LPBC Transitional Board and Transitional Indigenous Council

Joint Meeting

Agenda

Meeting Date:	April 13, 2026
Meeting Time:	9:00 AM – 4:00 PM PST
Meeting Location:	Law Foundation of BC: 1500-675 West Hastings St, Vancouver, V6B 1N2

Attendees:

Board Members

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

Indigenous Council Members

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

Advisory Committee Members

Paul Craven	Josh Paterson KC
John Mayr	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	Legislative Counsel
Jamie Maclaren KC	Legal Advisor to the BC Paralegal Association
Jared Friedman	Project Management
Alastair Caddick	Project Management
Maddie Holm-Porter	Project Support
Karen Lau	Project Support

#	Discussion Points	Lead	Est. Start Time	Est. Time	Materials
1	Welcome and Acknowledgements	Board Chair	9:00AM	5 min	
	Consent Agenda				
2	March 18, 2026 Meeting Minutes	Board Chair	9:05 AM	5 min	Draft Minutes
	Updates				
3	Update from the Project Director	Project Director	9:10 AM	5 min	
4	Transition Cost report from LSBC/SNPBC	Board Chair	9:15 AM	15 min	2025 Actuals YTD / 2026
	Discussion/Decision				
5	Parts 3 and 17 Div3 – Legal Professions BC	Cary Ann Moore	9:30 AM	30 min	Briefing Note Draft – Part 3 Draft – Part 17
6	Parts 15 and 16 – Enforcement & General	Cary Ann Moore	10:00 AM	30 min	Briefing Note Draft – Part 16
	Break		10:30 AM	15 min	
7	Part 6 – Professional Conduct, Competence and Discipline	Cary Ann Moore	10:45 AM	45 min	Briefing Note Draft – Div 1 Draft – Div 2 Draft – Div 3
8	Code of Professional Conduct (3.2 to 3.3-7)	Adam Whitcombe	11:30 AM	30 min	Briefing Note Draft Code
	Lunch		12:00PM	60 min	
9	***In-Camera*** *(Transitional Board and Transitional Indigenous Council only)*				

SLR Board and Indigenous Council

Minutes of Meeting

Meeting Date: March 18, 2026

Meeting Time: 9:00

Meeting Type: Hybrid

Meeting Location: Society of Notaries Public of BC

Board Members in Attendance:

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

Indigenous Council Members in Attendance:

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

Advisory Committee Members in Attendance:

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

Participants and Attendees:

Michael Johnston	Legal Advisor to the Indigenous Council
Jaxxen Wylie	Legal Advisor to the Indigenous Council
Cary Ann Moore	Legislative Counsel
Jamie Maclaren KC	Legal Advisor to the BC Paralegal Association
Regrets: Jared Friedman	Project Management
Lindsey Ogilvie	Project Management
Maddie Holm-Porter	Project Support

Observers:

Name	Organization	Name	Organization
Alan Treleaven	Director, SNPBC	Lesley Small	Senior Director, LSBC
Avalon Bourne	Staff, LSBC	Marny Morin	Staff, SNPBC
Barbara Buchanan KC	Staff, LSBC	Michael Lucas KC	Staff, LSBC
Carrie Robinson	Staff, LSBC	Michael Mulhern	Staff, LIF
Claire Marchant	Co-ED, LAPBC	Michael Welsh	Bencher, LSBC
Derek LaCroix KC	Co-ED, LAPBC	Michèle Ross	Bencher, LSBC

Name	Organization	Name	Organization
Gigi Chen-Kuo	CEO, LSBC	Sara Hopkins	Bencher, LSBC
Jeanette McPhee	CFO, LSBC	Sherry Small	Staff, LSBC
Jeff Hoskins KC	Staff, LSBC	Su Forbes KC	COO, LIF
Kerry Simmons KC	ED, CBABC	Terry Becker	Okanagan College
Kerryn Holt	COO, LSBC	Thomas Spraggs KC	President, LSBC

1.0 Welcome and Acknowledgements

The meeting was called to order at 9:06am.

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 February 9, 2026 meeting minutes were approved.

3.0 Consent Resolution: Paralegal Committee

The transitional board and the transitional Indigenous council hereby ratify and authorize the establishment of the Paralegal Committee with the purpose of supporting the development of regulation and licensing requirements for regulated paralegal licensees

4.0 Update from the Project Director

The Cascadia Partners project director delivered a brief update on Rules and Code of Professional Conduct development progress and process, as well as updates on activities of the Communications and Hiring committees.

5.0 Part 9 – Indemnification

The Legislative Counsel introduced the draft rules on Indemnification for discussion:

- The Transition Team has previously expressed support for a single, unified indemnification program for all licensees of the new regulator.
- It was noted that the proposed rules are intentionally agnostic, requiring only that the regulator maintain an indemnity program, thereby allowing flexibility in how the program is ultimately designed.
- It was also noted that the Society of Notaries Public of BC currently applies a transactional insurance fee, based on models used in Newfoundland and Ontario, intended to better align insurance costs with individual volume and risk.

- The Transition Team raised a question regarding exemptions (9-1-4) for individuals who are suspended, expressing concerns that if a suspended licensee continues to practice, this could pose a risk to the public.
    - It was clarified that while suspended licensees are exempt from the requirement to maintain insurance, they are not excluded from coverage under the policy if they have already paid the applicable fee.
    - It was also noted that this would be an extremely rare occurrence, given the limited number of suspensions each year, and the additional likelihood that a suspended licensee would continue to practice and subsequently make an error that gives rise to a claim.
    - Meeting observer Su Forbes, COO of the Lawyers Indemnity Fund (LIF), was asked to speak to this issue. She noted that if a claim against a suspended licensee did arise, the licensee would be offside of the Law Society's rules; LIF would pay the claim to fulfill its duty to protect the public and would then claim against the suspended licensee.
- The Transition Team raised a question around effect of failure to reimburse (9-1-5) and coverage in situations where a licensee is a victim of a phishing or social engineering scam.
    - SNPBC and LIF noted that in their current indemnification programs, coverage is available for social engineering funds transfer fraud, providing protection to both the licensee and the public.
- A question was raised regarding the balance between keeping the rules lean and avoiding duplication of legislative content, versus including select legislative elements to provide a more centralized and accessible reference. It was noted that, from a governance perspective, it is generally preferable not to duplicate legislation in the rules, particularly as legislative changes would require corresponding updates to the rules.

6.0 Part 10 – Custodianships

The Legislative Counsel introduced the draft rules on Custodianships for discussion:

- The Transition Team raised a question around the requirement for licensees to provide an accessible list of passwords (10-1-1), specifically in instances where the licensee has signed an agreement not to divulge that password (e.g., Juricert). Concern was expressed related to the potential conflict between regulatory obligations to provide access and legal or contractual obligations restricting disclosure, and the implications of such conflicts. It was noted that in custodianships, the custodian effectively steps into the role of the licensee, which may mitigate concerns around disclosure obligations.

- The Transition Team raised a question related to restrictions on custodians (10-1-3) that prevent the custodian from bidding on or acquiring part of the licensee's firm or practice and whether this extends to a custodian subsequently pursuing employment at that practice.
- It was noted that these types of custodianship orders typically apply to sole proprietorships or very small firms, and as such, the likelihood of a custodian later working for the practice is relatively low.
- It was also noted that the CEO has the ability to grant permission for a custodian to take over a practice. This is generally intended for external custodianships, particularly in rural or remote areas, where a custodian may wish to provide services to the affected client base. However, this could extend to situations where a custodian seeks to work for the firm.
- 7.0 Part 14 – Business Structures
- The Legislative Counsel introduced the draft rules on Business Structures for discussion:
- Clarification was sought about authorization of a limited liability partnership (14-1-1), specifically if legal professionals are prohibited from entering into partnerships with other professionals (e.g., accountants, social workers).
- It was noted that such arrangements would be addressed under the framework for alternative business structures, and permitted on a case-by-case basis.
- A question was asked about certification of names (14-1-2), specifically how the process would accommodate Indigenous names that may not conform to standard English text formats.
- The Legislative Counsel indicated they would confirm if any restrictions exist under the Business Corporations Act or the Partnership Act with respect to Indigenous names, noting that once a name is approved by the regulator, licensees must register it under the applicable legislation.
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- The Transition Team discussed establishing a permit review committee (14-1-9).
- Some members cautioned against establishing too many committees, questioning the value of a dedicated permit review committee given the likely low volume of permit reviews.
- It was noted that the CEO holds significant decision-making authority in many areas, and while judicial review is available to all licensees, it is often costly and time consuming. A permit review committee could provide a valuable avenue for

review, offering broader perspective and an intermediary step between the CEO and the courts.

- It was suggested that a general review committee could be established, rather than one limited to permit reviews, to increase applicability across multiple areas.
- The Transition Team requested that the Legislative Counsel identify other areas where a general review committee could add value to help assess whether it should be established.

8.0 Code of Professional Conduct

The Advisory Committee introduced the draft Code of Professional Conduct for discussion:

- There was a discussion about the inclusion of the Canons of Legal Ethics in the Code of Professional Conduct:
    - The Canons of Legal Ethics have been in place for over 100 years and outline the overarching duties of lawyers to the state, the courts and tribunals, clients, other lawyers, and themselves. As noted by LSBC, they have formed the basis for allegations and findings of misconduct against lawyers in recent years, and continue to be relied upon as a part of the regulatory framework.
    - It was noted that while other jurisdictions in Canada have adopted variations of the Federation of Canadian Law Societies' Model Code of Conduct, no other Canadian jurisdictions incorporate the Canons of Legal Ethics.
    - Overall, the Canons provide a shorter, more general articulation of ethical expectations, whereas the balance of the Code of Professional Conduct sets out detailed rules, commentary, and associated consequences if a licensee is offside these rules..
    - It was noted that including the Canons could enhance accessibility for the public and support education, as they are more intuitive and resonate well with students.
    - It was also noted that including the Canons may help achieve ethical uniformity across different licensees in the new organization.
    - There was general support for including the Canons of Legal Ethics within the Code of Professional Conduct, subject to appropriate updates and potential renaming.
- There was a request that Section 3.1 (Competence) include provisions related to Indigenous cultural competence, referencing Doman 3 of the Western Canadian Competency Profile related to Truth and Reconciliation, which emphasizes a demonstrated understanding of the historical and current impacts that Canadian

law has on Indigenous Peoples in Canada and how reconciliation can be incorporated into practice.

- There was a discussion aboutextending regulatory responsibilities to conduct outside the provision of legal services.
    - It was suggested that rule 2.2-2 be divided into two parts: (1) A licensee has a duty to uphold the standards and reputation of the legal professions, and (2) A licensee has a duty to assist in the advancement of its goals, organizations and institutions.

9.0 Updates to the Code of Conduct

The Advisory Committee presented the updated Code of Conduct.

- It was noted that the Code has been revised to reflect feedback from the previous board meeting.
- A few additional formatting and typographical edits were identified.
- The finalized Code of Conduct will be included on the Consent Agenda for the April 13, 2026 board meeting.

10.0 *In Camera* Session

Law Society
of British Columbia

Legal Professions Act Transition Costs – Actuals 2025

To: Transitional Board and Transitional Indigenous Council

Purpose: Information

From: Law Society and Notary Society Staff

Date: March 25, 2026

DM5216265

Purpose

This report contains the actual costs relating to the transition to the Legal Professions Act for 2025. Costs associated with the transition are not budgeted and are funded from reserves.

Background and Discussion

The total costs for 2025 were $1.368 million.

The costs initiated by the transitional board and/or transitional Indigenous council include the project director consulting costs, two Indigenous advisors, travel & meetings, and computer software costs.

In the last line, costs included are 1) current seconded staff working on policy papers, new rules and code and serving on the advisory committee, and 2) operational transition workplan consulting costs.

Legal Professions Act Transition Costs
Transitional Board/Transitional Indigenous Council Report
December 2025

	Actual YTD
Transitional Board/Transitional Indigenous Council Consulting	205,554
Computer Software	22,143
Indigenous Advisors	196,006
Travel & Meetings	45,907
Staffing Costs and Operational Workplan Consulting	899,255
TOTAL	**1,368,864**

DM5216265

Law Society
of British Columbia

Legal Professions Act Transition Costs – February YTD and 2026 Forecast

To: Transitional Board and Transitional Indigenous Council

Purpose: Information

From: Law Society and Notary Society Staff

Date: March 25, 2026

DM5216210

Purpose

This report contains the actual costs relating to the transition to the Legal Professions Act to the end of February 2026 and a 2026 forecast. Costs associated with the transition are not budgeted and are funded from reserves.

Background and Discussion

The 2026 cost forecast is $2.322 million.

The costs initiated by the transitional board and/or transitional Indigenous council include project director consulting resources, recruiting and communications consulting, two full-time Indigenous advisors, travel costs & attendance at meetings, and computer software costs.

In the last line, costs included are 1) current seconded staff working on policy development and drafting of the new rules and code and serving on the advisory committee, 2) operational workplan consulting costs, cand 3) estimate of additional seconded staff to implement the operational workplan during 2026.

If there are additional costs that may be incurred in 2026, please advise.

Legal Profession Act Transition Costs
Transitional Board/Transitional Indigenous Council Reporting
February 2026

	Actual YTD	Forecast 2026
Transitional Board/Transitional Indigenous Council Consulting	75,245	565,000
Computer Software	375	9,500
Indigenous Advisors	54,278	325,500
Travel & Meetings	6,324	220,000
Staffing Costs and Operational Workplan Consulting	122,369	1,202,000
TOTAL	**258,591**	**2,322,000**

Transitional Board and Transitional Indigenous Council

Briefing Paper – Draft Rules

Parts 3 and 17, Division 3 - Legal Professions BC

To:	**Transitional Board**
	Transitional Indigenous Council
Purpose:	**Discussion**
Date:	**April 13, 2026**

I. Background

1. The *Legal Professions Act* establishes the governance framework for the single legal regulator of legal professionals in British Columbia, including requirements for the board of directors and the chief executive officer. The transitional board and transitional Indigenous council discussed three papers relating to the topic of "Legal Professions BC" (i.e. governance) at its December 2025 board meeting.[1]

2. The draft rules support this framework by setting out the processes for the election and appointment of directors, the operation of the board and its committees, and other core aspects of the regulator's governance.

II. Transitional board and transitional Indigenous council discussion

3. At the December 2025 meeting, the transitional board and transitional Indigenous council engaged in detailed discussions across three policy papers on the new governance framework for Legal Professions BC, including director elections and appointments, board leadership, and committee structures. The feedback provided general support for a governance model that is flexible, inclusive and aligned with the structure set out in the Act, with an emphasis on ensuring appropriate representation across the legal professions and public, including Indigenous representation. The transitional board and transitional Indigenous council were also interested in maintaining flexibility in areas such as committee structures and governance processes, with some elements better addressed through policy rather than prescriptive rules.

4. The transitional board and transitional Indigenous council also discussed specific aspects of board leadership and composition, including the eligibility and extension for the chair, term length, and the potential use of a vice chair or leadership progression model. Participants expressed support for two-year director terms with staggered elections and appointments,

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[1] LPBC Transitional Board and Transitional Indigenous Council Joint Meeting Agenda, *Item 6 – Governance – General*, *Item 7 – Governance – Director Elections and Appointments* and *Item 8 – Governance – Committees and Task Forces* (December 2025).

and for establishing eligibility requirements beyond “good standing”, perhaps using a committee to nominate or recommend directors. Consideration was also given to voting rights, regional representation, and the establishment of an executive and other committees.

III. Legislative authority

Rule	Legislative authority
3-1-1 Term of directors	**12 Term limit for directors** (1) Subject to subsections (3) and (4), a person **may** be appointed as a director for a term of no more than 3 years and may serve for no more than 6 consecutive years. (2) Subject to subsection (3), a person **may** be elected as a director for a term, of no more than 3 years, specified in the rules and **may** serve for no more than 6 consecutive years ... **28 Rules respecting directors** (2) Without limiting subsection (1), the board **may** make rules as follows: ... (e) respecting terms of office for elected directors, including the staggering of terms of office; ... (g) respecting terms of office for directors appointed under section 8 (1) (c) (i) and (e), including the staggering of terms of office;
3-1-2 Election of directors	**28 Rules respecting directors** (1) The board **may** make rules respecting directors.
3-1-3 Staggering of elections	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows:

Rule	Legislative authority
	… (e) respecting terms of office for elected directors, including the staggering of terms of office;
3-1-4 Licensee eligibility for election	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: (a) establishing procedures for the election of directors under section 8 (1) (a), (b) or (c) [*board of directors*];
3-1-5 Nomination process	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: (a) establishing procedures for the election of directors under section 8 (1) (a), (b) or (c) [*board of directors*];
3-1-6 Screening and recommendations of nominated licensees	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (b) establishing a process for the screening of candidates in the election of directors;
3-1-7 Voter eligibility	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: (a) establishing procedures for the election of directors under section 8 (1) (a), (b) or (c) [*board of directors*];
3-1-8 Voting process	Same as above.
3-1-9 Tie vote	Same as above.
3-1-10 Acclamation	Same as above.

Rule	Legislative authority
3-1-11 Nomination process	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (f) establishing a process for the screening and nomination of persons to be appointed under section 8 (1) (e);
3-1-12 Staggering of appointments	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (g) respecting terms of office for directors appointed under section 8 (1) (c) (i) and (e), including the staggering of terms of office;
3-1-13 Screening of nominees	**28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (f) establishing a process for the screening and nomination of persons to be appointed under section 8 (1) (e);
3-1-14 Appointment process	**28 Rules respecting directors** (1) The board **may** make rules respecting directors.
3-1-15 Eligibility of chair and vice chair	**9 Powers and duties of board** … (2) The board must appoint a chair from among the directors. … **28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: …

Rule	Legislative authority
	(h) establishing procedures for the appointment of a chair and specifying the term of office, powers and duties of the chair;
3-1-16 Term of chair and vice chair	Same as above.
3-1-17 Election of chair and vice chair	Same as above.
3-1-18 Chair and vice chair powers and duties	Same as above.
3-1-19 Removal of chair or vice chair	**27 General rule-making authority of board** (1) The board **may** make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) [*duties of regulator*].
3-1-20 Establishment of committees	**9 Powers and duties of board** … (3) The board **may** establish committees to assist the board.
3-1-21 Appointment and operation of committees	**27 General rule-making authority of the board** (1) The board **may** make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) *[duties of regulator]*.
3-1-22 Executive Committee	**10 Executive committee** (1) Without limiting section 9 (3), the board **may** establish an executive committee.
3-1-23 Finance and Audit Committee	**9 Powers and duties of board** … (3) The board **may** establish committees to assist the board.
3-1-24 Nominating Committee	**9 Powers and duties of board** … (3) The board **may** establish committees to assist the board. **28 Rules respecting directors** …

Rule	Legislative authority
	(2) Without limiting subsection (1), the board **may** make rules as follows: … (b) establishing a process for the screening of candidates in the election of directors;
3-1-25 Procedure for board meetings	**27 General rule-making authority of the board** (1) The board **may** make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) *[duties of regulator]*.
3-1-26 Quorum and procedure for committee meetings	Same as above.
3-1-27 When board meeting closed to public	**17 Meetings and quorum** … (2) Subject to any rules made under section 28 (2) (j) [*rules respecting directors*], meetings of the board **must** be open to the public. **28 Rules respecting directors** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (j) specifying the circumstances in which a meeting of the board **may**, in whole or in part, be closed to the public.
3-1-28 Committee meetings not open to the public	**27 General rule-making authority of the board** (1) The board **may** make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) *[duties of regulator]*.
3-1-29 Freedom of Information and Protection of Privacy Act	Same as above.

Rule	Legislative authority
17-3-1 Expiry of first board directors	**230 Transition – first board** … (6) No later than 6 months after the amalgamation date, (a) the first board **must** hold elections for the purposes of section 8 (1) (a), (b) and, if applicable, (c) (ii), and
17-3-2 Transitional elections of directors	Same as above.
17-3-3 Transitional appointment of directors	**230 Transition – first board** (6) No later than 6 months after the amalgamation date, … (b) the directors to be appointed under section 8 (c) (i), if applicable, and section 8 (1) (d) **must** be appointed.

IV. Drafting notes

Part 3 – Legal Professions BC

3-1-1 Term of directors

- This rule establishes a 2-year term as discussed by the transitional board and transitional Indigenous council.

- Directors will take office at the first board meeting following their election or appointment.

- Currently, the rules are drafted to avoid specific dates and timings, which may be revised prior to amalgamation date once dates and timelines are confirmed for both the transitional period of the first board and Indigenous council.

- The rule also provides a straightforward resignation process for directors.

3-1-2 Election of directors

- This rule assigns the overall responsibility for administering the election of directors to the chief executive officer.
- The rule also sets out a non-exhaustive list of administrative responsibilities for the chief executive officer.
- The intention of this rule is to avoid having to set out specific procedural and timing requirements that may limit the regulator's ability to conduct an election (for example, it removes any references to the method of an election, avoiding subsequent amendments should the technology used to conduct such an election evolve).

3-1-3 Staggering of elections

- Following the transitional board and transitional Indigenous council's discussion, this rule establishes a fixed staggering election cycle, balancing the representation across even and odd years.
- As a result of a 2-year term and staggered elections, there will be an election each year, however, the existing regulators advise that there is little cost to having to hold an annual election.

3-1-4 Licensee eligibility for election

- This rule defines a licensee's eligibility based on their profession, discipline history and licence status.
- The rule prevents simultaneous candidacy in multiple elections or holding multiple director rules (e.g. elected and appointed).
- Due to the ability to work remotely, the rule establishes a BC residence requirement for directors.

3-1-5 Nomination process

- The rule uses a self-nomination model for seeking election as a director but still requires consent to be included in the process.

- The rule also allows the chief executive officer to set the timelines for such a process, providing flexibility in the timing of an election.

3-1-6 Screening and recommendations of nominated licensees

- This rule allows the chief executive officer to confirm the eligibility of licensees to run in an election.

- The rule also permits the Nominating Committee (discussed below) to make recommendations to licensees about which nominees the committee thinks may suit the board's needs, determined by the merit-based process established by the board.

- Those nominees not recommended by the Nominating Committee may still run for election and appear as a candidate, ensuring that the democratic process of an election is not impacted by the Nominating Committee.

3-1-7 Voter eligibility

- This rule limits voting to licensees within their own profession.

- Similar to the previous rules, it allows the chief executive officer to set a "record date" for eligibility, which can be helpful should anyone challenge the eligibility of voters later on.

3-1-8 Voting process

- This rule establishes an alternative voting process for single-seat elections with multiple nominees.

- The rule sets out a clear vote-counting method to ensure a majority and limits each voter to one vote.

- The rule also protects the integrity of the election in case of a minor procedural error.

3-1-9 Tie vote

- This rule requires a further election in case of a tie vote, which is helpful to address in the rules as it can occur and it is beneficial to have a rule that addresses a foreseeable action.

3-1-10 Acclamation

- Similar to the justification for the rule respecting a tie vote, a rule on acclamation allows a candidate to be elected without a vote when nominees do not exceed the number of directors to be elected.

- The rule also reduces administrative burden for the regulator when elections are uncontested.

Appointment of directors

3-1-11 Nomination process

- This rule applies to the directors appointed by the board (not the Lieutenant Governor in Council) under the Act.

- The rule differentiates and assigns roles to the board and chief executive officer, with the board being responsible for process design, and the chief executive officer for the administration of the process.

- The rule also aligns the appointment process with the election process for directors, although the timing of the appointments occurs after the election of directors.

3-1-12 Staggering of appointments

- The rule mirrors the election staggering rule to maintain continuity in the appointed director roles, distributing appointments across the years and professions.

- The rule also clarifies the vacancy appointments while preserving the staggered appointment cycle despite any mid-term change.

3-1-13 Screening of nominees

- Similar to the election screening rule, the chief executive officer is required to review nominees for their eligibility.

- For appointments, the Nominating Committee is required to use a merit-based assessment established by the board to make recommendations to the board about appointments.

- The purpose of a merit-based recommendation process through a committee is to allow for the committee to address any gaps in governance, skills or representation on the board that may occur as a result of the election.

3-1-14 Appointment process

- This rule requires that the board must make appointments after considering the Nominating Committee's recommendations.

- As drafted, there is no mandatory requirement that the board must appoint the nominees as recommended by the committee, allowing the board's decision of appointments not to be fettered by the Nominating Committee whilst also allowing for a recommendation process based on an assessment of merit by a committee which, as currently drafted, has no current directors as members (discussed below).

Chair and vice chair

3-1-15 Eligibility of chair and vice chair

- This rule allows any director, whether elected or appointed, to serve as chair or vice chair.

- The rule promotes flexibility and inclusiveness in the leadership of the board and LPBC, without restricting the role to specific types of directors, either by election or appointment, or by profession.

3-1-16 Term of chair and vice chair

- In accordance with the discussion of the transitional board and transitional Indigenous council, the rule establishes a 1-year term for the chair and vice chair.

- Both roles are allowed to run for a subsequent term, but that subsequent term must be through an election (not automatic extension).

- Since there is an optional second term, the ability for there to be a “ladder” or succession of the chair by the vice chair becomes difficult.

- As a result, the two offices are independently elected, but there is no restriction on the vice chair running for election as chair even if the existing chair decides to run for a second term.

3-1-17 Election of chair and vice chair

- The rule sets out that the chair and vice chair are elected at the first meeting following the annual election and appointment of directors.

- Similar to the other rules, the rule provides that the chief executive officer is responsible for administering the election process and includes acclamation and tie-breaking procedures.

3-1-18 Chair and vice chair powers and duties

- This rule establishes that the chair must preside at board meetings and is also the chair of the Executive Committee.

- In case the chair is unable to act, the rule also provides a clear mechanism for succession and designation.

- The rule also allows the board to delegate responsibilities to the chair, who may then also delegate to the vice chair.

3-1-19 Removal of chair of vice chair

- As a precaution, the rule clarifies that the removal of a director under the Act also results in the loss of the role of chair or vice chair should they hold that position.

- In addition, the rule permits the board to remove a chair or vice chair should circumstances arise while also allowing for procedural fairness.

- The power to remove a chair or vice chair by the board may not be required depending on the contents of the board's code of conduct or oath of office, but in lieu of that detail to be determined, the board may want the ability to remove a chair or vice chair should an occasion arise when it may be necessary to do so, and section 13 of the Act is not an option.

Committees

3-1-20 Establishment of committees

- This rule establishes the core committees as discussed by the transitional board and transitional Indigenous council.

- The rule may be revised to reflect the establishment of the Licensing Committee and Discipline Committee, however, at this stage, only the 3 committees referenced in the Part 3 rules are included.

3-1-21 Appointment and operation of committees

- This rule requires that the board appoint each committee's members.

- Instead of detailing or enumerating the mandate of each committee in the rules, the rule shifts the committees' authority to board-approved terms of reference, which are easier to amend than rules.

- The committees are also limited to the powers set out in the terms of reference and are required to report back to the board for oversight.

3-1-22 Executive Committee

- This rule supplements the Act's composition requirements for an Executive Committee with Indigenous representation.

- The rule also requires that the chair of the Executive Committee is the chair of the board.
- Since the Act sets out the composition requirements of the Executive Committee, those requirements have not been duplicated in this rule.

3-1-23 Finance and Audit Committee

- The composition of the Finance and Audit Committee is set out in this rule and mirrors the composition of the Executive Committee as supplemented by the rule above to ensure Indigenous inclusion.
- In addition, the rule envisions a slightly larger committee of 7 members, to permit more non-director participation.

3-1-24 Nominating Committee

- Unlike the previous two committees, the Nominating Committee's composition mirrors the composition of the Licensing Committee and Discipline Committee, as set out in the Act.
- There are two reasons for this policy and drafting choice: the first is that with a small board, it is difficult to compose a committee with directors who do not have a conflict of interest if they are also running for reelection or seeking reappointment by the board; the second is a committee with non-director membership addresses any perceived bias in the recommendations for elections and appointments put forward by the committee.
- The board is still responsible for the appointment of committee members, and as currently drafted, the Nominating Committee may only make recommendations to licensees on who to elect (but not limit persons from running for election) and to the board for who to appoint (but the board only has to consider those recommendations when appointing).

Meetings

3-1-25 Procedure for board meetings

- This rule prohibits the voting by proxy for directors.

- The rule also clarifies that the decisions of the board are by resolution of a majority of the directors present when a quorum is present.

3-1-26 Quorum and procedure for committee meetings

- Instead of setting out the procedural requirements in a separate rule for each committee, this rule streamlines the requirements into one rule, and covers the issues of quorum, proxy voting, and majority.

3-1-27 When board meeting closed to the public

- This rule establishes that the default for board meetings is that they are open to the public.

- The rule also allows for the meeting to be closed in accordance with a board-established policy, providing transparency but supporting confidentiality, when necessary.

3-1-28 Committee meetings not open to public

- This rule authorizes the committees to hold their meetings in the absence of the public, which is an intentional phrase chosen to allow for the regulator to address any confidentiality concerns respecting committee deliberations in response to a FOI request.

3-1-29 Freedom of Information and Protection of Privacy Act

- This rule is a requirement under *FOIPPA* to designate a person as the head of the organization.

Part 17 – Transitional rules

Division 3 – Legal Professions BC

- These transitional rules address the initial election and appointment of directors following amalgamation date, and are intended as transitional rules, to be repealed once no longer required, hopefully eliminating any need to renumber or restructure the governance rules.

- The Part 3 rules are intended as the ongoing rules following the first election and appointment process.

- There will be more transitional rules required outside of governance processes and will be drafted toward the end of the rule drafting phrase.

- These rules are provided as an example to demonstrate how the first elections and appointments of directors will work with the transitional board and transitional Indigenous council's preference for staggering.

- For Part 17, the divisions reflect the other parts of the Act, so Part 3 - Legal Professions BC becomes Division 3 – Legal Professions BC.

17-3-1 Expiry of first board directors

- This rule clairfies that following amalgamation, the term of the first board directors, who are the transitional directors prior to amalgamation date, expires upon the first election of directors (once declared).

- If the first board directors want to continue as directors of Legal Professions BC following the initial election, they need to be elected or appointed in accordance with the rules.

- This rule aligns with section 230(6) of the Act, which requires a first election and appointment within 6 months following amalgamation date.

17-3-2 Transitional elections of directors

- This rule applies the permanent election framework to the first election, ensuring consistency without having to create a separate process.

- The rule establishes the full board for elected director roles at the outset, with a staggered 1- and 2-year terms to start the ongoing election cycle.

- The rule also allocates the longer first term to the directors elected with the highest vote count.

17-3-3 Transitional appointment of directors

- Similar to the transitional election rule, this rule applies the permanent appointment framework to the first director appointments, maintaining consistency in the appointment processes.

- Likewise, the rule provides for the simultaneous appointment of all appointed directors, with staggered initial terms to align with the permanent staggered cycle.

- The board will have to decide which appointed directors receive the initial 1- or 2-year term.

V. Next steps

5. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with the revised draft rules and briefing paper for discussion and decision at a future date

LEGAL PROFESSIONS BC RULES

PART 3 – LEGAL PROFESSIONS BC

Term of directors

3-1-1 (1) A director is elected or appointed for a term of 2 years and may serve no more than 6 consecutive years.

(2) A person elected or appointed as a director takes office at the first meeting of the board following the election or appointment.

(3) A director may resign by providing written notice to the chair or vice chair and the resignation is effective on the date specified in the notice.

Election of directors

3-1-2 (1) The chief executive officer is responsible for administering the election of directors in accordance with the Act and these Rules.

(2) Without limiting subrule (1), the chief executive officer must do the following for the purposes of an election:

(a) establish the procedures, requirements and specifications respecting the election;

(b) establish the form and methods for nominations and voting;

(c) confirm nominee and voter eligibility in accordance with these Rules;

(d) manage the conduct of the election;

(e) ensure that votes are anonymous;

(f) resolve administrative issues that arise in the conduct of the election;

(g) declare and publish the election results.

Staggering of elections

3-1-3 (1) Elected directors must be elected for 2-year terms in a manner that maintains staggered elections.

(2) The chief executive officer must conduct elections so that

(a) in each even-numbered year

(i) 2 lawyer directors are elected,

(ii) 1 notary public director is elected, and

(iii) if the total number of regulated paralegals in British Columbia is 50 or more, 1 regulated paralegal director is elected, and

(b) in each odd-numbered year

(i) 3 lawyer directors are elected,

(ii) 1 notary public director is elected, and

(iii) if the total number of regulated paralegals in British Columbia is 50 or more, 1 regulated paralegal director is elected.

(3) A licensee elected to fill a vacancy under section 15 of the Act holds office only for the remainder of the term of the former director.

(4) A vacancy filled under this rule does not alter the staggered election cycle established under these Rules.

Licensee eligibility for election

3-1-4 A licensee is eligible for election as a director only if the licensee

(a) is a lawyer, for an election under section 8(1)(a) of the Act,

(b) is a notary public who is not also a lawyer, for an election under section 8(1)(b) of the Act,

(c) is a regulated paralegal, for an election under section 8(1)(c)(ii) of the Act, if the total number of regulated paralegals in British Columbia is 50 or more,

(d) has not been subject, within the previous 5 years, to a professional conduct order, competence order or suspension,

(e) has not had a licence cancelled under the Act, been disbarred under the *Legal Profession Act*, or had a membership terminated under the *Notaries Act*,

(f) is seeking election in only one election for director held at the same time,

(g) if elected, would not hold more than one position as a director, and

(h) resides in British Columbia.

Nomination process

3-1-5 A licensee who seeks election as a director must submit the nomination in the prescribed form and within the time set by the chief executive officer and must include the licensee's consent.

Screening and recommendations of nominated licensees

3-1-6 (1) The chief executive officer must review each nominated licensee to determine whether the licensee meets the eligibility requirements under the Act and these Rules.

(2) If the chief executive officer determines that a nominated licensee does not meet the eligibility requirements, the chief executive officer must

(a) notify the licensee in writing, and

(b) not include the licensee as a nominee in the election.

(3) The Nominating Committee may assess eligible nominees using merit-based criteria approved by the board and may make recommendations to licensees respecting those nominees.

(4) If the Nominating Committee makes recommendations under subrule (3), it must notify the nominees.

Voter eligibility

3-1-7 (1) A licensee is entitled to vote in an election of directors only if the licensee

(a) is a lawyer, for an election under section 8(1)(a) of the Act,

(b) is a notary public who is not also a lawyer, for an election under section 8(1)(b) of the Act, or

(c) is a regulated paralegal, for an election under section 8(1)(c)(ii) of the Act, if the total number of regulated paralegals in British Columbia is 50 or more.

(2) The chief executive officer may set a record date for an election.

(3) A licensee is entitled to vote only if the licensee meets the requirements of subrule (1) on the record date.

Voting process

3-1-8 (1) If only one director is to be elected from more than 2 nominees, the chief executive officer must use an alternative vote system that allows eligible licensees to rank nominees in order of preference.

(2) When an alternative vote system is used under subrule (2), the chief executive officer must count the votes as follows:

> (a) on the first count, each eligible licensee's first preference is recorded in favour of the nominee ranked first;
>
> (b) if no nominee receives a majority of votes on the first count, the nominee with the fewest votes is eliminated, and the votes recorded for that nominee are redistributed according to the next available preference indicated;
>
> (c) the process in paragraph (b) is repeated until one nominee receives a majority of votes;
>
> (d) the first nominee to receive a majority of votes is elected.

(3) Each eligible licensee may vote only once in an election.

(4) The chief executive officer must not count

> (a) a vote cast by a licensee who is not entitled to vote, or
>
> (b) a vote that does not comply with the Act or these Rules.

(5) A failure to comply with this rule does not invalidate an election unless the failure materially affects the result of the election.

Tie vote

3-1-9 If an election results in a tie vote, the chief executive officer must conduct a further election limited to the nominees who are tied, in accordance with [Rule 3-1-8] and these Rules.

Acclamation

3-1-10 If the number of nominees does not exceed the number of positions to be filled in any given election, the chief executive officer must declare the nominees elected by acclamation and no vote is conducted.

Appointment of directors

Nomination process

3-1-11 (1) This rule applies to

(a) the appointment of regulated paralegal directors under section 8(1)(c)(i) of the Act if the total number of regulated paralegals in British Columbia is less than 50, and

(b) the appointment of directors under section 8(1)(e) of the Act.

(2) The board is responsible for establishing a process for the appointment of directors in accordance with the Act and these Rules.

(3) The chief executive officer is responsible for administering the appointment of directors in accordance with the Act and these Rules.

(4) A licensee who seeks appointment as a director must submit the nomination in the prescribed form and within the time set by the chief executive officer and must include the licensee's consent.

Staggering of appointments

3-1-12 (1) Directors appointed under section 8(1)(c)(i) and (1)(e) of the Act must be appointed for 2-year terms in a way that maintains staggered appointments.

(2) The board must appoint directors so that

(a) in each even-numbered year

(i) 2 lawyer directors are appointed,

(ii) 1 notary public director is appointed, and

(iii) if the total number of regulated paralegals in British Columbia is less than 50, 1 regulated paralegal director is appointed, and

(b) in each odd-numbered year

(i) 2 lawyer directors are appointed, and

(ii) if the total number of regulated paralegals in British Columbia is less than 50, 1 regulated paralegal director is appointed.

(3) A licensee appointed to fill a vacancy under section 15 of the Act holds office only for the remainder of the term of the former director.

(4) Filling a vacancy under this rule does not alter the staggered appointment cycle established under these Rules.

Screening of nominees

3-1-13 (1) The chief executive officer must review each nominated licensee to determine whether the licensee meets the eligibility requirements under the Act and these Rules.

(2) If the chief executive officer determines that a nominated licensee does not meet the eligibility requirements, the chief executive officer must

(a) notify the licensee in writing, and

(b) not consider the licensee for appointment.

(3) The Nominating Committee may assess eligible nominees using merit-based criteria approved by the board and may make recommendations to the board respecting those nominees.

(4) If the Nominating Committee makes recommendations under subrule (3), it must notify the nominees.

Appointment process

3-1-14 (1) The board must appoint directors under section 8(1)(c)(i) and (1)(e) of the Act, after considering any recommendations of the Nominating Committee.

(2) In making an appointment, the board must consider

(a) the skills, attributes and experience of the nominee,

(b) the needs of the board, and

(c) any requirements set out in section 8(1)(e) and (2) of the Act.

Chair and vice chair

Eligibility of chair and vice chair

3-1-15 Any director, whether elected or appointed, is eligible to be elected as chair or vice chair of the board.

Term of chair and vice chair

3-1-16 (1) The chair and vice chair each hold office for a term of 1 year.

(2) Subject to subrule (3), the chair and vice chair are each eligible for re-election.

(3) A director must not serve more than 2 consecutive terms as chair or more than 2 consecutive terms as vice chair.

(4) The chair and vice chair each continue to hold office after the end of their term until the board elects a successor.

(5) A director is not eligible to be elected or to continue to hold office as chair or vice chair if doing so would result in the director exceeding the maximum consecutive service as a director permitted under section 12 of the Act.

(6) The offices of chair and vice chair are separate, and holding one office does not entitle a director to be elected to the other.

Election of chair and vice chair

3-1-17 (1) At the first meeting of the board following the annual election or appointment of directors, the board must elect a chair and vice chair from among the directors.

(2) The election or appointment of a director to fill a vacancy does not require a new election of the chair and vice chair under subrule (1).

(3) The chief executive officer is responsible for administering the election of the chair and vice chair.

(4) The chief executive officer must ensure that voting is anonymous.

(5) If only one director is nominated for the office of chair or vice chair, the board must declare the director elected by acclamation.

(6) If an election of the chair of vice chair results in a tie vote, the chief executive officer must conduct a further election limited to the nominees who are tied, in accordance with this rule.

Chair and vice chair powers and duties

3-1-18 (1) The chair must preside at meetings of the board and the Executive Committee.

(2) If the chair is unable to act, the vice chair must act as chair.

(3) If both the chair and vice chair are unable to act, the chair may designate a director to act as chair for a specified period or for a particular meeting.

(4) The chair may perform any other duties assigned by the board that are consistent with the Act and these Rules.

(5) The chair may delegate any of the chair's duties to the vice chair.

Removal of chair or vice chair

3-1-19 (1) If the board removes a director under section 13 of the Act, the director ceases to hold office as chair or vice chair.

(2) The board may remove the chair or vice chair from that office at any time.

(3) Before removing the chair or vice chair under subrule (2), the board must

(a) provide reasonable notice to the chair or vice chair, and

(b) provide the chair or vice chair with a reasonable opportunity to be heard.

(4) If the board removes the chair or vice chair under this rule, the board must elect a replacement in accordance with [Rule 3-1-17].

(5) A chair or vice chair elected under subrule (4) holds office for the remainder of the term of the former chair or vice chair.

(6) The board's removal of a director as chair or vice chair under subrules (2) and (3) does not affect the director's position as a director.

Committees

Establishment of committees

3-1-20 The following committees are established:

(a) an Executive Committee;

(b) a Finance and Audit Committee;

(c) a Nominating Committee.

Appointment and operation of committees

3-1-21 (1) The board must appoint the members of each committee by resolution.

(2) The board must establish written terms of reference for each committee.

(3) A committee may exercise only the powers set out in its terms of reference and must act in accordance with the Act and these Rules.

(4) A committee must report to the board in accordance with its terms of reference or as otherwise directed by the board.

Executive Committee

3-1-22 (1) In addition to the requirements of section 10 of the Act, the Executive Committee must include at least one director who is an Indigenous person.

(2) The chair of the board is the chair of the Executive Committee.

Finance and Audit Committee

3-1-23 (1) The Finance and Audit Committee consists of members who may include directors, licensees, or members of the public.

(2) The Finance and Audit Committee must consist of no more than 7 members, of whom:

(a) one is a director who is a lawyer,

(b) one is a director who is a notary public,

(c) one is a director appointed or elected under section 8(1)(c) of the Act, and

(d) one is a director appointed by the Lieutenant Governor in Council.

(3) The Finance and Audit Committee must include at least one member who is an Indigenous person.

(4) The board must appoint a director as chair of the Finance and Audit Committee.

Nominating Committee

3-1-24 (1) The Nominating Committee consists of members who may include licensees or members of the public.

(2) The Nominating Committee must consist of no more than 7 members, and must include the following:

(a) at least one member of the public;

(b) at least one Indigenous person, who may be a licensee or member of the public;

(c) for each legal profession whose total membership is 50 or more, at least one person who is licensed to practise that legal profession.

(3) A director is not eligible to be appointed as a member of the Nominating Committee until one year after the date on which the director ceases to be a director.

(4) The board must appoint a chair of the Nominating Committee from among the committee's members.

Meetings

Procedure for board meetings

3-1-25 (1) A director of the board must not vote by proxy.

(2) The board may act by resolution passed by a majority of the directors present at a meeting, if a quorum is present and the action is consistent with the Act and these Rules.

Quorum and procedure for committee meetings

3-1-26 (1) The quorum for the Executive Committee is 4 members as provided in section 10(3) of the Act.

(2) The quorum for any other committee is a majority of its appointed members.

(3) A member of a committee must not vote by proxy.

(4) A committee may act by resolution passed by a majority of the members present at a meeting, if a quorum is present and the action is consistent with the Act and these Rules.

When board meeting closed to public

3-1-27 Meetings of the board are open to the public unless the board closes a meeting or part of a meeting in accordance with the board's *in camera* policy, as approved by the board.

Committee meetings not open to the public

3-1-28 A committee may meet in the absence of the public in accordance with its terms of reference.

Freedom of Information and Protection of Privacy Act

3-1-29 The chief executive officer is the head of the regulator for the purposes of the *Freedom of Information and Protection of Privacy Act*.

LEGAL PROFESSIONS BC RULES

PART 17 – TRANSITIONAL

Division 3 – Legal Professions British Columbia

Expiry of first board directors

17-3-1 The term of the directors of the first board expires on the date the results of the first election of directors under [Rule 17-3-1] are declared.

Transitional elections of directors

17-3-2 (1) The first elections required under section 230(6)(a) of the Act must be carried out in accordance with [Rules 3-1-2 to 3-1-10].

(2) Despite [Rule 3-1-3(1)], all directors elected at the first election under subrule (1) are elected at the same election.

(3) Of the lawyer directors elected under section 8(1)(a) at the first election

> (a) the 2 nominees who receive the highest number of votes hold office for a 2-year term, and
>
> (b) the remaining 3 nominees hold office for a 1-year term.

(4) Of the notary public directors elected under section 8(1)(b) at the first election

> (a) the nominee who receives the highest number of votes holds office for a 2-year term, and
>
> (b) the other nominee holds office for a 1-year term.

(5) If the total number of regulated paralegals in British Columbia is 50 or more, of the regulated paralegal directors elected under section 8(1)(c)(ii) at the first election

> (a) the nominee who receives the highest number of votes holds office for a 2-year term, and
>
> (b) the other nominee holds office for a 1-year term.

(6) After the expiry of the initial terms described in this rule, [Rule 3-1-3] applies.

(7) A term served under this rule is deemed to be a term for the purposes of any limit on the number of terms a director may serve.

Transitional appointment of directors

17-3-3 (1) The first appointments required under section 230(6)(b) of the Act must be carried out in accordance with [Rules 3-1-11 to 3-1-14].

(2) Despite [Rule 3-1-12(1)], all directors appointed under section 8(1)(c)(i), if applicable, and section 8(1)(e) of the Act at the first appointment are appointed at the same time.

(3) Of the directors appointed under section 8(1)(e) at the first appointment

(a) 2 lawyer directors hold office for a 2-year term,

(b) 1 notary public director holds office for a 2-year term, and

(c) 2 lawyer directors hold office for a 1-year term.

(4) If the total number of regulated paralegals in British Columbia is less than 50, of the regulated paralegal directors appointed under section 8(1)(c)(i) at the first appointment

(a) 1 holds office for a 2-year term, and

(b) 1 holds office for a 1-year term.

(5) After the expiry of the initial terms described in this rule, [Rule 3-1-12] applies.

(6) A term served under this rule is deemed to be a term for the purposes of any limit on the number of terms a director may serve.

Transitional Board and Transitional Indigenous Council

Briefing Paper – Draft Rules

Part 15 – Enforcement and Part 16 – General

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion**
Date:	**April 13, 2026**

I. Background

Part 15 - Enforcement

1. Under the *Legal Professions Act*, the topic of enforcement concerns the regulator's authority to address offences through the courts, including the laying of an information. As a result, enforcement was not the subject of a policy paper, as it was not identified as an area requiring policy direction from the transitional board or transitional Indigenous council. Currently, there are no draft rules proposed for Part 15 because the Act covers the actions and authority of the regulator to address any enforcement needs. However, the transitional board and transitional Indigenous council may wish to review Part 15 to confirm this assessment.

Part 16 – General

2. Part 16's rules address some foundational regulatory matters such as record-keeping and the security of records by licensees and law firms and are intended to ensure that the regulator can carry out its oversight functions in a practical and transparent way without duplicating powers already set out in the Act.

3. The transitional board and transitional Indigenous council did not consider a specific policy paper on the topic of Part 16 or "genera rules", as these provisions are administrative. However, the transitional board and transitional Indigenous council did discuss a policy paper on public disclosure at its October 2025 meeting and that discussion helped to inform the drafting considerations for these rules.[1]

II. Transitional board and transitional Indigenous council discussion

Part 15 – Enforcement

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[1] LPBC Transitional Board and Transitional Indigenous Council Joint Meeting Agenda, *Item 5 – Public Disclosure* (October 2025).

4. The transitional board and transitional Indigenous council did not discuss a policy paper specific to Part 15 – Enforcement.

Part 16 - General

5. At its October 2025 meeting, the transitional board and transitional Indigenous council discussed public disclosure in terms of balancing transparency with the protection of confidential information, with interest in a flexible, hybrid approach supported by further guidance. While the discussion was focused on the disclosure requirements under other parts of the Act, the conversation helped to inform the role of the Part 16 rules on record maintenance and security to ensure that records are reliable and protected.

III. Legislative authority

Part 15 – Enforcement

- There are no proposed draft rules at this stage.

Part 16 – General

Rule	Legislative authority
16-1-X General definitions	**27 General rule-making authority of board** (1) The board may make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) [*duties of regulator*].
16-1-1 Record maintenance and retention	Same as above.
16-1-2 Security of records	Same as above.

IV. Drafting notes

Part 15 – Enforcement

- There are no proposed draft rules at this stage.

16-1 X – General definition

- The definition of "former licensee" will move to Part 1 of the overall rules, as it is a useful definition applicable across multiple topics.

- The definition clarifies that the record retention requirements apply to a person who ceases to be a licensee by extending the current definition of "former licensee" under the Act to those who were licensed under Legal Professions BC.

- The intention is to support enforcement, investigation and indemnification processes involving former licensees and to prevent the destruction of records by former licencees.

16-1-1 Record maintenance and retention

- This rule establishes an outcomes-based obligation on licensees and law firms to create and retain records sufficient to demonstrate compliance with the Act, Code, and Rules.

- The details of the obligations are contained in the schedule, which requires a decision on how much information is provided in the schedule.

- The Society of Notaries Public BC provides fairly detailed document retention requirements in a similar schedule in their rules, however, the Law Society of BC does not do so at this time due to concerns respecting providing and updating substantive law advice – the transitional board and transitional Indigenous council may wish to discuss the benefits and drawbacks of either practice, but as currently drafted, there is flexibility in the approach as it is determined by the detail contained in the schedule which is yet to be drafted.

- The rule supports the regulator's role by ensuring reliable records are maintained which benefits multiple aspects of the regulatory framework, such as investigation, discipline, trust accounts, and indemnification.

16-1-2 Security of records

- This rule creates a professional obligation on licensees and law firms to secure records, following similar record security requirements as set out in the respective privacy legislation (e.g., *Personal Information Protection Act*, section 34).
- The rule is drafted using an outcomes-based approach to accommodate different practice types and is intentionally drafted as technology-neutral.
- The rule incorporates a mandatory reporting obligation to the chief executive officer for significant security incidents, providing the regulator notice and the opportunity to assist to mitigate any harm that may be caused to the public because of the security breach.

V. Next steps

6. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with the revised draft rules and briefing paper for discussion and decision at a future date

LEGAL PROFESSIONS BC RULES

PART 16 – GENERAL

[Definitions are drafted last – the below rule is to indicate the potential use of definitions for this Part, but the exact wording and the location of these definitions (i.e. at the start of the overall rules, this part or in a rule) will be determined based on an evaluation of the recurrence of the words or phrases throughout the rules.

General definition

16-1-X In this Part,

> "**former licensee**" includes a person who was a licensee under the Act at any time.]

Record maintenance and retention

16-1-1 (1) A licensee or law firm must create, maintain, and keep records that are reasonably necessary to demonstrate compliance with the Act, the [*Code of Professional Conduct*] and these Rules.

(2) Without limiting subrule (1), a licensee or law firm must maintain records relating to the licensee or law firm's

> (a) practice of law,
>
> (b) client matters and instructions,
>
> (c) trust money and financial transactions,
>
> (d) billing and fee agreements, and
>
> (e) any other matter required to be recorded under the Act, the [*Code of Professional Conduct*] or these Rules.

(3) A licensee or law firm must keep records in a form that

> (a) is readable and comprehensible, and
>
> (b) allows the records to be produced promptly when required under the Act, the [*Code of Professional Conduct*] or these Rules.

(4) Subject to subrule (5), a licensee or law firm must keep records for at least the minimum retention period set out in Schedule [X], beginning on the later of

(a) the completion of the matter to which the records relate, or

(b) the termination of the licensee or law firm's professional relationship with the client.

(5) A licensee or law firm must keep records for a period longer than the minimum retention period set out in Schedule [X] if

(a) required by the Act, these Rules, or another enactment, or

(b) the records relate to a matter that is the subject of an ongoing or reasonably anticipated complaint, investigation, audit, proceeding, or claim.

(6) A licensee, former licensee or law firm must not destroy or dispose of records required to be kept under this rule in a manner that risks unauthorized access to or disclosure of the information contained in the records.

(7) A licensee, former licensee or law firm must produce records kept under this rule when required to do so by the regulator.

Security of records

16-1-2 (1) A licensee or law firm must take reasonable steps to protect records and the information they contain in connection with the licensee or law firm's practice of law from unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks.

(2) A licensee or law firm must promptly notify the chief executive officer in writing of all the relevant circumstances if the licensee or law firm has reason to believe that

(a) the licensee or law firm has lost custody or control of any records related to the licensee or law firm's practice of law,

(b) a person has accessed, used or copied records without authorization, or

(c) a third party has failed to destroy records securely and permanently as instructed by the licensee or law firm.

Transitional Board and Transitional Indigenous Council

Briefing Paper – Draft Rules

Part 6 – Professional Conduct, Competence and Discipline

To:	**Transitional Board** **Transitional Indigenous Council**
Purpose:	**Discussion**
Date:	**April 13, 2026**

I. Background

1. Part 6 of the *Legal Professions Act* addresses professional conduct, competence and discipline, spread across three divisions. Division 1 addresses the obligations of licensees, trainees and law firms in relation to professional conduct and competence under the Act and includes requirements for financial standards and continuing competence, whilst also establishing in-house programs created to assist licensees and law firms to meet their professional obligations. The transitional board and transitional Indigenous council discussed the topics covered in Division 1 across several meetings.[1]

2. Division 2 sets out the process for complaints and investigations under the *Legal Professions Act,* establishing how complaints may be made and received by the regulator and providing the chief executive officer with the authority to initiate and conduct investigations. The transitional board and transitional Indigenous council also discussed the topics contained in Division 2 across a couple of meetings.[2]

3. Division 3 addresses the process and decision-making framework following an investigation, including the chief executive officer's authority to resolve, dismiss, or advance matters to discipline. The division sets out the available pathways once an investigation is commenced, including informal resolution, consent-based outcomes, and alternative resolution processes. The transitional board and transitional Indigenous council considered the topics covered in Division 3 at its November 2025 meeting.[3]

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[1] LPBC Transitional Board and Transitional Indigenous Council Joint Meeting Agenda, *Item 5 – Practice Advice* (March 2025); *Item 11 – Commentary on Practice Advice Paper* (September 2025); *Item 7 – Continuing Competence and Education* (October 2025); *Item 8 – Discipline – Practice Reviews* (November 2025).

[2] LPBC Transitional Board and Transitional Indigenous Council Joint Meeting Agenda, *Item 5 – Complaints* (May 2025); *Item 4 – Investigations* (October 2025).

[3] LPBC Transitional Board and Transitional Indigenous Council Joint Meeting Agenda, *Item 6 – Discipline* (November 2025); *Item 7 – Discipline – Alternative Resolutions* (November 2025).

Law Society of British Columbia – current alternative resolution processes

4. The transitional board and transitional Indigenous council requested an overview of the Law Society's current alternative discipline resolution processes. An alternative resolution refers to a process to address concerns regarding a lawyer's conduct or competence without proceeding to a formal disciplinary hearing before the Tribunal. The focus of this overview is on processes created by the Law Society through their rules, and not on disciplinary or remedial processes set out in their governing legislation (e.g. practice standards). For further details regarding the Law Society's professional regulation group, which includes its alternative discipline measures, please see the attached slides at Appendix A.

5. There are multiple benefits to resolving a disciplinary or competency matter as early as possible, including protecting the public through earlier resolution, increasing time and cost efficiencies, prioritizing more serious conduct for more formal disciplinary processes, and ensuring proportional resolutions to matters. This section will provide some background on the Law Society's current and anticipated processes and note any considerations under the new *Legal Professions Act*.

Resolution by informal means

6. Once a complaint has been received by the Law Society, the Law Society may resolve the complaint by informal means, including through mediation, or dismiss the complaint for reasons set out in the rules.[4] The rules that support this early resolution power result in the staff being able to close 94% of complaints in 2025 prior to any escalation to other disciplinary outcomes.[5] This approach reflects a proportionate regulatory response, when issues are resolved at the earliest appropriate stage and matched to their level of risk and seriousness.

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[4] Law Society Rules, Rule 3-7 and 3-8.

[5] See Slide 1 in Appendix A.

7. Draft rules have been provided for the transitional board and transitional Indigenous council's consideration to allow for this significant early resolution process to continue through to Legal Professions BC.[6]

Administrative penalties

8. Administrative penalties were introduced by the Law Society in 2022 and are used to address specific rule breaches through a streamlined, administrative process.[7] Administrative penalties are used for breaches of rules in high-risk areas: client identification and verification; cash transactions; and Juricert signatures.[8] Compliance with these rules is critical to ensure that the Law Society is meeting its obligations respecting anti-money laundering and protecting the public against fraud. The process allows the Executive Director to issue a monetary penalty when a breach is established on a balance of probabilities, with notice provided to the lawyer and an opportunity to respond or seek a review. Payment of the penalty or failure to dispute it is treated as an admission of the breach, and the matter is resolved without further disciplinary action. In 2025, the Law Society issued 28 administrative penalties.[9]

9. Under the new Act, the chief executive officer may issue a professional conduct order under section 87, which may include a fine. Accordingly, the transitional board and transitional Indigenous council do not need a specific rule to allow for the use of administrative penalties post-amalgamation. However, there is a rule need, which has been included in the draft rules, to allow the chief executive officer to initiate an investigation regardless of a complaint, since most of the specific rule breaches come to the regulator's attention following a trust audit.[10]

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[6] See draft rules 6-2-6 Resolution by informal means and 6-2-7 Dismissal of complaint following investigation.

[7] Law Society Rules, Rules 4-58 to 4-60.

[8] Law Society of BC, *Summary of Administrative Penalties Issued* (January 2025).

[9] See slide 3 in Appendix A.

[10] Please see draft rule 6-2-2 – Initiation of investigation by chief executive officer.

Alternative discipline process (health)

10. The Law Society's Alternative Discipline Process ("ADP") is a diversionary process that addresses situations where a lawyer's alleged misconduct may be linked to underlying health issues. Rather than proceeding through the traditional discipline stream, the ADP shifts the focus to early identification, support, and remediation, with the goal of enabling the lawyer to return to practice while still protecting the public interest. The program reflects a recognition that health-related factors are sometimes identified late in the discipline process, and that earlier intervention can lead to better outcomes for both the public and the profession.

11. Entry into the ADP is voluntary and subject to a public interest assessment by the Executive Director. A lawyer must acknowledge that a health issue contributed to the misconduct, and the regulator must be satisfied that diverting the matter is appropriate having regard to the seriousness of the conduct, public protection, and confidence in the profession. If accepted, the matter proceeds through a structured process, including the negotiation and approval of a tailored consent agreement that sets out the steps the lawyer must take to address the underlying issues.

12. If the ADP process is not completed or ceases to be in the public interest, the matter returns to the discipline stream without prejudice to the lawyer. If the lawyer successfully fulfills the terms of the agreement, the matter is resolved without further disciplinary action and without forming part of the lawyer's professional conduct record. Complainants are kept informed of the process and its outcome, but health information remains strictly confidential.

13. In September 2025, the Benchers approved, in principle, the expansion of the ADP to include health-related competence issues. However, the rules to reflect that decision have not yet been tabled.[11]

14. The ADP process relies on confidential consent agreements. Since section 91 of the new Act establishes consent agreements, and draft rules are proposed to address any issues

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[11] Law Society of BC, *Expanding the Use of Alternatives to Discipline* (September 2025).

respecting breaches or amendments of consent agreements, only two rules are proposed to create a similar "health-based" alternative resolution process for Legal Professions BC.[12]

Admitted discipline violations

15. The Law Society uses several tools for when a violation of the Act, the Rules or the Code is admitted. One benefit of these tools is that they allow the matter to proceed based on admission rather than through proof in a contested hearing, reducing cost and delay and focusing the process on appropriate outcomes.

Consent agreements

16. Discipline consent agreements were introduced by the Law Society in 2021 and since then have been one of the most significant and effective alternative resolution methods. Discipline consent agreements are used for conduct covering the spectrum from serious to very serious. The Law Society has concluded 58 consent agreements to date, with 11 concluded in 2025.[13] The executive director enters into an agreement with the respondent, including an admission of the conduct along with agreeing on disciplinary outcomes, such as a fine, suspension, undertaking to resign and not to reapply for reinstatement for a minimum period of time, conditions on practice, or remedial requirements.[14] Discipline consent agreements are published on the Law Society's website and the sanction forms part of the lawyer's professional conduct record.[15]

17. Under the new Act, the chief executive officer may enter into a consent agreement with a licensee, trainee or law firm under section 91. Since consent agreements are provided by the Act, the draft rules only refer to the ability to enter one, without the need to duplicate

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[12] Please see draft rules 6-3-4 Health-based alternative resolution and 6-3-5 Confidentiality of health-based alternative resolution.

[13] See Slide 3 in Appendix A.

[14] Law Society Rules, Rules 3-7.1 to 3-7.4.

[15] Law Society of BC, Admitted Discipline Violations | Law Society of BC.

section 91's requirements. There are draft rules that support the use of consent agreements, such as addressing when an agreement is breached.[16]

Conditional admissions

18. A conditional admission is a post-citation resolution, with the respondent admitting the discipline violation conditional on the Discipline Committee accepting the admission and proposed resolution.[17] Typically, the lawyer resigns from practice, becomes a former member and agrees not to apply for reinstatement for a minimum number of years. Conditional admissions are often used for very serious misconduct, with a respondent undertaking not to practice law for a substantial period of time. Conditional admissions are published on the Law Society's website and form part of the lawyer's professional conduct record.[18] The Law Society concluded 2 conditional admissions in 2025.

19. The new Act permits the transitional board and transitional Indigenous council to create such an alternative resolution, and accordingly, a draft rule is proposed.[19]

Joint submissions

20. The Law Society uses a process for streamlining discipline matters through a joint submission to a hearing panel at the Tribunal, based on an agreed statement of facts and the respondent's admission of a discipline violation. If accepted, the hearing panel must make the finding of misconduct and impose the agreed disciplinary action, which then forms part of the respondent's professional conduct record, subject to notification to the respondent and complainant. The panel may depart from the agreed outcome only where it would be contrary to the public interest and after giving the parties an opportunity to be heard. Admissions made during negotiations that do not result in a joint submission are protected and cannot be used in the hearing, supporting candid resolution discussions.

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[16] See draft rules 6-3-2 Breach of consent agreement and 6-3-3 Amendment of consent agreement.

[17] Law Society Rules, [Rule 4-29](#).

[18] Law Society of BC, [Admitted Discipline Violations | Law Society of BC](#) (Rule 4-29 Admission of Misconduct and Undertaking to Discipline Committee).

[19] Please see draft rule 6-3-11 – Conditional admission after citation.

21. The Tribunal is the responsible authority for accepting a joint submission in relation to a hearing and is responsible for any rules of practice and procedure related to their use under the new Act.

Conduct reviews, conduct meetings and conduct letters

22. The Law Society's Discipline Committee has some alternative resolution measures that it may take if the conduct does not warrant a citation. Apart from a citation, a conduct review is the most significant disciplinary response and has a primarily remedial focus. It is used when the application of the conduct assessment and disposition guidelines indicate that, despite the citation threshold being met, an alternative outcome is in the public interest.[20] A conduct review involves a confidential meeting between the lawyer and a subcommittee of the Discipline Committee, usually including a Bencher and a senior lawyer, and may include the complainant.[21] The process is intended to address concerns directly, promote improved conduct, and reinforce professional standards without resorting to more adversarial proceedings. After the review, a written report is prepared and forms part of the lawyer's professional conduct record. While the process is confidential, anonymized summaries are published to support education and awareness within the profession.

23. In contrast, a conduct meeting is a less serious alternative resolution method used by the Discipline Committee. The meeting still involves the lawyer and is conducted by one or more Benchers or lawyers, however, the complainant is not invited to attend, there is no publication of the conduct meeting by the Law Society, and the meeting does not form part of the lawyer's professional conduct record.

24. A conduct letter is also a less serious alternative action when compared to a conduct review. The letter is issued in the name of the Chair of the Discipline Committee, with the letter expressing the Discipline Committee's concerns respecting the complaint. The complainant receives a copy of the letter, and like a conduct meeting, the content of the letter is not publicized, nor does it form part of the lawyer's professional conduct record.

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[20] Law Society of BC, *Conduct Assessment and Disposition Guidelines* (March 2021).

[21] Law Society Rules, Rules 4-9 to 4-15.

25. In 2025, the Law Society completed 12 conduct reviews and 2 conduct meetings and issued no conduct letters.[22]

26. Under Bill 21, the specific "conduct review" model is not carried forward in the same form, as the role of the Discipline Committee is limited to citations. However, the remedial purposes of these alternative measures are reflected in professional conduct orders under section 87 and consent agreements under section 91, administered earlier in the process by the chief executive officer.

Anticipated alternative resolution processes

27. As mentioned above, in September 2025, the Benchers approved in principle the expansion of the ADP to include health-based concerns respecting competency, with rules to follow some time in 2026.[23] Based on that report, the Benchers also approved in principle the establishment of an Alternative Resolution Measures ("ARM") framework to address non-health-related conduct issues when remediation or resolution is likely achievable. It is anticipated that the current alternative resolutions discussed above (e.g. informal resolution, consent agreements, conduct reviews) will be incorporated into part of the framework, with the intention of providing greater transparency to the public.

28. The Law Society also established a Discipline Processes Task Force in 2025, with the Task Force being requested to take an evidence-based and user-focused approach, considering both the complainant and lawyer experiences, the role of key policy principles (such as deterrence and the public interest), and opportunities to modernize and innovate the complaints and discipline framework. The Task Force's will issue a final recommendation report by November 2026.[24]

II. Transitional board and transitional Indigenous council discussion

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[22] See Slide 2 in Appendix A.

[23] Law Society of BC, *Expanding the Use of Alternatives to Discipline* (September 2025).

[24] Law Society of BC, *2026 Mandate for the Discipline Processes Task Force* (January 2026).

29. The review of the discussion of the transitional board and transitional Indigenous council is provided as a summary, separated into the three Part 6 divisions. However, the transitional board and transitional Indigenous council discussed many of the topics that fall under Part 6 across several meetings in 2025, and some topics do not sit perfectly within one division (e.g. investigations).

Division 1 – Professional Conduct and Competence

30. The transitional board and transitional Indigenous council considered a range of issues relating to continuing competence, practice advice and practice reviews, with a consistent focus on supporting licensees in meeting professional standards while protecting the public. Across these discussions, the transitional board and transitional Indigenous council generally supported maintaining key elements of the current regulators' frameworks, including mandatory continuing professional development requirements and existing practice management training, while ensuring that the new rules provide appropriate confidentiality protections for practice advice with defined exceptions. The discussions also reflected a desire to distinguish between operational matters and those requiring rules, with several items deferred for further development as the rule drafting progresses.

31. The discussions also emphasized the importance of incorporating Indigenous perspectives into regulatory processes, including support for extending Indigenous intercultural training for all licensees, and recognizing a role for the Indigenous council in collaborating on the content of such training.

Division 2 – Complaints and Investigations

32. The transitional board and transitional Indigenous council engaged in discussion on the overall approach to complaints, with a focus on trying to ensure a flexible, accessible, and fair process. There was general agreement that rules should support an adaptable complaints intake process, provide for informing complainants of the progress and resolution of their complaints, and allow for review of certain complaint decisions, with a preference for a version of an internal review model rather than a formal committee structure.

33. With respect to investigations, there was support for providing the chief executive officer with broad authority to initiate investigations based on information from any source and to dismiss complaints following an investigation, at least on an interim basis pending the opportunity of a potential legislative amendment. The discussions also emphasized the importance of considering the unique circumstances of Indigenous complainants and communities, including the need for culturally appropriate processes and accommodations, although some specific proposals were deferred or not adopted pending further consideration.

Division 3 - Discipline

34. The transitional board and transitional Indigenous council discussed a range of issues relating to discipline, including the structure, composition, and operation of the discipline committee, as well as broader considerations respecting culturally responsive disciplinary processes. There was widespread support for an appropriately sized and representative discipline committee, including enhanced Indigenous representation on the committee and on panels, particularly in matters involving Indigenous licensees or complainants, while noting that several related questions would require further consideration.

35. The transitional board and transitional Indigenous council also explored several issues relating to culturally informed approaches to disciplinary decision-making, including interim orders, sanctions, and publication practices, as well as the potential use of alternative resolutions. These discussions included consideration of whether certain matters should be addressed in rules or through supporting policy and guidance.

III. Legislative authority

Division 1 – Professional conduct, competence and discipline

Rule	Legislative authority
6-1-1 Standards of financial responsibility	**74 Rules respecting competence, professional conduct and financial responsibility** … (3) Without limiting subsection (1), the board **may** make rules as follows: (a) establishing standards for financial responsibility relating to the financial integrity and financial viability of the professional practice of a licensee or law firm;
6-1-2 Duty to report failure to satisfy judgment	Same as above.
6-1-3 Duty to report insolvency	Same as above.
6-1-4 Information may give rise to investigation	**84 Rules respecting complaints and investigations** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (d) 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;
6-1-5 Annual continuing professional development requirement	**74 Rules respecting competence, professional conduct and financial responsibility** … (2) Without limiting subsection (1), the board **must** make rules establishing requirements for the continuing competence and education of licensees, including requirements for Indigenous cultural competency training.

Rule	Legislative authority
6-1-6 Indigenous intercultural course requirement	Same as above.
6-1-7 Practice management course requirement	Same as above.
6-1-8 Late completion of continuing development or course requirement	Same as above.
6-1-9 Failure to complete continuing development or course requirement	Same as above.
6-1-10 Practice advice and equity advisor program	**72 Assistance programs** The board **may** take any steps it considers advisable to promote and improve the standard of practice by licensees and trainees, including establishing, maintaining and supporting the following: … (c) programs to assist licensees and trainees with issues arising from their practice of law;
6-1-11 Confidentiality of program	Same as above.
6-1-12 – TBC Practice assistance program	Same as above.

Division 2 – Complaints and investigations

Rule	Legislative authority
6-2-1 Making a complaint	**76 Complaints** … (2) A complaint **must** be made in accordance with the rules. **84 Rules respecting complaints and investigations**

	… (2) Without limiting subsection (1), the board **may** make rules as follows: (a) establishing a process for making a complaint under section 76 [*complaints*];
6-2-2 Initiation of investigation by chief executive officer	**84 Rules respecting complaints and investigations** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (d) 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;
6-2-3 Confidentiality of complaints and investigations	**84 Rules respecting complaints and investigations** (1) The board **may** make rules respecting complaints and investigations.
6-2-4 Written response to complaint	Same as above.
6-2-5 Duty to cooperate with investigation	Same as above.
6-2-6 Resolution by informal means	**92 Alternative resolution** At any time between the start of an investigation and the start of a proceeding under Part 8 [*Tribunal Proceedings*], the chief executive officer **may**, in accordance with any rules made under section 94 (2) (e), resolve a discipline or competence matter using an alternative resolution process. **94 Rules respecting discipline** … (2) Without limiting subsection (1), the board **may** make rules as follows: …

	(e) respecting the use of alternative resolution processes in the resolution of discipline and competence matters.
6-2-7 Dismissal of complaint following investigation	**84 Rules respecting complaints and investigations** (1) The board **may** make rules respecting complaints and investigations.

Division 3 – Discipline

Rule	Legislative authority
6-3-1 Summary suspension or cancellation for indictable offence	**94 Rules respecting discipline** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (d) authorizing the chief executive officer to summarily suspend or cancel the licence of a licensee convicted of an indictable offence in British Columbia or in another jurisdiction;
6-3-2 Breach of consent agreement	**94 Rules respecting discipline** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (c) specifying the actions the chief executive officer may take if a licensee, trainee or law firm breaches a term of a consent agreement under section 91 [*consent agreements*];
6-3-3 Amendment of consent agreement	**94 Rules respecting discipline** (1) The board may make rules respecting the discipline of licensees, trainees and law firms
6-3-4 Health-based alternative resolution	**92 Alternative resolution** At any time between the start of an investigation and the start of a proceeding under Part 8 [*Tribunal Proceedings*], the chief

Rule	Legislative authority
	executive officer **may**, in accordance with any rules made under section 94 (2) (e), resolve a discipline or competence matter using an alternative resolution process. **94 Rules respecting discipline** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (e) respecting the use of alternative resolution processes in the resolution of discipline and competence matters.
6-3-5 Confidentiality of health-based alternative resolution	Same as above.
6-3-6 Discipline Committee panels	**89 Discipline committee** (1) The board **must** establish a discipline committee for the purpose of reviewing citations proposed to be issued against a licensee, trainee or law firm. **7 Guiding principles** In exercising powers and performing duties under this Act, the regulator **must** have regard to the following principles: ... (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;

Rule	Legislative authority
6-3-7 Confidentiality of Discipline Committee deliberations	**27 General rule-making authority of board** (1) The board **may** make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) [*duties of regulator*].
6-3-8 Issuing a citation	**94 Rules respecting discipline** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (b) respecting the issuance, amendment or rescission of a citation;
6-3-9 Amendment or rescission of citation	Same as above.
6-3-10 Issuing and delivery of citation	Same as above.
6-3-11 Conditional admission after citation	**92 Alternative resolution** At any time between the start of an investigation and the start of a proceeding under Part 8 [*Tribunal Proceedings*], the chief executive officer **may**, in accordance with any rules made under section 94 (2) (e), resolve a discipline or competence matter using an alternative resolution process. **94 Rules respecting discipline** … (2) Without limiting subsection (1), the board **may** make rules as follows: … (e) respecting the use of alternative resolution processes in the resolution of discipline and competence matters.

IV. Drafting notes

Division 1 – Professional Conduct and Competence

Professional conduct and competence requirements

Financial responsibility

6-1-1 Standards of financial responsibility

- This rule establishes a non-exhaustive list of circumstances that indicate a failure to meet minimum standards of financial responsibility.

- The rule aligns financial responsibility with other regulatory requirements, such as trust accounts and reporting requirements, alleviating the need for standalone tests for each circumstance.

- The rule is designed to support an early identification of risk and helps to inform potential regulatory action under other rules.

6-1-2 Duty to report failure to satisfy judgment

- This rule imposes a mandatory self-reporting obligation on licensees when a monetary judgment remains unsatisfied after a defined period.

- The rule supports the regulator's ability to assess financial risk to clients and the public interest at an early stage.

6-1-3 Duty to report insolvency

- This rule incorporates a definition under the Bankruptcy and Insolvency Act and establishes a duty to report if a licensee, trainee or law firm becomes an insolvent person.

- In addition to the reporting requirement, the rule establishes an automatic limit on the handling of trust accounts, with flexibility in the conditions determined by the chief executive officer.

- The rule also requires undischarged bankrupt licensees to no longer act as corporate directors.

6-1-4 Information may give rise to investigation

- This rule clarifies that the chief executive officer may use information reported under the financial responsibility rules for other regulatory processes.

- This rule also helps to support a graduated regulatory approach to behaviours, in line with the transitional board and transitional Indigenous council's discussion about progressive responses.

Continuing competence and education

6-1-5 Annual continuing professional development requirement

- This rule maintains the mandatory annual CPD requirement for practising licensees, consistent with the current regulators' practice.

- The rule also allows for the requirements to be established by the board, so that any changes to requirements such as hours, credits or content, may occur by policy and not require a rule amendment.

- The rule allows for proportional application for partial-year practice and is not tied to the status of a practising licensee, supporting fairness and practicality in the application of the rule.

- The rule also extends the CPD requirement to suspended licensees to prevent the loss of competence obligations due to a suspension.

6-1-6 Indigenous intercultural course requirement

- This rule establishes a mandatory Indigenous intercultural course requirement for all practising licensees.

- The rule reflects a collaborative approach with the chief executive officer responsible for establishing the course in collaboration with the Indigenous council, incorporating the language used in section 30 of the Act.

- The rule also allows for recognition of completion of any prior existing courses on the topic, covering a potential issue of future course changes or, for lawyers, the shift from the course required by the Law Society to the one required by Legal Professions BC.

6-1-7 Practice management course requirements

- Subrule (1) targets the risks of small law firm practice by requiring the completion of a practice management course within a timeframe of a licensee working in a small law firm.

- “Small law firm” will be defined in the Rules.

- Subrule (2) provides the chief executive officer the authority to have designated legal professions also take a practice management course – the intention of this subrule is to require the notaries public to take a “new notary workshop” in the time following their licensing, but as drafted, the rule is flexible enough to accommodate any other future profession specific post-licensing education requirements.

- Like the rule on the Indigenous intercultural course, the rule includes recognition of prior completion of a course to address any transitional considerations.

6-1-8 Late completion of continuing development or course requirement

- This rule distinguishes between substantive non-compliance and administrative non-compliance (e.g. the difference between not completing the course versus failing to file a declaration of completion).

- The rule reinforces accountability through payment of a late fee.

- The rule also supports the proportionate, administrative response before escalating to enforcement and disciplinary responses.

6-1-9 Failure to complete continuing development or course requirement

- This rule establishes that a failure to complete the CPD or other course requirements (i.e. Indigenous intercultural or practice management) means that there has been a failure to meet the continuing competence requirements under section 69 of the Act.

- That failure to meet triggers the chief executive officer's regulatory response mechanisms under the Act, including the ability to investigate but also issue a summary order under section 59 of the Act.

Assistance programs

6-1-10 Practice advice and equity advisor program

- This rule authorizes the chief executive officer to establish a confidential assistance program for ethical and practice-related guidance under section 72 of the Act.

- The rule supports the preventative, early intervention approach in assisting licensees, trainees, law firms and others (which may change to a defined term to include those working within a law firm or business entity).

6-1-11 Confidentiality of program

- Like the rules on custodianships and indemnification, this rule establishes that conversations with the advisors are confidential, with exceptions, because the advisors will be licensees employed by the regulator with the same core duties to report as all other licensees.

- In line with the transitional board and transitional Indigenous council's guidance, the rule includes defined exceptions to the advisors' confidentiality, balancing the need for a confidential program with public protection.

Division 2 – Complaints and Investigations

6-2-1 Making a complaint

- This rule establishes a flexible, accessible complaint intake model, following the discussion of the transitional board and transitional Indigenous council.

6-2-2 Initiation of investigation by chief executive officer

- This rule confirms the chief executive officer's authority to initiate an investigation independent of a complaint.
- This rule is helpful as it allows the ability for the chief executive officer to initiate an investigation based on a regulatory report (either internal or from another governing body or law enforcement agency), or based on information within the public realm that may impact a licensee, trainee or law firm (e.g. media).
- The rule supports a proactive, risk-based approach to investigations.

6-2-3 Confidentiality of complaints and investigations

- This rule establishes a default rule on confidentiality of complaints and investigations and mirrors the indemnification confidentiality rule.
- The rule permits specific disclosure in limited circumstances such as investigation, regulatory coordination, and to correct the public on any misinformation.
- The rule also avoids imposing a blanket confidentiality requirement on all licensees, allowing the chief executive officer to require confidentiality when appropriate (e.g. if investigating two licensees involved in the same complaint), but otherwise allowing the licensee to discuss the complaint with others, such as when receiving mental health support.

6-2-4 Written response to complaint

- This rule creates a mandatory obligation on the licensee, trainee or law firm to respond to a complaint, and requires personal accountability in the process.

- The rule also allows the chief executive officer to share the responses (or summaries of responses) with the complainant, supporting transparency as well as assisting in resolving the complaint.

6-2-5 Duty to cooperate with investigation

- Although a licensee, trainee or law firm is required to cooperate with an investigation under section 77(3) of the Act, this rule goes further by establishing what that cooperation looks like.

- The rule mirrors a similar rule respecting cooperation with a custodianship.

- The rule also links the outcome of a failure to cooperate with the existing statutory powers under the Act, including a summary order under section 59, providing more transparency on outcomes, while indicating that the chief executive officer may order limits or conditions, suspend or cancel a licence or permit for failure to cooperate with an investigation.

6-2-6 Resolution by informal means

- This rule enables early, flexible resolution of complaints, and reflects the transitional board and transitional Indigenous council's policy discussion to incorporate alternative resolution mechanisms into the rules.

- The rule is required to be time-limited to before the commencement of a proceeding by the Tribunal, at which time the matter becomes under the jurisdiction of the Tribunal to resolve.

6-2-7 Dismissal of complaint following investigation

- This rule fills a potential gap in the Act by expressly permitting the chief executive officer to dismiss a complaint following an investigation, in specific circumstances.

- The transitional board and transitional Indigenous council discussed the desire to have a review mechanism for dismissed complaints provided by the regulator, either through a committee, independent officer or likewise.

- In general, the consensus of the transitional board and transitional Indigenous council has been to avoid the use of a committee – for this reason, a complaints review committee has not been established in the current draft rules.

- As an alternative, there is a requirement on the chief executive officer to provide written reasons for the dismissal of a complaint under this rule, which allows the complainant to then pursue a review through either the ombuds office or judicial review.

- In practice, when operationalized, the process will involve an internal two-step review, with delegated staff providing the initial decision to dismiss, and with a review provided by the chief executive officer (or delegated senior manager), who is then obligated to provide reasons if upholding the decision to dismiss.

Division 3 - Discipline

6-3-1 Summary suspension or cancellation for indictable offence

- This rule provides a public interest power permitted by section 94(2)(d) to summarily suspend or cancel a licensee's licence.

- The rule allows for early intervention but is also balanced by notice and review rights.

- Given this is a disciplinary action, the rule sets out the the Tribunal may review the decision of the chief executive officer to issue a suspension or cancellation under the rule.

6-3-2 Breach of consent agreement

- This rule establishes a flexible response to breaches, avoiding an automatic escalation to discipline outcomes.
- The rule allows the chief executive to either recharacterize the breach as a complaint, reopen the original investigation, amend the agreement or engage in formal disciplinary pathways.

6-3-3 Amendment of consent agreement

- This rule enables an adaptive, ongoing regulation by allowing a consent agreement to evolve over time.
- The rule uses a mutual written agreement method to reinforce the voluntariness of the agreement and clarify the procedure to amend.
- Subrule (3) provides a non-exhaustive list to clarify the types of amendments possible, without overprescribing.

6-3-4 Health-based alternative resolution

- This rule creates a distinct pathway that is focused on addressing health-related causes of conduct.
- The rule requires licensee or trainee acknowledgement and consent and incorporates the public interest into whether this alternative resolution is appropriate.
- The rule is modelled on the Law Society's current alternative discipline process (ADP) and Law Society Rules 3-9.1 to 3-9.10, but revised to reflect changes required by the Act, such as the use of a consent agreement under section 91.

6-3-5 Confidentiality of health-based alternative resolution

- This rule establishes that participation in the health-based alternative resolution does not form part of the disciplinary record, supporting the intention behind the resolution process.

- The rule mirrors the confidentiality rules found in other parts of the rules, such as indemnification and complaints, but protects the information a bit more given the nature of the health information.

6-3-6 Discipline Committee panels

- Following the discussion of the transitional board and transitional Indigenous council, this rule introduces an Indigenous representation requirement for panels without duplicating section 89 of the Act.

- The rule uses the phrase “reasonable steps” to provide some flexibility in circumstances when a panel cannot meet the representation requirements (e.g. for conflict of interest reasons).

6-3-7 Confidentiality of Discipline Committee deliberations

- This rule may move to another part of the rules in future revisions (i.e. governance in relation to all committees) but is included in this part for now to give an idea of the confidentiality requirements of a regulatory committee.

- The rule protects the deliberations of the committee and uses objective public exceptions to the confidentiality to trigger disclosure.

- Rules respecting the publication of disciplinary outcomes, including the issuing of a citation, will be drafted under Part 5 in respect to the registry and publication in the public interest powers, but may move around the rules as part of the revision and review process to see where they sit best.

6-3-8 Submitting a citation

- This rule aligns with section 86 by clearly framing this step by the chief executive officer as a submission to the Discipline Committee.

- The rule prescribes the minimum content for a citation, to ensure fairness and clarity respecting the allegations.

- The rule also promotes standardization of the structure of citations.

6-3-9 Amendment or rescission of citation

- This rule distinguishes between the pre-approval of a citation, which is controlled by the chief executive officer, and a post-approval of a citation oversight by the Discipline Committee.

- The rule currently requires Discipline Committee involvement post-approval of a citation to ensure that the Discipline Committee maintains authority over the citation once first approved.

6-3-10 Issuing and delivery of citation

- This rule follows the statutory sequence set out in the Act of a citation being submitted, approved, issued, then delivered.

- The rule incorporates the delivery requirements under section 209 without duplicating the process set out in that section.

- The rule currently has a timeframe of 45 days for delivery to allow for amendments to or rescission of the citation or resolution of the conduct that is the subject of the citation.

6-3-11 Conditional admission after citation

- This rule creates a partial resolution mechanism for an active citation to avoid a hearing or full hearing when appropriate.

- The rule allows for serious outcomes, such as undertakings not to practice law, or surrender or cancellation of a licence, without requiring full adjudication.

- The rule also preserves the integrity of the proceedings by allowing the citation to continue on the remaining allegations, if any.

- The decision-making remains with the chief executive officer, reflecting a pre-hearing resolution consistent with Part 6 of the Act.

V. Next steps

36. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with the revised draft rules and briefing paper for discussion and decision at a future date.

2025 Complaint Outcomes

COMPLAINTS CLOSED WITH NO FURTHER ACTION (94%)

COMPLAINTS RESULTING IN FURTHER ACTION (6%)

49 RESOLVED

NOT VALID/ UNPROVEN 213

FURTHER ACTION NOT WARRANTED 285

ADMINISTRATIVE PENALTIES REFERRED 16*

*28 Admin Penalties levied

ALTERNATIVE DISCIPLINE PROCESS REFERRED (ADP) 9*

*6 ADP agreements signed

Complaints in 2025

Open at end of 2024	726
New files in 2025	1873
Total files handled	2599

1437 files with no further action

94 files referred for further action

Year end 1068 files

444 UNSUBSTANTIATED

446 INVESTIGATION DECLINED

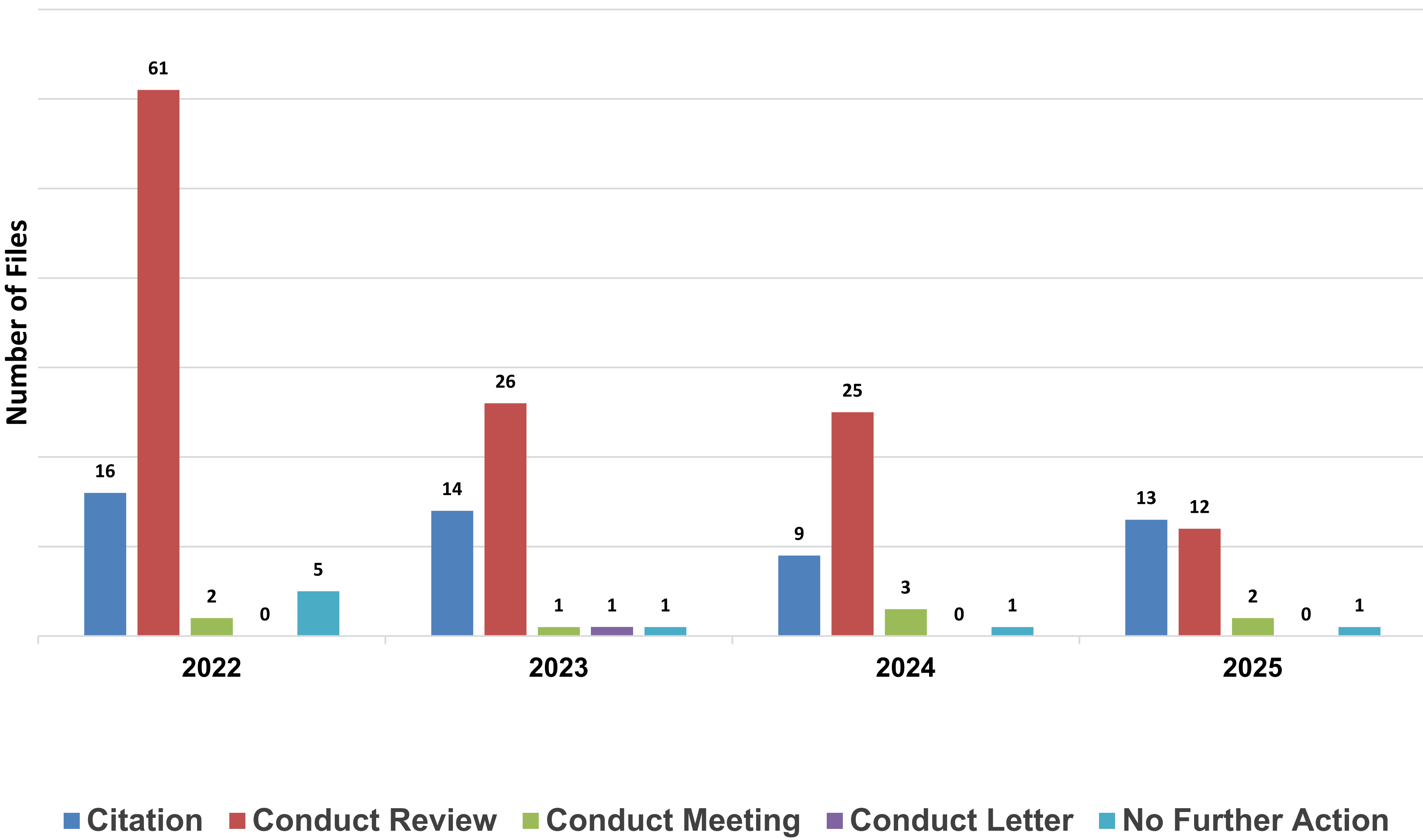
27 PRACTICE STANDARDS REFERRED

14* CONSENT AGREEMENT

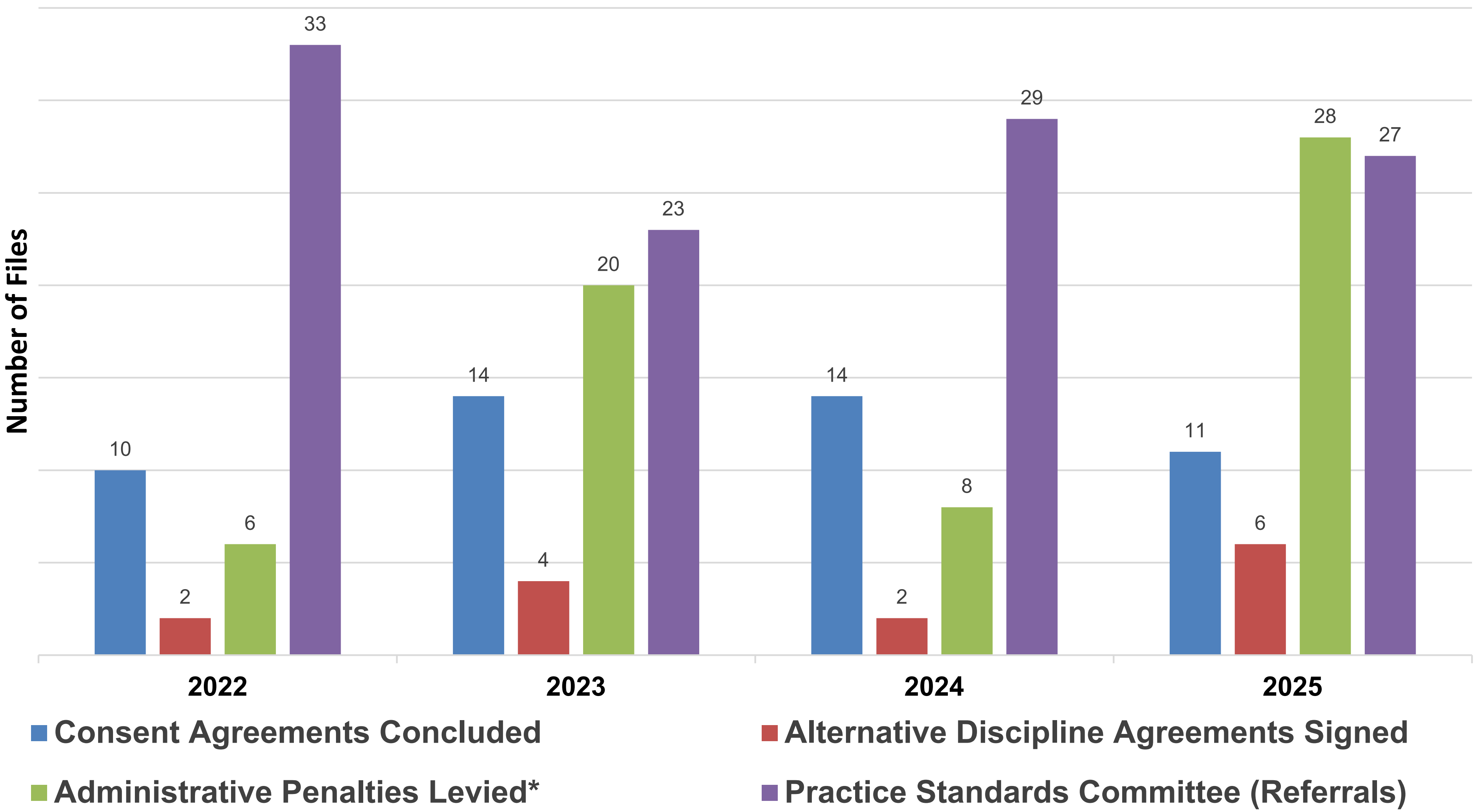
*11 resulted in finalized Consent Agreements

28 DISCIPLINE COMMITTEE

2022-2025 Discipline Committee Outcomes



2022-2025 Other Non-Discipline Committee Outcomes



*2025 – 4 files under review

LEGAL PROFESSIONS BC RULES

PART 6 – PROFESSIONAL CONDUCT, COMPETENCE AND DISCIPLINE

Division 1 – Professional Conduct and Competence

Professional conduct and competence requirements

Financial responsibility

Standards of financial responsibility

6-1-1 Instances in which a licensee, trainee or law firm has failed to meet minimum standards of financial responsibility include, but are not limited to, the following:

(a) a monetary judgment is entered against the licensee, trainee or law firm and the licensee or law firm does not satisfy the judgment within 7 days after the date of entry;

(b) the licensee, trainee or law firm is insolvent;

(c) the licensee or law firm does not produce records or permit the copying of records, or does not provide explanations when required under Rule [12-1-X (trust audit)];

(d) the licensee or law firm does not deliver a trust report when required under Rule [12-1-X (trust report)];

(e) the licensee or law firm does not report or remit a trust administration fee when required under Rule [12-1-X (trust administration fee)].

Duty to report failure to satisfy judgment

6-1-2 (1) If a monetary judgment is entered against a licensee, trainee or law firm and the judgment is not satisfied within 7 days after the date of entry, the licensee, trainee or law firm must immediately notify the chief executive officer in writing of the following:

(a) the circumstances of the judgment, including whether the judgment creditor is a client or former client of the licensee, trainee or law firm;

(b) the licensee, trainee or law firm's proposal for satisfying the judgment.

(2) A licensee, trainee or law firm must comply with subrule (1) despite any appeal of the judgment.

Duty to report insolvency

6-1-3 (1) If a licensee, trainee or law firm becomes an insolvent person within the meaning of the *Bankruptcy and Insolvency Act*, the licensee, trainee or law firm must immediately notify the chief executive officer in writing.

(2) A licensee, trainee or law firm to whom subrule (1) applies must, on request, provide to the chief executive officer all records and information relevant to the insolvency, including the following:

(a) copies of any petitions, assignments, proposals, applications, or court filings;

(b) information about any debts owed to a creditor who is or has been a client of the licensee, trainee or law firm;

(c) information about any debt arising from the licensee, trainee or law firm's practice of law or provision of legal services;

(d) any records, books, accounts, or other documents in the licensee, trainee or law firm's possession relevant to the insolvency.

(3) A licensee, trainee or law firm that is an insolvent person must not receive or disburse trust funds except in accordance with any conditions imposed by the chief executive officer.

(4) A licensee who becomes an undischarged bankrupt must not act as a director of a corporation, including a law corporation.

Information may give rise to investigation

6-1-4 (1) The chief executive officer may consider information provided under Rules [6-1-2] or [6-1-3] for the purpose of deciding whether to act under subrule (2).

(2) If the chief executive officer considers it appropriate in the circumstances, the chief executive officer may

(a) conduct or direct an investigation under Rule [6-2-2], or

(b) take any action authorized under the Act or these Rules that the chief executive officer considers necessary to protect the public.

Continuing competence and education

Annual continuing professional development requirement

6-1-5 (1) In each calendar year, a practising licensee must

(a) complete continuing professional development in accordance with requirements established by the chief executive officer, and

(b) file a declaration confirming that the practising licensee has complied with those requirements, in the prescribed form.

(2) If a practising licensee has not been practising law for the entire calendar year, the requirements under subrule (1) apply only in proportion to the part of the year during which the practising licensee was practising law, as determined by the chief executive officer.

(3) A licensee who is suspended is deemed to be a practising licensee for the purposes of this rule during the period of suspension if, but for the suspension, the licensee would be a practising licensee.

Indigenous intercultural course requirement

6-1-6 (1) The chief executive officer must establish an Indigenous intercultural course in collaboration with the Indigenous council.

(2) A practising licensee must complete the Indigenous intercultural course in accordance with this rule.

(3) A practising licensee who is first licensed in British Columbia on or after [January 1, 2028] must complete the Indigenous intercultural course within 1 year of the date the licence is issued.

(4) The chief executive officer may recognize a practising licensee's prior completion of the Indigenous intercultural course or a predecessor course for the purposes of this rule.

(5) A practising licensee must file a declaration confirming completion of the Indigenous intercultural course in the prescribed form.

Practice management course requirement

6-1-7 (1) A practising licensee who begins practising in a small law firm and who has not previously completed a practice management course must complete a practice management course within 90 days after beginning to practise in the small law firm.

(2) The chief executive officer may require a practising licensee in a designated legal profession to complete a practice management course within the time specified by the chief executive officer.

(3) The chief executive officer may recognize a practising licensee's prior completion of a practice management course or a predecessor course for the purposes of this rule.

(4) A practising licensee to whom subrule (1) or (2) applies must file a declaration confirming completion of a practice management course in the prescribed form.

Late completion of continuing development or course requirement

6-1-8 (1) A licensee who fails to comply with a continuing professional development or course requirement under Rules [6-1-5, 6-1-6 or 6-1-7] by the date on which the licensee is required to comply is deemed to be in compliance with the requirement if the licensee does all of the following within 60 days after that date:

(a) completes the outstanding continuing professional development or course requirement;

(b) files a declaration confirming completion of the requirement in the prescribed form;

(c) pays the late fee as specified in Schedule [X].

(2) A licensee who completes an education requirement by the date by which the licensee is required to comply but fails to file the prescribed declaration by that date is deemed to be in compliance with the requirement if the licensee does both of the following within 60 days after that date:

(a) files a declaration confirming completion of the requirement in the prescribed form;

(b) pays the late fee as specified in Schedule [X].

Failure to complete continuing development or course requirement

6-1-9 (1) A licensee who fails to meet an applicable requirement under Rules [6-1-5, 6-1-6 or 6-1-7], and who does not satisfy the requirements of Rule [6-1-8], has failed to meet the continuing competence and education requirements established under these Rules for the purposes of section 69 of the Act.

(2) The chief executive officer may take any action authorized under the Act or these Rules, including commencing an investigation or making a summary order under section 59, in respect of a failure described in subrule (1).

Assistance programs

Practice advice and equity advisor program

6-1-10 The chief executive officer may establish and maintain a practice advisor and equity advisor program to provide confidential assistance to licensees, trainees, law firms and other persons seeking assistance respecting ethical obligations, practice management, and professional responsibilities.

Confidentiality of program

6-1-11 (1) In this rule, "**advisor**" means a person acting in the capacity of a practice advisor or equity advisor under Rule [6-1-10].

(2) This rule must be interpreted in a manner that facilitates an advisor assisting a licensee, trainee, law firm or other persons seeking assistance by allowing communication without prejudice to the rights of any person.

(3) In addition to subrule (2), an equity advisor may facilitate communication, including through mediation, between persons for the purpose of resolving a matter on a without prejudice basis.

(4) Subject to subrule (5), communication between an advisor acting in that capacity and a licensee, trainee, law firm or other person seeking assistance from the advisor is confidential.

(5) An advisor must keep confidential and must not disclose information acquired in the advisor's capacity as an advisor, except

(a) to another advisor acting in the same capacity, or to the advisor's direct supervisor for the purpose of obtaining guidance or oversight in the provision of practice advice,

(b) if the information reveals a trust shortage that will not otherwise be reported as required under the Act or these Rules,

(c) if disclosure is required by law or by a court order,

(d) if the licensee, trainee, law firm or person seeking or receiving assistance provides express consent, verbally or in writing, to the disclosure of the information, or

(e) if the advisor has reasonable grounds to believe there is an imminent risk of death or serious bodily harm, to the extent permitted under [Code Rule 3.3-3 of the *Code of Professional Conduct*].

[**Practice assistance program**

Staff are working with the regulators to consider a proposed practice assistance program under sections 72 and 74(3)(b) of the Act. Following the transitional board and transitional Indigenous council's discussion and direction, draft rules respecting the program may be included in the revised version of Part 6, Division 1 in the future.]

LEGAL PROFESSIONS BC RULES

PART 6 – PROFESSIONAL CONDUCT, COMPETENCE AND DISCIPLINE

Division 2 – Complaints and Investigations

Making a complaint

6-2-1 The chief executive officer may accept a complaint in any form the chief executive officer considers appropriate.

Initiation of investigation by chief executive officer

6-2-2 The chief executive officer may initiate an investigation whether or not a complaint or report has been made to the regulator.

Confidentiality of complaints and investigations

6-2-3 (1) Unless permitted by this rule, the regulator must not disclose any information or records associated with a complaint or investigation.

(2) The chief executive officer may, in the chief executive officer's discretion, do any of the following:

(a) disclose information about a complaint with the consent of the licensee, trainee or law firm that is the subject of the complaint;

(b) disclose information or records about a complaint or investigation to a person or entity involved in the administration, investigation, or resolution of the complaint or any related proceeding;

(c) disclose information or records about a complaint or investigation to the designated licensee of the licensee or trainee's law firm;

(d) deliver to a law enforcement agency any information or records obtained through a complaint or investigation that may be evidence of an offence or relevant to the agency;

(e) disclose to a governing body any information or records obtained through a complaint or investigation that may be evidence of a regulatory violation or relevant to the governing body;

(f) if a complaint has become known to the public, disclose

(i) the existence of the complaint,

(ii) its subject matter,

(iii) its status, including, if the complaint is closed, the general basis on which it was closed, and

(iv) any additional information necessary to correct inaccurate or misleading public information.

(3) The chief executive officer may require a licensee, trainee or law firm to keep confidential any information or records associated with a complaint or investigation, subject to any conditions the chief executive officer considers appropriate.

Written response to complaint

6-2-4 (1) A licensee, trainee or law firm must provide a written response to a complaint within the time specified by the chief executive officer.

(2) A written response under subrule (1) must be signed

(a) by the licensee or trainee to whom the complaint relates, or

(b) if the complaint is about a law firm, by the designated licensee of the law firm.

(3) The chief executive officer may provide to the complainant a copy or a summary of a written response, subject to any confidentiality or privilege that applies.

Duty to cooperate with investigation

6-2-5 (1) A licensee, trainee or law firm must fully and promptly cooperate with the chief executive officer in an investigation.

(2) Without limiting subrule (1), a licensee, trainee or law firm must promptly

(a) deliver to the chief executive officer any property, documents and information required for the purposes of the investigation, and

(b) provide all keys, access credentials and other information necessary to enable the chief executive officer to locate, access, copy and control any property, records, documents or information wherever stored.

(3) If a licensee, trainee or law firm fails to cooperate with an investigation, the chief executive officer may take any action authorized under the Act or these Rules, including making a summary order under section 59.

Resolution by informal means

6-2-6 The chief executive officer may attempt to resolve a matter by mediation or other informal means at any time after a complaint or report is received or an investigation is initiated by the regulator and before the start of a proceeding under Part 8 [*Tribunal Proceedings*] of the Act.

Dismissal of complaint following investigation

6-2-7 (1) Following an investigation, the chief executive officer must dismiss a complaint if satisfied that

(a) the complaint is not substantiated or its validity cannot be established, or

(b) the conduct or competence issue is not serious enough to warrant further action.

(2) Following an investigation, the chief executive officer may dismiss a complaint if satisfied that the matter giving rise to the complaint has been resolved.

(3) The chief executive officer must notify the complainant and the licensee, trainee or law firm that is the subject of the complaint in writing of the dismissal, including the reasons for the dismissal.

PART 6 – PROFESSIONAL CONDUCT, COMPETENCE AND DISCIPLINE

Division 3 – Discipline

Summary suspension or cancellation for indictable offence

6-3-1 (1) If a licensee is charged with or convicted of an indictable offence, the chief executive officer may suspend or cancel the licensee's licence if the chief executive officer considers it necessary in the public interest.

(2) If the chief executive officer suspends or cancels a licensee's licence under subrule (1), the chief executive office must notify the licensee in writing, including

(a) including reasons for the suspension or cancellation,

(b) the duration of any suspension, and

(c) the right to apply for a review under subrule (4).

(3) A suspension or cancellation under subrule (1) is not effective until the date the notice is received by the licensee who is the subject of the suspension or cancellation.

(4) A licensee subject to a suspension or cancellation under subrule (1) may, at any time while the suspension or cancellation is effective, apply to the Tribunal for a review of the suspension or cancellation.

Breach of consent agreement

6-3-2 If a licensee, trainee or law firm breaches a consent agreement entered into under section 91 of the Act, the chief executive officer may do one or more of the following:

(a) treat the breach as a complaint under this Part;

(b) reopen the investigation that gave rise to the consent agreement;

(c) consider the matter under section 86 of the Act;

(d) enter into an amended consent agreement with the licensee, trainee or law firm.

Amendment of consent agreement

6-3-3 (1) The chief executive officer and the licensee, trainee or law firm may amend a consent agreement entered into under section 91 of the Act by written agreement.

(2) An amended consent agreement has the same effect as a consent agreement entered into under the Act and this Division.

(3) The chief executive officer or the licensee, trainee or law firm may propose an amendment to a consent agreement respecting

(a) a course of study, remedial program or other requirement the licensee, trainee or law firm must complete,

(b) limits or conditions on the licensee, trainee or law firm's licence or permit, or

(c) the time for complying with any term of the consent agreement.

(4) The chief executive officer may approve or decline a proposed amendment.

Health-based alternative resolution

6-3-4 (1) In Rules [6-3-4] and [6-3-5], **"health issue"** means a matter in which the physical or mental health of a licensee or trainee may have contributed to the conduct that is the subject of a complaint.

(2) At any time after a complaint or report is received or an investigation is initiated by the regulator and before the start of a proceeding under Part 8 [*Tribunal Proceedings*] of the Act, the chief executive officer may proceed with a matter as a health-based alternative resolution if

(a) the licensee or trainee acknowledges that a health issue contributed to the conduct,

(b) the licensee or trainee consents in writing to the use of this process, and

(c) the chief executive officer is satisfied that it is in the public interest to do so, having regard to the nature of the alleged conduct and any harm caused.

(3) For the purpose of determining whether a health-based alternative resolution is appropriate, a licensee or trainee must provide the chief executive officer with health information reasonably necessary to assess whether

(a) a health issue contributed to the conduct,

(b) remedial measures could address the health issue, and

(c) it is in the public interest for the licensee or trainee to engage in the remedial measures.

(4) The chief executive officer may request any additional health information from a licensee or trainee that the chief executive officer considers necessary for the purpose described in subrule (3).

(5) Proceeding under this rule does not limit the chief executive officer's authority to make an interim order under section 85 of the Act if the chief executive officer considers it necessary in the public interest.

(6) If the chief executive officer and the licensee or trainee agree to resolve the matter through health-based alternative resolution, they may enter into a health-based consent agreement in accordance with section 91 of the Act and the rules respecting consent agreements under this Division.

(7) A health-based consent agreement under this rule must include terms respecting the following:

(a) the duration of the agreement and any obligation under it;

(b) confidentiality and information sharing;

(c) the fulfillment and amendment of the terms of the agreement;

(d) responsibility for reporting a breach of the agreement;

(e) the consequences of fulfilling or failing to fulfill the terms of the agreement;

(f) responsibility for costs associated with fulfilling the terms of the agreement;

(g) the licensee's or trainee's undertaking not to assert delay or other prejudice arising from proceeding under this Division if the matter is later referred for investigation.

(8) A consent agreement under this rule may include other terms, including terms respecting the following:

(a) a recommended treatment plan;

(b) medical monitoring and reporting requirements;

(c) conditions or limitations on a licence;

(d) the mitigation of loss or harm resulting from the conduct;

(e) an apology, restitution or other remedial steps.

(9) The chief executive officer may continue with the complaint under this Part if

(a) the licensee or trainee withdraws consent,

(b) the licensee or trainee fails to provide the requested health information,

(c) the licensee or trainee breaches the consent agreement, or

(d) the chief executive officer determines that health-based alternative resolution is no longer in the public interest.

(10) Rules [6-3-2] and [6-3-3] apply, with any necessary modifications, to a consent agreement entered into under this rule.

Confidentiality of health-based alternative resolution

6-3-5 (1) A step taken under Rule [6-3-4], including a health-based consent agreement entered into under that rule, does not form part of a licensee or trainee's disciplinary record.

(2) Except as permitted under this rule, the regulator must not disclose any information or records related to a step taken in respect of a health-based alternative resolution.

(3) The chief executive officer may, in the chief executive officer's discretion, do any of the following:

(a) disclose information or records about the health-based alternative resolution with the consent of the licensee or trainee;

(b) disclosure information or records about the health-based alternative resolution if the disclosure is necessary to comply with a legal duty to accommodate;

(c) disclose information or records about the health-based alternative resolution to a person or entity involved in the administration, investigation, defence, or resolution of the matter;

(d) disclose to any department of the regulator information or records for the purposes of investigation, discipline, custodianship, communications, or other regulatory functions;

(e) publish a limit or condition on the licensee's licence or enrolment of a trainee;

(f) disclose information to a complainant to the extent necessary

(i) to provide notice required under section 76,

(ii) to inform the complainant that a health-based consent agreement has been entered into,

(iii) to report on the successful completion of a health-based consent agreement, or

(iv) to report that the complaint has been continued under the complaints process.

Discipline Committee panels

6-3-6 If a citation before the Discipline Committee involves a licensee, trainee or complainant who is Indigenous, or a law firm that is Indigenous, the chair of the Discipline Committee must take reasonable steps to ensure that at least one member of the panel considering the citation is Indigenous.

Confidentiality of Discipline Committee deliberations

6-3-7 (1) The regulator or a member of the Discipline committee must not disclose any of the following:

(a) information or records relating to the deliberations of the Discipline Committee or a panel of the Discipline Committee;

(b) the substance of any discussions, opinions or votes of members of the Discipline Committee or a panel.

(2) Subrule (1) does not apply to disclosure

(a) necessary to give effect to a decision of the Discipline Committee, or

(b) authorized by the Act or these Rules.

(3) The chief executive officer must not disclose that a citation has been approved by the Discipline Committee until the affected licensee, trainee or law firm has received the citation.

(4) Subrule (3) does not apply if

(a) the identity of the licensee, trainee or law firm has already been made public,

(b) the citation relates to a matter that has already been made public, or

(c) the citation is based on a complaint known to the public.

Submitting a citation

6-3-8 If, following an investigation, the chief executive officer determines to submit a citation to the Discipline Committee under section 86(b), the chief executive officer must submit the citation

(a) in writing,

(b) identifying the licensee, trainee or law firm who is the subject of the citation,

(c) setting out the allegations, and

(d) identifying the provisions of the Act, the *Code of Professional Conduct* or the Rules alleged to have been contravened.

Amendment or rescission of citation

6-3-9 (1) Before a citation is approved by the Discipline Committee under section 90 of the Act, the chief executive officer may amend or rescind the proposed citation.

(2) If a citation has been approved by the Discipline Committee under section 90 of the Act, the chief executive officer may, at any time before the start of a proceeding under Part 8 [*Tribunal Proceedings*]

(a) amend the citation and submit the amended citation to the Discipline Committee for review, or

(b) rescind the citation with the approval of the Discipline Committee.

Issuing and delivery of citation

6-3-10 (1) If the Discipline Committee approves the citation under section 90 of the Act, the chief executive officer must

(a) issue the citation, and

(b) deliver the citation on the affected licensee, trainee or law firm in accordance with section 206 of the Act.

(2) The chief executive officer must deliver the citation not more than 45 days after the Discipline Committee approves the citation, unless the Discipline Committee directs otherwise.

Conditional admission after citation

6-3-11 (1) After a citation is issued and before the start of a hearing under Part 8 [*Tribunal Proceedings]* of the Act, a licensee, trainee or law firm may deliver to the chief executive officer a written admission in respect of one or more allegations in the citation, together with any proposed terms or undertakings.

(2) The chief executive officer may

(a) accept the admission,

(b) accept the admission subject to any terms or undertakings the chief executive officer considers necessary in the public interest, or

(c) decline the admission.

(3) If the chief executive officer accepts an admission

(a) the allegation or allegations to which the admission applies are resolved,

(b) the licensee, trainee or law firm must comply with any terms or undertakings accepted by the chief executive officer, including an undertaking not to practise law or the surrender or cancellation of a licence or permit, and

(c) the citation continues in respect of any remaining allegations, unless otherwise determined by the chief executive officer.

(4) The chief executive officer must notify the licensee, trainee or law firm and the complainant of the outcome.

(5) Subject to any confidentiality or privilege, the chief executive officer may disclose information about a resolution under this rule, including any terms or undertakings.

Transitional Board and Transitional Indigenous Council

Briefing Paper – Draft Code of Professional Conduct

Rules 3.2 - 3.3-7

To:	**Transitional Board**
	Transitional Indigenous Council
Purpose:	**Discussion**
Date:	**April 13, 2026**

Background

1. As suggested at the last meeting of the transitional board and the transitional Indigenous council, attached is a two-column document with comments. The left column provides the Model Code language and the right column redlines the revisions suggested for the draft Code of Professional Conduct (CPC). In addition, there are a number of comments in the left most part of the attached draft CPC that provide an explanation for the proposed revisions or suggesting matters for consideration by the transitional board and the transitional Indigenous council. In addition to the comments in the attached, the balance of this briefing report discusses a few of the more significant issues.

Drafting notes

Rule 3.2-1.1

2. The inclusion of rule 3.2-1.1 (Limited Scope Retainers) arises from the traditional assumption by the courts and the legal profession that when a lawyer was retained for “a case” or “a transaction,” the retainer constituted a broad mandate to do all work reasonably required to advance the client’s interests in that matter, subject to instructions, ethical rules, and fees. The counter to this expectation was what came to be known as “unbundling” legal services and more formally as a “limited scope retainer”.

3. In Strother v. 3464920 Canada Inc., 2007 SCC 24, Justice Binnie writing for the majority of the court stated ““*When a lawyer is retained by a client, the scope of the retainer is governed by contract. It is for the parties to determine how many, or how few, services the lawyer is to perform, and other contractual terms of the engagement.*” The only real difference between this general statement about the contractual nature of the relationship licensee/client relationship and the implications of a “limited scope retainer” is that Rule 3.201.1 requires that a licensee *“must advise the client about the nature, extent and scope of the services that the licensee can provide and must confirm in writing to the client as soon as practicable what services will be provided*.”

4. The Report of the Unbundling of Legal Services Task Force Limited Retainers: Professionalism and Practice provided to the Benchers in April 2008 noted: “*Traditionally a client, particularly a litigant, would retain a lawyer for full service representation. This is no longer the case and, increasingly, many litigants are representing themselves before the courts. For some litigants self-representation is a conscious choice. For many, it is a necessity. There are a number of factors that contribute to the rise in the number of self-*

represented litigants, and the range of causes for the rise in self-representation suggest that there is not a simple solution to the phenomenon"

5. As the traditional assumption has not run its course, the recommendation is to retain this section of the CPC. However, post amalgamation, the board and the Indigenous council might consider relying upon the Supreme Court of Canada's affirmation that the scope of a legal retainer is governed by contract and take steps to eliminate any special treatment or requirements for "limited scope" retainers.

Rules 3.2-3 & 3.2-8

6. The Model Code rule 3.2-3 provides: "Although a lawyer may receive instructions from an officer, employee, agent or representative, when a lawyer is employed or retained by an organization, including a corporation, the lawyer must act for the organization in exercising their duties and in providing professional services"

7. Although the rule heading is "Dishonesty, fraud when client an organization," rule 3.2-8 actually provides that "A lawyer who is employed or retained by an organization to act in a matter in which the lawyer knows that the organization has acted, is acting or intends to act dishonestly, fraudulently, *criminally, or illegally* …" must take the actions set out in the balance of the rule.

8. While the obligations and requirements set out in rule 3.2-3 and 3.2-8 can present challenges where the licensee is in private practice and is retained by an organization, those challenges multiply when the licensee is employed by the organization. While a licensee in private practice may not wish to lose the fees that might be earned from an organization's retainer or lose the organization generally as a client, generally the licensee in private practice will not owe a general duty of loyalty to the organization. However, an employed licensee does owe such a duty in addition to the other duties set out in the CPC, including a duty of confidentiality.

9. When an officer, director or employee of the organization engages in misconduct, they may attempt to direct the licensee to cover up the behavior, destroy evidence, or provide legal cover. If the licensee follows the direction, they violate their duty of loyalty to the organization. If they report or resist the direction, they may violate the instructions of their "functional" superior.

10. A related conflict arises when an employed lawyer discovers that someone within the organization is engaged in or intends to engage in fraudulent, criminal or illegal activity that could be imputed to the organization and is likely to result in substantial injury to the

organization. Generally, the lawyer must report the matter "up the ladder" within the organization. However, because the lawyer is an employee, they face significant economic pressure. Threatening to report a superior or a key decision-maker often carries risks of termination, retaliation, or professional isolation. In addition, the commentary states "Conduct likely to result in substantial harm to the organization, as opposed to genuinely trivial misconduct by an organization, invokes these rules." This requires the licensee to evaluate whether the threshold of certainty regarding the fraudulent, criminal or illegal conduct is met. The lawyer must balance the need to prevent harm with the duty to maintain client confidences.

11. Without expanding the CPC beyond the current Model Code rules, there may be little room for addressing unique issues faced by employed licensees. However, the Law Society Ethics and Lawyer Independence Advisory Committee has established a sub-committee on the topic of in-house ethical requirements. The sub-committee is expected to meet this year and it may be useful to consider any recommendations of the sub-committee before finalizing the CPC.

Rule 3.2-2.1

12. The Law Society's implementation of the Model Code includes a rule 3.2-2.1 which creates an obligation to claim solicitor-client privilege when a lawyer who is required, under federal or provincial legislation, to produce a document or provide information that is or may be privileged must, unless the client waives the privilege, claim solicitor-client privilege in respect of the document.

13. The transitional board and the transitional Indigenous council have accepted that, in principle, the obligations created by solicitor-client privilege should be available to protect clients of lawyers, notaries public and regulated paralegals. The inclusion of rule 3.3-2.1 would require notary public licensees and regulated paralegal licensees to claim "solicitor-client" privilege in the circumstances described in the rule.

14. Currently, there is no judicial decision supporting the extension of "solicitor-client" privilege to legal service providers other than lawyers. Master Dash in Chancey v. Dharmadi 86 O.R. (3d) 612 did consider the issue of whether the class privilege extended to solicitors should also apply to Ontario paralegals, stating

    "Prima facie it appears that the rationale for granting class privilege to communications between a solicitor and his client made in the course of giving legal advice applies equally to communications between a paralegal and his client in the course of giving legal advice. Although the lawyer may be giving advice respecting a criminal proceeding or a civil action

in the Superior Court, whereas a paralegal is giving advice respecting a provincial offence or a civil action in a small claims court, both equally require full and candid communication between those needing legal advice and those able to provide it so that the legal rights of the client may be protected, and the communications in both are inexorably linked to the very legal system that seeks the disclosure. The relationship between a client and his or her paralegal, just as the relationship with his or her lawyer "stretches beyond the parties and is integral to the workings of the legal system itself."

15. Master Dash declined to decide whether the class privilege should extend generally to Ontario paralegals but did comment "*Once licensing of paralegals is in effect, the court may in an appropriate case revisit the idea of granting a class privilege to communications between a client and a paralegal licensed by the Law Society to provide legal services, rather than requiring the court to engage in a case-by-case analysis respecting each such communication*."

16. While the observation of Master Dash that *"it appears that the rationale for granting class privilege to communications between a solicitor and his client made in the course of giving legal advice applies equally to communications between a paralegal and his client in the course of giving legal advice."* is compelling, the law on this point remains to be determined.

17. For the purposes of the CPC, the recommendation is to include the language from the Law Society's implementation of the Mode Code and expect that this will require all licensees to observe the obligation to protect solicitor-client privilege in the circumstances described in rule 3.2-2.1.

Next steps

18. Following the advice and recommendations provided by the transitional board and transitional Indigenous council, staff will return with the revised draft rules for discussion and decision at a future date

FLSC Model Code May 9, 2024	Draft LPBC Code of Professional Conduct
3.2 QUALITY OF SERVICE	**3.2 Quality of service**
Quality of Service	**Quality of Service**
3.2-1 A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil.	3.2-1 A ~~lawyer~~ licensee has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a ~~lawyer~~licensee is service that is competent, timely, conscientious, diligent, efficient and civil.
Commentary	**Commentary**
[1] This rule should be read and applied in conjunction with section 3.1 regarding competence.	[1] This rule should be read and applied in conjunction with section 3.1 ~~(Competence)~~regarding competence.
[2] A lawyer has a duty to provide a quality of service at least equal to that which lawyers generally expect of a competent lawyer in a like situation. An ordinarily or otherwise competent lawyer may still occasionally fail to provide an adequate quality of service.	[2] A ~~lawyer~~licensee has a duty to provide a quality of service at least equal to that which ~~lawyer~~licensees generally expect of a competent ~~lawyer~~licensee in a like situation. An ordinarily or otherwise competent ~~lawyer~~licensee may still occasionally fail to provide an adequate quality of service.
[3] A lawyer has a duty to communicate effectively with the client. What is effective will vary depending on the nature of the retainer, the needs and sophistication of the client and the need for the client to make fully informed decisions and provide instructions.	[3] A ~~lawyer~~licensee has a duty to communicate effectively with the client. What is effective will vary depending on the nature of the retainer, the needs and sophistication of the client and the need for the client to make fully informed decisions and provide instructions.
[4] A lawyer should ensure that matters are attended to within a reasonable time frame. If the lawyer can reasonably foresee undue	[4] A ~~lawyer~~licensee should ensure that matters are attended to within a reasonable time frame. If the ~~lawyer~~licensee can reasonably

Commented [A1]: The Law Society implementation of the Model Code refers consistently to the "Code rule" presumably to differentiate the rules in the Model Code from the Rules of the Law Society. The Model Code simply refers to the "rule". Based on the interactive version of the Model Code, BC is the only law society that uses the phrase "Code rule". Recommend using lower case "rule" throughout.

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delay in providing advice or services, the lawyer has a duty to so inform the client, so that the client can make an informed choice about his or her options, such as whether to retain new counsel.	foresee undue delay in providing advice or services, the ~~lawyer~~licensee has a duty to so inform the client, so that the client can make an informed choice about the client's options, such as whether to retain a new ~~lawyer~~licensee.
Examples of expected practices	Examples of expected practices
[5] The quality of service to a client may be measured by the extent to which a lawyer maintains certain standards in practice. The following list, which is illustrative and not exhaustive, provides key examples of expected practices in this area:	[5] The quality of service to a client may be measured by the extent to which a ~~lawyer~~licensee maintains certain standards in practice. The following list, which is illustrative and not exhaustive, provides key examples of expected practices in this area:
(a) keeping a client reasonably informed;	(a) keeping a client reasonably informed;
(b) answering reasonable requests from a client for information;	(b) answering reasonable requests from a client for information;
(c) responding to a client’s telephone calls;	(c) responding to a client’s telephone calls;
(d) keeping appointments with a client, or providing a timely explanation or apology when unable to keep such an appointment;	(d) keeping appointments with a client, or providing a timely explanation or apology when unable to keep such an appointment;
(e) taking appropriate steps to do something promised to a client, or informing or explaining to the client when it is not possible to do so;	(e) taking appropriate steps to do something promised to a client, or informing or explaining to the client when it is not possible to do so;
(f) ensuring, where appropriate, that all instructions are in writing or confirmed in writing;	(f) ensuring, where appropriate, that all instructions are in writing or confirmed in writing;
(g) answering, within a reasonable time, any communication that requires a reply;	(g) answering, within a reasonable time, any communication that requires a reply;

(h) ensuring that work is done in a timely manner so that its value to the client is maintained;	(h) ensuring that work is done in a timely manner so that its value to the client is maintained;
(i) providing quality work and giving reasonable attention to the review of documentation to avoid delay and unnecessary costs to correct errors or omissions;	(i) providing quality work and giving reasonable attention to the review of documentation to avoid delay and unnecessary costs to correct errors or omissions;
(j) maintaining office staff, facilities and equipment adequate to the lawyer's practice;	(j) maintaining office staff, facilities and equipment adequate to the ~~lawyer~~licensee's practice;
(k) informing a client of a proposal of settlement, and explaining the proposal properly;	(k) informing a client of a proposal of settlement, and explaining the proposal properly;
(l) providing a client with complete and accurate relevant information about a matter;	(l) providing a client with complete and accurate relevant information about a matter;
(m) making a prompt and complete report when the work is finished or, if a final report cannot be made, providing an interim report when one might reasonably be expected;	(m) making a prompt and complete report when the work is finished or, if a final report cannot be made, providing an interim report when one might reasonably be expected;
(n) avoiding the use of intoxicants or drugs that interferes with or prejudices the lawyer's services to the client;	(n) avoiding the use of intoxicants or drugs that interferes with or prejudices the ~~lawyer's~~ licensee's services to the client;
(o) being civil.	(o) being civil.
[6] A lawyer should meet deadlines, unless the lawyer is able to offer a reasonable explanation and ensure that no prejudice to the client will result. Whether or not a specific deadline applies, a lawyer should be prompt in handling a matter, responding to communications and reporting developments to the client. In the absence of	[6] A ~~lawyer~~licensee should meet deadlines, unless the ~~lawyer~~licensee is able to offer a reasonable explanation and ensure that no prejudice to the client will result. Whether or not a specific deadline applies, a ~~lawyer~~licensee should be prompt in prosecuting a matter, responding to communications and reporting developments to the client. In the

Commented [A2]: The Law Society implementation of the Model Code provides "(n) avoidance of self-induced disability, for example from the use of intoxicants or drugs, that interferes with or prejudices the lawyer's services to the client;" The Law Society implementation appears broader than the Model Code as it ties the example to any form of self-induced disability. As there may be human rights considerations with respect to the Law Society's version of Commentary [5] (n), the recommendation is to retain the Model Code language.

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developments, contact with the client should be maintained to the extent the client reasonably expects.	absence of developments, contact with the client should be maintained to the extent the client reasonably expects.
Limited Scope Retainers 3.2-1A Before undertaking a limited scope retainer the lawyer must advise the client about the nature, extent and scope of the services that the lawyer can provide and must confirm in writing to the client as soon as practicable what services will be provided. **Commentary** [1] Reducing to writing the discussions and agreement with the client about the limited scope retainer assists the lawyer and client in understanding the limitations of the service to be provided and any risks of the retainer. [2] A lawyer who is providing legal services under a limited scope retainer should be careful to avoid acting in a way that suggests that the lawyer is providing full services to the client. [3] Where the limited services being provided include an appearance before a tribunal a lawyer must be careful not to mislead the tribunal as to the scope of the retainer and should consider whether disclosure of the limited nature of the retainer is required by the rules of practice or the circumstances.	**Limited scope retainers** 3.2-1.1 Before undertaking a limited scope retainer, the ~~lawyer~~licensee must advise the client about the nature, extent and scope of the services that the ~~lawyer~~licensee can provide and must confirm in writing to the client as soon as practicable what services will be provided. **Commentary** [1] Reducing to writing the discussions and agreement with the client about the limited scope retainer assists the ~~lawyer~~licensee and client in understanding the limitations of the service to be provided and any risks of the retainer. [2] A ~~lawyer~~licensee who is providing legal services under a limited scope retainer should be careful to avoid acting in a way that suggests that the ~~lawyer~~licensee is providing full services to the client. [3] Where the limited services being provided include an appearance before a tribunal a ~~lawyer~~licensee must be careful not to mislead the tribunal as to the scope of the retainer and should consider whether disclosure of the limited nature of the retainer is required by the rules of practice or the circumstances.

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[4] A lawyer who is providing legal services under a limited scope retainer should consider how communications from opposing counsel in a matter should be managed (See rule 7.2-6A).	[4] A ~~lawyer~~licensee who is providing legal services under a limited scope retainer should consider how communications from from licensees representing other parties ~~opposing counsel~~ in a matter should be managed (see ~~R~~rule 7.2-6.1)
[5] This rule does not apply to situations in which a lawyer is providing summary advice, for example over a telephone hotline or as duty counsel, or to initial consultations that may result in the client retaining the lawyer.	[5] This ~~R~~rule does not apply to situations in which a ~~lawyer~~licensee is providing summary advice, for example over a telephone hotline or as duty counsel, or to initial consultations that may result in the client retaining the ~~lawyer~~licensee.
Honesty and Candour 3.2-2 When advising a client, a lawyer must be honest and candid and must inform the client of all information known to the lawyer that may affect the interests of the client in the matter. **Commentary** [1] A lawyer should disclose to the client all the circumstances of the lawyer's relations to the parties and interest in or connection with the matter, if any that might influence whether the client selects or continues to retain the lawyer. [2] A lawyer's duty to a client who seeks legal advice is to give the client a competent opinion based on a sufficient knowledge of the relevant facts, an adequate consideration of the applicable law and the lawyer's own experience and expertise. The advice must be open	**Honesty and candour** 3.2-2 When advising a client, a ~~lawyer~~licensee must be honest and candid and must inform the client of all information known to the ~~lawyer~~licensee that may affect the interests of the client in the matter. **Commentary** [1] A ~~lawyer~~licensee should disclose to the client all the circumstances of the ~~lawyer~~licensee's relations to the parties and interest in or connection with the matter, if any that might influence whether the client selects or continues to retain the ~~lawyer~~licensee. [2] A ~~lawyer~~licensee's duty to a client who seeks legal advice is to give the client a competent opinion based on a sufficient knowledge of the relevant facts, an adequate consideration of the applicable law and the ~~lawyer~~licensee's own experience and expertise. The advice must

Commented [A3]: The Model Code uses the phrase "opposing counsel", The recommendation is to change this to "licensees representing other parties" to make the commentary more applicable to all three professions and others that may be recognized in the future.

and undisguised and must clearly disclose what the lawyer honestly thinks about the merits and probable results. [3] Occasionally, a lawyer must be firm with a client. Firmness, without rudeness, is not a violation of the rule. In communicating with the client, the lawyer may disagree with the client's perspective, or may have concerns about the client's position on a matter, and may give advice that will not please the client. This may legitimately require firm and animated discussion with the client.	be open and undisguised and must clearly disclose what the ~~lawyer~~licensee honestly thinks about the merits and probable results. [3] Occasionally, a ~~lawyer~~licensee must be firm with a client. Firmness, without rudeness, is not a violation of this rule. In communicating with the client, the ~~lawyer~~licensee may disagree with the client's perspective, or may have concerns about the client's position on a matter, and may give advice that will not please the client. This may legitimately require firm and animated discussion with the client.
Language Rights 3.2-2A A lawyer must, when appropriate, advise a client of the client's language rights, including the right to proceed in the official language of the client's choice. 3.2-2B Where a client wishes to retain a lawyer for representation in the official language of the client's choice, the lawyer must not undertake the matter unless the lawyer is competent to provide the required services in that language. **Commentary** [1] The lawyer should advise the client of the client's language rights as soon as possible. [2] The choice of official language is that of the client not the lawyer. The lawyer should be aware of relevant statutory and Constitutional law relating to language rights including the Canadian Charter of	**Language rights** 3.2-2.1 A ~~lawyer~~licensee must, when appropriate, advise a client of the client's language rights, including the right to proceed in the official language of the client's choice. 3.2-2.2 Where a client wishes to retain a ~~lawyer~~licensee for representation in the official language of the client's choice, the ~~lawyer~~licensee must not undertake the matter unless the ~~lawyer~~licensee is competent to provide the required services in that language. **Commentary** [1] The ~~lawyer~~licensee should advise the client of the client's language rights as soon as possible. [2] The choice of official language is that of the client not the ~~lawyer~~licensee. The ~~lawyer~~licensee should be aware of relevant statutory and Constitutional law relating to language rights including the Canadian Charter of Rights and Freedoms, s.19(1) and Part XVII of

Commented [A4]: The SCC decision in Conseil scolaire francophone de la Colombie-Britannique v. British Columbia [2013] 2 SCR 774 is referred to in the Law Society implementation of the Model Code. The SCC concluded that "it is not inconsistent with Charter values for the B.C. legislature to restrict the language of court proceedings to English. The Charter does not require any province other than New Brunswick to provide for court proceedings in both official languages. Although the Charter reflects the importance of language rights, it also reflects the importance of respect for the constitutional powers of the provinces; federalism is one of Canada's underlying constitutional principles." Provided that the Law Society commentary [4] to this rule is retained, (next comment) the statement is acceptable.

Rights and Freedoms, s.19(1) and Part XVII of the Criminal Code regarding language rights in courts under federal jurisdiction and in criminal proceedings. The lawyer should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages.	the Criminal Code regarding language rights in courts under federal jurisdiction and in criminal proceedings. The ~~lawyer~~licensee should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages.
[3] When a lawyer considers whether to provide the required services in the official language chosen by the client, the lawyer should carefully consider whether it is possible to render those services in a competent manner as required by Rule 3.1-2 and related Commentary.	[3] When a ~~lawyer~~licensee considers whether to provide the required services in the official language chosen by the client, the ~~lawyer~~licensee should carefully consider whether it is possible to render those services in a competent manner as required by ~~Rule~~rule rule 3.1-2 and related commentary. [4]

Commented [A5]: The Law Society implementation of the Model Code provides for an additional comment:
"[4] Civil trials in British Columbia must be held in English: Conseil scolaire francophone de la Colombie-Britannique v. British Columbia, 2013 SCC 42. Under section 530 of the Criminal Code, RSC 1985, c. C-46 an accused has the right to a criminal trial in either English or French."
Given the limitation on the conduct of civil trials in any language other than English, recommend that the CPC include the Law Society's commentary [4]

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When the Client is an Organization	**When the client is an organization**
3.2-3 Although a lawyer may receive instructions from an officer, employee, agent or representative, when a lawyer is employed or retained by an organization, including a corporation, the lawyer must act for the organization in exercising his or her duties and in providing professional services.	3.2-3 Although a ~~lawyer~~licensee may receive instructions from an officer, employee, agent or representative, when a ~~lawyer~~licensee is employed or retained by an organization, including a corporation, the ~~lawyer~~licensee must act for the organization in exercising their duties and in providing professional services.
Commentary	**Commentary**
[1] A lawyer acting for an organization should keep in mind that the organization, as such, is the client and that a corporate client has a legal personality distinct from its shareholders, officers, directors and employees. While the organization or corporation acts and gives instructions through its officers, directors, employees, members, agents or representatives, the lawyer should ensure that it is the interests of the organization that are served and protected. Further, given that an organization depends on persons to give instructions, the lawyer should ensure that the person giving instructions for the organization is acting within that person's actual or ostensible authority.	[1] A ~~lawyer~~licensee acting for an organization should keep in mind that the organization, as such, is the client and that a corporate client has a legal personality distinct from its shareholders, officers, directors and employees. While the organization or corporation acts and gives instructions through its officers, directors, employees, members, agents or representatives, the ~~lawyer~~licensee should ensure that it is the interests of the organization that are served and protected. Further, given that an organization depends on persons to give instructions, the ~~lawyer~~licensee should be satisfied that the person giving instructions for the organization is acting within that person's authority.
[2] In addition to acting for the organization, a lawyer may also accept a joint retainer and act for a person associated with the organization. For example, a lawyer may advise an officer of an organization about liability insurance. In such cases the lawyer acting for an organization should be alert to the prospects of conflicts of interests and should comply with the rules about the avoidance of conflicts of interests (section 3.4).	[2] In addition to acting for the organization, a ~~lawyer~~licensee may also accept a joint retainer and act for a person associated with the organization. For example, a ~~lawyer~~licensee may advise an officer of an organization about liability insurance. In such cases the ~~lawyer~~licensee acting for an organization should be alert to the prospects of a conflict of interest and should comply with the ~~R~~rules about the avoidance of a conflict of interest (section 3.4).

Commented [A6]: The Model Code and its implementation by the Law Society both require in-house, corporate and government counsel to abide by the provisions of the code. There are, however, circumstances where the obligations in the Model Code that speak to the conduct of counsel, particularly litigation counsel, present some challenges for employed counsel. Without expanding the CPC beyond the current Model Code, there may be little room for addressing unique issues faced by employed licensees. The Law Society Ethics and Lawyer Independence Advisory Committee has established a sub-committee on the topic of in-house ethical requirements. The sub-committee is expected to meet this year and it may be useful to consider any recommendations of the sub-committee before finalizing the CPC.

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## Encouraging Compromise or Settlement	## Encouraging compromise or settlement
3.2-4 A lawyer must advise and encourage a client to compromise or settle a dispute whenever it is possible to do so on a reasonable basis and must discourage the client from commencing or continuing useless legal proceedings.	3.2-4 A ~~lawyer~~licensee must advise and encourage a client to compromise or settle a dispute whenever it is possible to do so on a reasonable basis and must discourage the client from commencing or continuing useless legal proceedings.
### Commentary	### Commentary
[1] A lawyer should consider the use of alternative dispute resolution (ADR) when appropriate, inform the client of ADR options and, if so instructed, take steps to pursue those options.	[1] A ~~lawyer~~licensee should consider the use of alternative dispute resolution (ADR) when appropriate, inform the client of ADR options and, if so instructed, take steps to pursue those options.
## Threatening Criminal or Regulatory Proceedings	## Threatening criminal or regulatory proceedings
3.2-5 A lawyer must not, in an attempt to gain a benefit for a client, threaten, or advise a client to threaten:	3.2-5 A ~~lawyer~~licensee must not, in an attempt to gain a benefit for a client, threaten, or advise a client to threaten:
(a) to initiate or proceed with a criminal or quasi-criminal charge; or	(a) to initiate or proceed with a criminal or quasi-criminal charge; or
(b) to make a complaint to a regulatory authority.	(b) to make a complaint to a regulatory authority.
### Commentary	### Commentary
[1] It is an abuse of the court or regulatory authority's process to threaten to make or advance a complaint in order to secure the satisfaction of a private grievance. Even if a client has a legitimate entitlement to be paid monies, threats to take criminal or quasi-criminal action are not appropriate.	[1] It is an abuse of the court or regulatory authority's process to threaten to make or advance a complaint in order to secure the satisfaction of a private grievance. Even if a client has a legitimate entitlement to be paid monies, threats to take criminal or quasi-criminal action are not appropriate.
[2] It is not improper, however, to notify the appropriate authority of criminal or quasi-criminal activities while also taking steps through the	[2] It is not improper, however, to notify the appropriate authority of criminal or quasi-criminal activities while also taking steps through the

civil system. Nor is it improper for a lawyer to request that another lawyer comply with an undertaking or trust condition or other professional obligation or face being reported to the Society. The impropriety stems from threatening to use, or actually using, criminal or quasi-criminal proceedings to gain a civil advantage.	civil system. Nor is it improper for a licensee to request that another licensee comply with an undertaking or trust condition or other professional obligation or face being reported to the Society. The impropriety stems from threatening to use, or actually using, criminal or quasi-criminal proceedings to gain a civil advantage.

Inducement for Withdrawal of Criminal or Regulatory Proceedings	**Inducement for withdrawal of criminal or regulatory proceedings**
3.2-6 A lawyer must not:	3.2-6 A ~~lawyer~~licensee must not:
(a) give or offer to give, or advise an accused or any other person to give or offer to give, any valuable consideration to another person in exchange for influencing the Crown or a regulatory authority's conduct of a criminal or quasi-criminal charge or a complaint, unless the lawyer obtains the consent of the Crown or the regulatory authority to enter into such discussions;	(a) give or offer to give, or advise an accused or any other person to give or offer to give, any valuable consideration to another person in exchange for influencing the Crown or a regulatory authority's conduct of a criminal or quasi-criminal charge or a complaint, unless the ~~lawyer~~licensee obtains the consent of the Crown or the regulatory authority to enter into such discussions;
(b) accept or offer to accept, or advise a person to accept or offer to accept, any valuable consideration in exchange for influencing the Crown or a regulatory authority's conduct of a criminal or quasi-criminal charge or a complaint, unless the lawyer obtains the consent of the Crown or regulatory authority to enter such discussions; or	(b) accept or offer to accept, or advise a person to accept or offer to accept, any valuable consideration in exchange for influencing the Crown or a regulatory authority's conduct of a criminal or quasi-criminal charge or a complaint, unless the ~~lawyer~~licensee obtains the consent of the Crown or regulatory authority to enter such discussions; or

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(c) wrongfully influence any person to prevent the Crown or regulatory authority from proceeding with charges or a complaint or to cause the Crown or regulatory authority to withdraw the complaint or stay charges in a criminal or quasi-criminal proceeding.	(c) wrongfully influence any person to prevent the Crown or regulatory authority from proceeding with charges or a complaint or to cause the Crown or regulatory authority to withdraw the complaint or stay charges in a criminal or quasi-criminal proceeding.
Commentary	Commentary
[1] "Regulatory authority" includes professional and other regulatory bodies.	[1] "Regulatory authority" includes professional and other regulatory bodies.
[2] A lawyer for an accused or potential accused must never influence a complainant or potential complainant not to communicate or cooperate with the Crown. However, this rule does not prevent a lawyer for an accused or potential accused from communicating with a complainant or potential complainant to obtain factual information, arrange for restitution or an apology from an accused, or defend or settle any civil matters between the accused and the complainant. When a proposed resolution involves valuable consideration being exchanged in return for influencing the Crown or regulatory authority not to proceed with a charge or to seek a reduced sentence or penalty, the lawyer for the accused must obtain the consent of the Crown or regulatory authority prior to discussing such proposal with the complainant or potential complainant. Similarly, lawyers advising a complainant or potential complainant with respect to any such negotiations can do so only with the consent of the Crown or regulatory authority.	[2] A ~~lawyer~~licensee for an accused or potential accused must never influence a complainant or potential complainant not to communicate or cooperate with the Crown. However, this ~~R~~rule does not prevent a ~~lawyer~~licensee for an accused or potential accused from communicating with a complainant or potential complainant to obtain factual information, arrange for restitution or an apology from an accused, or defend or settle any civil matters between the accused and the complainant. When a proposed resolution involves valuable consideration being exchanged in return for influencing the Crown or regulatory authority not to proceed with a charge or to seek a reduced sentence or penalty, the ~~lawyer~~licensee for the accused must obtain the consent of the Crown or regulatory authority prior to discussing such proposal with the complainant or potential complainant. Similarly, ~~lawyer~~licensees advising a complainant or potential complainant with respect to any such negotiations can do so only with the consent of the Crown or regulatory authority.

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[3] A lawyer cannot provide an assurance that the settlement of a related civil matter will result in the withdrawal of criminal or quasi-criminal charges, absent the consent of the Crown or regulatory authority. [4] When the complainant or potential complainant is unrepresented, the lawyer should have regard to the rules respecting unrepresented persons and make it clear that the lawyer is acting exclusively in the interests of the accused. If the complainant or potential complainant is vulnerable, the lawyer should take care not to take unfair or improper advantage of the circumstances. When communicating with an unrepresented complainant or potential complainant, it is prudent to have a witness present.	[3] A ~~lawyer~~licensee cannot provide an assurance that the settlement of a related civil matter will result in the withdrawal of criminal or quasi-criminal charges, absent the consent of the Crown or regulatory authority. [4] When the complainant or potential complainant is unrepresented, the ~~lawyer~~licensee should have regard to the ~~R~~rules respecting unrepresented persons and make it clear that the ~~lawyer~~licensee is acting exclusively in the interests of the accused. If the complainant or potential complainant is vulnerable, the ~~lawyer~~licensee should take care not to take unfair or improper advantage of the circumstances. When communicating with an unrepresented complainant or potential complainant, it is prudent to have a witness present.

Dishonesty, Fraud by Client or Others 3.2-7 A lawyer must never: a) knowingly assist in or encourage any dishonesty, fraud, crime, or illegal conduct. b) do or omit to do anything that the lawyer ought to know assists in or encourages any dishonesty, fraud, crime, or illegal conduct by a client or others, or c) instruct a client or others on how to violate the law and avoid punishment.	**Dishonesty, Fraud by Client or Others** 3.2-7 A ~~lawyer~~ licensee must never: a) knowingly assist in or encourage any dishonesty, fraud, crime, or illegal conduct. b) do or omit to do anything that the ~~lawyer~~ licensee ought to know assists in or encourages any dishonesty, fraud, crime, or illegal conduct by a client or others, or c) instruct a client or others on how to violate the law and avoid punishment.

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Commentary	Commentary
[1] A lawyer should be on guard against becoming the tool or dupe of an unscrupulous client, or of others, whether or not associated with the unscrupulous client.	[1] A ~~lawyer~~licensee should be on guard against becoming the tool or dupe of an unscrupulous client, or of others, whether or not associated with the unscrupulous client.
[2] A lawyer should be alert to and avoid unwittingly becoming involved with a client or others engaged in criminal activities such as mortgage fraud or money laundering. Vigilance is required because the means for these and other criminal activities may be transactions for which lawyers commonly provide services such as: establishing, purchasing or selling business entities; arranging financing for the purchase or sale or operation of business entities; arranging financing for the purchase or sale of business assets; and purchasing and selling real estate.	[2] A ~~lawyer~~licensee should be alert to and avoid unwittingly becoming involved with a client engaged in criminal activities such as mortgage fraud or money laundering. Vigilance is required because the means for these, and other criminal activities, may be transactions for which ~~lawyer~~licensees commonly provide services such as: establishing, purchasing or selling business entities; arranging financing for the purchase or sale or operation of business entities; arranging financing for the purchase or sale of business assets; and purchasing and selling real estate.
[3] If a lawyer has suspicions or doubts about whether he or she might be assisting a client or others in dishonesty, fraud, crime or illegal conduct, the lawyer should make reasonable inquiries to obtain information about the client or others and, in the case of the client, about the subject matter and objectives of the retainer. These should include verifying who are the legal or beneficial owners of property and business entities, verifying who has the control of business entities, and clarifying the nature and purpose of a complex or unusual transaction where the purpose is not clear. The lawyer should make a record of the results of these inquiries.	[3] If a ~~lawyer~~ licensee has suspicions or doubts about whether ~~he or she~~they might be assisting a client or others in dishonesty, fraud, crime or illegal conduct, the ~~lawyer~~ licensee should make reasonable inquiries to obtain information about the client or others and, in the case of the client, about the subject matter and objectives of the retainer. These should include verifying who are the legal or beneficial owners of property and business entities, verifying who has the control of business entities, and clarifying the nature and purpose of a complex or unusual transaction where the purpose is not clear. The ~~lawyer~~licensee should make a record of the results of these inquiries.
[4] A bona fide test case is not necessarily precluded by this rule and, so long as no injury to a person or violence is involved, a lawyer may properly advise and represent a client who, in good faith and on reasonable grounds, desires to challenge or test a law and the test can most effectively be made by means of a technical breach giving rise to	[4] A bona fide test case is not necessarily precluded by this ~~R~~rule and, so long as no injury to a person or violence is involved, a ~~lawyer~~licensee may properly advise and represent a client who, in good faith and on reasonable grounds, desires to challenge or test a law and the test can most effectively be made by means of a technical

Commented [A7]: The Law Society implementation of commentary [3] does not include this phrase. Recommend retaining the Model Code wording.

Commented [A8]: The Law Society implementation does not include these words. Recommend retain the Model Code wording.

Commented [A9]: The Law Society implementation substitutes "making reasonable attempts to verify the legal or beneficial ownership" Recommend using the Law Society's wording as the "reasonable attempts" recognizes that the prohibition in this rule does not need to be an absolute liability offence to match regulation to the risk of harm to the public.

a test case. In all situations, the lawyer should ensure that the client appreciates the consequences of bringing a test case.	breach giving rise to a test case. In all situations, the ~~lawyer~~licensee should ensure that the client appreciates the consequences of bringing a test case.

Dishonesty, Fraud when Client an Organization	**Dishonesty, fraud when client an organization**
3.2-8 A lawyer who is employed or retained by an organization to act in a matter in which the lawyer knows that the organization has acted, is acting or intends to act dishonestly, fraudulently, criminally, or illegally, must do the following, in addition to his or her obligations under rule 3.2-7:	3.2-8 A ~~lawyer~~ licensee who is employed or retained by an organization to act in a matter in which the ~~lawyer~~ licensee knows that the organization has acted, is acting or intends to act dishonestly, fraudulently, criminally, or illegally, must do the following, in addition to his or her obligations under rule 3.2-7:
(a) advise the person from whom the lawyer takes instructions and the chief legal officer, or both the chief legal officer and the chief executive officer, that the proposed conduct is, was or would be dishonest, fraudulent, criminal, or illegal and should be stopped;	a) advise the person from whom the ~~lawyer~~ licensee takes instructions and the chief legal officer, or both the chief legal officer and the chief executive officer, that the proposed conduct is, was or would be dishonest, fraudulent, criminal, or illegal and should be stopped;
(b) if necessary because the person from whom the lawyer takes instructions, the chief legal officer or the chief executive officer refuses to cause the proposed conduct to be stopped, advise progressively the next highest persons or groups, including ultimately, the board of directors, the board of trustees, or the appropriate committee of the board, that the proposed conduct was, is or would	(b) if necessary because the person from whom the ~~lawyer~~ licensee takes instructions, the chief legal officer or the chief executive officer refuses to cause the proposed conduct to be stopped, advise progressively the next highest persons or groups, including ultimately, the board of directors, the board of trustees, or the appropriate committee of the board, that the proposed conduct was, is or would be dishonest, fraudulent, criminal, or illegal and should be stopped; and

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be dishonest, fraudulent, criminal, or illegal and should be stopped; and	
(c) if the organization, despite the lawyer's advice, continues with or intends to pursue the proposed wrongful conduct, withdraw from acting in the matter in accordance with the rules in section 3.7.	(c) if the organization, despite the ~~lawyer's~~ licensee's advice, continues with or intends to pursue the proposed wrongful conduct, withdraw from acting in the matter in accordance with the rules in section 3.7.
Commentary	Commentary
[1] The past, present, or proposed misconduct of an organization may have harmful and serious consequences, not only for the organization and its constituency, but also for the public who rely on organizations to provide a variety of goods and services. In particular, the misconduct of publicly traded commercial and financial corporations may have serious consequences for the public at large. This rule addresses some of the professional responsibilities of a lawyer acting for an organization, including a corporation, when he or she learns that the organization has acted, is acting, or proposes to act in a way that is dishonest, fraudulent, criminal or illegal. In addition to these rules, the lawyer may need to consider, for example, the rules and commentary about confidentiality (section 3.3).	[1] The past, present, or proposed misconduct of an organization may have harmful and serious consequences, not only for the organization and its constituency, but also for the public who rely on organizations to provide a variety of goods and services. In particular, the misconduct of publicly traded commercial and financial corporations may have serious consequences for the public at large. This rule addresses some of the professional responsibilities of a ~~lawyer~~ licensee acting for an organization, including a corporation, when ~~he or she~~they learn~~s~~ that the organization has acted, is acting, or proposes to act in a way that is dishonest, fraudulent, criminal or illegal. In addition to these rules, the ~~lawyer~~ licensee may need to consider, for example, the rules and commentary about confidentiality (section 3.3).
[2] This rule speaks of conduct that is dishonest, fraudulent, criminal or illegal.	[2] This rule speaks of conduct that is dishonest, fraudulent, criminal or illegal.
[3] Such conduct includes acts of omission. Indeed, often it is the omissions of an organization, such as failing to make required	[3] Such conduct includes acts of omission. Indeed, often it is the omissions of an organization, such as failing to make required

disclosure or to correct inaccurate disclosures that constitute the wrongful conduct to which these rules relate. Conduct likely to result in substantial harm to the organization, as opposed to genuinely trivial misconduct by an organization, invokes these rules.	disclosure or to correct inaccurate disclosures that constitute the wrongful conduct to which these rules relate. Conduct likely to result in substantial harm to the organization, as opposed to genuinely trivial misconduct by an organization, invokes these rules.
[4] In considering his or her responsibilities under this section, a lawyer should consider whether it is feasible and appropriate to give any advice in writing.	[4] In considering a ~~lawyer~~licensee's responsibilities under this section, a ~~lawyer~~licensee should consider whether it is feasible and appropriate to give any advice in writing.
[5] A lawyer acting for an organization who learns that the organization has acted, is acting, or intends to act in a wrongful manner, may advise the chief executive officer and must advise the chief legal officer of the misconduct. If the wrongful conduct is not abandoned or stopped, the lawyer must report the matter "up the ladder" of responsibility within the organization until the matter is dealt with appropriately. If the organization, despite the lawyer's advice, continues with the wrongful conduct, the lawyer must withdraw from acting in the particular matter in accordance with Rule 3.7-1. In some but not all cases, withdrawal means resigning from his or her position or relationship with the organization and not simply withdrawing from acting in the particular matter.	[5] A ~~lawyer~~licensee acting for an organization who learns that the organization has acted, is acting, or intends to act in a wrongful manner, may advise the chief executive officer and must advise the chief legal officer of the misconduct. If the wrongful conduct is not abandoned or stopped, the ~~lawyer~~licensee must report the matter "up the ladder" of responsibility within the organization until the matter is dealt with appropriately. If the organization, despite the ~~lawyer~~licensee's advice, continues with the wrongful conduct, the ~~lawyer~~licensee must withdraw from acting in the particular matter in accordance with ~~Rule~~rule 3.7-1. In some but not all cases, withdrawal means resigning from his or her position or relationship with the organization and not simply withdrawing from acting in the particular matter.
[6] This rule recognizes that lawyers as the legal advisers to organizations are in a central position to encourage organizations to comply with the law and to advise that it is in the organization's and the public's interest that organizations do not violate the law. Lawyers acting for organizations are often in a position to advise the executive	[6] This ~~R~~rule recognizes that ~~lawyer~~licensees as the legal advisers to organizations are in a central position to encourage organizations to comply with the law and to advise that it is in the organizations' and the public's interest that organizations do not violate the law. ~~Lawyer~~Licensees acting for organizations are often in a position to

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officers of the organization, not only about the technicalities of the law, but also about the public relations and public policy concerns that motivated the government or regulator to enact the law. Moreover, lawyers for organizations, particularly in-house counsel, may guide organizations to act in ways that are legal, ethical, reputable and consistent with the organization's responsibilities to its constituents and to the public.	advise the executive officers of the organization, not only about the technicalities of the law, but also about the public relations and public policy concerns that motivated the government or regulator to enact the law. Moreover, ~~lawyer~~licensees for organizations, particularly in-house counsel, may guide organizations to act in ways that are legal, ethical, reputable and consistent with the organizations' responsibilities to its constituents and to the public.

Clients with Diminished Capacity	**Clients with diminished capacity**
3.2-9 When a client's ability to make decisions is impaired because of minority or mental disability, or for some other reason, the lawyer must, as far as reasonably possible, maintain a normal lawyer and client relationship.	3.2-9 When a client's ability to make decisions is impaired because of minority or mental disability, or for some other reason, the ~~lawyer~~licensee must, as far as reasonably possible, maintain a normal ~~lawyer~~licensee and client relationship.
Commentary	**Commentary**
[1] A lawyer and client relationship presupposes that the client has the requisite mental ability to make decisions about his or her legal affairs and to give the lawyer instructions. A client's ability to make decisions depends on such factors as age, intelligence, experience and mental and physical health and on the advice, guidance and support of others. A client's ability to make decisions may change, for better or worse, over time. A client may be mentally capable of making some decisions but not others. The key is whether the client has the ability	[1] A ~~lawyer~~licensee and client relationship presupposes that the client has the requisite mental ability to make decisions about ~~his or her~~their legal affairs and to give the ~~lawyer~~licensee instructions. A client's ability to make decisions depends on such factors as age, intelligence, experience and mental and physical health and on the advice, guidance and support of others. A client's ability to make decisions may change, for better or worse, over time. A client may be mentally capable of making some decisions but not others. The key is

to understand the information relative to the decision that has to be made and is able to appreciate the reasonably foreseeable consequences of the decision or lack of decision. Accordingly, when a client is, or comes to be, under a disability that impairs his or her ability to make decisions, the lawyer will have to assess whether the impairment is minor or whether it prevents the client from giving instructions or entering into binding legal relationships.	whether the client has the ability to understand the information relative to the decision that has to be made and is able to appreciate the reasonably foreseeable consequences of the decision or lack of decision. Accordingly, when a client is, or comes to be, under a disability that impairs his or her ability to make decisions, the ~~lawyer~~licensee will have to assess whether the impairment is minor or whether it prevents the client from giving instructions or entering into binding legal relationships.
[2] A lawyer who believes a person to be incapable of giving instructions should decline to act. However, if a lawyer reasonably believes that the person has no other agent or representative and a failure to act could result in imminent and irreparable harm, the lawyer may take action on behalf of the person lacking capacity only to the extent necessary to protect the person until a legal representative can be appointed. A lawyer undertaking to so act has the same duties under these rules to the person lacking capacity as the lawyer would with any client.	[2] A ~~lawyer~~licensee who believes a person to be incapable of giving instructions should decline to act. However, if a ~~lawyer~~licensee reasonably believes that the person has no other agent or representative and a failure to act could result in imminent and irreparable harm, the ~~lawyer~~licensee may take action on behalf of the person lacking capacity only to the extent necessary to protect the person until a legal representative can be appointed. A ~~lawyer~~licensee undertaking to so act has the same duties under this rule to the person lacking capacity as the ~~lawyer~~licensee would with any client.
[3] If a client's incapacity is discovered or arises after the solicitor-client relationship is established, the lawyer may need to take steps to have a lawfully authorized representative, such as a litigation guardian, appointed or to obtain the assistance of the Office of the Public Trustee to protect the interests of the client. Whether that should be done depends on all relevant circumstances, including the importance and urgency of any matter requiring instruction. In any event, the lawyer has an ethical obligation to ensure that the client's interests are not abandoned. Until the appointment of a legal	[3] If a client's incapacity is discovered or arises after the ~~solicitor~~licensee-client relationship is established, the ~~lawyer~~licensee may need to take steps to have a lawfully authorized representative, such as a litigation guardian, appointed or to obtain the assistance of the Office of the Public Trustee to protect the interests of the client. Whether that should be done depends on all relevant circumstances, including the importance and urgency of any matter requiring instruction. In any event, the ~~lawyer~~licensee has an ethical obligation to ensure that the client's interests are not abandoned. Until the

representative occurs, the lawyer should act to preserve and protect the client's interests.	appointment of a legal representative occurs, the ~~lawyer~~licensee should act reasonably to preserve and protect the client's interests.
[4] In some circumstances when there is a legal representative, the lawyer may disagree with the legal representative's assessment of what is in the best interests of the client under a disability. So long as there is no lack of good faith or authority, the judgment of the legal representative should prevail. If a lawyer becomes aware of conduct or intended conduct of the legal representative that is clearly in bad faith or outside that person's authority, and contrary to the best interests of the client with diminished capacity, the lawyer may act to protect those interests. This may require reporting the misconduct to a person or institution such as a family member or the Public Trustee.	[4] In some circumstances when there is a legal representative, the ~~lawyer~~licensee may disagree with the legal representative's assessment of what is in the best interests of the client under a disability. So long as there is no lack of good faith or authority, the judgment of the legal representative should prevail. If a ~~lawyer~~licensee becomes aware of conduct or intended conduct of the legal representative that is clearly in bad faith or outside that person's authority, and contrary to the best interests of the client with diminished capacity, the ~~lawyer~~licensee may act to protect those interests. This may require reporting the misconduct to a person or institution such as a family member or the Public Guardian and Trustee.
[5] When a lawyer takes protective action on behalf of a person or client lacking in capacity, the authority to disclose necessary confidential information may be implied in some circumstances: See Commentary under Rule 3.3-1 (Confidentiality) for a discussion of the relevant factors. If the court or other counsel becomes involved, the lawyer should inform them of the nature of the lawyer's relationship with the person lacking capacity.	[5] When a ~~lawyer~~licensee takes protective action on behalf of a person or client lacking in capacity, the authority to disclose necessary confidential information may be implied in some circumstances: See commentary under rule 3.3-1 (Confidentiality) for a discussion of the relevant factors. If the court or another ~~lawyer~~licensee becomes involved, the ~~lawyer~~licensee should inform them of the nature of the ~~lawyer~~licensee's relationship with the person lacking capacity.

Commented [A10]: While this requirement of a licensee may be desirable, is it realistic to expect that the licensee has the authority to preserve and protect the client's interests when the client lacks capacity to instruct the licensee? Recommend that "reasonably" be added after "should act"

Commented [A11]: The Model Code uses the phrase "Public Trustee". The equivalent in BC is the Public Guardian and Trustee.

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3.3 CONFIDENTIALITY	**3.3 Confidentiality**
Confidential Information	**Confidential information**
3.3-1 A lawyer at all times must hold in strict confidence all information concerning the business and affairs of a client acquired in the course of the professional relationship and must not divulge any such information unless:	3.3-1 A ~~lawyer~~licensee at all times must hold in strict confidence all information concerning the business and affairs of a client acquired in the course of the professional relationship and must not divulge any such information unless:
(a) expressly or impliedly authorized by the client;	(a) expressly or impliedly authorized by the client;
(b) required by law or a court to do so;	(b) required by law or a court to do so;
(c) required to deliver the information to the Law Society; or	(c) required to deliver the information to the ~~Society~~regulator, or
(d) otherwise permitted by this rule.	(d) otherwise permitted by this ~~Rule~~rule.
Commentary	Commentary
[1] A lawyer cannot render effective professional service to a client unless there is full and unreserved communication between them. At the same time, the client must feel completely secure and entitled to proceed on the basis that, without any express request or stipulation	[1] A ~~lawyer~~licensee cannot render effective professional service to a client unless there is full and unreserved communication between them. At the same time, the client must feel completely secure and entitled to proceed on the basis that, without any express request or

Commented [A12]: The Law Society implementation of the Model Code adds a rule 3.2-10 providing that "A lawyer must not participate in offering or making an agreement in which a restriction on any lawyer's right to practise is part of the settlement of a client lawsuit or other controversy."
The recommendation is to include the Law Society's rule 3.2-10 on the basis that the settlement of a lawsuit should not engage the interests of the licensees advising the client. A settlement that requires the licensee to agree not to take on future clients or matters or practice law clearly engages the interests of the licensee and creates a potential conflict between the licensee's interests and that of the client or clients.

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on the client's part, matters disclosed to or discussed with the lawyer will be held in strict confidence.	stipulation on the client's part, matters disclosed to or discussed with the ~~lawyer~~licensee will be held in strict confidence.
[2] This rule must be distinguished from the evidentiary rule of lawyer and client privilege, which is also a constitutionally protected right, concerning oral or documentary communications passing between the client and the lawyer. The ethical rule is wider and applies without regard to the nature or source of the information or the fact that others may share the knowledge.	[2] This ~~R~~rule must be distinguished from the evidentiary rule of lawyer and client privilege, which is also a constitutionally protected right, concerning oral or documentary communications passing between the client and the lawyer. The ethical rule is wider and applies without regard to the nature or source of the information or the fact that others may share the knowledge.
[3] A lawyer owes the duty of confidentiality to every client without exception and whether or not the client is a continuing or casual client. The duty survives the professional relationship and continues indefinitely after the lawyer has ceased to act for the client, whether or not differences have arisen between them.	[3] A ~~lawyer~~licensee owes the duty of confidentiality to every client without exception and whether or not the client is a continuing or casual client. The duty survives the professional relationship and continues indefinitely after the ~~lawyer~~licensee has ceased to act for the client, whether or not differences have arisen between them.
[4] A lawyer also owes a duty of confidentiality to anyone seeking advice or assistance on a matter invoking a lawyer's professional knowledge, although the lawyer may not render an account or agree to represent that person. A solicitor and client relationship is often established without formality. A lawyer should be cautious in accepting confidential information on an informal or preliminary basis, since possession of the information may prevent the lawyer from subsequently acting for another party in the same or a related matter (see rule 3.4-1 Conflicts).	[4] A ~~lawyer~~licensee also owes a duty of confidentiality to anyone seeking advice or assistance on a matter invoking a ~~lawyer~~licensee's professional knowledge, although the ~~lawyer~~licensee may not render an account or agree to represent that person. A ~~solicitor~~ licensee and client relationship is often established without formality. A ~~lawyer~~licensee should be cautious in accepting confidential information on an informal or preliminary basis, since possession of the information may prevent the ~~lawyer~~licensee from subsequently acting for another party in the same or a related matter. (see rule 3.4-1 Conflicts)

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[5] Generally, unless the nature of the matter requires such disclosure, a lawyer should not disclose having been: (a) retained by a person about a particular matter; or (b) consulted by a person about a particular matter, whether or not the lawyer-client relationship has been established between them.	[5] Generally, unless the nature of the matter requires such disclosure, a ~~lawyer~~licensee should not disclose having been: (a) retained by a person about a particular matter; or (b) consulted by a person about a particular matter, whether or not the ~~lawyer~~licensee-client relationship has been established between them.
[6] A lawyer should take care to avoid disclosure to one client of confidential information concerning or received from another client and should decline employment that might require such disclosure.	[6] A ~~lawyer~~licensee should take care to avoid disclosure to one client of confidential information concerning or received from another client and should decline employment that might require such disclosure.
[7] Sole practitioners who practise in association with other lawyers in cost-sharing, space-sharing or other arrangements should be mindful of the risk of advertent or inadvertent disclosure of confidential information, even if the lawyers institute systems and procedures that are designed to insulate their respective practices. The issue may be heightened if a lawyer in the association represents a client on the other side of a dispute with the client of another lawyer in the association. Apart from conflict of interest issues such a situation may raise, the risk of such disclosure may depend on the extent to which the lawyers' practices are integrated, physically and administratively, in the association.	[7] Sole practitioners who practise in association with other ~~lawyer~~licensees in cost-sharing, space-sharing or other arrangements should be mindful of the risk of advertent or inadvertent disclosure of confidential information, even if the ~~lawyer~~licensees institute systems and procedures that are designed to insulate their respective practices. The issue may be heightened if a ~~lawyer~~licensee in the association represents a client on the other side of a dispute with the client of another ~~lawyer~~licensee in the association. Apart from conflict of interest issues such a situation may raise, the risk of such disclosure may depend on the extent to which the ~~lawyer~~licensees' practices are integrated, physically and administratively, in the association.
[8] A lawyer should avoid indiscreet conversations and other communications, even with the lawyer's spouse or family, about a client's affairs and should shun any gossip about such things even though the client is not named or otherwise identified. Similarly, a	[8] A ~~lawyer~~licensee should avoid indiscreet conversations and other communications, even with the ~~lawyer~~licensee's spouse or family, about a client's affairs and should shun any gossip about such things even though the client is not named or otherwise identified. Similarly,

lawyer should not repeat any gossip or information about the client's business or affairs that is overheard or recounted to the lawyer. Apart altogether from ethical considerations or questions of good taste, indiscreet shoptalk among lawyers, if overheard by third parties able to identify the matter being discussed, could result in prejudice to the client. Moreover, the respect of the listener for lawyers and the legal profession will probably be lessened. Although the rule may not apply to facts that are public knowledge, a lawyer should guard against participating in or commenting on speculation concerning clients' affairs or business. [9] In some situations, the authority of the client to disclose may be inferred. For example, in court proceedings some disclosure may be necessary in a pleading or other court document. Also, it is implied that a lawyer may, unless the client directs otherwise, disclose the client's affairs to partners and associates in the law firm and, to the extent necessary, to administrative staff and to others whose services are used by the lawyer. But this implied authority to disclose places the lawyer under a duty to impress upon associates, employees, students and other lawyers engaged under contract with the lawyer or with the firm of the lawyer the importance of non disclosure (both during their employment and afterwards) and requires the lawyer to take reasonable care to prevent their disclosing or using any information that the lawyer is bound to keep in confidence.	a ~~lawyer~~licensee should not repeat any gossip or information about the client's business or affairs that is overheard or recounted to the ~~lawyer~~licensee. Apart altogether from ethical considerations or questions of good taste, indiscreet shoptalk among ~~lawyer~~licensees, if overheard by third parties able to identify the matter being discussed, could result in prejudice to the client. Moreover, the respect of the listener for ~~lawyer~~licensees and the legal profession will probably be lessened. Although this ~~Rule~~rule may not apply to facts that are public knowledge, a ~~lawyer~~licensee should guard against participating in or commenting on speculation concerning clients' affairs or business. [9] In some situations, the authority of the client to disclose may be inferred. For example, in court proceedings some disclosure may be necessary in a pleading or other court document. Also, it is implied that a ~~lawyer~~ licensee may, unless the client directs otherwise, disclose the client's affairs to ~~partners and associates~~licensees in the law firm and, to the extent necessary, to administrative staff and to others whose services are used by the ~~lawyer~~Licensee. But this implied authority to disclose places the ~~lawyer~~Licensee under a duty to impress upon associates, employees, students and other ~~lawyer~~licensees engaged under contract with the ~~lawyer~~licensee or with the ~~firm~~law firm of the ~~lawyer~~licensee the importance of non disclosure (both during their employment and afterwards) and requires the ~~lawyer~~licensee to take reasonable care to prevent their disclosing or using any information that the ~~lawyer~~licensee is bound to keep in confidence

[10] The client's authority for the lawyer to disclose confidential information to the extent necessary to protect the client's interest may also be inferred in some situations where the lawyer is taking action on behalf of the person lacking capacity to protect the person until a legal representative can be appointed. In determining whether a lawyer may disclose such information, the lawyer should consider all circumstances, including the reasonableness of the lawyer's belief the person lacks capacity, the potential harm that may come to the client if no action is taken, and any instructions the client may have given the lawyer when capable of giving instructions about the authority to disclose information. Similar considerations apply to confidential information given to the lawyer by a person who lacks the capacity to become a client but nevertheless requires protection.	[10] The client's authority for the ~~lawyer~~licensee to disclose confidential information to the extent necessary to protect the client's interest may also be inferred in some situations where the ~~lawyer~~licensee is taking action on behalf of the person lacking capacity to protect the person until a legal representative can be appointed. In determining whether a ~~lawyer~~licensee may disclose such information, the ~~lawyer~~licensee should consider all circumstances, including the reasonableness of the ~~lawyer~~licensee's belief the person lacks capacity, the potential harm that may come to the client if no action is taken, and any instructions the client may have given the ~~lawyer~~licensee when capable of giving instructions about the authority to disclose information. Similar considerations apply to confidential information given to the ~~lawyer~~licensee by a person who lacks the capacity to become a client but nevertheless requires protection.
[11] A lawyer may have an obligation to disclose information under Rules 5.5-2, 5.5-3 and 5.6-3. If client information is involved in those situations, the lawyer should be guided by the provisions of this rule.	[11] A ~~lawyer~~licensee may have an obligation to disclose information under ~~R~~rules 5.5-2, 5.5-3 ~~and~~ 5.6-3, 7.8-1 to 7.8-5. If client information is involved in those situations, the ~~lawyer~~licensee should be guided by the provisions of this rule and rule 3.3-4.

Commented [A13]: 7.8 Errors and Omissions prescribes the obligations of licensees in respect of the professional indemnity program including the obligation to cooperate with the insurer or indemnitor. This may include necessary disclosure of confidential or privileged information. This is covered expressly in rule 3.3-4 but should also extend to the specific rules in 7.8 Errors and Omissions. Protection of privilege is covered by LPA section 209.

Use of Confidential Information	Use of confidential information
3.3-2 A lawyer must not use or disclose a client's or former client's confidential information to the disadvantage of the client or former	3.3-2 A ~~lawyer~~licensee must not use or disclose a client's or former client's confidential information to the disadvantage of the client or

client, or for the benefit of the lawyer or a third person without the consent of the client or former client. **Commentary** [1] The fiduciary relationship between a lawyer and a client forbids the lawyer or a third person from benefiting from the lawyer's use of a client's confidential information. If a lawyer engages in literary works, such as a memoir or autobiography, the lawyer is required to obtain the client's or former client's consent before disclosing confidential information.	former client, or for the benefit of the ~~lawyer~~licensee or a third person without the consent of the client or former client. **Commentary** [1] The fiduciary relationship between a ~~lawyer~~licensee and a client forbids the ~~lawyer~~licensee or a third person from benefiting from the ~~lawyer~~licensee's use of a client's confidential information. If a ~~lawyer~~licensee engages in literary works, such as a memoir or autobiography, the ~~lawyer~~licensee is required to obtain the client's or former client's consent before disclosing confidential information.

Future Harm / Public Safety Exception 3.3-3 A lawyer may disclose confidential information, but must not disclose more information than is required, when the lawyer believes on reasonable grounds that there is an imminent risk of death or serious bodily harm, and disclosure is necessary to prevent the death or harm. **Commentary** [1] Confidentiality and loyalty are fundamental to the relationship between a lawyer and a client because legal advice cannot be given	**Future harm / public safety exception** 3.3-3 A ~~lawyer~~licensee may disclose confidential information, but must not disclose more information than is required, when the ~~lawyer~~licensee believes on reasonable grounds that there is an imminent risk of death or serious bodily harm, and disclosure is necessary to prevent the death or harm. **Commentary** [1] Confidentiality and loyalty are fundamental to the relationship between a ~~lawyer~~licensee and a client because legal advice cannot be

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and justice cannot be done unless clients have a large measure of freedom to discuss their affairs with their lawyers. However, in some very exceptional situations identified in this rule, disclosure without the client's permission might be warranted because the lawyer is satisfied that truly serious harm of the types identified is imminent and cannot otherwise be prevented. These situations will be extremely rare.	given and justice cannot be done unless clients have a large measure of freedom to discuss their affairs with their ~~lawyer~~licensees. However, in some very exceptional situations identified in this ~~R~~rule, disclosure without the client's permission might be warranted because the ~~lawyer~~licensee is satisfied that truly serious harm of the types identified is imminent and cannot otherwise be prevented. These situations will be extremely rare.
[2] The Supreme Court of Canada has considered the meaning of the words "serious bodily harm" in certain contexts, which may inform a lawyer in assessing whether disclosure of confidential information is warranted. In Smith v. Jones, [1999] 1 S.C.R. 455 at paragraph 83, the Court observed that serious psychological harm may constitute serious bodily harm if it substantially interferes with the health or well-being of the individual.	[2] The Supreme Court of Canada has considered the meaning of the words "serious bodily harm" in certain contexts, which may inform a ~~lawyer~~licensee in assessing whether disclosure of confidential information is warranted. In Smith v. Jones, [1999] 1 SCR 455 at paragraph 83, the Court also observed that serious psychological harm may constitute serious bodily harm if it substantially interferes with the health or well-being of the individual.
[3] In assessing whether disclosure of confidential information is justified to prevent death or serious bodily harm, a lawyer should consider a number of factors, including:	[3] In assessing whether disclosure of confidential information is justified, a ~~lawyer~~licensee should consider a number of factors, including:
(a) the likelihood that the potential injury will occur and its imminence;	(a) the likelihood that the potential injury will occur and its imminence;
(b) the apparent absence of any other feasible way to prevent the potential injury; and	(b) the apparent absence of any other feasible way to prevent the potential injury; and
(c) the circumstances under which the lawyer acquired the information of the client's intent or prospective course of action.	(c) the circumstances under which the ~~lawyer~~ licensee acquired the information of the client's intent or prospective course of action.

Commented [A14]: The Supreme Court of Canada has most recently considered exceptions to solicitor-client privilege in R. v. Fox, 2026 SCC 4 (CanLII) at paragraph 41 and following and specifically affirmed a "public safety" exception, when there are real concerns that an identifiable individual or group is in imminent danger of death or serious bodily harm.

Commented [A15]: The Law Society implementation of the Model Code includes "(a) the seriousness of the potential injury to others if the prospective harm occurs;" The Law Society is currently considering this language. The recommendation is to leave the Model Code language as is until the opportunity to consider the Law Society's revisions arises.

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[4] How and when disclosure should be made under this rule will depend upon the circumstances. A lawyer who believes that disclosure may be warranted should contact the local law society for ethical advice. When practicable and permitted, a judicial order may be sought for disclosure.	[4] How and when disclosure should be made under this ~~Rule~~rule will depend upon the circumstances. A ~~lawyer~~licensee who believes that disclosure may be warranted should contact the ~~Society~~regulator for ethical advice. When practicable and permitted, a judicial order may be sought for disclosure.
[5] If confidential information is disclosed under rule 3.3-3, the lawyer should prepare a written note as soon as possible, which should include:	[5] If confidential information is disclosed under this ~~Rule~~rule, the ~~lawyer~~licensee should prepare a written note as soon as possible, which should include:
(a) the date and time of the communication in which the disclosure is made;	(a) the date and time of the communication in which the disclosure is made;
(b) the grounds in support of the lawyer's decision to communicate the information, including the harm intended to be prevented, the identity of the person who prompted communication of the information as well as the identity of the person or group of persons exposed to the harm; and	(b) the grounds in support of the ~~lawyer~~licensee's decision to communicate the information, including the harm the ~~lawyer~~licensee intended to prevent, the identity of the person who prompted the ~~lawyer~~licensee to communicate the information as well as the identity of the person or group of persons exposed to the harm; and
(c) the content of the communication, the method of communication used and the identity of the person to whom the communication was made.	(c) the content of the communication, the method of communication used and the identity of the person to whom the communication was made.

3.3-4 If it is alleged that a lawyer or the lawyer's associates or employees:	3.3-4 If it is possible or alleged that a ~~lawyer~~ licensee or the licensee~~lawyer~~'s associates or employees:

Commented [A16]: The Law Society is currently reviewing Commentary [4] in light of a concern that the commentary may lead licensees to the conclusion that they cannot proceed with disclosure under this rule unless they first speak with the Society. The recommendation is to leave the Model Code language as is until the opportunity to consider the Law Society's revisions arises.

Commented [A17]: The inclusion of "possible" here extends the exception to include those situations in which a licensee may report circumstances to the professional indemnity program that may amount to professional negligence but the harm has not yet manifested itself. In particular, reporting potential negligence allows for remedial action to avoid the potential negligence which is in the interests of the client and licensee Repairs account for nearly 20% of all reports to the professional indemnity program.

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(a) have committed a criminal offence involving a client's affairs; (b) are civilly liable with respect to a matter involving a client's affairs; (c) have committed acts of professional negligence; or (d) have engaged in acts of professional misconduct or conduct unbecoming a lawyer, the lawyer may disclose confidential information in order to defend against the allegations, but must not disclose more information than is required.	(a) have committed a criminal offence involving a client's affairs; (b) are civilly liable with respect to a matter involving a client's affairs; (c) have committed acts of professional negligence; or (d) have engaged in acts of professional misconduct or conduct unbecoming a licensee~~lawyer~~, the licensee ~~lawyer~~ may disclose confidential information in order to defend against the allegations, but must not disclose more information than is required.

3.3-5 A lawyer may disclose confidential information in order to establish or collect the lawyer's fees, but must not disclose more information than is required.	3.3-5 A ~~lawyer~~licensee may disclose confidential information in order to establish or collect the ~~lawyer~~licensee's fees, but must not disclose more information than is required.

3.3-6 A lawyer may disclose confidential information to another lawyer to secure legal or ethical advice about the lawyer's proposed conduct.	3.3-6 A ~~lawyer~~ licensee may disclose confidential information to another ~~lawyer~~ licensee to secure legal or ethical advice about the ~~lawyer's~~ licensee's proposed conduct.

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3.3-7 A lawyer may disclose confidential information to the extent reasonably necessary to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a law firm, but only if the information disclosed does not compromise the solicitor-client privilege or otherwise prejudice the client. **Commentary** [1] As a matter related to clients' interests in maintaining a relationship with counsel of choice and protecting client confidences, lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. [2] In these situations (see Rules 3.4-17 to 3.4-23 on Conflicts From Transfer Between Law Firms), rule 3.3-7 permits lawyers and law firms to disclose limited information. This type of disclosure would only be made once substantive discussions regarding the new relationship have occurred. [3] This exchange of information between the firms needs to be done in a manner consistent with the transferring lawyer's and new firm's obligations to protect client confidentiality and privileged information and avoid any prejudice to the client. It ordinarily would include no more than the names of the persons and entities involved in a matter. Depending on the circumstances, it may include a brief	3.3-7 A ~~lawyer~~licensee may disclose confidential information to the extent reasonably necessary to detect and resolve a conflict of interest arising from the ~~lawyer~~licensee's change of employment or from changes in the composition or ownership of a law firm, but only if the information disclosed does not compromise the solicitor-client privilege or otherwise prejudice the client. **Commentary** [1] As a matter related to clients' interests in maintaining a relationship with their ~~lawyer~~licensee of choice and protecting client confidences, ~~lawyer~~licensee in different law firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a ~~lawyer~~licensee is considering an association with another law firm, two or more law firms are considering a merger, or a ~~lawyer~~licensee is considering the purchase of a law practice. [2] In these situations (see ~~Rule~~rules 3.4-17 to 3.4-23 on Conflicts from transfer between law firms), rule 3.3-7permits ~~lawyer~~licensees and law firms to disclose limited information. This type of disclosure would only be made once substantive discussions regarding the new relationship have occurred. [3] This exchange of information between the law firms needs to be done in a manner consistent with the transferring ~~lawyer~~licensee's and new law firm's obligations to protect client confidentiality and privileged information and avoid any prejudice to the client. It ordinarily would include no more than the names of the persons and entities involved in a matter. Depending on the circumstances, it may

summary of the general issues involved, and information about whether the representation has come to an end.	include a brief summary of the general issues involved, and information about whether the representation has come to an end.
[4] The disclosure should be made to as few lawyers at the new law firm as possible, ideally to one lawyer of the new firm, such as a designated conflicts lawyer. The information should always be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship.	[4] The disclosure should be made to as few ~~lawyer~~licensees at the new law firm as possible, ideally to one ~~lawyer~~licensee of the new law firm, such as a designated conflicts ~~lawyer~~licensee. The information should always be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship.
[5] As the disclosure is made on the basis that it is solely for the use of checking conflicts where lawyers are transferring between firms and for establishing screens, the disclosure should be coupled with an undertaking by the new law firm to the former law firm that it will:	[5] As the disclosure is made on the basis that it is solely for the use of checking conflicts where ~~lawyer~~licensees are transferring between law firms and for establishing screens, the disclosure should be coupled with an undertaking by the new law firm to the former law firm that it will:
(a) limit access to the disclosed information;	(a) limit access to the disclosed information;
(b) not use the information for any purpose other than detecting and resolving conflicts; and	(b) not use the information for any purpose other than detecting and resolving a conflict; and
(c) return, destroy, or store in a secure and confidential manner the information provided once appropriate confidentiality screens are established.	(c) return, destroy, or store in a secure and confidential manner the information provided once appropriate confidentiality screens are established.
[6] The client's consent to disclosure of such information may be specifically addressed in a retainer agreement between the lawyer and client. In some circumstances, however, because of the nature of the retainer, the transferring lawyer and the new law firm may be required to obtain the consent of clients to such disclosure or the disclosure of any further information about the clients. This is especially the case where disclosure would compromise solicitor-client privilege or otherwise prejudice the client (e.g., the fact that a	[6] The client's consent to disclosure of such information may be specifically addressed in a retainer agreement between the ~~lawyer~~licensee and client. In some circumstances, however, because of the nature of the retainer, the transferring ~~lawyer~~licensee and the new law firm may be required to obtain the consent of clients to such disclosure or the disclosure of any further information about the clients. This is especially the case where disclosure would compromise solicitor-client privilege or otherwise prejudice the client

corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge).	(e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a ~~lawyer~~licensee about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a ~~lawyer~~licensee about a criminal investigation that has not led to a public charge).