

10 January 2018

Dr Michelle Sharpe
Barrister

[REDACTED]
Melbourne VIC 3000

Via email: [REDACTED]

Dear Dr Sharpe

Practising Certificate Fees Review: Response to Submission

Thank you for your email of 26 October 2017 setting out your submission to the formal public consultation stage of the Practising Certificate Fees Review (the review) and the Regulatory Impact Statement (RIS) process.

The Victorian Legal Services Board (the Board) appreciates the time you have taken to make a written submission to the review and contribute your thoughts on the proposed options.

In your submission, you note the high rates of mental ill health in the legal profession and suggest that we consider imposing a small 'surcharge' of \$5 to \$10 per practising certificate to fund programs to promote and support lawyer well-being. You also drew our attention to the Doctor Health Services Pty Ltd (DrHS) which is funded by the Medical Board of Australia from registration fees paid by doctors.

The comments of the Queensland Law Society that you refer to in your submission are certainly not unfamiliar to our own regulatory experience here in Victoria. A feature of many complaints and other regulatory interventions are concerns centred on the legal practitioner's poor mental health. The Board, together with the Victorian Legal Services Commissioner (the VLSB+C) has already taken a number of positive and active steps but it is certainly an ongoing and challenging issue for regulators and the legal profession in general.

In 2013, the VLSB+C adopted a Mental Health Policy to guide legal practitioners suffering from mental health conditions making positive declarations about their fitness to practise. The basic tenor of this policy is to grant practising certificates where the condition is being appropriately managed or has limited effect on the practitioner's ability to practice. You may find this policy by following this link to the VLSB+C website:

http://lsbc.vic.gov.au/?page_id=515.

In early 2015, the VLSB+C also became signatories to the Tristen Jepsan Memorial Foundation's Best Practice Guidelines (TJMF) for a psychologically safe legal workplace. VLSB+C staff have undertaken significant awareness and active crises management training to assist them to appropriately, positively and compassionately manage each individual situation by selecting the most appropriate regulatory tool. However the process is one that requires continuous improvement. Although all of our education programs for the profession feature discussion of mental health issues we are looking for even more opportunities to improve our actions in this space amongst the profession.

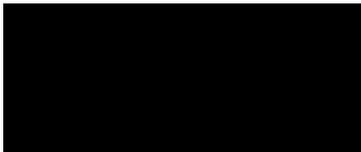
Victorian Legal Services **BOARD**

Your suggestion to impose a small surcharge to fund specific programs to support lawyer well-being is commendable. However, it is not consistent with Government policy to use fees to fund non-regulatory services and therefore, the Board cannot recommend the funding of such a program through fees. However, the Board is able to consider proposals to fund non-regulatory initiatives through the Public Purpose Fund. Indeed, the VLSB+C have allocated funding from our 2018-19 education budget to the Victorian Bar to conduct a survey into members' health and wellbeing so that it may be better managed, addressed and preventative measures put in place. Therefore, while your suggestion is outside the scope of the review, I would be most interested in further exploration of this and other ideas in conjunction with the professional associations. To that end, a VLSB+C member of staff who works on TJMF issues will be in contact with you shortly.

The Board has decided to formally recommend new fees for practising certificates for the 2018-19 financial year and beyond, in line with Option 3 as outlined in the RIS, to the Attorney-General and the Governor-in-Council. It is intended that new regulations prescribing those fees will be in place to replace the current regulations which are due to expire in late February 2018.

Once again I would like to thank you for contributing to the formal consultation stage of the review. Your submission and our response will be published, together with all other submissions and responses, on the VLSB+C website.

Yours sincerely



Fiona R Bennett
Chairperson