

“Sharpening the Saw”: Improvement in Legal Skills Through Continuing Legal Education

Prepared for: Legal Education Society of Alberta
50th Annual Refresher

Prepared by:
Hollick Chipman
Miller Thomson LLP
Calgary, Alberta

Presented by:
Hollick Chipman
Miller Thomson LLP
Calgary, Alberta

Sandra J. Weber
McLennan Ross LLP
Edmonton, Alberta

For presentation in:
Lake Louise, Alberta – May 7 - 9, 2017

“SHARPENING THE SAW”:
IMPROVEMENT IN LEGAL SKILLS THROUGH CONTINUING LEGAL EDUCATION

PART I: INTRODUCTION

In Stephen R. Covey’s book, *The Seven Habits of Highly Effective People*, the 7th habit is entitled “Sharpen the Saw, Principles of Balanced Self Renewal”, with the following anecdote as explanation:

Suppose you were to come upon someone in the woods working feverishly to saw down a tree.

“What are you doing?” you ask.

“Can’t you see?” comes the impatient reply. “I’m sawing down this tree.”

“You look exhausted!” you exclaim. “How long have you been at it?”

“Over five hours,” he returns, “and I’m beat! This is hard work.”

“Well, why don’t you take a break for a few minutes and sharpen that saw?” you inquire. “I’m sure it would go a lot faster.”

“I don’t have time to sharpen the saw,” the man says emphatically. “I am too busy sawing!”¹

In a sense, this is the predicament in which many lawyers find themselves as they attempt to address the rigors of practicing law. Though, if the analogy can be distinguished, it is to the extent that lawyers understand that the inherent changeable nature of the law means we **must** pay attention to the law’s development and the technological tools, ever advancing, which are available to assist us in our work.

With this in mind, our challenge becomes understanding all the practice-related requirements facing lawyers on the continuing education front and keeping up with the resources available to make ongoing education possible and fruitful.

PART II: LAW SOCIETY OF ALBERTA REQUIREMENTS FOR CPD

Code of Conduct²

As a self-governing profession, Alberta’s lawyers are expected to conduct themselves and their law practices in ways which are highly ethical and above reproach. The Code of Conduct defines the principles and high standards which are applied to every lawyer in Alberta.

1 Stephen R. Covey, *The Seven Habits of Highly Effective People* (Toronto: Simon & Schuster, 1989) at 287.

2 Law Society of Alberta, Code of Conduct, Version #: 2017_V1

Chapter 3 of the Code of Conduct governs lawyers' relationships to clients. Rule 3.1 addresses competence and includes the following definition:

3.1-1 In this rule

“competent lawyer” means a lawyer who has and applies relevant knowledge, skills and attributes in a manner appropriate to each matter undertaken on behalf of a client and the nature and terms of the lawyer’s engagement, including:

- (a) knowing general legal principles and procedures and the substantive law and procedure for the areas of law in which the lawyer practises;
- (b) investigating facts, identifying issues, ascertaining client objectives, considering possible options and developing and advising the client on appropriate courses of action;
- (c) implementing as each matter requires, the chosen course of action through the application of appropriate skills, including:
 - (i) legal research;
 - (ii) analysis;
 - (iii) application of the law to the relevant facts;
 - (iv) writing and drafting;
 - (v) negotiation;
 - (vi) alternative dispute resolution;
 - (vii) advocacy; and
 - (viii) problem solving;
- (d) communicating with the client at all relevant stages of a matter in a timely and effective manner;
- (e) performing all functions conscientiously, diligently and in a timely and cost-effective manner;
- (f) applying intellectual capacity, judgment and deliberation to all functions;
- (g) complying in letter and spirit with all rules pertaining to the appropriate professional conduct of lawyers;

- (h) recognizing limitations in one’s ability to handle a matter or some aspect of it and taking steps accordingly to ensure the client is appropriately served;
- (i) managing one’s practice effectively;
- (j) **pursuing appropriate professional development to maintain and enhance legal knowledge and skills; and**
- (k) otherwise adapting to changing professional requirements, standards, techniques and practices.

The Rule continues in subsection 2 to state that: “a lawyer must perform all legal services undertaken on a client’s behalf **to the standard of a competent lawyer.**”

The knowledge gained in law school and pursuing the subsequent bar admission courses is only the beginning of a lawyer’s professional development. The Code of Conduct requires that knowledge and skills continue to be developed and enhanced as a lawyer progresses through their career.

As noted in the commentary to Rule 3.1, although the Rule does not require a standard of perfection, “A lawyer who is incompetent does the client a disservice, brings discredit to the profession and may bring the administration of justice into disrepute”. Incompetence can lead to actions against the lawyer for damages and can also give rise to disciplinary action.

Rules of the Law Society of Alberta³

CPD was introduced by the Law Society in Alberta in 2008. Since then, the program has evolved and changed, with the most recent changes coming into effect in 2017. Rules 67.1 to 67.3 address specific requirements of CPD:

Continuing Professional Development

67.1(1) “Continuing professional development” is any learning activity that is:

- (a) relevant to the professional needs of a lawyer;
 - (b) pertinent to long-term career interests as a lawyer;
 - (c) in the interests of the employer of a lawyer or
 - (d) related to the professional ethics and responsibilities of lawyers.
- (2) Continuing professional development must contain significant substantive, technical, practical or intellectual content.

³ Rules of the Law Society of Alberta, Version #: 2017_V1