The College of Naturopaths of Ontario

# Draft Agenda – #2019/20-01

## Meeting of the **Council** of the College of Naturopaths of Ontario

Date: April 24, 2019

Time: 09h00-16h30

Location: Council Chamber
College of Naturopaths of Ontario
150 John St., 10th Floor
Toronto, ON
M5V 3E3

Please be advised that our office is a scent free environment

**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
## April 24, 2019, 09h00-16h30
## 150 John Street, 10th Floor, Toronto, Ontario
## DRAFT AGENDA

| Sect/No. | | Action | Item | Page | Responsible |
|---|---|---|---|---|---|
| 1 | **Call to Order and Welcome (9:00 am)** | | | | |
| | 1.01 | Procedure | Call to Order | -- | President |
| 2 | **Election of Officers (9:05 am)** | | | | |
| | 2.01 | Election | Officer Positions – President and Vice President | -- | Registrar |
| | 2.02 | Election | Executive Committee Directors-at-Large (3) | -- | Registrar |
| 3 | **Consent Agenda[1] (9:30 am)** | | | | |
| | 3.01 | Approval | (i) Draft Minutes of January 2019<br>(ii) Committee Reports<br>(iii) Ratification of Executive Committee Decisions<br>(iv) Cayton Report – CDSBC (for information)<br>(v) Grey Areas (Nos. 233, 234 - for information)<br>(vi) Legislative Update (Jan - Mar 2019 – for information)<br>(vii) CAG Spring Newsletter | 4-10<br>11-23<br>24<br>25-130<br>131-136<br>137-151<br>152-159 | President |
| 4 | **Main Agenda (9:35 am)** | | | | |
| | 4.01 | Approval | Review of Main Agenda | 3 | President |
| | 4.02 | Discussion | Declarations of Conflict of Interest | -- | President |
| 5 | **Education/Orientation (9:40 am)** | | | | |
| | 5.01 | Discussion | Governance Review Project (09:40 am) | On-site | President |
| | 5.02 | Presentation | College of Nurses of Ontario – Vision 2020 (10:00 am) | -- | McCarthy |
| | 5.03 | Discussion | Observing Council Meetings of other Regulatory Colleges | 160-164 | Registrar |
| 6 | **Monitoring Reports (11:30 am)** | | | | |
| | 6.01 | Acceptance | President's Report | -- | President |
| | 6.02 | Acceptance | Registrar's Monitoring Report | 165-212 | Registrar |
| 7 | **Council Governance Policy Confirmation[2] (11:45 am)** | | | | |
| | 7.01 | Decision | Review/Issues Arising<br>i. Executive Limitations Policies<br>ii. Council-Registrar Linkage Policies<br>iii. Ends Policies | -- | President |
| | 7.02 | Decision | Detailed Review (as per GP08)<br>i. Governance Process Policies | -- | President |
| 8 | **Business (1:00 pm)** | | | | |
| | 8.01 | Approval | Executive Committee Report on Terms of Reference | 213-241 | President |
| | 8.02 | Information | By-law Consultations Briefing | 242-286 | Registrar |
| | 8.03 | Approval | Clinical Sciences Examination Policy | 287-291 | O'Connor |
| | 8.04 | Discussion | CPSO Consultation Feedback | 292-317 | Quesnelle |
| | 8.05 | Approval | Patient Rights | 318-320 | Burns |
| | 8.06 | Approval | Committee Appointments | -- | President |
| 9 | **Other Business (4:00 pm)** | | | | |
| | 9.01 | Decision | | -- | President |
| 10 | **Next Meeting (4:25 pm)** | | | | |
| | 10.01 | Discussion | Next Meeting – July 31, 2019 | -- | President |
| 11 | **Adjournment (4:30 pm)** | | | | |
| | 11.01 | Decision | Motion to Adjourn | -- | President |

[1] Members of Council may request any item in the Consent Agenda to be added to the main agenda.
[2] Council Members must bring their Governance Policy Manual (PM) with them to each meeting

The College of Naturopaths of Ontario

**Council Meeting**
**150 John St., 10th Floor**
**Toronto, Ontario**
**January 30, 2019**

**DRAFT MINUTES**

| **Council** | | |
|---|---|---|
| **Present** | | **Regrets** |
| Dr. Kim Bretz, ND (3:4) | | Dr. Karim Dhanani, ND (2:4) |
| Dr. Shelley Burns, ND (4:4) | | Mr. Scott Sawler (0:4) |
| Ms Dianne Delany (3:4) | | Dr. Jordan Sokoloski, ND (3:4) |
| Dr. Tara Gignac, ND (4:4) | | Mr. Samuel Laldin (3:4) |
| Ms. Deborah Haswell (2:4) | | |
| Dr. Rosemary Hnatiuk, ND (4:4) | | |
| Dr. George Tardik, ND (4:4) | | |
| Dr. Danielle O'Connor, ND (3:4) | | |
| Mr. Barry Sullivan (4:4) | | |
| **Guests** | | **Observers** |
| Erica Richler, Legal Counsel | | Dr. Brenda Lessard-Rhead, ND |
| Deanna Matzanke, Canadian Centre for Diversity and Inclusion (CCDI) | | |
| | | |
| **Staff Support** | | |
| Andrew Parr, CAE, Registrar & CEO | | |
| Jeremy Quesnelle, Deputy Registrar | | |
| Erica Laugalys, Director, Registration & Examinations | | |
| Margot White, Director, Communications and Lead of Community Engagement | | |

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| Nicole Bell, Admin. Assistant, Communications |

**1. Call to Order and Welcome**
The President, Dr. Tara Gignac, ND, called the meeting to order at 9:15 a.m. She welcomed everyone to the meeting.

**2. Consent Agenda**
**2.01 Review of Consent Agenda**
The materials included with the Consent Agenda were circulated to members of Council in advance of the meeting. The President asked if there were any items to move to the main agenda for discussion.

There were none.

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| MOTION: | To approve the Consent Agenda as presented. |
| MOVED: | Deborah Haswell |
| SECOND: | Danielle O'Connor |
| 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 President asked if there were any items to be added to the agenda.

There were none.

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| MOTION: | To approve the Main Agenda as presented. |
| MOVED: | Danielle O'Connor |
| SECOND: | Dianne Delany |
| CARRIED. | |

**3.02 Declarations of Conflicts of Interest**
The President asked Council members if there were any conflicts to declare. No conflicts were declared.

**4. Monitoring Reports**
**4.01 President's Report**

The President provided a verbal report on her activities since the last Council meeting, and welcomed questions from the Council.

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| MOTION: | To accept the President's Report as presented. |
| MOVED: | Danielle O'Connor |
| SECOND: | Dianne Delany |
| CARRIED. | |

**4.02 Registrar's Report**
The Registrar's Report was circulated to Council in advance of the meeting. Mr. Parr highlighted several activities under way and responded to questions that arose during the discussion that followed.

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| MOTION: | To accept the Registrar's Report as presented. |
| MOVED: | Kim Bretz |
| SECOND: | George Tardik |
| CARRIED. | |

**5. Council Governance Policy Confirmation**
**5.01 Review/Issues Arising**
**5.01(a) 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.

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

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

**5.02 Detailed Review – Council-Registrar Linkage Policies**
The Chair asked if there were any Council-Registrar policies which the Council wished to review in detail based on the reports received. No policies were identified.

**6. Business**
**6.01 Council Performance Evaluation**
A briefing note providing the background on the Council Performance Evaluation was circulated in advance of the meeting. The President provided an overview for the Council and the basis for a simplified approach to the evaluation process.

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| MOTION: | To approve the proposed Council self-evaluation process as presented. |
| MOVED: | Barry Sullivan |
| SECOND: | George Tardik |
| CARRIED. | |

**6.02 Operational Plan**
A briefing note and the draft Operational Plan were circulated in advance of the meeting. The senior management team presented Council with an overview of the plan which covers the next three years of College operations and aligns with the operating budget. Staff responded to questions from the Council.

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| MOTION: | To accept the Operational Plan as presented. |
| MOVED: | George Tardik |
| SECOND: | Deborah Haswell |
| CARRIED. | |

**6.03 Operating and Capital Budgets**
A briefing note, accompanied by a draft Capital Budget and draft Operating Budget were circulated in advance of the meeting. The Registrar walked the Council through the budget highlights and responded to questions posed by Council.

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| MOTION: | To accept the Capital and Operating Budgets as presented. |
| MOVED: | Rosemary Hnatiuk |
| SECOND: | Barry Sullivan |
| CARRIED. | |

**6.04 Proposed By-law Changes**
A briefing note setting out the background to and proposed by-law changes was circulated in advance of the meeting. The Registrar reviewed the materials and the proposed changes with the Council.

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| MOTION: | To approve the proposed by-law changes as presented. |
| MOVED: | Deborah Haswell |
| SECOND: | Shelley Burns |
| CARRIED. | |

**6.05 SSRC Recommendations – Drugs and Substances**
A briefing note setting out the process and recommendations for changes to the schedules of drugs and substances within the General Regulation and seeking changes from the Ministry of Health and Long-Term Care to the laboratory tests available to naturopaths was circulated in advance of the meeting. Dr. George Tardik, ND presented the findings of the Scheduled Substances Review Committee to the Council

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| MOTION: | To accept the SSRC recommendations for drugs and substances as presented and to authorize the SSRC to initiate stakeholder consultation. |
| MOVED: | Deborah Haswell |
| SECOND: | Danielle O'Connor |
| CARRIED. | |

**6.06 Cessation of Funding Regulation**
A briefing note and proposed regulation governing the cessation of funding for counselling/therapy was circulated in advance of the meeting. Dr. Shelley Burns, ND, Chair of the Patient Relations Committee provided the Council with an overview and a summary of feedback provided from the consultation process.

The Patient Relations Committee recommended that the proposed Regulation be approved by the Council and submitted to the Minister of Health and Long-Term Care for consideration.

The Council briefly discussed the proposed regulation.

The Registrar advised the Council that the information to be submitted to the Minister required a voting tabulation that was different that was the norm for the Council. The College is required to indicate the number of public members and professional members who voted in favour and were opposed as part of the regulation submission process. He asked the Council for a bit of extra time when the voting was taking place.

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| MOTION: | To approve the proposed Cessation of Funding Regulation as presented. | | | |
| MOVED: | Barry Sullivan | | | |
| SECOND: | Dianne Delany | | | |
| IN FAVOUR | Public Members | 3 (out of 3) | Professional Members | 6 (out of 6) |
| OPPOSED | Public Members | 0 (out of 3) | Professional Members | 0 (out of 6) |
| CARRIED. | | | | |

**6.07 Filling the Vice President Vacancy**
A briefing note outlining the factors that led to the decision of the Vice President to resign the

position was circulated in advance of the meeting. The Council discussed the recommendation from the Executive Committee that the position be filled at this time due to the possibility that the Council may not be properly constituted to transact business in early March.

Dr. Tara Gignac proposed filling the vacancy for the position of Vice President in order for the Council to be properly constituted.

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| MOTION: | To hold an election to fill the vacancy in the position of Vice President. |
| MOVED: | Rosemary Hnatiuk |
| SECOND: | Kim Bretz |
| CARRIED. | |

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| MOTION: | To open nominations for the position of Vice President to fill the remainder of the current one-year term. |
| MOVED: | Barry Sullivan |
| SECOND: | Danielle O'Connor |
| CARRIED. | |

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| MOTION: | To nominate Dianne Delany for the position of Vice President |
| MOVED: | Barry Sullivan |
| SECOND: | Deborah Haswell |
| CONSENT: | Dianne Delany thanked the Council for the nomination; however, she declined the nomination. |
| DEFEATED | |

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| MOTION: | To nominate Barry Sullivan for the position of Vice President. |
| MOVED: | Kim Bretz |
| SECOND: | Deborah Haswell |
| CONSENT: | Barry Sullivan accepted the nomination. |
| CARRIED. | |

The Chair asked if there were any further nominations. There were none.

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| MOTION: | To close nominations for the position of Vice President. |
| MOVED: | Dianne Delany |
| SECOND: | Deborah Haswell |

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| CARRIED. | |

The Chair declared Barry Sullivan elected by acclamation to the position of Vice President.

**7. Education**
**7.01 Unconscious Bias and Diversity Training**
Deanna Matzanke of the Canadian Centre for Diversity and Inclusion provided training to the members of the Council.

**8. Other Business**
There was none.

**9. Next Meeting**
**9.01 Next Meeting**
The President noted for the Council that the next regularly scheduled Council meeting is set for April 24, 2019.

**10. Adjournment**
**10.01 Motion to Adjourn**
The President asked for a motion to adjourn the meeting at 5:00 p.m.

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| MOTION: | To adjourn the meeting. |
| MOVED: | Shelley Burns |
| SECOND: | Dianne Delany |

Nicole Bell
Administrative Assistant, Communications
January 30, 2019

The College of Naturopaths of Ontario

# MEMORANDUM

**DATE:** April 12, 2019

**TO:** Members of Council

**FROM:** Andrew Parr, CAE
Registrar & CEO

**RE:** Committee Reports

Please find attached the Committee Reports for item 3.01 (ii) of the Consent Agenda. The following reports are included:

1. Audit Committee
2. Examination Appeals Committee
3. Executive Committee
4. Inquiries, Complaints and Reports Committee
5. Inspection Committee
6. Nominations and Elections Committee (Draft)
7. Patient Relations Committee
8. Quality Assurance Committee
9. Registration Committee
10. Scheduled Substances Review 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, that the Discipline/Fitness to Practise Committees were not asked to submit reports in order to preserve the independent nature of these Committees.

The College of Naturopaths of Ontario

# AUDIT COMMITTEE REPORT
APRIL 2019

The Audit Committee was not required to undertake any activities during the period January 1, 2019 through March 31, 2019 and therefore did not meet. Meetings have been scheduled for the next quarter to consider matters relating to the Audit.

Elena Rossi, ND
Chair, Audit Committee
April 9, 2019

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**Exam Appeals Committee Report**
April 2019

The Committee convenes on an as-needed basis, based on received exam appeals (which meet the criteria stipulated in the Examinations Program Policy), requiring deliberation and decision, or needed appeals-related policy review.

The Exam Appeals Committee did not convene in this reporting period.

George Tardik, ND
Chair
April 3, 2019

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# EXECUTIVE COMMITTEE REPORT
# APRIL 2019

The Executive Committee met on March 6, 2019 for a full day, in person meeting at which time we welcomed Mr. Barry Sullivan into his new role as Vice President and Executive Committee member.

We had a very productive meeting having discussed the on-going matters relating to public appointments, and the increasingly likelihood that the Council would soon not be properly constituted. Fortunately, this matter has since resolved itself.

We also received an update on the election in District 3 and learned that four candidates would be seeking this Council position.

At the request of the Council, the Committee reviewed the terms of reference for each of the Committees and received recommendations from the staff regarding proposed changes. The Committee accepted these recommendations and we will be reporting on those at the Council meeting.

An action plan for the upcoming Governance Review was reviewed and adopted by the Executive Committee. We are very excited about this plan and asked the Registrar to seek out the help of Deanna Williams as a consultant to assist the Council. We can report that Deanna has agreed.

We had a discussion about some concerns being raised by the Registrar with respect to possible conflicts in fiduciary duties between his role at the College and as a Director on the Board of Directors of the Federation of Health Regulatory Colleges of Ontario. The Executive Committee expressed its support for the Registrar to continue to participate in FHRCO as a means of resolving those matters.

We received helpful information about the means by which NDs and Nurses could work together. This information will be forthcoming to the Members over the next while.

The Executive Committee approved several Standards of Practice and Guidelines that the Quality Assurance Committee were recommending be amended. These were approved in the interests of time in order to get them to the profession as soon as possible.

The Committee will next meet on June 5, 2019.

Dr. Tara Gignac, ND
Chair, Executive Committee
April 2019

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# INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE REPORT
(April 2019)

Between January 1 and March 31, 2019, the Inquiries, Complaints and Reports Committee held 3 in-person meetings: January 10, February 7 and March 7, 2019.

In January, 14 matters were reviewed, and ICRC members drafted 1 report, and 2 Decisions and Reasons.

In February, 13 matters were reviewed, and ICRC members drafted 2 Decisions and Reasons and 2 reports. On the same day, a separate panel of the ICRC met to review and make a decision regarding a fitness to practise file.

In March, 1 Oral Caution was delivered to a Member, 8 matters were reviewed and ICRC members drafted 1 Decision and Reasons and 4 reports.

Meetings are generally well-attended, though both Karim and Deb were not available for any of the meetings and both resigned from the ICRC in March 2019.

Due to the high volume of work, the ICRC is looking forward to the appointment of additional members.

Overall, the trends in the matters reviewed by the ICRC continue to be around advertising and/or providing services not authorized to naturopaths. The ICRC issued 6 Decision and Reasons related to advertising matters, with 5 of them resulting in Letters of Counsel and 1 - Appearance for Caution.

We are seeing an increase in issues concerning Members' governability. One matter was referred to the Discipline Committee for failing to comply with an undertaking. Two Registrar's Reports are currently being reviewed, one concerning a Member practising while inactive and one for failing to comply with a disposition of the ICRC. The Members involved have all previously been before the ICRC, and have received oral cautions and/or been referred to the Discipline Committee.

Dr. Erin Psota, ND
Chair
Inquiries, Complaints and Reports Committee
(April 9, 2019)

The College of Naturopaths of Ontario

# INSPECTION COMMITTEE REPORT
# April 2019

## Committee Update

Since the last update to Council, the Inspection Committee met in person on January 23rd, February 21st and March 27th.

## Inspection Outcomes

The Committee reviewed the Inspection Program Requirements Checklists used by the inspector to record his/her observations during the inspection, and Inspector's Report for inspections of 44 locations.

The outcomes are as follows:

- Pass without recommendations - 5
- Pass with recommendations – 41
- Pass with conditions – 7
- Fail – 0

When Inspection Program Requirements are partially met and do not warrant a condition being placed on the premises, the Inspection Committee makes recommendations to the premises. A total of 212 Recommendations and 11 Conditions were made.

## Deferral Requests

Since the last report to Council no submissions for deferrals were received.

## Inspection Outcomes in Response to Submissions Received

There were 7 Initial outcomes of a Passes with Conditions were changed to Passes after submissions were received from Professional Members.

The Inspection Committee is pleased with the compliance and quick responses we have received from our professional members.

## Type 1 Occurrence Reports

7 Type 1 Occurrence reports were submitted since the last report to Council. The Committee reviewed the reports and determined that no further actions were required on the part of the Committee or of the designated members who submitted the reports.

**Review of the Summary of Type 2 Occurrence Reports**

There were no Type 2 Occurrences reported for this period.

**Terms of Reference Ammendment**

An amendment was passed to allow quorum to be attained without a public member in extenuating circumstances during the following 4 situations:

- legislated deadlines must be met,
- there is a risk of safety to the public,
- undo hardship to a new premises waiting to begin performing IVIT procedures, and
- disruption to the continuity of care for patients.

**Closing Remarks**

As the Chair of the IVIT Inspection Committee I can say confidently that we have a diligent and professional group of professionals and public members that are continuing to accomplish CONO's goals. We are impressed with the safety level and professionalism of the ND's that are both providing and inspecting this vital therapy!

Sincerely,

Dr. Sean Armstrong, ND
Chair
Inspection Committee
April 11, 2018

The College of Naturopaths of Ontario

# NOMINATIONS AND ELECTIONS COMMITTEE REPORT
APRIL 2019

The Nominations and Elections Committee met on March 20, 2019 to review biographies and personal statements from four candidates in the election for District 3. No other activities were undertaken during this reporting period.

Karim Dhanani, ND
Chair, Nominations and Elections Committee
April 9, 2019

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**Patient Relations Committee Report**
April 2019

The Patient Relations Committee (PRC) met once during the last quarter via teleconference on February 13, 2019.

Attendance continues to be good with no issue in reaching quorum.

**Ongoing Issues/Topics for Discussion**

Committee Makeup

It still continues to be a concern for the Committee to have only one public member on the Committee. If the Committee does not have quorum then it finds itself in a position of not having the necessary resources and support to complete its role. Having an additional public member on the Committee would be helpful.

Applications for Funding

There were no applications for funding for therapy and counselling during this reporting period. An update was provided on current funding approved, the total amount of funding accessed and the amount remaining for each file. There continues to be four active files with a total of $1,722.65 of funding accessed since the last report.

Education

The Citizen Advisory Group provided narrative feedback on the PRC – Patient Bill of Rights document in February 2019. The feedback was positive.

Shelley Burns, ND
Chair
April 2019

The College of Naturopaths of Ontario

# QUALITY ASSURANCE COMMITTEE REPORT
# April 2019

## Meetings and Attendance

Since the last Council meeting in January, the Quality Assurance Committee met on two occasions: via teleconference on January 22, 2019; and an in- person meeting on February 26, 2019. Attendance has continued to be good with no concerns regarding quorum experienced.

## Activities Undertaken

Over the past two meetings, the Committee continued with its regular ongoing review and approval where appropriate of new and previously submitted CE category A credit applications.

At its **January meeting**, the Committee considered a brief Peer and Practice Assessment update from staff which noted that there had been 18 assessments completed since the last meeting. Given that they had all received ratings of a 1 or 2, there was no action required on the part of the Committee.
At a previous meeting, the Committee had identified concerns about the nature of the application submissions being received from a particular provider of CE courses. These concerns were passed on by staff and having reviewed the provider's response, the Committee concluded that their submissions would continue to be accepted in the future.

At its **February meeting**, the Committee reviewed the 2018/19 Standards of Practice and Guidelines following a second round of consultations from which no further feedback was received. After making further amendments where appropriate, the Committee approved the following for submission to Council for their review and approval:
Standards of Practice for; Conflict of Interest, Record Keeping,; Infection Control, Fees and Billing, Dual Registration, and Restricted Titles; and the Guidelines for; Contraindications for Manipulation and Conflict of Interest.
The Committee also reviewed the Standards and Guidelines Review schedule for 2019/20.

The Committee also considered a brief 2018/19 Peer and Practice Assessment update from staff which noted that there were then only 7 Assessments pending and that they were all scheduled for completion prior to a due date of February 28th.

>The Committee also considered a verbal summary from staff on a proposed variation to the self- assessment process whereby Members would assess themselves against a specific Standard or area as opposed to all Standards. Various approaches to this were discussed and it

was agreed that staff would return a draft Self-assessment on Advertising proposal for further consideration at the next meeting.

Following this meeting, Committee members were also invited to submit comments to staff via email with respect to the CPSO's consultation on their policy document- Complementary/ Alternative Medicine.

**Issues**
None.

**Next Meeting Date**

Teleconference- April 23, 2019.

Respectfully submitted by,

Barry Sullivan
Chair, April 10, 2019.

The College of Naturopaths of Ontario

**Registration Committee Report**
April 2019

*At the time of this report, the Registration Committee had met three times: January 21st, February 18th and March 18th. The following is a summary of the Committee's undertakings within the last quarter.*

**Entry-to-Practise Reviews and Referrals**
The Committee continued to review applications for registration for applicants who had exceeded the two-year window from their date of graduation for completing their entry-to-practise requirements and applying for registration. No reviews were conducted for issues around good character.

**Changes of Class & Life Membership**
The Committee reviewed applications for changes of class exceeding the 2-year window and approved a number of Life Membership applications.

**Exam Remediation**
Exam remediation reviews were conducted both for entry-to-practise and IVIT candidates who had made two unsuccessful attempts of the examination.

**Consultation Feedback**
The Committee reviewed and provided feedback on proposed amendments to the College of Dieticians of Ontario's Registration Regulation.

**Stakeholder Engagement & Policy Review**
The Committee undertook a review of the new Exam Transition policy, based on concerns expressed by the CCNM, related to the new Biomedical exam, and determined that no additional review or amendments were warranted to the policy. A formal response was drafted from the Committee Chair on behalf of the Committee, to address these concerns.

**Committee Members**
The Committee continued its meeting with no public member(s) present. Under the revised terms of reference, multiple items were deemed urgent to permit Committee review.

Danielle O'Connor, ND
Chair
April 8, 2019

**Scheduled Substances Review Committee Report**
April 2019

The Scheduled Substances Review Committee is currently consulting on its proposed regulation recommendations and did not meet during the period January 1 to March 31, 2019.

Jeremy Quesnelle
Deputy Registrar
April 2019

The College of Naturopaths of Ontario

**Executive Committee Decisions**
**To Be Ratified**

## Meeting of March 6, 2019

- Acceptance of the Variance Report and Unaudited Financial Statements for the third quarter of the fiscal year.
- Ratification of appointment of Jordan Sokoloski as Chair of the Discipline Committee.
- Approval of the revised Standards of Practice on Conflict of Interest, Record Keeping, Infection Control, Fees and Billing, Dual Registration and Restricted Titles, as well as the revised Guidelines on Contraindications for Manipulation and Conflict of Interest.

# An Inquiry into the performance of the College of Dental Surgeons of British Columbia and the Health Professions Act

December 2018

professional standards authority

The Honourable Adrian Dix
Minister of Health
Ministry of Health
Government of British Columbia
Victoria BC
Canada

December 21, 2018

Dear Minister Dix,

I am pleased to submit the report of my Inquiry into the College of Dental Surgeons of British Columbia. The report describes the recent difficulties that the CDSBC has had and makes recommendations for improved governance and regulatory performance in the interests of the safety of patients and the public.

You also asked me to consider how the Health Professions Act is operating and possible changes to the Act.

Part 1 of my report deals with the CDSBC and Part 2 with the Health Professions Act. Part 2 also makes recommendations for the wider reform of the statutory framework for health professional regulation in British Columbia.

I take this opportunity to thank the past and present members of the Board of the College for their courtesy and co-operation with my Inquiry. Past and present members of staff have been unfailingly helpful and generous with their time and knowledge.

I have also been assisted by the British Columbia Health Regulators group and by many individuals who have provided evidence. Your officials have provided excellent administrative support throughout.

Despite the contributions of many people I am, of course, personally responsible for the findings in this report and for the recommendations that I make.

Yours sincerely,



Harry Cayton CBE FFHP

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# 1. Introduction

1.1 This is the report of an Inquiry into the College of Dental Surgeons of British Columbia commissioned by the Honourable Adrian Dix, Minister of Health under section 18.1 of the Health Professions Act RSBC 1996 c183 and conducted under the provisions of the Public Inquiry Act SBC 2007.

1.2 The terms of reference for this Inquiry can be found in annexe 1 of this report.

1.3 The Inquiry began in May 2018 and concludes with the submission of this report to the Minister of Health in December 2018.

1.4 In order to carry out my Inquiry I have spent time in the College in May, July, September and October. In preparing this report I have drawn on:

- Over 40 interviews with former and present Board members and senior staff members
- Meetings and discussions with external stakeholders
- Written submissions from other regulatory Colleges, from the Health Professions Review Board and the British Columbia Dental Association
- Correspondence and telephone calls with members of the public, patients, individual dentists and other interested parties
- Observation of College meetings including the Board, Governance Committee, Inquiry Committee, Nominations Committee, the Board Officers and Registrar meeting and the Senior Managers and Complaints meetings of staff
- The Health Professions Act, the CDSBC Governance Manual, the College's internal policies and procedures, its Standards and Guidance and the wealth of information available on its website
- Letters and emails concerning the College's business which have been submitted to the Inquiry
- An audit of 30 complaint files
- An assessment of evidence provided by the College against the Standards of Good Regulation

1.5 I consider that this evidence has been sufficient for me to form a fair assessment of the College in the matters set out in the Purpose of Inquiry, 1 (a)-(h) in my Terms of Reference.

1.6 I have not used individuals' names in this report. It is not my intention to criticise or blame any individual; the problems that the College has had are a corporate failure and only corporate action can remedy them. I recognise that some individuals will be identifiable by virtue of the office they hold. These are public offices and therefore they are accountable for their decisions and conduct in that office.

1.7 A small number of self-identified individuals has submitted evidence to me but asked that their names be kept confidential. I have respected their wishes. I have not received or used any anonymous submissions.

1.8 I have been assisted throughout this Inquiry by Michael Warren, Policy Manager, at the Professional Standards Authority (UK). I could not have completed this report without his consistent and reliable assistance. Luane Nisbet, Scrutiny Manager at the Authority, carried out the complaints file audit. Simon Wiklund, Senior Solicitor, has helped my thinking about reform of the Health Professions Act.

1.9 I am grateful to the past and present members of the Board of the CDSBC who have been unfailingly helpful and open and have welcomed my Inquiry. The staff team at the College have patiently answered every question even when they had told me the answer before and, without complaint, rearranged their working days to accommodate my needs. Some former members of staff have been similarly helpful.

1.10 Other individuals in British Columbia have been generous with their time and advice.

1.11 I have done everything I can in the time available to check facts. The confidential requirement on this report prior to its submission to the Minister has necessarily limited my ability to do that with the assistance of others. I am therefore responsible for any errors. Despite the considerable help I have received from many people the conclusions in this report are mine alone.

# 2. The Health Professions Act

*The College of Dental Surgeons of British Columbia and its regulatory context*

2.1 The College of Dental Surgeons of British Columbia is the regulator of dentists, certified dental assistants and dental therapists[1] in the province. The College registers 3762 dentists, 6535 certified dental assistants and seven dental therapists in a province with a population of 4,817,000.[2] There are three other professional regulators of dental professions in the province: the College of Dental Hygienists of British Columbia, the College of Dental Technicians of British Columbia and the College of Denturists of British Columbia.

2.2 First enacted in 1990, the Health Professions Act, R.S.B.C.1996, c.18313 (Health Professions Act) establishes the legal framework for the regulation of all self-governing health professions in British Columbia. The Health Professions Act sets out the duties and objects of a College in the province.[3] It provides the College with the power to create bylaws whereby it can establish procedures to elect board members, create Board committees, establish standards of academic achievement and qualifications for registration, establish standards, limits and conditions for registrants' practice, and establish and maintain continuing competence and quality assurance programmes.

2.3 Prior to moving to the Health Professions Act in 2009, the College of Dental Surgeons of British Columbia was regulated by provisions in the Dentists Act, 1983.

2.4 The College is one of 21 health regulatory colleges in the province, regulating 25 professions. There are colleges of chiropractors, dental hygienists, dental technicians, denturists, dietitians, massage therapists, physicians and surgeons, midwives, naturopathic physicians, registered nurses, licensed practical nurses, registered psychiatric nurses, occupational therapists, opticians, optometrists, pharmacists, physical therapists, podiatric surgeons, psychologists, speech and hearing health professionals, and traditional Chinese medicine practitioners and acupuncturists. One health profession, emergency medical assistants, is regulated by a Government-appointed licensing board under a separate statute. Social workers are also regulated, by the British Columbia College of Social Workers under a separate statute.

| Duties and objects of a regulatory College in British Columbia (Health Professions Act) |
|---|
| Duties<br>It is the duty of a college at all times:<br>(a) To serve and protect the public and (b) To exercise its powers and discharge its responsibilities under all enactments in the public interest |
| Objects<br>A college has the following objects: |

[1] *Annual report 17-18*, CDSBC, 2018.
[2] Canada at a glance 2018, Statistics Canada
[3] *Health Professions Act*, RSBC 1996, c 183

| |
|---|
| (a) To superintend the practice of the profession<br>(b) To govern its registrants according to this Act, the regulations and the bylaws of the college<br>(c) To establish the conditions or requirements for registration of a person as a member of the college<br>(d) To establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice amongst registrants<br>(e) To establish and maintain a continuing competency programme to promote high standards amongst registrants<br>(f) To establish a patient relations programme to seek to prevent professional misconduct of a sexual nature<br>(g) To establish, monitor and enforce standards of professional ethics amongst registrants<br>(h) To require registrants to provide to an individual access to the individual's healthcare records in appropriate circumstances<br>(i) To inform individuals of their rights under this Act and the Freedom of Information and Protection of Privacy Act<br>(i1) to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair<br>(j)To administer the affairs of the college and perform its duties and exercise its powers under this Act or other enactments<br>In the course of performing its duties and powers under this Act or other enactments, to promote and enhance the following:<br>(i) Collaborative relations with other colleges established under this Act, regional health boards designated under the Health Authorities Act, and other entities in the Provincial health system, post-secondary education institutions and the government<br>(ii) Interprofessional collaborative practice between its registrants and persons practising another health profession<br>(iii) The ability of its registrants to respond and adapt to changes in practice environments, advances in technology, and other emerging issues. |

*Table 1: Duties and objects of a regulatory College in British Columbia (Health Professions Act)*

2.5 The Health Professions Act also establishes the Health Professions Review Board, which hears registration and complaints appeals across all of the colleges established under the Act. Members of the Review Board are appointed by the Lieutenant Governor in Council. The Board is an independent administrative tribunal, and has the following powers and duties:

- To review certain registration decisions of a college of a designated health profession
- To review the failure, by the inquiry committee of a college, to dispose of a complaint or an investigation within the time required
- To review certain dispositions of complaints made by the inquiry committee of a college

• To develop and publish guidelines and recommendations for the purpose of assisting colleges to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair.

2.6 The Board, having reviewed a registration decision made by the College's Registration Committee or the handling of a complaint by the College's Inquiry Committee, may make an order either:

• Confirming the registration decision or disposition of the Inquiry Committee

• Directing the Registration or Inquiry Committee to make a decision or disposition that could have been made by the Registration Committee or the Inquiry Committee in the matter

• Send the matter back to the Registration or Inquiry Committee for reconsideration with directions.

2.7 The Health Professions Act provides that each regulatory college will have a board, which must 'govern, control and administer the affairs of its college in accordance with this Act, the regulations and the bylaws'. A board must submit an annual report to the Minister of Health. The Health Professions Act also provides that a board must ensure that its college has an accessible website that is free of charge to the public. A board has a majority of professional members, elected by registrants, and a minority of public members appointed by the Minister. A board may appoint an executive committee.

2.8 In addition, the Act provides that a board may make bylaws including to 'establish a registration committee, a quality assurance committee, an inquiry committee, a discipline committee and other committees the board determines are necessary or advisable'.

2.9 The legislative framework provides for both protected titles and the services that registrants may provide (called 'scope of practice') including restricted activities that only registrants may perform while providing services. The Health Professions Act sets out that the Minister of Health can prescribe protected titles which only registrants may use. The Minister's College specific regulation[4] then sets out the protected titles that apply to College registrants: dentist, dental surgeon, surgeon, doctor, and dental therapist (the title 'doctor' is shared with the College of Physicians and Surgeons of British Columbia). The Minister's regulations also set out the services that may be provided by College dentistry registrants. These are recorded in Table 2 below. The services that dental therapists and certified dental assistants are authorized to provide are contained in the bylaws.

| Restricted activities |
| --- |
| Restricted activities for dentistry registrants |
| (a)make a diagnosis identifying, as the cause of signs or symptoms of an individual, a disease, disorder or condition of the orofacial complex and associated anatomical structures; |

[4] Dentists Regulation, 2008

(b)perform a procedure on tissue of the orofacial complex and associated anatomical structures below the dermis or the surface of a mucous membrane;
(c)perform a procedure on tissue below the dermis for the purpose of removing tissue for use in reconstructive or other surgery on the orofacial complex and associated anatomical structures;
(d)perform a procedure on tissue in or below the surfaces of the teeth, including the scaling of teeth;
(e)set a fracture of a bone of the orofacial complex;
(f)reduce a dislocation of a joint of the orofacial complex;
(g)administer a substance by
(i)injection,
(ii)inhalation,
(iii)mechanical ventilation,
(iv)irrigation, or
(v)enteral instillation or parenteral instillation;
(h)put an instrument or a device, hand or finger
(i)into the external ear canal, up to the eardrum,
(ii)beyond the point in the nasal passages where they normally narrow,
(iii)beyond the pharynx,
(iv)beyond the opening of the urethra for the purposes of catheterization,
(v)beyond the anal verge for the purposes of monitoring temperature, or
(vi)into an artificial opening into the body;
(i)put into the external ear canal, up to the eardrum, a substance that is under pressure;
(j)apply
(i)ultrasound, for
(A)diagnostic or imaging purposes, excluding any application of ultrasound to a fetus, or
(B)the purpose of lithotripsy, in treating a disease, disorder or condition of the orofacial complex and associated anatomical structures,
(ii)electricity, for the purpose of destroying tissue or affecting activity of the heart or nervous system,
(iii)electromagnetism, for the purpose of magnetic resonance imaging,
(iv)laser, for the purpose of cutting or destroying tissue, or
(v)X-rays, for diagnostic or imaging purposes, including X-rays for the purpose of computerized axial tomography;
(k)issue an instruction or authorization for another person to perform, in respect of a named individual, a restricted activity specified in paragraph (j);

(l)in respect of a drug specified in Schedule I, IA or II of the Drug Schedules Regulation, B.C. Reg. 9/98,
(i)prescribe the drug,
(ii)compound the drug,
(iii)dispense the drug, or
(iv)administer the drug by any method;
(m)if nutrition is administered by enteral instillation, dispense a therapeutic diet;
(n)prescribe a dental appliance;
(o)dispense or fit a dental appliance;
(p)conduct challenge testing for allergies
(i)that involves injection, scratch tests or inhalation, if the individual being tested has not had a previous anaphylactic reaction, or
(ii)by any method, if the individual being tested has had a previous anaphylactic reaction.

*Table 2: Restricted activities for dentistry registrants*

2.10 In Part 2 of this report recommendations are made as to changes to the Health Professions Act and in addition to the overall framework of health professional regulation to enable health professional regulation in British Columbia to promote the safety of patients, the well-being of the public and to work better in the interests of all citizens of the Province.

# 3. Governance, conduct and probity

*Elections and appointments*

3.1 The Health Professions Act (HPA) refers to the professionals who are regulated within its framework as both 'registrants' and 'members' of a college[5].This reflects an inherent confusion as to the nature of a college and its relationship to the people it regulates. 'Members' implies that the dentists[6] own and control CDSBC; 'registrants' that they are registered with and controlled by the College. These two conflicting perceptions run through the way the College and its board and registrants behave and how they perceive their roles and responsibilities. A former member of staff described it thus: *'My view is that the biggest problems here, the biggest resistance here, comes from two fundamental issues. The first is the misunderstanding of the role and duties of a regulator by this registrant base. A huge misunderstanding…. You know, the lack of understanding about what the College's role is causing a lot of the issues, a lot of the disappointment and the politicking and many other things stem from this. Either a refusal to acknowledge or a… plain ignorance as what the College's role is*'.[7]

3.2 This idea of membership is reinforced in the requirement under the HPA for an Annual General Meeting[8] and for annual elections to the Board of the College.[9] This level of accountability to and control by the members creates the persistent perception that the College exists for the benefit of dentists, that it is a club rather than a regulator and that volunteerism lies at its heart. I heard many comments from dentists about the importance of 'democracy' within the College and noted the time and energy and enthusiasm that goes into the annual awards event for selected volunteers. Much stress is put on the idea of voluntary service to the College despite the fact that the majority of dentists who volunteer legitimately receive some payment. The idea that the College is a voluntary organisation rather than a professional regulator also affects the relationship between the members of the Board and the staff (see paragraph 3.22).

3.3 It is worth considering just what 'democracy' means in the context of the CDSBC. In the years 2014 to 2018, the average percentage of dentists voting in elections for members of the Board was 40%. The percentage of CDAs voting was an even smaller 7%. In 2017 the average voting percentage for four Board positions was 29%. Voting of course implies a choice but three dentist members of the Board were elected unopposed in 2016 and six in 2018. The voting system operates as an electoral college which creates further inconsistencies. There are over 6000 CDAs who can elect only two people to the Board whereas 3000 dentists elect ten.[10]

[5] Certified Dental Assistants and Dental Therapists are not 'registrants'. CDAs hold a certificate granted by the College but are not regarded as registrants or members. See 5.16 to 5.20 for more details on CDAs and Dental Therapists

[6] The Health Professions Act defines a registrant as 'in respect of a designated health profession, a person who is granted registration as a member of its college in accordance with section 20'

[7] All quotations, unless otherwise noted, are taken from recorded interviews with former of current Board members or senior staff during July 2018.

[8] Heath Professions Act, section 19.

[9] Health Professions Act, section 17.

[10] A proposal to reduce this to one and six was agreed by the board in September, then overturned in November 2018

Similarly, the geographical constituencies vary greatly in size. In the North district 151 dentists elect one member to the Board, in Vancouver district the electorate for one member is 1739. The faculty at the University of British Columbia (UBC) elect a Board member. There are only around 45 members of that electoral college and they are the only registrants who have two votes as they are also entitled to vote in their relevant geographical constituency. Dental Therapists meanwhile have no voting rights at all and no place on the Board.

3.4 Of course, elections apply only to professional members of the College Board. Public members are appointed by the Minister through a process which is opaque. It appears that 'public' members may either be approached directly by government officials or may put their own names forward by indicating an interest in general or in relation to a particular profession. Names may also be suggested by the regulator's Board Officers or Registrar either formally in writing or informally. Transparency could be improved in how the names of public members come to be considered by the Ministry of Health (the Ministry) and how they are subsequently selected and allocated to various bodies. 'Public' members include, somewhat surprisingly, people who are regulated health professionals but from a different profession.

3.5 The lack of clarity and transparency about how public members are put forward and appointed gives rise to suspicion on the part of some dentist members of the Board that the appointment process has been manipulated. Several former and present Board members alleged to me that the previous Registrar had 'appointed his friends to the Board' or had 'packed the Board with his friends'. This is not true. Decisions as to who should be a public member of the Board are in the hands of the Minister and it has long been the practice that regulatory Colleges in British Columbia may put forward names of possible candidates. In fact, a form is provided by the Ministry for exactly that purpose and names are put forward and signed off by the President. In any event there is something unconvincing in dentist board and committee members, who are often themselves friends and colleagues or former classmates or who may share business or social interests, suggesting that public members are unduly influenced by personal or professional relationships but that they themselves are not.

3.6 The CDSBC has 10 committees as set out in the by-laws[11]. It has another committee which is described as 'technically a working-group'; the so-called Governance Committee[12]. In addition, it has established three other working groups bringing the total to 15.[13] The College has not established a Patient Relations Committee as set out in the HPA[14]; the Board has reserved this function to itself although it seems rarely to have discussed patient relations. The College does not have a patient relations programme (see paras 6.15-6.18 below). The terms of reference of these committees and working groups while written down are not

[11] *Bylaws of the College of Dental Surgeons of British Columbia*, 2017.
[12] *CDSBC Annual Report 2017/18*
[13] Working groups include: Bylaws working group, Facial aesthetics working group, Governance Committee, Finance and Audit Working Group
Committees include: Audit Committee, CDA Advisory Committee, CDA Certification Committee, Discipline Committee, Ethics Committee, Inquiry Committee, Nominations Committee, Quality Assurance Committee, Registration Committee, Sedation & General Anaesthetic Services Committee,
[14] Heath Professions Act, section 19, (t).

always adhered to, and when interviewed, their chairs and members could not always explain to me with confidence what their roles and responsibilities were. Particular confusion seems to exist around the roles of the Governance Committee and the Nominations Committee[15] and the relationship of the 'Finance and Audit Working Group' to the Audit Committee.

3.7 According to the 2017/8 Annual Report the Governance Committee 'provides governance, oversight and advice to the Board'. Its former Chair, who was also Vice-President of the College, wrote in that report 'the best governance is what works best for CDSBC'[16]. I find both these statements problematic. A working group of the Board cannot 'provide governance' to the Board, nor can a working group established by the Board 'oversee' the Board. Since all the members of the Governance Committee are members of the Board and two of them are officers (the current President also attends *ex-officio*) it seems that it is advising itself. If the College's definition of good governance is merely 'what works' it is hard to see what ethical or external wisdom that brings. In many conversations with Board members and with the former chair of the Governance Committee it was not possible to elicit a clear explanation from anyone of the Governance Committee's role or responsibilities.

3.8 Uncertainty about the Governance Committee's role is also shared by some of its members. At a meeting I observed, discussion took place as to why certain items were on the agenda and what if anything they had to do with governance. Several items appeared to me to be operational and should not have needed to come to a committee at all. Other items included a proposed charter of 'Patients Rights', which having been referred from the Governance Committee to the Board and back again was referred on to the Ethics Committee. Decisions were made and agreed by the Committee only to be revisited and changed at the intervention of individual members within a day. In line with the recently introduced practice of a declaration of interests at the start of the meeting the members agreed that they all had an interest in the item on the Expenses Policy. However, when that item was reached they discussed it from their personal perspectives without any acknowledgement of the interest they had previously declared. Since the Audit Committee is responsible for expenses it's not clear why this item was on the agenda at all. It is difficult to see what added value the Governance Committee brings.

3.9 The Finance and Audit Working Group was established May 2012. The College's Bylaws specify that the Audit Committee has only three members. The Working Group has four members. It does not meet separately from the Audit Committee but rather attends all its meetings. Although members of the Working Group are not members of the Audit Committee they take a full part in discussions. The former chair of the Committee said, *'I have to frequently look at my notes to know who is the member and who is on the working group'*.

3.10 The way in which both professional members are elected and public members are appointed to the Boards of Colleges does not help good governance although this is no criticism of the individuals so elected or appointed. I make recommendations for some changes the CDSBC could make now within its existing legislation in section

[15] At its meeting in September 2018 the Board agreed to rename the Nominations Committee the Awards Committee and to transfer the nominations function to the Governance Committee
[16] Annual Report 2017/18

6 below and recommendations to the Minister for changes to the HPA in Part 2 section 9.

*Conduct of the Board*

3.11 The Board of the CDSBC has not been a happy, well-managed or constructive governance body for several years. I acknowledge however that the behaviour of Board members and its conduct of business is improving and that Board members are aware of their own difficulties.

3.12 The sudden change of leadership at the College in 2016 is a recent but not only source of many of its governance problems. At that election a self-declared 'slate' of six candidates stood with the intention of replacing the then President and bringing the then Registrar under control. Five of those six signed a joint declaration addressed to 'Dentists of BC'. It begins

> 'Over the last few years the executive body of the College of Dental Surgeons of British Columbia under the mandate of 'public protection' has rescinded many of the public and dental professional rights in this province'. And it concludes, 'Our registrar and President seem out of control. A group of us have formed a political slate to run against the current executive so that we can 'right the ship".[17]

3.13 I should note that the dentist who was the leader of that group and was elected President in June 2016 told me, '*We did not have changing the Registrar as part of our platform. In actual fact I had no thoughts about a new Registrar or what a replacement would look like.*'[18]

3.14 The cause of this undoubtedly genuine discontent on the part of dentists was the introduction, or attempted introduction, in 2014/15 of new standards in relation to treatment by dentists of their own family and friends, to advertising by dentists and the challenges presented by the growth of corporate dentistry. Further a proposal to change the bylaws to have the officers appointed by the Board rather than elected by the registrants as a whole caused outrage amongst those dentists who thought the College should remain under the 'democratic' control of its members. It seems to me that these changes to College policies, reasonable and proper in intention although they may have been, were not well thought though, communicated or managed. As the President elected in 2016 told me, '*There wasn't an appropriate policy process. It wasn't run out to the registrants in an appropriate way in which they could understand the rationale for its incorporation and accept it.'* The consequences damaged not only the governance and reputation of the College but were a setback to the ethical standards for dentists in British Columbia.

3.15 Certainly, the style and intention of the new Board members was different from before. As one public board member at the time observed, '[The new president] *had no concept of governance. His agenda was for the benefit of the dentists. He didn't understand 'protect the public' from my perspective. He just comes there to fix all the things that we've done wrong against the dentists. He actually said that in that first workshop on the first day that he came.*' Similarly a dentist member told me, *'I thought that the new people coming on - they were elected as a slate, would they work on the Board as a slate or would they be independent? And it could be that they would be independent but in reality… they weren't independent at all. They*

[17] 'Dentists of BC', undated, 2016
[18] Interview November 2018

*might say a few different things but they always voted the same. They would try to make sure that committee membership involved certain of that group and to try at the next election get more people involved that were of like mind. And sort of silence, or whatever, some of the people who had different opinions. And I think it affected staff morale especially.*'

3.16 The former President has an understandably different view, he told me,[19] '*I tried to follow the Governance Manual to understand my responsibilities. I had to pile my way through a huge volume of stuff. The Board had not done adequate scrutiny of policy and its development. My focus was that the Board were working in harmony within the governance manual to try and make them aware that they had a responsibility for oversight. The Board should be working with the Registrar and the staff in the public interest. Many board members had not read the governance manual and some said they had never seen it. I was only there to run the meetings. I had to generate trust with Board members. I didn't have an agenda. I aimed for mutual respect and no animosity but that was difficult because two thirds of the Board were very hostile.'*

3.17 Nearly every Board member, past or present, with whom I spoke, told me of lack of trust between board members and between the board and the staff team. A dentist who had served on College committees said, *'I think an organization cannot lose trust in all the different levels, from the Registrar, to the executive, to the Board, to the committees and to the staff here. And I think to the public at large after that. The public is who we're trying to protect at the end of the day but if there's loss of trust anywhere along the way, it becomes dysfunctional. That's what I saw the last two years'.* A public member, similarly said, *Trust has three components; do I trust your motivation, do I trust your skill, do I trust your process? There has become a habit in this group of 'I don't trust your motives'. What they really seem to be thinking is I don't trust your skill or your process…This has deteriorated into a mistrust of motives.'* It is a matter of regret that despite serious efforts to rebuild relationships by both new and some long-standing members of the Board and by senior staff mistrust persists. A public member of the Board reflected, *'There a very strong mistrust that seems to be threaded though the Board itself.*'

3.18 The working relationship between the Board and the professional staff needs to be addressed with some urgency and I look at this issue in more detail below.

### *Relationships between Board members and the staff*

3.19 Two examples of the lack of trust the Board has in its own staff are the complicated arrangements they have put in place for the secure storage of the personnel records of the Registrar and their unwillingness to have their own Board Secretary take the minutes of their 'private' meetings. In the first case the Board officers,[20] because they did not trust the Registrar with his own personnel records, removed them physically from the College premises and stored then securely with a legal firm. Between 2016-18 the Board held some 20[21] 'private' meetings or telephone calls with no staff present. As I report elsewhere (para 3.58) inadequate minutes

[19] Interview November 2018
[20] Board officers are the President, Vice-President and Treasurer.
[21] Because of inadequate records it has not been possible to determine the exact number of meetings

were kept of these meetings by Board members themselves. Board members are now making arrangements, if private meetings are held, to have minutes taken by a secretarial agency, which should improve the quality of the minutes but shows a continuing lack of confidence in the professionalism of their own staff. A confidential web portal is being set up, to which staff will not have access, to store these minutes.

3.20 Two members of staff are former members of the Board. One officer of the Board is a former member of staff. Despite this rather unusual overlap, which one might hope would promote mutual understanding, there remains considerable tension between the Board and the staff team. Just as there has been a struggle within the Board for control over the direction of the College there is a struggle between the Board and the staff team for management of the operational functions of the College and about the staff's contribution to policy. As with the issue of elections this partly flows from the belief by many dentists that they 'own' the College, that the Board therefore embodies the College and that the staff are merely functionaries whose role is to do the bidding of the Board. One public board member observed, '*The Board as a whole don't mistrust staff, it's a minority that wouldn't have respect for staff but that minority would include board officers. I have heard that they have done too much by way of changing operational issues. The current Board, really the officers, don't know the line between supervising the Registrar and getting their hands on the College'*.

3.21 I have on a few occasions noted an unacceptable level discourtesy towards staff by individual Board members and some officers, past and present, sometimes publicly reprimanding them or challenging their competence. Unfortunately, although such damaging criticism is rare, it has gone unchallenged by other board members. Lack of respect for others if unchallenged rapidly becomes accepted conduct.

3.22 The tension between Board members and staff works both ways; if staff do not feel they are treated fairly by the Board or committee members they lose confidence in the leadership of the College. Staff can also be disempowered and uncertain of what is expected of them because of the unclear messages coming from the Board. As one public member observed, *'The [officers] and full Board do not use the registrar and senior staff in a very effective way. They rarely seem to turn to the registrar to ask for input, advice, and recommendations. I believe that most issues coming to the board should be framed in briefing notes which staff have researched and prepared. Staff should include a recommendation and rationale rather than posing open ended questions like, 'Staff are seeking direction from the Board.*"

3.23 A member of staff recently said to me, '*The staff are so frightened of the officers, they are so unpredictable, it's like walking on eggshells, so nothing gets done in case it's the wrong thing or they've changed their minds'.*[22]

3.24 The resignation of the previous Registrar in April 2018 achieved what some dentist members wished for. One had written, *'Is there a culture in the conduct of the registrar's office which is not particularly favourable to CDSBC, the profession of dentistry in British Columbia and most importantly our duty to the public. Are we over influenced by persons trained in law and not dentistry?'*[23]*.* Although the

[22] Staff member, October 2018

[23] Memorandum to members of the Governance Committee, June 14, 2017

Registrar's resignation was foreseeable it was some time in coming. When it came the Board had no plan. Some members did not like that Registrar but had no settled idea what kind of new Registrar they would like. The former President told me that he had no reason to think about what kind of Registrar was desirable because he had had no intention of getting rid of the registrar. This is not the perception of other members of the Board at the time. One public member told me, *'There were a group of six elected in July 2016, I've seen some of their election propaganda, including that the goal was to remove the President and the registrar from their positions. The language was very strong in some of the propaganda I've read*.' A board officer said, '*I had a lot of respect for [the Registrar's] knowledge but as time went on I had less respect for his character… I think now we are in a much better position.'* In any event, by the time the Registrar left, no new job description or person specification had been prepared, no timetable for recruitment had been put in place, no regard taken for the impact of the acrimonious departure of an experienced regulatory CEO on the staff team with whom he had worked with for five and a half years. It took several months to agree a contract with the Acting Registrar and at its meeting in September 2018 the Board was still undecided as to how or when to recruit a substantive replacement. In July 2018 one public Board member had observed, '*The Board seems unclear whether they want/expect the Registrar to take on the functions of the CEO despite there being a role description for the registrar that includes CEO functions and was signed off by the board in Jan 2012. It is included in the governance manual.'* [24] At the September Board meeting no decision was made except to set up a small working party to consider the matter further. A decision was finally made at the Board in November 2018 to appoint the current acting Registrar and CEO to the post but only for a two-year period. The terms of that appointment are still not agreed. It seems that this important issue of College leadership is unlikely to be resolved until well into the future.

3.25 The Board should be grateful to the staff team for their resilience in maintaining the College business against a background of mistrust, arguments, lack of planning and dysfunction within its elected and appointed leadership. It is primarily the staff who over the last two years or more have ensured that public protection has been a focus of College activity. As a former public Board member said, *'The biggest issue is the Board. The staff is an excellent group of people. I saw some excellent processes with complaints as well as strong performance in other areas. It's the functionality of the Board and how it works with staff which is the biggest barrier to how the College can become an excellent regulator and a good protector of the public*'. One of the College officers admitted, *'I know, the things that we were upset about didn't have a lot to do with patients' safety… I know a lot of the people who work here, so I knew that the patients were being protected. That that hadn't changed… But the board has been stuck, we have accomplished virtually nothing because of this issue'.* The former President disagrees. In his view the Board achieved numerous improvements to protecting the public during his period in office (see paragraph 6.8).

3.26 The view of some dentist members of the Board is that staff should not have opinions and that their knowledge and expertise is to be discounted; they are there to carry out the decisions of the Board and its committees. In an email to a staff

[24] The CDSBC Governance Manual has a section on Registrar/CEO succession planning (s26) which does not appear to have been discussed or followed by the board

member, copied to the rest of the rest of the Bylaws Working Group, the Chair made clear, '*It is not the role of staff to enter into policy discussions of the Board, a committee or a working group...You were asked to reformat my memo to the Board on behalf of the bylaws working group. Nothing more'*[25]*.* This disparaging attitude is reflected in the communications of some dentists; one wrote, *'Let's face it the majority of 'research' is supplied by CDSBC staff. There have been numerous situations that staff members (especially complaints officers) have discounted research when it doesn't agree with their beliefs.'*[26]

3.27 Members of staff should be treated as an asset by the Board and their expertise valued. They are not the servants of the Board they are partners with it in the College's important task of protecting the public.

*Ethics and conflicts of interest*

3.28 Every time somebody enters and leaves the College offices they pass a statement of its Standards of Practice. These remind registrants, staff and Board and committee members of their ethical responsibilities including that they should 'maintain accountability in the public interest' and ensure that they meet 'legislative requirements and professionals standards'.

3.29 Each Board member takes and signs an Oath of Office[27] on taking up their position. The wording of the Oath reads:

> I do swear or solemnly affirm that:
>
> • I will abide by the *Health Professions Act* and I will faithfully discharge the duties of the position, according to the best of my ability;
> • I will act in accordance with the law and the public trust placed in me;
> • I will act in the interests of the College as a whole;
> • I will uphold the objects of the College and ensure that I am guided by the public interest in the performance of my duties;
> • I have a duty to act honestly;
> • I will declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interest;
> • I will ensure that other memberships, directorships, voluntary or paid positions or affiliations remain distinct from work undertaken in the course of performing my duty as a board member;
>
> So help me God. *[omit this phrase in an affirmation]*[28]

These are serious affirmations emphasising public trust, the public interest, and public duties.

[25] Email dated 20.10.18
[26] email dated 1.11.18
[27] HPA 17.11

[28] Health Professions General Regulation, 2017

3.30 In addition, the College had a 'Conflict of Interest and Confidentiality Agreement' as well as a 'Code of Conduct for Board and Committee Members'[29]. Those were signed by all members who hold a role within the College. Financial conflicts are also covered briefly in the Financial Policies[30]. There has been however no register of interests and no requirement for members to declare new or relevant existing interests prior to each meeting. This is now being introduced. I welcome the decision by the Board to introduce this as a standard agenda item and to have a publicly accessible register of interests. This should cover all Board and committee members and senior staff.

3.31 The College had a conflict of interest statement until 2016. It was comprehensive:

> 'A direct or indirect conflict of interests exists when you, a friend, a family member, business associate or your corporation or partnership stand to benefit by the result or consequences of a decision made by the committee on which you are serving. A conflict of interest can also occur when your own personal interest in the outcome of a situation could influence, impair or prevent you from pursuing an objective fair and principled approach to decision-making.'

3.32 It went on properly to highlight the importance of perceived conflicts of interest:

> 'The possibility that others will perceive that a Board or committee member is biased or has a conflict of interest in a given situation is also significant. This can arise when others perceive that the decision-maker would be unable to make an objective decision about an issue, quite apart from whether the decision-maker believes this perception to be true.'[31]

3.33 There is no doubt that perceived conflicts of interest can be damaging to confidence in public bodies and a failure to address them undermines their independence and their reputation. In 2016 the Governance Committee under its new chair, took issue with the Confidentiality Agreement as they thought it was too restrictive and didn't allow for any discussions with registrants. The Committee subsequently approved a Board Member Conduct Agreement which as well as reasserting that members should avoid bias and conflicts of interest and that 'Board members must maintain strict confidentiality', went on to itemise those occasions when confidential information could be shared[32] Given the clarity of the College's Board Member Conduct Agreement and that all Board and committee members sign it is disappointing that very little regard seems to have been taken until recently to address the issue of real and perceived conflicts.

3.34 I address the relationship between the College and the British Columbia Dental Association below (para 5.21). That there is a possible conflict of interest is borne out by the College's own Governance Manual which specifies that:

> 'A Board Member must not simultaneously be a board or committee member of any dental professional body where there could be a conflict with the regulatory role of CDSBC, without prior consent of the board.

[29] 'Code of Conduct, Board and Committee Members' and 'Conflict of Interest and Confidentiality' CDSBC, undated.
[30] CDSBC Financial Policies, 2016, p5.
[31] CDSBC Conflict of Interest and Confidentiality, nd. P2
[32] Governance Committee Minutes, 5 October 2016

> 'A Board Member should not serve as a board member of any provincial or national dental association until three years after the expiration of his or her term.'[33]

3.35 A similar requirement for incoming Board members is set out in paragraph 3.4 of the Manual. It reads:

> ‘Any person who currently serves or has served in the previous two years on the board of directors of any provincial or national dental association is ineligible to be a Board Member unless he or she has received prior written consent from the Board.’

3.36 This is a proper recognition of the separation of roles to limit conflicts of interest. It is odd that 3.4 specifies a two years separation and 7.6 three years. I recommend that three years should apply to both restrictions and that the discretion for the Board to over-rule best practice should be removed.

3.37 Dentists who are the subject of a complaint are able to stand for election to the Board and indeed to be elected, while that complaint is under consideration. This undermines the regulatory role of the College. I recognise that a complaint may not have been found to have any substance at that point and may indeed subsequently be found to be without merit. But that is not the point. Serving on the Board of a regulator is a public privilege not a professional right and all those who seek such responsibility should demonstrate their personal commitment to and respect for patients. Bylaw 2.3(8) says registrants should ‘be in good standing’ to be appointed to the Board. Being the subject of a live complaint puts that good standing in doubt and standing for election at that time undermines public confidence as it implies that the College has predetermined the outcome of the complaint.

3.38 Dentist members of the Board, past and present, have been quick to suggest to me that public Board members who know each other professionally or personally are inevitably conflicted and biased. This allegation was made repeatedly by former officers and some dentists against those public members of the board who had had professional or personal contact with the former Registrar. No actual evidence of how these supposed conflicts of interest played out in practice was provided except allegations of bias. As I have observed before (para 3.5 above) there is no similar recognition that if dentists are friends and colleagues that may also be perceived as creating bias. However, these are perceived conflicts of interest and as such no less damaging that actual conflicts. The Governance Manual again is clear:

> ‘All appointed members should be independent of CDSBC; that is free from any relationship that might interfere with their independent judgement as a Board Member’

3.39 Of course, many dentists, some more than others, are properly involved in business with each other, whether it be sharing a practice, running training courses or study clubs. Others may be active in the British Columbia Dental Association or other representative or advocacy groups. There is nothing wrong with these relationships or activities. They may however, in particular or in general, give rise to an actual or perceived conflict of interest and this is why an up-to-date published register of interests is necessary and why new and relevant interests should be declared

[33] CDSBC Governance Manual 7.6

before every meeting. This is particularly important in the Inquiry Committee and the Board. I have seen the correspondence between a dentist member of the Inquiry Committee and the College concerning their suggestion that a dentist be required to take a course in which they had a financial interest. The inquiry panel chair wrote, *'One of the dentist members of the committee made comments about limitations of a…teaching center suggested by the college…and suggested that the college should consider sending the registree to the member's own teaching institute for further training. This is a serious conflict of interest and a very unprofessional attempt to advertise for business during a formal meeting…I noticed similar behaviours in past meetings and I expect the college to have certain guidelines to prevent this from becoming a pattern*.' The dentist concerned, despite having signed the Confidentiality and Conflict of Interest statement, rejected the suggestion responding, *'I note the suggestion I made may be unpalatable for another who may consider himself or herself a competitor.*' I should add that the College took action in this matter.

3.40 The College Board Member Code of Conduct requires members to 'maintain strict confidentiality of College business'.[34] The 'Conflict of Interest and Confidentiality' statement prior to 2016 went into further detail. No one could misunderstand what confidentiality is or what was required. Despite that a confidential legal report to Board members was leaked to the *Globe and Mail* in 2017. Several Board members told me that there were frequent leaks of information from *in camera* and private Board meetings. At the September 2018 Board meeting, the College's General Counsel reported that the level of detail in a Freedom of Information request received from a *Globe & Mail* reporter would seem to indicate that they were continuing to receive confidential information. All members of the previous and incoming Board, except the President, have now signed a new additional Confidentiality Certification.[35]

3.41 In spring 2016 a serious complaint was made to the College. I make no comment on the nature or content of that complaint or on its outcome. However, it is appropriate for me to review the manner in which the College Board dealt with the consequences of the complaint.

3.42 In February 2017 that second report was submitted to the Board. The only people who had copies were the Board members and subsequently the Registrar. The report was unequivocal in its criticism of the Colleges handling of the complaint and proposed a number of actions to remedy the matter. It advised the Board that the matter should be kept confidential. It was not.

3.43 On May 11, 2018 the Board held a private meeting by telephone to approve an agreement with the complainant made through their lawyer. They agreed a payment to cover the complainant's legal costs. They also agreed a donation to a charity to be made in the complainant's name. A few Board members queried the appropriateness of the latter payment. There were two concerns; was it proper for the College to make such a payment, that is, was there provision in the HPA for CDSBC to be making charitable donations and to a charity entirely unconnected to its purpose; and why was the donation to be made directly to the charity and not to the dentist? Despite these doubts the Board approved the payments. As one Board

[34] CDSBC Code of Conduct, 2017, Page 2
[35] Board meeting 15 September 2018 item 22

member said, *'There were a lot of people, board members opinions, that felt that it wasn't our duty to be making a donation of $25,000 in anybody's name. I think the bottom line was that we agreed to it just to bring the issue to an end.'* Two members of the Board asked that their dissent be recorded in the Minutes[36].

3.44 The internal and external strife that has engulfed the College in recent years has inevitably involved obtaining legal advice and meeting its own and other's legal costs. Legal advice does not come cheap and in the three and a half financial years 2015/16 to autumn of 2018/19 the College has spent some $320,000 on the external legal cost of protecting its own interests. In the same period the external legal costs of protecting the public were $91,000. The College has a procurement policy but this has not been followed in the selection of any of the eight different external lawyers who have advised it during this time. There has been no formally agreed brief and no process of competitive tendering for any such contract as set out in the College Financial Policies.[37] The College has General Counsel on its staff, as permitted by the Bylaws[38] but their opinion on external legal advice has not been sought by the officers or the Board. In November 2016 without the necessary approval of the Board (which was given subsequently) the officers commissioned external legal advice on the interpretation of the HPA.[39] Advice which their General Counsel, an expert on the legislation, could have provided at no cost. Again, this reflects the Board's general lack of respect for or confidence in the expertise of its staff and a disregard for its own policies and procedures.

### *Management of meetings*

3.45 College Board meetings are long. They generally last all of a Saturday and may be proceeded by a full day workshop. They are divided into three parts: a public session, an *in camera* session and a private session. The *in camera* session is closed to the public but staff attend. The private session is Board members only. I welcome the recent decision by the Board to move more agenda items into the public part of the meeting. One of the disadvantages of having public and *in camera* sessions is that some items are discussed twice. The Bylaws set out a list of items that might need to be taken in closed session but stresses 'the public interest in Board meetings being open to the public'.[40] There was a discussion at the September 2018 Board meeting of the possibility of allowing members of the public to speak and ask questions. The matter was passed to the Governance Committee, where in October 2018 it was discussed again. Some Board members seemed quite concerned that the public, to whom they are accountable, might publicly hold them to account. Suggestions were made to restrict the public to written questions in advance, or to no more than three minutes, or to a separate meeting entirely. One dentist member suggested that the public might be unable to understand the business of the Board. I believe the Board will move in the right direction and I urge them to do so without restrictions on the public except that of polite and proper behaviour. The College regulates on behalf of the public and should be willing to be accountable to the public.

[36] *In Camera* minutes, May 12 2018
[37] CDSBC Financial Policies, July 2016, p7.
[38] By-Laws 3.14
[39] DLA Piper report
[40] By-Laws 2.15(9) (a)-(k)

3.46 Meetings of both the Board and its committees could be more productive if they were shorter and more attention was given to three kinds of agenda items:

- reports for information,
- reports on performance requiring challenge
- and approval and papers requiring discussion and a decision.

3.47 Additionally, I note that the roles of a Board are:

- to ensure the College complies with its mandate and the law
- to set strategy, to monitor performance
- and to hold the registrar and chief executive to account for delivery

3.48 Board agenda items and papers should reflect those roles. At every meeting the Board should be asking itself: how are we protecting the public, what will the decisions of this meeting add to public protection? When Boards lose their way they become over-concerned with process and procedure rather than with effective decision-making and outcomes. The background papers that the Board receives should be prepared to help the Board achieve its purpose not merely to report on activities. I note that the Board is proposing to move more of its papers into what it calls a 'consent agenda', that is reports that are to be received and noted by the Board but not discussed. This is one way of freeing up Board time for more important items. However, its raises the question of why those reports are being prepared for the Board at all if they are not worthy of discussion.

3.49 A Reading of the minutes of meetings reveals that sometimes matters are discussed formally or raised informally which subsequently disappear from view despite the Board having proposed that some work should be undertaken. For example, the creation of the Policy Development Working Group. After the initial 'appointment' of the Working Group, there is no more information about the outputs of it in next Board meeting minutes. Sometimes, the reverse may happen where a piece of work may be completed but with no recording in the minutes that this was initiated: for example, the disbanding of the Registrar Search Working Group in 2012. There appears to be no mention of the Working Group being set up.

3.50 Decisions made by the Board may be challenged by a committee and decisions made in a committee overturned by members subsequently. There seems to be no formal way of recording and tracking decisions except when motions are proposed and carried. Even those appear sometimes to be contested or changed after the event. The style and format of committee minutes is not always consistent.

3.51 Voting on resolutions does not lend itself to consensus building or to the development of corporate responsibility. Indeed, the practice of proposing formal motions, gathering amendments and voting on them seems completely out of step with modern governance. It reinforces the idea that the College is a club and that board members represent and vote on behalf of their electorates. An effective board absorbs information, debates and discusses and aims to reach a consensus. The Chair will summarise and confirm back to a board what they have agreed. If the board are deeply split that may need to go to a vote but rarely. The Chair should not vote unless the board is evenly split. I note that at the September 2018 meeting the resolutions relating to proposals from the Bylaws Working Group on the size and membership of the new Board was by secret ballot, whereas all other votes were by show of hands. When I asked the President after the meeting why this was so, he

said that it was because the items were controversial. I do not see that is a reason for secrecy, in fact quite the opposite. Voting should be open and transparent, secret ballots have no place in a public body.

3.52 The Governance Committee had in fact discussed this very issue at a meeting in November 2016. The relevant minute reads:

> **'**System for casting votes at the Board level.
> [Name 1] suggested a polling mechanism such as Della Smith (*sic*) uses. [Name 2] said this was not the way to go as it is important to hear everyone's opinion and for openness and transparency especially when discussing policy. These important policy decisions need to be discussed openly, consensus sought and then a decision through a motion or consensus agreement. [Name 3] agrees, saying an anonymous voting system is not transparent or consistent with good governance. The Governance Committee was satisfied with this discussion. No further action required'[41]

3.53 Although at least four members of the committee which made that decision two years earlier were present at the Board in September 2018 no one questioned or challenged a procedure previously rejected by the Governance Committee as not consistent with good governance. At the November 2018 Board meeting, despite by then having had the Governance Committee's conclusion drawn to his attention the President continued with secret ballots.

3.54 As noted above the Board has not only held meetings *in camera,* but also private meetings where no staff were present. Proper records of some of those meetings have not been kept. This is a failure of governance. At many of those meetings important decisions affecting the reputation, probity and finances of the College were made. That such decisions were made in secret and without proper records or subsequent approval of those records is a significant failure in a statutory body. The current President has with considerable diligence and effort gathered together such records as do exist and shared them with me. He informed me, '*I believe one of the Board officers (President, Vice-President of Treasurer) was often responsible for the minutes and more often than not this may have been the Treasurer but this in not absolutely clear'. He continues, 'There is no indication that the minutes were approved in any formal way…Some of the minutes were held confidentially at the College. The remainder were stored electronically with one of the Board officers*.'[42] The staff, at the request of the Board, is now putting in place formal arrangements for the minuting of private meetings and the secure storage of this minutes. Having read the minutes and other documents provide to me by the President I consider that they do cover matters which is was appropriate for the Board to discuss in private.

3.55 Transparency is a great antiseptic. It reveals what organisations and people say and do and promotes public accountability. I welcome the moves the Board is making towards greater openness; moving more items on the agenda into the public meeting, inviting members of the public to ask questions at the end of the meeting, establishing a proper register of interests and introducing declarations at the start of meetings. I consider it should actively limit its use of both *in camera* and private

[41] *Governance Committee, 24 November 2016 Item 7*.
[42] Letter dated October 8, 2018

board meetings and have clear criteria for which items should be discussed at *in camera* meetings. Private meetings should be reserved for confidential human resources issues which rarely require the involvement of the entire Board. The CDSBC should consider establishing a small confidential remuneration committee to advise it on such matters.

3.56 In this context it is appropriate to commend the quality and accessibility of the College's website. The website is well presented and encourages and enables members of the public to understand the College's role and to make a complaint. It is easy to find most but not all information. I consider that some of the information could be better organised particularly that around standards of dentistry. A user has to search through five web pages to find the actual standards and the language used is inconsistent; 'practice resources', 'practice guidelines', 'standards and guidelines', 'professional practice', 'standards of practice', 'policies'. This is confusing and the College should use consistent language separating the internal policies of the College from Standards and Guidelines for dentists. (see paras 4.49-57 below)

*Financial oversight*

3.57 This is not a financial audit of the College. I have no reason to think that the College is not well managed financially. All my questions which have related to financial matters have been answered in full and with commendable speed. It is apparent however, that the Board has not always followed its own financial policies and procedures particularly in relation to the procurement of legal advice. It is to be hoped that the Board can put behind it the many legal challenges it has recently faced but it must introduce proper procedures for the appointment of legal advisors and the management of legal contracts. It should do this through its own General Counsel to ensure an objective process.

3.58 It is unusual for an Audit Committee to spend time checking individual expenses claims instead of ensuring that there is a properly administered policy subject to internal audit. This is an inefficient use of its time and expertise. There is no internal audit function. In an organisation of this size it would not be proportionate to employ an internal auditor but it would be helpful to commission independent internal audit advice to the Audit Committee from an accountancy firm contracted for that purpose.

3.59 The College does not have a formal risk register managed by the Registrar and senior staff, reviewed by the Audit Committee and reported twice yearly to the Board. Such a Risk Register would have alerted it to some of the legal, financial and reputational risks that it has encountered in recent years and enabled it to mitigate them more effectively. Risk management is specified in the Governance Manual as one of the responsibilities of the Audit Committee.[43]

3.60 The Audit Committee is an important part of the checks and balances within the College. It has an important role in maintaining financial oversight and probity. It needs to hold both the staff team and the Board to account for financial and risk management and oversight. It cannot do that effectively if officers of the College attend its meetings and compromise its independence from senior decision-makers.

[43] CDSBC Governance Manual, 10.3.5

# 4. Performance of the College

*The Standards of Good Regulation*

4.1 As part of this Inquiry the College has submitted evidence of its performance of its key regulatory functions in the light of the 28 Standards of Good Regulation. A formal performance review has not taken place but the College's internal processes and procedures have been examined. As part of this Inquiry I have observed internal complaints meetings and a meeting of the Inquiry Committee and an Inquiry panel. Thirty complaint files chosen by me were audited against the Professional Standards Authority's audit framework. I have also received submissions from dentists, patients and lawyers expressing their views on the College's conduct of complaints.

4.2 The Standards of Good Regulation (see Appendix 2) cover the key functions of:

- Registration
- Standards and Guidance, and
- Complaints and discipline

4.3 In addition, I have reviewed the College against the Standards for Governance (Appendix 3). In order to meet each Standard a regulator needs to demonstrate with evidence that it does so. It is not sufficient to have policies and procedures which would meet the standard if properly applied; it is necessary to show that those policies and procedures are properly applied in practice and that they produce outcomes that meet the Standards. Many regulators have proper policies and procedures but do not measure their impact or outcomes and so may meet the Standards but cannot demonstrate that they do so. This is the case with the performance of the CDSBC against some of the standards.

4.4 My overall conclusion is that the College meets 17 of the 28 Standards of Good Regulation as set out below. It may meet others but I cannot conclude that it does because the evidence is not available. I conclude that it has not met 11 Standards.

*Registration*

4.5 There are four standards for registration:

**Only those who meet the regulator's requirements for registration or certification are registered**

4.6 The HPA requires College registrars to 'maintain a register setting out, for every person granted registration under this Act, the following:

(a) the person's name, whether the person is a registrant or a former registrant, and, if the person is a registrant, the person's business address and business telephone number;

(b) the class of registrants in which the person is or was registered;

(c) if the person is a registrant, any limits or conditions imposed under this Act on the practice of the designated health profession by the registrant;

(d) a notation of each cancellation or suspension of the person's registration…'

4.7 The requirements for registration are set out in Bylaw 6 for dentists and in Bylaw 7 for Certification of Dental Assistants.

4.8 The College has detailed information about registration on its website. Dentists and CDA's wishing to be registered or certified by the College must show that they have passed an examination set by the National Dental Examining Board (NDEB) or National Dental Assistant Examining Board (NDEAB). The College is able to check the veracity of the information provided by applicants though the two examining Boards.

4.9 Applicants must fill in a detailed set of questions to verify their identity and background. Applicants submit a statutory declaration as part of the application and have it notarized. They attest that the information in their application is true and accurate. If an applicant provides any unusual information about the requirements or their background or they have admitted to any previous issues with conduct or competence in response to application questions, the application is forwarded to the Registration or Certification Committees for consideration.

4.10 The College responds to developments to keep its requirements current: for instance, the 2015 Dalhousie University dental student scandal in which a group of male fourth year dental students posted sexually explicit and misogynistic comments online. Questions were raised about whether those students should ever be registered as a dentist in any of the Canadian Provinces and, along with some other regulators the College added additional questions to the application form.

4.11 As part of registration and reinstatement for dentists, Certificates of Standing (COS) are required for all outside jurisdictions that the applicant has ever practiced in. The COS must be sent from regulator to regulator and is in the format of a common template. The COS includes confirmation that they have complied with quality assurance requirements and whether there are any previous complaints. If there are open complaints or any current or past disciplinary action these are sent to the Registration Committee for consideration.

4.12 As part of certification and reinstatement for CDAs, Letters of Standing are required for all outside jurisdictions that the applicant has ever practiced in. These letters confirm that they have met the quality assurance requirements in that jurisdiction. The letter must be sent from regulator to regulator and includes a note about any open complaints and any current or past disciplinary action taken. The Canadian dental assisting regulators are working on a template for a Certificate of Standing similar to the one used for dentists and we will start requiring it if the applicant is coming from a Canadian jurisdiction.

4.13 CDSBC provides Certificates of Standing for registrants applying to other jurisdictions.

This Standard is met.

**Through the register, everyone can easily access information about dentists, dental therapists and CDAs, except in relation to their health, including whether there are restrictions/conditions on their practice**

4.14 CDSBC provides an online registrant lookup which includes all active registrants. The online register includes all registrants who are active. The lookup indicates the following information for dentists:

- Full name
- Registration category
- Gender
- Education, graduation year and initial registration date
- Limits or conditions of their registration (if any)
- Regulatory Action (if any)
- Practice location and contact information
- Whether they are qualified to provide sedation

4.15 Similarly, the Registration look-up provides information about certified CDA's:

- Full name
- Certification category
- Gender
- Whether they hold a Module (Orthodontic or Prosthodontic)
- Whether they have obtained a sedation certificate
- Limits or conditions to practice (if any)
- Regulatory action (if any)

4.16 For dental therapists currently only the name is shown.

4.17 The 'Registrant Lookup' is clearly indicated on the homepage and users can do a quick or advanced search of each of the three types of registrant. The registrant lookup is also in the top, right-hand menu bar of the website, which can be accessed from any page of the website.

4.18 Currently, the Registrant Lookup includes only active registrants. It does not include those who are retired, resigned, or those who have voluntarily withdrawn. It directs users to contact the College if they are looking for information about a registrant who is not listed on the online lookup. The College is seeking to improve the database to create an up-to-date listing which will include all current and previous registrants.

4.19 It is important for patients or prospective patients to be able to identify if an individual dentist or CDA has any limitations on their practice or any disciplinary findings against them. The way in which the definition of 'serious matter' as set out in the HPA is used in the complaints process to keep some consent agreements and limitations on practice confidential means that the information on the register is not always complete.

4.20 As part of considering this Standard a small sample of registrant entries on the public register was checked and no errors were found.

This Standard is met.

**The public and others are aware of the importance of checking a dentist's, dental therapist's or CDA's registration. Patients and members of the public can easily find and check a registration and certification**

4.21 CDSBC has participated in two public awareness campaigns, beginning in 2013, led by the BC Health Regulars promoting the importance of seeing a registered dentist, dental therapist or CDA and who patients should contact if they have concerns about the care they received. The first campaign was delivered in English, French, Spanish, Cantonese/Mandarin, Punjabi, Korean, Vietnamese, Tagalog, and Farsi.

The materials included print, television, speaking engagements, bus shelter advertising, community/ethnic newspaper ads, cinema slides, and public service announcements on a local news station

4.22 The second campaign in 2015 ran with the message, 'Saying you are one doesn't make you one: make sure your health professional is regulated and accountable'. The campaign ran advertisements on bus shelters, in multicultural media and on social media. It also included short television advertisements featuring children playing the role of registered health professionals. I have viewed these advertisements which are well conceived and made. There has unfortunately been no formal measurement of their impact on public awareness of health professional regulation.

4.23 CDSBC reminds registrants to check that their associates, employees and co-workers are registered or certified and includes that advice in media statements and publicity.

4.24 The College gives publicity to anyone identified as having practised illegally. The website lists people who have been the subject of legal action for providing unauthorized dentistry services; the public can click on each name for more information.

This Standard is met.

**Risk of harm to the public, and of damage to public confidence in the profession, related to non-registrants using a reserved title or undertaking a restricted activity, is managed in a proportionate and risk-based manner**

4.25 The College takes immediate action if it is alerted to possible illegal practice. A private investigator is appointed and if warranted, a search and seizure court order is sought from the BC Supreme Court to enable a College Inspector to attend.

4.26 The College Inspector, the private investigator and their team in addition to police officers attend to inspect, catalogue and seize evidence.

4.27 The CDSBC provided evidence of the action it had taken to stop illegal practice. In 2013 it took rapid and effective action against a man who is who was believed to have provided dentistry illegally to 1,500 patients. The College issued notices along the way to keep the public, registrants and other interested stakeholders updated. It also worked with Health Authorities to draw attention to the risk of infection for patients. Advertisements were also placed in Chinese and mainstream media to inform the public of the court findings. The College offered a reward for information leading to the arrest of the dentist after he went missing. He was subsequently detained in Ontario.

4.28 The College is able to demonstrate that its response is proportionate in the case of another person practising illegally where the risk of infection was not considered so great that a public health notice needed to be issued.

4.29 The College website records action against six people for illegal dentistry between 2013 and 2015.

This Standard is met.

*Standards and guidance*

4.30 There are five standards for standards and guidance

**Standards of Practice and professional ethics reflect up-to-date practice and legislation. They prioritise patient safety and patient-centred care**

4.31 The Health Professions Act charges the College with 'establishing, monitoring and enforcing standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice'.[44]

4.32 Expectations for dental practice are set out in the CDSBC Code of Ethics, and Standards of Practice documents. There are also guidance documents and topic-specific materials such as information sheets and interpretive guidelines and policies.

4.33 The 'Code of Ethics' and 'Standards of Practice' documents are very brief. The first is two pages and sets out five values and 13 ethical principles. It is clear and succinct. The second is only one page and has five 'standards' concerned with how dentists should deliver care. The College has explained that Standards are mandatory and Guidelines are recommended. It states:

> 'Guidelines are highly recommended but – while being evidence of a standard – are not, strictly speaking, mandatory. Guidelines contain permissive language such as "should" and "may."
>
> Standards are, by definition, mandatory and must be applied. Standards are clearly identified by mandatory language such as "must" and "required." '[45]

4.34 However, the word 'must' does not in fact appear in the 'Standards of Practice' document, which refers instead to 'responsibilities of dentists, dental therapists and certifies dental assistants in providing care.' It is unclear as to the status of many of the variously named 'Standards and Guidelines', of which there appear to be 11, 'Information sheets' of which there are five and 'policies' of which there are eight. I cannot find any document, apart from 'Standards of Practice' which is transparently a standard. The majority are described as guidelines, practice guidelines or merely given a title describing their subject matter. At the same time some documents called guidelines use mandatory language; the 'Dental Record keeping Guidelines' say 'Dentists *must* (my emphasis) now keep complete dental records…' and 'Other records that must be retained…' There are no standards for Patient Relations. The 'Patient Relations Program', despite being a requirement in the HPA, falls under 'policies' not standards or guidance and the relevant document merely refers the reader to separate 'guidance' on the treatment of spouses. There is no description of a patient relations standard or of what the 'program' is. There is a statement that the HPA requires the College to have such a program.

4.35 The purpose of information sheets is also unclear. For example, 'Building the Dentist-Patient Relationship'[46] where the first few lines are, 'The core of the dentist-patient relationship is a trusting relationship. This document provides some of the *key obligations* (my italics) and roles' that each of the dentist and the patient can expect of each other.' If this is a key obligation why is just an 'information sheet' and is a 'key obligation' different from a required standard?

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[44] HPA s. 16(2)(d)
[45] *Standards & Guidelines*, CDSBC website.
[46] CDSBC Building the Dentist Patient relationship. 2015

4.36 The College has a range of documents covering good clinical practice in a wide number of areas. The College's ethical principles prioritize 'the health and well-being' of patients and its standards of practice state that the first responsibility of dental professionals is 'patient-centered care'.

4.37 The College does respond to new issues in dentistry such as the development of 'corporate dentistry' It is currently revising Patient-Centred Care and the Business of Dentistry, first published in 2015 to address new business models for dentistry, specifically concerns about the corporatization of dentistry. It addresses the conflict between the dentist as healthcare professional and as a business person, and requires that the dentist put the healthcare needs of their patient above all other considerations.

4.38 The College has recently responded to the legislation of cannabis in Canada by issuing a reminder in October 2018 that the new law does not change registrants' obligations; they cannot practise while impaired, they cannot prescribe marijuana, and patients who are impaired cannot provide informed consent.

4.39 The evidence demonstrating that the College meets this standard is mixed. There is significant lack of clarity about what is a standard and what is guidance, and this makes it difficult to understand what is mandated and what is optional good practice.

This Standard is not met.

**Additional guidance helps registrants apply the regulators' standards to specialist or specific issues, including addressing diverse needs arising from patient-centred care**

4.40 The College issues Information Sheets on specialist topics:

- Appropriate use of VELscope in Dentistry (to provide clarity to registrants and the public regarding the use of VELscope screening to identify potential oral mucosal diseases, including oral cancer)
- Schedule 1 Drugs and Dentists Scope of Practice (addresses the use of Botox by dentists)
- Confidentiality clauses in settlement agreements (registrants cannot dissuade or prohibit anyone from making a complaint to the College)

4.41 When the College identifies issues that may affect public safety, it may publish topic-specific information. For example, in 2016 it reminded dentists of their legal and professional obligations in dental emergencies and in 2018, in response to a rise in the use of CBCT (cone beam computed tomography) scanners it issued a reminder about best practices regarding Diagnostic Interpretation.

4.42 Because the College does not have a systematic and accountable program of identifying new topics for standards, guidance or information it is not possible to judge whether these are the most important or necessary new topics for improved patient centered care. Nevertheless, the evidence suggests this Standard is met.

**The regulator has an effective process for development and revision of standards and guidance, the regulator takes account of stakeholders' views and experiences, external events, developments in provincial, national and**

**international regulation, and best practice and learning from other areas of its work**

4.43 The College does not have a systematic and accountable program of identifying new topics for standards, guidance or information. Nor does it have a regular and consistent program of revision of existing documents. Although ultimately the Board is accountable the manner by which topics emerge as important enough to require new standards or guidance or information provision is haphazard.

4.44 Three committees have some direct responsibility written into their terms of reference. The Quality Assurance Committee, 'develops and reviews practice standards, other than sedation and general anaesthetic standards, and recommends to the Board changes that the Committee considers appropriate to those standards.' The Sedation and General Anaesthetic Services Committee has a specific purpose; 'to review the sedation and general anaesthetic standards and recommend changes as appropriate, and to assess the compliance of dentists with the standards'. The Ethics Committee's terms of reference have as one objective, 'reviews standards of professional ethics and recommends changes as required'. The Quality Assurance Committee is also responsible for overseeing and improving continuing professional development. It is not apparent how a programme of work is prioritised and coordinated between these three committees and the Board and the professional staff.

4.45 In 2015/16 the College created a new 'policy development process'. This was in response to two deeply unpopular changes to guidance where registrants felt there had not been adequate consultation and/or strongly disagreed with the College's approach. The policy development process applies to standards and guidance as well as to the College's internal policies and procedures.

4.46 The College says it has started working on a process to review standards and guidelines and that it is developing closer collaboration between its complaints and quality assurance functions.

4.47 These initiatives are necessary and welcome but the College must establish an accountable, managed process for the development and revision of standards and guidance.

This Standard is not met.

**The standards and guidance are published in accessible formats. Registrants, potential registrants, educators, patients and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed**

4.48 I welcome the College's intention to clarify what are Standards and what is Guidance but inconsistencies of style, presentation and language remain. Finding Standards and Guidance documents on the College website is not straight forward. The entry point is headed 'Practice Resources', from there you click on 'Standards & Guidelines'. A website user is then faced with 11 documents only one of which is called 'Standards and Guidelines', five are described as 'guidelines', six are not identified in their title as one or the other.

4.49 None of these documents are referred to as a 'Standard'. Along the side of the same page are the headings ‘Code of Ethics and Standards of Practice’, that takes a website user to two documents. In this case ‘Standards of Practice’ describes principles, such as ‘do no harm’ and ‘maintain accountability in the public interest’. These are good principles for dentists to follow but are they measurable Standards? Below the heading ‘Standards of Practice’ there is another, ‘Standards and Guidelines’, this has the same list of 11 documents none of which on the face of it appear to be a ‘Standard’. The practice of anaesthesia is potentially highly dangerous so a clear Standard is to be expected. Instead we are faced again with a document titled only ‘Sedation and Anaesthesia’, with the introduction, ‘All general dentists and certified specialists administering sedation and general anaesthesia must adhere to the requirements outlined in CDSBC’s relevant standards and guidelines.’ This is odd because it uses ‘must’ in relation to guidelines and because the link takes you to the ‘Registration and Renewal’ page of the website not to the Standards. There appear to be three separate standards for sedation and anaesthesia, each with several unconsolidated addenda. Below ‘Standards and Guidelines' are the headings ‘Information Sheets’ and ‘Policies’. Information Sheets seems straightforward, but why is ‘dismissing a patient’ an information sheet not guidance? ‘Policies’ is even more confusing; ‘Patient Relations’ is a policy; I would expect a Standard saying what sexual boundaries were, what standard of conduct the College required and what action the College will take, including removal of licence, if a dental professional were proved to have breached this Standard. Instead a web user follows a link to the bylaw that says it is not sexual misconduct to sleep with your spouse even if you are providing them with dental services.

4.50 It is not clear why some topics are policies, some are information sheets, some are guidance and virtually nothing is clearly and unequivocally a Standard.

4.51 The College does have an active communications policy using both digital and print media to communicate to registrants and the public about our initiatives, events, consultations and news -- including new and revised ‘expectations for practice’. Hard copies of standards and guidance documents are mailed to registrants. Changes and updates are published in the electronic and print newsletter. Registrants are regularly reminded of the need to keep their contact information current, and may not unsubscribe from College publications.

4.52 When the Infection Prevention and Control Guidelines were created the key points were published on a wipeable Infection Prevention and Control Wall Poster that was distributed to all registrants. It does not appear however that there is any requirement on registrants to display the poster.

4.53 The College provides courses and presentations for registrants and has a presence at the two main annual dental conferences: the Pacific Dental Conference and the Thompson Okanagan Dental Conference. It also delivers courses to regional dental societies in British Columbia and hosts events in various parts of the province.

4.54 The College has a social media presence and tries to communicate effectively through provincial newspapers and broadcast media.

4.55 Information about how to complain is easy to find on the College websites and its complaints information is translated into seven languages. Translation services are used during the College’s investigations if appropriate, to ensure it understands the concerns raised by patients.

4.56 The Standards of Good Regulation need to be understood as a complete requirement; the College has an active communications programme and information about action that can be taken if Standards and Guidance is not followed is readily available. But the Standards and Guidance are difficult to find and even more difficult to interpret so it is not clear to a dentist what they must do and even less clear to a patient or member of the public what they can expect. The taxonomy and format of documents needs to be consistent and their publication clear and accessible.

This Standard is not met.

**The regulator has a systematic approach to ensuring dentists, dental therapists and CDAs are up to date and able to practise safely**

4.57 All registrants must meet Quality Assurance requirements to renew their registration annually. These requirements include:

- Dentists: 90 continuing education credit hours per three year cycle and minimum 900 continuous practice hours in the previous three calendar years
- Dental Therapists: 75 continuing education credit hours per three year cycle and minimum 900 continuous practice hours in the previous three calendar years
- CDAs: 36 continuing education credit hours per three year cycle and a minimum 600 continuing practice hours providing the restricted activities in the previous three calendar years

4.58 Registrants are required to submit evidence of the completion of these requirements though the College website. Those reports need confirmation by College staff.

4.59 Each autumn the College identifies those registrants who have not met the continuing education requirement. Those registrants are reminded that they have until December 31 to complete the requirement or they will not be able to renew their registration.

4.60 Each year at renewal registrants submit the hours they practised for the previous year and these are logged.

4.61 The College creates and delivers continuing education courses for registrants, both in-person and online. The courses are developed for the topics that relate specifically to the College's mandate of public protection and for which there is not an alternative.

4.62 The College is currently consulting on a significant revision of its Quality Assurance programme. This has been a lengthy process and involves substantial changes. On the face of it the current consultation is throwing up important practical difficulties as well as support for the intention of the programme. In order to strengthen its programme the College may wish to consider how it can measure the impact of the Quality Assurance programme rather than just recording inputs and activity. The College needs as part of its consultation to be smarter about measuring outcomes rather than inputs.

This Standard is met.

*Complaints and discipline*

4.63 There are ten standards for complaints and discipline

**Anybody can raise a concern, including the regulator, about a registrant**

4.64 Patients, or their advocates or other members of the public who have concerns about a registrant can raise their concerns with the College. Registrants also can complain and, in some cases, have a duty to report. Insurance companies also report on registrants as do other health colleges. To make it easier for patients to raise concerns in 2018 the College added an online complaint form. The new form provides clarity to patients about what information is needed from them when they submit a complaint.

4.65 An overview of key complaints information has been translated into seven additional languages: Chinese (simplified and traditional), French, Hindi, Korean, Punjabi, Spanish and Vietnamese.

4.66 The College says that inquiries staff assist the public by directing them to other agencies or providing advice regarding the complaints process. However, complainants who have contacted me during the course of this Inquiry have reported difficulty in getting the College to respond as they expect. It is understandable that the College requires a complaint in writing but this does not always seem to be clear to complainants. Nor is the offer of telephone help to those who need it made directly. In an email exchange shared with me as part of its evidence the complaints officer stresses to the complainant, 'If you wish to lodge a complaint, we require your complaint in writing with your signature'. This is after the complainant has already provided the information asked for in a series of emails. There is no offer of help over the telephone. Another email from the College reads, 'If you still wish to lodge a complaint with the College, we may be able to review your complaint with respect to staff relations and dentist/office supervision of staff and perhaps ethics. However, the College requires signed complain submissions before it can be reviewed by the Intake Panel of the Inquiry Committee for approval to open a complaint file and to conduct an investigation.' There is a bureaucratic and formal tone to these official responses which are intended to be helpful but feel discouraging.

4.67 As well as complaints being accepted from patients, dentists, CDAs and others the registrar can initiate a complaint and the Inquiry Committee can investigate on its account for instance if concerns about one dentist emerge while investigating a complaint about another.

4.68 The College needs to review the tone and language used in its initial exchanges with potential complainants so that the College can obtain the information it needs to assess if a complaint is valid as quickly as possible and with the least inconvenience to the complainant.

This Standard is met.

**Information about complaints is shared with other organisations within the relevant legal frameworks**

4.69 Information regarding registrants of other health colleges is shared with the appropriate college when public safety is identified as a potential issue. For

example, the CDSBC informed the College of Hygienists that a dentist may have been practising at a hygiene clinic after his withdrawal from practice.

4.70 Public notification of resolutions to complaints or discipline matters is provided to other regulators in British Columbia and Canada as a matter of routine or elsewhere as required by the HPA and the CDSBC Bylaws.

4.71 As part of registration and reinstatement for dentists, Certificates of Standing (COS) are issued to outside jurisdictions. The COS is sent from the CDSBC to the other regulator and is in format required between all Canadian jurisdictions. The COS includes a listing of previous complaints both open and closed and any disciplinary action taken.

4.72 The legal framework of the HPA restricts public access to full information about complaints against dentists and CDAs but the College complies with all its responsibilities.

This Standard is met.

**The regulator will investigate a complaint, determine if there is a case to answer and take appropriate action including the imposition of sanctions. Where necessary the regulator will direct the person to another relevant organisation**

4.73 All complaint letters are considered. A few are closed by the registrar as not raising health or competence issues. They are reviewed and risk assessed by the complaints team. The majority are referred to the intake panel of the Inquiry Committee the same day.

4.74 If following the risk assessment it appears that action is necessary to protect the public during the investigation of a registrant, or pending a hearing of the Discipline Committee, the College may take interim action to restrict practise or suspend a dentist or CDA.

4.75 The College employs inspectors who investigate complaints. Most are dentists, legal expertise is also available in the team.

4.76 An investigation report is provided to the Inquiry Committee. It includes a summary of the steps taken in the investigation and relevant information received. The investigator’s comments are set out separately.

4.77 The Inquiry committee is composed of dentists, CDAs, and public volunteers. They are expected to review all the materials in advance of the meetings. At each meeting the Committee has a long list of files to review and more often than not meets by telephone conference. This makes it difficult for volunteer members to engage fully in discussion. My observation of an Inquiry Committee is that there was very little discussion or analysis of individual files by the Committee. In the majority of cases the proposals put forward by the complaints team seem to have been accepted.

4.78 The vast majority of complaints are resolved by consent. In 2016/17, four percent and in 2017/18, ten percent were referred to a Disciplinary Committee and all of those were subsequently closed by consent.

4.79 During the course of an investigation the College advises patients with concerns about criminal behaviour of a registrant to contact the police. If appropriate the College will contact the police directly.

4.80 It is difficult to determine if the action taken by the College in relation to the many complaints that are resolved by consent is 'appropriate'. The number of dentists continuing to receive complaints after they have agreed to remedial action by consent suggests that the original decision by the Inquiry Committee was not appropriate. A decision in favour of further remedial action is also therefore likely to be inappropriate.

This Standard is met.

**All complaints are reviewed and risk assessed on receipt and serious cases are prioritised**

4.81 The CDSBC has recently introduced a basic risk assessment tool to its consideration of incoming complaints. There is simple categorisation of risk (no risk, minimal, low, moderate, high) at the bottom of the 'New Correspondence Checklist.' The checklist is accompanied by a series of tables headed 'Elements of Risk Analysis'. These list criteria under five areas of practice that those assessing risk could take into account.

4.82 There are also criteria attempting to indicate the meaning of 'low', 'moderate' risk and so on. These include what regulatory action might result having regard to the seriousness of the complaint. Since action in response to complaints is entirely the responsibility of the Inquiry Committee and only then after the complaint has been fully investigated I do not think it right for those assessing the initial risk of as yet uninvestigated, unproven complaints to be having any regard for a possible outcome.

4.83 Complaints are considered on receipt at the weekly complaints team meeting and potential issues identified. The complaints team receives a copy of the registrant's complaint history if there is one. Any files assessed as low risk are addressed quickly, usually with a letter or telephone discussion about practice advice. Other matters are fully investigated. The Initial Intake Form directs attention to action that should be taken to prevent a high-risk dentist or CDA from practising or to restrict their practice by consent. Matters of high risk for potential harm are identified and flagged to immediately ask the Inquiry Committee to address as a section 35 proceeding for an extraordinary remedy.

4.84 The introduction of the new risk assessment process is an important and welcome step but it needs to take into account a wider range of matters and to be focused on immediate risk of harm to patients from continuing practise by the dentist complained about. The risk assessment approach was only adopted in principle by the Inquiry Committee at its meeting in October 2018 and therefore is not yet in place. I suggest that the College trials this approach and assesses its effectiveness.

This Standard is not met.

**The complaints process is transparent, fair, proportionate and focused on public protection**

4.85 The College provides clear information about the complaints process on its website. The, albeit limited, feedback from its complaints survey suggests that both complainants and registrants understand the process.

4.86 In the course of this inquiry I have received a range of opinions from patients, dentists and lawyers all criticising the complaints process and alleging unfairness of various kinds. Unsurprisingly the criticisms and perspectives are inconsistent and do not lead to any particular solutions. In my view some of the problems arise from the HPA itself and I address these in Part 2 below. Others arise from the approach that the College has chosen to take, particularly as regards Memorandums of Acknowledgment and Understanding. Requiring dentists to take remedial action whether or not the failing is susceptible to remediation (such as dishonesty) or when insight is not demonstrated or there are repeated similar complaints does not appear to be effective.

4.87 The requirement in the HPA for the Inquiry Committee to determine that a matter is 'serious' before it has been fully assessed risks inconsistency and much bargaining between registrants and the College.

4.88 Another concern is the lack of independence of the process and therefore potentially unfairness. The Inquiry Committee is not independent of the College Board. Members of the College Board sit on the Inquiry Committee. If Board members are involved there is a perceived or actual risk that the interests of the College (cost of legal action, time, inconvenience) may influence decision-making. Moreover, dentist members of the College Board are elected and therefore beholden to their colleagues.

4.89 I am aware of one incident in which a dentist Board member of the College raised a live investigation with the Registrar expressing a view on the evidence in relation to a dentist they knew personally. This is completely improper and has the potential to invalidate the objectivity of the complaints process.[47]

4.90 The Inquiry Committee has too much work to do and therefore has difficulty in giving all complaints the thorough and objective assessment they deserve.

4.91 The Inquiry Committee is not sufficiently independent of the staff. The investigators frequently make recommendations to the Committee rather than objectively presenting the findings of their investigation. The staff also prepare proposals for Memoranda of Acknowledgement and Understanding, these are shared with the dentist concerned *before* they have been put to the Inquiry Committee and have sometimes been signed off by the dentist in advance although they are not asked or expected to do so. This procedure has no doubt developed with good intentions, to speed up the process and facilitate a consent order. In practice it subverts the independence of the Inquiry Committee in making its own decisions independently of the investigators. It is important too that the legal advisor does not direct the Inquiry Committee but advises it only on matters of law.

4.92 The Health Professions Review Board does provide a check on fairness as complainants can ask it to review if an investigation was adequate or a disposition

[47] Personal communication, November 2018

reasonable. At a HPRB review the College will provide the investigation file and the complainant receives a copy. A registrant can also seek review if the investigation is delayed. I acknowledge that very few CDSBC decisions complained about are criticised by the HPRB.

4.93 The HPRB can also assist with mediation between dissatisfied complainants and the College. This is a valuable process even if not always successful in resolving differences.

4.94 The majority of complaints which are taken forward are resolved by consent and with a range of remedial activities to be undertaken by the registrant. The monitoring of compliance is not as robust or consistent as it should be. The Complaints team are under resourced in this regard. Data on the effectiveness of this remedial approach has recently begun to be collected and I welcome this. In due course it will be possible to see if the public is protected by this approach. The high number of dentists who continue to be complained about after remedial action suggests that it is not. When sufficient data is available the Inquiry Committee and Board should review its position.

4.95 I make recommendations about improvements that could be made to the Inquiry Committee process within the existing legislation in para 6.28 below. On the basis of current evidence I cannot say this Standard is met.

This Standard is not met.

**Complaints are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of all individuals involved. Delays do not result in harm or potential harm to patients**

4.96 The CDSBC recognises that it has challenges with the length of time some complaints take to be investigated and resolved. Delays are sometimes the result of defensive action by the registrant or their legal advisors so it is not possible to establish a definitive timeline. Nevertheless, the College should have but does not have indicative target times for each stage of the complaints process. For example[48]:

| Median time in weeks: | 2014/15 | 2015/16 | 2016/17 |
|---|---|---|---|
| From receipt to IC/case examiner decision | 48 | 40 | 41 |
| From IC/case examiner decision to final panel or other disposal | 39.1 | 41 | 42 |
| From receipt to final panel or other disposal | 93.3 | 94 | 90 |

[48] Tables come from the Professional Standards Authority's 2016/17 review of the UK General Dental Council.

| Number of open cases: | 2014/15 | 2015/16 | 2016/17 |
|---|---|---|---|
| More than 52 weeks old | 335 | 288 | 252 |
| More than 104 weeks old | 95 | 95 | 79 |
| More than 156 weeks old | 43 | 40 | 46 |

*Table 3: UK General Dental Council complaints data tables*

4.97 Unless the College collects this kind of data or similar it is not in a position to measure its own performance or to identify where more resources are needed or where performance is improving or getting worse.

4.98 The College does prioritize cases assessed as high risk and if there is a serious risk of harm these cases will proceed quickly to the Inquiry Committee for consideration of an extraordinary proceeding.

4.99 The length of time taken to resolve a complaint may have an impact on the safety of patients if a dentist continues to practise while unsafe. The new risk assessment process being introduced should reduce this possibility.

4.100 The CDSBC is aware that complaint file lists are very long and the potential for harm is not always immediately apparent at intake. It is working towards a process for reassessing potential for harm by having investigators review records once received. The Board and senior management are aware of the need for a significant increase in resources which should decrease the length of time to reach a resolution.

4.101 I do not think the College can be confident that it meets this Standard although it does everything it can within its current process and resources to do so.

4.102 This Standard is not met.

**All parties to a complaint are kept updated on the progress of their case and supported to participate effectively in the process**

4.103 The complaints team acknowledge complaints with an opening letter. The registrant is notified, provided with the complaint submission and asked for a response and the complete patient record and if relevant, the names of other dentists or providers involved in patient care. The parties receive timeline letters as required by the HPA.

4.104 If a complaint progresses staff begin collecting records and other responses, including setting up telephone meetings with registrants and complainants. The investigators as well as the director of professional conduct monitor the progress. The investigator provides a draft of the investigation memorandum to the registrant and any response is captured before a final memorandum is sent to the Inquiry Committee.

4.105 As a complaint is being investigated, the complainant is updated and included by providing the response from the registrant and the complainant is invited to comment on the response. Investigators have telephone or in person meetings with the complainant to ensure their concerns are heard.

4.106 Complainants may receive the second opinion reports if they choose to seek a review through the Health Professions Review Process.

4.107 Complainants receive notice of how their complaint is resolved in a closing letter. The complainant is informed if the Inquiry Committee has directed a citation has been issued and if any matters set for hearing are resolved through a consent order.

This Standard is met.

**All decisions at every stage of the process are well reasoned, consistent, protect the public and maintain confidence in the profession**

4.108 The HPRB in its Annual Report reminds Colleges of the importance of giving reasons for decisions.

> 'The importance of adequate reasons in…inquiry committee dispositions cannot be overstated. In this regard the Review Board encourages colleges to avoid conclusory statements and to strive to provide thorough analysis and justification to help complainants and applicants to understand the foundations for their conclusions. Well justified reasons and minutes that properly document these decisions are a key element in the proper administration of justice'.[49]

4.109 The weekly 'complaints meetings' which review incoming complaints and progress on current investigations aid consistency. The new risk assessment element of the 'New File' form will also help this. The discussions I have observed are thorough but the minutes of the meeting are brief and record decisions but not reasons.

4.110 Memoranda to the Inquiry Committee are detailed and comprehensive however where there is a recommendation to the committee a reason for that particular recommendation is not provided.

4.111 Discipline citations include the particulars of the allegations of misconduct. The drafting of the citations follows a consistent process and the evidence for the allegations is provided.

4.112 Inquiry Committee directions are recorded in minutes of meetings however full reasons for those decisions are not recorded as a matter of routine.

4.113 Subsequently the Discipline Panel will make determinations and issue a decision. The public report of the decision does not provide reasons.

This Standard is not met.

**All final decisions, apart from matters relating to the health of a dentist, dental therapist or CDA, are published in accordance with the legislation and communicated to relevant stakeholders**

4.114 The HPA restricts the amount of transparency of decisions made though the complaints process. The CDSBC limits this further by seeking to close the majority of complaints by consent. This is very unsatisfactory from a patient's perspective but complies with the legislation.

4.115 Where a matter has been determined to be serious and/or it has reached a disciplinary hearing the complaint and its outcome are published. These decisions are clearly reported on the College website and are easy to find. The complainant is

[49] HPRB, Annual Report 2017

informed of the outcome. It appears however that a dentist is not obliged to inform their patients of a finding against them.

This Standard is met.

**Information about complaints is securely retained**

4.116 CDSBC has developed a Privacy and Security Policy to clarify and enhance the retention of complaints information.

4.117 All complaint records are kept on site and protected. Access to the database is assigned according to staff job responsibilities. Only the complaints department can access the complaints area of the database.

4.118 There is a portal for the Inquiry Committee to gain temporary secure access to complaints files that they are reviewing at a given meeting. Granting access to the inquiry committee portal is done at the discretion of a departmental manager according to the policy. Identification of patients is protected: patients names are redacted from citations. At a recent hearing public attending were asked to sign a visitor policy and maintain confidentiality regarding witness personal information.

4.119 Consistent with the new Privacy and Security Policy, all patient information and other confidential records that it sends will be encrypted; this is already happening in some instances. The College plans to roll out a secure file share server for outside sources to upload content. The security of complaints information should be improved as a result of the expansion of the College's office space in 2019. All complaints information will in a separate office which will require a security pass to access.

4.120 The new Privacy and Security Policy and the changes being introduced will enhance data security which is already well managed in relation to complaints. The College has confirmed that there were no data breaches in the last year.

This Standard is met.

*Governance*

4.121 The historical problems with governance of the College are described in section 2 (above) of this report. The question, in applying the Standards of Governance to the College, is: Is the College meeting the Standards now, not what did it do or fail to do in the past? There are nine standards for Governance.

**The regulator has an effective process for identifying, assessing, escalating and managing organisational risks, and this is communicated and reviewed on a regular basis by the senior staff and the Board.**

4.122 The College has a number of mechanisms for assessing and managing risk. Although these may be useful and effective in themselves, they do not appear to be part of an overall assurance framework. There is no formal risk register which can be assessed periodically by management, the Audit Committee and the Board.

4.123 The Registrar provides an 'Executive Limitation report' quarterly to the Board. This seems to be a bureaucratic and time-consuming process for managing a perceived risk that the Registrar might exceed their authority. The Limitation Report sets limitations on their discretion and requires them to report on what they have not done. The Executive Limitation reports cover matters such as 'Treatment of Registrants', 'Treatment of Staff', 'Financial Conditions and Activities'. I have never

seen any other board treat its chief executive as though they were a risk to be managed.

4.124 The senior staff discuss reputational risks at weekly management meetings and these are brought to the attention of the meetings of the Registrar and board officers and subsequently to the Board as determined by the Registrar and President. There is some evidence that this can operate effectively, for example the recent referral to the Board of quality assurance for non-certified chairside assistants who are providing radiography. This is however, a risk to patients rather than to the College. It appears that in terms of the risks to the College (reputational, financial, legal and personal), the significance of a serious complaint was entirely missed and such actions as were subsequently taken were focussed on damage limitation and crisis management.

4.125 I recognise that the management team pay some attention to risk and elevate recognised risks appropriately but I do not find that the College has an effective process for identifying, assessing, escalating and managing organisational risks.

This Standard is not met.

**The regulator has clear governance policies that provide a framework within which decisions can be made transparently and in the interests of patients and the public. It has clear terms of reference for committees and working-groups and effective reporting mechanisms.**

4.126 The CDSBC Governance Manual is a comprehensive document and is widely used by the Board and committees. It undoubtedly sets a proper framework for the conduct of College business. It might be seen sometimes as a straitjacket, hindering common sense decisions but it has undoubtedly been valuable at times of internal disagreement.

4.127 The Governance Manual sets out in detail the Terms of Reference of Committees although these do not always seem consistent and may benefit from updating. The Board is aware of the inconsistencies between aspects of the Governance Manual and the College Bylaws and recently has produced a document highlighting those inconsistencies so that they can be addressed.

4.128 The Board receives quarterly Committee reports and Committees raise issues with the Board and seek Board approval for their work. The Board also refers matters to the Committees for their consideration.

4.129 As is noted elsewhere (para 3.54 above) the tracking of decisions and programmes of work is not always clearly reported but I conclude that this Standard is met.

**The regulator has effective controls relating to its financial performance, so that it can assure itself that it has the resources it needs to perform its statutory functions effectively, as well as a financial plan that takes into account future risks and developments.**

4.130 The Audit Committee alongside the Finance and Audit Working Group is responsible for oversight of the College Finances.

4.131 The College has appropriate Financial Policies in place and internal controls are set out and subject to external audit.

4.132 Monthly financial statements are reviewed by the Audit Committee and Finance Working Group following the approval of the Registrar. The Board reviews the most recent financial statements at each Board meeting.

4.133 There is a budget setting process with appropriate levels of approvals at each stage. The annual budget is approved by the Board and outlines how funds are allocated to best fulfil the College's mandate and strategic plan objectives. The Audit Committee keeps the budget and expenditure under review.

4.134 The College has an Investment Policy for the proper and cautious management of its reserves. It also holds a Contingency Reserve Fund for unanticipated or unbudgeted expenses which are consistent with the objectives of CDSBC. Any disbursements from the Contingency Reserve Fund require a special resolution of the Board.

4.135 Several restricted reserve funds have been established to manage the building which the College jointly owns, to provide for investment in information technology, and to provide for legal costs related to complaints and discipline.

4.136 Following the external audit, the Board reviews the post audit report and approves the audited financial statements.

4.137 I have pointed out elsewhere (paragraph 3.48) that the Board has not followed its own procurement policy in relation to legal advice. I have also said that I consider the hybrid Audit Committee plus Finance and Audit working group is unsatisfactory in terms of the proper independence of the Audit Committee.

Nevertheless, I conclude that this Standard is met.

**The regulator engages effectively with patients and the public**

4.138 The College does not have a patient and public engagement policy. In some aspects of its work it does try to engage effectively. It has good public facing communications.

4.139 The College website is well designed and apart from my concerns about the difficulty of actually identifying the Standards dentists and CDAs should meet, it is welcoming and user friendly for members of the public and patients. The website is accessible and information for patients clearly signposted.

4.140 Open and closed consultations are posted on the website and are also distributed to public patient groups depending on the topic under consultation. This fall the College added an online consultation forum in an effort to make its consultation and engagement efforts easier for participants. Anyone can now post their response to a consultation, see what others have to say, and respond.

4.141 The College issues public statements in response to public concerns such as the brain injury suffered by a child in Alberta while undergoing dental sedation or the group of male dental students at Dalhousie University, who were alleged to have made online threats of violence against women.

4.142 The complaints process provides a valuable source of patient comments. Complaints staff respond to well over 100 calls per month: they answer questions and provide information. The College recognises this but does not capture the information provided or the personal contacts in a systematic way. In 2016, the College instituted an exit survey for registrants and complainants to help in

evaluating the College's complaints process. When a complaint file is closed, both the registrant and the complainant receive an invitation to provide their feedback on the complaint process. The surveys are administered by an external research company. This has the potential to be a valuable initiative but so far the response rate is so low as to severely limit the reliability of the findings.

4.143 Members of the public who contact the College about how to make a complaint or about the complaint process are provided with information on how to do so. Complainants can now submit a complaint online. Key complaints information and 'Frequently Asked Questions' about the process are available in seven languages. The College has adopted the Declaration of Commitment to Cultural Safety and Humility. I was concerned to learn that staff answering enquiries had been told not to inform patients that their dentist was required to have insurance. This has now been corrected.

4.144 The Board is currently considering opening Board meetings to questions and comments from members of the public.

4.145 The College undoubtedly strives to communicate effectively with patients and the public and to be supportive and helpful to those who wish to make a complaint.

4.146 College should bring its patient-facing activities together. In order to add value to its understanding of patients there needs be better internal coordination and sharing of information. I welcome the objective under Goal 2 in the new Strategic Plan[50] 'to actively engage the public and patients in decision-making'.

Overall, I consider this Standard is met.

**The regulator is transparent in the way it conducts and reports on its business.**

4.147 The Board and the senior staff are clear in their commitment to increased transparency. The new Strategic Plan for 2019-22 (approved in November 2018) highlights the College's commitment to transparency. Its values include, 'ethical, open and transparent' and its goals 'Identify and strengthen productive relationships with stakeholders'.

4.148 The College publishes an annual report, and aims to make improvements to the information/data it provides on an ongoing basis. For example, in the 2017/18 annual report, it added more information about the complaints files that are referred to by the Health Professions Review Board and enhanced the financial information that was presented so it now includes pie charts for each of revenue and expenses.

4.149 The names of committee and Board members, including a short biography and a photo, are published on the website, as are the names of staff. It is not possible through the website to contact individuals directly.

4.150 CDSBC publishes annual summaries of complaints where the decision required the registrant to take action to address concerns found during the investigation. This is beyond the publication requirements outlined in the *Health Professions Act*. Discipline notices or notices of complaints involving serious matters are published on the CDSBC website for 10 years.

[50] CDSBC Strategic Plan 2019-2022

4.151 The Annual General Meeting is webcast. The Board is currently considering opening the public sessions of Board meetings and the AGM to questions and comments from members of the public.

4.152 The College held ‘listening sessions’ for dentists around the province in 2017-18 to provide an opportunity for registrants to be engaged early on with policy development initiatives.

4.153 CDSBC has a policy development process that emphasizes engagement with registrants and other stakeholders. The website lists open and closed consultations.

4.154 Public Board minutes are posted on the website after each meeting once they are approved, although the content of the minutes is limited.

This Standard is met.

**The Board has effective oversight of the work of the senior staff and effective reporting to measure performance**

4.155 As described above (paras 3.20-26) the relationship between the Board and the staff team needs further work to develop mutual trust and an effective partnership. The Board currently requires a significant level of reporting from the staff; quarterly management reports, quarterly registration reports, quarterly complaints reports, quarterly financial reports, operational plan progress reports. My observation is that these reports are about activity rather than performance. The volume is such that the Board has neither the time nor the ability to analyse the reports effectively. A board does not need to know everything. It needs to know that its strategic objectives are being delivered, that the organisation’s resources are sufficient and effectively deployed and whether performance is improving or declining.

4.156 There are no agreed key performance indicators or regular reporting against them, nor is there a corporate risk register.

4.157 The quarterly Executive Limitation report is not about effective oversight but, as its title suggests, about limiting and controlling the registrar. The line summarising the purpose of each section of the report begins, 'The Registrar shall not cause or allow…' or 'The Registrar may not…' This is not a sensible risk management nor staff management for that matter.

This Standard is not met.

**The Board sets strategic objectives for the organisation**

4.158 A strategic planning process is set out in the Governance Manual. During 2018 the Board has developed a new Strategic Plan which is a significant improvement on before. The plan was developed through two Board workshops. It involved a pre-survey of board members, an environmental scan, a SWOT analysis, identification of key strategic issues and initial priority setting. In September the Board reviewed and refined the draft. It was published for consultation and was subsequently approved at the November 2018 meeting.

4.159 The new Strategic Plan has four high level goals, a set of operational objectives and identified success measures. It is to be hoped that the Board will use this new Strategic Plan to refocus and improve the way staff report to the Board so that it can measure performance against its agreed goals and success measures.

This Standard is met.

**The regulator's performance and outcomes for patients and the public are used by the Board when reviewing the strategic objectives of the organisation**

4.160 The development of the 2019-22 Strategic Plan was rightly a forward-looking exercise. Although the process for developing it included a wide range of background information and a SWOT analysis it is not based on an understanding of the College's impact on outcomes for patients and the public as the College does not consistently collect or analyse this information.

4.161 The new strategic plan should provide a framework for the College to refine and improve its measurement of outcomes for patients and the public and to incorporate that into its operations and strategy in the future.

Currently, this Standard is not met.

**The Board works cooperatively, with an appropriate understanding of its role as a governing body and members' individual responsibilities.**

4.162 As Section 3 of this report illustrates the Board in the recent past has not worked co-operatively, has not understood its role as a governing body and some individuals have behaved badly. This is improving. There are still tensions of course as building internal trust and corporate confidence within the Board will take time. The new public members have brought depth of experience in governance and changed the balance of internal debate for the better.

4.163 On the basis of recommendations of the bylaws working group the Board made some difficult and forward-looking decisions about changing its membership composition and the selection of its officers at its meeting in September 2018. Unfortunately, that decision was reversed at its meeting in November.

4.164 The Board reversed the decision it had made in September at its meeting in November. It is apparent that not all officers or Board members are yet committed to refining the Board's role, reforming its committees, or to addressing its relationship with its registrants or their representative body. If the Board can commit to realising the aspirations in its Strategic Plan it may meet this Standard in time.

This Standard is not met.

| Type | Standard | Met or not met |
|---|---|---|
| **Registration:** 4/4 Standards met | Only those who meet the regulator's requirements for registration or certification are registered | Met |
| | Through the register, everyone can easily access information about dentists, dental therapists and CDAs, except in relation to their health, including whether there are restrictions/conditions on their practice | Met |
| | The public and others are aware of the importance of checking a dentist's, dental therapist's or CDA's registration. Patients and members of the public can easily find and check a registration and certification | Met |

| | | |
|---|---|---|
| | Risk of harm to the public, and of damage to public confidence in the profession, related to non-registrants using a reserved title or undertaking a restricted activity, is managed in a proportionate and risk-based manner | Met |
| **Standards and Guidance:** 2/5 Standards met | Standards of Practice and professional ethics reflect up-to-date practice and legislation. They prioritise patient safety and patient-centred care | Not met |
| | Additional guidance helps registrants apply the regulators' standards to specialist or specific issues, including addressing diverse needs arising from patient-centred care | Met |
| | The regulator has an effective process for development and revision of standards and guidance, the regulator takes account of stakeholders' views and experiences, external events, developments in provincial, national and international regulation, and best practice and learning from other areas of its work | Not met |
| | The standards and guidance are published in accessible formats. Registrants, potential registrants, educators, patients and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed | Not met |
| | The regulator has a systematic approach to ensuring dentists, dental therapists and CDAs are up to date and able to practise safely | Met |
| **Complaints and discipline:** 6/10 Standards met | Anybody can raise a concern, including the regulator, about a registrant | Met |
| | Information about complaints is shared with other organisations within the relevant legal frameworks | Met |
| | The regulator will investigate a complaint, determine if there is a case to answer and take appropriate action including the imposition of sanctions. Where necessary the regulator will direct the person to another relevant organisation | Met |
| | All complaints are reviewed and risk assessed on receipt and serious cases are prioritised | Not met |
| | The complaints process is transparent, fair, proportionate and focused on public protection | Not met |
| | Complaints are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of all individuals involved. Delays do not result in harm or potential harm to patients | Not met |

| | | |
|---|---|---|
| | All parties to a complaint are kept updated on the progress of their case and supported to participate effectively in the process | Met |
| | All decisions at every stage of the process are well reasoned, consistent, protect the public and maintain confidence in the profession | Not met |
| | All final decisions, apart from matters relating to the health of a dentist, dental therapist or CDA, are published in accordance with the legislation and communicated to relevant stakeholders | Met |
| | Information about complaints is securely retained | Met |
| **Governance:** 5/9 Standards met | The regulator has an effective process for identifying, assessing, escalating and managing organisational risks, and this is communicated and reviewed on a regular basis by the senior staff and the Board. | Not met |
| | The regulator has clear governance policies that provide a framework within which decisions can be made transparently and in the interests of patients and the public. It has clear terms of reference for committees and working-groups and effective reporting mechanisms | Met |
| | The regulator has effective controls relating to its financial performance, so that it can assure itself that it has the resources it needs to perform its statutory functions effectively, as well as a financial plan that takes into account future risks and developments. | Met |
| | The regulator engages effectively with patients and the public | Met |
| | The regulator is transparent in the way it conducts and reports on its business. | Met |
| | The Board has effective oversight of the work of the senior staff and effective reporting to measure performance | Not met |
| | The Board sets strategic objectives for the organisation | Met |
| | The regulator's performance and outcomes for patients and the public are used by the Board when reviewing the strategic objectives of the organisation | Not met |
| | The Board works cooperatively, with an appropriate understanding of its role as a governing body and members' individual responsibilities. | Not met |

*Table 4: Summary of review of standards*

# 5. External relationships

5.1 The Health Professions Act requires a College 'to promote and enhance collaborative relations with other Colleges, regional Health boards designated under the Health Authorities Act and other entities in the Provincial health system post-secondary education institutions and the government.'[51]

5.2 The Board Code of Conduct summarises the requirement well:

> 'As stewards of the public trust, the Board aspires to maintain the confidence of the public, the government, and the dental profession in the College's ability to fulfil its important statutory responsibilities. Board members must: Exercise all powers and discharge all responsibilities in the public interest above all other considerations.'[52]

2.2 Overall the College appears to have good working relationships with its partner organisations both in dentistry and in regulation. Understandably it directs most of its interest and energy to dental associations and organisations and is active in Provincial and Canadian national bodies for dental education and regulation: 'The nature/extent of our external relationships is in keeping with the relative importance of stakeholders in upholding our mandate. In other words, we work more closely with organizations such Canadian Dental Regulatory Authorities Federation, Canadian Dental Assisting Regulatory Authorities, the National Dental Examining Board, Commission on Dental Accreditation of Canada, other health regulators in BC, and the educational institutions that train our registrants.'[53]

5.3 I suggest the College also needs to direct some of its attention to improving engagement with the wider health community in British Columbia and with the patients and the public whom it exists to serve.

*Dentists*

5.4 The relatively small proportion of dentists who vote in College elections or respond to most College consultations suggests that the College does not figure largely in their professional lives. There is nothing very unusual or odd in that. As Right-touch regulation proposes, regulation should create a framework for professionalism[54]. Recent research by the Professional Standards Authority found that:

> '*Professional identity exists independently of the register. The register acts as a means of validating existing professional identity and giving evidence of a community of practice of shared professional identities but it does not generate professional identity. The register is a tangible way of viewing a community that already exists'*.[55]

5.5 In general, the study finds health professionals draw their sense of personal commitment and value from their teachers, mentors, colleagues and professional community not from being a regulated profession. Regulators need to understand

[51] HPA s16.2(k)(i)
[52] *CDSBC Board Member Conduct Agreement*, CDSBC, 2017.
[53] Email from CDSBC, November 18, 2018
[54] *Right-touch Regulation,* Professional Standards Authority 2010 and 2015
[55] *The regulator's role in professional identity: validator not creator,* Professional Standards Authority, 2018

the limits of their influence and their role within the profession and to work beyond it with others to promote the safety of patients and public protection.

5.6 Self-regulation needs the consent of the regulated. It does not need their enthusiastic support but it does need their acceptance. A small number of dentists are active and vocal in their criticisms of the College. Their objections appear to focus on all and any attempt by the College to issue new standards and guidance, to change its governance and on the alleged unfairness of the complaints process. If their belief is that as professionals they can be trusted to behave well without the guidance or supervision of the College that is hardly borne out by the intemperate and sometimes abusive language they use or the extreme opinions they express. Self-regulation needs the consent of the regulated but it also needs the confidence of the public. The undermining of the CDSBC by some of its own registrants puts the survival of the College itself at risk of loss of public and Government confidence.

5.7 The College relies very substantially on volunteers to populate its committees. Many people are generous with their time and expertise but volunteers are not chosen against any formal set of competencies, instead they either self-nominate or are approached by a board officer or committee chair who knows them. Training for voluntary roles within the College is limited. Some dentists have got involved only when they have felt their personal interests have been threatened by the College and so arrive with a declared bias or intention of their own. This is particularly so when the College has tried to put the public interest before dentists' convenience or financial freedoms as in the 2015 proposed 'Boundaries in the Practitioner-Patient Relationship', One dentist who stood for election on the basis of opposition to that proposed standard admitted, *'So we arrive only to discover, and this is again perhaps a bit of a revelation to me, because you typically run I suppose on an election thinking somehow you can change something. Only to discover that the people that elected you, you don't really speak for them. So I find myself in this environment in this building in the College as a Board member. I go, oh okay, it is not quite the way I thought it would be… Okay because quite honestly I didn't really have a clear idea*.' After lobbying led by the BCDA, and for which that Association subsequently took credit, the proposed Standard was reduced to Guidance and now only asserts some principles and leaves dentists to make their own decisions.

5.8 The former President, elected as he was on a wave of discontent, was active in taking the message of the College to dentists through British Columbia. He ran a large number of meetings throughout the Province: '*I took a different approach and went out to the registrants and basically said, 'We're here, our mandate is to protect the public what are you seeing out there to give you concerns that the public is not being looked after…so that we could come back to the Board and identify what those issues were and develop polices to address that.'*[56]

5.9 In November 2018 the College consulted on its enhanced Quality Assurance programme. Quality Assurance is the term the CDSBC uses for setting requirements for continuing professional development for both dentists and CDAs. The new Quality Assurance standards have been several years in planning and have engaged many dentists in their development. The enhanced programme has appropriate objectives:

[56] Interview, November 2018

- Promote career-long hands-on learning
- Encourage collaboration among colleagues
- Improve treatment outcomes for patients

5.10 There will be a further consultation after this one and the new programme is not expected to be implemented until the end of 2019. The tone and content of the consultation responses varies from the positive and constructive:

*'I have reviewed the proposed changes to the Quality Assurance Program...*
*Your changes are well thought out and absolutely required...*
*I realize some of these changes will be difficult...*
*Of course the office visits will meet the most resistance.*
*As talking is easy,*
*however,*
*for some the walk may not be so easy...*
*My experience in life has taught me that money and egos often lie in the path of change...*
*Objective learning becomes the criteria by which we ALL can become better clinicians and professionals*
*Peer review and objective learning is the hallmark of every trusted professional organization...*
*As a group we have to be concerned with the overall drop in public trust and the results of that loss in confidence will not only affect us now but all the future generations of dentists...*
*It is TIME TO UP OUR GAME....*

5.11 To professional self-interest:

*'I think this will unnecessarily add to the many challenges that a dentist has; ie staff problems, competition, paying student loans and struggling to manage a business financially. In my opinion instead of making a dentist's life more difficult than it already is, there should be more control over the number of newly licensed dentists each year. This will ease the existing competition and give dentists more time to pursue more continuing education courses'.*

5.12 To an appropriate 'right-touch' question; 'where's the evidence?':

*'I have practiced in this province for 25 years. The CE requirements in my opinion has always served the profession well. These new guidelines are added regulation for the sake of regulation. I'm sure that the liberal minded out there agree with them but I do not. If someone can point to an increase in danger to the public over the last 10 years as a result of lack of regulation of this type I would gladly reconsider my viewpoint, but I don't think it exists. Forcing this down the throats of our membership is unwarranted and unnecessary.'* [57]

5.13 These are understandable disagreements and the range of views is unsurprising, what is of more concern is the low number of respondents. It seems that despite this lengthy engagement with dentists, efforts by the College to educate and engage the dental community in British Columbia still have a long way to go.

5.14 The College needs to build a different relationship with its dentist registrants; one of both mutual respect and distance. It cannot do so when its Board is elected by

[57] Comments posted on the consultation forum, November 9, October 31 & September 20, 2018

registrants and partially subject to their control. It is hard for it to build a new relationship with the profession when it is so closely tied financially and through personal contact and individuals to the BCDA and other dental organisations. An independent, effective, efficient, fair and public focussed regulator is good for the dental community as a whole. It is especially good for skilled and ethical dentists who never have a complaint.

### *Certified Dental Assistants*

5.15 The College's relationship with Certified Dental Assistants is ambivalent to say the least. Some of the problem derives from the College bylaws which do not give CDAs equal status within the College. CDAs hold a certificate granted by the College but are not regarded as registrants or members. Despite there being twice as many CDAs as dentists they have only two seats on the Board in comparison to the dentists' 10'.[58] At its meeting in September 2018 the Board voted, in reducing the size of the Board, to limit CDAs to one seat only. As one CDA remarked, *'We can run their practices for them but we can't run their College*.'[59]

5.16 The College used to collect the fees for the Certified Dental Assistants of British Columbia (CDABC) but soon after the College was established it voted to stop doing so. As one CDA remarked *'Dentists sometimes don't play nice'.*

5.17 The College does not require dentists to employ CDAs as assistants. They can employ anyone as a 'chairside assistant' although those persons are not able to carry out independent activities as CDAs can.

5.18 The College has two CDA Committees; a CDA Certification Committee and a CDA Advisory Committee. It has not sought to develop a proper scope of practice for CDAs, something which they would welcome as an enhancement of their professional practice. CDA issues seem rarely to be discussed or given much attention by the Board. It is hard to avoid the impression that for some, CDAs are second class citizens.

### *Dental Therapists*

5.19 The initiative by the Acting Registrar to develop an active relationship with the First Nations Health Authority is to be commended. There is a very small number (seven) of Dental Therapists working with First Nation communities but their role is important. The College as a regulator needs to understand the necessity to be flexible in developing new roles to meet the particular requirements of this community. This is an area where the old professional boundaries may no longer be fit for purpose and I encourage the College to continue to work with the First Nations Health Authority to support good quality dental therapists. The Board should take an active role in recognising the oral health needs of First Nations communities. CDSBC is a signatory to the Declaration of Commitment that is based on the principles of cultural safety and humility.[60] This includes promoting the value of cultural safety training to the professionals it regulates. Its recent decision to acknowledge this at the beginning of all meetings is a positive move in this direction.

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[58] CDSBC Board, CDSBC.
[59] It reversed that decision and other reforms at its meeting in November 2018
[60] *All regulated health professions commit to a safer health system for First Nations and Aboriginal People*, First Nations Health Authority, 2017.

*The other dental colleges*

5.20 There are four separate Colleges registering or regulating seven occupations within dental practice. The College of Dental Hygienists of BC has 3874 registrants. The College of Denturists of BC has 263 registrants. The College of Dental Technicians of BC regulates or registers 894 dental technicians Dental Assistant Technicians and Dental Technician students.[61] There are also unregistered or regulated 'chair-side assistants' employed by some dentists who perform limited support roles. The HPA requires Colleges to promote 'interprofessional collaborative practice'[62] and yet there seems to be little contact or collaboration between the four dental colleges. No regular meetings between the four colleges take place to discuss shared issues or problems or to work together to promote the oral health and well-being of patients. Not one of the Colleges of Hygienists, the Denturists or the Dental Technicians had views on the CDSBC that they wished to contribute to this Inquiry. It may just be that these colleges are so small they just do not have the resources to fulfil all of the functions required of them by the HPA. In any event it does not seem that the Colleges relating to oral health and dentistry are actively promoting interprofessional collaborative practice.

*The British Columbia Dental Association*

5.21 The relationship between the College and the British Columbia Dental Association is too close: '*When a registrant pays their fees to the College, a portion of that fee goes to support the advocacy group, the British Columbia Dental Association. To me that makes the separation of the College's role of public protection difficult for consumers to see when it has this close financial relationship to the professional body*' (former public member of the Board).

5.22 The Governance Manual recognises the importance of the independence of the College. It stipulates a gap of two years before someone who has served on the board of directors of any provincial or national dental association is eligible to be a Board Member and three years after a member of the Board has left the College before they can serve in a role with a regional, provincial or national dental association[63].

5.23 A former dentist member of the Board commented, *'So point number eight, relationship between the college and the stakeholders. They have a very close relationship with the BCDA, which can create problems… Also the College of Dental Surgeons regulates dental assistants. I have said I think this is odd since dental assistants are often employed by dentists, this is an imbalance of power.'*

5.24 That the objectives of the Association and College are closely aligned, at least in the minds of some dentist leaders is, apparent in an email from the then President of the Association to the incoming President of the College in June 2016, *'The College and the BCDA need to support a strong profession- so let's make that tomorrow's goal!!!'*[64] The then President of the Association is now President of the College. The dentist who was elected vice-President of the College in 2016 received a Merit Award the same year from the Association for campaigning against

[61] Figures obtained from the Annual Reports or on-line registers of the Colleges
[62] HPA 16.2(k)(ii)
[63] Governance Manual, page.3.2, section 3.4.
[64] Email from BCDA President to CDSBC President-elect dated 29 June 2016

the College's proposed Standard on 'Boundaries in Practitioner-Patient Relationships', so that it 'did not negatively impact the profession.'[65] When the College published that guidance (no longer a Standard) for consultation it did so through a joint letter with the BCDA, signed by both Presidents, praising the 'leadership' of the BCDA. The new guidance was described as 'in the best interests of the public and the profession'[66]

5.25 The closeness of the relationship is recognised by those outside of the dental community. In its submission to this Inquiry the British Columbia College of Nursing Professionals observed that during the three nursing colleges' conversations about amalgamation, they took into consideration, '*the CDSBC's governance challenges…and aimed to ensure that special interests, such as those of a professional advocacy association or union, would not undermine the College's public interest mandate by negatively impacting the new College's Board composition*.'[67]

5.26 The Bylaws say that the College 'may' collect fees for the Association[68], not that it must or should. This is very clearly a discretionary power. In a letter to this Inquiry the BCDA observed that, *'it is the legislature that has expressly permitted a public body to collection [sic] of such membership fees, a clear indication that, as a matter of public policy, the legislature has concluded that such a practice is not inconsistent with the public interest; otherwise, the HPA would specifically disallow it'*.[69] That interpretation is reasonable but at the same time the legislation permits the College not to collect such fees so it is for the College and the College alone to determine that it is in the public interest and if it is proper for the College to do so. The legislation is permissive not directive. The College has already determined not to collect the fees for the CDABC so it is clearly free to make the same decision in relation to the BCDA should it wish to do so.

5.27 The College agrees annually by a motion of its Board to collect the fees for the Association. The Association does not publish its annual accounts or provide the College with a justification of its fee for the coming year, it merely provides the College with a statement of the amount it requires to be collected on its behalf. As there is no breakdown of the Association's expenditure there is no way the Board can make an assessment of the extent to which the fees are justified by 'the public interest' as distinct from the professional or private interests of dentists.

5.28 When the College collects fees for the Association and itself from dentists it does so as a single fee and does not differentiate between the sum for registration with the College and the payment for membership of the Association. This is not transparent. The Association does not provide the College with a list of its members from whom to collect its fee. Both the College and the Association appear to assume that every dentist wishes to be a member of the voluntary Association. I am informed that dentists are not required to be members of the Association but as the College collects fees from them whether they are or not that discretion is non-

[65] *Celebrating 2016 Award Recipients*, BCDA, 2016.
[66] Joint letter from the CDSBC and BCDA dated 6 November 2015
[67] Letter from the BCCNP to the Inquiry dated September 24, 2018
[68] CDSBC Bylaws 3.10
[69] Written evidence to the Inquiry from the BCDA dated September 17, 2018

existent. I do not know on what legal basis the Association does this. Its effect is to create a private monopoly.

5.29 It is not that the CDSBC Board is unaware of the issue:

> *'A lot of the people that come onto the board now are Association people and therefore come in with their own viewpoint in terms of what their College stands for. The second problem is that I think if you were to ask most dentists in this province the difference between the Association and the College they would not be able to tell you the difference…There are things that Association has done over the last few years has been very positive in terms of serving the public quite frankly or serving the underprivileged. And the concern was those would have difficulty going on if we said, okay the association has to collect their own money, because the membership would not see the value of the Association. The College had the right by legislative power to of course collect money for the running of the regulation part. So the College had no concern but we wrestled with it and again when word got out that there was talk of the board perhaps making that separation, the lobbying was so strong that we had to back off.'* (former officer of the College).

5.30 Recently the CDSBC President agreed to a proposal by a dentist member, to put the matter on the agenda of the Board. However, having been proposed for the June 2018 meeting, then for September, it finally appeared on the Board Agenda in November 2018. Prior to that meeting the President of the CDSBC wrote personally to the Executive Director and President of the BCDA inviting them to make a presentation at the College Board meeting on November 30th, prior to the vote on the collection of their fees by the College. He wrote, 'as I have suggested in the past, the focus might be all the good things you do - the 'BCDA in the Public Interest''[70]. He attended and spoke at the BCDA Board meeting the week before the BCDA presented to the College Board. At my request the BCDA shared the background information to their presentation to the Board of the College with me. The documents provided an overview of the BCDA's access to care activities and policy direction.[71] At the November Board, following an address by the BCDA to the Board they voted to maintain the current relationship.

5.31 In a 2018 article in the BCDA magazine, entitled 'Two Organisations: One Profession', the President of the Association drew attention to occasions in which the Association had lobbied successfully to change the College's policies and commenting on the 'recent events regarding the College' wrote, *'Good governance rests with transparency and clear decision-making policies.'*[72] I agree with that. The College would benefit from a transparent fee collection process and a clear separation of its decision-making from influence by the Association.

5.32 In forming a view that the close working relationship between the College and the Association should end I make no judgment on the value of the Association to dentists or of its usefulness to the community. The Association's work is outside the

[70] Email from the chair of the CDSBC to the Executive Director and Chair of the BCDA dated October 18, 2018.
[71] CDBA *A Path to Addressing Critical Gaps in Dental Healthcare,*2017 and *BDCA Submission on Poverty Reduction*, 2018
[72] 'Two Organisations; One profession' in The Bridge, Spring 2018, p7.

scope of my Inquiry. My judgment is only about the interests of the College and its mandate of public protection and I consider that that is best served by a full separation from the Association whose role is to promote the interests of dentists.

5.33 The College must be an independent regulator focused on its mandate to protect the public, respectful of many stakeholders but beholden to none. The College cannot be an effective independent regulator of dentists, CDAs and dental therapists when it is physically, financially and humanly intertwined with the BCDA. I make recommendations for the separation of the CDSBC from the BCDA at the end of this section.

*Post-secondary education*

5.34 The College actively contributes to and collaborates with educational institutions. Representatives of the College present at University of British Columbia (UBC) Dentistry in various years of the program, and the College meets with an associate dean of UBC Dentistry on an as-needed basis to discuss updates/changes to the dentistry program curriculum and the registrar has attended meetings of UBC Dentistry and their Curriculum Teaching Effectiveness Committee, The College staff also present to CDA schools around the province on an annual basis.

*The BC Health Regulators*

5.35 The grouping known as the BC Health Regulators (BCHR), which brings together the registrars and other senior colleagues, and on occasions Board members, is a model of collaboration and debate. I commend the energy and purpose and good intentions which it demonstrates. The CDSBC plays an active and constructive role in the BCHR meetings.

5.36 All the British Columbia health regulators were written to as part of gathering information for this Inquiry. They were invited to comment on both their relationship with the CDSBC and their views on reform of the HPA, ten of the 23 replied. All but two of those told me that they had nothing to say about the CDSBC itself. Nine of them provided helpful comments on the workings of the HPA and these are taken into account in Part 2 of this Inquiry. The College of Physicians and Surgeons commented directly on one aspect of the CDSBC's performance, the inspection regime, which I address in para 6.22 below. The British Columbia College of Nursing Professionals described how they had taken note of the CDSBC's governance problems in designing their new merged structure (see 5.26 above). A list of those who submitted evidence appears as Annex 3 to this report. I recognise that at the same time as this Inquiry is taking place the BC Ministry of Health has asked the BC Health regulators for a collective response to a number of important questions about the futures of health professional regulation in BC and that the focus of members of the BCHR has properly been on that.

*Health Practitioners Review Board*

5.37 The Health Professions Review Board (HPRB) provides an independent review of certain decisions made by British Columbia health regulators on an appeal by the complainant. It also considers delays in proceedings on behalf of registrants. The HPRB conducts two kinds of review; disposition – whether the investigation was adequate and the decision by the regulator reasonable and timeliness- if the

regulator is unable to resolve the complaint in the time specified in the HPA.[73] During 2017/18 the HPRB received nine applications for review of complaint file dispositions in relation the CDSBC and two regarding timeliness. The CDSBC and the HPRB have appropriate professional relationships and only a very small number of referrals are made in relation to College decisions. An even smaller number of those result in an adverse decision by the HPRB. I consider the HPRB is a valuable part of the health regulatory framework and that its role could be further strengthened. I address this in Part 2, below.

*The Ministry of Health*

5.38 The HPA grants colleges freedom to self-regulate in the public interest but also ties the regulator into public responsibility and accountability to government. The CDSBC has regular communication with Ministry of Health official, and occasionally with the Chief Dental Officer. Officials have addressed the College Board.

5.39 The Ministry, along with the Crown Agency Board Resource Office (CABRO), is responsible for deciding who is appointed as a public member of the boards of the Colleges. Colleges have raised concerns that this process can lack transparency and efficiency.

5.40 I asked all the colleges if they had current or imminent vacancies for public members on their boards. My calculation is that at the time of submitting this report, there may be over 25 vacancies unfilled at the end of 2018 and that at least seven colleges may not have enough public board members to comply with their bylaws.

5.41 It is possible that the current system of appointing public members to boards could work more efficiently and transparently. That is a matter for the Ministry not this report.

*Patients and the Public*

5.42 The College has no systematic engagement with patients as individuals or though their representative groups. In fact, as reported above (para 3.49) some board members seem wary of the public and unwilling to engage with them directly or to open board meetings to their comments and questions. The acting registrar and colleagues have shown themselves willing to engage directly with patient complainants, to address their concerns and to learn from them. I commend this and encourage the College to be more purposeful in meeting, hearing and responding to patients directly.

5.43 The College does conduct a complaints survey[74] which covers both complainants and registrants. This is a welcome attempt to obtain feedback. Unfortunately, the numbers of complainants responding is so low that its usefulness is extremely limited. In the 2017-18 period only 16 complainants responded. The Annual Report for that period records that the College received 309 complaints. Given that those few respondents disagree with each other on many questions, except that College staff are courteous and respectful, it is not possible to draw any useful conclusions. Conducting a survey of this kind is desirable but the College really must rethink its

[73] HPA s50.55
[74] *Complaints Process Exit Survey, March 2017-February 2018,* CDSBC, 2018

approach to enable it to collect a meaningful number of responses which it can use to check and improve its performance.

5.44 I recommend that the College develop a patient and public engagement strategy, seeking to inform the public about its role, to make it easy for them to respond to consultations, to engage with patients who complain to learn from them and to improve the College's response to them. Patients and the public are not a threat to the College as some seem to believe but a resource for learning and improvement. The new Strategic Plan agreed in November 2018 provides a good opportunity to do this.

5.45 Regulators cannot work effectively alone or in isolation from the wider social structures of which they are apart. In the past, to some, self-regulation meant self-determination and isolation. A sentiment which lingers on in the claims 'We are different', 'We are special', 'We can be trusted to be left alone'. None of those claims are sustainable in the face of the many failures of professional regulation in many jurisdictions over many years nor in response to the needs of modern health services.

# 6. Protecting the public

6.1 Fifteen years ago, the British Columbia Ombudsman reported on self-governance in health professions. He wrote,

> 'My experience in investigating complaints about the colleges confirms the Minister's observation that some colleges have failed, on occasion, to act in the public interest in carrying out their mandate…the professions do not appear to have fully accepted or understood what it means to act in the public interest. They still believe, perhaps because it is the members who elect the governors and pay for the college's operations, that the colleges are there primarily to protect the interests of the members.'[75]

6.2 I have observed that on the CDSBC Board and committees discussion about protecting the interests of dentists rather than of the public remains an underlying theme. But I also recognise the changes of attitude and action that are being brought about by the Board, committees and senior staff. This significant shift towards prioritising public protection is strongly expressed in the new CDSBC Strategic Plan 2019-22.

6.3 It is my conclusion that the Board of the College has not always in the past put fully into effect its role in ensuring the safety of dental patients and in protecting the public. Some dentists both on the Board and on College committees continue to believe that the College should protect dentists. This was explicit in the statement on Governance and Operations in the 2017/18 Annual Report which reads, 'Board, committees, registrants and staff understand the role and limitations of the College with respect to regulatory vs. advocacy functions'.[76] The College in fact has no advocacy functions and the only limits to its regulatory functions are those set out in its legislation or which it has chosen to apply to itself.

6.4 Nowhere in the summary of the former Strategic Plan set out in the 2017/18 Annual Report do the words 'patient safety' or 'public protection' appear. The College, it says, ‘supports the professional rights and responsibilities' of dentists but it is silent on the rights of patients. A former staff member told me, *‘Elections lead to the sense of entitlement over the College’s operations that registrants hold. They hold it very dearly. You ought to see, if you haven’t seen already, many examples of vitriolic correspondence from registrants saying that it’s so unfair that a dentist agreed to something to resolve a complaint. That there was a gun to their head. That there was excessive pressure. It’s truly pathetic*'.[77]

6.5 A concern for the well-being of dentists rather than a single-minded focus on patient safety and public protection is still a part of College culture. A member of the Inquiry Committee wrote to me, *'The College should not conduct itself to protect the public at the expense of the dentist's physical and mental well-being…*'[78] For this Inquiry Committee member, responsible for complaints and discipline, the welfare of dentists comes before the welfare of patients. Another dentist wrote to me in

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[75] *Acting in the Public's Interest? Self-Governance in Health Professions: The Ombudsman's Perspective*, 2003 p 3.
[76] CDSBC Annual Report 2017/18, p2-3
[77] Public Board member, interview, July 2018
[78] Written evidence submitted to the Inquiry, July 2018

support of a colleague who had accepted a MAU restricting their practice, '*The most substantial concern is that the CDSBC…have put 77 members of the public and their families through an inappropriate anxiety ridden experience. This pales in comparison to the horrendous ordeal that the Registrant has had to endure*.'[79] I don't think these perspectives are typical but for dentists who are active in the College and dental community to express them suggests a profound misunderstanding of the purpose of professional regulation and lack of concern for the safety and well-being of patients.

6.6 The College is in practice far from being dismissive of the well-being of dentists and CDAs. It seeks to check if health issues underlie problems with performance and then actively tries to agree with them voluntary withdrawal from practice. It has established a health and well-being programme for those unable to practise though drug or alcohol abuse or issues with mental health. It is a worthy objective, compassionate in intention and desirable to achieve. But why is the regulatory College rather than the membership Association running it? The welfare of dentists in trouble should surely be the concern of their Association and it would be a proper collaboration for the College to refer dentists who needed help for whatever reason to the Association which exists for their benefit. I don't doubt the needs of this group of unwell dentists and CDAs but I do doubt that it is a regulator's role to arrange and sometimes pay for healthcare for them. There is no comparable rehabilitation service provided by the College for the patients whose health and well-being has been damaged by dentists.

6.7 I asked the board officers who were in post from 2016/18 what 'protection of the public' meant to them and how during their period in office the College had improved patient safety. One told me,' *I know, the things that we were upset about didn't have a lot to do with patient's safety…. The Board has been stuck, we have accomplished virtually nothing because of this issue*.'[80] The minutes of board meetings provide little evidence of an organisation focussing its attention on public protection. As a dentist Board member said, *'A lot of time had to be spent in the last two years just sorting out the Board, rather than focusing on protecting the public*.'[81]

6.8 The former President however strongly defended their track record.[82] He shared with me '*the things we were able to accomplish as a board, things I was really proud of*.' He cited the standards for sedation and anaesthetic dentistry, the establishment of a national programme through CDRAF (Canadian Dental Regulation Authorities Federation) for specialty recognition of dental anaesthesia, the development of the College's new Quality Assurance process, the change to Bylaw 12 so that it allowed advertising compliant with the Canadian Charter of Rights and Freedoms[83], new standards for dentists to provide and advertise Botox and facial fillers and the wellness programme for dentists. '*Our focus was on harm reduction and rehabilitation*', he told me.

6.9 The former President described the 'listening sessions' with dentists which he had instituted. '*That was a big push of mine. I developed blogs for the College so that I*

[79] Submission to the Inquiry dated November 2018
[80] Interview, July 2018
[81] Interview July 2018
[82] Interview November 2018
[83] The Constitution Act 1982

*could talk to dentists, I wanted them to be aware of what was going on. I would go out and talk about issues or concerns so that we were seeing what they were seeing, to minimise harm to people in the Province*.' The former President gave examples of what these listening sessions identified; '*loss of public trust though unethical advertising*', '*over-supply of dentists because the National government is encouraging foreign trained dentists to come in*', inadequate training at dental school, *'new graduates don't have the competency, skill and knowledge to adequately treat patients and have inadequate ethical standards'.* He said the new QA programme would help to address the last.

6.10 '*In one ethnic area*, he said '*the community, a south-Asian community, has made a universal decision not to accept co-payments from patients. This does not really affect the public except that it cuts the cost but it is not compliant with the College regulations and bylaws and puts the College at risk… We also addressed risk to the public of corporate entities, this was part of my platform, determining patient treatment to maximize income; putting the public at risk of unnecessary treatment.*' Having identified these issues, he told me, the Board worked with the ethics committee to improve the Code of Ethics and developed 'Patient-centred Care and the Business of Dentistry'. '*These are all things that we've done to show we are working in the public interest and protecting the public,'* he said.

6.11 I recognise that many of the issues as highlighted by the former President do indeed have possible adverse outcomes for patients; either under-treatment through lack of access or over-treatment because of over-supply and the need for dentists to make an income. However, they are all issues of dental ethics, advertising, commercialisation, and dental fees rather than patient safety issues in themselves. They arise out of the economics of dentistry in the Province.

6.12 It seems to me that CDSBC's underlying cultural resistance to being fully focussed on the safety of patients, despite the efforts of many people to move it in that direction, derives in part from a number of problems with the Health Professions Act. The first is the defined purpose of the legislation, the 'Duties and Objects of a College', which is no longer sufficient to protect the interests of the citizens of BC, the second, which I have dealt with in paras 3.1-3.3 above, is the electoral system and the confusion of membership with registration; third there is a curious caution about creating and publishing unequivocal Standards of Dentistry, against which dentists can be held to account; fourth, the complaints process is over complicated and open to protracted negotiation by health professionals and their lawyers; and fifth the College's commitment to voluntary consent and remediation as an outcome of complaints has tipped the balance so far that it has become sometimes both unsatisfactory for dentists and to the detriment of public protection. I comment on possible changes to the HPA in Part 2 but also I set out some ideas for improving public protection within the existing legal framework.

6.13 Professional regulators promote safety and protect the public in three ways; they only register and allow to practise those who meet the requirements for registration; they set clear, mandatory standards for competence and conduct; they hold professionals to account for observing those standards and may restrict or remove practise rights from those who breach them.

6.14 In the assessment against the Standards of Good Regulation the College failed to meet two out of five Standards for Standards and Guidance. When proposals from

committees to strengthen standards or guidelines do come forward some Board members have argued how inconvenient and expensive implementation will be for dentists. *'The first board meeting I went to, the dentists all spoke as dentists. They did not speak as members of the College Board whose responsibility was to protect the public. They spoke from, 'Yeah, but if we do that, it's going to cost the dentists $1,400 to buy a defibrillator and we don't want to spend the money.' Well, sorry guys, if you have people having heart attacks in your office, you need to be able to help them'* (Former public board member).

6.15 The HPA says that amongst the committees a college may establish is a 'Patient Relations Committee.' The CDSBC chose not to do this. The Governance Manual does not have any reference to a patient relations committee nor any terms of reference of such a committee. In addition to a patient relations committee, the HPA also refers to a 'patient relations program[84]'. The duty and objects of a college require it:

'(f) to establish, for a college designated under section 12 (2) (h), a patient relations program to seek to prevent professional misconduct of a sexual nature;'

6.16 The Dentists Regulation designated CDSBC as a College that had to establish a patient relations program. The College patient relations program is also included the bylaws:

> 'Patient relations program
>
> 13.03 (1) The board must establish a patient relations program to seek to prevent professional misconduct, including professional misconduct of a sexual nature.
>
> (2)For the purposes of the patient relations program, the board must
>
> (a)establish and maintain procedures by which the college deals with complaints of professional misconduct of a sexual nature,
> (b)monitor and periodically evaluate the operation of procedures established under paragraph (a), and
> (c)develop guidelines for the conduct of dentists, dental therapists and certified dental assistants with their patients.'[85]

6.17 The CDSBC has failed to establish either a Patient Relations Committee or a patient relations programme. It has however taken action against dentists who have violated sexual boundaries with their patients if it has received a complaint.

6.18 The only area where the College has issued guidance on patient relations permits dentists to treat their own spouses, children and close friends. The rejection of the College's original draft standard on patient-practitioner boundaries in 2015 was based on outrage that conjugal relations could be characterised as sexual misconduct. The suggestion dentists might not treat their own family members was considered insulting, inconvenient and costly. In allowing dentists to continue to treat family members and leaving the ethical application of autonomy, consent and objectivity to personal judgement, the College is out of step with the medical profession. For example, the College of Physicians and Surgeons of BC has adopted a standard that reads, 'Physicians must avoid treating themselves or family

[84] HPA S16
[85] CDSBC, Bylaws 3.03

members unless the medical condition is minor or emergent and no other physician is readily available'[86].

6.19 Sedation and anaesthesia are a highly dangerous area of a dentist's possible work. the College should take very seriously breaches of its standards in this area of practice. In 2015 a College disciplinary panel made the disturbing decision not to cancel the registration of a dentist who had permanently brain damaged a young woman through his own deliberate acts. The dentist provided deep sedation when he was not permitted to do so, failed to follow College guidelines, published false claims that he was authorised to provide sedation, failed to exercise the level of skill and care necessary and failed to monitor his patients. It appears from the penalty decision summary[87] that apart from ruining this young woman's life and no doubt the happiness of her family, he put other patients at risk. He received a three month suspension and a fine. The handling of this case by the CDSBC raises questions about its commitment to upholding standards of the profession and surely failed to give the public confidence that the CDSBC had either their safety or their interests at heart.

6.20 Recently the CDSBC has reviewed and strengthened its Standards and Guidance for sedation and anaesthesia, which have been in place since 2008 and continues to update them. The Standards require dentists to be qualified to be registered and for dental offices to be inspected 'If you own a dental office and intend to administer general anaesthesia to your patients, you must register your qualifications with CDSBC and must apply to have your facility inspected by the College'[88]. Of course, all these and others were ignored by the dentist who brain damaged a girl but has been allowed by the College to continue to practise.

6.21 The inspection regime put in place by the CDSBC involves an annual self-assessment by the dentist provider with a tri-annual independent inspection. The consequent reports are considered by the Sedation Committee.[89] The College says that it is short of inspectors and that reports and therefore approvals may be delayed. It only covers the provision of deep sedation and general anaesthesia not light or moderate sedation.

6.22 This inspection regime was criticised by the College of Physicians and Surgeons of BC (CPSBC) in its submission to this Inquiry. The CPSBC wrote:

> *Both the College of Physicians and Surgeons of BC and the College of Dental Surgeons of BC accredit private facilities in which advanced procedures requiring some level of sedation or general anaesthesia are provided… These private facilities are subject to accreditation requirements whether by the College of Physicians and Surgeons, or the College of Dental Surgeons.*
>
> *'We bring to your attention that the accreditation standards for the two programs are significantly different. For example, the College of Dental Surgeons does not assess facilities that only provide light or moderate IV*

[86] CPSBC, Practice Standard Treating Self, Family Members and Those with Whom You Have a Non-professional Relationship, 2017
[87] Discipline Panel decision summary of Dr. Bobby Rishiraj, CDSBC, 2015.
[88] CDSBC, General Anaesthesia.
[89] CDSBC, Current Authorization Process for Deep Sedation and General Anaesthesia Facilities, 2018

*sedation. In contrast, the College of Physicians and Surgeons requires accreditation standards to be met for any level of IV sedation'*[90]

6.23 I am not in a position to assess the difference in thoroughness of the two approaches but given the demonstrably serious risks to patients of sedation and anaesthesia, I suggest that both Colleges meet to agree a shared approach and inspection regime and to ensure mutual confidence in the safety of patients.

6.24 Dentists and patients would benefit if the College adopted a more structured and consistent approach to the revision of current standards and the identification, writing and approval of new standards. I suggest that the Ethics Committee be renamed the Standards and Guidance Committee and that it is charged, on behalf of the Board, with overseeing a programme of regular checks on existing standards, the risk-assessment and determination of which new dental practices require new standards or guidance or information to be published, the establishment of expert groups to develop those standards or guidance and their approval and submission to the Board. The College should build on and systematise leaning from complaints, professional concerns and horizon scanning in determining risks and its priorities. The College should adopt a consistent taxonomy of 'standards', 'guidance' and 'information' and criteria for how potential harms fall into which category. In published documents these terms should be used obviously and repeatedly. The College should stop calling standards and guidance 'policies' and reserve that term for internal College policies, such as the Finance Policy or the Safe & Respectful Work Place policy. The current 'policy development process' could readily be adapted as a standards and guidance development process. A possible structure for this more coordinated approach is set out in the diagram below.

[90] Letter from the CPSBC dated September 24, 2018

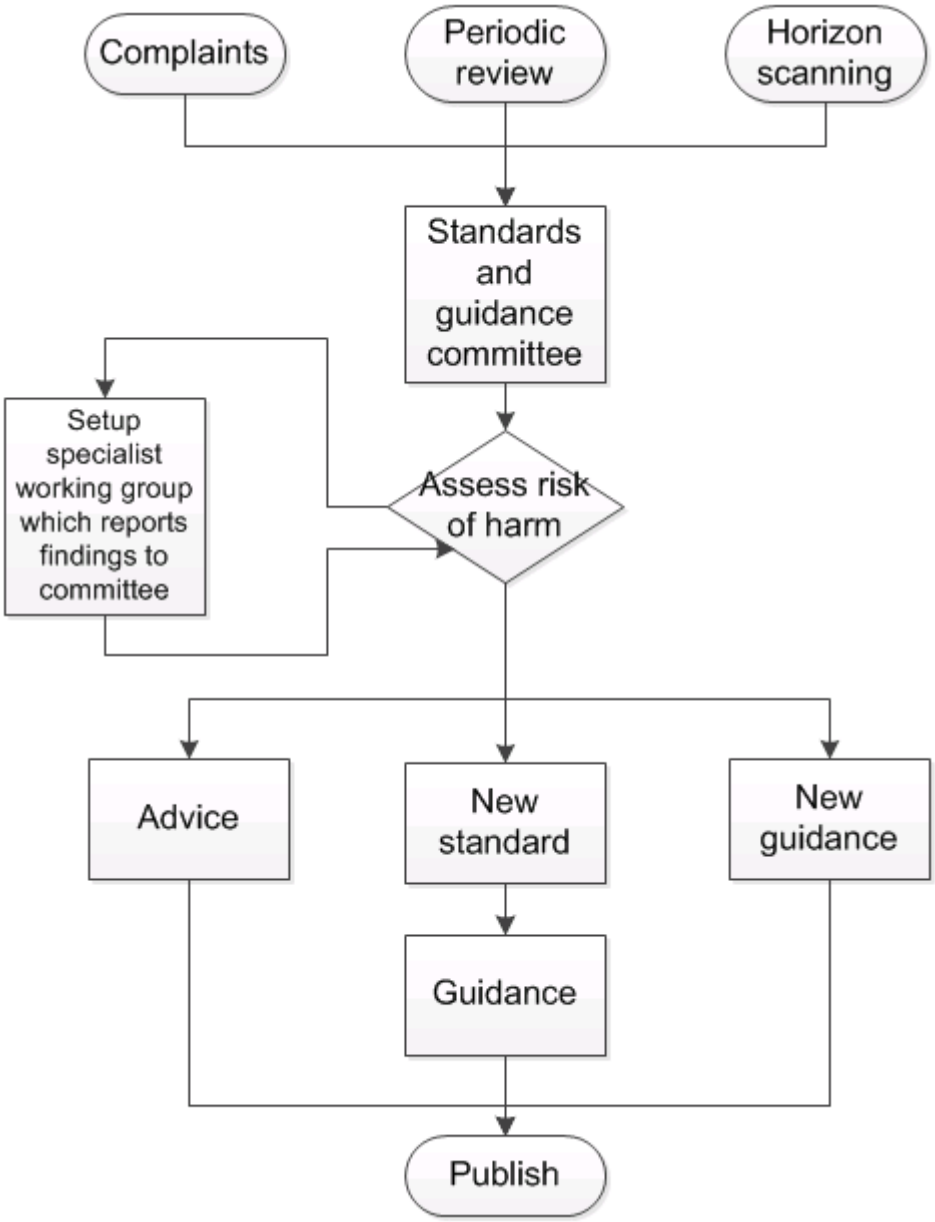



*Table 5: Standards and guidance development process*

6.25 The Duties and Objects of the College as set out in the HPA are:

(a) to serve and protect the public, and
(b) to exercise its powers and discharge its responsibilities under all enactments in the public Interest.[91]

6.26 These overarching duties are followed by 16 regulatory objects which are quite specifically about registration, standards of practice, discipline and the proper governance of the College.

6.27 The phrase 'to serve and protect the public' is broad and therefore open to a wide range of interpretations. This has led I believe the College and perhaps other Colleges to interpret its role as playing a wider part in the health system in British Columbia than is strictly warranted as a professional regulator. A regulator's role is

[91] HPA s16.1

maintaining patient safety, upholding the standards of the profession, maintaining public confidence. The HPA does not ask regulators to be responsible for public health or for access to health professionals. Of course, regulatory actions have an impact on supply (raise standards and you reduce supply, lower standards and you increase supply) but that should not influence the regulator in setting the appropriate standard. In July 2018 the BCDA wrote to the Chair of the Bylaws Working Group of the College about the 'supply' of Certified Dental Assistants[92]. They complained that the supply of CDAs had not matched the increase in the number of dentists and suggested that the College might reduce the registration requirements for CDAs especially in relation to their returning to practise. Supply is not the responsibility of a health regulator; it is a matter for the government of British Columbia to ensure supply and to intervene in the workforce market if necessary.

6.28 The process for receiving, investigating complaints and for the determination of disciplinary action as set out in the HPA is inadequate for a modern regulator, its requirement that all complaints be examined, its reliance on volunteers, its convoluted opportunities for delays and appeals are not helpful to either health professionals or patients. The College needs to work within the legislation but I suggest there are some things it can do at the present time to speed up the process, increase transparency and improve public protection.

- Build on the recently introduced risk assessment for complaints and use the Registrar's power to dismiss trivial and vexatious complaints more regularly. At the same time, based on assessed risk of harm, refer to an interim order hearing when there is a continuing risk to patients
- Stop assuming that remediation works in every case when the evidence shows it does not. Dentists who have a second complaint having previously signed an MAU should not be allowed to do so again. Stop hoping that dishonesty can be remediated by an ethics course
- Move towards professionalising the Inquiry Committee by paying members properly for attendance in person and introducing mandatory training and appraisal on an annual basis. Separate membership of the Inquiry Committee from the Board of the College so that it is clearly independent, ensure that legal advisors only give advice and do not direct the decision-makers. Publish reasons for all decisions[93]. Always put the interests of patients before the interests of dentists or the College
- Publish guidance on triage, Inquiry Committee and Discipline Committee processes and outcomes. This would clarify for the public, dentists and Committee Members/Registrar the approach to be taken to decisions and the factors to be taken into account at the relevant decision-making stages
- Set out a Case Management Protocol – to address matters causing delay by clearly setting out the expectations for case preparation and listing by both the College and the Dentist

6.29 The New Strategic Plan agreed by the Board in November 2018 is a significant step forward. It shows the valuable influence of the new public board members, a recognition by the Board that change is necessary and a re-energised senior staff

[92] Letter from the President of the BCDA to the Chair of the Bylaws Working Group, June, 26 2018
[93] See page 3 of the Annual Report of the HPRB, July 2018

team. This Strategic Plan places patients at the forefront of the College's activities for the first time.

6.30 Very many of its objectives parallel the recommendations I have made in this report. Its objectives include:

‘Ethical, open and transparent’

‘Patient-centred and engaged with the public'

‘clearly stated standards of competence and conduct’

‘An effective process for development, review and revision of standards’

‘Using data and risk-assessment to enhance regulatory effectiveness’

‘A risk-based framework to prioritize complaints’

6.31 These are just a few of the objectives set out in the plan which will take the College forward if it is properly used to test the decisions of the Board and delivery by the staff. If the College can really integrate this plan into its thinking and decision-making it should be a powerful tool for achieving what I believe, the officers, board members and staff all want; a genuinely patient and public focussed College.

6.32 Who owns the College? Well, the truth is that the citizens of British Columbia own the College; though their government they have given dentists self-regulatory powers but only as long as the College serves the public, the Board serves the public, the staff serve the public and dentists serve the public. I am not convinced the elected leadership of the CDSBC understands this. In December 2018 the President in a message to all Board members thanked them ‘*On behalf of the College of Dental Surgeons of BC and the profession of Dentistry*.’[94] Not, I note, on behalf of patients and the public.

6.33 An independent, effective, efficient, fair and patient focussed regulator, accountable to the citizens of British Columbia is good for the dental community as a whole. It is especially good for the majority of skilled and honest and public serving dentists.

[94] Email to all Board members, December 2018

# 7. Recommendations

7.1 On the basis of the report above I make the following recommendations to the College. They are split into the sections to which they relate:

*Governance, conduct and probity*

1. That the Board continues with its plans to reduce its size, increase the representation of public members and to appoint its officers from within its membership. An induction programme should be required of those dentists and CDAs wishing to stand for election before they do so. This will help ensure that those entering the Board fully understand the role that it is expected of them and how they should undertake it.

2. That no one who has held an officer position in the British Columbia Dental Association (BCDA) or any other representative organisation for dentists should be allowed to stand for election until at least three years has passed since they held that office.

3. That no dentist about whom a complaint is under investigation should stand for election or be appointed to a committee until the complaint has been resolved in their favour. No dentist against whom a complaint has been upheld should be a member of the Board or any committee of the College.

4. Any dentist who is a member of the Board or a committee of the College who has a complaint under investigation should stand down until the complaint is resolved.

5. That the Board should review its committee structure and the number of committees it has with the aim of reducing them and making the College's decision-making more stream-lined and effective. The Governance Committee should be abolished. A new Standards & Guidance Committee should be created out of the Ethics Committee and taking on certain functions of the Quality Assurance Committee which should focus its work on Continuing Professional Development. The College should decide if a Remuneration Committee to deal with confidential HR matters requiring oversight of the Board should be created.

6. The Board officers, the Registrar and College staff should be more assiduous at monitoring progress on workstreams and recording the implementation of decisions. The introduction of an action log attached to the minutes of a meeting would enable Board members and staff to keep track of decisions and outstanding actions.

7. The College should create a risk register which should be maintained by the senior staff and monitored by the Audit Committee and reported to the Board.

8. The Board should continue in its current trajectory of increasing transparency around as much of its business as possible to public scrutiny and being ready to be held accountable to the public whom it exists to serve. The Board

should limit the number of meetings held without any staff present to those dealing with HR matters. It should always make, approve and retain formal minutes of those meetings.

9. The College should renew its commitment to proper procurement policies and should conduct its legal contracts though its General Counsel and not though individual Board officers. It should consider introducing an internal audit function to support the Audit Committee. Board officers should not attend the Audit Committee except when invited to do so. In reviewing its committee structure the Board should consider if there is any value in continuing with the Finance and Audit Working Group.

10. The Board must recalibrate its relationship with its expert staff team. The Board must stop seeing itself as the College and recognise that its role is to govern the College and oversee its performance but that the College is run and managed by its professional staff. The Board and staff need to form a constructive and respectful partnership. Despite good intentions on all sides this is far from being achieved.

### *Performance of the College*

1. The College significantly improves its internal data collection and performance management so that it knows how it is performing against its own procedures and can demonstrate that it is effective in all areas of its work.
2. I strongly recommend that the College sorts out and codifies its documents to assist both dentist and patients. Standards should be gathered together into a single document, perhaps called ‘Standards for Good Dental Practice’, These should be clearly mandatory. Similarly, all guidance should be gathered into one place or publication. What ‘policies’ are is completely unclear and why some things are polices but not guidance or information I do not understand. I suggest the word ‘policies’ is reserved for internal College ‘policies and procedures’
3. The board should remove itself from involvement in the complaints process and should not attempt to influence or interfere in complaints in any way.

### *External Relationships*

1. As part of its new Strategic Plan the College should develop a stakeholder mapping and communications strategy to ensure that proper attention is paid to all its stakeholders and in particular to engagement with patients and the public through a public engagement strategy.
2. The College should work to improve the reach and response rate of its annual complaints survey. It should consider how it could use the patients who contact it as a resource for learning and engagement

3. The College should continue with its plan to open part of its Board meeting to questions and comments from members of the public
4. The College should aim to build a different relationship with its dentist registrants; one of both mutual respect and distance. Its thorough approach to consultation should aid this over time
5. The College should commit greater time, respect and interest to both CDAs and Dental Therapists
6. The CDSBC should encourage better and more regular engagement with the three other dental colleges to promote the safety of patients and public protection
7. When collecting fees the College should inform dentists more clearly what part of the fee goes to the College and what part to the Association. The College should also report that the Association pays it a sum of money for that collection and how much that is. The Annual Report of the College should show more clearly how much each dentist pays to the College and to the Association. The College should implement this recommendation with immediate effect
8. The College should resolve to stop collecting fees for the BC Dental Association. It should do so in a phased manner as the purpose is not to damage the Association but to strengthen the regulatory independence of the College. I suggest a transition period of no more than three years for the two organisations to separate.[95]

[95] NOTE: As part of this Inquiry I asked the BCDA in writing for its most recent annual accounts. It did not provide them. Financial Statements dated February 2015, which I have seen, show realisable assets in cash or securities in excess of $4.6m. The BCDA would appear to have the resources to manage a phased transition to collecting its own fees.

# 8. Introduction to Part 2

8.1 This is part 2 of the report of an Inquiry into the College of Dental Surgeons of British Columbia commissioned by the Honourable Adrian Dix, Minister of Health under section 18.1 of the Health Professions Act RSBC 1996 c183 and conducted under the provisions of the Public Inquiries Act.

8.2 The terms of reference for this Inquiry can be found in annexe 1 of this report.

8.3 The Inquiry began in May 2018 and concludes with the submission of this report to the Minister of Health in December 2018.

8.4 In the Introduction of Part 1 of this report I set out the activities undertaken in order to carry out my Inquiry. I will not repeat them here.

8.5 This Part of the report deals with the statutory framework for the regulation of health professionals in British Columbia. In particular it relates to the purposes of the inquiry 2 (a)-(d) as set out in the Terms of Reference.

8.6 I consider first, changes that might be made to the Health Professions Act to improve public protection and create a more efficient and flexible statutory framework without changing the structures by which regulation is currently delivered. Second, I suggest wider reforms which would require the creation of a new Act and different functions and component parts to the regulatory system.

8.7 In preparing this part of the report I have been assisted by many conversations with regulators, lawyers, health professionals and patients in BC. The meetings of the BCHR that I have attended have been particularly useful, as have the written submissions of some colleges to this Inquiry. I am grateful to all of them for sharing their time and expertise.

8.8 I have also drawn on the work done by the Australian Health Practitioners Regulation Agency[96] and the Professional Standards Authority in the UK[97]. I have learned much from reviews carried out for the Royal College of Dental Surgeons of Ontario, the College of Registered Nurses of BC, the Engineers and Geoscientists of BC and work with regulators across Canada. Officials in the Ministry of Health in BC have been unfailingly helpful but scrupulous to never compromise my independence.

8.9 I have been assisted throughout this Inquiry by Michael Warren, Policy Manager, at the Professional Standards Authority. I could not have completed this report without his diligence and attention to detail. Simon Wiklund, Senior Solicitor, has helped my thinking about reform of the HPA.

[96] See for example, Health Practitioner regulation in Australia: using the right-touch, Fletcher, Interligi & Robertson in *Right-touch regulation in practice, International perspectives* PSA 2018
[97] In particular, *Regulation Rethought; proposals for reform*, PSA 2016

# 9. Reforming or replacing the Health Professions Act

*Context*

9.1 The framework for the regulation for health professions in British Columbia was developed thirty years ago and brought into law through the Health Professions Act in 1979. The risks and benefits of healthcare practices have changed hugely since then. The status and diversity of health professions has changed, public expectations and requirements have changed, the health needs of our populations have changed. Quite simply the Health Professions Act is no longer adequate for modern regulation. That does not mean it is wholly without merit, but it does mean that significant change is needed if it is to meet future requirements for the safety of patients and the protection of the public of British Columbia.

9.2 Healthcare systems around the world are facing similar challenges. These are:

- Aging populations
- An increase in multiple long-term health conditions
- The increasing cost of health technologies
- Rising public expectations and consumer demands
- A global shortage of healthcare workers

9.3 Canada is little different from other developed countries; infant mortality is low and life expectancy increasing. Over 18% of the population of BC is over 60 years of age[98]. Diabetes and Alzheimer's disease are on the increase. Obesity in adults has been estimated at 64% across Canada as a whole but BC has the lowest obesity rate of any Province. Nevertheless, over the next twenty years and more health systems will be competing for resources and will need significant workforce reform, greater flexibility and the ability to obtain advantage from new technologies including artificial intelligence (AI). The regulatory implications of AI alone are only just beginning to be considered.

9.4 A regulatory framework that will last another twenty years needs to be effective to protect patients, flexible to adapt to change, efficient to provide value for money to registrants, and reliable to promote public confidence.

9.5 In setting out some proposals both for reform within the current regulatory framework and wider legislative changes I have been aware of the invitation from the Ministry of Health to the British Columbia Health Regulators (BCHR) to submit their own ideas for change. I welcome that invitation and the different perspectives BCHR will bring. My ideas and theirs are in no way in competition. BCHR have already shown themselves as a forward looking and constructive group and I hope that the Minister will find our contributions complementary if not

[98] Public Health Agency of Canada, Tackling Obesity in Canada, 2018

necessarily aligned. I have not of course shared this report with any of the Colleges.

9.6 I am also aware of the reforms to professional regulation being proposed by the government of BC in the areas of real estate and most recently in environmentally significant occupations as set out in the 'Professional Reliance Review[99]' and in the subsequent Professional Governance Act[100]. The structural changes being made in these sectors provide a context for the government's possible thinking about health regulation although I note it is specifically excluded from the Professional Reliance Act.

9.7 I am also mindful that the recommendations I make here follow immediately from my review and assessment of the CDSBC. I have been careful not to let the particular difficulties that the CDSBC has experienced colour my proposals for reform except where I consider the HPA contributes to those difficulties. There are 21 separate Colleges, with no doubt their own strengths and weaknesses. That there must be significant variation given their very different size and resources is part of the problem with the HPA, which is overarching legislation applied to very different professions and colleges. I have tried not to generalise from the CDSBC to the colleges as a whole.

9.8 That there are 21 regulatory Colleges in British Columbia does raise questions about the durability and indeed common-sense of setting up separate regulators for every occupation regardless of its numerical strength or its risk profile. The colleges in BC cover about 118,000 registrants. The smallest has only 78 registrants (podiatric surgeons), the largest, BC College of Nursing Professionals, 55,000. The highest annual fees are paid by registrants of the smaller regulators'; optometrists (805) pay $1390, midwives (228) pay $2340, while Nursing Professionals pay between $450 and $650. This is in line with research findings for both the UK and Australia which show that the larger the register, certainly up to 100 thousand registrants, the greater the economies of scale[101]. Another less direct factor in a multiple college system is that, on balance, the lower paid occupations pay a higher proportion of their income to be registered than higher paid occupations. Well paid physicians and surgeons pay $1685 to their College, while low paid denturists $1249 each year.

9.9 The economic consequences of professional self-regulation are regularly ignored. As the figures above indicate regulation is a tax on work; a payment for the privilege of working. The consequence of course is an increase in the price of that occupation's services. Self-regulation also hands control of supply to the occupation. As Adam Smith the 18th century social economist put it 250 years ago, 'People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in

[99] *Final Report of the Review of Professional Reliance in Natural Recourse Decision-Making 2018*
[100] Professional Governance Act SBC 2018
[101] *Review of the cost effectiveness and efficiency of the health professional regulators*, PSA, 2012 and *cost-effectiveness and efficiency review of the Australian National Registration and Accreditation Scheme,* PSA, 2014

some contrivance to raise prices.'[102] Professional regulation has as its public intention the maintenance of quality; in practice it may create a cartel or monopoly.

9.10 Professional regulation is not scientifically based, it is a social construct. This can easily be seen by comparing which occupations are or are not regulated in different jurisdictions. Very frequently whether a profession is regulated by statute or not will depend on history, geography and politics. Rarely does it depend on a proper assessment of risk of harm or an evaluation of the costs and benefits to the public.

9.11 An example of the weakness in public protection of fragmented self-regulation may be seen in the case of a BC naturopathic physician who breached their College's standards on vaccination and reportedly treated an autistic child with a homeopathic remedy containing saliva from a rabid dog[103]. A complaint was made to the College of Naturopathic Physicians by the BC Naturopathic Association. They stated, 'We take no pleasure in filing a complaint against a registrant with our college, but we do so, first and foremost, in the public interest to protect our profession's reputation and to ensure that safe, competent and ethical care is delivered to all patients'. The Association may have been more committed to safe ethical care than the regulatory college.[104] According to the brief Public Notification on the website of the College of Neuropathic Physicians of BC, in November 2018, after 'a collegial discussion' the registrant was allowed to resign from the College with no action taken on the grounds that they said didn't agree with the standards[105].This renders the purpose of professional regulation meaningless. If it is a defence to say after the event, 'I didn't agree with the standards' then both registration and standards are pointless.

9.12 Patients I have spoken to do not have great confidence in the colleges or in health regulation generally. It should be a matter of concern to all colleges and health professionals that a patient who provided evidence to this Inquiry concerning a regulatory complaint asked to remain anonymous because of fear of rejection or retaliation by other health professionals treating them in the future. They told me, 'It could have repercussions if I was known to be someone that tried to put a dent in this culture they seem to have'[106]. It is unacceptable that patients lack confidence in the ethics of health professionals.

9.13 In considering possible changes to the wider framework of professional regulation in BC I have made a number of assumptions. I set them out here so that my proposals may be assessed against them. If my assumptions are wrong, it may be that my proposals are not credible. My assumptions are:

- That the Ministry of Health is serious about reform and open-minded about the possibilities

[102] Adam Smith, *An Enquiry into the Nature and Causes of the Wealth of Nations,* 1776
[103] A 4-year-old was 'growling like a dog.' A B.C. naturopath's cure? Rabid dog saliva, Global News, April 2018.
[104] Uproar in Canada after homeopath gives boy pill made from rabid dog's saliva, Guardian, April 2018.
[105] Public notification, College of Naturopathic Physicians of British Columbia,
[106] Email December 2018

- That the colleges share a desire for change but may disagree about what is necessary or desirable
- That the present legal framework is not adequate for protection of the public
- That the present legal framework does not have the full confidence of either health professionals or of patients
- That improvements can be made to the current legislation
- That those improvements will not be sufficient in the longer term
- That significant reform is both desirable and achievable.

9.14 The overall objectives of reform of health professional regulation should be:

- To protect the safety of patients, to prevent harm and to promote the health and well-being of the public
- To provide a framework for safe, competent and ethical professional practise
- To have the trust of the public and the confidence of regulated occupations
- To be able to adapt to change and respond to new risks and opportunities
- To be efficient and cost effective in the interests of all citizens

9.15 I have kept these objectives in mind in setting out my proposals. First, I suggest changes to the Health Professions Act itself. These would change the way in which the Act directs and enables the colleges but would not change the overall structure of professional regulation except insofar as the colleges chose, as the nursing colleges have done, to amalgamate. Second, I set out a different framework for health professional regulation. This would involve the replacement of the Health Professions Act with new legislation governing how professional regulation is delivered in the public interest. Many of the proposals I make for reform of the HPA itself should be incorporated into the wider reforms.

## Reforming the Health Professions Act

### *A new mandate*

9.16 The Health Professionals Act charges the colleges established under it with the duty to 'serve and protect the public'. Despite the 15 objects which fall under this general duty, none of which, incidentally, include the word 'safety', I consider it too vague to ensure that a regulatory college is fully accountable for the wellbeing of patients. 'Serving and protecting' the public can be widely interpreted in ways that meet the interests of a profession. In particular it can be interpreted as supporting the availability of an occupation. It may for instance, include not

raising standards if that might affect the supply of a profession, raising standards if that would reduce the supply and therefore increase the exclusivity of a profession, not taking action to remove someone from practice because there would be a shortage of the profession, resisting innovation because that would affect the current arrangements or promoting innovation because that will increase market share.

9.17 Colleges need a clear mandate prioritizing patient safety and the clinical competence and ethical conduct of registrants. The duty of regulatory Colleges should be amended to give priority to the safety of patients. I propose:

> 'It is the duty of a college at all times;
>
> To protect the safety of patients, to prevent harm and promote the health and well-being of the public.'

A mandate of this nature would ensure that regulatory colleges were focused primarily on safety, on standards of clinical care and on the health needs of patients.

*Governance*

9.18 The HPA is ambiguous in its use of 'members' and 'registrants'. The concept of membership has led to many misunderstandings about the nature of professional regulation. The idea of membership should be discarded and replaced throughout with 'registrant.' If Colleges do not have members, then there is no need for an Annual General Meeting not indeed any of the other trappings of a club such as award ceremonies and gifts to volunteers. Some will protest that this removes the principle of professional self-regulation. It does. Unlimited self-regulation has in general proved itself unable to keep patients safe or to adapt to changing healthcare provision and changing public expectations. Professional regulation needs to be shared between the profession and the public in the interests of society as a whole.

9.19 The construction of boards for colleges is unsatisfactory. This is not a reflection of the competence or motivation of the individuals who are elected or appointed but on what is an inadequate process for determining who should run these important public institutions.

9.20 It would be beneficial to move to fully appointed boards combining health professionals and members of the public in equal parts. However, the appointment process as currently operated in British Columbia is not independent, transparent, competency based. It cannot be relied upon at the present time to take on a broader role.

9.21 I suggest as an interim measure that colleges introduce an effective nominations process for professionals standing for election to the board. The colleges should publish the competencies they are looking for and candidates for election should demonstrate they have the right skills and competencies to be a board member before standing for election. The chair should be elected by the Board. Public members should be eligible for election as chair. The audit chair should continue to be nominated though the public appointment process. There is no need for a

treasurer if a college is no longer a club. The choice of having a vice-chair or not should be left to each board. Vice-chairs, like chairs should be chosen by the Board.

9.22 The Government should consider the process for the appointment of public members so that it is more transparent, with public criteria and competencies for appointment and attention paid to the skill mix on individual boards.

9.23 Boards should be reduced in size; the most effective size for a board is generally agreed to be between eight and 12 people. This aids engagement and discussion and promotes corporate decision-making,[107]

9.24 Terms of office should be extended to three years, renewable for a further three years, to provide continuity and the expertise which comes with experience. This should apply to elected as well as appointed members. The current structure encourages amateurism and short-term planning. Regulation is a long-term business.

9.25 The number of statutory committees should be reduced; Audit and Risk, Registration, Inquiry and Discipline are probably essential. Otherwise colleges should be free to manage their own functions and involve registrants in the most appropriate way for each task. Appointment to committees should be based on competence and merit.

9.26 Colleges should be given greater freedom to change their own rules and bylaws. Current arrangements are too cumbersome to allow them to respond to change (see para 10.19 below).

9.27 Colleges should separate themselves entirely from professional associations. They should not collect fees for professional associations or give them grants. Of course, such associations or unions have a role to play and are often key stakeholders for colleges, but they should not be accorded special privileges or special influence on college decision-making.

9.28 If a higher performance is to be expected of board and committee members, they should be adequately rewarded. Board and committee members, both professional and public should be paid for the time they give and the expertise they provide. This is particularly relevant to the inquiry and discipline committees which in the larger colleges may have too many cases for them to give the level of independent scrutiny and decision-making that they require. If the size of boards and the number of committees is reduced the cost of adequate payments to members will not be large and will be offset by gains in efficiency.

9.29 The Board should be removed from any involvement in complaints and discipline. inquiry Committees and disciplinary panels should be independent, separately appointed and should have regular training and appraisal. They should be paid for their significant responsibilities.

9.30 Part 2.01 of the HPA sets out arrangements for the amalgamation of colleges. The Ministry of Health should actively encourage and facilitate mergers,

[107] PSA 2011, *Board size and effectiveness*.

especially of the smaller less well-resourced colleges. The joining together of the three nursing colleges is an example to others. I do not think that mandating mergers at the present time would be good for public protection as the colleges vary so greatly in size and competence. The result might be to damage a smaller college which performs well by merging them with larger college which performs badly. Fewer, larger colleges with resources adequate to do their job should be the objective. This should also reduce fees to registrants.

9.31 It is possible to envisage groupings of colleges around particular services such as dentistry (currently four colleges) or by creating a multi-occupation college, as has been done in Ireland[108] and the UK[109]. These regulators have provided effective and efficient services to both patients and registrants of multiple smaller occupations. I await with interest the views of the British Columbia Health Regulators on how the reduction in number of regulators should be progressed.

9.32 The Ministry of Health should as a matter of policy place a moratorium on creating any new colleges and should consult on how any occupations currently under consideration for regulation could be registered with an existing College.

*Clarity of language and meaning within the HPA*

9.33 Just as the HPA uses 'members' and 'registrants' interchangeably there are other terms with more legal significance which are ambiguous or poorly defined. This is unhelpful to registrants, complainants and colleges.

9.34 The HPA defines 'professional misconduct' as including 'sexual misconduct, unethical conduct, infamous conduct and conduct unbecoming a member of the health profession'[110]. Separately it defines 'unprofessional conduct' as 'including professional misconduct'. The word ‘including’ suggests there are other behaviours which might constitute unprofessional conduct, but which are not professional misconduct. This is unclear and open to interpretation.

9.35 The definition of 'serious matter' is even more problematic. The HPA says a serious matter 'means a matter which, if admitted or proven following an investigation under this Part, would ordinarily result in an order being made under section 39 (2) (b) to (e)'. This is a somewhat circular definition since before an investigation is complete it is not truly possible to know what the appropriate outcome will be. Colleges are therefore left guessing the likely outcome and of course having made a decision at an early stage that the matter is or is not 'serious' based on its possible outcome are likely to work towards that end. The characterisation of something as a 'serious matter' or not has very significant consequences because of its link to publication.

9.36 The test is problematic as the decision as to whether a matter is 'serious' can determine whether or not publication of the outcome is required. Consent or undertakings in relation to 'serious matters' may be published, if matters are not 'serious' they can be kept secret. Publication is a difficult part of the process for registrants and is often contested. The controversy and perverse incentives

[108] CORU
[109] Health and Care Professions Council
[110] HPA s.26

created by the link between serious matter and publication of consent orders or undertakings creates unnecessary cost, delay, and uncertainty. Overall, it is difficult to discern any benefit to the public.

9.37 The HPA would also benefit from the clarification of the terms ‘fitness to practise’, ‘ability to practise’, and ‘competence to practise’. A standard term used consistently would be preferable or clear distinctions of meaning be established. Steps towards this have been taken in the new Professional Governance Act.

### *Complaints and discipline*

9.38 The purpose of the investigation of complaints and the disciplinary process is to protect patients and reduce harms, to secure public trust in professions and to promote professional standards. These objectives need to guide the outcome of all complaints.

9.39 There needs to be a common entry route for all types of complaints or referrals so that all are prepared in the same way and sufficient information gathered before consideration by the registrar or Inquiry Committee.

9.40 The HPA complaints process needs significant revision to make it more efficient and effective, transparent and fair. Table 6 below sets out the current complaints and disciplinary process in the HPA.

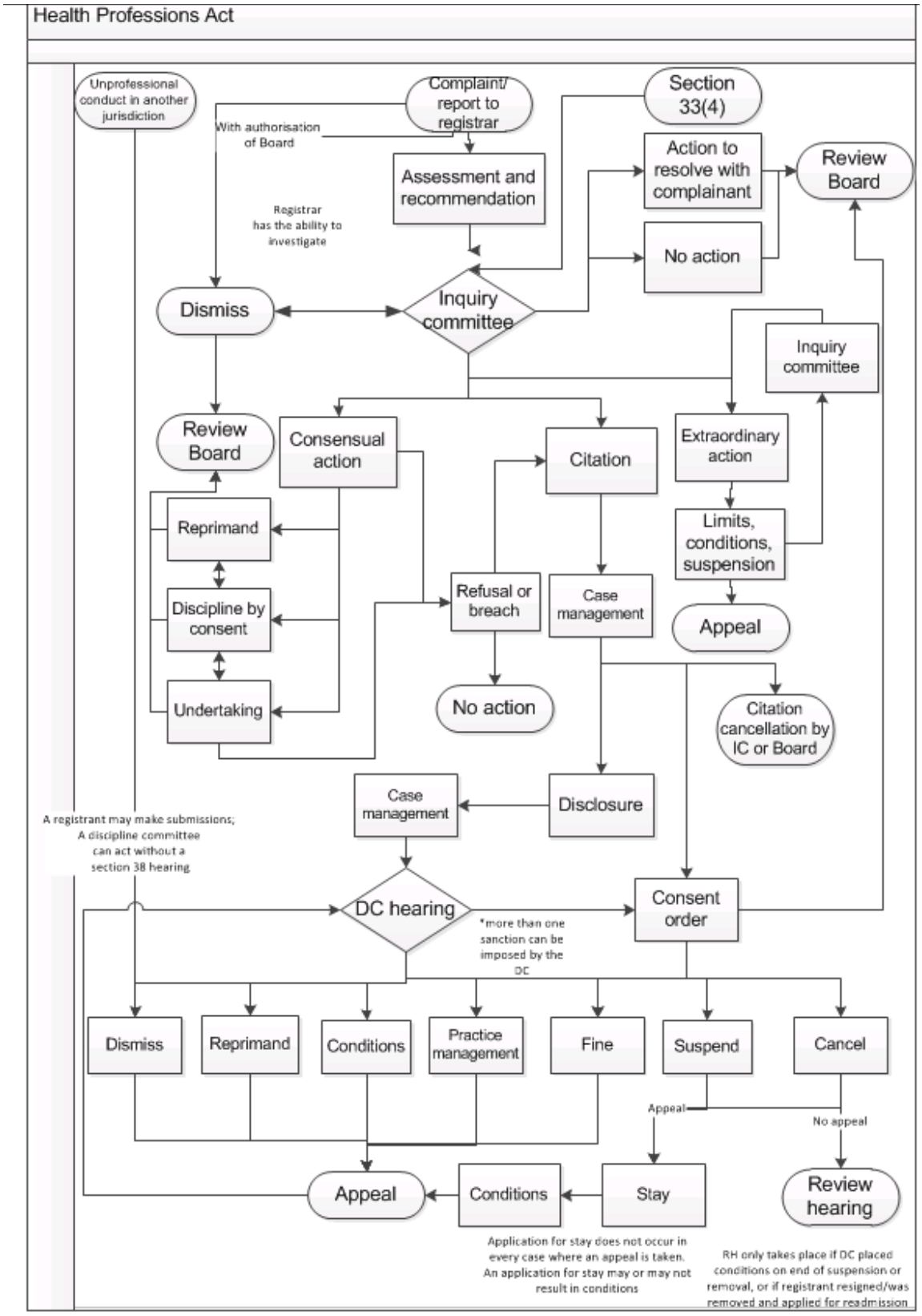



*Table 6: Health Professions Act*

9.41 Table 7, below, sets out an alternative process, more clearly linear. There are three clear stages; triage, investigation and adjudication. The first two would be private the third open to public scrutiny

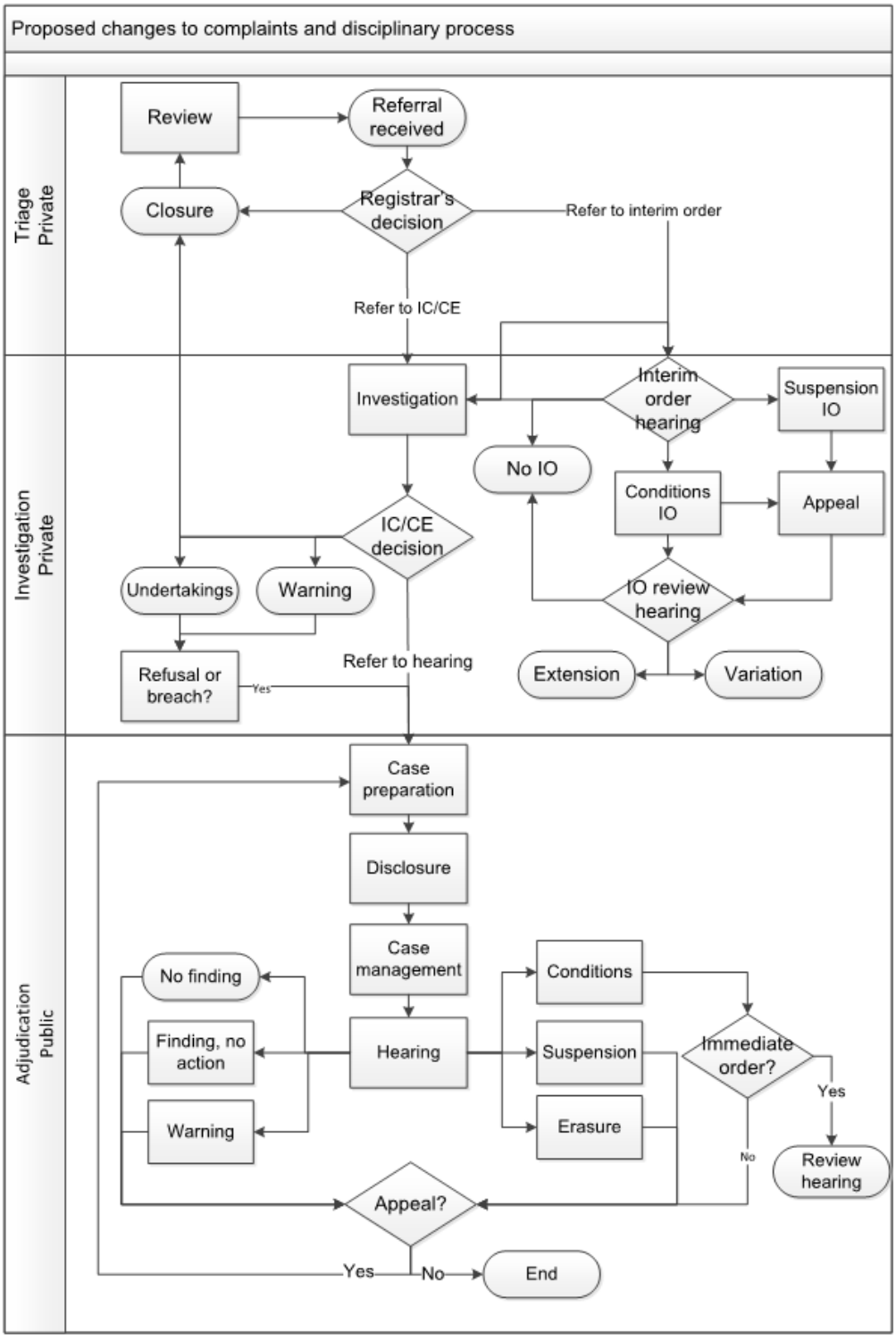



*Table 7: Proposed changes to complaints and disciplinary process*

9.42 This revised process (Table 7) would establish a clearer separation between the various stages; complaint acceptance (steps taken prior to and including decision by Registrar), investigation (steps taken by Inquiry Committee) and adjudication (steps taken by Discipline Committee).

9.43 The HPA does not establish a complaints resolution system, but rather a disciplinary regime. Section 33(6)(b) however creates an option for the Inquiry Committee to take action to resolve a matter between the complainant and registrant. This has been removed in the process proposed in Table 7 as matters not raising issues of competence or conduct, such as complaints about poor service or price, should be dealt with in an alternative way and not by a regulator[111].

9.44 The ability of the registrar to dispose of complaints as set out in section 33(2)(c) of the HPA is unsatisfactory. The HPRB in its written submission to this Inquiry[112] explains the complex problem succinctly:

> 'Unfortunately the statutory language by which registrars must decide whether they have jurisdiction is extremely complex both in operation and application. This is most acutely the case under Section 32(3)(c) authorizes the registrar to dismiss a complaint or make a request under 36(1) only where the complaint, 'contains allegations that if admitted or proven, would constitute a matter other than a serious matter, subject to investigation by the inquiry committee under section 33(4).' Applying this section requires the registrar (a) to take the allegations as given, (b) to consider the definition of 'serious matter' in section 26 and then (c) to cross reference to section 39 of the HPA and make an assessment as to whether, if the allegations were admitted or proven the disciplinary committee's remedy would 'ordinarily result' in a fine or a reprimand (in which case the registrar has jurisdiction) or would 'ordinarily result' in a license suspension, revocation or 'limits or conditions' on the respondents practice.…These are unnecessarily complex and unsatisfactory provisions on which to base what should be a simple jurisdictional test.'

9.45 I agree with the HPRB

9.46 The difficulty created by the term 'serious matter' has already been noted. Colleges need defined thresholds at each stage of the process, for registrar closures, which outcomes are appropriate when considered by Inquiry Committee. For example, when a case will raise issues of competence or fitness to practise, when a case will be closed, when a case will be resolved with the complainant, when a case will result in a reprimand or remedial action and when a case will result in citation.

9.47 Another concern is the lack of clarity about the consideration of a registrant's past history. A history of upheld complaints is clearly relevant to sanction, particularly if remediation has previously been prescribed but has failed to improve

[111] The BCDA which provides a fees schedule for dentists could also provide an arbitration service for patient disputes over fees
[112] Written submission from the HPRB, December 6, 2018

performance. As, again the HPRB point out, 'The consideration of past conduct history appears to be discretionary (HPA s39.2). College complaint dispositions rarely if ever, explain the basis on which decision-makers exercise their discretion even to consider this information, or how it was considered if it was considered.'[113] The HPRB recommended that the colleges should develop a shared policy on past regulatory history. I support the view of the HPRB in this regard and recommend that changes along the line of those already implemented in Ontario[114] are adopted.

9.48 The Registrar should have the option to refer a matter for extraordinary action before and separate from consideration by the Inquiry Committee (which should maintain its power to refer for extraordinary action). This is necessary for protection of patients. The need to take extraordinary action should be determined by an adjudicatory panel separate from the Registrar or Inquiry Committee to maintain separation between investigation and adjudication.

9.49 Defined and consistently applied thresholds at each stage will be fairer to registrants and clear to complainants They will make it harder for registrars to use the 'summary dismissal' in cases where there has been a serious harmful outcome - even if they are legally entitled to do so. Such decisions undermine public confidence in the regulation of the professions.

9.50 When the Registrar or the Inquiry Committee conclude that a registrant should undertake remedial education or training they are limited to a 'request' that they should do so. If the registrant declines, the only option for the college is to institute disciplinary proceedings. As the HPRB points out, in practice this rarely happens. Colleges need the power, when appropriate, to mandate remediation. A further issue with remediation is the apparent lack of a requirement that a registrant shows insight before accepting remediation. Without insight remediation is morally and educationally vacuous.

9.51 There needs to be clarification that once a citation has been issued, the outcome of the case will be published, even if a consent order is agreed, because it has passed a threshold of seriousness/risk to the public.

9.52 Under section 53(1)(b) of the HPA the board of a college may authorize disclosure of information in the public interest. In the interests of speed and efficiency this power should be extended to the Registrar.

9.53 Inquiry committees should have wider powers to dispose of matters under section 33 of the HPA. This could enable more matters to be dealt with proportionately.

9.54 The option for a registrant to make a proposal to the inquiry committee after the discipline committee has 'assumed jurisdiction' should be removed. (s37.1(5)). There should be no settlement once a matter is referred to a hearing by citation unless that settlement is considered and agreed by the Discipline Committee at a hearing and public protection and the public interest taken into account.

[113] HPRB written submission to the Inquiry December 2018
[114] Ontario, Regulated Health Professions Act, 2007

9.55 The imposition of Discipline Committee actions such as suspension or conditions should be able to be imposed immediately pending resolution of any appeal to the Supreme Court. The option to stay a Disciplinary Committee action to cancel or suspend a registrant should be removed as this undermines the Committee's decision.

9.56 The role of fines should be reconsidered. They have no contribution to make to patient safety. They may be a disincentive to wrong actions but do not improve clinical practice in the incompetent professional. The use of fines should be reserved for financial misdemeanours or for failure to co-operate with the regulatory process or for deliberate delaying tactics during the disciplinary process.

9.57 The statutory time limit for complaints should be removed and other means of ensuring case are dealt with as rapidly as possible while ensuring fair process are imposed. Section 50.56 of the HPA should be repealed.

9.58 I recognise that there may be other improvements and simplifications of the HPA which a more thorough legal analysis could suggest, and that consultation on such changes will be needed to ensure clarity and avoid unintended consequences.

### *Increase transparency*

9.59 Colleges need to increase the openness and transparency of their work. There is considerable variation in practice and the BCHR should encourage best practice to adopted by all. Board meetings should be open to the public and time should be reserved for visitors to ask questions or to comment. The assumption should be that business will be done in daylight. Boards, if voting, should not have secret ballots; board members are accountable for their decisions.

9.60 Some regulators have very good, informative and easy to navigate websites others are lacking in content, a few have pages 'under construction'. All colleges should aim to emulate the best and to learn from each other. Colleges should publish the maximum information possible within the legislation about complaints.

9.61 The HPA builds secrecy into the complaints process. In doing so it protects registrants but not the public. Only a small number of outcomes from complaints are published. The HPA limits publication to decisions

- Concerning conduct that, if proven or admitted, would normally result in the imposition of practice restrictions, a suspension or cancellation of registration, or a fine;
- Where discipline is applied after a citation is issued for a hearing before the Discipline Committee; or
- That involve the imposition of practice restrictions, or the suspension or cancellation of registration.

9.62 It is not possible for patients to give informed consent to care if they do not know that their health practitioner has had a complaint upheld against them. It should

be recognised as a fundamental right of a patient to know about their healthcare provider's competence and conduct.

9.63 All colleges publish an annual report. They vary considerably in quality and content. The Minister to Health should specify the information and performance data that should be published by each college annually to inform registrants and the public and to allow for direct comparison between them.

9.64 The minimum dataset to be published by all colleges, as well as financial data required by law, should include for the reporting period;

- Information on the revision of Standards and Guidance and any new Standards and Guidance published
- Information on current registrants, new registrants, international registrants and any registrant appeals
- The number of complaints received, the number progressing to Inquiry Committee, the number progressing to a disciplinary panel
- The median length of time taken to resolve complaints
- The outcome of complaints including remediation and sanctions imposed
- The College's approach to learning from complaints and what it has learned
- The College's information security and data protection policy and any breaches
- The College's commitment to diversity and equalities and to First Nations healthcare

9.65 The Colleges should work together to agree, a consistent way of reporting this data so that they can assess their own performance and benchmark themselves against others. Developing a framework that both regulators and government agree on will make Annual Reports more useful and support future performance improvements. Effective and comparable reporting of data will improve transparency and accountability.

*Develop the role of the Health and Professions Review Board*

9.66 The Health Professions Review Board is a check and balance within the current regulatory model. Its role in relation to the adequacy of investigations and reasonableness of dispositions is valuable, as is its power under application to review registration decisions. Its role in reviewing a college's adherence to the statutory time limit is bureaucratic and since I propose removing the statutory time limit will become redundant. It is not that the time taken to progress complaints is not important but statutory time limits take no account of reality (complexity of cases, actions by the registrant, actions by lawyers, circumstances outside the college's control, resources available) and there are other better ways of improving timelines.

9.67 I suggest two additional roles for the HPRB. First it should be able to publish guidance for all the colleges on improving their complaints performance and

learning from good practice. The HPRB has a wealth of data that could be analysed qualitatively as well as quantitively to generate learning.

9.68 Second, I consider that the HPRB should be empowered to review decisions of the colleges in relation to complaints on its own account and without receiving a referral. I imagine it might exercise this power rarely but consider it would be beneficial to public protection if a college has made a perverse or transparently lenient determination and the patient complainant is not in a position, for whatever reason, to take the matter further. The HPRB could act on behalf of the public interest by initiating its own review.

# 10. Replacing the Health Professions Act; professional regulation for the future

*A framework for the future*

10.1 The current model of professional regulation will not be adequate to protect patients and the public or to represent the interests of citizens in the future. Reforming the HPA will improve the ability to prevent harms, promote patient safety and hold the confidence of professions but it will not be sufficient to create a regulatory framework fit for the future of healthcare. New legislation will be necessary to achieve structural reform.

10.2 In numerous jurisdictions self-regulation of the liberal professions has shown itself slow to adapt to the expectations of consumers. In healthcare in particular it has struggled to adapt to the changing needs and expectations of patients, to new technologies and to new business and delivery models. Regulation based on the supposed uniqueness of individual occupations runs counter to contemporary practice through effective team-based inter-professional collaboration. It also protects existing occupational boundaries against new roles and ways of working, putting up barriers to desirable developments in the expansion of the health workforce.

10.3 There is a lack of relentless focus on the safety of patients in many but not all of the current colleges. Their governance is insufficiently independent, lacking a competency framework, a way of manging skill mix or clear accountability to the public they serve.

10.4 Lack of Public trust in the current regulators is reflected in media headlines such as

**'College of Dental Surgeons oversees 'secret world of discipline'** [115]

**'Vancouver chiropractor resigns from College Board over anti-vaccine video'**[116]

**'The disturbing record behind one of B.C.'s top billing doctors'**[117]

**'College of Naturopaths under investigation for offering treatment to 'eliminate autism'**[118]

Such reports undermine the self-regulatory model and deservedly so**.**

10.5 The objectives of a new regulatory framework should be:

- To deliver safe and good quality care provided to patients and the public.
- To restore public trust and professional confidence in regulation

[115] *Pain 'started the day he worked on me' says B.C. woman now suing dentist, along with 7 other ex-patients*, CBC, 2016
[116] *Vancouver chiropractor resigns from college board over anti-vaccine video*, CBC, 2018
[117] *The disturbing record behind one of B.C.'s top billing doctors*, Globe and Mail, 2018.
[118] *B.C. naturopaths under investigation for offering treatment to 'eliminate autism'*, Global News, 2018

- To be risk-based and proportionate
- To be fair and consistent
- To be efficient and effective
- To be open and accountable
- To be agile and adaptable
- To promote collaboration between occupations

10.6 In order to meet these objectives while working with the strengths of the existing arrangements in British Columbia I suggest the following new structures and arrangements.

10.7 Reconstitute the colleges as bodies responsible for setting standards and licencing health professionals who are within their jurisdiction. This might cover two or more occupations within a single college.

10.8 The colleges should agree a single code of ethics and conduct for all health professions. There is no reason why the ethics of doctors, say, should be different from those of dentists or of chiropractors. If an occupation presents risk of harm that warrants statutory intervention, then it should adhere to high and shared ethical standards

10.9 The colleges should remain responsible, as now, for setting Standards for clinical competence and practise and for issuing guidance to their registrants.

10.10 The colleges would issue a licence to practise for individuals who met the good character and clinical competence requirements for registration.

10.11 The colleges would remain responsible for assuring continuing competence and for assessing registrants prior to annual renewal of their licence.

10.12 Colleges would investigate complaints but not adjudicate on them.

*Establish a single register and adjudication body for all health professionals*

10.13 The names of all registrants should be held on a single register. When the colleges issue a licence to a practitioner they should upload their information in consistent format to the shared single register. The register should include the name, recognised qualifications, place of work and all or any sanctions imposed in relation to complaints. The register must be open to the public and to potential patients or employers.

10.14 A new body should be established to do this; a professional registration and adjudication agency. It should hold a single register of all regulated health professionals. As it holds the register it should also manage the adjudication process for imposing conditions of practise on registrants and ultimately for removing them from the register. It should therefore be responsible for establishing inquiry committees and disciplinary panels to adjudicate on complaints. This will create a proper independence from the licencing and

investigatory functions of the colleges and remove conflicts of interest from the membership of the committees and panels. It will enable recruitment, training an appraisal of both professional and public members and promote consistency of approach and decision-making. Separation of investigation from adjudication is a common principle of law which currently does not apply under the HPA.

10.15 A single register should make it easier for members of the public, patients, employers and registrants to identify individual health professionals. It will help to build trust in the public that their complaints are being considered independently and openly. It should mitigate concerns by registrants that decisions by inquiry committees are unduly influenced by college investigators. A single register and adjudication body will create economies of scale and consistent disciplinary decisions, which should benefit the public, patients and registrants.

10.16 The shared code of ethics and conduct jointly agreed by the colleges would be required of all registrants and would be the standard against which unethical behaviours or unprofessional conduct was judged by an inquiry committee or disciplinary panel. Matters of clinical competence would as now be judged against standards established by the relevant college for that profession. Committees and panels would as now be composed of public and professional members the latter drawn from the relevant profession if clinical competence was the issue under consideration. Such members should not be serving board members of any college. Members of committees and panels should be appropriately paid, appraised annually and removed if their performance is unsatisfactory.

### *A new oversight body for the regulatory framework*

10.17 If such a different regulatory framework were to be established, with greater transparency and accountability the question arises as to whether further oversight or supervision might be necessary. Full disclosure of all licencing bodies and the register and tribunal and HPRB of performance data to the public to registrants and to the government might be sufficient to hold the components accountable. However, the consolidation, analysis and interpretation of the data would remain desirable. As would action to improve performance. The registration and adjudication body would need to be brought into the framework for data collection and publication.

10.18 The Health Professions Review Board already has oversight of some small part of the complaints and discipline process. It has as I suggest in paragraph 9.67 above capacity to add further value to the existing regulatory system. The new model I propose however requires a greater and somewhat different level of oversight. I have considered whether the UK's Professional Standards Authority* is a form of oversight that would be useful in BC. I have concluded that while some of the functions of the Authority[119] could be usefully replicated, its role and

[119] The Professional Standards Authority is the oversight body of nine statutory professional regulators in healthcare in the UK.
*NOTE: As the Authority's former Chief Executive I declare an interest.

structure was a response to particular regulatory failures in the UK at the time and that British Columbia would benefit from its own somewhat different approach.

10.19 I propose the following functions for an oversight body for health professional regulation in BC

- Approval of the shared Standards for Ethics and Conduct and imposition of that Standard if all colleges are unable to agree (see 3.17 above)
- Approval of the range (although not the content) of Standards for professional practice developed by colleges to ensure they cover all the necessary areas of practice
- Approval of a revised and more flexible arrangement for colleges to change their rules and bylaws
- Establishment of performance Standards of Good Regulation to be applied to both the colleges and to the registration and adjudication body
- Establishment of the dataset to be reported on by all colleges and for the compilation, analysis and publication of that information with the purpose of comparing performance, improving patient safety and reducing harm.
- Encouragement and support for the voluntary amalgamation of colleges
- Absorbing the functions of the HPRB to review on request certain registration decisions by the colleges and Inquiry Committee dispositions by the adjudication body
- Conducting reviews and investigations into the performance of colleges at the request of the Minister
- Advising, but not directing, colleges and the Minister on improvements in regulatory practice
- Assessing the risk of harm to patients and the public of healthcare occupations and to make recommendations to the Minister as to whether or not statutory regulation is necessary and if it is which college should be responsible
- Creating and overseeing an independent appointment process for both professional and public members of college boards based on open competition, published competencies and relevant experience and to make recommendations to the Minister

10.20 This new oversight body would absorb the functions of the HPRB. This implies no criticism of the HPRB but I consider its functions need to be part of a wider remit. The proposed Office of the Superintendent of Professional Governance[120] to be

[120] BC Ministry of the Environment and Climate Change, 2018, *Regulations Intentions Paper consequent to the proposed Professional Governance Act*, pgs. 8-10

established under the Professional Governance Actin British Columbia may provide a model for the oversight of health professional colleges as described above.

*Introduce a risk assessed model for determining who should be regulated*

10.21 In order to make progress on reform of the professional regulatory framework there should be a policy commitment that no new colleges are created. There should be active encouragement existing colleges to follow the lead of the nursing colleges and to seek partners for amalgamation. The smaller colleges are a priority and are likely to benefit most from the economies of scale and increased capacity arising from mergers.

10.22 An evidence based occupational risk assessment process should be developed and implemented to identify the potential risks of harm from occupations within the health sector and to consider the appropriate mitigations[121]. Only if statutory regulation is necessary should it be proposed. Other levels of assurance may be sufficient to manage the risks. The new oversight office should make recommendations to the Minister including as to which college new occupations should be allocated.

10.23 The occupational risk assessment should be the responsibility of the new oversight office. The decision as to which occupations should be regulated should remain with the Minister.

10.24 Table 8 below summarises the changes in responsibility for regulatory functions here proposed and where those functions will be carried out under different arrangements. The table is complemented by a diagram 9 beneath it showing the suggested roles of the Ministry of Health, Oversight Body, Registration and Adjudication Body, and the Colleges.

[121] See, for example, *Right-touch Assurance*, PSA, 2016

| Body | Retains | Loses | Gains |
|---|---|---|---|
| **Colleges** | Standards and Guidance | Adjudication of complaints | Publication of dataset |
| | Registration and Licencing | Holding register | |
| | Continuing professional development | | |
| | Investigating complaints | | |
| **Health Professions Review Board** | | Reviewing timelines | Functions transferred to oversight body |
| | | Review registration appeals | |
| | | Reviewing determinations | |
| **Registration and Adjudication** | | | Holding a single register |
| | | | Adjudication of complaints |
| | | | Removal from register |
| **Oversight body** | | | Reviewing determinations |
| | | | Review registration appeals |
| | | | Publication of performance data |
| | | | Oversight of appointments process |
| | | | Approval of bylaw changes |
| | | | Risk assessment of occupations |
| | | | Investigations and reviews |
| **Ministry of Health** | Control of legislation | Appointments process | Independent advice |
| | Appointments to Boards | | |
| | Decisions on regulation | | Reviews and investigations |

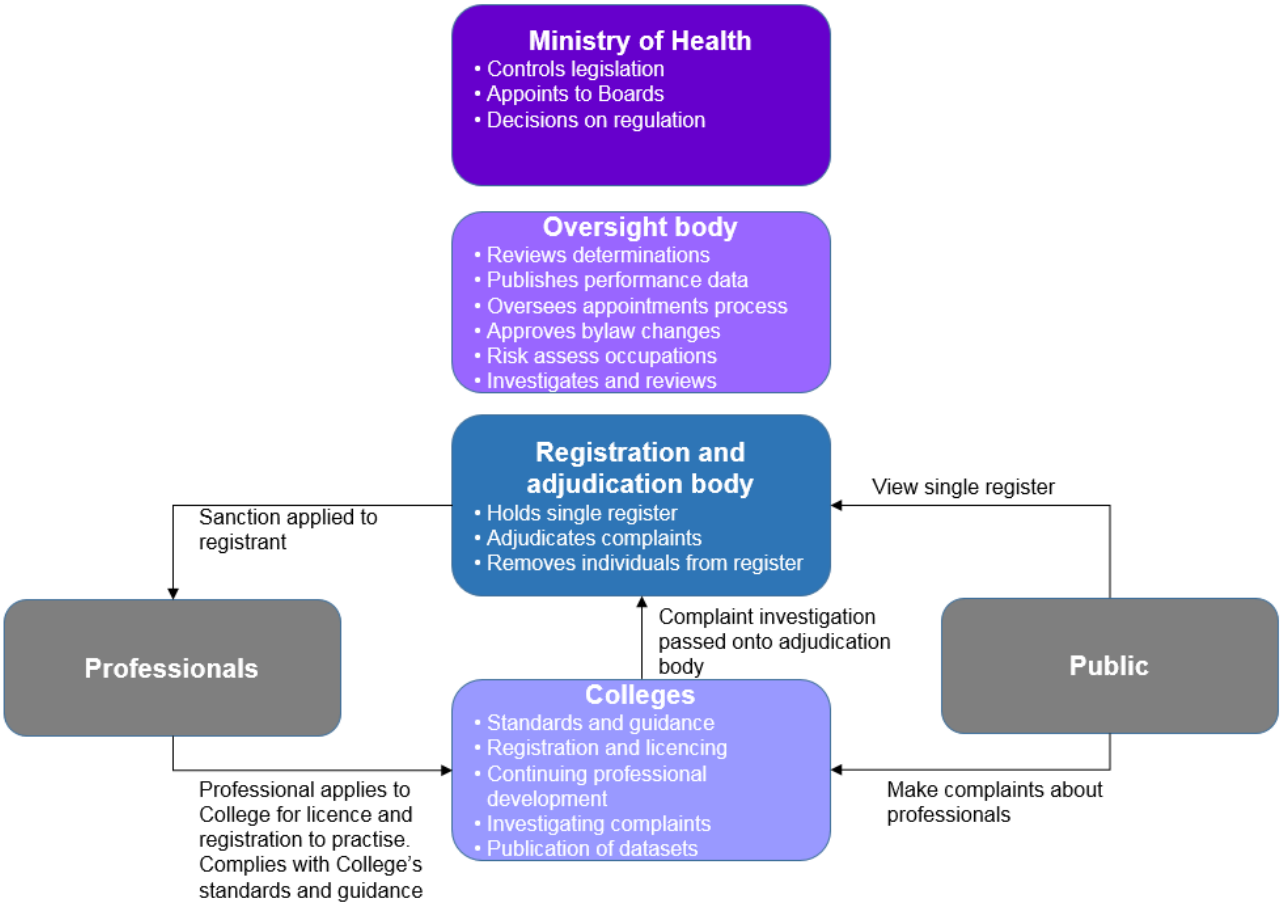



*Table 8 and diagram 9: Both explain the different arrangements for professional regulation proposed in this Inquiry*

# 11. Conclusions

11.1 There are many amendments and improvements that could be made to the Health Professionals Act to make it fairer to both registrants and complainants, clearer and easier to operate for Colleges and more transparent to the public. I have suggested some of the improvements that could be made in this report.

11.2 If the HPA is to be amended a full consultation on changes and a careful consideration of how they would actually work out on practice will be needed. Right-touch regulation warns us of the importance of considering the unintended consequences of regulatory changes as well as their benefits.

11.3 It is my conclusion, however, that changes to the HPA alone will be insufficient to create the flexible, public focussed, team-based and efficient regulatory system needed to support the delivery of safe healthcare in the future.

11.4 A complete overhaul of the way health professional regulation is conceived and delivered is required. I have set out a new structure to improve governance, performance, fairness, efficiency and cost effectiveness. I hope that the Ministry of Health, with the support of the colleges and, importantly, the health professions themselves, will seize the opportunity created by this review to work together to shape reform in the interests of the citizens of British Columbia.

# Appendix 1 People and organisations that provided evidence

The following organisations provided written evidence to the Inquiry:

- British Columbia Dental Association
- Dental Technicians Association of British Columbia
- College of Denturists of British Columbia (responded but with no comments)
- College of Dietitians of British Columbia (responded but with no comments)
- College of Massage Therapists of British Columbia
- College of Opticians of British Columbia (responded but with no comments)
- College of Physicians and Surgeons of British Columbia
- College of Physical Therapists of British Columbia
- College of Psychologists of British Columbia
- College of Speech and Hearing Health Professionals of British Columbia
- College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia
- Health Professions Review Board

The following people provided evidence to the Inquiry[122]:

- Dr Don Anderson
- Dr Deborah Battrum
- Gurdeep Bains
- Dr Ben Balevi
- Dr Richard Busse
- Greg Cavouras
- Dr Larry Cheevers
- Dr Ken Chow
- Dr Susan Chow
- Dr Doug Conn
- Melanie Crombie
- Dr Heather Davidson
- Dianne Doyle
- Dr Andrea Esteves

[122] I also spoke to several staff members. With the exception of Dr Chris Hacker, I have not included them in the list.

Dr Michael Flunkert
Kenneth Glasner QC
Dr Ray Grewal
Dr Chris Hacker
Barb Hambly
Megan Hasselbach
Terry Hawes
Dr Patricia Hunter
Dr Erik Hutton
Oleh Ilnyckyj
Dorothy Jennings
Cynthia Johansen
Jocelyn Johnston
Jennifer Lawrence
Rick Lemon
Dr Peter Lobb
Jerome Marburg
Elaine Maxwell
Sherry Messenger
Kristine Mulligan
Dr Heidi Oetter
Dr Neeta Popat
Dr Wendy Rondeau
Carl Roy
Dr Masoud Saidi
Dr Mark Spitz
Neal Steinman
Dr Lynn Stevenson
Dr Peter Stevenson-Moore
Dr David Tobias
Dr Ash Varma
Carmel Wiseman
Dr Ivy Yu
Dr Ron Zokol

# Appendix 2 Standards of good regulation

Below, are the Standards of Good Regulation which the college used in this Inquiry's review of the performance of the College. The Standards of Good Regulation were adapted to reflect the particular context and statutory responsibilities of regulators in British Columbia.

| Type | Standard |
|---|---|
| **Registration:** | Only those who meet the regulator's requirements for registration or certification are registered |
| | Through the register, everyone can easily access information about dentists, dental therapists and CDAs, except in relation to their health, including whether there are restrictions/conditions on their practice |
| | The public and others are aware of the importance of checking a dentist's, dental therapist's or CDA's registration. Patients and members of the public can easily find and check a registration and certification |
| | Risk of harm to the public, and of damage to public confidence in the profession, related to non-registrants using a reserved title or undertaking a restricted activity, is managed in a proportionate and risk-based manner |
| **Standards and Guidance:** | Standards of Practice and professional ethics reflect up-to-date practice and legislation. They prioritise patient safety and patient-centred care |
| | Additional guidance helps registrants apply the regulators' standards to specialist or specific issues, including addressing diverse needs arising from patient-centred care |
| | The regulator has an effective process for development and revision of standards and guidance, the regulator takes account of stakeholders' views and experiences, external events, developments in provincial, national and international regulation, and best practice and learning from other areas of its work |
| | The standards and guidance are published in accessible formats. Registrants, potential registrants, educators, patients and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed |

| | |
|---|---|
| | The regulator has a systematic approach to ensuring dentists, dental therapists and CDAs are up to date and able to practise safely |
| **Complaints and discipline:** | Anybody can raise a concern, including the regulator, about a registrant |
| | Information about complaints is shared with other organisations within the relevant legal frameworks |
| | The regulator will investigate a complaint, determine if there is a case to answer and take appropriate action including the imposition of sanctions. Where necessary the regulator will direct the person to another relevant organisation |
| | All complaints are reviewed and risk assessed on receipt and serious cases are prioritised |
| | The complaints process is transparent, fair, proportionate and focused on public protection |
| | Complaints are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of all individuals involved. Delays do not result in harm or potential harm to patients |
| | All parties to a complaint are kept updated on the progress of their case and supported to participate effectively in the process |
| | All decisions at every stage of the process are well reasoned, consistent, protect the public and maintain confidence in the profession |
| | All final decisions, apart from matters relating to the health of a dentist, dental therapist or CDA, are published in accordance with the legislation and communicated to relevant stakeholders |
| | Information about complaints is securely retained |

# Appendix 3 Standards of Governance

The table below lists the Standards for Governance used in this Inquiry's review of the performance of the College.

| | |
|---|---|
| **Governance:** | The regulator has an effective process for identifying, assessing, escalating and managing organisational risks, and this is communicated and reviewed on a regular basis by the senior staff and the Board. |
| | The regulator has clear governance policies that provide a framework within which decisions can be made transparently and in the interests of patients and the public. It has clear terms of reference for committees and working-groups and effective reporting mechanisms |
| | The regulator has effective controls relating to its financial performance, so that it can assure itself that it has the resources it needs to perform its statutory functions effectively, as well as a financial plan that takes into account future risks and developments. |
| | The regulator engages effectively with patients and the public |
| | The regulator is transparent in the way it conducts and reports on its business. |
| | The Board has effective oversight of the work of the senior staff and effective reporting to measure performance |
| | The Board sets strategic objectives for the organisation |
| | The regulator's performance and outcomes for patients and the public are used by the Board when reviewing the strategic objectives of the organisation |
| | The Board works cooperatively, with an appropriate understanding of its role as a governing body and members' individual responsibilities. |

# Annex 1 Terms of Reference

**PROVINCE OF BRITISH COLUMBIA**

***In the Matter of an Inquiry under section 18.1 of the Health Professions Act R.S.B.C. 1996 c. 183***

I, Adrian Dix, Minister of Health, further to my authority under section 18.1 of the *Health Professions Act* R.S.B.C. 1996 c. 183 ("Act"), having considered the public interest, appoint Harry Cayton to inquire into the administration and operation of the College of Dental Surgeons of British Columbia ("College"), in accordance with the following terms of reference.

**TERMS OF REFERENCE**

**Purposes of Inquiry**

1. Harry Cayton is to inquire into, make findings of fact, and provide advice and opinions respecting whether the College adheres to best practices for governance of regulated professions and whether the College is fulfilling its mandate under section 16 of the *Act* including, but not limited to,

   (a) the effectiveness of the College in ensuring:

      (i) members of the Board discharge their duty to act in the public interest and fulfil their duties in accordance with the Oath of Office set out in 17.11 of the Act and section 4 of the Health Professions General Regulation B.C. Reg. 275/2008;

      (ii) persons appointed by the Board to committees of the Board and College discharge their statutory duties under the Act, in the public interest;

      (iii) there are mutually respectful relationships between Board members and professional staff of the college;

      (iv) senior staff of the College treat each other and all College staff with respect and professionalism; and

      (v) the College has established clear and appropriate policies and procedures to resolve conflicts or disputes between Board members or between Board members and College staff or amongst College staff;

   (b) whether, to carry out its statutory mandate respecting the handling of complaints about registrants pursuant to Part 3 of the Act:

(i) the College bylaws, standards, practices and procedures respecting complaints are in accordance with the Act and are focused on and effectively protect the public safety and the public interest; and

(ii) investigations and complaints are processed in a timely and effective manner;

(c) whether the College bylaws, guidelines, standards of practice and policies established by the Board to guide registrant conduct are in the public interest and ensure public safety;

(d) whether the College has an effective program to monitor and enforce bylaws, guidelines, standards of practice and policies that ensure the protection of the public interest; and

(e) whether the College practices respecting public notification and reporting are consistent with the Act and show appropriate transparency including the reporting of college activities, bylaws, finances and decisions to registrants, government and the public.

2. Harry Cayton is make recommendations respecting changes to the Act and regulations made under the Act which he considers necessary or appropriate in order to enhance:

(a) the effective administration and operation of a college to assist in carrying out the duties and objects of a college under section 16 of the Act;

(b) the ability of a board of a college to utilize best practices for governance of regulated professions;

(c) the transparency and accountability of a college; and

(d) the public interest and public safety generally.

**Conduct of the Inquiry**

3. Without limiting the powers of Mr. Cayton under section 18.1 of the Act:

(a) For the purposes of the inquiry into the matters described in paragraph 1(b), Harry Cayton shall review a sampling of complaints including their handling and disposition by the College. The manner of the selection of the sample of the complaints for this purpose shall be determined by Harry Cayton.

(b) The report to the Minister respecting shall not

(i) include any information that would identify any complainant or any registrant who is the subject of a complaint; and

(ii) make any finding or allegation of misconduct with respect to any person.

(c) Investigation or adjudication of any specific complaint submitted to the College pursuant to Part 3 of the Act by Harry Cayton is outside the scope of the inquiry.

(d) Harry Cayton may observe Board meetings of the Board and meetings of any committee of the College or the Board and may observe any aspect of the administration and operations of the College.

(e) Harry Cayton may consult with such individuals and organizations as he considers necessary or desirable.

(f) Harry Cayton may engage other persons to assist him with the inquiry as he determines necessary or desirable.

(g) Harry Cayton shall submit a report to the Minister of Health no later than December 1, 2018.

April 11, 2018
*Date*

*Adrian Dix*
*Minister of Health*

Item 3.01
Grey Areas
Steinecke Maciura LeBlanc
Barristers & Solicitors
A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

# Regulatory Oversight Bodies Proliferating in British Columbia

by Erica Richler
February 2019 - No. 233

Oversight bodies for professional regulators are well established in a number of jurisdictions around the world. Two prominent examples are the Office des professions du Québec and the Professional Standards Authority in the UK. Tentative steps in common law Canada include the Health Professions Regulatory Advisory Council of Ontario (HPRAC) and the Fairness Commissioners in some Canadian provinces. However, the activities of HPRAC have been scaled back in recent years to being almost exclusively a policy advisor to the government and Fairness Commissioners are limited to reviewing registration practices.

Following the 2016 report of the Independent Advisory Group, the Office of the Superintendent of Real Estate has been expanded to include oversight on both a policy level and for individual decisions by the Real Estate Council of British Columbia (RECBC). RECBC is no longer self-regulatory.

In the Summer 2018 issue of Grey Areas we reported on the report of Mark Haddock entitled: Professional Reliance Review: *The Final Report of the Review of Professional Reliance in Natural Resource Decision-Making*. That report has been implemented through Bill 49 creating the *Professional Governance Act* (*PGA*). The *PGA* is not yet in force likely awaiting the required regulations to be put in place.

In short, the *PGA* establishes an overarching framework for the regulation of multiple professions. At the current time, the *PGA* applies to five regulated professional bodies related to natural resources including those that regulate professional foresters, professional engineers and professional geoscientists. However, the *PGA* has the authority to designate additional regulatory bodies after conducting an investigation as to whether doing so is in the public interest. The Superintendent can also amalgamate two or more regulatory bodies.

The *PGA* has a number of similarities with the *Health Professions Act* of that province establishing (or continuing) regulators for different professions and providing for powers and procedures to address registration of practitioners, the handling of complaints and other concerns including through discipline, continuing competence provisions and other enforcement tools such as establishing restricted acts that unregistered persons cannot perform, providing for protected titles and creating offences and authorizing the obtaining of injunctions.

The most novel aspect of the *PGA* is the creation of the office of a Superintendent of Professional Governance operating under a single Ministry (the Attorney General). The Superintendent has the authority to:

- Monitor the performance of the regulatory bodies;
- Administer rosters of practitioners for practising professions that are not overseen by the Superintendent.
- Advise and submit reports to the Minister;
- Enforce compliance by regulatory bodies both informally (e.g., guidance and advice) and formally (e.g., conducting investigations and

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audits, issuing public directives for which compliance is mandatory);
- Appoint a public administrator to assume the role of the Council of the regulatory body;
- Impose administrative penalties, similar to fines, on persons other than the regulatory bodies for not complying with the legislation;
- Disallow or rewrite by-laws proposed by the Council of a regulatory body where the Superintendent does not believe that it is necessary and advisable.
- Require annual reports from the Council or a regulatory body including specifying the information to be contained in the report.
- Receive declarations of conflicts of interest from practitioners and issue guidance to regulatory bodies on their use.

The Councils of the regulatory bodies will consist of twelve members, eight elected by the profession and four public members. However, only candidates from the profession who have successfully completed the nomination process and meet the established criteria can be elected. One professional member, the past-president, does not vote.

Unlike the Professional Standards Authority in the UK, there does not appear to be any built-in mechanism for the Superintendent to review individual decisions (e.g., complaints, discipline). However, the Superintendent may use its audit authority to review individual cases as part of an audit or investigation into a general or systemic matter.

The *PGA* also eliminates the concept of 'members' and much that flows from that relationship. It replaces it with 'registrants'. Several of the regulators will face significant changes to their mandates, which had traditionally included member advocacy but which will become limited to and focused only on professional regulation. For some, the work they currently do to support members, through branches and committee work, will need to find a new home, likely in the form of a professional association that is distinct from the regulator.

Darrel Pink, recently retired as Executive Director of the Nova Scotia Barristers' Society, currently practising in association with Steinecke Maciura LeBlanc and frequent commentator on professional regulation, said this about the *PGA*:

> Though the government's stated intentions are limited to one sector, the Act gives significant authority to the Superintendent of Professional Governance. The authority given to the Superintendent is unique in Canada. Though there are other models where there is oversight of regulators (such as Québec) the power given to a single person who can make decisions without hearing from the affected regulators is exceptional. Most of the powers of the office are exercised with no hearing process before decisions are made.
>
> So unilaterally the Superintendent could extend the reach of the Act to another sector. If the government is dissatisfied – on any basis – with how one or a number of regulated professions are acting, the Superintendent could, with the stroke of a pen, bring them under the Act with all the requirements of it.
>
> That may be a very remote prospect, but it is a circumstance which no regulator in British Columbia can ignore. It will dramatically change the way regulators carry on as they

> will now have one eye over their shoulder wondering if what they do may raise the ire of government, an outcome which strikes at the heart of independent regulation. I expect many regulators will be forced to strengthen their government relations portfolios in order to address the nature and extent of their dealings with the government of the day.

The *PGA* can be found at:
https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/3rd-session/bills/third-reading/gov49-3

Grey Areas
A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION
SML Steinecke Maciura LeBlanc Barristers & Solicitors

# Five Years Later: UK Duty of Candour Matures

by Julie Maciura
March 2019 - No. 234

Regulators are increasingly experimenting with strategies to change the approaches and attitudes of the profession as a whole rather than just engaging in enforcement activities in relation to individual practitioners. One such experiment in the United Kingdom is celebrating its fifth birthday. The Professional Standards Authority (PSA) has recently released a report analyzing the outcome of the initiative, identifying barriers to its full implementation and suggesting enhancements.

In 2014 the health professional regulators in the UK published a joint statement expressing the expectation that practitioners be candid with patients when things went wrong. This was part of a coordinated effort that included health organizations and institutions that flowed from the Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry. Also called the "Francis Report", it concluded that a lack of openness contributed to the suffering and death of hundreds of patients from poor care.

The duty of candour is more than just being open with patients. It is defined in the joint statement as follows:

> Every healthcare professional must be open and honest with patients when something goes wrong with their treatment or care which causes, or has the potential to cause, harm or distress.

This duty includes:

- telling the patient when something has gone wrong;
- apologizing to the patient;
- offering an appropriate remedy or support to put matters right (if possible); and
- explaining fully the short and long-term effects of what has happened.

The joint statement also indicated that practitioners must likewise be open and honest with their colleagues, employers and regulators, raising concerns where appropriate and not stopping others from raising concerns.

In assessing the evolution and effectiveness of the duty of candour, the PSA report identified a number of barriers:

1. Organizations "which had a blame culture, or a culture of defensiveness, were not environments in which the professional duty of candour could thrive". In those cultures being candid could adversely affect a practitioner's career.
2. The passage of time, due to workload or discovering the error afterwards, can result in a closed "window of opportunity" reducing the authenticity of the disclosure and apology.
3. A lack of education and training in communication skills and the rationale for candour makes it difficult for practitioners to implement the obligation.
4. Fear of regulatory, civil or even criminal litigation discourages candour especially in light of the recent prosecution of Dr. Hadiza

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 contact: Richard Steinecke, Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-626-6897 Fax: 416-593-7867, E-Mail: rsteinecke@sml-law.com

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Bawa-Garba[1]. The PSA noted that many experts believed that being candid reduces legal liability, but that this is a difficult message to communicate to practitioners. There is also a "myth" that being candid or apologizing can result in higher insurance premiums and a denial of coverage.

5. Some felt that professional regulators had not done enough to set standards for and communicate the expectations of candour. Similar to the previous point, perceptions of a blame culture within regulators is a disincentive to being candid.
6. A few comments obtained by the PSA related to disclosure and overwhelming patients with information they did not particularly want to know. The PSA noted the risk of reverting to a paternalistic approach to disclosure associated with this concern.
7. High performing practitioners sometimes have personal difficulty acknowledging they have made an error.

The PSA then examined how regulators had already helped embed the duty of candour, including:

1. Health regulators had incorporated the obligation in their standards.
2. Many regulators had incorporated the duty, including its rationale and its benefits to practitioners in the education and training to become practitioners.
3. Many regulators also incorporated the requirement into the continuing professional development requirements for practitioners.
4. Some regulators have included an absence of candour as grounds for discipline and the presence of candour as a mitigating factor for penalty. However, the absence of candour is often part of a broader concern about dishonesty and was often not communicated as a separate concept.
5. Some regulators have communicated on the topic with other stakeholders in the health care system.

The PSA urged regulators to take additional measures to encourage candour including:

1. Publishing case studies, not only as an effective communications tool, but to help practitioners identify and relate the duty to their actual practices;
2. Ensuring that practitioners understand the positive impact candour can have on patients (and indeed the general public) and the adverse impact a lack of candour can have on them;
3. Shifting the communications message to practitioners away from the "stick" of complying with the requirement and toward the benefits to the practitioner and their practice setting flowing from openness;
4. Working with other stakeholders, especially employers and system regulators, to understand and promote candour together;
5. On a related point, collaboration by regulators to provide support in implementing candour in multi-disciplinary teams;

[1] Dr. Bawa-Garba was disciplined after having been found criminally responsible for manslaughter for the death of a child following a series of institutional and individual errors.

6. Joint action by regulators to communicate a consistent message about candour, just like they did with the initial joint statement;
7. Indicating how a practitioner being candid will be used positively in the complaints and discipline process;
8. Clarifying the scope of the duty (e.g., distinguishing patient "distress" which invokes the duty, from patient discomfort that does not), perhaps through case studies; and
9. Education and training in candour for all programs leading to registration.

The PSA report concludes: "This report has shown that there is not one way to embed a culture of candour, instead regulators, professional bodies, providers and education bodies need to work together."

Regulators elsewhere can benefit from studying this report on the initiative in the UK. The duty of candour is a regulatory tool to try to change behaviour in a systemic way rather than by just disciplining individuals for misconduct. It is analogous to other initiatives regulators have developed in such areas as client-centred care, informed consent / choice, know your client, and sexual abuse prevention plans. It is a shame, as was noted by the PSA, that progress in such matters is so difficult to measure.

To view the PSA report, see:
https://www.professionalstandards.org.uk/docs/default-source/publications/research-paper/telling-patients-the-truth-when-something-goes-wrong---how-have-professional-regulators-encouraged-professionals-to-be-candid-to-patients.pdf?sfvrsn=100f7520_4

*Prepared by Richard Steinecke*

**In this Issue:**


- Proclamation of police regulation reform legislation is revoked, see p. 1
- Consultation on the reform of the regulation of real estate professionals, see p. 1


**Bonus Features:**


- Mistakes vs. Misconduct, see p. 2
- Staying out of Civil Proceedings, see p. 3
- Holding Out, see p. 3
- Evidence in Judicial Review of Examination Appeals, see p. 4
- Public Interest Litigation Against Investigators, see pp. 4-5
- Limits to Accommodating Self-Represented Practitioners, see p. 5


## Ontario Bills

*(See: https://www.ola.org)*

The Legislative Assembly is scheduled to return on February 19, 2019.

## Proclamations

*(See www.ontario.ca/en/ontgazette/gazlat/index.htm)*

The Cabinet revoked the proclamation of the *Safer Ontario Act* which significantly reformed the oversight and regulation of the police in Ontario (Gazetted on January 19, 2019).

## Regulations

*(See www.ontario.ca/en/ontgazette/gazlat/index.htm)*

## Proposed Regulations Registry

*(See http://www.ontariocanada.com/registry)*

***Real Estate and Business Brokers Act*** – This consultation is on the regulation of real estate professionals including modernizing the regulatory approach, reviewing the Code of Ethics and reconsidering the rules related to disclosure of repeated offers (e.g., perhaps disclosing the amount of each offer to competing offerees). Comments are due by March 15, 2019.

**Bonus Features**

*(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)*

**Mistakes vs. Misconduct**

It is generally accepted that not all mistakes by practitioners constitute professional misconduct. Sometimes drawing that line is difficult. In other cases, it is relatively easy. In *Strother v Law Society of British Columbia,* 2018 BCCA 481, <http://canlii.ca/t/hwqtx>, a lawyer advised Client A that their business model was no longer possible under income tax law. Client A wound down the business as a result of the lawyer's advice. Later Client B (a competitor of Client A) pointed out to the lawyer another approach that might make the business model feasible. The lawyer changed his opinion and went into business with Client B. Client A was not informed of either the change of opinion or of the lawyer's participating in a competitor's business.

The lawyer argued that he was honestly of the view that his fiduciary obligations to Client A had ended and that this mistake should not constitute professional misconduct. The lawyer suggested the line between mistakes and misconduct should be articulated as follows:

> … professional misconduct is conduct that no reasonable and well-informed lawyer acting with care and deliberation would fail to recognize as wrong; that is, conduct on which there could be no serious dispute among reasonable and well-informed lawyers that it was a breach of professional obligations.

The Court indicated that this formulation was too restrictive. The Court described the actual test as follows:

> However, in my view, it is important to state with clarity the accepted test for professional misconduct. The test is that articulated by the Law Society in *Martin* and *Lawyer 12*: a hearing panel will consider whether the lawyer's conduct was a marked departure from the conduct expected of lawyers. Put another way, the lawyer's conduct must display culpability of a gross or aggravated nature, rather than a mere failure to exercise ordinary care. While I agree with Mr. Strother that not every breach of professional obligations constitutes professional misconduct, the operationalized definition he proposes adds a different focus.

The Court also said that comments by judges in a civil case as to whether the conduct of the lawyer was unlawful were irrelevant to the issue of whether his conduct was unethical or unprofessional.

Given the finding of the hearing panel that the lawyer had failed to make disclosure to Client A because of his own financial interests, the finding that the lawyer had a conflict of interest was upheld. So was the five month suspension order.

**Staying out of Civil Proceedings**

Most regulators have a statutory confidentiality provision. Some, but not all, of those provisions protect regulators from having to produce information or act as a witness in civil disputes: *F. (M.) v Dr. Sutherland*, 2000 CanLII 5761 (ON CA), <http://canlii.ca/t/1cwt9>. A recent decision addressed the right of a claimant to obtain a *Norwich* order providing access to information about security trades to ascertain whether other, unknown, persons had manipulated the market: *Harrington Global Opportunities Fund S.A.R.L. v Investment Industry Regulatory Organization of Canada*, 2018 ONSC 7739 (CanLII), <http://canlii.ca/t/hwqz7>. The regulator, IIROC, did not have a statutory provision protecting it from such involvement. This decision articulates the rationale for these confidentiality provisions.

The Court refused to issue the disclosure order primarily on the basis that IIROC's regulatory role required it to process complaints and, where appropriate, take regulatory action. Such a role did not create a "proximity" to the claimant such that it should be required to assist the claimant in their private claim. IIROC's decision to maintain confidentiality about the evidence gathered in its investigations resulted from its regulatory role, respect of individuals' privacy, and desire to maintain access to sources of information for future investigations. In some respects, the claimant's application was a collateral attack against the decision of the regulator not to proceed with the claimant's complaint to IIROC.

The Court also held that the regulator's interest in preserving its investigative processes outweighed the claimant's interest in pursuing its civil claims for damages.

**Holding Out**

Unregistered persons can be creative in the use of language to describe themselves and their services. When there is a risk that members of the public might confuse those unregistered persons with regulated practitioners protected by a "holding out" clause, the Courts can be invoked. That occurred in the case of the *College of Physicians and Surgeons of New Brunswick v Anhorn*, 2018 NBQB 246 (CanLII), <http://canlii.ca/t/hww05>. In New Brunswick, the naturopathy profession is not regulated. The issue in the case was whether naturopaths using phrases like "medically trained" and "practice of family medicine" to describe themselves or their naturopathy practice could reasonably be viewed as holding themselves out as physicians. The Court was of the view that the phrases "are misleading because that assumes that people understand what exactly is naturopathy" and concluded there was holding out.

This case should be read with some caution, at least in the five jurisdictions in Canada (including Ontario), where naturopaths are regulated and are subject to various requirements when describing themselves and their practice. The *Anhorn* case is a lower court decision from another province and from a Court that was, it was evident, unfamiliar with naturopathy. However, the case reinforces the proposition that whether there is "holding out" should be assessed from the perspective of a consumer who is not familiar with the professions in issue.

**Evidence in Judicial Review of Examination Appeals**

Courts are generally hesitant to accept new evidence on an appeal or judicial review as that tends to make the proceeding a brand new hearing rather than a review of the decision made at the time. In *Wan v The National Dental Examining Board of Canada*, 2019 BCSC 32 (CanLII), <http://canlii.ca/t/hwz7b>, the Examining Board was permitted to file an affidavit explaining the process from an expert familiar with the process. The applicant objected, arguing that the evidence offended the fresh evidence rule. The Court admitted the evidence finding that it really was appropriate to the context:

> In contrast to the objectionable fresh evidence in *Air Canada* [2018 BCCA 387], I find that the evidence the petitioner identifies as objectionable in the Gerrow Affidavit is not fresh evidence. It does not seek to adduce evidence of facts that were not before the tribunal, nor does it somehow reconstruct or step outside of the bounds of the Decision. Rather, in general, it is evidence that relates to the policies and procedures employed by this specialized tribunal and which would have been known to the Appeals Committee members. It permissibly summarizes, explains and consolidates some of the more technical information contained in the documents that make up the record; provides general background information that assists me in understanding the history and nature of the case; contains a written description of the physical evidence that is not before me but that forms part of the record before the Appeals Committee; and provides information on matters that are of common understanding to those in the dentistry field and the foundation from which the Appeals Committee approaches an appeal. Overall, the evidence contained within the Gerrow Affidavit helps educate me on matters that are within the specialized expertise of the Appeals Committee and which form the common understanding of those who operate in this highly particular field.

Examining appeal bodies can use this decision to provide guidance as to what should and should not be included in their affidavits on judicial review. Prudent examination bodies might include much of this information as part of their record when processing the examination in the first place (e.g., by notifying applicants of the background documents) in all cases so no affidavit is necessary.

**Public Interest Litigation Against Investigators**

Can the courts be used to effect change in the way that investigators conduct their inquiries? That issue is squarely raised in *Williams v London Police Services Board*, 2019 ONSC 227, <http://canlii.ca/t/hwxbr>. Representative plaintiffs and a well-known legal aid clinic that focusses on addressing violence against women sued a municipal police service for systematically declaring complaints of sexual assault as unfounded "based on sexual stereotypes and myths about sexual assault and sexual assault complainants". The plaintiffs sought a declaration that the rights of sexual assault complaints under s. 15 of the *Canadian Charter of Rights and Freedom* were infringed, implementing a "Court appointed external review panel to review all LPS sexual assault cases that have been closed as 'unfounded'" and damages. The police service moved to strike out the claim on

various grounds including that claims were frivolous, that the legal aid clinic did not have standing to be a party, and that the relief sought was not available in law.

The Court rejected those arguments and allowed the claim to continue. The Court held that it was not clear and certain the claim would fail and that it should be allowed to proceed. The Court did require some changes to the pleadings, but nothing that altered the ability of the action to proceed.

Regulators should be aware that claims for systemic discrimination against investigators are possible in Canada.

**Limits to Accommodating Self-Represented Practitioners**

Courts are, justifiably, quite concerned about the plight of litigants appearing at hearings without legal assistance. Courts have imposed a number of duties on tribunals including an ongoing duty to explain the process and ensure that the party is able to fully participate. Tribunals even have some obligation to raise legal concerns that a party may not appreciate. However, Courts do not view these accommodations as unlimited.

For example, in *Hill v College of Physicians and Surgeons of Ontario*, 2018 ONSC 5833, <http://canlii.ca/t/hvd70>, the physician was without legal counsel for the hearing itself. The Court upheld the decision of the hearing panel to exclude expert evidence where the witness was not available for cross-examination. The Court also supported the panel's decision to exclude irrelevant good character evidence at the hearing of finding. Additionally, the Court found that there was no duty of the panel to then consider the previously excluded (but perhaps now relevant) evidence on the issue of penalty when the practitioner did not attend the penalty portion of the hearing. The panel was commended for providing many procedural accommodations (including multiple adjournments) but was not required to accommodate the practitioner on substantive law.

*Prepared by Richard Steinecke*

**In this Issue:**


- Bill 74, *People's Health Care Act*, introduced, see pp. 1 -2
- Bill 70 to modernize regulation of professional planners introduced, see p. 2
- Bill 68 to replace Liberal Act on oversight of police introduced, see p. 2
- Bill 66 to permit alternative rules that only require Minister's approval, see p. 2
- Consultation on the reform of the regulation of real estate professionals, see p. 3


**Bonus Features:**


- Staying Discipline Orders During an Appeal, see p. 3
- Regulators Have No Vicarious Liability for Actions of Practitioners, see pp. 3-4
- Removing Information from the Public Register, see p. 4


## Ontario Bills

*(See: https://www.ola.org)*

**Bill 74, *The People's Health Care Act, 2019*** – *(government Bill – passed first reading*) On Tuesday, February 26, 2019, the Ontario Government announced plans to implement a significant restructuring of the provision of health care services in Ontario. The move was billed as a centralization of 20 agencies into one body called Ontario Health that will include the 14 LHINs, and:

- Cancer Care Ontario
- eHealth Ontario
- Trillium Gift of Life Network
- Health Shared Services
- Health Quality Ontario
- HealthForce Ontario Marketing and Recruitment Agency

However, the plan also envisions decentralization in the form of 30-50 provider groups each providing coordinated care to about 300,000 persons each on average. The government is anticipating health care providers (likely anchored by at least one hospital) will make proposals that will be accepted by the government.

Details are scarce and so the impact on *RHPA* Colleges is unclear at this time. The most likely sources of impact are:

1. the push to finally develop centralized electronic health records for patients,
2. competition with Ontario Health as to who sets standards of practice,
3. competition as to who provides quality assurance, and
4. overlap between Ontario Health's investigative powers (re. quality of care provided) and the investigative and disciplinary power of *RHPA* Colleges.

For more information, you can view the following:

1. Two detailed summaries in the Toronto Star: https://www.thestar.com/politics/provincial/2019/02/26/massive-health-care-overhaul-called-biggest-change-since-medicare.html and https://www.thestar.com/politics/provincial/2019/02/25/new-ontario-health-agency-would-overhaul-disconnected-medical-system-minister-says.html
2. A summary on CBC: https://www.cbc.ca/news/canada/toronto/doug-ford-ontario-health-super-agency-lhin-cancer-care-1.5032830
3. The Ontario Government Newsroom release: https://news.ontario.ca/mohltc/en/2019/02/ontarios-government-for-the-people-to-break-down-barriers-to-better-patient-care.html?utm_source=ondemand&utm_medium=email&utm_campaign=p
4. The enabling legislation: https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2019/2019-02/b074_e.pdf.

This is a developing story.

**Bill 70, *Registered Professional Planners Act, 2019*** – *(private member's Bill – passed first reading)* Bill 70 creates a more modern statute for the regulation of professional planners.

**Bill 68, *Comprehensive Ontario Police Services Act, 2019*** – *(government Bill – passed first and second reading; referred to the Standing Committee on Justice Policy)* Bill 68 replaces the comprehensive legislation enacted by the Liberal government, but not yet proclaimed, on the regulation of police officers. The provisions reduce the civilian oversight of police officers somewhat from the Liberal statute.

**Bill 66, *Restoring Ontario's Competitiveness Act, 2018*** - *(government Bill – second reading debate)* Bill 66 reduces regulation in a number of sectors including long-term care (permitting temporary and emergency licences) and employment standards (allowing additional hours of work). Perhaps of most interest to regulators are changes to the legislation for the Technical Standards and Safety Authority permitting the authority to make "alternate rules" in areas currently covered by regulation that would supersede existing regulations. Alternate rules need only to be approved by the Minister, not cabinet. This seems to be a new model for making subordinate legislation.

## Proclamations

*(See www.ontario.ca/en/ontgazette/gazlat/index.htm)*

There were no relevant proclamations in February.

## Regulations

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***Real Estate and Business Brokers Act*** – This consultation is on the regulation of real estate professionals including modernizing the regulatory approach, reviewing the Code of Ethics and reconsidering the rules related to disclosure of repeated offers (e.g., perhaps disclosing the amount of each offer to competing offerees). Comments are due by March 15, 2019.

**Bonus Features**

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**Staying Discipline Orders During an Appeal**

Various statutes take different approaches as to whether an appeal to a court stays (or halts) the discipline order (e.g., suspension or revocation) pending the court hearing. In *Abrametz v The Law Society of Saskatchewan*, 2019 SKCA 21, <http://canlii.ca/t/hxp2j>, the legislation provided that the disbarment of the practitioner took effect immediately subject to a possible stay by the court. Mr. Abrametz was disbarred for conduct related to his management of trust accounts. Mr. Abrametz requested a stay of the order until the appeal was heard, with conditions of ongoing supervision. The Law Society opposed the request and argued that the Court had no jurisdiction to impose conditions (just to impose a stay or not).

The Court found that the authority to impose a stay included the authority to impose terms and conditions on the stay.

The usual three-part test applied to the motion. Mr. Abrametz raised some arguable issues. The Court indicated that common sense indicated that he would suffer irreparable harm by way of significant economic hardship in having to close his practice and then rebuild it up again if he was successful on the appeal. In addition, his clients would experience delays and additional costs in having to locate another lawyer mid-way through their cases. The Court considered the public interest in commencing the sanction, now that a finding was made, and maintaining public confidence in profession. However, those considerations were outweighed by the harm to the practitioner on the facts of this case. On this balance of convenience assessment, the Court was particularly influenced by the fact that the public would be protected by the supervision terms and conditions. They were similar to those imposed on the practitioner for the almost six years while the investigation and hearing took place. Also, the hearing of the appeal was scheduled on an extremely timely basis.

The Court indicated that stay decisions would depend very much on the facts of the case.

**Regulators Have No Vicarious Liability for Actions of Practitioners**

The Courts have affirmed yet again that regulators are not vicariously liable for the conduct of the people they regulate. Vicarious liability is legal responsibility for the damage caused by a third party.

An example would be that an employer might be vicariously liable for the harm done by its employee arising from the employee's performance of work duties. Vicarious liability is often accompanied by a claim that the third party breached a duty to properly supervise the person causing the harm.

In *Yashcheshen v College of Physicians and Surgeons of Saskatchewan*, 2019 SKQB 43, <http://canlii.ca/t/hxq6r>, a self-represented litigant sued both a physician (Dr. Bowen) and the physician's regulator for the denial of insurance benefits because of an unsupportive medical report. In respect of the regulator, Ms. Yashcheshen claimed that the regulator's handling of her complaint against the physician amounted to "systematic negligence, which occurs within their complaints process to purposefully evade responsibility for their member".

On the issue of vicarious liability, the Court said:

> There must be some sort of nexus or relationship between Dr. Bowen and the College in order to meet the test for vicarious liability and such a relationship simply does not exist. Dr. Bowen is not an employee of the College. He is a member of the College, as a statutory body, by virtue of being a physician in Saskatchewan. The College is Dr. Bowen's governing professional body but that relationship does not create vicarious liability on the part of the College in the circumstances of this case.

This decision is consistent with past decisions on the issue.

**Removing Information from the Public Register**

There is increasing pressure on regulators to provide more information about practitioners who have engaged in behaviour of concern. As a result, there is increasing reluctance by regulators to remove information from the public register once it is posted. Practitioners, however, often feel it is unfair that public register information remains public permanently. Those issues came to a head in *De Santis v Ontario College of Teachers*, 2019 ONSC 1344, <http://canlii.ca/t/hxqb8>.

In 2014, Ms. De Santis was disciplined and, following a joint submission, was reprimanded and required to engage in remedial activities. She completed the remedial activities at which point the details of that term, condition and limitation was removed from the public register. She asked for the reference to the reprimand be removed as well. The Registrar declined the request because the by-laws indicated removal would only occur if a reprimand was the only sanctioned ordered. Ms. De Santis sought judicial review.

The Court upheld the Registrar's decision. The wording of the by-law was clear. More than a reprimand had been ordered. The removal of the specifics of the remedial program from the public register did not alter the nature of the original order. The Court declined to evaluate the public policy rationale (or reasonableness) of the by-law.

**FHRCO Legislative Update – What Happened in March 2019?**

*Prepared by Richard Steinecke*

**In this Issue:**


- Bill 74, *People's Health Care Act*, introduced, see pp. 1 -2
- Bill 68 to replace Liberal Act on oversight of police introduced, see p. 2
- Consultation on employers reporting gender pay transparency, see p. 2


**Bonus Features:**


- Abdul Leave to Appeal to the SCC Dismissed, see p. 2
- Incapacity Incongruity, see p. 3
- Time and Stability Is Not Enough, see p. 3
- Time Might Eventually Be Enough, see pp. 3-4
- Duty of Candour Exists in Canada, see p. 4
- Complaints Against Adjudicators, see p. 5
- Protecting Quality Assurance Information, see pp. 5-6
- Spence the Sequel, see p. 6


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## Proposed Regulations Registry

*(See http://www.ontariocanada.com/registry)*

***Pay Transparency Act*** – This consultation is on a proposed regulation that would require "employers with 100 or more employees to annually calculate, and make available, information about organizational wage gaps and workforce composition with respect to gender". Comments are due by April 5, 2019.

## Bonus Features

*(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)*

### Abdul Leave to Appeal to the SCC Dismissed

The Federation intervened in this case to protect the discretion of Colleges and ICRCs to manage multiple complaints and investigations. A helpful decision was obtained from the Ontario Court of Appeal last August. Mr. Abdul sought leave to the Supreme Court of Canada. Leave was denied. See: *Salam Abdul v Ontario College of Pharmacists*, 2019 CanLII 21175 (SCC), <http://canlii.ca/t/hz7km>.

**Incapacity Incongruity**

Regulators encourage practitioners with a disability to participate in assessment and treatment with the hope that the practitioner can remain in practice. Correspondingly, practitioners with health issues often cooperate with their regulator in their assessment and treatment in the anticipation that they will remain in practice. However, what happens when the assessment and treatment indicate to the regulator that the practitioner may not be able to practise safely and the practitioner disagrees? While regulators try to be as accommodating as possible (not only because it is a human rights obligation, but also to encourage participation in remedial programs), client safety has to come first.

In *Collett v College of Physicians & Surgeons of Alberta*, 2019 ABCA 86 (CanLII), <http://canlii.ca/t/hxvvm>, a physician, on his own volition, attended a neuropsychological assessment that identified some cognitive concerns. The physician declined to pursue further investigation into the concerns and refused repeated requests to cease practising until the cognitive concerns could be addressed. The regulator suspended the physician's ability to practise until he could demonstrate that the cognitive concerns would not interfere with it. The physician applied to the courts to lift his suspension. The Court refused both on the basis that no error appeared to have been made in the process leading up to the suspension and because the public interest in allowing the regulator to fulfill its mandate outweighed the harm to the physician.

**Time and Stability Is Not Enough**

Seven years ago Ms. Chen was excluded from all gaming sites by the Alcohol and Gaming Commission for engaging in loan sharking: *Chen v Alcohol and Gaming Commission of Ontario*, 2019 ONSC 1680, <http://canlii.ca/t/hz16b>. The Registrar declined to lift the exclusion order despite the passage of time and a stable employment and family history during the past seven years. The Divisional Court upheld the Registrar's decision concluding that it "was reasonable, given the gravity of the past conduct and the applicant's failure to provide adequate information showing she appreciated the gravity of the past conduct and demonstrated there was not a risk of reoccurrence". The Court also found that the paper reinstatement process was procedurally fair given that Ms. Chen had a full opportunity to present her case and that meaningful reasons had been given.

Time and stability were insufficient on their own to warrant reinstatement, on these facts at least. However, in other cases, the courts hold out the promise that eventually the passage of time might be sufficient: *CS v Registrar, Real Estate and Business Brokers Act, 2002*, 2019 ONSC 1652 (CanLII), <http://canlii.ca/t/hz16c>.

**Time Might Eventually Be Enough**

How long should a major breach of trust of a sexual nature with a minor exclude someone from practising in a different profession with little exposure to minors? That was the issue in *CS v Registrar, Real Estate and Business Brokers Act*, 2002, 2019 ONSC 1652, <http://canlii.ca/t/hz16c>. The practitioner applied for registration as a real estate salesperson. However, she had been a teacher

and had participated in a long-term sexual relationship with a former student (who became her foster child) for which she was found criminally responsible. In addition, her status as teacher was revoked. The Registrar (and the appeal tribunal) found that this breach of trust was so serious that it was reasonable to assume she might not practise the real estate profession with honesty and integrity.

The Divisional Court upheld the finding:

> The appellant committed a serious set of criminal acts involving violations of trust in the fairly recent past. She was not dissuaded by the school principal, her CAS training, or her own moral compass, from abusing someone to whom she was duty-bound and who she undertook to protect.

However, the Court indicated that it was unreasonable to expect the applicant to have self-reported her criminal conduct at the time; concealment was a natural aspect of the criminal conduct itself. In addition, the Court indicated that the passage of time may eventually be sufficient to permit registration as a real estate salesperson:

> Almost nine years have now passed since the victim terminated his relationship with the appellant. I agree with the LAT [Licence Appeal Tribunal] that the reasonableness of relying upon past breaches of trust to ground an inference concerning future risks to the public may well be affected by the passage of time.

That passage contrasts with the perspective that the passage of time is not, in itself, sufficient in the case (albeit with different facts) of: *Chen v Alcohol and Gaming Commission of Ontario*, 2019 ONSC 1680 (CanLII), <http://canlii.ca/t/hz16b>.

**Duty of Candour Exists in Canada**

One of the more significant developments in the regulation of health professions in the UK is the codification of the duty of candour when an error is discovered: https://www.sml-law.com/wp-content/uploads/2019/03/Greyar234.pdf. Some professions in Canada have similar obligations. In *Law Society of Alberta v Schuster*, 2019 ABCA 111, <http://canlii.ca/t/hzbjj>, the Court upheld as reasonable the discipline finding against a lawyer who failed to inform his client of an error where $300,000 was deposited into the wrong trust account and was not immediately retrievable. The Court agreed that this error was material and that, even though the client expressed the desire not to be kept informed of all the operational details of the project, this error should have been disclosed.

The Court also found that there was no unfairness in the discipline tribunal taking a different view of the nature of the conduct than that expressed in the original complaint and investigation report.

**Complaints Against Adjudicators**

Some practitioners act as adjudicators. What is the role of regulatory bodies when dealing with complaints about practitioners acting in their capacity as an adjudicator? This issue was touched upon, but not fully addressed, in *Cuhaci v College of Social Workers (Ontario)*, 2019 ONSC 1801, <http://canlii.ca/t/hz74q>. Ms. Cuhaci, a social worker, arbitrated a custody dispute. Afterwards, a complaint was made about her conduct. While the screening committee initially indicated it had no role in respect of the actual adjudication, it later on made some comments suggesting that it may have partially considered her actions in that capacity. Ultimately the screening committee issued advice about the clarity of the practitioner's communications, which advice was not confined to the adjudication decision. The practitioner sought judicial review.

The Court held that the application was moot:

> The applicant still has a license to practice as a social worker, and there are no conditions or restrictions on her license. She faces no professional jeopardy as a result of the outcome of this complaint.

The Court almost exercised its discretion to hear the matter anyway to clarify the jurisdictional issue, but declined to do so, in part because:

> … counsel for the College conceded that the Complaints Committee may have overstepped in this case, and that the College does not have jurisdiction to investigate the decision making process of a social worker engaged in the functions of an arbitrator in the context of family law proceedings. She argued that there may be circumstances that would warrant the College's intervention, if for example the member had an intimate relationship with one of the parties, but she agreed that the decision making process and the decision itself do not fall within the College's jurisdiction.

Interestingly, there was also a procedural issue in that the screening committee made its decision without disclosing all of the complainant's submissions to the practitioner. However, the Court was satisfied that the regulator cured the concern, on the facts of this case at least, by providing the materials after reaching its decision, receiving further submissions from the practitioner and then rendering an addendum to its decision.

**Protecting Quality Assurance Information**

Professional regulators in British Columbia are subject to freedom of information legislation. As a result, individuals can apply to the Information and Privacy Commissioner to review a regulator's refusal to provide such access. This regime led to a showdown in *College of Physicians and Surgeons of British Columbia v British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 354, <http://canlii.ca/t/hz4n1>.

A component of the quality assurance program for physicians in British Columbia involves multi-source feedback (MSF). Colleagues, coworkers and patients are asked to submit a confidential survey to a third party firm. The third party compiles the survey results in aggregate form and provides a report to both the practitioner and the regulator. This information is scored against results of the practitioners' peers and, along with information gathered by other components of the quality assurance program (e.g., an analysis of patient charts, a review of office procedures), results in feedback to the practitioner and potentially remedial action.

In this case the practitioner sought access to copies of the actual survey forms. The regulator refused. Recourse was sought before the Information and Privacy Commissioner whose representative ordered that the surveys be provided to the practitioner. The regulator sought judicial review. The Court concluded that a purposeful interpretation of the legislation required that the public interest in the effective quality assurance program took priority. This necessitated that the confidentiality interests of the individuals answering the survey took precedence over the access interests of the practitioner. Otherwise, the MSF component of the quality assurance program would be placed in jeopardy by a lack of candid (or any) participation.

The order of the Information and Privacy Commissioner was quashed.

**Spence the Sequel**

Mr. Spence faced two high profile hearings for allegations of plagiarism. In the first, a discipline hearing before the Ontario College of Teachers, a refusal of an adjournment on the basis of illness resulted in the Divisional Court setting aside the hearing: *Spence v Ontario College of Teachers*, 2018 ONSC 3335 (CanLII), <http://canlii.ca/t/hs8tr>. In the second, before the University of Toronto, a similar refusal of an adjournment was upheld: *Spence v University of Toronto*, 2019 ONSC 1085 (CanLII), <http://canlii.ca/t/hxmjw>. The differences in the two cases included the following aspects of the hearing before the university:

1. All of the information about Mr. Spence's ability to attend the hearing was disclosed to Mr. Spence.
2. The medical evidence of Mr. Spence's current state of health was different.
3. The final refusal of an adjournment was made after many more adjournments had been granted.

Adjournment requests depend entirely on the facts of the case.

**From:** The Citizen Advisory Group
**To:** Andrew Parr
**Subject:** Citizen Advisory Group Spring 2019 Newsletter
**Date:** April 1, 2019 12:12:23 PM

# Spring 2019 Newsletter

## A quarterly e-newsletter for Citizen Advisory Group members

Hello Citizen Advisory Group Members,

We are growing! Welcome to the new members of the group, we are looking forward to collaborating with you all. A big thank you is also in order for all the members who have been sharing information about the Citizen Advisory Group with their networks. We appreciate you spreading the word about what we do and how others can get involved!

If you know someone who might be interested in becoming a member, be sure to share our website with them.

visit our website

(www.citizenadvisorygroup.org)

## Keep scrolling to find:

- A recap from our February 2 meeting and the next in-person meeting date
- A consultation update from one of our Partners
- Open public consultations
- Other great resources we think you will enjoy!

## Meeting Recap

Our last in-person meeting took place on February 2nd and was a great success! We discussed:

- Public engagement
- Patient Bill of Rights
- Confidence in governance structures

The six colleges that sponsored these topics gained some invaluable insights. You can read the full meeting report for the February 2 meeting **here**.

## Save the Date!

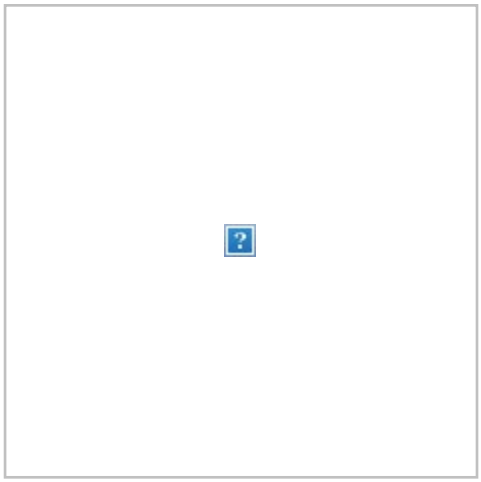
The next in-person meeting is **May 4, 2019**

## Consultation Update

The **College of Occupational Therapists of Ontario (COTO)** would like to thank the Citizen Advisory Group members who worked with us to develop our 'understanding consent' article and our 'How the College Makes Decisions' risk assessment framework.

Both pieces will be shared through our website and other channels. Your input added clarity and generated ideas for future initiatives. We are grateful for your thoughtful

comments and suggestions.

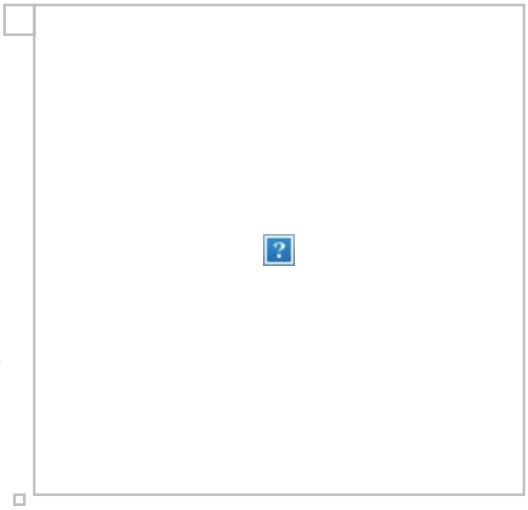


## Open Public Consultations

### College of Naturopaths of Ontario (CONO)

The College of Naturopaths of Ontario is conducting a 60-day consultation about proposed changes to the drugs/substances and laboratory tests that naturopaths may access through regulations and legislation that govern the profession.

This particular consultation builds on a previous consultation about this topic and is intended to solicit feedback about the College Council's approval of proposed amendments to Ontario Regulation 168/15 and to the Laboratory and Specimen Collection Centre Licensing Act. **Click here to provide your feedback.**



This consultation closes on April 7, 2019.

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### College of Physicians and Surgeons of Ontario (CPSO)

The College of Physicians and Surgeons of Ontario is seeking your input on how two current policies - *Complementary/ Alternative Medicine* and *Delegation of Controlled Acts* – should be updated.

Complementary and alternative medicine (CAM) refers to

a group of diverse medical practices and products that are not generally considered part of “conventional medicine”. This can include acupuncture, naturopathy, and homeopathy, among other types of treatment. The *Complementary/ Alternative Medicine* policy sets out expectations for physicians who practise CAM, who don’t offer CAM but have patients who pursue CAM, or who wish to have professional affiliations with CAM clinics, therapies, or devices. Learn more about the consultation and provide feedback **here**.

Under Ontario law certain acts, referred to as “controlled acts”, may only be performed by authorized health care professionals. However, under certain circumstances these acts can be delegated to others. The *Delegation of Controlled Acts* policy sets out expectations for physicians about when and how they may delegate controlled acts. Learn more about the consultation and provide feedback **here**.

Both consultations close on May 6, 2019.

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## College of Massage Therapists of Ontario (CMTO)

The College of Massage Therapists of Ontario sometimes encounters difficulties in obtaining outstanding fees from registrants. These can include fees relating to Specified Continuing Education or Remedial Programs (SCERPs), monitoring, administrative charges and recovering costs awarded as part of a disciplinary proceeding. If the College cannot recover these fees from the individual registrant who owes them, then the remainder of the profession will ultimately be obliged to cover the cost of them.

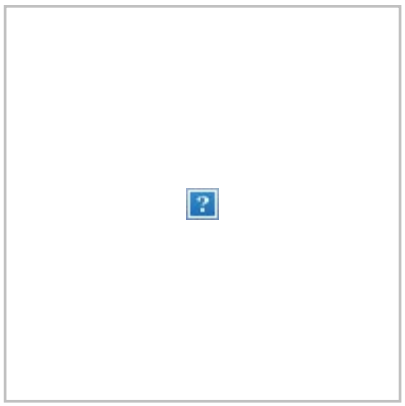
The College of Massage Therapists is seeking feedback on a Council approved amendment to By-Law No. 7 – Fees for Registration, Examinations and Other Activities of the College. **Click here** to read more and provide your comments and suggestions.

This consultation closes May 7, 2019.

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## College of Opticians of Ontario (COO)

The College of Opticians of Ontario is seeking feedback on proposed changes to section 15 of the by-laws, which deals with the information that gets



posted to the College's the Public Register. The proposed changes are intended to simplify this section and make it more consistent with the Regulated Health Professions Act. Some of the changes that are being considered will affect the following information on the public register:

- Charges, findings of guilt, and bail conditions
- Undertakings
- Discipline findings outside of Ontario
- Licences in other professions and/or outside of Ontario

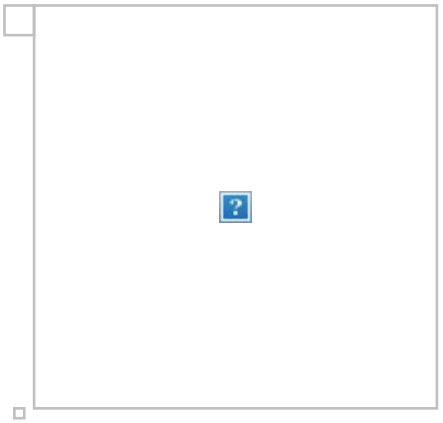
Prior to finalizing any changes, your comments will be carefully considered. **Click here** to provide your feedback.

This consultation closes April 23, 2019.

## Check this out...

### Get "iNformeD" on the latest College of Naturopath news...

The **College of Naturopaths (CONO)** quarterly newsletter "iNformeD" provides Members and stakeholders with news about the College, naturopathic practice and regulation. They have just released their Spring 2019 edition which includes a focus on sexual abuse with information for naturopaths as well as for patients. You can also find more on:



- Discipline outcomes
- Scheduled substances & labs update
- News & events

View the Spring 2019 Edition Here

### What bothers patients? Why do they complain?...

The Patient Ombudsman has released her first report. Click below to view a a break down of patient and caregiver conversations and complaints by the numbers, as well as common resolutions and themes ...

Read more
www.oba.org

### Picking your staff: Let patients help

A Conversation with patient and family advisor Margo Twohig and Chief of Communications and Patient Partnering, Jennifer Schipper on having patients help choose staff within health care organizations ...

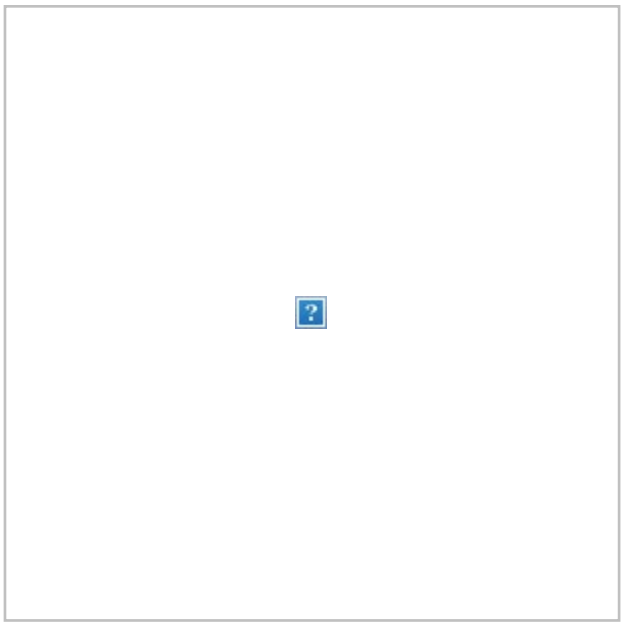
Read more
www.hqontario.ca

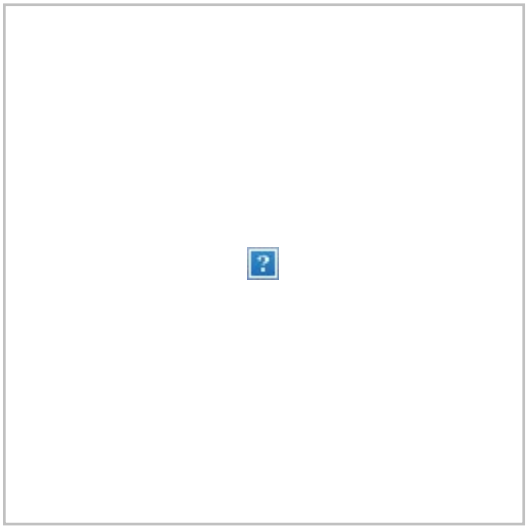
## Empathy: The Human Connection to Patient Care

Patient care is more than just healing, it's building a connection that encompasses mind, body and soul.

If you could stand in someone else's shoes, hear what they hear, see what they see and feel what they feel. Would you treat them differently?

CEO Toby Cosgrove, MD, shared this video, titled "Empathy," with the Cleveland Clinic staff during his 2012 State of the Clinic address.





Patients Canada is a national, independent organization that champions change that matters to patients.

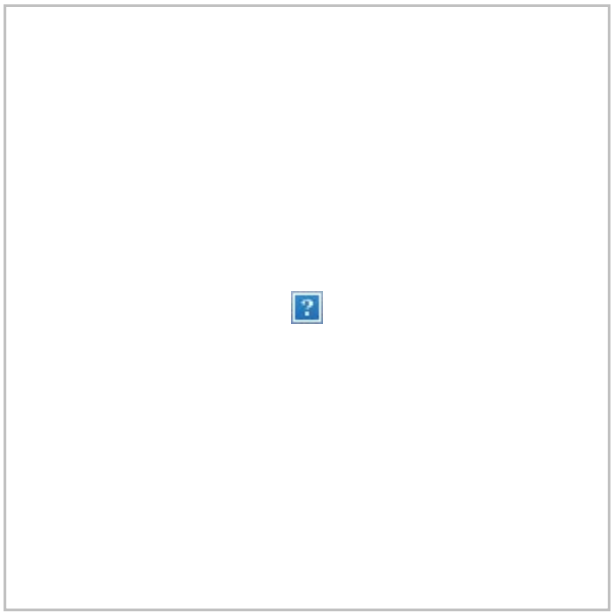
As the culture within health care continues to evolve, there is increasing demand for patients to partner in guiding improvement in many areas of health care and across care settings.

They work to bring the patient voice to health care decision-making, ensuring decisions reflect patient priorities.

**Find out more**

## Happy 25th Birthday CASLPO!

**In 2019, the College of Audiologists and Speech-Language Pathologists of Ontario is marking 25 years as a health professionals regulator.**



***"Much has changed over the past 25 years, but our priority remains ensuring public trust. We do this through the regulation of our members."***

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**Important:**

**Please DO NOT Unsubscribe. If you SAFEUNSUBSCRIBE you will NOT receive any important or required information about changes to the rules and standards and mandatory registration requirements such as PISA, Jurisprudence or registration renewal anymore.**

The College of Physiotherapists of Ontario
375 University Avenue, Suite 800 | Toronto | Ontario | M5G 2J5 | Canada
www.collegept.org | info@collegept.org | 1-800-583-5885

The College of Naturopaths of Ontario

# BRIEFING NOTE
## Ongoing Orientation of Council Members

**ISSUE:** Developing and supporting additional opportunities for orientation of Council members.

**BACKGROUND:**

The Executive Committee and the Registrar have considered opportunities to continue the orientation, education and training of Council members.

Last year, the Council conducted a full orientation and education session presented by Legal Counsel and the Registrar.

Additionally, all in-coming new Council members meet with the President, Registrar and Legal Counsel for one-on-one orientation.

**DISCUSSION POINTS:**

In discussions at the Executive Committee, it was noted that Council members do not have any point of reference as to how other Councils and health regulatory Colleges conduct their business.

It was generally agreed that seeing other Councils in action as they address issues and concerns, would be valuable both as a learning tool and also as a means of encouraging innovation and creativity.

It was therefore determined that the College would support professional members who wish to attend meetings of other health regulatory Colleges by:

- paying a per diem of one day to a Council member who attends a meeting of another Council;
- paying one night accommodation where it is required; and
- paying travel and meal expenses.

It was also determined that the College would support public members who wish to attend meetings of other health regulatory Colleges by indicating that this is the Council's desire and asking the Health Boards Secretariat to provide funding in this regard.

The College will also provide Council members with a list of meeting dates (attached) and make introductions by e-mail to ensure the College where Council members would attend would be aware.

**ANALYSIS**

Risk Assessment – There is a risk that public members may not be granted funding by the Health Boards Secretariat.

Privacy Considerations – There are no privacy implications.

Transparency – Transparency is achieved through open debate at the Council meeting of this initiative.

Financial Impact – There may be a small increase in costs to the College in the areas of per diems, travel, meals and accommodations.

**RECOMMENDATION**

The Executive Committee is recommending that the Council approve this approach.

Andrew Parr, CAE
Registrar & CEO
April 2019

# MEETINGS OF THE HEALTH REGULATORY COLLEGE COUNCILS 2019

**College of Audiologists and Speech-Language Pathologists of Ontario (CASLPO)**
June 6, 2019
September 27, 2019
December 6, 2019

**College of Chiropodists of Ontario (COCOO)**
June 21, 2019
October 25, 2019
February 21, 2020
June 26, 2020
October 23, 2020

**College of Chiropractors of Ontario (CCO)**
February 27, 2019
April 30 & May 1, 2019
June 18 & 19, 2019

**College of Dental Hygienists of Ontario (CDHO)**
March 22, 2019
June 7, 2019
September 27, 2019
December 6, 2019

**College of Dental Technologists of Ontario (CDTO)**
April 26, 2019
June 14, 2019
September 6, 2019
December 13, 2019

**College of Denturists of Ontario**
March 22, 2019

**College of Dietitians of Ontario**
March 29, 2019
June 20 & 21, 2019

**College of Homeopaths of Ontario (CHO)**
TBA

**College of Kinesiologists of Ontario (COKO)**
April 15, 2019
June 24 & 25, 2019
September 16 & 17, 2019
December 2 & 3, 2019

**College of Massage Therapists of Ontario (CMTO)**
May 13, 2019
September 16, 2019
November 25, 2019

**College of Medical Laboratory Technologists of Ontario (CMLTO)**
May 13 & 14, 2019
September 16 & 17, 2019
November 28 & 29, 2019

**College of Medical Radiation Technologists of Ontario (CMRTO)**
March 29, 2019
June 14, 2019
September 20, 2019
December 6, 2019

**College of Midwives of Ontario (CMO)**
March 20, 2019
June 26, 2019
October 9, 2019
December 11, 2019

**College of Naturopaths of Ontario (CONO)**
April 24, 2019
July 31, 2019
October 30, 2019
January 29, 2020

**College of Nurses of Ontario (CNO)**
March 20 & 21, 2019
June 5 & 6, 2019
September 11 & 12, 2019
December 4 & 5, 2019

**College of Occupational Therapists of Ontario (COTO)**
March 28, 2019
June 25, 2019

**College of Opticians of Ontario**
May 27, 2019
October 7, 2019
December 2 & 3, 2019

**College of Optometrists of Ontario**
April 24, 2019
June 24, 2019

**College of Physicians and Surgeons of Ontario (CPSO)**
March 1, 2019
May 23 & 24, 2019
September 20, 2019
December 5 & 6, 2019

**College of Physiotherapists of Ontario**
March 21 & 22, 2019
June 24 & 25, 2019

**College of Psychologists of Ontario**
March 29, 2019
June 21, 2019

**College of Registered Psychotherapists of Ontario (CRPO)**
June 20, 2019
September 13, 2019
November 21, 2019

**College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (CTCMPAO)**
March 25 & 26, 2019
September 30, 2019
December 11, 2019

**Ontario College of Pharmacists (OCP)**
March 25, 2019
June 17, 2019
September 16 & 17, 2019
December 9, 2019

**Royal College of Dental Surgeons of Ontario (RCDSO)**
May 9, 2019
November 14, 2019

# Registrar's Report on the Operational Plan

JANUARY 1 2019 TO MARCH 31, 2019

ANDREW PARR, CAE

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|

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| Activity | Ends Ref. | Results for this Period | Results to Date |
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# INTRODUCTION

The purpose of this report is to provide the Council of the College of Naturopaths of Ontario with the following:

1. an overview of key operational activities underway within the College based on the October 2016 approved Ends Policy (E01.03), and
2. a report on compliance with the Executive Limitation Policies.

The report is based on the Operational Plan, presented to and accepted by Council in January 2019.

# REPORT ON OPERATIONAL ACTIVITIES

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| **1. Regulate the Profession**<br>In each of the two years of the operating plan, the College will perform the following operational activities. | | | |
| Activity | Ends Ref. | Results for this Period | Results to Date |
| 1.01 Entry to Practise<br>• Receive, review and process applications for registration, approve those who qualify and refer others to the Registration Committee for review and a determination. | Intro, 4.1 | During this reporting period, 15 new Applications for Registration were received. At the time of this report, 2 applications from the previous quarter, and 1 application from an earlier quarter was still in process. 25 certificates of registration were issued, of these, 1 was from an application made in this reporting period. 2 applications were reviewed by the Registration Committee. Of those applications received in this reporting period, 9 applicants were on Step 2, and 5 applicants were on Step 3 of the | • 8 - Applications carried over from 2017-2018 fiscal year<br>• 124 - Applications received 2018-2019<br>• 117 – Certificates issued by the Registrar 2018-2019<br>• 11 – applications referred to the Registration Committee, of which<br>○ 6– issued a certificate<br>○ 0 – issued a certificate with TCLs |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| | | registration process (awaiting issuance of a certificate pending receipt of proof of insurance and fees). | ○ 2– issued a certificate after additional education/training<br>○ 1 – issued a certificate after additional exams<br>○ 2 – denied a certificate<br>• 1 – appeal to HPARB, of which<br>o 0 – in process<br>o 0 – returned to RC<br>o 0 – issued a certificate<br>o 1 – RC decision upheld |
| • Receive, review and process applications for a determination of substantial equivalency under the Prior Learning Assessment and Recognition Program.<br><br>• Maintain current information on the College's website about the application process and the Prior Learning Assessment and Recognition Program. | | One application was received for determining substantial equivalency under the PLAR Program during this reporting period. However, this application was not processed as the submission was incomplete.<br><br>Website information related to applications is maintained and updated by staff as needed. PLAR website information will be revised and updated as PLAR program revisions are completed in 2019-20. | One PLAR application has been received in this fiscal year (April 1 – present). No PLAR applications have been processed/assessed. |
| 1.02 Examinations<br>• Deliver three Clinical Examinations for new applicants to the profession; | Intro, 4.2 | Clinical Examinations were conducted on February 10, 2019, 19 candidates sat the exams. The next exam session is scheduled for July 21, 2019. | • 144 have sat the Ontario Clinical (Practical) Examinations<br>• 65 have sat the Ontario IVIT Examination |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| | | | • 124 candidates have sat the Ontario Prescribing & Therapeutics Examination |
| • Deliver two IVIT examinations in each year for those Members who wish to meet the Standard of Practice; | Intro, 4.2 | No Ontario IVIT examinations were conducted during this reporting period. The next exam session is scheduled for May 5, 2019. | |
| • Deliver two Therapeutic Prescribing Examinations in each year for those Members who wish to meet the Standard of Practice; | | No Ontario Prescribing and Therapeutics examinations were conducted during this reporting period. The next exam session is scheduled for June 23, 2019. | |
| • Update the Jurisprudence "Examination" for applicants for initial registration and for Members wishing to use if for CE credits. | Intro, 4.2 | In this reporting period, 16 individuals registered for the Jurisprudence examination; all 16 were successful in their initial attempt. | To date, staff have undertaken review of the Jurisprudence exam content and Jurisprudence exam handbook to ensure currency and alignment with new regulation, undertaken a legal edit of exam questions and handbook content and have reviewed draft revisions.<br><br>116 candidates have completed the Jurisprudence examination, of these 107 were successful on their initial attempt, and 9 were successful on a subsequent attempt. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 1.03 Membership/Registration<br>• Conduct an annual renewal process that includes enabling Members to pay their annual fees in each year and update their Information Return with the College. | Intro | Membership renewals launched on February 14, 2019, and closed March 31, 2019. As of close of renewal, 1377 Members had renewed (i.e. paid their registration fee and submitted their information return form) in the General class, and 123 had renewed in the Inactive class. In conjunction with Membership renewal, the College offered a second year of the pilot test payment plan to allow Members to pay the renewal fee in monthly installments. 90 Members elected to enroll in the payment plan for 2019.<br><br>The College continued with monthly audits of Members' Professional Liability Insurance to ensure currency of the policies, including sending courtesy notices to those Members whose policy information noted an impending expiry date. In this reporting period, 5 Members were suspended for non-compliance with PLI requirements. | • 3 Members have been suspended for failure to pay fees resulting from a default on the College's payment plan (2018 registration year)<br>• 23 Members have been suspended for non-compliance as a result of the College's monthly Professional Liability audits. |
| • Receive, review and process applications for change of class, approving those who qualify and referring the remainder to the Registration Committee for review and determination. | | In this reporting period, the College processed and approved 16 applications to change class from General to Inactive, 10 applications to change class from Inactive to General (under 2 years), four name change applications, four life membership applications (approved by the Registration Committee)and 28 resignation applications. One class change application from | • 20 approved class change applications from General to Inactive,<br>• 11 approved class change from Inactive to General (under 2 years)<br>• 8 name change applications.<br>In addition:<br>• 70 Members have resigned their registration; |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 1.03 Membership/Registration | Intro | IN-GC (over 2 years) was received, and is still pending review by the Registration Committee. | • 14 suspended Members have applied to reinstate their certificate of registration; of these, 11 have been reinstated and 3 were reviewed by the Registration Committee, and;<br>• 116 Members have been revoked. |
| • Manage (adding, modifying and auditing records) the Public Register of Members for use by the public as required in the *Regulated Health Professions Act, 1991* and the College by-laws. | | The Public Register and professional corporations register are updated with live data as changes are made by College staff to Members' profiles and PC information. | |
| • Submit the annual reporting data to HealthForceOntario as required under the Code. | | Submission of the College's annual HealthForceOntario report will be made by the May 31, 2019 submission deadline. | |
| • Receive, review and process applications for certificates of authorization for professional corporations<br>• Conduct annual renewals of certificates of authorization for professional corporations. | | Professional Corporation applications and renewals were also processed during this reporting period. Two initial applications were processed and approved and 10 renewal applications were received and processed in this reporting period, bringing the total number of Professional Corporations presently registered with the College to 65. | • 11 initial applications for Professional Corporations were processed and approved<br>• 51 renewal applications have been received and processed. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 1.04 Patient Relations Program | | | |
| • The College will operate a Patient Relations Program as set out in the *Regulated Health Professions Act, 1991*. | Intro | The College operates a Patient Relations Program under the guidance of the Patient Relations Committee (PRC). The PRC met twice during the reporting period. | Since April 1, 2018 the PRC has met 4 times. |
| • Program materials will be reviewed and updated to ensure consistency with the amendments made to the *Regulated Health Professions Act, 1991* through the *Protecting Patients Act, 2017*. | | The PRC reviewed consultation feedback and finalized for Council's review a draft Patient Rights Document | In January 2019, Council approved the drafted a cessation of funding regulation to be submitted to the MOHLTC |
| • Applications for funding will be accepted and reviewed under the new rules and patients entitled to funding supported by the College. | | The PRC reviewed no new application for funding in the reporting period. | Since April 1, 2018 the PRC has received and approved 4 applications for funding for therapy/counselling. |
| 1.05 Quality Assurance Program | | | |
| • The College will operate a Quality Assurance Program as set out in the *Regulated Health Professions Act, 1991* and the Quality Assurance Regulation made under the *Naturopathy Act, 2007*. | Intro, 4.2 | The College operates a Quality Assurance Program under the guidance of the Quality Assurance Committee (QAC). The QAC met 2 times during the reporting period. The deadline for Group I CE Reporting was September 30, 2018. At the deadline, 398 of the 435 (91.5%) Members submitted the required documentation. Of the submissions received, a total of 41 (9%) included a deficiency. The QAC has provided a deadline of February 28 for the deficiencies to be remedied. At the deadline 99% submitted updated and amended log forms | Since April 1, 2018 the QAC has met 9 times. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • The Quality Assurance Committee will be supported by the College and will be provided with information in a timely fashion. | | The QAC is supported by the Deputy Registrar and is provided with regular updates as per the program policies. | The QAC has been fully supported by the Deputy Registrar r and is provided with regular updates as per the program policies. |
| • Twenty-five percent (25%) of standards and guidelines will be reviewed by the QA Committee to ensure that the standards fully support patient-centred care. New standards will be developed as identified by the Committee and/or Council. | 4.1 | The QAC finalized the standards of practice and guidelines that were previously consulted and submitted them to the Executive Committee for approval. | The QAC reviewed feedback from the public consultation on the amended standards of practice and guidelines, finalized its amendments and submitted final versions to the Executive Committee for review and approval. |
| 1.06 Inquiries, Complaints and Reports<br>• The College will receive information and complaints about Members of the profession and fulfil its obligations to investigate the matters in accordance with the *Regulated Health Professions Act, 1991* through the Inquiries, Complaints and Reports Committee (ICRC). | Intro | New matters before the ICRC:<br>• 6 Registrar's Investigations<br><br>The new matters were related to the following concerns:<br>• Advertising/providing services outside the Member's scope of practice: 4<br>• Failure to comply with SoP for Advertising and Restricted Titles: 1<br>• Failure to comply with an order of ICRC: 1<br>• Practising while registered as Inactive: 1<br><br>11 matters were disposed of by the ICRC, of which:<br>• Referral to Discipline Committee: 1 | Ongoing investigations – 25 matters:<br>• 1 unresolved complaint received by the BDDT-N in 2015;<br>• 3 unresolved matters 2016-2017;<br>*(4 matters above are related and were on hold pending a criminal investigation)*<br>• 2 unresolved matters 2017-2018;<br>• 19 matters 2018-2019, of which:<br>  • 8 – complaints;<br>  • 11 – Registrar's Investigations.<br><br>39 matters were disposed of by the ICRC, of which:<br>  • 6 - no further action; |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| | | • Oral Caution: 1<br>• Oral Caution & SCERP: 1<br>• Letter of Counsel: 7<br>• No Action: 1 | • 1 - no further action due to undertaking;<br>• 4 - Oral cautions;<br>• 2 – SCERP;<br>• 3 – Oral caution and SCERP;<br>• 19 – Letters of Advice/Counsel;<br>• 5 – Referrals to Discipline Committee. |
| • The ICRC will be supported by the College through the timely provision of information, assistance in preparing Decisions and Reasons and through the provision of expert and legal advice and assistance when needed. | | The Inquiries, Complaints and Reports program is supported by the Deputy Registrar, Manager, Complaints and Discipline and Administrative Assistant, Complaints & Discipline Programs. Legal Counsel, a pool of investigators from Benard + Associates and a pool of experts are available to provide as needed support to the program and committee. | The Inquiries, Complaints and Reports program is supported by the Deputy Registrar, Manager, Complaints and Discipline and Administrative Assistant, Complaints & Discipline Programs. Legal Counsel, a pool of investigators from Benard + Associates and a pool of experts are available to provide as needed support to the program and committee. |
| • Cease and desist letters will be issued to unauthorized practitioners and the Register will be managed in accordance with Council policy.<br>• The Appeals process will be supported through the timely provision of information to the Health Professions Appeal Review Board and participation in HPARB hearings. | | The College issued 2 Cease and Desist letter to an individual holding out as a naturopath.<br><br>No applications to HPARB were submitted during the reporting period. | To date the College issued 10 Cease and Desist letters to individuals holding out as a naturopath.<br><br>2 appeals have been filed with HPARB since April 1, 2018, of which:<br>• 1 – upheld;<br>• 1 – dismissed by HPARB. |
| 1.07 Discipline/Fitness to Practise Committee | Intro | | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • The College will support the Discipline and Fitness to Practise committees as quasi-judicial and independent adjudicative bodies by providing annual training as necessary. | | The Discipline and Fitness to Practise Committees are supported by the Registrar, Deputy Registrar, Manager, Complaints and Discipline and Administrative Assistant, Complaints & Discipline Programs. | The Discipline and Fitness to Practise Committees are supported by the Registrar, Deputy Registrar, Manager, Complaints and Discipline and Administrative Assistant, Complaints & Discipline Programs. |
| • Independent Legal Counsel (ILC) will be solicited through a request for proposal process and information provided to ILC to support their work with the Committee. | | Discipline and FTP committees were fully supported by ILC during the reporting period. | Discipline Committee and Panels were fully supported by ILC during the discipline hearings. |
| • Staff will support a review of the rules of procedure by the Discipline Committee. | | The amended rules of procedure were approved by the Discipline Committee in October 2018. | Staff and Legal Counsel have undertaken a review of the rules of procedure by the Discipline Committee. The Rules are approved by the Discipline Committee and posted on the College's website. |
| • Referrals by the Inquiries, Complaints and Reports Committee to the Discipline Committee or the Fitness to Practise Committee will be managed in accordance with the Code and the rules of procedure. | | No discipline hearings were held during this reporting period.<br><br>One Pre-Hearing conference was held during the reporting period. | Two discipline hearings were held since April 1, 2018:<br>Rahim Kanji:<br>• Hearing date – April 9, 2018;<br>• Decision date – April 24, 2018.<br>Taras Rodak:<br>• Hearing dates – May 14-17, and June 14, 2018;<br>• Decision date – August 28, 2018. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 1.08 Inspections | Intro, 4.1, 4.2 | | |
| The College will operate an Inspection Program as set out in Part IV of the General Regulation made under the *Naturopathy Act, 2007* to regulate premises in which IVIT procedures are performed.<br>• The Inspections Committee will be supported by the College. | | The College operates an Inspection Program under the guidance of the Inspections Committee (IC). The IC met 3 times during the reporting period.<br><br>The IC is supported by the Manager of Inspections, the Deputy Registrar and Legal Counsel. | Since April 2018 the Inspection Committee has met 10 times. |
| • Inspectors will be recruited and trained in support of the program. | | New inspectors have not been recruited or trained during this planning year. | Current inspectors completed one day of in-person training in November, as well as online training regarding AODA and unconscious bias. |
| • In 2018-2019, the remaining Existing Premises at the time the Regulation came into force will be inspected in accordance with the regulation. | | During this reporting period, 23 existing premises were inspected. All existing premises registered between March 2 and May 1, 2017 were inspected prior to March 1, 2019 as required in the General Regulation. | 81 existing premises have been inspected |
| • New premises will be inspected within 180 days of becoming registered with the College. | | During this reporting period, 8 new Part I inspections were completed all of which were inspected within 180 days of being registered as set out in the General Regulation. 3 new premises had Part II of the inspection completed | Since April 1, 2018, 20 new premises have been inspected, all of which were inspected within 180 days of being registered as set out in the General Regulation. 11 new premises had Part II of the inspection completed. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • The College will manage the Premises Registry on its website.<br><br>• A process for premises reporting both Type 1 and Type 2 data will be implemented and statistical data reported annually. | | The IVIT Premises Register is maintained and regularly updated.<br><br>4 Type 1 Occurrence Reports were received by the College and reviewed by the Inspection Committee. These reports were for the following reasons:<br>• 4 for referral of a patient to emergency within 5 days of an IVIT procedure. | The IVIT Premises Register is maintained and regularly updated.<br><br>A process is in place for Members to submit, and for the College to receive and review Type 1 and Type 2 occurrences.<br>• 15 Type 1 Occurrence Reports have been reported in the period April to September 2018 for the following reasons:<br>➢ 12 for referral of a patient to emergency services within 5 days of an IVIT procedure;<br>➢ 1 for the death of a patient within 5 days following an IVIT procedure;<br>➢ 2 for the administration of an emergency drug to a patient immediately following an IVIT procedure.<br>• 139 Type 2 Occurrence Reports were received as of May 1, 2018 for the reporting period from March 2, 2017-March 1, 2018 as mandated by the Regulation and Program Policies. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 1.09 Scheduled Substances Review Committee<br>• The College will operate a process to review the tables to the General Regulation outlining the drugs and substances authorized for use by the profession and review the specimens and tests that can be taken, performed or ordered by the profession.<br>• The Scheduled Substances Review Committee will be supported by the College through the timely provision of information for meetings.<br>• In 2018-2019, the College will conduct the necessary research in support of the priorities for drugs, substances and lab tests as established by the Council in 2017-2018.<br>• In 2018-2019, the final recommendations from the Committee will be brought forward to the Council for consideration | Intro, 4.1 | The College has an approved process to review the tables to the General Regulation and the specimen and tests available to NDs which is guided by the Scheduled Substances Review Committee (SSRC)<br><br>The SSRC is supported by the Deputy Registrar of the College.<br><br>Public consultation was initiated with regards to the final recommendations for amendments to the General Regulation and LSCCLA | The SSRC has reviewed the final reports from DIRC on the proposed substances and laboratory tests.<br><br>The SSRC has drafted final recommendations in the form of amendments to the General Regulation for Council's consideration. |
| 1.10 Regulatory Education<br>• The Regulatory Education Specialist will respond to Members' questions and provide information, whenever possible, and guide the profession to the resources available to it. | Intro, 4.3 | A total of 220 inquiries were responded to during the reporting period. Members are regularly guided to where they can find the relevant regulation, standard of practice or guideline on the College's website. | A total of 982 inquiries were responded to since April 1, 2018. Members are regularly guided to where they can find the relevant regulation, standard of practice or guideline on the College's website. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • The College will use *iNformeD*, the website and other communications channels to ensure that the profession is aware of the regulations, standards and guidelines for the profession. | | The regulatory guidance portion of the Spring/19 edition of *iNformeD* included an article entitled "Mandatory Reporting Requirements". | Since April 1, 2018 the regulatory guidance portion of *iNformeD* has included an article entitled "10 Practice Tips" relating to regulations and standards, "Obligations when changing your practice location" and "Informed Consent Do's and Don'ts" |
| • The College will respond to inquiries from the public, Members and stakeholders by telephone or through written communication as required. | | The Regulatory Education Specialist responded to 109 telephone inquiries and 111 emails. | The Regulatory Education Specialist responded to 524 telephone inquiries and 458 emails since April 1, 2018. As a result of the inquiries a relevant FAQ was included in each of the 6 published *News Bulletins* during the reporting year. |
| • All standards, guidelines and policies will be maintained on the College's website. | | Amended Standards and Guidelines, approved by the Executive Committee, were published within 24 hours of approval and included in the College's News Bulletin. | All standards, guidelines and policies are posted to the College's website. Revisions are posted within 5 days of approval by Council. |

## 2. Support to Council and its Committees

The College will ensure that it is properly governed by a Council and an Executive Committee as required under the *Regulated Health Professions Act, 1991* and that these governing bodies fulfill their roles and responsibilities under the Act, and are properly constituted as set out in the *Naturopathy Act, 2007* and the College by-laws. As such, the following operational activities will be undertaken.

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 2.01 Good Governance | | | |
| • The evidence-based approach for Council decision-making, which was developed in 2017-2018, will be implemented on a test basis. | Intro | Although the Evidence-based Decision-making model has been implemented on a test basis, its usefulness has not yet been determined as very few briefings seem to warrant its inclusion. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • The College will work with and respond to all external oversight agencies to ensure that it is meeting all of the legislative requirements. | 1.1, 5.1 | No activities were undertaken during this reporting period. | Since April 1, 2018, the College has completed its initial audit with the Office of the Fairness Commissioner (OFC) and has submitted its work plan based on the OFC's recommendations. |
| • The Registrar will submit quarterly reports to the Council detailing operational activities, based on the ENDS policy, as well as his performance with respect to his statutory responsibilities. These reports will be made public. | 1.1 | The Registrar submitted a quarterly report to the January 2019 meeting of the Council. | The Registrar submitted a quarterly report to the April, July and October 2018 meetings of the Council. |
| • The Registrar will provide Council with Quarterly Unaudited Financial Statements and a variance report against the budget. | 1.2 | Unaudited financial statements and a variance report were provided to the Council in March 2019 reflecting the Q3 performance for the current fiscal year. | Unaudited financial statements and a variance report were provided to the Council for Q1, Q2 and Q3. |
| • The Registrar will provide trending information to the Council relating to the nature of complaints / investigations, discipline referrals, performance of groups of candidate on examinations, and issues identified by the public and Members. | 1.2 | The Registrar's report includes trending information as indicated. | The Registrar's report included trending information as indicated. |
| • The College will undertake an organization-wide risk assessment, including but not limited to: | 1.2 | A Risk Assessment framework has been identified and work will begin shortly on completing the assessment. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| ○ identifying potential bias in assessment methods or procedures;<br>○ developing and recording mitigating strategies to address potential risks in guidelines for assessors and decision-makers; and<br>○ establishing a means to ensure corrective actions are implemented in a timely manner. | | | |
| • Council and Executive Committee elections will be conducted annually as required by the by-laws. | 1.2, 5.1 | Preparatory work has been completed for the Executive Committee including issuing materials in support of the nominations process. Elections will be held in April 2019. | Executive Committee elections were conducted at the April 2018 meeting. |
| • Members of the Council will be oriented to the governance model and their fiduciary responsibilities annually. | 1.2, 5.1 | Plans for on-going orientation have been reviewed by the Executive Committee and information will be provided to the Council in April 2019.. | The Council was provided with an orientation refresher in terms of the governance policies and legal obligations as part of the April 2018 meeting. |
| • Council will be fully briefed on all major issues and policy matters to be brought before it and Council will receive its materials for meetings in a timely manner. | 5.1 | Briefings have been provided to the Council as needed. | The April Council meeting included briefings on the Governance Model, Capital and Operating Budgets, Prescribing and Therapeutics Program, Examination Policy and the ICRC/Discipline Processes |
| • The Council will undertake an annual organizational performance review. | 5.1 | No activity was undertaken during this reporting period. | The Organizational Performance Review was finalized by Council at its July meeting. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 2.02 Support to Committees<br>• The College will develop guidelines, policies or other similar documents for Committee members about the potential for bias or risk to impartiality in the assessment process. These documents should include content on:<br>○ characteristics or types of bias and/or situations that may compromise the impartiality of assessment decisions;<br>○ procedures to follow where there is a potential for bias; and<br>○ actions to prevent discriminatory assessment practices. | | A Council training session on unconscious bias has been undertaken. A session for the staff was held in early October 2018 and Council training was held in January 2019. | |
| • Committee appointments will be made annually by the Council. | 5.1 | Call for interest from Members has been issued and all existing volunteers and Council members have been asked to express their interest in the various committees. | Council considered and approved Committee appointments at its April meeting. |
| • Recruitment of non-Council Members for Committees and operational roles in the College will be undertaken annually and will include a robust screening process. | | No activity was undertaken during this reporting period. | Although recruitment of non-Council volunteers normally occurs in the January to March timeframe, the Exam Steering Committee recruited one volunteer to fill a vacancy during the Q1 reporting period. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • Council Committees will meet on an "as-needed" basis ensuring effective use of financial and human resources. Wherever possible, meetings will be conducted electronically. | 5.1 | Council committees have met on an as-needed basis. | |
| • Committees will receive their information for meetings in a timely manner. | 5.1 | Council and Committees have been receiving materials, on average, approximately 6 days prior to a meeting. | |
| • The College will provide training to the Committees on issues relating to conflict of interest, bias, and human rights, as well as on how committees operate within the College and the specific role of each Committee. | | The Inspection Committee was provided with a memo from R. Durcan addressing confidentiality, declaring and disclosing a conflict of interest, and unconscious bias. | |
| 2.03 Transparency | | | |
| • The qualitative Annual Report format, initiated in 2017-18, will be continued and augmented to provide information to the public and stakeholders about Council processes and decisions. | 1.1 | No activities were undertaken during this reporting period. | Research, writing, and design were completed for the 2017/18 Annual Report. It was distributed to Members, government, the Citizen Advisory Group, and other stakeholders on October 2, 2018. |
| • Audited financial statements and the Auditor's Report will be reviewed by Council, approved and publicly released. | 1.1 | No activities were undertaken during this reporting period. | College staff supported the Audit process during this first quarter of the current planning year. The Auditor's Report and Audited statements were presented at the July meeting of the Council. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • A decision-making matrix/tree for the Council and each of its Committees will be developed, reviewed and adopted by Council and published. | 1.1, 5.1 | No further activity was undertaken during this reporting period. | Decision trees for the Registration Committee and Exam Appeals Committee were approved during the previous quarter and posting of this information will occur as part of the current website reviews and revisions. |
| • The Council adopts an "open by default" policy and directs that all activities that can be so legally, be made open. | 3 | This is an on-going activity. | |
| • The College will maintain a summary table of active and resolved complaints and inquiries. | | A summary of ongoing and resolved complaints is publicly available on the website and updated monthly. | A summary of ongoing and resolved complaints is publicly available on the website and updated monthly. |
| • Council meetings, agenda and materials will continue to be posted publicly. | 3.5 | The Council agenda and supporting materials for the January meeting were posted as well as the approved minutes of the October meeting. | Council agendas, supporting materials and the minutes from all 2018 meetings have been posted on the website (excluding the minutes from the October meeting which will be tabled for approval in January 2019). |
| • The College will develop and implement a process for alerting the public to discipline hearings and outcomes. | | No activity was undertaken during this period on the development of a more proactive approach. | Information about scheduled discipline hearings is published on the Public Register and the Scheduled Hearings page of the College's website |
| • The College will maintain a series of key messages and a state of media readiness. | | No new statements or backgrounders were prepared during the reporting period but a media watch was placed on a CBC Marketplace story about food sensitivity testing and for the New Brunswick ruling that NDs may not refer to themselves as being "medically trained". | Since April 1, 2018, key messages/draft statements/backgrounders for potential distribution to media/stakeholders were created about the following topics:<br>• Dr. Allan Bortnik, ND in response to potential questions about the conclusion of the criminal case; |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| | | | • CEASE Therapy, vaccinations, Member advertising (provided on request to Global TV & Canadian Press + scripted response to additional questions from Global);<br>• Dr. Taras Rodak, ND Discipline Hearing;<br>• Lyme disease.<br>• A *Statement on Financial Results and the 2017 – 18 Audit* was prepared and posted on the website. |

## 3. Examination Development

In addition to the continued delivery of its existing examinations, the College will focus on the development and launch of the new written entry-to-practise and biomedical exams. Demonstration-based Objectively Structured Clinical Examinations (OSCEs), initially envisioned for PLAR, will be developed to replace the College's current clinical examinations by April 1, 2020.

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| 3.01 Written Clinical Examination<br>• In 2018-2019, the College will complete the development of the written entry-to-practise clinical examination. This means that:<br>○ An analysis of all beta testing that was conducted previously will be provided to the examination steering committee;<br>○ Exam items will be finalized and translated into French;<br>○ The blue print will be amended, finalized and | 4.2 | In this reporting period, the Exam Steering Committee met once (October 15, 2018) to finalize the exam build and Clinical Sciences Exam blueprint.<br><br>In this reporting period, the Clinical Sciences exam form for launch of the June 27, 2019 session was translated and a reference guide was prepared to assist individuals in preparing to sit the Ontario Clinical Sciences exam (translation of this guide to be completed in April/May 2019), and was made available on March 26, 2019. On that same date, the reference guide was also | The Exam Steering Committee has met 9 times and completed its development work on the Clinical Sciences exam and partially completed its Biomedical exam work.<br><br>Since April 1, College staff and the Registration Committee have worked to create and finalize an Exam Transition Policy, prepare a study reference guide and draft the Ontario Clinical Sciences exam handbook, and communication pieces to help inform students and |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| presented to Council for approval;<br>○ The examination will be operationalized through Yardstick Testing Centres for delivery in May 2019. | | disseminated to stakeholders at the CNME-educational programs and to the professional associations for reference. An additional handbook to detail the procedural points of the examination will be available at the end of April 2019. Maintenance work for the Clinical sciences examination has also started with the recruitment of 8 item writers/reviewers to begin development of additional Clinical Sciences exam content to expand the question item pool in Spring 2019.<br><br>Recruitment initiatives are also presently underway for Exam Committee members who will be involved in assisting with edits and advancements for all of the entry-to-practise examinations under the College, including exam maintenance work for the new Clinical Sciences and Biomedical exams. | stakeholders in preparation of the 2019 launch of the Clinical Sciences exam. |
| 3.02 Written Biomedical Examination<br>• In 2018-2019, the College will continue the development of the written entry-to-practise examination. This means that:<br>○ sufficient examination questions will be prepared and reviewed by the Steering Committee;<br>○ the exam blue print will be refined; and | 4.2 | In this reporting period, the Exam Steering Committee met three times (February 4, February 11 and March 6) to review and approve developed biomedical questions items for pilot testing. An additional meeting will be conducted on May 1, 2019 to review remaining Biomedical question items, including those which were sent back to item writers for redevelopment. Initial pilot testing of Biomedical exam content has | Since April 1, 2018, 300 Biomedical question items have been developed, and 206 items have been reviewed to put forward for Steering Committee approval and subsequent pilot testing. 225 questions were initially approved for pilot testing. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| ○ beta testing of the examination will be conducted.<br><br>• In 2019-2020, the College will complete the development of the biomedical examination. This means that:<br>○ final testing will be completed;<br>○ an analysis of all beta testing will be provided to the examination steering Committee;<br>○ exam items will be finalized and translated into French; and<br>○ the blue print will be amended, finalized and presented to Council for approval.<br>○ The examination will be operationalized through Yardstick Testing Centres for delivery beginning in May 2020. | | been scheduled for May 27 and 28th at Yardstick's Toronto office test site.<br><br>This remains an ongoing work initiative for 2019-2020. | |
| 3.03 Objectively Structured Clinical Examinations (OSCEs) | 4.2 | No activity was conducted on the OSCEs during this reporting period. This remains an ongoing work initiative.<br><br>Current planning cycle timelines for | • Development and alpha testing of 10 PLAR OSCE cases |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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| • The OSCEs, which were originally to form part of the Prior Learning Assessment and Recognition (PLAR) program, will be diverted away from PLAR and into a demonstration-based entry-to-practise examination. The OSCE's will replace the College's current clinical examinations by April 1, 2020.<br>• In 2018-2019, the College will retain external resources to support the project to develop the OSCEs based on materials provided as part of the PLAR development initiative.<br>• The transition process to using the OSCEs will include beta testing and competency reviews.<br>• In 2019-2020, additional development work will take place to shift the current ETP practical exams to OSCEs, including continued discussions with other Canadian regulators for cross-jurisdictional use. | | redevelopment and implementation of OSCEs to replace the College's current Clinical Examinations for entry-to-practise were deferred to ensure resources and staff focus are on the successful launch and running of the College's new examinations for replacing the NPLEX | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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## 4. Prior Learning Assessment and Recognition (PLAR) Program

The College will engage external experts who, in concert with College staff, Committees and Council, will conduct a review of the PLAR program, redevelop it as necessary and fully operationalize the program. As such, the following operational activities will be undertaken.

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 4.01 PLAR Review Objectives<br>• ensure that it is consistent with any new research and best practices in assessment;<br>• eliminate any unnecessary steps in the process to streamline it as much as possible; and<br>• evaluate the competencies being assessed at each step in the revised PLAR process to eliminate, where possible, any duplicate assessments and unnecessary barriers. | | In this reporting period, a 2 day PLAR tool development/refinement meeting was conducted (on February 28 and March 1, 2019) with contracted consultants and 5 Subject Matter Experts (SMEs) pulled from the profession, including one ND who graduated from the CCNM's international medical graduate (IMG) program to review the structure of PLAR, make recommendations on assessed competencies both in the paper based component and in the demonstration based component, review areas where the process could be streamlined and to assist the College in preparing additional demonstration based content for assessing PLAR candidates. | Since April 1, 2018, the College has finalized the PLAR review work plan and objectives, obtained a signed contract with the consultants, conducted the initial gap analysis meeting, and conducted a 2 day working group meeting with SMEs. |
| 4.02 PLAR Redevelopment and Operationalization | | | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| • The PLAR Program and related policies will be refined based on the findings of the review set out in 4.1.<br>• Assessment materials in support of the PLAR, such as refining the Document of Education and Experience (DEE) and case studies for the demonstration component, will be fully developed, tested and implemented. | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants (see 4.01) | |
| • Training and reference materials (guidelines) will be developed for the PLAR components, including:<br>o Additional information and materials are required to facilitate on-going training of DEE assessors, including recommendations from the OFC with respect to bias and related training<br>o Demonstration-based assessors (assuming the case studies and interview questions remain a part of PLAR). | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants. | |
| • The College will ensure that information for applicants regarding the criteria, policies and process for the PLAR is clear, accurate and complete and includes information on:<br>o the criteria against which prior learning during the demonstration-based | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| assessment components of the PLAR process is measured;<br>○ the linkage between the criteria used in the assessment and each of the requirements of the PLAR process; and<br>○ the procedures followed by the College to provide applicants in the PLAR process with special arrangements as needed. | | | |
| • The College will establish and provide timelines for each stage of the PLAR process in registration materials and information for applicants, including timelines for:<br>○ assessing qualifications;<br>○ communicating results to applicants; and<br>○ providing written reasons to applicants that were unsuccessful in the process. | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants. | |
| • The College will develop procedures to follow and monitor adherence to timelines, and to inform applicants about potential delays and estimated decision dates when delays are unavoidable. | | This is an ongoing work initiative by Registration staff. | |
| • The College will develop and implement formal training plans for assessors and decision-makers that cover topics on the following, as | | Current PLAR assessors have been trained on unconscious bias. This remains an ongoing work initiative by Registration staff. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| they relate to assessment and registration practices:<br>○ anti-discrimination;<br>○ cultural diversity;<br>○ the objectives of the fair-access law; and objective and impartial decision-making and what it means in the context of the registration process. | | | |
| | | | |

## 5. Services in French and other Languages

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 5.01 Translation of materials<br>• In each of the next two fiscal years, content material for key College programs, including but not limited to, discipline, complaints, patient relations, PLAR, examinations, applications for entry-to-practise, among others, will be systematically reviewed and translated into French and made available by the College. | | Translations completed this quarter included:<br>- Web information about discipline, communications, public registers, inspections<br>- Job Posting – AA Registration & Examinations<br>- ETP Clinical Exam<br>- Core Competencies SOP and Referral and Consultation Guideline<br>- All professional policies<br>- Updated bylaws (2019) | Completed translations include:<br>- All Standards of Practice<br>- All Guidelines<br>- Complaints & Discipline information for website<br>- New ETP exams<br>- Registration overview for website<br>- Content for a new French landing page<br>- Web information about Discipline, communications, public registers, inspections<br>- Job Posting – AA Registration & Examinations<br>- ETP Clinical Exam |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| • On a go forward basis, all materials developed by the College, including but not necessarily limited to the Annual Report, Standards of Practice and Practice Guidelines, will be translated once approved. | | | - Core Competencies SOP and Referral and Consultation Guideline<br>- All professional policies<br>- Updated bylaws (2019)<br><br>The 2017-18 Annual Report was translated into French, redesigned, distributed to stakeholders, posted on our website, and promoted through various communications channels. Funding for this translation was provided by the MoHLTC. All Standards of Practice and Practice Guidelines have been translated. |
| 5.02 French Personnel<br>• The College will ensure that, at a minimum, 15% of its workforce is bilingual in French/English.<br>• Future recruitment of personnel will emphasize the importance of the College's French service capabilities and will prioritize recruitment of bilingual individuals. | | An online ad was translated and posted in both official languages for an Administrative Assistant, Registration and Exams | Fully bilingual Administrative Assistant, Communications started position June 11, 2018.<br>Online ads for Administrative Assistant, Communications and for Administrative Assistant, Regulatory Programs (Registration and Exams) were translated and posted in both official languages.<br><br>Steps are in place to verify applicants' capabilities in French, including an online grammar and comprehension test and a brief conversational interview with our translation services provider to confirm conversational abilities. |
| 5.03 Live Phone Interpretation Services | | | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| In 2018-2019, the College will be positioned to receive telephone calls in any language through interpretation services via All Languages Ltd. A live interpreter can be engaged to assist any caller who requires translation services. | | 2 phone calls and 1 email were responded to in French by the bilingual Administrative Assistant, Communications. | • The multi-language system is in place and ready to access.<br>• The bilingual Administrative Assistant, Communications has responded to 7 phone calls and 1 email in French. |
| 5.04 Translation of other languages | | | |
| ○ The College will develop a process that enables candidates for examinations, registration and PLAR to complete forms in any language other than English and French. The process will include at a minimum: | | No activity was undertaken during this reporting period. | |
| ○ translation of forms and materials into other languages upon request; | | | The system is in place and ready to access. One letter of standing was translated from Spanish to English. |
| ○ completion of forms in the applicant's primary language and translation of applicant information into English or French for evaluation purposes; | | The College did not need to access this system during this reporting period. | The system is in place and ready to access. |
| ○ translation of decisions and correspondence with the applicant into the applicant's primary language. | | The College did not need to access this system during this reporting period. | The system is in place and ready to access. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|

## 6. Registration Practices

The College will align its registration practices with the fair registration practices as set out in the Office of the Fairness Commissioner's audit and report.

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 6.01 Information for Applicants<br>• Align information on translation requirements for applicants whose supporting documentation is not in English or French in information for applicants and the related policy document | | This is an ongoing work initiative by Registration staff in conjunction with contracted translation services. | |
| • Revise the flowchart for PLAR Stages to better align with the steps in the registration process as provided in web content and the application for registration handbook. | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants. | |
| • Provide information on an applicant's right to an internal review of an assessment decision in online information for applicants. Information should include content on:<br>○ applicants' rights to review assessment decisions;<br>○ applicants' rights to make submissions;<br>○ the format in which submissions must be made by an applicant;<br>○ the statutory grounds for referring their application for a review; and | | This is an ongoing work initiative by Registration staff. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| ○ the specific steps and sequence that an applicant needs to follow to complete the review. | | | |
| • Provide information on an applicant's right to an appeal of a registration decision with the HPARB in online information for applicants. Information should specify whether there are any limitations to an applicant's right to an appeal. | | This is an ongoing work initiative by Registration staff in conjunction with the College staff website review project. | |
| • Develop an application checklist to assist applicants applying for registration that undergo the PLAR process. Review the checklist for clarity, accuracy and completeness and provide access to this resource on the College's website. | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants. | |
| • Include a statement on the website directing applicants to contact the College for more information about alternative documentation that may be acceptable if an applicant is unable to obtain required documents for reasons beyond their control. | | This is an ongoing work initiative by Registration staff. | |
| • Clearly state in information for applicants on the PLAR process any limitations or conditions on the availability of administrative reconsiderations and the reasons why they are necessary. Review these statements for clarity and plain language. | | This is an ongoing work initiative by Registration staff in conjunction with contracted consultants. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| • Implement a formal and structured process to seek feedback from applicants and Members on their experiences with the registration process. Incorporate feedback where appropriate in discussions about registration policy and practices.<br>• Organize information about fees for all registration steps in one section of information for applicants. Include costs associated with the PLAR stages and make reference to related costs, such as those for translations and third-party assessments, that an applicant may incur.<br>• Develop and implement a work plan to document formal guidelines explaining the decision-making steps and procedures to consistently and accurately apply registration requirement criteria | | No activity was undertaken during this reporting period.<br><br>This is an ongoing work initiative by Registration staff.<br><br>No activity was undertaken during this reporting period. | |
| 6.02 Policies, Procedures & Guidelines<br>• Document procedures for considering applicants' requests for access to their records and communicate the process in information for applicants. Procedures should include details on:<br>o how records are made available to applicants;<br>o what documents are included in an application record;<br>o who may access the records; | | This is an ongoing work initiative by Registration staff. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| ○ how long records are kept; and<br>○ what limitations, if any, there are to access an application record.<br>• Develop formal procedures to inform decision-makers of any changes to registration criteria, policies and procedures to ensure that they are given information that is current and relevant in a timely manner.<br>• Develop guidelines for making registration policy decisions that include steps to identify and address any internal and/or external factors that may improperly influence decisions.<br>• Develop and implement procedures for a scheduled review of registration requirements to verify that these requirements remain relevant and necessary to practice in the profession. | | This is an ongoing work initiative by Registration staff.<br><br>This is an ongoing work initiative by Registration staff.<br><br>No activity was undertaken during this reporting period. | |
| 6.03 Registration Audit<br>• Develop and implement an annual audit to monitor, verify and improve the consistency and accuracy of registration decisions. Develop an internal audit process that will:<br>○ identify registration decisions that are in compliance and non-compliance with established registration | | Currently, the Registrar will randomly select several registration files and conduct an audit of them. A more formalized process has not yet been developed. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| criteria, policies and procedures;<br>○ identify the potential causes of non-compliance; and<br>○ provide guidelines for implementing corrective actions, as needed.<br>• Identify and implement measures to verify whether third-parties' assessment practices are transparent, impartial, objective and fair. The measures should include procedures to:<br>○ evaluate and monitor third-parties' assessment practices; and<br>○ identify potential issues and, if any issues are identified, take actions to address them<br>• Conduct a regular analysis of fees payable to the College for registration, including fees related to the PLAR process, to ensure that they remain reasonable for applicants. Once the analysis is complete, provide a rationale for the amount of the fees in information for applicants. | | No activity was undertaken during this reporting period.<br><br>No activity was undertaken during this reporting period. The analysis is anticipated to be conducted following completion of PLAR review & revision work. | |

## 7. Human Resources

The College will retain external experts to conduct a review of its workforce in terms of resources available, resources needed and appropriate compensation levels in the current market.

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 7.01 Comparative Job Analysis | | | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| • External consultants will conduct a comparative job analysis of each of the positions within the College, and benchmark these against similar positions in other health regulatory Colleges.<br>• External consultants will make recommendations to better align current positions against benchmarked positions.<br>• The position descriptions within the College will be amended as needed based on recommendations. | | The survey of other relevant Colleges was issued during this reporting period.<br><br>The Report from the external consultants was received during this reporting period.<br><br>No activity was undertaken during this reporting period. | An external consultant was retained and a preliminary review of the scope of the project and comparable Colleges was established. |
| 7.02 Compensation Review<br>• External consultants will conduct a comparative analysis of salaries and benefits offered to positions within the College, comparing compensation within the College and against other similar health regulatory Colleges.<br>• A set of salary ranges that reflect current market value will be established based on this analysis. | | The Report was received during the reporting period. The Report recommended adjustments to the salary ranges for the position within the College.<br><br>Based on the report, a new set of salary ranges was adopted by the Registrar & Senior Management team. | The survey of other relevant Colleges was issued during the prior reporting period. |

## 8. Regulations and Program Policies

Given that the College is approaching the 3rd anniversary of proclamation, it is timely that all regulations and Program policies be reviewed and that an ongoing process be established for such reviews in the future. As such, the following operational activities will be undertaken.

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 8.01 Committee Terms of Reference<br>○ The College will review all Committee terms of reference and make a recommendation to Council with | | The Executive Committee approved immediate changes to the Terms of Reference of all committees to ensure that | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| respect to amendments, including the requirement for an ongoing process to review regulations and Program policies and report the review outcomes to the Council. | | urgent items can be addressed in the event that a public member is not present at a meeting. A report on additional changes will be presented to the Council at its April 2019 meeting. | |
| 8.02 Review of Regulations and Program Policies<br>○ The College will routinely review all Regulations and Program Policies and recommend any required policy changes to the respective Committees, as well as incorporating an ongoing review process.<br><br>○ The College will support the Committees in reviewing all Regulations and Program Policies to ensure that they are effective and efficient and reflect good and/or best practices in regulation. | | No work was undertaken in this area during this reporting period.<br><br>No work was undertaken in this area during this reporting period. | The College undertook a review of the *Cannabis Act* and supporting regulations and in consultation with stakeholders has drafted a guideline for the Ontario Naturopathic profession. The QAC has reviewed its current regulation and recommended no changes at this time<br>The Inspection Program Policies were reviewed by staff, proposed amendments were reviewed by the Inspection Committee and sent to Council for approval.<br><br>The Registration Committee reviewed and revised the College's Examinations Program Policy.<br>The College's Language Proficiency Policy was reviewed at the Committee's October 29, 2018 meeting. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
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## 9. Operational Policies and Related Procedures

As the College approaches its 3rd anniversary of proclamation, many operating policies have been developed and implemented. These will be reviewed to ensure that they reflect current practices and the most efficient means of operating. While procedures have been established, few are fully documented. Finally, there are areas where no written policies or procedures are in place.

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 9.01 Review of Existing Operating Policies and Development of New Policies<br>• The College will undertake a review of all existing operating policies to ensure that they are reflective of good practices and are consistent with the objects of the College and procedural fairness, and that they are fair, objective, impartial and transparent and free of bias. | | No work was undertaken in this area during this reporting period. | Staff have created and compiled current operating policies. The policies are currently being organized and gaps identified. |
| • The College will complete the process of developing operating policies where the need has already been identified but the policies have not yet been drafted. | | No work was undertaken in this area during this reporting period. | Administrative, Communications, human resources, Professional Corporations, and Information Technology policies were created or existing policies updated and made available to all staff during this period. |
| • The Council will be provided a complete set of all operating policies for its information. | | Council access to these policies is being reviewed and an appropriate mechanism is being developed. | |
| 9.02 Review of Existing Procedures and Development of New Procedures<br>• The College will undertake a review of all existing operating procedures to ensure that they reflect good practices and are consistent with the objects of the College and procedural fairness, and that they are fair, | | No work was undertaken in this area during this reporting period. | Administrative, Communications, human resources, Professional Corporations, and Information Technology procedures were created or |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| objective, impartial and transparent and free of bias. | | | existing procedures updated and made available to all staff during this period.<br><br>A user manual for iMIS is also under development as well as specific program policies were necessary. |
| • The College will complete the process of developing operating procedures where the need has already been identified the procedures but have not yet been drafted. | | This is an on-going activity. | |
| • The Council will be provided a complete set of all operating procedures for its information. | | Council access to these procedures is being reviewed and an appropriate mechanism is being developed. | |

## 10. Records Management and Retention

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 10.01 Records Management Audit | | | |
| • The College will conduct an audit of its records retention practices to ensure that practices are in keeping with the Records Management and Retention policies. | | No activity was undertaken during this reporting period. | |
| • Records will be adjusted to ensure that they are retained in accordance with the policy and protocols will be established for an ongoing review of the records system. | | No activity was undertaken during this reporting period. | |
| • Staff will be retrained in records management procedures in order to prevent a need for ongoing work in this area. | | No activity was undertaken during this reporting period. | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|

## 11. Communications

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| 11.01 Communications Objectives<br>• Communications objectives will be developed to guide efforts and activities and to serve as one of the means against which communications effectiveness can be measured. | | Draft objectives have been developed. | Draft objectives developed |
| 11.02 Communications Return on Investment<br>• The College will conduct an internal review of its communications vehicles *(iNformeD*, *News Bulletin*, website) to determine overall utilization and a means of gauging its return on investment, as well as opportunities to solicit audience feedback.<br>• The College will conduct a second Member survey, building on the baseline survey conducted in summer 2016 to seek both new input and to identify improvement since implementing the 2016 recommendations. The survey will include additional questions about what would motivate Members to engage with the College, including | | The decision was made to eliminate the audit due to other priorities. | 195 Members responded to the Member Communications Survey.<br>A summary report was completed and shared with the management team.<br>86% of respondents are satisfied overall with College Communications. This represents a 21% increase in overall satisfaction since the benchmarking survey conducted in 2016. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| participating in online communities, the Registrar's blog, etc.<br>• A report on the internal review will be provided to Council and will include an outline of any changes that may be required to the Communications vehicles. | | See above regarding the cancellation of this activity. | |
| 11.03 Public and Stakeholder Engagement | | | |
| ○ A website governance policy will be developed and implemented to ensure the website supports the College's communications and informational needs by:<br>○ promoting a consistent user experience throughout the site,<br>○ ensuring all content is accurate and updated on a quarterly or as needed basis, and<br>○ aligning website content and online communication with overall Communication objectives and College goals. | | Additional work has started to further improve searchability and functionality of the College website.<br><br>Alignment between digital channels and communications objectives is ongoing. | Policy completed and approved.<br>A site content review was undertaken. A plan was developed to improve the functionality of the website, with the goal of a better visitor experience. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| ○ A stakeholder engagement strategy will be developed with SMART objectives (specific, measurable, achievable, relevant and timely) that support the overarching communications goals of the College. This strategy will identify the most effective and efficient means for the College to engage stakeholders in its work, including strategies that will provide the greatest return on investment. This strategy <u>may</u> include, but not be limited to:<br>○ Use of the Registrar's Blog to communicate openly with Members and allow Members to post comments back;<br>○ Expansion of the "communities" on the website that allow Members to sign up for and engage in discussions with the College and peers;<br>○ Continued participation in the Citizen's Advisory Group in conjunction with other health regulatory Colleges to obtain public input on key issues in health regulation and the public interest.<br>○ Leveraging CAG member insights via smaller focus | 2.2, 3.1, 3.2 | Work on developing an engagement strategy remains in progress; however, a meeting with the OAND (Board Chair and CEO) was held during this reporting period.<br><br>iNformeD is shared with CAG members where content is relevant, e.g., Winter issue and information for patients about sexual abuse.<br><br>Created Students' Corner as a regular feature in *iNformeD*.<br>Ongoing liaison as appropriate with NSA executive members.<br><br>The College presented two items for group discussion and feedback at the Feb 2019 CAG meeting:<br>- Patient Bill of Rights<br>- How to motivate patients/the public to engage with the College<br>- Ideas for recruiting non-appointed public volunteers | A brief survey was created and ran Sept 10 – Oct 1 to capture perceptions about the use of cannabis in naturopathic practice. The survey was also sent to members of the Citizen Advisory Group with a request to participate on a voluntary basis and to share with their broader contact networks. A total of 153 NDs and 7 members of the public responded.<br><br>Notifications of the College's consultation on cessation of sexual abuse funding was emailed to the CAG for interested members of the group, as well as an ask to share with other patients in their networks<br><br>Communications meeting held with CCNM Naturopathic Students' Association.<br>A CNM Town Hall presentation on November 26, 2018 regarding the new Biomedical and Clinical Sciences Exam was held. |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| groups or surveys when public input is needed on specific issues or topics that arise between regularly-scheduled meetings.<br>○ Evaluating and determining if Facebook or another social channel will be an effective engagement mechanism for the College.<br>○ Host a minimum of two ND focus groups/year to garner additional input from the profession.<br>○ Regular meetings/updates with stakeholders as needed. | | | Created Students' Corner as a regular feature in *iNformeD*. Features to date have focused on the new Clinical Sciences Exam and<br>Ongoing liaison as appropriate with NSA executive members.<br><br>The College attended the annual FHRCO Communications Day where Colleges review case studies & program innovations as well as exchange knowledge about current issues, challenges and opportunities. |
| 11.04 Public Registry Redevelopment<br>• The College will create a policy governing Terms, Conditions and | | All policies relating to the public register have been reviewed and are being updated; | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| Limitations and Registration History of Members for the public registry and audit all records to ensure consistency and compliance with the new policy. | | however, many changes are predicated on completion of the proposed by-law changes. A comprehensive policy on the Register itself remains under development and is being aligned with proposed by-law changes. | |
| • The College will redevelop and redeploy the public registry to increase its overall usability and the friendliness of the user interface reflecting public feedback about what they expect to see and how they want to access the registers (feedback already collected via the CAG). | | Redevelopment is on hold pending finalization of the applicable policies. | Comprehensive Project Brief developed to serve as basis for cost estimating and overall guidance to project team. |
| • The College will collect new information and add that information to the Public Registry as required under the *Protecting Patients Act, 2017*. | | | Changes promoted in May 1 special edition of News Bulletin & all-Member email message re mandatory reporting requirements. Posted on website NEWS. 145 responses were received in response to our request for mandatory reporting information. |
| 11.045 Communications Planning and Management | | | |
| • Continue with a proactive issues management program to ensure the College is as prepared as possible for media interest in upcoming Discipline hearings and other matters, including those that may solicit negative | | • 2 backgrounders/media statements were prepared in Q4, including<br>o Advertising and activities undertaken by a Member<br>o CBC podcast re Muskoka murder story implicating a potential ND (not registered) | Since April 1, 2018, key messages/draft statements/backgrounders have been prepared about 7 distinct issues for distribution, or potential distribution, to media/stakeholders, including the following topics: |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| feedback from Members and other stakeholders. | | • Media queries responded to included CP News re the College's vaccination policy and Canadian press story re "Ontario NDs offer pampered pap tests"<br>• Regular liaison as needed with OAND and CCNM on news stories with potential cross-implications | • Dr. Allan Bortnik, ND in response to potential questions about the conclusion of the criminal case;<br>• CEASE Therapy, vaccinations, Member advertising (provided on request to Global TV & Canadian Press + scripted response to additional questions from Global);<br>• Dr. Taras Rodak, ND Discipline Hearing;<br>• Lyme disease.<br>• A *Statement on Financial Results* and the 2017-18 Audit was prepared and posted to the website<br>• Advertising and activities undertaken by a Member<br>• CBC podcast re Muskoka murder story implicating a potential ND (not registered) |
| • Provide ongoing marketing communications counsel, planning and development of materials to all College departments as needed. | | During the reporting period, the following publications were written, produced and distributed/posted with open & click rates well above the industry norm:<br>○ *News Bulletin* – Dec, Jan, Feb<br>○ *iNformeD* Spring – March 7<br>○ Blog posts - 6 | Since April 1, 2018 the following publications/items were written, produced and distributed with open & click rates well above the industry norm:<br>○ *News Bulletin* – 10 issues<br>○ Special Edition News Bulletin re *Protecting Patients Act* & RHPA changes – May 1<br>○ *iNformeD* – 4 issues |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| | | Supported the College's call for nominations and elections processes.<br>Created annual communications reporting results dashboard for 2018.<br>Created Volunteer Management Program outline. | ○ Blog posts - 6<br>○ Profession-wide email from Registrar re CEASE Therapy & standards & guidelines re advertising, scope of practice and vaccinations – May 30<br>○ Profession-wide email re mandatory self-reporting requirements – June 14<br>Created and implemented formal Communications plans, including all materials<br>- to increase promotion of Prescribing & Therapeutics Course and Exam, including web presence and newsletter features<br>- to announce ETP exam transition policy and launch of new exams<br>- for 2019 Registration Renewal<br>Developed Complaints Process infographic (now posted on website).<br><br>Supported the College's call for nominations and elections processes.<br><br>Created annual communications reporting results dashboard for 2018.<br>Created Volunteer Management Program outline. |

## ACTIVITIES OUTSIDE OF THE OPERATING PLAN

The College was required to undertake the following activities although they were not anticipated and fall outside of the current Operational Plan:
This reporting period:

Previous reporting period:

- In keeping with the Registration Regulation to automatically revoke a Member's Certificate of Registration on the second anniversary of the date their certificate was suspended, 116 Members who were suspended for non-payment of fees by the BDDT-N were revoked on September 10, 2018.
- During the reporting cycle staff of the College initiated the 2019-2020 budget and operating plan development.
- The College completed and submitted its response to the Office of the Chief Coroner with regards to the report and recommendations prepared by the Patient Safety Death Review Committee with regards to an incident that occurred in 2014 that resulted in the death of a patient.
- The HRTO released their decision and dismissed the human rights application made against the College of Naturopaths of Ontario.
- The College issued an RFP to provide consultant services to assist the College in exploring database solution options that may suit the present and future needs of the organization.

## REPORT ON EXECUTIVE LIMITATIONS COMPLIANCE

This part of the Registrar's Report will provide the Council with information regarding the Registrar's compliance with the Executive Limitation Policies established by the transitional Council.

| Policy No. | Name | Compliance | Explanation/ Notes |
|---|---|---|---|
| EL01.00 | Global Executive Constraint | Yes | |
| EL02.00 | Emergency Registrar Replacement | Yes | |
| EL03.00 | Communications and Council Support | Yes | |

| Activity | Ends Ref. | Results for this Period | Results to Date |
|---|---|---|---|
| EL04.00 | Treatment of Staff | Yes | |
| EL05.00 | Financial Condition and Activity | Yes | |
| EL06.00 | Financial Planning and Budgeting | Yes | |
| EL07.00 | Financial transactions | Yes | |
| EL08.00 | Asset Protection | Yes | |
| EL09.00 | Workplace Violence | Yes | |
| EL10.00 | Workplace Harassment | Yes | |
| EL11.00 | Administration of Statutory Committees and Panel | Yes | |
| EL12.00 | Operation of the Register | Yes | |
| EL13.00 | Treatment of members | Yes | |
| EL14.00 | Support to Council | Yes | |
| EL15.00 | Program Administration | Yes | |
| EL16.00 | Treatment of the public | Yes | |

Respectfully submitted,

Andrew Parr, CAE
Registrar and CEO

The College of Naturopaths of Ontario

# BRIEFING NOTE
## Committee Terms of Reference

**ISSUE:** Proposed changes to the Committee Terms of Reference.

**BACKGROUND:**

In October 20018, the Council asked each Committee of the Council to review their terms of reference and make recommendations to the Executive Committee for proposed changes.

The Executive Committee was charged with reviewing any proposed changes and to bring recommendations before the Council in April 2019.

During the fall of 2018, each Committee was asked to consider their terms of reference and to bring forward any recommendations for change.

At its meeting in December 2018, the Executive Committee urgently considered concerns relating to the number of public members appointed to the Council and its Committees, at which time the Committee approved an amendment to all Committee terms of reference to allow the Committees to conduct urgent matters in the absence of the minimum quorum requirement that one public member be present.

With the urgent matter disposed of, the Executive Committee has now proceeded to review the remaining components of the Terms of Reference.

**DISCUSSION POINTS:**

The staff, on behalf of the Executive Committee, have received proposed changes to the Committee Terms of Reference. Apart from the change in quorum, which would allow the Chair to permit urgent issues to proceed when no public member is present (which was approved by the Executive Committee at its December 2018 meeting), the Committees have provided the following recommendations with respect to their terms of reference:

- Audit Committee – no changes;
- Discipline Committee - no changes;
- Fitness to Practice Committee - no changes;
- Examination Appeals Committee - no changes;
- Inquiries, Complaints and Reports – changes to responsibilities, composition, meetings all of which have been incorporated into the materials being presented;
- Inspection Committee - no changes beyond changes in quorum;
- Nominations and Elections Committee - no changes;
- Patient Relations Committee - no changes beyond changes in quorum;
- Quality Assurance Committee – no changes beyond changes in quorum;
- Registration Committee - no changes beyond changes in quorum.

In addition, the Registrar & Deputy Registrar have taken this opportunity to review all terms of reference to ensure:

- Consistency with the By-laws;
- Consistency among all of the terms of reference where possible;

- Maximum flexibility for the Council in terms of appointments;
- Clarity surrounding the authority of the Committees.

The following is a summary of the changes that are being recommended by the Registrar and Deputy Registrar among all of the terms of reference.

| | |
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| Responsibilities | Except for Statutory Committees whose authority is set out in the Regulated Health Professions Act, 1991 and specifically the Code (Schedule 2), responsibilities are clarified to:<br>• Ensure that the Committee provides advice and recommendations to the Council;<br>• Annually reviews all program policies and procedures and makes recommendations to the Council for amendments; and<br>• Bi-annually reviews any applicable Regulations made under the *Naturopathy Act, 2007* or other relevant legislation. |
| Composition and Appointment | The following changes have been recommended:<br>• Wording of Members versus Committee and Council members is changed to align with current by-law changes under development;<br>• Council is clearly authorized to appoint as many people to the Committees as it deems necessary;<br>• Minimum numbers of one of each of Council members, Members, and Public Members are established; and<br>• Authorization is provided to the Council to appoint members of the public who are not on the Council (by-law revision is proposed as well). |
| Term of Office | For clarity, it is recommended that the term of office indicates "approximately one (1) year, or until such time as the Council has made further appointments" to ensure that any delay in appointments does not invalidate the authority of the Committee. |
| Meetings | Except for Committees which meet only in specific times of the year (Audit and Nominations and Elections Committees), changes are proposed to indicate that the meetings will be on a schedule approved by the Committee or at the call of the chair.<br><br>Also added is clarity that if the Chair is not able to be present, they may appoint someone to act as Chair or, if they have not, the Committee may select someone to act as Chair. |
| Reports | Added to all Committee terms of reference (except Discipline and Fitness to Practice) is a requirement to submit a quarterly report to the Council.<br><br>Discipline and FTP are not included to protect the independent nature of these two Committees. |

The following are additional changes being recommended for the terms of reference for each Committee:

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| Audit Committee | It is proposed to remove two bullets from the responsibilities section of the terms of reference (the reasonableness of estimates in financial statements and adequacy of disclosure of major transactions and issues) as they do not pertain to the annual audit but rather financial statements which the Committee does not review. |

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| Discipline Committee | It is proposed to add into the responsibilities section a direct reference to annually reviewing the Discipline Rules of Procedure.<br><br>It is also proposed to remove portions of the composition and appointment section that merely reiterate language from the Code as it is not necessary. |
| Examination Appeals Committee | It is proposed to alter the responsibilities section to better reflect that the authority to establish policies and procedures governing the program rests with the Council. |
| Fitness to Practice Committee | It is proposed that a responsibility to review, in conjunction with the Discipline Committee, the Discipline Rules of Procedure. This effectively ties the two committees together which is indeed how they function.<br><br>It is also proposed to remove portions of the composition and appointment section that merely reiterate language from the Code as it is not necessary. |
| ICRC | It is proposed that under responsibilities, the requirement to dispose of a complaint within the timeframes set out in the Act be removed. It was also recommended that the composition be changed; however, staff recommended changes go further than those proposed by the Committee. |
| Quality Assurance Committee | It is proposed to remove from the terms of reference the requirement that the Committee annually review 25% of the Standards of Practice as this is a level of detail not incorporated into any other Committee's terms of reference and while this may be the Committee's intent and practice, it is not required to be mandated in the terms of reference themselves. |

**ANALYSIS**

Risk Assessment – The risks to the College would be derived from a situation where the Terms of Reference were not consistent with the Health Professions Procedural Code, which is not the case. Smaller risks may be derived where the terms of reference of non-statutory Committees conflict with the governance model adopted by the Council or whereby the terms of reference are not in keeping with the usual and customary business practices of similar committees.

Privacy Considerations – There are no privacy considerations with respect to Committee Terms of Reference.

Transparency – The proposed changes are housekeeping and clarification changes. Transparency will be accomplished by a discussion by the Council in an open meeting and by the posting of the terms of reference on the College's website.

Financial Impact – There are no financial implications from the process of amending the terms of reference.

## RECOMMENDATION AND NEXT STEPS

The Executive Committee is recommending that the Council approved the proposed changes to the Committee Terms of Reference.

Tara Gignac, ND
Chair, Executive Committee
March 2019

COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Audit Committee (CC01.01) | 1 |
| | | Create Date: November 5, 2013 |

**Accountability and Authority**

The Audit Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 of the by-laws and the *Committee Terms of Reference Governance Process* policy (GP06).

**Limitations**

The Audit Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized by these Terms of Reference.

**Responsibilities**

The Audit Committee shall review and make recommendations to the Council for approval with respect to:

- the annual financial statements, having discussed them with the Auditors;
- the Auditor's Report on the annual financial statements, and related issues including accounting practices and financial controls;
- the appointment of the auditors and their fees;
- any areas of disagreement between management and the Auditors;
- the adequacy of the systems of internal control;
- the financial Executive Limitations policies to ensure compliance;
- such other matters that are within the scope of the Audit Committee in accordance with legislation.

**Composition and Appointment**

The Audit Committee shall be appointed by the Council and shall be comprised of at least three (3) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members;
- one (1)or more Public Members who are Council members;
- one (1) or more Members who are not Council members;
- Any number of members of the public who are not public members of the Council.

The Council shall appoint the Chair of the Audit Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

**Term of Office**

The Audit Committee shall be appointed annually by Council for approximately one (1) year, or until such time as the Council has made further appointments.

**Meetings**

The Audit Committee shall meet at least twice annually in person or by teleconference at the call of the Chair.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Audit Committee shall be three members of the Committee, at least one of which shall be a public member of the Council, unless the public member position is vacant. In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived.

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| January 16, 2014 | December 5, 2018 | Council |

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Audit Committee (CC01.01) | 2 |
| | | Create Date: November 5, 2013 |

**Reports**

The Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any requirements of *the Regulated Health Professions Act, 1991*.

The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee.

Updated Feb 19/19

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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| January 16, 2014 | December 5, 2018 | Council |

COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Discipline Committee (SC01.02) | 1 |
| | | Create Date: July 30, 2013 |

**Accountability and Authority**

The Discipline Committee is a statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 10(1)(4) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code").

**Limitations**

The Discipline Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*.

**Responsibilities**

The Discipline Committee shall:

- Develop and maintain policies and procedures governing the disciplinary process of the College of Naturopaths of Ontario;
- Annually review the Discipline Rules of Procedure;
- Establish panels and conduct hearings into allegations of professional misconduct or incompetence referred to it by the Inquiries, Complaints and Reports Committee.

**Composition and Appointment**

The Discipline Committee shall be appointed by Council and shall be comprised of at least five (5) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members
- one (1) or more Public Members who are Council members ;
- one (1) or more Members who are not Council members ; and
- any number of members of the public who are not Council members

The Council shall appoint the Chair of the Discipline Committee and wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

Panels of the Discipline Committee shall be appointed in accordance with the Health Professions Procedural Code.

**Term of Office**

The members of the Discipline Committee shall be appointed annually by the Council for approximately one (1) year, or until such time as the Council has made further appointments.

Panels of the Discipline Committee shall be appointed as required by the Committee and said appointments shall remain until such time as the Panel has disposed of the matter referred to it, notwithstanding whether the members of the Panel remain members of the Committee (s. 39 of the Code).

**Meetings**

The Discipline Committee will meet at the call of the Chair. Meetings of a Panel shall be at the call of the Chair of the Panel.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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**Deleted:** No member shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing or who has taken part in a matter before the Quality Assurance Committee relating to the same member who is the subject of the panel's hearing.¶

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Discipline Committee (SC01.02) | 2 |
| | | Create Date: July 30, 2013 |

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| Quorum | Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Discipline Committee shall be three members of the Committee, at least one of whom shall be a public member of the Council.<br><br>Pursuant to section 38(5) of the Code, quorum of a Panel of the Discipline Committee shall be three members of the panel, at least one of whom shall be a public member of the Council. |
| Reports | In accordance with section 11(1) of the Code, the Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any limitations of *the Regulated Health Professions Act, 1991*. |

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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Examination Appeals Committee (CC03.02) | 1 |
| | | Create Date: November 5, 2013 |

**Accountability and Authority**

The Examination Appeals Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12 of the Registration Regulation and the *Committee Terms of Reference Governance Process* policy (GP06).

**Limitations**

The Examination Appeals Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized by these Terms of Reference.

**Responsibilities**

The Examination Appeals Committee shall:

- Advise on and recommend to the Council policies and procedures governing the examination appeals process;
- Annually review all program policies and related procedures and report to the Council on the outcome of the review and make any recommendations for amendments;
- Receive, review and dispose of appeals of the clinical, intravenous infusion therapy and therapeutic prescribing examinations filed by candidates who have sat and failed a clinical examination.

**Composition and Appointment**

The Examination Appeals Committee shall be appointed by Council and shall be comprised of at least three (3), but as many members as the Council deems appropriate, none of whom shall be members of the Registration Committee, including:

- one (1) or more Members who are Council members;
- one (1) or more Public Members who are Council members;
- one (1) or more Members who are not Council members;
- Any number of members of the public who are not Council members.

The Council shall appoint the Chair of the Examination Appeals Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

**Term of Office**

The members of the Examination Appeals Committee shall be appointed annually by Council for approximately one (1) year, or until such time as the Council has made further appointments.

**Meetings**

The Examination Appeals Committee shall meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Examination Appeals Committee shall be two (2) members of the Committee, at least one (1) of which shall be a public member of the Council. In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived.

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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| January 16, 2014 | December 5, 2018 | Council |

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Examination Appeals Committee (CC03.02) | 2 |
| | | Create Date: November 5, 2013 |

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| Reports | The Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any requirements of *the Regulated Health Professions Act, 1991*.<br><br>The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee. |

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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Fitness to Practice Committee (SC03.02) | 1 |
| | | Create Date: July 30, 2013 |

**Accountability and Authority**

The Fitness to Practice Committee is a statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 10(1)(5) of the *Health Professions Procedural Code*, being Schedule 2 to *Regulated Health Professions Act, 1991* (the "Code").

**Limitations**

The Fitness to Practice Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*.

**Responsibilities**

The Fitness to Practice Committee shall:

- Develop and maintain policies and procedures governing the fitness to practice process of the College of Naturopaths of Ontario;
- Annually, in conjunction with the Discipline Committee, review the Discipline Rules of Procedure;
- Establish panels and conduct hearings into allegations of incapacity referred to it by the Inquiries, Complaints and Reports Committee as required under Schedule 2 of the Code.

**Composition and Appointment**

The Fitness to Practice Committee shall be appointed by Council and shall be comprised of at least three (3) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members
- one (1) or more Public Members who are Council members ;
- one (1) or more Members who are not Council members ; and
- any number of members of the public who are not Council members.

The Council shall appoint the Chair of the Fitness to Practice Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

Panels of the Fitness to Practice Committee shall be appointed in accordance with the Code.

**Term of Office**

The members of the Fitness to Practice Committee shall be appointed annually by the Council for approximately one (1) year, or until such time as the Council has made further appointments.

Panels of the Fitness to Practice Committee shall be appointed as required by the Committee and said appointments shall remain until such time as the Panel has disposed of the matter referred to it, notwithstanding whether the members of the Panel remain members of the Committee (s. 39 and s. 67 of the Code).

**Meetings**

The Fitness to Practice Committee will meet at the call of the Chair. Meetings of a Panel shall be at the call of the Chair of the Panel.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Fitness to Practice Committee shall be three members of the Committee, at least one of whom shall be a public member of the Council.

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| July 30, 2013 | February 28,, 2018 | Council |

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At least three (3) and no more than six (6) members who are not members of the Council;¶

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¶
No member shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing or who has taken part in a matter before the Quality Assurance Committee relating to the same member who is the subject of the panel's hearing.

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Fitness to Practice Committee (SC03.02) | 2 |
| | | Create Date: July 30, 2013 |

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| | Quorum of a Panel of the Fitness to Practice Committee shall be three members of the panel, at least one of whom shall be a public member of the Council. |
| Reports | Provide reports to the Council as requested from time to time subject to any limitations of the *Regulated Health Professions Act, 1991* and in accordance with section 11 of the Code. |

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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Inquiries, Complaints and Reports Committee (SC04.02) | 1 |
| | | Create Date: July 30, 2013 |

**Accountability and Authority**

The Inquiries, Complaints and Reports Committee (ICRC) is a statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 10(1)(3) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code").

**Limitations**

The Inquiries, Complaints and Reports Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*.

**Responsibilities**

The Inquiries, Complaints and Reports Committee shall:

- Advise on and make recommendations to the Council policies and procedures governing the inquiries, complaints and reports processes of the College of Naturopaths of Ontario;
- Annually review all program policies and related procedures and report to the Council on the outcome of the review and make any recommendations for amendments;
- Bi-annually review relevant regulations made under the Naturopathy Act, 2007, including but not necessarily limited to the Professional Misconduct Regulation; and
- By way of panels appointed by the ICRC Chair:
  - investigate complaints filed with the Registrar, review the submissions from the member(s), make reasonable efforts to review all relevant records and documents and take appropriate action in accordance with section 26 of the Code;
  - consider Reports received from the Registrar, review the submissions from the member(s), make reasonable efforts to review all relevant records and documents and take appropriate action in accordance with section 26 of the Code; and
  - inquire into whether a member is incapacitated and take appropriate action in accordance with sections 58 to 63 of the Code.

**Composition and Appointment**

The Inquiries, Complaints and Reports Committee shall be appointed by Council and shall be comprised of no fewer than three (3) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members (section 13.03 of the By-laws);
- one (1) or more Public Members who are Council members (section 13.03 of the By-laws); and
- one (1) or more Members who are not Council members.

In addition, Council may also appoint any number of members of the public who are not Council members.

The Council shall appoint the Chair of the Inquiries, Complaints and Reports Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Inquiries, Complaints and Reports Committee (SC04.02) | 2 |
| | | Create Date: July 30, 2013 |

Panels of the Inquiries, Complaints and Reports Committee shall be appointed from among the members of the Committee by the Chair and shall be comprised of no fewer than three (3) members of the Committee, one of whom shall be a public member of the Council. The Chair of the Inquiries, Complaints and Reports Committee shall, at the time of appointing a Panel, designate one member of the panel as the Chair of the Panel.

**Term of Office**

The members of the Inquiries, Complaints and Reports Committee shall be appointed by the Council for approximately one (1) year, or until such time as the Council has made further appointments.

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Panels of the Inquiries, Complaints and Reports Committee shall be appointed as required by the Committee and term of the panel shall be until the matter referred to it has been disposed of. A Panel member may not continue with a matter after that Panel member's term has ended. If a Panel has not concluded a matter before a Panel member's term ends, the remaining Panel members may continue to deal with the matter if quorum exists or the Chair of the Committee may appoint a new Panel.

**Meetings**

The Inquiries, Complaints and Reports Committee will meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.

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In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Inquiries, Complaints and Reports Committee shall be three members of the Committee, at least one of whom shall be a public member of the Council.

Pursuant to s. 25(3) of the Code, quorum of a Panel of the Inquiries, Complaints and Reports Committee shall be three members of the panel. In cases of urgency as determined by the Chair of the Panel, the public member requirement for the purposes of quorum may be waived.

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**Reports**

In accordance with section 11(1) of the Code, and subject to the limitations identified in section 11(2) of the Code, the Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time.

The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee.

Updated: Feb 19/19

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Inspection Committee (CC05.00) | 1 |
| | | Create Date: January 15, 2016 |

**Accountability and Authority**

The Inspection Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 of the bylaws and the *Committee Terms of Reference Governance Process* policy (GP06) and Section 23(2) of the Ontario Regulation 168/15 (the General Regulation).

**Limitations**

The Inspection Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized in the bylaws and by these Terms of Reference.

**Responsibilities**

The Inspection Committee shall:

- Advise on and recommend to the Council the requirements for, and policies and procedures relating to the Inspection Program of the College;
- Appoint and train appropriate individuals as inspectors ;
- Annually review all program policies and related procedures and report to the Council on the outcome of the review and make any recommendations for amendments;
- Bi-annually review relevant regulations made under the *Naturopathy Act, 2007*, including but not necessarily limited Part IV of the General Regulation.
- Ensure that adequate inspections are undertaken and completed in a timely way using appropriate tools and mechanisms;
- determine, after reviewing inspection reports and other material referred to in Part IV of the General Regulation:
  - whether the premises pass, pass with conditions, or fail;
  - specify the conditions that shall be attached to each “pass with conditions”;
  - deliver written reports as required;
  - direct the Registrar to refer a member to the Quality Assurance Committee, if the result of an inspection report made by the Committee finds that a member’s knowledge, skill or judgment is unsatisfactory;
  - direct the Registrar to refer a member to the Inquiries, Complaints and Reports Committee, if the result of an inspection report made by the College finds that a member may have committed an act of professional misconduct or may be incompetent or incapacitated.

**Composition and Appointment**

The Inspection Committee shall be appointed by Council and shall be comprised of at least three (3) , but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members;
- one (1) or more Public Members who are Council members;
- one (1) or more Members who are not Council Members and who have met the Standard of Practice on Prescribing and the Standard of Practice on Intravenous Infusion Therapy established in the General Regulation;
- Any number of members of the public who are not Council members.

The Council shall appoint the Chair of the Inspection Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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| January 27, 2016 | | Council |

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<#>develop appropriate policies and procedures governing the inspection program for review and approval by the Council;¶

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| Section | Committee | Page |
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| Governance Process | Inspection Committee (CC05.00) | 2 |
| | | Create Date: January 15, 2016 |

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| Term of Office | The members of the Inspection Committee shall be appointed annually by Council for approximately one (1) year, or until such time as the Council has made further appointments.. |
| Meetings | The Inspection Committee shall meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.<br><br>In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee. |
| Quorum | Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Inspection Committee shall be three members of the Committee unless the Committee is composed of only three members, in which case, the quorum for such a Committee shall be two members, at least one of which shall be a public member of the Council.<br><br>In cases of urgency as determined by the Chair of the Committee, the public member requirement for the purposes of quorum may be waived. |
| Reports | The Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any requirements of *the Regulated Health Professions Act, 1991*.<br><br>The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee. |

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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Nominations and Elections Committee (CC04.01) | 1 |
| | | Create Date: November 5, 2013 |

**Accountability and Authority**

The Nominations and Elections Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 and section 10 of the bylaws and the *Committee Terms of Reference Governance Process* policy (GP06).

**Limitations**

The Nominations and Elections Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized in the bylaws and by these Terms of Reference.

**Responsibilities**

The Nominations and Elections Committee shall:

- Review and make a final ruling on any disputes regarding a Member's eligibility to vote in an election (s.10.07 of the bylaws);
- Review and make a determination on the acceptability of the biography and personal statement submitted by a candidate for election (s. 10.13 of the bylaws);
- Upon the request of the Registrar, assist the Registrar in the supervision and administration of elections of candidates for the Council (s. 10.16 of the by-laws);
- Upon a referral from the Executive Committee, shall hold an inquiry into the validity of the election of the member of Council referred by the Executive Committee and shall make a report and recommendations to the Council.

**Composition and Appointment**

The Nominations and Elections Committee shall be appointed by Council and shall be comprised of at least three (3) but as many members as the Council deems appropriate, including:

- One (1) or more Members who are Council members;
- One (1) or more Public Members who are Council members
- one (1) or more Members who are not Council members and who are not seeking election to the Council in the year on which they sit on the Committee; and
- Any number of members of the public who are not Council members.

The Council shall appoint the Chair of the Nominations and Elections Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

**Term of Office**

The members of the Nominations and Elections Committee shall be appointed annually by Council for approximately one (1) year, or until such time as the Council has made further appointments.

**Meetings**

The Nominations and Elections Committee shall meet at the call of the Chair.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Nominations and Elections Committee (CC04.01) | 2 |
| | | Create Date: November 5, 2013 |

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| Quorum | Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Nominations and Elections Committee shall be three members of the Committee, at least one of which shall be a public member of the Council, unless the public member position is vacant. In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived. |
| Reports | The Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any requirements of *the Regulated Health Professions Act, 1991*.<br><br>The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee. |

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| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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| January 16, 2014 | December 5, 2018 | Council |

COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Patient Relations Committee (SC06.03) | 1 |
| | | Create Date: July 30, 2013 |

**Accountability and Authority**

The Patient Relations Committee is a statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 10(1)(7) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code").

**Limitations**

The Patient Relations Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*.

**Responsibilities**

The Patient Relations Committee shall:

- Advise on and recommend to the Council policies and procedures governing the Patient Relations Program of the College, a program to enhance relations between members and patients (Code, s. 1(1) and s. 85);
- Develop and recommend to Council measures for preventing and dealing with sexual abuse of patients, including but not necessarily limited to
  - educational requirements for members;
  - guidelines for the conduct of members with their patients;
  - training for the College's staff; and
  - the provision of information to the public (Code, s. 84(3));
- Administer on behalf of the Council the Funding for Therapy and Counselling Program of the College, including;
  - Developing policies and procedures governing the administration of requests for funding;
  - Developing appropriate forms for patients to seek funding for counselling or therapy under this program;
  - Processing any requests for funding in a timely manner;
  - Overseeing the payment of funds by the Registrar to the therapist or counselor chosen by the person and as approved by the Committee; and
  - Overseeing any proceedings initiated by the College against a member in a court of competent jurisdiction to recover any funds paid by the College where there was a finding by a panel of the Discipline Committee that the member sexually abused a patient (Code, s. 85.7(12)).
- Annually review all program policies and related procedures and report to the Council on the outcome of the review and make any recommendations for amendments; and
- Bi-annually review relevant regulations made under the *Naturopathy Act, 2007*.

**Composition and Appointment**

The Patient Relations Committee shall be appointed by Council and shall be comprised of no fewer than three (3) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members;
- one (1) or more Public Members who are Council members;
- one (1) or more Members who are not Council members; and
- Any number of members of the public who are not Council members.

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| Section | Committee | Page |
|---|---|---|
| Governance Process | Patient Relations Committee (SC06.03) | 2 |
| | | Create Date: July 30, 2013 |

The Council shall appoint the Chair of the Patient Relations Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

**Term of Office**

The members of the Patient Relations Committee shall be appointed annually by Council for approximately one (1) year, or until such time as the Council has made further appointments.

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**Meetings**

The Patient Relations Committee will meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Patient Relations Committee shall be three members of the Committee, at least one of whom shall be a public member of the Council. In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived.

**Reports**

In accordance with section 11(1) of the Code, the Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any limitations of *the Regulated Health Professions Act, 1991*.

The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee.

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| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Quality Assurance Committee (SC05.02) | 1 |
| | | Create Date: July 30, 2013 |

**Accountability and Authority**

The Quality Assurance Committee is a statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 10(1)(6) the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code").

**Limitations**

The Quality Assurance Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Naturopathy Act, 2007* (the "Act") and the Regulations made under the Act.

**Responsibilities**

The Quality Assurance Committee shall:

- Advise on and recommend to the Council policies and procedures governing the Quality Assurance Program of the College that includes but is not necessarily limited to:
  - Continuing education or professional development intended to
    - promote continuing competence, and continuing quality improvement among members,
    - address changes in practice environments and
    - incorporate standards of practice, advances in technology, changes made to entry to practice competencies and other relevant issues as determined by the Council.
  - Self, peer and practice assessments;
  - A mechanism for the College to monitor members' participation in, and compliance with, the quality assurance program (Code, s. 80.1);
- Appoint and train assessors for the purposes of the peer and practice assessments component of the Quality Assurance Program
- Receive and review reports from assessors with respect to members that have been assessed and take such action as is, in the opinion of the Committee, permitted under section 80.2 of the Code to ensure the continued competence of the member;
- Advise on and recommend to the Council Standards of Practise and Guidelines governing the practice of the profession;
- Annually review all program policies and related procedures and report to the Council on the outcome of the review and make any recommendations for amendments;
- Bi-annually review relevant regulations made under the *Naturopathy Act, 2007*, including but not necessarily limited to the Quality Assurance Regulation.
-

**Composition and Appointment**

The Quality Assurance Committee shall be appointed by Council and shall be comprised of at least three (3) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members;
- one (1) or more Public Members who are Council members;
- one (1) or more Members who are not Council members;
- Any number of members of the public who are not Council members.

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Appoint and train assessors for the purposes of the peer and practice assessments component of the Quality Assurance Program;

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The Council shall appoint the Chair of the Quality Assurance Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

Panels of the Quality Assurance Committee shall be appointed from among the members of the Committee by the Chair and in accordance with the Quality Assurance Regulation, shall include at least three individuals, one of whom is a public member of the Council and one of whom is a member of the College.

**Term of Office**

The members of the Quality Assurance Committee shall be appointed by the Council annually for approximately one (1) year, or until such time as the Council ha made further appointments.

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**Meetings**

The Quality Assurance Committee will meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Quality Assurance Committee shall be three members of the Committee, at least one of which shall be a public member of the Council. In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived.

**Reports**

In accordance with section 11(1) of the Code, the Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any limitations of *the Regulated Health Professions Act, 1991*.

The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee.

Updated Feb 19/19

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| July 30, 2013 | December 5, 2018 | Council |

COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Registration Committee (SC07.03) | 1 |
| | | Create Date: July 30, 2013 |

**Accountability and Authority**

The Registration Committee is a statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 10(1)(2) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code").

**Limitations**

The Registration Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Naturopathy Act, 2007* (the "Act") and the Regulations made under the Act.

**Responsibilities**

The Registration Committee shall:

- Advise on and recommend to the Council policies and procedures governing:
  - the registration program and annual renewal of Members
  - the examinations program of the College, including entry-to-practise examinations and post-registration examinations relating to Standards of Practise;
  - the Prior Learning Assessment and Recognition program to assess the competencies of individuals trained in programs other than CNME accredited educational programs;
- Advise on and recommend to the Council the required content for the College's examinations, including the:
  - jurisprudence examination;
  - written Clinical Sciences and Biomedical examinations;
  - Ontario Clinical Examinations;
  - Therapeutic Prescribing examination; and
  - IVIT Examination.
- Consider applications for:
  - registration referred to it by the Registrar;
  - applications to remove or modify a term, condition or limitation that was imposed as a result of a Registration proceeding (Code, s. 19)
  - applications and applicants' submissions and make orders with respect to the disposition of the application in accordance with the Code (s.18(2) and s. 19(6));
- Annually review all program policies and related procedures to ensure that they are transparent, objective, impartial and fair and report to the Council on the outcome of the review and mae any recommendations for amendments; and
- Bi-annually review relevant regulations made under the *Naturopathy Act, 2007*, including but not necessarily limited to the Registration Regulation.

**Composition and Appointment**

The Registration Committee shall be appointed by Council and shall be comprised of no fewer than three (3) members, but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members;
- one (1) or more Public Members who are Council members;
- one (1) or more Members who are not Council members; and
- any number of members of the public who are not Council members.

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**Deleted:** <#>Develop and maintain policies for the Prior Learning Assessment and Recognition program to assess the competencies of individuals trained in programs other than CNME accredited educational programs;¶
Develop and recommend to the Council such policies and procedures necessary to administer the Registration Program and annual renewal of members;¶
Develop and maintain policies relating to the administration of examinations in the areas of therapeutic prescribing and intravenous infusion therapy for the purpose of identifying those members who can be deemed to have met the Standards of Practice for the performance of these procedures;¶
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| Section | Committee | Page |
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| Governance Process | Registration Committee (SC07.03) | 2 |
| | | Create Date: July 30, 2013 |

The Council shall appoint the Chair of the Registration Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

Panels of the Registration Committee shall be appointed from among the members of the Committee by the Chair and shall be comprised of no fewer than three (3) one (1) of whom shall be a Public Member of the Council. The Chair of the Registration Committee shall, at the time of appointing a Panel, designate one member of the panel as the Chair of the Panel.

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**Term of Office**

The members of the Registration Committee shall be appointed annually by the Council for approximately one (1) year, or until such time as the Council has made further appointments.

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**Meetings**

The Registration Committee will meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

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**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Registration Committee shall be three members of the Committee, at least one of which shall be a public member of the Council.

Quorum for Panels shall be three members of the Panel, one of whom is a public member of the Council (Code, s.17(3)).

In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived.

**Reports**

In accordance with section 11(1) of the Code, the Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any limitations of *the Regulated Health Professions Act, 1991*.

The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee.

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Oversee on behalf of the Council, the College's review of its registration practices to ensure they are transparent, objective, impartial and fair;

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Oversee on behalf of the Council, the College's review of its registration practices to ensure they are transparent, objective, impartial and fair;

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the Registrar is of the view that the applicant may not qualify for registration;

the Registrar believes that a term condition or limitation should be imposed on the applicant's Certificate of Registration; or

the Registrar intends to refuse the application (Code, s.15(2))

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Oversee the College's participation in hearings or reviews of the Registration Committee's decisions before the Health Professions Appeal and Review Board (Code, s. 22);

Prepare a fair registration practices report annually or at other such times as the Fairness Commissioner may specify;

Provide other reports and information to the Fairness Commissioner as required;

Oversee the implementation of registration practice audits every three years or as required by the Fairness Commissioner;

Oversee the development of entry to practice examinations, including written and demonstration-based examinations post-proclamation and ongoing.

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COMMITTEE TERMS OF REFERENCE

| Section | Committee | Page |
|---|---|---|
| Governance Process | Scheduled Substances Review Committee (CC02.03) | 1 |
| | | Create Date: February 10, 2012 |

**Accountability and Authority**

The Scheduled Substances Review Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant the *Committee Terms of Reference Governance Process* policy (GP06).

**Limitations**

The Scheduled Substances Review Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized by these Terms of Reference. It has no authority to set policy or made decisions independently of the Council.

**Responsibilities**

The Scheduled Substances Review Committee shall:

- At the direction of Council.:
  - Initiate a call for submissions from and/or undertake consultations with stakeholders regarding amendments to the Tables of the General Regulation and the laboratory tests and specimen collections authorized under the *Laboratory and Specimen Collection Centre Licensing Act* (LSCCLA);
  - Review feedback provided and make recommendations to the Council regarding proposed changes to the regulations;
- Annually review all program policies and procedures and report to the Council on the outcome of the review and make any recommendations for amendments;
- Bi-annually review relevant regulations made under the *Naturopathy Act, 2007* and the LSCCLA (as it applies to the profession), including but not necessaril limited to the Tables within the General Regulation.
- Undertake any other duties with respect to the Schedules of Substances under the Controlled Acts Regulation and laboratory testing and specimen collection under the LSCCLA as assigned by the Council.

**Composition and Appointment**

The Scheduled Substances Review Committee shall be appointed by Council and shall be comprised of at least five (5) but as many members as the Council deems appropriate, including:

- one (1) or more Members who are Council members;
- one o(1) r more Public Members who are Council members;
- one (1) or more Members who are not Council members;
- Any number of members of the public who are not Council members.

The Council shall appoint the Chair of the Scheduled Substances Review Committee and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.

**Term of Office**

The members of the Scheduled Substances Review Committee shall be appointed annually by Council for approximately one (1) year, or until such time as the Council has made further appointments. The length of service of any member of the Committee is a maximum of six consecutive years, provided they wish to remain on the Committee and their re-appointment is confirmed by the Council.

**Meetings**

The Scheduled Substances Review Committee shall meet on a schedule set by the Committee in advance of the program year, or, at the call of the Chair.

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
|---|---|---|
| April 16, 2012 | December 5, 2018 | Council |

**Deleted:** will review submissions made to the Council of the College of Naturopaths of Ontario for amendments to, including but not necessarily limited to deletions, alterations or additions of drugs or substances to Tables 1, 2, 3, 4, 5 and 6 of the Controlled Acts Regulation as well as any changes to the laboratory testing and specimen collection authorizations within section 8 of the Regulation and the Regulations made under the Laboratory and Specimen Collection Centre Licensing Act (LSCCLA)

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<#>To develop and review, from time-to-time, and submit to Council for approval the forms for use by stakeholders who wish to make a submission for a change (addition, deletion or alteration) to the schedules of substances and laboratory tests established under the Controlled Acts Regulation and laboratory tests and specimen collections authorized under the LSCCLA;¶
<#>To review submissions from Stakeholders on merits and where appropriate make recommendations for acceptance of the amendment to the Council;¶
<#>To review and analyze feedback received from Stakeholders under the mandatory consultation process and present the findings to the Council.¶ ... [1]

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| Governance Process | Scheduled Substances Review Committee (CC02.03) | 2 |
| | | Create Date: February 10, 2012 |

In the event that the Chair of the Committee is unable to preside at the meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected from among the Committee members by the Committee.

**Quorum**

Pursuant to section 12.06 of the By-laws of the College of Naturopaths of Ontario, quorum for meetings of the Scheduled Substances Review Committee shall be three members of the Committee, at least one of which shall be a public member of the Council. In cases of urgency as determined by the Chair, the public member requirement for the purposes of quorum may be waived.

**Reports**

The Committee shall provide a report of its activities annually to the Council, as well as when requested from time to time, subject to any requirements of *the Regulated Health Professions Act, 1991*.

The Chair shall also submit a quarterly report to the Council addressing matters of importance to the Committee.

Updated Feb 19/19

**Deleted:** east once annually to receive recommendations from Panels established by the Chair but may meet any number of additional times as the Chair deems necessary to fulfill the responsibilities of the Committee. ¶

| DATE APPROVED | REVIEW DATE | RESPONSIBLE |
|---|---|---|
| April 16, 2012 | December 5, 2018 | Council |

**Page 1: [1] Deleted** **Andrew Parr** **2/19/19 9:58:00 AM**

The specific duties of the Committee are as follows:

To develop and review, from time-to-time, and submit to Council for approval the forms for use by stakeholders who wish to make a submission for a change (addition, deletion or alteration) to the schedules of substances and laboratory tests established under the Controlled Acts Regulation and laboratory tests and specimen collections authorized under the LSCCLA;

To review submissions from Stakeholders on merits and where appropriate make recommendations for acceptance of the amendment to the Council;

To review and analyze feedback received from Stakeholders under the mandatory consultation process and present the findings to the Council.

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~~Panels of the Scheduled Substances Review Committee shall be appointed from among the members of the Committee by the Chair and shall be comprised of three (3) members of the Committee, one (1) of whom shall be a public member of the Council.~~ The Chair of the Scheduled Substances Review Committee, at the time of appointing a Panel, shall designate one member of the panel as the Chair of the Panel.

The College of Naturopaths of Ontario

# BRIEFING NOTE
# By-law Consultation

**ISSUE:** This is an informational briefing of the Council with respect to upcoming by-law consultations.

## BACKGROUND:

Recently, the Registrar and Legal Counsel have undertaken a comprehensive review of the College's by-laws with the intent of tabling housekeeping amendments.

Under normal circumstances, the Registrar would initiate the consultations and bring to the Council, the proposed changes and all feedback received from the consultations seeking final approval.

As part of the proposed changes to the by-laws are similar to those undertaken by another College that resulted in concerns from stakeholders, it has been determined that in this instance, the Council should be informed prior to the start of consultations.

## DISCUSSION POINTS:

A copy of the proposed changes in the form of a redlined document is attached. As this may be difficult to follow at times, the major areas of changes are summarized as follows.

Housekeeping Changes

A number of housekeeping amendments are being proposed. These are required as the by-laws have gone through a number of changes over time resulting in certain inconsistencies. These inconsistencies are being addressed as follows:

- "Member" is being capitalized when it is referring to a Member of the profession;
- When the term "member" is being used in the context of a Council member or a Committee member or both, it is not capitalized;
- Grammatically,
    - a colon is now being used consistently at the end of an introductory statement and a semi-colon after each subsection;
    - the second to last subsection in each section has "and"; and
    - the last subsection ends with a period.
- Numbers are now being written in full, i.e. thirty, but no longer followed by the numeric value as it is no longer required;
- References to "articles" has been removed in favour of "sections".

Modernization

The by-laws have previously been referring to his/her, he/she. This has been replaced with a more gender neutral approach of "their", "they" and "them".

Committee Composition

The Executive Committee, in a separate report, will recommend to the Council specific changes to the Committee Terms of Reference. These changes, if accepted, will be incorporated directly into the by-laws to ensure consistency between the by-laws and the terms of reference.

There is also an intent to strike from the by-laws provisions that required a majority of Committee members be Members. The intent of the change is merely to provide the Council with the maximum in flexibility in terms of appointments.

Members of the Public

At the request of the Executive Committee, a new provision is being introduced into the by-laws that will allow the Council to appoint members of the public who are not on the Council, i.e. who are not appointed by Order in Council, to the Committees.

This arose out of recent delays in the appointment process for Public Members to Council which made it increasingly difficult for the Committees to convene. It was also a strategy that was employed by another College as a means of retaining public members who added value to the Committee but who were not being reappointed by the Ontario Government.

While generally seen as non-controversial, the other College that brought this change forward received considerable negative feedback from some stakeholders. The concern being raised was that the change moved the College away from the “self-regulatory” model where the profession regulates itself.

As members of Council will know, this College has been one to welcome outside participation of the public, generally through the Citizens’ Advisory Group. Opening up committees to public participation is seen by the Executive Committee as a way of furthering this participation.

Although not raised by other stakeholders, one element of the draft provision for this College is a clear indication that the members of the public must not be Members of another regulated health profession to ensure that there can be no opportunity for interference or perceived interference by other health professions.

**ANALYSIS**

Risk Assessment – The risks from this matter arise from potential for negative feedback. These will be mitigated by providing appropriate information as part of the consultation process. It is important to note that the final decisions will be the Council’s to make and those decisions will be made based in part on feedback received.

Privacy Considerations – There are no privacy considerations with this matter.

Transparency – The consultation process to be initiated by the Registrar is intended to address transparency matters.

Financial Impact – There are no financial implications arising from this matter.

Andrew Parr, CAE
Registrar & CEO
April 2019

The College of Naturopaths of Ontario

# By-laws

# of the

# College of Naturopaths of Ontario

**Amended TBD (based on January 30, 2019 version)**

Editor's Notes for consistency:

- Member is always capitalized in reference to a Member of the profession;
- Member, as in Council member, is never capitalized;
- His or her to be replaced with "their" to be gender neutral
- He or she to be replaced with "they" to be gender neutral
- Numbers are always written in full and no longer followed by numeric in parenthesis "thirty (30)"
- Colon after introductory statement
- Semi-colon after each subsection and either "and" or "or" after second to last subsection
- "article" is used in reference to the by-laws, not "section"
- Always references "these by-laws"

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# By-laws of the College of Naturopaths of Ontario

## 1. INTERPRETATION

**1.01 Definitions**

In these by-laws, unless otherwise defined or required by the context,

| | |
|---|---|
| "Act" | means the *Naturopathy Act, 2007* and includes the regulations made under it; |
| "Auditor" | means the chartered accountant or firm of chartered accountants appointed by Council under article 4.13; |
| "Code" | means the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*; |
| "College" | means the College of Naturopaths of Ontario; |
| "Committee" | means a committee of the College and includes statutory, standing and ad hoc committees and any committee established by Council under these by-laws; |
| "Council" | means the Council established under subsection 6(1) of the Act; |
| "Election Package" | means the Nomination and Consent form, Conflict of Interest Questionnaire, Confirmation of Eligibility form, Education and Undertaking, Fiduciary Agreement, and Agreement Regarding Duties of Members of Council; |
| "Member" | means a person registered with the College; |
| "Payment Schedule" | means a schedule as determined by the Registrar and agreed to by a Member for the periodic payment of annual registration fees; |
| "Professional Association" | means an organized group of Members who promote and advocate for the interests of the profession, but does not include a school whose primary purpose is to educate; |
| "Public Member" | means a person described in subsection 6(1)(b) of the Act; |
| "Registrar" | means the person appointed by Council as Registrar for the College, which includes any person appointed as Interim, Deputy, Assistant or Acting Registrar; |
| "RHPA" | means the *Regulated Health Professions Act, 1991* and includes the regulations made under it; and |
| SCERP | means a specified continuing education or remediation program as set out in the Code. |

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**1.02 Singular and Plural / Masculine and Feminine**

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**1.03 Legislative References**

Any reference in these and all by-laws of the College to a statute, a regulation or a section of a statute or regulation shall be deemed to apply to any re-enactment or amendment of that statute, regulation or section, as the case may be.

**1.04 Consistency with the RHPA and the Act**

All provisions of these and all by-laws of the College shall be interpreted in a manner consistent with the RHPA and the Act and where any inconsistency is found to exist, the inconsistent provision shall, where practical, be severed from the by-law.

**1.05 Calculating Time**

A reference to the number of days between two events means calendar days and excludes the day on which the first event happens and includes the day on which the second event happens.

**1.06 Holidays**

A time limit that would otherwise expire on a holiday or a weekend is extended to include the next day that is not a holiday or a weekend.

## 2. GENERAL

**2.01 Head Office**

The head office of the College shall be in the Province of Ontario, at such place as Council may determine from time to time.

**2.02 Forms**

Certificates of registration and other documentation issued by the College shall be in such form as the Registrar shall provide, from time to time.

## 3. EXECUTION OF CONTRACTS AND OTHER DOCUMENTS

**3.01 General Signing Authority**

Documents requiring execution by the College, such as a contract, may be signed by one of the Registrar or Deputy Registrar together with one of the President, Vice-President or other such person as Council may designate, and all documents so signed are binding upon the College without further authorization or formality.

**3.02 Other Signing Authority**

Instead of, or in addition to, the persons specified in article 3.01, Council may appoint any one or more officers or other persons to sign contracts, documents and instruments in writing on behalf of the College, whether generally or in relation to specific contracts, documents or instruments in writing.

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**3.03 Seal**
The seal, an impression of which is depicted below, shall be the seal of the College.




**3.04 Use of Seal**
The seal of the College shall be affixed to any document that requires the College seal by a person authorized to sign the document on behalf of the College.

## 4. BANKING AND FINANCE

**4.01 Fiscal Year**
The fiscal year of the College shall commence on the first day of April and conclude on the last day of March of the following year.

**4.02 Appointed Bank**
Council shall appoint, from time to time, one or more Canadian banks chartered under the *Bank Act* (Canada) for the use of the College.

**4.03 Authorized Signatories for Amounts Less Than $5,000**
Subject to article 3.02, all cheques, drafts, notes, or orders for payment of money and all notes and acceptances and bills of exchange in an amount less than $5,000 may be signed by the Registrar or Deputy Registrar alone.

**4.04 Authorized Signatories for Amounts of $5,000 or More**
Subject to article 3.02, all cheques, drafts, notes, or orders for payment of money and all notes and acceptances and bills of exchange in an amount of $5,000 or more shall be signed by one of the Registrar or Deputy Registrar and one of the President, Vice-President or such other person as Council may designate.

**4.05 Borrowing**
Subject to any limitation set out in these or any other by-laws of the College, Council may, by resolution:

(i) borrow money on the credit of the College;
(ii) limit or increase the amount or amounts that may be borrowed;
(iii) issue, sell or pledge debt obligations of the College, including, but not limited to, bonds, debentures, notes or other liabilities, whether secured or unsecured; and
(iv) charge, mortgage, hypothecate or pledge all or any of the real or personal property of the College, including book debts, rights, powers, franchises and undertakings, to secure any such securities or any money borrowed, or other debt, or any other obligation or liability of the College.

**4.06 Delegation of Borrowing Authority**
Council may, from time to time, authorize one or more officers, Council members or employees of the College to exercise any or all of the powers set out in article 4.05 in such manner as Council shall determine.

**4.07 Budget**
Council shall accept annually:

(i) an operating expense and revenue budget for the College for each fiscal year; and
(ii) a capital budget for the College for each fiscal year.

**4.08 Expenses**
The President, Vice-President, Deputy Registrar and the Registrar may approve purchases or leasing of goods and acquisition of services in accordance with the following:

(i) the Registrar or Deputy Registrar may authorize expenses not exceeding $25,000 if the expenditure has previously been approved as an item in the College budget;
(ii) one of the Registrar or Deputy Registrar and one of the President, or Vice-President may authorize expenses in excess of $25,000 if the expenditure has previously been approved as an item in the College budget;
(iii) the Registrar or Deputy Registrar may authorize expenses not exceeding $5,000 if the expenditure has not previously been approved as an item in the College budget if the Registrar believes that the expenditure is necessary for the operations of the College; and
(iv) the Executive Committee shall review any proposed expense exceeding $5,000 if the item is not an expenditure in the College budget and shall make recommendations to Council for approval, and if immediate action is required, the Executive Committee may authorize the expenditure.

**4.09 Grants**
The Executive Committee may negotiate the obtaining of a grant on behalf of the College but such agreements shall be approved by Council before they are finalized.

**4.10 Investments**
Funds not immediately required by the College may be invested by the College in accordance with policies established by Council.

**4.11 Safekeeping**
Securities and other financial documents shall be held for safekeeping in the name of the College at its bank.

**4.12 Indemnification**
Every Council member, Committee member and officer or employee or appointee of the College, including assessors, investigators and inspectors, and each of their heirs, executors and administrators and estate, respectively, shall from time to time and at all times be indemnified and saved harmless out of the funds of the College from and against:

(i) all costs, charges, expenses, awards and damages whatsoever that they sustain or incur in any action, suit or proceeding that is brought, commenced or prosecuted against them in respect of any act, deed, matter or thing whatsoever made, done or permitted by them in or about the execution of the duties of their office; and
(ii) all other reasonable costs, charges, expenses, awards and damages that they sustain or incur in or about or in relation to the affairs of the College;

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except such costs, charges, expenses, awards or damages as are occasioned by their own wilful neglect or default. Where the person is a commercial service provider (e.g., a private investigator hired to conduct an investigation), the College has discretion as to whether or not to provide indemnity.

**4.13 Appointment of Auditor**
Council shall appoint a chartered accountant or a firm of chartered accountants to audit the accounts of the College and to prepare financial statements for each fiscal year.

**4.14 Term of Office**
The Auditor shall remain in office until removed by Council.

**4.15 Audited Financial Statements and Report**
The audited financial statements of the College, together with a signed and certified copy of the Auditor's report, shall be presented annually to Council.

**4.16 Deadline for Report**
The report of the Auditor shall be prepared within one hundred twenty (120) days of the close of the fiscal year for presentation to Council.

## 5. OFFICERS – GENERAL

**5.01 Officers of the College**
The officers of the College shall be the President, Vice-President, Officers-at-Large who are elected to the Executive Committee, and such other officers as Council may determine.

**5.02 Term of Office**
The term of office for each officer of the College shall commence immediately following their election as an officer and shall continue for approximately one (1) year until the next election for officers.

**5.03 Maximum Term of Office**
The maximum term of office is three (3) consecutive, full-year terms.

## 6. ELECTION OF OFFICERS

**6.01 Eligibility for Nomination**
Only a Council member is eligible for nomination or election as an officer of the College.

**6.02 Election Procedure**
At the first regular Council meeting after the elections for Council members, Council shall elect by secret ballot from among those Council members eligible for election the President, Vice-President, Officers-at-Large, and any other officer positions, in accordance with Council policy.

**6.03 Filling Vacancies (President)**
In the event that the President is removed from office, resigns or dies or the position of President becomes vacant for any reason, the Vice President shall become the President for the remaining term of the office and the office of the Vice-President shall become vacant.

**6.04 Filling Vacancies (Vice-President and Officers-at-Large)**

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In the event that the Vice-President or an Officer-at-Large is removed from office, resigns or dies or any of the positions become vacant for any reason, Council may elect a new Council member to hold the office for the remaining term of office, in accordance with Council policy.

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## 7. DUTIES OF OFFICERS

### 7.01 Duties of the President

The President shall:

(i) if present, preside as Chair at all meetings of the Council unless the President designates an alternate Chair, including persons not on Council who would act as a non-voting Chair, for all or any portion of the meeting;
(ii) serve as Chair of the Executive Committee;
(iii) perform those duties assigned to the President in the by-laws; and
(iv) perform all duties and responsibilities pertaining to his or her office and such other duties and responsibilities as may be decided by Council.

### 7.02 Duties of the Vice-President

The Vice-President shall:

(i) perform the duties of the President in the event that the President is unable to perform those duties;
(ii) perform those duties assigned to the Vice-President in the by-laws;
(iii) serve on the Executive Committee; and
(iv) perform all duties and responsibilities pertaining to his or her office and such other duties and responsibilities as may be decided by Council.

### 7.03 Duties of Officers-at-Large and other Officers

An Officer-at-Large and any other officer of the College shall:

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(i) serve on the Executive Committee; and
(ii) perform all duties and responsibilities as may be decided by Council.

## 8. THE REGISTRAR

### 8.01 Appointment of the Registrar

The Registrar shall be appointed by Council and, despite subsection 12(1) of the Code, the Executive Committee shall not exercise the authority of Council under this article.

### 8.02 Duties of the Registrar

The Registrar shall be the Chief Executive Officer of the College and shall have such duties and responsibilities as are conferred by the Act, the RHPA, the by-laws and the policies of the College as well as such duties and responsibilities assigned to the position by Council.

### 8.03 Acting Registrar

In the absence of the Registrar, the Deputy Registrar, or if the office of Deputy Registrar is vacant a senior staff member appointed in writing by the Registrar, shall be the Acting Registrar until the Registrar returns. During an extended absence of more than three (3) consecutive months, the Executive Committee may appoint an Interim Registrar to serve until such time as the Registrar returns or the position become vacant.

~~If a vacancy occurs in the office of the Registrar, the Executive Committee or Council shall appoint an Acting Registrar until a Registrar is appointed, and during extended absences, the Registrar may appoint, in writing, a senior staff member to serve as the Acting Registrar during the Registrar's absence.~~

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## 9. COUNCIL - GENERAL

**9.01 Authority of Council**
Council shall perform the functions assigned to it under the Act and the Code.

**9.02 Per Diem**
Council officers, who are Members, elected Council, and appointed Committee members shall be paid a per diem and shall be reimbursed by the College for travelling and other expenses reasonably incurred in relation to the performance of their duties in accordance with the Per Diem and Expenses policy as approved from time to time by Council.

**9.03 Composition of Council**
Council shall be composed of eight (8) Members and as many Public Members as are appointed by Lieutenant Governor in Council in accordance with subsection 6(1) of the Act.

**9.04 Term of Office**
The term of office of an elected Council member shall commence at the first Council meeting immediately after the election and shall continue for approximately three (3) years until their successor takes office in accordance with these by-laws, or until the Council member resigns or is removed from Council, or until such other time designated by Council, whichever occurs first.

## 10. ELECTION OF COUNCIL MEMBERS

**10.01 Electoral Districts**
The following electoral districts are established for the purposes of the election of Council Members (with necessary modifications by the Registrar to ensure any missing or new postal codes are added to the district they believe is most appropriate such that the entire province is covered and that there is no overlap of Districts):

Electoral district 1, the West composed of communities served by the postal codes beginning with "N", excluding the following postal codes: N0A, N0C, N0E, N0G, N0H, N1A, N2Z, N3L, N3P, N3R, N3S, N3T, N3V, N3W, N3Y, N4B, N4K, N4L, N4N, N4W;

Electoral district 2, the South composed of communities served by the postal codes: L0J, L0P, L0R, L0S, L2A, L2E, L2G, L2H, L2J, L2M, L2N, L2P, L2R, L2S, L2T, L2V, L2W, L3B, L3C, L3K, L3M, L6H, L6J, L6K, L6L, L6M, L6P, L6R, L6S, L6T, L6V, L6W, L6X, L6Y, L6Z, L7A, L7C, L7G, L7J, L7K, L7L, L7M, L7N, L7P, L7R, L7S, L7T, L8E, L8G, L8H, L8J, L8K, L8L, L8M, L8N, L8P, L8R, L8S, L8T, L8V, L8W, L9A, L9B, L9C, L9G, L9H, L9K, L9T, N0A, N0E, N1A, N3L, N3P, N3R, N3S, N3T, N3V, N3W, N3Y, N4B;

Electoral district 3, the Toronto West composed of communities served by the postal codes: M2R, M3H, M3J, M3K, M3L, M3M, M3N, M3R, M4R, M4V, M5G, M5H, M5J, M5K, M5L, M5M, M5N, M5P, M5R, M5S, M5T, M5V, M5X, M6A, M6B, M6C, M6E, M6G, M6H, M6J, M6K, M6L, M6M, M6N, M6P, M6R, M6S, M7A, M8V, M8W, M8X, M8Y, M8Z, M9A, M9B, M9C, M9L, M9M, M9N, M9P, M9R, M9V, M9W;

Electoral district 4, the Toronto East composed of communities served by the postal codes: M1B, M1C, M1E, M1G, M1H, M1J, M1K, M1L, M1M, M1N,

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Electoral district 5, the South Central composed of communities served by the postal codes: L1S, L1T, L1V, L1W, L1X, L1Y, L1Z, L3P, L3S, L3R, L3T, L4A, L4B, L4C, L4E, L4G, L4H, L4J, L4K, L4L, L4S, L4T, L4V, L4W, L4X, L4Y, L4Z, L5A, L5B, L5C, L5E, L5G, L5H, L5J, L5K, L5L, L5M, L5N, L5P, L5R, L5S, L5T, L5V, L5W, L6A, L6B, L6C, L6E, L6G, M7R;

Electoral district 6, the North Central composed of communities served by the postal codes: L0A, L0B, L0C, L0E, L0G, L0H, L0K, L0L, L0M, L0N, L1A, L1B, L1C, L1E, L1G, L1H, L1J, L1K, L1L, L1M, L1N, L1P, L1R, L3V, L3X, L3Y, L3Z, L4M, L4N, L4P, L4R, L7B, L7E, L9J, L9L, L9M, L9N, L9P, L9R, L9S, L9V, L9W, L9Y, L9Z, N0C, N0G, N0H, N2Z, N4K, N4L, N4N, N4W;

Electoral district 7, the East composed of communities served by the postal codes beginning with "K"; and

Electoral district 8, the North composed of communities served by the postal codes beginning with "P".

**10.02 Number of Members per Electoral District**

There will be one (1) Member elected to the Council from each electoral district.

**10.03 Election Date**

Election of Council members shall be held on a date determined by the Registrar between January and March, inclusive, of each year, according to the following schedule:

(i) there shall be an election for electoral districts 2 (South), 4 (Toronto East), and 6 (North Central) in 2015 and every third year thereafter;

(ii) there shall be an election for electoral districts 1 (West), 3 (Toronto West), and 5 (South Central) in 2015, again in 2016 and every third year thereafter; and

(iii) there shall be an election for electoral districts 7 (East) and 8 (North) in 2015, again in 2017 and every third year thereafter.

**10.04 Number of Members Elected**

The number of Council members elected each year shall correspond to the sum of:

(i) the number of Council members whose terms of office have expired or will expire on the day of the first Council meeting after the elections; and

(ii) the number of Council members whose seats have become vacant and have not been filled.

**10.05 Eligibility for Election**

A Member is eligible for election to Council if the Member has been nominated in accordance with these by-laws, the Member has completed and returned the Election Package and if, on the deadline for the receipt of nominations and up to and including the date of the election:

(i) repealed;

(ii) the Member is principally engaged in the practise of the profession in the electoral district for which they are nominated or, if the Member is not engaged

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in the practise of the profession, the Member principally resides in the electoral district for which they are nominated;

(iii) the Member is not in default of payment of any fees to the College;

(iv) the Member is not the subject of any disciplinary or incapacity proceeding;

(v) the Member has not been the subject of any professional misconduct, incompetence or incapacity finding in the preceding three (3) years;

(vi) the Member's certificate of registration has not been revoked or suspended in the preceding six (6) years for any reason other than non-payment of fees;

(vii) the Member's certificate of registration is not subject to a term, condition, or limitation imposed by either the Discipline Committee or the Fitness to Practise Committee;

(viii) the Member has agreed to resign, before taking office, any position such as director, owner, board member, officer or employee that the Member holds with a professional association relating to naturopathy;

(ix) the Member has agreed to resign, before taking office, any position such as director, owner, board member, or officer that the Member holds with an educational institution relating to naturopathy;

(x) the Member has not been disqualified from Council within the preceding three (3) years;

(xi) the Member is not a member of a council of any other college regulated under the RHPA;

(xii) the Member is not an employee of the College;

(xiii) the Member does not have a conflict of interest to serve as a member of Council or has agreed to remove any such conflict of interest before taking office;

(xiv) the Member has substantially complied with the Election Guidelines of the College; and

(xv) the Member is not in any default of returning any required form or information to the College.

**10.06 Eligibility to Vote**

A Member is eligible to vote in an election for Council members if, on the day of the election, the Member:

(i) holds a certificate of registration;

(ii) has their principal place of practice or, if the Member does not practise the profession, their principal place of residence, in the electoral district for which an election is being held;

(iii) is not in default of any fees or other amounts owed to the College; and

(iv) is not in default of returning any required form or information to the College.

**10.07 Disputes**

Any disputes regarding a Member's eligibility to vote in an election shall be decided by the Nominations and Elections Committee.

**10.08 Notice of Election and Nominations**

At least ninety (90) days before the date of an election, the Registrar shall notify every Member of the date of the election and of the nomination procedure, including the deadline for submitting nominations to the College.

**10.09 Nomination Deadline**

The nomination of a candidate for election as a Council member shall be in writing and shall be received by the Registrar at least sixty (60) days before the date of the election.

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**10.10 Signed Nominations**
The nomination shall be signed by at least three (3) Members eligible to vote in the electoral district in which the nominee intends to run who support the nomination and shall also be signed by the nominee as a signal of their consent to the nomination.

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**10.11 Confirmation of Eligibility**
The Registrar shall request every nominee to confirm their eligibility for election to Council in writing and any nominee who fails to provide such confirmation in the manner and by the deadline set by the Registrar shall not be eligible for election.

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**10.12 Election Package**
The Registrar shall request every nominee to complete and return the Election Package and any nominee who fails to complete and return the questionnaire in the form and by the deadline set by the Registrar shall not be eligible for election.

**10.13 Personal Statement**
The Registrar shall invite every nominee to provide a biography and personal statement by the deadline established by the Registrar, and any biography and personal statement that is not submitted by the deadline set by the Registrar and in the form acceptable to the Nominations and Election Committee, shall not be included with the materials sent to Members under article 10.17.

**10.14 Withdrawal of Nominations**
A candidate may withdraw from an election by giving notice, in writing, to the Registrar and paying the fee specified in Schedule 3. Upon receiving written notice of a candidate's withdrawal from the election, the Registrar shall make reasonable efforts to remove the name of the candidate from the ballot and, if the Registrar is unable to remove the name of the candidate from the ballot in a sufficiently timely manner, the Registrar shall make reasonable efforts to notify the Members eligible to vote that the candidate has withdrawn from the election.

**10.15 Acclamation**
If, following the deadline for the return of the conflict of interest questionnaire and the written confirmation of eligibility, the Registrar determines that the number of eligible candidates nominated for an electoral district is less than or equal to the number of Council members to be elected in that district, the Registrar shall declare those candidates who are eligible for election to be elected by acclamation and shall notify the candidates and the Members of this result in the manner the Registrar deems most expedient and practical.

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**10.16 Registrar's Electoral Duties**
The Registrar or, if the Registrar so requests, the Registrar with the assistance of the Nominations and Elections Committee, shall supervise and administer the election of candidates and, without limiting the generality of the above, the Registrar may, subject to these by-laws:

(i) appoint returning officers and scrutineers;
(ii) establish procedures and any necessary deadlines including procedures and deadlines relating to the receipt of nominations, biographies and personal statements and ballots (or equivalent if voting is done electronically);
(iii) establish procedures for the opening and counting of ballots (or equivalent if voting is done electronically);

(iv) provide for the notification of the results of the election to all candidates and Members;
(v) provide for the destruction of ballots (or equivalent if voting is done electronically) following an election; and
(vi) do anything else that the Registrar deems necessary and appropriate to ensure that the election is fair and effective.

**10.16.1 Supplemental Election Procedures**

If no nominations are received in an Electoral District by the deadline referred to in article 10.03, there shall be a supplementary election and:

(i) the provisions of these by-laws that apply to the conduct of elections shall apply to the conduct of supplementary elections, with all necessary modifications;
(ii) the term of office of a Council member elected in a supplementary election shall commence upon acclamation or election and shall continue until the end of the term of office prescribed in article 9.04 for a Member elected in the electoral district in which that Member was elected; and
(iii) the necessity for a Supplemental Election shall not prevent the election of the officers of the College at the time set out in article 6.02 of the by-laws.

**10.16.2 Further Supplemental Election Procedures**

If no nominations are received in an Electoral District by the deadline set in a supplemental election held in accordance with article 10.16.1, Council may:

(i) appoint a Member who is eligibile for election set out in article 10.05; or
(ii) direct the Registrar to hold a supplemental election in accordance with article 10.16.1.

**10.17 Voting Process**

No later than thirty (30) days before the date of an election, the Registrar shall send every Member eligible to vote in the election a list of the eligible candidates, the biography and personal statement of every eligible candidate who has submitted one by the deadline established by the Registrar and in the form acceptable to the Nominations and Elections Committee, a ballot (or equivalent if voting is done electronically) and an explanation of the voting process.

**10.18 Ballot Verification**

Ballots (or equivalent if voting is done electronically) returned to the College must be received by the College at or before the date and time specified for the election in order to be counted in the vote.

**10.19 Number of Votes Cast**

A Member may cast one ballot (or equivalent if voting is done electronically) in an election.

**10.20 Results**

As soon as practicable after the ballots (or equivalent if voting is done electronically) have been counted, the Registrar shall advise the Members of the results of the election and shall advise each eligible candidate of the results of the election, the number of votes they received and the candidate's right to request a recount in accordance with article 10.22.

**10.21 Tie Votes**

In the event that a winner cannot be declared because two (2) or more candidates have received the same number of votes, the Registrar shall break the tie by lot.

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**Commented [AP5]:** Originally said: A Member may cast as many votes on a ballot (or equivalent if voting is done electronically) in an election of Members to Council as there are Members to be elected from that electoral district, but shall not cast more than one (1) vote for any candidate.

Article 10.02 says that there shall be one (1) Member elected from each electoral district. This section is not needed and may cause confusion.
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**10.22 Request for Recount**
A candidate may require a recount by delivering a written request to the Registrar no more than seven (7) days after the date they are notified of the result of the election and by paying the fee specified in Schedule 3.

**10.23 Manner of Recount**
The Registrar shall hold a recount no more than fifteen (15) days after receiving a written request and the recount shall be conducted in as transparent a manner as the voting system reasonably permits.

**10.24 Change in Results**
In the event that the recount changes the election outcome, the candidate requiring the recount is entitled to reimbursement of the fee required under article 10.22.

**10.25 Proxy Voting**
A Member cannot vote in an election by means of a proxy.

**10.26 Referral of Disputes to Nominations and Elections Committee**
If the Executive Committee is of the opinion that there are reasonable grounds to doubt or dispute the validity of the election of any Council member, the Executive Committee shall refer the matter to the Nominations and Elections Committee.

**10.27 Report and Recommendation of Nominations and Elections Committee**
Where a matter has been referred to the Nominations and Elections Committee under article 10.26, the Nominations and Elections Committee shall hold an inquiry into the validity of the election of the Council member in question and, following the inquiry, shall make a report and recommendation(s) to Council.

**10.28 Options Available to Council**
Council may, after reviewing the report and recommendation(s) of the Nominations and Elections Committee and subject to article 10.29, do one of the following:

(i) declare the election result in question to be valid; or
(ii) declare the election result in question to be invalid; and either:
  (a) declare another candidate to have been elected; or
  (b) direct that another election be held.

**10.29 Minor Irregularities Not Fatal**
Council shall not declare an election result to be invalid solely on the basis of a minor irregularity regarding the requirements of these by-laws or a procedure established by the Registrar and / or the Nominations and Election Committee.

**10.30 Disqualification of Elected Members**
Council shall disqualify an elected Council member, if the they:

(i) resign from Council;
(ii) cease to hold a certificate of registration;
(iii) are in default of payment of any fee or information return prescribed by these by-laws for a period of more than sixty (60) days;
(iv) are found to have committed professional misconduct or to be incompetent by a panel of the Discipline Committee;
(v) are found to be incapacitated by a panel of the Fitness to Practise Committee;

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(vi) retain or obtain a responsible position such as director, owner, board member or officer or retain employment or becomes an employee of any professional association relating to naturopathy;
(vii) become a member of a council of any other college regulated under the RHPA;
(viii) fail, without reasonable cause, to attend two (2) consecutive meetings of Council;
(ix) are convicted of a criminal offence which is of a nature that warrants disqualification;
(x) fail to discharge properly or honestly any office to which they have been elected or appointed.
(xi) fail, without cause, to attend three (3) consecutive meetings of a Committee to which they are appointed;
(xii) fail, without cause, to attend a hearing or review panel for which they have been selected;
(xiii) cease to either practise or reside in Ontario; or
(xiv) retain or obtain a responsible position such as a director, owner, board member or officer of any educational institution relating to naturopathy.

**10.31 Registrar's Receipt of Information**
If the Registrar receives information that suggests that an elected Council member meets one or more of the criteria for disqualification set out in article 10.30, the Registrar shall follow the procedure set out in article 15.02. Where the Registrar has reasonable and probable grounds to believe that a Council member meets the criteria for disqualification and no one else has made a complaint, the Registrar shall make a complaint in writing.

**10.32 Effect of Disqualification**
An elected Council member who is disqualified by Council ceases to be a member of Council and ceases to be a member of any Committee to which they have been appointed.

**10.33 Filing of Vacancies**
If the seat of an elected Council member becomes vacant less than twelve (12) months before the expiry of the term of office, Council may,
(i) leave the seat vacant;
(ii) appoint a Member who meets the criteria for eligibility for election set out in article 10.05; or
(iii) direct the Registrar to hold a by-election in accordance with these by-laws.

**10.34 By-Election Required**
If the seat of an elected Council member becomes vacant more than twelve (12) months before the expiry of the term of office, the Registrar shall hold a by-election in accordance with these by-laws.

**10.35 Manner of Holding By-Elections**
A by-election shall be held in the same manner and shall be subject to the same criteria and processes as a regular election, subject to any necessary modifications.

**10.36 Term of Office for Members Filling Vacancies**
The term of office of a Member appointed or elected to fill a vacancy shall commence on the day of the appointment or election, as the case may be, and shall continue until the date that the former Council member's term would have expired.

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## 11. COUNCIL MEETINGS

**11.01 Location and Frequency of Meetings**
A Council meeting shall, wherever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for Council to conduct its business but shall, in any event, occur at least three (3) times per year.

**11.02 Notice of Meetings**
Subject to article 11.17, the Registrar shall notify Council members of the meeting, setting out the date, time and place of the meeting and the general nature of the business to be transacted at least ten (10) days before the date of the meeting.

**11.03 Waiver of Notice**
A Council member may, at any time, waive the requirement for notice of a meeting.

**11.04 Business at Meetings**
Council may only consider or transact at a regular meeting:

(i) matters on the agenda;
(ii) matters brought by the Executive Committee or the Registrar;
(iii) recommendations and reports by Committees;
(iv) matters for which notice was given by a Council member at the preceding meeting or where written notice was given at least 30 (thirty) days in advance of the meeting; and
(v) such other matters, not included on the agenda, as the majority of members in attendance determine to be of an urgent nature.

**11.05 Secretary**
Repealed.

**11.06 Chair**
The President acts as Chair of Council unless the President has designated an alternate Chair, including a person not on Council who would act as a non-voting Chair, for all or any portion of the meeting, and in the event that the President is absent and has not designated an alternate Chair, Council shall elect, from amongst their number, a Council member to serve as Chair at that meeting.

**11.07 Manner of Meeting**
Any meeting of Council may be conducted by means of teleconference or any other means that permits all persons participating in the meeting to communicate with each other simultaneously and instantaneously (including audio or video conferencing), and persons participating in the meeting by such means are deemed to be present at the meeting.

**11.08 Quorum**
Unless specifically provided for otherwise under the Act, the RHPA or the by-laws, a simple majority of Council members shall constitute a quorum for the purpose of a meeting.

**11.09 Simple Majority**
Unless specifically provided for otherwise under the Act, the RHPA or the by-laws, every motion which properly comes before Council shall be decided by a simple majority of the votes cast at the meeting by the Council members present.

**11.10 Chair Votes**
If the Chair is a Council member, they may vote.

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**11.11 Tie Votes**
In the event of a tie vote, the motion is defeated.

**11.12 Resolution**
A resolution signed by all Council members, including a resolution where all or some of them have signed by facsimile or email, is valid and effective as if passed at a meeting of Council held for the purpose.

**11.13 Rules**
Except where inconsistent with the RHPA, the Act, or these by-laws, the rules of order for meetings of Council are set out in Schedule 2.

**11.14 Minutes**
The Registrar shall ensure that accurate minutes of all Council meetings are recorded, approved and maintained at the College office.

**11.15 Adjournments**
Whether or not a quorum is present, the presiding Chair may, from time to time, with the consent of the majority of Council members present and voting, adjourn any properly called meeting to a fixed time and place, and any matter brought before the original meeting may be considered and transacted at a reconvened meeting provided that a quorum is present.

**11.16 Calling Special Meetings**
The President may call and convene a special meeting of Council:

(i) at their discretion;
(ii) upon receipt of the written request of any six (6) Council members; or
(iii) if a request is received from the Executive Committee under article 15.02.

**11.17 Notice of Special Meetings**
The Registrar shall notify Council members of the special meeting, setting out the date, time and place of the meeting and the general nature of the business to be transacted, at least five (5) days prior to the date of the meeting, and Council may only consider or transact at a special meeting those items of business contained in the notice.

**12. COMMITTEES – GENERAL**

**12.01 Duties and Responsibilities**
The duties and responsibilities of each Committee shall be those set out in the RHPA, the Act, the by-laws and the terms of reference for that Committee, as approved by Council, where applicable.

**12.02 Non-Statutory Committees**
In addition to the statutory committees required by the Code, the Council may establish and maintain any additional Committee, planning or working groups deemed necessary for the efficient functioning of the College.

**12.03 Composition of Committees**
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**12.04 Ratios**
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**12.05 Vacancies**
Despite anything in these by-laws, a Committee is properly constituted despite any vacancy so long as there are sufficient Members to form a quorum of the Committee or a panel of the Committee.

**12.06 Quorum**
The quorum of any Committee is three (3) Committee members, unless otherwise provided in the Act, or if the Committee is composed of only three (3) members, the quorum for such a Committee shall be two (2) Committee members.

**12.07 Panels**
A committee may meet in panels selected by the Chair of the Committee.

**12.08 Standing Panels**
Despite article 12.07, Council may appoint standing panels of a Committee, each with its own Chair, which standing panels may be subdivided into panels by the Chair of the standing panel.

## 13. SPECIFIC COMPOSITION AND SELECTION OF COMMITTEES

**13.01 Executive Committee**
The Executive Committee shall be composed of the President, the Vice-President and three (3) Council members who shall be Officers-at-Large, of which three (3) shall be Members and two (2 shall be Public Members. One of, but not both, the President or Vice-President shall be a Public Member who is a Council member.

**13.02 Registration Committee**
The Registration Committee shall be comprised of no fewer than three members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Member who is a Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least one (1) Member who is not a Council member; and
(iv) any number of members of the public who are not Council members.

**13.03 Inquiries, Complaints and Reports Committee**
The Inquiries, Complaints and Reports Committee shall be composed of no fewer than three (3) members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Members who is a Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least one (1) Member who is not a Council member; and
(iv) any number of members of the public who are not Council members.

**13.04 Discipline Committee**
The Discipline Committee shall be composed of no fewer than five members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Member Council member;
(ii) at least two (2) Public Members who are Council members;
(iii) at least two (2) Members who are Council members; and
(iv) any number of members of the public who are not Council members.

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**13.05 Fitness to Practise Committee**

The Fitness to Practise Committee shall be comprised of no fewer than five members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Member who is Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least two (2) Members who are not Council members; and
(iv) any number of members of the public who are not Council members.

**13.06 Quality Assurance Committee**

The Quality Assurance Committee shall be composed of no fewer than three members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Member who is a Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least one (1) Member who is not a Council member; and
(iv) any number of members of the public who are not Council members.

**13.07 Patient Relations Committee**

The Patient Relations Committee shall be composed of no fewer than three members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Member who is a Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least one (1) Member who is not a Council member; and
(iv) any number of members of the public who are not Council members.

**13.08 Examination Appeals Committee**

The Examination Appeals Committee shall be composed of no fewer than three members, but as many members as the Council deems appropriate, none of whom shall be members of the Registration Committee, including::

(i) at least one (1) Member who is a Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least one (1) Member who is not a Council member; and
(iv) any number of members of the public who are not Council members.

**13.08.1 Inspection Committee**

The Inspection Committee shall be composed of no fewer than three members, but as many members as the Council deems appropriate, including:

(i) at least one (1) Member who is a Council member;
(ii) at least one (1) Public Member who is a Council member;
(iii) at least one (1) Member who is not a Council member; and
(iv) any number of members of the public who are not Council members.

**13.09 Appointment of Committee Members**

Unless otherwise stated in these by-laws, every Committee member shall be appointed by Council with the exception of the Executive Committee, whose members shall be elected to office in accordance with these by-laws.

**13.10 Appointment of Non-Council Members**

Subject to any specific composition requirements in these by-laws, Council may, at its discretion, appoint Members who are not Council members to any Committee.

**13.10.1 Appointment of Non-Council Members of the Public**

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The Council may, at its discretion, appoint members of the public who are not Council members and are not members of any health professions as set out in Schedule 1 of the RHPA, to any Committee except the Executive Committee.

**13.11 Terms of Office of Committee Members**

The term of office of a Committee member shall commence immediately after the appointment and shall continue for approximately one (1) year.

**13.12 Chairs**

Unless stated otherwise in these by-laws, the Chair or Chairs of each Committee shall be appointed by Council.

**13.13 Decisions Regarding Appointments**

In making an appointment under article 13.09, 13.10, or 13.10.1 Council shall take into consideration the location of practice, if applicable, as well as the experience, expertise, availability and other qualifications and characteristics of the Member, Public Member or member of the public, in order to complement the attributes of the other Committee members or members of the working group.

**13.14 Eligibility for Appointment**

A Member is eligible for appointment to a Committee, if on the date of the appointment:

(i) repealed;
(ii) the Member is not in default of payment of any fees prescribed by College by-law;
(iii) the Member is not the subject of any disciplinary or incapacity proceeding;
(iv) the Member has not been the subject of any professional misconduct, incompetence or incapacity finding in the preceding three (3) years;
(v) the Member's certificate of registration has not been revoked or suspended in the preceding six (6) years for any reason other than non-payment of fees;
(vi) the Member's certificate of registration is not subject to a term, condition, or limitation imposed by either the Discipline Committee or the Fitness to Practise Committee;
(vii) the Member has agreed to and does resign, before taking office, any position such as director, owner, board member, officer or employee that the Member holds with a professional association relating to naturopathy;
(viii) the Member has agreed to and does resign, before taking office, any position such as director, owner, board member, or officer that the Member holds with an educational institution relating to naturopathy;
(ix) the Member has not been disqualified from Council within the preceding three (3) years;
(x) the Member is not a Council member of any other college regulated under the RHPA;
(xi) the Member is not an employee of the College; and
(xii) the Member is not in any default of returning any required form or information to the College.

**13.15 Removal of Committee Members**

Despite the other provisions of these by-laws that permit the removal of a Committee member in specific circumstances, Council may also remove a Committee member at its pleasure.

**13.16 Ad hoc Committee**

Despite article 13.14 and the provisions of these by-laws relating to conflicts of interest and the removal of Committee members, Council may appoint ad hoc committees whose

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composition is not in compliance with articles 13.14(vii), (viii) and 13.14(x) where the mandate and purpose of the ad hoc committee includes stakeholder participation, in which case the mere holding of the position described in articles 13.14(vii), (viii) and 13.14(x) shall not, by itself, be grounds for removal from the ad hoc committee.

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## 14. COMMITTEE MEETINGS

### 14.01 Location and Frequency of Meetings

Committee meetings shall, wherever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as is necessary for the Committee to conduct its business.

### 14.02 Manner of Meeting

Any meeting of a Committee, other than a hearing that must be held in person, may be conducted by means of teleconference or any other means that permits all persons participating in the meeting to communicate with each other simultaneously and instantaneously (including audio or video conferencing), and persons participating in the meeting by such means are deemed to be present at the meeting.

### 14.03 Chair

In the event that the Chair of the Committee is unable or unwilling to preside at the meeting, the Committee members shall select, from amongst their number, a Committee member to serve as Chair for the purposes of that meeting.

### 14.04 Minutes

The Chair of each Committee shall ensure that accurate minutes of all Committee meetings and proceedings are recorded, approved and maintained at the College office.

### 14.05 Simple Majority

Unless specifically provided for otherwise under the Code or these by-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

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### 14.06 Chair Votes

If the Chair is a member of the Committee, they may vote.

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### 14.07 Tie Votes

In the event of a tie vote, the motion is defeated.

## 15. DUTIES OF COUNCIL AND COMMITTEE MEMBERS

### 15.01 Expectations and Duties

Council and Committee members shall, in the performance of their duties:

(i) familiarize themselves with the Act, the RHPA, these by-laws and any policies of the College;

(ii) familiarize themselves with any other records, documents and guidelines that may be necessary for the performance of their duties;

(iii) comply with the provisions of the Act, the RHPA, these by-laws, any policies of the College and rules that are adopted by Council, from time to time;

(iv) regularly attend meetings on time and participate constructively in discussions;

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(v) ensure that confidential matters coming to their attention as a Council or Committee are not disclosed by them, except as required for the performance of their or as permitted by the RHPA;
(vi) conduct themselves in an appropriate manner with College staff, other Council or Committee members, Members and members of the public;
(vii) comply with the College's Code of Conduct, as set out in the College's governance policies established by Council;
(viii) avoid, or where that is not possible, declare all conflicts of interest in the manner set out in these by-laws;
(ix) step down from their position as Council and/or Committee member in the event that allegations regarding their conduct, competence or capacity are referred to the Discipline Committee or Fitness to Practise Committee until such time as the matter has been finally disposed of; and
(x) perform the duties associated with their position conscientiously, in good faith, and with due care and diligence in a manner that serves and protects the public interest.

**15.02 Removal of Council or Committee Member**

The following procedure shall be followed in the event that a Council or Committee member is alleged to have contravened the duties of a Council or Committee member or meets the criteria for disqualification set out in article 10.30:

(i) a written complaint, which can be made by a member of the public, a Council or Committee member, shall be filed with the Registrar, and if a Council or Committee member receives such a complaint, they shall immediately file it with the Registrar;
(ii) the Registrar shall report the complaint to the President and/or the Vice-President, who shall bring the complaint to the Executive Committee if they believe that the complaint may warrant formal action;
(iii) if the Executive Committee, after any investigation it deems appropriate, believes that the complaint warrants formal action, it shall request a meeting of the Council, which shall determine whether there has been a breach of duties or whether the criteria for disqualification have been met and, if so, impose the appropriate sanction, which can include one or more of the following:
  (a) censure of the member verbally or in writing;
  (b) removal of the member from any Committee and/or working group on which they serve;
  (c) disqualification of an elected member of Council from the Council, or a report requesting removal of the member concerned from the Council to the Public Appointments Secretariat; or
  (d) where the Council member is a Public Member, write to the Minister of Health and Long-Term Care requesting the removal of that Council member;
(iv) A Council or Committee member whose conduct is subject of concern shall be given a reasonable opportunity to respond to any allegations against them;
(v) A Council or Committee member whose conduct is the subject of concern shall not take part in the deliberation or vote on the matter;
(vi) a decision finding that there has been a breach of duties or that a decisions that a Council or Committee member meets the criteria for disqualification set out in article 10.30, or a decision to impose a particular sanction must be approved by a two-thirds affirmative vote of the Council members present and voting;

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(vii) the Registrar shall notify the Council or Committee member of the decision of the Council.

## 16. CONFLICTS OF INTEREST

### 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.

### 16.02 Duty to Avoid Conflicts of Interest

All Council and Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public, and as such, they must not engage in activities or in decision making concerning any matters where they have a direct or indirect personal or financial interest, and all Council and Committee members have a duty to uphold and further the intent of the Act to regulate the practice and profession of naturopathy in Ontario, and not to represent the views of advocacy or special interest groups.

### 16.03 Recognition of Conflict

Council and Committee members recognize that a conflict of interest or an appearance of a conflict of interest could:,

(i) bring discredit to the College;
(ii) amount to a breach of their fiduciary obligation to the College; and
(iii) create liability for either the College and/or the person involved.

### 16.04 Conflicts Relating to Involvement with external organizations

Without limiting the generality of article 16.01, a member of Council or a Committee members shall be perceived to have a conflict of interest in a matter and shall not serve on Council or its Committees at all if they hold:

(i) a responsible position in any professional association relating to naturopathy, including but not necessarily limited to a position as director, owner, board member, or officer in or is an employee; or
(ii) a responsible position in any educational institution relating to naturopathy, including but not necessarily limited to a position as director, owner, board member, or officer.

### 16.05 Conflicts Relating to Position in Other Organizations

Council or Committee members shall be perceived to have a conflict of interest in a matter and shall refrain from participating in any discussion or voting if they hold a responsible position such as director, owner, board member, or officer in or are employees of another organization where their duties may be seen by a reasonable person as influencing their judgment in the matter under consideration of the Council or its Committees.

### 16.06 Declaration Forms

Upon appointment or election, and annually thereafter, every Council and Committee members shall fully complete and deliver to the Registrar a form, available from the Registrar, declaring their current and recent affiliations with professional associations and other organizations to facilitate compliance with the above provisions.

### 16.07 Interests of Related Persons

For the purposes of these by-laws, the direct or indirect personal or financial interests of a parent, spouse, child or sibling of a Council or Committee member are interpreted to be the

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interests of the Council or Committee member. For the purposes of this article, the term "spouse" includes a common-law spouse and a same-sex partner of the person.

**16.08 Where a Conflict May Exist**

Where Council or Committee members believe that they may have a conflict of interest in any matter that is the subject of deliberation or action by the Council or its Committees, they shall:

(i) consult, as needed, with the President, and the Registrar and, if there is any doubt about whether they may have or be perceived to have a conflict, prior to any consideration of the matter, declare the potential conflict to the Council or the Committee and accept Council's or the Committee's direction as to whether there is an appearance of a conflict;

(ii) where there appears to be a conflict of interest, not take part in the discussion of, or vote on, any question in respect of the matter;

(iii) where there appears to be a conflict of interest, absent themselves from the portion of any meeting relating to the matter; and

(iv) where there appears to be a conflict of interest, not attempt in any way to influence the voting or do anything that might be perceived as attempting to influence the decision of other Council or Committee members on the matter.

**16.08.1 Undeclared Conflict**

Where a Council or Committee member believes that another Council or Committee member has a conflict of interest that has not been addressed, they shall:

(i) Approach the Council or Committee member in question and discuss the matter;

(ii) If this does not resolve the matter, consult with the President and the Registrar about the matter;

(iii) The President and/or Registrar shall take such action as they deem appropriate, including but not necessarily limited to raising the matter before the full Council.

**16.09 Conflicts Recorded in Minutes**

Every declaration of a conflict of interest shall be recorded in the minutes of the meeting together with a description of the nature of the conflict.

**16.10 Use of College Information or Property**

Council or Committee members shall not use College property or information of any kind to advance their own interests, direct or indirect.

**16.11 Staff Positions**

A Council or Committee member may not hold any other employment or appointment with the College while serving as a Council or Committee member. This includes, but is not limited to, positions as peer assessor, investigator, inspector, examiner or staff. Where Council or Committee members wish to be considered for any such position or appointment, they must first resign their position and agree to an undertaking not to seek election or appointment to Council or a Committee for a period of two (2) years after they cease to be employed or appointed by the College or from the date they are informed in the event that they are unsuccessful in their application for employment or appointment by the College.

**17. CONFIDENTIALITY**

**17.01 Duty of Confidentiality**

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Council and Committee members, staff and persons retained or appointed by the College are required to maintain confidentiality of information that comes before them in the course of discharging their duties.

**17.02 Subsection 36(1) of the RHPA**

Repealed

**17.03 Disclosure Under the RHPA**

Subsection 36(1) of the RHPA permits disclosure of confidential information in a number of specific circumstances. Council and Committees members, staff and persons retained or appointed by the College are expected to understand when those exceptions apply, seek advice if they are in doubt. Disclosures under subsection 36(1) shall only be make with the approval of Council, a Committee authorized in the Code to disclose the information, or by the Registrar.

**17.04 Confidentiality Agreement**

Council and Committee members, staff and persons retained or appointed by the College are required to sign, annually, the confidentiality or fiduciary agreement approved by Council.

## 18. FEES

**18.01 Registration Year**

The registration year for Members shall be from the first day of April to the last day of March of the following year.

**18.02 Renewal Process**

Unless a Member enrolls in a payment plan established by the Registrar pursuant to article 18.08, the annual registration fee for a registration year is due on or before March 31st of the preceding registration year. At least forty-five (45) days before the annual fees are due, the Registrar shall send to each Member, a notice stating that the annual registration fees is due, setting out the amount of the annual fee for each category of registration, and a request for information required under the regulations and these by-laws. The obligation to pay the annual registration fee continues even if the Registrar fails to provide the notice or the Member fails to receive such notice.

**18.03 Fees Set out in Schedule 3**

Schedule 3, as the same may be amended from time to time, sets out the applicable fees and penalties that a Member or person or premises shall pay to the College. Where no fee has been set out in the Schedule, a Member or person or premises shall pay to the College the fee set by the Registrar for anything that the Registrar is required or authorized to do.

**18.04 Automatic Inflationary Increase**

The fees for registration set out in Schedule 3 are adjusted annually by an amount equivalent to the change in the Consumer Price Index, by Province, for All-Items Ontario as published by Statistics Canada, or any successor organization, for November and rounded up to the nearest dollar. Annual increases will be published by the Registrar no later than the 15th day of January each year.

**18.05 Inspection Fees**

(i) The fees for the inspection of a premises, including all activities related to the inspection, shall be as set out in Schedule 3 of these by-laws in accordance with the following:

(a) shall be payable within thirty (30) days of the date of the invoice;

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36. (1) Every person employed, retained or appointed for the purposes of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every Member of a Council or committee of a College shall keep confidential all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person ….

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(b) shall be paid by the premises subject to the inspection, failing which the fee is payable jointly and severally, by those Members who engage in, or supervise procedures at the premises; and

(c) shall be invoiced directly to the designated Member who shall be responsible for ensuring payment is made.

**18.06 Charging of fees**

The College may charge a Member, a health profession corporation, other person or a premises a fee in connection with decisions or activities that the College or a Committee are required or authorized to make or do with respect to a Member, health profession corporation, other person or a premises. Such fees may include an administrative component relating to the decision or activity.

**18.07 Proration of Fees at Initial Registration**

For applicants who have never been registered with the College, the initial registration fee set out in Schedule 3 will be prorated as follows:

(i) if the certificate of registration is issued between April 1 and June 30, 100% of the posted registration fee;

(ii) if the certificate of registration is issued between July 1 and September 30, 75% of the posted registration fee;

(iii) if the certificate of registration is issued between October 1 and December 31, 50% of the posted fee;

(iv) if the certificate of registration is issued between January 1 and March 1, 25% of the posted registration fee;

(v) if the certificate of registration is issued between March 2 and March 31st: 100% of the posted registration fee for the following registration year.

**18.08 Payment Schedules**

The Registrar may establish and Members may participate in a payment schedule for the annual registration fee of Members, subject to the following:

(i) a portion of the annual fee that is no less than 35% of the annual fee, as determined by the Registrar, must be paid by the last day of March of each year in order for a Member to qualify for the payment schedule;

(ii) any subsequent payment(s) by the Member shall be in the designated quantum and shall be delivered to the Registrar by the designated date(s) as set out in the payment schedule;

(iii) failure to pay the designated quantum and/or make any payment(s) by the designated date(s) may result in:

(a) the Member being in default and no longer in good standing with the College;

(b) Commencement of proceedings under section 24 of the Health Professions Procedural Code to suspend the Member for non-payment of fees;

(c) the application of the Late Renewal Fee as set out in Schedule 3 of these by-laws and a demand for all outstanding registration fees for the registration year by the Registrar in order to avoid suspension under section 24 of the Code; and/or

(d) the inability of the Member to participate in payment schedules in the future, at the discretion of the Registrar; and

(iv) an annual enrolment fee, as set out in Schedule 3, being charged to Members who participate in the program.

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## 19. PROFESSIONAL LIABILITY INSURANCE

**19.01 Mandatory Insurance Coverage**
Subject to article 19.03, all Members shall carry professional liability insurance that has the following characteristics:

(i) on a claims-made form that provides coverage to the full scope of practice of the profession, including the authorized acts, as outlined in sections 3 and 4 of the Act;
(ii) a minimum coverage amount of $2 million per claim;
(iii) a minimum coverage amount of $2 million aggregate level;
(iv) a deductible of no more than $1,000 per occurrence; and
(v) either from a provider who is licensed as an insurer with the Financial Services Commissioner of Ontario or a body outside of Ontario that the Registrar considers substantially equivalent to the Financial Services Commissioner of Ontario.

**19.02 Additional Coverage for IV Infusion Therapy**
In addition to the mandatory insurance coverage outlined in article 19.01, Members who meet the standard of practice for and who wish to incorporate Intravenous Infusion Therapy into their practice shall carry an additional amount of insurance as follows:

(i) additional coverage in the amount of $3 million per claim; and
(ii) additional coverage in the amount of $3 million aggregate level.

**19.03 Enduring (Tail) Insurance**
Members who have practised in Ontario within the past five (5) years and immediately prior to ceasing to practise the profession, shall have enduring (tail) insurance to provide coverage for at least five (5) years after ceasing to practise the profession.

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## 20. THE REGISTER

**20.01 Name in Register**
Subject to article 20.02 a Member's name in the register shall be the full name indicated on the document used to support the Member's initial registration with the College.

**20.02 Change of Name**
The Registrar may enter a name other than the name referred to in article 20.01 in the register if the Registrar:

(i) has received a written request from the Member;
(ii) is satisfied that the Member has legally changed their name; and
(iii) is satisfied that the name change is not for any improper purpose.

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**20.03 Clinic or Business Information**
A Member's clinic or business information in the register shall be:

(i) a Member's clinic or business information for every location in Ontario where the Member provides naturopathic services to the public, shall be included in the register, including:
  (a) the clinic name, if there is one or otherwise the name under which the Member practises;
  (b) the street address, telephone number;
  (c) the e-mail address;
  (d) the date the Member began offering services at that location; and
  (e) whether the location is a premises;

(ii) in the event that the Member provides naturopathic services in more than one location in Ontario, the location where the Member generally works, or anticipates to work, the most hours, shall be designated as their primary location; and

(iii) in the event that the Member is not providing naturopathic services in Ontario, the location designated by the Member or any other address approved by the Registrar.

**20.04 Duty of Registrar**

The Registrar shall maintain a register in accordance with section 23 of the *Code*.

**20.05 Additional Member Information**

Pursuant to paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information, the register shall contain the following additional information, which is designated as public information, with respect to each Member:

(i) names other than the proper legal name of the Member including any nicknames or abbreviations that the Member uses in any place of practice;

(ii) if there have been any changes to the Member's name since the date of the Member's initial application for registration, the former names of the Member;

(iii) a colour passport-type photograph that is less than five (5) years old;

(iv) the Member's registration number, class of certificate of registration, status of the registration, an indication to the public as to whether the Member is authorized to provide naturopathic services and whether the public should be aware of information about that Member;

(v) where the Member holds an Inactive Class Certificate of Registration:
  (a) the last known primary practice location of the Member; or
  (b) if it is different, the name and address of the custodian of the Member's patient records;

(vi) where the Member's certificate of registration is subject to a suspension for failure to pay a fee, the reason for the suspension and the date of the suspension in addition to the fact of that suspension;

(vii) the date of the member's initial registration with the College;

(viii) the dates on which each class of registration and specialist status that the Member holds was obtained and, if applicable, the dates on which each terminated;

(ix) Whether the Member:
  (a) meets the Standard of Practice for Prescribing and/or the Standard of Practice for Intravenous Infusion Therapy;
  (b) the date on which the Member met the Standard(s); and
  (c) the date on which the Member ceased to meet the Standard(s);

(x) any information jointly agreed to be placed on the register by the College and the Member;

(xi) if the Member ceased to be a Member, a notation specifying the reason for the termination of membership and the date upon which the Member ceased to be a Member;

(xii) where the Member has resigned, retired, is deceased or has had their registration revoked or otherwise terminated, the register shall be maintained for a period of ten (10) years, except for any information related to discipline proceedings in Ontario, in which case it shall be entered on the register for a period of fifty (50) years after the termination of registration, and the register shall also include:
  (a) the date on which registration ended; and
  (b) the name and address of the custodian of the former Member's patient

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(xiii) if the Member holds registration or is licensed by any regulatory authority in any jurisdiction, the name of the regulatory authority, the jurisdiction and any designation available to the Member by virtue of that licence or registration; and

(xiv) a notation that the Member is under investigation where the Registrar has confirmed publicly that the College is investigating the Member (pursuant to subsection 36(1)(g) of the RHPA).

**20.06 Information about Member Offences and Findings by other Regulators**

Pursuant to Ontario Regulation 261/18 and paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information with respect to offences of a Member and findings by other regulators, which is designated as public information:

(i) a summary of any findings of guilt and sentence of which the College is aware if made by a court after April 1, 2015, against a Member in respect of a federal or provincial or other offence that the Registrar believes is relevant to the Member's suitability to practise until such time as any of the following are met:
   (a) the Parole Board of Canada has ordered a record suspension in respect of the conviction;
   (b) a pardon in respect of the conviction has been obtained; or
   (c) the conviction has been overturned on appeal;

(ii) a summary of any current charges, including the fact and content, and date and place of the charge, against a Member, of which the College is aware, in respect of a federal, provincial or other offence, that the Registrar believes is relevant to the Member's suitability to practise until such time as any of the following are met:
   (a) the Parole Board of Canada has ordered a record suspension in respect of the conviction;
   (b) a pardon in respect of the conviction has been obtained; or
   (c) the conviction has been overturned on appeal; and

(iii) a summary of any currently existing conditions, terms, orders, directions or agreements relating to the custody or release of the Member in federal, provincial or other offence processes of which the College is aware and that the Registrar believes is relevant to the Member's suitability to practise.

**20.07 Member Information about Terms, Conditions, Limitations, Orders or Undertakings**

Pursuant to Ontario Regulation 261/18 and paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information with respect to terms, conditions, limitations, orders or undertakings placed upon Members, which is designated as public information.

(i) where applicable, a summary of any restriction on a Member's right to practise:
   (a) resulting from an undertaking given by the Member to the College or an agreement entered into between the Member and the College; and
   (b) of which the College is aware and which has been imposed by a court or other lawful authority, in which event the summary of the restriction shall also include the source of the restriction;

(ii) where terms, conditions or limitations on a Member's certificate of registration have been varied or removed, and the effective date of the variance or removal of those terms, conditions and limitations; and

(iii) where the Member's certificate of registration is subject to an interim order:
   (a) a notation of that fact;
   (b) the nature of the order; and
   (c) the date that the order took effect.

**20.08 Member Information about Complaints and Reports**

Pursuant to Ontario Regulation 261/18 and paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information with respect to complaints and reports, which is designated as public information:

(i) for every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee under section 26 of the Code and has not been finally resolved, until the matter has been resolved:
  (a) a notation of that fact, including the date of the referral;
  (b) a summary of each specified allegation;
  (c) the notice of hearing;
  (d) the anticipated date of the hearing, if the hearing date has been set, or the next scheduled date for the continuation of the hearing if the hearing has commenced;
  (e) if the hearing is awaiting scheduling, a statement of that fact; and
  (f) if the hearing of evidence and arguments is completed and the parties are awaiting a decision of the Discipline Committee, a statement of that fact;

(ii) a notation, including the date of the referral, for every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Fitness to Practise Committee under section 61 of the Code and has not been finally resolved, until the matter has been resolved;

(iii) where a panel of the Inquiries, Complaints and Reports Committee requires a Member to appear before a panel of the Inquiries, Complaints and Reports Committee to be cautioned:
  (a) a notation of the fact, including a summary of the caution;
  (b) the date of the panel's decision; and
  (c) where the decision of the panel is appealed, a notation of that fact, until the appeal is finally disposed of;

(iv) where a panel of the Inquiries, Complaints and Reports Committee requires a Member to complete a specified continuing education or remediation program (SCERP):
  (a) a notation of the fact, including a summary of the SCERP;
  (b) the date of the panel's decision; and
  (c) where the decision of the panel is appealed, a notation of that fact, until the appeal is finally disposed of;

(v) where the College is aware that a Member has been required to appear before a panel of an Inquiries, Complaints and Reports Committee created pursuant to the RHPA or a similar committee of a body that governs a profession inside or outside of Ontario to be cautioned:
  (a) a notation of the fact, including a summary of the caution;
  (b) the date of the panel's decision; and
  (c) where the decision is appealed, a notation of that fact, until the appeal is finally disposed of;

(vi) where the College is aware that a Member has been required by an Inquiries, Complaints and Reports Committee created pursuant to the RHPA or a similar committee of a body that governs a profession inside or outside of Ontario to complete a SCERP:
  (a) a notation of the fact, including a summary of the SCERP;
  (b) the date of the panel's decision;
  (c) the date the SCERP was completed; and
  (d) where the decision is appealed, a notation of that fact, until the appeal is finally disposed of; and

(vii) where, for a pending complaint or other type of investigation, the Registrar confirms that the College is investigating a Member because there is a compelling public interest in disclosing this information pursuant to subsection 36(1)(g) of the RHPA, the fact that the Member is under investigation.

**20.09 Member Information about Discipline and Conduct**

Pursuant to paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information with respect to discipline and conduct of Members, which is designated as public information:

(i) where the College is aware that a finding of professional misconduct or incompetence or similar finding has been made against the Member by a body that governs a profession, inside or outside of Ontario, and that finding has not been reversed on appeal:
  (a) a notation of the finding;
  (b) the name and jurisdiction of the governing body that made the finding;
  (c) the date the finding was made;
  (d) a summary of any order made; and
  (e) information regarding any appeals of the finding;

(ii) for every application to the Discipline Committee for reinstatement that has not been finally resolved, until that matter has been resolved:
  (a) a notation of that fact, including the date of the application;
  (b) the anticipated date of the hearing, if the hearing date has been set or the next scheduled date for the continuation of the hearing if the hearing has commenced;
  (c) if the hearing has been adjourned and no future date has been set, the fact of that adjournment; and
  (d) if the decision is under reserve, that fact.

(iii) if an application to the Discipline Committee for reinstatement has been decided, the decision of the Discipline Committee; and

(iv) where a decision of the Discipline Committee has been published by the College with the Member's name or former name included:
  (a) a notation of that fact; and
  (b) identification of the specific publication of the College that contains the information.

**20.10 Member Information about Professional Corporations**

Pursuant to paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information with respect to professional corporations of Members, which is designated as public information:

(i) the name, business address, business telephone number, business e-mails address of every health professional corporation of which the Member is a shareholder;

(ii) the date on which the Member became a shareholder of the corporation and the title or office the Member holds in the corporation; and

(iii) if applicable, any operating names of the health profession corporation(s).

**20.11 Member Information about Premises and Inspections**

Pursuant to paragraph 20 of subsection 23(2) of the Code, the register shall contain the following information with respect to Members' premises and inspections of those premises, which is designated as public information:

(i) the clinic name, address, telephone number and e-mail address of the premises in which the Member provides services;

(ii) the date on which the Member began providing services at that location; and

(iii) for every inspection conducted pursuant to Part IV of Ontario Regulation 168/15, including:
  (a) the name and address of the premises inspected;
  (b) the date and purpose of the inspection;
  (c) the status of the inspection, including but not necessarily limited to whether it is pending, has been conducted and a report is pending, the report has been received by the College and is under review by the Inspection Committee;
  (d) the names of the Members performing procedures within the premises and their qualifications;
  (e) the results of the inspection;
  (f) a summary of the reasons for the results of an inspection where a premises either failed or passed with conditions;
  (g) a summary of any deficiencies identified by the inspectors;
  (h) any conditions that apply to the premises; and
  (i) whether a subsequent inspection is necessary and, if so, the estimated date that inspection will be conducted.

**20.12 Information Requests from College**

The College may forward to its Members requests for information in printed or electronic form approved by the Registrar. Each Member shall accurately and fully complete and return such form, electronically or otherwise as specified by the College, by the due date set by the College. A request for Member information may include, but is not limited to, the following:

(i) information required to be maintained in the register in accordance with subsection 23(2) of the *Code* and article 20.06 of these by-laws;
(ii) information for the purpose of compiling statistical data;
(iii) information establishing the Member's electoral district, for the purposes of elections to the Council;
(iv) the Member's areas of practice, including but not necessarily limited to the authorized acts the Member incorporates into their practice and categories of clients seen;
(v) the Member's previous employers and previous practice locations;
(viii) whether the Member acts in the capacity of a preceptor as part of their practice;
(ix) the Member's gender, date of birth and languages in which they provide services;
(x) the Member's currency hours;
(xi) information pertaining to the Member's compliance with the College's Quality Assurance program;
(xii) proof of professional liability insurance including:
  (a) the name of the insurer and the policy number;
  (b) the name of the insured that matches the name of the Member;
  (c) the address of the insured;
  (d) the policy period; and
  (e) any other documents specified by the Registrar with respect to professional liability insurance coverage;
(xiii) the Member's primary e-mail address that is checked personally by the Member on a regular basis; and
(xiv) a colour passport-type photograph taken within three (3) months of the College's request.

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**20.13 Automatic Notification of the College**

The Member shall notify the College, in writing, of any changes to the following information

within thirty (30) days of the effective date of the change:

(i) the Member's name;
(ii) any nicknames or abbreviations that the Member uses in any place of practice;
(iii) the address and telephone number of the Member's primary residence in Ontario and, if the Member does not reside in Ontario, the address and telephone number of the Member's primary residence;
(iv) the Member's email addresses;
(v) the Member's electoral district, for the purposes of elections to the Council;
(vi) information regarding the Member's employment, including:
    (a) the Member's title and position;
    (b) a description of the Member's role, duties and responsibilities; and
    (c) the Member's employment category and status;
(vii) information about the Member's registration with any other body that governs a profession, whether inside or outside of Ontario, including the name of the governing body, the Member's registration or licence number and the date the Member first became registered;
(viii) information about any finding of professional misconduct or incompetence or similar finding that has been made against the Member by a body that governs a profession, inside or outside of Ontario, where that finding has not been reversed on appeal, including:
    (a) the finding;
    (b) the name of the governing body that made the finding;
    (c) a brief summary of the facts on which the finding was based;
    (d) the penalty and any other orders made relative to the finding;
    (e) the date the finding was made; and
    (f) information regarding any appeals of the finding;
(ix) information about any finding of incapacity or similar finding that has been made against the Member by a body that governs a profession, inside or outside of Ontario, where that finding has not been reversed on appeal, including:
    (a) the finding;
    (b) the name of the governing body that made the finding;
    (c) the date the finding was made;
    (d) a summary of any order made; and
    (e) information regarding any appeals of the finding;
(x) the Member's business address or business telephone number;
(xi) the name, address or telephone number of any employer for whom the Member is employed as a Naturopathic Doctor and, if the Member is self-employed as a Naturopathic Doctor, any changes to the address or telephone number of the location where the Member practises other than addresses of individual clients;
(xii) the name of the educational institution where the Member obtained any certificates, diplomas or degrees in naturopathic medicine, the type of certificates, diplomas or degrees obtained and the date each was issued;
(xiii) the names of any graduates of naturopathic medical training that the Member supervises as part of their practice;
(xiv) information about any decision by an Inquiries, Complaints and Reports Committee created pursuant to the RHPA or a similar committee of a body that governs a profession inside or outside of Ontario requiring the Member to appear before the committee to be cautioned or to complete a SCERP, where that decision has not been reversed on appeal, including:
    (a) the decision;
    (b) the name of the governing body that made the decision;

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(c) a brief summary of the facts on which the decision was based;
(d) any orders made relative to the decision (e.g. appear to be cautioned, complete a SCERP); and
(e) the date the decision was made;

(xv) the date of expiration of the Member's professional liability insurance policy; and

(xvi) the particulars of any current charges against a Member, in respect of a federal, provincial or other offence.

**20.14 Safety Concerns**

All of the information in the register is information designated to be withheld from the public pursuant to subsection 23(6) of the Code such that the Registrar may refuse to disclose to an individual or post on the College's website any or all of that information if the Registrar has reasonable grounds to believe that disclosure of that information may jeopardize the safety of an individual.

## 21. PROFESSIONAL CORPORATIONS

**21.01 Application Fee**

The Registrar shall charge a fee for the processing of an application for a Certificate of Authorization or for an application for reinstatement of a Certification of Authorization of a professional corporation as set out in Schedule 3 of these by-laws.

**21.02 Issuance Fee**

The Registrar shall charge a fee for the issuance of a Certificate of Authorization as set out in Schedule 3 of these by-laws.

**21.03 Renewal Fee**

The Registrar shall charge a fee for the annual renewal of the Certificate of Authorization of a professional corporation as set out in Schedule 3 of these by-laws.

**21.04 Administrative Fee**

A professional corporation or a Member listed in the College's records as a shareholder of a professional corporation shall pay an administrative fee as set out in Schedule 3 of these by-laws for each notice sent by the Registrar to the corporation or Member for failure of the corporation to renew its Certificate of Authorization on time. The fee is due within thirty (30) days of the notice being sent.

**21.05 Documentation Fee**

The Registrar shall charge a fee, as set out in Schedule 3 of these by-laws, for the issuing of a document or certificate respecting a professional corporation other than the first Certificate of Authorization or one (1) annual renewal of a Certificate of Authorization.

**21.06 Duty to Provide Information**

Every Member shall, for every professional corporation of which the Member is a shareholder, provide in writing the following information on the application and annual renewal forms for a Certificate of Authorization, upon the written request of the Registrar, within thirty (30) days and upon any change in the information within thirty (30) days of the change:

(i) the name of the professional corporation as registered with the Ministry of Government Services;
(ii) any business names used by the professional corporation;
(iii) the name, as set out in the register, and registration number of each

shareholder of the professional corporation;

(iv) the name, as set out in the register, of each officer and director of the professional corporation, and the title or office held by each officer and director;

(v) the principal practice address, telephone number, facsimile number and email address of the professional corporation;

(vi) the address and telephone number of all other locations, other than residences of clients, at which the professional services offered by the professional corporation are provided; and

(vii) a brief description of the professional activities carried out by the professional corporation.

## 22. FUNDING FOR THERAPY AND COUNSELLING FOR SEXUAL ABUSE

**22.01 Therapist/Counsellor Confirmation**

The College shall require a therapist or counsellor who is providing therapy or counselling that is funded through the Patient Relations Program under section 85.7 of the Code to provide a signed written statement signed containing details of their training and experience and confirming that the therapy or counselling is being provided and that the funds received are being devoted only to that purpose.

**22.02 Patient Acknowledgment**

The College shall require a person who is receiving therapy or counselling that is funded through the Patient Relations Program under section 85.7 of the Code to provide a signed written statement acknowledging that they are aware of the details of the training and experience of the therapist or counsellor and confirming that the therapy or counselling is being provided and that the funds received are being devoted only to that purpose.

## 23. LIFE MEMBERS

**23.01 Designation of Life Members**

Upon receiving a request, the Registration Committee may designate a Member as a Life Member if the Member:

(i) has been registered for 25 years under the Act, or its predecessor, the *Drugless Practitioners Act*;

(ii) at the time of making the request, the Member is in good standing; and

(iii) the Member has retired from the practise of naturopathy and agrees not to engage in the practise.

**23.02 Entitlements of Life Members**

A Life Member is entitled to:

(i) remain on the register of the College as a Life Member;

(ii) maintain life membership status with the College without being required to pay any registration fees;

(iii) participate in the activities of the College; except for voting in the election of the Council or holding elected office; and

(iv) to use the title Naturopathic Doctor (Retired) or ND (Ret).

**23.03 Termination of Life Membership Status**

A Life Member status shall terminate if the Registrar has reasonable grounds to believe that the Life Member:

(i) has been found to be in default of any obligation to the College under the regulations or these by-laws;

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(ii) practises the profession or uses the protected title without first obtaining a certificate of registration from the College;
(iii) is the subject of a finding of incompetence, professional misconduct or incapacity; or
(iv) otherwise acts in a manner that is inconsistent with an ongoing association with the College.

## 24. CODE OF ETHICS

### 24.01 Code of Ethics

There shall be a code of ethics for Members, which shall be the code of ethics adopted by the Council.

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## 25. BY-LAWS AND AMENDMENTS

### 25.01 Effective Date

These by-laws shall become effective as soon as they have been approved by Council.

### 25.02 Amendments

These by-laws of the College or any article thereof may be enacted, amended, or revoked by a simple majority of the Council members present and voting at a meeting of Council called for that purpose.

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**SCHEDULE 1 TO THE BY-LAWS**
**Process for Election of Officers**

Repealed. *(Amended January 29, 2015)*

## SCHEDULE 2 TO THE BY-LAWS
## Rules of Order of the Council

1. Repealed.

2. Each agenda topic will be introduced briefly by the person or Committee representative raising it. Council members may ask questions of clarification, then the person introducing the matter shall make a motion and another Council member must second the motion before it can be debated.

3. When any Council member wishes to speak, they shall so indicate by raising their hand and shall address the Chair of the meeting and confine themselves to the matter under discussion.

4. Staff persons and consultants with expertise in a matter may be permitted by the Chair to answer specific questions about the matter.

5. Observers at a Council meeting are not allowed to speak to a matter that is under debate.

6. A Council member may not speak again on the debate of a matter until every other Council member who wishes to speak to it has been given an opportunity to do so. The only exception is that the person introducing the matter or a staff person may answer questions about the matter. Council members will not speak to a matter more than twice without the permission of the Chair.

7. No Council member may speak longer than five (5) minutes upon any motion except with the permission of Chair.

8. When a motion is under debate, no other motion can be made except to amend it, to postpone it, to put the motion to a vote, to adjourn the debate or the Council meeting or to refer the motion to a Committee.

9. A motion to amend the motion then under debate shall be disposed of first. Only one motion to amend the motion under debate can be made at a time.

10. When it appears to the Chair that the debate on a matter has concluded, when Council has passed a motion to vote on the motion or when the time allocated to the debate on the matter has concluded, the Chair shall put the motion to a vote.

11. When a matter is being voted on, no Council member shall enter or leave the Council room, and no further debate is permitted.

12. No Council member is entitled to vote upon any motion in which they have a conflict of interest, and the vote of any Council member so interested will be disallowed.

13. Any motion decided by the Council shall not be re-introduced during the same meeting except by a two-thirds vote of the Council members then present.

14. Whenever the Chair is of the opinion that a motion offered to the Council is contrary to these rules or the by-laws, they shall rule the motion out of order and give their reasons for doing so.

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15. The Chair shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the Council without debate.

16. The above rules may be relaxed by the Chair if it appears that greater informality is beneficial in the particular circumstances, unless the Council requires strict adherence.

17. Council members are not permitted to discuss a matter with observers while it is being debated.

18. Council members shall turn off electronic devices during Council meetings and, except during a break in the meeting, shall not use any electronic device, including a laptop except to review materials related to the matter under debate (e.g., electronic copies of background documents) and to make personal notes of the debate.

19. Council members are to be silent while others are speaking.

20. In all cases not provided for in these rules or by other rules of Council, the current edition of “Robert’s Rules of Order” shall be followed so far as they may be applicable.

21. These Rules shall apply, with necessary modifications, to meetings conducted by teleconference or any other electronic means permitted by these by-laws, including audio or video conferencing.

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## SCHEDULE 3 TO THE BY-LAWS
## Fees[1]

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| **Fees Relating to Examinations** | |
| Written Clinical Sciences Examination | $850 |
| Written Biomedical Sciences Examination | $450 |
| Retake of the written Clinical Sciences Examination | $850 |
| Retake of the written Biomedical Sciences Examination | $450 |
| Initial Clinical Examinations | $350 |
| Retake of any Clinical Examination (per exam) | $150 |
| Jurisprudence Examination | $75 |
| Prescribing Examination | $500 |
| Retake of the Prescribing Examination | $500 |
| IV Infusion Therapy Examination | $650 |
| Retake of IV Infusion Therapy Examination | $650 |
| Examination Appeal fee, each appeal | $75 |
| Examination Deferral | $50 |
| **Fees Relating to Applications for Registration[2]** | |
| Initial Registration Application | $275 |
| Application to Change Class **(General Class to Inactive, Inactive to General Class (within 2 years of initial entry to Inactive Class))** | $100 |
| Application to Change Class **(Inactive to General Class 2 years or more since entry to Inactive Class)** | $275 |
| Prior Learning Assessment Review (PLAR) – Paper Based Review | $750 |
| Appeal of PLAR – Paper Based Review | $375 |
| Prior Learning Assessment Review (PLAR) – Demonstration Component | $1,750 |
| Appeal of PLAR – Demonstration Component | $875 |
| **Fees Relating to Registration[3]** | |
| Annual Registration Fee – Clinical/General Class[4] | $1,579 |
| Annual Registration Fee – Inactive Class[4] | $792 |
| Late Renewal Fee – All Classes[4] | $280 |
| Reinstatement Fee – All Classes[4] | $242 |
| Payment Plan Annual Enrolment Fee – All Classes[4] | $153 |
| **Fees Relating to Professional Corporations and Certificates of Authorization** | |
| Application fee | $400 |
| Issuance fee | $250 |
| Renewal fee | $200 |
| Administrative fee | $50 |
| Documentation fee | $50 |
| **Fees Relating to the Quality Assurance Program** | |

[1] All fees are subject to applicable taxes.
[2] *Fee covers the review and processing of applications.*
[3] *Fees are paid for the annual registration.*
[4] Current as of Jan 30, 2019 for the 20198 Registration year

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| QAC Ordered Assessment[5] | $500 |

[5] *For an assessment or re-assessment ordered by the QA Committee or a panel thereof except for an assessment that occurs as a result of a random-type selection*

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| **Other Fees** | |
| Additional/Replacement Certificates of Registration/ID Cards | $50 |
| Withdrawal of Nomination for Election | $50 |
| Election Recount Fees | $200 |
| Fee for Name Change and New Documents | $50 |
| Administrative fees for Notices[6] | $50 |
| Returned Cheques/Declined Credit Cards | $35 |
| Letters of Good Standing | $25 |
| Duplicate Receipts | $10 |
| **Fees Related to the Inspection Program** | |
| Regularly Scheduled 5-year Inspection | $2,500 (payable within 30 days of the date of the invoice) |
| *All existing premises required to be inspected within 24 months of the date Part IV of O. Reg 168/15 comes into effect will be invoiced in two equal payments of $1,250 approximately one year apart within the initial 24-month period.* | |
| Inspection ordered by the Inspection Committee | $2,500 (payable within 30 days of the date of the invoice) |
| Inspection of a new premises | Part I $1,250 (payable within 30 days of the date of the invoice)<br>Part II $1,250 (payable within 30 days of the date of the invoice) |

[6] *Fee for each notice sent by the Registrar to the Member for failure to provide information or a form to the College within the specified timeframe.*

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### 11.18 Special Meetings Without Notice

Repealed.

### 11.19 Mail and Email Votes

Repealed.

The College of Naturopaths of Ontario

**BRIEFING NOTE**
**Clinical Sciences Examination Policy**

**ISSUE:** Council is asked to review and approve the Clinical Sciences Exam Policy

**BACKGROUND:**
On June 27, 2019 the first administration of the College's new Clinical Sciences Examination will occur replacing the NPLEX II, and the NPLEX Clinical Elective in Acupuncture, as a Council approved examination required for registration in Ontario.

**DISCUSSION POINTS:**

Exam Eligibility
In accordance with the Exam Transition Policy, approved by Council in October 2018, Council approved entry-to-practise examinations can be sat in any order. As such, eligibility to sit the examination is contingent only on the candidate having either graduated from a CNME-accredited program in naturopathy or having been deemed substantially equivalent via the College's Prior Learning Assessment and Recognition (PLAR) program.

Exam Scoring
The pass mark (or cut-score) for the exam is established using a process called the "modified Angoff method." This is a criterion-referenced process that is used to set a pass score that accounts for two key elements: 1) the difficulty of the exam content; and, 2) the 'profile' of what a Naturopathic Doctor can be expected to know and be able to do at an entry-to-practice level. Using this process, candidates are evaluated against pre-determined criteria; they are not assessed in relation to the performance of other candidates.

Exam questions are equally-weighted, with each correct response being worth one mark and incorrect responses receiving no marks and no deductions. Total scores for candidates are calculated by summing their correct responses on all operational items, which are those items on the exam that actually count towards the candidate's total score based on a post-test analysis and review conducted by the psychometrician and the Exam Committee to determine the performance of each question item on the exam form, particularly those which may have been flagged statistically poor based on overall candidate performance. The final decision as to whether a question item is removed from scoring is made by the College after a thorough review of the question's content and statistical performance. Candidates' scores on the exam are calculated using only those items that passed this vetting process.

The score that candidates receive is expressed using a standardized scale. Specifically, candidates' raw scores (out of 200) are converted to a "scaled score". These transformed scores range from 200 to 800, with a pass mark of 550. Candidate scores are expressed on this scale so that scores can be effectively compared across different exam administrations, even if there are differences in the difficulty of the exam, and/or differences in the cut score pass mark between specific exam administrations.

As the cut score may change between different exam administrations, Council is being asked only to approve use of the modified Angoff method for scoring the Clinical Sciences exam.

**ANALYSIS**

Risk Assessment – In not approving use of the modified Angoff method, the College will be at risk for criticism regarding the fairness of its exam scoring process. Additionally, in not approving this scoring method, presently employed by most bodies that administer multiple choice examinations, the College may face additional challenges when seeking to have outside jurisdictions recognize the examination as an equivalent to the NPLEX.

Privacy Considerations – There are no privacy considerations at issue on this matter.

Transparency – As this briefing, as well as the Council's discussion, will be public, the College is fulfilling its transparency requirements.

Financial Impact –There are no financial considerations at issue on this matter.

**RECOMMENDATION:**

The Registration Committee recommends that the Council approve the Clinical Sciences Examination policy.

Dr. Danielle O'Connor, ND
Chair of the Registration Committee

Erica Laugalys
Director, Registration & Examinations

April 2019

| The College of Naturopaths of Ontario | Policy Type: EXAMINATIONS | PROGRAM POLICIES |
|---|---|---|
| | Title: Clinical Sciences Examination Policy | Policy No.: P06.07 |
| | | Page No.: 1 |

| | | |
|---|---|---|
| Intent/Purpose | To establish a policy governing the Clinical Sciences examination approved or administered by the College of Naturopaths of Ontario (the College). | |
| Definitions | Candidate | Any person who has submitted an examination application or is engaged in any examination or appeal, which leads to the recording and/or issue of a mark, grade or statement of result or performance by the College. |
| | Clinical Sciences Examination | Council approved examination in the clinical sciences which tests a candidate's knowledge of necessary naturopathic competencies for the treatment of patients, required to be eligible for registration with the College, to practise naturopathy in the province of Ontario. |
| | Deferral | A granted postponement of a Candidate's attempt at one or more examinations. |
| | Examination Accommodation | An adjustment to testing conditions, examination requirements or examination scheduling to address a Candidate's declared needs arising from a disability, physical limitation or religious requirement. |
| | Examination Violation | A contravention of the College's Examination Policy, or Examination Rules of Conduct. |
| | Modified Angoff Method | A criterion-referenced process that is used to set a pass score that accounts for the difficulty of the exam content, and the profile of what a Naturopathic Doctor can be expected to know and be able to do at an entry-to-practice level. |
| | NPLEX | The Naturopathic Physicians Licensing Examination as developed by NPLEX Inc., and delivered by the North American Board of Naturopathic Examiners. For the purposes of this policy, NPLEX includes two parts, NPLEX Stage 1 (Biomedical Examination) and the NPLEX Stage II (Clinical Sciences examination and clinical elective in Acupuncture examination). |
| | Registrar | The individual appointed by the Council of the College pursuant to section 9(2) of the Health Professions Procedural Code which is Schedule II of the Regulated Health Professions Act, 1991 and who performs the duties assigned to that position under the Act, the Code, the Naturopathy Act, 2007 and the regulations made thereunder. |
| | Raw Score | The number of questions a candidate answers correctly from a range of 0-200 |
| | Registration Committee | The statutory committee of the College responsible for all registration matters referred to it by the Registrar, and the imposition of terms, conditions or limitations on Certificates of Registration as deemed necessary in accordance with the Health Professions Procedural Code. |

| DATE APPROVED | DATE LAST REVISED |
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| The College of Naturopaths of Ontario | Policy Type: EXAMINATIONS | PROGRAM POLICIES |
|---|---|---|
| | Title: Clinical Sciences Examination Policy | Policy No.: P06.07 |
| | | Page No.: 2 |

| | | |
|---|---|---|
| | Registration Regulation | Ontario Regulation 84/14 as amended from time to time. |
| | Scaled Scores | The mathematical transformation of a candidate's raw score to a common scale which ranges from 200-800. |
| General | Guiding Legislation | All aspects of this policy will be managed in accordance with the Regulated Health Professions Act, 1991, the *Naturopathy Act, 2007*, the Registration Regulation, the Ontario Human Rights Code, the College's Examinations Policy, the College's Examination Rules of Conduct and the Examination Transition Policy. |
| | Entry-to-Practice Clinical Sciences Examination | All Applicants for registration must successfully complete the Clinical Sciences examination as set and approved by the Council of the College of Naturopaths of Ontario. |
| Clinical Sciences Examination | Eligibility - General | A Candidate is eligible to sit the College's Clinical Sciences examination provided they have successfully completed a program in naturopathy as required by the Registration Regulation or have successfully completed the Prior Learning Assessment and Recognition (PLAR) program. |
| | Accommodations | To ensure Candidates are provided fair opportunity to sit a Council approved examination, the College will consider all accommodation requests received from any Candidate. All requests for accommodation will be managed in accordance with the College's Examinations Policy and Examinations Rules of Conduct. |
| | Examination Attempts | Candidates are provided three (3) attempts to successfully complete the examination required by this policy.<br><br>A Candidate who has failed the examination for a second time will have their examination results referred to the Registration Committee and may be required to complete additional education or training, as determined by a panel of the Registration Committee, in order to qualify to attempt the examination for a third and final time. |
| | Deferrals | Any Candidate who is registered for an examination may seek a deferral. All deferral requests are managed in accordance with the College's Examinations Policy and Examinations Rules of Conduct. |
| | Examination Violations | All Candidates are required to comply with the Examination Rules of Conduct as outlined in the Examinations Policy and Exam Rules of Conduct. Any allegation of an examinations violation will be handled in accordance with the College's Examinations Policy and Examinations Code of Conduct. |
| | Passing Requirements | To pass the Clinical Sciences examination, a Candidate must achieve a minimum scaled score of 550 on the exam. |

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| Recognition of the NPLEX taken by Candidates | Exam Transition Policy | Recognition of a Candidate's successful completion the NPLEX, as fulfilling one or more of the entry-to-practise requirements under the College, will be managed in accordance with the College's Exam Transition policy. |

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The College of Naturopaths of Ontario

# BRIEFING NOTE
# CPSO's Complementary/Alternative Medicine Policy

**ISSUE:** Whether to provide feedback on the College of Physician and Surgeons of Ontario's Complementary/Alternative Medicine policy

## BACKGROUND:

On March 6, 2019 the College received notice that the College of Physician and Surgeons of Ontario (CPSO) is seeking input on the current Complementary/Alternative Medicine (CAM) policy (attached). The CPSO's CAM policy sets out expectations for physicians who practise CAM, who don't offer CAM but have patients who pursue CAM, or who wish to have professional affiliations with CAM clinics, therapies, or devices.

The CPSO's consultation page asks three particular questions:

- Does the policy provide useful guidance?
- Are there issues not addressed in the current policy that should be?
- How else can the policy be improved?

The online survey (screenshots attached as Appendix 2) asks the same above questions in addition to others that are more detailed and specific to the policy itself.
The Deadline for providing feedback to the CPSO is May 6, 2019.

## DISCUSSION POINTS:

The Quality Assurance Committee was provided a copy of the CPSO's CAM Policy and was asked to provide their thoughts/feedback. Attached as Appendix 1 is a summary of the feedback that was received.

## ANALYSIS

Risk Assessment – There is no current risks to the College

Privacy Considerations – There are no privacy implications.

Transparency – Transparency is obtained by discussing the matter in open Council.

Financial Impact – There are no immediate financial impacts.

Jeremy Quesnelle
Deputy Registrar
April 2019

**APPENDIX 1**
**CPSO's Complementary/Alternative Medicine Policy**

Couple of things in reading over the policy.

The first is the definition of conventional versus complimentary medicine. There is a problem with conventional medicine being described as science-based medicine while this descriptor is omitted in the definition of complementary medicine. I think this feeds misinformation regarding complementary versus conventional medicine. The reality is that most of complementary medicine is science-based and has a more extensive history of treatment, care and clinical evidence.

I also think this policy needs to provide some guidance regarding a physician changing, or advising on the care and treatment being provided by a "complimentary-medicine" doctor or practitioner. It can be improved by addressing this point. For example, just as it would be unethical and unprofessional for me to tell a patient to discontinue using a medication that has been prescribed by their medical doctor, it is also unprofessional for a medical doctor to ask a patient to discontinue a treatment plan/supplement that has been prescribed by a licensed "complimentary" doctor or health care practitioner. This happens far too often and is clearly unprofessional. Just because they don't know the science or research behind a "natural" supplement/medicine, doesn't mean they can tell patients to discontinue using this supplement/medicine.

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I wholeheartedly agree! I was surprised, I actually thought it was a decent policy.

My additional thoughts:

- (under the definition of Complementary/Alternative Medicine) Why is is that specific CAM practices may become incorporated into conventional medicine, but not vice versa? The two disciplines merge in all sorts of ways.

- Aii (Respect Patient Autonomy) - "In discussing these matters with patients, physicians should always state ***their best professional opinion*** about the goal or decision." What on earth does that mean? I would love to see this can be worded in a much more specific manner. I think this whole section could be more specific. I have had so many patients with medical doctors who either de-roster them, or threaten to de-roster them, for consulting with me. I would love to see something in writing telling medical doctors not to this!

- Bii - The part about a CAM diagnosis is a bit troubling. What does a diagnosis "***informed by...science***" mean? There really isn't much science involved in all sorts of diagnoses, they're just based on clinical evidence and precedent. When people say 'science,' I assume they're referring to scientists conducting experiments or studies? I guess a good example would be hypertension. Medical doctors are all over the map in regards to what is considered

hypertension, and at what blood pressure value one begins to treat with a prescription drug. Perhaps it could read "be supported by sound clinical judgment and informed by evidence and/or science."

Biii - "***Physicians must never recommend therapeutic options that have been proven to be ineffective through scientific study.***" This is problematic. "Proven to be ineffective" by what standard? There are scientific studies showing that it doesn't work? Or, that the preponderance of evidence from studies show that it doesn't work? There are all sorts of bodies out there trying to convince medical doctors not to do the things they do because there isn't evidence for them, or they cause harm (such as Choosing Wisely https://www.choosingwisely.org/clinician-lists/sages-routine-cholecystectomy-for-asymptomatic-cholelithiasis/ or Cochrane Reviews). Fish oil is a great example of a CAM treatment with mixed evidence. This is a topic that has been featured heavily in the news. Are medical doctors going to get in trouble for prescribing fish oil because there are some studies that say it doesn't work?

---

I agree with the points brought up. Those were the things that stuck out for me too.

To continue the conversation, here are some of my thoughts:

- (under the definition of Complementary/Alternative Medicine) Why is is that specific CAM practices may become incorporated into conventional medicine, but not vice versa?

I would say the reason is because this definition is particular to the purposes of this policy; the practices incorporated by CAM practitioners who are not physicians are not of concern to the CPSO.

Another thought though - I think the assumption would (/should) be that if a physician is incorporating CAM treatment as per this policy, that physician would have had appropriate training -eg, those that do medical acupuncture (and have taken the weekend course or whatever it is), those that recommend vitamins and minerals given their knowledge of nutrition or review of studies… but maybe this should be more explicit in the policy? That if a physician incorporates CAM treatment they have had the appropriate training/education.

- Aii (Respect Patient Autonomy) - "In discussing these matters with patients, physicians should always state ***their best professional opinion*** about the goal or decision." What on earth does that mean? I would love to see this can be worded in a much more specific manner. I think this whole section could be more specific. I have had so many patients with medical doctors who either de-roster them, or threaten to de-roster them, for consulting with me. I would love to see something in writing telling medical doctors not to this!

For me, this is addressed in the statement in A.ii : The College expects physicians to respect patient's treatment goals and medical decisions, even those with which physicians disagree.

It could be more emphasized though… maybe adding something about not restricting patient care according to the physician's opinion?

- Bii - The part about a CAM diagnosis is a bit troubling. What does a diagnosis "***informed by...science***" mean? There really isn't much science involved in all sorts of diagnoses, they're just based on clinical evidence and precedent. When people say 'science,' I assume they're referring to scientists conducting experiments or studies? I guess a good example would be hypertension. Medical doctors are all over the map in regards to what is considered hypertension, and at what blood pressure value one begins to treat with a prescription drug. Perhaps it could read "be supported by sound clinical judgment and informed by evidence and/or science."

I think what the policy is getting at here, to use the example of hypertension, is that a physician can diagnose hypertension and treat with CAM; however they cannot diagnose TCM Liver Yang Rising and treat with CAM… at least that's how I read it.

In any case, they do use "supported by sound clinical judgement" later in this section so I agree they could include it in the initial paragraph too for emphasis and consistency.

- Biii - "***Physicians must never recommend therapeutic options that have been proven to be ineffective through scientific study.***" This is problematic. "Proven to be ineffective" by what standard? There are scientific studies showing that it doesn't work? Or, that the preponderance of evidence from studies show that it doesn't work? There are all sorts of bodies out there trying to convince medical doctors not to do the things they do because there isn't evidence for them, or they cause harm (such as Choosing Wisely https://www.choosingwisely.org/clinician-lists/sages-routine-cholecystectomy-for-asymptomatic-cholelithiasis/ or Cochrane Reviews). Fish oil is a great example of a CAM treatment with mixed evidence. This is a topic that has been featured heavily in the news. Are medical doctors going to get in trouble for prescribing fish oil because there are some studies that say it doesn't work?

Maybe something like "must only recommend therapeutic options that have shown clinical efficacy in scientific study"? Then it doesn't have to be across the board, but at least a positive efficacy study searchable in pubmed for example.

A few comments with respect to the draft CPSO policy noted above:

I believe that it represents a step forward for the CPSO, that should prove helpful to physicians and possibly in some indirect ways, to other health care providers of CAM.

It formally acknowledges that increasingly 'patients are looking to complementary medicine for answers to complex medical problems, strategies for improved wellness,

or relief from acute medical symptoms' and that physicians are becoming increasingly involved in that area.

It provides policy guidance and outlines expectations for physicians who may be involved with CAM in one of three ways: physicians who practise CAM either as the primary

focus of their practice, or as a component of their conventional practice; physicians who practise conventional medicine only, but who treat patients who are pursuing CAM from others; and those physicians who are considering forming a professional affiliation with a CAM clinic, therapy or device.

I like that it covers, among other things: the importance of having the relevant knowledge, skill and judgement; patient autonomy in health care decision-making; and informed consent.

A few more specific, wording suggestions:

>In section B1(i) Clinical Competence, Knowledge, Skill and Judgement, 2nd paragraph,

to sentence 'This expectation applies equally to treatments or therapies....' insert 'whether conventional or complementary',.....

> In section B(iii) Treating the Patient: Therapeutic Options and Informed Consent-Therapeutic Options,

include in first sentence ....'must be based upon sound clinical judgement' and.....

>In section B2(i) Patient Use of CAM and Documentation, add something like 'In some instances it may be necessary to contact or (collaborate with) the CAM provider to confirm or obtain additional relevant information about the CAM being provided'. to the first or 3rd paragraph. A variation of this wording could also be included in the 2nd or 3rd paragraph in Section B2(iii), Implications of Conventional Care.

>In section B2(iii)Treating the Patient: Therapeutic Options and Informed Consent-Therapeutic Options, last sentence, perhaps add, .....through 'a preponderance of' scientific study.

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Overall, I think it is a good policy and when I read it thinking about what is best for the protection of the public, I believe it does what it is set out to do. As a practitioner of CAM, there are some things I would suggest to add more clarity.

- Throughout the policy, they use the term science-based a lot of times to differentiate conventional practices from CAM practices. Rosemary mentioned this and I think it is the biggest problem with the policy because obviously, many CAM therapies are also science and evidence-based and so this doesn't really work to distinguish the two approaches.

- B1(iii) - I agree that the wording on **"never recommending therapeutic options proven to be ineffective through scientific study"** needs to be a bit more clearly defined. At face value, the statement makes sense, but it gets a little gray when a CAM therapy has mixed evidence. There is also more to efficacy than just scientific study which is why I prefer the term "evidence-based medicine" which uses a mix of scientific study, clinical experience and patient preference to determine the best treatment.

- B1(iii) - I like the statement that **"Physicians must never inflate or exaggerate.....or make claims regarding therapeutic efficacy that are not substantiated by evidence."** Many doctors are very quick to speak down about CAM without being aware of the evidence.

- B2(ii) - Also really like this second paragraph as it encouraged doctors to consider allying with CAM providers to get some of their expertise when they may not have the answers.

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The College is currently reviewing its Complementary/Alternative Medicine policy, which sets out expectations for physicians in the following roles:

- physicians who practise complementary and alternative medicine (CAM);
- physicians who practise conventional medicine, but whose patients pursue CAM; and
- physicians who wish to form professional affiliations with CAM clinics, therapies, or devices.

We are inviting feedback at this preliminary stage to help inform our review of this policy.

The following survey will ask you a few questions about issues related to CAM. It will take approximately **10-15 minutes** to complete. You will be able to pause during the survey and restart at a later time if you wish. If you would like to review the survey in advance, you can download a copy here.

All survey responses will be reviewed and a summary of the results will be posted online following the close of the consultation. The identity of all individual respondents will be kept strictly confidential.

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THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

## About You

Do you live in...

- ○ Ontario
- ○ Rest of Canada
- ○ Outside of Canada
- ○ Prefer not to say

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Are you a....?

- ○ Physician (including Retired)
- ○ Medical Student
- ○ Member of the Public
- ○ Other Health Care Professional (including retired)
- ○ Organization
- ○ Prefer not to say

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## THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Complementary and alternative medicine (or CAM) refers to a group of diverse medical practices and products that are not generally considered part of "conventional medicine". They are also sometimes referred to by other terms, such as non-traditional and non-conventional. This can include: acupuncture, naturopathy, and homeopathy, among other types of treatment.

We are interested to hear about your experiences (if you've had any) with CAM, and why you may choose to use CAM instead of, or alongside, conventional medicine.

For physicians, medical students, and other healthcare professionals, please answer the following section of questions from the perspective of any experience you have had as a patient.

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THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Complementary and alternative medicine (or CAM) refers to a group of diverse medical practices and products that are not generally considered part of "conventional medicine". They are also sometimes referred to by other terms, such as non-traditional and non-conventional. This can include: acupuncture, naturopathy, and homeopathy, among other types of treatment.

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For physicians, medical students, and other healthcare professionals, please answer the following section of questions from the perspective of any experience you have had as a patient.

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Have you received CAM treatment in the past?

- ○ Yes
- ○ No

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Which treatment(s) have you received? (Select all that apply)

- [ ] Naturopathy
- [ ] Acupuncture
- [ ] Homeopathy
- [ ] Traditional Chinese Medicine
- [ ] Other (please specify)

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Did you receive CAM treatment(s) from a medical doctor (for example, your family physician)?

- ○ Yes, I received CAM treatment from a medical doctor
- ○ No, I received CAM treatment from another type of practitioner (please specify)
- ○ I don't know or can't recall

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Which factors contributed to your decision to choose CAM instead of conventional medical treatment? (Select all that apply)

- [ ] My physician recommended it to me
- [ ] It was recommended to me by a CAM practitioner (for example, a naturopath or homeopath)
- [ ] I wanted to avoid the side-effects of conventional treatment (for example, prescription drugs)
- [ ] I prefer "natural" and/or "holistic" approaches to health care
- [ ] I do not trust conventional medicine
- [ ] My medical doctor (e.g. family physician) was unwilling or unable to treat my condition
- [ ] Other (please specify)

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Please feel free to elaborate on your answer above or touch on other issues related to your decision to use CAM (optional).

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Please indicate the extent to which you agree or disagree with the following statement:

I was satisfied with the outcome of the CAM treatment that I received.

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Disagree

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

Please indicate the extent to which you agree or disagree with the following statement:

I am or would be comfortable discussing CAM with my medical doctor (for example, your family physician).

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Strongly disagree

Please feel free to elaborate on your answer above or touch on other issues related to your comfort around discussions with your physician about CAM (optional).

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The following questions will ask you about the principles of the current policy.

We are interested to hear your thoughts about the policy and whether it is clear, comprehensive, balanced and reasonable. The answers and comments you provide will help us determine where changes or improvements to the policy may be necessary.

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The College's current *Complementary/Alternative Medicine* policy seeks to respect the right of both patients and physicians to utilize complementary and alternative treatment options, while also setting appropriate boundaries to ensure that the care provided to patients is safe, effective, and in keeping with physicians' legal and ethical responsibilities.

Please indicate whether you agree or disagree that the policy strikes an appropriate balance between these two principles.

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Strongly disagree

Please feel free to elaborate on your answer above or touch on other issues relating to that question.

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The policy requires that any CAM therapeutic option that is recommended by physicians **must** be informed by evidence and science.

Please indicate the extent to which you agree or disagree with this requirement.

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Strongly disagree

Please feel free to elaborate (optional).

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THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The current policy requires that physicians **not** recommend therapeutic options that have been proven to be ineffective through scientific study.

Please indicate the extent to which you agree or disagree with this requirement.

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Strongly disagree

Please feel free to elaborate (optional).

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

In order to answer the next few questions, it is necessary for you to have read the current policy.

If you have not read the current policy, you will be skipped to the end of the survey; however, the answers you have provided to all previous questions will still be submitted.

If you would like, you may take a moment to read the current policy by clicking here.

Have you read the current *Complementary/Alternative Medicine* policy?

- ○ Yes
- ○ No

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

We'd like to understand whether the policy is comprehensive. That is, it addresses all of the relevant or important issues related to CAM, and includes definitions of all essential terms. Please indicate the extent to which you agree or disagree that the policy is comprehensive.

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Strongly disagree

How can the policy be made more comprehensive? (Please feel free to elaborate on your answer above or touch on other issues relating to the policy's comprehensiveness) (Optional)

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# THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

We'd like to understand whether the policy sets reasonable expectations for physicians. Please indicate whether you agree or disagree that the policy sets reasonable expectations for physicians.

- ○ Strongly agree
- ○ Somewhat agree
- ○ Neither agree nor disagree
- ○ Somewhat disagree
- ○ Strongly disagree

Please feel free to elaborate on your answer above or touch on other issues relating to reasonableness (optional).

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THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

If you have any additional comments that you have not yet provided, please provide them below, by email or through our online discussion forum.

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The College of Naturopaths of Ontario

**BRIEFING NOTE**
**Patient Rights Document**

**ISSUE:** Whether to approve the Patient Rights Document.

**BACKGROUND:**

The Patient Relations Committee is a statutory committee tasked with the responsibility of overseeing the Patient Relations Program. Part of the Committee's responsibilities within the Program is overseeing the College's Funding for Therapy/Counselling. The other components of the Patient Relations Program are outlined in The *Health Professions Procedural Code* ("The Code"), Schedule 2 to the *Regulated Health Professions Act,* 1991. The Code states that the patient relations program must include measures for preventing and dealing with sexual abuse of patients and shall include,

- Educational requirements for members;
- Guidelines for the conduct of members with their patients;
- Training for the College's staff; and
- The provision of information to the public.

This briefing note and the attached Patient Rights Document is addressing the measure within the Program of the provision of information to the public.

The Patient Relations Committee is currently in the process of working to expand the College's patient relations program, including providing additional information and resources for patients. Ensuring that patients understand their rights is one way that Committee believes that patients can be further empowered with regards to their health care. As such the Committee has drafted a Patient Rights Handout to be provided by naturopaths to new and existing patients. It is the intent that this document will be available for download on the College's website (and a copy emailed to all NDs in Ontario) with the recommendation that they share it with all new and existing patients.

On November 30, 2018 the College initiated a formal public consultation on the draft Patient Rights Document. As a part of the public consultation the College also sought the public input from the Citizens Advisory Group, formed to bring the patient voice and perspective to heath care regulation in Ontario.

**DISCUSSION POINTS:**

Below is a summary of the feedback that was received during the public consultation:

- Having a patient bill of rights is very useful because it acknowledges and empowers the patient. It gives voice to their interest, informs them of their rights, gives them increased confidence in the care they receive, and provides them with a starting-point kind of resource to help them resolve any difficulties that may arise in the course of treatment.
- It sets minimal expectations on both sides about standards of professionalism and what a patient can expect.
- It puts patients more at ease emotionally in terms of knowing how to proceed and what to expect.

- It increases their comfort level by providing parameters and boundaries for care. This shows respect for the patient. It helps to “level the playing field” in terms of the power differential between the patient and provider.
- We are in a new era where patients generally ask more questions and expect more from their health care providers. However, it’s important to recognize that some patients (in particular, the elderly and those from some cultural backgrounds) are not comfortable asking questions of their provider or conveying their discomfort with something the provider is doing.
- It must be very visually appealing and should be at eye-level in the waiting rooms. Either at eye level when you check in at reception and/or at eye-level when the patient is sitting and waiting. Should also be in all treatment rooms.
- If patients can book online and/or are sent a new patient package or intake form online, the Patient Bill of Rights should be emailed at the same time. Otherwise, it should be given to every single patient during intake in the professional’s office.
- The provider should verbally talk to the patient about their rights at the very first appointment in addition to providing them with a printed copy.
- The Colleges should make it mandatory for providers to inform every single patient about their rights as a patient/Bill of Rights document. It shouldn’t be optional. Patients need to know this information.
- The form should be in English and French and other languages as applicable.
- It could be advertised in seniors’ care homes and posted anywhere that people gather, e.g., libraries, coffee shops, grocery stores, etc.
- It should be promoted via social media.

The Patient Relations Committee met on February 13, 2019 and reviewed all feedback received from the public consultation. At that time the Committee finalized and approved the draft Patient Rights Document for presentation and approval of Council.

**ANALYSIS**

Risk Assessment – There is no current risks to the College.

Privacy Considerations – There are no privacy implications.

Transparency – Transparency is obtained by holding public consultations and discussing the matter in open Council.

Financial Impact – There are no immediate financial impacts other than the costs of final graphic design of the draft Patient Rights Document.

**RECOMMENDATION**

The Patient Relations Committee recommends that Council approve the draft Patient Rights Document.

Dr. Shelley Burns, ND
Chair of the Patient Relations Committee
April 2019

# Patient Rights

**As my patient you have the right to:**

- Know what I am recommending, including:
    - the nature and purpose of the treatment;
    - the intended outcome and possible side effects;
    - the risks and anticipated benefits; and
    - Reasonable alternatives.
- At any time, ask a question.
- Refuse or stop treatment at any time.
- Consent, or withdraw your consent, to all assessments including physical examinations or laboratory tests.
- Ensure that your personal health information remains confidential and that your privacy is respected.
- Obtain a second opinion from another health professional.
- Be listened to.
- Express concerns about care/service and be informed of the process for doing so.
- Know the names and roles of the members of your health care team.
- To file a complaint with the College of Naturopaths of Ontario, the regulatory body for naturopaths in our province.
- Be free of mental, physical, sexual and financial abuse.
- Professional care free from bias.
- A clear explanation of the services you will receive and who will provide them.
- Access a copy of your personal health record.

DRAFT