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ANNOTATED BRITISH COLUMBIA LEGAL PROFESSION ACT

**Gordon Turriff, Q.C.
Release No. 1, April 2022**

Publisher's Special Release Note 2021

The pages in this work were reissued in July 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the July 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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Author's Comments

In October, in *A Lawyer v. Law Society of British Columbia*, the Court of Appeal upheld a decision of the Supreme Court clarifying the scope of Rule 4-55, a rule (authorized by s. 36(b) of the *Legal Profession Act*) that provides for an order by the Chair of the Discipline Committee authorizing the investigation of a lawyer's books, records and accounts.

It is also worthwhile reminding readers (as the Ontario Court of Appeal has done in *Tanase v. College of Dental Hygienists of Ontario*, 2021 ONCA 482 (Ont. C.A.)) that there is no constitutional right to practise a profession. Tanase reminds us that any right is only statutory and is consequently subject to the legislation and rules passed under it.

Case Law Highlights

[Where the neutral citation is not provided in the annotation within the text, please refer to the Table of Cases where all the correlative citations (including the neutral citation) are listed.]

- *A Lawyer v. Law Society of British Columbia*, 2021 BCCA 437 (B.C. C.A.): The Court of Appeal upheld the decision of the Supreme Court, affirming the authority and scope of Rule 4-55, authorized by s. 36(b) of the *Legal Profession Act*, relating to audits of a lawyer's books, records and accounts. It confirmed the Law Society authority to conduct investigations that extend to a member's *entire* legal practice. Moreover, the section of the Act and Rule do not violate s. 8 of the Charter. And lastly, judicial review is not available to review an administrative decision to issue an order under Rule 4-55.
- *Tanase v. College of Dental Hygienists of Ontario*, 2021 ONCA 482 (Ont. C.A.): Any "right" to practise a profession is only a statutory right, subject to the governing legislation and rules passed thereunder. There is no constitutional or common-law right to practise a profession.
- *A Lawyer v. Law Society of British Columbia*, 2021 BCSC 914: affirms the authority and scope of Rule 4-55, authorized by s. 36(b) of the *Legal Profession Act*, relating to audits of a lawyer's books, records and accounts. That rule gives the Law Society authority to conduct investigations that extend to a member's entire legal practice. Although such investigations are only authorized where there is reason to believe that the lawyer may have committed a discipline violation, the section does not link those circumstances to the scope of the investiga-

tion that the Law Society is authorized to conduct. The section does not constrain the scope of the investigation to the circumstances that authorized it and Rule 4-55 does not suggest otherwise.

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