



The College of Naturopaths of Ontario

Council of the College of Naturopaths of Ontario

Meeting #27

Draft Agenda

Date: January 26, 2022 (2021/22-05)

Time: 9:15 a.m. to 3:00 p.m.

Location: Zoom Video Conference Platform¹

¹ Pre-registration is required.

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

COLLEGE

College is body corporate

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

Corporations Act

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

Duty of College

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

Objects of College

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

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

Duty

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



The College of Naturopaths of Ontario

COUNCIL MEETING #27
January 26, 2022
9:15 a.m. to 3:00 p.m.
DRAFT AGENDA

Sect/No.	Action		Item		Page	Responsible
0	Pre-Meeting Networking (8:45 am to 9:15 am)					
		Networking	Informal networking for Council members (8:45-9:15am)		--	All
1	Call to Order and Welcome					
	1.01	Procedure	Call to Order		--	K. Bretz
	1.02	Discussion	Meeting Norms		4-6	K. Bretz
	1.03	Discussion	“High Five” – Process for identifying consensus		7	K. Bretz
2	Consent Agenda ¹					
	2.01	Approval	i.	Draft Minutes of November 24, 2021	8-14	K. Bretz
			ii.	Committee Reports	15-30	
			iii.	Information Items	31-68	
3	Main Agenda (9:20 am)					
	3.01	Approval	Review of Main Agenda		3	K. Bretz
	3.02	Discussion	Declarations of Conflict of Interest		69-71	K. Bretz
4	Monitoring Reports					
	4.01	Acceptance	Report of the Council Chair		72	K. Bretz
	4.02	Acceptance	Report on Regulatory Operations		73-77	A. Parr
5	Council Education					
	5.01	Information	Program Briefing – Registration Program		78-83	E. Laugalys
	5.02	Education	Enterprise Risk Management Framework		--	R. Steinecke
6	Council Governance Policy Confirmation					
	6.01	Discussion	Review/Issues Arising		--	B. Lessard-Rhead
			i.	Ends Policies		
			ii.	Governance Process Policies		
			iii.	Executive Limitations		
	6.02	Decision	Detailed Review Council-CEO Linkage Policies		84-89	
7	Regular Business					
	7.01	Discussion	Enterprise Risk Management		--	A Parr
		Decision	i.	GP32 – Enterprise Risk Management policy	90-91	B. Lessard-Rhead
		Decision	ii.	CC09 – Risk Committee	92-93	B. Lessard-Rhead
		Information	iii.	ERM Program (Operating Policy)	94-104	A Parr
	7.02	Decision	Review of College Reserves and Registrant Fees		105-112	A Kupny
	7.03	Discussion	Capital and Operating Budget Consultation		113-119	A Kupny
	7.04	Decision	Committee Appointment		120	G Welder
8	In Camera (Pursuant to paragraph (d) of section 7(2) of the HPPC)					
	8.01	Approval	Move to In-camera		--	K. Bretz
	8.02	Approval	CEO Goals and Development Plan for 2022-2023		--	
9	Other Business					
	9.01	TBD			--	K. Bretz
10	Evaluation and Next Meeting					
	10.01	Discussion	Meeting Evaluation		On-line	K. Bretz
	10.02	Discussion	Next Meeting – March 30, 2022		--	K. Bretz
11	Adjournment					
	11.01	Decision	Motion to Adjourn		--	K. Bretz

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



The College of Naturopaths of Ontario

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

Meeting Norms

General Norms

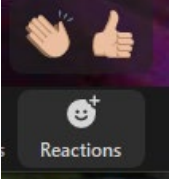
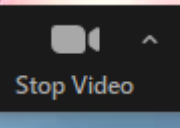
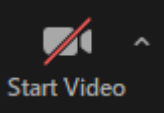
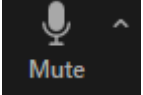
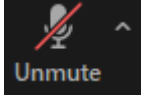
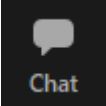
1. We'll listen actively to all ideas
2. Everyone's opinions count
3. No interrupting while someone is talking
4. We will be open, yet honor privacy
5. We'll respect differences
6. We'll be supportive rather than judgmental
7. We'll give helpful feedback directly and openly
8. All team members will offer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

Additional Norms for Virtual Meetings

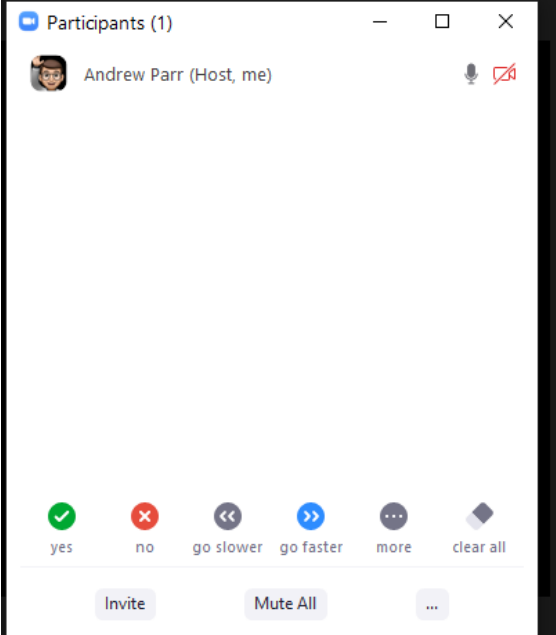
1. No putting the call on hold or using speakerphones
2. Minimize background noise – place yourself on mute until you are called upon to speak and after you have finished speaking
3. All technology, including telephones, mobile phones, tablets and laptops, are on mute or sounds are off
4. If we must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

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

Zoom Control Bar – Bottom of screen

Reactions	Stop or Start Video	Mute/Unmute	
	 	 	

Other Helpful Tips

	• Use the Participants button on the bottom control button to see a list of participants. • On the Participants Menu, you can use the bottoms to send instant message to the Host... yes or no etc. (Not all of these options will appear if you are not the Host)
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Participants (1)

Andrew Parr (Host, me)

Mute

More >

Rename

Edit Profile Picture

yes

no

go slower

go faster

more

clear all

Invite

Mute All

...

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



The College of Naturopaths of Ontario

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

Using “High Five” to Seek Consensus



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

When asked you would show:

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

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

Image provided courtesy of Facilitations First Inc.



The College of Naturopaths of Ontario

**Council Meeting
November 24, 2021**

**Video Conference
DRAFT MINUTES**

Council		
Present		Regrets
Dr. Jonathan Beatty, ND (3:4)		Ms. Asifa Baig (2:4)
Dr. Shelley Burns, ND (4:4)		Dr. Kim Bretz, ND (3:4)
Mr. Dean Catherwood (4:4)		
Mr. Brook Dyson (4:4)		
Ms. Lisa Fenton (4:4)		
Dr. Brenda Lessard-Rhead, ND (Inactive) (4:4)		
Mr. Paul Phillion (3:3)		
Ms. Sarah Griffiths-Savolaine (4:4)		
Dr. Jacob Scheer, ND (4:4)		
Dr. Jordan Sokoloski, ND (4:4)		
Dr. George Tardik, ND (3:4)		
Staff Support		
Mr. Andrew Parr, CAE, CEO		
Ms. Agnes Kupny, Director of Operations		
Ms. Erica Laugalys, Director, Registration & Examinations		
Dr. Mary-Ellen McKenna, ND (Inactive), Manager Professional Practice		
Mr. Jeremy Quesnelle, Deputy CEO		
Ms. Monika Zingaro, Administration Coordinator		
Guests		
Ms. Rebecca Durcan, Legal Counsel		

Dr. Danielle O'Connor, ND, Registration Committee Chair	
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1. Call to Order and Welcome

Council Vice-Chair, Sarah Griffiths-Savolaine, called the meeting to order at 9:18 a.m. She welcomed everyone to the meeting and noted that Council Chair Dr. Kim Bretz, ND, was unable to attend. Pursuant to the by-laws, she would assume the role of meeting Chair for today. She also reminded Council members that the meeting was being live streamed via YouTube.

2. Consent Agenda

2.01 Review of Consent Agenda

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

MOTION:	To approve the Consent Agenda as presented.
MOVED:	Shelley Burns
SECOND:	Dean Catherwood
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 Chair asked if there were any items to be added to the Agenda. There were none.

MOTION:	To approve the Main Agenda as presented.
MOVED:	George Tardik
SECOND:	Jonathan Beatty
CARRIED.	

3.02 Declarations of Conflicts of Interest

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

4. Monitoring Reports

4.01 Report of the Council Chair

The Report of the Council Chair was circulated in advance of the meeting. The Chair reviewed the report briefly with Council on behalf of the Council Chair, Dr. Kim Bretz, ND. She welcomed and responded to questions from the Council.

MOTION:	To accept the Report of the Council Chair.
MOVED:	Jordan Sokoloski
SECOND:	Paul Phillion
CARRIED.	

4.02 Report on Regulatory Operations from the CEO

The Report on Regulatory Operations from the CEO was circulated in advance of the meeting. Mr. Andrew Parr, CEO, provided highlights of the report and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Report on Regulatory Operations from the CEO.
MOVED:	Jacob Scheer
SECOND:	Brook Dyson
CARRIED.	

4.03 Operating Report – Mid-year Report

The Operating Report – Mid-year from the CEO was distributed in advance of the meeting. Mr. Parr provided highlights of the report and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Operating Report – Mid-year from the CEO.
MOVED:	Brenda Lessard-Rhead
SECOND:	Shelley Burns
CARRIED.	

4.04 Variance Report and Unaudited Financial Statements for Q2

A Variance Report and the Unaudited Financial statements ending September 30, 2021 (Q2) were included in the materials circulated in advance of the meeting. Ms. Agnes Kupny, Director of Operations, provided a review of the Variance Report and the Unaudited Statements and highlighted the changes in the report from the previous quarter. She responded to questions that arose during the discussion that followed.

MOTION:	To accept the Variance Report and Unaudited Financial statements for the second quarter as presented.
MOVED:	Dean Catherwood
SECOND:	Paul Phillion
CARRIED.	

5. Council Governance Policy Confirmation

5.01 Review/Issues Arising

5.01(i) Detailed Review – Council-CEO Linkage Policies

The Chair invited Dr. Brenda Lessard-Rhead, ND (Inactive), Chair of the Governance Policy Review Committee (GPRC) to guide the Council through the policy confirmation process. Dr. Lessard-Rhead, ND (Inactive), asked if they had any questions or matters to note with respect to the Council-CEO Linkage policies based on the reports received. No issues were noted at this time.

5.01(ii) Governance Process Policies

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

5.01(iii) Executive Limitations Policies

Council members were asked if they had any questions or matters to note with respect to the Executive Limitations policies based on the reports received. No issues were noted at this time.

5.02 Detailed Review (as per GP08) – Ends Policies

Dr. Lessard-Rhead, ND (Inactive), noted that the detailed policy review for this meeting was focused on the Ends Policies. She noted that staff had invited Council members to provide any feedback to the GPRC and that all of the feedback received focused on the Ends Priorities policy. She provided a detailed overview of the amendments being presented as outlined in the Memorandum included within the Council's package and responded to any questions that arose during the discussion.

Dr. Lessard-Rhead, ND (Inactive), also noted the GPRC recommendation that the Council engage in a Strategic Planning Cycle in the next calendar, year given that the existing Ends policies were now nearly five years old. The Council expressed their willingness to proceed with the recommendation of conducting a Strategic Planning session to be completed by the Fall of 2022 and to be included within the College's budget for review and discussion during their January 2022 meeting.

MOTION:	To accept the recommendations of the Governance Policy Review Committee as presented.
MOVED:	Lisa Fenton
SECOND:	Dean Catherwood

CARRIED.	
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5.03 Proposed New/Amended Policies from GPRC

5.03a GP16.02 – Governance Evaluation

Dr. Lessard-Rhead, ND (Inactive), provided a detailed overview of the proposed amendments to the policy included within the Council's package and responded to any questions that arose during the discussion.

MOTION:	To approve the proposed amendments to GP16.02 as presented.
MOVED:	Jonathan Beatty
SECOND:	George Tardik
CARRIED.	

6. Business

6.01 Appointment of CEO Review Panel

Ms. Kupny advised the Council members that according to GP 19.03 – CEO Performance Review, each year the Council at its November meeting, will need to appoint the members to the CEO Performance Review Panel (the Review Panel) with a minimum of three members and up to a maximum of four members, that is comprised of the Council Chair and Council Vice-Chair and one or two Council members.

MOTION:	To approve the appointment of Dr. Kim Bretz, ND, Council Chair, Sarah Griffiths-Savolaine, Council Vice-Chair, Dr. Jordan Sokoloski, ND, and Brook Dyson to the CEO Review Panel.
MOVED:	Brenda Lessard-Rhead
SECOND:	Paul Phillion
CARRIED.	

6.02 Registration Policy Amendments

A Briefing Note and corresponding documentation highlighting the proposed changes to the Registration Policy were circulated in advance of the meeting. Dr. Danielle O'Connor, ND, Registration Committee Chair, provided a detailed overview of the amendments and responded to any questions that arose during the discussion.

MOTION:	To approve the proposed changes to the Registration Policy as presented.
MOVED:	Brenda Lessard-Rhead
SECOND:	Jacob Scheer

CARRIED.	
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The Chair thanked Dr. O'Connor, ND, for presenting the proposed changes to Council.

6.03 Vaccination Statement to the Profession

A Briefing Note and corresponding documentation providing a detailed outline of the proposed Vaccination Statement to the profession on behalf of the College Council was included within the Council's package. Mr. Parr explained in detail the statement and responded to any questions and concerns that arose during the discussion.

The Council had a fulsome discussion about the need for the statement and its intent. There was a general consensus that it was an appropriate statement for the Council to make.

MOTION:	To accept the Vaccination Statement to the Profession as presented/amended.			
MOVED:	Dean Catherwood			
SECOND:	Brenda Lessard-Rhead			
VOTE:	In favour:	10	Opposed:	1 (Dr. Jonathan Beatty, ND)
CARRIED.				

6.04 Committee Appointments

A Memorandum informing Council of recent resignations of a committee member and Council member, along with appointments to consider ensuring the affected Committees remain properly constituted was included within the Council's package. Mr. Parr highlighted the recommendations for appointment and responded to any questions and concerns that arose during the discussion.

MOTION:	To approve the recommendation to appoint Dr. Jacob Scheer, ND, to the Inspection Committee, Dr. Enrique (Rick) Olazabal, ND, as Chair of the Examination Appeals Committee, and Ms. Andrea Szametz and Mr. Hanno Weinberger, as Public Representatives to the Examination Appeals Committee.
MOVED:	Brenda Lessard-Rhead
SECOND:	Jordan Sokoloski
CARRIED.	

6.05 Proposed By-law Changes

A Briefing Note highlighting the proposed changes to two areas of the by-laws including the provisions setting out the process for election to the Council and second, the provisions governing the payment plan was circulated as a supplemental document from the meeting package to align with the by-law consultation end date of November 22, 2021.

Mr. Parr provided a detailed overview of the proposed amendments and responded to any questions that arose during the discussion.

MOTION:	To approve the proposed amendments to the College's by-laws as presented.
MOVED:	Brenda Lessard-Rhead
SECOND:	Paul Phillion
CARRIED.	

7. Council Education

7.01 Program Briefing – Inspection Program

A Briefing Note highlighting the Inspection Program was circulated in advance of the meeting. Dr. Mary-Ellen McKenna, ND (Inactive), Manager of Professional Practice, provided a detailed overview of the program and the processes within the program the College follows and responded to any questions that arose during the discussion.

The Chair thanked Dr. McKenna, ND (Inactive), for presenting the Program to Council.

8. Meeting Evaluation and Next Meeting

8.01 Evaluation

The Chair advised the Council members that a link will be provided within the chat feature via Zoom for each member to copy and paste into a web browser to complete an evaluation form immediately following the end of the meeting.

8.02 Next Meeting

The Chair noted for the Council that the next regularly scheduled meeting is set for January 26, 2022. In addition, the Chair noted the informal networking held prior to the meeting commencing will take place again, as the Council members appreciated being able to speak to one another.

9. Adjournment

9.01 Motion to Adjourn

The Chair asked for a motion to adjourn the meeting. The meeting adjourned at 11:35 a.m.

MOTION:	To adjourn the meeting.
MOVED:	George Tardik
SECOND:	Shelley Burns

Recorded by: Monika Zingaro
Administration Coordinator
November 24, 2021



The College of Naturopaths of Ontario

MEMORANDUM

DATE: January 26, 2022

TO: Members of Council

FROM: Andrew Parr, CAE
Chief Executive Officer

RE: Committee Reports

Please find attached the Committee Reports for item 2.01 (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. Governance Committee.
6. Patient Relations Committee.
7. Quality Assurance Committee.
8. Registration Committee.
9. Scheduled Substances Review Committee.
10. Discipline Committee.
11. Inspection Committee.
12. Governance Policy Review Committee.
13. Standards Committee.
14. Equity, Diversity and Inclusion Committee.

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



The College of Naturopaths of Ontario

AUDIT COMMITTEE REPORT

January 2022

For the reporting period of November 1, 2021 to December 31, 2021 the Audit Committee was not required to undertake any activities, and therefore did not convene.

Dr. Elena Rossi, ND
Chair
January 4, 2022.



The College of Naturopaths of Ontario

EXAM APPEALS COMMITTEE
(December 2021)

The Committee meets on an as-needed basis, based on received exam appeals, those that would require deliberation and decision, or needed appeals-related policy review. The Exam Appeals Committee did not meet in this reporting period.

Rick Olazabal, ND
Chair
Exam Appeals Committee
December 21, 2021



The College of Naturopaths of Ontario

EXECUTIVE COMMITTEE REPORT

January 2022

This serves as the Chair report of the Executive Committee for the period December 1, 2021, to November 31, 2021.

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

Dr. Kim Bretz, ND

Council Chair

January 2022



The College of Naturopaths of Ontario

INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE REPORT

January 2022

Between November 1, 2021 and December 31, 2021, the Inquiries, Complaints and Reports Committee held two regular online meetings – November 4 and December 2, and two emergency online meetings on November 19 and December 8.

November 4, 2021 (regular): 15 matters were reviewed, ICRC members drafted 4 reports for ongoing investigations, approved 2 Decision and Reasons and delivered 1 oral caution.

November 19, 2021 (emergency): ICRC members reviewed one complaint matter and discussed potential interim actions, namely, an interim suspension of the registrant in question, to protect the public.

December 2, 2021 (regular): 16 matters were reviewed. ICRC members approved 3 Decisions and Reasons, drafted 3 reports and delivered 1 oral caution.

December 8, 2021 (emergency): ICRC members reviewed 2 complaint matters requiring urgent actions. The committee imposed 1 interim suspension for one of the matters and referred allegations of professional misconduct related to another matter to the Discipline Committee.

Meetings continue to be well-attended and productive in the online format. The oral cautions delivered during this period were the first that were attended by fewer panel members, as was decided after the committee's training session. The members in attendance believe that these cautions were just as effective as when the whole committee was present.

Dr. Erin Psota, ND
Chair
January 10th, 2022



The College of Naturopaths of Ontario

GOVERNANCE COMMITTEE CHAIR REPORT

January 2022

During the reporting period of October 1, 2021 – December 31, 2021, the Governance Committee convened on one occasion.

On Dec 8, 2021 the Committee reviewed the Governance committee feedback with Sandi Verrecchia from Satori consulting. The committee discussed how to follow up with volunteers regarding the individual volunteer work plans created with Satori Counseling. It was suggested a survey could be sent out that each volunteer would answer while referencing their work plan. The committee also reviewed the proposed volunteer application assessment process and the corresponding forms and submissions that would need to be approved for each volunteer as well as the volunteer application process and tools being developed by the college via smart sheet. The committee discussed a college mentoring program and the available resources to start the program and that the maintenance of the future communications would rely upon volunteer upkeep. The approval of a new volunteer, Amber Vance was accepted.

The Committee expects to meet February 2, 2022.

Thank you,

Dr. Gudrun Welder, ND
Chair
December 2021



The College of Naturopaths of Ontario

PATIENT RELATIONS COMMITTEE REPORT

October 1, 2021 – December 31, 2021

Since the date of the last report in September 2021, the Patient Relations Committee (PRC) held one scheduled meeting on November 17, 2021.

Ongoing Issues/Topics for Discussion

Review of Program Policy of the PRC

The Committee reviewed and updated its Program Policies to ensure they include up-to-date information regarding applications for funding, reporting and the processes by which the committee follows to meet its mandate.

Boundary Scenarios

The Committee reviewed and approved a number of sexual abuse and boundary case scenarios to be used by the College in various communication mechanisms.

Funding for Therapy and Counselling

Since the date of the last report, there has been one new application for funding for therapy and counselling during this reporting period. The application was reviewed and approved by the Committee as it met all of the eligibility criteria. There are now five active files with a total of \$23,924.80 of funding accessed with a total of \$1,365 being accessed since the last report.

Next Meeting Date

The Committee's next meeting is scheduled for February 9, 2022

Sam Laldin
Chair
December 2021

Next Meeting Date

The Committee's next meeting is scheduled for November 17, 2021.

Sam Laldin
Chair
October 2021

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collegeofnaturopaths.on.ca



The College of Naturopaths of Ontario

QUALITY ASSURANCE COMMITTEE REPORT January 2022

Meetings and Attendance

Since the date of our last report to Council in early November, the Quality Assurance Committee has met on one occasion, via teleconference, on November 23rd. Its previously scheduled October meeting had been deferred to November as it was not able to meet quorum requirements. The Committee did not meet in December.

Activities Undertaken

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

The Committee also reviewed and discussed in detail 4 previously submitted Group 1 CE Reporting extension requests and granted an extension to February 28, 2022 for each. It also reviewed a Group 1 CE Reporting summary report provided by staff and considered the various options for dealing with those instances where Registrants were still in non-compliance with program requirements. The Committee subsequently decided to grant an extension to the above-noted date for those Registrants with outstanding discrepancies and set a final submission deadline of two weeks for those who remained outstanding in submitting their CE logs.

Additionally, the Committee considered the various options with respect to how the rollout of the new recently approved Registrant Self Assessment Questionnaires should proceed. It was decided that all of the new questionnaires would be made available, while at the same time beginning in 2022, Registrants will be required to complete a **minimum of three Self Assessments**, including **Record Keeping and two others of the Registrant's choice**.

Finally, the Committee considered and made decisions with respect to a staff report on the matter of a Registrant who has failed to co-operate or meet the requirements of both the Peer and Practice Assessment and Group 1 CE Reporting components of the Quality Assurance Program.

Next Meeting Date

January 18, 2022.

Respectfully submitted by:
Barry Sullivan, Chair,
January 7, 2022.



The College of Naturopaths of Ontario

REGISTRATION COMMITTEE REPORT (Jan 2022)

At the time of this report, the Registration Committee met on November 17, 2021; no meeting was conducted in December 2021.

Exam Remediation Review

The Committee continued to set plans of remediation for candidates who had made two unsuccessful attempts of the Ontario Biomedical examination.

Applications for Registration

The Committee continued to review referred applications for registration to determine eligibility for registration in Ontario. Grounds for referral included applicant good character (s.3(2) of the Registration Regulation) and an applicant's physical or mental condition or disorder (s. 3(4) of the Registration Regulation).

Registration Regulation Review

A review was conducted of the Registration Regulation as part of the College's commitment to registration practices that adhere to the Office of the Fairness commissioner's four principles of transparency, fairness, objectivity and impartiality. While the full regulation was circulated within the Committee for review, the focus of discussion was on the Regulation's good character provisions. A summary report of the Committee's discussion and recommendations will be provided to other Committees of the College for review and feedback.

Registration Committee Evaluation

The Committee reviewed its self-evaluation findings with Sandi Verrecchia of Sartori Consulting.

Danielle O'Connor, ND
Chair
Registration Committee
Jan 3, 2022



The College of Naturopaths of Ontario

SCHEDULED SUBSTANCES REVIEW COMMITTEE REPORT

October 1, 2021 – December 31, 2021

During the reporting period of October 1, 2021 to December 31, 2021, the SSRC met on once on November 10, 2021.

The Committee undertook an initial review and discussion of the proposed approach to identifying the scope of practice of the profession of naturopathy in Ontario and reviewed an initial draft of the list of diseases, disorders and dysfunctions to be used. The Committee agreed to further review the list by email and once complete to circulate it to the profession for feedback

Respectfully submitted by

Dr. George Tardik, ND
Chair
January 2022



The College of Naturopaths of Ontario

DISCIPLINE COMMITTEE REPORT

January 2022

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

This report is for the period from 1 November 2021 to 31 December 2021 and provides a summary of the hearings held during that time as well as any new matters referred by the Inquiries, Complaints and Reports Committee (ICRC) of the College. Committee meetings and training sessions are also reported.

Discipline Hearings

No hearings were conducted during the reporting period.

The Panel in the matter of CONO vs. Natasha Turner (DC20-02) released its Decision and Reasons on 26 November 2021.

New Referrals

Three new referrals were made to the Discipline Committee from the ICRC on 5 November 2021 (DC21-01 and DC21-02) and 8 December 2021 (DC21-03).

Committee Meetings and Training

The Committee as a whole did not meet during the reporting period.

Respectfully submitted,

Dr. Jordan Sokoloski, ND, Chair
3 January 2022



The College of Naturopaths of Ontario

INSPECTION COMMITTEE REPORT **November-December 2021**

Committee Update

Since the last update to Council, the Inspection Committee had one teleconference meeting on November 25th, 2021.

Inspection Outcomes

The Committee reviewed the Inspection Program Requirements Checklists used by the inspectors to record their observations during the inspections, and Inspector's Reports for 10 locations.

The outcomes were as follows:

- Part I
 - 5 Passes with 2 Conditions, and 47 Recommendations
- Part II
 - 4 Passes with 1 Condition, and 11 Recommendations
- Fail
 - 1 premises
- Ratified Outcome
 - Pass for 1 location with 6 Recommendations

At this meeting there were also 2 inspection outcomes in response to submissions that were received from premises that had received an outcome of a pass with conditions. The final outcomes for both premises was a pass. The failed inspection premises from this meeting made a submission for the committee to review in early January, the final outcome was a pass.

Type 1 Occurrence Reports

There were 3 Type 1 Occurrences reviewed by the Committee. All occurrences were referrals to emergency services within 5 days of an IVIT procedure. The Committee determined that no further action was required.

Closing Remarks

Sandi Verrecchia from Satori Consulting facilitated the discussion on the evaluation of the Committee's performance over the previous year. The Committee was generally satisfied with the evaluation report and also discussed areas that could be improved to further enhance the Committee's work.

We would like to thank both Dr. Jennifer Lococo ND, and Dr. Pearl Arjomand ND for their help with the committee this year. Their help and input was much appreciated. On a positive note, we would also like to welcome Dr. Jacob Scheer ND DC to the committee.

Looking forward to a positive year!

Best of health,

Dr. Sean Armstrong, ND
Chair, Inspection Committee
January 11, 2022



The College of Naturopaths of Ontario

GOVERNANCE POLICY REVIEW COMMITTEE REPORT January 2022

Meetings and Attendance

The Governance Policy Review Committee met on one occasion between November 1 and December 31, 2021, via video-conference, on November 2. Attendance was good with no concerns regarding quorum experienced.

Activities Undertaken

At its **November** meeting, the Committee reviewed and discussed one Governance Process Policy, specifically GP16. Proposed amendments were examined and subsequently brought forward to Council for approval at the November 24 Council meeting.

As part of the mandated detailed annual review of all Policies, the Committee reviewed the Ends Policies (E01 – E02) and considered related Council member feedback in developing proposed amendments to these policies. The proposed amendments were submitted to Council for review and approval at their November 24 meeting. In addition, the GPRC proposed to Council that a Strategic Planning session be undertaken to adequately assess Council's Ends Priorities (E02), no later than the fall of 2022.

Issues

No issues noted other than the ongoing implications of the COVID-19 pandemic.

Next Meeting Date

January 5, 2022

Respectfully submitted by,

Dr Brenda Lessard-Rhead, ND (Inactive)
Chair
January 4, 2022



The College of Naturopaths of Ontario

STANDARDS REVIEW COMMITTEE REPORT

October 1, 2021 – December 31, 2021

During the reporting period of October 1, 2021 – December 31, 2021 the Standards Committee had one meeting scheduled for November 3, 2021. The Committee agreed to cancel the meeting and defer until the new year in order to review a larger group of Standards of Practice.

Respectfully submitted

Dr. Elena Rossi, ND
Chair
January 2022



The College of Naturopaths of Ontario

EQUITY, DIVERSITY AND INCLUSION COMMITTEE REPORT

January 2022

For the reporting period of November 1, 2021 to December 31, 2021 the Equity, Diversity and Inclusion Committee (EDIC) held a meeting on December 9, 2021.

During the Committee meeting, each member provided their feedback and insights in relation to the creation of Focus Groups comprised of members of the profession and stakeholders who would provide the College and the Committee with two vital benefits. The first being able to communicate directly with the individuals who would self-identify with one or more of the groups. Secondly, having the opportunity to engage in conversation directly with a group to have conversations about their review of College documents and allow them to provide their feedback and suggestions for amendments to be considered. Therefore, the Committee agreed to release a statement to gather initial data.

Also, the Committee discussed and agreed upon using the *Government of Ontario, Anti-Racism Directorate* resource when referencing Glossary Terms, the Committee provided their initial feedback on the College's Volunteer Program Developments and reviewed a proposed Action Plan to follow to achieve the Committee's set initiatives and set the direction the Committee would like for the long term commitments.

The Committee is expected to meet again late January to mid February.

Dr. Jamuna Kai, ND
Chair
January, 2022.



The College of Naturopaths of Ontario

MEMORANDUM

DATE: January 26, 2022

TO: Council members

FROM: Andrew Parr, CAE
Chief Executive Officer

RE: Items Provided for Information of the Council

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

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

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

No.	Name	Description
1.	Gray Areas (No. 262,)	Gray Areas is a monthly newsletter and commentary from our legal firm, Steinecke Maciura LeBlanc on issues affecting professional regulation. The issues for this past quarter are provided to Council in each Consent Agenda package.
2.	Legislative Update (Nov and Dec 2021)	This is an update provided by Richard Steinecke to the members of the Health Profession Regulators of Ontario (HPRO), formerly the Federation of Health Regulatory Colleges of Ontario (FHRCO). The updates identify legislation or regulations pertaining to regulation that have been introduced by the Ontario Government. The updates for the past quarter are provided to Council in each Consent Agenda package.
3.	Guidelines	Three Guidelines to reference as noted within Briefing Notes throughout the agenda items. These include the following,

No.	Name	Description
		<i>Understanding the Public Interest, Understanding the Rush Analysis Terminology and Understanding Transparency.</i>
4.	Council Meeting Evaluation	Graphs summarizing the responses of Council member's feedback from the November 2021 Council meeting.
5.	Correspondence – Re; Pringle	Communications received and response in relation to the matters outlined in their letter sent to the College.

Adverse Impact

by Rebecca Durcan
January 2022 - No. 262

While the term “adverse impact” has a well-known meaning amongst human rights lawyers, it is still not widely recognized in the regulatory world. That may be about to change.

An adverse impact occurs when an apparently neutral requirement, say a math test, has a disproportionate impact on certain protected groups. Equity principles, and in certain circumstances the law, requires that the requirement be removed or modified so that it has a more equitable impact.

In *Ontario Teacher Candidates’ Council v. The Queen*, 2021 ONSC 7386, <https://canlii.ca/t/jlcvg> the Divisional Court declared that a requirement for applicants for teacher certification to successfully complete a Mathematics Proficiency Test (MPT) violated the equality provisions found in s. 15 of the *Canadian Charter of Rights and Freedoms*. The Court declared that applicants for teacher certification who met all other requirements should be certified by the regulatory body.

The Court’s overview of the case nicely sums up the outcome of its analysis.

The question on this application is whether the MPT has a disproportionate adverse impact on entry to the teaching profession for racialized teacher candidates and if so, whether it can be justified under s. 1 of the *Charter*.

The evidence points to significant disparities in success rates of standardized testing based on race, including statistical evidence of racial disparities with respect to the MPT specifically. The deleterious effect on diversity is somewhat

ameliorated by subsequent attempts available to retake the MPT.

The MPT infringes s. 15 of the *Charter* and cannot be justified under s. 1. The Respondent [government] has not discharged its burden of showing that the MPT minimally impairs the rights of racialized teacher candidates. There were reasonably available alternatives to the MPT that, on their face, appear to be less impairing and at least as effective in achieving the goal of improving student achievement in math. These include requiring a minimum number of hours of math instruction or a math course in B.Ed. programs, requiring an undergraduate math course as an admissions requirement for B.Ed. programs or waiting to see the effects of the other parts of the Respondent’s four-year math strategy.

The Respondent’s efforts to address equity issues related to the MPT do not meet the minimal impairment requirement where there are other options available that would not impair anyone’s rights. Racialized teacher candidates who have been disproportionately unsuccessful on the MPT should not have to keep retaking the test. There is a cost to retaking the test in time and money for those who are least likely to be able to afford this and there is no undertaking that going forward, teacher candidates will not have to pay to retake the MPT.

There is an under-representation of racialized teachers in Ontario schools. Racialized students benefit from being taught by racialized teachers. The deleterious effects of the MPT on racialized teacher candidates who have been disproportionately unsuccessful on the test outweigh its benefits.

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: Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-599-2200 Fax: 416-593-7867, E-Mail: info@sml-law.com

WANT TO REPRINT AN ARTICLE

A number of readers have asked to reprint articles in their own newsletters. Our policy is that readers may reprint an article as long as credit is given to both the newsletter and the firm. Please send us a copy of the issue of the newsletter which contains a reprint from Grey Areas.

Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

There was considerable research, expert and statistical evidence demonstrating that standardized testing generally, and standardized teaching testing in particular, had a materially higher pass rate for White candidates compared to racialized candidates.

The first administration of the MPT indicated that candidates who identified as Indigenous and Black had a success rate that was 20 percentage points lower than White candidates. French-speaking candidates, those speaking other languages, and those who experience cognitive disabilities had even less success in passing the test.

There was also evidence from a highly qualified internationally trained individual who had difficulty passing the MPT, only doing so on his third attempt. The Court specifically commended the value of this kind of evidence.

There was dispute as to the quality of some of the evidence, especially evidence related directly to the MPT. However, the Court said that while “evidence is necessary [to demonstrate adverse impact], it cannot be that a claimant group must wait years before it is in a position to challenge a regulation that it alleges is discriminatory.”

The purpose of the requirement (i.e., the harm being addressed) was student proficiency in mathematics. In conducting its proportionality analysis between the goal and means chosen to address it:

Courts will typically look to evidence that the government explored options other than the impugned measure and evidence supporting its reasons for rejecting those alternatives. The government may adduce evidence that it consulted with affected parties in order to demonstrate that it explored a range of options, though there is no requirement that the government engage in consultation before legislating.... The government might also

adduce evidence to show that the less impairing alternatives proposed are not likely to achieve the government’s objectives or are otherwise not workable, or that the proposed alternatives are not in fact less impairing. ...

Where the infringing measure is predicated on the existence of a specific problem, the court may look to evidence that the problem exists or that existing tools are ineffective in order to justify the imposition of the infringing measure. ...

Overall, while the approach to the minimal impairment stage is deferential, the government is typically required to demonstrate a reasonable basis, on the evidence, for concluding that its chosen means were minimally impairing and that it had sound reasons for rejecting proposed alternatives.

There was significant research before the Court indicating that standardized testing of teachers had only a modest impact on student performance especially when compared to other strategies such as enhanced mathematics training for teachers. The policy makers considered, but rejected, these alternatives as interfering with the independence of the training programs for teachers.

The Court concluded that these alternatives were less impairing of the rights of racialized candidates and that they would likely be at least as effective as the MPT.

One “elephant in the room” is that the MPT requirement was not proposed by the regulator. Rather it was inserted in the legislation by the government in 2018 as a part of its “getting back to the basics” initiative. Courts have traditionally been wary of governments using professional regulatory bodies to achieve its policy goals: *Szmuiłowicz v. Ontario (Minister of Health)*, 1995 CanLII 10676 (ON SC), <https://canlii.ca/t/q15jd>. While conceptually the Court’s

Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

analysis of the constitutionality of the provision should not be affected by the origin of the proposal, this circumstance may have been an implicit consideration in the Court's proportionality analysis.

Courts have been deferential to regulators enacting regulations, by-laws or policies, not requiring a significant amount of evidence to support their reasonableness: *Sobeys West Inc. v. College of Pharmacists of British Columbia*, 2016 BCCA 41 (CanLII), <https://canlii.ca/t/gn3cn>. However, things change dramatically when such an initiative has a discriminatory adverse impact. Then there is a burden on regulators to provide persuasive evidence that it has fully considered and balanced the importance of the goal being achieved against the discriminatory impact. That analysis by regulators includes the full consideration of less discriminatory alternatives. Evidence that the regulator did this analysis at the time the decision is made carries more weight than if only done after the legal challenge has been launched.

In these circumstances, right-touch regulation is not just an admirable concept, but a legal requirement. Thus a good policy making process includes an impact analysis, such as was very recently recommended by Harry Cayton in his Report of a Governance Review of the Law Society of British Columbia, (see especially pp. 29-30): <https://www.lawsociety.bc.ca/Website/media/Shared/docs/about/GovernanceReview-2021.pdf>.

Since an adverse impact, by definition, arises when a provision or requirement appears neutral on its face, regulators would be well advised to conduct an impact analysis for all major policy decisions.

Prepared by Richard Steinecke

In This Issue

Ontario Bills.....	2
Bill 3, Stopping Anti-Public Health Harassment Act, 2021.....	2
Bill 12, Mandatory COVID-19 Vaccinations in the Education and Healthcare Sectors Act, 2021.....	2
Bill 13, Supporting People and Businesses Act, 2021	2
Bill 27, Working for Workers Act, 2021	2
Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021	2
Bill 40, Support for Adults in Need of Assistance Act, 2021	2
Bill 43, Build Ontario Act (Budget Measures), 2021	2
Proclamations.....	3
Health and Supportive Care Providers Oversight Authority Act, 2021.....	3
Regulations.....	3
Pharmacy Act	3
Proposed Regulations Registry	3
Personal Health Information Protection Act, 2004 (PHIPA)	3
Veterinarians Act.....	3
Bonus Features	4
Publication of Complaints Decisions.....	4
BC Court Upholds Broad Investigative Powers	5
Redacting Exhibits in Public Hearings	5
Presumptive Prematurity.....	6
Parity Between Professions	6
Second Contempt Sentence.....	7

Ontario Bills

www.ola.org

Bill 3, Stopping Anti-Public Health Harassment Act, 2021 (*Private Members' Bills – Defeated on Second Reading*) Bill 3 would have created safe zones from protests around health care and other locations.

Bill 12, Mandatory COVID-19 Vaccinations in the Education and Healthcare Sectors Act, 2021 – (*Private Members' Bill – Defeated on Second Reading*) Bill 12 would have required certain individuals providing health care services or teaching services to be vaccinated.

Bill 13, Supporting People and Businesses Act, 2021 – (*Government Bill – Third Reading Debate*) Bill 13 is an omnibus Bill. Despite some speculation, it does not amend the *Regulated Health Professions Act*. It does make minor amendments to the regulation of teachers and professional foresters. In addition, the “*Police Record Checks Reform Act, 2015* is amended to add a definition of ‘volunteer’. The Act is also amended to prohibit police services from charging certain fees in respect of police record checks requested by volunteers. The regulation-making authority is expanded with respect to prescribing requirements for how police services are to conduct police record checks for volunteers and with respect to prescribing purposes and periods of time for which such checks may be relied on.”

Bill 27, Working for Workers Act, 2021 – (*Government Bill – Passed Third Reading*) Bill 27 requires larger employers to have a policy permitting employees to disconnect from work outside of their work hours. It also prohibits the use of non-competition agreements when an employee leaves an employer. The Bill also requires non-health professions to comply with requirements for their language proficiency tests and will, eventually, prohibit Canadian work experience requirements by professional regulators. While health professions are not included, there will be consultations on expanding these provisions in some form for health regulators.

Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021 – (*Government Bill – Ordered for Third Reading*) Bill 37 is an omnibus Bill that, among other things, replaces the *Long-Term Care Act* and amends the *Retirement Homes Act*, including with additional provisions related to resident’s rights, quality improvement, requiring a pandemic plan, and enhanced compliance and enforcement powers.

Bill 40, Support for Adults in Need of Assistance Act, 2021 – (*Private Members' Bill – First Reading*). Bill 40 “enacts the *Support for Adults in Need of Assistance Act, 2021*. The Act requires regulated health professionals to report to a board of health if they have reasonable suspicion that an individual who is 16 years of age or older is being abused or neglected. The failure to report is an offence.”

Bill 43, Build Ontario Act (Budget Measures), 2021 – (*Government Bill – First and Second Reading, under consideration by the Standing Committee on Finance and Economic Affairs*) Bill 43 is an omnibus Bill that includes changes to the *French Language Services Act*. Those changes, including an obligation to comply with directives on providing French language services, would only apply to regulators who are “subsidized” by the government and are designated as a government agency in the regulations. However, accompanying the introduction of this Bill was an announcement that there would be consultations on expanding the application of the *French Language Services Act* to other bodies. Bill 43 also provides for anonymous whistleblower protections for Financial Services Regulatory Authority of Ontario.



Legislative Update – What Happened in November 2021?

Proclamations

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

Health and Supportive Care Providers Oversight Authority Act, 2021 – Some of the provisions of this Act came into force on October 26, 2021.

Regulations

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

Pharmacy Act – Pharmacy technicians are permitted to administer influenza vaccines in certain circumstances. (O. Reg. 766/21)

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

Personal Health Information Protection Act, 2004 (PHIPA) – Consultation on requiring patients to be given electronic copies of their records when requested. Some exceptions will apply. Comments are due by December 15, 2021.

Veterinarians Act – Consultation on the changes to how veterinary facilities are accredited. Currently an application must be made to be accredited for a facility from the acceptable list (e.g., small animal hospital) and a detailed list of criteria must be met. The proposal would allow proposed facilities to specify their proposed scope of practice and the criteria for approval would be more flexible. Comments were due by November 27, 2021.



Legislative Update – What Happened in November 2021?

Bonus Features

Many of these items will appear in our blog:
[\(www.sml-law.com/blog-regulation-pro/\)](http://www.sml-law.com/blog-regulation-pro/)

Publication of Complaints Decisions

Health regulators in Ontario are required to post on their website information about complaints decisions that result in remedial directions (e.g., to attend for a caution) even though the matter was not referred to discipline. In *Doe v. College of Physicians and Surgeons*, 2021 ONSC 7550 (CanLII), <https://canlii.ca/t/jkgwj>, a practitioner sought judicial review of a decision cautioning her for inappropriate comments to colleagues. The practitioner sought the removal of the posting from the regulator's website until a determination was made about the legality of the complaints decision.

In terms of whether the practitioner would suffer irreparable harm, the Court said:

The applicant argues that she is already experiencing harm in the form of reputational damage and embarrassment, and this experience will not be undone if she is eventually vindicated. In my view this argument cannot prevail. In a great many cases – whether criminal, family, civil litigation, or administrative proceedings, findings are made that cause parties to feel reputational damage and embarrassment. They are found to have acted badly (sometimes very badly). They are not believed. Their conduct may be criticized. Such harm is corrected by the vindication one receives on appeal or review, and the transitory upset one experiences is a normal and inevitable consequence of a public litigation process: it is not irreparable harm within the meaning of the test for a stay.

In terms of the balance of convenience, the Court said:

I do not consider the balance of convenience to tilt particularly strongly in this case, but on balance I find it favours denying a stay. The CPSO has a general policy of reporting ICRC decisions of this kind on its web site once the decisions are rendered. That policy, of general application, is based on balancing the interests of transparency and public accountability with fairness to physicians, interests established by the Legislature. By analogy to other professional regulatory contexts, the point at which a decision is made by a professional regulator is a sensible and appropriate time in the overall process for the disposition to be made available to the public. I see nothing about the circumstances of this case to take it out of the course of general application. This tilts the balance against a stay: professional discipline decisions are reported publicly at this stage in the process, and there is nothing about this case to take it out of this principle of general application.

This decision provides significant support for transparency of complaints decisions by regulators, at least where supported by legislation.

BC Court Upholds Broad Investigative Powers

The highest court in British Columbia has upheld the broad scope of investigative powers for the legal regulator there. In *A Lawyer v. The Law Society of British Columbia*, 2021 BCCA 437 (CanLII), <https://canlii.ca/t/jkg5x>, a routine audit of a lawyer's practice raised concerns about their allowing trust accounts to be used for money laundering, among other concerns. The investigator was appointed and, in essence, took copies of the entire electronic records of the firm. The practitioner argued that many of the records were irrelevant to the concerns used to initiate the investigation. The regulator responded that the investigation was not limited to the initial concerns and, in essence, the entire practice was under investigation.

The Court of Appeal upheld that the regulator could investigate the entire practice of the practitioner. This view was supported by “the plain words of s. 36(b), their statutory context, and the overarching purpose” of the legislation. A narrower interpretation “would frustrate the Law Society’s ability to regulate the profession and protect the public effectively.” The Court also rejected the argument that such a broad approach to the regulator’s investigative powers made the provisions inconsistent with the protections in the *Canadian Charter of Rights and Freedoms* against unreasonable search and seizure. In the context of a lessened expectation of privacy, a reasonable basis to commence the investigation and an opportunity to challenge the investigation later in the process if discipline proceedings resulted, the seizure was reasonable.

The Court also agreed that the application for judicial review was premature as the practitioner had not exhausted all of the internal mechanisms for limiting the use of the information seized.

This decision, while based in part on the specific language in the statute, reinforces recent case law that regulatory bodies have broad authority to investigate practitioners.

Redacting Exhibits in Public Hearings

The Courts have recently emphasized the “open court” principle that hearings, and exhibits filed at hearings, should be publicly available in most circumstances. In *Turner v. Death Investigation Council et al.*, 2021 ONSC 6625 (CanLII), <https://canlii.ca/t/jk3p8>, the Court has provided guidance on the application of this principle to regulatory bodies. In that case, a complainant sought judicial review of the handling of a complaint against the Chief Forensic Pathologist of Ontario. The regulator sought guidance on whether its file could be sealed or, at least, the identities of the participants could be redacted. The Court found that the stringent test for sealing the file was not met. Even for the autopsy files, it was sufficient for the identities of the children who were examined and their families to be redacted.

The Court also held that there was an insufficient basis for redacting the identities of the individuals interviewed despite their being given assurances of confidentiality for participating in the investigation. They were not vulnerable witnesses (being coroners and pathologists) and there was no evidence to support their concern of potential repercussions and reprisals. In fact, the Court felt that making their participation public would better protect them from reprisals than keeping their identities secret. The assurance of confidentiality should not have been given. The documents would not be redacted to conceal their identity.

Regulators can draw lessons from this decision on when redaction of files that may later be made public can be justified.

Presumptive Prematurity

Courts are more frequently requiring parties to complete the administrative process before seeking a judicial remedy. A prime example is found in *Gill v. College of Physicians and Surgeons*, 2021 ONSC 7549 (CanLII), <https://canlii.ca/t/jkg43>. In that case a physician faced several complaints and investigations in respect of statements made related to the pandemic. Some complaints and the Registrar's investigation resulted in a caution. Other complaints were dismissed. Several of the complaints were appealed to an independent tribunal by both the practitioner and a complainant. The decision on the Registrar's investigation did not have an internal appeal option. The practitioner sought judicial review of all of the decisions seeking a declaration that attempted to regulate the practitioner's comments, claiming it was contrary to their freedom of expression rights contained in the *Canadian Charter of Rights and Freedoms*.

The regulator challenged the judicial review on the complaints matters on the basis that the application was premature. Ordinarily parties wait to raise the prematurity issue at the return of the application on the merits to avoid having to deal with the issue twice. However, in this case the regulator brought a motion in advance.

The Court found that the judicial review of the complaints matter was premature. The issues should be dealt with by the administrative tribunal first to avoid fragmenting and even duplicating the proceedings. Since complainants were not parties to the application for judicial review, they might be excluded from the process to which they would participate at the tribunal. The fact that the issues included an argument based on the *Charter* and sought a remedy not available elsewhere (i.e., a declaration) was not an exceptional circumstance, nor was the fact that there would have to be a judicial review application in any event to deal with the decision flowing from the Registrar's investigation.

This decision emphasizes yet again the Court's strong preference that administrative proceedings be allowed to finish before going to the courts.

Parity Between Professions

Should different professions impose the same standards, and the same sanctions, for the same conduct? In *Jobin c. Technologues (Ordre professionnels des)*, 2021 QCTP 83 (CanLII), <https://canlii.ca/t/jk8vp>, the Professions Tribunal said not necessarily. In that case, the practitioner was registered with two regulators (one for professional engineers and one for professional technologists). The practitioner was convicted criminally for municipal corruption. The practitioner was disciplined by the professional engineering regulator and was suspended for six months and fined \$10,000. When disciplined for the same conduct by the regulator for professional technologists, the practitioner was suspended for 12 months and fined \$7,500. On appeal, the practitioner argued that since the crime was committed in his capacity as a professional engineer, he should not be disciplined as a professional technologist. He also argued that the professional technologists regulator should not impose a more severe penalty than what was imposed by the professional engineering regulator.

The Court upheld both the finding and the sanction. The Court upheld the finding that a criminal conviction for corruption was relevant to the practitioner's practice of professional technology. The Court also indicated that different professions did not necessarily have to impose the same sanction for the same conduct.

Parity of discipline amongst professions is not required.

Second Contempt Sentence

How long should a person be jailed for contempt of court for a second breach of a restraining order for illegal practice? British Columbia's highest court dealt with that issue in *College of Physicians and Surgeons of British Columbia v. Ezzati*, 2021 BCCA 422 (CanLII), <https://canlii.ca/t/jkcpp>. The lower court had imposed a six-month jail sentence and fine because the individual had "repeatedly violated an interim injunction by: holding herself out as being qualified to practise medicine; purporting to examine and advise others as to their suitability for a botulinum toxin or dermal filler injection for cosmetic purposes; and injecting clients with botulinum toxin and dermal filler". The first contempt incidents resulted in a fine of \$5,000.

The Court of Appeal found that the lower court had properly declined to consider rehabilitation since no evidence had been provided in evidence. The Court also held that there had been no material error in considering the expert evidence of risk of harm. The Court also declined to consider fresh evidence of insight or of undue impact of incarceration on the individual as either being irrelevant or unconvincing. However, the Court did reduce the period of incarceration to three months, saying:

... a six-month period of incarceration in these circumstances is a disproportionate (by which I mean a clearly excessive) response to the appellant's conduct. It does not reflect restraint in the use of incarceration for civil contempt. In addition, the sanction does not reflect a measured application of the "step-up" principle. While there is nothing to be said for the appellant's conduct and few mitigating factors, the sentence for the second contempt is a very significant jump from the \$5,000 fine imposed for the first breach. In addition, I am of the view that the sanction represents a marked and substantial departure from sanctions imposed in similar contexts.

While outcomes will depend upon the particular circumstances, this appellate court decision provides guidance.

Prepared by Richard Steinecke

In This Issue

Ontario Bills	2
Bill 13, Supporting People and Businesses Act, 2021	2
Bill 27, Working for Workers Act, 2021	2
Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021	2
Bill 43, Build Ontario Act (Budget Measures), 2021	2
Proclamations	2
There were no relevant proclamations this month.	2
Regulations	3
Regulated Health Professions Act.....	3
Proposed Regulations Registry	3
Real Estate and Business Brokers Act, 2002 –	3
Retirement Homes Act, 2010.....	3
Bonus Features.....	3
Consultation Requirements	3
Ungovernability Onus	5
Code of Conduct Proceedings.....	6
Public Protection Outweighs Irreparable Harm to the Practitioner	7
Impact of Bankruptcy on Discipline Sanctions.....	7
Court Reviews of an Interim Suspension	8
Concrete Concerns.....	10
Investigation Can Continue.....	10
Hugs Open to Misinterpretation.....	11
No Procedural Unfairness Unmasked	11
Posting Predicament	12

Ontario Bills

(www.ola.org)

Bill 13, Supporting People and Businesses Act, 2021 – (Government Bill – Passed Third Reading and received Royal Assent) Bill 13 is an omnibus Bill. Despite some speculation, it does not amend the *Regulated Health Professions Act*. It does make minor amendments to the regulation of teachers and professional foresters. In addition, the *Police Record Checks Reform Act, 2015* is amended to add a definition of “volunteer”. The Act is also amended to prohibit police services from charging certain fees in respect of police record checks requested by volunteers. The regulation-making authority is expanded with respect to prescribing requirements for how police services are to conduct police record checks for volunteers and with respect to prescribing purposes and periods of time for which such checks may be relied on.”

Bill 27, Working for Workers Act, 2021 – (Government Bill – Received Royal Assent) Bill 27 requires larger employers to have a policy permitting employees to disconnect from work outside of their work hours. It also prohibits the use of non-competition agreements when an employee leaves an employer. The Bill also requires non-health professions to comply with requirements for their language proficiency tests and will, eventually, prohibit Canadian work experience requirements by professional regulators. While health professions are not included, there will be consultations on expanding these provisions in some form for health regulators.

Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021 – (Government Bill – Passed Third Reading and received Royal Assent) Bill 37 is an omnibus Bill that, among other things, replaces the *Long-Term Care Act* and amends the *Retirement Homes Act*, including with additional provisions related to resident’s rights, quality improvement, requiring a pandemic plan, and enhanced compliance and enforcement powers.

Bill 43, Build Ontario Act (Budget Measures), 2021 – (Government Bill – Passed Third Reading and received Royal Assent) Bill 43 is an omnibus Bill that includes changes to the *French Language Services Act*. Those changes, including an obligation to comply with directives on providing French language services, would only apply to regulators who are “subsidized” by the government and are designated as a government agency in the regulations. However, accompanying the introduction of this Bill was an announcement that there would be consultations on expanding the application of the *French Language Services Act* to other bodies. Bill 43 also provides for anonymous whistleblower protections for Financial Services Regulatory Authority of Ontario.

Proclamations

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

There were no relevant proclamations this month.

Regulations

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

Regulated Health Professions Act – Unregistered individuals are permitted to administer COVID vaccines under the on-site supervision of a physician, nurse practitioner or pharmacist. (O. Reg. 900/21)

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

Real Estate and Business Brokers Act, 2002 – Consultation on multiple proposed regulations requiring greater transparency in real estate transactions and enhanced authority of regulator to require information from registrants. Comments are due by January 24, 2022.

Retirement Homes Act, 2010 – Consultation on proposed regulations relating to increased powers for regulator to make emergency orders and measures to prevent and address abuse of residents. Comments are due by January 17, 2022.

Bonus Features

Many of these items will appear in our blog:

(www.sml-law.com/blog-regulation-pro/)

Consultation Requirements

Most regulators consult with the public and the profession when making or amending its rules or policies. However, is this a legal requirement? And should any consultation be similar to the kind of notice given in discipline matters?

In *Covant v. College of Veterinarians of Ontario*, 2021 ONSC 8193 (CanLII), <https://canlii.ca/t/jlc8m>, the Court said no to both questions. In that case a veterinarian was disciplined for selling large quantities of drugs to pharmacies. The regulator had long restricted the ability of veterinarians to sell drugs for resale. However, it further limited the exception for resale to pharmacies so that it could only be done for reasonably limited quantities to address a temporary shortage. The practitioner challenged the validity of the amended provision on a number of grounds.

The Court held that the provision was within the mandate of the regulator to enact given the authority to make regulations in respect of standards of practice and drugs. The Court noted that the authority of a regulator to enact provisions is given significant deference. It stated:

The purpose of the amendment was to diminish the risk associated with veterinarians buying and selling drugs, with an exception when required to ensure that patients have access to the medications they need. The amended language of s. 33(2)(d) addresses a veterinarian's ability to dispense drugs and thus falls squarely within Council's regulation-making authority under s. 7(1)(9). Because s. 33(2)(d) relates directly to its statutory purpose, it is not ultra vires.

The Court also found that the phrases "reasonably limited quantities" and "temporary shortage" did not render the provision unintelligible or without a basis for coherent judicial interpretation. The Court identified the context of the provision as allowing practitioners to understand their obligations. The Court also found that the provision was not overbroad; it did not capture obviously appropriate conduct within its net.

The Court also found that the regulator had followed the required process for enacting the regulation. There was no duty of procedural fairness similar to what was owed in a disciplinary proceeding. This point, that procedural fairness is not required for legislative-type decisions by regulators was made in another recent case: *Ontario Teacher Candidates' Council v. The Queen*, 2021 ONSC 7386 (CanLII), <https://canlii.ca/t/ilcvg>. Consultation can, of course, be required by the provisions of the enabling statute: *Leavitt v Association of Professional Engineers and Geoscientists of Alberta*, 2021 ABQB 983 (CanLII), <https://canlii.ca/t/il789>.

In the *Covant* case the evidence was that the amendments were circulated in advance to all practitioners for comment (which was not strictly required) and the regulator had distributed the amendments to the profession after they were made. There was also evidence that the practitioner in this case was specifically made aware of the provision by a number of individuals.

The Court also found that there was extensive evidence to support a finding of breaching the provision. The Court also upheld the rejection of expert evidence on the duty to consult that was, in essence, a legal opinion.

The Court also upheld the sanction ordered (which included a one-month suspension) and payment of costs that amounted to one-third of the actual hearing costs. In doing so, that Court explained that the "error in principle" and "clearly unfit" test for review includes the following considerations:

While determining the appropriate penalty is inherently discretionary, in the regulated health profession context, the penalty must be proportionate to the findings made and guided by penalties imposed in other cases.... Other relevant factors include ensuring public protection and confidence in the College's ability to govern the profession, denunciation of the conduct at issue, specific and general deterrence and rehabilitation of the member. The Supreme Court of Canada has found that discipline committees have "greater expertise than courts in the choice of sanction for breaches of professional standards" "Deference is owed to discipline committees because they are tribunals composed of members of the profession and of the public with the expertise to assess the

level of threat to the public and the... profession posed by certain forms of behaviour.... [citations omitted]

Ungovernability Onus

It is trite law that the burden of proof in discipline matters is on the regulator. However, this concept can be pushed too far. In *Park v. Royal College of Dental Surgeons of Ontario*, 2021 ONSC 8088 (CanLII), <https://canlii.ca/t/jl911>, the practitioner's registration was revoked on the basis of ungovernability because the practitioner repeatedly breached two undertakings given to the regulator restricting the performance of implant procedures. The Court had little difficulty in finding that this conduct supported revocation.

In arguing the appeal, the practitioner raised a number of circumstances in which the hearing panel had in some way reversed the burden of proof. In each case the Court disagreed.

- a) The hearing panel did not have to locate similar cases to support the finding that revocation was "within the range". The Court said:

On its face, revocation is a fit sentence because it addresses the concern that Dr. Park cannot be counted on to abide by further conditions or limitations imposed on his ability to practice dentistry. In the absence of a clear line of cases showing that the Discipline Committee has not imposed revocation in similar cases, I do not find that the Discipline Committee made an error in principle by failing to refer to specific similar cases in its decision.

- b) The hearing panel did not err in failing to review the test for ungovernability in its reasons. Both parties had presented a case describing the test and the hearing panel set out a number of considerations that closely matched the criteria set out in the jointly submitted case.
- c) The hearing panel did not fail to address the practitioner's evidence in making its findings of fact. Rather, it did not accept the practitioner's evidence. It was open to the hearing panel to conclude that there was no evidence that the practitioner misunderstood the obligations in the undertaking when it was signed. Actual understanding of the terms of the undertaking by the practitioner did not need to be proved by the regulator.
- d) The statement by the hearing panel that the practitioner would have to demonstrate an ability to return to practice safely upon re-instatement was a reference to the re-instatement process, where the onus was actually reversed, and was not a reference to the burden of proof applied at the current hearing.

While the concept that the burden of proving allegations at discipline is on the regulator is a firm and strong one, it is not to be applied inappropriately.

Code of Conduct Proceedings

Occasionally regulators have to address breaches of their Code of Conduct by a Board or Council member. Where the concerns amount to allegations of wrongdoing (as opposed to objective facts such as missing a specified number of Board meetings), an investigation and adjudication is often necessary. Guidance as to the procedures and degree of neutrality required of Board or Council members in such proceedings has been provided in *Chiarelli v. Ottawa (City of)*, 2021 ONSC 8256, <https://canlii.ca/t/jlh5f>. While that case relates to a municipal council, some analogies are likely to apply to regulatory Boards or Councils.

In that case serious allegations of sexual harassment were made by three women who had applied for a job with the Councillor. The City's Integrity Commissioner investigated the allegations, made a report finding that the allegations were substantiated and recommended the maximum sanction (270 days of forfeited pay). The Council accepted the report and imposed the recommended sanction. On judicial review, the Councillor raised a number of issues.

One was that the Commissioner demonstrated an appearance of bias. The Court held that it should not consider the issue because it was not raised at the time. The Court said:

This is no mere technicality. An allegation of bias impugns the integrity and conduct of the person against whom it is made. That person is not a party to the underlying conflict, and the allegation, by its nature, seeks to cast a neutral party into the conflict itself. That person is entitled to respond to the allegation and, where the allegation of bias is rejected, to explain why they are not biased in fact, and why their conduct does not give rise to a reasonable apprehension of bias. Usually, this is the only chance the person has to respond to serious allegations made against them. If this issue is then pursued on judicial review, it is the task of this court to review the decision on the bias issue – a task we cannot perform since the issue was not raised with the Commissioner and so he has not made a decision on the issue that we can review.

The Court, however, went on to review the concerns and found that they were not established.

The Councillor experienced a number of serious health issues. The Councillor argued that the Commissioner should not have proceeded with the investigation during the period of illness. The Court found that the Commissioner had accommodated the Councillor's health condition throughout the process including by providing a series of deferments to the Councillor and modifying the manner in which the Councillor could respond to the investigation. The Commissioner only proceeded to finalize the report after it was clear that the Councillor had no intention of participating in the investigation.

However, the Court did find that the City Council, itself, had demonstrated an appearance of bias. The Court indicated that because of the Council's political role, it was not governed by the same principles of neutrality as purely adjudicative bodies like courts (or, we would suggest, discipline committees). Commenting on concerns of significant public interest including the reputation of the City and reiterating the Council's commitment against sexual harassment was permissible so long as the Councillors did not demonstrate a closed mind when it performed its adjudicative role. While regulatory Boards or Councils have a policy, rather than a political, role, a similar test would likely apply to them. In this case, the statements made by some Councillors were so strong, were accompanied by a refusal of some of them to sit at the same meeting table as the Councillor in

issue, and where there was no public self-reminder by the Councillors that their adjudication required an open mind in reviewing the evidence, indicated that the closed mind criteria had been met. The Court set aside the decision of the Council and substituted its own decision (which, in fact, resulted in the same outcome).

Thus, Code of Conduct proceedings for regulatory Board or Council members are not the same as discipline proceedings for practitioners. They do, however, require a minimal level of objectivity.

Public Protection Outweighs Irreparable Harm to the Practitioner

Courts are frequently tasked with deciding whether a discipline sanction should commence even though an appeal or judicial review is pending. Even where a court concludes that the appeal or judicial review application is not frivolous and that continuing the sanction in the meantime will cause irreparable harm to the practitioner, it can still decline to stay the discipline order.

In *Kirby v. Association of Chartered Professional Accountants of Newfoundland and Labrador*, 2021 NLSC 159 (CanLII), <https://canlii.ca/t/jl1mf>, an accountant was found by the discipline tribunal to have engaged in serious misconduct requiring revocation. The Court noted that the inability to practise and the publication of the finding would cause irreparable harm to the practitioner. However, the Court found that the public interest outweighed the individual harm:

I am not satisfied that the Applicant has demonstrated that his case is exceptional. The loss of accountancy income and the reputational harm that he will incur are the inevitable consequences of the findings of the Tribunal. There is nothing in the circumstances of his case that distinguishes it from the case of any other professional who appeals from a decision revoking their right to practice. Unlike the circumstance in *Shea v. The Law Society*, public protection is very much a concern in this case. If a stay is granted, then the Applicant will continue to provide chartered accountancy services to a public that will be unaware that a tribunal of the association governing his profession has found him guilty of unprofessional conduct and imposed the most severe sanction against him. The Applicant's private interest in avoiding reputational or financial harm does not outweigh the public interest.

The Court put significant weight on the fact that the enabling legislation did not automatically stay the discipline sanction when an appeal was taken.

Impact of Bankruptcy on Discipline Sanctions

There is continuing ambiguity as to the impact of a practitioner's bankruptcy proceedings on disciplinary sanctions. The goal of the bankruptcy process is to enable an individual to obtain a fresh financial start. That goal is undermined if debts are not extinguished by the bankruptcy. In the case of *Alberta Securities Commission v Hennig*, 2021 ABCA 411 (CanLII), <https://canlii.ca/t/jl93g>, Alberta's highest court indicated that the exceptions to that rule should be narrowly interpreted.

In that case the individual was found to have engaged in serious securities violations including issuing misleading statements to the investing public. The sanction included a significant administrative penalty and a large costs order. The regulator argued that the sanction survived

the individual's bankruptcy under exceptions related to "a fine, penalty, restitution order or other order similar in nature ... imposed by a court in respect of an offence" or a "debt or liability resulting from obtaining property or services by false pretences or fraudulent misrepresentation". The Court, on a detailed interpretation of the provisions concluded that the exceptions did not apply, and that the sanction orders were extinguished upon the individual's discharge from bankruptcy. While not in issue, the reasoning of the Court would likely have led to the same result if the sanction had been a fine rather than an administrative penalty. The same outcome (extinguishing of the debt) would be even more likely to have resulted, before this Court at least, for monetary sanctions imposed for non-financial misconduct by a practitioner of another profession (e.g., a health practitioner).

The Court noted that the other sanctions, namely a permanent ban on being an officer or director or an issuer and a 20-year cease trading ban, remained in force.

While the case law on the point is somewhat confusing, when imposing sanctions in discipline matters, regulators should take into account that the financial aspects of their order might be impacted by the bankruptcy process. It may be prudent to include non-financial elements as part of the sanction, perhaps even as an alternative to fulfillment of the financial sanctions.

Court Reviews of an Interim Suspension

Interim suspensions (or other orders) during an investigation are always challenging for Courts to decide. Typically, they are challenged through an application for judicial review. On such applications a court will generally review whether a fair procedure was followed and whether the regulator reasonably applied the statutory criteria for imposing such an order. In *Kalia v Real Estate Council of Alberta*, 2021 ABQB 950 (CanLII), <https://canlii.ca/t/jkxnn>, a different process was specified in the enabling statute. Under that legislation, a practitioner could ask the Court to stay the interim order. As such, the Court applied the interim injunction test (i.e., issue to be tried, irreparable harm, balance of convenience). Despite this unusual procedure, the Court's decision provides some interesting perspectives on interim orders that may be relevant to other legislative schemes.

The Court reviewed the purpose of interim orders:

The legislative purpose of a temporary or interim suspension is to protect the public while the regulatory body undertakes conduct proceedings, including the investigation into the allegations against its licensee and any hearing of the merits. In deciding whether to impose an interim suspension, the regulatory body is not determining whether the complaints are "true" or choosing between two competing versions of events. Instead, the regulator is assessing whether a prima facie case of misconduct is established such that in the surrounding circumstances, and having regard for the personal impact on the licensee, action is necessary to protect the public on an interim basis until the conduct proceedings are concluded....

In satisfying itself that a prima facie case is established, the regulator examines whether the evidence, if believed, covers all of the essential elements of the alleged misconduct and justifies a finding against the licensee in the absence of an answer. The regulator

generally does not weigh the credibility or merits of a disputed allegation, except to discount evidence that is inconsistent with objective or undisputed evidence or which is manifestly unreliable. At this stage of the conduct proceeding, the regulator only seeks to exclude complaints that are manifestly unfounded or exaggerated.... [citations omitted]

The Court then looked at the procedural fairness extended by the regulator. Reliance on hearsay information was appropriate in this context. And while some disclosure, particularly of the particulars of the allegations, is necessary, full disclosure of all information is not. In fact, such disclosure could affect the integrity of the ongoing investigation:

However, full disclosure might properly be withheld during the investigation as a review officer gathers and tests the reliability of evidence. For example, a review officer might seek to explore the credibility of the licensee by collecting the licensee's version of events before confronting the licensee with contrary evidence.

The Court also discussed the types of considerations that can be taken into account when balancing the practitioner's interests against the public interest:

- a) whether a prima facie case of misconduct is shown on the merits;
- b) the nature and gravity of the impugned conduct;
- c) the circumstances in which the impugned conduct occurred;
- d) whether interim relief remains necessary to protect the public from a real risk of harm;
- e) the likelihood of the impugned conduct being repeated;
- f) the licensee's disciplinary history, if any;
- g) new allegations of misconduct reported or arising during the suspension;
- h) the extent of the licensee's cooperation with the investigation, which may assist in demonstrating the licensee's respect for regulatory compliance and professional governance in the immediate future;
- i) the overall passage of time in the conduct proceedings, including the likely timeline until the conclusion of the proceedings;
- j) the extent of the irreparable harm to which the licensee will continue to be exposed; and
- k) whether means less restrictive than a suspension are available to adequately protect the public.

In this case the Court had little difficulty in determining that the risk to the public warranted an interim suspension and that monitoring conditions were not suitable. However, the Court did indicate that, if the hearing did not commence within four months, the stay application could be renewed.

While regulators should always look to the criteria for imposing interim orders set out in their legislation, the above comments can offer some guidance as to how a court will review their determination.

Concrete Concerns

There is no general duty of procedural fairness or duty to consult when proposing legislative amendments or making policies: *Covant v. College of Veterinarians of Ontario*, 2021 ONSC 8193 (CanLII), <https://canlii.ca/t/jlc8m>. However, there are exceptions. One exception can be found in *Leavitt v Association of Professional Engineers and Geoscientists of Alberta*, 2021 ABQB 983 (CanLII), <https://canlii.ca/t/jl789>. In that case, the regulator for professional engineers issued a practice bulletin requiring professional engineers to supervise construction concrete testing laboratories.

However, the issue of whether professional technologists (who are not professional engineers) could supervise such a laboratory had been the subject of dispute for some years. There had been previous litigation on the topic and various standard setting organizations had been lobbied to revise their standards on the point (which they had). The legislation applicable to regulating professional engineers established joint bodies to determine scope of practice issues. That legislation provided for an appeal process where the equally constituted joint body could not reach a decision.

The Court concluded that the regulator had the legal authority to issue the practice bulletin clarifying its expectations for the supervision of the laboratories. This was so even though there was no explicit legislative provision enabling the regulator to address this topic through non-legislative policy. Part of the regulator's mandate is to provide guidance to the profession as to scope of practice issues. The Court also concluded that despite the secretive way in which the practice bulletin was developed, there was no improper motive by the regulator in developing the practice bulletin.

However, the Court found that the regulator improperly circumvented the statutory joint body consultation process: "By knowingly acting on inadequate information and declining to acquire relevant information, APEGA's decision to issue the Practice Bulletin was unreasonable." The Court also found that in the unique circumstances of this case, the regulator did not comply with the principles of procedural fairness including "breaching the doctrine of legitimate expectations". The Court declared that the practice direction was not validly made and returned the issue to the joint body for determination in accordance with the legislative scheme.

This case illustrates the necessity of following the legislatively designed process for policy development (where it exists) and for regulators to avoid a deliberate lack of transparency.

Investigation Can Continue

In *Turek v. The College of Physicians and Surgeons of Ontario*, 2021 ONSC 8105 (CanLII), <https://canlii.ca/t/jl917>, the Divisional Court found that a constitutional challenge to an ongoing investigation by the regulator was premature. The regulator was investigating certain statements made by the practitioner, apparently related to COVID. The practitioner sought to challenge the validity of the



Legislative Update – What Happened in December 2021?

investigation because it related to the practitioner's rights of free speech. The practitioner also challenged the validity of Statement on Public Health Misinformation issued by the regulator. The Court concluded that the application was premature. If the investigation resulted in a referral to discipline, the practitioner could raise these issues before the hearing panel.

The Court also agreed to seal the record before it, but only in respect of the identities person making the report and the patient.

Hugs Open to Misinterpretation

In *Torgerson v. Health Professions Appeal and Review Board*, 2021 ONSC 7416 (CanLII), <https://canlii.ca/t/jlbct>, a patient complained about a tight and extended hug with her practitioner. The screening committee found that the concern was serious, but that the information provided in support of the complaint was sufficiently ambiguous that there was no likely prospect of a finding if the matter went to discipline. However, given the information gathered, including that hugging with patients sometimes occurred, information that the practitioner posted family photographs on social media in a manner that patients could find, and that there was a previous complaint about privacy concerns, the screening committee directed that the practitioner receive a verbal caution and had to successfully complete a remediation program on boundaries. The practitioner's review before a reviewing body upheld the screening body's decision.

The Court found that the reviewing body's decision was reasonable. There was an adequate investigation; in fact, all likely witnesses to the hug had been interviewed. The decision was reasonable given all of the surrounding circumstances, not just the complaint itself. Also, the public posting of a summary of the screening committee's decision was not a sanction; it was required by the legislation. Concerns about the wording of the summary were not raised with the regulator or the reviewing body and so should not be addressed by the Court.

No Procedural Unfairness Unmasked

In *Matheson v. College of Physicians and Surgeons of Ontario*, 2021 ONSC 7597 (CanLII), <https://canlii.ca/t/jktjh>, the regulator received a complaint that the practitioner saw a patient without wearing a mask shortly after undertaking to comply with public health guidelines including wearing a mask. The Court upheld the interim suspension issued by the regulator. In respect of the argument that the regulator was unfair in not granting a lengthy extension of time to respond to the proposed interim order, the Court said:

In my view, there was no procedural unfairness in this case. When considering whether to extend the 14-day minimum period for submissions, the College is not only concerned with fairness to its members, but also with the public interest. In this case, the College had information that Dr. Matheson was not complying with a requirement that he wear a mask when seeing patients. This was not only contrary to his undertaking but contrary to basic public health advice and directives. In the circumstances, the College had to balance Dr. Matheson's interests against the public

interest. In the absence of any compelling reason for extending the deadline other than the stated need for more time, there was no procedural unfairness.

The Court also said that, while limited findings of fact can be made in interim order matters, none was required in this case because the practitioner did not actually deny the specific complaint of taking off his mask when seeing the complaining patient. Evidence of general compliance with the undertaking also did not detract from the finding on this uncontested point.

The Court also found that the reasons for decision were adequate in the context, including why it did not consider an alternative order short of suspension to be appropriate:

In this context, the Committee’s use of the word “ungovernable” is meant to convey that he cannot be counted on to comply with his undertaking to wear a mask when meeting with patients. In other words, it supports the Committee’s conclusion that less restrictive measures would not be effective to protect the public pending a hearing before the Discipline Committee.

It was also unnecessary for the regulator to discuss the literature submitted by the practitioner about the risks of wearing a mask as the issue was the practitioner’s failure to comply with the undertaking given.

The procedural fairness requirements for interim orders have to take into account the context in which such orders are made.

Posting Predicament

Some regulators are required to post on their public registers information about offence charges and findings against practitioners. However, such postings can have implications for third parties. For example, in *B.M.D. et al. v. HMTQ*, 2021 ONSC 5938 (CanLII), <https://canlii.ca/t/jhz3p>, the charges and findings related to intimate partner violence. Through a complex array of events related to publication bans, the Divisional Court considered what information should be posted by the regulator. The Court was deeply concerned about the impact of the information on the practitioner’s spouse even if the spouse was not directly identified in the posting. In the end, the Court concluded that the information should be posted and that the posting should make reference to intimate partner violence:

I have concluded that the countervailing public interest in the College investigating and reporting on the criminal actions of one of its professional members outweighs B.M.D.’s privacy interests. Further, I accept that the physician’s commission of an intimate partner assault would be an important matter for his current patients and any potential patients to

know about in choosing whether to accept him as their medical treatment provider. Such a choice is intimate to each person. Sadly, too many of a physician’s patients may themselves be victims of intimate partner violence. Those individuals, if armed with information that their doctor had committed such an offence, should be afforded an opportunity to choose not to be treated by that physician.”

While regulators do need to take extra care in these situations, their duty of transparency is recognized as an important one.



The College of Naturopaths of Ontario

Understanding the Public Interest

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

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

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

Serving the public interest means ensuring the following.

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

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

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

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

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

Considerations/Questions to ask oneself during deliberations include:

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

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

What the public interest is NOT!

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

UNDERSTANDING THE RISK ANALYSIS TERMINOLOGY

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

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

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

Risk Treatment or Mitigation Techniques

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

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

UNDERSTANDING THE COLLEGE'S COMMITMENT TO TRANSPARENCY

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

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

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

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



The College of Naturopaths of Ontario

Council Meeting Evaluation
November 24, 2021
11 Evaluations Received

Topic	Question	Data	Overall
Were issues discussed essential?	Please rate how essential you feel the issues covered in today's meeting were using a scale: 1 - Not all all essential to 5 - Very Essential.	1 @ 3 2 @ 4 8 @ 5	4.6
Achieve Objectives?	Please rate how well you feel the meeting met the intended objectives using the following scale: 1 - Not at all met to 5 - All objectives met.	1 @ 3 10 @ 5	4.8
Time Management	Please rate how well you feel our time was managed at this meeting using the following scale: 1 - Not at all managed to 5 - Very well managed.	1 @ 3 10 @ 5	4.8
Meeting Materials	Please rate how helpful you feel the meeting materials for today's meeting were using the following scale: 1 - Not at all helpful to 5 - Very helpful.	1 @ 2 10 @ 5	4.7
Right People	Please rate the degree to which you felt the right people were in attendance at today's meeting using the following scale: 1 - None of the right people were here to 5 - All of the right people were here.	3 @ 4 8 @ 5	4.7
Your Preparedness	Please rate how you feel your own level of preparedness was for today's meeting using the following scale: 1 - Not at all adequately prepared to 5 - More than adequately prepared.	3 @ 4 8 @ 5	4.7
Group Preparedness	Please rate how you feel the level of preparedness of your Council colleagues was for today's meeting using the following scale:	2 @ 4 9 @ 5	4.8

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	1 - Not at all adequately prepared to 5 - More than adequately prepared.		
Interactions between Council members	Please rate how well you feel the interactions between Council members were facilitated using the following scale: 1 - Not well managed to 5 - Very well managed.	4 @ 4 7 @ 5	4.6
What Worked Well	From the following list, please select the elements of today's meeting that worked well. • Meeting agenda • Council member attendance • Council member participation • Facilitation (removal of barriers) • Ability to have meaningful discussions • Deliberations reflect the public interest • Decisions reflect the public interest	• Meeting agenda (10) • Council member attendance (9) • Council member participation (10) • Facilitation - removal of barriers (9) • Ability to have meaningful discussions (9) • Deliberations reflect the public interest (8) • Decisions reflect the public interest (10)	
Areas of Improvement	From the following list, please select the elements of today's meeting that need improvement. • Meeting agenda • Council member attendance • Council member participation • Facilitation (removal of barriers) • Ability to have meaningful discussions • Deliberations reflect the public interest • Decisions reflect the public interest	• Meeting agenda (0) • Council member attendance (0) • Council member participation (1) • Facilitation (removal of barriers) (0) • Ability to have meaningful discussions (1) • Deliberations reflect the public interest (1) • Decisions reflect the public interest (1)	
Things we should do	Are there things that you feel that the Council should be doing at its meetings that it is not presently doing?	• Reflect on how each meeting topic applies the fundamental mandate of CONO	
Final Feedback	Sarah did a great job stepping up as Chair of today's meeting!		
	Sarah did an excellent job of Chairing today. Some members could participate more in discussions. Some members need reminders to use the Raise Hand feature and to mute themselves. Thank you everyone!		
	I personally feel that the COVID vaccine letter is not a part of the CONO mandate and that it was a waste of the college's resources. The real problem meant to be addressed was difficulty finding examiners due to mandates imposed on colleges and universities and this somehow got "solved" by an off-topic letter. The other		

	discussion point would be the collapse of the regulatory college if a mandate is passed as ~50% of survey respondents would leave the profession. Again this issue I don't think was appropriately addressed by the letter, nor is it in the power of the college to change. If anything, this needs to be communicated to the MoH in discussions around the impact of a potential vaccine mandate.
	Sarah did a wonderful job in Chairing in Kim's absence!
	Excellent meeting!!

Comparison of Evaluations by Meeting 2021-2022

Topic	May 2021 ¹	July 2021	Sept 2021	Nov 2021	Jan 2022	Mar 2022	Ave
Were issues discussed essential? 1 - Not at all essential to 5 - Very Essential.	4.2	4.2	4.7	4.6			4.42
Achieve Objectives? 1 - Not at all met to 5 - All objectives met.	4.7	4.5	4.8	4.8			4.7
Time Management 1 - Not at all managed to 5 - Very well managed.	--	4.2	4.8	4.8			4.6
Meeting Materials 1 - Not at all helpful to 5 - Very helpful.	--	4.5	4.8	4.7			4.66
Right People 1 - None of the right people to 5 - All of the right people.	--	4.0	4.8	4.7			4.5
Your Preparedness 1 - Not at all adequately prepared to 5 - More than adequately prepared.	4.3	4.5	4.5	4.7			4.5
Group Preparedness 1 - Not at all adequate 5 - More than adequate.	4.2	4.0	4.5	4.8			4.38
Interactions between Council members 1 - Not well managed to 5 - Very well managed.	--	4.1	4.8	4.6			4.5
Number of Evaluations	10	11	10	11			10.5

¹ The May 2021 meeting used a slightly different format of questions. Only comparable questions have been entered into this summary.

John Pringle, BScN MSc PhD

██████████
██████████
██████████

Andrew Parr
Chief Executive Officer
College of Naturopaths of Ontario
150 John Street, 10th Floor
Toronto, ON M5V 3E3

cc. Rebecca McBride, Coordinator, Professional Conduct

RE: Professional Policy on Vaccination

9 January 2022

Dear Andrew Parr,

Complementary and alternative medicine has been regarded as a harbor of anti-vaccination bias,¹ a problem costing lives in a pandemic. In addressing the issue of COVID-19 vaccination and Naturopathic Doctors (NDs), the College of Naturopaths of Ontario adopted a *no comment* policy, stating:²

“This is an advisory to all NDs in Ontario reminding you that you are not permitted to discuss COVID-19 vaccinations (or any other vaccinations) with patients”

Disallowing NDs from discussing COVID-19 vaccination is a misguided attempt at neutrality. The policy may have been intended to prevent the sharing of anti-vaccination mis- and dis-information, but it has the opposite effect. By prohibiting NDs from telling the truth about COVID-19 vaccination, NDs are conveying to patients a false sense of uncertainty. There is no question: COVID-19 vaccination is safe and effective. As such, it is endorsed at every level of government, from Health Canada and the National Advisory Committee on Immunization, to Public Health Ontario and the regional public health units. Conveying uncertainty is its own form of misinformation.

This claim in your Fact Sheet is particularly damaging.³

“A person who posts publicly as an ND and says that they support people being vaccinated or that the vaccinations are safe and effective is equally breaching the rules as someone who says these vaccinations are experimental and dangerous.”

To equate a true statement with a false one is dangerous and unbecoming of a professional College.

¹ Timothy Caulfield, Alessandro R Marcon, Blake Murdoch, Injecting doubt: responding to the naturopathic anti-vaccination rhetoric, *Journal of Law and the Biosciences*, Volume 4, Issue 2, August 2017, Pages 229–249.

² College of Naturopaths of Ontario, Advisory - COVID Vaccinations. Posted On: September 21, 2021. Accessed 7 Jan 2022. <https://www.collegeofnaturopaths.on.ca/covid-19-updates/advisory-covid-vaccinations/>

³ College of Naturopaths of Ontario, Fact Sheet: COVID-19 & Vaccinations. Accessed 7 Jan 2022. <http://www.collegeofnaturopaths.on.ca/wp-content/uploads/2021/09/FS-PP01-00-COVID-19-Vaccinations-Final.pdf>

Your own Professional Policy on Vaccination acknowledges that in situations where patients inquire about vaccines,⁴

“The nature of [the ND’s] response to the patient may create an impression or influence the patient’s choice.”

Because of this impression and influence, your NDs have a moral and professional duty to speak the life-saving truth: COVID-19 vaccination is safe and effective.

Further, your *no comment* policy requires NDs to refer patients to healthcare professionals for COVID-19 vaccination information. Because we are in a public health emergency and the healthcare system is overwhelmed, and because there is a standing vaccination order from the Chief Medical Officer of Health for Ontario, this referral requirement is superfluous and counterproductive. As with other healthcare providers, NDs should refer their patients to reputable sources of information such as Public Health Ontario’s Covid-19 information portal.⁵

As an aside, appealing to the limited scope of naturopathic practice is disingenuous. Your Policy states,

“As a result, when asked by a patient about vaccinations, members shall inform the patient that vaccinations are outside of the scope of naturopathic practice ...”

Your Policy should specify that *prescribing and administering* vaccinations are outside of the scope of naturopathic practice. Speaking the truth is not. And the comment that NDs cannot diagnose and treat COVID-19 has no place in a policy about vaccination, as it conflates primary prevention with treatment and sows confusion.

My advice to the College of Naturopaths of Ontario is to revise its policies to require NDs, when asked about vaccination, to allow them to state that which is stated by their own College:

“this Council acknowledges not only the importance of [Covid-19] vaccination but also its safety and efficacy. It is for these reasons that we encourage everyone to be vaccinated as one important method of reducing [the pandemic’s] impact”
(COVID-19 Vaccination Statement, 25 Nov 2021)

And:

“There are no known alternatives to vaccinations that accomplish that which a vaccination does” (Professional Policy on Vaccination)

Then refer patients to official sources of information such as Public Health Ontario’s Covid-19 information portal.

In summary, the College of Naturopaths of Ontario has a duty to fulfill its mandate by ensuring its NDs speak the truth about COVID-19 vaccination. Its attempt at neutrality with its “no comment” policy simply fosters doubt and uncertainty where none exist, thereby introducing and reinforcing anti-vaccination bias. By requiring NDs to share the information that the College of Naturopaths of Ontario

⁴ College of Naturopaths of Ontario, Professional Policy on Vaccination. Approved 28 April 2015. Accessed 7 Jan 2022. <https://cono.wpengine.com/wp-content/uploads/2020/11/PP04.0a-Vaccination.pdf>

⁵ This information advises patients for whom there may be a contraindication to consult a healthcare professional.

itself shares publicly, that COVID-19 vaccines are safe and effective and significantly reduce the risk of infection and serious illness, including hospitalization and death, more lives will be saved.

Please confirm receipt of this letter. I would like to be informed of how my recommendation is received and what changes will be made. I would be happy to discuss this with you.

With thanks,

A handwritten signature in black ink that reads "John Pringle". The signature is written in a cursive, flowing style.

John Pringle, PhD
Dalla Lana School of Public Health & Joint Centre for Bioethics
University of Toronto

PS: I would like to thank Rebecca McBride, Coordinator, Professional Conduct, for her helpful communications and sharing of related College information.



The College of Naturopaths of Ontario

Sent via email

January 11, 2022

Dr. John Pringle, BScN, MSc, PhD



Dear Dr. Pringle:

Thank you for your letter dated January 9, 2022, regarding the College's policy on vaccination. As requested, I am confirming its receipt by the College.

Also as requested, I can let you know that your recommendation has been considered; however, as a matter of health regulation, I do not anticipate that there will be changes to the College's position on vaccinations.

A fundamental principle of regulation of health professions is that the profession only provides advice and care on matters that are within the scope of practice of the profession and for which they have the knowledge, skill, and judgement. In fact, this principle is so vital to the regulation of the professions that it is enshrined in the *Regulated Health Professions Act, 1991*, (RHPA) the legislation that establishes Ontario's framework for health profession regulation. Section 30(1) of the RHPA states:

30 (1) No person, other than a member treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious bodily harm may result from the treatment or advice or from an omission from them.¹

Vaccinations are not within the scope of practice of the profession. We know this to be true as no vaccines have been authorized to the profession as an authorized drug for use by injection. A naturopath may only inject a drug that is authorized pursuant to paragraph 2 of section 5(1) of the General Regulation (Ontario Regulation 415/16) made under the *Naturopathy Act, 2007* and Table 2 of that same regulation. Since vaccinations are not within the scope of practice of the profession, naturopaths are prohibited from providing any advice or guidance to patients about them and are required to refer patients to a regulated health professional who does have vaccinations within their scope of practice from whom the patient can receive advice and care. This is a requirement pursuant to section 13(2) of the aforementioned General Regulation.

¹ Regulated Health Professions Act, 1991, S.O. 1991, c. 18

Furthermore, pursuant to paragraph 9 of the Professional Misconduct Regulation (Ontario Regulation 17/14) made under the *Naturopathy Act, 2007*, it is an act of professional misconduct for a naturopath in Ontario to fail to advise a patient to consult another member of a health profession when the naturopath knows that the patient requires a service that is beyond the scope of practice of the profession.

As you can conclude, the College's position that prohibits naturopaths from advising patients about vaccinations, including the COVID-19 vaccinations, is not a "misguided attempt at neutrality" but rather, compliance with the legal framework governing the profession.

For the record, the Council of the College supports Ontario's public health positions with respect to COVID-19, including masking, physical distancing and vaccinations. The Council issued a [statement](#) on November 25, 2021 to the profession strongly encouraging that all NDs be vaccinated against COVID-19.

Sincerely yours,
College of Naturopaths of Ontario

A handwritten signature in black ink, appearing to read 'Andrew Parr', followed by a large, stylized circular flourish.

Andrew Parr, CAE
Chief Executive Officer



The College of Naturopaths of Ontario

Conflict of Interest Summary of Council Members Declarations 2021-2022

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

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

16.01 Definition

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

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

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

The following potential conflicts have been declared by the Council members for the period April 1, 2021 to March 31, 2022.

Elected or Appointed Positions

Council Member	Interest	Explanation
	None	

Interests or Entities Owned

Council Member	Interest	Explanation
Dr. Brenda Lessard-Rhead, ND (Inactive)	Partner, BRB CE Group	BRB CE Group provides continuing education courses for NDs through in-person conferences and on-line webinars and records. The College requires NDs to take continuing education courses and approved courses for credits.

Interests from which they receive Financial Compensation

Council Member	Interest	Explanation
Dr. Kim Bretz, ND	CCNM, Designs for Health, New Roots Herbal (Europe only), and Cytomatrix/Canprev – fee for speaking events	Paid on a per engagement basis.
Dr. Shelley Burns, ND	Robert Schad Naturopathic Clinic (at CCNM) – PT Faculty	Provides supervision to students of CCNM at the clinic.

Existing Relationships

Council Member	Interest	Explanation
	None	

Council Members

The following is a list of Council members for the 2021-22 year and the date they took office for this program year¹, the date they filed their Annual Conflict of Interest Declaration form and whether any conflict of interest declarations were made.

Council Member	Date Assumed Office	Date Declaration Received	Any Declarations Made
Asifa Baig	May 26, 2021	June 2, 2021	None
Dr. Jonathan Beatty, ND	May 26, 2021	May 6, 2021	None
Dr. Kim Bretz, ND	May 26, 2021	April 20, 2021	Yes
Dr. Shelley Burns, ND	May 26, 2021	April 24, 2021	Yes
Dean Catherwood	May 26, 2021	May 17, 2021	None
Brook Dyson	May 26, 2021	May 10, 2021	None
Lisa Fenton	May 26, 2021	May 17, 2021	None

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

Sarah Griffiths-Savolaine	May 26, 2021	May 13, 2021	None
Dr. Brenda Lessard-Rhead, ND (Inactive)	May 26, 2021	March 31, 2021	Yes
Paul Phillion	July 8, 2021	July 15, 2021	None
Dr. Jacob Scheer, ND	May 26, 2021	May 27, 2021	None
Dr. Jordan Sokoloski, ND	May 26, 2021	May 5, 2021	None
Dr. George Tardik, ND	May 26, 2021	May 18, 2021	None

A copy of each Council members' Annual Declaration Form is available on the [College's website](#).

Updated: November 15, 2021



The College of Naturopaths of Ontario

Report from the Council Chair

This is the Chair's Report (previously known as the President's Report) of the current Council cycle and provides information for the period November to December 2021.

This recent two-month period has been a busier period within the COVID-19 pandemic. I have continued to liaise with the Chief Executive Officer on broad issues impacting the College.

We continue to follow the direction from the Ministry of Health and hope to see more positive changes to come.

Dr. Kim Bretz, ND
Council Chair
January 2022



The College of Naturopaths of Ontario

Report on Regulatory Operations

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.1 Regulatory Activity: Registration							
Registrants (Total)							1782
General Class							1589
In Good Standing	1526	1533	1552	1568			1568
Suspended	15	16	15	21			21
Inactive Class							171
In Good Standing	167	166	165	166			166
Suspended	5	5	5	5			5
Life Members	22	22	22	22			22
Changes in Registration Status							
Suspensions	6	2	1	6			15
Resignations	2	0	1	3			6
Revocations	3	0	0	0			3
Reinstatements	1	0	1	1			3
Class Changes							
GC to IN	0	1	0	4			5
IN to GC (< 2 years)	1	3	1	0			5
IN to GC (> 2 years)	0	0	0	0			0
Life Membership Applications							
Approved	0	0	0	0			0
Not Approved	0	0	0	0			0
Professional Corporations (Total)							
New applications approved	5	5	0	1			11
Renewed	11	14	13	21			59
Revoked	0	0	0	0			0
Resigned/Dissolved	0	1	0	1			2
1.2 Regulatory Activity: Entry-to-Practise							
New applications received	2	18	11	25			56
On-going applications	16	25	32	38			38
Certificates issued	9	5	19	26			59
Referred to RC	2	4	5	2			13
Approved	0	1	4	1			6
Approved – TCLs	0	1	1	0			2
Approved – Exams required	0	0	0	0			0
Approved – Education required	2	2	0	1			5
Denied	0	0	0	0			0

Regulatory Activity		May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.2 Regulatory Activity: Entry-to-Practise continued								
	PLAR Applications							0
	New	0	0	0	0			0
	On-going	1	1	1	1			1
1.3 Regulatory Activity: Examinations								
	CSE							
	Scheduled	0	1	0	0			1
	Held	0	1	0	0			1
	Candidates	N/A	68	N/A	N/A			68
	BME							
	Scheduled	0	0	1	0			1
	Held	0	0	1	0			1
	Candidates	N/A	N/A	64	N/A			64
	Clinical Practical Exam							
	Scheduled	1	1	2	0			4
	Held	0	1	2	0			3
	Candidates	23	40	70	N/A			133
	Therapeutic Prescribing							
	Scheduled	1	1	1	0			3
	Held	1	1	1	0			3
	Candidates	35	14	35	N/A			84
	IVIT							
	Scheduled	1	0	0	1			2
	Held	1	0	0	1			2
	Candidates	19	N/A	N/A	19			38
	Exam Appeals							
	CSE							
	*** Granted	0	0	0	0			0
	*** Denied	0	0	0	0			0
	BME							
	*** Granted	0	0	0	0			0
	*** Denied	0	0	0	0			0
	Clinical Practical							
	*** Granted	0	0	0	0			0
	*** Denied	0	0	0	0			0
	Therapeutic prescribing							
	*** Granted	0	0	0	0			0
	*** Denied	0	0	0	0			0
	IVIT							
	*** Granted	0	0	0	0			0
	*** Denied	0	0	0	0			0
	Exam Question Development							
	*** CSE questions developed	0	0	0	0			0
	*** BME questions developed	0	125	0	0			125

Regulatory Activity		May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.4 Regulatory Activity: Patient Relations								
	Funding applications							
	New applications	0	0	1	0			1
	Funding application approved	0	0	0	1			1
	Funding application declined	0	0	0	0			0
	Number of Active Files	4	4	4	5			5
	Funding Provided	\$2,732	\$2,353	\$1,240	\$725			\$7,050
1.5 Regulatory Activity: Quality Assurance								
	Peer & Practice Assessments							
	Scheduled	0	0	10	28			38
	Completed	0	0	10	28			38
	CE Reporting							
	Number in group	0	0	491	0			491
	Number received	0	0	483	0			483
	P&P Assessment required	0	0	0	0			0
	QAC Reviews							
	Accepted	2	0	1	0			3
	Work Required	0	0	0	0			0
	QAC Referrals to ICRC	0	0	0	0			0
1.6 Regulatory Activity: Inspection Program								
	New premises registered	8	5	4	0			17
	New Premise Inspection							
	Part I Scheduled	8	1	4	4			17
	Part I Completed	8	1	4	4			17
	Part II Scheduled	1	4	3	7			15
	Part II Completed	1	4	3	7			15
	New premises-outcomes							
	Passed	12	0	6	8			26
	Pass with conditions	5	0	2	3			10
	Failed	0	0	0	1			1
	Secondary Inspections							
	Scheduled	0	0	0	0			0
	Completed	0	0	0	0			0
	Second inspections							
	Passed	0	0	0	0			0
	Pass with conditions	0	0	0	0			0
	Failed	0	0	0	0			0
	Type 1 Occurrence Reports							
	Patient transferred to emergency	3	1	2	2			8
	Patient died	0	0	2	0			2
	Emergency drug administered	0	0	0				0

Regulatory Activity		May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.7 Regulatory Activity: Complaints and Reports								
	New complaints/reports							
	Complaints	4	4	6	4			18
	CEO Initiated	5	2	0	1			8
	ICRC Outcomes							
	Letter of Counsel	3	3	3	3			12
	SCERP	2	3	2	3			10
	Oral Caution	6	1	1	2			10
	SCERP & Caution	0	0	0	0			0
	No action needed	1	2	1	0			4
	Referred to DC	0	0	0	2			2
	Summary of concerns							
	Advertising	4	0	0	1			5
	Failure to comply	0	0	0	0			0
	Ineffective treatment	2	2	2	1			7
	Out of scope	5	2	2	2			11
	Record keeping	1	2	0	1			4
	Fees & billing	2	0	3	0			5
	Lab testing	0	0	0	0			0
	Delegation	0	0	0	0			0
	Harassment	0	0	1	0			1
	QA Program comply	1	0	0	0			1
	C&D compliance	0	0	0	0			0
	Failure to cooperate	1	1	1	0			3
	Boundary issues	0	0	2	1			3
	Practising while suspend.	0	1	0	0			1
	Unprofessional, unbecoming	0	0	0	0			0
1.8 Regulatory Activity: Cease & Desist								
	C&D Issued	2	3	4	3			12
	C&D Signed	1	2	1	5			9
	Injunctions							
	Sought	0	0	0	0			0
	Approved	0	0	0	0			0
	Denied	0	0	0	0			0
1.9 Regulatory Activity: Hearings								
	Pre-hearing conferences							
	Scheduled	1	1	0	0			2
	Completed	0	1	1	0			2
	Discipline hearings							
	Contested	1	0	0	0			1
	Uncontested	1	0	1	0			2
	Contested Outcomes							
	Findings made	0	0	0	0			0
	No findings made	0	0	0	0			0
	FTP Hearings	0	0	0	0			0

Regulatory Activity		May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
1.10 Regulatory Activity: Regulatory Guidance								
	Inquiries							
	E-mail	82	91	94	75			342
	Telephone	59	58	71	42			230
	Top inquiries							
	COVID-19	21	17	16	13			67
	Scope of practice	12	8	15	14			49
	Conflict of interest	0	0	8	0			8
	Tele-practice	9	9	9	8			35
	Inspection program	0	8	0	0			8
	Patient visits	10	0	6	6			22
	Advertising	6	0	4	4			14
	Lab testing	0	23	15	10			48
	Notifying patients when moving	8	4	0	5			17
	Fees & billing	0	6	7	4			17
	Record keeping	6	6	15	6			33
	Grads working for a Registrant	7	0	0	0			7
	Completing Forms/Letters for Patients	4	10	24	0			38
1.11 Regulatory Activity: HPARB Appeals								
	RC Appeals							
	Filed	0	0	0	0			0
	Upheld	0	0	0	0			0
	Returned	0	0	0	0			0
	Pending	0	0	0	0			0
	ICRC Appeals							
	Filed	0	0	0	0			0
	Upheld	0	1	0	0			1
	Returned	0	0	0	0			0
	Overtaken	0	0	0	0			0
	Pending	2	1	1	1			5
1.12 Regulatory Activity: HRTM Matters								
	In progress	1	1	1	1			1
	Decided	0	0	0	0			0
	In favour of applicant							0
	In favour of College							0



The College of Naturopaths of Ontario

BRIEFING NOTE

Educational Briefing – Registration Program

BACKGROUND

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

The College achieves its mandate by performing four key functions.

1. **Registering Safe, Competent, and Ethical Individuals** - The College establishes requirements to enter the practise of the profession, sets and maintains examinations to test individuals against these requirements, and register competent, ethical and qualified individuals to practise naturopathy in Ontario.
2. **Setting Standards** – The College sets and maintains standards of practice that guide our Registrants to ensure they provide safe, ethical and competent patient care and guide patients to understand the standard of care that they can expect from a naturopath.
3. **Ensuring Continuing Competence** – The College creates and manages a variety of continuing education and professional development programs to help assure the provision of safe, competent and ethical naturopathic care.
4. **Providing Accountability through Complaints and Discipline** – The College holds Ontario naturopaths accountable for their conduct and practice by investigating complaints and concerns and determining appropriate solutions, including disciplining naturopaths who have not upheld the standards.

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

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

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

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

Registration Program

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

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

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

PLAR

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

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

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

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

- Stage 1: Paper-based assessment:
Requires the PLAR applicant to match their education and experience against four mandatory naturopathic content categories and their supporting 25 content areas, and 20 general medical subject matter areas.
- Stage 2: PLAR Examination 1 (Biomedical Exam):
Requires the PLAR applicant to demonstrate essential medical knowledge of body systems and their interactions, body functions, dysfunctions and disease states.

- **Stage 3: PLAR Examination 2 (Clinical Sciences Exam):**
Requires the PLAR applicant to demonstrate essential naturopathic competencies for the treatment of patients.
- **Stage 4: Demonstration-based assessment –Structured Interview:**
Requires the PLAR applicant to demonstrate their understanding of fundamental research concepts and methodologies, with the review of a case study, and their ability to interpret and apply that information to a panel of PLAR assessors.
- **Stage 5: Demonstration-based assessment -Interaction with a Standardized Patient:**
Requires the PLAR applicant to demonstrate their ability to apply naturopathic clinical competencies to real-life patient scenarios. These include communications skills, physical exam techniques, clinical practical skills, and professionalism.

Registration Eligibility Requirements

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

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

Labour Mobility

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

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

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

Entry-to-Practise Process

The College’s entry-to-practise process is broken into 3 separate steps to allow for the collection and review of information, documentation, and fees at appropriate points in an individual’s progression from applicant to Registrant.

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

individuals complete the PLAR program or requisite examinations.

- **Step 2 – Application for Registration**
At Step 2, applicants have completed their entry-to-practise requirements and make their formal application for registration to the College, signaling their intent to register with the College to practise the profession in Ontario. At this stage applicants answer questions, make declarations and submit documentation related to their education, additional languages spoken, prior conduct, criminal offences and record check, academic offences, good character, other professional registrations, CPR certification, and pay an application fee. It is at this stage where the applicant is either approved for Step 3 or referred to the Registration Committee for review.
- **Step 3 – Issuance of a Certificate of Registration**
Having been deemed eligible for registration, the applicant is invited to complete the entry-to-practise process with the submission of proof of professional liability insurance, a photo for the public register (with guarantor form) and payment of the registration fee for that registration year. Upon receipt of the Step 3 documents and fees the applicant is issued their registration number and can download their certificate of registration for display at their practice location.

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

Referrals to the Registration Committee

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

Referrals are made when the CEO:

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

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

Decisions by the Registration Committee

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

- Directing the CEO to issue a certificate of registration.
- Directing the CEO to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.
- Directing the CEO to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.

- Directing the CEO to impose specified terms, conditions and limitations on a certificate of registration.
- Directing the CEO to refuse to issue a certificate of registration.

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

Reviews by HPARB

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

- Confirm the Committee's decision.
- Refer the matter back to the Committee for further review.
- Require the Committee to take a specific action; or
- Make recommendations to the Committee.

Terms and Conditions of Every Certificate

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

Class Changes -Over Two Years Inactive

Registrants registered in the Inactive class for more than two years who are seeking to return to the General class to resume practising the profession, are required to first undergo a review by the Registration Committee for any atrophy of skills or knowledge which must be remediated before the class change can be approved. This review process is similar in format and intent to those conducted for applicants who have exceeded their two-year window for making their application for registration.

Professional Liability Insurance

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

CPR Certification

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

administrative fee before a suspension occurs.

Suspensions and Revocations

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

Importance of this Program

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

Respectfully submitted,

Erica Laugalys
Director, Registration & Examinations

January 2022



The College of Naturopaths of Ontario

MEMORANDUM

DATE: January 19, 2022

TO: Council members

FROM: Dr. Brenda Lessard-Rhead, ND (Inactive)
Chair, Governance Policy Review Committee

RE: Review of the Council CEO Linkage Policies

The Governance Policy Review Committee (GPRC) met on January 5, 2022 to review the Council-CEO Linkage policy suggestions that had been submitted as part of the regular policy review, as well as to consider on-going changes to other policies.

1. Council-CEO Policies.

In keeping with the revised Council Annual Cycle, the January meeting of the Council includes a detailed review of the Council-CEO Linkage policies:

- CCL01.01 – Delegation to the CEO
- CCL02.02 – CEO Job Description
- CCL03.03 – Monitoring CEO Performance.

The staff circulated information to Council members in advance of the Committee meeting. No feedback was provided by Council members with respect to any of the Council-CEO Linkage policies; however, the Committee has reviewed the policies in detail and has several recommendations for consideration of Council.

CCL01.01 – Delegation to the CEO

In paragraphs 1 and 2, the Committee noted that the policies refer to the development of policies but not the maintenance of those policies. This change has been made in other recent changes and better reflects the Council's responsibilities.

Recommendation – That paragraph 1 and 2 be amended to reflect that the Council “will develop and maintain policies.

CCL02.02 – CEO Job Description

The Committee noted that paragraph 3 of the policy referred to the CEO in the context of the Regulated Health Professions Act, 1991 and other legislation related to the regulatory framework. Given that the term Registrar as opposed to CEO is used in the legislation, it was

noted that this reference should be reverted back to Registrar. It had recently been changed in keeping with other changes in nomenclature.

Recommendation – That paragraph 3 be amended to refer to the Registrar rather than the CEO.

CCL03.03 – Monitoring CEO Performance.

The Committee reviewed this policy and was concerned initially about a lack of reference to GP19 – CEO Performance Review. It was of the view that paragraph 7 should be amended to remove the timing and refer to GP19 instead.

The Committee also considered the second sentence of paragraph 7 and, given that there is no mid-year review incorporated into GP19, felt that some guidance should be incorporated into this sentence, that the action should refer to an interim performance review as opposed to a progress review (the latter being more narrow than the former).

Recommendation – That paragraph 7 be amended to refer to GP19 and that the reference to the mid-year progress review be broadened both in timing and in scope and to refer to human resource management best practices.

2. Proposed New Policies: GP32 – Enterprise Risk Management and CC09 - Risk Committee

The GPRC received recommendations from the CEO with respect to a new policy to address risk management within the College as well as proposed terms of reference for a new Risk Committee of the Council to assist the Council in its responsibilities for risk management.

The policy and terms of reference will be addressed under the New Business Section of the Council agenda.

Respectfully submitted,

Dr. Brenda Lessard-Rhead, ND (Inactive)
Chair, Governance Policy Review Committee

January 2022

 The College of Naturopaths of Ontario	Policy Type Council-CEO Linkage	COUNCIL POLICIES Item 6.02a
	Title	Policy No. CCL01.024
	Delegation to the CEO	Page No. 1

The Council delegates its operations to the Chief Executive Officer (CEO) of the College. The CEO is empowered to make all decisions, create all policies, and authorize all engagements that, upon Council request, they can demonstrate to be consistent with a reasonable interpretation of the Council's Ends and Executive Limitations. The Council retains all authority designated to it in accordance with the Regulated Health Professions Act, 1991, the Naturopathy Act, 2007 and the By-laws of the College.

The CEO is the Council's only link to operational achievement and conduct, so that all authority and accountability of staff, as far as the Council is concerned, is considered the authority, responsibility and accountability of the CEO.

Accordingly,

- 1 The Council will develop and maintain policies instructing the CEO to achieve certain results, for certain groups, at a specified cost. These policies will be developed systematically from the broadest, most general level to more defined levels, and will be called *Ends* policies.
- 2 The Council will develop and maintain policies that limit the latitude the CEO may exercise in choosing the organizational means. These policies will be developed systematically from the broadest, most general level to more defined levels, and they will be called *Executive Limitations* Policies.
- 3 As long as the CEO uses any reasonable interpretation of the Council's *Ends* and *Executive Limitations* policies, the CEO is authorized to establish all further operational policies, make all decisions, take all actions, establish all practices, and develop all activities.
- 4 The Council may change its *Ends* and *Executive Limitations* policies, thereby shifting the boundary between Council and CEO domains. By doing so, the Council changes the latitude of choice given to the CEO. However, the Council may not apply such shifts retroactively with respect to the evaluation of the performance of the CEO.
- 5 The Council will respect and support the CEO's choices within the limitations established.
- 6 Only decisions of the Council acting as a body or decisions of a Statutory Committee (or Panel of a statutory Committee) acting as a tribunal authorized under the *Regulated Health Professions Act, 1991*, are binding on the CEO.
 - a) Decisions or directions of individual Council members, Officers or Council Committees are not binding on the CEO except in rare instances when the Council has specifically authorized such exercise of authority or where the Council Committee or a Panel of the Statutory Committee is authorized to render decisions under the *Regulated Health Professions Act, 1991*.
 - b) In the case of Council members or Committees requesting information or assistance without Council or statutory authorization, the CEO can

DATE APPROVED	DATE LAST REVISED
	January 27, 2024 On Approval

 The College of Naturopaths of Ontario	Policy Type Council-CEO Linkage	COUNCIL POLICIES Item 6.02a
	Title Delegation to the CEO	Policy No. CCL01.024
		Page No. 2

refuse such requests that require, in the CEO's judgment, a material amount of staff time or funds, or are disruptive.

- c) Where the CEO is unclear as to procedure, it is the responsibility of the CEO to seek clarification from the Council.

DATE APPROVED	DATE LAST REVISED
	January 27, 2021 On Approval

 The College of Naturopaths of Ontario	Policy Type Council-CEO Linkage	COUNCIL POLICIES Item 6.02b
	Title CEO Job Description	Policy No. CCL02.034
		Page No. 1

As the Council's single official link to its daily operations and staff, the performance of the Chief Executive Officer (CEO) is synonymous with the College's performance. Accordingly, the CEO's job description can be stated as performance in only three areas.

- 1 Accomplishment of the Council's broad objectives as set out in the Council's Ends policies.
- 2 Compliance with the Executive Limitations as set out in policy. The CEO is the senior executive responsible for daily operations and has direct control over this major function. This is separate yet related to the policy functions of the Council and the Council Chair.
- 3 Fulfillment of the duties and responsibilities of the Registrar ~~CEO~~ in accordance with the *Regulated Health Professions Act, 1991*, including but not necessarily limited to Schedule II – The Health Professions Procedural Code, the *Naturopathy Act, 2007* and the by-laws of the College of Naturopaths of Ontario.

DATE APPROVED	DATE LAST REVISED
July 30, 2013	January 27, 2021 On Approval

 The College of Naturopaths of Ontario	Policy Type Council-CEO Linkage	COUNCIL POLICIES
	Title	Policy No. CCL03.043
	Monitoring CEO Performance	Page No. 1

The Council will view performance of the Chief Executive Officer (CEO) as identical to organizational performance. Systematic monitoring of the performance of the CEO will be measured against: the accomplishment of the Council Ends policies; fulfillment of the duties and responsibilities of the position as required by the Regulated Health Professions Act, 1991; and operations of the College of Naturopaths of Ontario that are within the boundaries established in Council policies on Executive Limitations.

Accordingly,

- 1 The Council will refrain from evaluating, either formally or informally, any staff of the College other than the CEO and when evaluating the CEO, the Council shall do so only in accordance with this policy and by way of the process established under any relevant Governance Process policy.
- 2 Monitoring is used to determine the degree of compliance to Council policies. Non-relevant data will not be considered to be monitoring data.
- 3 Monitoring should be as automatic as possible, using a minimum of Council time so that meetings can be used to create the future rather than review the past.
- 4 The Council will acquire monitoring data by one or more of the following methods.
 - a) By internal report, in which the CEO discloses information to the Council.
 - b) By external report, in which an external, disinterested third party selected by the Council assesses compliance with Council policies.
 - c) By direct Council inspection, in which a designated member or members of the Council assess compliance with the applicable policy criteria. This inspection is a spot check, which allows a "prudent person" test of policy compliance.
- 5 In every case, the standard for compliance shall be any reasonable interpretation of the Council policy being monitored.
- 6 All policies that instruct the CEO will be monitored at a frequency and by a method chosen by the Council. The Council can monitor any policy at any time by any method.
- 7 The Council shall conduct a performance review of the CEO beginning in the spring of each year and concluding at the summer Council meeting in accordance with GP19-CEO Performance Review. The Council may conduct an interim informal progress review mid-year performance review, in accordance with human resource management best practices, including but not limited to identification of any performance issues arising, corrective action required, and identification of tools necessary to support such actions.

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DATE APPROVED	DATE LAST REVISED
July 30, 2013	January 27, 2021 On Approval

 The College of Naturopaths of Ontario	Policy Type GOVERNANCE PROCESS	COUNCIL POLICIES Item 7.01 i
	Title Enterprise Risk Management	Policy No. GP32.00
		Page No. 1

The Council is committed to the principles of good governance to support the College's public interest mandate. In line with this commitment, the Council is committed to building and fostering an Enterprise Risk Management culture that supports our objectives through a systematic process of risk identification, assessment, treatment and management for the College and will affect this through its strategic planning process. The College's value of serving and protecting the public interest, providing quality service, accountability and transparency, teamwork and collaboration are the foundation of the organizational risk culture and will guide our actions.

Accordingly,

Definitions Enterprise Risk Management Means an approach to managing all of an organization's key business risks and opportunities.¹

Risk Means the possibility and/or uncertainty that an unintended event (referred to as a peril) will occur and affect the achievement of objectives.²

Risk tolerance Means the overall level of risk acceptable to the Council of the College from one of zero, low, moderate, high.

- 1 Risk management will form an integral part of all our decisions and activities.
- 2 The Council will assume its fiduciary and moral responsibility to ensure effective risk management is practiced throughout all College activities.
3. The Council will establish its overall risk tolerance level upon advice of its Risk Committee. However, until such time as the Committee can make recommendations, the tolerance level will be set as low in recognition that a zero tolerance for risk is likely not possible in regulation of a profession.
4. The Council will be required to commit the necessary attention and resources to achieve excellence in risk management and to ensure that the Chief Executive Officer allocates sufficient funds to support it. This includes but is not necessarily limited to:
 - a) Approval of this ERM policy.
 - b) Participation as respondents to surveys, questions or other consultation processes to help identify and assess risk, especially strategic risk.
 - c) Approval of risk treatments where they fall within Council's mandate because of cost or significance (just as Council is now involved in those matters).
 - d) Recipients of regular reports for the purpose of providing assurance that the Risk Management Program is operating effectively.
 - e) Recipients of special reports when any risk reaches an agreed upon priority level (e.g., extreme or high risk?).

¹ Elliot, Michael (2018) *Risk Management Principles and Practices* (3rd Edition), The Institutes, 1.27

² Uvidi Management Group, Version – March 2020

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	COUNCIL POLICIES
	GOVERNANCE PROCESS	Item 7.01 i
	Title	Policy No.
Enterprise Risk Management		GP32.00
		Page No.
		2

- f) Using risk management principles when making all Council-level policy decisions.

DRAFT

DATE APPROVED	DATE LAST REVISED

Section	Committee	Page
Governance Process	Risk Committee (CC09.00)	1
		Create Date November 25, 2021

Accountability and Authority	The Risk 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 <i>Committee Principles</i> policy (GP06).
Limitations	The Risk Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized in the bylaws and by these Terms of Reference.
Responsibilities	Working closely with the Chief Risk Officer (CRO) and senior management team, the Risk Committee shall: • On behalf of the Council, provide organizational oversight to ensure that a risk management process is in place at all levels of the organization and that risk management processes are being adhered to. • Identify and quantify risks in the organization that may not be addressed in the risk management processes and make recommendations to the Council and CRO that they be addressed. • Define and make recommendations to the Council defining the College's risk appetite and tolerance. • Receive the Integrated Risk Report and Enterprise Risk Map on behalf of the Council and advise the Council on their review and acceptance. • Receive and review such other reports from the CRO that might enable the Committee to offer advice and guidance to the Council and the Senior Management Team on risk-related matters.
Composition and Appointment	The Risk Committee shall be appointed by Council and shall be comprised of at least two (2) but as many members as the Council deems appropriate, including: • One (1) or more Council members • Any number of Registrants who are not Council members and • Any number of Public Representatives as defined in the by-laws. The Council shall appoint the Chair.
Term of Office	The members of the Risk 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 Risk Committee shall meet at the call of the Chair and at least once annually and as many other times as the Chair determines as necessary to fulfill its mandate. In the event that the Chair 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 Governance Committee shall be two members of the Committee.

DATE APPROVED	REVIEW DATE	RESPONSIBLE
		Council

Section	Committee	Page
Governance Process	Risk Committee (CC09.00)	2
		Create Date
		November 25, 2021

Reports

The Committee shall provide a report to the Council at each Council meeting by means of the Consent Agenda.

DRAFT

DATE APPROVED	REVIEW DATE	RESPONSIBLE
		Council

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01 iii	
	Title	Policy No.	
	Enterprise Risk Management Program	Page No.	1

Intent/Purpose To establish an Enterprise Risk Management program for the College of Naturopaths of Ontario.

Definitions	ERM	Means Enterprise Risk Management, an approach to managing all of an organization's key business risks and opportunities. ¹
	Business Unit	Means any operational section within the College that is separate and distinct from another, i.e., quality assurance program versus inspection program.
	CRO	Means the Chief Risk Officer, the individual within the College who is responsible for overseeing the ERM system and reporting both to the Senior Management Team and the Council of the College.
	Risk	Means the possibility and/or uncertainty that an unintended event (referred to as a peril) will occur and affect the achievement of objectives. ²
	Risk Management Framework	Means a foundation for applying the risk management process throughout the organization. ³
	Risk criteria	Means information used as a basis for measuring the significance of the risk. ⁴
	Risk tolerance	Means the overall level of risk acceptable to the Council of the College from one of zero, low, moderate, high.
	Risk Map	Means a template depicting the likelihood and potential impact/consequences of risks.
	Risk Owner	Means the individual within the corporation who is responsible for overseeing the program or activity for which there is an associated risk, primarily the Manager or Director.
	Risk Register	Means a tool at the risk owner level that links specific activities, processes, projects, or plans to a list of identified risks and results of risk analysis and evaluation and that is ultimately consolidated at the enterprise level. ⁵

1 Elliot, Michael (2018) *Risk Management Principles and Practices* (3rd Edition), The Institutes, 1.27

2 Uvidi Management Group, Version – March 2020

3 Elliot, Michael (2018) *Risk Management Principles and Practices* (3rd Edition), The Institutes, 2.7

4 Ibid, 2.8

5 Ibid, 6.12

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 2

Hazard Risk Means risks that arise from property, liability or personal loss exposures.

Operational Risk Means risks that arise from operational activities such as people, processes, systems or controls.

Financial Risk Means risks that arise from the effect of market forces on financial assets or liabilities.

Strategic Risk Means risks that arise from trends in the economy or society.

Policy **ERM Framework** The College of Naturopaths of Ontario will adopt the ISO 31000 Enterprise Risk Management framework as the vehicle for managing risk within the College. As such, the College will:

1. Assess risk (risk identification, analysis and evaluation),
2. Treat risk, and
3. Monitor and review risk.

Risk assessment The College will develop a comprehensive list of risks that can have either a positive or negative effect on meeting the Council's objectives.

Risks will be assessed in the following categories:

- Hazard risk
- Operational risk
- Financial risk
- Strategic risk.

Specifics of what risk types are included in each category is provided below.

Once identified, all risk will be analyzed, determining the level of risk and its potential impact on the College, and evaluated, using the application of risk criteria.

Risk treatment For each of the risks identified in the assessment, the College will identify the appropriate treatment of that risk. Treatment options available include:

- Avoidance, choosing not to undertake the activity identified as a risk,
- Transfer the risk by engaging a third party to assume the risk for payment of a fee (premium),
- Modify the risk by changing the likelihood of it occurring or the impact should it occur.

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 3

- Retain the risk considering the potential for gains and losses.

Risk Monitoring and Review

For all the risks and treatment approaches identified, the College will monitor the activities and any actual risks incurred and determine whether any changes are needed to the risk treatment protocol identified.

Informally, risk monitoring and review will occur regularly by the department heads (Directors and above). A formal review will be undertaken every three years.

Risk rating criteria

The risk criteria, that is the measures used to evaluate the significance of the College's risk, will be:

- the likelihood or probability of the peril occurring using the following rating scale:
 - 1 – rare (0% to 5% probability)
 - 2 – Unlikely (6-33% probability)
 - 3 – Possible (34-65% probability)
 - 4 – Likely (66-79% probability)
 - 5 – Almost certain (80-100% probability).
- the consequences or impact resulting from the occurrence using the following rating scale:
 - 1 – Negligible (Low financial/reputation loss, small impact on operations)
 - 2 – Minor (Some financial loss, moderate impact on business)
 - 3 – Moderate (Moderate financial loss, moderate loss of reputation, moderate business interruption)
 - 4 – Major (Major financial loss, several stakeholders raised concerns, major loss of reputation, major business interruption)
 - 5 – Extreme (Complete cessation of business, extreme financial loss, irreparable loss of reputation)

Risk priority

The risk priority is established by multiplying the two risk rating criteria. As a result, the maximum rating is 25. The risk priority scale is set as:

- L – Low Risk: May require consideration for future changes to mitigate risk but does not require immediate attention. (Rating of 1 to 5).
- M – Medium Risk: May require action to mitigate risk in the near future (Rating of 6 to 10).

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 4

- H – High Risk: Requires immediate action to mitigate risk (Rating of 11-17)
- E – Extreme Risk: Requires immediate prohibition of work, process as well as immediate action to mitigate risks (Rating of 18 to 25).

The risk priority is a key element in any decision on whether or not to treat a risk.

Risk Types

As noted above, four risk categories will be used; however, within each category are a set of risk types used to identify and assess risk.

Hazard Risks include:

- Loss of key people – the sudden and unexpected loss of senior leadership due to resignation, retirement, death or illness.
- Property – the loss or damage to property due to fire, weather, or other natural disasters.
- Liability – the loss incurred from defending liability claims or claims that are required to be paid.
- Net income loss – loss of net income (after expenses) from any hazard risk.

Operational Risks include:

- People – risks from people selected to run an organization.
- Process – risks from procedures and practices within an organization.
- System – risks due to the technology or equipment owned or deployed by an organization.
- External events – risks due to the failure of others external to an organization such as third-party suppliers or consultants.

Financial risks include:

- Market – currency, price, interest rates, commodity or equity price.
- Credit – risk of people in an organization who where lent money defaulting.
- Price – risk of prices of an organization's products or services, price of assets bought or sold.

Strategic risks include:

- Economic – changes in GDP, inflation, financial crises and international trade.

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 5

- Demographics – changes in the landscape of people, i.e., aging.
- Political – changes in the politics where an organization operations, namely government, government policy.
- Reputation – damage to the reputation of the organization based on decisions taken or perils encountered.

Risk Treatment Techniques

While there are a number of available risk treatment techniques, those that will be used by the College as a not-for-profit, public agency will be:

- Avoidance – where possible an activity that represents risk of peril will be avoided (may apply to all risk categories).
- Transfer – where possible, the risk will be transferred to another organization, typically insurers (applies primarily to hazard risks).
- Mitigation – where avoidance and transfer are not available options, mitigation strategies will be implemented.
- Retention – may be used for residual or low risk after other treatment techniques have been considered and involves the assumption of potential gains and/or losses.

Mitigation

Risk mitigation strategies that will be implemented include:

- Reducing the likelihood of a peril identified as a risk from happening. This includes but is not necessarily limited to:
 - Education and training,
 - Establishing new more restrictive policies,
 - Enhance checks and balances in the processes,
 - Internal audits,
 - Information sharing.
- Reducing the impact of a peril identified as a risk when it occurs. This includes but is not necessarily limited to:
 - Enhanced communication,
 - Increased stakeholder/public engagement,
 - Engage in redundancies with suppliers or processes,
 - Diversify investment portfolios,
 - Isolate the loss exposure.

Process of Risk Assessment

To identify, analyze and evaluate risks, the College will use a team approach that incorporates facilitated workshops, questions posed to experts (Delphi Technique), scenario analyses, hazard/operability studies, and analysis of strengths, weakness, opportunities and threats.

Assessments will begin within individual business units, then move forward to departments and finally College wide to

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 6

enable the use of internal expertise as well as the concept of “interested by-standers” who can bring in new perspectives on thought processes and assessments.

Risk identification tools

Managers and Directors will be able to use any number of tools to assist all levels of staff in the risk assessment process, including but not limited to:

- Checklists
- Interviews
- Workshops
- Escalation triggers
- Process flow analysis
- Audits.

Risk Management Process

The College will manage its risk through the development of Risk Registers and Risk Maps to ensure risks are identified, analyzed, treatments developed and reported on.

Each operational unit will develop its own Risk Register using the template set out at Appendix 1. The business unit will then report that register to the department within which it reports. Departments will then report their Registers to the Senior Management Team through the CRO.

An enterprise-wide Risk Register will be developed and provided to the Senior Management Team and to the Council of the College. Complete updates will be developed and provided every three years.

In the intervening periods, status checks will be conducted annually whereby business units, departments report on any changes to their Register or any new risks identified that are then added to the respective Registers.

Reporting to Council

Reporting to Council (or to a Risk Committee should one be established) will take two forms:

- An Enterprise Risk Map – A basic risk map for the College identifying risks by business unit.
- An integrated risk report that aggregates the information and describe its effect across all business areas

Other Considerations in risk Management and Reporting

Risk Reporting:

- An effective reporting system provides timely, relevant and clear information flow up and down the lines of authority.

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 7

Characteristics of Reporting:

- Should focus on key risk indicators without overwhelm, while being timely and detailed, but concise.
- Include objectives measurements and subjective assessments that clearly express management views.
- Reports should show progress.

Functionality of Reports:

- Focus on business objectives as well as compliance with regulatory requirements.
- Show indications of risk movement and those that need immediate attention.

Managing Data:

- With the volume of data, it must be put into perspective
- Data should be provided in an integrated format that represents the effect of a risk across the various areas of impact – data should not be in silos.
- Risk information should include both quantitative and qualitative data since not all risks can be defined within the same parameters or measures.

Related
procedures

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii	
	Title	Policy No.	
	Enterprise Risk Management Program	Page No.	8

Appendix 1 – Risk Register Template

Quad	Known/Potential Risk	Risk Owner	Likelihood (1-5)	Impact (1-5)	Risk Priority (L x I)	Improvement Action (Mitigation)	Review Date
Hazard	Head Office Fire	OPS	3	4	12 (High)	- Lower impact by monthly fire alarm testing - Transfer with insurance	
Operational							
Financial							
Strategic							

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 9

Appendix 2 – Risk Map

Impact/Consequences	Extreme (5)					
	Very High (4)					
	Medium (3)					
	Low (2)					
	Negligible (1)					
		Rare (1)	Unlikely (2)	Possible (3)	Likely (4)	Almost Certain (5)
		Likelihood				
		Extreme Priority	Medium Priority	Low Priority		

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- the likelihood or probability of the peril occurring using the following rating scale:

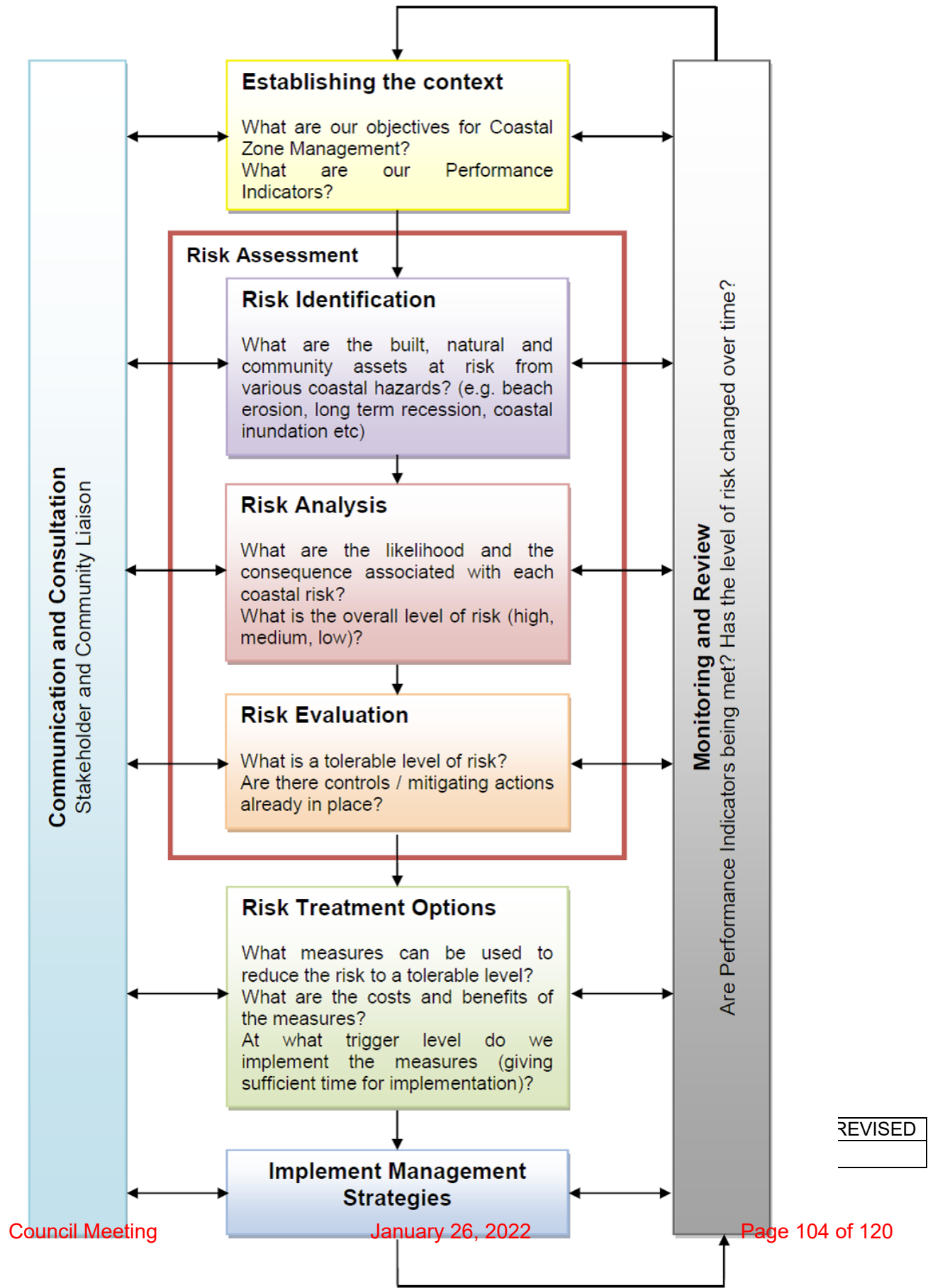
DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES Item 7.01iii
	Title	Policy No.
	Enterprise Risk Management Program	Page No. 10

- 1 – rare (0% to 5% probability)
- 2 – Unlikely (6-33% probability)
- 3 – Possible (34-65% probability)
- 4 – Likely (66-79% probability)
- 5 – Almost certain (80-100% probability).
- the consequences or impact resulting from the occurrence using the following rating scale:
 - 1 – Negligible (Low financial/reputation loss, small impact on operations)
 - 2 – Minor (Some financial loss, moderate impact on business)
 - 3 – Moderate (Moderate financial loss, moderate loss of reputation, moderate business interruption)
 - 4 – Major (Major financial loss, several stakeholders raised concerns, major loss of reputation, major business interruption)
 - 5 – Extreme (Complete cessation of business, extreme financial loss, irreparable loss of reputation)

DATE APPROVED	DATE LAST REVISED

 The College of Naturopaths of Ontario	Policy Type	OPERATING POLICIES <i>Item 7.01iii</i>	
	Title	Policy No.	
	Enterprise Risk Management Program	Page No.	11





The College of Naturopaths of Ontario

BRIEFING NOTE

College Fees and Reserves

PURPOSE: To seek direction from Council regarding the necessity, timing and process for the review of the Registrant fees and College's finances.

OUTCOME Determination of project need, timing and responsible persons for the implementation of the project.

NATURE OF DECISION ☒ Strategic ☐ Regulatory Processes & Actions ☐ Other

PROCESS:

Activity:	Discussion of timing for the review of the College's finances and how the Council would like to have the project implemented will be recorded.		
Results:	Direction		
Overall Timing:	20 minutes		
Steps/Timing:	1.	Director of Operations will provide a brief overview.	5 minutes
	2.	Council questions and discussion	10 minutes
	3.	Motion	5 minutes

BACKGROUND:

In September 2019, the Executive Committee committed the College to undertaking a review of the College's financial status and registration fees levied to the profession to ensure that the fees were at the appropriate level to ensure the long-term sustainability of the College while charging the lowest fees possible.

This project was scheduled to take place upon the completion of the College's 5th full fiscal year¹, which would have been the fall of 2021; however, on-going issues surrounding the management of COVID-19, as well as reduced staff resources, resulted in a delay in this project.

DISCUSSION POINTS:

Annual Financial Results

Over the first four years of operations, the College financial results have been consistent year over year with the exception of 2020-2021 when College registration fees were reduced by 40% due to COVID-19.

¹ The first fiscal year of the College ran from July 1, 2015 to March 31, 2016. The first full 12-month fiscal year of the College ran from April 1, 2016 to March 31, 2017.

Fiscal year	Actual Rev.	Actual Exp.	Actual Result	Budgeted Result	Difference
2021-22 (proj)	\$3,500,000	\$3,320,000	\$180,000	\$(94,463)	\$274,463
2020-21	\$2,254,077	\$3,066,067	\$(811,990)	\$(641,755)	\$(170,235)
2019-20	\$3,006,764	\$2,743,289	\$263,475	\$(577,707)	\$841,182
2018-19	\$2,868,756	\$2,474,387	\$394,369	\$(577,727)	\$972,096
2017-18	\$2,626,112	\$2,212,414	\$413,968	\$(177,244)	\$591,212
2016-17	\$2,339,183	\$2,166,818	\$172,365	\$(550,235)	\$722,600

Of interest is the difference between the budget results and the actual results which, with the exception of 2020-21, consistently had the College exceeding budget by very large amounts. While some of this difference may relate to budgeting processes and the ability to accurately project costs, to a large degree the difference relates to the lower than budgeted costs experienced in complaints and hearings.

The 2020-2021 Experience

The 2020-21 fiscal year was highly informative for the College in terms of volatility and dependence on registration fees. When the Council was asked to consider and approve the reduction of registration fees, the quantum at issue was well known. What was unknown was the degree to which other revenue sources, examinations and inspections, would also become volatile at the same time. While the financial results in this fiscal year were on par with the initial projections, this was primarily due to the COVID-19 funding programs offered by the government.

The loss encountered in fiscal 2020-21 was significant to the College not only in the loss of its operating reserves but also the impossibility of increasing the College overall restricted reserves set out in the Council Executive Limitations policies.

College Restricted Reserves

The current status of the College restricted reserve funds is as follows:

Fund	Required Amount	Current Amount	Difference
Investigations and Hearings	\$2,000,000	\$1,000,000	\$(1,000,000)
Patient Relations	\$100,000	\$89,193	\$(10,807)
Succession Planning	\$50,000	\$50,000	\$0
Business Continuity	\$4,000,000	\$1,075,385	\$(2,924,615)
Total Restricted	\$6,150,000	\$2,214,578	\$(3,935,422)

In October 2020 the Council approved the four above noted reserve funds. These reserves were created because operations are subject to a large number of variables that make predicting expenses and revenues difficult. This statement especially held true when COVID-19 was introduced to the world in March 2020, external forces that were unanticipated.

It is important that the College has the means to continue to build up its reserves as a means of risk mitigation. Almost half of monies in our current reserves are from monies from the BDDTN and the other half are monies that the College has been putting away when a surplus is achieved at the end of a fiscal year.

The College has only finances as a means of mitigating risk in the case of complaints/reports and discipline. The College is legally obligated to investigate every single complaint/report received and 'prosecute' every single discipline referral made. These cannot be deferred, and they cannot be ignored, nor can the College take an approach that is in its financial interests but not in the public interest.

In order for the College to achieve the desired levels of its reserve funds for financial stability, it is vital that the College be in a position to generate a surplus at the end of each fiscal year, especially when funds such as the Patient Relations reserve fund is used regularly and requires annual replenishment.

Looking Ahead

There are a number of areas that the Council and its Committees have identified for expansion in the next one to three years. These include:

- Risk-based Regulation – this concept is under active development and will require an investment from the College in terms of external consultants to develop the reporting matrix and to develop the systems to collect and analyze the data.
- Enterprise Risk Management – this program is also under active development and is in keeping with the College Performance Measure Framework. This program will require additional recruitment of specialized skills on the Council/Committee level as well as on the staff level for the Chief Risk Officer. The process itself will require operationalization and additional support may be needed, including but not necessarily limited to external consultants to assist in implementation.
- Diversity, Equity and Inclusion – the DEIC is in the process of developing an action plan what will see it review and make recommendations surrounding College regulatory programming. Data collection is quickly becoming an issue to be examined and additional programming of the College's systems will be needed.
- Volunteer Program – a number of new or more sophisticated elements have been developed to the Volunteer Program including the Qualifying Program and Training Program. These need to be fully implemented. A mentoring program has been developed at the request of the Governance Committee; however, it will require additional volunteer and staff resources to properly and fully be implemented. Finally, more robust recruitment and retention programs are needed as are processes surrounding those who exit the program.

In addition to these program developments, the College presently has four matters that have been referred for a hearing by the Inquiries, Complaints and Reports Committee (ICRC) which are anticipated to be addressed in the current and coming fiscal year. Additionally, we currently project that an additional 14 matters are likely to be referred by the ICRC in the coming fiscal year.

For each hearing held, in addition to the preparation work, legal fees, panel costs, where there is an ICRC outcome other than a referral to discipline, and for every hearing where there are findings, there are ongoing monitoring requirements for College staff. Presently, the totals are:

- ICRC Outcomes being actively monitored: 7
- Hearing Outcomes being actively monitored: 6

Finally, in 2022-2023 and into first quarter of 2023-2024, the College is anticipating moving its office location. This will result in costs surrounding construction of new space, moving costs and IT costs. While it is anticipated office space requirements will be smaller, the hybrid in-office/remote working approach will mean that some cost savings on space may be required to be invested in technology to ensure the safety and security of College data.

Looking Back

Looking back to the point in time when this decision to review the College fees was made in September 2019, a number of significant changes have occurred with respect to the College and its operations. Most notable among these are:

- Creation of CANRA: The Canadian Alliance of Naturopathic Regulatory Authorities (CANRA) has been created and, as a member of the Alliance, the College pays an

annual membership fee that is based on the number of Registrants. The College pays a fee of \$25 per Registrant (both classes) and is paying more than \$42,000 annually to support the national initiative.

- Launch of the CPMF: The Ministry of Health has launched the College Performance Measure Framework (CPMF). This has impacted the College in two ways. First, annually the College must submit an extensive report to the Ministry on its performance. This adds more to the overall work of the College. Second, the measurement parameters often result in new, unanticipated initiatives in order to comply. For example, the Qualifying and Volunteer training programs noted above are the direct result of the CPMF as is the Enterprise Risk Management program and certain elements of the EDI initiative.

Need for this Project at this Time

Notwithstanding earlier commitments, the question remains whether this is the correct time for this project and whether it is required at all or with the proposed approach.

In terms of timing, the College remains under considerable pressure through the work of the Ministry of Health (College Performance Measures Framework) and the Office of the Fairness Commissions (PLAR and related development work) to develop new or augment existing programs. We have not completely emerged from the COVID-19 pandemic as demonstrated by the Omicron variant and a return to lock downs.

In terms of the approach, the question arises as to whether an independent audit is required to accomplish a review of the College's finances as was originally proposed by the Executive Committee. An audit suggests an intervention by the Council in a situation where there are concerns. It also carries costs, likely similar to the annual audit conducted for the Council.

Should the Council decide to proceed with this project, the staff have developed a project plan for consideration, attached as Appendix A.

ANALYSIS

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

- Operational risk:
 - Process: Process risk comes from the review and selection of a provider for the process and ensuring that all of the necessary information is provided for an accurate assessment.
- Financial risk:
 - Price Risk: Outcome of recommendations to registration fees and reserve funds. Registrants would be directly affected by changes to fee structure and the College may need to realign the Operational Plan to align with new budget confines.
- Strategic risk:
 - Economic Risk: Current instability with the economy due to the COVID-19 pandemic and abnormal increases and/or decreases to the Consumer Price Index. Increase of 4.7% from 2020 to 2021.

- Reputational: Confidence and trust in the organization comes from ensuring that the time and need for this project is appropriate. On the one hand, the Executive Committee made a commitment to undertake this review and the Council could risk reputational damage if it decides not to proceed. On the other hand, if circumstances have changed significantly to no longer warrant undertaking this project, then doing so risks reputational damage of wasting time and financial resources. If the outcome is a foregone conclusion, then undertaking the project in such circumstances risks damage to the principles of good governance.

Privacy Considerations – There are no privacy considerations.

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

- Information to foster trust – By completing the financial review the College would have a robust financial plan to foster trust of the public in its ability to properly fulfill its public interest mandate.
- Relevant, credible, and accurate information - Proposed finance review ensures that the information provided relies on as an accurate reflection of current practice, especially with the trending of complaints and discipline.
- Timely, accessible and contextual– The completion of a financial review would foster trust in Council completing work that was previously approved by the Executive Committee after the completion of the College's 5th fiscal year. With our current environmental landscape changing due to COVID-19 uncertainties remain until the College returns back to normal business operations.

Financial Impact – The costs associated with conducting the financial review are unknown at this time as the RFQ quotes have not been submitted at this time.

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

- It is in the public interest that the College be in a sound financial position that ensures its long-term sustainability. The public interest might also define sustainability as the ability to withstand unanticipated events that might strain the College's financial resources, such as COVID-19 or to withstand direct pressures on the College's financial resources, such as from one or more complex disciplinary matters. The College's reserves being sufficient would seem, therefore, to be a matter of public interest, as is the College Council's policy on reserves.
- Good governance, which is also in the public interest, requires that the Council be accountable (though not necessarily responsible) to taking the necessary measures to ensure the financial stability of the College.
- How the Council arrives at a conclusion surrounding the sustainability of the College is not itself a matter of public interest, unless concerns have been raised by oversight agencies in this regard or unless the Minister determines that an independent financial audit is necessary.
- Conducting a Finance Review would be in the public interest and builds confidence in the College knowing that the College finances are in state of good health and sustainability.
- The process for the finance review would be fair and objective, as well as transparent by sharing the vendor selection results and results of the findings.

RECOMMENDATIONS

It is recommended that the Council postpone the College's financial review until the College can complete one more full accounting cycle under normal circumstances in which all of the College's programs are running and when the economy re-stabilizes post COVID-19 pandemic or to cancel this initiative and re-visit it as the Council sees fit.

Andrew Parr, CAE
CEO

Agnes Kupny
Director of Operations

APPENDIX A

Objectives and Scope

The project objectives include:

- a) Recommendations for levels of reserves and actual reserves.
- b) Recommendations for levels of revenues, in particular Registration fees.
- c) Determination of appropriateness of fee levels and recommendations as necessary.
- d) Preparation of a report including a presentation to the Council.

The scope of the project is:

- The examination of the College's financial records must be made in accordance with International Accounting Standards for Not-For-Profit Organizations (NFPO) in the private sector.
- The auditor will provide an opinion on the unaudited and audited financial statements including a review of the Independent Auditor's Report, a Statement of Financial Position, a Statement of Revenue and Expenses, a Statement of Changes in Fund Balances, a Statement of Changes in Cash Flow and Notes to the Financial Statements, in addition to forecasting projections.
- Meet with the staff and Council members to discuss potential issues that may affect the financial wellbeing of the College.
- Review of the College's operational and governance policies as they relate to finance to gain an understanding of the College structure and accountabilities.
- Conduct a financial risk analysis.
- The auditor shall submit a Financial Report with recommendations, if any, with regard to fee structure or any other significant issues identified during the analysis.
- The auditor shall also submit a Reserves Report with recommendations, if any with regards to the type of reserves needs, changes to existing reserves and allocations per reserve
- The auditor is expected to present and speak to the written report with recommendations at a meeting of the Council in May.
- The audit will be conducted at the College's head office or via a secure portal for the sharing of documents.

Project Timeframes

The following is an outline of the timeframes associated with this Request For Quotes (RFQ):

- December 6, 2021 – RFQ issued;
- December 24, 2021- Intent to Submit required for individuals or firms who wish to participate;
- January 17, 2022- All questions regarding the project are to be submitted;
- January 24, 2022- College will provide all questions and answers to all firms who intend to submit;
- January 28, 2022 - Quotations must be received via e-mail no later than 3:00 p.m. EST;
- January 26, 2022 – Selection Committee will be established by the College;
- February 1-11, 2022-Presentations/Meetings held as necessary;
- February 18, 2022 – Contract awarded;
- February 21, 2022 – March 4, 2022 – Professional Services Agreement signed;
- March 2022 – Project commences.

Selection Committee

Should the Council be of the opinion the project is to continue, the next question to be addressed is whether this is a governance project or an operating project. Fees are incorporated into the budgeting process and any increase or decrease in fees would typically be addressed at that time. It might therefore be assumed that this would be an operating project of the College with recommendations coming forward to Council surrounding fee levels.

On the other hand, given that it was a commitment of the Executive Committee, this may be seen as a Governance process through which Council is seeking an external third party to review the financial operations of the College.

Should the Council determine that it is an operational process, staff will oversee the RFQ and selection process as part of its operations. Should the Council determine that it is a governance project, then the Council will need to form a selection committee to oversee the RFQ review and selection process.



The College of Naturopaths of Ontario

BRIEFING NOTE

Capital and Operating Budgets for 2022-2023

PURPOSE: To discuss the draft Capital and Operating Budgets for the fiscal year April 1, 2022 to March 31, 2023.

OUTCOME Discussion and feedback on capital and operating budgets.

NATURE OF DECISION ☐ Strategic ☐ Regulatory Processes & Actions ☒ Other: Financial

PROCESS:

Activity:	Presentation, discussion.		
Results:	Feedback and direction on the budgets.		
Overall Timing:	25 minutes		
Steps/Timing:	1.	An overview of each of the two budgets will be presented by the Director of Operations.	10 minutes
	2.	Q&A, discussion by Council.	15 minutes

BACKGROUND:

Each year, the Senior Management Team presents an Operational Plan, as well as the Operating and Capital budgets in support of that plan and the on-going infrastructure of the College.

The draft Operational Plan will be included in meeting materials for the Council meeting in March.

The draft Capital Budget for 2022-2023, along with two years of estimates, is attached to this briefing note as Appendix 1 for the Council's review and discussion.

The draft Operating Budget for 2021-2022, and two additional years of estimates is attached to this briefing note as Appendix 2 for the Council's review and discussion.

For the Capital and Operations budget included are new visual charts showing total monies allocated for this year vs. last year and the allocations for each year for your reference.

DISCUSSION POINTS:

Budget Timing

Now that the Council has moved to a six-meeting cycle, the January meeting provides an opportunity for the Council to review and provide input on the budget and the March meeting provides the best opportunity to have the budget accepted prior to the start of the next fiscal year.

Capital Budget

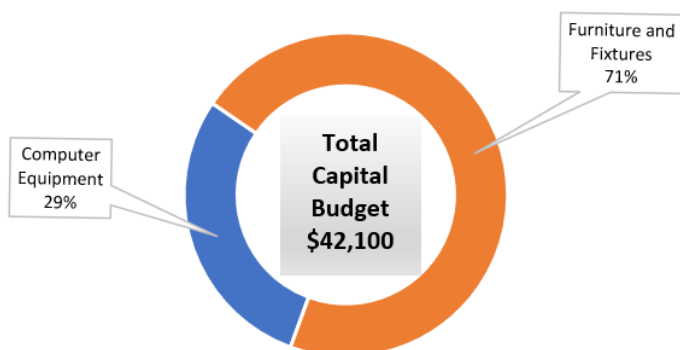
A Capital Budget is a budget allocating money for the acquisition or maintenance of fixed assets such as land, buildings, and equipment (Oxford Dictionary). A simplistic view of a Capital Budget is that the purchases made are added to the College's asset list and are depreciated over a defined period.

In the coming year, capital expenditures include the replacement of some computer equipment that has met its estimated life expectancy. Each computer or other electronic equipment is purchased and is assigned a timeframe by which it is expected to fail. The intent is to maximize the lifespan but to replace the equipment prior to actual failure.

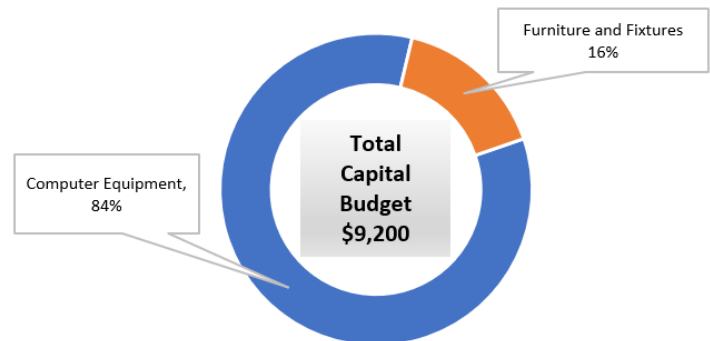
In February 2023 (fourth quarter of the fiscal year) the College is anticipating moving locations as our current lease will be expiring. Additional monies have been allocated on a contingency basis to furniture and fixtures to include the purchasing of some new office furniture and window coverings in the event that this becomes necessary. As we begin looking for space in the early Spring of 2022, we are unable to forecast the amenities that may be included in our re-location and have budgeted for some items, such as window coverings, that may or may not be included in the new space.

The total Capital Budget (Appendix 1) for 2022-23 is \$42,100 which is \$32,900 more than was set out last year. This year we are anticipating a large shift from the monies we spent on computer equipment last year to furniture and fixtures this year.

2022-2023 Capital Expenditures



2021-2022 Capital Expenditures



Operating Budget

The total draft Operating Budget (Appendix 2) for 2022-2023 is as follows (to be adjusted once budget is finalized):

Revenue	\$3,410,778
Expense	<u>\$3,965,887</u>
Net Result	\$ (555,109)

At this time the deficit for the coming year is based on the number of cases that have been referred to discipline. There are currently 10 cases pending of which 50% are anticipated to be contested hearings and each contested hearing runs on average 5 to 10 business days which is very costly, in addition to the preparatory work.

The College is also in the process of developing new and expanding existing programs which have additional costs associated such as the volunteer mentoring program, Risk based Regulation, a property search and new reporting requirements under the College Performance Management Framework.

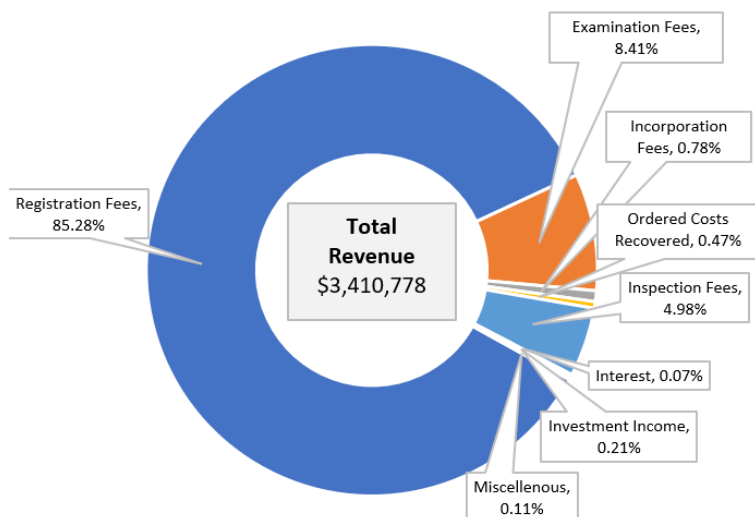
Revenues

Revenues have been calculated using the following high-level assumptions.

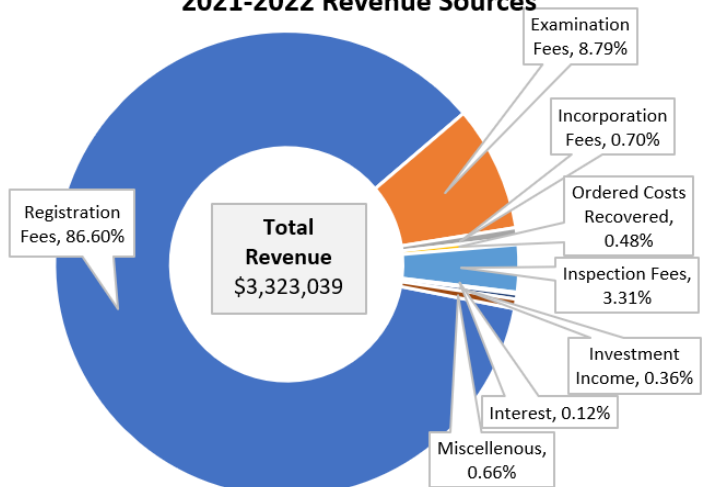
- Registration fees will be returned to their normal level, including a Consumer Price Index (CPI) increase that would be added this year.
- No fees applied to any Registrant's participating in payment plan, as per recent By-law change.
- Applications for Registration will be as they would normally be on an annual basis, as would the issuance of initial applications.
- Examinations will run as normal with the typical number of candidates per session as the College has seen with regularity prior to COVID-19, and a small increase has been noted for those who may not have been able to complete examinations that were cancelled in the prior year.
- Inspections will be delivered as normal for new premises and the first of the 5-year inspections will be initiated.
- Interest rates on the College's savings and investment accounts remaining low.
- Minor growth in professional corporations will continue to grow, but existing corporations will renew.
- CEWS subsidy has been extended to May 7, 2022, however the College is not anticipated to meet the requirements for funding, or if so it will be significantly less.

The revenues that have been developed are based on the government removing current Step 2 COVID-19 provisions by the end of March 2022. However, College operations and revenues will continue to be impacted by COVID-19 until the country is no longer under any restrictions and limitations.

2022-2023 Revenue Sources



2021-2022 Revenue Sources

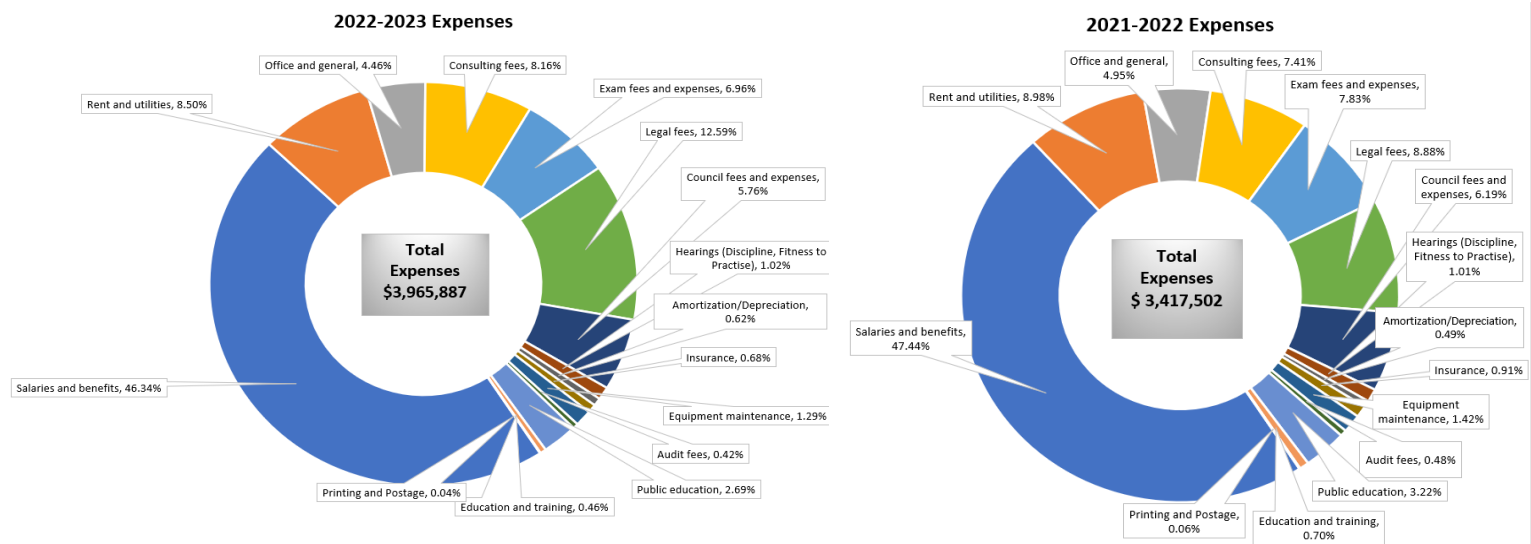


Expenses

Expenses have been calculated using the following high-level assumptions.

- Council and all Committees will predominantly meet via Zoom, with an allocation made for one in-person meeting and training for Council (dependent on government restrictions). This significantly reduces meeting expenses such as travel, accommodations and meals. However, per diems have increased due to the creation of four new committees.

- Discipline costs have been increased slightly over 50% to account for an increased number of scheduled hearings to take place including three contested hearings.
- Both legal and consulting fees have been increased due to the number of cases currently under investigation and the complexities of the matters under investigation.
- Under operations in consulting there are also a couple of one time allocations noted such as costs of movers, moving supplies, and data drops in anticipation of the office moving in Q4.
- Rent costs for this year will remain relatively the same, however due to current space requirements we anticipate a smaller footprint for our new office requirements.
- Staff salaries and benefits have been increased by both an inflationary factor, as well as pay-for-performance bonus or salary increases to ensure that the College remains as competitive as possible in order to retain its staff.
- Important regulatory processes, including Peer & Practice Assessments and Inspections have been included in the budget on the assumption that the current lockdown will be lifted by the end of March.



ANALYSIS

Risk Assessment – The following is a more comprehensive risk assessment. Please refer to the document *Understanding the Risk Analysis Terminology* a copy of which is included in the Information Items of the Consent Agenda. Only those risks related to this matter will be addressed.

- Operational (people) - As budgets include salary dollars, there is always a risk that the College is not able to keep up to the compensation levels of the employment market pay and loss of personnel may occur. In addition, with expansion of existing programs and development of new programs, funding concerns arise with the potential of the need for additional resources.
- Financial (market) - Declining interest rates result in a lower return on the College's investments. The budget is not largely reliant on these revenues. Additionally, the College is subject to changes in the market as they impact the profession. Should the government shut down the health care sector again, there is risk to the College's funding, in particular as it relates to the credit risk described below.
- Financial (credit) - The payment plan makes the College a creditor and subjects the College to a risk of default in payment. The payment plan supported close to 500 Registrants last year and is expected to see similar numbers this year. The role of the

College does provide it with sufficient leverage such that there is no history of loss in this regard.

- Financial (price risk)- Annual fees will reflect a CPI increase this year, when the College has discounted and not increased fees in two years, thus potentially exposing Registrants to financial hardship.
- Strategic (economic environment)- The CPI increase this year has doubled in comparison of the last two years. It is one of the larger increases that have been applied to annual fees year over year.
- Strategic (political) - The political environment continues to have a degree of instability and uncertainty due to the COVID-19 pandemic and a lack of clarity as to which measures the government may take and their impact on the economy and health care. In addition, the province may have a change in government pending the June 2022 election.
- Strategic (reputation) – Budgets represent the overall financial health and sustainability of an organization. In the context of transparency, it holds the College accountable for the performance to the actual budget and is a key metric in the College's Risk Management System under development.

Privacy Considerations – The way the budget is presented ensures that there are no privacy implications. These may have arisen if the materials disclosed compensation rates for College personnel and providers.

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

- Information to foster trust – By developing an annual capital and operating budget it the College is fulfilling its public interest mandate financially.
- Relevant, credible, and accurate information – The information provided in both the capital and operating budgets includes information to support the College's operating plan.
- Timely, accessible and contextual – With the change to the frequency of Council meetings the final proposed budget has the most up to date information available to take effect at the start of April.
- Consistent approaches – The College submits the annual capital and operating budget to the Council for discussion. The change of frequency to Council meetings on a bi-monthly basis has improved this process as noted above as being timely.

Financial Impact – There are no costs associated with preparation of the Capital and Operating Budgets.

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

- Preparation of an annual capital and operating budget is contextualized by including and aligning with the College's Operating Plan thus illustrating that the College is financially responsible.
- The budgets act as whole to support the College's Operating Plan.
- The public interest is best served if the College can meet or have cost savings annually to demonstrate sustainability.

Agnes Kupny
Director of Operations
January 14, 2022

Appendix 1



The College of Naturopaths of Ontario

CAPITAL BUDGET 2022-2023

	2022-23		2023-24		2024-25	
Computer Equipment	Laptop (with docking station) - 3	\$9,000.00	Laptop (with docking station) - 3	\$9,600.00	Laptop (with docking station) - 3	\$10,200.00
	Computer Accessories (mice, keyboards)	\$600.00	Computer Accessories (mice, keyboards)	\$600.00	Computer Accessories (mice, keyboards)	\$1,000.00
	Desktop Printer	\$500.00	Monitors-2	\$600.00	Monitors-2	\$600.00
	VOIP Switch (pending infrastructure of new office)	\$2,000.00	Server Replacement	\$80,000.00		
Total Comp Equip		\$12,100.00		\$90,800.00		\$11,800.00
Furniture and Fixtures	Misc New Furniture	\$20,000.00	Office Chairs-10	\$12,000.00	Guest/Reception Chairs-6	\$5,000.00
	Window Coverings	\$10,000.00	Kitchen Furniture	\$3,000.00	Office Chairs-10	\$14,000.00
Total Furnit. & Fixtures		\$30,000.00		\$15,000.00		\$19,000.00
Total Budget		\$42,100.00		\$105,800.00		\$30,800.00

Please note in 2022-2023 additional costs have been allocated to furniture and fixtures due to College being in a new office space

Appendix 2



The College of Naturopaths of Ontario

OPERATING BUDGET

	2022-2023		2023-2024		2024-2025	
	Budget	% of Bud.	Estimate	% of Est.	Estimate	% of Est.
REVENUES						
Registration and member renewal fees	\$ 2,908,828	85%	\$ 3,075,102	85%	\$ 3,250,979	87%
Examination fees	\$ 287,000	8%	\$ 323,800	9%	\$ 323,800	9%
Deffered capital funding	\$ -	0%	\$ -	0%	\$ -	0%
Incorporation fees	\$ 26,550	1%	\$ 28,750	1%	\$ 30,950	1%
Ordered costs recovered	\$ 16,000	0%	\$ 16,000	0%	\$ 16,000	0%
Inspection fees	\$ 170,000	5%	\$ 170,000	5%	\$ 114,000	3%
Interest	\$ 2,400	0%	\$ 2,400	0%	\$ 4,000	0%
Investment Income	\$ 7,200	0%	\$ 7,200	0%	\$ 10,800	0%
Miscellaneous	\$ 3,700	0%	\$ -	0%	\$ -	0%
TOTAL REVENUES	\$ 3,410,778		\$ 3,616,052		\$ 3,739,729	
EXPENSES						
Salaries and benefits	\$ 1,837,942	46%	\$ 2,011,464	51%	\$ 2,018,507	49%
Rent and utilities	\$ 337,215	9%	\$ 278,978	7%	\$ 300,425	7%
Office and general	\$ 176,962	4%	\$ 184,774	5%	\$ 196,866	5%
Consulting fees						
Consultants - general	\$ 128,000	3%	\$ 44,800	1%	\$ 4,800	0%
Consultants - complaints and inquiries	\$ 132,000	3%	\$ 132,000	3%	\$ 132,000	3%
Consultants - assessors/inspectors	\$ 63,600	2%	\$ 63,600	2%	\$ 72,600	2%
Exam fees and expenses	\$ 275,969	7%	\$ 294,713	7%	\$ 295,775	7%
Legal fees						
Legal fees - general	\$ 47,625	1%	\$ 50,548	1%	\$ 52,484	1%
Legal fees - complaints	\$ 100,725	3%	\$ 102,000	3%	\$ 99,875	2%
Legal fees - discipline	\$ 351,000	9%	\$ 326,000	8%	\$ 251,000	6%
Council fees and expenses	\$ 228,472	6%	\$ 203,182	5%	\$ 143,361	3%
Hearings (Discipline, Fitness to Practise)	\$ 40,500	1%	\$ 32,650	1%	\$ 267,450	7%
Amortization/Depreciation	\$ 24,709	1%	\$ 36,655	1%	\$ 43,173	1%
Insurance	\$ 27,000	1%	\$ 28,080	1%	\$ 29,203	1%
Equipment maintenance	\$ 51,008	1%	\$ 53,044	1%	\$ 55,164	1%
Audit fees	\$ 16,500	0%	\$ 17,680	0%	\$ 18,387	0%
Public education	\$ 106,834	3%	\$ 100,619	3%	\$ 100,159	2%
Education and training	\$ 18,171	0%	\$ 14,837	0%	\$ 15,609	0%
Postage & Courier	\$ 1,655	0%	\$ 1,723	0%	\$ 1,842	0%
TOTAL EXPENSES	\$ 3,965,887		\$ 3,977,347		\$ 4,098,680	
EXCESS OF REVENUES OVER EXPENSES	\$ (555,109)		\$ (361,295)		\$ (358,951)	



The College of Naturopaths of Ontario

MEMORANDUM

DATE: January 18, 2022

TO: Council members

FROM: Dr. Gudrun Welder, ND
Chair, Governance Committee

RE: Committee Appointment of Dr. Amber Vance, ND (Inactive)

The Governance Committee met on December 8, 2022 at which time it considered the application of Dr. Amber Vance, ND (Inactive) to volunteer with the College. This is the first candidate to complete the full qualifying program instituted by the Council and implemented by the Governance Committee.

In addition to completing the Orientation Program, this candidate also completed the assessment and met with a panel of the Governance Committee. The panel then presented their findings to the full Governance Committee. All Committee members were highly impressed with the candidate's assessment and interview and felt that she would be an excellent addition to one or more committees.

At the Committee's request, the Chief Executive Officer spoke with the candidate, and she has agreed to be appointed to two committees at the Council's pleasure.

Recommendation

That Dr. Amber Vance, ND (Inactive) be appointed to the Inquiries, Complaints and Reports Committee as well as to the Governance Committee.

Respectfully submitted,



The College of Naturopaths of Ontario

**Council Meeting
January 26, 2022**

**Video Conference
APPROVED MINUTES**

Council		
Present		Regrets
Ms. Asifa Baig (3:5)		Dr. Jonathan Beatty, ND (3:5)
Dr. Kim Bretz, ND (4:5)		
Dr. Shelley Burns, ND (5:5)		
Mr. Dean Catherwood (5:5)		
Mr. Brook Dyson (5:5)		
Ms. Lisa Fenton (5:5)		
Dr. Brenda Lessard-Rhead, ND (Inactive) (5:5)		
Mr. Paul Phillion (4:4)		
Ms. Sarah Griffiths-Savolaine (5:5)		
Dr. Jacob Scheer, ND (5:5)		
Dr. Jordan Sokoloski, ND (5:5)		
Dr. George Tardik, ND (4:5)		
Staff Support		
Mr. Andrew Parr, CAE, CEO		
Ms. Agnes Kupny, Director of Operations		
Ms. Erica Laugalys, Director, Registration & Examinations		
Ms. Monika Zingaro, Administration Coordinator		
Guests		
Ms. Rebecca Durcan, Legal Counsel		
Mr. Richard Steinecke, Legal Counsel		

1. Call to Order and Welcome

The Chair, Dr. Kim Bretz, ND, called the meeting to order at 9:19 a.m. She welcomed everyone to the meeting.

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

2. Consent Agenda

2.01 Review of Consent Agenda

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

MOTION:	To approve the Consent Agenda as presented.
MOVED:	Dean Catherwood
SECOND:	George Tardik
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 Chair asked if there were any items to be added to the Agenda. There were none. However, the Chair noted that Agenda Item 8 will be moved to after the Council Education portion of the meeting.

MOTION:	To approve the Main Agenda as amended.
MOVED:	Sarah Griffiths-Savolaine
SECOND:	Paul Phillion
CARRIED.	

3.02 Declarations of Conflicts of Interest

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

4. Monitoring Reports

4.01 Report of the Council Chair

The Report of the Council Chair was circulated in advance of the meeting. The Chair reviewed the report briefly with Council. She welcomed and responded to questions from the Council.

MOTION:	To accept the Report of the Council Chair.
MOVED:	Shelley Burns
SECOND:	Lisa Fenton
CARRIED.	

4.02 Report on Regulatory Operations from the CEO

The Report on Regulatory Operations from the CEO was circulated in advance of the meeting. Mr. Andrew Parr, CEO, provided highlights of the report and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Report on Regulatory Operations from the CEO.
MOVED:	Dean Catherwood
SECOND:	Paul Phillion
CARRIED.	

5. Council Education

5.01 Program Briefing – Registration Program

A Briefing Note highlighting the Registration Program was circulated in advance of the meeting. Ms. Erica Laugalys, Director, Registration & Examinations provided an overview of the program and the processes within the program the College follows and responded to any questions that arose during the discussion.

5.02 Enterprise Risk Management Framework Presentation

The Chair welcomed Mr. Richard Steinecke, from Steinecke, Maciura, LeBlanc, to the meeting to present on the topic of Enterprise Risk Management (ERM). Mr. Steinecke provided the Council with an interactive review of the topic which included case studies as further explanations in relation the concepts being described and encouraged participation using Zoom Polls and dialogue throughout the presentation. He responded to any questions and provided any clarification throughout the discussion.

The Chair thanked Mr. Steinecke for his presentation to Council.

6. Council Governance Policy Confirmation

6.01 Review/Issues Arising

6.01(i) Detailed Review – 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.

6.01(ii) Governance Process Policies

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

6.01(iii) Executive Limitations Policies

Council members were asked if they had any questions or matters to note with respect to the Executive Limitations policies based on the reports received. No issues were noted at this time.

6.02 Detailed Review (as per GP08) – Council-CEO Linkage Policies

Council members were asked if there were any members who wished to discuss the Council-CEO Linkage Policies. Dr. Brenda Lessard-Rhead, ND (Inactive), Chair of the Governance Policy Review Committee (GPRC), provided a detailed overview of the amendments being presented as outlined in the Memorandum included within the Council's package and responded to any questions that arose during the discussion.

MOTION:	To approve the proposed amendments to the Council-CEO Linkage Policies as presented.
MOVED:	George Tardik
SECOND:	Lisa Fenton
CARRIED.	

7. Business

7.01 Enterprise Risk Management (ERM)

Mr. Parr provided a quick overview of the newly drafted program and corresponding policies and Committee's Terms of Reference as an encapsulation to the earlier presentation by Mr. Richard Steinecke and responded to any questions that arose.

7.01(i) GP32 – ERM Policy

Dr. Brenda Lessard-Rhead, ND (Inactive), provided a detailed overview of the newly drafted policy being presented as outlined in the Memorandum included within the Council's package and responded to any questions that arose during the discussion.

MOTION:	To approve GP32 – Enterprise Risk Management Policy as presented.
MOVED:	Dean Catherwood
SECOND:	Paul Phillion
CARRIED.	

7.01(ii) CC09 – Risk Committee – Terms of Reference

Dr. Brenda Lessard-Rhead, ND (Inactive), provided a detailed overview of the newly drafted Terms of Reference for the Risk Committee as outlined in the Memorandum included within the Council's package and responded to any questions that arose during the discussion.

MOTION:	To approve to approve CC09 - Risk Committee's Terms of Reference as amended.
MOVED:	George Tardik
SECOND:	Shelley Burns
CARRIED.	

7.01(iii) ERM Program (Operating Policy)

Mr. Parr advised the Council members that the ERM Program Policy is an Operating policy that is currently going through the College's internal approval process before being presented to the College's Senior Management Team for approval and implementation. Thus, this policy has been included within the Council's meeting materials as an informational document. He welcomed Council members to e-mail him with any of their comments, feedback or questions.

7.02 Review of College Reserves & Registrant Fees

A Briefing Note highlighting the College Reserves and Registrant Fees was circulated in advance of the meeting. Ms. Agnes Kupny, Director of Operations, provided a detailed overview and responded to any questions that arose during the discussion.

MOTION:	To accept the recommendation to defer the College's financial review until one more full accounting cycle under normal circumstances.
MOVED:	Dean Catherwood
SECOND:	Brenda Lessard-Rhead
CARRIED.	

7.03 Capital and Operating Budget Consultation

A Briefing Note highlighting the draft Capital and Operating Budgets for fiscal year 2022-2023 was circulated in advance of the meeting. Ms. Kupny provided a detailed overview of each budget and reminded the Council this is an initial review of the budgets for feedback and clarification. She responded to any questions that arose during the discussion.

The final Capital and Operating Budgets will be presented to Council at their March meeting for acceptance.

7.04 Committee Appointment

A Briefing Note listing the Governance Committee's recommendations for the appointment of Dr. Amber Vance, ND (Inactive)¹, to the Inquiries, Complaints and Reports Committee as well as the Governance Committee was circulated in advance of the meeting. Mr. Parr, on behalf of Dr. Gudrun Welder, ND, Governance Committee Chair, presented the Committee's recommendations to the Council members and responded to any questions that arose during the discussion.

MOTION:	To accept the Governance Committee's recommendation and thereby appoint Dr. Amber Vance, ND (Inactive), to the Inquiries, Complaints and Reports Committee as well as the Governance Committee.
MOVED:	Brenda Lessard-Rhead
SECOND:	Lisa Fenton
CARRIED.	

8. In-camera Session (Pursuant to paragraph (d) of section 7(2) of the HPPC)

8.01 Motion to Begin In-camera Session

The Chair called the meeting to move to an in-camera session at 10:51 a.m.

¹ It is noted that Dr. Amber Vance, ND has completed the process of moving to the General Class just prior to this meeting and therefore is no longer required to use "Inactive" as a part of her title.

MOTION:	That the Council moves to an in-camera session pursuant to paragraph (d) of section 7(2) of the Health Professions Procedural Code so that it may discuss personnel matters relating to the CEO.
MOVED:	Paul Phillion
SECOND:	Jordan Sokoloski
CARRIED.	

9. Other Business

The Chair asked if there was any other business to be brought before the meeting ended. There was none.

10. Meeting Evaluation and Next Meeting

10.01 Evaluation

The Chair advised the Council members that a link will be provided within the chat feature via Zoom for each member to copy and paste into a web browser to complete an evaluation form immediately following the end of the meeting.

10.02 Next Meeting

The Chair noted for the Council that the next regularly scheduled meeting is set for March 30, 2022. In addition, the Chair noted the informal networking held prior to the meeting commencing will take place again, as the Council members appreciated being able to speak to one another.

11. Adjournment

11.01 Motion to Adjourn

The Chair asked for a motion to adjourn the meeting. The meeting adjourned at 12:38 p.m.

MOTION:	To adjourn the meeting.
MOVED:	George Tardik
SECOND:	Sarah Griffiths-Savolaine

Recorded by: Monika Zingaro
Administration Coordinator
January 26, 2022

Approved: March 30, 2022

Council Highlights
January, 26 2022 (Meeting #27¹)

The Council of the College of Naturopaths of Ontario met on Wednesday, January 26, 2022 from 9:15 a.m. to 12:30 p.m. Six of the seven elected professional members and six of the six public members appointed by the Lieutenant Governor in Council were present. Also in attendance was General Legal Council Rebecca Durcan and Richard Steinecke of the law firm Steinecke Maciura LeBlanc. The agenda and supporting materials for the meeting were released via the College's website on January 19, 2022 and continue to be available on the [College's website](#).

In addition to its regular routine business and receipt of reports from each of the Chair and Chief Executive Officer as well as the Operating Report, the Council considered several important matters which have been highlighted below.

Enterprise Risk Management Policy - The Council considered and accepted the recommendation from the Governance Policy Review Committee to approve the newly drafted Governance Policy GP32.00 found here on [our website](#).

Risk Committee – Terms of Reference – The Council considered and accepted the recommendation from the Governance Policy Review Committee to approve the newly drafted Terms of Reference for the Risk Committee found here on [our website](#).

College Reserves & Registrant Fees - Ms. Agnes Kupny, Director of Operations, reminded the Council of a decision made by the Executive Committee in September 2019 to conduct a review of the College's reserves and Registrant fees after five full fiscal years of finances. A recommendation was being made to postpone this review until one additional year of full College operations can be included. This is due to the College's response to the COVID-19 pandemic and not being able to operate College programs fully. The Council approved this deferral.

Draft Capital & Operating Budgets - fiscal year 2022-23 – Ms. Kupny presented draft Capital and Operating budgets to the Council for their initial review and feedback noting that the Council would be asked to accept the final versions of these budgets at their March 2022 meeting.

Committee Appointments - Council was informed of a recent volunteer application and accepted the recommendation of appointment to College Committees from the Governance Committee.

Council Education – As a part of the College and its Council's commitment to good governance, the Council conducted an educational exercise. Ms. Erica Laugalys, Director of Registration & Examinations, conducted a program briefing about the Registration Program. Program briefings are provided for informational purposes to ensure the Council is aware of all the complex programs operated by the regulatory body.

¹ This is the 27th meeting of the Council dating back to its first meeting held following proclamation of the *Naturopathy Act, 2007* on July 1, 2015.

Enterprise Risk Management (ERM) Framework Presentation – Mr. Richard Steinecke of the law firm Steinecke Maciura LeBlanc, provided a detailed and interactive presentation to the Council members about the concepts in relation to ERM.

In-camera Portion – The Council held an in-camera portion of their meeting pursuant to paragraph (d) of section 7(2) of the HPPC to discuss personnel matters.

Readers who have questions are invited to contact the College by e-mail at general@collegeofnaturopaths.on.ca.

Andrew Parr, CAE
Chief Executive Officer
January 27, 2022