



THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

January 16, 2020

Craig A.B. Ferris, QC
President, Law Society of BC
845 Cambie St
Vancouver BC V6B 4Z9

Subject: LGBTQ2SI+ competency training for PLTC

Dear Craig A.B. Ferris, QC,

We write to follow up on discussions at our September Provincial Council meeting between your predecessor, Nancy G. Merrill, QC and Lisa Nevens, the co-chair of the Sexual Orientation and Gender Identity Community Section (SOGIC) of the Canadian Bar Association, BC Branch (CBABC). That discussion and this letter is regarding LGBTQ2SI+¹ content in the Professional Legal Training Course (PLTC).

As Lisa noted at the Provincial Council meeting, SOGIC has several initiatives underway aimed at improving the profession for LGBTQ2SI+ lawyers and access to justice for BC's diverse LGBTQ2SI+ communities. The accessibility of legal services is a particularly acute concern for our communities as LGBTQ2SI+ people are both overrepresented in the lowest income brackets and have a greater need for legal services than the general population.²

In CBABC's view, a contributing cause of this problem is that not enough lawyers have had sufficient competency training in LGBTQ2SI+ matters to knowledgeably and respectfully serve the needs of LGBTQ2SI+ clients. For example, the majority of lawyers are unfamiliar with the correct language and use of pronouns for trans and non-binary clients. Others may make inappropriate assumptions about gender, gender expression and identity, sexual orientation, or family status.

This lack of competence – both actual and perceived – undermines the trust of LGBTQ2SI+ communities in the legal profession. As a gateway to the profession, PLTC is uniquely positioned to address this by elevating the baseline level of LGBTQ2SI+ competency among many new lawyers. To that end, we recommend

¹ Lesbian, gay, bisexual, trans, queer, two-spirit, intersex +.

² For further information see, for example, TRANSforming JUSTICE – Trans Legal Needs Assessment Ontario Project (<https://www.halco.org/our-services/trans-legal-needs-assessment-ontario>).



that PLTC make the following changes:

- 1) Add a mandatory training session on LGBTQ2SI+ issues to the ethics and professional practice section of the course.³ As this is specialised community knowledge, this training should be delivered by a member of the LGBTQ2SI+ community, similar to Indigenous competency training.
- 2) Have the PLTC written material reviewed by a knowledgeable LGBTQ2SI+ lawyer and update the material to better represent sexual orientation and gender identity diversity.⁴
- 3) Have PLTC instructors undergo the same mandatory competency training so that it can be applied to their treatment of both students and the course material.

These recommendations were developed after careful consideration by the SOGIC Executive and are consistent with the CBABC commitment to providing improved access to justice for all people and to achieve equality, diversity and inclusion in our systems of justice and in the legal profession. CBABC staff recently completed its own internal training session on this issue and found it to be well done and very valuable for its staff in enhancing their understanding and ability to be respectful and supportive of LGBTQ2SI+ lawyers.⁵ CBABC, through the assistance of members of SOGIC, will present a webinar providing this education later this spring.

Implementing the above changes would help lawyers meet their ethical and professional obligations under the *Code of Professional Conduct for British Columbia*⁶ and is consistent with the Law Society's vision,⁷ 2018-2020 Strategic

³ For an example of content that may be included, see "LGBTQ2+ Cultural Competency" (Andy Inkster, Jeremy Dias, and Heather Gough) and "Trans Competent Lawyering" (Samuel Singer) in *LGBTQ2+ law: practice issues and analysis*, Joanna Radbord, ed., (Toronto: Emond Montgomery Publications, 2020).

⁴ We have conducted a summary review and would be pleased to discuss some of the concerns and areas for improvement we have identified as a starting point.

⁵ Adrienne Smith is the leading educator in this area within BC's legal community. They conducted the CBCBC training as well as training for UBC's RISE and Indigenous Legal Services clinics, among many others.

⁶ Sections 2.1-3(d), 2.1-4(a), 5.1-5, 7.2-1

⁷ "Law Society of British Columbia protects the public interest in the administration of justice. It does this by ensuring the public is well served by legal professionals who are honourable and competent, and brings a voice to issues affecting the justice system and the delivery of legal services."



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Plan,⁸ and the *Legal Profession Act*.⁹ These changes would also help LGBTQ2SI+ students feel welcomed and empowered in our profession.

Few would argue with the proposition that every person in British Columbia should be able to walk into any lawyer's office and be treated with respect and dignity. Simply put, this is not currently the case as it relates to many LGBTQ2SI+ people. CBABC believes that our suggested changes can make a difference.

We would be happy to meet with you in person or by phone to discuss this recommendation in greater detail and answer any questions you may have.

Sincerely,

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⁸ "We will maintain and improve our standards for effective professional education, practice standards and practice advice by [...] Continuously examining the standards of lawyer competence requirements to ensure they maintain public confidence in the excellence of the delivery of legal services."

⁹ Section 3.