



BY E-MAIL

January 19, 2024

The Honourable Niki Sharma, K.C., M.L.A.
Attorney General
Room 232 Parliament Buildings
Victoria, B.C. V8V 1X4

Re: Legal Professions Regulatory Modernization

Dear Attorney General Sharma,

I write on behalf of the Federation of Law Societies of Canada (Federation) regarding the government of British Columbia's plans to create a single regulator for the legal professions in your province.

The Federation is the national, voluntary association of the 14 independent provincial and territorial regulators of legal professionals in Canada. Our association coordinates the development of national standards and the harmonization of law society rules and procedures, undertakes national initiatives on behalf of law societies, and facilitates the sharing of information on important trends and issues.

Canada's Law Societies have a long history of effective collaboration to better serve the public interest, which is at the core of their respective regulatory mandates. Working through the Federation, our member law societies have, *inter alia*:

- (i) developed a comprehensive mobility regime that permits lawyers to transfer with ease between jurisdictions and to practice temporarily in other provinces (which enhances access to legal services),
- (ii) developed and continue to update the Model Code of Professional Conduct to harmonize the rules of professional conduct for lawyers across the country and respond to emerging ethical issues,
- (iii) developed national discipline standards to ensure that complaints are responded to in a way that is consistent, fair and transparent (which fosters public trust in the legal profession), and

- (iv) developed comprehensive and robust rules to address the risks of money laundering and terrorist financing that can arise in legal practice.

As part of their desire to foster a consistent approach to lawyer competence, the law societies have also delegated to the Federation the role of assessing the credentials of internationally trained lawyers who wish to practice law in Canada.

These collaborative projects, and others, have strengthened the regulation of legal professionals across the country and are in the public interest. The Law Society of British Columbia (LSBC) has been a key participant in these initiatives and plays a particularly significant role in the anti-money laundering work.

The leaders of the Federation and our member law societies read with both interest and concern the British Columbia government's *Intentions Paper* released in September 2022 and the *What We Heard Report* released last May. Changes to the regulatory structures for legal professionals in British Columbia have the potential to impact the law societies in other jurisdictions and may also have adverse implications for the important national work they undertake together in the public interest, through the Federation. The Federation's existence is premised upon fundamental underlying assumptions, including that (i) member law societies are structured and governed in a way that is largely consistent across jurisdictions and (ii) their regulatory roles are clearly independent of government, in keeping with core democratic principles. As the government itself has recognized "the importance of an independent bar to the functioning of a free and democratic society cannot be overstated".

It is our understanding that the government of British Columbia may be introducing legislation in the Spring legislative session to establish a single regulator for British Columbia lawyers, paralegals, and notaries. While we have no information on the content of such legislation, we are aware that draft proposals have been shared with representatives of the LSBC who have been required to sign non-disclosure agreements. While our British Columbia colleagues have abided by those agreements and have not shared details of the proposed changes, they are clearly very concerned that elements of the intended changes could, and likely would, impair the independence of the legal profession and its regulation.

Robust consultation on legislative initiatives plays a vital role in a democracy. In the case of significant changes to the structure and scope of the regulation of legal professionals, the public interest would be best served by tabling the proposed legislative scheme for exposure. This would provide an opportunity for meaningful consultation and input prior to finalization of the proposals.



Additionally, as changes to the regulation of legal professionals in British Columbia may have implications for important national initiatives, prior to the tabling of any draft legislation or regulations the Federation would very much like an opportunity to review the government's draft proposals and provide further context and feedback that may not have been considered to date. We would be willing to provide the same undertaking not to disclose any information about the draft legislation as has been given by the LSBC.

We hope that the government of British Columbia will recognize the Federation's legitimate interest in the plans to move to a single legal regulator and will provide us with the opportunity to review the draft legislative proposals.

Sincerely,



Erin M.S. Kleisinger, K.C.
President

c.c. Jeevyn Dhaliwal, KC, President, LSBC

