In October 2009, the Council of the Federation of Law Societies of Canada approved a project to develop national standards for admission to the legal profession (the “National Admission Standards Project”) including a profile of the competencies required for admission to the profession.

The decision to embark upon the National Admission Standards Project reflected an important strategic priority identified by the Federation: the development and implementation of high, consistent and transparent national standards for the regulation of the legal profession.

In launching the Project, members of Council recognized that while there is much common ground in the admission standards and processes in place in Canadian law societies, significant differences do exist. With mobility — both as originally established through mobility agreements and as now mandated by the labour mobility provisions of the Agreement on Internal Trade — admission to practice in one province or territory opens the door to admission in virtually every other jurisdiction in Canada. Coupled with the adoption of legislation in three jurisdictions mandating fair access to regulated professions, differences in admissions standards may be difficult to justify as being in the public interest.

In accordance with best practices, a draft competency profile was validated through a survey of entry-level lawyers and Quebec notaries. Almost 7000 members of the profession (including Yukon members) who had been called to the bar within the past five years were invited to participate in the survey. Respondents were asked to rate each individual competency on two scales: how frequently they performed or used
the competency; and how serious the consequences would be if an entry-level practitioner in their area of practice did not possess or was unable to perform the competency. Information was also gathered on the respondents’ practice areas and settings and year of call to the bar. The data from the survey was used to refine the competency profile to ensure that it accurately reflects the competencies required of new practitioners today.

The National Entry to Practice Competency Profile identifies the following general criteria:

**Substantive Legal Knowledge**
- Canadian Legal System
- Canadian Substantive Law
- Ethics and Professionalism
- Practice Management

**Skills**
- Ethics and Professionalism Skills
- Oral and Written Communication Skills
- Analytical Skills
- Research Skills
- Client Relationship Management Skills
- Practice Management Skills

**Tasks**
- General – Professionalism and Practice Management, Establishing client relationship
- Conducting matter, Concluding matter, Concluding Retainer
- Adjudication/Alternative Dispute Resolution
- Transactional/Advisory Matters

In September 2012, in accordance with the recommendations of the National Admissions Standards Project Steering Committee, the Council of the Federation approved the recommended competency profile as a national admission standard. At the same time, the Council of the Federation approved a process to develop recommendations, in consultation with Canada’s law societies, for a plan to implement the competency profile.

At the fall meeting of the Federation, the Council decided to stay the course and continue this focus on national standards of regulation. Foremost among the ongoing national initiatives is the move toward national standards for law society admission with the objective that they be applied consistently across Canada. Details of this initiative are provided in the President’s Message at page 1. Discipline standards are being considered in a pilot project involving thirteen law societies that began in April of 2012. This project will test standards in the areas of timeliness, fairness, transparency, public participation and accessibility in matters dealing with complaints about and discipline for members of the legal profession. The ultimate goal is to raise the bar on how all law societies fulfill these core responsibilities in the public interest.

It continues to be my pleasure to represent you as the president of the Law Society of Yukon and I wish you all a happy and safe holiday season.

– John W. Phelps
Moving forward, Council is now considering the development of a simpler mobility regime between Canada’s common law jurisdictions and the Province of Quebec. A process is underway to draft a protocol for future consideration by law societies.

The Federation will continue its advocacy role in anti-money laundering by urging the BC Court of Appeal to uphold the lower court decision that held client identification rules to be unconstitutional and a violation of solicitor client privilege. It will also seek leave at the Supreme Court of Canada to intervene in the matter of CNR v. Mckercher. This intervention will afford the Federation an opportunity to promote its approach to conflicts of interest as set out in the Model Code.

Addressing the ongoing challenges to the public’s access to legal services is a priority for the Federation. An Inventory of Access to Legal Services Initiatives of the Law Societies of Canada, prepared by the Standing Committee on Access to Legal Services was recently released. The Inventory outlines the activities that law societies across the country have underway or are contemplating to improve access to legal services for the Canadian public. By making information available about these projects law societies can learn from each other and work together toward greater access to legal services for the public. The Inventory is available on the Federation’s website at http://www.flsc.ca/en/access-to-legal-services.

Whether it is staying the course to harmonize standards of legal regulation or moving forward to address public interest issues, I think it’s fair to say the Federation is on the right path. For more information go to www.flsc.ca.

COMINGS & GOINGS

Christine HAKIM – completed articles in July and joined Lamarche Pearson doing primarily real estate, wills & estates and some corporate/commercial.

Sarah DAIGNEAULT – transferred to the Department of Justice in Nunavut

Marta KELLER – left the Department of Justice and moved to Victoria, BC

ARTICLING STUDENT HAS HOMEGROWN PERSPECTIVE ON LAW

For 31-year old articling student Kelly McGill, the dream started with kitschy Canadian television.

“I wanted to be a lawyer when I was about ten years old, watching Street Legal with my dad.

“I wanted to be Olivia Novak,” McGill confesses, referring to the character played by Cynthia Dale.

And though McGill, who graduated from law school in May, followed through on her adolescent ambition, Dale’s somewhat unscrupulous character no longer provides McGill with inspiration. Instead, her attitude towards the law has been shaped in large part by her experience doing child protection work as a social worker.

“I feel strongly about social work as one of my callings,” says McGill, who got a BSW from the University of Regina through Yukon College, and worked for three years in child protection services. “It’s not easy work, but they desperately need people.”

This work experience fostered a keen interest in family law, and McGill doesn’t believe the role of a social worker and the role of a lawyer need be all that different.

“These are people’s lives, people’s problems, and I want to assist them,” she says. “When I look back I see them (social work and law) as very similar: helping people through difficult situations.”

But as well as giving her a chance to work in a field she has worked in before, McGill is also excited by the expansiveness of the law.

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“I enjoy putting myself in situations that I know very little about. Every file I work on is a chance to learn more,” she says.

And working closely with Jim Tucker of Tucker & Company has been nothing if not a learning experience.

“Every file requires a huge amount of reading to get me up to speed.” McGill says.

One of the highlights for McGill so far was working on a Human Rights hearing. She says, The job can be intense, recalling a time when she worked 14 hours a day for five straight days, but she insists it is not too daunting.

“I’m lucky enough to have an employer who understands the work/life balance,” she says.

This is fortunate because McGill’s decision to make Whitehorse home is very much a choice based on quality of life.

“I like the lifestyle up here,” she says. “My husband and I are active outdoors and it’s easy to do.”

The support she receives from family and friends is another reason she chooses to call this part of the world home.

“They are thrilled that I am becoming a lawyer,” she says.

Though she does admit that she has to take a bit of good-natured ribbing from her father when the subject comes up.

Along with family, the local legal community is also very encouraging of her career choice.

“I’m overwhelmed,” McGill admits, “I’ve felt nothing but support and encouragement from the judiciary and the bar.”

It has fostered a feeling of community in her that she thinks is unique to the north.

“Being from northern Canada you learn to realize that we are all connected and it’s the relationships with people that shapes who you are.”

Hopefully Olivia Novak is taking notes.

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**Yukon Compulsory Professional Development**

by Kimberly Sova, 2nd Vice President & Chair of the CLE Committee

This is a reminder that the Law Society of Yukon CPD program requires all practicing members who are not exempt to complete 12 hours of professional development annually.

2012 is considered a “practice year” for CPD in the Yukon. Members will be asked to report their CPD activity when they renew their membership for 2013 as follows:

Guidelines for the Yukon program are found at: http://www.lawsocietyyukon.com/pdf/Guidelines.pdf

Information about the Yukon CPD program is found at: http://www.lawsocietyyukon.com/pdf/Information.pdf

Your reporting this year is much appreciated. With your participation, the Law Society can determine if any changes need to be made to the Guidelines or reports.

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Some FAQs:

Can CLEs organized by the Law Society of Yukon be considered an accepted CPD activity?

Yes, unless otherwise stated ALL CLEs organized by the Law Society of Yukon will count toward the required CPD hours.

I am required to do CPD in BC; do I have to comply with the Yukon CPD requirements too?

No, if you are required to complete the CPD requirements of a comparable jurisdiction then you are exempt from the CPD requirements. On the form you will identify that you are exempt and to which comparable jurisdiction you are reporting your CPD activity.

I want to attend a CLE accredited by Ontario; will that be considered an accepted CPD activity in the Yukon?

Yes, any CLE accredited in a comparable jurisdiction will count towards your required CPD hours.

I want to attend a Nevada State Family Law CLE, will it be accepted as part of my CPD hours?

If the CLE contains significant substantive or practical content with the primary objective of increasing lawyers’ professional competence, then it can be used to satisfy the Yukon CPD requirements. More detail can be found in the Guidelines and if you are still in doubt, you can ask the CLE Chair for a determination prior to your attendance.

CLIA’s Lawyers’ Professional Liability Insurance Group Policy, which covers all insured lawyers in Yukon, has what is generally referred to as “cyber coverage” exclusion. Condition 3.9.1 of the Policy of Insurance excludes “claims arising out of or from damage to or loss of use of tangible or intangible property, loss of data, disclosure of confidential information, or any other loss which is directly or indirectly connected with the receipt or transmission of a computer virus or other damaging program via the internet or in any other electronic manner, or through unauthorized interference with an internet connection, network, computer or telecommunication device.”

CLIA has recently clarified what this policy exclusion means. Essentially there is no coverage for most cyber claims, including claims where the law firm itself suffers damage as a result of unauthorized interference from things like cyber-attack, computer meltdown due to viruses, theft, or hacking of electronic equipment or data. Further, there is no coverage where a client suffers damage as a result of the theft, cyber-attack or hacking of your firm’s computers.

What does this mean for you? If you lose your Smartphone, your laptop is stolen from your vehicle or computers or servers are taken from your office in a break-in, your professional liability coverage will not respond to a claim. Likewise, if you are a victim of “hacking” – like the recent well-publicized cyber-attack on Bay Street firms involved in the unsuccessful Potash Corp sale – damage suffered by the firm or its clients would not be covered.

Surely few Yukon lawyers have been under the impression that their professional liability insurance would replace their lost or stolen Smartphone or laptop. But, some lawyers may have been laboring under the misapprehension that they would be covered if the client whose confidential information was stored on such devices.

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Your Professional Liability Insurance and Cyber Coverage Con’t

devices and equipment suffered a loss when the devices were stolen, hacked or otherwise interfered with.

So, what should you do to protect yourself from exposure to claims arising from lost equipment or compromised data? You may find some coverage for theft or cyber-attacks in your existing general office liability policy. Read that policy carefully and check on your coverage limits for lost or stolen devices and data interruption at the same time. There are also some commercially available cyber policies specifically designed to cover “hacker” and “cyber-attacks”. Check those out with your insurance broker.

More importantly, do what you can to prevent cyber-attacks, and consult with a computer security expert about firewalls, encryption, anti-virus software, secure passwords, intrusion detection systems and other ways to protect your equipment and your clients’ information. Protect your portable devices with secure passwords, and keep them locked and stored in a safe place when you are not using them, and try not to leave your laptop on the bus.

Golf Tourny A Swingin’ Good Time

by Tara Grandy

On July 11, 2012 the Law Society of Yukon sponsored the 24th annual golf tournament at Mountain View Golf Course. Even though most people share Mark Twain’s sentiments towards golf - that golf is a good walk spoiled - we had more participants this year than any other. Whether it was the sunshine, the prizes, the BBQ, the company, or the afternoon off from work, 70 participants partook in the silly game of hitting a small ball into a very small hole.

The increase in participants could be due to the Law Society’s emphasis on encouraging participants of all skill levels. The tournament now gets participants of all levels, ranging from people who never held a golf club to those who ‘think’ they can play. Beginners actually fare better in this tournament given that the most ‘honest teams’ get first pick during prize selection.

Like the past couple of years, this year had its fair share of drama. Though unlike last year’s drama, we can actually write about this year’s events in the newsletter. This year, despite Tucker’s boasting of getting his name etched on the trophy again, the Grandy, Harris & Howells team managed to put Tucker’s team in their rightful place.

Following the golf game, the participants enjoyed steaks and salads from Volare Restaurant. We held a raffle for a $100 gift certificate to Volare, with all proceeds donated to the Fetal Alcohol Syndrome Society of Yukon (FASSY).

We hope to see even more people out next summer.

NEW MEMBERS:
JUNE 1, 2012 – NOVEMBER 30, 2012
Tarnow, David – Richmond, BC
Nelson, Ronald – Edmonton, AB
Vaze, Bibhas – Vancouver, BC
Sayyari, Persia – Whitehorse, YT – Student to full Call
Hakim, Christine – Whitehorse, YT – Student to full Call
Bookman, Aron – Victoria, BC
Dabbs, Breagh – Whitehorse, YT – Student to full Call

ARTICLING STUDENTS:
McGill, Kelly – Tucker & Company
Lindberg, Darcy – Davis LLP
Lavidas, Christiana – Public Prosecution Service of Canada
Whyte, Lauren – Yukon Department of Justice

CERTIFICATES OF PERMISSION TO ACT: 92
As well as providing assistance to self-represented litigants, the Yukon Public Legal Education Association (YPEA) continues to publish material on a variety of subjects including Power of Attorney Guidelines, divorce and separation, and marriage and common law partners. However, beyond this traditional mandate YPLEA is expanding its focus with a new program called “New Horizons.”

“It is concerned with the preparation of (legal) information and materials for seniors,” explains Robert Pritchard, YPLEA’s executive director of twelve years. Pritchard stresses that seniors can often find themselves in vulnerable situations during complex legal proceedings.

“It can be pretty daunting for someone who is not conversant with the system,” says Pritchard. “I find it daunting and I’ve had some experience with it.” As a result, Pritchard is excited about the prospect of providing good legal assistance for seniors on subjects such as protection from elder abuse and applications for adult guardianship.

Pritchard also emphasizes that New Horizons is in its nascent phase and the precise direction of the program remains wide open.

“It’s quite early to be projecting what we get involved with,” he says. “But it has the potential to produce some really interesting stuff.”

In the meantime, Lillian Nakamura Maguire has come onboard as the project manager of New Horizons, and consultations with concerned parties have begun.

Knowing the regulations regarding GST assessment will help you steer clear of potential conflicts and keep your practice running smoothly.

First, it is important to remember that any time property or services are exchanged GST will factor into the transaction. If you specialize in one area of law you can anticipate GST-related issues ahead of time and develop a system to accommodate those issues.

Sometimes, lawyers correctly judge that GST is applicable in a transaction, but fail to apply it properly. GST issues can often be complicated; avoid the urge to guess when advising clients. Accept the limits of your knowledge and seek help where appropriate. Also, be sure to carefully review any contract for clauses regarding GST liability.

Often it is the client who is unclear of GST-related ramifications. Do not assume that your client is knowledgeable about GST implications and take the necessary time to explain things thoroughly.

In real estate transactions it is important to assess whether a purchaser is registered for GST purposes.

Buyers who also sell goods and services are usually eligible to recoup GST, but they need to be properly registered. Don’t take their word for it, or assume they are registered. Insist on seeing proof of their registration.

Be sure to communicate clearly with all your clients and their accountants regarding who is dealing with the GST assessment issues. Problems can arise when each party assumes the other party has their eye on the GST ball.

Finally, just like Santa, lawyers need to check their work twice. Even if one is knowledgeable on GST assessment, it is easy to miss a step in the process. Be methodical and double check the bottom line.

Continued on page VIII
For nearly two decades the Maddison Lectures in Northern Justice (MLNJ) series has been inviting keynote speakers to give presentations on legal issues with a northern focus. Now, the content of those presentations has been compiled into a book of the same name, co-edited by The Honourable Mr. Justice Ron Veale.

The series was created to honour Justice Harry Maddison, who first came North in 1969, to be the sole Yukon Supreme Court judge. Upon Judge Maddison becoming supernumerary in 1994, the MLNJ was created to honour him.

“He put in 30 years as the only guy on the Supreme Court. To be the only guy sitting on the top is not an easy job”, says Veale. It was decided a traditional present wouldn’t have sufficed for Judge Maddison.

And the MLNJ has certainly done that. Since its inception it has brought up such heavyweights as the Chief Justice of Canada Beverly McLachlin and former Justice of the Supreme Court of British Columbia, Thomas Berger. Topics have ranged from Quebec Separation, to our Arctic Sovereignty, to gas exploration and pipeline construction.

But despite originating from some of the best legal minds in the country, Veale insists that the content of this book will have appeal well beyond lawyers.

“I think the general public would love it, says Veale. “It’s fascinating stuff.”

To purchase The Maddison Lectures in Northern Justice visit the publisher’s website as http://www.juriliber.com.

The recent CanLII survey went exceedingly well with over 4300 responses from law society members across the country. A sneak peek of what CanLII learned from the results in Yukon:

- 38 members of the Law Society of Yukon participated in the survey, representing approximately 29% of the full-time membership
- from these results, CanLII concluded the following about Yukon lawyers:
  - 79% frequently conduct legal research; a number that rises to 100% among lawyers under 34 years of age.
  - 2.82% rely predominantly on online services, compared to 0% who rely mostly on print/offline services (the balance rely on each equally)
  - Among lawyers who have conducted legal research over the past 12 months, more report using CanLII than any other service:
    - CanLII 95%
    - Provincial court/legislative sites 92%
    - Quicklaw 71%
    - Federal court/legislative sites 66%
    - Internet search engines 61%
    - Westlaw 18%

It is interesting that nationally awareness of who administers and funds CanLII is surprisingly low (only about half of participants were aware of either), and varies widely across Law Societies.

“He didn’t want a gold watch. He wanted something that would endure.”
YLAP offers each Law Society member up to seven hours per year of private and confidential professional counselling for these and other personal or work related difficulties.

The service is provided by Nimco & Co.

AVAILABLE
24 HOURS A DAY, 7 DAYS A WEEK.

CALL 668-4058
ANY TIME