

January 12, 2023

VIA ONLINE SUBMISSION

Megan Shortreed, Chair
Professional Regulation Committee
Law Society of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario
M5H 2N6

Dear Chair:

**RE: Professional Regulation Committee's Consultation Report re Proceedings
Authorization Committee: Expanded Remedial Outcomes**

I am writing to you on behalf of the Toronto Lawyers' Association ("TLA"). The TLA is the voice of its 3,400 members who practice law in all disciplines across the Greater Toronto Area.

I am writing to you in regard to the Professional Regulation Committee's Consultation Report dated October 27, 2022. I understand the Proceedings Authorization Committee ("PAC") is seeking feedback regarding its recommendation to expand the remedial outcomes available to it, including expanding its authority to require licensees of the Law Society of Ontario ("LSO") to attend a Mandatory Regulatory Meeting and to take a remedial education program, where appropriate.

The TLA is committed to supporting the ongoing professional development of its members. Knowledge is one of the three pillars of our organization. In keeping with the TLA's particular focus on promoting the continuing legal education of all lawyers in Ontario, our Advocacy Committee has carefully reviewed PAC's Consultation Report and it is pleased to offer the TLA's comments below in response to the questions posed in the Report.

1. *Should the Proceedings Authorization Committee have the authority to compel a licensee to attend a regulatory meeting? If not, why not?*

Yes, PAC should have the authority to compel a licensee to attend a regulatory meeting. Granting PAC this authority will enhance its ability to educate licensees on the impact of their actions, to hold them accountable and to address the harm the licensee may have caused. Under the current regulatory regime, licensees are able to avoid being held accountable for their actions by electing not to attend a regulatory meeting. This does not encourage licensees to make improvements to their practice that PAC may find necessary.

Contrary to the recommendations made in PAC's Consultation Report, however, it is the TLA's submission that a summary of PAC's concerns in relation to the licensee *should not* be made public, nor should the fact of the contemplated Mandatory Regulatory Meeting be made public. The Mandatory Regulatory Meeting should provide the licensee with an opportunity to receive PAC's comments in relation to their conduct privately so that it provides an opportunity for the licensee to improve their practice without negatively impacting their practice. Disclosure to the

public of a summary of PAC's concerns, and the fact that the Mandatory Regulatory Meeting has taken place, is not necessary to achieve the goal of improving licensees' practices and would instead adversely impact a licensee's ability to practice.

2. *Should PAC have the authority to order a Specified Continuing Education or Remediation Program (SCERP)? If not, why not?*

Yes, PAC should have the authority to order a SCERP. The TLA agrees that PAC should have additional options to divert matters from discipline, including the option to compel licensees to complete remedial education programs in such cases where additional education will improve the licensee's practice.

For the reasons set out in our answer to Question 1 above, the TLA does not support PAC's recommendation that information related to a licensee's SCERP should be disclosed to the public.

3. *How long should a notation about a compelled remedial outcome be posted on the directory before a licensee can apply to have it removed?*

As indicated above, the TLA does not support PAC's recommendation that information related to Mandatory Regulatory Meetings or SCERPs be made publicly available, whether on the LSO's directory or otherwise.

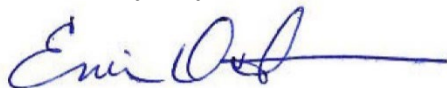
In the event that the LSO were to elect to make this information publicly available, the TLA submits that licensees should be able to apply to the LSO to have the information removed from the directory one year following the date on which the information is posted to the directory.

4. *Do you have any other feedback that you would like to provide about the proposal to expand the remedial outcomes available to the Proceedings Authorization Committee.*

The TLA strongly encourages the LSO to consider issues of procedural fairness when making amendments to PAC's range of remedial powers. Licensees should be afforded a fair opportunity to respond to allegations before PAC exercises its power to order a SCERP or to compel a licensee to attend a Mandatory Regulatory Meeting.

Thank you for considering the TLA's comments on this important issue. Our Executive Committee would be pleased to discuss these comments at your convenience, should you find additional consultation beneficial.

Yours very truly,



Erin O'Donovan
President
Toronto Lawyers' Association