

**Certified True Copy of Amendments
to the Rules of the Law Society of Saskatchewan**

December 3, 2021

It was moved, seconded and carried that the *Rules* of the Law Society of Saskatchewan be amended. Please note that deletions have a “~~line through~~” for identification purposes.

PROPOSED AMENDMENTS:

PART 1 – Definitions and Interpretation

Under Rule 101(1), the definition for “member” includes reference to subsection 2(2.2) of the *Act*; however, that portion has not yet been declared into force, as it relates to limited licensees.

The Benchers approved removal of this reference for the time being as a housekeeping amendment.

Definitions and Interpretation

101(1) in these Rules:

“**Act**” means *The Legal Profession Act, 1990*;

“**Code**” means *The Code of Professional Conduct* adopted by the Benchers in 2012, as amended;

“**disbarment**” means a penalty imposed by a Hearing Committee appointed pursuant to Part 11, which consists of the striking of the member’s name from the roll of members and the removal of all rights and privileges in the membership;

“**Executive Committee**” means the Executive Committee established in subrule 601(1)(a);

“**Executive Director**” means the Executive Director, and unless otherwise specified, the Deputy Director;

“**firm**” means firm pursuant to clause 2(1)(f.1) of the *Act*;

“**mail**” means delivery to a member by ordinary mail, prepaid courier, facsimile or electronic mail;

“**meeting of the Benchers**” means a meeting of the Benchers in Convocation;

“**member**” means, ~~subject to subsection 2(2.2) of the Act,~~ member pursuant to clause 2(1)(h) of the *Act*;

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PART 8 – National Mobility and Interjurisdictional Practice

An amendment to Rule 804(4) was approved to correct a subrule reference error.

A. Temporary Mobility

Temporary Mobility Without a Permit Pursuant to National Mobility Agreement and Protocol

804(1) A visiting lawyer who qualifies pursuant to subrule (2) may provide legal services without a Permit for a maximum of 100 days in any calendar year.

(2) Subject to subrule (4), to qualify to provide legal services on a temporary basis pursuant to subrule (1) or (3), a visiting lawyer must at all times:

- (a) be entitled to practise law in a Home Jurisdiction other than the Chambre;
- (b) carry liability insurance that:
 - (i) is reasonably comparable in coverage and limits to that required pursuant to Rule 1202; and
 - (ii) extends to the lawyer's temporary practice in Saskatchewan;
- (c) have defalcation compensation coverage from a governing body that extends to the lawyer's practice in Saskatchewan;
- (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity;
- (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;
- (f) have no disciplinary record in any jurisdiction; and
- (g) not have or establish an economic nexus with Saskatchewan, as defined in Rule 808.

(3) On application of a visiting lawyer who otherwise qualifies pursuant to subrule (2), the Executive Director may:

- (a) subject to any conditions and restrictions the Executive Director considers appropriate, allow the visiting lawyer to provide legal services without a Permit beyond the time limit set in subrule (1); or
- (b) require the applicant to apply for a Permit pursuant to Rule 805 to provide legal services beyond the time limit set in subrule (1).

(4) The requirement in subrule (2)(b) does not apply to a visiting lawyer who is exempt from compulsory liability insurance pursuant to subrule 1202~~(4)~~(3) with respect to legal services to be provided in Saskatchewan.

PART 10 – Alternative Legal Service Providers

The Benchers approved amendment to Rule 1002(1)(a)(vi), current exemptions, to expand the scope and clarify the applicability of the exemption detailed in the subrule.

Exemptions from the Prohibition Against the Unauthorized Practice of Law

1002(1) Subject to subrule (2), for the purposes of clause 10(k.1) and clause 31(i) of the Act:

- (a) the following persons are exempt from the prohibition against the unauthorized practice of law in section 30 of the Act insofar as they are carrying out the functions mentioned in clauses (i) to (xiii):
 - (i) a person serving in a neutral capacity as a mediator or conciliator;
 - (ii) a person participating in labour negotiations, arbitrations, conciliations or proceedings respecting collective bargaining rights or agreements;
 - (iii) a person exercising an adjudicative function pursuant to statutory authority;
 - (iv) a person acting as a legislative lobbyist;
 - (v) a public officer acting within the scope of the person's authority as a public officer;
 - (vi) a person employed by or currently funded through a service agreement or otherwise demonstrably accountable to the government to act as a lay representative before administrative agencies or tribunals;

PART 11 – Professional Responsibility

Rule amendments were approved at June 2021 Convocation to delete the “Hearing Committee Appointment Coordinator” definition and replace it with “Hearing Administrator”; however, amendments to Rule 1110(2), 1110(3)(e) and 1123(1), (2) & (4) were inadvertently missed. The Benchers approved these amendments for correction.

D. Discipline

Review by Conduct Investigation Committee

1110(1) The Conduct Investigation Committee:

- (a) shall review, investigate and consider any complaint matter referred to it by Professional Responsibility Counsel, the Chairperson of the Competency Committee, the Ethics Committee or the Complainants' Review Committee;
- (b) may review, investigate and consider any conduct of a member that may constitute conduct unbecoming, whether or not it formed the substance of a complaint or the substance of the referral to the Conduct Investigation Committee; and
- (c) may direct Professional Responsibility Counsel to complete whatever further inquiries and investigations it considers desirable before concluding its review, investigation and consideration of a complaint matter.

(2) Upon completion of the review, investigation and consideration of a complaint matter referred to it along with any supporting materials and recommendations, the Conduct Investigation Committee shall make a motion mentioned in subrule (3) in relation to the matter under consideration and, where such motion is pursuant to subrule (3)(e) convey a report of that motion to the ~~Hearing Committee Appointment Coordinator~~ Hearing Administrator.

(3) The motions that may be made by the Conduct Investigation Committee mentioned in subrule (2) are to:

- (a) direct that no further action be taken, if it is of the opinion that the complaint does not constitute conduct unbecoming;
- (b) issue a formal caution, providing advice to the member in relation to the member's conduct;
- (c) invite the member under investigation to meet with a Conduct Review Committee pursuant to Rule 1113;

- (d) refer the complaint to the Ethics Committee or the Chairperson of the Competency Committee;
- (e) direct the ~~Hearing Committee Appointment Coordinator~~ Hearing Administrator to appoint a Hearing Committee pursuant to Rule 1118, to hear and determine a Formal Complaint respecting the allegations that the Conduct Investigation Committee determines to be appropriate; or
- (f) combine the actions set out in subsections (b)(c)(d) or (e).

Review of Interim Suspension

1123(1) A member who is suspended from practice pursuant to this Rule may, at any time during the period of suspension, by notice in writing to the ~~Hearing Committee Appointment Coordinator~~ Hearing Administrator, request a review of the suspension.

(2) On receipt of a request pursuant to subrule (3), the ~~Hearing Committee Appointment Coordinator~~ Hearing Administrator shall appoint up to three Benchers as a Review Panel to conduct a review hearing.

(3) The Review Panel shall consider:

- (a) the record of materials before the Conduct Investigation Committee and its reasons;
- (b) any additional information as they see fit; and
- (c) any arguments from the member and Discipline Counsel as they see fit regarding the suspension.

(4) A review hearing shall be commenced as soon as practicable and, in any event, not later than 7 days after the date on which the request was received by the ~~Hearing Committee Appointment Coordinator~~ Hearing Administrator, unless the member consents to a longer time.

PART 15 - Accounting

An amendment to Rule 1534(4) was approved by the Benchers to provide the authority to direct members of new solo and small firms to complete the Practice Management Course (the "PM Course"), as well as the flexibility to exempt members from such requirement under appropriate circumstances.

M. Examination of a Firm's Records

Practice Reviews

1534(1) The Executive Director may direct a review of any member's practice to determine whether the member is in compliance with the Act, these Rules and the Code.

(2) The Executive Director shall appoint a person or persons authorized by clause 10(t) of the Act to conduct any review pursuant to this Rule.

(3) Without limiting subrule (1), a review conducted in relation to a member's practice may be conducted at any or all of the member's offices and may include:

- (a) a review of any or all of the member's:
 - (i) files;
 - (ii) books;
 - (iii) records, including electronic records; and
 - (iv) office management systems, including but not limited to the procedures in place to reduce the risk of complaints and liability for insurance claims; and
- (b) interviews with the member's staff.

(4) Members shall cooperate with the person carrying out the practice review authorized by this Rule and comply with all reasonable requests and directions, including, without limitation, successfully completing the practice management course, or any comparable or successor course.

(4.1) The Executive Director may, upon application in prescribed form, exempt any member from completing the practice management course, in whole or in part.

(5) A review under this Rule may be conducted whether or not a complaint has been made against a member.

(6) Any report arising from a review conducted pursuant to this Rule:

- (a) shall be provided to the Executive Director; and
- (b) unless otherwise ordered by the Competency Committee, shall not be disclosed except for the purpose of complying with the objects of the Act.



**CERTIFIED to be a true copy of the resolutions
passed by the Benchers of the Law Society of
Saskatchewan at their meeting held December 3,
2021.**

TIMOTHY J. BROWN, Q.C.
Executive Director