The College of Naturopaths of Ontario

Council of the College of Naturopaths of Ontario

Meeting #39

Draft Agenda

Date: January 31, 2024 (2023/24-05)

Time: 9:15 a.m. to 12:15 p.m.

Location: Zoom Video Conference Platform[1]

[1] Pre-registration is required.

Excerpt from the Health Professions Procedural Code
Regulated Health Professions Act.

COLLEGE

College is body corporate

2. (1) The College is a body corporate without share capital with all the powers of a natural person.

Corporations Act

(2) The *Corporations Act* does not apply in respect to the College. 1991, c. 18, Sched. 2, s. 2.

Duty of College

2.1 It is the duty of the College to work in consultation with the Minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals. 2008, c. 18, s. 1.

Objects of College

3. (1) The College has the following objects:

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the *Regulated Health Professions Act, 1991* and the regulations and by-laws.
2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.
3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.
4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing evaluation, competence and improvement among the members.

   4.1 To develop, in collaboration and consultation with other Colleges, standards of knowledge, skill and judgment relating to the performance of controlled acts common among health professions to enhance interprofessional collaboration, while respecting the unique character of individual health professions and their members.
5. To develop, establish and maintain standards of professional ethics for the members.
6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Code and the *Regulated Health Professions Act, 1991*.
7. To administer the health profession Act, this Code and the *Regulated Health Professions Act, 1991* as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College.
8. To promote and enhance relations between the College and its members, other health profession colleges, key stakeholders, and the public.
9. To promote inter-professional collaboration with other health profession colleges.
10. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues.
11. Any other objects relating to human health care that the Council considers desirable. 1991, c. 18, Sched. 2, s. 3 (1); 2007, c. 10, Sched. M, s. 18; 2009, c. 26, s. 24 (11).

Duty

(2) In carrying out its objects, the College has a duty to serve and protect the public interest. 1991, c. 18, Sched. 2, s. 3 (2).

The College of Naturopaths of Ontario

COUNCIL MEETING #39
January 31, 2024
9:15 a.m. to 12:00 p.m.
APPROVED AGENDA

Sect/No.	Action	Item	Page	Responsible
0	**Pre-Meeting Networking (8:00 am to 9:00 am)**			
	Networking	Information networking for Council members.	--	All
1	**Call to Order and Welcome**			
1.01	Procedure	Call to Order	--	J. Sokoloski
1.02	Discussion	Meeting Norms	4-6	
1.03	Discussion	"High Five" – Process for identifying consensus	7	
2	**Consent Agenda[1]**			
2.01	Approval	i. Draft Minutes of November 29, 2023	8-13	J. Sokoloski
		ii. Committee Reports	14-28	
		iii. Information Items	29-83	
3	**Main Agenda (9:20 am)**			
3.01	Approval	Review of Main Agenda	3	J. Sokoloski
3.02	Discussion	Declarations of Conflict of Interest	84-85	
4	**Monitoring Reports**			
4.01	Acceptance	Report of the Council Chair	86	J. Sokoloski
4.02	Acceptance	Report on Regulatory Operations	87-97	A Parr
5	**Council Governance Policy Confirmation**			
5.01	Discussion	Review/Issues Arising	--	B Lessard-Rhead
		i. Executive Limitation Policies		
		ii. Council-CEO Linkage Policies		
5.02	Discussion	In-depth Review of Governance Process Policies (1-16)		
5.03	Decision	Questions Surrounding Committee Terms of Reference	98-107	A Parr
6	**Regular Business**			
6.01	Decision	Council Evaluation Process	108-115	A Parr
7	**Education**			
7.01	Education	Program Briefing - Registration	116-121	E. Laugalys
7.02	Education	Program Briefing – Inspection Program	123-126	J. Quesnelle
8	**Other Business**			
8.01	TBD			
9	**Evaluation and Next Meeting**			
9.01	Discussion	Meeting Evaluation	On-line	J. Sokoloski
9.02	Discussion	Next Meeting – March 27, 2024	--	
10	**Adjournment**			
10.01	Decision	Motion to Adjourn	--	J. Sokoloski

[1] Members of Council may request any item in the Consent Agenda to be added to the main agenda.

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Zoom Meeting
Council of the College of Naturopaths of Ontario

Meeting Norms

General Norms

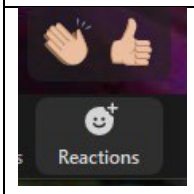
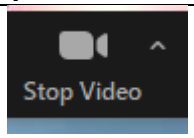
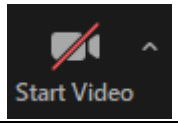
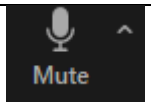
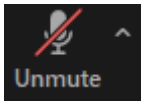
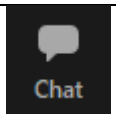
1. We'll listen actively to all ideas
2. Everyone's opinions count
3. No interrupting while someone is talking
4. We will be open, yet honor privacy
5. We'll respect differences
6. We'll be supportive rather than judgmental
7. We'll give helpful feedback directly and openly
8. All team members will offer their ideas and resources
9. Each member will take responsibility for the work of the team
10. We'll respect team meeting times by starting on time, returning from breaks promptly and, avoid unnecessary interruptions
11. We'll stay focused on our goals and avoid getting sidetracked

Additional Norms for Virtual Meetings

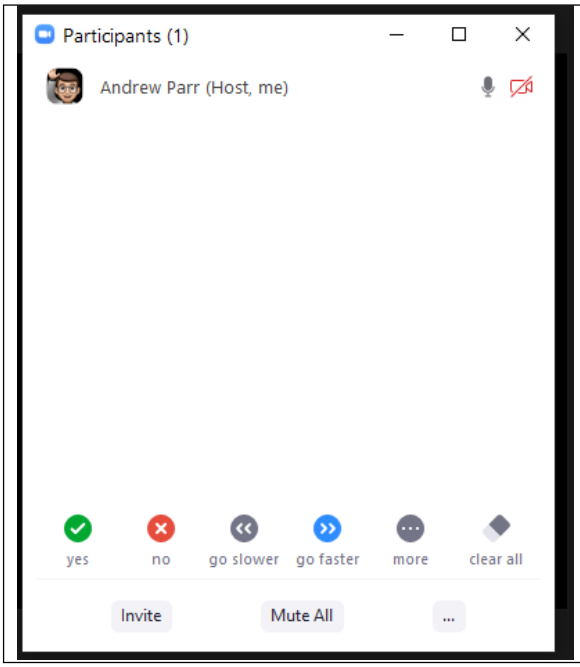
1. No putting the call on hold or using speakerphones
2. Minimize background noise – place yourself on mute until you are called upon to speak and after you have finished speaking
3. All technology, including telephones, mobile phones, tablets and laptops, are on mute or sounds are off
4. If we must take an emergency telephone call, we will ensure that we are on mute and we will stop streaming our video

5. Stay present – webcams will remain on (unless we are on a call or there is another distraction on your end)
6. Stay focused – avoid multi-tasking during the meeting
7. Use reactions (thumbs up, applause) to celebrate accomplishments and people
8. Use the Chat feature to send a message to the meeting host or the entire group.

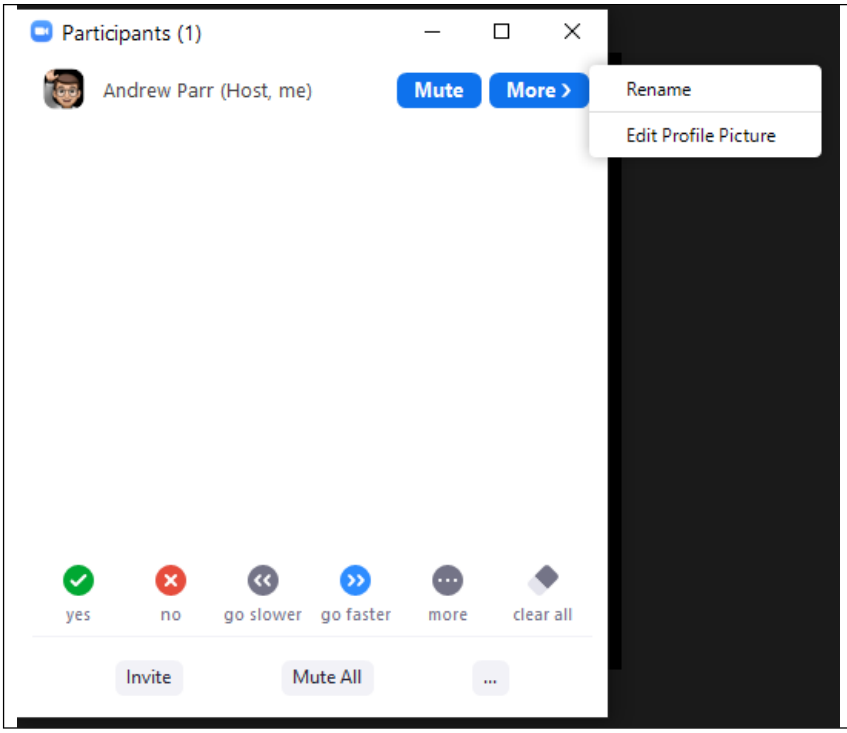
Zoom Control Bar – Bottom of screen

Reactions	Stop or Start Video	Mute/Unmute	
	 	 	

Other Helpful Tips



- Use the Participants button on the bottom control button to see a list of participants.
- On the Participants Menu, you can use the bottoms to send instant message to the Host… yes or no etc. (Not all of these options will appear if you are not the Host)



- Hover over your name on the Participants list to get more options
- You can rename yourself to your proper name
- You can add or change a profile picture.

Zoom Meeting
Council of the College of Naturopaths of Ontario

Using "High Five" to Seek Consensus

Image provided courtesy of Facilitations First Inc.

We will, at times, use this technique to test to see whether the Council has reached a consensus.

When asked you would show:

- 1 finger – this means you hate it!
- 2 fingers – this means you like it but many changes are required.
- 3 fingers – this means I like it but 1-2 changes are required.
- 4 fingers – this means you can live with it as is.
- 5 fingers – this means you love it 100%.

In the interests of streamlining the process, for virtual meetings, rather than showing your fingers or hands, we will ask you to complete a poll.

The College of Naturopaths of Ontario

Council Meeting
November 29, 2023

Video Conference
DRAFT MINUTES

Council		
Present		**Regrets**
Dr. Jonathan Beatty, ND (2:4)		Ms. Tiffany Lloyd (2:4)
Dr. Shelley Burns, ND (4:4)		Dr. Jordan Sokoloski (3:4)
Mr. Dean Catherwood (4:4)		
Dr. Amy Dobbie (4:4)		
Mr. Brook Dyson (3:4)		
Ms. Lisa Fenton (4:4)		
Dr. Anna Graczyk, ND (4:4)		
Ms. Sarah Griffiths-Savolaine (3:4)		
Dr. Denis Marier, ND (4:4)		
Mr. Paul Philion (3:4)		
Dr. Jacob Scheer, ND (4:4)		
Staff Support		
Mr. Andrew Parr, CAE, CEO		
Ms. Agnes Kupny, Director of Operations		
Mr. Jeremy Quesnelle, Deputy CEO		
Ms. Dilyara Madeira, Executive Liaison		
Guests		
Ms. Rebecca Durcan, Legal Counsel		
Dr. Brenda Lessard-Rhead, ND (Inactive), Chair, Governance Policy Review Committee		

1. Call to Order and Welcome
The Vice-Chair, Ms. Sarah Griffiths-Savolaine, called the meeting to order at 9:17 a.m. She welcomed everyone to the meeting.

The Vice-Chair noted that the meeting was being live streamed via YouTube to the College's website.

2. Consent Agenda
2.01 Review of Consent Agenda
The Consent Agenda was circulated to members of Council in advance of the meeting. The Vice-Chair asked if there were any items to move to the main agenda for discussion. There were none.

MOTION:	To approve the Consent Agenda as presented.
MOVED:	Shelley Burns
SECOND:	Paul Philion
CARRIED.	

3. Main Agenda
3.01 Review of the Main Agenda
A draft of the Main Agenda, along with the documentation in support of the meeting had been circulated in advance of the meeting. The Vice-Chair asked if there were any items to be added to the agenda.

MOTION:	To approve the Main Agenda as presented.
MOVED:	Dean Marier
SECOND:	Lisa Fenton
CARRIED.	

3.02 Declarations of Conflicts of Interest
The Vice-Chair reminded the Council members of the updated Declarations of Conflict-of-Interest process. A summary of the Annual Conflict of Interest Questionnaires completed by Council members have been included in the Council package to increase transparency and accountability initiatives, and to align with the College Performance Measure Framework Report (CPMF) launched by the Ministry of Health.

4. Monitoring Reports
4.01 Report of the Council Chair
The Report of the Council Chair was circulated in advance of the meeting. The Vice-Chair reviewed the report with Council. She welcomed and responded to questions from the Council.

MOTION:	To accept the Report of the Council Chair as presented.
MOVED:	Paul Philion

SECOND:	Dean Catherwood
CARRIED.	

4.02 Report on Regulatory Operations from the Chief Executive Officer (CEO)
The Report on Regulatory Operations from the CEO was circulated in advance of the meeting. Mr. Parr provided highlights of the report and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Report on Regulatory Operations from the CEO.
MOVED:	Denis Marier
SECOND:	Amy Dobbie
CARRIED.	

4.03 Report on Operations – Mid-Year Report
The Report on Operations – Mid Year-Report was circulated in advance of the meeting. Mr. Parr provided highlights of the report and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Report on Operations – Mid-Year Report.
MOVED:	Shelley Burns
SECOND:	Jacob Scheer
CARRIED.	

4.04 Unaudited Financial Statements for Q2
A copy of the Unaudited Financial Statements and Variance Report at Q2, was circulated in advance of the meeting. Ms. Agnes Kupny, Director of Operations, reviewed the report with the Council members and responded to any questions that arose during the discussion.

MOTION:	To accept the Unaudited Financial Statements and Variance Report at the end of the second quarter as presented.
MOVED:	Jonathan Beatty
SECOND:	Paul Philion
CARRIED.	

5. Council Governance Policy Confirmation
5.01 Review/Issues Arising
5.01(i) Executive Limitation Policies
Council members were asked if they had any questions or matters to note with respect to the Executive Limitations policies based on the reports received. No issues were noted at this time.

5.01(ii) Governance Process Policies
Council members were asked if they had any questions or matters to note with respect to the Governance Process policies based on the reports received. No issues were noted at this time.

5.02(i) In-depth Review of Council-CEO Linkage Policies
Dr. Brenda Lessard-Rhead, ND (Inactive), Chair of the Governance Policy Review Committee presented the survey results that were circulated to Council prior to the meeting and reviewed the Council-CEO Linkage Policies in-depth. She responded to any questions that arose during the presentation.

5.02(ii) In-dept Review of Ends Policies
Dr. Lessard-Rhead, ND (Inactive), presented proposed changes to the Ends Priority Policy (E02.07) as requested by Council and responded to any questions that arose during the presentation.

5.03 Approval of the Revised Ends Priority Policy (E02.07)

MOTION:	To accept the changes made to the Ends Priority Policy by the Governance Policy Review Committee as presented.
MOVED:	Denis Marier
SECOND:	Dean Catherwood
CARRIED.	

6. Business
6.01 Proposed By-law Changes
Mr. Parr reviewed in detail the Proposed By-Law Changes distributed to Council in advance of the meeting. He responded to any questions or concerns that arose during the discussion that followed.

MOTION:	To accept the proposed By-Law Changes.
MOVED:	Paul Philion
SECOND:	Denis Marier
CARRIED.	

6.02 Funding for Canadian Alliance of Naturopathic Regulatory Authorities (CANRA) National Practical Examination
Mr. Jeremy Quesnelle, Deputy CEO, reviewed in detail the work that is underway by CANRA to develop a national practical exam and the funding requirements to conduct this work. Mr. Quesnelle reviewed highlights of the Loan Agreement distributed to Council in advance of the meeting and then he responded to any questions or concerns that arose during the discussion that followed.

MOTION:	To approve the loan agreement with the Canadian Alliance of Naturopathic Regulatory Authorities.
MOVED:	Shelley Burns
SECOND:	Dean Catherwood
CARRIED.	

6.03 Appointment of CEO Review Panel
Ms. Kupny advised the Council members that according to GP19.03 – CEO Performance Review, each year the Council at its November meeting, needs to appoint members to the CEO Performance Review Panel ("Review Panel") with a minimum of three and maximum of four members, that is comprised of the Council Chair and Council Vice-Chair and up to two Council members.

MOTION:	To approve the appointment of Dr. Jordan Sokoloski, ND, Council Chair, Sarah Griffiths-Savolaine, Council Vice-Chair, Dr. Denis Marier, ND, and Dean Catherwood to the CEO Review Panel.
MOVED:	Paul Philion
SECOND:	Amy Dobbie
CARRIED.	

6.04 In-Person Meeting Cost
At the end of the September 2023 Council meeting, Council inquired about the cost of the two day in-person meeting. Ms. Kupny, reviewed in detail the In-Person meeting cost memorandum distributed to Council in advance of the meeting. She responded to questions that arose during the discussion that followed.

8. Other Business
8.01 Meeting Evaluation
The Vice-Chair advised the Council members that a link will be provided via email for each member to copy and paste into a web browser to complete an evaluation form immediately following the end of the meeting.

8.02 Next Meeting
The Vice-Chair noted for the Council that the next regularly scheduled meeting is set for January 31, 2024. This meeting will be held virtually via video conference.

9. Adjournment
9.01 Motion to Adjourn
The Vice-Chair asked for a motion to adjourn the meeting. The meeting adjourned at 10:59 a.m.

MOTION:	To adjourn the meeting.
MOVED:	Dean Catherwood

SECOND:	Anna Graczyk

Recorded by: Dilyara Madeira
Executive Liaison
November 29, 2023

The College of Naturopaths of Ontario

MEMORANDUM

DATE: January 26, 2024

TO: Council members

FROM: Andrew Parr, CAE
Chief Executive Officer

RE: Committee Reports

Please find attached the Committee Reports for item 2.01 (iii) of the Consent Agenda. The following reports are included:

1. Audit Committee
2. Discipline Committee
3. Equity, Diversity and Inclusion Committee
4. Examination Appeals Committee
5. Executive Committee
6. Governance Committee
7. Governance Policy Review Committee
8. Inquiries, Complaints and Reports Committee
9. Inspection Committee
10. Patient Relations Committee
11. Quality Assurance Committee
12. Registration Committee
13. Standards Committee

In order to increase the College's accountability and transparency, all Committee Chairs were asked to submit a report, even if the Committee had not met during the reporting period. Please note the Discipline/Fitness to Practise Committee Chair was not required to submit a report in order to preserve the independent nature of these Committees; however, the Chair has voluntarily provided a report for Council's information.

The College of Naturopaths of Ontario

AUDIT COMMITTEE REPORT

November 1, 2023 – December 31, 2023

During the reporting period the Audit Committee was not required to undertake any activities and did not meet.

Brook Dyson
Chair
Audit Committee
January 9, 2023

The College of Naturopaths of Ontario

DISCIPLINE COMMITTEE REPORT

January 2024

The Discipline Committee (DC) is independent of Council and has no legal obligation to submit bimonthly reports addressing matters of importance to the Committee. However, in the interest of transparency and to acknowledge Committee members' involvement in the discipline process, the Chair is pleased to provide this report to Council.

This report is for the period from 1 November to 31 December 2023 and provides a summary of the hearings held during that time as well as any new matters referred to the DC by the Inquiries, Complaints and Reports Committee (ICRC) of the College. Committee meetings and training are also reported.

Overview

As of December 31, 2023, there were two ongoing matters before the Committee (DC22-04 and 22-05).

Discipline Hearings and Decision & Reasons

One contested hearing (DC22-04) involving Dr. Michael Prytula, ND, was held on November 1, 2, 15 and December 5, 2023. The hearing is ongoing and will continue in March and April 2024.

There were no Decision and Reasons released during the reporting period.

New Referrals

No new referrals were made to the Discipline Committee from the ICRC during the reporting period.

Committee Meetings and Training

There were no Committee meetings held during the reporting period.

Respectfully submitted,

Dr. Jordan Sokoloski, ND, Chair
23 January 2024

EQUITY, DIVERSITY AND INCLUSION COMMITTEE REPORT

November 1, 2023 – December 31, 2023

For the reporting period of November 1 to December 31, 2023, the Equity, Diversity, and Inclusion Committee (EDIC) did not meet as no meetings were scheduled. Staff of the College continue with the roll out of the initial phase of the EDIB lens tool and will be collecting feedback/areas for amendments from the various Committees.

The Committee is scheduled to meet on February 13, 2024, to review the Lens Tool feedback.

Dr. Jamuna Kai, ND
Co-Chair
January 2024

Dr. Shelley Burns, ND
Co-Chair
January 2024

The College of Naturopaths of Ontario

EXAM APPEALS COMMITTEE CHAIR REPORT

November 1 - December 31, 2023

The Committee meets on an as-needed basis, based on received exam appeals, those that would require deliberation and decision, or needed appeals-related policy review.

The Exam Appeals Committee met on December 4, 2023 and reviewed three appeals; one of the August 17, 2024 Ontario Clinical Sciences Examination, and two of the September 7, 2023 Ontario Biomedical Examination.

In all three instances, the Committee determined sufficient evidence existed to substantiate granting the appeal and allowing the failed attempt not to count as one of three allocated in legislation for successful completion of the exam. In two instances, a reduced fee was also granted.

After thorough deliberation, the Committee felt that these decisions were reasonable, impartial, conscious of equity, diversity and inclusion principles, while ultimately considering public safety.

Thank you,

Rick Olazabal, ND (Inactive)

Chair

Exam Appeals Committee

January 6, 2024

The College of Naturopaths of Ontario

GOVERNANCE COMMITTEE CHAIR REPORT

January 2024

The Governance Committee met once (on November 16th) during the November 1, 2023 – December 31, 2023 reporting period.

At that meeting, the Committee began a review of two set of Forms required to be completed throughout the Volunteer Application process to ensure the information being collect is appropriate and will review the remaining three at a subsequent meeting.

In addition, the Committee met with Ms. Sandi Verrecchia, Satori Consulting, to discuss the committee's evaluation results as well as participated in a presentation from Mr. Joseph Ouao, AA Regulatory Operations CoNO, on behalf of the EDIC to learn about the new EDI Lens Tool and Checklist developed by the Committee to be used for when the committee is reviewing policies and procedures.

As of the writing of this report, the Committee is scheduled to meet again on January 18, 2024.

I would like to take the opportunity to thank Committee members and staff for their time, effort and participation.

Respectfully submitted,

Hanno Weinberger, Chair
January 2024

The College of Naturopaths of Ontario

EXECUTIVE COMMITTEE REPORT

January 2024

This serves as the Chair report of the Executive Committee for the period of November 1 to December 31, 2023.

During the reporting period the Executive Committee was not required to undertake any activities, and therefore did not convene.

Respectfully submitted,

Dr. Jordan Sokoloski, ND
Council Chair
23 January 2024

The College of Naturopaths of Ontario

Governance Policy Review Committee (GPRC)
Bi-Monthly Report
January 2024

Meetings and Attendance

The Governance Policy Review Committee met on one occasion (November 7, 2023) between November 1 and December 31, 2023, via video conference. Attendance continues to be excellent with no concerns regarding quorum experienced.

Activities Undertaken

At its November meeting, as part of the mandated detailed annual review of all Policies, the Committee reviewed and discussed the Ends Policies (E01-E02) and the CEO-Council Linkage Policies (CCL01-CCL03). No substantive Council member feedback was received, and no amendments were suggested by the members of the GPRC at this time.

Joseph Carl Quao, on behalf of the EDIB committee, presented training to the committee on the EDIB Lens Tool, including its importance, aim and scope.

In anticipation of the Chair's Training presentation at the November Council meeting, the Committee discussed questions for a survey to be sent to Council members prior to the meeting as well as the presentation, which focused on the Ends Priorities policy drafted by the GPRC. The proposed Ends Priorities policy was submitted to Council for their approval at their November meeting.

Changes submitted by various committees for their Terms of Reference were discussed, however, before approving these changes, the committee wanted to consult with legal and further discuss. These policies will be revisited at the January meeting.

The proposed committee meeting dates schedule for 2024 were reviewed and accepted.

Next Meeting Date

January 10, 2024

Respectfully submitted by,

Dr Brenda Lessard-Rhead, ND (Inactive)
Chair
January 5, 2024

The College of Naturopaths of Ontario

INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE REPORT
January 2024

Between November 1 and December 31, 2023, the Inquiries, Complaints and Reports Committee held two regular online meetings – November 2 and December 7.

November 2, 2023: 10 matters were reviewed, ICRC members drafted 3 reports for ongoing investigation, and approved 2 Decisions and Reasons. An Oral Caution was also delivered to a registrant prior to the meeting.

December 7, 2023: 11 matters were reviewed. ICRC members drafted 6 reports for ongoing investigations and approved 3 Decisions and Reasons.

Meetings continue to be well-attended and productive in the online format.

Dr. Erin Psota, ND
Chair
January 20th, 2024

INSPECTION COMMITTEE REPORT
Nov-Dec 2023

Committee Update

Since the last Council meeting the Inspection Committee has met once by teleconference on November 23, 2023.

Inspection Outcomes

The Committee reviewed reports for 17 premises.

The outcomes were as follows:

- Part I new premises
  - 4 passes with 8 recommendations

- Part II new premises
  - 1 pass with no recommendations
  - 1 pass with 3 conditions and 13 recommendations

- Existing premises 5 Year Inspections
  - 3 passes with no recommendations
  - 4 passes with 12 recommendations
  - 4 passes with 24 conditions, and 73 recommendations
  - 0 fails

Inspection outcomes in response to submissions received:

- A submission was received from one premises that had the 5-year inspection completed with a preliminary outcome of a pass with conditions. Following a review of the submission the final outcome was a pass.

Type 1 Occurrence Reports

- The Committee deferred the Type 1 occurrence reports to be reviewed at the January meeting.

Inspection Deferral

- One inspection deferral was granted.

Closing Remarks

The Committee reviewed and discussed the terms of reference and various amendments were approved. Mr. Joseph Quao presented to the Committee the EDIB Lens Training tool and we were familiarized with its support moving forward. The

Inspection Committee would like to welcome its newest member – Dr. Marie-Claire Seitz ND. We all look forward to the start of a fresh new year and would like to wish you all the best of health.

Sincerely,

Dr. Sean Armstrong, ND
Chair, Inspection Committee
January 24/2024

PATIENT RELATIONS COMMITTEE CHAIR REPORT
November 1, 2023 – December 31, 2023

During the reporting period of November 1 to December 31, 2023, the Patient Relations Committee met once, on November 15, 2023. All Committee Members were present. The Committee received an EDIB presentation, discussed their program policies and continued its work on potential extensions to the funding for therapy and counselling program.

The Committee's next scheduled meeting update is January 17, 2024.

Thank you,

Dr. Gudrun Welder, ND
Chair
January 2024

The College of Naturopaths of Ontario

REGISTRATION COMMITTEE REPORT
(January 2024)

At the time of this report, the Registration Committee met once, on November 22, 2023.

Applications For Registration
The Committee reviewed one application for registration under currency provisions [sections 5(2)(b) and 5(4)(a) of the Registration Regulation] to determine eligibility for registration with the College.

Application for Life Registration
The Committee reviewed one application for life registration under section 23(1) of the College by-laws [prior to amendment of this section of the by-laws].

Exam Remediation – Ontario Clinical Sciences Exam
The Committee reviewed and set plans of exam remediation for three candidates who had made two unsuccessful attempts at the Ontario Clinical Sciences Examination, in accordance with subsection 5(4)(b)(ii) of the Registration Regulation.

Exceeded Exam Attempts (Ontario Biomedical Examination) – Retake under Exceptional Circumstances - Fourth Exam Attempt Sought
The Committee Reviewed three requests for an additional examination attempt under subsection 5(5)(b) of the Registration Regulation with respect to “exceptional circumstances.” All three requests were declined.

Exam Remediation – Therapeutic Prescribing Examination
The Committee reviewed and set plans of exam remediation for one candidate, who had made two unsuccessful attempts at the Ontario Prescribing and Therapeutics exam, in accordance with the Prescribing and Therapeutics Program & Examination Policy.

Draft Amendments to the Registration Policy – Emergency Class
The Committee reviewed and discussed additional draft amendments to the Registration Policy including integration of the new Emergency class into policy provisions.

Equity, Diversity, Inclusion, Belonging Committee (EDIB Lens training Presentation)
The Committee engaged in EDIB training and were briefed on use of the new EDIB lens tool for helping the Committee recognize disparities in key areas including race, ethnicity, age, gender, etc. and to consider these when making decisions regarding new and existing policies.

Danielle O’Connor, ND
Chair
Registration Committee
January 15, 2024

The College of Naturopaths of Ontario

QUALITY ASSURANCE COMMITTEE REPORT
January 2024

Meetings and Attendance

Since the date of our last report to Council in November, the Quality Assurance Committee has met on one occasion, via teleconference, on November 28th. There were no concerns regarding quorum.

Activities Undertaken

At the **November** meeting, the Committee continued with its regular ongoing review and approval, where appropriate, of new and previously submitted CE category A credit applications.

Additionally, the Committee reviewed and discussed an update provided by staff on the results of the Group 3 CE Reporting, due for completion by September 30, 2023. The Committee decided that those Registrants found to have discrepancies in their log form submissions, ie. missing credits, would be granted an extension until February 28, 2024 to remedy the situation.

Next Meeting Date
February 20, 2024.

Respectfully submitted by,

Barry Sullivan, Chair,
January 16, 2024.

STANDARDS REVIEW COMMITTEE REPORT
November 1, 2023 – December 31, 2023

During the reporting period the Standards Committee was not scheduled to meet.

The Committee is next scheduled to meet on February 7, 2024 where it will review the completed updates and amendments to the Standards in order to finalize them for consultation.

Respectfully submitted,
Dr. Elena Rossi, ND
Chair
January 2024

The College of Naturopaths of Ontario

MEMORANDUM

DATE: January 26, 2024

TO: Council members

FROM: Andrew Parr, CAE
Chief Executive Officer

RE: Items Provided for Information of the Council

As part of the Consent Agenda, the Council is provided several items for its information. Typically, these items are provided because they are relevant to the regulatory process or provide background to matters previously discussed by the Council.

To ensure that Council members, stakeholders and members of the public who might view these materials understand the reason these materials are being provided, an index of the materials and a very brief note as to its relevance is provided below.

As a reminder, Council members can ask that any item included in the Consent Agenda be moved to the main agenda if they believe the items warrants some discussion. This includes the items provided for information.

No.	Name	Description
1.	Grey Areas (No. 285 & 286)	Gray Areas is a monthly newsletter and commentary from our legal firm, Steinecke Maciura LeBlanc on issues affecting professional regulation. The issues for this past quarter are provided to Council in each Consent Agenda package.
2.	Legislative Update (November and December 2023)	This is an update provide by Richard Steinecke to the members of the Health Profession Regulators of Ontario (HPRO), formerly the Federation of Health Regulatory Colleges of Ontario (FHRCO). The updates identify legislation or regulations pertaining to regulations that have been introduced by the Ontario Government. The updates for the past quarter are provided to Council in each Consent Agenda Package.
3.	Council Meeting Evaluation	Graphs summarizing the responses of Council member's feedback from the November 2023 Council meeting.

No.	Name	Description
4	CANRA Competency Consultation	CANRA has released its draft national entry-to-practice competencies for review by and feedback from its stakeholders. Once finalized, CANRA will be asking all regulated jurisdictions to approve and adopt them. These will form the basis of the national clinical entry-to-practice examination.

STEINECKE MACIURA LEBLANC

GREY AREAS NEWSLETTER

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

sml-law.com/resources/grey-areas/

Prioritizing Board Time – Part 1

by Erica Richler
December 2023 - No. 285

A precious resource for regulators is the time, energy, and attention of their Board of Directors (sometimes called their Council). As the highest-level decision maker within the organization, a Board needs to prioritize its efforts to ensure that the regulator is effective. Board members typically are volunteers (honoraria tend to be modest) who devote only a part of their professional lives to Board business.

What should the Board focus on? Board focus can probably suitably fit into four categories:

1. Public Protection
2. Governance
3. Education of the Board, and
4. Board-Level Operations.

Some might suggest that the vast majority of Board resources should focus on public protection such as monitoring, evaluating, and enhancing regulatory standards and programs. However, the other categories are important too. While it is often said that Boards should not be involved in operations, that is an oversimplification. It is true that there are many areas of operations from which the Board should keep out. However, the Board should monitor and evaluate the performance of the Registrar/CEO and the organization as a whole. It also has some high-level operational roles such as monitoring financial viability, approving the annual budget, reviewing the accuracy and implementation of decisions contained in its own minutes, and engaging with some aspects of the organization's risk management program. Also, the Board has a role dealing with crises and major operational decisions such as monitoring significant legal proceedings.

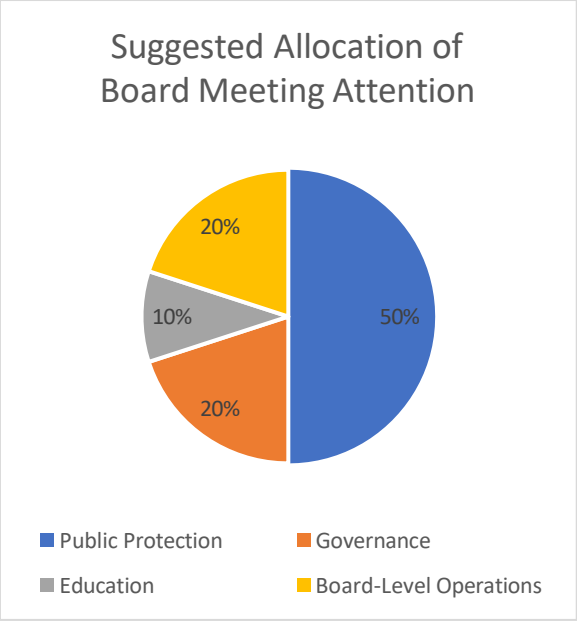
Similarly, designing, monitoring, and evaluating the governance of the organization is also an important Board role. Hopefully, once the governance approach of the regulator is established, less time is necessary on this role, but there are still ongoing tasks. For example, a Board is typically involved in appointing committees and reviewing their terms of reference, monitoring and evaluating its own performance, and resolving governance issues such as conflicts of interest and

misguided Board and committee member conduct.

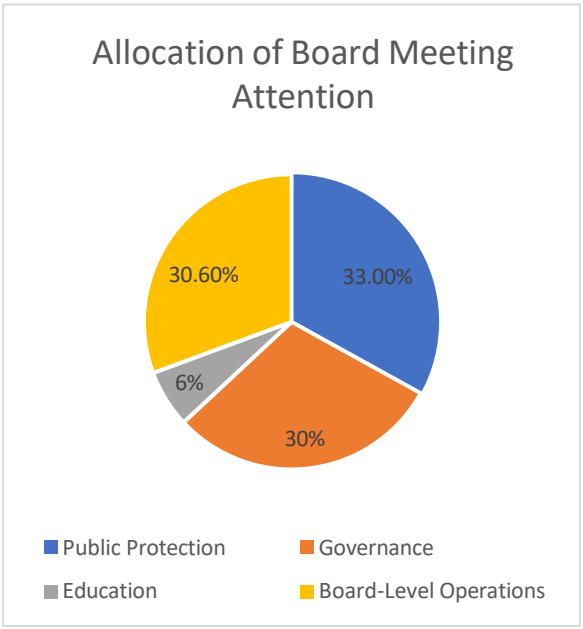
The education of Board members on regulatory issues and developing their skills is an ongoing and crucial activity for the Board. Much education occurs outside of formal Board meetings through initial induction, mentoring, individual communications, and stand-alone educational sessions and retreats. However, it can be useful to use of small portion of formal Board meetings to engage in well-selected educational activities.

We have not listed policy-making as a stand alone activity. Making policy is the means by which the Board engages in its activities, such as protecting the public. Similarly, risk management is a tool by which Boards prioritize its activities, particularly for public protection and in monitoring the effectiveness of operations.

While there can be a wide range of views as to how best to allocate formal Board meeting attention amongst these four categories, we would suggest that the following graph portrays a reasonable distribution:



We wanted to review how much time Boards currently allocate to these four categories. For this review we used the number of pages for each category in the Board meeting package as an imperfect, but accessible, proxy for the time and attention allocated to the topics. We reviewed the Board meeting packages of the regulators who posted them from the 39 professions referenced in Ontario's *Fair Access to Regulated Professions and Compulsory Trades Act* and the *Regulated Health Professions Act*. We found Board meeting materials for 30 of those professions. We picked one meeting to review, which for most was the first Board meeting after the summer of 2023. On average, the public Board meeting package consisted of a hefty 178 pages. The cumulative allocation of pages for the four categories, by percentage, is as follows:



Based on our review of the public Board meeting packages, on average a third of Board attention was devoted to public protection activities. While not insignificant, this proportion might be considered a little low, given that the Board is the principal policy making and public protection oversight entity. It is noteworthy that one regulator devoted 70% of its attention to public protection matters while another was as low

as 5%. This demonstrates that Boards can, with planning, choose to devote a majority of their attention to public protection activities. If a regulatory Board is consistently devoting less than 20% of their attention to public protection activities, it may need to re-evaluate its priorities.

Thirty percent of Board attention, on average, was devoted to governance activities. This seems to be a little high. However, this proportion might be viewed as somewhat of a blip as there has been recent direction from the Ministry of Health to health profession regulators to revisit their governance structure. Twenty-six of the 30 regulators who post their Board meeting materials online were health profession regulators.

Twenty-eight percent of Board attention, on average, was devoted to Board-level operational activities. Overall, that did not seem entirely out of place, especially as many of the pages included minutes of Board meetings which are a necessary, but sometimes voluminous, part of the packages and which typically do not consume much actual Board time. However, again, the variability may be of concern for some regulators. Three regulators devoted more than half of their attention to operational issues, with one reaching 76%. Again, if that is a pattern for a regulator, that amount of attention would be a concerning indicator.

The average attention of 6.3% to Board education seems reasonable. However, the page count may not be representative of actual time taken as some regulators had only one page of material to indicate that there would be an educational session for which an hour or more of meeting time was allocated. Also, the average may not tell the tale either, as one regulator devoted more than 63% of its pages to education, mainly in the form of informational materials, while several regulators had no educational or informational materials in their package.

On balance, our review indicates that Boards spend a significant amount of their attention on public protection activities, but that this proportion should perhaps be increased for some regulators.

There are several limitations to this review. Pages of meeting materials do not necessarily correlate to the time and attention expended by the Board on each topic. Also, one meeting is not necessarily representative of the time allocation across a full year. Further, assigning a page to one of the four categories is not a science. For example, many regulators include their Board conflict of interest policy at the beginning of every meeting package. This could be categorized as simply educational in nature. However, since many Boards call for declarations for any conflicts of interest at the beginning of each meeting, we have categorized these pages as part of the governance activities of the Board.

Similarly, some items might cross over multiple categories. For example, discussions about diversity, equity, and inclusion can relate to operations (i.e., staffing), governance (i.e., Board and committee diversity), and public protection (i.e., ensuring clients receive services without discrimination). If multiple categories are clearly covered, we allocated the materials to public protection first or, if that was not appropriate, to governance.

In terms of methodology, we had a senior member of our team assess all the meeting packages. While this promoted consistency, it also means that another person might have allocated the pages slightly differently.

Another limitation is that public Board meeting materials do not include materials related to the closed, or *in camera*, portions of meetings. Since most closed portions of meetings relate to operational (e.g., staffing) or governance (e.g., Board member Code of Conduct) concerns, these omissions tended

to increase the percentage of pages of materials devoted to public protection.

Despite these limitations, given the cumulative nature of this analysis, we believe that the information remains broadly indicative of how regulators of professions allocate their focus.

Measuring the allocation of Board attention to various activities can help regulators focus on what is important. Regulators may wish to discuss whether they maximize the value of their Board meeting time. A regulator might select a target for its categories of activities that is most appropriate for their context. The regulator could then time actual Board debates according to their selected categories over the course of a year. Exceptional circumstances, such as a directive from the applicable Minister or amendment of the enabling legislation, can be taken into account. The Board could then compare the results against its target to assess whether changes should be made to its meeting structure and whether some activities (e.g., operations) should be delegated to others. This measurement might be a useful performance indicator for regulators.

In the next issue of Grey Areas we will look at more detailed information about the categories we have identified above.

FOR MORE INFORMATION
This newsletter is published by Steinecke Maciura LeBlanc, a law firm practising in the field of professional regulation. If you are not receiving a copy and would like one, please visit our website to subscribe: https://sml-law.com/resources/grey-areas/

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GREY AREAS NEWSLETTER

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

sml-law.com/resources/grey-areas/

Prioritizing Board Time – Part 2

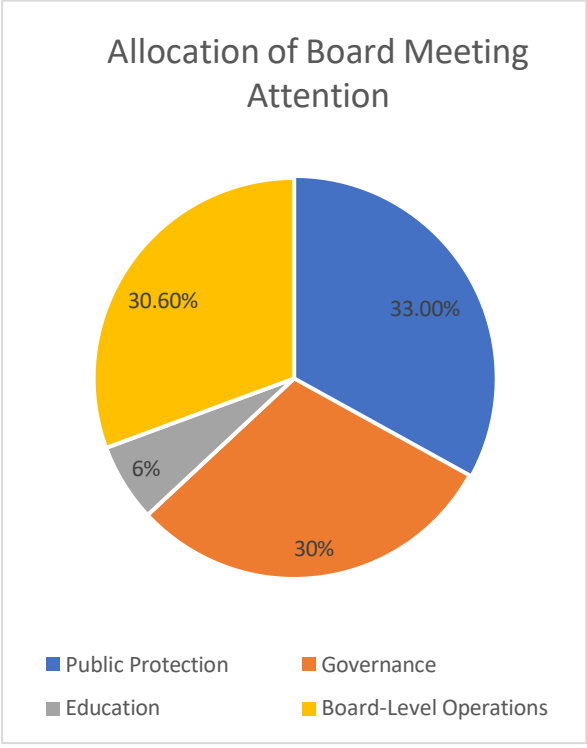
by Rebecca Durcan
January 2024 - No. 286

In the last issue of Grey Areas, we analyzed the allocation of the attention by Boards of Directors of regulators within four categories:

1. Public Protection
2. Governance
3. Education of the Board, and
4. Board-Level Operations.

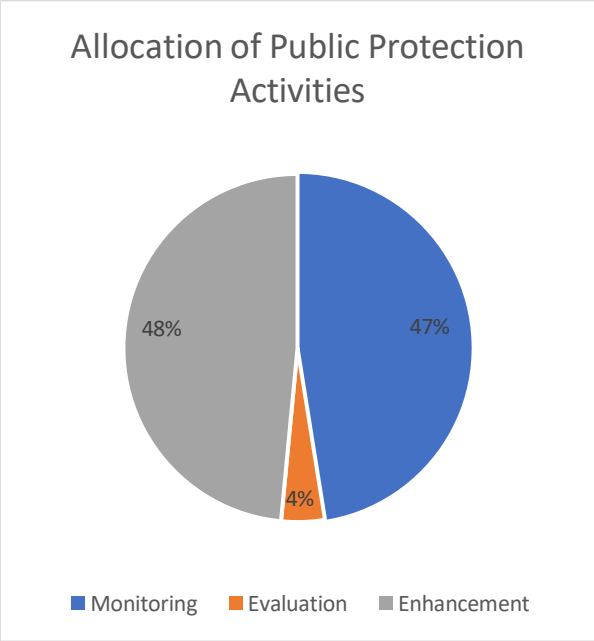
By categorizing the publicly available pages of Board meeting materials, we noted the average allocation of Board attention as set out in the next column.

In this article we will examine more closely the allocation within the three main categories: public protection, governance, and operations. Readers are encouraged to review, again, the limitations in our review discussed in Part 1 of this series to place the precision of the information below into context.



Public Protection

For the public protection category, we examined how much Board attention was devoted to monitoring, evaluating, and enhancing the protection of the public. Monitoring includes activities such as receiving reports from regulatory committees (e.g., registration, complaints, discipline) and statistical breakdowns (e.g., the number of complaints, the type of complaints, the disposition of complaints, and the time taken to dispose of a complaint). Evaluating includes activities such as measuring regulatory activities against a target (e.g., how many applications for registration exceeded the timeliness objective) and external evaluations of effectiveness, typically done by consultants. Enhancing protections includes activities such as revising a standard or policy designed to guide the profession and the public about proper practice. We did not evaluate the wisdom of any enhancing activities, including where safeguards (such as certification of registrants' advanced skills) were removed as no longer being necessary. The average within each category is as follows:



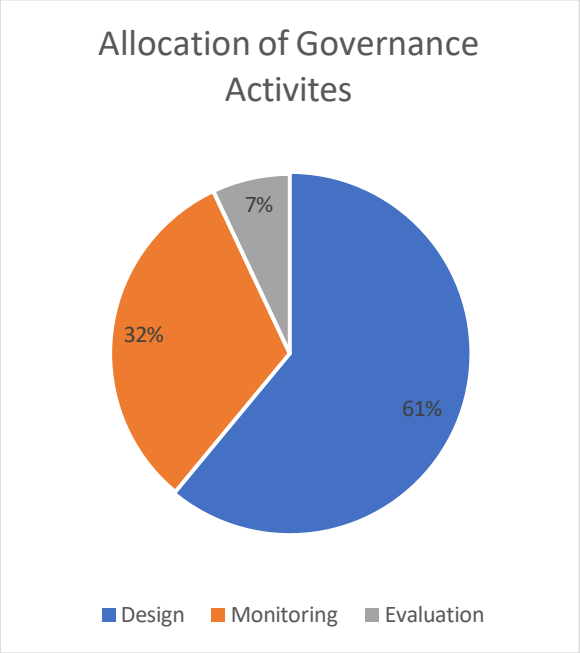
The most noticeable feature is that very little attention appears to have been devoted to the evaluation of the effectiveness of the organization's regulatory activities. We recognize that the 4% figure may understate the situation somewhat. It is possible that monitoring reports lead to evaluative discussions at the Board table. For example, a Board member might ask why the backlog of complaints and discipline matters is growing. Also, most health regulators (which formed 26 of the 30 regulators who published their Board meeting materials) generally consider their College Performance Measurement Framework report at the beginning of the year (our review was conducted for meetings generally occurring in the fall). Further, briefing materials on enhancement decisions might sometimes have topic-specific evaluative materials embedded in them (e.g., research as to why the current standard or policy is ineffective or unnecessary).

Evaluative data is notoriously difficult to gather. Nevertheless, despite these limitations, Boards of regulators may wish to develop additional evaluative tools in order to better fulfill their public protection role.

Governance

For the governance category we examined how much Board attention was devoted to monitoring, evaluating, and designing its governance approach. Monitoring includes activities such as receiving reports from its non-regulatory committees (e.g., an executive committee or a finance and audit committee), considering Board election plans, and reviewing the conflict of interest declarations by Board members. Evaluating includes activities such as self-evaluation surveys on the effectiveness of the previous Board meeting and reports from external experts on a regulator's governance approach. Designing includes activities such as developing or amending by-laws and policies on the roles and responsibilities of staff, committees, and Board members.

Several regulators are also developing competency-based descriptions for selection to the Board and its committees, which would fall into the design category. The average in each category is as follows:

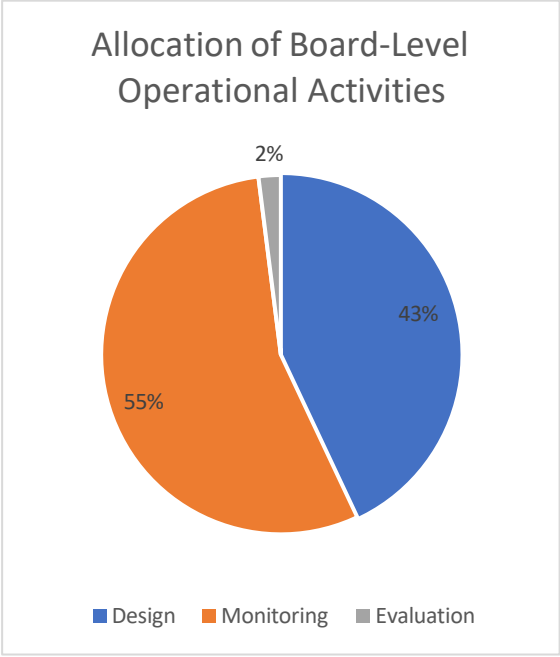


The allocation of time to the design category is quite high, constituting almost two-thirds of governance activities. As noted, many health regulators are actively revising their governance by-laws and policies because of the Ministry of Health's push for governance modernization, including enhancing competency-based selection processes, for Board and committee members.

While still relatively low, the evaluation of governance category is almost double what it is for public protection. There are several possible explanations for this higher proportion. Many regulators now conduct a self evaluation survey for each Board meeting and several regulators are currently undergoing external governance reviews.

Board-Level Operations

For the operations category we examined how much Board attention was devoted to monitoring, evaluating, and designing the organization's operations. Monitoring includes activities such as ensuring the accuracy and implementation of Board meeting minutes, scrutinizing progress to meeting the operational (as opposed to public protection) strategic priorities of the organization (e.g., addressing the risk of an IT or privacy breach), reviewing financial statements, and receiving operational reports from the Registrar/CEO. Evaluating includes activities such as risk management assessments of the risks to the organization (as opposed to risks to the public). Designing includes activities such as developing or amending operational policies, preparing budgets, setting registration fees, and choosing an auditor. The average in each category is as follows:



It seems appropriate for the majority of a Board's attention on operations to be spent on monitoring and evaluating. Most operational design should be spearheaded by the Registrar/CEO, with suitable exceptions such as approving the regulator's

budget and appointing the auditor. There was a wide variation amongst regulators as to the amount of attention devoted to operational design. Some devoted more than a third of their entire Council meeting attention to designing operational policies. Indeed, one Council devoted more than half of their attention to reviewing and approving operational policies. If that is a persistent pattern, then the Board might be viewed as being distracted from what should be its top priority which is protecting the public.

Again, on average only 2% of attention was devoted to evaluating operations. Regulators might strive to develop dashboards that provide, at a glance, information on whether various aspects of operations meet the organization's targets. Examples might relate to the proportion of inquiries that receive a defined timely response, whether a new EDI page is receiving the anticipated hits, and customer satisfaction surveys. Indeed, a dashboard on how much time the Board devoted to public protection, governance, and operations compared to the Board's target allocation could be a useful reminder for each Board meeting. Evaluative activities could help focus Board attention to priority operational matters. Reviewing external assessments (e.g., of the security of the organization's data) would also be an appropriate level of Board involvement (as opposed to designing the organization's privacy policy itself).

Conclusion

In addition to measuring the allocation of Board attention to public protection, governance, and operational activities, regulators might consider measuring Board attention within each category. The subcategories of monitoring, evaluation, and design/enhancement can be helpful. Regulators might set targets suitable to their context and goals. For example, increasing attention to enhancing public protection activities might be seen as more valuable than designing operational policies. As a general observation, it appears that evaluative activities within each of the categories could generally be improved.

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From Julie Maciura

In This Issue

Ontario Bills

(www.ola.org)

Bill 149, Working for Workers Four Act, 2023 – (*Government Bill, passed second reading, under consideration by the Standing Committee on Social Policy*) – Bill 149 will enable the government to make regulations setting out requirements for non-health regulators to demonstrate that their assessment of qualifications of applicants is transparent, objective, impartial and fair.

Bill 146, Building a Strong Ontario Together Act (Budget Measures), 2023 – (*Government Bill, passed third reading*) – Bill 146 contains amendments to the *Securities Act* that protects the identity of whistleblowers (who report through a formal process), including from freedom of information requests. Whistleblowers are also protected from reprisal. If a whistleblower sues someone for reprisal, the onus is on the other person to prove that they did not engage in a reprisal.

Bill 142, Better for Consumers, Better for Businesses Act, 2023 - (*Government Bill, passed second reading*) – Bill 142 repeals and replaces the current *Consumer Protection Act*. Various provisions, including disclosure obligations, rules about providing credit or accepting prepayment for services, and consumer remedies such as recission rights, might affect complaints about registrants, especially those receiving private payment for their services.

Bill 135, Convenient Care at Home Act, 2023 – (*Government Bill, passed third reading*) – Bill 135 creates a corporate entity, the Service Organization, to be called Ontario Health atHome, to coordinate and provide home and community care services to patients. Bill 135 amends the *Connecting Care Act, 2019*. The amendments would "consolidate the 14 Local Health Integration Networks (LHINs) into a new service organization named Ontario Health atHome. LHINs would no longer exist, and the Local Health System Integration Act, 2006 (LHSIA), would be repealed. Ontario Health atHome would assume all staff, service contracts with Service Provider Organizations (SPOs), and assets, liabilities, rights, and obligations of the LHINs."

Bill 67, Temporary Nursing Agency Licensing and Regulation Act, 2023 - *(Private Members' Bill, defeated on second reading)* – Bill 67 "adds a new licensing requirement for operators of temporary nursing agencies. Applications for these licences must be submitted to the Registrar appointed under the Act. The applications must contain a credentialling and monitoring plan as well as a compliance plan. Licences are subject to several terms and conditions. These include a predictable fee requirement, a prohibition on unconscionable prices, limitations on work assignment and recruitment practices and certain disclosure obligations. Contravention of the Act or the regulations is an offence and is punishable on conviction by a fine." [Since this Bill is defeated, it will not become law.]

Proclamations

(www.ontario.ca/search/ontario-gazette)

Nursing Act – On December 4, 2023, various amendments expanding the authorized acts that may be performed by registered nurses takes effect.

Working for Workers Act – The provisions in this *Act,* requiring licensing of temporary helps agencies, has had its commencement date delayed from January 1, 2024, to July 1, 2024.

Regulations

(https://www.ontario.ca/laws Source Law - Regulations as Filed)

Nursing Act – The general regulation is amended to expand the drugs that certain categories of nurses can prescribe or dispense and to modify the requirements for doing so. (O. Reg. 336/23)

Personal Health Information Protection Act – The general regulation is amended to enable the imposition of administrative penalties for breaches of certain requirements. The maximum amounts are $50,000 for individuals and $500,000 for corporations. (O. Reg. 343/23)

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

There are no relevant current proposals posted.

Bonus Features

These include some of the items that appear in our blog:
(www.sml-law.com/blog-regulation-pro/)

Giving the Registrant Notice of the Complaint

A recent Health Professions Appeal and Review Board (HPARB) decision dealt with the matter the required specificity in the complaints process: *Wolfe v Stergiou*, 2023 CanLII 98545 (ON

HPARB). A person complained about the care of her grandmother by a nurse. The relevant part of the complaint was summarized as "did not notice significant changes in the patient's appearance, speech, behaviour and pain". The ICRC directed that the nurse successfully complete a detailed remedial program. As a part of the appeal, the nurse argued that adequate notice of the concerns had not been given. The ICRC had relied, in part, on concerns that the nurse failed to recognize that the patient may have been overmedicated and that the nurse had concealed concerns related to unexpected falls which were not fully assessed in accordance with the facility's policies. HPARB held that adequate notice was given in the circumstances. The scope of the complaint related to the overall care of the patient. The nurse had been given an opportunity to respond to the general course of care of the patient which included medication and assessment of falls. There was no unfairness according to HPARB.

Addressing Record Keeping Concerns When They Are Not Part of the Complaint

Generally, the jurisdiction of complaints screening committees is confined to the "four corners of the complaint". There is debate as to whether regulators can at least take remedial action when record keeping concerns appear from the investigation even when they were not part of the complaint.

HPARB gave some guidance of its views in *Singh Mahal v RF-H*, 2023 CanLII 100958 (ON HPARB). There the ICRC imposed a SCERP on a practitioner who used text messages to communicate with a patient. The ICRC was concerned that this was not a secure form of communicating personal health information, even if the identity of the patient was not included, and that deletion of such texts breached the ten-year record retention requirement. HPARB accepted the ability of the ICRC to address record keeping concerns even when it was not part of the complaint:

> The Board has previously recognized that as part of serving and protecting the public interest, Committees will routinely consider a health professional's recordkeeping in the assessment of a complaint, and the Board has observed that several Colleges include a statement in their notice of complaint letters, advising the healthcare professional that recordkeeping will be considered in addition to the complaint and inviting comment.

However, in this case the registrant had not been formally notified of the record keeping concern. The registrant indicated that if they had been adequately notified, they would have responded by indicating that "he used the What's App platform for encryption of text messages". HPARB found that the procedure was not fair:

> The Board notes that the Registrar's Report and the Committee's Memorandum to the Registrar, provide an indication that the Committee was considering the Applicant's recordkeeping practices both with regard to this complaint and in

> general. The Board further observes that recordkeeping was not raised directly in the Committee's correspondence to the Applicant. In these circumstances, the Board does not find that this was sufficient notice to the Applicant that recordkeeping practices would form part of the Committee's investigation.

That aspect of the ICRC's decision was returned for further investigation, including submissions from the registrant, and the issuing of a new decision. If a complaints screening committee is going to consider record keeping issues in a significant way when those have not been raised in the complaint, the regulator should, at a minimum, provide notice of this when notifying the registrant of the complaint's investigation.

Process for Removing Information from the Public Register

Registrars can require registrants to provide evidence to support their requests to remove information from the public register. In *Rowe v. College of Nurses of Ontario and al.*, 2023 ONSC 6414 (CanLII). In terms of background facts:

> He is entitled to practise as a nurse, but he is employed as a security guard in a secure setting for mental health patients. His name and business address are included in the College's register, which is available to the public. He says that his concern is that his patients, upon seeing his employment address, which contains the company name on his uniform, will know that he is the Craig Rowe who is listed on the Register as a nurse. He tells us that the patients often have delusions that make them hostile to nurses….
>
> The Applicant applied to the Registrar to remove his employment address from the register on the ground that he worked in a high security environment and publication of his address could endanger his safety. The Registrar replied that the request would be considered if the Applicant provided documentation to prove his assertion. The Applicant did not provide any such documentation. Instead, he brought this application, arguing that the Registrar acted unreasonably in that the statute does not permit the register to contain information that is irrelevant to the member's suitability to practise and that the College's policy on this issue is unreasonable.

The Court applied the prematurity principles (often used in discipline contexts) to dismiss the application, directing the nurse to go through the process specified by the Registrar before coming to the court.

One Push Does It

In *Obiajulu v College of Nurses of Ontario*, 2023 CanLII 108786 (ON HPARB), HPARB upheld the refusal for registration of a nursing applicant. The applicant had pushed an elderly patient with cognitive impairment such that the patient required hospital attention and stitches. Even though it was one isolated incident, HPARB agreed it was serious enough to decline registration on the good character requirements. It was noted that the applicant delayed notifying the College of the incident (their application was in process at the time), which seemed to have minimized their actions (there was video evidence), and did not demonstrate appropriate insight despite taking some remedial steps.

Deference and Decision Writing

When a medical regulator imposes restric﬩ons on the registra﬩on of an anesthesiologist following adverse events, including concerns about inaten﬩on to pa﬩ents and possible fabrica﬩on of records, one would expect a high degree of deference from the courts, especially where the anesthesiologist has a history of inaten﬩on and documenta﬩on concerns. In *Sharma v. College of Physicians and Surgeons of Ontario*, 2023 ONSC 5687 (CanLII), the majority of the Court did demonstrate such deference.

The regulator can impose an interim order where it forms the opinion that a registrant's conduct "exposes or is likely to expose pa﬩ents to harm or injury." The majority of the Court found that there was evidence of exposure to harm to future pa﬩ents based on reports provided to it. The principal objec﬩ve of the order was to protect the public and the regulator had the regulatory and clinical exper﬩se to best assess what order should be made. So long as there was some evidence to jus﬩fy the order, it should be upheld. In this case, the regulator expressed awareness that the order should not go beyond what was appropriate to protect the public from harm. The concerns about fabrica﬩on of records made other interim op﬩ons less feasible. The majority also accepted the regulator considering the priory history of the registrant.

The majority acknowledged some concerns about the reasons provided by the regulator. The reasons included a statement in quota﬩on marks about the anesthesiologist pu﬩ng "safe pa﬩ent care in jeopardy". No such statement was in the record before the regulator. The Court was prepared to accept that this quoted statement was intended to be the regulator's summary conclusion of the informa﬩on rather than a quota﬩on from a witness. More concerning, the reasons did not directly address two defence expert reports indica﬩ng that the anesthesiologist had met the standard of prac﬩ce in the most concerning adverse events. However, the majority noted that the regulator had indicated that it considered the anesthesiologist's materials. Also, the defence reports had gaps to them including relying upon the records that appeared to contain fabricated data.

A dissenﬁng member of the Court was parﬁcularly concerned that the regulator had not directly grappled with the defence expert reports on the two most concerning incidents.

> As Dr. Sharma's acﬁons or inacﬁon on these dates was criﬁcal to the decision of the ICRC, one might have expected some comment or explanaﬁon of why the expert opinions were not accepted. Unfortunately, no such comment or explanaﬁon was provided. If the two experts are correct, Dr. Sharma's care was appropriate and it cannot be said that he is likely to place his paﬁents at risk of harm or injury. If the evidence of the two experts could not, for some reason, be accepted it was incumbent upon the ICRC to explain why….
>
> The reasonableness of a decision may be jeopardized where the decision maker has failed to account for the evidence before it. This is all the more so when the decision has a harsh or severe impact on the rights and interests of the person affected.

Nevertheless, the interim order was upheld by the majority.

It is difficult for regulators to draﬁ comprehensive reasons for interim orders which, necessarily, are ﬁme sensiﬁve. However, the defensibility of such orders may be at stake.

The 25,000 Page Brief

When an unrepresented party files voluminous materials and makes lengthy arguments, regulators have a challenge in disﬁlling the central issues. For example, in *Fisher v. Health Professions Appeal and Review Board*, 2023 ONSC 6209 (CanLII), a paﬁent of a denﬁst with ongoing pain and other issues sought judicial review of a dismissed complaint and its subsequent review by the Health Professions Appeal and Review Board (HPARB).

One document in the complaint was over 800 pages long. The complaint against another denﬁst, who never treated the paﬁent, was over 180 pages of single-spaced text. On the judicial review applicaﬁon, the Court faced a "record that exceeded 25,000 pages, 183 pages of writen argument, and 11 single-spaced pages ﬁtled 'Oral Arguments.'" The Court had difficulty understanding the applicant's arguments. For example, a major ground for the review was that there had been a lack of procedural fairness, but the applicant had not idenﬁfied, specifically, what was unfair in the procedures followed. Relying on the issues idenﬁfied in the applicant's oral submissions, the Court held as follows:

- "There is no requirement that the Board clarify or summarize Mr. Fisher's submissions, parﬁcularly given their length. Moreover, it is not clear how such a summary would have assisted Mr. Fisher to present his case. There is no doubt that administraﬁve tribunals

must treat self-represented li□gants fairly, but the Board did not violate the rules of procedural fairness in this case."

- There was no obliga□on on HPARB to record its proceedings as there was no hearing or witnesses. Recording submissions was not necessary.
- In respect of the concern that the chair of the HPARB panel may have cut the applicant off in his submissions, the Court said, "A review process is meant to be conducted in a fair but expedited way. Given the volume of writen informa□on filed by Mr. Fisher, there is nothing inappropriate about the Vice-Chair asking him to move to another area when she understood his submissions on an issue. Mr. Fisher has not demonstrated that the Vice-Chair exercised her discre□on in a way that was inconsistent with the principles of procedural fairness."

The process before the complaints screening commitee, involving receiving and disclosing documents and receiving writen submissions, was also fair.

The Court also found that the reasons of HPARB indicated that it had reached a reasonable decision. It did so by summarizing the main themes of the applicant's complaint and review request, indica□ng which aspects were outside of its jurisdic□on (e.g., ini□a□ng a criminal inves□ga□on), and addressing the statutory issues, namely the adequacy of the inves□ga□on and the overall reasonableness of the screening commitee's decision. The Court said HPARB:

> …was not required to address every issue or argument advanced by Mr. Fisher as long as its reasons meaningfully account for the central issues and concerns raised by the par□es. This is par□cularly true in a case like this one, where Mr. Fisher filed hundreds of pages of material that raised almost innumerable issues, sub-issues, and concerns. [Cita□on omited]

Obstruction by Retaliation

The expression that the best defence is a good offence does not necessarily apply in the professional regula□on context. In *Bégin v. Chartered professional accountants (Ordre des)*, 2023 QCTP 53 (CanLII), an accountant was the subject of an inves□ga□on ini□ated by a former colleague. The accountant filed formal complaints against both the colleague and the regulatory official inves□ga□ng him. The accountant later acknowledged that the complaints were frivolous and vexa□ous.

The regulator imposed a cumula□ve suspension of three years, a cumula□ve fine of $20,000, and terms and condi□ons upon reinstatement. The accountant appealed and argued that there was undue delay and that the sanc□on was excessive.

Even though the accountant had contributed to part of the delay, the Court had no difficulty in finding that the proceedings, which took almost 15 years, involved excessive delay. However, the accountant was unable to demonstrate that he had been prejudiced by the delay. As such, there was no abuse of process.

The Court also upheld the sanc﬽on. The conduct was seen as very serious, involving the use of a process designed to protect the public to instead in﬽midate and threaten those holding the accountant accountable. The accountant also had a significant prior discipline history, including one mater in which he received a more lenient sanc﬽on because he had re﬽red only for him to ﬽en to seek reinstatement a few months later. Thus, there was a risk of recidivism even though the accountant was older and no longer in full-﬽me prac﬽ce. It was also considered an aggrava﬽ng factor that the accountant had sought to withdraw his guilty plea five years a﬽er entering it. The accountant's seniority in the profession was seen as an aggrava﬽ng factor on the basis that he should have known beter.

Despite the mi﬽ga﬽ng factors of the accountant not having engaged in further misconduct in recent years and of the excessive delay in the proceedings, the sanc﬽on remained appropriate.

Filing frivolous retaliatory complaints is serious misconduct.

Real and Substantial Connection

It is generally accepted that regulators have authority over the conduct of their registrants regardless of where that conduct occurs. What is less clear is the jurisdic﬽on of regulators over people who contravene the rules that apply to unregistered persons or en﬽﬽es. For example, can a regulator assert authority over those from outside of the regulator's territorial jurisdic﬽on who are engaging in unauthorized prac﬽ce, use of ﬽tle, or other prohibited ac﬽vi﬽es that has an impact within the jurisdic﬽on?

In *Ontario College of Pharmacists v. 1724665 Ontario Inc. (Global Pharmacy Canada)*, 2013 ONCA 381 (CanLII), an injunc﬽on was granted in respect of a company located in Belize that sent drugs purchased from India to US purchasers because the company had a call and processing centre in Ontario. The Ontario Court of Appeal said there was a "sufficient connec﬽on" to the province for the Ontario pharmacy regulator to require compliance (by the Belize company) with the Ontario rules. However, in *College of Optometrists of Ontario v. Essilor Group Inc.*, 2019 ONCA 265 (CanLII), leave to appeal refused 2019 CanLII 96491 (SCC), the same court found that the connec﬽on to Ontario was insufficient to authorize the College of Optometrists of Ontario to prevent persons in Bri﬽sh Columbia from delivering contact lenses ordered online to Ontario residents where the only connec﬽on to Ontario was the loca﬽on of the recipients.

Canada's highest court wades into the issue in *Sharp v. Autorité des marchés financiers*, 2023 SCC 29 (CanLII). There the Quebec securi□es regulator ini□ated proceedings against four residents o Bri□sh Columbia for engaging in a "pump and dump" investment scheme that involved promo□ng a company with litle value, driving up the value of its shares through misleading means, and then selling the shares at a higher price. The four individuals argued that the Quebec regulator had no jurisdic□on over them because they did not reside in Quebec. The majority of the Court held that the Quebec regulator did have jurisdic□on because there was a "real and substan□al connec□on" between Quebec and the four individuals:

> …there is a sufficient connec□on between Quebec and the out-of-province appellants, all of whom allegedly par□cipated in a fraudulent securi□es manipula□on scheme wh important □es to Quebec. The appellants allegedly used Quebec as the "face" of their alleged pump-and-dump scheme by promo□ng Solo's mining ac□vi□es in Quebec. They par□cipated in marke□ng or financing efforts and partly targeted Quebec residents. Solo, the company through which the appellants operated their scheme, was a repor□ng issuer in Quebec, and Solo's director was a Quebec resident. There was thus a clear connec□on between Solo and the appellants, on the one hand, and the province of Quebec on the other. In the circumstances, it would defeat the purpose of the cross-border nature of modern securi□es regula□on to allow the appellants to escape the reach of Quebec's regulatory oversight.

The Court cited the *Ontario College of Pharmacists* decision and seemed to equate the phrase "sufficient connec□on" used in that decision by the Ontario Court of Appeal with the "real and substan□al connec□on" test being applied in the context of the Quebec mater.

It is likely that this approach will be applied by courts to other regulators where extra-jurisdic□onal conduct by unregistered persons might defeat the public interest being protected.

Balancing Public and Private Interests

A classic example of where courts must balance the public interest in competent and ethical prac□ce against the private interests of registrants is when registrants seek to stay a discipline order pending the outcome of their appeal.

In *Cluney v. Association of Chartered Professional Accountants of Newfoundland and Labrador*, 2023 NLSC 146 (CanLII), an accountant was disciplined for undisclosed maters. A sanc□on of a reprimand, monitoring, publica□on, a fine and costs was imposed. The registrant appealed and sought to stay the sanc□on un□l the appeal was determined. The Court refused.

The Court concluded that the registrant would not suffer irreparable harm if the sanc□on took effect immediately. There was no suspension or revoca□on so the registrant could con□nue to prac□se if they chose to do so. The Court said:

> While it may be recognized that the publica□on ordered by the Tribunal could cause some reputa□onal harm to Ms. Cluney, her circumstances do not lend themselves to suppor□ng a stay based on this factor. This is especially so given her decision to move from her prac□ce as a public accountant. Instead, the poten□al for any harm can be remediated by requiring the CPANL to indicate, as part of its public and professional summary of the Tribunal Merits and Sanc□ons Decisions, that both decisions are currently under appeal by Ms. Cluney.

The Court also found that the balance of inconvenience favoured the regulator. The sanc□ons were not just for deterrence (which, arguably, could await the outcome of an appeal) but also included measures to ensure adequate services to clients. The Court said:

> In the chartered public accountant context the loss of accountancy income and the reputa□onal harm that would be incurred were inevitable consequences of the tribunal findings and were not excep□onal circumstances that outweighed the public interest….

The Court reiterated previous cases which stated that gran□ng a stay of a discipline order pending an appeal should only occur in excep□onal circumstances.

Respecting the Rules

Hearing tribunals can make rules of procedure for parties to follow. While tribunals sometimes consult on changes to their rules, they alone have the authority to make them. Which raises the question, in what circumstances can a registrant challenge a rule?

Some guidance has been given in *Mammarella v. Ontario College of Teachers*, 2023 ONSC 6654, where a registrant challenged an amendment to a rule as being unreasonable. The amendment provided somewhat more stringent criteria for a party accessing records held by third parties. For example, the criteria would apply where a registrant, alleged to have engaged in sexual abuse, seeks to obtain production of the counselling records of a person making the assertion. The new rules attempted to address some of the misconceptions that sometimes have been applied to those reporting sexual abuse.

The Court dismissed the application for two reasons. First, the registrant had no standing to challenge the rules since they were not currently involved in proceedings. The fact that the registrant had previously faced discipline proceedings and could, potentially, face them in the future was insufficient. In terms of private interest standing, the Court said:

> To have private interest standing, a person must have a personal and direct interest in the issue being litigated and must themselves be specifically affected by the issue. It is not enough that the person has a "sense of grievance" or will gain "the satisfaction of righting a wrong" or is "upholding a principle or winning a contest".

In terms of public interest standing, the Court said:

> We also do not grant the applicant public interest standing. This application for judicial review is not a reasonable and effective way to bring the issue before the courts, nor do the other factors favour granting standing

Second, even if standing had been granted, the Court did not find the rule change to be unreasonable. In fact, the rules were consistent with provisions employed in criminal matters and which had been upheld by the Supreme Court of Canada. Similar provisions exist for other professions.

In addition, the procedural requirements for a tribunal to make rules are not rigorous. In this case, formal reasons for the change need not be given by the tribunal. The rationale for the changes was clear from the materials.

Outside of the context of a specific situation where a rule of procedure results in unfairness to a specific registrant, it will be rare for a Court to consider the appropriateness of a rule of procedure.

Not "Bogging Down" Investigations

Yet another court has emphasized the minimal nature of procedural requirements for regulatory investigators requiring cooperation from registrants and witnesses: *Brar v. British Columbia (Securities Commission)*, 2023 BCCA 432 (CanLII).

An investigator for a securities regulator summoned two witnesses to assist in an investigation. Under the enabling legislation the investigator had the same power to summon witnesses as the courts have in civil actions. The witnesses refused to comply with multiple summonses. The investigator initiated contempt proceedings. The witnesses commenced various applications to challenge the summonses. In some of those applications they sought disclosure of the investigator's file. The witnesses also objected to being interviewed by video conference.

The witnesses had been notified who was being investigated (it was not the witnesses) and what the investigation was for. However, the witnesses also wanted to be told the basis for the issuance of the summonses and their relevance to the subject and scope of the investigation.

The Court concluded that no "decision" had been made by issuing the summonses.

It is simply a step taken by the investigating staff of the Commission at the earliest stage of a process that may or may not lead to further steps with legal consequences for the subjects of the investigation. No such consequences affecting the *witnesses* have been suggested.

Thus, there was no right to judicial review.

However, even if there was a right of judicial review, the Court said that the application would still fail. Any duty of procedural fairness to the witnesses was quite low at this stage. If full disclosure was required at this stage, it might open the door for the subject of the investigation "to take evasive action" or "bog down" investigations with proceedings that would "delay and distract" the regulator from completing its investigation. Investigators have "to start somewhere" and regulators do not need to justify a summons at this point in the process.

Procedural fairness did not require more disclosure than what had already been made. The Court upheld the dismissal of the challenges by the witnesses. The regulator could now schedule the contempt proceedings against the witnesses.

It should be noted that more than three years had elapsed since the first summons was issued. So much for not bogging down investigations.

Registration Requirement Not Discriminatory

The regulatory world was stunned two years ago when Ontario's Divisional Court struck down a registration requirement for certification of teachers. In part, regulators were disconcerted because significant efforts had been made to ensure that the requirement was equitable.

The Divisional Court, relying on statistical data and on research studies from other countries, held that the disproportionate failure rate on the mathematics proficiency test (MPT) by racialized groups (e.g., Black and Indigenous identifying candidates) resulted in the requirement violating the equality provision (section 15) of the *Canadian Charter of Rights and Freedoms*.

Ontario's Court of Appeal, while upholding the principle that registration requirements must not have a discriminatory effect, set aside the Divisional Court's decision: *Ontario Teacher Candidates' Council v. Ontario (Education)*, 2023 ONCA 788.

The Court of Appeal accepted that a registration requirement would breach the equality provisions of the *Charter* if:

1. It created a distinction based on a protected ground, including through a disproportionate impact of an apparently neutral requirement,
2. It imposed a burden (or denied a benefit) that had the effect of reinforcing, exacerbating, or perpetuating disadvantage, and
3. It cannot be saved as a reasonable limit imposed by law to achieve an important purpose (i.e., that is demonstrably justified in a free and democratic society).

On the first issue, the Court of Appeal concluded that the data upon which the lower court based its decision was preliminary and incomplete. It consisted of data from only the pilot tests and the first seven weeks of the test's initial administration. Subsequent data, available to the Court of Appeal, for the remaining five months of the year demonstrated that 93% of candidates from racialized groups were able to pass the MPT (including retakes) compared to 95% of all candidates and 97% of White candidates. Since the MPT was discontinued and candidates could not retake the MPT, "the ultimate disparities in relative success rates between different demographic groups might well be even smaller than the relatively modest differences observed in the December 2021 Data." There were also concerns about the small numbers of self-identified candidates in various demographic groups that made the statistical data before the Divisional Court less reliable. In fact, the data for the rest of the year showed a marked improvement in outcomes for racialized candidates. The Court of Appeal concluded that it was an overriding and palpable error to make such an important ruling on inadequate data.

The Court recognized that the disparity in pass rates for first attempts was larger. However, candidates could retake the MPT immediately and there was no evidence to support the concern that requiring racialized candidates to retake the test more frequently delayed their registration or caused them to lose out on job opportunities. There was no fee to write or retake the MPT.

The Court noted the relatively "modest" disparity in results. Precedents resulting in judicial findings of discrimination involved a larger degree of disproportionate outcomes. Since the test was terminated (as a result of the Divisional Court ruling) it was possible that candidates who had failed would have retaken and passed the MPT. The immediate and frequent retake policy also included that the regulator would not be informed of unsuccessful MPT attempts.

Despite being in a position to grant the appeal on the first point, the Court of Appeal went on to discuss the second point. Even accepting that there is a "diversity gap" among racialized teachers with the profession, the Court was unable to conclude that, on the record before it, the MPT would reinforce, perpetuate, or exacerbate disadvantage.

The Court noted the efforts made by the test creators to address equity concerns. All test questions were screened on that basis. Adjustments were made to the format (away from traditional multiple-choice questions) and administration (increased availability of test centres) of the MPT to accommodate candidates. The difficulty level of the questions was reduced from

Grade 11 (and lower) math to Grade 9 (and lower). An exemption was created for teachers of Native Languages. In addition, likely as a result of the MPT, faculties of education were expanding math instruction within their curricula. Candidates were permitted to attempt the MPT while in school to further reduce the impact of any initial unsuccessful attempts.

As a result, the Divisional Court erred in its reliance on expert evidence of general standardized testing outcomes, especially from studies from the US and the UK.

The Court of Appeal found it unnecessary to deal with the third issue.

The Court also commented that the Divisional Court order was overly broad in that it did not allow for alternate, compliant, math proficiency examinations.

Regulators will still wish to ensure that their registration requirements do not have a disproportionate impact on protected groups that reinforce, perpetuate or exacerbate disadvantage. Standardized tests may require appropriate structure and accommodation. However, the evidence to establish discrimination in an exam or other registration requirement cannot be speculative.

From Julie Maciura

In This Issue

Ontario Bills

(www.ola.org)

Bill 146, Building a Strong Ontario Together Act (Budget Measures), 2023 – (*Government Bill, received royal assent*) Bill 146 contains amendments to the *Securities Act* that protects the identity of whistleblowers (who report through a formal process), including from freedom of information requests. Whistleblowers are also protected from reprisal. If a whistleblower sues someone for reprisal, the onus is on the other person to prove that they did not engage in a reprisal.

Bill 142, Better for Consumers, Better for Businesses Act, 2023 - (*Government Bill, passed third reading and received royal assent*) Bill 142 repeals and replaces the current *Consumer Protection Act*. Various provisions, including disclosure obligations, rules about providing credit or accepting prepayment for services, and consumer remedies such as recission rights, might affect complaints about registrants, especially those receiving private payment for their services.

Bill 135, Convenient Care at Home Act, 2023 – (*Government Bill, received royal assent*) Bill 135 creates a corporate entity, the Service Organization, to be called Ontario Health atHome, to coordinate and provide home and community care services to patients. Bill 135 amends the *Connecting Care Act, 2019*. The amendments would "consolidate the 14 Local Health Integration Networks (LHINs) into a new service organization named Ontario Health atHome. LHINs would no longer exist, and the Local Health System Integration Act, 2006 (LHSIA), would be repealed. Ontario Health atHome would assume all staff, service contracts with Service Provider Organizations (SPOs), and assets, liabilities, rights, and obligations of the LHINs."

Proclamations

(www.ontario.ca/search/ontario-gazette)

Employment Standards Act – On July 1, 2024, various amendments relating to the licensing and regulation of temporary employment agencies come into force.

Regulations

(https://www.ontario.ca/laws Source Law - Regulations as Filed)

Community Safety and Policing Act, 2019 – A new regulation specifies when police forces can disclose personal information to the public and to "any person or agency engaged in the protection of the public or the administration of justice", which probably includes regulators of professions. (O. Reg. 412/23)

Pharmacy Act and Regulated Health Professions Act – The controlled acts regulation of the *RHPA* is amended to revoke the ability of certain pharmacists to prescribe Nirmatrelvir/Ritonavir (Paxlovid). However, there are corresponding changes to the controlled acts regulation made under the *Pharmacy Act* that enables those prescriptions and various other prescriptions and vaccine and other drug administration. (O. Reg. 385/23 and 386/23)

Fair Access to Regulated Professions and Compulsory Trades Act, 2006 – The regulations are amended to specify the criteria for accepting alternatives to Canadian experience requirements and language proficiency tests that must be accepted by regulators. (O.Reg. 378/23)

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

Pharmacy Act – Significant amendments are proposed to the College's general regulation, particularly to the provisions dealing with registration and quality assurance. Comments are due by January 12, 2024.

Health and Supportive Care Providers Oversight Authority Act, 2021 and Fixing Long-Term Care Act, 2021 – Details of the regulatory scheme for personal support workers are outlined. Registration will not be required to provide personal support services or use of title. However, those registered with the Authority will be able to use a visual mark. In addition, registration will be required for performing certain roles in long-term care facilities. Employers can choose to require registration. The regulator scheme involves provisions dealing with registration, a code of ethics, complaints, and discipline, a public register, and continuous quality improvement. Comments are due by January 15, 2024.

Bonus Features

These include some of the items that appear in our blog:
(www.sml-law.com/blog-regulation-pro/)

Was There Cake?

The RCDSO's discipline committee rejected a dentist's reliance on the spousal exception defence to allegations of sexual abuse of a patient in *Haydarian v. Royal College of Dental Surgeons of Ontario*, 2023 ONSC 6830 (CanLII). The dentist asserted that on the same day he had done all the following:

- divorced his wife through a proxy process in Iran, while he was in Canada, without notice to his then wife,
- married the patient in a private, non-religious ceremony in his apartment with no witnesses present, and
- consummated the relationship.

The patient stated that the sexual relationship had begun weeks earlier and denied going through a religious ceremony with the dentist. The hearing panel concluded that there was no marriage ceremony and, even if there had been one, it was not a legally valid one engaging the spousal exception provisions.

The dentist was also found guilty of misconduct by co-signing mortgage papers on behalf of another patient who was a newcomer. In the circumstances this was an inappropriate boundary crossing.

The Divisional Court upheld all the findings and orders (there was mandatory revocation) including a costs award of $218,154.72.

Is There a Reasonable Prospect of Proving the Allegations?

For a referral to discipline, there must be both a sufficiently serious allegation and a reasonable prospect of proving the allegation. In *MD v RD*, 2023 CanLII 116994 (ON HPARB), the allegation was that a respiratory therapist had murdered their own father (who was receiving palliative care) by removing his breathing tube. Few allegations could be more serious. It was allegedly witnessed by the partner of the registrant's sibling. The Health Professions Appeal and Review Board upheld the ICRC's decision to take no action on the basis of lack of evidence. The chart indicates that the patient was not using a breathing tube (just an oxygen hose for comfort) and, as such, that measure was not life preserving. Also, the allegations were not made promptly and were apparently raised for the first time in the course of estate litigation between the registrant and their sibling. The hospital did not initiate an investigation as would have been expected if there was merit to the allegations.

There are other aspects of the complaint (e.g., a redacted tape alleging that the registrant had made homophobic comments to their sibling) that make the case very sad. However, the regulatory point is that even the most serious of allegations should not be referred to discipline if there is no reasonable prospect of proving them.

Restricting Access to Registration

Most regulators require applicants for registration to be candid and accurate in their communications. Most regulators also require applicants to demonstrate some form of good character. Also, most regulators will impose consequences where it appears that a candidate on a registration exam may have received inappropriate assistance. However, it is not always clear what procedure should be applied by the regulator where the expectation of accuracy and candidness appear not to have been met.

Thus *Mirza et al. v. Law Society of Ontario,* 2023 ONSC 6727 (CanLII), will be of significant interest. In that case the regulator discovered that the integrity of some of its exams were compromised. It learned that a tutoring agency had obtained copies of the exams and obtained four answer sheets that appeared to have been in circulation through this agency. The regulator retained a data forensic expert who reported that there were anomalies in about 10% of the exam results strongly suggesting access to the answer sheets.

The regulator voided the exam results for those candidates with significant anomalies, removed their applications from the registration process, prevented them from re-applying for a year, indicated that, if they did re-apply, they would be facing scrutiny under the good character requirement, and notified other Canadian regulators of what had occurred. These measures were done administratively, without a hearing. Several of the candidates sought judicial review on the basis that the regulator's actions were unreasonable and that a fair procedure had not been followed.

The Court held that voiding the exam results was reasonable because the regulator had clear evidence that the integrity of the exam was compromised. It was also reasonable for the regulator to only void the results for those candidates with marked statistical anomalies. The regulator could act in these circumstances even if it had no additional evidence of "cheating". In light of the public interest at stake, relying solely upon accurate exam results to void exam results did not require a hearing.

However, the Court concluded that the other sanctions imposed on the applicants required more procedural fairness than had been offered. In the circumstances, even though the regulator had made no formal finding of cheating or a lack of good character, it was relying on analogous grounds, such as the applicants making a "false or misleading representation or declaration"

respecting their application. The communications from the regulator and its actions amounted to a determination with serious consequences for the individuals. As a result of the actions, some candidates would have to repeat their experiential training (e.g., articling or a law practice program). The regulator took the position that the candidates' involvement in the examination anomalies would be investigated if they re-applied for licensure. The Court said that they would suffer "a permanent stain on their reputation". As noted, the regulator had made disclosure of the matter to other regulators. The Court also relied, in part, on the specific provisions in the regulator's enabling legislation and the communications made by the regulator throughout the process to find that it raised legitimate expectations that a hearing would be provided before action was taken.

The Court set aside the sanctions (other than voiding the exam results) and sent a strong message that the regulator needed to act promptly if it was going to proceed with good character hearings. The regulator was also required to tell the regulators to which it had disclosed information about the Court's decision.

This decision offers some guidance as to when regulators can take unilateral administrative action in registration matters and when they must offer enhanced procedural protections before doing so.

Making Charter Values Explicit

A recent case about French-language education in the Northwest Territories has direct and significant implications for professional regulators.

In *Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)*, 2023 SCC 31 (CanLII), Canada's highest court said that, even where the *Canadian Charter of Rights and Freedoms* is not breached, the state must consider *Charter* values when making discretionary decisions. In doing so, the state must apply the *Doré v. Barreau du Québec*, [2012] 1 S.C.R. 395, principles. That is, there must be an important objective supporting the limitation and the limitation must be proportional to the significance of the objective.

Courts reviewing such discretionary decisions must assess the weight given by the state to the competing values. The state should identify not only the *Charter* value, but also the goals that value is attempting to achieve. In this context, "When a decision engages *Charter* values, reasonableness and proportionality become synonymous…." In the *Commission scolaire francophone* decision, the Court concluded that the Minister had not addressed, through written reasons or other materials, the competing interests, let alone weighed them. To roughly paraphrase the Court's much more elegant language, the refusal appeared to be bureaucratic.

The Court acknowledged that the Minister still had discretion to refuse admission to the students, but any such refusal would have to be justified by the record and reasons.

This decision likely signals an expanded assertiveness by the courts in judicial scrutiny of discretionary regulatory decisions in which a *Charter* protection or value is affected. For regulators of professions or industries, this would include the values of freedom of expression, equality rights, mobility, fair procedures, and transparency of regulators. Regulators need to expressly identify and address any affected *Charter* values.

For policy decisions, say by a regulator's Board or Council, briefing notes should contain a section identifying and analyzing such issues. Decisions should contain an explanation (perhaps in the meeting minutes or, perhaps more appropriately, in the announcement rolling out the policy initiative) how the competing interests were balanced.

For individual regulatory (e.g., registration, complaints) or adjudicative (e.g., discipline) decisions, the regulator should proactively ensure that submissions are made to the decision-maker on any such issues. The reasons for decision should explain the decision-maker's conclusions.

Undoubtedly, the Court is hoping that requiring regulators to go through this process will result in decisions that are consistent with the values embedded in the *Charter.*

Frequent Flyers

How should a regulator respond when fresh concerns arise about a registrant's conduct that are quite similar to misconduct that has already resulted in disciplinary action? Two regulators took quite different approaches that reviewing courts found to be appropriate, albeit in the differing circumstances.

In *Dr Vu v College of Physicians & Surgeons of Alberta*, 2023 ABCA 377 (CanLII), a physician was appealing a finding that they had sexually abused their client. An allegation of sexual abuse of another patient was coming up for a hearing. In the meantime, the physician's registration was suspended. The physician sought to stay (i.e., pause) the second hearing until the first appeal was resolved, indicating that if the first finding was upheld, they might not contest the second allegation as their registration would already be revoked. The Court declined to stay the second hearing, in part on jurisdictional grounds, but also said:

> While it is true that risk to the public is mitigated during his suspension, the public has a strong interest in the CPSA's investigation and adjudication of patient complaints. Where a stay seeks to stop statutory actors from carrying out their duties, a very important public interest weighs heavily in favour of allowing those actors to carry out their statutory

> mandates…. Complainants also have a strong interest in the timely adjudication of their complaints.

In contrast, a different approach was taken in *El Raheb v. Ontario College of Pharmacists*, 2023 ONSC 7065 (CanLII). A pharmacist's registration was suspended for 18 months and had long-term restrictions on their practice after having been found to engage in false and misleading billing and record keeping. New concerns of a similar nature arose, but at different pharmacies, for larger amounts of money, and at different periods of time. The screening committee chose to take no further action, other than to issue a caution that would appear on the public register, given the result of the earlier discipline hearing. The pharmacist challenged the caution as being punitive given the screening committee's acceptance of the previous discipline decision as addressing the concerns.

Again, the Court upheld the regulator's decision. It said, "The purpose of a caution is to protect the public by taking steps to ensure that the conduct that gave rise to the caution does not occur again." Given the differences between the two cases, the Court said, "In the face of this reality the ICRC decided that, while the penalty imposed in the first proceeding was sufficient punishment, the public interest demanded that the Applicant be cautioned about the seriousness of the conduct at issue in this proceeding."

The difference in approaches by the two regulators likely reflects the circumstances of each case including the existence of a specific complainant in Dr. Vu's case. Other regulatory approaches would also be conceivable, including taking no action, restitution agreements, or seeking an acknowledgement and undertaking from the registrant that includes admission of facts, an apology, additional monitoring/ supervision, and publication.

Dispensed vs Distributed

What is in a word?

In *Sahi v Alberta Veterinary Medical Association*, 2023 ABCA 368 (CanLII), a veterinarian was found to have purchased and failed to account for a shockingly large amount of a controlled drug. In addi□on, they failed to cooperate in the inves□ga□on to explain what had happened to the ordered amounts. At the hearing, the veterinarian said they had personally consumed the drug because of their disability. The hearing panel, the appeal body, and the appeal Court had litle difficulty in finding that the veterinarian had breached the standard of prac□ce, including those rela□ng to prescribing and dispensing the drug.

The Court set aside the finding of "distribu□ng" or "selling" the drug. In reviewing how those terms were used in various pieces of legisla□on, the Court held that the act of distribu□ngo

selling must be to a third party. While there was some evidence that it is unlikely the veterinarian had consumed all the unaccounted-for drug, the hearing panel had not made an explicit finding on the point and, thus, glossed over the allega﬿on as worded.

However, since this allega﬿on largely overlapped the allega﬿on that was upheld (i.e., prescribing and dispensing) only minor modifica﬿ons were made to the sanc﬿on. The fine was reduced, and the significant costs order was mostly maintained. More significantly, the Court found that the order of revoca﬿on was appropriate.

Interes﬿ngly, the Court did not specifically address its discussion in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336 (CanLII), that regulators should only make significant costs orders in excep﬿onal cases. However, the Court indicated that the high costs award was jus﬿fied because the veterinarian's lack of coopera﬿on during the inves﬿ga﬿on (and, to a lesser extent, during the hearing) made the process much more expensive than it should have been.

The Court also did not discuss the impact of the veterinarian's asser﬿on of disability on either the finding or the sanc﬿on. Apparently insufficient evidence in support of the disability was led at the hearing.

Despite the generally favourable outcome for the regulator's public interest mandate, the discipline panel's failure to grapple with the different meaning of the words resulted in only par﬿al success.

Of Trees and Forests

Since the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII), [2019] 4 SCR 653, there has been a shi﬿ in the way that courts review credibility findings made by discipline hearing panels. While overall there may not have been an increase in the frequency of court interven﬿ons (see: *Has Vavilov Made a Difference?*), courts have indeed focussed more closely on the reasons for decision of discipline panels.

A recent example of this is *Okafor v. College of Physicians and Surgeons of Ontario*, 2023 ONSC 6332 (CanLII), where a physician was found to have engaged in sexual abuse of a pa﬿ent. As in so many of these cases, the key evidence was given by two witnesses, the pa﬿ent and the physician. The Court, in some detail, examined both the specific credibility concerns about the tes﬿mony of the pa﬿ent (i.e., the trees) and the overall assessment of credibility of the evidence (i.e., the forest). The Court found no palpable and overriding error because the reasons of the discipline panel addressed all these issues.

In terms of the trees, there were three concerns about the evidence of the pa﬿ent. The pa﬿ent was inconsistent as to the loca﬿on and name of the hotel where the first sexual encounter occurred, the pa﬿ent said that they had taken a semen sample which was then lost, and the pa﬿ent said that they had recorded a threatening call by the physician which recording was no longer available. The pa﬿ent was cross-examined extensively on those issues and their explana﬿ons for them. The Court, while finding those issues challenging, held that the discipline panel had specifically addressed them and explained why it largely accepted the pa﬿ent's explana﬿ons and concluded that they did not materially detract from the evidence on the core issue of whether there was a concurrent sexual and trea﬿ng rela﬿onship.

As for the forest, the Court noted in par﬿cular the approach taken by the hearing panel:

> The Commitee stated that its task was not to simply accept the evidence of Pa﬿ent A or the Appellant. The Commitee's stated task was to determine "whether, on the totality of the evidence, viewed as a whole, the College has proved its case, or proven a par﬿cular fact, on the balance of probabili﬿es based on clear, cogent and convincing evidence."

The Court also referred to various other pieces of evidence that, overall, were more consistent with the pa﬿ent's version of events than that of the physician. For example, there were many phone conversa﬿ons between them noted in the telephone records, a deleted chart entry at a key ﬿me in the narra﬿ve that was inten﬿onally not disclosed to the regulator when asked, and apparent atempts to cover up the rela﬿onship including inves﬿ng in the pa﬿ent's son's business venture around the ﬿me of the inves﬿ga﬿on.

The Court downplayed the value of the "uneven scru﬿ny" cri﬿que of credibility findings. Absent obvious cases, this ground of appeal generally is an atempt to invite the Court to reweigh the evidence that the hearing panel has already evaluated. The Court said:

> Claims of uneven scru﬿ny should not be a meritless opportunity to re-try a case. There must be a demonstra﬿on of palpable and overriding error. There was nothing in the reasons or the record that made it clear that the Commitee had *actually* applied different standards in assessing the evidence of the Appellant and Pa﬿ent A.

Discipline panels should, in their reasons for decision in credibility cases, address any specific concerns about the credibility of the witnesses and then explain in a global fashion why it concludes that the allega﬿ons, in light of the credibility concerns, have, or have not, been proved.

MEMORANDUM

DATE: January 18, 2024

TO: Exam Committee
PLAR Committee
Quality Assurance Committee
Registration Committee
Standards Committee

FROM: Andrew Parr, CAE
Chief Executive Officer

RE: Entry-to-Practise Competencies

The Canadian Alliance of Naturopathic Regulatory Authorities (CANRA), of which the College of Naturopaths of Ontario (CoNO) is a member, has been working on an extensive project that would see the creation of a national clinical practical examination for entry-to-practise that would support all naturopathic regulators in Canada.

The first step in this project has been to create a set of national entry-to-practise competencies acceptable to all regulated jurisdictions. To this end, CANRA retained the services of a group of consultants who are experts in the areas of competency and exam development, including Keith Johnson, Tabasom Eftekari, Karen Coetzee, and Giedre Johnson.

Both Keith Johnson and Tabasom Eftekari have previously worked with CoNO in the development and later refinement of the Prior Learning Assessment and Recognition Program.

CANRA has recently received delivery of the draft entry-to-practise competency profile that would be used to support the development of the clinical practical examination. Before finalizing the competencies, CANRA has instituted a consultation process with all relevant Canadian naturopathic stakeholders. This includes, of course, CoNO.

A copy of the draft entry-to-practice competencies is attached, along with the Methodological Report setting out the process by which the competencies were developed. We are asking each of the above noted committees to please review the draft competencies and provide any feedback to Jeremy Quesnelle, Deputy Chief Executive Officer, no later than February 26, 2024.

Subsequent to feedback being received and reviewed by CANRA and any final changes to the draft, CANRA will be asking each of its member regulatory authorities to adopt these competencies as their own, making them a truly national set of competencies.\

c. Council of the College

National Entry-to-Practice Competency Profile for Naturopathic Doctors

Overview

The practice of naturopathic medicine is regulated in Alberta, British Columbia, Manitoba, Ontario and Saskatchewan. Consistency between jurisdictions supports the workforce mobility requirements of the Canadian Free Trade Agreement. To harmonize practices and standards, the Canadian Alliance of Naturopathic Regulatory Authorities (CANRA) was formed. Its stated mission is to, "protect the integrity of naturopathic regulation by educating and unifying jurisdictions toward the collective goal of public health and safety."

In 2023, CANRA embarked on developing a national entry-to-practice Competency Profile. This Competency Profile describes the minimum expectations (i.e., professional competencies) of an individual applying for a naturopathic doctor (ND) license in one of Canada's regulated jurisdictions.

These expectations are defined as *"An observable ability of individual that integrates the knowledge, skills, and judgment required to practice safely, competently and ethically at the point of qualifying for a Naturopathic Doctor License".* The Competency Profile may be used for many purposes, including but not limited to:

- Approval of educational programs
- Providing advice/guidance to members
- Developing standards and policies
- Informing matters related to professional conduct
- Assessing applicants for entry and/or re-entry into the profession
- Constructing entry-to-practice exams and related requirements
- Determining continuing/competency education requirements

Competency Profile Development

A robust methodology based on industry best practices was used to develop the Competency Profile. A team of nine subject matter experts (practicing naturopathic doctors, educators and regulators) drawn from across the country worked to generate the associated content. Input gathered from a series of interviews with key stakeholders and relevant literature, regulations and legislation were also incorporated. The draft set of competencies was then validated via an online survey of NDs currently registered in participating jurisdictions. A Steering Committee comprised of CANRA members were responsible for overall project guidance and oversight.

Acknowledgements
The development of the competency profile could not have been realized without the contributions of a number of individuals. Great thanks are due to the Steering Committee and the team of subject matter experts for their content generation, oversight and support. The quality of this new document is due in great part to their collective efforts and generosity of time. Recognition and great appreciation are given to the 15 key informants from across Canada who participated in the focus groups. The feedback provided was extremely instructive and greatly informed the entire update process. And finally, the consultants would also like to acknowledge the contributions of the nearly 400 practising NDs who completed the online survey; your input helped to ensure that the final product is grounded in the realities of day-to-day naturopathic medicine.

Document Structure
Two types of competencies are included in the Competency Profile, key competencies and enabling competencies. High-level "Key Competencies" are defined as "the essential knowledge, skills and/or judgement required of a naturopathic doctor at entry-to-practice". In contrast, Enabling Competencies "outline the relevant knowledge and skills that contribute to the achievement of the Key Competency". Individuals must be able to demonstrate all key and enabling competencies listed herein to qualify for an ND licence.

The competency profile consists of 22 key competencies and 62 enabling competencies grouped thematically under five domains:

1. Professionalism
2. Communication
3. Assessment and Diagnosis
4. Therapeutic Management
5. Records Management

1. Professionalism

Professional standards are created to ensure a safe and therapeutic relationship between doctors, patients and other professionals. Naturopathic doctors have a responsibility to act in a professional and ethical manner which uphold regulatory standards and high-quality patient care.

Key Competencies	Enabling Competencies
1.1 Demonstrates ethical conduct and integrity in professional practice.	1.1.1 Provides care in a manner which respects equity, diversity and inclusion. 1.1.2 Demonstrates an understanding and awareness of **cultural safety** and humility. 1.1.3 Recognizes and addresses personal and professional **conflicts of interest**. 1.1.4 Recognizes and addresses personal and professional biases. 1.1.5 Establishes and maintains appropriate therapeutic relationships and professional boundaries with patients.
1.2 Adheres to regulatory requirements and legislation which govern the practice of Naturopathic Medicine.	1.2.1 Adheres to professional regulations, bylaws, standards of practice, scope of practice, codes of conduct, obligations of a registrant, guidelines, policies and other legislation applicable to practice. 1.2.2 Demonstrates an understanding of the mandate and role of the regulatory body. 1.2.3 Maintains patient privacy, confidentiality, and security by complying with privacy legislation, practice standards, ethics, and policies within a clinic.
1.3 Recognizes **personal and professional limitations** and acts to resolve them.	1.3.1 Demonstrates accountability, accepts responsibility, and seeks assistance as necessary for decisions and actions within the legislated scope of practice and individual/professional competencies.
1.4 Engages in professional self-reflection and a commitment to lifelong learning.	1.4.1 Recognizes areas for professional growth and development. 1.4.2 Remains current with changing knowledge, developments, and treatments in healthcare.

2. Communication

Naturopathic doctors are expected to develop professional relationships with their patients and other healthcare providers. Effective communication facilitates the gathering and sharing of information for both a therapeutic relationship and competent healthcare delivery.

Key Competencies	Enabling Competencies
2.1 Use oral, written and non-verbal communication effectively.	2.1.1 Demonstrates effective skills in written and verbal communication. 2.1.2 Demonstrates professional judgment in utilizing information and communication technologies in social media and advertising.
2.2 Establishes a therapeutic naturopathic doctor-patient relationship.	2.2.1 Engages in **active listening** to understand patient experience, preferences, and health goals. 2.2.2 Communicates and facilitates discussions with patients in a way that is respectful, non-judgemental, and culturally sensitive. 2.2.3 Actively involves the patient in decision making.
2.3 Participates in interprofessional collaboration as authorized by the patient.	2.3.1 Communicates with patients or their authorized representatives, colleagues, other health professionals, the community, the regulator, and other authorities. 2.3.2 Consults with and/or refers to other health care professionals when care is outside of scope of practice or personal competence. 2.3.3 Recognizes and respects the roles and responsibilities of other professionals within the health care team.
2.4 Demonstrates appropriate use of technology.	2.4.1 Maintains digital literacy to support the delivery of safe care.

3. Assessment and Diagnosis

Naturopathic doctors apply medical knowledge, critical inquire, and clinical skills to analyze and synthesize information to inform assessment and diagnosis. Naturopathic doctors utilize an evidence-informed approach to provide high-quality and safe patient-centred care.

Key Competencies	Enabling Competencies
3.1 Obtains **informed consent.**	3.1.1 Clearly and accurately communicates the necessary information to obtain and document **informed consent** for all patient interactions. 3.1.2 Ensures ongoing **informed consent** is received throughout the term of care.
3.2 Completes a health history to aid in patient assessment.	3.2.1 Conducts a **patient-centered** interview to establish reason for the encounter and chief concern. 3.2.2 Collects, elicits and synthesizes clinically relevant information. 3.2.3 Identifies non-urgent health related conditions that may benefit from a referral, and advises the patient accordingly. 3.2.4 Identifies urgent, emergent, and life-threatening situations, and refers the patient accordingly.
3.3 Performs a physical examination.	3.3.1 Selects relevant assessment equipment and techniques to examine the patient. 3.3.2 Determines if a **focused or comprehensive physical exam** is required.
3.4 Uses diagnostic testing to aid in patient assessment.	3.4.1 Requests, orders or performs screening and diagnostic investigations. 3.4.2 Applies knowledge of pharmacology, pathophysiology and other factors to ensure accuracy of diagnostic or screening procedure(s). 3.4.3 Prepares and/or refers the patient to undergo testing. 3.4.4 Assumes responsibility for follow-up of test results.
3.5 Formulates **differential diagnoses**.	3.5.1 Integrates the medical history, physical examination, diagnostic testing, critical thinking and clinical reasoning to formulate possible **differentials.** 3.5.2 Continues to monitor patient progression and makes refinements to the differential diagnoses.
3.6 Interprets the results of screening and diagnostic investigations using **evidence-informed clinical-reasoning.**	3.6.1 Determines if additional diagnostic procedures are required based upon the patient's diagnosis, prognosis, or response to treatment. 3.6.2 Makes appropriate referral(s) if diagnostic testing returns a critical value.
3.7 Formulates **working diagnosis**.	3.7.1 Applies **critical thinking** and **clinical reasoning** to determine a diagnosis. 3.7.2 Integrates the medical history, physical examination and diagnostic testing to formulate a diagnosis. 3.7.3 Determines pathogenesis and probable etiology of the diagnosis. 3.7.4 Evaluates, reflects on and amends the diagnosis, prognosis and treatment based on patient outcomes. 3.7.5 Identifies the need for additional consultation and/or referral.

Key Competencies	Enabling Competencies
	3.7.6 Communicates assessment findings and diagnosis with the patient including implications for short- and long-term outcomes.

4. Therapeutic Management

Therapeutic management encompasses the scope of treatments employed by naturopathic doctors, as well as the relative risks, benefits and considerations regarding treatment options and outcomes. These include factors relating to informed consent, naturopathic principles, the therapeutic order, monitoring and reassessment. It also outlines the recognition of red flags and emergency management, as well as the protocols necessary for safe practice.

Key Competencies	Enabling Competencies
4.1 Evaluates the risk, benefit, efficacy and level of evidence of planned procedures, interventions and treatments.	4.1.1 Identifies interactions between pharmaceutical medications and chosen therapeutic agents. 4.1.2 Demonstrates an understanding of indications and contraindications when formulating a **therapeutic plan**.
4.2 Creates, implements, and monitors a **therapeutic plan**.	4.2.1 Formulates a **therapeutic plan** based on patient's diagnosis, **determinants of health**, evidence-informed practice, patient preferences, **therapeutic order** and **naturopathic principles**. 4.2.2 Implements the **therapeutic plan** using **naturopathic modalities**. 4.2.3 Schedules appropriate follow-up to monitor progress, review responses to therapeutic interventions, assess for adverse effects, and revise the **therapeutic plan** if necessary. 4.2.4 Reports adverse reactions to therapeutic substances to Health Canada.
4.3 Recognizes and manages emergency situations in the clinical setting.	4.3.1 Initiates appropriate intervention(s) for patients in an acute, emergent, or life-threatening situation. 4.3.2 Understands responsibilities and limitations in scope-of-practice when administering emergency procedures. 4.3.3 Activates emergency medical services for patients in emergent or life-threatening situations. 4.3.4 Communicates reportable diseases to the appropriate health authorities.
4.4 Ensures safety of procedures.	4.4.1 Informs the patient about planned procedure(s), including rationale, potential risks and benefits, adverse effects, and anticipated aftercare and follow-up. 4.4.2 Performs procedures per provincial guidelines. 4.4.3 Understands and applies safe techniques for procedures. 4.4.4 Maintains **universal precautions** and **routine practices** in infection prevention.
4.5 Practices **evidence-informed** patient care.	4.5.1 Critically appraises and applies evidence to improve patient care. 4.5.2 Demonstrates the ability to use research in clinical decision-making.

5. Records management

Naturopathic Doctors are required to maintain and retain health records in an accurate, safe and secure manner to satisfy legal, professional and ethical obligations and to allow timely access to requested medical records.

Key Competencies	Enabling Competencies
5.1 Maintains patient records in accordance with legislation and **regulatory guidelines**.	5.1.1 Demonstrates knowledge of security, confidentiality, and access requirements for records in accordance with relevant legislation, policies, and standards. 5.1.2 Adheres to file maintenance and file transfer requirements in accordance with the standards of practice, policies, legislation and guidelines as set by the regulator.
5.2 Ensures patient records and clinical information are accurate and legible.	5.2.1 Maintains accurate and comprehensive files, data and charts. 5.2.2 Provides a reasonable means for patients to access and receive a copy of their medical records upon request.

Glossary

Cultural Safety: An outcome based on respectful engagement that recognizes and strives to address power imbalances inherent in the healthcare system and provide an environment free of racism and discrimination, where people feel safe when receiving health care. (source: https://www.canada.ca/en/health-canada/services/publications/health-system-services/chief-public-health-officer-health-professional-forum-common-definitions-cultural-safety.html)

Conflict of Interest: Where a reasonable person would conclude that a Member's/Registrant's personal, professional interest or financial interest may affect their judgment or the discharge of their duties to the patient and the patient's best interests. A conflict of interest may be real or perceived, actual, or potential, and direct or indirect.

Personal Limitations: The point at which your own knowledge, skill and judgement is no longer sufficient to provide safe, ethical competent care.

Professional Limitations: The point at which the knowledge, skill, and judgement of the profession, based on the education and training provided is no longer sufficient to provide safe, ethical, competent care.

Active Listening: The act of being fully engaged and immersed in what the other person is communicating and being an active participant in the communication process through direct on-going feedback using visual or verbal cues that the communication is being heard and understood.

Informed Consent: Informed consent is the process in which a health care provider educates a patient about the risks, benefits, and alternatives of a given procedure or intervention. The patient must be competent to make a voluntary decision about whether to undergo the procedure or intervention.

Patient-Centered: Puts the needs, values and expressed desires of each individual patient first and above all other interests.

Focused Physical Exam: An assessment which is limited to one or two body systems or regions and is based largely on the nature of the patient's complaint.

Comprehensive Physical Exam: An overall assessment using objective anatomic findings through the use of observation (looking), palpation (feeling), percussion (tapping), and auscultation (listening), along with the patient's medical history, dietary habits, physical activities, vital statistics, and other essential information to determine a patient's health status.

Differential Diagnosis/Differential(s): The process of differentiating between two or more conditions which share similar signs or symptoms (oxford dictionary) **OR** a systematic process used to identify the proper diagnosis from a set of possible competing diagnoses (https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6994315/).

Working Diagnosis: The considered condition, from the list of differentials, determined to be the most probable based on current observations.

Critical Thinking: The objective analysis and evaluation of an issue in order to form a judgment. (Oxford Dictionary).

Critical Reasoning: Note: Critical reasoning seems synonymous with critical thinking, suggest changing the competency wording to "clinical reasoning": a context-dependent way of thinking and decision making in professional practice to guide practice actions.

Therapeutic Plan: A documented plan that describes the patient's condition and procedure(s) that will be needed, detailing the treatment to be provided and expected outcome, and expected duration of the treatment prescribed by the healthcare provider. (https://medical-dictionary.thefreedictionary.com/treatment+plan)

Determinants of Health: A range of factors that influence the health status of an individual

Therapeutic Order: The natural progression of naturopathic therapeutic recommendations to maximize patient benefit and reduce the potential for patient harm. (https://aanmc.org/featured-articles/therapeutic-order/)

Naturopathic Principles: The six guiding principles which define naturopathy/naturopathic medicine.

Core Naturopathic Modalities: Central treatment therapies within the scope of practice of the naturopathic profession, as defined by the governing legislation of each jurisdiction that regulates naturopathy/naturopathic medicine.

Evidence-Informed: A process for making informed clinical decisions by integrating research evidence with clinical experience, patient values, preferences and circumstances. (Source)

Universal Precautions: The standards of practice that should be followed for the care of all patients, at all times, based on the premise that all persons are potentially infectious, even when asymptomatic.

The College of Naturopaths of Ontario

Council Meeting Evaluation
November 2023
6 Evaluations Received

Topic	Question	Data	Overall
Were issues discussed essential?	Please rate how essential you feel the issues covered in today's meeting were using a scale: 1 - Not all all essential to 5 - Very Essential.	0 @ 1 0 @ 2 0 @ 3 0 @ 4 6 @ 5	**5.0**
Achieve Objectives?	Please rate how well you feel the meeting met the intended objectives using the following scale: 1 - Not at all met to 5 - All objectives met.	0 @ 1 0 @ 2 0 @ 3 0 @ 4 6 @ 5	**5.0**
Time Management	Please rate how well you feel our time was managed at this meeting using the following scale: 1 - Not at all managed to 5 - Very well managed.	0 @ 1 0 @ 2 1 @ 3 2 @ 4 3 @ 5	**4.3**
Meeting Materials	Please rate how helpful you feel the meeting materials for today's meeting were using the following scale: 1 - Not at all helpful to 5 - Very helpful.	0 @ 1 0 @ 2 0 @ 3 0 @ 4 6 @ 5	**5.0**
Right People	Please rate the degree to which you felt the right people were in attendance at today's meeting using the following scale: 1 - None of the right people were here to 5 - All of the right people were here.	0 @ 1 0 @ 2 0 @ 3 0 @ 4 6 @ 5	**5.0**
Your Preparedness	Please rate how you feel your own level of preparedness was for today's meeting using the following scale: 1 - Not at all adequately prepared to 5 - More than adequately prepared.	0 @ 1 0 @ 2 0 @ 3 0 @ 4 6 @ 5	**5.0**
Group Preparedness	Please rate how you feel the level of preparedness of your Council	0 @ 1 0 @ 2 0 @ 3	**4.8**

	colleagues was for today's meeting using the following scale: 1 - Not at all adequately prepared to 5 - More than adequately prepared.	1 @ 4 5 @ 5	
Interactions between Council members	Please rate how well you feel the interactions between Council members were facilitated using the following scale: 1 - Not well managed to 5 - Very well managed.	0 @ 1 0 @ 2 0 @ 3 1 @ 4 5 @ 5	**4.8**
What Worked Well	From the following list, please select the elements of today's meeting that worked well.		
	• Meeting agenda		**6/6**
	• Council member attendance		**6/6**
	• Council member participation		**5/6**
	• Facilitation (removal of barriers)		**5/6**
	• Ability to have meaningful discussions		**6/6**
	• Deliberations reflect the public interest		**6/6**
	• Decisions reflect the public interest		**6/6**
Areas of Improvement	From the following list, please select the elements of today's meeting that need improvement.		
	• Meeting agenda		**0/6**
	• Council member attendance		**0/6**
	• Council member participation		**1/6**
	• Facilitation (removal of barriers)		**1/6**
	• Ability to have meaningful discussions		**0/6**
	• Deliberations reflect the public interest		**0/6**
	• Decisions reflect the public interest		**0/6**
Things we should do	Are there things that you feel that the Council should be doing at its meetings that it is not presently doing?		
Final Feedback	Keep up the good work.		
	It is an honour and a pleasure to be a member of the Council of the College of Naturopaths of Ontario.		

Comparison of Evaluations by Meeting 2023-2024

	2022/23 Overall	2023-2024						
Topic		**May 2023**	**July 2023**	**Sept 2023**	**Nov 2023**	**Jan 2024**	**Mar 2024**	**Ave**
Were issues discussed essential? 1 – Not at all essential to 5 – Very Essential.	**4.7**	**4.6**	**4.7**	**4.5**	**5.0**			**4.7**
Achieve Objectives? 1 - Not at all met to 5 - All objectives met.	**4.9**	**5.0**	**4.7**	**5.0**	**5.0**			**4.9**
Time Management 1 - Not at all managed to 5 - Very well managed.	**4.8**	**5.0**	**4.6**	**4.6**	**4.3**			**4.6**
Meeting Materials 1 - Not at all helpful to 5 - Very helpful.	**4.9**	**4.9**	**4.8**	**5.0**	**5.0**			**4.9**
Right People 1 - None of the right people to 5 - All of the right people.	**4.7**	**4.7**	**4.8**	**5.0**	**5.0**			**4.9**
Your Preparedness 1 - Not at all adequately prepared to 5 - More than adequately prepared.	**4.6**	**4.5**	**4.6**	**4.6**	**5.0**			**4.7**
Group Preparedness 1 - Not at all adequate 5 - More than adequate.	**4.5**	**4.7**	**4.2**	**5.0**	**4.8**			**4.7**
Interactions between Council members 1 - Not well managed to 5 - Very well managed.	**4.7**	**5.0**	**4.7**	**5.0**	**4.8**			**4.9**
Number of Evaluations	**7.7**	**8**	**8**	**7**	**6**			**7.25**

UNDERSTANDING THE RISK ANALYSIS TERMINOLOGY

The risk analysis provided to Council as part of its briefing process is becoming more sophisticated. New terminology will begin to be introduced that may be unfamiliar to many Council members and stakeholders. The table below provides information to allow a reader to interpret the information being provided.

RISK CATEGORY	Risk Type	Type Description	Indicators
HAZARD	People	Loss of key people.	Sudden and unforeseen loss of CEO or senior staff due to resignation, retirement, death or illness.
	Property	Damage or destruction.	Property damage due to fire, weather event, earthquake etc.
	Liability	Claims, and cost of defense claims.	Cost of defending a liability claim or awards paid due to a liability claim.
	Net Income Loss	Net Income loss from hazards.	Loss of Net Income (after expenses) from any of the above noted hazard risks.
OPERATIONAL	People	Risks from people selected to run an organization.	Education, professional experience, staffing levels, employee surveys, customer surveys, compensation and experience benchmarking, incentives, authority levels, and management experience.
	Process	Procedures and practices of an organization.	Quality scorecards, analysis of errors, areas of increased activity or volume, review of outcomes, internal and external review, identification of high-risk areas, and quality of internal audit procedures.
	Systems	Technology or equipment owned by an organization.	Benchmark against industry standards, internal and external review, and analysis to determine stress points and weaknesses.
	External Events	Failure of others external to an organization.	Suppliers unable to provide or deliver supplies, or consultants unable to complete projects on time or on budget.

FINANCIAL	Market risk	Currency price, interest rates, commodity price, equity price, and liquidity risk.	Interest rates, savings, and return on investments.
	Credit risk	Risk of people in an organization lent money to defaulting.	If the College were to lend money or credit to Registrants, the risk of defaulting.
	Price risk	Risk of prices of an organization's products or services, price of assets bought or sold by an organization.	Price increases of supplies, consultants, and personnel.
STRATEGIC (external to an organization)	Economic environment	GDP changes, inflation, financial crises, and international trade.	GDP, CPI, and Interest rates.
	Demographics	Changing landscape of people, i.e., aging.	Aging population, lower birth rates.
	Political	Changes in the politics where an organization operates.	Changes in government or government policy, locally, regionally, or nationally.
	Reputation	Damage to the reputation of the organization based on decisions taken or perils encountered.	Confidence and trust of stakeholders, the public, and Registrants.

Risk Treatment or Mitigation Techniques

Technique		Description	General Usage?
Avoidance		Stop or never do an activity to avoid any loss exposure	All risk categories
Modify			
	Separation	Isolate the loss exposures from one another to minimize impact of one loss. Relates to correlation of risks.	Financial risk
	Duplication	Use of back up or spares to keep in reserve to offset exposures.	Operational risk
	Diversify	Spread loss exposure over numerous projects, products, or markets.	Financial risk
Transfer		Transfer risk to another organization, typically an insurer.	Hazard risks
Retain		Assume the risk of loss within the organization, typically done when severity and frequency are both low and sometimes when frequency is high, but severity is always low.	Hazard, Operational
Exploit		Use the risk to your advantage	Strategic

To Treat or Not to Treat	Techniques
Do Not Treat	If potential impact is low and likelihood of occurring is low, do not need to treat the risk. May also choose not to treat a risk that has low potential impact and high likelihood in some circumstances.
Treat the risk	Treat a risk that has a high potential impact and high likelihood of occurring. Also treat a risk that has a high potential impact and low likelihood. Treatment methods 1. Avoidance 2. Change the likelihood or impact 3. Finance risk – transfer (insurance or hedging for market risk) or retain

UNDERSTANDING THE COLLEGE'S COMMITMENT TO TRANSPARENCY

To help protect the public, the College and its Council are committed to transparency. This means providing Ontarians with the tools to make informed decisions, and ensuring that our own decision-making processes are easily understood.

The College and its Council have adopted the Transparency Principles developed by the Advisory Group for Regulatory Excellence (AGRE), a working group of health regulators, as the framework for its decisions.

The following table summarizes the transparency principles adopted by the Council.

Principle	Description
Information to foster trust.	The mandate of regulators is public protection and safety. The public needs access to appropriate information in order to trust that this system of self-regulation works effectively.
Improved patient choice and accountability.	Providing more information to the public has benefits, including improved patient choice and increased accountability for regulators.
Relevant, credible, and accurate information.	Any information provided should enhance the public's ability to make decisions or hold the regulator accountable. This information needs to be relevant, credible, and accurate.
Timely, accessible and contextual.	In order for information to be helpful to the public, it must be; a) timely, easy to find, understandable and, b) include context and explanation.
Confidentiality when it leads to better outcomes.	Certain regulatory processes intended to improve competence may lead to better outcomes for the public if they happen confidentially.
Balance.	Transparency discussions should balance the principles of public protection and accountability, with fairness and privacy.
Greater risk, greater transparency.	The greater the potential risk to the public, the more important transparency becomes.
Consistent approaches.	Information available from Colleges about Registrants and processes should be similar.

Understanding the Public Interest

In carrying out its objects, the College has a duty to serve and protect the public interest (section 3(3) of the Regulated Health Professions Act, 1991 (RHPA).

The term "public interest" is not defined in any legislation or regulation. What is the public interest?

- It is first and foremost a concept.
- It is contextual, the circumstances of decision-making help determine what it is.
- It is an unbiased concern for society.
- Places the benefit to the whole ahead of the benefit to a group, a few, or any one person.

Serving the public interest means ensuring the following.

- The public has access to professions of choice.
- Individuals are treated with sensitivity and respect.
- There are appropriate standards for the profession.
- There are ethical, safe, competent professionals and services.
- The patient interest is placed over professional interest.
- The principle-driven governance and operations are fair, objective, transparent and accountable.

The public interest is also about public protection and safety. Protecting the public from:

- Harm (physical, psychological, financial).
- Dishonesty and disrespect.
- Poor quality care.
- Sexual abuse.
- Breach of laws.
- Ineffective or unnecessary care.

In its deliberations, Council and Committees should consider the following factors.

- Is the decision fair to all parties?
- Is the decision objective, e.g. evidence-based?
- Is the decision impartial, e.g. made without bias?
- Is the decision transparent, e.g. are all of the relevant considerations clearly articulated and in the public domain?

Considerations/Questions to ask oneself during deliberations include:

- Does the matter relate to the College's statutory objects (section 3(1) of the Code)?
- Does the decision further one of the College's four regulatory activities?
- Is the decision being done transparently?
- Who is the primary beneficiary of the initiative?
- Would this better fit into another's mandate (e.g. the educators, the associations)?
- Who would be unhappy with the initiative and why?

- How would it look on the front page of (any local or national newspaper) or on the evening newscast?
- How would our accountability bodies (e.g. the Government of Ontario, Office of the Fairness Commissioner, Health Professions Appeal Review Board) respond?
- Is our decision consistent with the mandate of the College (e.g. to ensure that Ontarians who wish to receive naturopathic services have access to individuals who have the knowledge, skill and judgment to practice safely, ethically and competently) and with other recent similar decisions.

What the public interest is NOT!

- Advancing the profession's self-interest (e.g. increasing fees charged by or earnings of the profession by limiting the number of members through creating barriers to access to the profession, or by expanding the scope of practice of the profession).
- Advancing personal interests of Council members (e.g. getting good PR in the profession in a re-election year).
- Advancing the interests of a small group of patients who feel that the general health care system is not serving them sufficiently (e.g. patients advocating for expanded scope for illness-specific purposes).

The College of Naturopaths of Ontario

Conflict of Interest
Summary of Council Members Declarations 2023-2024

Each year, the Council members are required to complete an annual Conflict of Interest Declaration that identify where real or perceived conflicts of interest may arise.

As set out in the College by-laws, a conflict of interest is:

> ***16.01 Definition***
> For the purposes of this article, a conflict of interest exists where a reasonable person would conclude that a Council or Committee member's personal or financial interest may affect their judgment or the discharge of their duties to the College. A conflict of interest may be real or perceived, actual or potential, and direct or indirect.

Using an Annual Declaration Form, the College canvasses Council members about the potential for conflict in four areas:

Based on positions to which they are elected or appointed;
Based on interests or entities that they own or possess;
Based on interests from which they receive financial compensation or benefit;
Based on any existing relationships that could compromise their judgement or decision-making.

The following potential conflicts have been declared by the Council members for the period April 1, 2023 to March 31, 2024.

Elected or Appointed Positions

Council Member	Interest	Explanation
Dr. Amy Dobbie, ND	City Councilor (Family Member)	Father is an elected city councilor for the City of Quinte West. Does not believe it is a conflict – made a note of it in case.

Interests or Entities Owned

Council Member	Interest	Explanation
None		

Interests from which they receive Financial Compensation

Council Member	Interest	Explanation
None		

Existing Relationships

Council Member	Interest	Explanation
None		

Council Members

The following is a list of Council members for the 2023-25 year and the date the took office for this program year[1], the date they filed their Annual Conflict of Interest Declaration form and whether any conflict of interest declarations were made.

Council Member	Date Assumed Office	Date Declaration Received	Any Declarations Made
Dr. Jonathan Beatty, ND	May 31, 2023	May 29, 2023	None
Dr. Shelley Burns, ND	May 31, 2023	May 24, 2023	None
Dean Catherwood	May 31, 2023	May 26, 2023	None
Dr. Amy Dobbie, ND	May 31, 2023	May 25, 2023	Yes
Brook Dyson	May 31, 2023	May 30, 2023	None
Lisa Fenton	May 31, 2023	May 30, 2023	None
Dr. Anna Graczyk, ND	May 31, 2023	May 30, 2023	None
Tiffany Lloyd	May 31, 2023	June 9, 2023	None
Dr. Denis Marier	May 31, 2023	May 29, 2023	None
Sarah Griffiths-Savolaine	May 31, 2023	May 29, 2023	None
Paul Philion	May 31, 2023	May 24, 2023	None
Dr. Jacob Scheer, ND	May 31, 2023	May 29, 2023	None
Dr. Jordan Sokoloski, ND	May 31, 2023	May 24, 2023	None

A copy of each Council members' Annual Declaration Form is available on the College's website.

Updated: June 13, 2023

[1] Each year, the Council begins anew in May at its first Council meeting. This date will typically be the date of the first Council meeting in the cycle unless the individual was elected or appointed.

The College of Naturopaths of Ontario

Report from the Council Chair
January 2024

This is the fourth Chair's Report of six for the current Council cycle and provides information for the period from November 1, 2023 to December 31, 2023.

In November, Andrew and I participated in the In Conversation With series with a session focusing on the role of the College vs the OAND. We were joined by OAND CEO Christine Charnock and Board Chair Dr. Cyndi Gilbert, ND. The session highlighted the distinct roles of our organizations and the ways that we can work together in the public interest. Several topics were discussed from the perspective of each organization including accountability, collaboration, and scope of practice. The session was well received by attendees.

Wishing you all the best for 2024 and reminding you not to hesitate to reach out should you have any questions or wish to discuss anything related to our work.

Respectfully submitted,

Dr. Jordan Sokoloski, ND
Council Chair
23 January 2024

REGULATORY OPERATIONS REPORT
HIGHLIGHTS

The following are the highlights of the Regulatory Operations Report presented for the period ending December 31, 2023.

Registration

As of December 31, 2023, the College had 1657 Registrants in good standing who held a General class certificate of registration and 170 who held an Inactive class certificate or registration. There are also 25 Life Registrants.

Entry-to-Practice

In this period, there were 20 new applications received and 27 certificates of registration issued. There are presently 16 applications in process.

Examinations

The College examinations are operating as anticipated. In November-December the College held a sitting of the IVIT Examination with 22 candidates sitting the exam.

Quality Assurance

In this reporting period, 25 Peer & Practice Assessments were completed. The original pool of randomly selected registrants included 100 individuals; however, 12 were removed based deferrals, change of class or retirement and 3 assessments were ordered by the Committee. This means a total of 91 assessments are required to be completed for the year and 86 of those have been completed.

With respect to the Continuing Education Reports to be filed by registrants, 464 registrants are included in the group and all have completed their submissions.

Inspection Program

This program is presently conducting inspections for two distinct purposes. The first are inspections of new premises, which occur in two parts. A single Part I inspection and two Part II inspections were completed in this reporting period.

The second are inspections conducted after the 5th anniversary of the initial inspection as required by the Regulation. A total of 56 second inspections are required this year, five of these inspections were completed in this reporting period and 27 have been completed this far this year.

Under this program, the College also receives occurrence reports when patients have adverse reaction to the administration of IVIT. A total of three Type 1 occurrence reports were received in this reporting period. All Type 1 Occurrence Reports are reviewed by the Inspection Committee.

Complaints and Reports

Typically, each year the College will receive approximately 20 complaints and initiates another 20 of its own investigations. Between November-December, the College received no new complaints and initiated one new Report. Most common concerns were related to advertising, record keeping, and scope of practice. Four files were also completed by the ICRC; however, none of these were referred to the Discipline Committee. There are presently 16 ongoing matters before the ICRC.

Hearings

Three matters had been referred to the Discipline Committee in the prior year, one of which was completed in July/August. No pre-hearing conferences and no hearings were conducted during this reporting period and one of the hearings commenced as a contested hearing and remains on-going.

Respectfully submitted,

Andrew Parr, CAE
Chief Executive Officer
January 2024

The College of Naturopaths of Ontario

Report on Regulatory Operations

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.1 Regulatory Activity: Registration							
Registrants (Total)	1859	-9	3				**1880**
General Class (Total)	→ → → → → → → → → → → → → →						**1677**
In Good Standing	*1633*	*-3*	*2*	*25*			*1657*
Suspended	*20*	*-3*	*0*	*3*			*20*
Inactive Class (Total)	→ → → → → → → → → → → → → →						**178**
In Good Standing	*170*	*0*	*1*	*-1*			*170*
Suspended	*12*	*-3*	*0*	*-1*			*8*
Emergency Class (Total)	→ → → → → → → → → → → → → →						***0***
In Good Standing	*0*	*0*	*0*	*0*			*0*
Suspended	*0*	*0*	*0*	*0*			*0*
Life Registrants	24	0	0	1			*25*

Changes in Registration Status Processed (Total)							**45**
Suspensions	8	0	1	3			12
Resignations	2	0	3	1			6
Revocations	5	2	0	0			7
Reinstatements	1	0	0	4			5
Class Changes (Total)	→ → → → → → → → → → → → → →						15
General Class to Inactive Class	5	1	2	1			9
Inactive Class to General Class	1	1	1	2			5
Any Class to Life Registrant Status	0	0	0	1			1
Emergency Class to General Class	0	0	0	0			0

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
Professional Corporations (Total)							**119**
Professional Corporations approved from prior periods	→ → → → → → → → → → → → → →						113
New applications approved	2	0	3	1			6
PC Renewals							
Renewed	20	19	13	24			76
Not Yet Renewed in this period	→ → → → → → → → → → → → → →						36
Revoked	0	0	1	0			1
Resigned/Dissolved	0	0	0	0			0

1.2 Regulatory Activity: Entry-to-Practise

Total ETP Applications							**16**
On-going applications from prior period(s)	→ → → → → → → → → → → → → →						21
New applications received	9	0	20	20			49
Certificates issued	22	3	2	27			54
Applications Currently before the Registration Committee							**0**
Referrals from prior period	→ → → → → → → → → → → → → →						0
New referrals	3	1	1	1			6
Decisions Issued	3	1	1	1			6
Registration Committee Outcomes							**6**
Approved	3	1	1	1			6
Approved – TCLs	0	0	0	0			0
Approved – Exams required	0	0	0	0			0
Approved – Education required	0	0	0	0			0
Denied	0	0	0	0			0

Prior Learning and Recognition Program Activities in Process							**0**
Applications from prior period	→ → → → → → → → → → → → → →						1
New applications received	0	0	0	0			0
Decisions rendered on applications	0	0	1	0			1

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.3 Regulatory Activity: Examinations							
Examinations Conducted							
Ontario Clinical Sciences Examination							
Exam sittings scheduled	0	1	0	0			1
Exam sittings held	0	1	0	0			1
Number of candidates sitting exam	0	77	0	0			77
Ontario Biomedical Examination							
Exam sittings scheduled	0	0	1	0			1
Exam sittings held	0	0	1	0			1
Number of candidates sitting exam	0	0	78	0			78
Ontario Clinical Practical Examination							
Exam sittings scheduled	0	1	1	0			2
Exam sittings held	0	1	1	0			2
Number of candidates sitting exam	0	53	43	0			96
Ontario Therapeutic Prescribing Examination							
Exam sittings scheduled	1	0	1	0			2
Exam sittings held	1	0	1	0			2
Number of candidates sitting exam	45	0	46	0			91
Ontario Intravenous Infusion Examination							
Exam sittings scheduled	1	0	0	1			2
Exam sittings held	1	0	0	1			2
Number of candidates sitting exam	22	0	0	22			44
Examination Appeals							
Ontario Clinical Sciences Examination Appeals (Total)							1
Appeal Granted	0	0	0	1			1
Appeal Denied	0	0	0	0			0
Ontario Biomedical Examination Appeals (Total)							2
Appeal Granted	0	0	0	2			2
Appeal Denied	0	0	0	0			0
Ontario Clinical Practical Examination Appeals (Total)							0
Appeal Granted	0	0	0	0			0
Appeal Denied	0	0	0	0			0

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
0ntario Therapeutic Prescribing Examination							0
Appeal Granted	0	0	0	0			0
Appeal Denied	0	0	0	0			0
Ontario Intravenous Infusion Examination Appeals (Total)							0
Appeal Granted	0	0	0	0			0
Appeal Denied	0	0	0	0			0

Exam Questions Developed (Total)							**93**
CSE questions developed	0	0	0	0			0
BME questions developed	0	93	0	0			93

1.4 Regulatory Activity: Patient Relations							
Funding applications							
New applications Received							0
Funding application approved	0	0	0	0			0
Funding applilcation declined	0	0	0	0			0
Number of Active Files							**1**
Funding Provided	$691	$1,610	$500	500			$3,301

1.5 Regulatory Activity: Quality Assurance							
Peer & Practice Assessments (Remaining for Year)							5
Pool selected by QAC	→ → → → → → → → → → → → → →						100
Deferred, moved to inactive or retired (removed from	0	-8	-4	0			-12
Assessments ordered by QAC, i.e. outside of random	1	2	0	0			3
Total Number of Assessment for the Year.	→ → → → → → → → → → → → → →						91
Completed (Y-T-D)	0	14	47	25			86

Quality Assurance Committee Reviews							
Assessments reviewed by Committee	0	0	0	0			**5**
Satisfactory Outcome	0	0	5	0			5
Ordered Outcome (SCERP, TCL, etc.)	0	0	0	0			0

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
CE Reporting							
Number in group	0	0	464	0			464
Number received	0	0	463	1			464
Number of CE Reports with deficiencies	0	0	0	0			

QAC Referrals to ICRC	1	0	0	0			1

1.6 Regulatory Activity: Inspection Program

Registered Premises (Total Current)							**156**
Total Registered from prior year (as of May 1)	→ → → → → → → → → → → → → →						148
Newly registered	4	2	3	5			14
De-registered	6	0	0	0			6
Inspections of Premises							
New Premises							
Part I Completed	3	3	1	2			9
Part II Completed	6	1	2	2			11
5-year Anniversary Inspections							
Premises requiring 5-year inspection	→ → → → → → → → → → → → → →						56
Completed	8	4	10	5			27
Inspection Outcomes							
New premises-outcomes (Parts I & II)							
Passed	6	8	4	5			23
Pass with conditions	5	4	0	1			10
Failed	0	0	0	0			0
5-year Anniversary Inspection Outcomes							
Passed	8	5	5	8			26
Pass with conditions	3	4	1	4			12
Failed	0	0	0	0			0

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
Type 1 Occurrence Reports (Total Reported)							**12**
Patient referred to emergency	2	1	3	3			9
Patient died	0	0	0	1			1
Emergency drug administered	1	0	1	0			2

1.7 Regulatory Activity: Complaints and Reports

Complaints and Reports (Total On-going)							**16**
Complaints carried forward from prior period(s)	→ → → → → → → → → → → → → → →						10
Reports carried forward from prior period(s)	→ → → → → → → → → → → → → → →						6
New Complaints	3	2	2	0			7
New Reports	0	3	1	1			5
Matters returned by HPARB	2	0	0	0			2
Complaints and Reports completed	5	2	3	4			14
ICRC Outcomes (files may have multiple outcomes)							
Letter of Counsel	0	1	1	2			4
SCERP	0	0	0	0			0
Oral Caution	0	1	1	0			2
SCERP & Caution	3	0	1	2			6
No action needed	1	0	0	0			1
Referred to DC	0	0	0	0			0
Summary of concerns (files may have multiple concerns)							
Advertising	0	2	2	1			5
Failure to comply	0	0	0	0			0
Ineffective treatment	3	1	2	0			6
Out of scope	0	0	0	1			1
Record keeping	0	0	0	1			1
Fees & billing	2	1	1	0			4
Lab testing	0	0	1	0			1
Delegation	0	0	0	0			0
Harassment	0	0	0	0			0

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
QA Program comply	0	1	0	0			1
C&D compliance	0	0	0	0			0
Failure to cooperate	0	0	0	0			0
Boundary issues	0	0	0	0			0
Practising while suspend.	0	1	0	0			1
Unprofessional, unbecoming conduct	0	0	0	0			0
Other	0	0	0	0			0

1.8 Regulatory Activity: Unauthorized Practitioners

Cease and Desist Letters							
Letters Issued	2	1	1	1			5
Letters signed back by practitioner	1	0	0	1			2
Injunctions from Court							
Sought	0	1	0	0			1
Approved	0	0	0	0			0

1.9 Regulatory Activity: Hearings

Matters Referred by ICRC							
Referrals to the Discipline Committee (Total)							3
Referrals from prior period	→ → → → → → → → → → → → → →						3
New referrals	0	0	0	0			0
Referrals to the Fitness to Practise Committee (Total)							0
Referrals from prior period	→ → → → → → → → → → → → → →						0
New referrals	0	0	0	0			0

Disciplinary Matters							
Pre-hearing conferences							
Scheduled	1	1	0	0			2
Completed	0	2	0	0			2
Discipline hearings							
Contested	0	0	0	1			1
Uncontested	0	1	0	0			1

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
Outcomes of Contested Matters							
Findings made	0	0	0	0			0
No findings made	0	0	0	0			0
FTP Hearings							
Finding of incapacitated	0	0	0	0			0
No finding made	0	0	0	0			0

1.10 Regulatory Activity: Regulatory Guidance							
Inquiries Received (Total)							**387**
E-mail	65	49	57	53			224
Telephone	38	24	55	46			163
Most Common Topics of Inquiries							
Scope of practice	9	5	7	6			27
Conflict of interest	4	3	0	0			7
Tele-practice	11	9	5	9			34
Inspection program	0	4	5	4			13
Patient visits	7	0	6	5			18
Advertising	0	0	0	3			3
Lab testing	6	9	6	11			32
Notifying patients when moving	0	0	0	0			0
Fees & billing	0	4	15	9			28
Record keeping	9	4	8	9			30
Consent and Privacy	5	0	0	4			9
Grads Practising with Registrant	0	0	7	0			7
Injections	7	0	0	3			10
Discharging a patient	0	0	0	0			0
Registration & CPR	0	0	0	0			0
Prescribing	4	4	0	0			8
Delegation and Referrals	6	3	6	0			15
Endorsements	0	3	0	0			3

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.11 Regulatory Activity: HPARB Appeals							
Registration Committee Decisions before HPARB							**0**
Appeals carried forward from prior period	→ → → → → → → → → → → → → →						
New appeals filed with HPARB	0	0	0	0			0
Files where HPARB rendered decision	0	0	0	0			0
HPARB Decisions on RC Matters							
Upheld	0	0	0	0			0
Returned	0	0	0	0			0
Overturned	0	0	0	0			0
ICRC Decisions before HPARB (Total current)							**2**
Appeals carried forward from prior period	→ → → → → → → → → → → → → →						2
New appeals filed with HPARB	0	1	1	0			2
Files where HPARB rendered decision	2	0	0	0			2
HPARB Decisions on ICRC Matters							
Upheld	0	0	0	0			0
Returned	2	0	0	0			2
Overturned	0	0	0	0			0

1.12 Regulatory Activity: HRTO Matters							
Matters filed against the College							
Matters in progress from prior period(s)	1	0	0	0			1
New matters	0	0	0	0			0
Matters where HRTO rendered a decision	0	0	0	0			0
HRTO Decisions on Matters							
In favour of applicant	0	0	0				0
In favour of College	0	0	0				0

BRIEFING NOTE
Committee Terms of Reference

PURPOSE: To seek direction from the Council on potential changes to the Committee Terms of Reference.

OUTCOME A decision made that provides direction for the Council's preferred approach.

NATURE OF DECISION ❒ Strategic ❒ Regulatory Processes & Actions ☑ Other (Governance)

PROCESS:

Activity:	A review of the briefing with discussion to follow.		
Results:	A decision that provides direction.		
Overall Timing:	How much time is allocated on the agenda for this item.		
Steps/Timing:	**1.**	Review of the briefing note.	5 minutes
	2.	Discussion by Council	15 minutes
	3.	Motion and vote	5 minutes

BACKGROUND:

The Council established GP06 – Committee Principles in 2013 and has amended the policy from time-to-time since then. Attached to and forming a part of the policy are the terms of reference for each of the Statutory and Non-statutory (Council) Committees.

In mid-2023, the Governance Policy Review Committee (GPRC) asked each of the Committees to review their terms of reference and to provide any feedback to the Committee for review, consideration and presentation to the Council. Several issues have arisen from this process on which the GPRC is now seeking guidance before entertaining any further discussions with the Committees and potential changes to the terms of reference.

DISCUSSION POINTS:

<u>Uniformity in Content and Approach</u>

Thus far, the Council has taken an approach to Committee terms of reference that they are all essentially written the same or in highly consistent ways. The intent was likely based on a) ease of understanding, i.e., they are all written the same way with the same intended approach and b) changes in one committee could readily to be cascaded to all the others.

The challenge in maintaining this approach is simply that each of the committees are somewhat nuanced based on the *Regulated Health Professions Act, 1991*, the Health Professions Procedural Code (the Code) or individual regulations governing the Committee, i.e., the Quality Assurance Regulation vis-à-vis the Quality Assurance Committee.

The GPRC is now seeking the agreement of the Council to take an approach that similar wording will be used where it is reasonable to do so; however, each Term of Reference will be guided by the nature and requirements for that Committee.

Meeting in Panels

It has been noted that in some but not all the terms of reference of Committees, the Committees are authorized to meet in panels. In those instances where the terms of reference do authorize panels, not all the Committees use this approach. The authority to meet in panels is established either in the Health Professions Procedural Code or Regulations made under the *Naturopathy Act, 2007*. Appendix 1 sets out whether a committee is permitted to meet in panels and the authority for doing so. This is summarized as follows:

Committee	Authorized	Not Authorized
Discipline Committee	☑	
Executive Committee		☑
Fitness to Practice Committee	☑	
Inquiries, Complaints and Reports Committee	☑	
Quality Assurance Committee	☑	
Patient Relations Committee		☑
Registration Committee	☑	

It is important to note that none of the non-statutory (Council) committees are authorized to meet in panels.

When authorizing panels, the Health Professions Procedural Code typically sets out the approach as mandatory. That is, the Code authorizes panels to make decisions set out in the Code rather than a full committee. As example, sections 25(1) and 26(1) of the Code, in respect of panels of the ICRC, state that:

> 25 (1) **A panel shall** be selected by the chair of the Inquiries, Complaints and Reports Committee from among the members of the Committee to **investigate a complaint** filed with the Registrar regarding the conduct or actions of a member or to consider a report that is made by the Registrar under clause 79 (a). 2007, c. 10, Sched. M, s. 30. [emphasis added]
>
> 26 (1) **A panel**, after investigating a complaint or considering a report, considering the submissions of the member and making reasonable efforts to consider all records and documents it considers relevant to the complaint or the report, **may do any one or more of the following**:… [emphasis added]

This is true for all the above noted authorized panels except the Quality Assurance Committee (QAC). On the other hand, the Quality Assurance Regulation authorizes the QAC to meet in panels but does not make it mandatory to do so.

Considering these provisions, it is important to note that the Discipline, Fitness to Practice, ICRC, and Registration Committees must meet in panels to make regulatory decisions pertaining to registrants of the College. However, on matters that are within the jurisdiction of the Committees but not related to registrants, Committees have the authority to make decisions as opposed to panels.

This allows the Council to make distinctions between matters that can be determined by the Committees versus matters that must be decided by the panels. This may have advantages for the Council in terms of other matters.

Inclusion of Public members in Quorum Requirements for Panels

Quorum requirements, the minimum number and types of Committee members who must be present to conduct business, are addressed on two levels: a) the Committee when it meets and b) panels of the Committee when such panels are established.

Quorum requirements are distinguished from composition requirements, the number and types of individuals who must be appointed to the Committee or, where appropriate, panels of the Committee.

Both composition and quorum requirements may be set out in the Code, a Regulation or the Terms of Reference established by the Council. Wherever the Code requires that a certain number and type of individual must be appointed to a committee or a panel and wherever the Code requires that a certain number or type of individual must be present to conduct business, these requirements are mandatory and may not be lowered or removed. For example, if the Code requires that three people be present for a panel to conduct its business, that requirement cannot be lowered to two by the Council.

It has been noted that in some instances the terms of reference of a committee established by the Council may add requirements for the purposes of quorum that do not necessarily exist in the Code. For example, the Terms of Reference for the Registration Committee include quorum requirements for a panel of the Committee must include a Public member. The Code merely requires three members of the panel be present. Part II of Appendix 1 compares the composition and quorum requirements of each of the Statutory Committees.

In speaking with legal counsel, the general advice is that the Council cannot reduce the requirements set out in the Code; however, it can add requirements such as a requirement that a Public member be present for the purposes of quorum of a Committee or a panel.

Several Committees have noted that requirements for a Public member to be present for the purposes of a panel are proving to be challenging to the business of the Committee panels. They have asked that the Council reconsider, especially given the small number of Public members available to the College.

ANALYSIS

Risk Assessment – The risk assessment is based on the document *Understanding the Risk Analysis Terminology,* a copy of which is included in the Information Items of the Consent Agenda. Only those risks that have been identified will be addressed.

- Operational risk: Two operational risks come into play on this issue:
    - Process – it is important that the Committees and their panels a) have clearly defined duties and responsibilities, and b) be able to perform the duties assigned to them. Proposed changes to the terms of reference would improve the way the duties of committees and panels are articulated, thereby potentially improving process. Issues have arisen where the absence of a Public member on a panel has had the potential to stop the panel from completing its work in situations where the Code would not have imposed this difficulty.
    - External events – there is a risk that volunteers appointed to committees or panels become unavailable to perform their duties and impact the ability of the committees or panels to do the tasks required of them. Public members are also appointed by the Lieutenant Governor and when turnover of a Public member occurs, the timeliness of a new appointment varies and is dependent on the office of the Lieutenant Governor.
- Strategic risk: One strategic risk should be considered:

- Reputation – there is a risk that the Council may be seen as reducing the importance of public participation in the process. This is balanced by the need for the College Committees and their panels to complete the tasks required of them. The proposed approach is attempting to maintain the importance of the public voice in the business of the Committees and while wanting the public voice on panels (evident by the composition requirements), the inability of a small number of Public members to participate cannot be seen to hamper the performance of the regulatory duties of the College.

Privacy Considerations – There are no privacy considerations related to this issue.

Transparency – The transparency assessment is based on the document *Understanding the College's Commitment to Transparency*, a copy of which is included in the Information Items of the Consent Agenda. Only those transparency principles that are relevant have been identified and addressed.

- Information to foster trust – well-designed and clearly articulated terms of reference that meet the needs of the Council and its Committees foster trust because they set out the duties, responsibilities, appointment requirements and quorum requirements. By publishing these, the Council also encourages accountability.

Financial Impact – There is no immediate financial impact from this decision.

Public Interest – The public interest assessment is based on the document *Understanding the Public Interest*, a copy of which is included in the Information Items of the Consent Agenda. Only those relevant factors have been identified and addressed.

It is generally accepted that good governance practices serve the public interest. Good governance includes clearly articulated terms of reference that address such things as duties, composition, quorum; however, the terms of reference themselves must not be barriers to the ability of the Committees and panels to perform the tasks assigned.

EDIB – The Council and the College have made a commitment to equity, diversity, inclusion and belonging generally and to ensuring that its policies and programs do not include any elements of racism and promote EDIB principles. With respect to this matter, a review of the EDIB checklist provided by the EDIC has been completed and the proposed changes set out in this briefing do not impact the EDIB initiatives of the Council.

RECOMMENDATIONS

Based on the information provided to the Committee, the Governance Policy Review Committee is making the following recommendations to the Council with respect to the Committees Terms of Reference:

1. Although it is beneficial in terms of clarity that there be a high degree of similarity between the Committees Terms of Reference, it is not necessary that they be the same and that the Terms of Reference should prioritize addressing key matters for the Committee first and foremost.
2. For those committees where the Code or a regulation authorizes meeting in panels, the terms of reference should enable panels to make a distinction between the duties or responsibilities of the Committee versus those of the panel.
3. Where panels of a committee are established, the quorum requirement should duplicate those that are set out in the Code or regulation and remove the requirement for a Public member to be in attendance. Public member presence will be required with respect to the quorum of the Committee itself when meeting on Committee matters.

Andrew Parr, CAE
Chief Executive Officer
January 2024

Appendix 1

Part I: Authority for Panels of Commitees

Registra﬩on Commitee (RC)

There is an argument to be made that the Registra﬩on Commitee must meet in panels. Sec﬩on 17 (1) of the Code says:

> 17 (1) An applica﬩on for registra﬩on referred to the Registra﬩on Commitee or an applica﬩on referred back to the Registra﬩on Commitee by the Board **shall be considered by a panel** selected by the chair from among the members of the Commitee. 1991, c. 18, Sched. 2, s. 17 (1); 2007, c. 10, Sched. M, s. 24 (1). [emphasis added]
>
> And
>
> 18 (2) A﬩er considering the applica﬩on and the submissions, **the panel may make an order** doing any one or more of the following:… [emphasis added]

In light of this wording, it might be interpreted that the panel is granted authority under the Code that the Commitee does not have.

Inquiries, Complaints and Reports Commitee (ICRC)

The ICRC regularly meets in panels, even when the Chair appoints all members of the Commitee to a panel. This is based on the wording set out in the Code:

> 25 (1) **A panel shall** be selected by the chair of the Inquiries, Complaints and Reports Commitee from among the members of the Commitee to **inves﬩gate a complaint** filed with the Registrar regarding the conduct or ac﬩ons of a member or to consider a report that is made by the Registrar under clause 79 (a). 2007, c. 10, Sched. M, s. 30. [emphasis added]
>
> And
>
> 26 (1) **A panel**, a﬩er inves﬩ga﬩ng a complaint or considering a report, considering the submissions of the member and making reasonable efforts to consider all records and documents it considers relevant to the complaint or the report, **may do any one or more of the following**:… [emphasis added]

Discipline Commitee (DC)

Similarly, the Discipline Commitee always meets in panels when conduc﬩ng a hearing; however, the en﬩re Commitee cannot be appointed to a hearing panel due to size limita﬩ons set out in the Code, i.e., a panel can be a maximum of five persons. The wording of the Code supports an approach that dis﬩nguishes between the role of the Commitee and the role of a panel of the Commitee.

38 (1) The chair of the Discipline Commitee shall select a panel from among the members of the Commitee to hold a hearing of allega﷯ons of a member's professional misconduct or incompetence referred to the Commitee by the Inquiries, Complaints and Reports Commitee. 1991, c. 18, Sched. 2, s. 38 (1); 2007, c. 10, Sched. M, s. 35.

In point of fact, all of the language in the Code surrounding hearings is based on language se﷯ng out the role and powers of the panels.

Fitness to Prac﷯se (FTPC)

The College's Fitness to Prac﷯se Commitee has not had a hearing to-date. However, the wording of the Code would suggest that if and when it does, the role and power is also vested in panels of the Commitee as opposed to the Commitee as a whole.

64 (1) The chair of the Fitness to Prac﷯se Commitee shall select a panel from among the members of the Commitee to hold a hearing of any mater referred to the Commitee by a panel of the Inquiries, Complaints and Reports Commitee. 1991, c. 18, Sched. 2, s. 64 (1); 2007, c. 10, Sched. M, s. 47 (1).

Quality Assurance Commitee (QAC)

The Code does not refer to panels in the context of the Quality Assurance Commitee in describing the Commitee's role and powers.

80.1 A quality assurance program prescribed under sec﷯on 80 shall include,…
And
80.2 (1) The Quality Assurance Commitee may do only one or more of the following:…
And
81 The Quality Assurance Commitee may appoint assessors for the purposes of a quality assurance program. 1991, c. 18, Sched. 2, s. 81.

Based on the Code, it is not necessary for the QAC to meet in panels, however, the Council does have the Quality Assurance (QA) Regula﷯on to contend with. The QA Regula﷯on says:

3. (1) A panel of the Commitee shall be composed of at least three persons, at least one of whom shall be a member of the Council that was appointed to the Council by the Lieutenant Governor in Council and at least one of whom shall be a member of the College. O. Reg. 33/13, s. 3 (1).

(2) Two members of a panel of the Commitee cons□tute a quorum, as long as at least one of the members is a member of the Council who was appointed by the Lieutenant Governor in Council and one of the members is a member of the College. O. Reg. 33/13, s. 3 (2).

However, no other provisions of the Regula□on speak to the role of the panels but rather, it speaks to what the Commitee will do. For example,

7. (1) Each year, the Commitee shall select members to undergo peer and prac□ce assessments in order to assess the members' knowledge, skill and judgment. O. Reg. 33/13, s. 7 (1).
And
7. (3) The Commitee shall appoint an assessor to carry out the peer and prac□ce assessment which may include, but is not limited to, inspec□ng the member's records described in subsec□on 6 (1). O. Reg. 33/13, s. 7 (3).
And
7. (6) If, a□er considering the assessor's report and any other informa□on relevant to the assessment, the Commitee is of the opinion that the member's knowledge, skill or judgment is not sa□sfactory, the Commitee shall provide no□ce to the member of,….

Given this language in the Regula□on, there is no mandatory requirement that the Commitee meets in panels and while the Regula□on may enable it and mandates their composi□on, there is no catalyst for using panels.

Conclusions and Approach

Based on the language of the Code and the prac□ce established by the ICRC, Registra□on Commitee , Discipline and Fitness to Prac□se Commitees must meet in a panel in order to exercise the powers given to them in the Code. None of the Quality Assurance Commitee, Execu□ve Commitee or the Pa□ent Rela□ons Commitee have similar requirements and therefore do not meet in panels.

Notwithstanding these conclusions, the fact that only panels of several commitees can exercise the authority of the Code presents itself with an opportunity in respect of the terms of reference. For ICRC, RC, DC, FTP and QAC, it is possible in the terms of reference to dis□nguish between the role of the Commitee and the role of the panel. In so doing, different quorum requirements can be established where the presence of a public member needs to be met.

Part II: Quorum Requirements

Commitee	Requirements in Code				Terms of Reference (TofR)			
	Commitee Composi&#xfffd;on	Commitee Quorum	Panel Composi&#xfffd;on	Panel Quorum	Commitee Composi&#xfffd;on	Commitee Quorum	Panel Composi&#xfffd;on	Panel Quorum
Registra&#xfffd;on	None	None	Min of 3 1 is PM[1]	3	Min 3 - 1 PM - 1 Reg. - PR	3 - 1 PM or PR	Min of 3 - 1 is PM	3 - 1 is PM
ICRC	None	None	Min of 3 - 1 is PM	3	Min 3 - 1 PM - 1 Reg. - PR	3 - 1 PM or PR	Min of 3 - 1 is PM	3 Per Code
Discipline	None	None	Min 3, max 5 - 2 are PM - 1 Reg. on Council	3 - 1 is PM	Min of 5 - Reg. on Council - 2 PM - 2 Regs. - PR[2]	3 - 1 PM or PR	Min 3, max 5 - 2 are PM - 1 Reg. on Council	3 - 1 is PM
FTP	None	None	Min of 3 - 1 is PM	3	Min of 5 - 1 are PM - 2 Regs - PR	3 - 1 PM	Per Code	3 - 1 is PM
Pa&#xfffd;ent rela&#xfffd;ons	None	None	None	None	Min 3 - 1 Reg. - PR	3 - 1 PM or PR	Does not say	Does not say
QAC	None	None	None	None	--		--	--
QAC **(in Reg.)**	None	None	Min of 3 - 1 is PM	2 - 1 is PM	Min 3 - 1 PM - 1 Reg. - PR	3 - 1 PM or PR	Does not say	Does not say

Analysis

[1] PM means Public member, a Council member appointed by the Lieutenant Governor in Council.
[2] PR means Public Representa&#xfffd;ve, a member of the public appointed by the Council.

Commitee	Differences	Recommendaon
Registraon Commitee	Commitee composion does not exist in Code.	No change, it is proper to do so in the TofR.
	Commitee quorum does not exist in Code. It requires a Public member or Public Representave be present. Note that the Public Representave does not count for panel quorum.	
	Quorum for a panel requires a Public member in TofR but not in Code.	Adjust TofR to match code.
ICRC	Commitee composion does not exist in Code.	No change, it is proper to do so in the TofR.
	Quorum for panel does not require a Public member.	No change.
Discipline Commitee	Quorum requirements match Code.	No change.
FTP	Quorum for panel requires a Public member beyond Code requirements.	Adjust TofR to match code.
Paent Relaons	Does not meet in panels.	
QAC	TofR do not match QA Reg.	Adjust TofR.

BRIEFING NOTE
Council Annual Governance Evaluation

PURPOSE: To seek direction from the Council on the next steps to be taken surrounding the Council annual evaluation process.

OUTCOME A decision made that provides direction for the Council's preferred approach.

NATURE OF DECISION ❒ Strategic ❒ Regulatory Processes & Actions ☑ Other (Governance)

PROCESS:

Activity:	A review of the briefing with discussion to follow.		
Results:	A decision that provides direction.		
Overall Timing:	How much time is allocated on the agenda for this item.		
Steps/Timing:	**1.**	Review of the briefing note.	5 minutes
	2.	Discussion by Council	15 minutes
	3.	Motion and vote	5 minutes

BACKGROUND:

The Council established GP16 – Governance Evaluation in 2013 and has since amended the policy from time-to-time. The policy currently requires that the Council undertake a governance evaluation that includes three elements:

- A general performance assessment of the Council and of each of its Committees,
- An individual self-assessment by each Council and Committee member, and
- A peer assessment conducted by each Council and Committee member on each of their peers on Council and each Committee.

This approach is aligned with good governance practices of Boards and with the practice expectations set out within the College Performance Measurement Framework (CPMF).

The policy requires the evaluations to be supported by an independent third-party consultancy, which for the past three years has been Satori Consulting Inc. The evaluation has been conducted through an extensive on-line survey conducted by Satori Consulting with follow-up presentations to the Council and each Committee as well as with individual one-on-one coaching sessions with Council and Committee members.

Although participation was initially very strong, it has dwindled slightly over the past two years. Feedback from volunteers has increasingly expressed concerns about the amount of time that the evaluation survey process takes. In its most recent discussion on the topic, Council noted its own concerns about the length of time required for the process but was unclear about next steps.

Overall, the current evaluation process has provided important information to the Council and the Committees. The data provided year over year has minor shifts in already strong evaluations.

Council Self and Peer Evaluations

Indicator	2022 Score	2023 Score	Difference
Behaviour and relationships	8.96	9.15	0.19
Governance	8.70	8.90	0.20
Knowledge	8.43	8.74	0.30
Leadership	8.75	8.96	0.21

Council Effectiveness

Indicator	2022 Score	2023 Score	Difference
Council Effectiveness	8.77	8.51	(0.27)

The contract with Satori Consulting Inc. has now expired requiring that a decision on next steps be made. Additionally, given the feedback and results, this is the appropriate time to consider whether any changes are necessary to the evaluation process.

DISCUSSION POINTS:

There are several areas where decisions need to be made and each of these will lead to various options available to the Council. When reviewing all scenarios presented, Council might keep in mind that the intent of the process of governance evaluations is to ensure that at the Council/Committee levels, effectiveness is measured and at the individual level, the process is engaging and meaningful for all participants.

A. Immediate Actions Needed

I. Whether to do the evaluation this year?
Although the policy sets out that the evaluation will be undertaken annually, some organizations undertake these evaluations on two or even three-year cycles. The CPMF standard establishes a bi-annual process for governance evaluations.

Should the Council wish not to undertake the evaluation this year, it may do so by suspending the policy for one year (made by an approved motion of the Council) or asking the Governance Policy Review Committee (GPRC) to bring forward amendments to the policy instituting a bi-annual approach if that is the decision Council makes.

Options:
On the question of whether to continue with the evaluation, the Council has the following four options available to it:

1. Decide to proceed with a governance evaluation as set out in the policy (status quo).
2. Decide to proceed with an amended governance evaluation as determined by the questions and options posed in this briefing.
3. Suspend the evaluation for one year.
4. Ask the GPRC to bring forward amendments to the policy at the March Council meeting changing the cycle to a bi-annual process.

Important note: Should the Council select Option 2 above, the following matters must also be discussed to determine what an amended evaluation will include. Should the Council select any of Options 1, 3, or 4, the next steps are inherent in that decision and no further action is required at this time.

II. Consider Potential Contract Implications

Before considering the format for the future governance evaluation process, the Council needs to consider its next steps vis-à-vis its current provider.

As noted above, the three-year contract with Satori Consulting Inc. has expired. This leaves the Council with two options, either establish a new contract with Satori Consulting Inc. or go to the market to find a new provider. While there are some who believe it is always necessary and prudent to go to the market in these situations (by issuing a request for proposals (RFP) or request for quote (RFQ)[1]), it is not always advantageous to do so.

First and foremost, the RFP/RFQ process is time-consuming and labour intensive as it will require staff time to develop, issue and consolidate proposals and it will require Council time to participate in the evaluation process.

Second, going to the market might suggest to the current provider that the organization is not fully satisfied with their performance. Issuing an RFP or RFQ tends to result in the current provider not necessarily bidding. This can be avoided by alerting the provider that you would like them to submit a bid; however, from their perspective, it is also a great deal of work.

While the idea of an RFP or RFQ seems to be a good approach, the question is whether the market will have changed significantly in the past three years. In other words, a three-year contract is not necessarily a long-term contract and there is some reason to believe that, unless performance is of a poor quality, you typically renew a three-year contract for a second term before returning to the market.

Finally, when organizations receive an RFP/RFQ, especially if they have been an unsuccessful bidder in the past, it is common for them to make inquiries as to whether the process is indeed valid. Is a new provider being sought or is the RFP/RFQ being done because the process requires one.

In light of these considerations, it is not recommended that the Council direct the CEO to issue an RFP/RFQ solely for the purposes of process if the Council is satisfied with Satori Consulting Inc and is intending to remain with the current provider.

Options:
The options available to the Council on this question are to:

1. Direct the CEO to issue an RFP or RFQ for the governance evaluation process to seek bids that provide the best approach for the best value for money.
2. Direct the CEO to enter into a sole-source contract with Satori Consulting for an appropriate term to allow the governance evaluation process to be refined.

In the event that the Council should determine that an RFP or RFQ is warranted, the Council needs to identify 2-3 individuals from Council and/or the Committees willing to sit on an evaluation panel for the process.

B. Determining the Future Format of the Governance Evaluation

In determining what an amended governance evaluation process might be, there are many approaches. This briefing will enable the Council to consider each of the variables for which options are presented and the combined decisions will determine the actual process. The variables include:

- Who should participate in the evaluation?
- How often do people participate in the evaluation?

[1] Please refer to Appendix 1 for information that defines an RFP vs. RFQ.

- Are all three components necessary for each evaluation?

III. Who should participate in the evaluation process?

One of the variables in the evaluation process is the number of people who are expected to participate in the process. The greater the number of volunteers in the process each year, the greater the resources necessary to conduct the evaluation and feedback processes. Similarly, the greater the scope, i.e. Council versus some committees versus all committees, the greater the number of volunteers completing the evaluation, which again impacts resources.

The evaluation process includes two overlapping groups, Council members and Committee members. The burden on volunteers, however, is two-fold, for those on Council and Committees, the amount of work is doubled and for those on two or more committees, the amount of work is tripled or in some cases even quadrupled.

Options:

The Council has the following options when it comes to who should participate in the annual evaluation process in any given cycle:

1. Council members.
2. Statutory Committee members only.
3. Council Committee members only.
4. All Committee members only.

IV. How often do people participate in the evaluation?

How often any single individual or group of volunteers participates in the evaluation process is the next question to consider. Presently, all volunteers participate in the evaluation process every year. The theory behind this is that year-over-year, volunteers can see their own evaluation results and determine whether they have experienced improvements based on prior feedback. In practice thus far, the results do not demonstrate that this is the outcome, perhaps because most of the feedback seems to have been fairly positive.

Options:

The Council has the following options when it comes to the frequency in which any group of volunteers participates in the evaluation process:

1. All volunteers participate in the evaluation process annually.
2. Council volunteers participate in the evaluation process annually, committees bi-annually.
3. Both Council and Committee volunteers participate in the evaluation process bi-annually on a staggard basis, i.e. in opposite years.
4. Both Council and Committee volunteers participate in the evaluation process bi-annually on a staggard basis, i.e. in opposite years, however, committee volunteers are assigned to a single committee.

There are likely many more possible options; however, these are the most reasonable options based on the size of the groups and the complexity of the organization. It is noted that the option of breaking the Committees into Statutory vs. Council committees has been ruled out as the divide is somewhat false, i.e., there are not significant differences.

Also considered but ruled out was allowing volunteers to opt in or opt out of the evaluations. It has been ruled out as the pool of volunteers may potentially become too small either on a committee basis or an individual basis.

V. Are all three components necessary for each evaluation?

Finally, another variable is the scope of the evaluation itself. As noted above, the current evaluation includes:

- An evaluation of the Council by the Council and an evaluation of each Committee by Committee members,
- A self-assessment by each Council and committee member, and
- A peer assessment of each Council/Committee member by their colleagues on the Council and each of the Committees.

The peer assessment process is by far the most onerous part of the program in terms of individual volunteer effort and the resources of the College. Limiting this aspect in some way would change the degree of difficulty with the process.

Options:
The most viable options for the Council appear to be:

1. Have volunteers evaluate each of the Council and the Committees on which they sit, either at the same time or on alternate years.
2. Have volunteers evaluate each of the Council and the Committees on which they sit and conduct a self-assessment either at the same time or on alternate years.
3. Continue with the status quo.

C. Suggestions on how to put this all together.

While it would be ideal to leave the review and determination of these issues with the Council, it is recognized that the matter is complicated because there will be concerns about what would constitute best practices, what the "experts" believe to be the most effective approach and the impact on volunteers.

To assist the Council, the CEO and Director of Operations have met with Sandi Verrecchia, President of Satori Consulting Inc., to get her feedback on the issues and advice on approaches. In doing so, all the issues and options have been considered and the suggested approach is as follows:

Year	Council Assessment	Committee Assessment	Self & Peer Assessment*
2024	☑		
2025	☑	☑	☑
2026	☑		
2027	☑	☑	☑

* each committee volunteer would be assessed for only one Committee to which they are assigned by Consultants.

To summarize, this would mean:

- Every year, Council members would conduct an assessment of the Council based on its overall performance against established measures.
- Every second year, Council members would conduct a self-assessment and peer assessment of each of their colleagues on the Council.
- Every second year, starting in 2025, each Committee member would conduct an assessment of the Committees based on their overall performance against established measures.
- Also, every second year starting in 2025, each Committee member would conduct a self-assessment and peer assessment of each of their colleagues on the committee, noting however, that:
    - Council members would not evaluate their peers on committees because their priority task is evaluating other Council members, and
    - Committee members not on the Council would be assigned to one committee for the purposes of evaluating themselves and their peers on that committee.

The intent of the approach is to maintain the integrity of the process while reducing the amount of work any one volunteer might encounter. It may also have the benefit of reducing overall costs.

ANALYSIS

Risk Assessment – The risk assessment is based on the document *Understanding the Risk Analysis Terminology,* a copy of which is included in the Information Items of the Consent Agenda. Only those risks that have been identified will be addressed.

- Operational risk: Three operational risks come into play on this issue:
    - People – while we generally think of people in the context of employees, our volunteers are integral to the College's ability to complete its regulatory processes. Decisions made around governance evaluation may result in loss of volunteers who do not wish to undergo the burden of the process meaning new volunteers need to be sought to replace them. This could result in less effective and/or lower quality decision-making.
    - Process – failing to undertake the governance evaluation presents a process risk to the Council as it is not conducting necessary review or quality scorecards relating to its governance.
    - External events – there is also a risk that either Satori Consulting or another third party that could reasonably provide these services is not available or does not participate in an RFP process.
- Strategic risk: One strategic risk should be considered:
    - Reputation – there is risk to the reputation of the College in several ways. Failing to undertake an evaluation places it outside of the practices set out in the CPMF. It may seem like the College Council is not as interested in good governance of the Council and its Committees. Stakeholders and system partners may view the matter as one that creates mistrust in the College's governance abilities.

Privacy Considerations – There are no privacy considerations related to this issue.

Transparency – The transparency assessment is based on the document *Understanding the College's Commitment to Transparency*, a copy of which is included in the Information Items of the Consent Agenda. Only those transparency principles that are relevant have been identified and addressed.

- Information to foster trust – a well-designed and properly executed governance evaluation process fosters trust in the organization as it indicates the willingness and ability to identify governance issues and take actions to correct them.
- Consistent approaches – most of the Colleges have been or are beginning to undertake governance evaluations. A decision to step back from doing so would move the College away from this consistency in approach.

Financial Impact – The financial impact of this decision is significant. The College has paid an average of just under $62,000 annually for the governance evaluation process. It is anticipated that the new process would reduce those costs in the range of 30%-45%.

Public Interest – The public interest assessment is based on the document Understanding the Public Interest, a copy of which is included in the Information Items of the Consent Agenda. Only those relevant factors have been identified and addressed.

It is generally accepted that good governance practices serve the public interest. A governance evaluation process demonstrates a commitment to good governance practices and a willingness to identify and address governance issues.

EDIB – The Council and the College have made a commitment to equity, diversity, inclusion and belonging and to ensure that its policies and programs do not include any elements of racism and promote EDIB principles. With respect to this matter, moving forward EDIB has to be considered in the approaches being taken. For example,

- Culturally, it is not clear that an evaluation that incorporates self and peer assessments are necessarily approaches employed universally. Some consideration might be given in the future to whether the self and peer assessment processes and coaching are in keeping with the principles of inclusion and belonging.
- It is unclear whether the questions that are being asked through the survey have been viewed under an EDIB lens.
- We have already encountered situations where feedback from a volunteer has negatively impacted another volunteer, where the feedback may have been based on a conscious or unconscious bias.

Andrew Parr, CAE
Chief Executive Officer

Agnes Kupny
Director of Operations

January 2024

Appendix 1

Request for Proposals and Requests for Quotes

The terms Request for Proposals (RFPs) and Request for Quotes (RFQ's) are often used interchangeably; however, although they are similar in nature, they derive from slightly different process requirements.

Request for Quotes (Quotations) (RFQs)

A request for quotes is a document that is sent to the relevant market of vendors asking that they review the details set out in the document and provide a quote for the price to be paid by the College for those services.

Please note the following:

- The specifics of the services required must be set out in detail and be considered the only process to be followed by a successful vendor.
- Vendors are not required to or asked for opinions on the process to be followed.

In the current example, given the three-part approach of the governance evaluation and having Council determine who is evaluated in what way on the specified timeframe, lends itself to a Request for Quote. As such, Council has set it process out in detail and it will follow that process.

In an RFQ, there are only two evaluations points considered when awarding a contract:

1. Have they clearly understood and accepted the process defined in the RFQ;
2. What are the costs that have been quoted for the delivery of the services in the defined process.

Other considerations might be incorporated, such as relevant experience, references, members assigned to the vendors team; however, they are typically less important.

Request for Proposals (RFPs)

A Request for Proposals is used in situations where the process may be set but the organization is open to variations in that process as recommended by vendors or the process itself has not been clearly defined and Vendors are being asked to set out the approach they will take along with the associated costs.

In the current example, the Council would issue the RFP and set out the current three-part approach of the governance evaluation being used; however, it would invite Vendors to set out potential additions or changes to the process best on best-practices and experience.

In an RFP, there are many more evaluation points to be considered when awarding a contract:

1. Does the proposed process meet minimum requirements?
2. Is the proposed process understandable and usable by the organization?
3. What experience does the organization have in designing these services?
4. What relevant experience do the people from the organization assigned to the project have?
5. What do references who have used the vendor say about them?
6. What are the costs for the services.

Typically, all of the evaluation points would be weighted based on their importance and some evaluation points may be standardized, i.e., 20 points for lowest cost, 0 points for highest cost and the range in between.

BRIEFING NOTE
Educational Briefing – Registration Program

BACKGROUND

The College of Naturopaths of Ontario is established under the *Naturopathy Act, 2007* and the *Regulated Health Professions Act, 1991*. Its duty, as set out in the legislation, is to serve and protect the public interest. Its mandate is to support patients' rights to receive safe, competent, and ethical naturopathic care.

The College achieves its mandate by performing four key functions.

1. **Registering Safe, Competent, and Ethical Individuals -** The College establishes requirements to enter the practise of the profession, sets and maintains examinations to test individuals against these requirements, and register competent, ethical, and qualified individuals to practise naturopathy in Ontario.

2. **Setting Standards –** The College sets and maintains standards of practice that guide our registrants to ensure they provide safe, ethical, and competent patient care and guide patients to understand the standard of care that they can expect from a naturopath.

3. **Ensuring Continuing Competence –** The College creates and manages a variety of continuing education and professional development programs to help assure the provision of safe, competent, and ethical naturopathic care.

4. **Providing Accountability through Complaints and Discipline –** The College holds Ontario naturopaths accountable for their conduct and practice by investigating complaints and concerns and determining appropriate solutions, including disciplining naturopaths who have not upheld the standards.

Some elements of the College's role, such as setting standards and ensuring continuing competence, are proactive insomuch as they attempt to prevent issues from arising by setting minimum standards and ensuring a competent profession. Other elements of the College's role, such as registering individuals and holding naturopaths accountable, are reactive, that is, they are initiated only after an event occurs. The event may be a request to sit an exam or to become registered or a complaint that has been filed against a registrant.

When we do our job well, we have set rules that ensure safe care that benefits patients; we have registered the right people who are qualified and committed to providing safe, ethical and competent care; we have ensured that our registrants maintain their knowledge, skills and judgement; and we have held those who may have faltered to be accountable for their decisions and actions.

Other elements that will arise within the regulatory framework include "right touch regulation", using the approach that is best suited to the situation to arrive at the desired outcome of public protection, and risk-based regulation, focusing regulatory resources on areas that present the greatest risk of harm to the public. Both of these will be further elaborated upon in later briefings.

The focus of this briefing is on the Registration Program and processes of the College.

Registration Program

There are two sides of the Registration Program: Entry-to-Practise and Registration. Entry-to-Practise is the primary vehicle through which the College registers competent, ethical, and qualified individuals to practise naturopathy in Ontario. Through the Entry-to-Practise side, the College also administers its Prior Learning Assessment and Recognition (PLAR) program which assesses individuals who did not graduate from a program in naturopathy accredited by the Council on Naturopathic Medical Education (CNME), but who have a combination of education and experience which may be 'substantially equivalent' to that of a CNME-accredited program graduate.

On the Registration side, the College ensures registrants maintain their certificate of registration in accordance with applicable sections of the College's by-laws, the Registration Regulation and registration policies. This includes administering the annual collection of information and fee (registration renewal), auditing reported practise hours as part of ensuring ongoing currency of knowledge and skills and conducting audits of professional liability insurance and CPR certification information to ensure continued coverage for the protection of the public.

Registration is also the program which handles the processing of class changes, name changes and initial and renewal applications for professional corporations.

PLAR

Section 5 of the College's Registration Regulation sets out that individuals who have undergone an assessment method approved by Council which evidences that the applicant has the knowledge, skills, and judgment equivalent to those of a person who has successfully completed a CNME accredited program, are deemed to have met a portion of the eligibility criteria for issuance of a certificate of registration. This assessment method is the PLAR program.

To be eligible for assessment through the PLAR program, individuals must possess sufficient language proficiency in either English or French, have completed the equivalent of a Canadian Bachelor's degree in a healthcare discipline reasonably related to naturopathy, and must be able to provide proof of identity in accordance with College requirements.

PLAR assessments are conducted by trained PLAR assessors who are registered Ontario naturopaths and who have met the assessor criteria noted in the PLAR Program Policy. Decisions on a PLAR applicant's eligibility to move forward in the PLAR program and/or the final determination on whether the PLAR applicant may go on to complete entry-to-practise examinations and seek registration, rests with the PLAR Committee, comprised of professional members and public representatives.

The PLAR program uses a staged approach to appropriately assess whether a PLAR applicant possesses the requisite competencies for practising the profession in Ontario. These stages are:

- Stage 1: Paper-based assessment:
  Requires the PLAR applicant to match their education and experience against four mandatory naturopathic content categories and their supporting 25 content areas, and 20 general medical subject matter areas.

- Stage 2: PLAR Examination 1 (Biomedical Exam):
  Requires the PLAR applicant to demonstrate essential medical knowledge of body systems and their interactions, body functions, dysfunctions, and disease states.

- Stage 3: PLAR Examination 2 (Clinical Sciences Exam):
  Requires the PLAR applicant to demonstrate essential naturopathic competencies for the treatment of patients.

- Stage 4: Demonstration-based assessment –Structured Interview:
  Requires the PLAR applicant to demonstrate their understanding of fundamental research concepts and methodologies, with the review of a case study, and their ability to interpret and apply that information to a panel of PLAR assessors.

- Stage 5: Demonstration-based assessment –Interaction with a Standardized Patient:
  Requires the PLAR applicant to demonstrate their ability to apply naturopathic clinical competencies to real-life patient scenarios. These include communications skills, physical exam techniques, clinical practical skills, and professionalism.

Registration Eligibility Requirements
To be eligible for registration in the General class with the College, applicants must have either graduated from a CNME accredited program in naturopathy or have been deemed "substantially equivalent" through the College's PLAR program and have successfully completed requisite entry-to-practise examinations, both knowledge and practical-based. Applicants have two years to complete examinations and apply for registration; those who exceed this two year window are required to be assessed by a panel of the Registration Committee for any atrophy of skills or knowledge that may have occurred in the time since graduation or successful completion of the PLAR program, which must be remediated before a certificate of registration can be issued.

Section 3 of the Registration Regulation (Ontario Reg. 84/14) sets out the primary requirements which all applicants for registration are benchmarked against. These include provisions around language proficiency, good character (including criminal offences), prior conduct (including any refusals of licensure/registration), and capacity to practise (related to mental or physical health concerns).

Labour Mobility
Labour mobility, as defined by the Canadian Free Trade Agreement (CFTA) refers to the ability of certified workers to practise their regulated occupation, throughout Canada, wherever opportunities to work in that occupation exist.

Under the CFTA, practising naturopaths working in a regulated Canadian jurisdiction may apply for a certificate of registration in another regulated Canadian jurisdiction based on their existing registration.

Labour mobility provisions recognize an applicant's registration and practice time in another regulated jurisdiction as having satisfied basic, entry-to-practise requirements (e.g., entry-to-practise examinations with the exception of the Jurisprudence exam); however, it is not a transfer of registration, nor does it allow the applicant to bypass the entry-to-practise process.

Emergency Class
Effective August 2023, the College's Registration Regulation includes an emergency certificate class, which allows individuals who have graduated from an accredited program or have successfully completed the PLAR program, and who have successfully completed the Ontario Jurisprudence examination, no more than two years prior to their date of application for an Emergency class certificate of registration, to practise naturopathy with restrictions (as set out under subsection 6.1 of the Registration Regulation), including but not limited to supervised practise**.** As evidenced by the name, this class is intended to address emergency circumstances which impact the ability of individuals to become registered to practise the profession and as such this class is only opened under the following two circumstances: the Minister of Health requests that the College initiate registrations under this class

based on their opinion that emergency circumstances call for it, or the Council has determined, after taking into account all of the relevant circumstances that impact the ability of applicants to meet the ordinary registration requirements, that there are emergency circumstances, and that it's in the public interest that the College issue emergency certificates. This class of registration remains open as long as the emergency circumstances (as set out above) exist, otherwise the certificate expires on March 31st following the date of issuance.

Registrants in the emergency class who hold this certificate for more than two years may seek to change to the General class of registration, provided a panel of the Registration Committee is satisfied that the registrant has the knowledge, skill and judgement as would be expected of a registrant in the General class or who has successfully completed such additional education, training or examination requirements determined to be necessary by a panel of the Registration Committee. Those who hold an emergency class certificate of registration for less than two years are required to complete requisite entry-to-practise examinations to be eligible for registration in the General class.

Currently, this class of registration is closed, i.e., no emergency class certificates of registration are being issued.

Entry-to-Practise Process

The College's entry-to-practise process is broken into three separate steps to allow for the collection and review of information, documentation, and fees at appropriate points in an individual's progression from applicant to registrant.

- Step 1 – Pre-Registration
  Step 1 is an applicant's initial point of contact with the College. Data is collected on the Application for Pre-Registration form around identity, language proficiency, and information specific to the individual's intended stream of registration, whether as a CNME-accredited program graduate, PLAR applicant, or Labour Mobility applicant. It is at this stage that individuals complete the PLAR program or requisite examinations.

- Step 2 – Application for Registration
  At Step 2, applicants have completed their entry-to-practise requirements and make their formal application for registration to the College, signaling their intent to register with the College to practise the profession in Ontario. At this stage, applicants answer questions, make declarations, and submit documentation related to their education, additional languages spoken, prior conduct, criminal offences and record check, academic offences, good character, other professional registrations, CPR certification, and pay an application fee. It is at this stage where the applicant is either approved for Step 3 or referred to the Registration Committee for review.

- Step 3 – Issuance of a Certificate of Registration
  Having been deemed eligible for registration, the applicant is invited to complete the entry-to-practise process with the submission of proof of professional liability insurance, a photo for the public register (with guarantor form), and payment of the registration fee for that registration year. Upon receipt of the Step 3 documents and fee, the applicant is issued their registration number and can download their certificate of registration for display at their practice location.

During Steps 2 and 3 of this process, a minimum of three individuals (Coordinator, Manager and Director) review the data and documentation provided by the applicant against the Regulation and policy requirements for registration. In cases where an application is required to be referred to the Registration Committee for further review, a minimum of four individuals, with the addition of the Chief Executive Officer (CEO), review the documentation and information before it reaches the Registration

Committee.

Referrals to the Registration Committee
In accordance with section 15 of the Health Profession's Procedural Code (the Code), Schedule 2 of the *Regulated Health Professions Act, 1991*, the CEO has two options when reviewing an application for registration. They may register the individual or refer the individual to the Registration Committee.

Referrals are made when the CEO:

- has doubts, on reasonable grounds, about whether the applicant fulfils the registration requirements;
- is of the opinion that terms, conditions, or limitations should be imposed on a certificate of registration; or
- proposes to refuse the application.

Applicants whose applications are being referred to the Registration Committee are provided with a formal notice of referral and given 30 days to make any submissions they wish to have considered as part of the Committee's review.

Decisions by the Registration Committee
Section 18(2) of the Code sets out the orders (or actions) available to a panel of the Registration Committee. These are:

- Directing the CEO to issue a certificate of registration.
- Directing the CEO to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.
- Directing the CEO to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.
- Directing the CEO to impose specified terms, conditions and limitations on a certificate of registration.
- Directing the CEO to refuse to issue a certificate of registration.

For any decision other than directing the CEO to issue a certificate of registration, Decisions and Reasons are provided to the applicant to allow them to understand the Committee's guiding rationale. It's important to note that the decision to refuse issuance of a certificate of registration is not taken lightly by the Registration Committee. As of the date of this briefing, only two instances have occurred, and in both cases the conduct of the applicant was egregious and could not be remediated through additional training, education, or exams or sufficiently addressed through the imposing of terms, conditions, or limitations on a certificate of registration.

Reviews by HPARB
If the applicant disagrees with the decision of the Committee, they may request that this be reviewed by the Health Professions Appeal and Review Board (HPARB). The Board is an independent body established by the provincial government and is made up of non-health care professionals. Following a review, HPARB may:

- confirm the Committee's decision.
- refer the matter back to the Committee for further review.
- require the Committee to take a specific action.
- make recommendations to the Committee.

Terms and Conditions of Every Certificate
Section 4 of the Registration Regulation sets out the terms and conditions of every certificate of registration. These terms include, but are not limited to, the need for registrants to report, within 30 days of the occurrence, findings of professional misconduct, incompetence, or incapacity (or similar) related to any other professional registrations, findings of profession negligence or malpractice in any jurisdiction, and any findings of guilt. Section 4 provisions also set out the permitted titles and abbreviations for each class of registration which registrants must abide by, and the need for all registrants to maintain professional liability insurance in accordance with the College by-laws.

Class Changes -Inactive to General (Over Two Years Inactive)
Registrants registered in the Inactive class for more than two years and who are seeking to return to the General class to resume practising the profession, are required to first undergo a review by the Registration Committee for any atrophy of skills or knowledge which must be remediated before the class change can be approved. This review process is similar in format and intent to those conducted for applicants who have exceeded their two-year window for making their application for registration. A similar review process is carried out for registrants registered in the General class who have a non-clinical Term, Condition or Limitation on their certificate of registration and are seeking to have this expired in order to resume direct patient care.

Professional Liability Insurance
Section 19 of the College by-laws sets out the requirements for professional liability insurance for all three classes of registration. Professional liability information is actively monitored and audited by registration staff on a monthly basis. Registrants are provided with three reminders to update policy information prior to the expiry of their professional liability insurance certificate. Failure to update professional liability insurance results in the immediate suspension of a registrant's certificate of registration.

CPR Certification
While not a legislative requirement, CPR certification is required of all registrants in both the General Class and emergency class, as set out in the Registration Regulation and the Registration Policy, to ensure appropriate lifesaving techniques can be performed in instances of patient emergencies. As with professional liability insurance, CPR certification expiry dates are audited monthly, and registrants are sent reminders to update this information. While not an immediate suspension, failure to update CPR information results in a Notice of Intent to Suspend with 30 days being provided to the registrant to update their CPR information before a suspension occurs.

Suspensions and Revocations
In accordance with section 16 of the Registration Regulation, on the second anniversary following a registrant's suspension, their certificate of registration is revoked. Registrants are provided with a Notice of Intent to Revoke a minimum of 30 days prior to the revocation date, to allow a final opportunity for the registrant to correct the default that resulted in the suspension and reinstate their registration. Registrants who are revoked who later wish to resume practising the profession in Ontario are required to re-apply as a new applicant, which includes the completion of entry-to-practise examinations.

Importance of this Program
The College's Registration Program is a critical component of safeguarding the public interest by ensuring those issued a certificate of registration to practise the profession have the requisite knowledge, skills, and judgement to practise safely, competently, and ethically.

Respectfully submitted,

Erica Laugalys
Director, Registration & Examinations

January 2024

BRIEFING NOTE
Educational Briefing – Inspections

BACKGROUND

The College of Naturopaths of Ontario is established under the *Naturopathy Act, 2007* and the *Regulated Health Professions Act, 1991*. Its duty, as set out in the legislation, is to serve and protect the public interest. Its mandate is to support patients' rights to receive safe, competent, and ethical naturopathic care.

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Other elements that will arise within the regulatory framework include "right touch regulation", using the approach that is best suited to the situation to arrive at the desired outcome of public protection,

and risk-based regulation, focusing regulatory resources on areas that present the greatest risk of harm to the public. Both of these will be further elaborated upon in later briefings.

The focus of this briefing is on the Inspection Program and processes of the College.

General Regulation
Part IV of the *General Regulation* made under the *Naturopathy Act, 2007* came into effect on March 1, 2017, and requires the College to conduct inspections in premises where Intravenous Infusion Therapy (IVIT) procedures are performed.

Inspection Program Requirements
The Inspection Program applies to all locations where one or more Registrants perform IVIT procedures. IVIT procedures include:

- The compounding of drugs to make a customised therapeutic product for the purpose of administering by intravenous injection to a patient, or
- The administration of a therapeutic product by IVIT.

The Inspection Program establishes the requirements for a premise and reviews the following areas during inspections:

- Physical environment,
- Emergency preparedness,
- Infection Control,
- Sterile Compounding,
- Administering IVIT,
- Record Keeping and charting,
- Reporting of Type 1 and Type 2 occurrences,
- Delegation, and
- Quality management.

Every premises that is registered and performing IVIT procedures will undergo a scheduled inspection once every five years. Each inspection outcome is posted on the IVIT Premises Register. The outcome can be a “pass”, a “pass with conditions” or a “fail”.

Registering an IVIT Premises
A new premises where IVIT procedures are intended to be performed must be registered with the College, undergo Part I of an inspection, and receive a “pass” or “pass with conditions” that will then allow it to begin performing IVIT. The second part, Part II of the new premise’s inspection, occurs within approximately six months after the Part I inspection is completed.

Subsequent Inspections
After the Part I and Part II inspections are completed, subsequent inspections must occur within five years of the date of the last inspection and every five years thereafter.

Designated Registrant
Every premises must have an ND who is the Designated Registrant. The Designated Registrant is responsible for:

- All Inspection Program related communications with the College,
- Submitting all Inspection Program forms,
- Ensuring the Inspection Program Requirements are met, and
- Paying all Inspection Program fees on behalf of the premises.

Inspection Process

The following outlines the typical inspection process:

- Notification of an upcoming inspection is sent to the Designated Registrant,
- The Designated Registration submits the Pre-Inspection Information and Declaration of a Conflict of Interest form, and the premises Policies and Procedures Manual within 14 days (this is required for Part I and five-year premises inspections),
- Upon receipt, an inspection is scheduled within approximately 30 days of the Designated Registrant being notified of the assigned inspector,
- At the end of the inspection, the inspector provides feedback to the Designated Registrant who may provide additional comments and/or information to the College, and
- The Inspection Committee reviews the Inspector's Report and any additional information provided by the Designated Registrant and delivers an outcome.

Inspection Outcomes

The Committee will determine an outcome that falls into one of three categories:

- "Pass" – all Inspection Program Requirements are fully met or partially met with minor deficiencies,
- "Pass with conditions" – One or more Inspection Program Requirements are not met that could impact patient safety, and
- "Fail" – few of the Inspection Program Requirements have been met or there are significant deficiencies that pose a risk of harm to patients, and the premises must cease providing services.

Inspectors

Inspectors within the Inspection Program are NDs who have met the standard of practice for IVIT and therapeutic prescribing, who are performing IVIT procedures at a premises, and who are specifically trained in the program requirements set out by the Council of the College. All individuals within a premises are required to cooperate with an inspector who has been appointed by the College to inspect the premises where IVIT services are provided.

Inspection Committee

The Inspection Program is overseen by the Inspection Committee, which is a Committee of the Council of the College. The Committee is made up of individuals who are:

- Registrants of the College who have met the standard of practice for IVIT (and therapeutic prescribing),
- Members of the Council, and
- Public Representatives appointed by the Council.

Type 1 and Type 2 Occurrences

Type 1 occurrences are incidents that may or did result in serious harm to a patient in relation to an Intravenous Infusion Therapy treatment. Type 1 Occurrences include:

- The death of a patient following IVIT,
- The death of a patient within five days following IVIT,
- Referral of a patient to emergency services within five days following IVIT,
- A procedure performed on the wrong patient.
- Administration of an emergency drug to a patient,
- A patient who is diagnosed with shock or convulsions within five days of IVIT, and
- A patient who is diagnosed with a disease of any disease causing agent as a result of the IVIT.

Type 1 occurrences must be reported to the College within 24 hours of the Registrant becoming aware of the occurrence. These reports are reviewed by the Inspection Committee who review the information and may require a follow up review and inspection if warranted by the Inspection Committee.

Type 2 occurrences are incidents that may or did result in harm to a patient in relation to the performance of compounding for or administering by IVIT. These include:

- An infection in a patient after the provision of IVIT,
- An unscheduled treatment of a patient within five days of IVIT, and
- Any adverse drug reaction.

Type 2 occurrences must be tracked and documented and are reported to the College annually.

Importance of this Program

The College's Inspection Program ensures continuous quality improvement for all premises where IVIT procedures are performed through the development and maintenance of standards. This helps enhance the safety and quality of care for the Ontarians who choose to access these services.

Respectfully submitted,

Dr. Mary-Ellen McKenna, ND (Retired)
Manager, Professional Practice

January 2024