

Multi-Disciplinary Practices (MDPs)

BACKGROUND

- The issue of multi-disciplinary practices (MDPs) was referred to the CBA's Special Committee on the International Practice of Law.
- MDPs can be defined as business arrangement(s) in which individuals with different professional qualifications practise together in partnership and combine their different skills in providing advice and counsel to the consumers of their services. Those in favour of MDPs see them as providing enhanced, streamlined client services, wider consumer choice and increased profits. Those against argue that the dangers for solicitor/client privilege, independence and conflict of interest and threats to self-governance outweigh any business efficiency arguments.
- From 1997 to 1999, the Committee consulted widely with the Canadian legal profession, other professional organizations and international legal bodies. It monitored developments within and outside Canada.
- At the 1999 Annual Meeting, the Committee tabled its report. It recommended that: MDPs be permitted, without limitation on who should control them and what types of services they could provide; lawyers in MDPs be subject to the rules of professional conduct of the law societies and remain responsible for ensuring their services comply with all such requirements; and the CBA and law societies address specific regulatory issues regarding lawyers' participation in MDPs, with a particular focus on the preservation of solicitor-client privilege in MDPs.
- From September 1999 to June 2000, the Committee sought input from Branches, managing partners, other professional organizations, international legal bodies and individual lawyers.
- In August 2000, Council passed a resolution endorsing MDPs. The resolution called for the delivery of legal services by MDPs (as opposed to the MDP as a whole) to be controlled by lawyers and for MDPs to be subject to a licensing regime. Among other things, the resolution provided that MDPs should be: subject to the core values, standards and rules of professional conduct of the legal profession; required to advise clients that the firm includes those not subject to the legal profession's rules and standards; and required to maintain appropriate insurance such as to avoid any additional burden on the coverage of lawyers generally. It recommended that law societies develop rules to ensure that lawyers do not practise with those who have conflicting ethical responsibilities and to ensure the protection and preservation of solicitor-client confidences and the avoidance of conflict of interest. It also provided that only lawyers should practise law in MDPs.
- In February 2001, Council passed amendments to the August 2000 resolution. These amendments provided, among other things, that MDPs would only be permitted if they were "effectively controlled" by lawyers through the vehicle of a contract or partnership agreement between the lawyers and non-lawyers in the firm.

CURRENT STATUS

- In summer 2001, the Law Society of British Columbia consulted with the profession on draft MDP rules. This followed the LSBC's decision in principle to relax the prohibition on MDPs, subject to adopting a regulatory scheme that protects the legal profession's core values. In December 2001, the benchers of the LSBC rejected these proposals, over concerns that they might not sufficiently protect the core values of the profession.
- The Law Society of Upper Canada amended its bylaws in May 2001 to regulate law firms "affiliated" with non-lawyers.
- The Law Society of Alberta contemplated adopting an MDP regime, but decided in 2003 not to pursue it. They said that the core values of the profession could not be protected adequately in adopting MDP rules and noted a lack of demand in the profession.
- England and Wales considered proposals for new business structures, including legal disciplinary practices (LDPs) and multi-disciplinary practices (MDPs) (see separate note on [International Practice Issues](#)). In 2007 the UK adopted the [Legal Services Act](#) which enables lawyers to share management and control of law firms with non-lawyers, including accountants and others. These "Alternative Business Structures" are open to outside investment, subject to a "fitness to own" test.

NEXT STEPS

- The CBA will monitor developments in Canadian and foreign jurisdictions.