arrangements can be made to be called at a regional call ceremony elsewhere in BC, including ceremonies involving local Indigenous practices and protocols. This practice of permitting non-standard ceremonies should be facilitated in the new regulator and could benefit both Indigenous and non-Indigenous applicants.

Notary public

48. There are two pathways to becoming a notary public in BC. The requirements for the main pathway will be discussed in this section. The second pathway, through recognition of mobility rights, will be discussed in the section of this paper on mobility considerations.

Prerequisites: Education, training, experience and other qualifications

Education

49. To practise as a non-lawyer notary public in BC, a person who is a citizen or permanent resident may apply to the Supreme Court of BC to seek enrolment as a member.[18] The

[18] *Notaries Act* RSBC 1996, S 5.

court, on being satisfied that the person is a fit person, may order that the applicant be examined on the duties of a notary public.

50. The court relies on the Secretary of the Society of Notaries Public of BC to provide evidence of the person's fitness when the Secretary is able to do so.

51. In assessing the applicant's fitness, the Secretary will consider whether the applicant has successfully completed the Master of Arts in Applied Legal Studies (MA ALS) from Simon Fraser University (SFU).[19] To be accepted to that program, you must have obtained an undergraduate (bachelor's) degree.[20] The MA ALS takes approximately 16 months.[21] The Secretary will also recognize as equivalent a common law degree from a recognized university.

52. Currently, the number of places available in the MA ALS program at SFU is 33, with the number being reduced due to deferrals.[22] The Society of Notaries Public estimates that in each year, approximately 30-33 students are enrolled, and approximately 25-30 students graduate.

53. To have regard for identifying whether the education process is a barrier, the Transitional Team could create a rule that the regulator collects optional demographic data for entry as a notary. As well, the regulator may wish to explore and provide additional educational pathways to entering the profession.

54. Additionally, the MA ALS program does not have substantive indigenous material. Notaries work with commercial transactions and wills and estates which have unique statutory implications for Indigenous clients. They may also work in real estate transactions which are potentially implicated by Aboriginal Rights and Title in BC. As with the entry into the practice for lawyers, if the current pathways to becoming a Notary are imported to the new regulator, there must be regard for opportunities to increase Aboriginal and Indigenous law content in educational materials. Without those materials, there is a potential risk to the

[19] Society of Notaries Public of British Columbia, "Become a Notary" (2025) https://snpbc.ca/become-a-notary/.
[20] Simon Fraser University, "School of Criminology: Admissions" (2025) https://www.sfu.ca/criminology/graduate/programs/ma-als/admissions.html.
[21] Simon Fraser University, "Applied Legal Studies" (2025) https://www.sfu.ca/students/calendar/2025/fall/programs/applied-legal-studies/master-of-arts.html.
[22] Simon Fraser University, "School of Criminology: Frequently Asked Questions" (2025) https://www.sfu.ca/criminology/graduate/programs/ma-als/faq.html.

public, reconciliation, and the implementation of *UNDRIP*. However, as SFU is an independent organization, giving this portion of the education may be better suited to another part of the pathway to becoming a notary.

Recommendation
The transitional board and transitional Indigenous council should review the education requirement for the current pathway to becoming a notary to identify whether more seats are needed to meet demand. The transitional board and transitional indigenous council should review the MA ALS for whether content has sufficient Indigenous material for coherence with the Guiding Principles. This could be facilitated by referring the matter to the Indigenous Council for advising, the employee appointed under s. 22, or an Indigenous Committee created under s. 9(3).

Training and experience

55. The Society of Notaries Public offers the opportunity for applicants to enrol in and complete the Notary Education Program (NEP). The program runs for 6 months, once per year. The course starts with 4 weeks of in-person classes, followed by a 2-month period where students are required to complete 6 weeks of experiential training supervised by already licensed notaries (mentors). Following that training period, students return to the classroom for a further 4 weeks of classes, and then they have another month to study for the 4 written statutory exams (discussed below).

56. Students are encouraged to find their own notary mentor to complete the experiential training portion of the NEP. Finding a mentor can be challenging, as all the students are completing their mentoring period of 6 weeks during the same 8-week timeframe. However, the Notaries Society allows lawyers as well as notaries to mentor students, to help address any scarcity of supervisors. Students do not have to mentor with the same notary during the entire 6-week period, and the Notaries Society encourages students to have multiple mentors in order to broaden their experience.

57. Mentors are supposed to have at least 5 years of practice experience, have a satisfactory practice inspection report in the last 3 years, and no outstanding discipline issues. The Notaries Society approves the mentors, and provides a list of approved mentors, however,

there are some notaries who are willing to act as a mentor that do not agree to go on the list. If a student already works in a notary's office or is related to a notary, and if the notary meets the 5 years practice experience requirement, the student is allowed to be mentored by that notary for only 2 weeks out of the 6-week requirement. If a lawyer is being asked to mentor, then the Notaries Society reviews the lawyer's resume to ensure that the areas of practice are compatible. The time with the lawyer is also restricted to 2 weeks, and the trust accounting requirements cannot be met through that experience.

58. If the current pathway to becoming a notary is imported, supplementing the materials in the NEP may be the best way to ensure notary education accords with the Guiding Principles. As it stands, the NEP does not have substantive Indigenous material. This could be facilitated by creating rules that require input from the Indigenous Council and the employee appointed under s. 22 of the *Legal Professions Act* in the development of NEP materials. Alternatively, the Transitional Team could use s. 50(2) discretion to mandate an additional course for new notaries, such as *The Path – Indigenous Cultural Awareness Course.*

Recommendation:
The transitional board and transitional Indigenous council should conduct a review of the NEP program post-amalgamation. The transitional board and transitional Indigenous council must have regard for how educational materials can be supplemented to promote reconciliation, the implementation of *UNDRIP*, and to regulate proportional to the risk to the public. This could be facilitated by referring the matter to the Indigenous Council for advising under s. 30, the employee appointed under s. 22, or an Indigenous Committee created under s. 9(3).

Prerequisites: Examinations and assessments

59. To practise as a notary public, a student must pass 6 statutory examinations. For those exams, two are oral evaluations, on personal planning and residential conveyancing, and four are written, covering contracts, property, conveyancing, personal planning, statutes, jurisprudence and professional practice.[23] The content of the examinations is determined

[23] Society of Notaries Public of British Columbia, "Statutory Examinations" (2025) https://snpbc.ca/become-a-notary/statutory-examination/,

by the Board of Examiners, as required by the *Notaries Act*.[24] The written exams are open book examinations and candidates can bring any material they wish except internet connected devices. The examinations are incorporated into the NEP timeframe. Exams are generally offered once per year, but the Board of Examiners may and has offered the exams more than that. There is no set limit on how many times an applicant may take the exams.

60. The candidate success rate on the exams is greater than 95%. Exam scoring is based on the comprehensive compensatory model of competency-based evaluation with candidates required to meet the cut score as determined by the Board of Examiners. The success rate on exam retakes is 99%. There has been one candidate in the past 8 years who passed on a third attempt.

61. The Board of Examiners has accommodations to assist with the potential barriers a single yearly exam can present. If the regulator does alter or supplement the pathway to becoming a notary there should be regard for continuing to facilitate accessible exams.

62. As with in the previous sections, there must also be regard to s. 7 of the *Legal Professions Act*. To promote reconciliation and to supplement the content at a proportional rate, like with the PLTC for lawyers, the Transitional Team could make a rule that refers the content of examinations to be created in consultation with the Indigenous Council, the employee under s. 22, or an Indigenous Committee created under s. 9(3) in developing the examinations for notaries. Alternatively, the regulator could use s. 50(2) discretions to mandate taking an additional course.

63. All applicants also have to take a basic university level accounting course. Some students take the course during their time at SFU, some take it whilst enrolled in the NEP. The Society recognizes accounting courses taken as part of undergraduate education.

Prerequisites: Evidence of a person's suitability to practise law

64. The Notaries Society has a robust application process used to determine, in essence, a person's suitability to practice as a notary. This information forms the basis of the Secretary's affidavit of fitness. To enrol in the NEP, a person must submit an application[25] which includes providing information on the person's employment and household income, assets and financial dealings. An applicant must also provide a resume of employment

[24] *Notaries Act*, RSBC 1996, c 334 at section 10.

[25] Society of Notaries Public of British Columbia, "Statement of Assets and Liabilities" (2025).

history, a biography and statement of intent, and the unofficial transcript from the SFU MA ALS program. The Notaries Society also conducts credit and criminal record checks on its applicants and verifies each applicant's identity.

65. In addition, a person must also submit three reference letters, plus a reference or referral from a practising notary. The three reference letters must be character references, and the referee cannot be related to them. The reference letter from a practising notary operates like a nomination. The applicant needs to make an appointment with a notary, preferably one within their community of practice, and interview with them so that the student gets an idea of what it is like to be a notary in practice. That notary then provides a reference and states that the applicant is committed to becoming a notary.

66. As was recommended for lawyers, under s. 7 the Board must have regard for preventing suitability requirements from becoming a barrier to Indigenous and other under-represented groups. One approach could be to do away with the suitability requirement as s. 50(2) is discretional, however, this could present a substantial risk to the public. Preventing suitability from becoming a barrier could be better addressed with regard for the risk to the public. Inclusion of the Indigenous Council and the employee under s. 22 in developing standards for the suitability to practice as a notary is one potential strategy. Alternatively, Indigenous applicants could appeal a decision related to their suitability for a review by the Indigenous Council.

Recommendation:

The transitional board and transitional Indigenous council should review the suitability requirements for notaries (and all licensees) to protect the public whilst removing barriers against entry to the professions.

As with lawyers, if current suitability standards are maintained or new suitability standards are created, decisions about the suitability of Indigenous applicants should include the Indigenous Council, the employee appointed under s. 22, or an Indigenous Committee created under s. 9(3) to facilitate regard for the Guiding Principles and Indigenous inclusion in decision-making.

Issuance of licence

67. Before an applicant may write the six statutory exams, the Notaries Society files a petition to the court to obtain an order from the Court permitting them to write the exams. The judge reads the affidavit of fitness, including the supporting documentation collected by the

Notaries Society. Once approved by the court, and if the applicant passes the exams, then the Notaries Society must admit them as a member of the profession.

68. Following the successful completion of the exams, the Notaries Society then applies to the court for an applicant to be commissioned. Commissioning requires presentation in open court, with the judge issuing an oath of office to the applicants. Once commissioned, a person becomes a member of the Society of Notaries Public of BC on payment of the required fees. Depending on the court's schedule, it can take 3 to 4 months following the exams before being commissioned. The transitional board and transitional Indigenous council should note that none of the commissioning process is included in the new *Legal Professions Act* following amalgamation.

Regulated paralegal

69. An initial pathway will need to be developed to issue a licence to become a regulated paralegal. This pathway will need to align with the education, training, examinations, assessments and suitability requirements established for lawyers and notaries. Uniformity in those requirements will be discussed below.

70. It is logical to assume that regulated paralegals may serve Indigenous clients at rates proportional to other licensees, because 17% of lawyers in BC self-reported Aboriginal and Indigenous law as their primary area of practice and many regulated paralegals will work with those lawyers. As in previous sections, if the existing pathway for becoming a paralegal is imported the Transitional Team must have regard for regulation proportional to the public risk, supporting reconciliation and the implementation of *UNDRIP*. This could be facilitated by requiring education, training, examinations, and assessments, that have substantial Indigenous content.

71. One starting point to consider an initial pathway for licensing regulated paralegals is to look at the requirements established for voting members of the BC Paralegal Association (BCPA). The BCPA currently recognizes members through two pathways.[26]

72. The first is through an education route, which requires applicants to have graduated from either the Capilano University or Vancouver Community College paralegal program. The Capilano University program is a Bachelor of Legal Studies (Paralegal) degree, which takes 4

[26] British Columbia Paralegal Association, "Membership" (2025) https://bcparalegalassociation.com/cpages/membership.

years to complete.[27] The Vancouver Community College program is paralegal diploma, which is offered through part-time studies, taking 4.5 years to complete.

73. Once a scope of practice has been established for regulated paralegals, the transitional board and transitional Indigenous council may want to evaluate the currently BCPA recognized paralegal education programs, as well as any other paralegal education programs in BC (if any), to ensure that they deliver the educational content required to meet the scope of practice.

74. The second way that the BCPA recognizes voting membership is through experience. A paralegal who has more than 5 years of working as a paralegal in BC and who is currently employed as a paralegal in BC may apply to be a voting member. The recognition of experience as a qualifying factor by the BCPA as a pathway is one that the transitional board and transitional Indigenous council may want to explore more, especially during the initial transition phase toward Legal Professions BC. For example, once there is an established scope of practice for a regulated paralegal, the transitional board and transitional Indigenous council may want to recognize those paralegals who have been working within that scope of practice for 5 (or 10, 15, 20, etc.) years. Recognition of experience for a licence could be limited to a transition phase (for example, applications must be received within the first 3 years as Legal Professions BC), or ongoing. The benefit of an ongoing pathway that recognizes paralegal experience is that it allows those paralegals who may be highly experienced but unable or unwilling to become a regulated paralegal for a variety of reasons to be able to reevaluate that decision later.

75. Regardless of whether the transitional board and transitional Indigenous council create an education pathway, an experience pathway, neither, or both, using s. 50(2) discretion there will be a need to consider other prerequisites for licensing, such as examinations for competency and suitability to practise law, are established for those seeking to become a regulated paralegal. Like lawyers and notaries public, there will need to be a method to evaluate or assess a regulated paralegal's competency prior to issuing a licence under Legal Professions BC to practice the determined scope of practice, once established.

[27] Capilano University, "Bachelor of Legal Studies (Paralegal) Degree" (2025) https://www.capilanou.ca/programs--courses/program-profiles/bachelor-of-legal-studies-paralegal-degree/.

Recommendations
The transitional board and transitional Indigenous council should review and evaluate the BCPA's currently recognized education programs against the established scope of practice, once determined. The transitional board and transitional Indigenous council should create an ongoing pathway to become a regulated paralegal that recognizes experience. As with lawyers and notaries, the Indigenous Council should be included in developing or prescribing educational materials on Indigenous content to regulate with regard for the Guiding Principles.

Standardized versus distinctive prerequisites across the legal professions

76. At its May 2025 meeting, the transitional board and transitional Indigenous council directed that the preference was to draft rules with as much standardization and uniformity across the three legal professions, if possible. Licensing is one of the topic areas where certain prerequisites are better fitted for standardization, while other prerequisites will require a distinction to be maintained. This section of the policy paper will briefly consider what areas are better suited for standardization across both the requirements and the rules required to support those requirements. The transitional board and transitional Indigenous council may identify areas where further information and research is needed to see if standardization or uniformity is possible or preferable.

Prerequisites: Education, training, experience and other qualifications

77. Upon amalgamation, the current licensing pathways for lawyers and notaries are going to be rolled over to Legal Professions BC. The educational prerequisite for lawyers and notaries (i.e. law degree and MA ALS respectively) for the current pathways is largely outside the control of the regulator. Creating additional or alternative pathways that do not require certain educational requirements will be discussed in the section below. It is important to note here that the regulator does not have control over: the admission to the education programs run by third party provides (e.g. universities); content or delivery of the course and evaluations; cost of the programs; and length that the program takes to complete. The regulator may have slightly more influence when it comes to recognizing the educational

programs required for the primary pathway for regulated paralegals, but largely those same restrictions on control will exist.

78. Both the Law Society and Notaries Society run in-house training programs. The Notaries Society program takes 6 months to complete, including the examination process as well, but that also includes a lengthier time to study for those exams, as well as a 6-week period of experiential training. The lawyer's training period is 12 months, which includes 9 months of articling and 10 weeks at PLTC including assessments and examinations. The transitional board and transitional Indigenous council will have to consider the training (whether in-house or external) and experiential requirements for regulated paralegals.

79. Education, training and experience provide a few areas for standardization, even within the existing pathways for lawyers and notaries.

80. Because the regulator must have regard for identifying barriers to Indigenous people and other under-represented groups, there should be consideration for rules that mandate demographic data of new licensees. New licensees could have the option to opt-in or out of this data, to facilitate trust in the system. Without clear demographic data, there may be barriers that continue without being identified.

81. Due to the lack of ability to inform university curriculum, the regulator must have regard for strategies to ensure that licensees have a baseline of competence, including working with Indigenous peoples to facilitate access to legal services, support reconciliation, and the implementation of *UNDRIP*. There are competencies that should be the standard across the licensees. One example of this is found in the *Western Canada Competency Profile.*

82. Domain 3 on Truth and Reconciliation from the *Competency Profile* states that at a minimum all licensees should understand the experiences of Indigenous peoples in Canada and understand how reconciliation with Indigenous peoples can be incorporated into legal practice.

83. As was shared in the previous sections on the educational materials for licensees, establishing a standardized baseline level of educational materials related to Aboriginal Rights and Title, *UNDRIP*, Gladue Principles, Indigenous people's own legislation, and other areas identified by referring the matter to the Indigenous Council, should be considered for coherence with the Guiding Principles. This could be facilitated if the Transition Team creates a rule requiring consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous Committee created under s. 9(3) in the creation of

educational materials across licensees and a requirement to include those materials at an equitable rate.

84. Another way of regulating with regard for the Guiding Principles may be facilitated by requiring applicants to take another course. One example of a course that could provide Indigenous materials would be *The Path – Indigenous Cultural Awareness Course.*

85. Another area appropriate for standardization is the application process, processing timelines, and options for review across the legal professions, which can be standardized in through the development of the draft rules.

86. Another area where standardization is possible for the experience prerequisite across the legal professions is when determining the qualifications of who may act as a principal or mentor. The transitional board and transitional Indigenous council may want to make the requirements for such an important role standardized, and have those same requirements apply to any regulated paralegal experience supervisor. For example, both the Law Society and Notaries Society require a mentor or principal to have at least 5 years of experience, but there is room to standardize the discipline history requirements for such a supervisor, and whether the regulator needs to approve (or may disapprove) a supervisor. Finding articling principals and mentors is a potential barrier to Indigenous peoples and other under-represented groups. The board must have regard for this barrier when researching, exploring, or developing potential alternate pathways. Barriers may be reduced if the standard approach for mentors and principals is more accessible.

87. Finally, standardization will always pose a potential risk to marginalized people. The Board must have regard for whether a high degree of standardization could have negative impacts on Indigenous peoples, or people with learning abilities that require more time with materials or different study strategies, and other under-represented groups.

Recommendations
The transitional board and transitional Indigenous council should review the lengths of the experiential requirements for all the legal professions. The transitional board and transitional Indigenous council should standardize the requirements for legal professionals providing supervision of the experience portion of a trainee's eligibility requirement (e.g. articling principal).

The transitional board and transitional Indigenous council should mandate demographic data of applicants, trainees, and licensees to have regard for identifying barriers to entering the profession.

The transitional board and traditional Indigenous council should standardize the inclusion of a baseline of indigenous content across licensees for coherence with the *Western Competency Profile* and the Guiding Principles. This could be a pre-existing course with additional content developed in consultation with the Indigenous Council, the employee under s. 22, or an Indigenous Committee. There should be a minimum Indigenous educational component across licensees.

Prerequisites: Examinations and assessments

88. Currently, the Law Society administers 4 skills assessments, and 2 bar examinations, with the content and evaluation of both determined by PLTC staff. The *Notaries Act* and Notary Regulation (307/2021) establish the statutory examination framework and empowers the Notary Board of Examiners. The Notaries Board of Examiners currently requires 4 statutory written and 2 practical examinations, with the content and results determined by the Board of Examiners in consultation with the Notaries Society. Once Legal Professions BC is operating, the regulator and staff may be in a better position to determine if efforts should be made to standardize how examinations are created and assessed, and by whom.

89. At this point in the process, one area that the transitional board and transitional Indigenous council may wish to explore in standardizing is the length of time provided to study for the exams by each of the entities. The Law Society allows approximately 1 week (sometimes less, depending on assessment and examination timings), of class-free study time. The Notaries Society offers 4 weeks as a study period for its 4 written statutory exams.

90. Another area that may be standardized across the legal professions is within the additional courses and assessments that are outside of the main training program. For example, the Law Society requires that all students take a Practice Management Course before being called to the bar. The Notaries Society has a similar requirement focused on accounting practices including trust accounts. The content of those courses both speak to practice management, accounting and professional legal ethics, and may be an opportunity for the transitional board and transitional Indigenous council to consider whether it is worthwhile standardizing both the content of and requirement for completion across the legal professions, including regulated paralegals.

Recommendation
The transitional board and transitional Indigenous council should review the study time provided for examinations for all potential licensees. In this review, the transitional board and transitional indigenous council must have regard for the impact of standardized study times on under-represented peoples, including those who may have different levels of learning ability that requires more time with materials. The transitional board and transitional Indigenous council should standardize the practice management and accounting content of additional training courses for all licensees, post-amalgamation.

Prerequisites: Evidence of a person's suitability to practise law

91. This is one of the areas where standardization across the legal professions for licensing makes sense. Both the Law Society and Notaries Society request specific information from applicants that will be used as part of an assessment as to a person's suitability to practice law as a lawyer or notary. The Law Society has a good character requirement, which includes several questions into past conduct that may be used as an indication of future bad behaviour, and the Notaries Society requests a significant amount of information from an applicant, including a police record check, credit report, and financial disclosure statements. However, lawyers have questioned its efficacy as an evidentiary standard for proving one's history of good or bad behaviour.[28] There will need to be consideration of how to balance the potential barrier of the suitability requirement with the potential of introducing risks to the public.

92. The transitional board and transitional Indigenous council may wish to consider standardizing the information, and sources of that information, that it collects from applicants to determine their suitability to practise law. In considering this requirement, the transitional board and transitional Indigenous council may wish to consider what is the minimum information needed for the regulator to protect the public from applicants who may cause harm in the future. When considering this topic, it is important to note that the Law Society removed questions on its application form that related to mental health and

[28] B. MacKenzie, "Is it time to Abolish (or Reform) the Good Character Requirement?" *Slaw* (21 May 2025) https://www.slaw.ca/2025/05/21/is-it-time-to-abolish-or-reform-the-good-character-requirement/.

substance use, due to a legal challenge.[29] Other law societies in Canada have also had recent challenges to the legality of their own questions, either like the one experienced by the Law Society of BC, or on previous criminal history.[30]

93. If the transitional board and transitional Indigenous council decide to standardize the requirements for suitability across the legal professions, then staff may return with more information on this topic for consideration. Part of that consideration necessitates the transitional board and transitional Indigenous council balancing the barriers that a suitability requirement may present to a potential licensee against protecting the public from a risk of harm posed by that licensee, as required by section 7(d)(iii) of the *Legal Professions Act*. As was shared in previous sections for the individual classes of licensee, if a standard for suitability is established, it should be developed by referring the matter for consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous Committee created under s. 9(3). This could help prevent a barrier by developing the suitability standard in coherence with the Guiding Principles.

Recommendation
The transitional board and transitional Indigenous council should review the suitability requirements for all licensees, regardless of the pathway, to protect the public whilst removing barriers against entry to the professions. As was recommended for the individual licensees, if suitability is standardized, the suitability standards should be developed in consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous committee established under s. 9(3). Alternatively, decisions that are made regarding suitability of an Indigenous candidate should be a matter referred to the above for consultation, feedback, or decision-making.

Development of alternative pathways

[29] *Gichuru v. Law Society of British Columbia (No. 4), 2009 BCHRT 360*.

[30] For example, see: Canadian Civil Liberties Association, "Manitoba Law Society 'Good Character' Process Undermines Truth and Reconciliation, Diversity and Equality" (17 March 2021) https://ccla.org/fundamental-freedoms/manitoba-law-society-good-character-process-undermines-truth-and-reconciliation-diversity-and-equality/.

94. Under section 50 of the *Legal Professions Act*, the board must establish eligibility requirements for a licence and enrolment as a trainee. However, the board is not limited to establishing only one pathway to licensure for each legal profession. Instead, there are options that the transitional board and transitional Indigenous council may wish to consider. This section of the policy paper will review some of those options.

95. The main consideration for the transitional board and transitional Indigenous council concerns timing – if the development of alternative pathways to licensure is desirable, which ones, if any, are achievable or necessary for amalgamation day, and which ones, if any, are better left for development once Legal Professions BC is formed? There are criticisms against the currently existing pathways of the Law Society and Notaries Society. Some of the criticisms are more minor and may be addressed through smaller scale reviews and amendments to the already existing programs and requirements. Other criticisms are more substantial, including the barriers that the pathways present to practising law as a lawyer or notary public. The current pathways to licensure may be generalized as requiring the following:

    - Education: completion of a legal educational program, usually graduate level (but may not necessarily be for regulated paralegals), offered, administered and controlled by a post-secondary institution
    - Experience: completion of a predetermined set time frame of on-the-job experience through the supervision and training of a practising member of the legal profession
    - Training: completion of a course created and run in-house to address any legal educational or skills requirements not achieved through the education or experience requirements
    - Examinations and assessments: passing a series of skills assessments and legal knowledge examinations, intended to create a standardized way to evaluate entry level competency and knowledge for the legal profession

    For the purposes of this section of the paper, it will be assumed that the main licensing pathway for a regulated paralegal will follow this general pathway.

96. Alternative pathways to licensure may look at aspects of the general pathway, and either create or allow for alternatives for one or more of those aspects, or it may completely revolutionize the entire general pathway to licensure. It is not necessary to begin anew when it comes to researching alternative pathways. Rather, the regulator could draw from previous research and mandate the implementation of some recommendations.

97. In 2020, a Law Society task force recommended that new pathways to becoming a lawyer should be explored. Some of the considerations behind this recommendation were to address regulatory fairness, scarcity of articling positions, and systemic barriers to entry that are unrelated to competence.[31] In regard for the Guiding Principles, the transitional team should consider whether alternative pathways may be a better approach to address more systemic issues across licensees. The requirement to have regard for removing and preventing barriers faced by Indigenous peoples and other under-represented groups indicates that there should be consideration for the development of alternate pathways. The workload for developing alternative pathways could be reduced by building on the recommendations from the 2020 task force and using that work to inform potential alternate pathways for the non-lawyer licensees. The Transitional Team could facilitate this development with permissive rules that allow the regulator to develop alternate educational paths. The Law Society of Ontario implements their Practice Program using a permissive clause at s. 60(1) that states that:

> *60 (1) The Society may operate programs of pre-licensing education or training and programs of continuing professional development.*

Alternatively, if the Transitional Team wants to mandate that an alternate pathway is created, they could create a rule that the regulator "must" develop and implement a specified program for trainees.

98. Another potential approach to developing alternative pathways to the profession is by establishing a Licensing Committee under s. 51 of the *Legal Professions Act*. Under s. 51(1) the licensing committee can be empowered by rules to review applications, issue licenses, review requests under the rules for enrolment as a trainee and enrol trainees. By creating a Licensing Committee and strategically creating rules under s. 62 and 63 to discharge the Guiding Principles the regulator could immediately create new entry points into the professions.

Education

99. One of the most significant current licensing requirements for both lawyers and notaries is education. For lawyers, a juris doctorate is an additional 3 years on top of a 4-year

[31] Law Society of British Columbia, *Exploring the Development of Alternatives to Articling: Recommendations of the Lawyer Development Task Force* (Vancouver: Law Society of British Columbia, 2020), online: Law Society of British Columbia.

undergraduate degree, although a few students are allowed to enter law school after 3 years of an undergraduate program. For notaries, the Master of Arts in applied legal studies is an additional 1.5 years on top of a 4-year undergraduate degree. The time and money invested in achieving just the educational requirement for licensing is significant. On average, it will cost the average law student in Canada $50,000 to graduate from law school.[32] For a notary, it costs $20,000 for a MA ALS degree, not including undergraduate tuition costs or general costs of living expenses.[33]

100. In addition, the regulator does not exercise any control over the admission, administration or content of these legal education requirements, due to the education being provided by public universities and colleges, which have academic freedom. Attempting to address the problems or barriers that are created through the educational component is ultimately outside the ability of the regulator to control, but the regulator does have the ability to change the requirements of that educational component. For example, the transitional board and transitional Indigenous council may decide that completion of the entire legal education program is not necessary before an applicant may apply for a licence. For example, a person may be allowed to apply for the lawyer licensing pathway following completion of the first 2 years of a juris doctorate instead of achieving the juris doctorate requirement of all 3 years of study, when the last year is largely focused on elective subjects instead of core curriculum. Similar shortenings may not be appropriate for the notaries as they do not have elective subjects as part of the MA ALS.

101. More revolutionary, and an option that may be approached with further research, greater consultation and caution, is removing the core requirement that an applicant must have one of these degrees at all. Some have argued that the educational component of lawyer licensing is not necessary, or that it can be achieved in other ways.[34] There is also precedence for this pathway, as prior to the first law school established in BC at UBC, there

[32] This is an estimate based on the Peter Allard School of Law (UBC)'s estimates for tuition for a domestic law student, but does not reflect the associated costs of living throughout a degree, such as housing, food, clothing, commuting, etc: Tuition and Program Fees | Peter A. Allard School of Law. Other law schools may be less or more expensive, and costs of living depend on locations across Canada.

[33] Simon Fraser University, "School of Criminology: Frequently Asked Questions" (2025) https://www.sfu.ca/criminology/graduate/programs/ma-als/faq.html.

[34] J. Furlong, "A better pathway to lawyer licensing" *Substack* (27 April 2023) https://jordanfurlong.substack.com/p/a-better-pathway-to-lawyer-licensing.

was no requirement for a university legal education to become a lawyer in BC, and instead, an apprenticeship program was the pathway to licensure.

102. Another alternative is working with either universities and colleges (current and new) or private providers to create a course that the achieves the core competency and legal educational equivalents of either the JD, MA ALS or regulated paralegal equivalent. If this option is pursued, the regulator may assume more control and influence over the admissions, design, content, evaluation and costs of the course. Both of these options are substantial undertakings and will require large amounts of work to complete prior to rolling out. It should also be noted that working with post-secondary institutions poses significant hurdles due to the independence of those institutions and academic freedom. The transitional board and transitional Indigenous council may wish to consider the feasibility of these options but defer that consideration until after amalgamation given the scope of work required. This option will also require a significant comprehensive competency-based evaluation focused on protecting the public in ensuring that any alternative created meets the educational and competency requirements of the regulator.

103. As the regulator must have regard for the Guiding Principles, if PLTC and NEP continue as-is, there should be strategies to ensure that alternate pathways still have adequate educational materials on Indigenous legal topics in BC. These materials could be prescribed for applicants as a matter referred for consultation with the Indigenous Council, the employee appointed under s. 22, or a new Indigenous committee created under s. 9(3), as was recommended in the previous sections. As a minimum, alternate pathways should still ensure coherence with the *Western Canada Competency Profile.*

104. Another potential strategy to remove barriers for coherence with the Guiding Principles can be informed by the *Law Society Act* of Ontario, which permits the society to grant law degrees at s. 60(2). While the *Legal Professions Act* does not have a degree-granting provision, it sets a precedent of creating a pathway for admitting lawyers without completing the required degree program. There could be a rule created that permits the regulator to grant the required degrees for entering the professions or promotes entry into the professions where otherwise qualified applicants are missing a piece of the application requirements. This could be facilitated by creating a Licensing Committee and giving it discretion with guidance.

Recommendation

The transitional board and transitional Indigenous council should consider research to create alternative pathways to meet the education requirements to become a legal professional post-amalgamation.

The transitional board and transitional Indigenous council should decide whether the development of alternate pathways is better suited for a permissive rule that says the regulator "may" create an alternate pathway or a prescribed rule that the regulator "must" create an alternate pathway. A mandatory clause would probably need a subclause mandating a timeline for research, implementation, or timelines for the board to revisit the topic.

The transitional board and transitional Indigenous council should revisit the discussion on a licensing committee and decide on whether one is created and implemented. The structure of a licensing committee, if given appropriate discretion, could be an immediate tool to create new pathways and remove or prevent barriers to entering the professions. If one is created it should be empowered to work with the Indigenous Council, employee appointed under s. 22, or an additional Indigenous committee created under s. 9(3) where it accords with the Indigenous mandate in the *Legal Professions Act*.

The transitional board and transitional indigenous council should ensure that any alternate pathways still maintain an educational standard that has regard for regulation in coherence with the Guiding Principles.

Experience

105. Experiential, on the job, training is important because it allows students to learn by doing, developing practical skills in real workplace settings, rather than only in theory. Another benefit of the experiential portion of an admission pathway is building connections with the workforce, providing better hiring potential and peer-to-peer mentorship opportunities. In addition, experiential training also delivers services to clients, providing the public with more opportunities to receive legal advice and representation.

106. There are several options respecting experience that the transitional board and transitional Indigenous council may wish to explore. The first is creating an option to become a licensed legal professional through experience alone. As mentioned above, this may be an option for regulated paralegals throughout the first few years of Legal Professions BC (or longer). Prior to the existence of law schools and master programs, the only pathway to becoming a lawyer or notary in the province was through longer traineeship periods. For example, potential future lawyers could find an articling position

with a senior practitioner, and work under supervision and direction for a period of years to be determined, before being able to be called to the bar. Longer, experiential training programs could be combined with standardized competency assessments and knowledge examinations, to ensure that a minimum level of both is achieved prior to issuing a licence. The idea would be that a longer training period would replace the need for a formalized legal education through a university or college, as well as the training requirements provided through classwork offered by the regulator (e.g. PLTC or NEP).

107. Another option is to recognize legal clinic work as contributing to the time requirements for experiential training. For example, if a student completes an experiential legal clinic as part of their education program, the transitional board and transitional Indigenous council may wish to consider allowing that student to count the time spent and skills gained in that clinical setting toward the overall time requirements of any experiential requirements (e.g. articling, mentorship, or similar). One of the benefits of this option is that these legal clinics provide a service to the public in various areas of law, and by allowing a reduction or elimination of experiential training post-graduation for students, there may be greater interest in these types of clinics, both in terms of volunteering for them but also in having institutions offer them.

108. There is also an option of working with educational providers to create programs that offer more experiential training into the courses for legal degrees, such as the JD or MA ALS. In Ontario, the Law Society of Ontario has worked with universities to create an Integrated Practice Curriculum (IPC), with Lakehead University and Toronto Metropolitan University offering programs. The law degree is still a 3-year degree, like a JD, but students must complete courses that integrate theoretical knowledge with development of practical skills. In the third year of study, students undertake a 15-week practice placement as part of their experiential training. Upon graduation, IPC students only must pass the Law Society of Ontario's bar exams and good character test to become a practising lawyer.

109. There is also the potential to create entirely new experiential programs. For example, in Ontario, the Law Society of Ontario has developed the Law Practice Program (LPP), which is an approved pathway to licensure available to those who hold a Canadian JD or an NCA certificate of qualification. The LPP is offered through Toronto Metropolitan University, takes 8 months to complete, with 4 months in training and 4 months in the workplace.

110. The creation of alternative pathways, such as ones like the IPC or LPP, will require significant research, work and operational undertakings. However, it must be regarded as a potential opportunity to remove and prevent barriers for Indigenous and under-

represented groups, as well as for all would-be licensees in the province. By removing barriers, there could also be an increase in the ability of the public to access legal services The transitional board and transitional Indigenous council may wish to explore those options but recognize that the work may be better suited for focus post-amalgamation.

111. As previously mentioned, if a Licensing Committee is created, the Board could create rules that allow the Licensing committee to consider applications or issue licences where someone has the appropriate degree or educational background but has different experiences from the standard process, or cannot find an articling position but has found a job that provides appropriate skill development. For example, an Indigenous person may gain complex experience from working as a legal officer or rights and title coordinator for their First Nation. The regulator could permit enrolment as a licensee or trainee with regard for the risk this could potentially have on the public by admitting people on a limited licence or to practice with conditional supervision based on their experience, which is a recommendation developed further below in this draft policy paper.

Recommendations

The transitional board and transitional Indigenous council should direct research be conducted and recognize a pathway to licensure for each of the legal professions based on experience post-amalgamation. As before, this could be facilitated by a rule that the regulator "may" or "must" research and implement a new program.

There should be consideration for a rule referring the matter for consultation with the Indigenous council, the employee under s. 22, or an indigenous committee created under s. 9(3) where an Indigenous person seeks enrolment as a trainee or licensee pursuant to non-standard work, education, and life experiences.

The transitional board and transitional Indigenous council should direct research be conducted to create an additional experiential provider for the pathway to becoming a lawyer, like the IPC or LPP in Ontario, post-amalgamation. As well, there should be consideration for part time, remote, and flexible options where possible to remove barriers to entering the professions.

Training

112. The training requirements for licensure refer to the additional course work or programs that provide practical legal training skills outside of any experiential training or educational

requirement. However, as outlined above, training elements may be provided through both of those requirements, if created or amended.

113. When the current licensing pathways are rolled over to Legal Professions BC, there will be two in-house training programs: PLTC and NEP. What training program, if any, needs to be determined for regulated paralegals, but for the sake of uniformity, it will be assumed that some element of training will be required.

114. One option is to allow prospective licensees to "challenge" the training requirements for their licence. This may be achieved through several different methods. For example, students may be permitted to take knowledge examinations and skills assessments without having to take the training course. If the student passes, then they have achieved the training requirement for licensure. Another method is to permit the regulator to conduct a prior learning assessment and give credit for previous training or experience. This method is already one used by the Law Society when assessing admission requirements for practising lawyers transferring from international jurisdictions.

115. A similar method is to allow for an assessment of a portfolio of legal work. For example, if a student has completed a lengthier experiential program, or volunteered in legal clinics for significant portions of time, they may have achieved the baseline practical legal skills that would be taught through a general licensee training program. Allowing a student to demonstrate their competency in those skills through the assessment of a portfolio of their previous work may be a way to meet the training requirement to become licensed. One of the benefits to all these methods of demonstrating legal skills is that it encourages students to gain practical legal experience and exposure to the professions prior to licensing. Doing so allows students to learn skills while serving the public and learn what it feels like to be working in that profession. Legal skills may be developed through legal or quasi-legal jobs, roles in law offices, volunteer organizations or through legal clinics. The transitional board and transitional Indigenous council may wish to consider allowing students to challenge using one of the above methods the training requirements of a licence.

116. Another option for creating an alternative to the current training requirements is moving the administration and delivery of the courses to a third-party provider. For example, for lawyers, the Law Society of Alberta, Law Society of Saskatchewan, Law Society of Manitoba, and the Nova Scotia Barristers' Society use the Canadian Centre for Professional Legal Education (CPLED) to provide the Practice Readiness Education Program (PREP), a bar admission training program equivalent of the Law Society of BC's PLTC program. Legal Professions BC could look to working with third party provider to create

training programs for lawyers, notaries and regulated paralegals that are owned and operated outside of the organization. Like the discussion on the creation of alternative pathways for experiential requirements like IPC or LPP above, moving toward a third-party provider of practical legal training is a substantial undertaking, requiring further research and analysis, and accordingly, this may be a consideration that is better suited to post-amalgamation.

Recommendations
The transitional board and transitional Indigenous council should allow potential licensees to take challenge examinations or evaluations of the skills portions of any training program post-amalgamation. The transitional team and transitional Indigenous council should consider rules that allow the regulator to research and implement part time, remote, and flexible training schedules to remove barriers to indigenous and under-represented peoples such as people with different learning abilities or learning from different parts of the world. This could be a benefit to all applicants as well. The transitional board and transitional Indigenous council should review and consider using a third party to develop and provide the training requirements to become a licensee post-amalgamation.

Examinations and assessments

117. Examinations and assessments are generally the final eligibility requirement that needs to be met prior to licensing. They also present one of the greatest barriers to entry into the profession. The Law Society and Notaries Society both require the successful passing of examinations and assessments at the end of their respective licensing pathways. Students may have completed, successfully, over 6 to 7 years of education, work experience and training, to find themselves unable to achieve these final requirements.

118. Written examinations are common in licensing the legal professions. They are straightforward to administer and evaluate, and on the surface, equitable as everyone is being assessed on the same material using the same method. However, written examinations may create several barriers that do not reflect competency concerns. In BC, examinations are only offered in English, and language barriers may exist for those who do not speak English as a primary language. Accessibility to examination formats also exist for

individuals with learning, sensory or physical disabilities, especially if appropriate accommodations are not available. Test anxiety and time pressure penalize those who may otherwise be able to work and serve the public as an excellent legal professional.

119. Oral assessments are also used by both the Law Society and Notaries Society to evaluate certain skills but also provide similar barriers to the ones discussed for written examinations, including language and accessibility barriers, and anxiety and stress. Some students may also find that speaking, even in smaller settings with only one or two other people, may cause them greater anxiety than communicating through writing.

120. One of the challenges for any regulator is assessing at scale the baseline skills and knowledge required of licensees for day-one of practice, while also recognizing that people approach evaluations differently. Options that may address some of these barriers without creating others may include allowing for students to take an assessment in their preferred format – either oral or written. Another option may include allowing for the increased use of accommodations, including for those involving language barriers. For example, students who need more time to think and communicate in English may be allowed to have more time to complete an assessment or examination or may be allowed to use a translation device to assist in their communication.

121. If the transitional board and transitional Indigenous council are interested in pursuing this alternative either pre- or post-amalgamation, further research is required in terms of what is best practice to reduce examination barriers whilst maintaining consistency across licensees. As was previously mentioned in this policy paper on the existing examinations for licensees, for coherence with the Guiding Principles there should be additional Aboriginal Law and Indigenous law requirements so the regulator can support reconciliation, the implementation of *UNDRIP*, and identify, remove, and prevent barriers faced by Indigenous peoples and other under-represented groups. This could be achieved by conducting further research in consultation with the Indigenous Council.

122. Another option is to use the authority to place limits and conditions on a licence that reflect a student's capability in passing the examinations and assessments. Limits and conditions on licences is discussed in a section below, but in brief, the idea is to use the power to issue a licence that restricts the licensee from practising in areas where they have not been able to pass the examination, while still allowing the person to practise law. For example, a student on the lawyer pathway to licensure may be unable to pass the barrister bar exam, but otherwise, has passed or completed all the other licensing requirements to become a lawyer. The transitional board and transitional Indigenous council may consider

whether they would allow that person to be issued a licence to practise law as a lawyer, with the restriction to solicitor practice only. Another example could be if a person on the lawyer pathway passes the bar examinations and 3 of the 4 skills assessments but cannot pass the assessment on advocacy or drafting. That person may still be allowed to practise law as a lawyer, but maybe with the condition that for those skills, they need to be supervised for a certain number of years by a practising lawyer and return for re-evaluation to have the condition removed. The transitional board and transitional Indigenous council may wish to consider using the power to issue licences with limits and conditions to allow for more licences to be issued to those who otherwise would qualify as a legal professional, but for that last barrier to entry to the profession.

123. As with previous sections, if a new or supplementary approach to examinations is created, there will need to be rules referring the matter for inclusion of the Indigenous Council, the employee under s. 22, or an Indigenous Committee under s. 9(3) to ensure that exams are created with regard for the Guiding Principles.

124. When discussing the potential for creating alternative pathways or portions of pathways to licensure for each of the legal professions, the transitional board and transitional Indigenous council must consider the requirements under section 7 of the *Legal Professions Act* and the guiding principles that mandate risk-based regulation proportionate to the harm posed to the public. As mentioned at the outset of this section, these alternatives will require the transitional board and transitional Indigenous council to direct that further research and work to be presented, and many of the options discussed may be better pursued following amalgamation given the time, resource and implementation requirements.

Recommendations

The transitional board and transitional Indigenous council should direct for research to be conducted and consider the alternative methods to completing examinations and assessments post-amalgamation. This should include accommodations that recognize the different learning abilities of people in BC.

To support reconciliation, the implementation of UNDRIP, and regulation proportional to the risk to the public, any alternatives to examinations should have safeguards built in to ensure that applicants still possess the appropriate knowledge of Indigenous matters in BC. This could be facilitated by rules referring the matter for inclusion of the Indigenous Council, the employee appointed under s.22, or an Indigenous Committee.

The transitional board and transitional Indigenous council should consider the power to issue licences with limits and conditions on licensees based on the results of an examination or assessment, pre-amalgamation. This should include consultation with the Indigenous Council, employee under s. 22, or an Indigenous centered committee in cases of an Indigenous applicant.

Trainee specific considerations

125. Section 63(1) of the *Legal Professions Act* permits the board to make rules respecting trainees. Section 63(2) provides a list of suggested areas where the board may consider drafting rules. This section of the paper focuses on section 63(2)(a) and (d) on procedures for enrolment of a person as a trainee, and establishing, maintaining or endorsing education programs for trainees. The policy directions considering when a licensing committee must consider a trainee for enrolment will be addressed in a subsequent policy paper on the licensing committee (section 63(2)(b)). Enrolment fees (subsection 2(c)) and specifying activities that trainees of each class may perform (subsection 2(f)) will be addressed in papers on fees (closer toward amalgamation date) and scopes of practice. Limits and conditions of a trainee (subsection 2(e)) will be addressed in a section below in this paper.

Enrolment as a trainee

126. Once the eligibility requirements are established for each legal profession by the transitional board and transitional Indigenous council, potentially including any alternative pathways or aspects of a pathway, the rules required to enrol a trainee in a licensing program should be straightforward. An example of the current enrolment rules respecting lawyers is Law Society Rule 2-54. For notaries, the current application process has the additional step required by sections 5 and 6 of the *Notaries Act* of having to apply to the court for permission to write the statutory examinations.

127. One remaining consideration for the transitional board and transitional Indigenous council is what to do in situations that may require a trainee to re-enrol. For example, currently, the Law Society recognizes 3 situations in which its re-enrolment rule applies (Law Society Rule 2-55): when an application has been rejected due to good character requirements not being met; as a result of a discipline outcome against an articled student; or if the student has failed to complete the training course satisfactorily. For re-enrolment based on good character or disciplinary outcomes, applicants are not allowed to reapply until either after the date in the decision or after 2 years. For those who failed PLTC, the

time frame is 1 year after confirmation of the failure. As per the Guiding Principles, the Transitional Team must have regard for identifying how the re-enrolment rules could serve as a barrier for Indigenous and under-represented peoples. Requiring a complete re-enrolment and repeat of parts of the path to licensure that are already a barrier is likely to have disproportionate effects on some groups of applicants.

128. The first consideration for the transitional board and transitional Indigenous council is whether there needs to be a re-enrolment rule or if this is better suited for a policy. If yes to either, then the next consideration is whether the rule should apply to all the situations as outlined above, if distinctions should be made, or if other situations exist. The Transitional Team will need to find the balance between the risk to the public by admitting trainees against the need to have regard for identifying, removing, and preventing barriers to Indigenous people and other under-represented groups. This could be facilitated by rules for inclusion of the Indigenous Councill, the employee created under s. 22, or an additional Indigenous-centred committee created under s. 9(3) where a decision about re-enrolment comes up that implicates the indigenous considerations in the Guiding Principles.

129. When considering the outlined situations, there may be a difference between those trainees that fail the training or examination requirements (e.g. PLTC's assessments and bar examinations) as compared to those that fail the suitability requirements (i.e. good character) or are unenrolled because of discipline. Having a time limit on when a trainee may reapply due to suitability or disciplinary reasons makes sense as a policy, as it takes time to develop evidence of remediation and rehabilitation to address those concerns. Delaying a trainee who has previously failed an examination or assessment as part of the training program may cause undue hardship for that person, and that failure may not always be attributable to competency. The transitional board and transitional Indigenous council may wish to consider whether there needs to be a mandatory unenrolment from the admissions program if a trainee fails, and the time for re-enrolment set at a minimum amount, or whether a more flexible, trainee driven option is possible.

130. Another consideration for the transitional board and transitional Indigenous council is if there are other situations that are appropriate for a rule respecting re-enrolment in an admission program. For example, if a trainee experiences personal or health circumstances that as a result, requires them to withdraw from or results in failure of the training and examination requirements. Like the discussion respecting when a trainee fails, the transitional board and transitional Indigenous council may wish to consider whether such situations may be handled through a more flexible approach. The main benefit of flexibility

in re-enrolment in situations outside of suitability and discipline is that it reduces another barrier to entry for the legal professions.

131. As with previous sections, alternate pathways for enrolling trainees could be facilitated by creating a Licensing committee and giving it discretion to enrol and re-enrol trainees in circumstances described in the rules. This could be a tool to immediately remove barriers to entry into the professions. Alternatively, a prescriptive policy could be developed on enrolment and re-enrolment. As is always their right, if applicant or licensees are rejected, they may apply to the Tribunal for a review under s. 55 of the LPA.

Recommendations
The transitional board and transitional Indigenous council should direct a draft rule and policy on re-enrolment pre-amalgamation. The transitional board and transitional Indigenous council should direct that the draft rule and policy distinguish between re-enrolment due to reasons such as failing an examination and re-enrolment due to discipline or suitability concerns, pre-amalgamation. The transitional board and transitional indigenous council should create rules that refer matters for consultation with the Indigenous council, the employee appointed under s. 22, or an indigenous enrolment committee created under s. 9(3) when an indigenous applicant requests it based on barriers to their enrolment or re-enrolment. The transitional board and transitional Indigenous council should consider a flexible, trainee-driven process for situations that may require the trainee to take or extend portions of their eligibility requirements, pre-amalgamation.

Establishing, maintaining or endorsing education programs for trainees

132. The discussion respecting establishing, maintain or endorsing education programs for trainees has largely been covered in the sections above on current and alternative pathways to licensure. At this point in the process, it is important for the transitional board and transitional Indigenous council to note that depending on the directions provided respecting current and alternative pathways, rules will be required to support those decisions.

Mobility

133. In considering pathways to licensure, the transitional board and transitional Indigenous council need to include the pathway options for legal professions from other jurisdictions within and outside of Canada. Section 38 of the *Legal Professions Act* provides exceptions from the prohibition against the unauthorized practice of law, with subsection (1)(f) permitting a person authorized to practise law in another jurisdiction who is authorized under the rules to practise law, and subsection (1)(g) that permits a practitioner of foreign law who is authorized to practise law in accordance with the rules. Section 44(b) permits the board to make rules describing the circumstances in which those practitioners may be authorized to practise law in BC. Section 44(c) also permits the board to make rules specifying the activities those persons are authorized to perform; however, discussion of those activities will be included in the policy paper on scopes of practice.

134. Mobility rights for legal professionals and the rules required to support mobility are impacted by the *Charter*,[35] the Canadian Free Trade Agreement,[36] and agreements between organizations that recognize interjurisdictional practice. At the time of writing, the Ontario provincial government is introducing regulations that support interprovincial movement of workers from in-demand professions, including lawyers.[37] This recent development may have significant impact on how the transitional board and transitional Indigenous council should approach the rules respecting mobility for Legal Professions BC. The topic of mobility will be returned to the transitional board and transitional Indigenous council for discussion once the effect of Ontario's recent change has been assessed.

Limited practice licence

135. Section 53 of the *Legal Professions Act* permits a person to apply to the regulator for a limited practice licence in a variety of situations, including if the person is not a licensee at all, or if a person holds any licence type other than lawyer and that person wishes to perform an activity that is not within the scope of practice of their main licence. For the purposes of this policy paper, what activities may or may not be permitted will not be discussed. That discussion is included in the policy paper on scopes of practice. The focus

[35] *Canadian Charter of Rights and Freedoms* at s 6, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c 11 (UK).

[36] *Canadian Free Trade Agreement Implementation Act*, SC 2017, c 33, s 219.

[37] B. Carolino, "Law Society's acting CEO hails Ontario's plan to remove interprovincial barriers for workers" *Law Times* (3 September 2025) https://www.lawtimesnews.com/practice-areas/labour-and-employment/law-societys-acting-ceo-hails-ontarios-plan-to-remove-interprovincial-barriers-for-workers/392973.

for limited practice licences for this policy paper is how the transitional board and transitional Indigenous council prefer to approach to approach this option in the rules.

136. In essence, section 53 is the statutory equivalent of an innovation sandbox designed to increase access to justice and creative thinking in the delivery of legal services to the public. Innovation sandboxes are usually programs that give permission to people or organizations to perform activities that would otherwise be considered as unauthorized practice. Some legal regulators, including the Law Society of BC, have created programs that allow people to apply to essentially be exempt from the prosecution of unauthorized practice for the delivery of legal services without a licence.[38]

137. Limited licences may be good tools for the regulator to improve access to legal services for equity-seeking groups. Allowing limited licences to people with appropriate knowledge and experience to work may also remove barriers faced by Indigenous peoples and other under-represented groups. For example, someone may have years of experience as a legal assistant that qualifies them for an additional scope of practice. As well, it could reduce barriers such as the PLTC. For example, someone who fails solicitor exam may be a fine candidate to practise as a criminal prosecutor. While this presents a great opportunity, it must also be approached very carefully with regard for proportionality to the risk faced by the public.

138. Section 53 permits the issuing of a limited practice licence to two types of applicants. The first type of applicant is found in section 53(1)(a) and (e) and is someone who does not hold a licence to practise law at all. Examples of these types of applicants may include workers at service clinics who want to assist their clients, legal officers or rights and title coordinators for First Nations, native court workers, or patients with specific legal matters that most often arise in their work. It may also include other, regulated professionals, such as accountants, who wish to add-on legal services to their operations. For example, employment law and disability law services provided by a social worker for a not-for-profit community organization.

139. Some of the concerns that comes with a non-licensee applicant through section 53 are how to address discipline and indemnification requirements of an otherwise non-licensed person. The *Legal Professions Act* defines "licensee" as a person who holds a licence and a

[38] Law Society of British Columbia, "Innovation Sandbox" (2025) https://www.lawsociety.bc.ca/about-us/priorities/innovation-sandbox/.

licence is defined as a licence under Division 4 of Part 5 of the Act, which includes a limited practice licence. This means that any references in the Act to "licensee" includes limited practice licensees, such as Division 3 of Part 6 on discipline. Any concerns that may be raised about a limited practice licensee respecting allegations of misconduct or negligence should be able to be addressed through the same provisions that attach to any other licensee in the rules.

140. The transitional board and transitional Indigenous council have some options as to how to approach a concern about indemnification requirements for otherwise non-licensed applicants for a limited practice licence. The concern is that this type of licensee may cause harm to a client which then requires a level of indemnification to protect that client. Section 62(2)(b) permits the board to make rules specifying the limits and conditions that may be imposed on a licence issued under section 53(3)(b). Accordingly, it is possible that the CEO or licensing committee require some level of indemnification for the legal services provided as a condition of the limited practice licence. This condition, however, requires further research and analysis, as onerous indemnification requirements may hinder the intention behind section 53 and access to justice.

141. The second type of applicant is found in section 53(1)(b) to (d) and is someone who already holds a licence to practise law, other than a lawyer. Lawyers are not included as an option in section 53 because the scope of practice for their licence is the entirety of activities encompassed by the practice of law. Essentially, section 53(1)(b) to (d) allows for notaries, regulated paralegals, or other designated legal professionals (if established) to apply for a limited practice licence to perform an activity that is outside the scope of their current licence. For example, a notary who has created extensive documents may be able to support a solicitor in a family law dispute, or a paralegal who has worked under a litigator for years may be equipped to conduct research on a case. Allowing the licensees to cross into other scopes of practice where they have reasonably established their competence and have appropriate experience could increase access to justice, improve legal services, and remove barriers to the profession for Indigenous peoples and other equity-seeking groups.

142. The indemnification concerns that arise for the otherwise non-licensee limited practice licensees are less of an issue for this second type of applicant. Notaries, regulated paralegals or other designated legal professionals may already have indemnification for their practice (depending on how they practise and exemptions). Section 62(2)(b) permits the board to make rules specifying limits or conditions on a limited practice licence, which could include

creating a condition to ensure that the licensee with an additional limited practice licence has the appropriate coverage.

143. There are two ways in which the transitional board and transitional Indigenous council may wish to approach the rules respecting limited practice licences. The first way is to allow applicants to apply for a limited practice licence to perform whatever the activities that the applicant seeks permission to provide. This would give the greatest flexibility in the process but require a case-by-case consideration of each application.

144. The second way in which the transitional board and transitional Indigenous council may wish to approach limited practice licences is to create a version of "add-ons" to a licence. An applicant would then apply for that specific "add-on", and demonstrate any eligibility requirements, such as education or training, for that "add-on". There could be several "add-ons" created, to reflect the activities that fall outside of the scope of practice for the notaries, regulated paralegals, and designated legal professions, in which there is the greatest demand for service delivery. Non-licensee applicants could also apply through this method; however, it would not necessarily be considered as an "add-on" as they are not licensed otherwise. One benefit of this approach is that it streamlines the process and provides a clear pathway for eligibility for any more significant activity areas that may require formal education or other eligibility requirements. Another benefit is that the availability of the limited practice licence as an add-on may encourage people to obtain that licence and provide that service to the public.

145. Regardless of the approach that is chosen, decisions must be made with regard for how limited licences can facilitate access to legal services and prevent or remove barriers for Indigenous peoples and other under-represented groups in proportion to the risk to the public. The potential for limited licensees could be a benefit to both would-be licensees but also clients in underserved areas of law. To help alleviate these barriers the regulator could create rules that refer the matters regarding indigenous applicants for consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous committee created under s. 9(3).

146. In terms of timing, the transitional board and transitional Indigenous council may wish to choose the first method (the case-by-case application method) to issuing a limited practice licence for drafting by amalgamation date and then create the "add-on" limited practice licence once Legal Professions BC is operational. One advantage of this staged approach is that it allows for any data from the case-by-case application method to inform the creation of an "add-on" limited practice licence, if that data demonstrates that there is

great demand that may warrant creating that limited practice licence. It also allows for the transitional board and transitional Indigenous council to see the demand for limited practice licences before investing time and resources into creating any "add-on".

147. As was previously mentioned in this paper, limited practice licences could be facilitated by creating a Licensing Committee under s. 51 and creating rules that permit it discretion or guide its decision making under s. 62.

Recommendations

The transitional board and transitional Indigenous council should request research pre-amalgamation on whether indemnification is needed for limited practice licensees who do not hold another licence issued by Legal Professions BC.

The transitional board and transitional Indigenous council should direct draft rules on permitting a limited practice licence on a case-by-case basis pre-amalgamation. These rules should be developed to require consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous committee under s. 9(3) where there is an opportunity to facilitate the Indigenous considerations in the Guiding Principles.

The transitional board and transitional Indigenous council should conduct a needs or demand analysis for limited practice licences to create "add-on" licences post-amalgamation.

Non-practising licence

148. Section 62(2)(c) of the *Legal Professions Act* permits the board to establish requirements and procedures for the transition from a practising to a non-practising licence and back. There are numerous scenarios that may require a licensed legal professional to go non-practising for some time. Some examples include parenting responsibilities, caregiving responsibilities, personal health matters, pursuing further education or longer periods of travel outside of BC. The main benefits of a non-practising status usually include a significant reduction in fees and an exemption from having to complete any required annual professional continuing education. Another section of the Act that is important to note when discussing non-practising licenses is section 67, which permits the board to make rules respecting the giving and acceptance of undertakings.

149. Both the Notaries Society and Law Society currently allow for notaries and lawyers to go non-practising. The Notaries Society refers to this membership as its non-practicing class.

Any member in good standing may apply to the Notaries Society and give an undertaking not to provide notarial services while in the non-practicing class membership. A non-practicing member may apply for reinstatement at any complete a progressive series of requirements dependent on how long they were non-practicing.[39] The below table shows the time and requirements.

Years Out of Practice	Requirements for return
Up to 1 year	Complete 6 approved continuing education credits
More than 1 year but less than 2 years	Complete 6 continuing education credits Complete and pass an accounting course Complete 1 week of mentoring with an approved member
More than 2 years but less than 3 years	Complete 6 continuing education credits Complete and pass an accounting course Pay the fee and successfully complete a return to practice exam in Notarial Procedures set by the Board of Examiners

150. After 3 years as a non-practicing member, the person must successfully complete a return to practice examination as set by the Board of Examiners. Depending on the time out of practice, the Board of Examiners may require the completion of the full set of statutory exams. If a notary had less than 5 years of experience prior to applying for non-practicing membership and will not be practicing with another notary upon their return, must be in a supervisory relationship that is approved by the Notaries Society.[40]

[39] Society of Notaries Public Rules, Rules 2.13 to 2.15.

[40] Society of Notaries Public Rules, Rule 2.16.

151. Like the Notaries Society, any member of the Law Society in good standing may apply to become a non-practising member by undertaking in writing to not engage in the practice of law until released from that undertaking and paying the respective fee.[41] Also like the Notaries Society, the Law Society has a series of rules respecting return to practice, which also include progressive requirements depending on how long a lawyer has been non-practising. One key difference is that the Law Society centres the determination on a relevant period, which is whichever is the shortest time period since either time since the lawyer last passed the qualification examination, time since the lawyer's last call and admission in any jurisdiction, or 7 years.[42] The below table shows the time lengths out of practice and the requirements.[43]

Years Out of Practice	Requirements for return
Less than 3 years	No requirements
Between 3 years and less than 5 years	Complete practice management course or similar
Between 5 years and less than 7 years	Complete practice management course or similar Certify that the lawyer has reviewed and understands all materials reasonably required by the Law Society (e.g. practice refresher course)

152. After 7 years as a non-practising member, a lawyer must apply to the Law Society's Credentials Committee to return to practice. The Credentials Committee may require any of the following for that lawyer to practice again:

- Completion of:
    - Admission program;

[41] Law Society Rules, Rule 2-3.

[42] Law Society Rules, Rule 2-88.

[43] Law Society Rules, Rule 2-89.

    - The admission program (LSAP);
    - The qualification examination;
    - The practice management course or similar;
    - Certification that the lawyer has reviewed and understands all materials reasonably required by the Law Society (e.g. practice refresher course)
- A written undertaking to:
    - Practice law in BC immediately on being granted permission;
    - Not practice law as a sole practitioner;
    - Practise law only in a situation approved by the Committee for a period not exceeding 2 years;
    - Practise law only in specified areas;
    - Not practice law in specified areas.[44]

153. Although approached differently, the Notaries Society and Law Society have similar elements to their current non-practising licence rules that the transitional board and transitional Indigenous council may wish to consider. The first is that both organizations limit, through their rules, the availability of a non-practising membership to those in good standing. Good standing is not defined in the *Legal Professions Act;* however section 60 prohibits a licensee who is the subject of an investigation, a professional conduct order or a citation from surrendering their licence, which may be used as a working equivalent of good standing. The transitional board and transitional Indigenous council may wish to also prohibit a licensee who is the subject of an investigation, professional conduct order or citation from being able to transfer to a non-practising licence.

154. The Notaries Society and Law Society have also used a series of progressive requirements dependent on the length of time spent non-practising, although the length of time and requirements vary. The first consideration for the transitional board and transitional Indigenous council is whether a similar series of progressive requirements based on time lengths is how Legal Professions BC should approach returning from a non-practising licence. It is common practice across the different regulators to require that an

[44] Law Society Rules, Rule 2-90.

applicant complete some training or an examination following a more significant length of time as non-practising.[45]

155. If the transitional board and transitional Indigenous council think that a version of progressive requirements based on length of time is appropriate, the next considerations are how long should the lengths be, and what are the requirements for each period. Since this policy paper is also asking the transitional board and transitional Indigenous council to consider the eligibility questions for pathways to licensure for each legal profession, and returning to a practising licence from non-practising will likely involve modified requirements, discussion of the specific requirements for returning from a non-practise licence will be discussed in more detail in the second installment of this paper. However, at this time, it may be useful to note the following as optional requirements for future consideration:

- Education and training:
    - Mandatory continuing professional development credits
    - Refresher courses
    - Practice management courses
    - Accounting courses
    - Other specialized courses (e.g. specific to practice area or legislative changes)
- Assessments:
    - Written or practical skills assessments
    - Competency interview or assessment
- Supervision:
    - Temporary supervised practice with experienced licensee
    - Longer supervised practice period with experienced licensee
    - Practice reviews
- Reporting:
    - Certification of completion of courses and attainment of knowledge
    - Progress reports for set amount of time
- Limits on licence:
    - Mandatory return time

[45] For example, see: College of Physicians and Surgeons of BC, "Returning to Practice" (2025) https://www.cpsbc.ca/registrants/current-registrants/registration-and-licensing/returning or Law Society of Alberta, *Rules of the Law Society of Alberta*, at Part 4.

- Practice areas (only allowed or not allowed)
- Practice forms (restriction on solo practice)

156. This leaves years as non-practising as the remaining consideration for the transitional board and transitional Indigenous council. The Law Society allows for up to 3 years as non-practising without any additional requirements and then has a progressive model up to 7 years, at which point the requirements escalate. The Notaries Society has requirements for each year non-practicing, up to 3 years. The transitional board and transitional Indigenous council may take any approach to years as non-practising it prefers, however, more research on competency retention times may be requested for the future paper on this topic to help inform the discussion.

157. Alternatively, the regulator could take a less standardized prescriptive approach to the requirements for moving between non-practising and practising. One potential strategy to facilitate this could be creating a Licensing committee and empowering it to make decisions 62(a) by having non-practising and practising licensing decisions as a circumstance that must be considered by the committee. The licensing committee could make discretionary decisions or act within parameters created in rules or with a guiding framework. Regardless of the option that is chosen, the regulator must have regard for how strict requirements could reintroduce or perpetuate barriers that have a disproportionate impact on Indigenous peoples and other minority groups that they have already worked to overcome once.

Recommendations

The transitional board and transitional Indigenous council should review and recommend options for ensuring competency when returning to a practising licence, pre-amalgamation.

The transitional board and transitional Indigenous council should direct draft rules on timeframes for returning to a practising licence and incorporate the ability to decide on a case-by-case basis, pre-amalgamation?

As with other sections, there should be rules referring the matters regarding an Indigenous applicant for consultation with the Indigenous Council, employee appointed under s. 22, or an Indigenous committee under s. 9(3).

The transitional board and transitional Indigenous council should request research on competency retention times pre-amalgamation to help inform those rules.

Return to profession

158. The situations involved in returning to the profession are different than the ones for applying for a non-practising licence. When a person applies for a non-practising licence, they remain a licensee. When someone leaves their chosen legal profession entirely, they are a former licensee, but they may decide later to try to return to their profession and reapply to become a licensee. There are two main scenarios when this may occur: returning to the profession following the cancellation of a licence and returning after serving as a judge or associate judge.

Returning to the profession after cancellation of licence

159. After a licensee has faced a disciplinary process under the new *Legal Professions Act*, one possible outcome is that their licence is cancelled.[46] For comparison, this is the equivalent of a lawyer being disbarred under the current *Legal Profession Act*. Following a licence cancellation, there is the possibility that a person may choose to reapply for either the same or another type of licence offered by Legal Professions BC.

160. The transitional board and transitional Indigenous council have some options to consider respecting how to treat persons in this type of scenario. One option is to create a time limit before a person may be allowed to reapply for a licence following cancellation. At the current moment, the Law Society does not have an equivalent rule, which means that if someone is disbarred, they may reapply to become a lawyer immediately following the disbarment decision. Unlike Tribunal decisions that issue suspensions, cancellations are intended to be permanent, and do not contain time limits for reapplication.

161. Another option is to not allow a person who has had a licence cancelled to reapply at all. As mentioned above, cancellation of a licence is intended to be permanent, and it is the most serious of disciplinary outcomes available to the CEO and Tribunal. However, if the disciplinary processes are to be seen as an equivalent of criminal sentencing practices but in a regulatory context, then having a licence cancelled and experiencing that process and stigma may be treated as the equivalent of serving the sentence. Put another way, what policy principle justifies preventing a person from simply being allowed to reapply for a licence following a cancellation, other than administrative burden? Allowing a person to

[46] *Legal Professions Act*, sections 119(b) and 122(3)(g).

reapply does not mean that the person will be issued a licence. Depending on the timeline of the disciplinary process, a person may have completed significant rehabilitation efforts that may justify at least the possibility of reapplying for a licence sooner.

162. The transitional board and transitional Indigenous council may wish to consider whether there needs to be a time limit in the rules on a person reapplying for a licence following a cancellation of their licence, and if so, what that time limit should be. As per the Guiding Principles, there must be regard for the proportion of risk to the public. Unilaterally prescribing permanent removal from the profession in rules could prevent circumstances where a person is reinstated after a serious breach of conduct and goes on to continue with more breaches, which would greatly affect the public. However, this may also be an overcorrection of a remote risk. As with other sections, these decisions could potentially be made discretionary by creating a Licensing Committee and giving it rules for the desired approach.

Recommendations
The transitional board and transitional Indigenous council should not direct a draft rule preventing someone from reapplying for a licence following a cancellation, pre-amalgamation. The transitional board and transitional Indigenous council should not direct a time limit for any rules respecting applying for a licence following a cancellation, pre-amalgamation. There should be consideration for rules that refer matters regarding Indigenous applicants for consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous committee created under s. 9(3) to regulate this in coherence with the Guiding Principles.

Returning after serving as a judge or associate judge

163. The transitional board and transitional Indigenous council may also wish to consider a rule respecting lawyers who have served as a judge or associate judge and want to return to practising law. When a lawyer becomes a judge or associate judge, their licence to practise law as a lawyer is revoked. To practise law again, they need to be re-issued a licence.

164. The Law Society currently has a rule that establishes how a former judge or associate judge may return to practice, including when they may appear as counsel before a court, at

which level of courts, as well as some marketing restrictions respecting their former titles.[47] The rule also includes consideration on a case-by-case basis for flexibility in the time restrictions, as well as the possibility of having additional limits on practice. The below table summarizes the general appearance requirements and restrictions.

Type of judge	Limits on practice	Time restriction
Former judge of a federally-appointed court	Must not appear as counsel in any court in British Columbia without first obtaining the approval of the Credentials Committee	Indefinite (until approval granted)
Former judge of a provincial or territorial court in Canada	Must not appear as counsel in the Provincial Court of British Columbia	3 years
Former associate judge of the Supreme Court of British Columbia	Must not appear as counsel before an associate judge, registrar, district registrar, or deputy district registrar of the Supreme Court of British Columbia	3 years

165. One of the principles behind including either permission or a time limit on appearances for former judges and associate judges is that it provides a buffer to prevent a perceived conflict of interest. When returning to practice, judges and associate judges may be in discussions prior to their leave with law firms or other employers about potential opportunities, and meanwhile, are hearing or have heard cases that may involve those law firms, undermining the perception of impartiality. The Canadian Judicial Council provides guidance on how a former judge or associate judge may return to practice.[48] The Law Society's current rule differs from the guidance. The guidance suggests that judges should be allowed to practice, but not be allowed to appear in court, even after a time limit, whereas the Law Society has established a 3-year period before appearances and appearances are restricted to any court above the one they served. For federally appointed

[47] Law Society Rules, Rule 2-87.

[48] Canadian Judicial Council, *Former Judges Returning to Practice* (2025).

judges, it is possible that the time is longer, but they may also seek permission for a shorter time frame from the Credentials Committee.

166. The transitional board and transitional Indigenous council may wish to consider requiring a rule that addresses the return of former judges and associate judges to practising as a licenced lawyer. The transitional board and transitional Indigenous council should note that this is often an area involving competing interests and great attention. There needs to be a balance that considers the interests of the public and self-represented litigations in the legal system alongside the desire to have former judges and associate judges return to full practice. Given the public perception on this topic, a principled rule with minimal discretion is recommended.

167. If the transitional board and transitional Indigenous council recommend a rule, then the next consideration is whether a time limit for appearances is necessary, and if so, what that time limit should be. In addition, the current Law Society practice is to have these applications considered by the Credentials Committee. The transitional board and transitional Indigenous council may wish to consider whether it is appropriate to have Legal Professions BC's licensing committee also be responsible for these application decisions. This could also be addressed by having conditions or limits on a licence for a judge returning to practice as a lawyer to the extent it protects the risk to the public interest.

Recommendations
The transitional board and transitional Indigenous council should direct draft rules on former judges and associate judges returning to practice, pre-amalgamation. The transitional board and transitional Indigenous council should determine a mandatory time limit for appearances for all former judges and associate judges, with minimal discretion, pre-amalgamation. The transitional board and transitional Indigenous council should direct draft rules that allows for the use of limits and conditions on a licence for a former judge or associate judge, pre-amalgamation.

Limits or conditions on licence

168. Section 62(2)(b) of the *Legal Professions Act* permits the board to make rules that specify the limits and conditions that may be imposed on a licence or limited practice

licence and establish a process for varying or removing a limit or condition. In the above section on non-practising licences, there is a short list of potential limits and conditions that may be placed on a non-practising licence. Section 63(2)(e) permits the board to make rules specifying the limits and conditions that may be imposed on the enrolment of a person as a trainee.

169. In general, a limit is a restriction or boundary that confines a person's actions to within that limit. A condition is a requirement or condition that must be met for something to occur. The authority to impose a limit or condition on a licence, non-practising licence, limited practice licence or enrolment as a trainee may be seen as either permissive or punitive. In the licensing context, the intention is more permissive, as the idea is to allow someone who may otherwise be unable to practise law the opportunity to receive a licence or enrol as a trainee with either limits or conditions on them. Those limits or conditions may be intended to either better support the person as they gain more experience and competency or are required to ensure the public is protected. Limits or conditions placed on a licence because of a disciplinary outcome may be viewed as more punitive and will be discussed in a future policy paper on discipline, although the options will be similar if not the same.

170. Viewing limits or conditions in a licensing context as permissive rather than punitive also supports the guiding principles in section 7 of the *Legal Professions Act*. Section 7 requires that the regulator must have regard to facilitating access to legal services, removing barriers faced by Indigenous peoples and other under-represented groups, and requires that the regulator must regulate the practice of each legal profession in a manner that is proportionate to the risk of harm to the public posed by the practice. Encouraging the greater use of limits or conditions on a licensee as opposed to preventing that person from practising law all together will allow for more legal services to be provided and increase the rate of entry into the legal professions by persons who have appropriate experience but may face a barrier, whilst also protecting the public. There may be risk areas where having people practise on limited licences is a lower risk than leaving those members of the public without legal support. However, this would need to be implemented carefully to avoid creating tiers of services that worsen outcomes for marginalized groups. Regardless of the desired approach, any limit or condition imposed on a licence must be included in the registry of licensees under section 61(d) of the Act, which means that the public, legal professionals and the judiciary all have access to that information.

171. The below table provides a list of potential limits and conditions on a licence that are common across regulators. The list is in no way exhaustive, but it gives an overview of some of the options available for consideration by the transitional board and transitional Indigenous council.

Category	Limit	Condition
Practice scope	• Restricted to specific practice areas only (e.g. criminal law) • Restricted from specific practice areas (e.g. no family law) • No court or tribunal appearances • Geographic limits (e.g. cannot practise in specific communities) • Cannot represent types of clients (e.g. Indigenous clients or children)	
Supervision	• Must practise under supervision for either set period or indefinite (e.g. 2 years) • Must practise under supervision if practising in specific practice area (e.g. supervised practice for wills only) • Files subject to practice review by supervisor	• Completion of longer trainee experiential program (e.g. longer articling period)
Education and training		• Complete mandatory professional development courses (e.g. practice management course) • Take refresher course (e.g. practice refresher course) • Pass competency exams or assessments (e.g. drafting assessments; statutory exams) • Take courses to address other competency concerns (e.g. cultural

		competency; sexual harassment)
Trust accounts and financial	• No authority over trust accounts • Trust transactions must be co-signed	• Complete an accounting or financial training course
Practice management	• Must practise in approved form (e.g. no solo practice)	• Submit reports to regulator for period • Undergo practice reviews on recurring basis for a period

172. When considering the rule requirements for limits and conditions attached to the issuing of licences, non-practising licences, limited practice licences and enrolling trainees, the first consideration by the transitional board and transitional Indigenous council is whether any limits or conditions need to be enumerated in the rules, or if the preferred approach is to allow the CEO or licensing committee to create a limit or condition on a case-by-case basis. One benefit of having a list of enumerated limits and conditions is that it provides for greater transparency in the regulator's licensing processes, which is in line with the guiding principle found in section 7(d)(i) of the Act. One disadvantage is that an enumerated list may be seen as binding on the CEO or licensing committee's power to create a different limit or condition should the occasion call for it. However, the transitional board and transitional Indigenous council may consider creating a hybrid rule, which includes a list of potential limits and conditions, but also includes a line that allows the decision maker to impose any alternative limit or condition as appropriate.

173. If the preferred approach is enumerating some limits and conditions in the rules in some form, then the next consideration for the transitional board and transitional Indigenous council is what those enumerated limits and conditions should be.

174. As with the previous sections, a Licensing committee could be created and given discretion to decide on limited licences and conditions, or the enumerated lists mentioned above. Permissive rules for a licensing committee that give discretion to enrol licensees with limits or conditions could facilitate access to legal services and remove barriers for would-be practitioners.

Recommendations

The transitional board and transitional Indigenous council should direct draft rules permitting the use of limits and conditions on all licence types, pre-amalgamation.

The transitional board and transitional Indigenous council should choose and enumerate the examples of limits and conditions in the draft rules, pre-amalgamation.

The transitional board and transitional Indigenous council should direct the draft rules follow a hybrid approach and allow for limits and conditions not listed to be determined on a case-by-case basis, pre-amalgamation.

As with previous sections, there should be rules in place referring matters for consultation with the Indigenous Council, employee appointed under s. 22, or an Indigenous committee created under s. 9(3) where an application for a limited licence could increase access to legal services for Indigenous peoples, support reconciliation and the implementation of UNDRIP, and remove or prevent barriers to Indigenous peoples.

IV. Decisions required

175. In summary, the main discussion and direction items for the transitional board and transitional Indigenous council respecting the pathways to licensure are:

1) Should the transitional board and transitional Indigenous council continue to recognize the existing pathways to licensure for lawyers and notaries for Legal Professions BC?

   Recommendation: Yes.

2) Should the transitional board and transitional Indigenous council increase the level of support offered by Legal Professions BC to assist students in finding articling positions?

   Recommendation: Yes.

3) Should the transitional board and transitional Indigenous council create rules for post-amalgamation discussion on creating additional articling students supports for Indigenous students as a matter referred to the Indigenous Council with potential support from the employee under s. 22, or an Indigenous committee?

   Recommendation: Yes.

4) Should the transitional board and transitional Indigenous council recommend that Legal Professions BC conduct a review of the PLTC program post-amalgamation?

   Recommendation: Yes.

5) Should the transitional board and transitional Indigenous council create a means to develop supplementary educational materials in the PLTC, or an additional required Indigenous course?

   Recommendation: Yes.

   a. If yes, should the transitional board and transitional Indigenous council decide on a preferred method?

   Recommendation: Yes. In this transitional time, it may be best to prescribe a preexisting course, then have rules to refer the matter for consultation and further development with the Indigenous Council.

6) Should the transitional board and transitional Indigenous council review the education requirement for the current pathway to becoming a notary to identify whether more seats are needed to meet demand?

   Recommendation: Yes.

7) Should the transitional board and transitional Indigenous council conduct a review of the NEP program post-amalgamation?

   Recommendation: Yes.

8) Should the NEP have supplemental indigenous content, or an additional course be mandated for notaries on Indigenous content?

   Recommendation: Yes. The transitional team should decide on a strategy for ensuring appropriate Indigenous content is required for new notaries. For the transition time this may be best facilitated by prescribing an existing course and referring the matter to the Indigenous Council.

9) Should the transitional board and transitional Indigenous council review and evaluate the BCPA's currently recognized education programs against the established scope of practice, once determined?

Recommendation: Yes.

10) Should the pathway for becoming a regulated paralegal implement supplementary materials on Indigenous content or require an additional Indigenous course?

Recommendation: Yes. The transitional team should decide on a strategy for ensuring that appropriate Indigenous content is required for paralegals. For now, this likely best suited by prescribing an existing course and rules referring the matter to the Indigenous Council for future development.

11) Should the transitional board and transitional Indigenous council create a pathway to become a regulated paralegal that recognizes experience?

Recommendation: Yes, developed with rules that refer the matter for consultation with the Indigenous Council where it accords with the Indigenous considerations in the Guiding Principles.

a. If yes, should there be a time limit in which to recognize applications based on experience, or should the pathway be ongoing?

Recommendation: Ongoing.

12) Should the transitional board and transitional Indigenous council review the lengths of the experiential requirements for all the legal professions?

Recommendation: Yes.

13) Should the transitional board and transitional Indigenous council standardize the collection of demographic data across applicants, trainees, and licensees, to identify potential barriers for Indigenous and other under-represented groups?

Recommendation: Yes. There should also be considerations for giving applicants and licensees discretion to opt-into the collection of data. All data collection of Indigenous peoples should work to adhere to the First Nations Principles of data Ownership, Control, Access, and Possession.

14) Should the transitional board and transitional Indigenous council standardize the requirements for legal professionals providing supervision of the experience portion of a trainee's eligibility requirement (e.g. articling principal)?

Recommendation: Yes

15) Should the transitional board and transitional Indigenous council standardize a minimum of indigenous cultural competency across licensees?

Recommendation: Yes. The *Western Competency Standard* Domain 3 on truth and reconciliation should inform development of a minimum standard across licensees, with additional requirements curated for each class of licensee. As recommended above, this could be facilitated by prescribing a preexisting course with rules referring the matter to the Indigenous Council for further development.

16) Should the transitional board and transitional Indigenous council review the study time provided for examinations for all potential licensees?

Recommendation: Yes.

17) Should the transitional board and transitional Indigenous council standardize the practice management and accounting content of additional training courses for all licensees, post-amalgamation?

Recommendation: Yes.

18) Should the transitional board and transitional Indigenous council review the suitability requirements for all licensees, regardless of the pathway, to protect the public whilst removing barriers against entry to the professions?

Recommendation: Yes. If current suitability standards are imported, or new standards are created there should be mechanisms for inclusion of the Indigenous Council, the employee appointed under s. 22, or an Indigenous Commitee for decision making on suitability for Indigenous applicants. For this transition time this is probably best facilitated by a rule referring the matter to the Indigenous Council for further development where it accords with the Guiding Principles.

19) Should the transitional board and transitional Indigenous council direct further research be conducted to create alternative pathways to meet the education requirements to become a legal professional post-amalgamation?

Recommendation: Yes.

20) Should the transitional board and transitional Indigenous council direct research be conducted and recognize a pathway to licensure for each of the legal professions based on experience post-amalgamation?

Recommendation: Yes. As well, there should be mechanisms for the inclusion of the Indigenous Council, the employee appointed under s. 22, or an Indigenous committee for Indigenous applicants or where enrolling licensees could facilitate access to legal services for Indigenous peoples. This may be best facilitated by a rule referring the matter to the Indigenous Council for further development.

21) Should the transitional board and transitional Indigenous council direct research be conducted to create an additional experiential provider for the pathway to becoming a lawyer, like the IPC or LPP in Ontario, post-amalgamation?

Recommendation: Yes. As previously, the transitional team should decide whether this is suited for a permissive rule that the regulator "may", or a prescriptive rule that the regulator "must".

22) Should the transitional board and transitional Indigenous council allow potential licensees to take challenge examinations or evaluations of the skills portions of any training program post-amalgamation?

Recommendation: Yes.

23) Should the transitional board and transitional Indigenous council review and consider using a third-party to develop and provide the training requirements to become a licensee post-amalgamation?

Recommendation: Yes. If a third party is chosen to provide training, there should be requirements for a baseline of Indigenous content, facilitated by rules referring the matter to the Indigenous Council for development, potentially supported by the employee under s.22 or an Indigenous Committee.

24) Should the transitional board and transitional Indigenous council conduct research be conducted and consider alternative methods to completing examinations and assessments post-amalgamation?

Recommendation: Yes.

25) Should the transitional board and transitional Indigenous council consider the power to issue licences with limits and conditions on licensees based on the results of an examination or assessment, pre-amalgamation?

Recommendation: Yes. However, there should be mechanisms for the inclusion of the Indigenous Council, the employee appointed under s. 22, or an Indigenous Committee when an Indigenous applicant may enter the profession subject to a Limited or Conditional licence, or a Limited or Conditional Licence could facilitate increased access to services for Indigenous people. For now, this may be suited by a rule that refers the matter to the Indigenous Council.

26) Should the transitional board and transitional Indigenous council direct a draft rule and policy on re-enrolment pre-amalgamation?

Recommendation: Yes.

a. If so, should the transitional board and transitional Indigenous council direct that the draft rule and policy distinguish between re-enrolment due to reasons such as failing an examination and re-enrolment due to discipline or suitability concerns, pre-amalgamation?

   Recommendation: Yes.

b. Should the transitional board and transitional Indigenous council consider a flexible, trainee-driven process for situations that may require the trainee to take or extend portions of their eligibility requirements, pre-amalgamation?

   Recommendation: Yes. As well, there should be mechanisms for inclusion of the Indigenous Council, employee appointed under s. 22, or an Indigenous Committee when making decisions related to the eligibility of an Indigenous trainee or applicant. This can be facilitated by rules referring the matter to the Indigenous Council.

27) Should the transitional board and transitional Indigenous council request research on whether indemnification is needed for limited practice licensees who do not hold another licence issued by Legal Professions BC pre-amalgamation?

Recommendation: Yes

28) Should the transitional board and transitional Indigenous council direct draft rules on permitting a limited practice licence on a case-by-case basis pre-amalgamation?

Recommendation: Yes. This could also be facilitated by creating a Licensing Committee and giving it case-by-case discretion with some guidance (including guidance by the Indigenous Council). The Transition team should consider this when the topic of a Licensing Committee is revisited.

29) Should the transitional board and transitional Indigenous council conduct a needs or demand analysis for limited practice licences to create "add-on" licences post-amalgamation?

Recommendation: Yes. A guiding framework for limited licences as a means of facilitating access to legal services and removing barriers for licensees with regard for the Guiding Principles should be created. For now, this may be best suited by rules referring the matter for consultation with the Indigenous Council.

30) Should the transitional board and transitional Indigenous council review and recommend options for ensuring competency when returning to a practising licence, pre-amalgamation?

Recommendation: Yes

31) Should the transitional board and transitional Indigenous council direct draft rules on timeframes for returning to a practising licence and incorporate the ability to decide on a case-by-case basis, pre-amalgamation?

Recommendation: Yes. The rules should also include mechanisms for consultation with the Indigenous Council, the employee appointed under s. 22, or an Indigenous

Committee, when an Indigenous applicant seeks a return to practice. This may be suited for rules that refer the matter to the Indigenous Council.

a. If so, should the transitional board and transitional Indigenous council request research on competency retention times pre-amalgamation to help inform those rules?

Recommendation: Yes

32) Should the transitional board and transitional Indigenous council direct a draft rule preventing someone from reapplying for a licence following a cancellation, pre-amalgamation?

Recommendation: No

a. If yes, should the transitional board and transitional Indigenous council direct a time limit for any rules respecting applying for a licence following a cancellation, pre-amalgamation?

Recommendation: No

33) Should the transitional board and transitional Indigenous council direct draft rules on former judges and associate judges returning to practice, pre-amalgamation?

Recommendation: Yes

a. If yes, should the transitional board and transitional Indigenous council determine a mandatory time limit for appearances for all former judges and associate judges, with minimal discretion, pre-amalgamation?

Recommendation: Yes

b. Should the transitional board and transitional Indigenous council direct draft rules that allows for the use of limits and conditions on a licence for a former judge or associate judge, pre-amalgamation?

Recommendation: Yes

34) Should the transitional board and transitional Indigenous council direct draft rules permitting the use of limits and conditions on all licence types, pre-amalgamation?

Recommendation: Yes. The rules should also refer the matter to the Indigenous Council where the decision is made for an Indigenous applicant or where a limited or conditional licence could increase access to services for Indigenous peoples.

a. If yes, should the transitional board and transitional Indigenous council choose and enumerate the examples of limits and conditions in the draft rules, pre-amalgamation?

Recommendation: Yes, see table of examples.

b. Should the transitional board and transitional Indigenous council direct the draft rules follow a hybrid approach, and allow for limits and conditions not listed to be determined on a case-by-case basis, pre-amalgamation?

Recommendation: Yes. Additionally, as above, rules should facilitate inclusion of the Indigenous Council with potential support from the employee under s.22 or an Indigenous Committee when a decision impacts an Indigenous applicant or a decision could facilitate access to legal services for Indigenous peoples. For now, this is likely best suited for a rule that refers the matter to the Indigenous Council.

176. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with a version 2 policy paper for further discussion and decision.

Transitional Board and Transitional Indigenous Council

Continuing Competence and Education – Policy Report

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion/Direction**
Date:	**October 22, 2025**
Version:	**V1**

I. Context and background

Background

1. Continuing competence and education refers to the mandatory requirements established by the regulator to maintain a licence once issued. Requirements may be once-off or ongoing, prescribed by the regulator or determined by the licensee. The purpose of these requirements is to ensure that licensees maintain a level of competence by requiring legal professionals to stay up to date with changes to laws, technologies, ethics and professional standards.

2. The main topics for consideration for continuing competence and education are Indigenous cultural competency training, continuing professional (or educational) development ("CPD") requirements,[1] and a mandatory course for first year licensees.

3. Currently, the Law Society of British Columbia (the "Law Society") requires that every practising lawyer must complete its Indigenous intercultural course before the lawyer has engaged in the practice of law for two years or by January 1, 2024, whichever is later.[2] Failure to comply with this requirement means that the lawyer has failed to meet the minimum standard of practice and may lead to a referral to the Discipline Committee or chair of the Discipline Committee.[3] The Law Society also has rules that address late completion[4] or failure to complete the Indigenous intercultural course.[5] Late completion may include a payment of a late completion fee or late reporting fee. Failure to complete may lead to suspension until the lawyer has certified the completion of the course. The Law Society's course is run in-house and is a once-off requirement for all practising lawyers. The Society of Notaries Public of British Columbia (the "Notaries Society") does not have a

[1] Ongoing education requirements are sometimes referred to as "continuing professional development" or "continuing education requirements". For the purposes of this paper, the requirements will be referred to as "continuing professional development" or "CPD".

[2] Law Society Rules, Rule 3-28.1.

[3] Law Society Rules, Rule 3-28.1(3).

[4] Law Society Rules, Rule 3-28.11.

[5] Law Society Rules, Rule 3-28.2.

similar course requirement. Notaries work in areas of law that have unique rules, statutes, and common law precedents for Indigenous peoples, such as: Wills and Estates, Child and Family Law, and Real Estate. There is also no current requirement for an Indigenous cultural competency course for paralegals. Under the innovation sandbox, designated paralegals provide legal advice and draft documents for the Provincial Court, the Civil Resolution Tribunal, the Human Rights Tribunal, the Employment Standards Branch, and the Worker's Compensation Tribunal. Additionally, paralegals support on family law, attending court to support clients, coaching self-represented litigants, mediations, and providing clients resources to handle their own matters. All of [67]

4. Respecting CPD requirements, both the Notaries Society and the Law Society have similar mandatory requirements but approach the requirements differently. The Notaries Society requires a notary to complete 12 approved credits a year, unless they are two years as members or less or a roving notary, in which case, they must complete 9 approved credits.[8] The Notaries Society accredits the courses and programs, and each notary is responsible for reporting their CPD.[9] If a notary does not complete their CPD on time, they must pay an administrative penalty in addition to completing the requirements.[10] Failure to complete the CPD requirements means a notary is "not in good standing" and suspended until all the CPD credits are completed.[11] In addition to the CPD requirements, when a notary is first commissioned, the notary must attend an education session for new notaries. The Law Society does not have a similar requirement for newly post-call lawyers. The BC Paralegal Association offers free professional development courses and preferred pricing on

[7] Law Society of British Columbia, *Innovation Sandbox: Approved Participants*, online: Law Society of British Columbia <https://www.lawsociety.bc.ca/about-us/priorities/innovation-sandbox/approved-participants/>
[8] Notaries Rules, Rule 2.26.
[9] Notaries Rules, Rule 2.28.
[10] Notaries Rules, Rule 2.29.
[11] Notaries Rules, Rules 2.30 and 2.31.

professional development courses from the Continuing Legal Education of BC, but continuing development is not required for membership. [12]

5. The Law Society's approach to CPD is similar to the Notaries Society, but instead requires a minimum number of hours to be completed yearly, with an exception for those who completed an admission program, and a reduction for those who have not practised law for a duration of time during the year.[13] Lawyers are required to complete and self-report 12 hours of CPD each year, with at least two hours on any combination of professional responsibility, ethics and practice management.[14] Qualifying activities for CPD include courses, online interactive programs, local bar and CBA section meetings, study groups, teaching, writing, mentoring and pro bono work.[15] The Law Society offers some free options for CPD courses to lawyers. The Law Society also has similar rules to the Notaries Society for late completion and failure to complete, including the payment of a late completion or late reporting fee,[16] and suspension for failure to complete.[17]

6. In the new *Legal Professions Act,* the regulator must have regard for the Guiding Principles at s. 7 which includes, facilitating access to legal services, the implementation of *United Nations Declaration on the Rights of Indigenous Peoples* ("**UNDRIP**") and Reconciliation with Indigenous peoples*,* identifying, removing, and preventing barriers to Indigenous peoples entering the practice of law, and regulating proportionally to the risk to the public. This is facilitated using a few mechanisms in the new *Act*. One is the role of the Indigenous Council at s. 30, which places on them a duty to advise and work in collaboration on the implementation of UNDRIP in the context of regulating the legal practices, and the systemic challenges faced by Indigenous peoples that require action and investigation by the regulator. Another mechanism for regulating with regard for the Guiding Principles is in the

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[12] BC Paralegal Association, *Frequently Asked Questions*, online: BC Paralegal Association <https://www.bcparalegalassociation.com/cpages/faq>; see also

[13] Law Society Rules, Rule 3-29.

[14] Law Society of British Columbia, "Continuing Professional Development" (2025) https://www.lawsociety.bc.ca/for-lawyers/professional-development/continuing-professional-development/.

[15] Law Society of British Columbia, "Eligible Activities" (2025) https://www.lawsociety.bc.ca/for-lawyers/professional-development/continuing-professional-development/eligible-activities/.

[16] Law Society Rules, Rule 3-31.

[17] Law Society Rules, Rule 3-32.

Indigenous cultural competency training at s. 74(2), which requires that rules are made for that course.

II. Alignment to the Act

7. Part 6, Division 1 of the *Legal Professions Act* addresses professional conduct and competence. Section 69 states that a licensee must meet all applicable requirements established in the rules for the continuing competence and education of licensees. Section 74 requires the board to make rules respecting competence, professional conduct, and financial responsibility, with subsection (2) stating that the board must make rules establishing requirements for the continuing competence and education of licensees, including requirements for Indigenous cultural competency training.

III. Discussion

Indigenous cultural competency training

8. Section 74(2) of the *Legal Professions Act* states that the board must make rules establishing a requirement for Indigenous cultural competency training. This is one of the few mandatory rule-making statements in the Act. Accordingly, one recommendation for the transitional board and transitional Indigenous council is to direct that rules are drafted to implement this requirement, including addressing the scenarios of late completion and failure to complete. The requirement should apply to all licensees (lawyers, notaries, and regulated paralegals) in accordance with the transitional board and transitional Indigenous council's previous direction respecting the professional responsibilities of all legal professionals. It is also in the public interest for the regulator to ensure that all licensees receive a baseline of training in Indigenous cultural competency.

9. The Law Society offers a good precedent for this transitional time with the Indigenous Intercultural Competency Course that could be built on. The course educates lawyers on topics of:

    a. Indigenous Laws and Legal Traditions;
    b. The evolution of the relationship between the Crown and Indigenous peoples;

c. Policies and laws to eliminate the rights, governments, cultures, resources, lands, and institutions of Indigenous peoples, including residential schools; and
d. Social, political, and economic success, resilience, and reconciliation.

10. The Indigenous Intercultural Course at the Law Society is mandatory for all lawyers. This requirement is a practice that the new regulator should follow for all licensees. Importing the Indigenous Intercultural Course from the Law Society is one potential option. This could include a similar 2-year timeline for all licensees to complete it.

11. However, it may be best in this transitional time to develop rules for inclusion of the Indigenous Council in creating new standards for Indigenous cultural competency training. The regulator must have regard for the Guiding Principles, which include facilitating access to legal services, supporting reconciliation with Indigenous peoples and the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples,* and reducing, removing and preventing barriers to entering the practice disproportionately felt by Indigenous peoples and other under-represented groups. The rules and Indigenous cultural competency training should be built to ensure that licensees are equipped to the standard of the *Western Canada Competency Profile*, Domain 3. Domain 3 holds that minimum competencies related to truth and reconciliation include understanding of the experiences of Indigenous peoples and understanding how reconciliation with Indigenous peoples can be incorporated into the legal practice.[18]

12. The nature of reconciliation means that continuing competence and education is not completed once the Indigenous cultural competency course is finished. Reconciliation with Indigenous peoples in Canada is a statutory principle the regulator is obligated to have regard for reconciliation with Indigenous peoples both in the Guiding Principles of the new *Legal Professions Act,* and in the *United Nations Declaration on the Rights of Indigenous Peoples Act.* Reconciliation is a perpetual, ongoing, process to establish a framework of

[18] Law Society of British Columbia, *Western Canada Competency Profile for Lawyers,* (2021), online (pdf): Law Society of BC <https://www.lawsociety.bc.ca/getmedia/9320a259-af47-4fe0-bdea-d2a7a17ec7f8/WesternCanadaCompetencyProfile.pdf>.

living together, and fostering strong, healthy, and self-determining Indigenous nations within Canada.[19]

13. Having licensees that are well equipped to work with Indigenous peoples and to support reconciliation is in the entire public's interest, not just the interest of Indigenous peoples.[20] As such, baseline education and competence that facilitates regard for the Guiding Principles could allow licensees to give advice that protects the interests of the public. The public is protected by advancing the statutory requirements in the Guiding Principles of the new *Legal Professions Act.*

14. The considerations above highlight why it is important for the best interests of the public in this situation to observe ss. 26 and 226 of the new *Legal Professions Act* which require the approval of rules by the Indigenous Council in this transitional time, and the inclusion of the Indigenous Council when new rules are created. However, the rules should be more prescriptive to allow the Indigenous Council and employee under s. 22 to fulfill their role post-amalgamation in a way that addresses the ongoing nature of reconciliation and the lived realities of Indigenous peoples in BC. This could be facilitated by a rule that refers the matter of the Indigenous cultural competency training to be directed by the Indigenous Council under s. 30(a)(ii) and 30(b)(ii) with the support of the employee under s. 22. Allowing the Indigenous cultural competency training to be Indigenous-led would be the most efficient way for the Indigenous Council to discharge their role to advise in this regard.

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[19] *Reference re An Act respecting First Nations, Inuit and Metis children, youth and families,* 2024 SCC 5 at para. 89-90; see also *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)* 2005 SCC 69; and *Haida Nation v. British Columbia (Minister of Forests),* 2004 SCC 73. For a summary of Federal Government of Canada Principles see Canada, Department of Justice, *Principles respecting the Government of Canada's relationship with Indigenous peoples,* online: Principles respecting the Government of Canada's relationship with Indigenous peoples; and Canada, Department of Justice, *Duty to consult and accommodate*, (21 March 2025), online: Government of Canada <https://www.justice.gc.ca/eng/csj-sjc/ijr-dja/35pedia-wiki35/p8.html>.

[20] For example, the Crown's duty to consult with First Nations is triggered by strategic, high-level decisions. While private industry stakeholders do not have a duty to consult, licenses for resource development given to them may be a trigger for an Aboriginal Rights claim and could affect their financial interests. Industry proponents and their licensees may also sit in on Crown/Indigenous consultations. See: Canada, Department of Justice, *Duty to consult and accommodate*, (21 March 2025), online: Government of Canada <https://www.justice.gc.ca/eng/csj-sjc/ijr-dja/35pedia-wiki35/p8.html>.

Recommendations

1) The rules should require the mandatory completion of an Indigenous cultural competency training course by all licensees, including rules to address late completion and failure to complete.

2) The Indigenous Cultural Competency training should be Indigenous-led to allow the Indigenous Council and employee under s. 22 to discharge their role and to have regard for the Guiding Principles. As was decided in the September 17 meeting that strategic use of prescriptive rules should be in place where necessary to discharge the Indigenous mandate, this is one of those circumstances. The transitional board and transitional Indigenous Council should direct that a rule is drafted that refers the Indigenous cultural competency training to the direction of the Indigenous Council with support of the employee at s. 22. This rule should permit the Indigenous Council to prescribe a baseline of Indigenous cultural competency across licensees. The rules should also empower the Indigenous Council to prescribe specific additional content for specific practice areas that require action in regard to Indigenous peoples.

Continuing competence and education

15. Section 74(2) of the *Legal Professions Act* states that the board must make rules establishing the continuing competence and education of licensees. Ongoing, continuing education requirements are common across regulated professions with varying degrees of hours and coursework required. For example, in BC, subsections 57(1)(e) to (g) of the *Professional Governance Act*[21] requires that each regulatory body under that legislation must establish continuing education programs. The Engineers and Geoscientists of BC, a regulatory body under the *Professional Governance Act*, has created an extensive program of continuing education. In brief, it includes the following requirements each year: at least one hour of ethics; completion of a new mandatory regulatory learning module (e.g. the current module is on Indigenous Peoples, histories, and the ongoing impacts of colonization, and last year's module was on Duty to Report); and, creation of a continuing

[21] SBC 2018, c. 47.

education plan. In addition, a registrant must complete 60 hours of continuing education over a three-year period.[22]

16. Another example of a professional regulatory body requiring continuing professional development requirements from its members is the Chartered Professional Accountants of BC. Accountants must complete 20 hours of CPD per year, 10 of which are verifiable (e.g. courses) and 10 of which are additional hours, which may be unverifiable (e.g. reading professional journal articles). In addition, accountants must complete 120 CPD hours every three years, with the same split of 60 verifiable hours and 60 additional CPD hours. Four of the verifiable hours must include ethics, with 1.5 hours of that time on anti-money laundering training.[23]

17. Examples of other legal regulators in Canada include the Law Society of Ontario, which requires licensees to complete one hour of eligible activities for every month of the year the licensee is practising law or providing legal services (i.e. the requirement applies to lawyers and paralegals), and 25% of the overall time per year must cover ethics, professionalism or practice management.[24] The Law Society of Alberta developed its Professional Development Profile in 2020.[25] Lawyers are required to submit a CPD plan each year, selecting two out of the 29 competencies identified in the Profile, and the learning activities they plan to take to achieve those competencies.[26]

18. As mentioned in the Background section of this paper, the Notaries Society and Law Society of BC have approached CPD requirements in a comparable manner, requiring mandatory reporting of hours or credits completed, with minimal direction as to the content of those hours outside of ethics, professionalism, and practice management. Accreditation for courses is offered or required by the two societies. Compared to other legal regulators like

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[22] Engineers and Geoscientists BC, "Continuing Education Program" (2025) https://www.egbc.ca/Registrants/Continuing-Education/Continuing-Education-Program.

[23] Chartered Professional Accountants of BC, "CPD Requirements" (2025) https://www.bccpa.ca/member-practice-regulation/continuing-professional-development-cpd/cpd-requirements/#vs.

[24] Law Society of Ontario By-Laws, By-Law 6.1-2(2).

[25] Law Society of Alberta, "Professional Development Profile for Alberta Lawyers" (2022).

[26] Law Society of Alberta, "CPD Plan Requirements and Tool" (2025) https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-requirements/.

the Law Society of Alberta, or other professional regulatory bodies within BC, the approaches of the two societies prior to amalgamation are straightforward to draft rules for, administer operationally, and for licensees to comply with.

19. However, from the brief overview of other regulators, continuing competence and education may be an area for further consideration after amalgamation date. Accordingly, the recommendations focus on continuing a version of hours or credits per year for all licensees to be self-reported to the regulator with the hours or credits and eligible activities to be established by policy. The benefit of this approach is that the transitional board and transitional Indigenous council meet the requirement for continuing competence and education under the *Legal Professions Act*, all licensees are required to complete and report to the regulator their CPD, and those who are already licensed will have a similar CPD requirement going into the transition. Staff will return to the transitional board and transitional Indigenous council a CPD policy supported by the rules, once drafted. After amalgamation date, once the board and Indigenous council have time to direct further policy research on this topic, the policy respecting CPD may change, with minimal amendments to the rules needed. In accordance with directions already provided by the transitional board and transitional Indigenous council, the requirements for CPD should be the same across the legal professions, although the content of the eligible activities may be different given the variety in scopes of practice and each licensee's practice needs.

20. It is anticipated that there will be instances when licensees may need exemptions from any CPD requirements due to when in the calendar year they start their licence, going to non-practising status, or other unforeseen circumstances. Some of these instances may be easier to identify, and regulators sometimes have rules to address the more common occurrences.[27] Another approach is to draft a rule that allows, on application, the CEO (or in practice, their delegate) to consider an exemption request for some or all of the CPD requirements.[28] The benefit of having an exemption request considered by the CEO is that it allows for greater flexibility in determining an individual licensee's request, although it is less transparent in its operation compared to specific rules. The transitional board and transitional Indigenous council may wish to allow for flexibility in the exemption request

[27] For example, see Law Society Rules, Rule 3-29(4) to (6).

[28] For example, see Law Society of Ontario By-Laws, By-Law 6.1-2(4).

process for the first set of rules for Legal Professions BC, and then once the review work is completed, revise any rules respecting exemptions as deemed necessary at that future date.

Recommendations

3) The rules should require mandatory completion and reporting of CPD requirements each year for all licensees, including rules to address late completion or failure to complete, with the hours or credits and eligible activities to be established by policy.

4) The transitional board and transitional Indigenous council should determine the required hours of CPD for each class of licensee.

5) The rules should allow for an exemption request by a licensee to be considered by the CEO for some or all of the mandatory CPD requirements.

6) The rules should direct that the regulator must provide free CPD option so that CPD does not become a financial barrier that disproportionately impacts under-represented licensees. The Law Society of BC currently offers free CPD options.

Mandatory course for first year licensees

21. Another option for consideration by the transitional board and transitional Indigenous council for continuing competence and education is a mandatory course for first-year licensees intended to address the challenges that arise earlier on in a legal career. One benefit of the course is that it allows for licensees to gain more practice experience prior to undertaking more training and provides the regulator with an additional mechanism to help address any competency issues before turning into disciplinary matters.

22. The Notaries Society currently requires that all newly commissioned notaries take its New Notary Workshop in the year following their commissioning. The Law Society does not have a similar post-call requirement for lawyers, but as outlined in the Pathways to Licensure policy paper, has a practice management course requirement pre-call, which makes it part of the licensing process discussion and not a continuing competency requirement. The Practice Management course for lawyers is generally completed pre-call but may also be required when a lawyer starts a solo practice, when a lawyer joins a small firm, or when a

lawyer leaves a firm that had five lawyers and becomes a small firm, that firm may be required to complete the course.[29]

23. Following the recommendations in the Pathways to Licensure policy paper to continue the current pathways for licensing notaries and lawyers for amalgamation day, this is one area where there may be a difference in treatment between the professions carried over to Legal Professions BC. The New Notary Workshop is an in-person course, and due to the limited number of notaries commissioned per year, and the predictable timing of their commissioning, it is more straightforward to continue for amalgamation date. Accordingly, the recommendation is for rules that require notaries to complete the mandatory course within one year of being issued a licence by Legal Professions BC. The transitional board and transitional Indigenous council may wish to recommend a review of the potential for similar courses to be designed and required by lawyers and regulated paralegals after amalgamation date.

Recommendations

7) The rules should require the mandatory completion of a New Notary Workshop for all newly licensed notaries within a time specified in the rules.

8) The transitional board and transitional Indigenous council should recommend for Legal Professions BC to consider a similar course for lawyers and regulated paralegals after amalgamation date.

9) If a rule is created that requires a practice management course mirroring the Law Society of BC, it should be required for all new licensees. Also, the rules could permit the regulator to require completion of a practice management review course for licensees shifting to solo practice, to working for a small firm, and when a large firm becomes a small firm.

[29] Law Society of British Columbia, *Law Society Practice Management Course*, online: Law Society of British Columbia <https://www.lawsociety.bc.ca/for-lawyers/registration-and-licensee-services/law-society-practice-management-course/>

IV. Decisions required

24. In summary, the main discussion and direction items for the transitional board and transitional Indigenous council respecting continuing competence and education are:

    1) The rules should require the mandatory completion of an Indigenous cultural competency training course by all licensees, including rules to address late completion and failure to complete.

    2) There should be a rule that refers the matter of the Indigenous cultural competency course to the Indigenous Council for their direction on the content and the components of the course. This rule should also have a subclause that permits the Indigenous Council to prescribe specific required content for specific practice areas that require action regarding Indigenous peoples.

    3) The rules should require a mandatory completion and reporting of CPD requirements each year for all licensees, including rules to address late completion or failure to complete, with the hours or credits and eligible activities to be established by policy, with a recommendation to review the CPD requirements after amalgamation date.

    4) If a rule requiring mandatory CPD requirements is created, the transitional board and transitional Indigenous council should determine the required hours of CPD for each class of licensee.

    5) The rules should allow for an exemption request by a licensee to be considered by the CEO for some or all of the mandatory CPD requirements.

    6) The rules should provide that the regulator "must" provide free CPD courses so that the requirements do not become a financial barrier disproportionately felt by under-represented groups.

    7) The rules should require the mandatory completion of a New Notary Workshop for all newly licensed notaries within a time specified in the rules.

8) The transitional board and transitional Indigenous council should recommend for Legal Professions BC to consider a similar course for lawyers and regulated paralegals after amalgamation date.

9) If a rule is created for a practice management course it should mirror the Law Society of BC standard of being required for all new licensees, and for existing licensees when they shift to a solo practice, and for transitions from a large firm to a small firm.

25. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with a follow-up paper for discussion and decision at a future date.

Transitional Board and Transitional Indigenous Council

Licensing and Enrolment – Business Structures – Policy Report

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion/Direction**
Date:	**October 22, 2025**
Version:	**V1**

I. Context and background

Background

1. Business structures refer to four entities under the new *Legal Professions Act*: law firms, law corporations, limited liability partnerships ("LLPs") and alternative business structures. Some of these business structures are required for day one of amalgamation to ensure continuity of practice and will need rules to support the application, issuing, renewal and cancellation of permits or authorizations. Others are more complicated to implement and may be better addressed after amalgamation date.

2. The Notaries Society currently permits law corporations and limited liability partnerships but does not have rules regulating notary firms or authorizing alternative business structures. Like the Notaries Society, the Law Society also permits law corporations and limited liability partnerships. In addition, the Law Society requires the registration of law firms and authorizes one model of an alternative business structure through a multi-disciplinary practice. Further details regarding the current practices of the two amalgamating regulators and the need for continuity under Legal Professions BC will be discussed in the relevant sections of this paper.

II. Alignment to the Act

3. Part 14 of the *Legal Professions Act* addresses business structures. Under the legislation the terms "law firm", "law corporation", and "limited liability partnerships" are applicable to lawyers, notaries, and regulated paralegals. For example, a law firm regulated by Legal Professions BC may be an entity with only notaries, lawyers, regulated paralegals or a combination. Section 238 of the *Legal Professions Act* provides a transition provision and establishes that a law corporation (lawyer) or notary corporation (notary) that holds a permit immediately before the amalgamation date is deemed to hold a law corporation permit issued under section 192.

4. Sections 191 and 192 are provisions respecting law corporations and are connected to the limits and conditions for corporations in the *Business Corporations Act*.[1] Section 193 provides that liability for an individual licensee's own professional negligence is not affected

[1] SBC 2002, c. 57.

if the licensee is practising law as an employee, shareholder, officer, director, or contractor of a law corporation or on its behalf, or through a limited liability partnership. Section 193 states that a licensee's fiduciary, confidentiality, and ethical duties, including rights and obligations respecting professional communications and undertakings, exist regardless of whether the provision of legal services is provided through a law corporation or limited liability partnership.

5. Section 194 allows the board to make rules respecting law firms, including as suggestions in subsection (2) rules respecting registering or obtaining a permit for a law firm, establishing application procedures, requiring a law firm to designate a practising licensee as a contact person, specifying information to be provided, and establishing permit fees. The section is a permissive rule-making authority, not a mandatory requirement.

6. Section 195 is a similar permissive rule-making power that allows the board to make rules respecting law corporations. The section includes the general provisions suggesting rules on application, issuance, renewal, and cancellation of a law corporation permit, as well as authorizing the CEO to impose limits or conditions on a permit. For law corporations, section 195(2)(d) also suggests rules respecting the naming conventions and approval of a law corporation and the disposition of shares.

7. Section 196 addresses limited liability partnerships and provides that the board may make rules respecting the practice of law through a limited liability partnership, including rules establishing the requirements, limits and conditions for licensees and law corporations to practise law through a limited liability partnership.

8. Section 197 concerns alternative business structures, which are entities other than a sole proprietorship, a law corporation, or a partnership where the practice of law is carried out. Subsection (2) includes suggested rules the board may wish to consider, including authorizing licensees to practise law through an alternative business structure, authorizing an alternative business structure to include persons who are not licensees, and establishing limits and conditions of any authorizations.

9. Alternative business structures are included in the definition of "law firm" at s. 1. The s. 1 definition includes a sole proprietorship, law corporation, partnership, or any other business structure, arrangement or legal entity through which one or more licensees practice law. Without permissive rules however, there are gaps between what persons the different law firms are permitted to "carry on the business of the practice of law through".

10. Section 191(1)(b) allows law corporations to practise law through persons referred to in s. 38(1)(b), (c), (f), or (g) who are employees at the law corporation.[2] However, there is no similar clause for other law firms generally, and none specifically in the clauses for LLPs, and alternative business structures. This brings in the principle of statutory interpretation *exclusio unius est exclusio alterius* or "the inclusion of one thing is the exclusion of the other". The exclusionary rule means that law firms, LLPs and alternative structures are not inherently permitted to practice through persons referred to at s. 38(1)(b), (c), (f), or (g) who are employees, although law corporations are.[3] Permissive rules would need to be drafted that allow law firms, LLPs and alternative business structures to practice law through persons referred to in s. 38(1)(b), (c), (f) or (g) who are employed there to make these structures equal to law corporations. This would build the regulator so it does not create a two-tiered system of business structures that puts law corporations above other business structures and prevents a potential disproportionate barrier against Indigenous-led business structures made pursuant to their unique institutional and economic rights (see further in this paper).

11. The rules for alternative business structures could help with facilitating access to legal services, the implementation of the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") and reconciliation with Indigenous peoples, removing and preventing barriers to Indigenous peoples, and meeting that mandate in a manner that is proportional to the risk to the public.

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[2] This referentially incorporates the following in s. 38:

38 (1) Section 37 does not apply to any of the following persons:

(b) a trainee who practises law as permitted by the rules;

(c) a person who

(i) is employed by a licensee, a law firm, a law corporation or the government,

(ii) acts under the supervision of a practising licensee, and

(iii) practises law as permitted by the rules;

(f) a person authorized to practise law in another jurisdiction who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;

(g) a practitioner of foreign law who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;

[3] Sullivan, Ruth. "Statutory Interpretation in a New Nutshell." (2003) Canadian Bar Foundation. Online: LINK ; see also see *Winters v. Legal Services Society,* 1999 Canlii 656(SCC), 3 SCR 160, at para. 48. Online: LINK; citing in *Rizzo & Rizzo Shoes ltd.(re),* 1998 Canlii 837 (SCC) 1 SCR 27. Online: LINK.

III. Discussion

Law firms

12. Under many of the provisions of the *Legal Professions Act*, law firms carry the same professional responsibility obligations and face the same disciplinary consequences as individual licensees and trainees. For example, section 71(1) states that a licensee, law firm, or trainee must practise law in accordance with all applicable requirements of professional conduct established in the Act and rules, and the code of professional conduct. Section 71(2) states that a licensee, law firm, or trainee must not engage in conduct that constitutes professional misconduct or conduct unbecoming a professional, or practise law incompetently. This section allows for regulation of the legal professions at a law firm's level. There are benefits to holding law firms accountable to the same standards of professional responsibility and ethics required from individual licensees. Examples include breaches of the regulator's rules respecting a law firm's trust account or when the law firm is wilfully blind to instances of harassment and discrimination within the law firm.

13. As mentioned above, since 2018 the Law Society has required law firms, other than government, in-house counsel and law corporations that provide legal services as part of another law firm, to register with the regulator. Continuation of a similar registration process should be straightforward under Legal Professions BC, including expanding the requirement to future law firms of any configuration of legal professionals (e.g. notary law firms; future regulated paralegal law firms). The benefit of registration is that it allows for Legal Professions BC to collect data respecting law firms and for the law firm to provide a contact person through which the regulator may communicate. The topic of interjurisdictional law firms and their needs will be discussed as part of a policy paper on mobility considerations.

14. In terms of rules required for amalgamation and continuity in practice settings after amalgamation date, the transitional board and transitional Indigenous council may wish to establish a registration process for law firms outside of specific exemptions such as government, in-house or law corporations providing legal services within another law firm, for amalgamation date including drafting rules to support registration. Further options, such as permits and reporting requirements, may be better explored after the amalgamation date.

15. Law firms are not explicitly authorized to practice law through persons referred to in s. 38(1)(b), (c), (f), and (g) like law corporations are at s. 191(1)(b).[4] The *exclusio unius exclusio alterius* rule of statutory interpretation means that law firms would need to be empowered by a rule to allow them to have the same persons permitted to practice law as s. 191(1)(b) permissions to law corporations.[5]

Recommendation

1) The rules should require the registration of law firms contemplated by section 194. Those rules should consider and specify exemptions for certain types of firms.

2) The rules should authorize law firms to practice law through persons referred to in s. 38(1)(b), (c), (f), and (g) who are employees at the law firm, to mirror the permission given to law corporations at s. 191(1)(b).

Law corporations

16. Section 195(1) of the *Legal Professions Act* states that the board may make rules respecting law corporations. The Act defines a "law corporation" as a corporation that holds a law corporation permit issued under section 192. Section 238 of the Act also provides that a corporation immediately before the amalgamation date is deemed to hold a law corporation permit under the *Legal Professions Act* if it is a law corporation issued under section 82 of the *Legal Profession Act*, or a notary corporation under section 58 of the *Notaries Act*. This transitional provision means that there will be law corporations at

[4] 191(1)(b) permits law corporations to practice law through:

(b) a trainee who practises law as permitted by the rules;

(c) a person who

(i) is employed by a licensee, a law firm, a law corporation or the government,

(ii) acts under the supervision of a practising licensee, and

(iii) practises law as permitted by the rules;

(f) a person authorized to practise law in another jurisdiction who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;

(g) a practitioner of foreign law who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;

[5] *Winters v. Legal Services Society,* 1999 Canlii 656(SCC), 3 SCR 160, at para. 48. Online: LINK; citing in *Rizzo & Rizzo Shoes ltd.(re),* 1998 Canlii 837 (SCC) 1 SCR 27. Online: LINK.

amalgamation date. Rules are required to ensure continuity of the law corporation permit process.

17. Law corporations are explicitly authorized to carry on the practice of law through persons referred to in s. 38(1)(b), (c), (f), or (g), under s. 191(1)(b). The same explicit permission is not stated for the other "law firms" in the s. 1 definition.

18. The transitional board and transitional Indigenous council should note that the issuing of a law corporation permit is a multi-step process that requires applications to the Registrar of Companies to reserve a corporate name, approval of that corporate name from the regulator in accordance with the rules and code of professional conduct, registering the law corporation with the approved name with the Registrar of Companies, and then application and issuing of a law corporation permit from the regulator.[6] This process is best captured as a policy, with rules drafted to support this process, including rules on the issuing, amending, renewing,[7]. Examples of existing rules and processes may be found in the current rules for the Notaries Society.[8]

Recommendation

3) The rules should provide for issuing a permit for law corporations, including rules respecting names and approval of names, listing a person of contact, and issuing, amending, renewing, and cancelling of permits.

Limited liability partnerships

19. Section 196 of the *Legal Professions Act* provides that the board may make rules respecting limited liability partnerships. Section 190 defines "limited liability partnership" as a partnership registered under Part 6 of the *Partnership Act*.[9] Like law corporations, both the Notaries Society and Law Society have issued permits respecting LLPs. Unlike law corporations, there is no provision in the *Legal Professions Act* for the transition of LLPs to the new regulator. Rules are required to authorize licensees to carry on the practice of law through LLPs for amalgamation date, to ensure the continuity of already existing LLP

[6] For example, please see: Law Society of British Columbia, "Law Corporation Permit" (2025) https://www.lawsociety.bc.ca/for-lawyers/registration-and-licensee-services/law-corporation-permit/.

[7] Notaries Rules, Rules 7.19 to 7.51.

[8] Law Society Rules, Rules 9-1 to 9-11.

[9] RSBC 1996, c. 348.

arrangements and to provide the option for all licensees to practise under such an arrangement.

20. Section 196 does not explicitly authorize LLPs to practice law through persons referred to in s. 38(1)(b), (c), (f), or (g) who are employees there, though that permission is given to law corporations at s. 191(1)(b).[10] The *exclusio unius exclusio alterius* rule of statutory interpretation means a rule would need to be created to permit LLPs the same permissions as law corporations.[11]

21. Similar to the discussion above on law corporations, the issuing of a LLP permit is a multi-step process, involving reserving a proposed business name with the Registrar of Companies, having the name approved by the regulator in accordance with the rules and code of profession conduct, registering the LLP with the Registrar of Companies in accordance with the *Partnership Act*, and finally registering the LLP with the regulator.[12] Like law corporations, this process is best captured by a policy with rules drafted to support this process including rules requiring the disclosure of LLP status to the public. The Notaries Society[13] and the Law Society[14] have examples of rules and processes as both organizations permit their members to practise through LLPs.

Recommendation

[10] 191(1)(b) permits law corporations to practice law through:

(b) a trainee who practises law as permitted by the rules;

(c) a person who

(i) is employed by a licensee, a law firm, a law corporation or the government,

(ii) acts under the supervision of a practising licensee, and

(iii) practises law as permitted by the rules;

(f) a person authorized to practise law in another jurisdiction who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;

[11] *Winters v. Legal Services Society,* 1999 Canlii 656(SCC), 3 SCR 160, at para. 48. Online: LINK; citing in *Rizzo & Rizzo Shoes ltd.(re),* 1998 Canlii 837 (SCC) 1 SCR 27. Online: LINK.

[12] For example, see: Law Society of British Columbia, "Limited Liability Partnerships" (2025) https://www.lawsociety.bc.ca/for-lawyers/registration-and-licensee-services/limited-liability-partnership-(llp)-registration/.

[13] Notaries Rules, Rules 7.19 to 7.51.

[14] Law Society Rules, Rules 9-12 to 9-20.

4) The rules should authorize the practice of law through a limited liability partnership, including rules respecting names and approval of names, listing a person of contact, and issuing, amending, and dissolving a partnership, and disclosure of LLP status.

5) The rules should permit LLPs to practice law through persons referred to in s. 38(1)(b), (c), (f), and (g) who are employees there, to mirror the permission given to law corporations at s. 191(1)(b).

Alternative business structures

22. Section 197 of the *Legal Professions Act* provides that the board may make rules respecting business structures other than a sole proprietorship, a law corporation, or a partnership, through which the business of the practice of law is carried out. These "alternative business structures" ("ABS") models may include persons who are not licensees under section 197(2)(b). There are numerous examples of ABS models, including co-ownership across the regulated legal professions (e.g. a business structure comprising of an ownership model between lawyers, notaries and regulated paralegals); multi-disciplinary practices (e.g. a business structure comprising an ownership model between a legal professional and other regulated professional like an accountant or engineer); and non-legal professional ownership (e.g. outside investors, including publicly traded or employee-owned organizations). Since the mid-2000s, states in Australia, and England and Wales have allowed for some level of ABS models.

23. Currently, the Law Society allows lawyers to practise in a multi-disciplinary practice setting,[15] but there are restrictions on the practice due to lawyers having obligations provided by the *Code of Professional Conduct*, including confidentiality requirements,[16] space sharing considerations,[17] and a prohibition on splitting fees with any person other than a lawyer.[18] The Law Society does not allow for other forms of business structures such as non-lawyer owned companies. There are currently only a few lawyers practising through an MDP. The Notaries Society does not allow alternative business structures.

[15] Law Society Rules, Rules 2-38 to 2-49.

[16] *Code of Professional Conduct for British Columbia*, Code rule 3.3-1.

[17] *Code of Professional Conduct for British Columbia*, Code rule 3.4-42.

[18] *Code of Professional Conduct for British Columbia*, Code rule 3.6-7.

24. The recognition of ABS models involves consideration of multiple other professional regulation areas, including a review of the code of professional conduct for legal professionals required for amalgamation date. In addition, decisions such as trust accounting, privilege, and indemnification need to be addressed prior to any consideration of authorizing ABS models. Other than the need to recognize already existing permits for lawyers that carry-over from the Law Society to Legal Professions BC, the transitional board and transitional Indigenous council may wish to recommend that the consideration of ABS's occurs after amalgamation date. For amalgamation date, rules authorizing the already existing multi-disciplinary practices from the Law Society are the only ones needed for continuity purposes.

25. Additionally, the transitional board and transitional Indigenous council may wish to approach the authorization of ABS's in a similar manner to that of limited practice licences through rules like those drafted to support an innovation sandbox. If requested, then rules would be drafted that allow for consideration of any ABS model on a case-by-case basis on amalgamation date. The benefit of this approach is that it allows for the full spectrum of business structures envisioned by the *Legal Professions Act*, and for the regulator to collect data on what types of models are seeking authorization. The downside is that applicants may not be motivated to apply unless more surety for authorization is provided. However, this may be considered a "transition" rule until further research and development of ABS models is conducted after amalgamation date.

26. As was decided at the September 17 Board Meeting, the transitional board and transitional Indigenous Council should take consideration for how permissive rules can facilitate the mandate of the Guiding Principles and the role of the Indigenous Council. Permissive rules that allow the authorization of alternative business structures could help to ensure the regulator is not built to be a barrier to facilitating access to legal services, supporting reconciliation with Indigenous peoples and the implementation of UNDRIP, and removing and preventing barriers faced by Indigenous peoples. By using subclauses in the rules that require inclusion of the Indigenous Council for advice and collaboration with the CEO and Board when relevant, the rules can allow the Indigenous Council to fulfill their s. 30 role on the implementation of UNDRIP, the incorporation of Indigenous legal traditions and practices, and the systemic challenges faced by Indigenous peoples that require action.

27. The new *Legal Professions Act* at s. 7 brings in a statutory requirement to have regard for the implementation of UNDRIP, to be informed by advice and collaboration with the

Indigenous Council, as per their role at s. 30. This means that legal regulation must have regard for the following:

a. Article 3 which states that Indigenous people have the right to pursue their economic, social, and cultural development;
b. Article 5, which states that Indigenous people have the right to maintain and strengthen their distinct political, social, economic, social, and cultural institutions but also participate in the political, economic, social, and cultural institutions of the state;
c. Articles 18 and 20 which state their rights to shape their economic and social institutions and participate in decision-making that effects their rights;
d. Article 23 which states that Indigenous people have the to developing and determining priorities and strategies for economic and social programmes affecting them;
e. Article 33 which states that Indigenous people have the right to determine the structures and membership of their institutions in accordance with their own procedures; and
f. Article 43 which states that the rights in UNDRIP are the minimum standards for the survival, dignity, and well-being of Indigenous peoples.

These articles speak to economic and institutional developmental rights that Indigenous peoples have. To have regard for the s. 7 Guiding Principles, the rules should ensure that the regulator is not built with inherent barriers to these rights in this transitional time.

28. Section 197(a) allows the board to make rules authorizing alternative business structures. For coherence with the above UNDRIP rights, the rules should permit the decision-maker to authorize alternative business structures. This would create an entry point for alternative business structures made by Indigenous peoples who have chosen to exercise their rights to self-determination in structuring their economic and social development entities using Canadian and BC laws. This would not mean every alternative business structure gets approved but instead ensures that the regulator is not built with an inherent barrier to recognizing alternative business structures.

29. Increasingly in BC, Indigenous peoples use Canadian legal entities like business associations that reflect governance or legal interests in their legal tradition.[19] As the rules will be unable

[19] For example, Cowichan Tribes uses a legal entity under their *Snuw'uy'ulhtst tu Quw'utsun Mustimuhw u' tu Shhw'a'luqwa'a' i' Smun'eem [Laws of the Cowichan People for Families and Children]* that incorporate governance

to capture all potential structures across BC and should not interfere with the practice of Indigenous legal traditions, the rules should be permissive to potentially authorize alternative business associations developed by and for Indigenous peoples.

30. For coherence with the Indigenous economic and institutional self-determination rights in UNDRIP, the Guiding Principles at s. 7 and the Role of the Indigenous Council at s. 30, the rules should require advice from and collaboration with the Indigenous Council in the decision-making related to alternative business structures pursuant to the Indigenous considerations in the new *Legal Professions Act*. This would build in regulation that has regard for the risk to the public. The Indigenous Council can help to ensure that Indigenous-based alternative business structures do not face disproportionate barriers and are also not used as a backdoor around the legal oversights for the practice of law through other business structures. Moreover, advice from and collaboration with the Indigenous Council is a mechanism for protecting the public by ensuring that the new regulator does not encroach on regulating Indigenous peoples practicing their own legal traditions.

31. Section 197(b) permits the board to make rules authorizing business structures that include non-licensees. There should be a permissive rule that empowers the decision-maker to authorize a business structure that includes non-licensees. This would allow a potential entry point for Indigenous-led corporate entities that does not inherently present a barrier to persons exercising Indigenous economic rights to structure their for-profit or revenue

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and decision making to be led by *sul-hween* (Elders). This is a new entity made pursuant to Bill C-92, *An Act Respecting First Nations, Inuit and Metis children youth and families* which recognized Cowichan Tribe's inherent rights and recognized new Indigenous-led legal entities that Indigenous Nations could use in Canadian Law. The new legal entity can use their cultural protocols for decision-making. Cowichan Tribes, *Snuw'uy'ulhtst tu Quw'utsun Mustimuhw u' tu Shhw'a'luqwa'a' i' Smun'eem [Laws of the Cowichan People for Families and Children]* (11 June 2024), online: Cowichan Tribes <https://ourchildlaw.cowichantribes.com/wp-content/uploads/2024-06-11-Cowichan-CFS-Law-FINAL-Approved-by-Council-003.pdf>.

Another example is the Aboriginal Coalition to End Homelessness,a non-profit society created under the BC *Societies Act* which incorporates Coast Salish Big House teachings into their institutional governance and mission statement. The development of legal entities made in BC and Canadian law that reflect Indigenous legal principles is a rapidly growing area of the Law in BC, as the University of Victoria just graduated their first cohort in their Masters of Business Administration in Advancing Reconciliation in partnership with the British Columbia Association of Aboriginal Friendship Centres.
Aboriginal Coalition to End Homelessness Society, *Aboriginal Coalition to End Homelessness* (2025), online: <https://acehsociety.com/>.

generating ventures. Under s. 191(6), a person may not vest a voting right attached to shares in a law corporation if the person is not a practicing licensee or a law corporation. Also, under s. 195(f) there may be rules related to the disposition of shares when a shareholder of a law corporation ceases to be a licensee. These clauses present a baseline in the legislation that shareholders of a law corporation to vote and make agreements through a licensee, or that a shareholder will need to be a licensee. This was the case for lawyers under the previous *Legal Profession Act*, at s. 82 where only a lawyer or law corporation could hold a voting share, and a non-voting share could only be held by a lawyer, a law corporation, a person or relative who resides with a lawyer, or a trust with lawyers and law corporations as beneficiaries.[20] As well, previously for a law corporation, all the directors and the president had to be practising lawyers. Unilaterally importing a similar structure that only permits licensees for all business structures would create a barrier to Indigenous groups exercising their rights to economic and institutional self-determination.

32. Many Indigenous groups use corporate entities in Canadian and BC law to provide services to their members and to generate income. The rules should be permissive under s. 197(b) to prevent a barrier to Indigenous peoples exercising their UNDRIP rights to economic and institutional self-determination. This would allow an Indigenous created entity that has non-licensee shareholders, permits those people to exercise their interests by entering into shareholder's agreements, voting agreements, and to vote via a proxy, in a way that they cannot under s. 191(6), are assumed not to be able to vote under s. 195(f), and could not under the previous *Legal Profession Act*. It would also allow for-profit ventures that have non-licensee directors, which may be the desire of an Indigenous government or group of licensees. An Indigenous group may provide other comprehensive community services that they may be barred from as a law corporation under s. 191(3). Without creating a potential entry point to develop their own business structures, the regulator would have a built-in barrier to the exercise of UNDRIP rights to self-determination in economic ventures, shaping institutions and developing social programming.

33. If a permissive rule is created that allows the decision-maker to approve business structures that include persons who are not licensees, as with the rules that generally permit alternative business structures, there should be an additional rule that requires advice and collaboration with the Indigenous Council in decision-making when the alternative structure is requested pursuant to the Indigenous considerations in the s. 7 Guiding Principles to

[20] *Legal Profession Act*, RSBC 1998 c 9 s. 82. Online: Legal Profession Act.

discharge the s. 30 role of the Indigenous Council. This will allow regard for the inclusive elements of the Guiding Principles but also protect the public by ensuring the regulator does not encroach on regulating Indigenous legal orders. Instead, the regulator should only be regulating Indigenous entities built for the practice of Canadian and Provincial law using state law mechanisms that the Indigenous peoples willingly opted-into.

34. Section 197(c) states that the Board may make rules establishing requirements, limits, and conditions for licensees to carry on the practice of law through the business structure described in paragraph (a). As with the recommendations for other business structures, the rules should allow alternative business structures to practice law through persons referred to in s. 38(1)(b), (c), (f), or (g) who are employees there to give them equal permissions as those given to law corporations.[21] Where necessary, limits can be imposed to ensure regulation proportional to the risk to the public. However, restraint should be used when giving limits, conditions, and requirements, so that the conditional permits do not render alternative business structures as inherently second-class entities to the other permitted business structures. Otherwise, there could be a discriminatory effect disproportionately impacting Indigenous people exercising their rights to develop their own social and economic institutions in Canadian law.

35. Alternative business structures are an opportunity to facilitate governance that is coherent with the mandate of the s.7 Guiding Principles and the s. 30 role of the Indigenous Council. Given that the CEO is the decision-maker for issuing permits, the Indigenous Council can exercise their advisory and collaborative responsibility to the CEO and the Board if the rules necessarily incorporate them into decision-making. Certain applications for alternative business structures should be a matter referred for advice from and collaboration with the Indigenous Council to fulfill their s. 30 role with the CEO and Board. The rules should trigger this advisory and collaborative role when the purpose of an alternative structure is to better facilitate access to legal services for Indigenous peoples, to aid in the implementation of

[21] 191(1)(b) permits law corporations to practice law through:

(b) a trainee who practises law as permitted by the rules;

(c) a person who

(i) is employed by a licensee, a law firm, a law corporation or the government,

(ii) acts under the supervision of a practising licensee, and

(iii) practises law as permitted by the rules;

(f) a person authorized to practise law in another jurisdiction who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;

UNDRIP and reconciliation with Indigenous peoples, or to remove and prevent barriers faced by Indigenous peoples to entering the practice of law.

Recommendations

6) The rules should authorize the existing multi-disciplinary practices to transition to Legal Professions BC.

7) The rules should allow for the application and consideration of an ABS of any type on a case-by-case basis.

8) The rules for alternative business structures should be permissive, that the decision-maker "may":
    a. authorize licensees to carry on the practice of law through a business structure other than a sole proprietorship, a law corporation, or a partnership;
    b. authorize the business structures described in (a) to include persons who are not licensees; and
    c. may place requirements, limitations, or conditions on the practice of the employees at the business.

    This should also have a conditional clause that says:

    > "If a business structure that is not a sole proprietorship, a law corporation, or a partnership, is authorized for the practice of law, it may carry on the business of practicing law through the persons referred to in s. 38(1)(b), (c), (f), and (g) who is an employee of the business".

    Alternatively, another way to phrase these rules that achieve the same end would work. These rules would allow ABS to be equal to law corporations once they are approved. This would prevent a built-in discriminatory effect that is disproportionately against Indigenous-led ABS.

9) If permissive rules for alternative business structures are created, they should have an accompanying rule that refers the matter for advice and collaboration with the Indigenous Council when deciding on an alternative business structure that implicates the Indigenous considerations of the s. 7 Guiding Principles or if it is another matter in the advisory and collaborative role of the Indigenous Council at s. 30. This would facilitate the role of the Indigenous Council, would work to ensure ABS's are not a way around the obligations for other business structures, and ensure that the regulator does not encroach on regulating Indigenous legal orders.

IV. Decisions required

36. In summary, the main discussion and direction items for the transitional board and transitional Indigenous council respecting business structures are:

1) The rules should require the registration of law firms contemplated by section 194. Those rules should consider and specify exemptions for certain types of firms.

2) The rules should authorize law firms to practice law through persons referred to in s. 38(1)(b), (c), (f), and (g) who are employees at the law firm, to mirror the permission given to law corporations at s. 191(1)(b).

3) The rules should provide for issuing a permit for law corporations, including rules respecting names and approval of names, listing a person of contact, and issuing, amending, renewing, and cancelling of permits.

4) The rules should authorize the practice of law through a limited liability partnership, including rules respecting names and approval of names, listing a person of contact, and issuing, amending, and dissolving a partnership, and disclosure of LLP status.

5) The rules should permit LLPs to practice law through persons referred to in s. 38(1)(b), (c), (f), and (g) who are employees there, to mirror the permission given to law corporations at s. 191(1)(b).

6) The rules should authorize the existing multi-disciplinary practices to transition to Legal Professions BC.

7) The rules should allow for the application and consideration of an ABS of any type on a case-by-case basis.

8) The rules for alternative business structures should be permissive, that the decision-maker "may":
   a. authorize licensees to carry on the practice of law through a business structure other than a sole proprietorship, a law corporation, or a partnership,
   b. authorize the business structures described in (a) to include persons who are not licensees; and
   c. may place limitations or conditions on the practice of the employees at the business.

This rule should also have a conditional clause that says:

> "If a business structure that is not a sole proprietorship, a law corporation, or a partnership, is authorized to practice law, it may carry on the business of practicing law through the persons referred to in s. 38(1)(b), (c), (f), and (g) who are employed at the business".

Alternatively, another way to structure these rules to achieve the same end would work. These rules would allow ABS to be equal to law corporations and other law firms once their structure is approved by the decision-maker. It would also ensure the regulator does not have a built-in discriminatory effect that is disproportionately against Indigenous-led ABS.

6) If permissive rules for alternative business structures are created, they should have an accompanying rule that refers the matter for advice and collaboration with the Indigenous Council when deciding on alternative business structures in a way that implicates the Indigenous considerations of the s. 7 Guiding Principles or as a matter in the advisory role of the Indigenous Council at s. 30. This would facilitate the s. 30 role of the Indigenous Council, work to ensure ABS's are not a way around obligations for other business structures, and prevent the regulator from encroaching on regulating Indigenous legal orders.

37. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with follow-up paper for discussion and decision at a future date.