The College of Naturopaths of Ontario

Draft Agenda – #2020/21-02

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

Date: July 29, 2020

Time: 09h00-16h30

Location: Zoom Video Conference Platform

Please be advised that our office is a scent free environment

150 John St., 10th Floor
Toronto, ON M5V 3E3

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
July 29, 2020, 09h00-4h30
Video Conference[1]
DRAFT AGENDA

Sect/No.		Action	Item	Page	Responsible
1	**Call to Order and Welcome (9:00 am)**				
	1.01	Procedure	Call to Order	--	K. Bretz
	1.02	Discussion	Meeting Norms	5	K. Bretz
	1.03	Discussion	"High Five" – Process for identifying consensus	8	K. Bretz
2	**Consent Agenda[2] (9:15 am)**				
	2.01	Approval	(i) Draft Minutes of January 2020 (ii) Committee Reports (iii) Ratification of Executive Committee Decisions (iv) Information Items	9-14 15-27 28-29 30-58	K. Bretz
3	**Main Agenda (9:20 am)**				
	3.01	Approval	Review of Main Agenda	3-4	K. Bretz
	3.02	Discussion	Declarations of Conflict of Interest	--	K. Bretz
4	**Monitoring Reports (9:25 am)**				
	4.01	Acceptance	President's Report	59	K. Bretz
	4.02	Acceptance	Registrar's Monitoring Report	60-92	A. Parr
5	**Council Governance Policy Confirmation[3] (9:45 am)**				
	5.01	Decision	Review/Issues Arising i. Governance Process Policies ii. Council-Registrar Linkage Policies iii. Ends Policies	--	K. Bretz
	5.02	Decision	Detailed Review (as per GP08) i. Executive Limitations Policies	--	K. Bretz
6	**Business (10:00 am)**				
	6.01	Acceptance	Audit Committee Report on the 2019-20 Audit	93	E. Rossi
	6.02	Approval	Auditor's Report and Audited Statements 2019-2020	94-123	T. Kriens
	6.03	Approval	Patient Relations – Member and Patient Guide Amendments	124-136	S. Laldin
	6.04	Approval	Annual Committee Reports	137-149	K. Bretz
	6.05	Approval	Infection Control Standard of Practice Amendments	150-156	B. Sullivan
	6.06	Approval	Guideline on Telepractice	157-163	B. Sullivan
	6.07	Information	College E-mail and Data Systems Update	164-175	A. Parr
	6.08	Decision	Governance Report – A Mandate for Change	176-195	K. Bretz
	6.09	Decision	Governance Implementation Plan	196-210	A. Parr
	6.10	Decision	Committee Appointments	--	K. Bretz
	6.11	Decision	New Registrar Performance Review Process	211-243	B. Sullivan
7	**In camera Session (Paragraph (d) of section 7(2) of the HPPC (1:30 pm)**				
	7.01	Motion	To move to an in camera session	--	K. Bretz
	7.02	Decision	Organizational/Registrar Performance Review 2019-2020	--	Bretz/Sullivan
	7.03	Decision	Registrar Performance Objectives and Development Plan 2020-2021	--	Bretz/Sullivan
	7.04	Motion	To move out of the in camera session	--	K. Bretz

[1] Meeting being held via the Zoom platform. Please contact the Registrar & CEO if you have not registered.
[2] Members of Council may request any item in the Consent Agenda to be added to the main agenda.
[3] Council Members must bring their Governance Policy Manual (PM) with them to each meeting

8	**Other Business (3:30 pm)**				
	8.01	Decision		--	K. Bretz
9	**Next Meeting (4:25 pm)**				
	9.01	Discussion	Next Meeting – October 28, 2020	--	K. Bretz
10	**Adjournment (4:30 pm)**				
	10.01	Decision	Motion to Adjourn	--	K. Bretz

Important Notes:

- All times are approximate.
- The agenda may be adjusted to accommodate guest presenters
- Breaks will be taken approximately every 90 minutes
- A lunch break of approximately 45 minutes will taken around noon.

The College of Naturopaths of Ontario

Zoom Meeting
Council of the College of Naturopaths of Ontario

Meeting Norms

General Norms

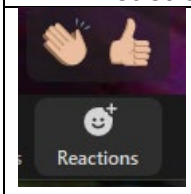
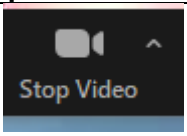
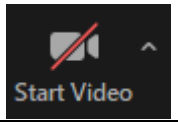
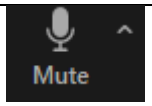
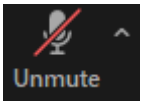
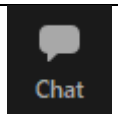
1. We'll listen actively to all ideas
2. Everyone's opinions count
3. No interrupting while someone is talking
4. We will be open, yet honor privacy
5. We'll respect differences
6. We'll be supportive rather than judgmental
7. We'll give helpful feedback directly and openly
8. All team members will offer 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

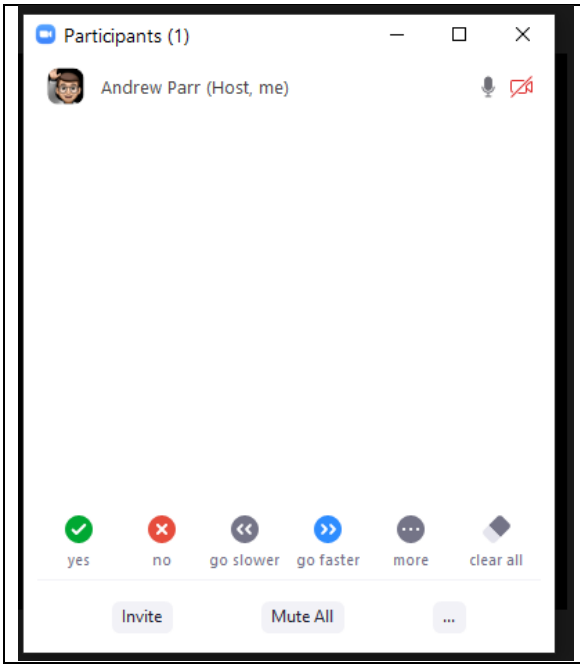
1. No putting the call on hold or using speakerphones
2. Minimize background noise – place yourself on mute until you are called upon to speak and after you have finished speaking
3. All technology, including telephones, mobile phones, tablets and laptops, are on mute or sounds are off
4. If we must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

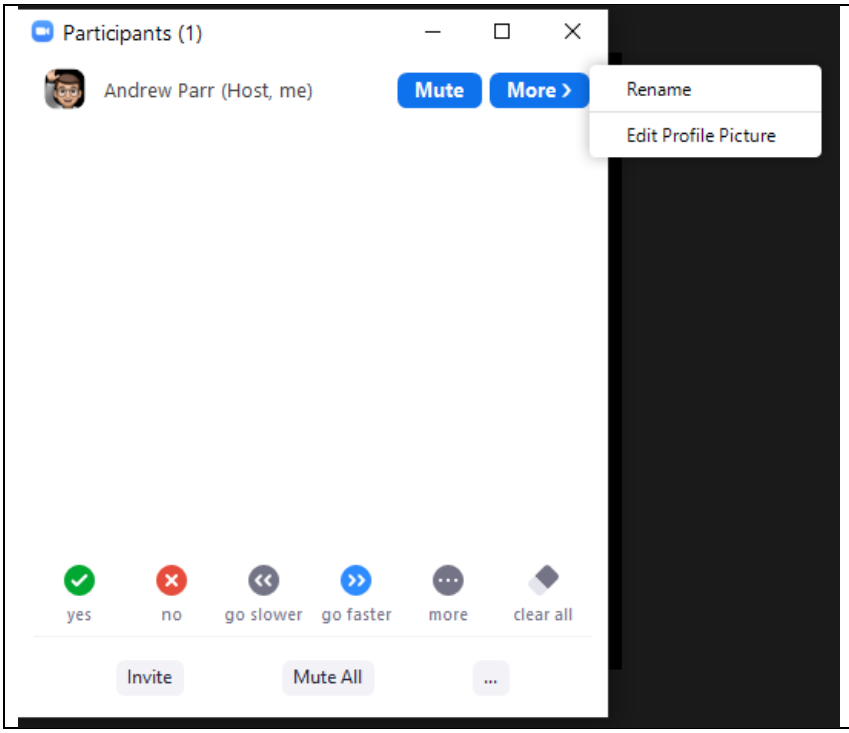
Zoom Control Bar – Bottom of screen

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)



- 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

Image provided courtesy of Facilitations First Inc.

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

When asked you would show:

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

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

The College of Naturopaths of Ontario

Council Meeting
April 29, 2020

Teleconference
DRAFT MINUTES

Council		
Present		**Regrets**
Dr. Kim Bretz, ND (1:1)		
Dr. Shelley Burns, ND (1:1)		
Mr. Dean Catherwood (1:1)		
Ms. Dianne Delany (1:1)		
Ms. Lisa Fenton (1:1)		
Dr. Tara Gignac, ND (1:1)		
Mr. Samuel Laldin (1:1)		
Dr. Brenda Lessard-Rhead, ND (Inactive) (1:1)		
Dr. Danielle O'Connor, ND (1:1)		
Dr. Jacob Scheer, ND (1:1)		
Dr. Jordan Sokoloski, ND (1:1)		
Mr. Barry Sullivan (1:1)		
Dr. George Tardik, ND (1:1)		
Council Advisor		
Ms. Rebecca Durcan, General Counsel		
Staff Support		
Mr. Andrew Parr, CAE, Registrar & CEO		
Ms. Agnes Kupny, Director of Operations		
Ms. Erica Laugalys, Director, Registration & Examinations		
Mr. Jeremy Quesnelle, Deputy Registrar		
Ms. Margot White, Director of Communications		

Ms. Monika Zingaro, Administrative Assistant Operations		
Guests		**Observers**
		Mr. John Wellner, OAND

1. Call to Order and Welcome
The President, Dr. Kim Bretz, ND, called the meeting to order at 9:49 a.m. She welcomed everyone to the meeting.

2. Election of Officers and Executive Committee
Mr. Parr welcomed everyone to the meeting and provided the Council with a brief overview of the process that would be followed for the election of Officers, in accordance with the by-laws of the College and GP23 – Process for Election of Officers.

MOTION:	To appoint Rebecca Durcan, Jeremy Quesnelle and Agnes Kupny as scrutineers to assist in the tabulating and announcing of the votes.
MOVED:	George Tardik
SECOND:	Jordon Sokoloski
CARRIED.	

2.01 Position of President
Upon the submission deadline for nominations, only one nomination was received, Dr. Kim Bretz, ND. Therefore, by acclamation she has been elected to the position of President.

2.02 Position of Vice-President
Upon the submission deadline for nominations, only one nomination was received, Mr. Barry Sullivan. Therefore, by acclamation he has been elected to the position of Vice-President.

2.03 Officer-at-Large – Public member
Upon the submission deadline for nominations, two nominations were received, Mr. Barry Sullivan and Mr. Samuel Laldin. Under the by-laws, a Council member can only hold one position on the Executive at any time and because Mr. Sullivan has been elected to the position of Vice-President, he is not eligible to hold a second position. As a result, his nomination for the Officer-at-Large position was declared invalid; therefore, there is only one valid nomination for this position and thus, Mr. Laldin becomes the elected Officer-at-Large – Public member.

2.04 Officers-at-Large – Professional member
Upon the submission deadline for nominations, three nominations were received for two positions, Dr. Shelley Burns, ND, Dr. Brenda Lessard-Rhead, ND (Inactive), and Dr. Tara Gignac, ND. After reviewing the process for the election, each candidate was given the opportunity to speak to all members of Council for three minutes each prior to casting their vote.

After the first ballot was completed, no nominee had received a majority of votes and a second ballot was required. The second ballot was completed with Dr. Burns, ND being elected to the first position of Officer-at-Large – Professional member.

The second position for Office-at-Large Professional Member was then open for election. Both candidates declined to make any further remarks and the balloting was held. At the conclusion of the balloting, it was reported that Dr. Lessard-Rhead, ND (Inactive) had been elected to the second position of Office-at-Large Professional Member.

Mr. Parr congratulated the elected members of the Executive Committee and asked for a motion to destroy the ballots.

MOTION:	To destroy the ballots from the Executive Committee election.
MOVED:	Danielle O'Connor
SECOND:	Brenda Lessard- Rhead
CARRIED.	

Mr. Parr thanked the Council and turned the responsibility for chairing the meeting over to the President.

3. Consent Agenda

3.01 Review of Consent Agenda

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

MOTION:	To approve the Consent Agenda as presented.
MOVED:	Barry Sullivan
SECOND:	Brenda Lessard-Rhead
CARRIED.	

4. Main Agenda

4.01 Review of the Main Agenda

A draft of the Main Agenda, along with the documentation in support of the meeting had been circulated in advance of the meeting. The President asked if there were any items to be added to the agenda. There were none.

MOTION:	To approve the Main Agenda as presented.
MOVED:	Barry Sullivan
SECOND:	Brenda Lessard-Rhead
CARRIED.	

4.02 Declarations of Conflicts of Interest

The President asked the Council members if there were any conflicts to declare. No conflicts were declared.

5. Monitoring Reports
5.01 President's Report
The President's Report was circulated in advance of the meeting. The President reviewed the report briefly with Council. She responded to questions from the Council that arose.

MOTION:	To accept the President's Report as presented.
MOVED:	George Tardik
SECOND:	Dianne Delany
CARRIED.	

5.02 Registrar's Report
The Registrar's Report was circulated in advance of the meeting. Mr. Parr highlighted several activities underway and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Registrar's Report as presented.
MOVED:	Barry Sullivan
SECOND:	Brenda Lessard-Rhead
CARRIED.	

6. Council Governance Policy Confirmation
6.01 Review/Issues Arising
6.01(i) 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 Registrar's Report received. No issues were noted at this time.

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

6.01(iii) Review – Ends Policies
Council members were asked if there were any Council members who wished to discuss the Ends Policies. No issues were noted at this time.

6.02 Detailed Review – 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.

7. Business
7.01 Biomedical Examination (BME) Blueprint
The draft BME Blueprint was circulated in advance of the meeting. Dr. Danielle O'Connor, ND and Erica Laugalys, Director of Registration & Examinations, reviewed the report briefly with Council. They responded to questions from the Council that arose during the discussion that followed.

MOTION:	To approve the Biomedical Examination (BME) Blueprint as presented.
MOVED:	Jacob Scheer
SECOND:	George Tardik
CARRIED.	

7.02 Clinical Sciences and Biomedical Examinations Policy (P06.07)
The draft Policy was circulated in advance of the meeting. Dr. Danielle O'Connor, ND and Erica Laugalys, Director of Registration & Examinations, highlighted the changes to the policy with the Council members. They responded to questions from the Council that arose during the discussion that followed.

MOTION:	To approve the Clinical Sciences and Biomedical Examinations Policy as presented.
MOVED:	Brenda Lessard-Rhead
SECOND:	Shelley Burns
CARRIED.	

7.03 Clinical Science Exam (CSE) Blueprint Amendments
The revised CSE Blueprint was circulated in advance of the meeting. Dr. Danielle O'Connor, ND and Erica Laugalys, Director of Registration & Examinations, reviewed the amendments with the Council members. They responded to questions that arose during the discussion that followed.

MOTION:	To approve the amendments made to the Clinical Science Exam (CSE) Blueprint as presented.
MOVED:	Brenda Lessard-Rhead
SECOND:	George Tardik
CARRIED.	

7.04 Committee Appointments
A Briefing Note with the proposed Committee Appointments was circulated in advance of the meeting. The President reviewed the changes to Committees and revised the document to indicate Mr. Laldin as the Chair of the Patient Relations Committee.

MOTION:	To approve the Committee Appointments with the amendment to include Samuel Laldin as the Chair of the Patient Relations Committee.
MOVED:	Jordan Sokoloski
SECOND:	George Tardik

CARRIED.	

7.05 Pandemic Response
A Briefing Note with the College's proposed initiatives as a result of the impact of COVID-19 has had on the profession was circulated in advance of the meeting. Mr. Parr highlighted several of the initiatives for implementation and responded to questions that arose during the discussion that followed.

MOTION:	To approve the proposed COVID-19 response initiatives as presented and reduce the Registration Fee for 2020-21 by 40% with a payment deadline extension to September 30, 2020.
MOVED:	Dianne Delany
SECOND:	George Tardik
CARRIED.	

8. Other Business
The President asked if there was any other business to be brought before the meeting ended. There was none.

9. Next Meeting
The President noted for the Council that the next regularly scheduled meeting is set for July 28, 2020, as the orientation if the meeting is held in person and July 29, 2020, as the business matters meeting.

10. Adjournment
10.01 Motion to Adjourn
The President asked for a motion to adjourn the meeting. The meeting adjourned at 12:12 p.m.

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

Recorded by: Monika Zingaro
Administrative Assistant, Operations
April 29, 2020

The College of Naturopaths of Ontario

MEMORANDUM

DATE: July 29, 2020

TO: Members of Council

FROM: Andrew Parr, CAE
Registrar & CEO

RE: Committee Reports

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

1. Audit Committee
2. Examination Appeals Committee
3. Executive Committee
4. Inquiries, Complaints and Reports Committee
5. Nominations and Elections Committee
6. Patient Relations Committee
7. Quality Assurance Committee
8. Registration Committee
9. Scheduled Substances Review Committee
10. Discipline Committee
11. Inspection 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:

- 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.

The College of Naturopaths of Ontario

AUDIT COMMITTEE REPORT

July 2020

For the reporting period of April 1, 2020 to June 30, 2020, the Audit Committee met by teleconference on May 27, 2020 to review and accept the Auditor's Engagement letter, Audit Scope letter and Audit Planning letter in preparation for the College's audit beginning June 15, 2020.

The Committee has scheduled a on meeting on July 9, 2020 to review the Auditor's Report and draft Financial Statements for fiscal year April 1, 2019 to March 31, 2020.

Dr. Elena Rossi, ND
Chair
July 10, 2020

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The College of Naturopaths of Ontario

EXAMS APPEALS COMMITTEE REPORT
July 2020

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

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

Dianne Delany
Chair
July 13, 2020

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The College of Naturopaths of Ontario

EXECUTIVE COMMITTEE REPORT
July 2020

For the reporting period of April 1, 2020 to June 30, 2020, the Executive Committee met on three occasions. On April 28, 2020, the Committee met and discussed Committee Assignments, which were presented to and approved by Council on April 29, 2020.

The Committee also met on May 4, 2020 with Jack Shand of The Portage Group. Mr Shand is the lead on the Performance Review Project, and he presented his final report and recommendations for changes to the Registrar Performance Review Process.

Finally, the Committee also met for its regular meeting on June 3, 2020; however, as I was unable to attend, Barry Sullivan, Vice President Chair the meeting. At this meeting, Agnes Kupny, Director of Operations, reviewed the variance report and unaudited statements for Q4 with the Committee. The Committee also received updates on COVID-19 related activities, the implementation of the decisions from the April Council meeting, email and data systems issues that had arisen. The Executive Committee also went in camera to complete the work on the Registrar Performance Review for 2019-2020.

The Committee will next meet on September 9, 2020.

Dr. Kim Bretz, ND
Chair
July 2020

The College of Naturopaths of Ontario

INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE REPORT
July 2020

Between April 1, 2020 and June 30, 2020, the Inquiries, Complaints and Reports Committee held three online meetings – April 2, May 7 and June 4.

In April, 8 matters were reviewed, ICRC members issued 6 Decision and Reasons and drafted 1 report.

In May, 5 matters were reviewed, and ICRC members issued 3 reports.

In June, 10 matters were reviewed, and ICRC members issued 1 Decision and Reasons, drafted 3 reports.

Meetings continue to be well-attended and productive in the online format. This quarter, the ICRC has received its first QA referral. And, despite the College's clear position and notifications to Members, we are currently reviewing 2 complaints and 1 RI related to COVID.

Dr. Erin Psota, ND
Chair
June 30, 2020

The College of Naturopaths of Ontario

NOMINATIONS AND ELECTIONS COMMITTEE REPORT

July 2020

The Nominations and Elections Committee convenes on an as-needed basis, based on the nominations and elections process set out in the by-laws. The Nominations and Elections Committee was not required to undertake any activities during the period of April 1, 2020 to June 30, 2020.

The Nomination and Elections Committee did not convene in this reporting period.

Dr. Gudrun Welder, ND
Chair
July 10, 2020

The College of Naturopaths of Ontario

Patient Relations Committee Report
July 2020

The Patient Relations Committee (PRC) had 1 meeting during the reporting period.

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

Ongoing Issues/Topics for Discussion

Applications for Funding

There were no applications for funding for therapy and counselling during this reporting period. An update was provided on current funding approved, the total amount of funding accessed and the amount remaining for each file. There continues to be four active files with a total of $10,942.10 of funding accessed.

Member & Patient Guide

Amendments were finalized for the Member Guide: Guideline for the prevention of sexual abuse and Patient Information Guide: Understanding Sexual Abuse.

Sam Laldin
Chair
July 2020

The College of Naturopaths of Ontario

QUALITY ASSURANCE COMMITTEE REPORT
April- June 2020

Meetings and Attendance

Since the date of our last report to Council in April, the Quality Assurance Committee has met on two occasions, both via teleconference; on April 21st and May 26th. A third meeting, originally scheduled for June 23rd, was deferred to July. Attendance has continued to be good with no concerns regarding quorum experienced.

Activities Undertaken

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

In addition, at its **April** meeting, the Committee reviewed one Member's submission with respect to their Peer and Practice Assessment results and determined that the response was deficient and that further information from the Member was required.
The Committee also decided that their large review of the core competencies and standards of practice would be delayed due to COVID-19 and that the Committee would review the more urgent and standards and guidelines for the time being.

At its **May** meeting, the Committee reviewed the results of seven Peer and Practice Assessments. The Committee determined that in three instances the PPAs had been successfully completed, while in the other 4 instances the Members' submissions with respect to the results of their PPAs were deficient and that further information from those Members was required.
The Committee also approved the appointment of nine new Peer and Practice Assessors, as well as the re-appointment of 4 of the 5 previously appointed assessors for a second three year term, as recommended by staff.
With respect to Continuing Education, the Committee reviewed and made decisions with respect to 2 CE Reporting amendment requests.
The Committee also reviewed and approved amended versions of the Standard of Practice for Infection Control and the Tele-practice Guideline, for public consultation.
Finally the Committee, after some discussion around the implications of the COVID-19 pandemic for the operations of the QA Program, decided to amend the CE reporting periods for 2019/20, 2020/21, and 2021/22 to two thirds (2/3) of the normal requirements. Further discussion and related decisions around Peer and Practice Assessments was deferred to the next meeting.

Issues
None; other than the implications of the COVID-19 pandemic.

Next Meeting Date
July 13, 2020

Respectfully submitted by,

Barry Sullivan, Chair,
July 10, 2020.

The College of Naturopaths of Ontario

SCHEDULED SUBSTANCES REVIEW COMMITTEE REPORT

July 2020

During the reporting period of April 1, 2020 to June 30, 2020, the SSRC did not meet. Meeting are scheduled based on work flow.

Staff of the College have begun the research process and collective materials to support the committee in its review of the Scope of Practice as directed by Council at its January meeting.

Respectfully submitted by

Dr. George Tardik, ND

Chair July 2020

The College of Naturopaths of Ontario

DISCIPLINE COMMITTEE REPORT
July 2020

The Discipline Committee (DC) is independent of the Council and has no legal obligation to submit quarterly reports addressing matters of importance to the Committee; however in the interest of transparency, the Committee is pleased to provide this report to Council.

This report covers the period from 1 April 2020 to 30 June 2020 and provides an overview of the Discipline Panels appointed to conduct hearings into allegations of professional misconduct referred to the DC by the Inquiries, Complaints and Reports Committee (ICRC) of the College. It also serves to acknowledge DC members' involvement in the discipline process. New referrals to the DC and any Committee meetings are reported here as well.

Discipline Hearings

CONO v. Leslie Ee, ND

On 3 December 2019, the following members of the Discipline Committee were appointed to a panel to hear the above-noted matter referred to the DC by the ICRC on 7 February 2019:

Dr. Tara Gignac, ND - Chair
Dr. Shelley Burns, ND
Dr. Laure Sbeit, ND
Dianne Delany
Samuel Laldin

The Panel held a one-day uncontested electronic hearing on 7 April 2020 and imposed an order:

- requiring the Member to appear before the Panel to be reprimanded;
- directing the Registrar to suspend the Member's certificate of registration for a period of six (6) months;
- directing the Registrar to impose specified terms, conditions and limitations on the Member's certificate of registration;
- requiring the Member to pay the College's costs fixed in the amount of $6500;
- requiring the Member to pay a fine of not more than $350 to the Minister of Finance.

New Referrals

The College of Naturopaths of Ontario

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

Committee Meetings

No committee meetings were held during the reporting period.

Respectfully submitted,

Dr. Jordan Sokoloski,ND
Chair
2 July 2020

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The College of Naturopaths of Ontario

INSPECTION COMMITTEE REPORT
July 2020

Committee Update

Since the last update to Council, the Inspection Committee had one teleconference meeting on April 22, 2020.

Inspection Outcomes

The Committee reviewed the Inspection Program Requirements Checklists used by the inspector to record his/her observations during the inspection, and Inspector's Report for inspections of 1 location.

The outcome was as follows:

- Part I - Pass

Inspection Outcomes in Response to Submissions Received

There was one submission received and the outcome of a pass with conditions was amended to a pass.

Type 1 Occurrence Reports

There were no Type 1 Occurrences reported for this period.

Review of the Summary of Type 2 Occurrence Reports

There were no Type 2 Occurrences reported for this period.

Closing Remarks

We would like to welcome our newest Committee member Dr. Pearl Arjomand, ND! We are very excited to have her on the Committee and look forward to working with her.

I'm happy to notify you that I was re-appointed as Chair of the Inspection Committee by Council. I look forward to the changes 2020 will bring us!

Sincerely,

Dr. Sean Armstrong, ND
Chair
Inspection Committee
July 14, 2020

The College of Naturopaths of Ontario

Executive Committee Decisions
To Be Ratified

Meeting of May 4, 2020

- The following decisions were made with respect to the final report received from The Portage Group on the Registrar Performance Evaluation Process:
    - To accept recommendation 1 (*that the Registrar evaluation process and criteria, and supporting materials, be separate from the more extensive review of overall organizational performance),*
    - To accept recommendation 2 (*that there are two components to the review, Form 1 annual priority objectives and Form 2, Management Practices Assessment),*
    - To accept recommendation 3 (*that the responsibility to lead the Registrar evaluation now rest with a Council-appointed Review Panel (the Registrar Performance Review Panel), comprising of four (4) members: President, Vice President, and two other members of Council. Further, it was recommended that half of the panel will be professional members and half will be public members*.)
    - To accept recommendation 4 (*That the Review Panel will lead the process and bring forward a draft, recommended evaluation for discussion with Council in-camera*)
    - To accept recommendation 5 (*that training and support for the evaluators is integral to a successful process, supported by orientation, position descriptions, and other reference tools such as checklists. This should be part of the onboarding agenda for new Council members and reemphasized annually*),
    - To accept recommendation 6(a) (*that CONO will conduct market research every one (maximum) to three (minimum) years to determine compensation levels in comparable organizations CONO will adjust salary ranges where evidence suggests it is in CONO's interest (e.g., to retain staff) to do so*)*,
    - To accept recommendation 6(b) in principle but to defer its implementation until fiscal year 2021-22 (*that CONO will set the Registrar's salary in the third quartile based on the market data*),
    - To accept recommendation 6(c) (*that CONO will agree to use the average of three sources to determine the annual cost of living adjustment to employee salaries*)*,
    - To accept recommendation 6(d) in principle but to defer its implementation until fiscal year 2021-22 (*that Council will introduce a bonus or incentive compensation fund that equals ten percent (10%) of the current budget for salaries*)*,
    - To accept recommendation 7 (*that a specific development plan be included as part of the Registrar/CEO evaluation (new Form 4)*),
    - To accept recommendation 8 (*that CONO will retain an objective third-party to manage the process for the Review Panel and Council and be a resource*

The College of Naturopaths of Ontario

through the process to evaluators and employees, at least for the first two years of the new process).

* Please note that under the Council's governance model, the only employee of the Council is the Registrar & CEO. The Council has delegated all human resource functions, including salaries and bonuses to the Registrar & CEO. Therefore, the only means by which the Council can direct that the highlighted recommendations apply to all staff is to enact an Executive Limitations Policy.

Meeting of June 3, 2020

- Acceptance of the Variance Report and Unaudited Financial Statements for the fourth quarter of the fiscal year.
- Acceptance of the amendment to the new Performance Review Process Report by removing Form 2 being sent to Council members.
- Acceptance of the amendments to the four Performance Review Process to include the development of a Summary Document and Signature Document.
- Ratification of Committee member's e-mail vote to approve the distribution of the COVID-19 Reopening Guideline.

The College of Naturopaths of Ontario

MEMORANDUM

DATE: July 20, 2020

TO: Members of Council

FROM: Andrew Parr, CAE
Registrar & CEO

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. 246, 247)	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	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.

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

Raising the Bar

by Rebecca Durcan
May 2020 - No. 246

Regulators have struggled for years balancing the concepts of parity and changing societal expectations. The principle of parity says that the sanction for a particular type of misconduct should be consistent with that imposed in prior decisions. However, changing societal expectations suggests that some sanctioning ranges are no longer suitable. Attempts to go above the previous range for sanctions, especially in the area of sexual abuse, have resulted in bumpy roads for regulators: *College of Physicians and Surgeons of Ontario v Peirovy*, 2018 ONCA 420, http://canlii.ca/t/hrt0r, *Horri v The College of Physicians and Surgeons*, 2018 ONSC 3193, http://canlii.ca/t/hs8sz, *Abrametz v The Law Society of Saskatchewan*, 2018 SKCA 37, http://canlii.ca/t/hs7tk.

However, the recent decision of the Supreme Court of Canada in *R. v Friesen*, 2020 SCC 9, http://canlii.ca/t/j64rn may advance this debate. Mr. Friesen was initially sentenced to six years in jail for sexual interference with a four year old girl. The Manitoba Court of Appeal reduced the sentence to 4 ½ years because the trial Judge had used a four to five year "starting point" from cases where there had been a breach of trust (before considering aggravating factors). The Court of Appeal found this to be an error because there was no breach of trust found in the case.

The Supreme Court of Canada restored the trial Judge's sentence in a lengthy discussion of the relevant principles.

To begin with, the Court viewed the principle of parity of sentences for similar conduct as part of the broader principle of proportionality:

> "All sentencing starts with the principle that sentences must be proportionate to the gravity of the offence and the degree of responsibility of the offender. The principle of proportionality has long been central to Canadian sentencing…. Parity and proportionality do not exist in tension; rather, parity is an expression of proportionality. A consistent application of proportionality will lead to parity.

The Court went on to state "sentencing ranges and starting points are guidelines, not hard and fast rules". In some cases it may be possible to determine a suitable, individualized sentence without reference to the range at all. Appellate courts should not use their reviewing authority to enforce or impose a sentencing range. Having said that, the Court also declined to "suggest that starting points are no longer a permissible form of appellate guidance".

The Court went on to engage in a lengthy discussion of the "wrongfulness of sexual offences against children and the profound harm that they cause." Much of this discussion resonates with the concepts underlying the sexual abuse of clients, including adults, by professionals.

In this discussion the Court said that such offence provisions protect the "the personal autonomy, bodily integrity, sexual integrity, dignity, and equality of children." The Court said:

> As Professor Elaine Craig notes, "This shift from focusing on sexual propriety to sexual integrity enables greater emphasis on

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E-Mail: info@sml-law.com

> violations of trust, humiliation, objectification, exploitation, shame, and loss of self-esteem rather than simply, or only, on deprivations of honour, chastity, or bodily integrity (as was more the case when the law's concern had a greater focus on sexual propriety)"…. This emphasis on personal autonomy, bodily integrity, sexual integrity, dignity, and equality requires courts to focus their attention on emotional and psychological harm, not simply physical harm.

This led the Court to apply the principles of proportionality to the sexual abuse of children. The conduct is both clearly wrong and extremely harmful. These considerations, particularly where they are accompanied by legislative changes addressing the concern, mean that sentencing must prioritize denunciation and deterrence. As such "it is no longer open to the judge to elevate other sentencing objectives to an equal or higher priority" although other objectives, such as rehabilitation, may be given some weight.

The Court then went on to discuss factors that assist in determining a fit sentence in child sexual abuse cases including:

- Likelihood to re-offend;
- Abuse of a position of trust and authority;
- Duration and frequency; and
- Age of the victim, partially as an indicator of their degree of vulnerability.

The Court acknowledged that a degree of physical interference could be an aggravating factor in that it was an indicator of the degree of violation of the child. However, the Court was concerned that this consideration could be misapplied because:

- It could resurrect traditional notions of sexual impropriety (e.g., prioritizing penile penetration as the key aggravating factor);
- It assumes that the harm to the child correlates to the physical act;
- It can de-emphasize the inherent wrongfulness of sexual abuse of children in general; and
- It can lead to a false hierarchy of physical acts.

The Court also indicated that a victim's participation in the conduct was irrelevant and should not be considered when coming up with a fit sentence. In fact, grooming behaviour by the offender, which can lead to victim participation, is an aggravating factor.

In the circumstances of this case, the Court afforded less weight to the guilty plea and expression of remorse than it might otherwise have received because they did not result in achieving a "change in attitude that reduced his likelihood of further offending".

The Court also pointed out that the six year sentence should not be viewed as the upper end of the range for these types of offences. Unfortunately, in the Court's experience this was not a "worst case".

The Court went on to discuss three aggravating factors in the case that could have been considered, but were not:

- The potential harm to the mother from the extortion that accompanied the sexual offence;
- The fact that the defendant committed the offences in the home of the child's mother; and

- The evidence of misogynistic attitudes on the part of the defendant.

Many of the principles of this case could be applied to the sanctioning of practitioners who engage in the sexual abuse of their clients. The wrongfulness of the acts and the potential harm to clients are enormous.

The case also gives guidance to considerations that may allow for the raising of the range of sanctions from its previous, perhaps too low, position. For example, social science evidence about the nature and potential harm, including long-term harm, to clients can be used. Legislative measures to address the issue, including amendments to the sanctions that can be imposed, is an indicator of changing societal views. Distinguishing older precedents that were based on a different understanding of the nature of the misconduct is also helpful. Finally, focussing the on the aggravating factors mentioned above is important.

This case illustrates that raising the bar, for some forms of professional misconduct, is possible.

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

When Should Regulators Enforce "Someone Else's Law"?

by Erica Richler
June 2020 - No. 247

Practitioners are expected to obey the law. Especially laws that apply to their practice or reflect on their integrity. However, a recurring issue arises as to how involved regulators should become in enforcing the laws of other entities (e.g., government, other regulatory bodies). Typically, they enforce their own laws.

The issue is simple where the primary enforcement body makes a finding about conduct that is clearly improper for a member of the profession. But what about situations where someone is attempting to involve the regulator rather than the primary enforcement body? This could occur for various reasons including: a lower cost to the complainant, a desire to avoid having to gather the evidence, the promise of a ready appeal mechanism or the goal of causing damage to the livelihood of the practitioner.

Regulators could be asked to enforce "someone else's law" in many circumstances:

1. An upset client complains that a practitioner breached their privacy by disclosing sensitive personal information about them, despite the fact that the Information and Privacy Commissioner is the principal enforcement body.
2. An employee of a practitioner asserts that the practitioner harassed them based on gender and race despite the availability of remedies through the Human Rights Tribunal.
3. A third party insurer reports that a practitioner gave in-person treatments during the pandemic for routine matters despite the emergency order to close establishments for everything but urgent care.

It is fairly clear that the regulator generally need not await the outcome of the primary enforcement body: *Berge v College of Audiologists and Speech-Language Pathologists of Ontario*, 2016 ONSC 7034, http://canlii.ca/t/gvtpb; *Dufault v British Columbia College of Teachers*, 2002 BCSC 618, http://canlii.ca/t/4vzn. Even where an argument could be made that the regulator has no jurisdiction to enforce the statute (e.g., a federal offence provision), the conduct will often have aspects of integrity or ethical implications that make it relevant to the practice of the profession: *Law Society of Saskatchewan v Abrametz*, 2016 SKQB 320, <http://canlii.ca/t/gv5r4>.

There are a number of arguments supporting the involvement of regulators in the enforcement of "someone else's law", including:

1. Often the conduct is quite relevant to the suitability of the practitioner to be a member of the profession. The reputation and credibility of the profession would be damaged if no action were taken. For example, respect for women, children, people with disabilities and for Indigenous peoples, racialized or religious groups is essential to the effectiveness of the profession and the regulator should act even if there is another available enforcement mechanism.
2. Regulators need to be "good citizens" and should be part of the solution for significant societal issues. For example, during the pandemic, leaving enforcement of physical

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E-Mail: info@sml-law.com

distancing measures solely to the police is insufficient and often counter-productive. All societal organizations need to help communicate (and, in some cases, even help enforce) the nature and rationale for the provisions.

3. Regulators which routinely refer conduct concerns to other enforcement bodies become irrelevant. Who needs a regulator who ducks responsibility for behaviour by their members because someone else can also deal with it?
4. Regulators often are obligated by their enabling statutes to process complaints and concerns. Exceptions are often limited (e.g., where a complaint is frivolous or vexatious). Members of the public who have a concern often choose to approach the regulator because they do not wish to pursue other options. For example, some people deliberately bring sexual abuse concerns to a regulator rather than the police because they may wish to avoid participating in the criminal justice system.

Of course there are countervailing considerations as well, including:

1. For some matters, regulators of professions may not be best suited to enforce the requirements. The primary enforcement body may have special investigative powers (e.g., to require the employer of the practitioner to provide information), added expertise (e.g., workplace safety, employment relations) and extra enforcement options (e.g., immediate compliance orders) that the regulator may not possess.
2. The issue may be of marginal relevance to the practice of the profession or public confidence in the regulator. It may even distract the regulator from its core mandate. For example, is it appropriate for a regulator to expend resources on investigating and dealing with a practitioner who has had several by-law infractions because their loud dog has bothered the practitioner's neighbours? The concern may be legitimate, especially to the neighbours, but the regulator's involvement may not be warranted.
3. The issue may involve delicate judgment calls or interpretation questions that are best left to the primary enforcement body, otherwise, inconsistent results may occur. For example, regulators may not be the best option for interpreting a client's entitlement to a benefit or funding under a specialized social assistance program.
4. In some, usually rare, cases the person raising the issue is unhappy with the decision of the primary enforcement body and is searching for another enforcement body hoping for a different outcome. Similarly, a party to a dispute, for example, in an employment setting, may wish to involve the regulator in a dispute in order to put pressure on the other party or as a means for obtaining evidence for their case.

Given these competing considerations, regulators should carefully consider when it should get involved in enforcing "someone else's law". A principled approach should facilitate a consistent, public interest and practical approach to such complaints and concerns. Those principles might involve the following:

a. As a starting point, processing those concerns where the regulator is obliged to do so under the terms of its enabling statute.

b. Where the regulator has discretion, lean towards taking action on concerns that impact public safety, reflect on the integrity or ethics of the practitioner, or otherwise fit within the public interest mandate of the regulator.
c. In appropriate cases where the regulator has discretion, providing information about their options to the person raising the concern without actively discouraging the individual from using the regulator's process. Many regulators are already doing this where it appears that the complainant is under the misapprehension that the regulator can award monetary damages.
d. Where the regulator has discretion, lean towards declining to take action on the concerns where there is a compelling reason for not doing so, such as where the regulator cannot deal with the issue effectively, where the concern has little impact on the suitability of the practitioner, or where it would be an abuse of process to deal with the concern.

A thoughtful approach to this issue will help protect the public and enhance the relevance and reputation of the regulator without imposing an undue burden on practitioners or the regulator itself.

Prepared by Richard Steinecke

In this Issue:

Bonus Features:

Ontario Bills

(See: https://www.ola.org)

Except for one emergency statute, the Legislature was in recess.

Proclamations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

Additional portions of **Bill 74, *The People's Health Care Act, 2019*,** implementing a significant restructuring of the provision of health care services in Ontario, including the centralization of 20 agencies into one body called Ontario Health, is proclaimed into force on April 1, 2020.

Regulations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

Pharmacy Act – Regulations create a coronavirus exemption permitting pharmacists authority to adapt prescriptions during the pandemic. (O.Reg. 126/20, Gazetted April 25, 2020).

Emergency Management and Civil Protection Act, R.S.O. 1990. Numerous regulations have been made this month related to COVID-19 including limiting health care providers to providing essential services, allowing long-term care homes to use alternative facilities, allowing the use of alternative health care facilities, suspending limitation periods and procedural timelines, limiting businesses

generally to essential services, allowing for the redeployment of health care providers, and preventing large public gatherings. They can be found at: https://www.ontario.ca/laws/statute/90e09 (click on the "Regulations under this Act" link). In addition, some regulations have been enacted for the management of public hospitals, long-term care homes and retirement homes during the pandemic that do not have a direct impact on the regulation of health professions.

Proposed Regulations Registry

(See http://www.ontariocanada.com/registry)

Consumer Protection Act – This consultation relates to proposed administrative penalties for failure to make proper disclosure in door-to-door sales and tow truck hires. Comments are due by May 25, 2020.

Bonus Features

(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)

Some Implications of Online Hearings

Few doubt that online proceedings will continue after the pandemic is over. In an insightful article, law professor Amy Salyzyn considers how this format will alter the hearing process. While supportive of the development, Professor Salyzyn discusses the privacy implications and the impact online hearings may have on hearing participants.

Public Access Implications

- As a practical matter, it is very difficult for members of the public to attend hearings. Online access to hearings, especially if they are recorded, eliminates many of those practical barriers.
- However, in order to ensure public access to hearings, upcoming hearings with links to join them have to be listed online at an accessible location. In addition, protocols need to be established for obtaining access to exhibits.
- At the present time, members of the public need to travel to the hearing and arrive at a set time in order to view the hearing and observe witness testimony. Practically, these burdens result in obscurity for witnesses and other participants. With online hearings, intimate and personal details will become more readily accessible and may result in voyeuristic, rather than educational, access. There may even be examples where the information can be mined for financial gain.

Impact on Hearing Participants

- Where some participants attend in person, there is an imbalance in the extent of participation. Those who attend online can be dehumanized (especially in criminal matters) and are often perceived as less credible or less worthy of clemency.

- There is often less formality when the hearing is held online, including background noises, disruption by pets and children, and seeing the backdrop from a person's home. This informality can affect the clarity of the information provided as well as the perception of the participant.
- Portions of the hearing process, such as a reduced ability to hold sidebar conversations or being able to hear whispered comments by adjudicators, will be different from in-person hearings in a way that could affect the process.

These variances arising from the process platforms should be considered and, in some cases, compensated for, as online hearings become more common. The article can be found at: http://www.slaw.ca/2020/04/17/trial-by-zoom-what-virtual-hearings-might-mean-for-open-courts-participant-privacy-and-the-integrity-of-court-proceedings/.

Appointing an Administrator

Many regulators are subject to the appointment of an Administrator or Supervisor to take over some or all of their operations. This extraordinary step is reserved for circumstances in which there has been a significant loss of confidence in the regulator or other organization.

In *Martin v Ontario Civilian Police Commission*, 2020 ONSC 1116, http://canlii.ca/t/j6cdp, the Ontario Civilian Police Commission, while conducting an investigation into allegations of misconduct by senior members of the Durham Regional Police Service, made a partial interim order appointing an Administrator. The appointed was limited to overseeing three discreet areas: disciplinary proceedings, promotions, and secondary employment. The Chief of Police and the Board sought judicial review.

Some of the points raised were specific to the enabling statute. However, some were of general application. For example, most provisions authorizing the appointment have very broad criteria, such as where the relevant Minister believes such an appointment is "appropriate or necessary". In this case, the test related to whether an emergency existed and whether an interim order is necessary in the public interest. In reviewing these criteria, the Court afforded significant deference to the Commission. The Court indicated that there need not be a formal finding related to the presence of an emergency. An apparent existence of concerns, in this case based on seven complaints and polling data from the members of the force indicating a lack of confidence in its leadership, was sufficient to base such a conclusion. The existence of an emergency depended on the context of the legislation. Here, a crisis of confidence in the leadership of the police force was an apparent emergency.

In terms of public interest, the Court said:

> I agree with the Board's submission that there must be a proper factual foundation for any determination that a prescribed action is in the public interest. The grounds for acting in the public interest obviously requires more that reliance on the decision-maker's whim. The public interest is, nonetheless, a broad term that allows the Commission to take a variety of considerations into account in its decision-making process. The determination of the public

> interest is a matter of public policy in the true sense of the word and demands a high degree of deference….

The Court was also of the view that fear of interference or reprisal by members of the force in the Commission's investigation was relevant to whether there was a public interest in the interim appointment.

The Court also held that under this legislation there was no need for procedural fairness in advance of the appointment. Procedural safeguards after the appointment (e.g., written decision and reasons, access to the materials upon which the decision was based and a right of judicial review) was sufficient.

In upholding the appointment, the Court relied on case law dealing with interim suspension of practitioners in discipline matters.

Another Aspect of Electronic Hearings

Some courts have issued special directions restricting the ability to record online proceedings. Many tribunals have the authority to make rules of procedure on conduct at hearings or to at least make specific orders in individual cases. These sorts of prohibitions are particularly important where the subject matter of the hearings is sensitive, as in sexual abuse cases.

Regulators will have difficulty enforcing restrictions related to recording online proceedings because it is even more difficult to know if a recording is being made at an online versus in-person hearing.

While the concern about disrupting the proceeding by recording it is minimal, the concern about the later misuse of such recordings to embarrass or harass witnesses or other hearing participants increases. Perhaps the threat of after-the-fact enforcement can provide some reassurance.

Some other options for tribunals might include:

1. Ordering restrictions limiting or prohibiting the recording of the proceedings with limited exceptions (e.g., non-visual note taking).
2. Limiting the ability to see some of the hearing participants. However, that may be difficult if the parties need to see those participants for the purpose of cross-examining witnesses.
3. Closing off parts of the hearing to the public where the risk is extreme (e.g., the examination of a vulnerable witness in a sexual abuse matter). Tribunals could also use technology that requires access to be granted by a moderator in order to prevent unauthorized participants joining the phone/video call.
4. Requiring those attending the hearing remotely to identify themselves (normally observers should not be asked to do this, but this sort of request might be reasonable in some highly-sensitive cases, or for the testimony of some highly-sensitive witnesses). Where technology permits, the participant names could be checked against call-in details to ensure that all callers have been identified.

There may be other technological options as well (e.g., allowing parties full visual access to witnesses during cross-examination while observers see only an obscured face, or even distorting a witness's voice slightly so that it is not identifiable).

Another Monster Case

There are some cases in which many issues are raised and dealt with. Multiple points of learning on a diversity of topics can arise. *Houghton v Association of Ontario Land Surveyors*, 2020 ONSC 863, http://canlii.ca/t/j54tk, is one such case. Mr. Houghton's licence was revoked after a 21-day hearing. The allegations are summarized by the Court as follows:

> One allegation was that Mr. Houghton had counselled a client to make a complaint against a fellow surveyor for malicious reasons. The other complaints essentially related to Mr. Houghton's alleged practice of:
>
> a. failing to quote a fee before signing the clients to an unlimited time and disbursements retainer agreement;
> b. taking a modest monetary retainer at the outset of an assignment that the clients believed to be the full fee;
> c. then claiming to have performed research resulting in additional fee charges incurred without the client's prior approval; and finally
> d. charging the clients' credit cards with the unapproved fees pursuant to credit card authorizations that Mr. Houghton had obtained previously from each of the clients.

A summary of the more interesting points for other regulators are as follows:

1. The Complaints Committee dismissal of individual complaints related to billing disputes does not prevent the regulator from later investigating those same concerns through the alternative Registrar's investigation route, particularly where that investigation is focussed on a pattern of financially abusing clients. This outcome is not dissimilar to the decision in *Abdul v Ontario College of Pharmacists*, 2018 ONCA 699, http://canlii.ca/t/htpdg.
2. The Court acknowledged the concerns that the scope of the investigation was not clearly set out and that the investigator may have looked at some issues that were not part of the original reasonable and probable grounds. However, the investigation focussed primarily on the reasonable and probable grounds concerns and the Discipline Committee was careful not to adjudicate on any additional issues.
3. In respect of the allegation of counselling a client to complain against a competitor, the Court agreed that this is professional misconduct where done maliciously: "Here it is perfectly obvious that where one surveyor is found to have acted expressly to injure another surveyor's reputation by having a client file a groundless complaint and the client did as he was urged to do, injury is self-evident."
4. In upholding the order of revocation, the Court held that the following were relevant considerations:
    a. A history and attitude indicating a likelihood of reoffending;

b. The emotional harm inflicted on clients and the damage caused to the reputation to the profession by such dishonest conduct;
c. The attempt to try to silence witnesses by imposing non-disclosure agreements in respect of the regulator through civil settlement agreements.

5. On the likelihood of re-offending, the Court discussed the principle that a practitioner's vigorous defence of allegations should not be considered an aggravating factor. However, a discipline tribunal is able to take into account that the practitioner "demonstrated a profound lack of understanding of ethical expectations and conduct, which continued during the penalty phase of the hearing". The Court said that the tribunal, "… was entitled to include in its consideration Mr. Houghton's lack of recognition and lack of accountability for his actions as factors that weighed on the risk of repetition, the need to protect the public, and deterrence."
6. The Court also upheld the order that the practitioner pay costs of $250,000, which were only a fraction of the actual legal costs, where "the length of the hearing was largely driven by Mr. Houghton's approach to challenge the proceedings with multiple days of motions and allegations against Association personnel."

Regulators will benefit from this guidance by the Court on so many issues.

Finality of Referrals to Discipline

What are the options where significant new information is received after a screening committee renders its decision? Where the screening committee determined to take no action, it might not be viewed as a final determination. Either through a fresh complaint or a Registrar's investigation, the matter can likely be reviewed again: *Ferrari v College of Physicians and Surgeons of the Province of Alberta*, 2008 ABQB 158, http://canlii.ca/t/1w3fh; *Houghton v Association of Ontario Land Surveyors*, 2020 ONSC 863, http://canlii.ca/t/j54tk.

However, can a screening committee reconsider its decision after referring a complaint to discipline? In *Stanley v Office of the Independent Police Review Director*, 2020 ONCA 252, http://canlii.ca/t/j6f8f, Ontario's highest court said this was not permitted. The principle of finality required that the screening committee not, in effect, withdraw its referral in order to look at new information. That was true even if the new information could have altered the original decision. The matter was now within the hands of the discipline tribunal.

Exceptions are permitted where the legislation creates a route for reconsideration of screening committee referrals to discipline. In fact, amendments to the formal rules relating to police complaints in the *Stanley* case now permit such reconsideration. However, such a legislative right of reconsideration is rare in most regulatory statutes.

Demonstrating Bias by Questioning a Witness

Tribunal members are given some leeway to question witnesses. Questions clarifying the evidence of a witness, or even asking for additional explanation on a point that is puzzling, are acceptable. However, where the questioning of a witness, particularly the practitioner, appears to indicate that

the tribunal has made up its mind, the questions can create an appearance of bias. That is particularly true when the "questions" contain statements.

Yee v Chartered Professional Accountants of Alberta, 2020 ABCA 98, <http://canlii.ca/t/j5q8v, is one of those rare cases where a disciplinary decision was reversed solely on the basis of the questioning of the practitioner by tribunal members. That case arose from some business dealings the practitioner's company had with the complainant. Disagreements between them led to a civil action in court. The practitioner's pleadings (formal position) in the civil action denied the complainant's allegations and put the complainant to the strict proof of them. The tribunal members at the resulting discipline hearings took exception to those denials, interpreting them as false statements. The tribunal members also persisted in forcefully challenging the practitioner's position that he was acting in a business capacity in the matter rather than as a member of the profession.

The Court said:

> A tribunal is entitled to challenge and question a witness vigorously, provided that the tribunal is open minded, that is, open to consideration of the answer to what might be a leading question. The issue before us is whether the questioning in this case and the statements made in the context of questioning give rise to a reasonable apprehension of bias.

The Court concluded that the cumulative effect of the questions by multiple tribunal members created an appearance of bias. The discipline findings were set aside and the matter was returned for a new hearing.

Off Duty Conduct

It is likely that there is variability as to when off-duty conduct can be the subject of discipline. For example, the degree of circumspection expected of teachers and police officers may be higher than for some other professions where practitioners are not as widely seen as esteemed role models.

This issue came up in the case of *Mulligan v Ontario Civilian Police Commission*, 2020 ONSC 2030, http://canlii.ca/t/j6fm8. In that case:

> While off duty, Sergeant Mulligan attended and spoke at a conference where the theme was cannabis legalisation. The conference took place in September 2015, while the decriminalization of marijuana was under discussion, but had not yet been passed into law. In his remarks at the conference, where Sergeant Mulligan was identified as a twenty-nine-year veteran of the Ontario Provincial Police, Sergeant Mulligan made it clear that he was in favour of the legalisation of marijuana, but that he was not representing the views of his employer.

The problem was that Sergeant Mulligan had been ordered not to attend or speak at the conference. He was disciplined on two charges. On one charge, for bringing the force into disrepute, he was found not guilty because at the time he spoke there was widespread public support for decriminalizing the possession of cannabis and his views would not be viewed as shocking. On judicial review of the

finding of disregarding an order, the Court held that this finding should also be set aside because the tribunal had failed to consider a provision in the legislation that was on point and because the tribunal had found that the audience would not perceive his remarks as meaning he would refuse to enforce the law.

The significance of the case is that it reinforces the principle that all of the circumstances must be taken into account when determining whether off duty conduct is worthy of discipline.

The Whistleblower Defence

In some circumstances, a practitioner is permitted to disclose otherwise confidential information and that would also constitute disloyalty to one's employer where there is a compelling public right for the public to know. Generally, for the whistleblower defence to succeed, four criteria must be met:

1. The concerns must be significant, for example, jeopardizing life, health or safety;
2. The issue must be more than a difference of opinion;
3. The practitioner has taken all reasonable steps to address the matter internally before "going public"; and
4. The concerns must be accurate.

In *Mulligan v Ontario Civilian Police Commission*, 2020 ONSC 2031, <http://canlii.ca/t/j6fm9>, an OPP Sergeant submitted a letter to the editor of the *Sudbury Star* criticizing the move of an OPP helicopter from Sudbury to Orillia, saying it would jeopardize public safety. He was disciplined for breach of confidence and discreditable conduct. On judicial review, the Divisional Court upheld the finding that the whistleblower defence was not available to Sergeant Mulligan because he has not first raised his concerns within his chain of command. The Court said:

> There may be a situation where the issues raised are so pressing and urgent and the chain of command so obviously dysfunctional or corrupt that going public first is the only reasonable option. However, Sergeant Mulligan never argued that the urgency of the situation made it impractical for him to raise the matter internally first. Furthermore, the evidence he presented did not meet the threshold required to demonstrate the type of dysfunctionality or corruption that would be required for this type of exception to the usual rule.

The whistleblower defence is not easily established.

Prepared by Richard Steinecke

In this Issue:

Bonus Features:

Ontario Bills

(See: https://www.ola.org)

Bill 159, *Rebuilding Consumer Confidence Act, 2019* – (*government Bill – passed second reading and referred to the Standing Committee on General Government*). The Bill reforms the delegated administrative authorities (DAA) scheme that applies to many professions and businesses including:

- allowing the Minister to revise the composition of the Board of Directors of a DAA (e.g. requiring a certain percentage of public members);
- allowing the Minister to establish competency criteria for being elected or appointed to the Board of Directors of a DAA;
- requiring disclosure of compensation of Board and staff members of a DAA; and
- authorizing the appointment of an administrator to take over the operation of a DAA.

The Bill also establishes an administrative penalty scheme for the *Consumer Protection Act*.

Proclamations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

There were no relevant proclamations this month.

Regulations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

Emergency Management and Civil Protection Act - Numerous regulations have been made related to COVID-19 including allowing the Chief Medical Officer of Health to have access to electronic personal health information, allowing some registered nurses to issue medical certificates of death, allowing easier credentialing of practitioners with privileges in public hospitals, allowing long-term care homes to use alternative facilities, allowing the use of alternative health care facilities, suspending limitation periods and procedural timelines, limiting businesses generally to essential services, allowing for the redeployment of health care providers, and preventing large public gatherings. They can be found at: https://www.ontario.ca/laws/statute/90e09 (click on the "Regulations under this Act" link). In addition, some regulations have been enacted for the management of public hospitals, long-term care homes and retirement homes during the pandemic that do not have a direct impact on the regulation of health professions.

Miscellaneous COVID-19 Regulations – Various regulations have been made under statutes regulating non-health practitioners (e.g., for teachers) making exceptions for various requirements such as registering applicants who are unable to do certain examinations or who were not able to complete courses this spring.

Proposed Regulations Registry

(See http://www.ontariocanada.com/registry)

***Personal Health Information Protection Act* #1 –** This consultation is in preparation for the proclamation of *PHIPA* provisions related to electronic health records. The proposed regulation will clarify when privacy breach reports to the Information and Privacy Commissioner must be made, some data requirements for electronic health records and some requirements for managing consent directives about electronic health records. Comments are due by July 10, 2020.

***Personal Health Information Protection Act* #2 –** This consultation will require health information custodians with electronic records to ensure that those records meet certain standards so that information can be accessed and shared through common programs. This is called "digital interoperability". Comments are due by July 22, 2020.

Consumer Protection Act – This consultation relates to proposed administrative penalties for failure to make proper disclosure in door-to-door sales and tow truck hires. Comments are due by August 4, 2020 (the comment period was extended).

Bonus Features

(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)

Close Review of Credibility Findings

Under the new standard of review of tribunal decisions, findings of fact are reviewed on the basis of whether there was a palpable and overriding error (unless there is a question of mixed fact and law where there is an extractible legal error). In *Miller v College of Optometrists of Ontario*, 2020 ONSC 2573, http://canlii.ca/t/j6sbk, the Court was reluctant to compare the palpable and overriding error test with the reasonableness review test. However, it did closely review the credibility findings where a finding of historical sexual abuse was made.

While showing deference to the tribunal, the Court concluded that the practitioner's evidence was scrutinized more closely than that of the patient for a number of reasons including:

- The tribunal used the assertion of a weak submission by the self-represented practitioner that the touching could not have taken place as undermining the practitioner's credibility. Such an inference would not have been made if the argument was made by the practitioner's legal counsel.
- The tribunal used the demeanour of the practitioner when the patient testified (e.g., the practitioner did not look at her) as supporting an adverse finding of credibility. Demeanour generally applies to how a witness acts when testifying, not to how a party behaves when others testify and, in any event, such a conclusion based on a lack of eye contact was particularly fragile.
- The tribunal appeared to treat the lack of responsiveness to questions by the practitioner more negatively than a similar lack of responsiveness by the patient. In particular, the hesitancy of the practitioner to acknowledge that he had been in practice for almost fifty years was given undue weight. So was the request by the practitioner to cross-examine counsel on the meaning of the word "close".
- The tribunal appeared to be overly suspicious about the inability of the practitioner to produce a portion of the chart that was unlikely to contain relevant information and was not required to be retained by the practice's retention policy.
- Mischaracterizing the practitioner's position as that the patient was fabricating the allegations when it was more accurate to say that the practitioner's position was that the patient's evidence was mistaken.

The Court concluded as follows:

> The Merits Decision and the record disclose a sufficient unevenness of approach to the evidence adduced by the two sides for me to conclude that the appellant's defence was subjected to a higher level of scrutiny than the case against him. That is an error of law. It, combined with the other errors I have identified, resulted in an unfair proceeding.

Regulators are closely watching to see if the new standard of review of credibility findings is markedly different than the deference shown in pre-*Vavilov* decisions.

Judicial Scrutiny of Disciplinary Penalties

Ever since the Supreme Court of Canada in *Vavilov* changed the way that courts review regulatory decisions (at least where there is a statutory right of appeal), regulators and courts have been determining how the new test applies to different types of decisions. In *Mitelman v College of Veterinarians of Ontario*, 2020 ONSC 3039, the Divisional Court of Ontario put some effort into applying *Vavilov* to appeals of disciplinary penalties. Dr. Mitelman was found guilty of professional misconduct for a number of standard of practice and ethical issues. It was his second finding. The appeal was limited to the penalty order of a twelve-month suspension of his licence and various terms, conditions and limitations for periods of up to five years.

The Court stated that the standard of review involved considerable deference:

> It is well established that in order to overturn a penalty imposed by a regulatory tribunal, it must be shown that the decision-maker made an error in principle or that the penalty was "clearly unfit." The courts in the criminal context have used a variety of expressions to describe a sentence that reaches this threshold, including "demonstrably unfit", "clearly unreasonable", "clearly or manifestly excessive", "clearly excessive or inadequate" or representing a "substantial and marked departure" from penalties in similar cases. This high threshold applies equally in the administrative law context. To be clearly unfit, the penalty must be disproportionate or fall outside the range of penalties for similar offences in similar circumstances. A fit penalty is guided by an assessment of the facts of the particular case and the penalties imposed in other cases involving similar infractions and circumstances, *College of Physicians and Surgeons of Ontario v. Peirovy*, 2018 ONCA 420 at para. 56.

The Court went on to say that when looking at the "reasonableness" of a penalty decision, the Court is really referring to the proportionality of the decision compared to other similar cases. Thus, the word "reasonableness" is not describing the standard of review, generally.

The appeal raised concerns about the adequacy of the reasons on penalty. The Court noted that the reasons on finding were detailed and provided an important context to the penalty decision, including concerns about impairment of public safety. Though brief, the reasons on penalty identified the factors taken into account. The Court said:

> The basis for the Committee's conclusions on penalty is readily apparent to anyone with even a passing familiarity with the background to this case. I am not prepared to conclude that the reasons on penalty are so deficient as to amount to an error of law.

Because context is everything, the decision on penalty was upheld.

Using a Practitioner's Status and Prestige

Practitioners have a status in society that can be misused. In addition, engaging in certain activities outside of the profession can affect one's ability to practise the profession objectively or even bring disrepute to the profession. It is for those reasons that some professions have ethical rules related to these concerns. For example, some health professions in Canada do not condone practitioners appearing in advertisements promoting health products to consumers.

Perhaps one of the professions with the most acute concerns about misusing one's prestige and status are judges. A recent decision, that had a high profile in the legal community, addresses the boundaries of this concern. In *Smith v Canada (Attorney General)*, 2020 FC 629, http://canlii.ca/t/j7v4k, a Judge accepted an unpaid appointment of Interim Dean (Academic) to a law school that was undergoing a crisis. Justice Smith obtained the approval of both the Chief Justice in his province and, impliedly, the Minister of Justice. Nevertheless, the regulator for federally appointed judges, the Canadian Judicial Council, initiated an inquiry and rendered a letter of concern. Justice Smith sought judicial review.

Much of the case dealt with the scope of a statutory provision preventing judges from having an occupation outside of their judicial duties. The Federal Court found no violation of that section.

On the ethical issue of misusing the judge's judicial status or risking the compromising of his judicial duties, the Court held that the concerns were not justified. The Court said:

> The association of a judge with any extra-judicial organization will, to some degree, bolster its reputation, status and public confidence. It is for precisely that reason that law schools seek to have judges teach. .... If that were the test, then no judge could ever join or participate in any extra-judicial civic, religious, or charitable organization.

The Court was also concerned that the initiation of the investigation, in the absence of a complaint and given the approval of the Chief Justice and Minister of Justice, was procedurally unfair. The Court was concerned that the failure to disclose to the Judge the true nature of the concern and apparently misconstruing of the test for initiating the investigation was unfair.

Reconsideration of Returned Decisions

Sometimes when an appeal from a discipline decision is successful, the court returns the case to be reconsidered by a differently constituted panel. However, when a court is silent on the matter, can the same panel that made the earlier, incorrect decision, reconsider it? Generally, the answer is yes because that panel has heard the evidence and argument, has detailed familiarity with the case, and is in the best position to consider the matter again. In *Zuk v Alberta Dental Association and College*, 2020 ABCA 162, http://canlii.ca/t/j6tjc, the Court also found that, absent special circumstances, having the same panel members reconsider the matter does not create an appearance of bias.

In *Zuk*, there were 21 findings of misconduct. The appellate Court set aside two of the findings and stated that one finding had been overemphasized. The upheld findings were deemed by the Court to

be serious and included grave attacks against the integrity of the regulator. The tribunal reconsidered the sanction and costs and imposed a significantly reduced period of suspension and costs. The practitioner appealed again.

The Court held that the standard of review remained deferential:

> Pre-***Vavilov***, it was clear that deference was owed to professional disciplinary bodies on the fitness of sanctions and the fact findings underpinning them: ***Law Society of New Brunswick v Ryan***, 2003 SCC 20 at para 42 [***Ryan***]; ***Groia v Law Society of Upper Canada***, 2018 SCC 27 at paras 43, 57. As ***Vavilov*** does not directly address the question of standard of review for sanctions imposed by professional disciplinary bodies, this Court was asked to provide guidance on this point. In our view, the appropriate standard of review remains reasonableness. ***Vavilov*** provides a "revised framework that will continue to be guided by the principles underlying judicial review… articulated in ***Dunsmuir v New Brunswick***, 2008 SCC 9" [***Dunsmuir***]: para 2. The longstanding principles articulated in ***Dunsmuir*** and ***Housen*** have not been displaced: ***Vavilov*** at para 37. As noted in para 13 above, the standards of review on statutory appeals are the same as those applied in other appeals. The focus is on the type of question in dispute. The question of what sanction Dr Zuk should face as a result of his misconduct is a question of mixed fact and law: ***Ryan*** at para 41. This calls for a deferential standard where the decision results from consideration of the evidence as a whole, but a correctness standard ought to be applied when the error arises from the statement of the legal test, or where there is an extricable question of law: ***Housen*** at paras 33, 36; ***Constable A v Edmonton (Police Service)***, 2017 ABCA 38 at para 41.

Similar considerations applied to the costs order.

In terms of bias, the Court held that the legislative provision precluding individuals involved in the investigation and referral of matters to discipline had no application to the reconsideration of the matter returned by the Court. After reviewing the reasons of the panel reconsidering the matter, the Court also found no appearance of bias:

> We are not persuaded the Appeal Panel was permanently "invested" in its earlier reasons, to the degree that it was incapable of fairly reconsidering the matters directed by this Court. "Where a matter is remitted back, the law presumes that a tribunal will give full weight to the decision of the reviewing court": ***Walton*** at para 9. As noted above, there is nothing on the record to rebut this presumption; quite the opposite. Further, whether the issue "on which a reconsideration has been directed would raise considerations of impartiality in the mind of a reasonable person is a matter of degree": ***Walton*** at para 9. In light of the cogent, even-handed, transparent and considered approach of the Appeal Panel's reconsiderations reasons, this case does not raise any considerations of impartiality.
>
> In sum, there is no reason to believe that the Appeal Panel did not reconsider sanction and costs having full regard to the decision of this Court. Moreover, the Appeal Panel had the

> advantage of a detailed knowledge of the evidence behind the affirmed charges, and considerations of efficiency supported its continuing involvement.

The appeal failed.

Duty of Regulators to Assist Struggling Practitioners

In *Jhanji v The Law Society of Manitoba*, 2020 MBCA 48, http://canlii.ca/t/j7sqc, an internationally trained lawyer was the subject of multiple concerns. Both judges and colleagues had raised concerns about the practitioner's competence, primarily in making incomprehensible written and oral submissions. The regulator conducted a practice review which found broad ranging concerns. It recommended a series of remedial steps including practising under the supervision of another lawyer. The practitioner declined to accept the remedial steps. The regulator then referred the concerns to discipline and imposed an interim order suspending the practitioner's ability to practise. The regulator concluded that the concerns were so broad ranging and the practitioner's unwillingness to pursue other measures left suspension as the only option that would protect the public.

The Court affirmed the decision. It found that the procedure followed was fair. The practitioner had no right to attend the meeting at which the allegations were referred to discipline. In addition, the regulator had provided disclosure and heard from the practitioner in person before ordering the suspension. The Court rejected the practitioner's argument that the regulator had a duty to assist a struggling practitioner rather than order an interim suspension:

> The applicant says that the CIC had an obligation to assist him through remedial measures rather than impose an interim suspension, particularly given that he was a foreign-trained lawyer. Again, this argument is without foundation and is contrary to the mandate of the Law Society to "uphold and protect the public interest in the delivery of legal services with competence, integrity and independence" and the authority provided to the Law Society under the *Act* to do so (the *Act* at section 3; see also sections 66-71 of the *Act*).
>
> The CIC correctly identified the legal issue before it: whether the interim suspension was necessary for the protection of the public, in accordance with section 68(c) of the *Act*.

The Court went on to discuss the standard of review for interim orders:

> Having correctly identified the legal issue, the question became whether the interim suspension was necessary to protect the public in these circumstances. The applicant has not identified any palpable and overriding error of fact by the CIC in its analysis. The record demonstrates that the CIC reviewed the extensive information obtained during the investigations and the practice review. It considered whether some action, other than the interim suspension, was sufficient to protect the public and concluded that it was not. The CIC was entitled to make that finding on the record before it.

> Whether or not to impose the interim suspension was a discretionary decision. The CIC did not err in law or make any palpable and overriding error of fact. Furthermore, based on the record, the interim suspension is not unjust. The CIC's decision to interim suspend the applicant is entitled to deference.

While regulators often attempt to deal with concerns remedially, at the end of the day, they are regulators, not coaches.

HPRO Health Profession Regulators of Ontario

Prepared by Richard Steinecke

In this Issue:

Bonus Features:

Ontario Bills

(See: https://www.ola.org)

Bill 175, *Connecting People to Home and Community Care Act, 2020* – (*government Bill – report made by the Standing Committee on Social Policy and ready for third reading*) The Bill will restructure and integrate the provision of home and community care under the Ontario Health agency. This will involve new funding models and new oversight mechanisms including additional investigation powers, enhanced powers to appoint a supervisor on an urgent basis without notice, and an expanded role for the Patient Ombudsman.

Bill 161, *Smarter and Stronger Justice Act, 2019* – (*government Bill – third reading debate*) The Bill, amongst other things, provides the legal regulator, the Law Society of Ontario, with the authority to perform entity regulation. It also:

- authorizes the regulator to disclose information during an investigation where necessary to protect the public interest;
- expands the power of investigators to obtain information from former practice colleagues;
- simplifies the interim order powers in discipline matters; and
- increases the maximum fine at discipline to $100,000 from $10,000.

Bill 159, *Rebuilding Consumer Confidence Act, 2019* – (*government Bill – under consideration by the Standing Committee on General Government*) The Bill reforms the delegated administrative authorities (DAA) scheme that applies to many professions and businesses including:

- allowing the Minister to revise the composition of the Board of Directors of a DAA (e.g., requiring a certain percentage of public members);
- allowing the Minister to establish competency criteria for being elected or appointed to the Board of Directors of a DAA;
- requiring disclosure of compensation of Board and staff members of a DAA; and
- authorizing the appointment of an administrator to take over the operation of a DAA.

The Bill also establishes an administrative penalty scheme for the *Consumer Protection Act*.

Proclamations

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There were no relevant proclamations this month.

Regulations

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Emergency Management and Civil Protection Act - Numerous regulations have been made related to COVID-19, mostly modifying existing restrictions as the pandemic extends over time but abates somewhat. There are also special provisions requiring the reporting of diseases by retirement homes and their oversight by the Retirement Homes Regulatory Authority. Clarification is given as to who can make orders requiring parties to meet statutory deadlines (e.g., the chair of a tribunal) and that such orders can be made either in individual cases or all cases. The regulations in their current form can be found at: https://www.ontario.ca/laws/statute/90e09 (click on the "Regulations under this Act" link).

Miscellaneous COVID-19 Regulations – Various regulations have been made under statutes regulating non-health practitioners (e.g., employment standards related to COVID-19 emergency leave by employees).

Proposed Regulations Registry

(See http://www.ontariocanada.com/registry)

Healing Arts Radiation Protection Act and ***Regulated Health Professions Act*** – Proposed amendments would permit nurse practitioners to order CT scans and both nurse practitioners and dentists to order MRIs. Comments are due by August 9, 2020.

Spousal Exemptions – Proposed amendments would allow dental hygienists, optometrists, and chiropodists and podiatrists to treat their spouses in accordance with the limitations contained in the *RHPA*. Comments are due by August 8, 2020.

Laboratory and Specimen Collection Centre Licensing Act – Proposed amendments would authorize nurse practitioners to independently perform a broad range of point-of-care tests to assist with diagnosis and the formulation of treatment plans for their patients. In addition, pharmacists would be authorized to perform a small range of point-of-care tests. Comments are due by August 8, 2020.

Optometry Act, Midwifery Act and ***Chiropody Act*** – Proposed amendments would replace the list of drugs that these practitioners could prescribe and replace them with categories of drugs. Midwives and chiropodists and podiatrists will also have the ability to administer certain controlled and narcotic drugs in certain circumstances. Comments are due by July 27, 2020.

Pharmacy Act – Proposed amendments would "allow pharmacists to: 1. Administer the influenza vaccine to children as young as 2 years old; 2. Renew prescriptions in quantities of up to a year's supply; and 3. Administer certain substances by injection and/or inhalation for purposes that are in addition to patient education and demonstration." Comments are due by July 27, 2020.

Medical Radiation and Imaging Technology Act – Proposed amendments would update and modernize the registration regulation for the newly expanded College, including broader good character requirements and permitting the approval, rather than listing, of acceptable educational programs. Comments are due by July 27, 2020.

Personal Health Information Protection Act #1 – This consultation is in preparation for the proclamation of *PHIPA* provisions related to electronic health records. The proposed regulation will clarify when privacy breach reports to the Information and Privacy Commissioner must be made, some data requirements for electronic health records, and some requirements for managing consent directives about electronic health records. Comments are due by July 10, 2020.

Personal Health Information Protection Act #2 – This consultation will require health information custodians with electronic records to ensure that those records meet certain standards so that information can be accessed and shared through common programs. This is called "digital interoperability". Comments are due by July 22, 2020.

Personal Health Information Protection Act #3 – The proposed amendments would allow "the Institute for Clinical Evaluative Sciences (ICES) and Ontario Health (OH) to disclose personal health information (PHI) … to the Minister of Health for specific purposes related to the COVID-19 pandemic". This very brief consultation will end on July 4, 2020.

Consumer Protection Act – This consultation relates to proposed administrative penalties for failure to make proper disclosure in door-to-door sales and tow truck hires. Comments are due by August 4, 2020 (the comment period was extended).

Bonus Features

(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)

Intervention by a Party's Former Lawyer

When should the former lawyer of a party be able to intervene in a legal proceeding in order to protect their financial and reputational interests? That issue arose in an interesting way in the case of *Errol Massiah v Justices of the Peace Review Council*, 2020 ONSC 3644, http://canlii.ca/t/j8837. Mr. Massiah was removed from the office of Justice of the Peace for judicial misconduct. The remaining issue was whether Mr. Massiah should have his legal costs paid by the government. The tribunal had decided against such compensation, in part, on the basis that his lawyer had raised many frivolous and vexatious motions and objections delaying and extending the proceedings. Mr. Massiah's lawyer sought to intervene in those proceedings to protect his financial and reputational interests.

The Court did not give permission for the lawyer to intervene. Any right to compensation from the government related to Mr. Massiah, not the lawyer. Mr. Massiah had fully addressed the issue and the lawyer would be repeating the same points. While there are some situations in which a lawyer who is being blamed for errors might be given standing to defend their reputation, this was not a case where no one was presenting that perspective. Mr. Massiah was fully defending the lawyer's actions in presenting his claim for compensation. The Court was also concerned that the lawyer had brought this request to intervene very late in the process and was proposing to tender voluminous additional materials before the court. In some sense, the lawyer was seeking to re-litigate issues that had already been determined.

This case illustrates that an intervenor must demonstrate how they would bring an important and different perspective to the matter which would assist the adjudicator.

Restraining Rogue Registrants

Regulators, by their public nature, have to be prepared to accept criticism – even unfair criticism. Indeed, Courts have the power to prevent regulatory authorities from trying to limit some forms of public discourse: *Ontario College of Teachers v Bouragba*, 2019 ONCA 1028, http://canlii.ca/t/j49mq. However, at some point, regulators can take legal action against defamatory statements or abusive conduct.

In *The College of Pharmacists v Jorgenson*, 2020 MBQB 88, http://canlii.ca/t/j897w, a pharmacist believed that the action, or inaction, of the College had led to the death of indigenous people in the northern part of Manitoba. He made a complaint to his regulator. He then made a number of public statements claiming that the regulator had covered up the misconduct in part because of racist attitudes and racial profiling. He also communicated persistently with representatives of the regulator, particularly staff, such that they "expressed concerns about their safety, Mr. Jorgenson's erratic conduct, and the anxiety and stress that they experienced".

The Court found that the statements were defamatory and made without justification. The Court also held that the conduct towards regulatory representatives constituted legal nuisance. The Court awarded judgment in the amount of $150,000 plus legal costs and granted a detailed injunction protecting the staff and other representatives of the regulator from future contact or communications from the practitioner.

Regulators have recourse for practitioners who cross the line from criticism, even unfair criticism, to defamation and nuisance.

Warning Letters are Not Subject to Judicial Review

Regulators often warn unregistered persons that they appear to be practising illegally or using an illegal title. These are sometimes called "cease and desist" letters. Can the recipient of a cease and desist letter seek judicial review of such a warning letter? The case of *Momentum Decisive Solutions Canada Inc. v Travel Industry Council of Ontario*, 2020 ONSC 3392, http://canlii.ca/t/j808h, says no. Momentum disputed the regulator's assertion in a warning letter that it was acting as a travel agent. However, the Divisional Court determined that such a warning letter was not a statutory power of decision and thus was not subject to judicial review. The regulator had to initiate court proceedings before any consequences would flow to Momentum.

The Court did not accept that judicial review was the appropriate route to obtain clarification as to whether Momentum was acting legally or not; the Divisional Court does not provide legal opinions in the abstract. In any event, even if the Divisional Court had that role, the information in the record was wholly inadequate for the Court to make a decision.

Thus, cease and desist letters are not subject to judicial review, at least in these circumstances.

A Rare Case of Excessive Delay

While excessive delay applications in the criminal process succeed with some frequency, that is not the case in regulatory law. Likely this reflects the courts' recognition that regulatory proceedings are intended to protect the public from harm. This hesitancy is supported by the decision of the Supreme Court of Canada in *Blencoe v British Columbia (Human Rights Commission)*, [2000] 2 SCR 307, http://canlii.ca/t/525t, which held that not only must the delay be inordinate, it must also offend the community's sense of fairness.

In *Financial and Consumer Services Commission v Emond et al.*, 2020 NBCA 42, http://canlii.ca/t/j8bl4, there had been a delay of ten years. At the six year mark, the Court determined that the delay had not been excessive, in part because most of it had been generated by one of the individual respondents. However, the subsequent four-year delay was another matter. A full year of the delay was caused by the tribunal's inability to find a French-speaking tribunal member. Additional delay was caused by the tribunal's erroneous self-initiated concern about its own loss of jurisdiction. The Court said:

While there was and likely remains public interest in having the allegations determined on the merits, that interest is now outweighed by the offence caused to the community's sense of fairness in allowing the prejudice to be perpetuated because the Tribunal was unable to, for almost a year, constitute a panel of French-speaking members to hear the matter and because the Tribunal itself again raised an issue and determined it in a manner this Court finds to be in error.

The College of Naturopaths of Ontario

President's Report

This is the first President's Report for the Council cycle of April 1, 2020 to June 30, 2020.

This report essentially picks up where my last report ended, with a focus on COVID-19. The College and the profession have continued to adapt to the changing world. The Council's decision to reduce the fees and extend the payment timeframe were well received by the profession and we continue to work closely with our stakeholders on the on-going crisis.

The Executive Committee has met on several occasions focussing on both the proposed new process for the Register Performance Review as well as concluding the Organizational/Registrar Performance review for the past year. My thanks to all the Executive Committee but a special thanks goes to Vice President Barry Sullivan for his hard work and dedication moving both processes forward.

I have continued to have frequent communication with the Registrar & CEO, although not quite as frequent as in the first weeks of the pandemic.

There remains considerable uncertainty for the medium- and long-term periods, in particular how the pandemic will continue to impact the profession and therefore the College, in particular as we head towards the fall and not only a possible resurgence of COVID-19 but also the start of the usual flu season.

Dr. Kim Bretz, ND
President
July 2020

The College of Naturopaths of Ontario

Registrar's Report on the Operational Plan

Q1: APRIL 1, 2020—JUNE 31, 2020

INTRODUCTION

The purpose of this report is to provide the Council of the College of Naturopaths of Ontario with the following:

1. an overview of key operational activities underway within the College based on the Operating Plan presented to and accepted by Council in January 2020, and
2. a report on compliance with the Executive Limitation Policies.

REPORT ON OPERATIONAL ACTIVITIES

Activity	Results for this Period April 1, 2020 to June 30, 2020	Results to Date
1. Regulate the Profession In each of the three years of the operating plan, the College will perform the following operational activities.		
1.1 Entry to Practise		
Receive, review and process applications for registration, approve those who qualify and refer others to the Registration Committee for review and a determination.	Initial applications: • New received: 9 • Ongoing from prior: 9 Certificates Issued: 5 Application referrals to RC: 0	
Receive, review and process applications for a determination of substantial equivalency under the Prior Learning Assessment and Recognition Program (PLAR).	No PLAR applications were received or assessments conducted during this reporting period.	
Submit the annual Fair Registration Practices Report to the Office of the Fairness Commissioner (OFC).	The Fair Registration Practices Report for 2019 was submitted to the OFC on February 27, 2020.	
Support the Registration Committee in consideration of applicants referred to it and implement the decisions provided by the Committee.	Supporting documentation (e.g., sections of pertinent legislation and summary documents) was provided to the Registration Committee for all reviews conducted.	
Support the Registration Committee in appeals made by applicants to the Health Professions Appeal Review Board (HPARB).	New HPARB appeal: 0 HPARB decisions: 1 • Decision upheld: 1 • Matter returned for reconsideration: 0	
Maintain current information on the	Application information was updated on	

College's website about the application process, the Prior Learning Assessment and Recognition Program.	the College website to include an *Applying for Registration During the COVID-19 Pandemic* guidance document.	
Annual review of the Prior Learning Assessment and Recognition Program (PLAR).	Review and redevelopment of the PLAR remains ongoing.	

1.2. Examinations		
Maintain and deliver practical Clinical Examinations for new applicants to the profession.	Due to COVID-19, the July 2020 Clinical Practical exam, registration for which was set to open May 26, 2020 was postponed. The next session of the Clinical Practical exams will be September 27, 2020. An additional exam session will also be offered on November 1, 2020. In the interim, College staff are implementing additional COVID-19 exam infection control protocol to safeguard the health and well-being of exam attendees (both candidates and exam staff).	
Maintain and deliver the written Clinical Sciences Examination (CSE).	Due to COVID-19, the August 2020 CSE, registration which was set to open on June 15, 2020, has been postponed until September 29, 2020, when the exam will be offered online. A mandatory webinar for those seeking to sit this session will be conducted by the College on July 23. Exam maintenance activities were conducted in May, with the review and approval of newly developed CSE content and exam form standard setting by the Exam Committee (ETP). Revisions were also made to the CSE Study Reference Guide and staff began work on reviewing the item bank to ensure consistency of formatting, nomenclature etc.,	

Activity (Ends Reference)	Results for this Period	Results to Date
	across all items.	
Maintain and deliver the written Biomedical Examination (BME).	Information regarding the BME was added to the College website, including the 2020 BME exam schedule. Work continues on the *BME Study Reference Guide* which is anticipated to be finalised and posted in August, following review by the Exam Committee (ETP). The first administration of the exam is scheduled for November 19, 2020.	
Maintain and deliver the Intravenous Infusion Therapy (IVIT) Examination for those Members who wish to meet the Standard of Practise.	Due to COVID-19, the May 24, 2020 IVIT exam was cancelled. The next exam session is scheduled for December 6, 2020.	
Maintain and deliver the Therapeutic Prescribing (TP) Examination for those Members who wish to meet the Standard of Practise.	Due to COVID-19, the June 21, 2020 TP exam was cancelled. The next exam session is scheduled for October 25, 2020.	

1.3. Membership/Registration		
Conduct an annual renewal process that includes enabling Members to pay their annual fees in each year and update their Information Return with the College.	Due to COVID-19, the deadline for paying renewal fees was extended to September 30, 2020. • 929—Paid and completed the info return form • 706—Submitted the info return form but did not pay • 0—Paid but did not submit the info return form • 7—Took no action Suspensions: 20 Revocations[1]: 3 Resignations: 1	Renewal for the 2020-21 registration year launched February 14, 2020. • 755—Paid and completed the info return form • 842—Submitted the info return form but did not pay • 11—Paid but did not submit the info return form • 43—Took no action

[1] refers to suspension made pursuant to Section 16 of the Registration Regulation which occurs two years from the date a Member was suspended.

Activity (Ends Reference)	Results for this Period	Results to Date
	Reinstatements: 12 Total Members = 1,676 General Class = 1,516 • In good standing: 1,497 • Suspended: 19 Inactive Class = 160 • In good standing: 150 • Suspended: 10	
Receive, review and process applications for change of class, approving those who qualify and referring the remainder to the Registration Committee for review and a determination.	Class Change applications: GC to IN: 3 IN to GC (under 2 years): 0 IN to GC (2 years or more): 0 Life Membership applications: 1 • Approved: 1 • Denied: 0	
Manage (adding, modifying and auditing records) the public register of Members for use by the public as required in the Regulated *Health Professions Act, 1991* and the College by-laws.	Information on the Public Register was updated as needed, based on changes to Member status and Standards of Practice (IVIT and Prescribing). No register audits were conducted during this reporting period.	
Submit the annual reporting data to Health Force Ontario as required under the Code.	The annual Health Force Ontario report for the 2019 reporting year was submitted on June 17, 2020.	
Receive, review and process applications for Certificates of Authorization for professional corporations	New applications: 2 • Approved: 2 • Denied: 0	
Conduct annual renewals of Certificates of Authorization for professional corporations (PC).	PC renewal applications: 17 • Approved: 17 • Denied: 0 Total PCs: 75	

1.4 Patient Relations Program

Activity (Ends Reference)	Results for this Period	Results to Date
The College will operate a Patient Relations Program as set out in the Regulated Health Professions Act, 1991.	The College operates a Patient Relations Program under the guidance of the Patient Relations Committee (PRC). The PRC met once during the reporting period.	
Applications for funding will be accepted and reviewed under the new rules and patients entitled to funding supported by the College.	New applications: 0 Previously approved applications: 4	

1.5 Quality Assurance Program		
The College will operate a Quality Assurance (QA) Program as set out in the Regulated *Health Professions Act, 1991* and the Quality Assurance Regulation made under the *Naturopathy Act, 2007*.	The College operates a Quality Assurance Program under the guidance of the Quality Assurance Committee (QAC). The QAC had 2 meetings during the reporting period.	
The Quality Assurance Committee will be supported by the College and will be provided with information in a timely fashion.	The QAC is supported by the Deputy Registrar; Manager, Professional Practice; and the Professional Practice Coordinator.	
Standards and guidelines will be reviewed by the Quality Assurance Committee to ensure that the standards fully support patient-centred care. New standards will be developed as identified by the Committee and/or Council.	The Quality Assurance Committee has deferred its larger review of the Core Competencies. However, it identified a need to develop a new *Telepractice guideline* and to update the *Infection Control Standard of Practice.*	

1.6 Inquiries, Complaints and Reports		
The College will receive information and complaints about Members of the profession and fulfil its obligations to investigate the matters in accordance with the Regulated *Health Professions Act, 1991* through the Inquiries, Complaints and Reports Committee (ICRC).	New complaints/reports: 7 • 6 Registrar's Investigations • 1 complaint Ongoing complaints/reports: • 2015 (BDDT-N) —1* • 2016/17—3* • 2018/19—1* • 2019/20—20 *(*Note: these 4 matters are related and were on*	

Activity (Ends Reference)	Results for this Period	Results to Date
	hold pending a criminal investigation.)	
	Concerns in new complaints/reports: *(a single complaint can include multiple concerns)* • Inappropriate advertising—5 • Failure to comply with a C&D letter—1 • Practising while suspended—2 • Providing services outside the scope—2 • Requisitioning a test from a lab not licensed by LSCCLA—2 • Failure to maintain records—1 • Failure to comply with Delegation SoP—1 • Insurance fraud—1 • Harassment of an employee—1 • Selling substances outside Dr-patient relationship—1 • Failure to comply with QA program—1	
	Complaints/Reports disposed of: 7 • Letter of Counsel—3 • SCERP/Oral Caution—2 • No action—2	
The ICRC will be supported by the College through the timely provision of information, assistance in preparing Decisions and Reasons and through the provision of expert and legal advice and assistance when needed.	The Inquiries, Complaints and Reports program is supported by the Deputy Registrar; the Manager; and the Coordinator, Professional Conduct; a pool of investigators from Benard + Associates; and a pool of experts is available to provide as needed support to the program and committee.	
Staff will develop a database of prior decisions and legal opinions to assist the ICRC.	A database of prior decisions and legal opinions to assist the ICRC has been developed and is maintained by staff.	
Cease and desist (C&D) letters will be issued to unauthorized practitioners and the Register will be managed in accordance with	C&D letters issued to individuals holding out as naturopaths: 4	

Activity (Ends Reference)	Results for this Period	Results to Date
Council policy.		
The Appeals process will be supported through the timely provision of information to the Health Professions Appeal Review Board (HPARB) and participation in HPARB hearings.	No new applications for review of ICRC decisions were submitted to HPARB.	ICRC decisions under review by HPARB: 3

1.7 Discipline/Fitness to Practise		
The College will support the Discipline and Fitness to Practise committees as quasi-judicial and independent adjudicative bodies by providing annual training as necessary and by supporting the selection of panels by the Chair.	The Discipline and Fitness to Practise Committees are supported by the Registrar; Deputy Registrar; Manager; and Coordinator, Professional Conduct.	
Independent Legal Counsel (ILC) will be retained by the College to provide on-going legal support to the Committee and the Chair. If requested by the Chair, a Request for Proposals will be developed and issued by the College with evaluations to be completed by the Committee.	Discipline committee was fully supported by ILC during the reporting period.	
The Registrar & CEO, with the support of the Deputy Registrar, Manager of Professional Conduct and with the advice of legal counsel, will oversee the prosecution of matters referred to the Discipline Committee by the Inquiries, Complaints and Reports Committee.	Pre-Hearing Conferences (PHC's): • Completed—1 • Scheduled—0 Hearings held: 1 CONO vs. L. Ee—April 7, 2020 Hearings scheduled: 1 Ali DC20-01—July 16, 2020	Ongoing discipline matters: • Rodak DC18-01 • Cohen DC 19-03 • Cohen DC 19-04 • Deshko DC19-05 • Rodak DC19-06 • Ali DC20-01
Referrals by the Inquiries, Complaints and Reports Committee to the Discipline Committee or the Fitness to Practise Committee will be managed in accordance with the Code and the rules of procedure.	New referrals: 0	

Activity (Ends Reference)	Results for this Period	Results to Date
Staff will monitor and enforce the Members' compliance with orders of the Discipline/FTP panels.	Staff continuously monitor and enforce Members' compliance with orders of the Discipline panels. Any deviations are promptly reported to the Registrar and CEO.	
1.8 Inspections		
The College will operate an Inspection Program as set out in Part IV of the General Regulation made under the *Naturopathy Act, 2007* to regulate premises in which IVIT procedures are performed.	The College operates an Inspection Program under the guidance of the Inspection Committee (IC). Inspections: • New premises (Part I and II): 1 • Regular inspections: 0	
The Inspections Committee (IC) will be supported by the College.	The Inspection Committee (IC) is supported by the Manager of Professional Practice, the Deputy Registrar, and Legal Counsel. The IC met 1 time during the reporting period.	
Inspectors will be recruited and trained in support of the program as needed.	No activity this reporting period.	
New premises will be inspected within one hundred and eighty (180) days of becoming registered with the College.	New premises registered: 4 New premises inspected: • Part I: 1 • Part II: 0 All Part I inspections were completed within 180 days of being registered.	

The College will manage the Premises Registry on its website.	The IVIT Premises Register was updated regularly.
	• 13 Inspection Committee Reports were posted which included:
	  ○ 12 pass outcomes
	  ○ 1 pass with conditions outcome	

Type 1 and Type 2 occurrence reports will be processed and reviewed by the Inspection	Type 1 Occurrence Reports: 1 • 1—referral of a patient to emergency	

Activity (Ends Reference)	Results for this Period	Results to Date
Committee and statistical data reported annually.	services within 5 days of an IVIT procedure. • Type 2 Occurrence Annual Reports: 165 *(annual submission due May 1, 2020)*	
1.9 Scheduled Substance Review Program		
The College will operate a process to review the tables to the General Regulation outlining the drugs and substances authorized for use by the profession and review the specimens and tests that can be taken, performed or ordered by the profession.	The College has an approved process to review the tables to the General Regulation and the laboratory tests available to NDs, which is guided by the Scheduled Substances Review Committee (SSRC). This process is on hold while the SSRC undertakes a Scope of Practice review at the request of Council.	
The Scheduled Substances Review Committee will be supported by the College through the timely provision of information for meetings.	The SSRC is supported by the Deputy Registrar.	
In 2020-2021, the SSRC will review and consider making recommendations to Council for additional considerations to the schedules of drugs, substances and lab tests.	The SSRC will be undertaking a review of the Scope of Practice of the profession of naturopathy in Ontario in order to identify potential gaps in the system.	
In 2020-2021, necessary research will be conducted in support of additional considerations as established by the Council.	The SSRC will be conducting a review of the Scope of Practice of the profession of naturopathy in Ontario.	
1.10 Regulatory Education		
The Regulatory Education Specialist will respond to Members' questions and provide information, whenever possible, and guide the profession to the resources available to it.	237 inquiries were responded to. Members are regularly guided to where they can find the relevant regulation, standard of practice or guideline on the College's website.	

Activity (Ends Reference)	Results for this Period	Results to Date
The College will use *iNformeD*, the website and other communications channels to ensure that the profession is aware of the regulations, standards and guidelines for the profession.	No articles were submitted for *iNformeD*.	
The College will respond to inquiries from the public, Members and stakeholders by telephone or through written communication as required.	The Manager of Professional Practice responded to 17 telephone inquiries and 220 emails. The 10 most common inquiries related to: • COVID-19 • Telepractice • Inspection Program • Patient visits • Registration and Membership • Continuing Education • Scope of Practice • Use of restricted titles • Advertising • Delegation	
All standards, guidelines and policies will be maintained on the College's website.	All standards, guidelines, policies are maintained on the College's website. During the reporting period the College developed a COVID-19 Reopening Guideline to support Members in reopening their practices. Ministry developments are monitored and the College guideline has been updated twice during the reporting period to align with changing government policy.	

2. Governance of the College

The College will ensure that it is properly governed by a Council and an Executive Committee as required under the *Regulated Health Professions Act, 1991* and that these governing bodies fulfill their roles and responsibilities under the Act, and are properly constituted as set out in the *Naturopathy Act, 2007* and the College by-laws. As such, the following operational activities will be undertaken.

2.1. Good Governance

Activity (Ends Reference)	Results for this Period	Results to Date
2.1.1 Ensuring Council is Properly Constituted		
Council elections will be conducted annually as required by the by-laws.	Council elections concluded in the fall of 2019; however, the re-elected Council members formally began their new term on April 29, 2020.	
Executive Committee elections will be initiated immediately following the completion of Council elections and will be held at the first meeting of the Council following the Council elections.	Executive Committee elections were initiated in February and concluded at the April 29, 2020 Council meeting.	
The Registrar will monitor the appointments of public members to the Council to ensure applications for renewals are submitted in a timely manner and that the Public Appointments Secretariat is aware of vacancies and the needs to appointments and re-appointment as necessary.	During this period, information seeking the reappointment of one public member was forwarded to the Ministry of Health.	
The College will work with and respond to all external oversight agencies to ensure that it is meeting all legislative requirements.	The College has been working closely with the Ministry of Health on health human resource planning and with the Ministry Emergency Operations Centre during the COVID-19 pandemic.	
2.1.2 Council Orientation		
The Registrar will work with the Executive Committee, the President and Legal Counsel to provide a program of annual orientation for existing and newly elected/appointed Councillors.	Due to COVID-19 restrictions and the remote working status of the office, orientation for new Council members was not conducted during this reporting period.	
Members of the Council will be oriented to the governance model and their fiduciary responsibilities annually.	Due to COVID-19 restrictions and the remote working status of the office, an annual orientation for Council was not conducted during this reporting period.	
2.1.3 Reporting to Council		

Activity (Ends Reference)	Results for this Period	Results to Date
The Registrar will submit quarterly reports to the Council detailing operational activities, based on the ENDS policy, as well as his performance with respect to his statutory responsibilities. These reports will be made public.	A Registrar's Report for the period ending March 31, 2020 was submitted to and accepted by Council on April 29, 2020.	
The Registrar will provide trending information to the Council relating to the nature of complaints/investigations, discipline referrals, performance of groups of candidates on examinations and issues identified by the public and Members.	The Registrar's Report includes all relevant trending information.	
Council will be fully briefed on all major issues and policy matters to be brought before it and Council will receive its materials for meetings in a timely manner.	Council was briefed at its April meeting about changes to and blueprints for the Clinical Sciences Examination and the Biomedical Examination. A full briefing was provided on the College's response to the COVID-19 pandemic.	
2.1.4 Assessing Performance		
The Council will undertake an annual organizational performance review measuring the College's activities against the Operating Plan and Operating Budget.	Documentation in support of the Organizational Performance Review was provided to the Executive Committee who undertook their work as part of their May meeting.	
The Council will undertake a performance review of the Registrar on an annual basis in accordance with its policies.	This process was initiated by the Executive Committee as noted in the preceding line. Additionally, the Executive Committee engaged The Portage Group to assist in the process redefining the Registrar's Review for future years.	
The Council will undertake a bi-annual (2020, 2022) assessment of its own performance over the course of the prior two years.	This was not undertaken during this reporting period.	
2.1.5 Identification and Mitigation of Risk		
The Registrar, on behalf of the Council, will maintain appropriate insurance policies to cover risks to the organization, including	All insurance policies have been renewed by the College.	

Activity (Ends Reference)	Results for this Period	Results to Date
directors and officer's liability insurance, commercial general liability insurance and property insurance.		
• The College will update the organisation-wide risk assessment, including but not limited to: ○ Identifying potential bias in assessment methods or procedures, ○ Developing and recording mitigating strategies to address potential risks in guidelines for assessors and decision-makers, and Establishing a means to ensure corrective actions are implemented in a timely manner.	The College continues its work on organisation-wide risk assessments.	
2.2 Support to Committees		
2.2.1 Composition, Recruitment and Appointment		
Recruitment of non-Council Members for Committees and operational roles in the College will be undertaken and will include a robust screening process.	Recruitment was undertaken and in April, the Council appointed its first four public representatives to various committees. Work on the screening process continues.	
The Council will be asked to appoint Members of Council and non-Council Members to the Committees.	All committee appointments were made by the Council at its April 29, 2020 meeting.	
2.2.2 Committee Training and Guidance		
The College will provide training to the new Committee volunteers.	A group orientation session has not yet occurred due to the COVID-19 restrictions; however, individually, new volunteers have been trained by their staff liaisons and the Committees themselves. All Committee chairs were in receipt of a full day of chair training focussed on how to facilitate successful meetings.	

Activity (Ends Reference)	Results for this Period	Results to Date
The College will provide training to the Committees on issues relating to conflict of interest, bias, health and safety, human rights, as well as, on how Committees operate within the College and the specific role of each Committee.	Training has not yet occurred due to the COVID-19 restrictions.	
The College will develop guidelines, policies or other similar documents for Committee members about the potential for bias or risk to impartiality in the assessment process. These documents should include content on: ○ Characteristics or types of bias and/or situations that may compromise the impartiality of assessment decisions, ○ Procedures to follow where there is a potential for bias, and ○ Actions to prevent discriminatory assessment practices.	No work has been undertaken during this timeframe.	
2.2.3 Committee meetings		
Council Committees will meet on an "as-needed" basis ensuring effective use of financial and human resources. Wherever possible, and with the consent of the Chair, meetings will be conducted electronically.	During this period, committees where the Chair has determined a meeting was necessary, have met either by telephone or by using the College's Zoom platform.	
The College will monitor Committee attendance to ensure that quorum requirements have been met.	Committee attendance is being monitored by the Committee liaisons.	
Committees will receive their information for meetings in a timely manner.		

2.3 Transparency
2.3.1 Reporting

Activity (Ends Reference)	Results for this Period	Results to Date
The qualitative Annual Report format will be continued and augmented to provide information to the public and stakeholders about Council processes and decisions.	No work was undertaken during this reporting period.	
Audited financial statements and the Auditor's Report will be reviewed by Council, approved and publicly released.	No work was undertaken during this reporting period	
Committee reports will be presented to the Council at each meeting and an annual report of Committee activities presented to the Council.	No work was undertaken during this reporting period	
2.3.2 Decision-making		
A decision-making matrix/tree for the Council and each of its Committees will be developed, reviewed and adopted by Council and published.	A decision-making tree is maintained for QA, ICRC, SSRC, RC and EAC.	
Council meetings, agenda and materials will continue to be posted publicly.	All Council meeting materials for the April 29, 2020 meeting were posted on the College's website one week prior to the meeting.	
2.3.3 Regulatory Processes and Public Interest		
The College will maintain a summary table of active and resolved complaints and inquiries.	This table is provided via the College's website and is updated regularly.	
The College will alert the public to discipline hearings and outcomes.	All decisions and reasons from hearings are published on the website in both English and French. One hearing was held during the reporting period.	
In addition to Notices of Hearing and Decisions and Reasons of Discipline Panels, the College will ask the DC to consider providing access to Joint Submissions on Penalty and Costs (JSPCs) and Agreed Statements of Facts (ASFs).	In addition to Notices of Hearing and Decisions and Reasons of Discipline Panels, JSPCs, ASFs and Notices of Waiver, where applicable, are posted on the Discipline Outcomes page as per directive of the DC.	

Activity (Ends Reference)	Results for this Period	Results to Date
2.4.1 Review of Regulations and Program Policies		
The College will review Regulations and Program Policies and recommend any required policy changes.	No work was undertaken during this reporting period	

2.5 Governance Review		
2.5.1 Undertaking a Review		
Working with the consultant and the Executive Committee, the final report from the Governance Review undertaken in the prior planning year will be completed.	The report, entitled Governance Report: A Mandate for Change was drafted during this period, reviewed and accepted by the Executive Committee. Plans to present it to the Council were placed on hold due to the COVID-19 pandemic and the need to move to a video conference platform. Work is presently underway for the Executive Committee to consult with the Council on this draft report and to present it in July.	
2.5.2 Acting on Review Outcomes		
The Report will be submitted to the Minister of Health and Long-Term Care. The Report will be disseminated among the other health regulatory Colleges and other regulators. By-law changes, where required, will be developed by the Registrar and presented to Council for final review. Other activities will be determined based on the content of the Report.	A draft Governance Report Implementation Plan has been prepared by the Registrar and accepted by the Executive Committee. Plans to present it to the Council were placed on hold due to the COVID-19 pandemic and the need to move to a video conference platform. Work is presently underway for the Executive Committee to consult with the Council on this draft report and to present it in July.	

2.6 College Performance Measurement Framework		
2.6.1 Implementation		
The College develops the necessary infrastructure to meet and report to the Ministry on priority Standards, performance measures and supporting evidence.	The College Performance Measurement Framework has not yet been finalized by the Ministry of Health so no work was possible on this item.	

Activity (Ends Reference)	Results for this Period	Results to Date

3. Corporate Activities

3.1 Human Resources

The College recognizes that its human resources are a key asset. It also recognizes that while a major part of its work is conducted by its staff, it also relies on volunteers to fill important roles on Statutory, Council and Operational Committees, as well as, in the delivery of operational programs.

3.1.1 Recruitment		
Each position in the College will have a relevant and up-to-date position description.	All active positions with the College have up to date position descriptions.	
Existing staff will be considered first for open positions as opportunities for advancement or development prior to advertising positions.	All internal postings are shared with staff for consideration.	
New and vacant positions available in the College will be advertised in an open and transparent fashion and will ensure that the College is an equal opportunity employer.	All internal postings are posted both internally and externally.	

3.1.2 Compensation		
A set of salary ranges that reflect current market value will be updated annually based on cost of living and used to recruit new employees.	A set of salary ranges has been established for 2020-21 prospective new hires in accordance with CPI.	
3.1.3 On-boarding New Staff		
A specified process for on-boarding new staff will be implemented that properly and effectively orients new staff to the College and its role/mandate and the functions of the College departments.	General orientation checklist and onboarding PowerPoint presentation is conducted with all new hires within their probationary period.	
3.1.4 Performance Management		
Staff performance will be evaluated in an open and transparent way based on standardized performance management processes.	Standard evaluation used for all levels of staff. New elements are being piloted this year with the Senior Management Team only.	

Activity (Ends Reference)	Results for this Period	Results to Date
Performance reviews will be conducted on all staff annually and during their probation period by the College.	All staff eligible for an annual or probationary period review have been completed for all staff with the exception of one member of the Senior Management Team which will be completed by mid-July.	
3.1.5 Enhancing the College Team		
Management and staff will work collectively to continue to build and enhance the College "team" as a unified work force.	Staff meetings have increased to monthly using the Zoom platform and the College's Teams networking system is heavily used for casual chat, information sharing and questions. A full team chat area is heavily used to continue our work at building the team environment.	
Staff will be informed of corporate activities and provided information and guidance to enhance their own performance and that of the entire team.	Staff have been kept informed by regular communication from the Registrar, each Senior Manager meets with their respective teams on a weekly basis for updates and to provide performance feedback and all College staff use the collaborative platform to chat by using the Teams app.	
Ensuring an environment that is free from harassment, abuse and discrimination.	Policy is posted, shared with staff and included in orientation along with key contacts for reporting.	
3.1.6 Training		
The College will provide staff within ongoing training to enhance individual and program performance.	Managers and staff that provide senior support to committees undertook a 2-day training on meeting facilitation.	
3.1.7 Off-Boarding		
A specified process for off-boarding staff will be implemented that ensures the College has the opportunity to glean information from staff departures about the College functionality, work environment and College leadership as a means of learning from staff experiences.	An off-boarding checklist is completed along with an Exit Interview as applicable.	

3.2 Financial Management

Activity (Ends Reference)	Results for this Period	Results to Date
The following activities relating to the financial management of the College will be undertaken.		
3.2.1 Budget Development		
The Registrar, through the Director of Operations, will develop a budget for presentation to and acceptance by the Council, that will include a one-year budget and two years of estimates, based on a three-year operating plan.	Capital and Operating Budget were re-presented to Council on April 29 regarding potential cutbacks in lieu of staff working from home due to COVID-19 and opportunities for savings to subsidise a 40% reduction in registration dues for the current fiscal year.	
The budget development process will include a consultation process with the Council, Committees and with the Executive Committee in order to ensure that the needs of the Council and the Committees have been adequately addressed.	Capital and Operating Budget were re-presented to Council on April 29 regarding potential cutbacks in lieu of staff working from home due to COVID-19 and opportunities for savings to for the Council to make a recommendation on the potential reduction in registration dues for the current fiscal year.	
3.2.2 Financial Reporting		
The Registrar, through the Director of Operations, will provide Council with Quarterly Unaudited Financial Statements and a variance report explaining expenditures against budgeted amounts.	Q4 unaudited financials with variance reporting were presented to the Executive and Council.	
Quarterly unaudited Financial Statements will be presented to the Executive Committee for review and acceptance.	Q4 unaudited financials were presented to the Executive Committee for review and acceptance on June 3, 2020.	
3.2.3 Annual Audit		
The Registrar, through the Director of Operations, will support the annual audit of the College's finances by the external auditor selected by the Council and in concert with the Council's Audit Committee.	Audit Committee met in May to accept Auditor's scope of work, planning and engagement letter. College audit fieldwork commenced on June 15, 2020 for a two-week duration period.	

Activity (Ends Reference)	Results for this Period	Results to Date
The Registrar will address any concerns surrounding the management of the College's finances, as set out by the Auditor or the Audit Committee at the time the Auditor and Audit Committee present their findings to the Council.	No activity this quarter.	

3.3 French Language Services		
3.3.1 Translation of materials		
Existing content materials for key College programs will be systematically reviewed and translated into French and made available by the College.	As part of the website redesign and the new content library, 43 existing documents have been translated to French during Q1.	
On a go forward basis, all new materials developed by the College, will be translated once approved and posted to the website.	The new *COVID-19 Reopening Guidelines* have been translated to to French.	
The College will translate all Decisions and Reasons of the Discipline Committee into French.	One decision and reason has been translated to French: Decisions and Reasons—Leslie EE.	
3.3.2 French speaking personnel		
The College will maintain sufficient French speaking personnel to be able to respond to the needs of the public and the members.	College mandate is fulfilled.	
The College will undertake training of existing French-speaking personnel and any non-French speaking personnel who desire additional learning to encourage the development and maintenance of French language capabilities.	No activity this quarter.	
The College will encourage existing French-speaking personnel and those learning to use French in the office environment.	Staff are encouraged to speak in French with their peers.	

3.4 Operating Policies & Procedures
The College has developed and implemented many operating policies since proclamation. These will be reviewed to ensure that they reflect current practices and the most efficient means of operating. While procedures have been established, few are fully documented. Finally, there

Activity (Ends Reference)	Results for this Period	Results to Date
are areas where no written policies or procedures are in place.		
3.4.1 Existing Operating Policies & Procedures		
A review will be undertaken of existing operating policies and procedures to ensure that they reflect good practices and are consistent with the objects of the College and procedural fairness, and that they are fair, objective, impartial and transparent and free of bias. This will coincide with the program reviews.	HR-Personnel policy has been updated and approved.	
The College will review Regulations and Program Policies and recommend any required policy changes.	No work was undertaken during this reporting period	
3.4.2 Development of New Operating Policies & Procedures		
• New operating policies will be developed based on needs identified by the senior management team or based on Council directions.	A Translation Policy was developed and approved.	
3.5 Records Management and Retention		
3.5.1 Records Management Audit		
The College will conduct on-going and regular audit of its records management and retention practices to ensure that practices are in keeping with the Records Management and Retention policies.	No work was undertaken during this reporting period	
3.6. Corporate Communications		
3.6.1 Communications Return on Investment		
The College will monitor its communication vehicles (*iNformeD, News Bulletin*, website) to determine overall utilisation and a means of gaging its return on investment, as well as opportunities to solicit audience feedback.	Monitoring is ongoing based on the results from quarterly Communications analytics dashboards. • Unique website visits: 84,051 (including 4,270 to the COVID-19 Information for	

Activity (Ends Reference)	Results for this Period	Results to Date
	NDs page and 2,601 to the COVID-19 page for the public) • *INformeD* was not issued this quarter due to other COVID-19-related communications. • The average open rate for the May & June *News Bulletins* was 84%—our highest engagement rate in the past 3 years. • All-member e-mails were sent to the profession about COVID-19 and related topics on April 29 (Council decisions re exams, fees, etc.), May 15 (update on return to work status), May 27 (Health Sector Restart & returning to practice), May 29 (College Re-opening Guidelines & resources). Readership levels were an all-time high of 91%. • Over 120 e-mail inquiries to general@collegeofnaturopaths.on.ca were triaged and responded to where appropriate by Communications. • Andrew's Corner (blog) was visited 197 times. This lower than average rate was due to fewer posts being published and promoted.	
3.6.2 Communications Support and Issues Management		
Provide ongoing marketing communications counsel, planning and development of materials to all College departments as needed.	• Regular updates to COVID-19 materials and webpage content for NDs and the public. • Regular editing/approvals for materials created by all departments. • Completed tracking and analysis of 2020 Renewal analytics and held debriefing meeting with Renewal team to ID opportunities for improvement. • Revised ETP exam webpages and *Which Exam Should I Take?* infographic, created page for Biomedical Exam,	

	ongoing revisions of schedules, added new reference materials. • Created volunteer recognition infographic for use in blog and newsletter during National Volunteer Week. • Investigated e-mail marketing platform options for compatibility with move to Alinity, including research with other HROs. • Created 5th Anniversary logo. • Updated Council member bios on website.	
Continue with a proactive issues management program to ensure the College is prepared as possible for media interest in upcoming Discipline hearings and other matters, including those that may solicit negative feedback from Members and other stakeholders.	Responded to incoming inquiry from documentary producer about NDs counselling patients re immune system during COVID-19.	
3.6.3 The College Website		
The College's website will be accurate, up-to-date and a valued tool for users.	The website is regularly reviewed and updated to ensure all content is current and accurate and that stakeholders are informed of upcoming events.	
3.6.4 Public and Stakeholder Engagement		
The College will engage naturopathic stakeholders in ongoing dialogue.	Regular communications were ongoing with the OAND regarding both organizations' responses to COVID-19 so that, where appropriate, we coordinated information being sent to the profession.	
The College will engage the Ontario Government in ongoing dialogue.		
The College will engage other health regulatory Colleges in Ontario through the Health Profession Regulators of Ontario (HPRO), formerly known as FHRCO.	Several meetings of HPRO, both alone and others with the Ministry of Health in attendance were held in this reporting period to address the emerging pandemic crisis.	

Activity (Ends Reference)	Results for this Period	Results to Date
The College will engage other Canadian naturopathic regulators and support as much as is possible.	A meeting of CANRA registrars was held in early June to resume work on activities identified in the strategic plan.	
The College will engage Ontarians on regulatory matters.	• Promoted consultation on the new *Telepractice Guideline* and *Standard of Practice for Infection Control* to the Citizen Advisory Group. • Wrote article for CAG newsletter thanking participants in Governance Review consultation and sharing outcomes from Advertising by Regulated Health Professionals CAG survey and meeting led by CONO.	
The College will engage Members on regulatory and profession-specific matters.	Members were invited via the *News Bulletin* and website to participate in the current Standard & Guideline Consultation.	
The College will engage naturopathic educational students on regulatory and profession-specific matters.	Promoted ETP examination changes to CCNM and to Naturopathic Students' Association.	

4. Program Development

In addition to the continued delivery of its existing examinations, the College will focus on the development and launch of new written Entry-to-Practise and biomedical exams. Demonstration-based Objectively Structured Clinical Examinations (OSCEs), initially envisioned for PLAR, will be developed to replace the College's current clinical examinations in the future.

4.1 Written Biomedical Examination

4.1.1 BME Development		
The College will continue the development of the written biomedical entry-to-practise examination.	This activity was completed.	

4.2 Prior Learning Assessment and Recognition Program (PLAR)

The College will engage external experts who, in concert with College staff, Committees and Council, will conduct a review of the PLAR program, redevelop it as necessary and fully operationalise the program. As such, the following operational activities will be undertaken.

4.2.1 PLAR Redevelopment		
The PLAR Program will be refined and streamlined.	No work was undertaken during this reporting period	

Activity (Ends Reference)	Results for this Period	Results to Date
4.2.2 PLAR Program Implementation		
PLAR documentation will be fully developed and operationalised.	This activity remains ongoing based on the final PLAR consultant report, which will be provided following the PLAR training session.	
PLAR training will be developed and implemented.	The postponed April 15, 2020 training for Registration staff on the demonstration-based component (with the exception of the OSCE), as part of the "train the trainer" model for training. Demonstration based assessors will be conducted remotely on July 9, 2020.	
4.2.3 PLAR Information for Applicants		
The College will provide information for PLAR applicants as set out in the report of the Office of the Fairness Commissioner	This activity remains ongoing based on the final PLAR consultant report.	
4.2.4 Demonstration-based PLAR component		
No activities planned for this planning year.	Beta testing of the developed PLAR OSCEs has been postponed due to COVID-19	

4.3. Registration Practices The College will align its registration practices with the fair registration practices as set out by the Office of the Fairness Commissioner's audit and report.		
4.3.1 Information for Applicants		
Provide applicants support and consistent opportunities for translation of materials.	Translation of all applicant material is ongoing. Translated materials are currently made available upon request.	
Provide applicants with relevant fee information.	Fee schedules related to making an application for registration are updated regularly and posted in the Application for Registration Handbook.	
Creation of a decision-making guideline describing the registration process	No activity during this reporting period	
4.3.2 Policies, Procedures & Guidelines		
Develop needed guidelines to support registration processes.	No activity during this reporting period.	
Develop needed policies and procedures in support of the registration process.	No activity during this reporting period.	

Activity (Ends Reference)	Results for this Period	Results to Date
4.3.3 Registration Audit		
Establish an audit process to monitor, verify and improve the consistency and accuracy of registration decisions.	No registration audits were conducted during this reporting period.	
Establish processes to ensure third parties used in the registration process have assessment practices that meet OFC requirements.	No audits of third-party assessment practices were conducted during this reporting period.	

4.4 Volunteer Program Redevelopment		
4.4.1 Program Development		
The College will develop a competency-based approach to the recruitment process for non-Council Committee members and volunteers.	Under development.	
A new process for the recruitment of non-Council Committee members and volunteers based on the competencies necessary to fill the roles will be developed and implemented.	Under development.	
A new process for welcoming and training non-Council Committee members and volunteers will be developed and implemented with consideration to the approach being developed by other Colleges.	Under development.	

4.5 Inspection Program Review		
4.5.1 Inspection Timing		
The College will undertake a review of the timing of inspections with the intent of adjusting the schedules for the original "existing premises" that had to be inspected within the first two (2) years of launch to spread those over a longer period.	No activity this reporting period.	
4.5.2 Inspection Fees		

Activity (Ends Reference)	Results for this Period	Results to Date
• The College will undertake a review of all costs of inspections, as the initial five-year cycle will end in the subsequent fiscal year, with the intent of adjusting the fees to ensure that the program is revenue-neutral, that is, the inspections conducted pay for the costs of operating the program.	No activity this reporting period.	

4.6 College Data Management System Redevelopment		
4.6.1 Data Management System Implementation		
A new database to manage College operational systems and replace iMIS will be implemented.	College is currently working on Phase 1 of implementation and is slated to go live October 2020. There is anticipated overlap with the two databases until at minimum the end of the calendar year.	
4.6.2 Public Registry Redevelopment		
An operating policy governing the public registry will be developed, in compliance with the College by-laws in preparation for re-programming of the Registry.	Public Registry policy is in draft.	
A new registry will be developed in conjunction with any changes to the College's data management system.	Public Register is now completed within the new data management system-currently working on additional registries.	
4.6.3 College Website Redevelopment		
A new College website will be developed.	• Sought proposal from 78 Digital to develop new site using WordPress. • Completed key milestones for new site development including user flow and wireframes. Confirmed all library content documents and initiated translation of same.	

Activity (Ends Reference)	Results for this Period	Results to Date
4.7 Review of College Finances and Fees		
4.7.1 Request for Proposals		
No activities in this planning period.		
4.7.2 Five-Year Review		
No activities in this planning period.		

4.8 Property Search		
4.8.1 Request for Proposals		
No activities in this planning period.		

ACTIVITIES OUTSIDE OF THE OPERATING PLAN

The College was required to undertake the following activities although they were not anticipated and fall outside of the current Operational Plan:

This reporting period:

COVID-19 continues to impact our ongoing operations and planning. Participating in daily briefings with the government and other health partners is ongoing. We also respond to ongoing questions from Members and the public about the virus and naturopathic practice.

In addition, planning is underway for a return to the office this fall anticipated for September 8, 2020 (assuming the GTA has entered Stage 3 of the Re-opening Framework). These plans are intended to ensure compliance with the rules set by the Province and the City of Toronto, surrounding physical distancing and wearing of masks. These are the plans as of the time of preparing this report:

- A minimum complement of staff (6) will return to the office on September 8th
- The remaining staff will be working remotely (which is completely seamless as staff have access to e-mail, the server (through a College owned computer), and telephone numbers)
- The staff returning to the office will be set up at workstations as far apart from one another as is possible (and more than 6 feet apart)
- Several other workstations, and most offices will be converted to hotelling locations where remote working staff can set up when they need to come into the office for the day (these will still allow a minimum of 6 feet of distance from others)
- The Council Chamber will be converted to a meeting room with space for no more than 10 people, all other chairs will be removed
- All unused equipment (mostly chairs) will be moved to the small meeting room and the front office both of which will be converted to storage (this is a requirement to prevent them from contamination and later need to sterilize)
- Directional signage will be installed for traffic flow of staff and any others in the office
- A station will be set up with masks and hand sanitizer and staff in the office **may** be required to wear masks or shields (still under review)

- When outside of the office or greeting couriers, all personnel must wear masks
- No visitors will be permitted in the office without a pre-schedule appointment and pre-screening for COVID-19.

Additionally, we do not anticipate that Committee meetings will be held in the office, except where absolutely required, as the video conference platform has proven effective. We also do not anticipate that the October Council meeting can be held in person due to the strict physical distancing requirements that are in place.

Previous reporting period:

The COVID-19 pandemic has required the College to refocus a number of its resources and activities to provide support and guidance during the period of physical distancing.

In early March 2020, as the numbers of infections in Canada began to grow, the College began the process of implementing its emergency operations. By March 18, 2020, the College had transitioned to complete remote operations by sending College equipment (laptops, computers, screens) home with staff and having the computers set up for secure remote access to e-mail and the server. Staff have remained in constant contact through a variety of means, including e-mail, Microsoft Teams (instant messaging) and video conferencing. All operations of the College continue to operate fully due to the commitment and effort of every single member of staff. A small group of staff visit the office once each over a two-week period to collect mail and courier materials and to scan and send them to the appropriate departments.

After the Executive Committee meeting on March 4, 2020, all subsequent committee meetings have been held by teleconference and this will remain in place for some time to come.

The College has issued six updates to Members between March 16, 2020 and March 31, 2020 and updated the COVID-19 webpages for Members and the public numerous times. Most controversial among these was transmitting a Directive issued by the Chief Medical Officer of Health that all non-essential services by regulated health professions cease, regardless of whether those were delivered in person or by a virtual means. The College has supported initial registration by NDs with the Ministry of Health as part of the health human resource planning and the College continues to do so by encouraging Members to register with the Government to meet areas of need in various parts of the health care sector. In one of the College's early announcements, the Registrar & CEO deferred the deadline for payment of annual fees from the original March 31, 2020 deadline to May 31, 2020. The ongoing nature of this crisis may require further consideration of this timeframe before the end of May 2020. Another important step taken by the College was to allow individuals whose CPR certificate was about to expire an extension of the time needed to obtain a new certificate.

The College has also dedicated a page for the public to update them on COVID-19 issues as they relate to naturopathic services. Specific cautions were made about any persons making claims about treating or preventing COVID-19. The public has been encouraged to obtain their information from official public health and Ministry of Health sources. This was done in part due to activities of a person who is not a Member of the College and who was spreading information about COVID-19 as being a hoax and also in part due to several Members to whom the College was required to issue Cease & Desist letters relating to their comments and social media posts about COVID-19.

The Deputy Registrar has attended the daily COVID-19 updates from the Chief Medical Officer of Health and the Ontario Ministry of Health since

February of this year and has missed perhaps one or two due to conflicts. This commitment included attending these meetings during his vacation in Quebec. The Registrar has attended five teleconferences held by the Health Professions Regulators of Ontario (HPRO—formerly the Federation of Health Regulatory Colleges of Ontario) with the Ministry of Health, Health Human Resources Planning division.

I am pleased to also be able to tell you that despite some initial concerns, all of the staff have been and remain COVID-19 free. Three staff had travelled abroad and were quarantined upon their return to Canada. While at least one of these individuals did become ill, it is believed with confidence that the illness was seasonal flu as opposed to COVID-19. Other staff have experienced minor illnesses, stomach illness and a cold but again, there are no reports of COVID-19 at this time.

At the time of preparing this report, there is every indication that this crisis will last for many more months. The College is prepared to continue on a remote operation footing as long as it is necessary to do so.

REPORT ON EXECUTIVE LIMITATIONS COMPLIANCE

This part of the Registrar's Report will provide the Council with information regarding the Registrar's compliance with the Executive Limitation Policies established by the transitional Council.

Policy No.	Name	Compliance	Explanation/ Notes
EL01.00	Global Executive Constraint	Yes	
EL02.00	Emergency Registrar Replacement	Yes	
EL03.00	Communications and Council Support	Yes	
EL04.00	Treatment of Staff	Yes	
EL05.00	Financial Condition and Activity	Yes	
EL06.00	Financial Planning and Budgeting	Yes	
EL07.00	Financial transactions	Yes	
EL08.00	Asset Protection	No	See note 1
EL09.00	Workplace Violence	Yes	
EL10.00	Workplace Harassment	Yes	
EL11.00	Administration of Statutory Committees and Panel	Yes	
EL12.00	Operation of the Register	Yes	
EL13.00	Treatment of members	Yes	
EL14.00	Support to Council	Yes	
EL15.00	Program Administration	Yes	
EL16.00	Treatment of the public	Yes	

Note 1:
EL.08 #9: "Deposit monies in an insecured chequing account."
At the start of each month, the College requires a capital of $120,000 - $160,000 to cover wages, rent and all other

accounts payable. Any amount greater than $100,000 is not considered as unsecured. However, under #8, all College assets are with a bank under schedule 1 – in which risk of bankruptcy is very minute.

Respectfully submitted,

Andrew Parr, CAE
Registrar and CEO
July 2020

The College of Naturopaths of Ontario

AUDIT COMMITTEE REPORT FOR THE FISCAL YEAR 2019-2020

The Audit Committee consists of the following individuals:

- Dr. Elena Rossi, ND (Chair)
- Dr. Jordan Sokoloski, ND
- Lisa Fenton, Council Member

The audit for fiscal year April 1, 2019 – March 31, 2020 was completed remotely by Kriens-Larose, LLP. The Auditor's Report and Draft Financial Statements were received by the Committee on July 6, 2020.
Following receipt of the completed audit materials, the Audit Committee met by video conference on July 9, 2020 to discuss the Auditor's Report and the Draft Financial Statements. Thomas Kriens, Auditor, joined the Committee on the video conference to present the report and answer questions. Agnes Kupny, Director of Operations, Syed Mehdi, Finance and Administrative Officer, and Monika Zingaro, Administrative Assistant Operations, were also in attendance.

The following items were discussed during the review of the audit materials:

- The auditor did not find any major issues or serious difficulties through the process of the audit and confirmed that the financial statements are sound, requiring only routine audit adjustments.
- The Deferred Revenue noted for 2020 is a reduction of approximately $1,000,000 which accounts for the 40% reduction in membership fees and the extension of payment to September 2020.
- The financial effect of the 40% reduction on membership fees will have a greater impact on next year's financial statements.
- Under Revenue the line item for Examinations has increased by 52% from the previous year.
- Regarding the explanation of this variance, Agnes outlined changes that the cost of the Clinical Sciences Exam was a different rate than budgeted and that attendance for the Prescribing Exam had increased.
- Operating Cash Flows especially for Registration and Membership Renewal decreased because the date for membership fees was delayed to September 2020 and fee reduction credits were already underway.
- Regarding the Adjusted Journal Entries, there were a total of seven entries which were not a cause of concern; the single entry for the largest money amount ($1,014,147) was to account for the 40% reduction of membership fees and change to Deferred Revenue.

The Audit Committee recommends that Council accept the Draft Audited Financial Statements including the Independent Auditor's Report, as presented.

Respectfully submitted,
Dr. Elena Rossi, ND
Chair
July 10, 2020

KRIENS~LAROSE, LLP
CHARTERED PROFESSIONAL
ACCOUNTANTS

THE COLLEGE OF NATUROPATHS OF ONTARIO

REPORT TO THE AUDIT COMMITTEE

This report serves as a formal document between the auditor and those charged with Governance with respect to: our terms of engagement; significant matters/issues discussed with management; internal control weaknesses (if any); management representations; the status of our final procedures and other required communications required by our professional standards.

KRIENS~LAROSE, LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

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July 6, 2020

The Audit Committee
The College of Naturopaths of Ontario
150 John Street, 10th floor
Toronto, Ontario
M5V 3E3

Dear Audit Committee:

We have recently completed our audit of the College's March 31, 2020 financial statements and we are pleased to present the results.

This report to the Audit Committee summarizes the terms of our engagement, the issues of audit significance discussed with management, the status of our final procedures, and provides the communication required by our professional standards.

This report is intended solely for the use of the Audit Committee and management, and is not intended to be and should not be used by anyone other than these specified parties. We disclaim any responsibility to any third party who may rely on it. Further, this report is a by-product of our audit of the March 31, 2020 financial statements and indicates matters identified during the course of our audit. Our audit did not necessarily identify all matters that may be of interest to the Audit Committee in fulfilling its responsibilities. The detailed terms of our engagement are outlined in our engagement letter.

Yours truly,

Kriens~LaRose, LLP
Chartered Professional Accountants
Licensed Public Accountants

Thomas Kriens

Thomas Kriens, CPA, CA, LPA, Partner

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AUDIT APPROACH

Overview

For purposes of our audit of the financial statements, our audit scope was developed after considering inherent and control risks and the effectiveness of the College's internal controls.

Kriens~LaRose reviewed and evaluated the overall internal control environment and assessed the computer environment. Where the audit plan was dependent on an understanding or reliance on internal controls, we documented and tested the specific internal control. This approach resulted in the most effective external audit.

Our understanding of the business and controls provides the basis for our audit risk assessments, and the identification of audit procedures responsive to those risk assessments. Our balanced approach was designed to focus comparatively more audit effort on complex, higher-risk areas than on those assessed as lower risk.

The Audit Process

We have completed our examination of the College's March 31, 2020 financial statements and have issued an unqualified audit opinion on the financial statements.

The objective of an audit of financial statements is to express an opinion whether the financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the College in accordance with Canadian Accounting Standards for Not-for-Profit Organizations.

The audit process involved:

- Assessing the risk, the financial statements may contain material misstatements.
- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used, and their application;
- Assessing the significant estimates made by management; and
- Reviewing the internal controls, to gain a sufficient understanding in order to plan the audit and determine the level of control risk.
- Where control risk was assessed at below maximum; a combined audit approach was used. Where the control risk was assessed at maximum or where it is determined that it would be more cost-efficient, a substantive audit approach was used. It should be noted that this did not extend to an evaluation of internal controls sufficient for expressing an opinion about their effectiveness.

The engagement team undertook a documented planning process prior to commencement of the audit to identify concerns, address independence considerations, assess the engagement team requirements, and plan the audit work and timing.

Audit Approach

The audit techniques used in our audits of not-for-profit organizations has been developed based on our not-for-profit audit experiences, and the audit standards as required by the Chartered Professional Accountants of Canada. Our goal in completing your audit was to ensure that the audit was completed on a timely and efficient manner. The summarized procedures we followed included the following:

- Preparation of a year-end planning letter setting out the audit plan, scheduling of the audit, timing of the financial statements and information to be prepared for the audit.
- Correspondence with accounting staff prior to the year-end audit to review the year-end planning letter, address significant audit issues, and the timing of the audit.
- Completion of compliance and substantive procedures to ensure that the assets of the College are adequately safeguarded. Analysis of the revenue and expense accounts including reasonability testing, verification, and analysis of accounts.
- Post audit review with the management and accounting staff to review the results of the audit and any improvements for the next fiscal year.
- Prepare and deliver to the College our report conveying the results of our audit and our concerns, if any, relative to the internal accounting, operating controls, and other matters of material importance with respect to the operations, including our recommendations, if any, for improving the system of internal control.

MATERIALITY

Materiality in an audit is used to:

- Guide planning decisions on the nature and extent of our audit procedures;
- Assess the sufficiency of the audit evidence gathered; and
- Evaluate any misstatements found during our audit.

Materiality is defined as:

Materiality is the term used to describe the significance of financial statement information to decision makers. An item of information, or an aggregate of items, is material if it is probable that its omission or misstatement would influence or change a decision. Materiality is a matter of professional judgment in the particular circumstances and is based on ½% to 2% of total revenue.

We used a materiality of $60,000, based on 2% of total revenue.

AUDIT TEAM AND FEES

Engagement Team

Kriens~LaRose continues to offer our services as originally promised with the partner involvement during the audit process. Our partners and staff offer both industry experience and a working knowledge of the College. Below are the members of the March 31, 2020 audit team.

Engagement Member	Responsibility
Thomas Kriens	Engagement Partner
Ignatius Jeffry	Staff Accountant

Fees

A summary of our fees is included below for your reference:

	2020	2019
Annual audit	$15,600	$15,600
Other	Nil	Nil
Total	$15,600	$15,600

AUDIT COMMUNICATIONS

Canadian audit standards require the auditor to communicate certain matters that may assist them in overseeing management's financial reporting and disclosure process. Below we summarize these communications as they apply to the March 31, 2020 audit.

AREA	COMMENTS
Auditors Responsibilities under Canadian Audit Standards (CAS)	
As set out in the section on terms of engagement, we designed our audit to express an opinion on your financial statements. The financial statements are the responsibility of management. Our audit was designed in accordance with CAS, which provides for reasonable, rather than absolute, assurance that the financial statements are free from material misstatement. As part of our audit, we obtained a sufficient understanding of the internal control structure to plan our audit and to determine the nature, timing and extent of testing performed.	We anticipate issuing our audit opinion upon completion of the following procedures: • Approval of the financial statements • Our final quality control review • Management representation letter signed
Sensitive Accounting Estimates and Disclosures	
The preparation of financial statements requires management to make estimates and assumptions that affect the reporting amounts of assets and liabilities, disclosure of contingent assets and liabilities, disclosure of information related to going concern issues, and disclosure of information related to financial dependency. We have reviewed the significant accounting estimates used by management in deriving the financial statements and the judgments made related to disclosure of information. We determine that the College is informed about management's process for formulating particularly sensitive accounting estimates and disclosures and about the basis for our conclusions regarding the reasonableness of those estimates.	Based on our audit procedures, we have concluded such estimates and judgments are reasonable in the context of the financial statements when taken as a whole. Financial results as determined by actual events could differ from those estimates and it is reasonable to assume such differences may be material.

AREA	COMMENTS
Related Party Transactions	
During our audit, we conduct various tests and procedures to identify transactions considered to involve related parties. Related parties exist when one party has the ability to exercise, directly or indirectly, control, joint control, or significant influence over the other. Two or more parties are related when they are subject to common control, joint control, or common significant influence. Related parties also include management, directors and their immediate family members and companies with which these individuals have an economic interest.	Management has advised that no related party transactions have occurred that have not been disclosed to us. The College is required to advise us if it is aware of or suspects any other related party transactions have occurred, which have not been disclosed in the financial statements.
Major Issues Discussed with Management Including Accounting for Significant Unusual Transactions and for Controversial or Emerging Areas	
We determine that the College is informed about methods used to account for significant unusual transactions and the effects of significant accounting policies in controversial or emerging area for which there is a lack of authoritative guidance or consensus.	We are not aware of any significant unusual transactions recorded or of any significant accounting policies used related to controversial or emerging areas for which there is a lack of authoritative guidance.
Significant Audit Adjustments and Unadjusted Differences Considered by Management to be Immaterial	
We provided the College with information about adjustments arising from the audit (whether recorded or not) that could in our judgment either individually or in the aggregate have a significant effect on the College's financial statements. We inform the College of unadjusted audit differences accumulated by us during the current audit period and pertaining to the latest period presented that were determined by management to be immaterial, both individually and in the aggregate, to the financial statements taken as a whole.	Refer to "Summary of Audit Differences" section for details of unrecorded and recorded differences.

AREA	COMMENTS
Fraud and Illegal Acts We report to the College fraud and illegal acts involving senior management and fraud and illegal acts (whether caused by senior management or other employees) that cause a material misstatement to the financial statements.	We are not aware of any matters that require communications.
Disagreements with Management	None.
Other Information in Documents Containing Audited Financial Statements	We will review the annual report when it becomes available, if applicable.
Serious Difficulties Encountered in Dealing with Management when Performing the Audit	None.
Material Weaknesses in Internal Control	None.
Consultation with other Accountants	None required.
Independence Canadian audit standards require that we communicate at least annually with you regarding all relationships between the College and Kriens~LaRose, LLP that, in our professional judgment, may reasonably be thought to bear on our independence.	We confirm our independence from the College.

ITEMS OF SIGNIFICANCE

Novel Coronavirus

We have added note #1 to the financial statement which outlines the known changes in the operations of the College due to COVID-19, including the one-time 40% fee reduction

The effect of the fee reduction is a reduction of the year-end accounts receivable of $615,554, reduction of deferred revenue of $1,014,147 and recording accounts payable of $398,593. The accounts payable is the funds owing to the members who had paid their fees prior to the 40% reduction being in place

AUDIT ADJUSTMENTS

Audit Adjustments

We provide the College with assistance related to the preparation of its financial statements and disclosures related thereto. The adjusting entries have been prepared in consultation with and direction from management. We can confirm that we do not authorize or execute transactions on behalf of the College. The adjusting entries recommended are attached and have been approved by management.

Summary of Unadjusted Differences

We did not find any unadjusted misstatements in the current year and we do not have any reversing unadjusted misstatements carried forward from the prior year.

THE COLLEGE OF NATUROPATHS OF ONTARIO

FINANCIAL STATEMENTS

MARCH 31, 2020

THE COLLEGE OF NATUROPATHS OF ONTARIO

FINANCIAL STATEMENTS

MARCH 31, 2020

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INDEPENDENT AUDITOR'S REPORT

To the Members of
The College of Naturopaths of Ontario

Report on the Audit of the Financial Statements

Opinion
We have audited the financial statements of The College of Naturopaths of Ontario, which comprise the statement of financial position as at March 31, 2020, and the statements of operations and changes in net assets and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of The College of Naturopaths of Ontario as at March 31, 2020, and the results of its operations and its cash flows for the year then ended, in accordance with Canadian accounting standards for not-for-profit organizations.

Basis for Opinion
We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of The College of Naturopaths of Ontario in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

INDEPENDENT AUDITOR'S REPORT (continued)

Responsibilities of M*anagement and Those Charged with Governance for the Financial Statements*
Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the College's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the College or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the College's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements
Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

INDEPENDENT AUDITOR'S REPORT (continued)

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the College's internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.

- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the College's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the College to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

KRIENS~LAROSE, LLP

Chartered Professional Accountants
Licensed Public Accountants

Toronto, Ontario
July 29, 2020

THE COLLEGE OF NATUROPATHS OF ONTARIO
STATEMENT OF FINANCIAL POSITION
AS AT MARCH 31, 2020

	2020 $	2019 $
ASSETS		
CURRENT		
Cash and cash equivalent (Note 3)	3,996,624	4,605,778
Accounts receivable (Note 5)	933,424	191,357
HST receivable	-	9,007
Prepaid expenses	55,620	83,681
	4,985,668	4,889,823
EQUIPMENT (Note 4)	54,495	26,632
	5,040,163	4,916,455
LIABILITIES		
CURRENT		
Accounts payable and accrued liabilities	579,597	134,327
Deferred revenue (Note 5)	1,521,221	2,413,129
HST payable	306,870	-
	2,407,688	2,547,456
NET ASSETS (NOTE 6)		
Unrestricted net assets	2,467,386	2,199,504
Patient relations	89,704	94,110
Strategic initiatives	75,385	75,385
	2,632,475	2,368,999
	5,040,163	4,916,455

APPROVED ON BEHALF OF THE COUNCIL:

_____, Director _____, Director

See accompanying notes to the financial statements

THE COLLEGE OF NATUROPATHS OF ONTARIO

STATEMENT OF OPERATIONS AND CHANGES IN NET ASSETS

FOR THE YEAR ENDED MARCH 31, 2020

	2020 $	2019 $ (Note 9)
REVENUES		
Registration and member renewal fees	2,555,036	2,426,324
Examination fees	305,775	160,805
Inspection and hearing fees	82,050	223,900
Interest	45,253	40,377
Incorporation fees	18,650	17,350
TOTAL REVENUES	3,006,764	2,868,756
EXPENSES		
Salaries and benefits	1,366,521	1,141,723
Rent and utilities	269,879	264,196
Exam fees and expenses	127,989	112,473
Office and general	99,162	121,972
Consulting fees		
Consultants - General	115,772	118,359
Consultants - Assessors/inspectors	32,418	60,770
Consultants - Complaints and inquiries	77,276	94,777
Legal fees		
Legal fees - Complaints	81,696	50,636
Legal fees - Discipline	87,427	86,135
Legal fees - General	67,766	61,521
Council fees and expenses	84,613	71,032
License	81,051	49,282
Public education	74,009	82,744
Equipment maintenance	35,022	31,177
Insurance	27,426	26,773
Travel accommodation & meals	24,736	31,850
Amortization	19,194	12,918
Audit fees	17,002	15,980
Website	16,837	-
Translation	16,233	967
Printing and postage	10,927	6,153
Education and training	7,389	8,715
Discipline & FTP committee	2,193	14,610
Patient relations committee	750	9,624
TOTAL EXPENSES	2,743,288	2,474,387
EXCESS OF REVENUES OVER EXPENSES FOR THE YEAR	263,476	394,369
NET ASSETS, BEGINNING OF YEAR	2,368,999	1,974,630
NET ASSETS, END OF YEAR	2,632,475	2,368,999
Allocated to:		
Unrestricted net assets	2,467,386	2,199,504
Patient relations	89,704	94,110
Strategic initiatives	75,385	75,385
	2,632,475	2,368,999

See accompanying notes to the financial statements

THE COLLEGE OF NATUROPATHS OF ONTARIO
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED MARCH 31, 2020

	2020 $	2019 $
CASH FROM OPERATING ACTIVITIES		
Cash receipts registration and membership renewal	932,761	2,537,506
Cash receipts from inspection fees	82,050	223,900
Cash receipts from examination fees	294,075	171,025
Cash receipts from incorporation fees	18,650	17,350
Interest income	45,253	40,377
Cash paid to suppliers and employees	(1,934,885)	(2,390,594)
	(562,096)	599,564
CASH FROM INVESTING ACTIVITIES		
Purchase of equipment	(47,058)	(12,368)
Change in cash	(609,154)	587,196
Cash, beginning of year	4,605,778	4,018,582
Cash, end of year	3,996,624	4,605,778
Cash consist of:		
Cash in bank account	1,915,102	2,553,658
RBC Money Market Fund & Cashable GIC	2,081,522	2,052,120
Cash, end of year	3,996,624	4,605,778

See accompanying notes to the financial statements

PURPOSE OF THE ORGANIZATION

The College of Naturopaths of Ontario is incorporated under the Regulated Health Professions Act, 1991 and the Naturopathy Act, 2007.

The College received proclamation on July 1, 2015.

The College of Naturopaths of Ontario is responsible for developing the regulations, policies, by-laws and necessary business operations to govern the profession.

The College operations include:

- sets requirements for entering the profession;
- establishes standards for practicing;
- administers quality assurance programs; and
- holds its members accountable for their conduct and practice.

1. FINANCIAL IMPACT OF THE NOVEL CORONAVIRUS (COVID-19)

In March 2020, the World Health Organization declared a global pandemic due to the novel Coronavirus (COVID-19). The situation is constantly evolving and the economic impact has been substantial.

As at July 29, 2020, the Organization is aware of changes in its operations as a result of the COVID-19 crisis, including the cancellation/postponement of the some exams and a reduction of registration fees

In response to COVID-19 the College provided a 40% one-time reduction of registration fee for the period of 2020/2021 registration year. In addition, the College also extended the payment deadline for renewal of fees for all members to September 30, 2020 from previously March 31, 2020 which resulted in a significant increase in accounts receivable at the year end. The adjustment to the registration fees has been reflected in these financial statements as a reduction of deferred revenue and accounts receivable.

The overall additional affect of COVID-19 on the College and its operations is too uncertain to be estimated at this time. The impacts will be accounted for when they are known and may be assessed.

Continued...

2. SIGNIFICANT ACCOUNTING POLICIES

The financial statements were prepared in accordance with Canadian accounting standards for not-for-profit organizations in Part III of the CPA Handbook and include the following significant accounting policies:

Financial Instruments

The College initially measures its financial assets and liabilities at fair value. The College subsequently measures all its financial assets and financial liabilities at amortized cost. Changes in fair value are recognized in the statement of operations.

Financial assets measured at amortized cost include cash and accounts receivable. Financial liabilities measured at amortized cost include accounts payable and accrued liabilities.

Use of Estimates

The preparation of financial statements in accordance with Canadian accounting standards for not-for-profit organizations requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the reporting date and the reported amounts of revenues and expenses for the reporting period. Actual results could differ from these estimates. Significant financial statement items that require the use of estimates includes useful lives of property and equipment, rates of amortization, and accrued liabilities. These estimates are reviewed periodically and adjustments are made, as appropriate, in the statement of operations in the year they become known.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash on hand and fixed income investments with maturities of less than 90 days.

Prepaid Expenses

Prepaid expenses are recorded for goods and services to be received in the next fiscal year, which were paid for in the current year.

Equipment

Equipment is stated at acquisition cost. Amortization is provided on the following basis at the following annual rates:

Office equipment	5 years straight-line
Computer equipment	30% diminishing balance

Where equipment no longer has any long-term service potential to the College, the excess of their net carrying amount over any residual value is recognized as an expense in the statement of operations.

Continued...

2. SIGNIFICANT ACCOUNTING POLICIES (continued)

Revenue Recognition

The College follows the deferral method of accounting for contributions. Restricted contributions are recognized as revenue in the year in which the related expenses are incurred. Unrestricted contributions are recognized as revenue when received or receivable, if the amount to be received can be reasonably estimated and collection is reasonably assured. Amounts received in advance of the period of service are deferred to the year the service is substantially complete.

Registrations, members renewal fees, examination fees, inspection fees, hearing fees and incorporation fees are recognized as revenue when received or receivable, if the amount to be received can be reasonably estimated and collection is reasonably assured. Amounts received in advance of the period of service are deferred to the year the service is substantially complete.

Unrestricted investment income is recognized as revenue when earned.

Donated Property and Services

During the year, voluntary services were provided. Because these services are not normally purchased by the College, and because of the difficulty of determining their fair value, donated services are not recognized in these statements.

3. CASH

The College has a revolving line of credit facility with the Royal Bank of Canada of $100,000. The credit is available at prime plus 3.5% and is secured by a general security agreement covering all assets of the College. The line of credit was not utilized as at March 31, 2020.

Continued...

4. EQUIPMENT

	2020		2019	
	Cost $	Accumulated amortization $	Cost $	Accumulated amortization $
Office equipment	159,391	135,681	130,847	129,680
Computer equipment	66,762	35,977	48,248	22,783
	226,153	171,658	179,095	152,463
Net book value	54,495		26,632	

5. DEFERRED INCOME

Deferred revenue represents examination fees and membership registrations received in advance of the period in which the service is to be provided.

	2020 $	2019 $
Registration fees	1,521,221	2,391,179
Examination fees	-	11,700
Ordered DC-costs	-	10,250
Total	1,521,221	2,413,129

In response to COVID-19 pandemic, the College provided a one-time 40% reduction in registration fees for the 2020-2021 registration year (April 1, 2020 - March 31, 2021) for members in General and Inactive registration classes. As a result, an adjustment to reduce deferred revenue and accounts receivable has been made, and is reflected in these financial statements.

Continued...

6. NET ASSETS

Patient Relations
The College set aside $100,000 for potential obligations under the *Regulated Health Professions Act, 1991* (the "Act") with respect to cases where a patient alleges they were sexually abused by a Member and sought funding for counselling. Decisions on granting funding rest with the Patient Relations Committee as set out in the Act. The funds set aside are reviewed on an annual basis. In fiscal 2020, $4,406 (2019: $5,890) was spent from the patient relations fund.

Strategic Initiatives
The College established an internally restricted net asset to fund strategic initiatives developed by the Registrar. The initial contribution was 50% of the 2017 fiscal year surplus. In the 2020 fiscal year $Nil (2019: $4,618) was spent from the strategic initiative fund.

7. COMMITMENTS

Premises Lease Commitment
The College is committed to total minimum rentals under a long-term lease for premises, which expires on February 28, 2023. Minimum rental commitments remaining under this lease approximate $461,580 as follows:

2021	155,287
2022	159,570
2023	146,723
	461,580

The College is committed under the lease agreement for a total lease term of 10 years and 2 months. The cost of the premise improvements totaling $203,158 was paid by the landlord and included in the basic rent over the term of the lease. In the event the lease is terminated prior to the natural expiry of the term, The College agreed to pay the unamortized balance of the premise improvements. The unamortized balance as at March 31, 2020 is $58,283 (2019: 78,266).

Continued...

7. COMMITMENTS (continued)

Other Commitments

The College is committed to annual rental payments under a lease for an office photocopier effective March 2017. The total commitment remaining is $4,200 due in 2021.

The College is committed to fees for iMIS license renewal services totaling $23,600. The remaining commitment is $6,900 due in 2021.

The College is committed to fees for media and public relations services totally $63,000. The remaining commitment is $27,000 due in 2021.

The College is committed to website development and redesign. The total remaining commitment is $80,370 due in 2021.

The College is committed to a fees for implementation of Alinity License Management (Association Management Solution software). The agreement is effective until December 31, 2021 with remaining commitment of $46,200, for which $26,400 is due in fiscal year 2021 and $19,800 due in fiscal year 2022.

The College is committed to consulting services related to network effective until December 31, 2020. The vendor consulting fee is $150 per hour with estimated time allotments of 170 hours. The remaining commitment approximates $11,350.

Continued...

8. FINANCIAL INSTRUMENTS

The College is exposed to various risks through its financial instruments. The following presents the College's risk exposures and concentrations at March 31, 2020.

Credit Risk
Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The College's credit risk would occur with their cash, investments and accounts receivable.

The College's bank accounts are held at one financial institution and funds on deposit exceed the maximum insured and, hence, there is a concentration of credit risk. Credit risk related to cash and investments is minimized by ensuring that these assets are held with and/or invested in credit-worthy parties.

Actual exposure to credit losses from account receivable has been moderate in prior years. The allowance for doubtful accounts is $32,375 (2019: $25,943).

Liquidity Risk
Liquidity risk is the risk the College will encounter difficulties in meeting obligations associated with financial liabilities. The College's exposure to liquidity risk mainly in respect of its accounts payable. The College expects to meet these obligations as they come due by generating sufficient cash flow from operations. There has been no change in the risk assessment from the prior period.

Market Risk
Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risks: currency risk, interest rate risk and other price risk.

Currency Risk
Currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates. The College is not exposed to foreign currency risk.

Interest Rate Risk
Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. The College does not have a significant interest rate risk.

8. FINANCIAL INSTRUMENTS (continued)

Other Price Risk
Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk), whether those changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market. The College is not exposed to other price risk.

9. COMPARATIVE FIGURES

Certain comparative figures have been reclassified from those previously presented to conform to the presentation of the 2020 financial statements.

The College of Naturopaths of Ontario
Year End: March 31, 2020
Adjusting journal entries
Date: 2019-04-01 To 2020-03-31

Completed by	Reviewed by	Final Review
IJ 2020-07-03	TK 2020-07-05	

6. 4

Number	Date	Name	Account No	Reference	Annotation	Debit	Credit	Recurrence	Misstatement
1	2020-03-31	4414100 Retained Earnings	4414100	GL		1,757.10			
1	2020-03-31	OP - GenOp - Investment	4415082	GL			1,757.10		
		To adjust for accrued interest income directly recorded to net assets							
2	2020-03-31	4411328 Accm. Amort - Computer	4411328	G. 1		6,834.86			
2	2020-03-31	Operations Expenses: Depreciation-Furniture	4419003	G. 1		291.59			
2	2020-03-31	Operations Expenses: Op-GenOp-Amortization Comp	4419002	G. 1			6,834.86		
2	2020-03-31	4411326 Accm. Amort. MOHL TC	4411326	G. 1			291.59		
		To adjust amortization on Computers and Furniture and Equipment							
3	2020-03-31	Operations Expenses: Op-GenOp-Consultants	4427620	40. 1		21,920.56			
3	2020-03-31	4413005 Accrued Liabilities	4413005	40. 1			21,920.56		
		To accrue consultancy expenses paid to CybenClan (INV#1769) in May 2020							
4	2020-03-31	Inquiries/ Complaint Resolution: ICRC-Consultants	3307620	BB.3C		17,807.14			
4	2020-03-31	4413005 Accrued Liabilities	4413005	BB.3C			17,807.14		
		To adjust consultant fee from Bernard + Associates for work perform in March 2020							
5	2020-03-31	Deferred revenue 2017	4413016	HH. 1		1,014,147.32			
5	2020-03-31	4411100 Accounts Receivable	4411100	HH. 1			615,554.84		
5	2020-03-31	AP to members	4412001	HH. 1			398,592.48		
		To adjust deferred revenue and AR to reflect the 40% discount given to all members							
6	2020-03-31	4411240 Prepaid Expenses	4411240	40. 1		6,280.98			
6	2020-03-31	Operations Expenses:Payroll and Benefit Expenses:4	4457525	40. 1			6,280.98		
		To adjust payment to "Canada Life - Health benefits" to prepaid expense as it is related to April 2020							
7	2020-03-31	Op-Gen-Bad Debt Exp	4427215	C. 3		6,431.95			
7	2020-03-31	441111 o Allowance for Doubtful Accounts	4411110	C. 3			6,431.95		
		To adjust allowance for doubtful							

The College of Naturopaths of Ontario
Year End: March 31, 2020
Adjusting journal entries
Date: 2019-04-01 To 2020-03-31

Completed by	Reviewed by	Final Review
IJ 2020-07-03	TK 2020-07-05	

6. 4-1

Number	Date	Name	Account No	Reference	Annotation	Debit	Credit	Recurrence	Misstatement
		account to actual amount							
						1,075,471.50	1,075,471.50		
		Net Income (Loss)	**263,475.41**						

THE COLLEGE OF NATUROPATHS OF ONTARIO
150 JOHN STREET, 10TH FLOOR
TORONTO, ONTARIO
M5V 3E3

Kriens~LaRose, LLP
Chartered Professional Accountants
Licensed Public Accountants
37 Main Street
Toronto, Ontario
M4E 2V5

Attention: Thomas Kriens CPA, CA, LPA, Partner

This representation letter is provided in connection with your audit of the financial statements of the College of Naturopaths of Ontario as at March 31, 2020 for the purpose of expressing an opinion as to whether the financial statements are presented fairly, in all material respects, the financial position, results of operations and cash flows of the College of Naturopaths of Ontario in accordance with Canadian accounting standards for not-for-profit organizations.

We confirm that to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

Financial Statements

- We have fulfilled our responsibilities, as set out in the terms of the audit engagement dated April 7, 2020, for the preparation of the financial statements in accordance with Canadian accounting standards for not-for-profit organizations; in particular, the financial statements are fairly presented in accordance therewith.
- Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.
- Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of Canadian accounting standards for not-for-profit organizations.
- All events subsequent to the date of the financial statements and for which Canadian accounting standards for not-for-profit organizations require adjustment or disclosure have been adjusted or disclosed.
- The effects of uncorrected misstatements are immaterial, both individually and in the aggregate, to the financial statements as a whole.
- We have reviewed, agree with, and authorize the recommended adjusting entries made for the year-end attached hereto.

Information Provided

We have provided you with:

- Access to all information of which we are aware that is relevant to the preparation of the financial statements, such as records, documentation and other matters;
- Additional information that you have requested from us for the purpose of the audit; and
- Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.

All transactions have been recorded in the accounting records and are reflected in the financial statements.

We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

We have disclosed to you all information in relation to fraud or suspected fraud that we are aware of and that affects the entity and involves:

- Management;
- Employees who have significant roles in internal control; or
- Others where the fraud could have a material effect on the financial statements.

We have disclosed to you all information in relation to allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others.

We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.

We have disclosed to you the identity of the entity's related parties and all the related party relationships and transactions of which we are aware.

Yours very truly,
THE COLLEGE OF NATUROPATHS OF ONTARIO

Agnes Kupny, Director of Operations

July 29, 2020

The College of Naturopaths of Ontario

BRIEFING NOTE
Patient Relations Information Guides

ISSUE: Whether to amended Member and Patient Information Guides.

BACKGROUND:

The Patient Relations Committee is a statutory committee tasked with the responsibility of overseeing the Patient Relations Program. Part of the Committee's responsibilities within the Program is overseeing the College's Funding for Therapy/Counselling. The other components of the Patient Relations Program are outlined in The *Health Professions Procedural Code* ("The Code"), Schedule 2 to the *Regulated Health Professions Act,* 1991. The Code states that the patient relations program must include measures for preventing and dealing with sexual abuse of patients and shall include,

- Educational requirements for members;
- Guidelines for the conduct of members with their patients;
- Training for the College's staff; and
- The provision of information to the public.

This briefing note and the attached revised Member Guide and Patient Information Guide is addressing the provision of information to the public and guidelines for the conduct of members with their patients.

The Patient Relations Committee has undertaken a process of updating and expanding the College's patient relations program, including providing additional information to members and resources for patients. In 2019 the Committee created a Patient Rights document to be incorporated into Members practice. The Committee also retained an expert in sexual abuse related to Ontario's health system to undertake a review of its current guidelines and provide feedback and recommendations in order to ensure that the documents are accurate and up-to-date. The Committee in late 2019/early 2020 reviewed the feedback and incorporated the changes into its Member and Patient Guide.

DISCUSSION POINTS:

Below is a summary of the amendments that were made to the guides based on the expert feedback:
Member Guide

- Inclusion of the definition of a patient as described in the RHPA;
- Inclusion that Informed Consent is clearly documented in situations where touch may include sensitive areas such as upper thigh, buttocks, breasts etc..
- A specific reference noting that there is no such thing as patient consent to a sexual relationship.
- Updated the penalties available to the Discipline Committee to align with the RHPA.

Patient Guide

- Inclusion of the definition of a patient as described in the RHPA;

- Additional information added to the Appropriate Touching section including that you can refuse consent and also request another person be in the room.
- Added specific references that sexual abuse is not the patients fault.
- Added an additional section on the College's Counselling and Therapy Program and information about filing a complaint, including College contact information.

ANALYSIS

Risk Assessment – There is no current risks to the College.

Privacy Considerations – There are no privacy implications.

Transparency – Transparency is obtained by discussing the matter in open Council.

Financial Impact – There are no immediate financial impacts as the cost of the expert were budgeted and incurred in the previous fiscal year.

RECOMMENDATION

The Patient Relations Committee recommends that Council approve the amended Member Guide (Prevention of Sexual Abuse) and the Patient Information Guide (Understanding Sexual Abuse)

Samuel Laldin
Chair of the Patient Relations Committee
July 2020

The College of Naturopaths of Ontario

Member Guide

Guideline for the Prevention of Sexual Abuse

Introduction

Ontario government legislation requires all health care regulatory colleges to have a patient relations program that includes measures for preventing and dealing with the sexual abuse of patients. These mandated measures under the *Regulated Health Professions Act, 1991, (*RHPA), include the publishing of guidelines for the conduct of members of the College towards their patients.

Sexual impropriety with patients is considered an extremely serious matter. The sanctions mandated by the RHPA against Members who are found guilty of professional misconduct in connection with sexually abusing patients are very severe.

The College of Naturopaths of Ontario (CONO) is committed to providing naturopathic doctors with information and resources to assist them in treating their patients in a manner that reflects the profession's commitment to respect the personal dignity of every individual who is entrusted to their care and is consistent with the RHPA.

Philosophy

The College has zero tolerance for sexual abuse. The patient-practitioner relationship is based on mutual trust and respect. Any act of sexual abuse is a betrayal of that trust.

The College will investigate and take appropriate action when it receives complaints or information where it appears that a Member may have engaged in this type of behaviour.

Definition of Sexual Abuse

Section 1 of Schedule 2 to the *RHPA* defines sexual abuse as follows:

> **"(3) In this Code, "sexual abuse" of a patient by a member means,**
> (a) sexual intercourse or other forms of physical sexual relations between the member and the patient;
> (b) touching, of a sexual nature, of the patient by the member; or
> (c) behaviour or remarks of a sexual nature by the member towards the patient.
>
> **(4) For the purposes of subsection (3), "sexual nature" does not include touching, behaviour, or remarks of a clinical nature appropriate to the service provided."**

The definition of sexual abuse includes the treatment of spouses even if there was a pre-existing spousal relationship prior to naturopathic treatment being performed. It is important to note that a patient's consent to treatment in these cases is irrelevant; it still amounts to sexual abuse as defined in the legislation.

It is, however, acceptable for naturopathic doctors to treat a spouse in emergency situations where there is no one else qualified to do so. The College considers this acceptable because the benefits of providing the required care in emergency situations outweigh the challenges posed by the personal relationship.

Definition of Patient

The RHPA also defines a patient which includes:

- a person whom a naturopath has charged or received payment from for health care services;
- a person who has consented to receive health care services from the naturopath;
- a person who was prescribed a drug by the naturopath;
- a person who had a health record or file created by a naturopath; and/or
- an individual who was a naturopath's patient within one year from the date on which the individual ceased to be the naturopath's patient;

Professional Behaviour

As a general guiding principle, College Members are required to ensure that your patients receive naturopathic care in an atmosphere that places no sexual demands upon them, and is free of any sexual connotation or context.

Blatant types of sexual misconduct usually include some sort of overt sexual physical

contact with the patient or touching of a sexual nature. If touching must be involved in the examination or treatment of a patient, you explain beforehand to the patient the context of the touching in order to avoid any misinterpretation or misunderstanding. The principles of informed consent should be followed at all times.

The College understands that there may be times when in cases of a life-threatening emergency, it may not always be possible to explain the need of such touching beforehand. In such circumstances, you should ensure that the patient chart documents the exact nature of the touching and the reasons for it as well as the circumstances that defined the situation as a 'life threatening emergency".

Patients may feel particularly vulnerable in a health care setting. Therefore, naturopathic doctors should use their professional judgment to determine the patient's comfort level and whether the presence of an additional person is advisable.

Naturopathic doctors are responsible for communicating effectively by paying attention to the ways in which information is conveyed and the words selected when speaking with patients. They must also be compassionate listeners and sensitive to the concerns and needs of patients. Awareness of cultural and physical barriers that may interfere with clear communications or cross gender expectations, and respect for these differences will help naturopathic doctors practise in a responsive and responsible manner.

Professional Conduct Guidelines

1. The Member meets the legislative requirements and conditions of the College as they relate to naturopathic practice.
2. The Member supports the objectives and purpose of the College and is governed by its rules and regulations.
3. The Member practices in a professional manner, being guided at all times by respecting human dignity.
4. The Member keeps confidential all information received in the course of the professional relationship except:
    a. When reporting is required by law;
    b. When the sharing of pertinent information is appropriate for collaboration with other health care providers involved.
5. The Member continues education/training to improve their awareness of sexual abuse issues.
6. The Member recognizes what the RHPA considers as "sexual abuse of a patient" and "abuse of a sexual nature" and does not engage in such unprofessional conduct.

7. The Member recognizes that under the RHPA it is mandatory for Members to report information or incidents of suspected sexual abuse of a patient by a Member of the same or of a different College to the governing College of the practitioner.
8. The Member cooperates with College investigations or inquiries into the professional conduct of any member of a regulated health profession.
9. No Member shall falsely impugn the reputation of any colleague.

Do's and Don'ts

Subtle types of sexually inappropriate behaviour are often unrecognized and occasionally may be committed inadvertently (e.g., jokes or comments used to reassure or calm a patient may be inappropriate). Naturopathic doctors should consider appropriate professional boundaries in their interactions with both patients and office staff. Boundary issues include not only respecting a person's personal physical space, but also take into account verbal, emotional and cultural matters. Because of the power differential inherent in the patient-practitioner relationship, it is always the responsibility of the professional to establish and maintain appropriate boundaries.

Do's

- Be aware of what constitutes appropriate and inappropriate conduct.
- Be aware that individuals have ethnic, cultural, religious, sexual orientation, gender and socioeconomic differences and ensure that you maintain a high level of professionalism.
- Ensure that nothing in your conversations could offend a patient.
- Use appropriate draping practices that respect a patient's privacy.
- Ensure that informed consent is obtained and documented particularly in situations where touch may include sensitive areas such as upper thigh, genitals, anus, buttocks or breast.
- Document on the patient chart anything unusual or out of the ordinary in the patient-practitioner interaction.
- Ensure that the patient (patient's authorized representative or substitute decision maker) clearly understands the purpose of any procedures, especially those that require removal of clothing or physical contact.
- Provide ample opportunity for the patient to ask questions.
- Encourage patients to take an active role in their treatment.
- Be sensitive to a patient's discomfort with words or behaviour and change them if necessary.

- Be aware of a patient's uneasiness with your physical proximity to them and react appropriately.
- Maintain patient confidentiality.
- Use gloves when appropriate.
- Obtain consent prior to touching.

Don'ts

- Enter into an intimate relationship with a patient. Even relations where you have or think you have the patient's consent are strictly prohibited by the RHPA.
- Hug or kiss patients.
- Use gestures, tone of voice, expressions or engage in any other behaviour that may be interpreted as seductive or sexually demeaning or as sexual abuse.
- Place instruments or supplies on a patient's chest, lap or shoulder/neck area.
- Tell jokes or make comments of a sexual nature.
- Perform treatment outside the professional's office or work setting.
- Make comments about a person's body or clothing that could be interpreted as sexual in nature.
- Touch patients excessively or unnecessarily.
- Comment, inquire or speculate about a patient's sexual life, practices, or orientation unless clinically relevant.
- Initiate conversations with patients regarding sexual preferences or fantasies, and do not participate in such conversations initiated by patients. Document in the chart if such discussions are initiated by a patient.
- Display any materials, such as jokes, posters or pictures, that have a sexual connotation or that may be offensive to your patients

Naturopathic Doctor-Patient Relationships

Trust is the cornerstone of the patient-practitioner relationship. When a patient seeks care from a naturopathic doctor, the patient trusts that the practitioner is a professional and as such will treat them in a professional manner. To maintain trust, a ND must avoid making or responding to sexual advances. Sexualizing the relationship is a clear breach of trust and an abuse of the power in professional relationship.

The patient-practitioner relationship is characterized by a power imbalance in favour of the naturopathic doctor.

- A patient depends upon the naturopathic doctor's knowledge and training to provide care.

- To receive care, patients provide information of a sensitive nature about themselves or family members.
- Patients allow the naturopathic doctor to conduct intimate physical examinations.
- The transfer of information and the physical examination are one-sided, from patient to practitioner.
- Patients may feel particularly vulnerable if they:
    - are feeling unwell, experiencing pain, and/or are worried or afraid;
    - do not speak the same language as the naturopathic doctor;
    - are undressed or exposed;
    - have a history of abuse; and/or
    - have cultural differences.

Principles

1. A naturopathic doctor, being in a position of trust and power, has a duty to act in the patient's best interest.
2. Naturopathic doctors must establish and maintain appropriate professional boundaries with patients.
3. Sexual activity and 'romantic interactions' interfere with the goals of the patient-practitioner relationship and may obscure the naturopathic doctor's objective judgment concerning the patient's health and well-being.
4. Sexual misconduct is detrimental to the patient-practitioner relationship, harms individual patients and erodes the public trust in the profession.
5. Patients must be protected from sexual abuse by naturopathic doctors.

Sexual Involvement with Patients

A naturopathic doctor must not become sexually involved with their patient. Sexual involvement with a patient is sexual abuse under the RHPA regardless of whether the naturopathic doctor believes there is 'consent' from the patient. There is no such thing as patient consent for a sexual relationship.

It is always the naturopathic doctor's responsibility to ensure that appropriate boundaries are maintained, regardless of the patient's behaviour.

Naturopathic doctors should follow the guidelines below when treating a patient in order to maintain proper boundaries within the patient-practitioner relationship:

1. A naturopathic doctor must not make sexual advances towards a patient nor respond sexually to any form of sexual advance made by a patient.

2. Naturopathic doctors should explain the scope of an examination and reasons for examinations/procedures to patients.
3. Although third parties are not mandatory, the presence of a third party during an intimate examination may contribute to both patient and ND comfort. Patients should be given the option of having a third party present.
4. While NDs may intend non-sexual and non-clinical touching of patients to be therapeutic or comforting, supportive words or discussion may be preferable to avoid misinterpretation.

Penalties

The RHPA states that when a panel of the Discipline Committee finds a member guilty of committing an act of professional misconduct by "sexually abusing" a patient, as a minimum, it must:

1. Reprimand the Member.
2. Revoke the Member's certificate of registration for a minimum of five years if the sexual abuse consisted of, or included any of the following:
    - sexual intercourse;
    - genital to genital, genital to anal, oral to genital, or oral to anal contacts;
    - masturbation of the Member by, or in the presence or, the patient;
    - masturbation of the patient by the Member;
    - encouragement of the patient by the Member to masturbate in the presence of the Member;
    - touching of a sexual nature of the patient's genitals, anus, breasts or buttocks;
    - other conduct of a sexual nature prescribed in regulations.
3. Where the sexual abuse does not include any of the above noted acts, a panel shall suspend the Member's certificate of registration.

In addition to the above penalties, a panel of the Discipline Committee may:

1. Require the Member to pay a fine of not more than $35,000 to the Minister of Finance of Ontario.
2. Require the Member to pay all or part of the College's legal costs and expenses, the College's costs and expenses incurred in investigating the matter and the College's costs and expenses incurred in conducting the hearing.
3. Require the Member to reimburse the College for funding provided for therapy and counseling for patients who were "sexually abused" by the member.

The College of Naturopaths of Ontario

Patient Information Guide

Understanding Sexual Abuse

The College of Naturopaths of Ontario exists to protect the public interest and views any form of sexual abuse or sexual boundary crossing as unacceptable. Sexual abuse must never be tolerated.

What is Sexual Abuse?

For health care providers in Ontario, The *Regulated Health Professions Act, 1991 (RHPA),* defines sexual abuse by a health professional not only as sexual intercourse with a patient but also touching or remarks of a sexual nature directed toward a patient.

This means that naturopathic doctors are not allowed to:

- have sex of any form with a patient,
- touch a patient in a sexual manner outside of the consented treatment, or
- make comments of a sexual nature or behave in a sexual way towards a patient.

(Please note that this does not apply to touching, behaviour or comments that are of a clinical nature and are appropriate to the care provided).

What is a patient?

The *RHPA* also defines a patient as:

- A person whom a naturopathic doctor has charged or received payment from for health care services,
- a person who has consented to receive health care services from the naturopathic doctor,
- a person who was prescribed a drug by the naturopathic doctor,
- a person who had a health record or file created by a naturopathic doctor,
- an individual who was a naturopathic doctor's patient within one year from the date on which the individual ceased to be the naturopaths patient.

What Do Naturopathic Doctors Do?

The primary objective of naturopathic doctors is the prevention of disease through the encouragement of a healthy lifestyle and controlling risk factors. Naturopathic doctors utilize therapies that have a minimal risk of harm and apply the least possible force to restore health. They recognize and support the inherent self-healing ability of the individual person. Naturopathic doctors seek to identify and treat the underlying causes of disease and recognize that health results from a complex interaction of many factors and focus on treatment of the whole person through individualized care. The role of a naturopathic doctor is to educate and support each patient in taking responsibility for their health.

What can you do if you are feeling uneasy during an appointment?

1. Tell the naturopathic doctor to stop.
2. Ask the naturopathic doctor to explain what he/she is doing and why he/she is doing it.
3. Refuse to continue with the session if you remain uneasy.

If you think that you or someone you know has been sexually abused by a naturopathic doctor, please contact the College of Naturopaths of Ontario.

What is Appropriate Touching?

Naturopathic doctors use their hands to touch various parts of the body to assess and provide treatment to patients. When touching occurs as part of an assessment or treatment, you can expect that:

- the naturopathic doctor will tell you what he/she is going to do before touching you,
- the naturopathic doctor will ask your permission to touch you,
- you will be allowed to ask questions or express any concerns,
- you can refuse to consent to the touching,
- you can ask for another person to be in the room,
- you can ask that an activity be stopped at any time if you are feeling uneasy,
- you will feel respected,
- the touching will be needed for your assessment or treatment, and
- you can withdraw your consent or change your mind about any activity at any time.

What is the Patient-Naturopath Doctor Relationship?

The relationship between a patient and a naturopathic doctor is a professional one that is about a patient obtaining the care needed from a professional. Patients trust their care to a naturopathic doctor because of the unique knowledge and skills that they possess. Patients should expect that the naturopathic doctor will respect their needs and act in a caring and professional manner.

A patient-naturopathic doctor relationship is very different than an intimate personal relationship. If a patient-naturopath doctor relationship exists, naturopathic doctors are not allowed to have an intimate personal relationship with a patient, in or out of the clinic or practice setting. In fact, to do so would be defined as sexual abuse, even if the patient consents to the relationship. The naturopathic doctor is the one responsible for maintaining an appropriate boundaries in the professional relationship with a patient.

The College has standards that describe how naturopathic doctors are expected to behave in order to show that they are acting in the best interest of their patients.

What are some of the signs of Sexual Abuse?

The following list includes some examples of actions or behaviours that are inappropriate on the part of the naturopathic doctor. These behaviours can be obvious or subtle, and words can be as damaging as actions. Please contact the College if you experience any of the following or if you are unsure about the behaviour or actions of the naturopathic doctor:

- any unwanted sexual attention or behaviour e.g. kissing or hugging in a sexual way,
- sexual touching e.g. touching your buttocks, breasts, genitals or any other area in a way that is not needed for treatment or assessment,
- sexually suggestive or seductive remarks e.g. comments about your sexual relationships or sexual orientation, or inappropriate sexual remarks or questions about your appearance or clothing etc.,
- sexually insulting or offensive comments or jokes,
- asking to meet you outside the clinic or practice setting or to have an intimate, personal relationship with you e.g. dating, and
- not asking for permission before touching you.

What should you do if you suspect sexual abuse by a Naturopath Doctor?

If you suspect that you or someone else is being sexually abused, please contact the College of Naturopaths of Ontario. Don't assume that someone else will do it; and don't worry if you are uncertain about whether the actions meet a definition of sexual abuse. Someone with experience from the College of Naturopaths of Ontario will look into the matter.

Sexual abuse by a health professional is never your fault. The naturopathic doctor is responsible for understanding and maintaining an appropriate patient-practitioner relationship.

Filing a complaint can be a difficult, and at times an uncomfortable process but it is important that the naturopathic doctor be held accountable for his/her behaviour and its impact on you. Complaints can also assist with learning and protect others from harm.

Counselling and therapy

Anyone who has been sexually abused by a naturopathic doctor is eligible for funding to cover the costs of any therapy or counseling that may be needed as a result. Our website has information about Funding for Therapy and Counselling Related to Sexual Abuse.

Contact us

Your call or e-mail will be confidential.

Phone – 416 583-6010(GTA)
– 1 877 361-1925 (toll free)
Fax – 416 583-6011
E-mail – complaint@collegeofnaturopaths.on.ca

The College of Naturopaths of Ontario

Statutory Committee Annual Reports
2019-2020

- Discipline Committee
- Executive Committee
- Fitness to Practise Committee
- Inquiries, Complaints and Reports Committee
- Patient Relations Committee
- Quality Assurance Committee
- Registration Committee

Statutory Committee Annual Reports

Following are the 2019/20 annual reports from the College's Statutory Committees. These were provided to the College Council at its July 2020 meeting as required under the *Regulated Health Professions Act, 1991*. The reports cover the period from April 1, 2019 through March 31, 2020.

Discipline Committee

As per section 11 (1) of the *Health Professions Procedural Code,* Schedule 2 of the *Regulated Health Professions Act, 1991,* p lease find below a report of the activities of the Discipline Committee for the period April 1, 2019 to March 31, 2020.

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

Hearings Completed

A panel of the Discipline Committee completed four Discipline Hearings in the reporting period.

CONO & Anthony Yores (CONO file DC18-02)

Hearing date: August 22, 2019 Number of hearing days: 1

A panel of the Discipline Committee completed a Discipline Hearing regarding Anthony Yores, referred to the DC by the Inquiries, Complaints and Reports Committee (ICRC) on September 17, 2018. The Member had admitted to the allegations of professional misconduct and a Joint Submission as to Penalty and Costs had been agreed upon prior to the hearing. The Panel concluded that the facts supported a finding of professional misconduct and found that the Member committed acts of professional misconduct as admitted in the Agreed Statement of Facts.

Decision and Reasons of the Panel was issued on October 24, 2019. In accordance with s. 23 (2) 10 of the Health Professions Procedural Code the document is publicly available on the College's website.

CONO & Elvis Ali (CONO file DC18-03)

Hearing date: April 30, 2019 Number of hearing days: 1

A panel of the Discipline Committee completed a Discipline Hearing regarding Elvis Ali, referred to the DC by the Inquiries, Complaints and Reports Committee (ICRC) on October 4, 2018. The Member had admitted to the allegations of professional misconduct and a Joint Submission as to Penalty and Costs had been agreed upon prior to the hearing. The Panel concluded that the facts supported a finding of professional misconduct and found that the Member committed acts of professional misconduct as admitted in the Agreed Statement of Facts.

Decision and Reasons of the Panel was issued on May 14, 2019. In accordance with s. 23 (2) 10 of the Health Professions Procedural Code the document is publicly available on the College's website.

CONO & Michael Yarish (CONO file DC18-04)

Hearing date: July 25, 2019 Number of hearing days: 1

A panel of the Discipline Committee completed a Discipline Hearing regarding Michael Yarish, referred to the DC by the Inquiries, Complaints and Reports Committee (ICRC) on November 1, 2018. The Member had admitted to the allegations of professional misconduct and a Joint Submission as to Penalty and Costs had been agreed upon prior to the hearing. The Panel concluded that the facts supported a finding of professional misconduct and found that the Member committed acts of professional misconduct as admitted in the Agreed Statement of Facts.

Decision and Reasons of the Panel was issued on August 6, 2019. In accordance with s. 23 (2) 10 of the Health Professions Procedural Code the document is publicly available on the College's website.

CONO & Salfe Elizalde (CONO file DC19-02)

Hearing date: November 6, 2019 Number of hearing days: 1

A panel of the Discipline Committee completed a Discipline Hearing regarding Anthony Yores, referred to the DC by the Inquiries, Complaints and Reports Committee (ICRC) on May 13, 2019. The Member had admitted to the allegations of professional misconduct and a Joint Submission as to Penalty and Costs had been agreed upon prior to the hearing. The Panel concluded that the facts supported a finding of professional misconduct and found that the Member committed acts of professional misconduct as admitted in the Agreed Statement of Facts.

Decision and Reasons of the Panel was issued on November 14, 2019. In accordance with s. 23 (2) 10 of the Health Professions Procedural Code the document is publicly available on the College's website.

New referrals from the Inquiries, Complaints and Reports Committee

Specified allegations against the following members were referred to the Discipline Committee by the ICRC during the reporting period:

Salfe Elizalde
Helen Cohen (2 separate matters) Yelena Deshko
Taras Rodak
Elvis Ali

Statistics for the reporting period:

Number of Hearing Days: 4 Reinstatement Hearings: 0 Divisional Court Reviews: 0

Financial data: Discipline Matters

Section 53.1 of the Health Professions Procedural Code provides that, in an appropriate case, a discipline panel may make an order requiring a member who the panel finds has committed an act of professional misconduct, to pay all or part of the College's costs and expenses. The panel awards costs on a case by case basis.

CONO & Anthony Yores (CONO file DC18-02)

- Legal costs and expenses: $26,587
- Investigation costs: $8,791
- Hearing costs: $4,624

The Panel ordered the Member to pay the College's costs fixed in the amount of $5,000, which amounted to 12.5% of the College's costs.

Total cost to the College: $35,002.

CONO & Elvis Ali (CONO file DC18-03)

- Legal costs and expenses: $12,451
- Investigation costs: $4,611
- Hearing costs: $2,734

The Panel ordered the Member to pay the College's costs fixed in the amount of $3,500, which amounted to 18% of the College's costs.

Total cost to the College: $16,296.

CONO & Michael Yarish (CONO file DC18-04)

- Legal costs and expenses: $13,738
- Investigation costs: $3,456
- Hearing costs: $2,059

The Panel ordered the Member to pay the College's costs fixed in the amount of $3,500, which amounted to 18% of the College's costs.

Total cost to the College: $15,753.

CONO & Salfe Elizalde (CONO file DC19-02)

- Legal costs and expenses: $19,467
- Investigation costs: $4,396
- Hearing costs: $2,978

The Panel ordered the Member to pay the College's costs fixed in the amount of $4,000, which amounted to 15% of the College's costs.

Total cost to the College: $22,841.

Respectfully submitted,

Jordan Sokoloski, ND
Chair

Executive Committee

This serves as the annual report of the Executive Committee for the period April 1, 2019 to March 31, 2020. During the reporting period the Executive Committee held seven meetings, six of which were in person at the head office of the College and one of which was held by teleconference.

The Committee's work can be contemplated in two distinct contexts: the work it does on behalf of the Council between meetings of the Council[1] and the work it undertakes as a standing committee responsible for providing overall governance direction and monitoring on behalf of the College.

Work undertaken on behalf of the Council
Leading a Governance Review on behalf of the Council was one of the Committee's priorities during the reporting period. The Review was based on a literature review of global trends and modern best practices in regulatory governance that could further enhance public trust and safety in how the profession is governed. It included consultations with naturopathic stakeholders and the public and culminated in a one-and-half-day facilitated Council workshop in January 2020 to review and consider governance practices that the College could adopt. Following the workshop, the Committee approved a preliminary draft of the Governance Workshop Report and Report Implementation Plan for subsequent review by Council. The finalised document will be distributed to College stakeholders.

Work undertaken in governing the College
During this reporting period, the Executive Committee considered the following matters on behalf of the Council of the College, typically because the timing and urgency of the matters precluded deferring the matters to the next full Council meeting:

- public appointments and potential for the Council to be not properly constituted;
- the performance of Council members;
- the application of a new Performance Measure Framework under development by the Ministry of Health for all Ontario health regulatory Colleges;
- amendments to the Registration Program Policy (P07.01)
- stakeholder communications;
- updates on strategic planning and other activities of the Canadian Alliance of Naturopathic Regulatory Authorities (CANRA);
- Council support for the Executive Performance Review process;
- updates about the impact of COVID-19 on College operations and Members; and
- the Operational Plan, Operating and Capital budgets for the College's next fiscal year.

Respectfully submitted,

Kim Bretz, ND
Chair

[1] Pursuant to section 12(2) of the Code

Fitness to Practise Committee

As per section 11 (1) of the *Health Professions Procedural Code,* Schedule 2 of the *Regulated Health Professions Act, 1991* please find below a report of the activities of the Fitness to Practise Committee for the period April 1, 2019 to March 31, 2020.

There were no referrals to, or hearings of the Fitness to Practise Committee between April 1, 2019 and March 31, 2020.

Respectfully submitted,

Jordan Sokoloski, ND
Chair

Inquiries, Complaints and Reports Committee

As per section 11 (1) of the *Health Professions Procedural Code*, Schedule 2 of the *Regulated Health Professions Act, 1991* please find below a report of the activities of the Inquiries, Complaints and Reports Committee (ICRC) for the period April 1, 2019 to March 31, 2020.

During the reporting period the ICRC held 12 meetings: 8 in-person, 4 via teleconference.

Closed matters

The Committee closed 35 matters with the number of dispositions as follows:

No Further Action: 5
Letter of Counsel: 17
Oral Caution: 2
Specified Continuing Education and Remediation Program (SCERP): 1
SCERP & Oral Caution: 2
Acknowledgement & Undertaking: 1
Referral to Fitness to Practice: 0
Referral to Discipline Committee: 6
Frivolous and vexatious: 1

The ICRC disposed of 1 health inquiry during the reporting period.

Three decisions of the ICRC were appealed to the HPARB in the previous reporting period. The matters are currently reviewed by the Board.

New investigations

16 Registrar's investigations were initiated in the reporting period based on the information received from the following sources:

Public inquiries: 6
Matters reported by Members: 1
Matters reported by Professional Conduct department: 7
Referral from ICRC to Registrar: 2

In addition, the ICRC received 23 formal complaints about Members of the College.

Complaints and Registrar's Reports filed with the ICRC included one or more of the following concerns:

Advertising: 30
Inappropriate/unsatisfactory patient care: 6
Failure to comply with the Standard for IVIT/Injections: 8
Practising outside the Scope: 7
Failure to comply with an order of Discipline Committee/ICRC: 1
Practising while Inactive or Suspended: 2
Inappropriate billing procedures: 6
Sexual abuse, violation of professional boundaries: 1

Advertising continues to be a concern, as a majority of the matters reviewed by the ICRC have been of this nature. Within the context of advertising, two new issues (7 matters) that have been brought to our attention have been related to COVID-19 and IVIT at non-registered premises.

Complaints/Registrar's Reports Investigation Timelines

The average length of a Complaint/Report investigation during the last reporting period was 184 days, with the shortest investigation completed in 62 days and the longest - in 591 days.

Financial data: Complaints/Registrar's Reports Investigation

The cost of an investigation includes the College's legal expenses, investigators' fees (where formal investigator appointments are required), experts' fees, the ICRC per diems, and mailing costs. The average amount spent on a matter in the reporting period was $2,508. The lowest cost of the investigation was $108, and the highest - $18,354.

Respectfully submitted,

Erin Psota, ND
Chair

Patient Relations Committee

As per section 11 (1) of the *Health Professions Procedural Code,* Schedule 2 of the *Regulated Health Professions Act, 1991,* this serves as the annual report of the Patient Relations Committee (PRC) for the period April 1, 2019 to March 31, 2020.

During the reporting period the PRC held 2 meetings.

The PRC did not receive any applications for Funding for Therapy/Counselling. However, it did continue to monitor the four previously approved applications for Funding. The College's funding program managed by the PRC provided $3,618.10 to applicants during the reporting period and $10,942.10 since its inception.

During the reporting period, the PRC retained an expert in sexual abuse to undertake a review of the College's Member and Patient Guides. The expert provided feedback and recommendations to the Committee, which were implemented and intended to be finalised for publication in July 2020.

Respectfully submitted,

Sam Laldin
Chair

Quality Assurance Committee

As per section 11 (1) of the Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991 please find below a report of the activities of the Quality Assurance Committee for the period April 1, 2019 to March 31, 2020.

The Quality Assurance Committee held 9 meetings during the reporting period.

# of Members who were required to complete the Self-Assessment by March 31, 2020: 1,702
# of Members who completed the Self-Assessment by the March 31, 2020[2]: 1,185

# of CE applications received: 418
# of CE applications approved: 311 (74%)
Number of approved courses that were Jurisprudence, Pharmacology, IVIT:
- IVIT: 8 (3%)
- Pharmacology: 59 (19%)
- Jurisprudence: 14 (5%)

# of course applications that were live/in-person: 99 (24%)
# of course applications that were online/webinar: 319 (76%)

# of Group II Members who were required to their submit CE logs by the Sept. 30th deadline: 403
# of Group II Members who submitted on time: 383 (95%)
# of Group II Members who had a discrepancy in their log that needed to be fixed: 109 (28.5%)[3]
# of CE deferral/extension requests received: 19
# of CE deferral/extension requests approved: 10

# of Members selected to undergo a Peer & Practice Assessment: 75
# of deferral requests received: 10
# of deferral requests approved: 5
# of Members who went inactive or resigned prior to completing their Peer & Practice Assessment: 5
# of Members referred to the ICRC for non-compliance with the Peer & Practice Assessment Program: 1
Total number of Peer & Practice Assessments completed: 64 (85%)
# of QA Ordered Assessments outside of regular Peer & Practice Assessment Schedule: 0

Respectfully submitted,

Barry Sullivan
Chair

[2] Due to the COVID-19 Pandemic the deadline for the completion of the Self-Assessment was extended.
[3] 15 Group II CE Log remained incomplete at the end of the fiscal year and were granted an extension until May 31, 2020 due to the impact of the COVID-19 Pandemic

Registration Committee

During the reporting period noted, the Registration Committee met 11 times. In total, the Committee reviewed 15 applications for registration and four life membership applications. No class changes required review by the Committee in this reporting period. In addition, the Committee developed and reviewed program policies related to Registration and Examinations, and set remediation plans for exam candidates who had made two unsuccessful attempts of a College examination.

Entry-to-Practise

Fifteen applications[4] for registration were referred to the Registration Committee for review; six for good character [under subsection 3(2) of the *Registration Regulation*], seven based on reasonable doubt of the applicant having practised the profession in another regulated jurisdiction (under subsections 7(1) and 7(3) of the *Registration Regulation*), one to address concerns regarding a physical or mental condition or disorder (under subsection 3(4) of the *Registration Regulation*), and six for currency [under subsections 5(4)(a) and 5(2)(b) of the *Registration Regulation*]. Of those referred[5], five certificates of registration were granted, two certificates were granted with a Term, Condition or Limitation (TCL) and 12 were granted after the completion of additional training or examinations as set out by a Panel of the Registration Committee.

The Committee reviewed and amended the College's Registration program policy to outline practise requirements for applications made under labour mobility provisions of the Registration *Regulation* and the *Canadian Free Trade Agreement* (CFTA).

Membership

During this reporting period, the Registration Committee reviewed four applications for life membership (under section 23(1) of the *College By-laws*). It also amended the College's Intravenous Infusion Therapy (IVIT) program policy to clarify the maximum number of exam attempts permitted for Members to meet the *Standard of Practice for* IVIT, and to add conditions for the revocation of IVIT training course approval.

Examinations

The Committee reviewed and amended the College's Clinical Sciences Exam Program policy to add the Ontario Biomedical exam, approved the finalized blueprints for the Biomedical exam and amended the Clinical Sciences exam blueprints.

[4] some applicants were referred under more than one provision of the Registration Regulation

[5] some applicants were mandated to complete more than one requirement for issuance of a certificate of registration

As part of its role, the Committee also reviewed examination materials and set out mandatory remediation plans for candidates who had made two unsuccessful attempts of a College examination. The remediation plans apply to both entry-to-practise and post-registration exams.

Respectfully submitted,

Danielle O'Connor, ND
Chair

The College of Naturopaths of Ontario

BRIEFING NOTE
Standard of Practice

ISSUE: Final approval of the amended Infection Control Standard of Practice is sought from the Council of the College of Naturopaths of Ontario.

BACKGROUND:
The *Regulated Health Professions Act, 1991* (RHPA) requires each health regulatory College to develop, establish and maintain Standards of Practice for the profession. These Standards outline the level of quality and safety expected for professional services provided to the public by Members of the College. The RHPA also authorizes Colleges of self-regulating health care professionals to develop and maintain any necessary codes, policies, or guidelines. Legislation, regulations, by-laws, the Code of Ethics, Core Competencies, Standards of Practice and professional guidelines collectively establish a framework for the practice of naturopathy in Ontario. The documents are developed and updated regularly to reflect current legislative and health care system requirements.

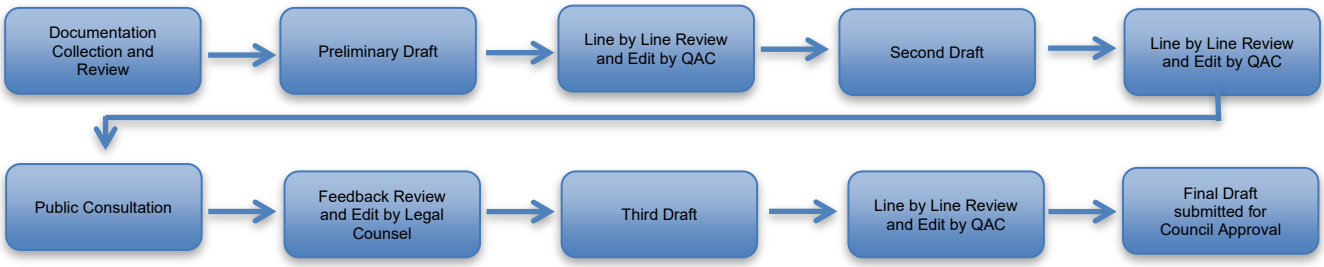
In late 2019 the Quality Assurance Committee (QAC) amended its program policies to review and update the Core Competencies and all Standards of Practice over a 4 year period. This change from the annual 25% review would allow for the QAC to undertake a more global review of all Standards and Guidelines and view their interconnectivity and reliance on one another. In March 2020 with the implementation of the provincial government's emergency orders the QAC put the Core Competency review on hold and identified 2 documents that more urgently required updating and drafting. These included:

- Updating the Standard of Practice: Infection Control; and
- Creating a new guideline for Telepractice.

Standards of Practice set out the legal and professional basis for the practice of naturopathy. Each standard describes the expected level of performance for that topic, and together they form a framework for ensuring continuing competence among NDs. Standards of Practice are established as a consensus of the profession and are statements from NDs on how they practice. They are subsequently used by the profession to evaluate the performance of NDs by their peers.

Process

The following flow chart illustrates the process used to develop, review and consult on draft standards of practice:



The review of the standard of practice began with staff of the College undertaking a review of comparable documents created by other health regulatory Colleges, associations and educational institutions in order to create a starting point of necessary amendments. The drafts were provided to the Quality Assurance Committee, who conducted a line-by-line review to ensure that the content was accurate and applicable to NDs in Ontario. The above noted documents were circulated for a public consultation in June 2020. Following the consultation, feedback was compiled and reviewed by the Quality Assurance Committee who made amendments to the draft standard where warranted.

SUMMARY OF CHANGES

NAME OF DOCUMENT	SUMMARY OF CHANGES
Standard of Practice: Infection Control	The *Standard of Practice for Infection Control* is being updated to include: • Appropriate use of PPE; • Signage on how and when to use hand sanitizer and masks; • Considerations for additional engineering controls including plexiglass barriers and hand washing sinks. • Additional links to resources available to Members.

CONSULTATION FEEDBACK

Feedback was received from 1 individual and 1 organization. The feedback included the following comments and recommendations:

FEEDBACK	AMENDMENTS BY QAC
As we are using ABHR very frequently, the change to "hand hygiene with an appropriate alcohol-based hand sanitizer or soap and water" makes more sense and is appreciated because it is a healthier option for our hands.	No changes made.
"Uses safety engineered needles whenever hollow bore needles are used." Could this please have an exclusion for compounding so as not to cause any confusion in interpretation.	Amended standard to state: Uses safety engineered needles whenever hollow bore needles are used for injections.
In the Resources, or maybe this is in another Standard or Guideline, Best Practices for Environmental Cleaning for Prevention & Control of Infections in All Health Care Settings, 3rd Edition (April 2018) PHO website We had the understanding that this was the standard by which the clinic was cleaned, appropriate products, training etc. to be	No changes made. Document to remain in Resources Link.

used, and we thought this was a CONO Standard or Guidance. Is this document relevant?	

ANALYSIS

Risk Assessment – there are no risk considerations at this time.

Privacy Considerations – There are no privacy considerations within the context of this discussion.

Transparency –open public consultation on the draft standard of practice was conducted. Members will be notified of the updates using the College's communication tools (News Bulletin, iNformeD etc.).

Financial Impact – There are no financial implications to this guideline.

The College of Naturopaths of Ontario

Standard of Practice:

Infection Control

Introduction

The intent of this standard is to advise Members with respect to the incorporation of appropriate infection prevention and control measures into their practice.

Definitions

Routine Practices: the standards of practice, commonly known as “universal precautions”, that should be followed for the care of all patients at all times. They are based on the premise that all persons are potentially infectious, even when asymptomatic, and that the same safe standards of practice should be taken routinely when handling blood, body fluids, secretions and excretions, mucous membranes, non-intact skin, and undiagnosed rashes of all patients.

Respiratory Etiquette: personal practices that help prevent the spread of bacteria and viruses that cause acute respiratory infections (e.g., covering the mouth when coughing, care when disposing of tissues).

Biomedical Waste: for the purposes of this Standard of Practice biomedical waste is either anatomical or non-anatomical.

Anatomical Waste: consists of tissue, organs and body parts not including hair, teeth and nails.

Non-anatomical Waste: consists of:

i. human liquid blood or semi-liquid blood and blood products, items contaminated with blood that would release liquid or semi-liquid blood if compressed, dried items that would have released liquid blood if compressed before drying and body fluids contaminated with blood, excluding urine and feces;
ii. all sharps including acupuncture needles, needles attached to syringes, blades and microscope slides with blood;
iii. broken glass or other materials capable of causing punctures or cuts which have come in contact with human blood or body fluid.

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1. Routine Practices

The Member incorporates routine practices that minimize the chance of, or spread of infection.

Performance Indicators

The Member:

- maintains current knowledge of infection control protocols relevant to naturopathic practice;
- adopts appropriate infection control measures and monitors their use and effectiveness to identify problems, outcomes and trends;

- ensures that the infection control measures include, as a minimum, requirement for:
    - risk assessment of the patient, and of the health care provider's interaction with the patient;
    - knowing his/her personal immune status (i.e. Hepatitis B, Tuberculosis, HIV etc.) relevant to the practice setting and taking appropriate action to ensure patient protection;
    - taking the measures necessary to prevent the transmission of infection from the Member to the patient or other health care providers and staff;
    - hand hygiene with an appropriate alcohol-based hand sanitizer; or soap and water;
    - appropriate use of personal protective equipment (PPE), including safe application, removal and disposal;
    - Signage in the reception area instructing patients on when and how to use alcohol-based hand sanitizer and masks;
    - proper and adequate cleaning of equipment and clinic environment;
    - proper and adequate engineering controls (e.g. well-maintained ventilation, barriers such as the use of Plexiglass, hand washing sinks etc.); and
    - point of care sharps containers and alcohol-based hand hygiene product dispensers.
- Ensure administrative controls are in place including:
    - policies and procedures;
    - staff education;
    - healthy workplace policies;
    - respiratory etiquette; and
    - monitoring of compliance.

- Uses safety engineered needles whenever hollow bore needles are used for injection.

Where applicable the Member establishes and maintains a clean field which includes:

- using only single use, sterile, disposable needles;
- creating a clean work surface (sheets, paper etc.) in the treatment room;

2. Reportable Communicable Disease

The Member reports all Reportable Communicable Diseases that he/she diagnoses.

Performance Indicators

The Member:

- reports all Reportable Communicable Diseases to the local Medical Officer of Health as outlined under the *Health Protection and Promotion Act R.S.O. 1990, O. Regulation 559/91;*
- has available, the phone number for the applicable local Medical Officer of Health;
- has available, in the office the list of Reportable Communicable Diseases.

3. Handling and Disposal of Biomedical Waste

The Member incorporates current, appropriate, and generally accepted practices for handling and disposal of biomedical waste.

Performance Indicators

The Member:

- ensures that biomedical waste is segregated from all other waste and handled in accordance with the containment, labeling, storage and transportation requirements in Guideline C-4: The Management of Biomedical Waste in Ontario;

4. Incident Reporting

The Member ensures that an incident report is prepared in the event of an incident involving exposure to biomedical material that poses a risk of transmission of infection.

Performance Indicators

The Member ensures that a report is written for any incident involving exposure to biomedical material posing a risk of transmission (e.g., needle-stick injury, blood or body fluid ingestion, contact with mucous membrane or broken skin).

The Member's incident report includes:

- nature of the incident;
- date and time of the incident;
- name of individuals involved;
- how the incident occurred;
- results of all medical tests administered;
- any treatment administered; and
- any other information relevant to the incident.

The Member keeps a copy of the report in a master incident report file and makes a notation in the patient file if a patient was involved.

The Member retains the incident report for at least ten (10) years.

Related Standards

Acupuncture
Blood Examinations
Compounding
Dispensing
Emergency Preparedness
Inhalation
Injection
Internal Examinations
IV Infusion Therapy
Record Keeping

Legislative Framework

Health Protection and Promotion Act R.S.O. 1990

Resources

- Routine Practices and Additional Precautions in all Health Care Settings (2012)
- Infection Prevention and Control for Clinical Office Practice (2015) -
- Best Practices for Hand Hygiene in All Health Care Setting (2014)
- Best Practices for Cleaning, Disinfection and Sterilization in all Health Care Setting
- Ontario Public Health Standards – Infectious Diseases Protocol
- Occupational Health and Safety – Guideline C-4: The Management of Biomedical Waste in Ontario Public Health Agency of Canada

Approval

Original Approval Date: October 15, 2012
Latest Amendment Date: March 6, 2019

Disclaimer
In the event of any inconsistency between this standard and any legislation that governs the practice of Naturopathic Doctors, the legislation shall govern.

The College of Naturopaths of Ontario

BRIEFING NOTE
Telepractice Guideline

ISSUE: Final approval of the new Telepractice Guideline is sought from the Council of the College of Naturopaths of Ontario.

BACKGROUND:
The *Regulated Health Professions Act, 1991* (RHPA) requires each health regulatory College to develop, establish and maintain Standards of Practice for the profession. These Standards outline the level of quality and safety expected for professional services provided to the public by Members of the College. The RHPA also authorizes Colleges of self-regulating health care professionals to develop and maintain any necessary codes, policies, or guidelines. Legislation, regulations, by-laws, the Code of Ethics, Core Competencies, Standards of Practice and professional guidelines collectively establish a framework for the practice of naturopathy in Ontario. The documents are developed and updated regularly to reflect current legislative and health care system requirements.

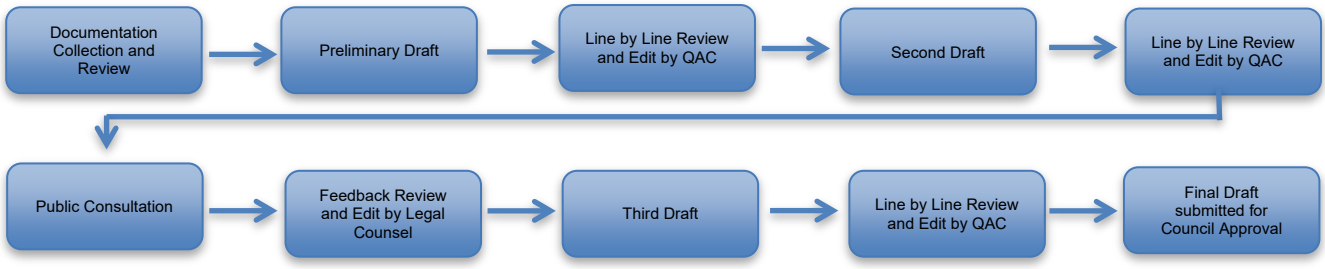
In late 2019 the Quality Assurance Committee (QAC) amended its program policies to review and update the Core Competencies and all Standards of Practice over a 4 year period. This change from the annual 25% review would allow for the QAC to undertake a more global review of all Standards and Guidelines and view their interconnectivity and reliance on one another. In March 2020 with the implementation of the provincial government's emergency orders the QAC put the Core Competency review on hold and identified 2 documents that more urgently required updating and drafting. These included :

- Updating the Standard of Practice: Infection Control; and
- Creating a new guideline for Telepractice.

Practice guidelines are intended to elaborate on the Standards of Practice of the profession. Guidelines provide recommendations on how NDs can deal with particular situations to be compliant with rules, regulations and standards. To complement the higher level descriptions found in other documents, guidelines offer further meaning, context and clarity. The guidelines are helpful in offerings scenarios, checklists, and issues to consider.

Process

The following flow chart illustrates the process used to develop, review and consult on draft standards and guidelines:



The development of the new guidelines began with staff of the College undertaking a review of comparable documents created by other health regulatory Colleges, associations and educational institutions in order to create a starting point of necessary amendments. The drafts were provided to the Quality Assurance Committee, who conducted a line-by-line review to ensure that the content was accurate and applicable to NDs in Ontario. The above noted documents were circulated for a public consultation in June 2020. Following the consultation, feedback was compiled and reviewed by the Quality Assurance Committee who made amendments to the draft guideline where warranted.

SUMMARY OF CHANGES

NAME OF DOCUMENT	SUMMARY OF CHANGES
Guideline: Telepractice	The new Telepractice Guideline provides specific advice about important factors naturopaths must consider before providing a virtual visit by phone or videoconference. Examples of those factors include making sure there is a formal naturopathic doctor-patient relationship, ensuring privacy and confidentiality, obtaining informed consent and keeping proper patient records.

CONSULTATION FEEDBACK

Feedback on the draft Telepractice Guideline was received from 1 organization. The feedback included the following comments and recommendations:

FEEDBACK	AMENDMENTS BY QAC
The Guideline proposes to “Ensure that the patient records and billing receipts note that the visit was performed via telepractice.” Of course, the patient records should include the type of visit, the patients consent to telepractice, etc., but I believe that the requirement to identify telepractice on billing receipts is an unnecessary burden that offers no additional protection to the patient or the general public, but creates additional challenges. Insurance providers already allow and cover televisits. The OAND was assured that if the patient’s insurance covers naturopathic visits, it doesn’t matter whether the visit is virtual or in---person. The insurance company doesn’t need to know, so requiring this reporting often confuses things at the claims level and patients suffer because of it. What we’ve heard is that there is a terminology problem. Patients, NDs and society as a whole still don’t know whether to	Amended section 3.h. to read: Ensure that the patient records note that the visit was performed via telepractice.

use the word telepractice, televisit, telehealth, telemedicine, virtual visit, or some other term. As I type this document, it is ironic and confusing that neither the word “telepractice” nor “televisit” are recognized by Microsoft. Furthermore “telehealth” is unfortunately often confused with Telehealth Ontario, the Ontario Government’s free telephone service that you call to speak to a nurse for health advice. “Telemedicine” is often confused with the Ontario Telemedicine Network, a quasi---governmental service provider of secure appointments, etc. When NDs use terms like these, patient claims have been denied because they are assumed to be the programs (mentioned above) already covered by the Ministry. As I’m sure you know, claims that are denied can cause all sorts of difficulty for the patients and the NDs. All that the insurance provider needs to know is that it was a naturopathic visit that met CONO standards. The method of visit is irrelevant and should not be required on billing receipts. Years from now, when virtual care is common place and we’re fully done with COVID---19, this could be revisited, but in the middle of a pandemic is not the time. insurance providers want to further clarify the information that they require, they will do that, but it is our perspective that CONO doesn’t need to be involved.	
The OAND fully agrees that the communication technology used for telepractice must be consistent with privacy laws and regulations. NDs must use platforms that are compliant with Ontario’s Personal Health Information Protection Act (PHIPA), but as the world of online meetings and virtual appointments is changing at a meteoric pace, because of the pandemic, it is sometimes hard to know the latest on compliance or non---compliance. One very popular video meeting company, both claims a privacy compliant health care provider program and was also very recently the subject of a privacy warning from the MOHLTC. As this is not just a naturopathic issue, but rather one for all of Ontario’s Regulated Health Professions, can we suggest that the OAND, CONO and the	No changes made. The QAC agrees that a list of service providers would be helpful to Members and would encourage member organizations to form appropriate relationships with service providers to assist Members in selecting credible providers.

Ministry work together (ideally with other Colleges & Associations) to develop a comprehensive guide of what is required and which service providers comply. Putting the onus on a ND to trust a salesperson or claims made on a video meeting company's website is not in our view the most patient protective approach.	
We understand the public protection rationale behind naturopaths being regulated in the province where their patients are residents, but to include short duration travel (e.g., a vacation) is not patient protective in our view. I hear lots of examples of patients who are on vacation and suffer a worsening of a pre---existing condition or are having a problem with the medication they are taking and contact their naturopath for care advice. Their home naturopath knows this patient well, has the patient's history in their records, and would likely be the practitioner who prescribed whatever treatment the patient is currently on. A regulated naturopath in another province, where the patient is travelling, will be at a disadvantage for the reasons mentioned, and so patient care will be less effective. They won't have the relevant patient information and care will be delayed if they have to try to obtain it. Patient protection will suffer and would be much better served by their access to their home naturopath. The benefits of continuity of care certainly must be prioritized here.	No changes made. The QAC agrees with the feedback provided however this is a legal restriction, not one imposed by the QAC. As health care is regulated on a provincial level, individuals who wish to treat patients in another jurisdiction must be registered with the appropriate regulatory body of that province.

ANALYSIS

Risk Assessment – there are no risk considerations at this time.

Privacy Considerations – There are no privacy considerations within the context of this discussion.

Transparency –open public consultation on the draft guideline was conducted. Members will be notified of the updates using the College's communication tools (News Bulletin, iNformeD etc.).

Financial Impact – There are no financial implications to this guideline.

The College of Naturopaths of Ontario

Introduction

Telepractice is the provision of naturopathic care for the purpose of diagnosis and patient care by means of telecommunications and information technology where the patient and the provider are separated by distance.

General Expectations

1. Members who choose to participate in telepractice must continue to meet all of the same legal, ethical, and professional obligations that they must meet in a physical clinic setting.
2. For every patient, and in each instance, the use of telepractice is contemplated considering the patient's best interest. Naturopathic Doctors must use their professional judgment to determine whether telepractice is appropriate and will enable them to meet all relevant and applicable legal obligations, professional obligations, and standards of practice.
3. Members who practice telepractice should:
    a. Consider the patient's existing health status, specific health care needs, and specific circumstances, and only use telepractice if it is in the patient's best interest.
    b. Ensure that the communication technology used and the physical location of both the Member and the patient are consistent with privacy laws and regulations. The patient's privacy and confidentiality of the patient's personal health information should be maintained.
    c. Ensure that the reliability, quality, and timeliness of the patient information obtained through telemedicine is sufficient to make a diagnosis and provide the appropriate treatment.
    d. Ensure that the patient is fully informed of the limitations of telepractice, as well as any potential privacy, confidentiality, and security risks associated with telepractice.
    e. When necessary, refer the patient for an in-person appointment (e.g. where a physical examination is required).
    f. Ensure that the Member's identity is known to the patient and the identity of the patient is confirmed at each visit.
    g. Ensure that your location and the patient's location allow for you to legally practice naturopathy.
    h. Ensure that the patient records note that the visit was performed via telepractice.
    i. Ensure that sufficient Professional Liability Insurance is in place.

Providing Telepractice Across Borders

Patient in Ontario

It is the position of the College of Naturopaths of Ontario that in order to provide naturopathic care in person or via telepractice to an individual located in Ontario the naturopath must hold a general class certificate of registration with the College of Naturopaths of Ontario

Patient in another Regulated Jurisdiction

Where a patient is located in another regulated jurisdiction (e.g. Alberta, British Columbia etc…) the naturopath must be registered with the regulatory College in that jurisdiction in order to provide telepractice. This includes short duration of travel etc.

Patient in an Unregulated Jurisdiction

Where a patient is located in a jurisdiction that does not regulate naturopathy (e.g. Ohio, Prince Edward Island) the Member must continue to meet all applicable laws and standards of practice of Ontario and ensure that they comply with any law in the jurisdiction where the patient is located that may restrict them from providing care.

Scenarios

1. Patient A used to live in Toronto but has recently moved to Calgary, Alberta. Patient A was a patient of Dr. Jane, ND in Toronto and has not found another ND since moving to Calgary. Patient A contacts Dr. Jane, ND and asks her to provide a renewal of her folic acid prescription. Dr. Jane, ND informs Patient A that as she is not registered to practice naturopathy in Alberta she cannot provide the prescription. She, however, recommends an ND in the Calgary area for Patient A to see, and offers to send a copy of the patient file to the Alberta ND to help facilitate the transfer of care.

   In this scenario Dr. Jane, ND has appropriately recognized that, although she is registered to practice in Ontario, she cannot provide naturopathic services in another regulated jurisdiction. Dr. Jane, ND also helped the patient to find a new ND who can provide care in Alberta.

2. Patient A resides in Thunder Bay. She has hypertension and is looking for naturopathic treatment. She finds, via the internet, Dr. Jane, ND who provides electronic naturopathic services via Skype. Dr. Jane, ND is registered with the College of Naturopaths of Ontario. Patient A schedules a Skype appointment with Dr. Jane, ND. During the Skype visit it is noted that Patient A indicated that she had blood pressure readings of 160/100 in the recent past. Dr. Jane, ND recognizes that Patient A's blood pressure remains very high and could be on the verge of a hypertensive crisis, and refers her to local a MD for further examination. She recommends that they schedule a follow up appointment to discuss lifestyle modifications after Patient A visits with her MD.

   Telepractice has its conveniences but also its limitations. Dr. Jane, ND recognized that a further in person examination and possible pharmaceutical intervention was required and appropriately referred the patient for the necessary care. Dr. Jane, ND also recommended the follow up appointment to help meet the patient's needs of supporting her hypertensive treatment with naturopathic care.

3. Dr. Jane, ND has been practising in Ontario for many years and has moved to British Columbia to practise. Many of her long time patients asked if she can continue to treat them now that she is in BC. In order to be able to treat her Ontario patients via telepractice Dr. Jane, ND has maintained her registration in the General class in Ontario as well as being registered as an ND in BC. Dr. Jane, ND is also able to prescribe in both BC and Ontario, having successfully completed all the required courses and examinations. While conducting a visit with an Ontario patient, the patient shows her a rash that from Dr. Jane's evaluation would best be treated by a hydrocortisone cream. Dr. Jane refers her patient to her family physician for the cream.

   As Dr. Jane, ND is dual registered in both Ontario and British Columbia she can provide naturopathic services to patients in both jurisdictions. Although in BC it is authorized, NDs in Ontario are not authorized to prescribe hydrocortisone cream. As the patient with whom Dr. Jane, ND was meeting is located in Ontario, she appropriately met her jurisdictional requirements by referring the patient to her family physician.

Suggested Other Reading

Standard of Practice for Consent
Standard of Practice for Record Keeping

Approval

Original Approval Date:
Latest Amendment Date:

The College of Naturopaths of Ontario

BRIEFING NOTE
Data and E-mail Systems Update

ISSUE: This is an update for the Council on the work that the College has undertaken with respect to its e-mail and data systems.

BACKGROUND:

In early January 2020, the College learned that two e-mail accounts, one belonging to a member of staff and the other the general account (info@collegeofnaturopaths.on.ca) had been accessed by an unauthorized user who had placed an automatic forward on the account. As a result, a copy of all inbound e-mails to both accounts were automatically forwarded to the unknown person.

The automatic forwarding was removed as soon as it was discovered, and the College's IT support checked all other accounts to ensure no other e-mail account was affected. None were, nor were the College's in-house server, the College website and Member database, both of which are maintained separately from the e-mail system.

Council was briefed on the matter by a memorandum from the Registrar & CEO, and the Executive Committee has been updated on all the ongoing activities to address the situation at each of its regular meetings.

With the assistance of the College's insurance underwriting, one of North America's top cyber security investigative companies was retained to investigate the nature of the breach and identify the scope of information that was released. During that investigation, two additional breaches of the same staff member's account occurred.

In the interest of brevity, the focus of this briefing will be on the outcomes of this investigation and the efforts the College has made to notify those impacted. Details of the various elements of this process will be provided through several appendices.

Appendix 1 provides the Council with a full timeline of all activities related to this breach.

DISCUSSION POINTS:

<u>Steps taken by the College</u>

At the time that the breach was discovered and in the intervening period, the College has taken several steps to address the situation and likely cause (separate and apart from the investigation undertaken). These include:

- Immediately removing the auto forward on the affected accounts,
- Setting an alert for PACE (our I.T provider) and the Director of Operations should the e-mail forwarding rule be attempted to be armed by anyone,
- Changing the passwords on the affected accounts,
- Closed the "info@collegeofnaturopaths.on.ca" e-mail address and created a new e-mail account "general@collegeofnaturopaths.on.ca",
- Checking all other e-mail accounts to confirm no similar rules were in place,

- Confirming that no unauthorized persons had access to the College's server,
- Undertaking training of all staff and continuing training for new staff on how to recognize phishing e-mails and other threats to the Colleges IT systems,
- Directing all staff to not access their College e-mail accounts from any device other than the College owned device issued to them,
- Implemented multi-factor identification (MFA) on the College's e-mail accounts and server, and
- Testing of staff on recognizing phishing e-mails on an on-going basis.

Investigation Outcomes and Nuances

The following summarizes the outcomes of the CyberClan investigation:

- Given that the logs that track how and from where accounts were accessed is not available, there is no way to know precisely when the unauthorized access occurred and how access was obtained.
- Statistically speaking, the highest probability is that access to the accounts was achieved through a Phishing E-mail. These are highly sophisticated e-mails designed to look like an e-mail you would expect that invites you to click on a link at that website, then you would enter your username and password.
- Access to an Office 365 e-mail account can be achieved in one of two ways. First, by using a web-based application (web browser) which allows the accessing person to see the e-mails in the account, send and receive e-mails but not download them. Second, by using an application on a computer or electronic device (such as Outlook or Apple Mail), entering the username and password which allows the person accessing the e-mail to download all e-mails ever sent or received from that account.
- Given the inability to know how access was obtained, CyberClan concludes that the worst-case scenario must be assumed, which is an application was used and all e-mails in both accounts were breached.

Information that was Breached

There is a large variance among the types of information that must be assumed to have been released. Some information is relatively innocuous, such as a personal e-mail address, while other information is very serious, such as personal health information or personal tax and financial information. Attached as Appendix 2 is a more detailed description of the documentation released.

The e-Discovery process grouped the data that was released into three categories based on a risk-assessment. A low-risk disclosure would be personal information about a person that has no financial value and little risk of fraud or identity theft. A high-risk disclosure is one that would place the individual who owns the information at a high risk of fraud or identify theft.

Attached as Appendix 3 is a summary of the types of information that were released and whether they were categorized as being of low, medium, or high risk.

Not included on this summary, as they have been handled in a separate process, are situations where personal health information (PHI) was disclosed. A total of seven records contained PHI and from this, 12 individuals have been affected. Without disclosing any of the specifics, the kinds of information that fell into this category were: diagnostic information, age, prescription information, and the health history of individuals.

Extensive Review of the Records

As noted above, the initial report from CyberClan identified 2,307 individuals who were affected by the data breach. However, during an initial review, it was noted that in many cases, the information released would not be classified as personal information. This included business e-mail addresses, business addresses, College registration numbers and some (but not all) registration numbers of other Colleges.

Other incongruities were also discovered in the data. The most worrisome were those records that indicated that the College had a personal telephone number but, as they were not Members of the College, it was not clear as to how we would have obtained that number alone. It was discovered that while some records identified that a resume was disclosed, others did not even though the data itself revealed that a resume was an issue.

It is estimated that this review process consumed 10+ days of 8 or more hours per day to complete. Given the nature of the documents and the security around this matter, the documentation was reviewed solely by the Registrar & CEO who is also the designated Privacy Officer for the College.

Number of Individuals Affected

Based on the review conducted above, the following number of individuals were deemed to be affected from the initial set of 2,306 identified by CyberClan:

- Zero Risk (no personal information disclosed): 608
- Low Risk: 890
- Medium Risk: 568
- High Risk: 83
- PHI: 6
- Duplicates/No data: 145

The last category represents where individuals were captured in two or more of the categories, in which case the results were collapsed into the highest risk category to which they were assigned, or where no actual document was attached to the record (their name may have been mentioned in some context but no record was located).

Notifications

Notifications took place on July 20, 2020. As the notifications were being sent primarily by e-mail (please see table below), it was necessary to send them out in small groups to ensure the College's domain does not get identified as a source of spam.

To protect privacy, the email sent out provided the individual with a link to download the letter from Dropbox as opposed to adding it directly to the e-mail. This will add some protection to the contents.

Three different letters, representing the three levels of risk were developed and sent out by the College. These letters provided a brief overview of the situation that has occurred, and a personalized description of the type of information that was disclosed for each individual. For those individuals in the high-risk category, the letter also provided a code to provide them with one year of free credit monitoring through Equifax. This was provided through the College's insurance underwriter.

The six individuals affected by the disclosure of PHI have been handled individually with letters drafted by DWF (the College's designated law firm by the insurance company) on behalf of the

College and reviewed/edited by the Registrar. Where the PHI belonged to a patient of a Member (of which there was one) or the patient of another regulated health professional (of which there was also one), the College has notified the health care provider in order to allow them to fulfill their legal responsibilities of notification under the *Personal Health Information Protection Act*. The College is/will be supporting these individuals in this process.

The means by which notification has been undertaken is also important. The following table set out how the letters have been transmitted:

Risk Type	By E-mail	By Mail	By Fax	Call	Totals
Low	886	1	1	2	890
Medium	554	12	0	2	568
High	79	4	0	0	83
PHI	4	2	0	0	6
Totals	**1,523**	**19**	**1**	**4**	**1,547**

Notification Timing

Throughout this investigation, the Registrar & CEO has expressed concerns regarding the timing of the investigation and the College's ability to provide notification. In an ideal world, notification would have occurred much earlier than July 20, 2020, more than six months after the breach was discovered and corrected.

Despite moving quickly at the discovery of the breach and taking the steps necessary to cure and prevent recurrence, the initial forensic investigation took longer than anticipated. This was due to the subsequent breach that was discovered during the investigation and working to address access to logs at Microsoft. At the time, it was thought that the forensic investigation would include a review of the records, but this turned out not to be the case.

Once that was learned, the e-Discovery tool, an electronic program that reviewed the data in the two e-mail boxes, was deployed. Again, it was thought that this would be a rather quick process; however, it took more than a month to complete.

Unfortunately, the COVID-19 crisis emerged just prior to the receipt of the report which consumed all of the senior resources of the College to manage resulting in an additional four to six weeks of delay.

Once the report was reviewed, it was quickly identified that a more in-depth analysis of the data by the Registrar was required to ensure the data was accurate. The primary concern being that had the College merely moved forward with the data as presented, over 600 individuals would have received notices that their privacy had been breached when in fact it had not. Additionally, over 150 people would have received more than one notice or a notice that was not supported by a record.

At this point, it was a judgement call to take more time to review the data to ensure accuracy as opposed to rushing to issue notices.

Finally, the review process undertaken was done with the concern about the data in mind. Only when the notification process became the focus did it become clear that a great deal of data would need to be reviewed again to find contact information for the individuals. Doing so has reduced the costs to the College and the amount of staff time needed for notifications as most notices would go out by e-mail.

Costs to the College

It is important to note that much of the road the College has taken has been with the support of the College's insurance underwriter. The College's insurance policy included a provision for support in the event of a data breach. That clause was utilized and covered $25,000 of the College's costs. The insurance company, outside of that coverage, also covered the costs of purchasing a year of services for identity theft and credit monitoring for all individuals who fell within the high-risk category.

In addition to these funds, the College itself has spent $45,077 in payment for services thus far, including services from:

- PACE – purchase and installation of multi-factor authentication to enhance IT security,
- KnowBe4 – staff training on the identification of data risks, especially phishing e-mails,
- CyberClan – a portion of the e-Discovery tool costs that went beyond insurance coverage,
- Insurance deductible – required to be paid in accordance with the policy,
- External Legal Counsel – fees that went beyond the insurance coverage,
- General Counsel – legal advice, and
- Media Profiles – drafting Q & A for outside inquiries and posting for website.

The latter three items may have some additional costs through July and into August.

Risk to the College

The risk to the College lies in the potential for lawsuits to be filed against it. In discussions with legal counsel (both DWF and General Counsel to the College), it has been noted that first, to be successful, a plaintiff would be required to prove that they incurred damages. Based on what we know about the breach, this would limit the potential to approximately 95 individuals (high risk and PHI).

Second, the *Regulated Health Professions Act, 1991*, includes an immunity provision for the College, its Council, Committee members and employees. This provision disallows lawsuits to be filed unless it can be demonstrated that the regulatory actions were taken in bad faith, that is, with intent to cause harm.

What we know about this situation is that a member of staff is suspected to have unknowingly clicked on a phishing e-mail which disclosed their user information for their e-mail. Since it cannot be pinpointed exactly how and when this occurred, supports the notion that this was not in a bad faith effort on the part of the College or its employees to cause harm.

That said, if any lawsuit is filed, the College would have to respond to it and, of course, there is the time and the costs involved in doing so. The College would have to be careful to use these provisions because they were intended to do so and not as a means of avoiding blame or taking responsibility for the events that have transpired.

Impact on the College

On a macro level, there can be little doubt that these events will have a deleterious effect on the College's reputation. Given the work that we do and the amount of personal and personal health information we have in our possession. It is hoped that the College will be judged not only by the events that have occurred but also by the efforts it has made, at an extraordinary time, to address the problem and support the individuals impacted.

Moving closer to home, the College and its team will be impacted. The following summarizes the impact on Council and staff (but does not include any Committee volunteers).

Risk Level	Council	Former Council	Staff	Former Staff
Low	3	1	3	0
Medium	7	2	1	2
High	2	0	2	0
PHI	0	0	0	0

As a result, every Council member, excluding the three most recent appointments by Government, has been affected by this breach, two of which are at high-risk. A total of seven staff have been impacted, two of which are at the high-risk level. For the purposes of transparency, this latter group includes a senior Director and the Registrar & CEO.

ANALYSIS

Risk Assessment – The risks to the College include loss of reputation and potential for legal action. Both have been addressed within the briefing itself.

Privacy Considerations – The privacy considerations have been set out within the briefing itself. The entire matter of the breach relates to disclosure of personal or personal health information of many individuals.

Transparency – transparency is achieved by having the discussions at the publicly available Council meeting. To-date, the College has not previously released information in order to ensure that the scope of the breach and its impact was fully understood.

Financial Impact – Costs to-date have been set out within the briefing itself.

Public Interest – While all decisions of the Council must relate to the College's public interest role, Council is not being asked to make any decisions on this matter. The College is proceeding with notifications and actions to address the matter.

Andrew Parr, CAE
Registrar & CEO
July 2020

Appendix 1
Timeline of Events Surrounding the E-mail Breach

January 2, 2020	The College became aware that two of our e-mail accounts had been compromised, our general e-mail account (info@collegeofnaturopaths.on.ca) and the account belonging to a member of staff.
	PACE Technical Services (PACE), our IT management provider, identified which accounts were compromised, contained the breach, updated passwords on the affected accounts and audited all other College e-mail accounts and network information. As a result, they found no other College e-mails were compromised, nor were any other College systems. PACE also activated an audit tool in which if an e-mail forwarding rule is added to an e-mail account both PACE and the Director of Operations would be in receipt of this information.
January 3, 2020 to January 7, 2020	Several meetings with the College's Senior Management Team and PACE were held to ensure the on-going security of the College's systems and to determine what next steps should be undertaken.
January 9, 2020	The College notified its insurance broker of the e-mail breach and met with a cyber educational firm to determine what training could be provided to staff to ensure security of the College's systems.
January 13, 2020	The Registrar, upon return from vacation, is briefed on activities to date and directs that the College's info@ account be retired and replaced. Communications are reviewed and updated and a meeting with College staff is planned.
January 15, 2020	A recommendation is received from the College's insurance underwriter to retain a forensic audit team (Network Labs Inc.). The recommendation is accepted. During this process, Network Labs Inc. rebrands to CyberClan. For ease of reference they will be referred to as CyberClan in this briefing.
	The Underwriter also recommended the College retain Dolden Wallace and Folick LLP (legal experts in the area of data breaches) and the Beazley Group to coordinate the activities of the people involved in the investigation.
January 21, 2020	The forensic investigation by CyberClan is initiated to attempt to identify the manner of the breach.
January 27, 2020	Staff are reminded that they must password protect documents that contain personal information when emailing them.
January 31, 2020	CyberClan determines that the audit logs beyond the past three months are not available due to the time that the College began using Office 365 and the configurations of the day. These are immediately initiated for the future.
February 5, 2020	CyberClan reports that a further unauthorized access into the e-mail account of the same staff member has occurred based on accessed logs. This is later to be determined to be a web-based access attempt using

	the staff person's username and password. The account was immediately locked, and new password was provided to the staff member the next morning.
	It is concluded that the staff member who's account was accessed was using their home web-based browser to access their College e-mail account and that this is how the password, which had been changed after the first access was found, had once again been disclosed. It is assumed that the person has a virus or trojan horse on the home computer. A check is made of College equipment and it is confirmed that it had not been accessed.
February 7, 2020	Cyber security training (contracted through KnowBe4) is initiated and each staff person is required to complete the training over the following three weeks. New staff will be trained as part of the on-boarding process.
	The Registrar advises all staff that in order to increase security of the College's systems, they may no longer access their Office 365 accounts from a home-based computer or laptop and may no longer access the College's VPN except from College computer equipment. Using USB storage devices and emailing personal email addresses are also prohibited.
February 12, 2020	The Registrar & CEO works with DWF to determine why the investigative process is taking longer than anticipated.
	It is determined that in order for the Investigative Team to access logs that Microsoft may have that could identify the means of access can only be done through law enforcement. It is determined that given the degree of access to information that law enforcement will not likely be interested in actively pursuing the matter. It is also determined that a Canadian law enforcement agency may likely not be sufficient for Microsoft. Law enforcement is not contacted.
February 18, 2020	CyberClan recommends to the College that a proprietary tool (e-Discovery) be used to assess the amount of personal information that may have been breached.
February 20, 2020	The approval of the Executive Committee is sought to purchase the e-Discovery service. Approval is received immediately from the Executive Committee. The process is initiated on or about February 24, 2020 after completing initial set up.
March 17, 2020	Although not directly related to this project, the College's Offices are closed, and all staff transitioned to working from home due to COVID-19 Emergency Measures put in place in Ontario and Canada. For the next 35-40 days, COVID-19 consumes nearly all senior staff resources of the College.
March 26, 2020	A draft report from CyberClan from the e-Discovery process is received from CyberClan and access to all of the data supporting the report is provided to the Registrar.
April 9, 2020	After extensive consultation and development work with PACE, additional security measures are activated on the College's e-mail accounts and server. A process of multi-factor authentication is set up such that to access an e-mail account, authorization must be given through an

	application provided by Microsoft and in order to access the College's server, a six digit code is required each time. The code changes every 30 seconds.
April 30, 2020	A video conference is held with all parties involved in the investigation (College staff, DWF, Legal Counsel, Beazley Group, CyberClan (forensic and e-Discovery). The meeting is the first opportunity for all parties to discuss the outcomes of the forensic audit and the e-Discovery process.
May 7, 2020	A follow up meeting is held with DWF, College Counsel and members of the College's Senior Management Team to discuss notifications of affected parties.
May 10 - June 15, 2020	The Registrar & CEO reviews the data captured by the CyberClan e-Discovery process. A total of 2,307 individuals are reported to have been affected by the e-mail breach, however, during the initial part of this review, it is determined that some pieces of information are not complete and do not represent a degree of risk.
	The Registrar & CEO and DWF review the findings of the Registrar's review and agree that some records may need to be re-categorized and some records do not require notification as no personal information was disclosed.
	In order to reduce the need for follow up telephone calls, the Registrar reviews each record in the data set and creates a descriptor for the nature of the information disclosed.
	Draft notification letters are received from DWF and edited by College staff. Letters are formatted into mail merge letters and individual PDFs created. Each of these are labelled manually.
July 2 – July 8, 2020	The Registrar reviews the data set to create a contact list that can be imported into the College's e-mail system to avoid the risk of the business e-mail account being labelled as spam.
	The Registrar follows up with DWF on outstanding letters that relate to personal health information that was disclosed.
July 10, 2020	DWF responds stating they will review the outstanding letters that relate to personal health information by July 14, 2020.
July 15, 2020	The draft letters from DWF are received and a review initiated. These letters must be cross referenced against the names in the high category to ensure that there is no duplication.
July 15, 2020	All notifications are finalized and files being uploaded to Dropbox and emails being prepared.
July 17, 2020	Notifications to be sent by mail are posted.
July 20, 2020	All emails are released.

Appendix 2
Description of Documentation Released

1. Documents that Include Personal Information

Data	Description
Application for Life Membership	Personal e-mail address, telephone number, residence address, declarations and undertakings.
Banking information (VOID Cheque)	Includes bank account, transit (routing) number, institution number of often a home address.
CE & PD Log	Continuing Education and Professional Development logs from a Member that indicates education taken over the past three years and total credits earned.
Class Change Form	Application to change class, including personal phone number and personal e-mail. Often included Professional Liability Insurance coverage attached.
Credit card	Credit card information, including card number, name on card, and date of expiration. Partial indicates that only some of the digits were disclosed, typically the last four digits.
Mandatory or Self-Reporting Forms	Reporting of registrations and criminal offences - prior complaints as applicable. Listed as Criminal Office – with specified offence added. Offences listed include: • Self-reporting of Criminal Offence - parking ticket • Self-reporting of Criminal Offence - speeding ticket • Self-reporting of Criminal Offence - red light infraction • Self-reporting of Criminal Offence - distracted driving.
Marriage Certificate	A marriage certificate includes the name of Member and spouse, date of birth, date of marriage, and in some cases nationality.
Name Change Request	Name Change form, including change in marital status, marriage licence or certificate, including date of birth, name of spouse, and in some instances, location of marriage.
Personal e-mail address	An address that is not listed as a public business address and did not contact an ND was deemed to be a personal e-mail address. A data pull for District 4 pulled all e-mail and primary addresses for Members in that district. Some addresses and e-mails would have been personal e-mails or residential addresses.
PLI	Professional Liability Insurance information, typically the policy number and insured address.
Pre-Registration Application Form	Application for Pre-Registration, including home address and telephone, personal e-mail address, driver's license or passport information, including date of birth and gender.

Residence Address	In some instances, correspondence included a clear residential address while in other instances, it was not an address on file with the College, so it was presumed to be a residence.
Resume, full	A resume that included home address, personal e-mail, telephone number, work experience and education.
Resume, limited	A resume that included phone number, city, province, work experience and education.
Resume, Professional	A resume from a Member that includes only their professional history as an ND, including speaking engagements etc.
Suspension Warning Letter	A letter sent to the Member warning that they may be suspended. Letters included reason.
Tax forms	TD1 and TD1ON, includes address, date of birth and social insurance number.
Volunteer Application Form	Volunteer application form, including address, e-mail, skills, experience, and CV.

2. Documents that do not contain personal information

Data	Description
Business Address(es)	A Member's practice location information is published on the Register and is therefore in the public domain and is not personal information.
Business e-mail address	An assigned e-mail to a business in the College's database or that is based on a specified domain other than broad community domains (e.g. me.com, gmail.com, outlook.com etc.) E-mail address that are identifiably for a naturopathic clinic, i.e. janedoeND@servernet would be considered a business e-mail address.
CE Application	An application submitted for recognition of courses for continuing education credits. Not deemed to contain personal information as presenters are publicized.
District	The district into which a Member is assigned is based on the postal code of their primary practice location. The College publishes the postal codes within each district in the Election Handbook annually.
QA Pre-Assessment Info and COI Declaration Form	Pre-assessment form with names of assessors and Member declarations of any conflict of interest with potential assessors. Often included business e-mail address and phone number.
Registration number	The College's assigned registration number is public on the College Register and is not deemed personal information.
Type II Occurrence Report	An annual statistical report from Registered Premises. Documents do not contain personal information.

Appendix 3
Summary of Data Breached and Risk Assigned

Low Risk	Medium Risk	High Risk
Registration number of another regulatory College	Marriage License or Certificate	TD1 and TD1ON, includes SIN, address, and date of birth
Self-reporting of Criminal Offence - any offence	Residence address	Bank account, routing number, institution and personal address
Suspension warning & reason (using business address)	Application for Life Membership	Application for Pre-Registration, home address and telephone, personal e-mail address, driver's license information, including date of birth and gender
Con Educ & Prof. Devel Log	Date of birth	Credit card information, including number, name, and expiration
Personal e-mail address alone	Resume, home address, personal e-mail, phone, work experience, education	Driver's license
Telephone number (alone)	Application to change class, including personal phone and personal e-mail.	Passport
Resume, phone, city, province, work experience, education	Name Change form, including change in marital status, marriage licence or certificate, including date of birth	
Status as a complainant against Member (no contact information)	Peer &Practice Assessment Form	
Resignation form	Professional Liability Insurance information	
	Any two or more of low risk category when combined	

College of Naturopaths of Ontario

Governance Report: A Mandate for Change (Draft)

April 2020

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SUMMARY OF DECISIONS

1. A more formal risk-based approach to regulation will be developed by the College through the development of a tool for use at the Committee level and which will be published on the College's website.
2. A mediation process will be considered allowing for a formal negotiated settlement to complaints that pose less risk to the public thereby allowing the College to focus its resources on matters posing a more serious risk.
3. The role of Council should be more clearly defined in statute and be focused on governance of the organization and strategic directions and priorities.
4. That the Council size should not be reduced from the current compliment as set out in the legislation.
5. Composition of statutory committees should be reduced to one sitting Council/Board member on each committee, although the same need not apply to non-statutory committees;
6. The Discipline function should be removed entirely from the regulatory authorities.
7. That the Council should have an equal representation from the profession and the public.
8. That elections of professional Members cease;
9. The Council be constituted through a competency-based appointment process for both professional and public members.
10. That the Executive Committee be eliminated.
11. That the Council of the College would move away from the President terminology and adopt the term Council Chair;
12. That the position of Vice President would be eliminated;
13. That the Council adopts a formal annual evaluation process that includes a Council/committee performance evaluation, an individual self-assessment for Council and committee members, and an assessment of each Council and committee member by their peers;
14. An external third party will be retained to receive, consolidate and present the findings to each member of Council and Committees;
15. That a summary report of the evaluation will be released publicly by the College.
16. That the name of the regulatory authorities should be changed away from "College";
17. That the name of the governing body of the regulatory authority should be referred to as a "Council" as opposed to a Board;
18. That the senior staff official appointed by the Council should be referred to as the "Chief Executive Officer (CEO)" as opposed to "Registrar", "Registrar & CEO" or "Executive Director";
19. That the individuals that the regulatory authority regulates should be referred to a "registrants" as opposed to "Members";
20. That the individuals that the regulatory authority regulates should be referred to "registered to practice" as opposed to "licensed";
21. That standard setting (development and approval) should be mandated to a statutory committee in the legislation, either the Quality Assurance Committee or a separate authorized Standards Committee.
22. That the College Council begin proactively contemplating this question as part of its planning processes.

INTRODUCTION

The Council of the College of Naturopaths of Ontario (the College) has been monitoring discussions in a large number of sectors and jurisdictions about self-regulation versus professional regulation and the future of regulation as a whole. The Council has set as one of its strategic goals to demonstrate excellence and leadership in regulation. It is within this context that the Council determined that a proactive consideration of these issues, outside of any imposed Government change, was the right thing for the Council and the College to undertake at this time.

There have been a myriad of issues over the past several years that, when viewed collectively, lead to a natural questioning of the governance model for regulated health professions. These issues have included transparency, accountability, public trust and the perspective that regulatory organizations protect their own. While the College itself has not been the focus of attention for its approach to regulation, it is not immune to the broader issues surrounding public trust and confidence in regulators of all stripes.

Add to this the ever-growing research on regulation around the globe and research that has been identified in a white paper developed for the Council, one can see there has been and remains a healthy and respectful questioning of key governance issues, including:

- The selection, role and size of a Council/Board;
- The role of the Chair of a Council/Board;
- A separation between those who govern on a Board and those who regulate through the Committee structures; and
- The evolving nature of regulation (self-regulation vs profession-directed regulation).

REVIEW PROCESS

THE COLLEGE followed a process that would allow it to derive maximum benefit from the excellent work of other organizations in Ontario and across many jurisdictions. The College also reached out to its stakeholders, including Members, naturopathic organizations, the Citizens Advisory Group and Ontarians, to ascertain their respective points of view. In this regard, the College:

- Undertook an extensive literature review;
- Received presentations from the College of Nurses of Ontario, the College of Physicians and Surgeons of Ontario, and the Ontario College of Teachers about their governance work and outcomes;
- Met with key naturopathic stakeholders;
- Surveyed Members of the College;
- Surveyed members of the public and the Citizens Advisory Group, as representative of the public.

This information was assembled and provided to the Council to allow advance work. Council met on January 28, 2020 and January 29, 2020 to debate key governance concepts in an open meeting. This report summarizes the discussions of the Council and the decisions and recommendations relating to modernization of the regulatory model for naturopathy in Ontario.

KEY AREAS FOR CHANGE

Based on the information placed before the Council, including the literature review, best practices identified and stakeholder feedback, the Council considered the following key areas for change and made the following decisions and recommendations.

Risk-based regulation

Traditional regulation models involve a series of rules implemented by the regulator. It is a reactive system and is triggered by a complaint or identification of harm.

Regulators have been encouraged to abandon the traditional approach and adopt a risk-based approach under which all decisions and activities are viewed through the lens of risk. Regulators would look to the risks within their profession and invest time and resources to try and reduce (or eliminate) those risks to the public. This would require regulators to look to data and trends to identify the existing and emerging risks. It would also require regulators to identify what poses a risk to the public as opposed to focusing solely on the reputation of the profession. It would require regulators to be nimble and flexible and not rely on mere rules and regulations.

THE COLLEGE was set up as a traditional regulator. It has fixed registration practices, mandatory reporting requirements, and investigation and enforcement measures. However, it also has elements of risk-based regulation in that it creates its own standards, collaborates with other professions and educators, and ensures that its Members remain current to the regulatory landscape.

The Council was of the view that the College presently uses a risk-based approach in many of its regulatory processes including those described below.

- Complaints/reports data and regulatory guidance inquiries inform outreach communications and advisories to the profession.
- Discipline data also informs outreach communications and advisories to the profession.
- Within the limits set by the legislation, the Inquiries, Complaints and Reports Committee (ICRC) does prioritize complaints and Registrar Investigations that involve matters posing a great risk.
- The ICRC uses a risk-based decision-making tool when evaluating complaints to determine the appropriate outcomes.
- The College staff use right touch regulation on matters that come to their attention by prioritizing situations representing risk to the public to the ICRC and addressing those with less risk one-on-one with the Members directly.
- Registration data relating to character is used to assess additional education and training that may be required prior to entry-to-practise.
- Type 1 and type 2 occurrence reports under the Inspection Part of the General Regulation inform inspection outcomes and risks posed by intravenous infusion therapy (IVIT).
- The Quality Assurance Program contemplates risks both generally for the profession but also specifically to the practitioner through the Peer & Practice Assessment process.

- Council's briefing materials always contemplate risks associated with its decision-making.

Nonetheless, the Council acknowledged that a formal process of risk-based regulation does not exist in the College.

Consultations undertaken by the College with all stakeholders found:

- Sexual abuse, and incompetent or unauthorized practitioners are seen to pose the highest risk to patients. Other high-risk procedures/treatments raised include misdiagnosis, IVIT, harmful treatment plans, treating without consent and failure to conduct a proper patient intake.
- While generally seen to be lower in risk, advertising and inappropriate website content can be high risk for patients seeking a cure as they may be more vulnerable to treatments they might not otherwise consider or need.
- Ways to identify and rank risk included:
    - Using high quality aggregate data in conjunction with current and resolved complaints information.
    - Claims data collected from insurance companies can be a helpful source of information in terms of risks and issues.
    - Using existing data and research from other provinces, states or countries (particularly because there is limited data available in Ontario alone as to high risk procedures/treatments).
    - Consulting other regulators could be helpful as well.
    - Consulting the profession to provide input, including new grads, because they have expertise, knowledge, and personal experience to share.
    - Consulting patients.
    - Ensuring open sharing of data between the key naturopathic stakeholders, e.g., schools, associations, regulators.
    - Ensuring the process used to determine which treatments and procedures are high risk is evidence-informed and evidence-based.
    - There should be an agreed upon/understood intensity of risk among NDs, THE COLLEGE, and citizen/patient groups.

It was also suggested that the public be informed about what activities and treatments are considered high risk by the College.

Decision(s):

1. A more formal risk-based approach to regulation will be developed by the College through the development of a tool for use at the Committee level and which will be published on the College's website.
2. A mediation process will be considered allowing for a formal negotiated settlement to complaints that pose less risk to the public thereby allowing the College to focus its resources on matters posing a more serious risk.

Reasons:

Although the development of a mediation process will result in added costs to the College, at least initially, the overall benefit of such a program will be to allow the more formal process of the ICRC to focus on matters of greater risk.

The adoption of a more formalized approach to risk-based regulation is a logical next step given the degree to which the approach is used within the College. Overall, the approach of identifying and mitigating risk before issues occur as a means to reducing the need for complaints benefits the public because the complaints process can be onerous to complainants.

Role of Council

Currently, the role of the Council is not well defined in the legislation. In his report on the College of Dental Surgeons of British Columbia, Harry Cayton identified that the role of the Board or Council is to:

- ensure compliance with the regulator's mandate and the legislation;
- set strategy for the regulator and monitor performance; and
- appoint the Registrar/CEO and hold them accountable for their performance.

Having a clearly defined role might enhance the process of filling vacancies on the Council, both in terms of professional and public member positions. Noticeably absent from this role is any reference to standard setting, an area that is currently identified by most regulatory Councils in Ontario as being of primary importance.

Given the role for the Council as proposed by Cayton, the individuals selected to sit on this body may need a different set of skills and experiences that make them fit for this purpose.

During consultations undertaken by the College, there was general agreement that Council's primary role should be governance-focused, including establishing policy and setting standards. Its core responsibilities should be to ensure compliance, set strategy/direction, and appoint and hold the Registrar accountable. Respondents also stressed the importance of protecting the public interest and regulating the profession from that point of view. They also see it as Council's responsibility to maintain accountability, transparency, integrity, and to enforce key principles.

Decision(s):

3. The role of Council should be more clearly defined in statute and be focused on governance of the organization and strategic directions and priorities.

Reasons:

Best practices for a Council/Board are to clearly define its role and to identify that role as described by Harry Cayton and others. Its primary object is organizational stewardship, good governance and strategic direction setting. With a clearly defined role, the competencies of Council/Board members

can also be more clearly defined and the expectations of those who wish to sit on the Council/Board managed.

Size of Council

The research indicates that many Councils are simply too large. Board sizes vary across jurisdictions from eight members (National Chiropractic Board in Australia) to 12 members (most of the health regulators in the UK) to 33 members (College of Physicians and Surgeons of Ontario). Research indicates that the perfect size is between six and nine.[1] This is a reflection that once the size exceeds the range, human nature takes over. "Loafing" occurs when certain members do not do their fair share and trust the other members to do the work. Once a council or board exceeds this size it is more difficult to get together quickly when needed. It has been determined that as long as there is diversity amongst the six-nine members, sufficient perspective will be brought to the table, thereby resulting in the additional voices being redundant.

However, despite the ideals of a "perfect" limit of nine, 12 members seem to work well. This is small enough to allow it to be nimble and large enough to involve a range of opinions.

The *Naturopathy Act, 2007* set out the parameters of the College Council as follows:

- a minimum of six and no more than nine Members of the profession; and
- a minimum of five and no more than eight public members appointed by the Government.

As a result, under the current legislation, the Council could have as few as 11 individuals and as many as 17 individuals.

In practice, the Council has eight Members of the profession, one from each district in the Province elected by the Members and, by general agreement with the Ministry of Health, seven public members appointed by the Government, thereby ensuring a one-person majority for the profession. More recently, the number of Government appointments has varied from as few as five to as many as seven.

Consultations conducted by the College found overwhelming support for a Council/Board of between eight and 12 individuals. There was recognition that while having more board members potentially allows for greater diversity of opinion, it comes with trade-offs including reduced board effectiveness, efficiency, and the ability to ensure that all members have a voice. Individual board members should represent a variety of stakeholders, which can be achieved with a smaller board, particularly if the board uses advisory groups for input on specific topics/issues.

Decision(s):

4. That the Council size should not be reduced from the current complement as set out in the legislation.

Reasons:

[1] Vision 2020, College of Nurses of Ontario

The Council did not believe that size differential between what the research found and the Council's current legislative framework was significant. The primary benefit of maintaining the current structure was having a sufficient number of Council/Board members to place on each statutory committee, a decision made earlier in the process by the Council.

Composition of Council and Committees

Currently, members of the Council are also members of various committees. In certain situations, members of Council must sit on certain panels of certain committees (e.g.. Discipline Committee). Therefore, they not only set the standards (as a member of Council) but also decide as to whether a Member breaches a standard (as a member of a panel of the Discipline Committee).

However, there is concern that having members of Council sit on committees is not appropriate nor a good use of resources. For example, by dedicating Council members to Council work, it would alleviate the workload of such members and also provide opportunities for other members of the public and the profession to populate such committees. Further, cleaving the role of the Council from any adjudication would remove any inference of blurring of roles. Council members could act as a proper Board and focus their decisions on policy making and overseeing the College as a whole.

Committee members should focus their efforts and allegiances to the mandate of the committee. Their separation from Council may also provide sufficient "distance" so as to allow the committee to flag trends and issues emerging within their committee for Council to address. This has been identified as a best practice in Ireland, the UK, Australia and New Zealand.

Recent proposed changes in British Columbia include not only a separation of the roles of Council/Board members from Committees but also a cleaving off of discipline processes from the regulatory authorities. In other jurisdictions, complaints and discipline processes are removed from the regulatory authority.

There is also a significant trend to creating parity between the number of professional and public members of Councils/Boards. This reflects the mandate of the regulator – to serve and protect the public interest. It also reflects a concern that the public voice has not been given sufficient volume and that the professional voice has been too loud.

In the UK, health regulatory councils are balanced equally between public and professional. In Ireland, the public members have a one-person majority.

There is no research to prove that a more equal composition results in better decisions. But there is qualitative research to indicate that the public believes that councils or committees with lay majorities are more likely to make decisions that better serve the public interest than those with professional majorities. Ginny Hanrahan of CORU in Ireland (the regulator of health and social care professionals) states that "the belief that a lay majority governance model dispels the sometime public belief that

self- regulating bodies look after the profession first, ahead of public protection."[2]

At the time of these discussions, the Council has five public members appointed by the Government. The *Naturopathy Act, 2007* mandates that it must have, at a minimum, five public members and no more than eight public members. The Act also stipulates that the number of professional members must be between six and nine.

Arguably, if it is the desire of Council to have parity between professional and public member representation, it could be achieved with a Council of 12 (six of each), 14 (seven of each), or 16 (eight of each).

The consultations undertaken by the College determined that there should be equal or near-equal representation of the public and the profession. In other words, if not completely equal then a one-person majority for the profession. There was also agreement among those consulted that there is a need to ensure the competency of all Council/Board members and there must be clear recognition that the Council/Board members are to act in the public interest, regardless of whether they are public or profession representatives.

Decision(s):

5. Composition of statutory committees should be reduced to one sitting Council/Board member on each committee, although the same need not apply to non-statutory committees.
6. The Discipline function should be removed entirely from the regulatory authorities.
7. The Council should have equal representation from the profession and the public.

Reasons:

There are advantages and disadvantages to a complete separation of Council members from Committees. The advantages of complete separation include:

- removes any real or perceived conflict of interest or bias in a Council/Board member who makes the rules also sitting on an adjudicative panel;
- reduced roles may result in better preparation for participating in the committee work or Council/Board work;
- being on both the Council/Board and one or more committees involves a great deal of work on the part of the "volunteers"; and
- having more people involved in committees benefits both the profession and the public by broadening perspectives on regulatory processes.

The disadvantages of complete separation include:

- by sitting on both the Council/Board and committees, participants have a better understanding of the organization and its strategic direction, making it easier to move forward;

[2] *To investigate the Impact of Public/Lay Majorities on Governing Bodies of Regulators for Health and Social Care Professions in Ireland*, V. Hanrahan, 2016

- the College Council/Board members benefit from the learning experience on Committees;
- the College presently has difficulties finding a sufficient number of people to sit on its Committees, a situation that might be worsened should a complete separation occur.

Although there is good rationale for a clear separation of Council/Board and committee composition, the benefits of having some small degree of overlap allows for the realization of many advantages of both models.

In its consideration of the disciplinary processes, it was clear that when a Member of the profession participates on a discipline panel, they are not permitted to use their own knowledge of the profession. For example, if a Member is alleged to have breached a standard of the profession, THE COLLEGE needs to tender evidence of the standard. No one on the panel can rely on their own opinion or experience as to the appropriate standard. As a result, because ND knowledge is generally not required, and in fact is often excluded, removing NDs from the discipline process makes sense.

Other benefits of the separation of discipline from all regulatory authorities is the removal of any real or perceived conflict of interest as well as a likely benefit of the public not seeing the adjudicative process as a profession arguably “covering for their own”.

Discipline is a costly exercise that is duplicated 26 times over in Ontario. A benefit of a standardized pool of experienced lay people to sit on discipline panels and the savings across many regulatory authorities stand out.

In terms of public and professional representation, as a body that works in the public interest, the Council was of the view that there should be equal representation of the public and the profession on the Council. However, this requirement should not result in an inability to govern should the full complement of public members not be appointed. The Council was reflecting its own experience whereby the number of public appointments to the Council has, in the past, fallen below the minimum set out in the *Naturopathy Act, 2007,* resulting in the Council not being properly constituted and therefore unable to convene a meeting and make decisions. It was also reflecting on the fact that the current complement of five public appointees is below the expected number.

Selection of Council Members

Currently, the professional members of Council are elected. This is the model utilized in the other 25 health colleges and most other regulators in Ontario (lawyers, teachers, architects, etc.). Canada is one of the last jurisdictions that still uses this model.

There has been growing concern that those elected are merely the most popular or those who can fund an expensive and effective campaign. Further, there is concern that the election model creates an incorrect assumption on the part of the successful candidate that they “represent” the profession that elected them. This is despite of the fact that the only constituency that a professional – or public – Council member has is the public. Finally, there is concern that the election model does not result in

the necessary diversity of perspectives and experiences.

There is also concern that certain public members are being appointed without sufficient experience in regulatory environments and that they are expected to defer to the professional members of Council.

Therefore, the trend has been to recommend the abandonment of elections and select professional members. The selection would occur by the regulator. The selection would be based on publicly available competencies. These competencies could include accounting, legal, and regulatory experience. The selection of a candidate would only occur after the candidate had successfully completed a boot camp or induction program thereby ensuring that the candidate was aware of the mandate of the College and of their fiduciary duties to the College.

These competencies and induction programs would also be required for public members. Although the government would still appoint the public members, the government would only do so after they were informed by the regulator of the propriety of such an appointment.

Based on the College's consultations, there is general support for the regulator to select/appoint Council/Board members. There is also very strong support for a competency and skills-based approach. A screening process makes sense but must be realistic enough to be implemented, particularly because there may not always be an adequately sized pool to fill the number of vacant positions. It was also suggested the College proactively market the benefits of serving on Council to potentially attract more Members to run for election.

Succession planning and self-regeneration of the Board are important considerations in the recruitment of potential members. Committee membership can also be a good source to identify and groom people for Council positions, though the election process may make this difficult to follow through on.

Whatever method(s) are used, they must be transparent and use an established process that undergoes regular scrutiny to ensure all the steps were followed. Ensuring candidates and appointees have the required competencies is essential, along with clear job/role descriptions, and the provision of training and education for all Council members.

Decision(s):

8. That elections of professional Members cease.
9. The Council be constituted through a competency-based appointment process for both professional and public members.

Reasons:

The Council agreed with the research that the election of public members is not guaranteed to bring about the participation of people with the correct competencies to perform their role. Furthermore, confusion as to whether professional members "represent their constituencies" is something that many Council members have experienced, though probably to a lesser degree than other regulators.

The Council was not convinced that the current model of electing one individual from each of eight districts accomplished the most optimal and diverse representation. It questioned whether there might be fewer districts or more representation from larger urban centres, although it felt that rural representation on Council was important due to concerns surrounding access to care.

Need for an Executive Committee

The literature indicates that the need for an Executive Committee is waning in light of smaller Council/Board sizes. The smaller size of a Council/Board allows for more frequent meetings and an ability to convene a meeting on an emergency basis. This is not possible with Councils/Boards in the sizes as has been seen in some regulatory bodies, including some in Ontario.

Currently, the College has an Executive Committee that is made up of five individuals: the President and Vice President and three Officers-at-large, all of whom are elected by the Council from among its members. The Council meets once every quarter while the Executive Committee also meets quarterly. The schedule enables a meeting of Council or the Executive Committee to occur approximately every six weeks.

There are a wide variety of approaches taken by Executive Committees of professional regulators. Some are quite active and make many decisions between Council meetings and prepare strong recommendations for Council ratification. Other Executive Committees tend to view themselves as servants of Council, who make few decisions on their own and who primarily facilitate Council decision making on policy issues. There is no right approach. The approach taken depends on many factors including the culture of the organization, the size of the Council, its volume of work and the timeline available for most decision making. So long as the approach adopted leads to effective decision making and is generally accepted within the organization, it is acceptable from an overall governance perspective.

The Executive Committee of the College does exercise the authority of the Council between meetings, as the legislation identifies; however, they have tended to act more commonly on matters that are seen as pressing or urgent. Not all matters that go before the Council come to the Executive Committee initially, unless it is a matter that the Council has asked the Executive Committee to examine and make recommendations.

This topic drew mixed responses from stakeholders. Those in favour of keeping an Executive Committee believe it to be useful in handling business between Council meetings and add that it must have very clear terms of reference. They also cited it as a valuable “training ground” for succession planning. However, if there is a smaller board/council that could meet six times/year instead of four this could reduce the need for an Executive.

A strong majority of online respondents were against the need for an Executive Committee, saying it is redundant, adds another layer of bureaucracy, defeats the point of having a smaller board, slows down efficiency, they have no real power on financial decisions, makes no sense, and is an additional expense.

Decision(s):

10. That the Executive Committee be eliminated.

Reasons:

As noted above, the Council is presently within or close to the size range that the literature would suggest is optimal. As noted above, the Council would reduce its size from 15 to 14 to accommodate parity between public and profession representation. At this size, the Council could readily meet more frequently, negating the need for an Executive Committee to act on behalf of the Council between meetings.

It was also noted that the Executive Committee is made up of one-third of all Council members making it not that much smaller than the Council itself. Further, there was a sense that the role might clarified it if it were to remain in place; however, the Executive Committee does tend to create a hierarchy within the Council and the potential for an "us vs. them" mentality.

Role of the President/Chair and Vice President/Vice Chair of Council

Across jurisdictions, regulatory governance is conducted through either Councils or Boards. But in almost all leading jurisdictions, the Council or Board leadership are referred to as Chairs, not Presidents. Their focus is on the functioning of the Board. They act as a liaison to the Registrar/CEO to ensure clear communication between the policy and operational arms of the College.

A further best practice is identified where the Chair is selected through a separate recruitment and screening process, upon demonstration of experience and desired competencies needed in an effective Chair.

In Ireland, the Chair of health regulatory councils is an appointed member of the public.

Currently, the College Council elects a President and Vice President from among its members. The duties of the President are set out in the College by-laws as follows:

- presides as Chair at all meetings of the Council unless the President designates an alternate Chair, including persons not on Council who would act as a non-voting Chair, for all or any portion of the meeting;
- serves as Chair of the Executive Committee;
- performs the duties assigned to the President in the by-laws; and
- performs all duties and responsibilities pertaining to their office and any other duties decided by Council.

The primary role of the Vice President is to assume the responsibilities of the President if the latter cannot be present at a meeting. The Vice President automatically becomes the President should the sitting President be unable to serve.

Consultations suggested that the role of President can be confusing and can imply or involve more responsibility and greater hands-on involvement. In general, the term Chair makes sense for a governance-focussed Board/Council and makes it easier for people to understand the person's role. The role itself must be clear and clarified for all stakeholders.

Training in how to be a successful chair is essential and the Council/Board should have a way of ensuring the person who is selected for this role has the competencies and skills to fulfill what the role requires. Competency is essential, along with a mechanism to replace the person in the role if it is not working. Succession planning can be helpful to grow someone into the role of Chair/President.

It is very important to have conversations with potential Chairs/Presidents about what to expect, what training the person will have to undertake, and what the role requires. This needs to happen in advance of any election/appointment.

Decision(s):

11. That the Council of the College would move away from the President terminology and adopt the term Council Chair.
12. That the position of Vice President would be eliminated;

Reasons:

The Council agrees with the research and the sentiments of most stakeholders that the term President is confusing to the public and profession alike as it implies a larger degree of hands-on responsibility and authority than is the reality. Adopting the term Council Chair is clearer to all interested parties and more properly reflects the role as set out in the by-laws, despite the terminology.

The Vice President's role is small and is intended to serve only if the President is not available. That mandate can be fulfilled by any sitting member of the Council. Should the Chair not be available, then the Council would elect a person to chair a meeting until the Chair is in attendance. If the Chair steps down, then the Council should more properly elect a new Chair from among its members.

External Audit

As set out in much of the research, there is an increasing trend for regulators to proactively seek independent/external regulatory reviews to evaluate performance overall. Evaluative processes to assess regulatory performance and effectiveness of the organization, but also of Council, committees and the individuals who serve on them, are identified as important best governance practices. This approach has been adopted by Ontario hospitals, among others, with some success.

Public reporting on the evaluation process that highlights successes but also identified areas for improvement - along with the College's plans for improving - demonstrates commitment to accountability and builds public trust.

Currently, the Council is required in its own policies to, at least every two years, evaluate its own performance as a whole and the individual contribution that members make in relation to the responsibilities highlighted in our *Governance Process Policies* and *Council-Registrar Linkage Policies*. The Council does not currently conduct external evaluations or reviews of its performance.

The consultation process indicated very strong support for the evaluation of Council to be conducted by an external group/person. Evaluation should consider both how the College performed against set measures in addition to how well it acted to protect the public. Many respondents suggested that stakeholders be given an opportunity to participate in the evaluation (public/patients, stakeholder organizations).

Consultations also revealed that what is evaluated is equally as important as how it is done. The areas for evaluation should be meaningful and relevant. The process must be clear, as should information about how the College will deal with areas that need improvement. Results should be publicly available along with a plan for how Council/the College will improve. Nearly half of online respondents believe the evaluation should be applied to operations of the College in addition to Council. One-third believe the evaluation should also be applied to statutory committees.

Decision(s):

13. That the Council adopts a formal annual evaluation process that includes a Council/committee performance evaluation, an individual self-assessment for Council and committee members, and an assessment of each Council and committee member by their peers.
14. An external third party will be retained to receive, consolidate and present the findings to each member of Council and Committees.
15. That a summary report of the evaluation will be released publicly by the College.

Reasons:

It was noted that an individual self-assessment is of questionable value unless it is validated by one's peers. Having an individual outside the organization collect and assemble the feedback ensures confidentiality within the Council and relieves the President/Chair of having to deliver potentially difficult information to a Council/Board member. Although the process may be expensive, conducting it annually allows for year-over-year comparisons of performance and ensures that people who have been selected for Council and committees are meeting expectations, performing well and, if not, are given an opportunity to improve their performance.

Releasing the performance report publicly allows the public to see how the Council/Board is performing and to track whether improvements develop over time. Overall, public confidence in the regulatory bodies can be improved upon by the ability of the public to see how well the Council/Board is performing.

Terminology

Canada is unique in referring to its regulatory bodies as "Colleges". They are called State Boards in the US, National Boards in Australia, Boards in New Zealand, General Councils in the UK, and Councils or

Boards in Ireland. The Canadian and Ontario experience of using the term “College” has resulted in confusion as several health education institutions also use the term “College.”

In many other jurisdictions, the chief executive officer is not called the Registrar. In the UK and Ireland they are referred to as the “Executive Director” or the “Chief Executive”. In many Canadian regulatory organizations, the staff leader is referred to as the Registrar and CEO. In the US, they are commonly called the Executive Director. In Ontario, the Council is required under the legislation to appoint a staff person to act as “registrar” although it does not mandate the use of that title.

Canada is also unique in referring to registered professionals as “members”. In most other leading jurisdictions, registered professionals are referred to licensees or registrants. It would be considered best practice to eliminate the potential for confusion that is created by ‘members’, thereby disabusing the belief that the regulator is a club for professionals or a member service organization. Other best practices address changing the name of “Council” to “Board” in order to clarify its role and reinforce its policy-making role.

The role of the leader of the governing board is called “Chair”. Their focus is on the functioning of the Board and liaison with the Registrar/CEO to ensure clear communication between the policy and operational arms of the College.

The College’s consultations found the following:

- Name of College - Almost all online survey respondents are in favour of Ontario’s regulatory colleges changing their names [instead of being called Colleges] to more accurately reflect their role. Respondents said:
    - few people understand what “College” means and confuse it with an educational institution,
    - most people understand “licensing board” and are very confused by “college”,
    - the term College is very confusing for people who are not affiliated with a regulator, and
    - changing the name would better reflect the role of the organization.
- “Members” or “Registrants” - 67% of online respondents somewhat to strongly agreed that NDs should be referred to as “registrants” instead of “members”.
- “Board” or “Council” - Among online survey respondents, a clear majority favour using “Board” to describe the governing body rather than “Council”. They view the term “Board” to be clearer, more definitive, better understood by lay people, and more authoritative. Stakeholders commented that “Board” is more applicable for a role that is purely policy focused. However, there was some concern that changing the name from Council to Board may be overly confusing for the profession.
- “Chair” or “President” - Chair makes sense for a governance-focussed Board/Council and makes it easier for people to understand the person’s role. The role must be clear and clarified for stakeholders.

Decision(s):

16. That the name of the regulatory authorities should be changed away from "College".
17. That the name of the governing body of the regulatory authority should be referred to as a "Council" as opposed to a Board.
18. That the senior staff official appointed by the Council should be referred to as the "Chief Executive Officer (CEO)" as opposed to "Registrar", "Registrar & CEO" or "Executive Director".
19. That the individuals that the regulatory authority regulates should be referred to a "registrants" as opposed to "Members".
20. That the individuals that the regulatory authority regulates should be referred to "registered to practice" as opposed to "licensed".

Reasons:

Much of the rationale for the Council's decisions is set out above. A "college" causes confusion with educational institutions, CEO is less confusing than the title of Registrar, again in part because that language is associated with educational institutions. Referring to those who are regulated as "members" implies belonging to a club or voluntary association and provides the public with the wrong impression. Being registered to practise versus licensed is more consistent with "registrant" and Council Chair is clearer to the public than President.

With respect to referring to the governing body of the regulatory authority as a Council as opposed to a Board, the Council saw no significant difference in one usage over the other.

Standards Committee

Earlier in the discussions it was identified that the role of the Council, as described by Cayton and others is to:

- ensure compliance with the regulator's mandate and the legislation;
- set strategy for the regulator and monitor performance; and
- appoint the Registrar/CEO and hold them accountable for their performance.

Absent from this is discussion as to how standards of practice of the profession are established. Under the current the College model, the Standards are developed by the Quality Assurance Committee, consulted upon by the Committee and presented to the Council for final approval. Such a process does not fall explicitly within the mandate of the Council/Board.

Decision(s):

21. That standard setting (development and approval) should be mandated to a statutory committee in the legislation, either the Quality Assurance Committee or a separate authorized Standards Committee.

Reasons:

In light of the proposed changes to the role of the Council/Board, it is important that clarity surrounding standards setting also be established. As such, a committee with the statutory authority to set standards is required. This could be a function of the Quality Assurance Committee or a separately mandated committee on its own.

Number of Colleges

The Council of the College was aware of the recent proposal in British Columbia to amalgamate the 20 BC regulatory authorities into five entities. The question was raised as to whether a similar suggestion should be made in Ontario. Specifically, the question was "does every health profession need a regulatory authority"?

Prior to the BC proposal, the McMaster Health Forum considered this question and which approach would best be taken to combine regulators to reduce the overall number. Should professions be combined based on risk of harm or on competencies? Other research contemplates different approaches, such as areas of care, e.g., oral health, eyes, etc., or synergies in scopes of practice, e.g., prescribing, compounding, etc.

In his report, Harry Cayton noted that:

> "That there are 21 regulatory Colleges in British Columbia does raise questions about the durability and indeed common-sense of setting up separate regulators for every occupation regardless of its numerical strength or its risk profile. The colleges in BC cover about 118,000 registrants. The smallest has only 78 registrants (podiatric surgeons), the largest, BC College of Nursing Professionals, 55,000. The highest annual fees are paid by registrants of the smaller regulators'; optometrists (805) pay $1390, midwives (228) pay $2340, while Nursing Professionals pay between $450 and $650. This is in line with research findings for both the UK and Australia which show that the larger the register, certainly up to 100 thousand registrants, the greater the economies of scale101. Another less direct factor in a multiple college system is that, on balance, the lower paid occupations pay a higher proportion of their income to be registered than higher paid occupations. Well paid physicians and surgeons pay $1685 to their College, while low paid denturists $1249 each year."[3]

In other words, the smaller the profession, the larger the regulatory burden of paying the costs of being regulated in a single regulatory authority. As Cayton noted, his findings are consistent with research findings in both the United Kingdom and Australia.

Decision(s):

22. That the Council begin proactively contemplating this question as part of its planning processes.

[3] An inquiry into the performance of the College of Dental Surgeons of British Columbia and the Health Professions Act. December 2018, p. 71.

Reasons:

Although there is no certainty that amalgamation of health regulatory authorities will occur in Ontario, there is sufficient research to suggest that some reduction may be in order. Arguably, amalgamation to some degree may very well be in the public interest, in terms of knowing about the regulators and who to contact but also in terms of overall costs of the health care system and the professions. If the professions cannot afford regulation, the regulatory bodies are not sustainable thereby raising the prospect of not being able to properly regulate.

The Council was of the view that how amalgamation occurs could be on any number of potential models noted above and that proactive consideration among the Colleges might enable a model that makes the most sense as opposed to a model imposed by Government.

NEXT STEPS

It had been anticipated that the Council would review the report as part of its April 2020 meeting; however, due to the COVID-19 pandemic and emergency measures put in place, the Council could not meet in person to have a discussion.

In early June 2020, the Executive Committee decided to send the draft report out to the Council for comments and feedback. In the event that there are no substantive issues raised, the Council could address the draft report in July via its video meeting. If substantive issues are raised, then the draft report may need to wait for an in-person meeting or a special meeting on this topic alone.

One the draft report is adopted by the Council, it will be forwarded to the Ministry of Health along the College's implementation plan and a series of recommendations for legislative changes.

College of Naturopaths of Ontario

Governance Report Implementation Plan (Draft)

April 2020

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INTRODUCTION

The purpose of this Implementation Plan is to set out the processes to implement changes based on the College Council's governance decisions that are outlined in the document *Governance Report: A Mandate for Change, April 2020*. There are three specific types of implementation steps set out in this plan:

1. College Changes – these are changes that the College can undertake on its own in order to implement the decisions;
2. Interim Changes by the College – these are changes that the Council or the College can undertake as an interim step until such time as legislative changes can be made to give full effect to the Council decisions.
3. Legislative Changes – these are changes to statute or regulations that would need to be made by the Government of Ontario in order to give full effect to the Council's decisions.

The implementation plan reflects the sections in the Governance Report and the decisions are numbered consistently with the sections of that report.

Risk-based Regulation

The Council made two decisions regarding risk-based regulation. They are:

1. A more formal risk-based approach to regulation will be developed by the College through the development of a tool for use at the Committee level and which will be published on the College's website.
2. A mediation process will be considered allowing for a formal negotiated settlement to complaints that pose less risk to the public thereby allowing the College to focus its resources on matters posing a more serious risk.

Discussion - Risk-based Regulatory Approach & Tool

At this time, it is believed that no health regulatory College in Ontario has created a formal risk-based regulatory approach and/or any related tools. This can be confirmed through the Health Profession Regulators of Ontario (HPRO, formerly the Federation of Health Regulatory Colleges of Ontario). However, research from the United Kingdom (*Right Touch Regulation*, Professional Standards Authority) and from the United States (Malcolm Sparrow, *Character of Harms*) on the topic is available. These can guide the development of a program and associated tool.

Additionally, it is recommended that the profession and professional associations be consulted in the development of the approach and assessment of risks of harm from naturopathic treatments.

This approach might also contain elements of the prior discussions of the Council surrounding an accountability framework. Such a framework sets out which organizations from amongst the regulator, professional associations and education program, are responsible for acting on information gleaned from regulation of the profession.

Discussion - Mediation Process

Section 25.1 of the Health Professions Procedural Code (HPPC) sets out the authority of the Registrar to refer a matter to an Alternative Dispute Resolution (ADR) process. The College presently does not have such a program enabled although several of the other health regulatory Colleges in Ontario do have such a program. There are also a number of external mediators available to the College to create the program.

Implementation Recommendation(s):

a. That the College initiate the development of a risk-based regulatory approach and tool using available research to guide the work.
b. That the risk-based regulatory approach be developed in consultation with external stakeholders, including Members, the professional association and educational program.
c. That the risk-based regulatory approach include elements from an accountability framework.
d. That Council be kept abreast of the developments and presented with a final framework for approval.
e. That the Registrar develop an Alternative Dispute Resolution (ADR) program for the College, including necessary policies and procedures and present the program, including financial costs, to the Council for approval.

Role of Council

The Council made one decision regarding its role:

3. The role of Council should be more clearly defined in statute and be focused on governance of the organization and strategic directions and priorities.

Discussion

As noted in the *Governance Report: A Mandate for Change* (the Report), the role of the Council is not presently defined in legislation. This would be the goal in the long term. However, interim steps could be taken by the Council to review the College by-laws and the Council's policies to ensure that the role of the Council is adequately and properly set out.

Harry Cayton, when undertaking his review of the College of Dental Surgeons of British Columbia, identified the role of Council as:

- ensuring compliance with the regulator's mandate and the legislation;
- setting strategy for the regulator and monitoring performance; and
- appointing the Registrar/CEO and holding them accountable for their performance.

This is consistent with the other scholars on Board governance and with the work of John Carver, the originator of the Policy Governance Model which the Council follows.

Implementation Recommendation(s):

f. That the Council President correspond with the Minister of Health recommending that the role of the Council be properly enshrined in the Health Professions Procedural Code (HPPC).
g. That the Registrar undertake a review of the College by-laws to ensure consistency with the role of the Council as set out in the Report and make recommendations about changes or additions required.
h. That the Council undertake a review of its Governance Policies to ensure that the role of the Council set out is consistent with the role as articulated in the Report.

Size of Council

The Council made one decision surrounding the size of Council:

4. That the Council size should not be reduced from the current complement as set out in the legislation.

Discussion

The *Naturopathy Act, 2007* sets out the parameters of the Council as follows:

- a minimum of six and no more than nine Members of the profession; and
- a minimum of five and no more than eight public members appointed by the Government.

As a result, under the current legislation, the Council could have as few as 11 individuals and as many as 17 individuals. In practice, the Council has eight Members of the profession, one from each district in the Province elected by the Members and, by general agreement with the Ministry of Health, seven public members appointed by the Government, thereby ensuring a one-person majority for the profession. More recently, the number of Government appointments has varied from as few as five to as many as seven.

Implementation Recommendation(s):

Given that the Council is of the view that its current size is appropriate, there are no implementation recommendations required.

Composition of Council and Committees

Council made three recommendations regarding the composition of Council and its Committees:

5. composition of statutory committees should be reduced to one sitting Council/Board member on each committee, although the same need not apply to non-statutory committees;
6. the Discipline function should be removed entirely from the regulatory authorities; and
7. that the Council should have an equal representation from the profession and the public.

Discussion – Committee Composition

The HPPC establishes parameters for panels of some Committees. These include panels of the:

- Registration Committee, which must have one person appointed to the Council by the Government (s. 17(2));
- Inquiries, Complaints and Reports Committee, which must have one person appointed to the Council by the Government (s. 25(2));
- Discipline Committee, which must have at least two persons appointed to the Council by the Government (s. 38(2)); and
- Fitness to Practise Committee, which must have one person appointed to the Council by the Government (s. 64(2)).

As a result, the Registration Committee; Fitness to Practise Committee; and Inquiries, Complaints and Reports Committee must always have at least one Public Member on Council appointed to them and the Discipline Committee must always have at least two Public Members on Council appointed to it. Where there is the minimum allotment of Public Members, there is a risk that the panels cannot be formed when these individuals are not available.

It should be noted that the HPPC was recently amended to provide the Minister with the power to make regulations governing the composition of Committees and panels. No regulations have been made to date.

The Council did not discuss whether Committees should have equal representation of the public and profession.

Discussion – Discipline Committee

Discipline hearings are held by the College under the authority of sections 38 to 56 of the HPPC. As noted in the Report, the Council was of the view that all Council members may be in a conflict of interest when they sit on panels of the Discipline Committee because they both make the rules governing the profession and then adjudicate cases where a breach of those rules is alleged. To be clear, this is somewhat imposed by legislation as the HPPC requires that certain members of Council sit on discipline panels.

In addition, the individuals on panels are appointed infrequently and have little experience to rely on. When they are appointed to panels, NDs are not permitted to use their knowledge of the standards but must rely on evidence.

As a result, the Council was of the view that the discipline function should be removed from the College (and all Colleges) and ideally placed in a separate entity, as has been proposed in British Columbia.

Discussion – Council Composition

In its governance review discussions, the Council adopted the position that several other regulatory bodies in Ontario and around the world have taken, namely that the Council should have an equal number of public members and professional members.

Implementation Recommendation(s):

i. That the President correspond with the Minister of Health recommending that the HPPC be amended to remove the requirement that public members on the panels of the various committees be public members appointed to Council, thereby allowing public members engaged as volunteers by the College to be used to meet public representation requirements.
j. That the President correspond with the Minister of Health recommending that the HPPC be amended to remove the discipline function from the health regulatory requirements and that these requirements be placed in a separate entity.
k. That the Registrar review the By-laws and recommends to the Council changes to reduce the number of districts from eight to seven.
l. That the President correspond with the Minister of Health setting out the College's intent in (k) and ask the Minister to appoint a full complement of public members (seven in total) to establish parity between public and professional Council members.

Selection of Council Members

In its Report, the Council decided:

8. that elections of professional Members cease and
9. that the Council be constituted through a competency-based appointment process for both professional and public members.

Discussion - Ending Elections of Professional Members

Currently, eight Members of the profession are elected to the Council with elections staggered over a three-year period. Each district elects one person. Experience of all health regulatory Colleges has been that Members believe those elected to the Councils "represent their interests" at Council. All Council members are there to protect and serve the public interest. Based on its concerns, and in a manner that is consistent with other regulatory reforms being undertaken, the Council determined that the elections process should be replaced.

Elections are authorized pursuant to paragraph (a) of section 6.(1) of the *Naturopathy Act, 2007* which establishes the composition of the Council as at least six and no more than nine Members of the College "elected in accordance with the by-laws". In addition, paragraphs (d.1) through (d.3) of section 94 (1) of the HPPC allows the Council to make by-laws governing the election of Council members, qualification and terms and conditions for disqualifying elected Council members. It should be noted that the by-law making authority is not mandatory but permissive, therefore its removal is not absolutely necessary.

Discussion - Competency-based Appointments

As noted in the research used to inform the governance review report, best practices are for Council/Board members to be appointed based on the competencies necessary for them to be effective Council/Board members. As noted in the Report, Canada is unique in still permitting professions to elect members onto regulatory Councils where most other jurisdictions have moved to competency and skill-based appointments for both lay and professional members.

The Council has previously seen a preliminary version of competencies for Council and Committee appointments on which it has provided feedback to the Registrar & CEO.

Implementation Recommendations:

m. That the President correspond with the Minister of Health recommending that the *Naturopathy Act, 2007* be amended to remove reference to the election of professional members of Council.
n. That the President correspond with the Minister of Health recommending that section 94(1) the HPPC be amended to remove the by-law making authority for Councils governing the elections of professional members and adding by-law making authority for Councils governing the appointment of professional members;.
o. That the President correspond with the Ministry of Health noting that the Council will be moving to a competency-based process and that she consider the competencies developed by the Council in her future appointment of public members to the Council.
p. That the Registrar & CEO review the competencies developed for Council and Committee appointments and present them to the Council for approval and adoption.
q. That the Registrar & CEO continue the development of a comprehensive volunteer program and that necessary policies be presented to Council for approval (or acceptance as the case may be) no later than the April 2021 Council meeting.
r. That the Registrar & CEO review the Terms of Reference for the Nominations and Elections Committee and make recommendations to the Council for changes, in name and substance of this Committee, such that it will assume responsibility for nomination, selection and appointment process for the Council and Committees.
s. That the Registrar & CEO, in association with Legal Counsel and other relevant partners, develop an induction (boot camp) program as set out in paragraph (xvi) of section 10.05 of the College's by-laws for implementation.
t. That competency-based assessments and the induction program be implemented as soon as practicable but not later than necessary for use in the next cycle of Council elections and Committee appointments.

Need for an Executive Committee

The Council made one decision regarding the need for an Executive Committee:

10. that the Executive Committee be eliminated.

Discussion

As noted in the Report, the need for Executive Committees has been waning as the size of Council/Boards have been reduced over time. As best practices today are suggesting a Council/Board of six to nine members, there is arguably no need for an Executive Committee.

The Council also noted a variety of approaches to the roles of Executive Committees among the health regulatory Colleges. Some committees approach their role as a vetting one for materials intended to go to Council while others see a very limited role, leaving decisions to the Councils themselves.

In this College, a middle of the road approach has been taken such that the Executive Committee undertakes work on behalf of the Council on some occasions, will approve matters that are deemed to be urgent and unable to wait for the next Council meeting, and provides feedback to the Registrar & CEO on matters as requested.

The authority for the Executive Committee is set out in the HPPC. Paragraph 1 of section 10 (1) of the HPPC establishes the Executive Committee as a statutory committee and section 12 sets out the powers of the Executive Committee to act with the full authority of the Council (except to make, amend or revoke a by-law or regulation) between meetings of the Council.

Implementation Recommendations:

u. That the President correspond with the Minister of Health recommending that the HPPC be amended to repeal paragraph 1 of section 10(1) and to repeal section 12.
v. That the President correspond with the Minister of Health recommending she remove the by-law making authority for Councils governing the elections of the President.
w. That the Registrar & CEO review the by-laws and make recommendations to the Council with respect to the composition and authority of the Executive Committee, once the HPPC has been amended.
x. That, as an interim step, the Registrar & CEO reviews the Terms of Reference of the Executive Committee and makes recommendations to the Council on amendments to limit the Executive Committee's authority to urgent matters at the discretion of the Chair.
y. That, also as in interim step, the Registrar & CEO revises the Council meeting schedule as soon as possible such that the Council meets approximately every 60 days to facilitate timely decision making in the absence of the Executive Committees authority.

Role of the President/Chair

The Council made the following decisions with respect to the President and Vice President positions:

11. that the Council of the College move away from the President terminology and adopt the term Council Chair and
12. that the position of Vice President be eliminated.

Discussion – President

All Ontario health regulatory colleges have a President position. It is often confused with the role of the senior staff position of the College as the title implies greater authority over the College. Best practices today are to move away from that title for the senior elected official and instead, implement the position of Chair.

Discussion – Vice President

The primary role of the Vice President is to be prepared to assume the responsibilities of the President, either temporarily if they are not in attendance at a meeting or permanently should they no longer be able to serve.

The Council was of the view that in the absence of a Vice President (or Vice Chair position), the Council would select a person to chair a meeting in the absence of the President/Chair and, should the President/Chair no longer be able to serve in that position, then the Council should elect new President/Chair from among its members.

It is important to note that all operations of the College are delegated by the Council to the Registrar & CEO. In a time when the President had greater authority over the operations of an organization, having a second person ready to step into the role mattered more. In the context of the College's operations, the position is less relevant.

Discussion – Legislative Parameters

Section 7 of the *Naturopathy Act, 2007* states that the Council shall have a President and Vice President. Therefore, formally altering the title of the President and eliminating the position of Vice President cannot be accomplished without amendments to this statute.

It is also worth noting that paragraph (e) of section 94(1) of the Code provides the Council with by-law making authority governing the election of the President and Vice President of the College. Again, this is permissive language such that the Council is not required to make such by-laws if, in their circumstances, they are not needed. However, an amendment may be needed in the long term to effect the change in title of the President position.

Implementation Recommendations:

z. That the President correspond with the Minister of Health recommending that the *Naturopathy Act, 2007* be amended to remove the position of Vice President and amend the title of President to Chair in section 7.
aa. That the Registrar & CEO prepare a by-law amendment for the approval of Council adding a definition of Council Chair and Council Vice Chair as being equivalent as the terms President and Vice President respectively in the *Naturopathy Act, 2007* and the HPPC. Said by-law changes will also amend all references to these two titles in all cases to become Chair and Vice Chair.
bb. That effective immediately, all communications of the College shall refer to the Council Chair and Vice Chair as opposed to the President and Vice President respectively.

External Audit

The Council made three recommendations regarding an external performance audit, including:

13. that the Council adopt a formal annual evaluation process that includes a Council/committee performance evaluation, an individual self-assessment for Council and committee members, and an assessment of each Council and committee member by their peers;
14. that an external third party will be retained to receive, consolidate and present the findings to each member of Council and Committees; and
15. that a summary report of the evaluation will be released publicly by the College.

Discussion – Annual Performance Evaluation

For the purposes of this discussion, annual performance evaluation is in the context of the Council's performance. College organizational performance and the Registrar & CEO's performance are addressed in formal policies of the College, which are under review by the Executive Committee.

The Council of the College has had mixed success with its performance review process. Its most recent process had greater participation likely because it was a simplified approach. An earlier version which used a three-part evaluation process engendered lower participation.

Notwithstanding the difficulties in the past, the Council has accepted much of the research which suggests that a multi-faceted performance review process is important to the overall functioning of the Council. Several versions have been developed and used in the past by other organizations, the most notable being the Ontario Hospital Association. Most versions include the following:

i. an assessment by each Council member on general Council performance as a whole;
ii. an individual self-assessment by each Council member of their own performance; and
iii. an individual assessment by each Council member of every other Council member's performance.

There are several reasons for this extensive review. First, the Council gets an indication as an entity on how well it is doing on specific parameters from (i) above. Second, each Council member completes an assessment of themselves on different parameters from (ii) above. Finally, each Council member receives aggregate information on how all of the other Council members rated them on the same parameters based on (iii) above. This allows individuals to check their own evaluation (how they see themselves) against the evaluations of others (how other see them).

Discussion – External Third Party Support

The challenge with the process above is to ensure that it is kept confidential and individuals are not exposed to criticism or ridicule, although that would be highly uncommon. To ensure confidentiality, fairness, and openness, best practices are that the assessments and comparisons are conducted by a neutral third party. In this way, the details are retained outside the College and a neutral person will meet with each Council member and provide the feedback. This also saves the President/Chair from having to provide potentially negative feedback to a colleague on Council.

Discussion – Public Release of the Report

Accountability and transparency suggest that the aggregate reports be made publicly available. At a time when the public is losing confidence in the regulatory authorities, information that shows how well they are doing, where improvements are needed and where improvements have been accomplished will serve to improve the public perception. As a public agency that serves the public interest, providing meaningful evaluation information is important and increases transparency.

Implementation Recommendations:

cc. That the Registrar & CEO issue a Request for Proposals to interested third parties who can assist the Council in the development and delivery (over the first three years) of this new performance evaluation process.
dd. That the Registrar & CEO work with the successful vendor in the development of the evaluation policies, procedures and tools for presentation to the Council for approval.
ee. That the new evaluation process be ready for implementation for the Council whose term ends in April 2021.

Terminology

The Council made several decisions regarding terminology used by the College:

16. that the name of the regulatory authorities should be changed away from “College”;
17. that the name of the governing body of the regulatory authority should be referred to as a “Council” as opposed to a Board;
18. that the senior staff official appointed by the Council should be referred to as the “Chief Executive Officer (CEO)” as opposed to “Registrar”, “Registrar & CEO” or “Executive Director”;
19. that the individuals that the regulatory authority regulates should be referred to a “registrants” as

opposed to “Members”; and

20. that the individuals that the regulatory authority regulates should be referred to “registered to practice” as opposed to “licensed”.

Discussion – Terminology

The rationale for these changes in terminology or nomenclature are set out in the Report.

Implementation Recommendations:

ff. That the President correspond with the Minister of Health asking that the Naturopathy Act, *2007* and the HPPC be amended to cease referring to the “College” of Naturopaths of Ontario.

gg. That as interim step to legislative change, the College highlight in its communications that the College of Naturopaths of Ontario is the regulatory authority for naturopathic doctors in Ontario.

hh. That the title of the Chief Staff Officer be immediately altered from Registrar & CEO to Chief Executive Officer (CEO). All legal communication will note that the Chief Executive Office has been appointed by the Council as the registrar pursuant to section 9(2) of the HPPC. This change will be made throughout all Council and College documents.

ii. That the President correspond with the Minister of Health recommending that the reference to Members in the Code be amended to refer to Registrants.

jj. That the College, effective immediately, ceases to refer to its Members but rather to its Registrants in all communications and that all policies and by-laws of the College be updated to reflect this change.

Standards Committee

The Council made one decision relating to the Standards Committee:

21. that standard setting (development and approval) should be mandated to a statutory committee in the legislation, either the Quality Assurance Committee or a separate authorized Standards Committee.

Discussion – Standards Committee

As noted in its Report, the Council has some concern that the role of standard setting is not clearly assigned to any particular group within the College and does not generally fall within the revised role of the Council.

Currently, the Quality Assurance Committee of the College is charged with the process of developing the standards of practice, however, these are brought before the Council for approval. Council members then sit on panels of the ICRC or Discipline Committee where they adjudicate performance of Registrants against those standards. Until such time as the discipline process is removed from the College, the most effective means of addressing this inherent conflict is to remove the role from the Council.

Implementation Recommendations:

kk. That the President correspond with the Minister of Health asking that the role of setting standards of practice be assigned to a new or existing statutory committee in the HPPC.

ll. That, as an interim step, the CEO review the Terms of Reference of the Quality Assurance Committee and make recommendations to Council for changes that would provide the authority for the QAC to set and approve the standards of practise.

mm. That the CEO, working with the QAC, determine the necessary competencies of Committee members to enable informed decision-making surrounding the standards of practice.

nn. That no professional member on the QAC be appointed to a panel of the Discipline Committee (DC) of the College unless and except a) the standards of practice are not at issue[1] in the matter being brought before the panel, or) the appointment is absolutely necessary, in the discretion of the DC Chair, to the timely disposition of the matter.

Number of Colleges

The Council made one decision relating to the overall number of Colleges:

22. that the College Council begin proactively contemplating this question as part of its planning processes.

Discussion

Given proposed changes in British Columbia and given the various discussions among regulatory stakeholders, it is likely that at some time, Ontario will consider the amalgamation of health regulatory authorities. In preparation for these discussions, the Council was of the view that it should proactively contemplate the matter as part of its planning process.

Implementation Recommendations:

oo. That the CEO undertake research as to the various potential models for amalgamation of health regulatory authorities in Ontario and present those models to the Council, along with the advantages, disadvantages and consequences of each model for the consideration and planning discussions of the Council.

[1] A Standard of Practice is not at issue in a hearing before the panel if a) the matter is uncontested by the Registrant or b) the allegations set out in the Notice of Hearing do not allege violation of any standards.

The College of Naturopaths of Ontario

BRIEFING NOTE
New Registrar Performance Evaluation Process

ISSUE: To develop a standardized process for the Council and the Executive Committee in the delivery of the annual evaluation of the Registrar & CEO.

BACKGROUND:

In December 2019, the Executive Committee initiated a review of the Registrar Performance Evaluation Process. In this regard, the Committee retained Mr. Jack Shand of The Portage Group to assist. The Portage Group was one of three external consultancies that responded to a Request for Proposals issued by the College on behalf of the Executive Committee.

As part of his review, Mr. Shand canvassed other regulatory authorities of a similar size and scope to determine the way they undertook the performance review of their Registrar. He also conducted research of best practices and interviewed many members of the Council, Executive Committee and senior staff.

In May 2020, the Executive Committee provided all Council members with a copy of Mr. Shand's final report indicating that the Committee was inclined to accept all of Mr. Shand's recommendations, with the exception of two, 6(b) and 6(d), which it would accept in principle. The Committee asked the Council for feedback.

At its meeting on June 3, 2020, the Committee reviewed the feedback received and proceeded to accept Mr. Shand's recommendations with the exceptions noted above. The Committee made two changes to the process as set out by Mr. Shand. The first was to not forward Form 2 to the Council for feedback at the start of the review process but instead to seek Council's feedback at each July council meeting to allow for extra discussion time.

The second change was to initiate the review process in January annually when the Council would be receiving the annual operational plan and budgets. As such, in January, the Council will receive and be asked to approve the Registrar's annual priorities and their Development Plan for the following year beginning in April.

In order to finalize the new review process, several items require the Council's attention at this time.

DISCUSSION POINTS:

<u>Recommendations from The Portage Group</u>

Without belaboring the point, it is important that as the Council contemplates necessary policy changes that it does so within the context of the recommendations from The Portage Group as found in the report.

1. *While acknowledging that a CEO's performance ties to how the organization performs, we recommend that the Registrar evaluation process and criteria, and supporting materials, be separate from the more extensive review of overall organizational performance, i.e., a stand-along Registrar performance review process.*

The Executive Committee has accepted this recommendation. As such, the new policy no longer links Registrar Performance with Organizational Performance.

2. *The following are the two components recommended for CONO:*
    a. *Form 1 (new) of the Registrar-CEO Performance Evaluation will have up to four annual priority objectives proposed by the Registrar in advance, discussed with and endorsed by the Review Panel, and recommended to and approved by Council.*
    b. *Form 2 (existing) of the Performance Evaluation be retained and will continue to score seven (7) job-related categories that align with the Registrar-CEO role, e.g., financial management. The job-related categories will likely not change each year. Changes to the job categories, and/or the performance expectations tied to each, may be changed upon the recommendation of the Registrar and/or Review Panel, and approved by Council.*

The Executive Committee has proceeded with Form 1 as recommended by The Portage Group; however, it has accepted recommendations from the Registrar & CEO and Director of Operations to increase the number of job-related categories to 10 in order to make the review process easier.

3. *We recommend that the responsibility to lead the Registrar evaluation now rest with a Council-appointed Review Panel (the Registrar Performance Review Panel), comprising of four (4) members: President, Vice President, and two other members of Council. Further, we recommend that half of the panel will be professional members and half will be public members. CONO Council should also embrace a competency-based approach to appointing Review Panel members.*

The Executive Committee has accepted this recommendation, in particular given the content of the Governance Report which suggests that the Executive Committee be eliminated. The competency-based approach to appointing Review Panel members has also been accepted.

4. *We recommend that the Review Panel lead the process and bring forward a draft, recommended evaluation for discussion with Council in-camera. Council will complete the Part 2/Form 2 survey as now occurs to inform that draft evaluation. At the July Council meeting, Council will consider, discuss, and provide feedback to the Review Panel's draft evaluation. Council will specifically approve the annual priorities the Registrar has proposed and the evaluation. The Review Panel will then consider Council's overall input, finalize the evaluation and provide it to the Registrar. Council will be informed that this has occurred.*

While the Committee accepted this recommendation, it agreed to alter the process to streamline it and reduce confusion. Under this recommendation, in July the Council would be concluding the prior performance review and initiating the review process for the next year and it would therefore be seeing Forms 1 and 4 in two different iterations.

Under the revised approach, at the January meeting, the Council will review Form 1, the priorities for the coming year beginning in April, as well as the development plans for the coming year. This will coincide with the Council's consideration of the annual Operating Plan and annual budgets.

5. *Training and support for the evaluators is integral to a successful process, supported by orientation, position descriptions, and other reference tools such as checklists. This should be part of the onboarding agenda for new Council members and reemphasized annually.*

The Executive Committee accepted this recommendation. Parts will be incorporated to the new process and other aspects will need to be built into the orientation process for new Council members.

6. *Clear enumeration of the approach to compensation practices including adjustments and understanding how performance evaluation ties to compensation. Specific recommendations:*
    a. *CONO will conduct market research every one (maximum) to three (minimum) years to determine compensation levels in comparable organizations. CONO will adjust salary ranges where evidence suggests it is in CONO's interest (e.g., to retain staff) to do so.*
    b. *CONO will set the Registrar's salary in the third quartile based on the market data.*
    c. *CONO will agree to use the average of three sources to determine the annual cost of living adjustment to employee salaries.*
    d. *Council will introduce a bonus or incentive compensation fund that equals ten percent (10%) of the current budget for salaries.*

The Executive Committee accepted 6(a) and 6 (c); however, it accepted 6(b) and 6(d) in principle. The reason for doing so is the current financial situation resulting from COVID-19. The Executive Committee anticipates fully implementing these recommendations in the following year. This will be brought forward to the Council in January for further discussion.

7. *Include a specific development plan as part of the Registrar/CEO evaluation.*

This recommendation has been accepted by the Executive Committee.

8. *CONO will retain an objective third-party to manage the process for the Review Panel and Council,and be a resource through the process to evaluators and employees for at least the first two years of the process.*

The Executive Committee has accepted this recommendation; however, work will need to be undertaken to ensure that this activity coincides with any similar work necessary because of the Governance Report and Implementation Plan.

<u>GP19 – Registrar Performance Review</u>

The current process for the annual Registrar Performance Review is set out under GP19 of the Council's Governance Process policies. To alter the process, this policy must be amended to reflect the new approach and to set out in policy the recommendations from Mr. Shand which were accepted by the Executive Committee.

A draft of the policy is attached. It has been reviewed on a preliminary basis by Barry Sullivan and Jordan Sokoloski, ND, the policy governance champions for the Council, however, as time was short, they may have additional comments to add.

While it is not necessary that the policy set out the specifics to be incorporated into the various forms, it must set out the major policy shifts set out in the recommendations from The Portage Group.

<u>Operationalizing the New Program</u>

In addition to amending GP19, extensive work has been undertaken by the Registrar & CEO to fully operationalize the new forms. Additionally, to assist the Council and Review Panel, a check list has also been developed along with an Executive Summary.

In order to give the Council a sense of how the “Report” would look, the Forms have been combined and a cover page and index added to represent how the full package would look when received by the Council.

ANALYSIS

Risk Assessment – The relationship between the Council and its Registrar & CEO is of vital importance to the organization that relies on mutual trust and respect. Having a performance evaluation process that is fair and objective and provides relevant feedback designed to not only improve performance but enhance the relationship is key.

Privacy Considerations – There are no privacy considerations on this matter.

Transparency – In this context, transparency is as much about the Registrar & CEO knowing that there is a fair and objective evaluation process, as it is that the public and stakeholders know that the Council is fulfilling its human resource obligations with respect to its employee.

Financial Impact – There is no immediate financial impact with respect to this matter.

Public Interest – All decisions of the Council must relate to the College’s public interest role. It is in the public interest and builds public confidence in the College knowing that there is a process for a fair and objective evaluation of the Registrar & CEO.

RECOMMENDATIONS
It is recommended that the Council approve the proposed amendments to GP19.

Andrew Parr, CAE
Registrar & CEO

Agnes Kupny
Director of Operations and Human Resources Lead

July 2020

As part of its responsibilities, the Council undertakes an annual review of the performance of the Registrar & CEO. The responsibility to organize, compile and prepare a report of the findings of the review for presentation to and approval of the Council is delegated to the Registrar & CEO Performance Review Panel (the Panel) appointed by the Council.

Accordingly,

1. Annually, and not later than its October meeting, the Council will appoint a four-member *Registrar & CEO Performance Review Panel* (the Panel) that is comprised of the:
    a) President and Vice President of Council; and
    b) Two Council members, one of whom is appointed by the Lieutenant Governor in Council, and both of whom have the competencies necessary for the role.

2. The Panel will facilitate the completion of the performance review using the following documents, attached to and forming a part of this policy:
    - Form 1 – Annual Objectives and Priority Projects
    - Form 2 – Management and Compliance
    - Form 3 – Determining and Calculating Bonus
    - Form 4 – Registrar Development Plan
    - Form 5 – Comments, Acknowledgement and Signatures
    - Executive Summary.

3. The Panel shall ensure that new Council members are provided annual training and support to ensure an understanding of this process and that all Council members receive information to reemphasize the importance of the process.

4. The Council will provide the Registrar & CEO with an incentive bonus annually, in a range of 0% (where an insufficient number of performance measures have been met) up to 10% (where most performance measures have been met) of their base salary. The calculation of the bonus will be based on the formula set out in Form 3 – Determining and Calculating Bonus.

5. Prior to the start of the next Program/Fiscal year, the Panel and the Registrar & CEO shall ensure that draft copies of Form 1, setting out the annual objectives and priority projects and Form 4, setting out the Registrar's Professional Development Plan, for the following year (April 1st to March 31st), are presented to the Council at its January meeting.

6. As the conclusion of the current Program/Fiscal year approaches, the Panel and the Registrar & CEO shall work together to complete the performance review following a process that is based on the following components and timeframes:
    a) Data necessary to support the review will be identified no later than March 1st annually;
    b) The self-assessment components of Forms 1, 2 and 4 shall be completed by the Registrar & CEO and provided to the Panel no later than April 15th

annually;

c) The Panel shall seek the input from the staff of the College on the Management and Compliance component of the review (Form 2) by way of a survey no later than May 15th annually;
d) The Panel shall review the self-assessments and survey results and shall develop drafts of the Council assessment components of Forms 1, 2, 4, and 5, and shall use Form 3 to calculate any bonus eligibility by June 10th annually and shall subsequently review these drafts with the Registrar & CEO for feedback;
e) The Panel shall finalize all documents (within a draft Registrar Performance Review Report), including the Executive Summary and present these to the Council in an in camera session in July annually at which time Council shall approve the Report, either as presented or with appropriate amendments;
f) The Panel shall present the final Registrar Performance Review Report to the Registrar & CEO not later than August 15th annually and the Registrar & CEO shall be required to sign Form 5 as an acknowledgment of receipt of the Report, directed to implement the Report and to file the Report on the Registrar's personnel file; and
g) The Registrar & CEO shall be entitled to add any comments to the Report, which shall be provided to the Council by the Panel and shall also be filed in the Registrar & CEO's personnel file.

7. The Registrar & CEO and the Panel shall ensure that there is adequate time set aside at the July Council meeting for a full discussion of the draft Registrar Performance Review Report as this is the only opportunity for the Council to provide its input to the Report.

8. The Council may retain an objective third-party to manage the process for the Panel and to be a resource through the process to evaluators and employees.

9. Separate and apart from any incentive bonus awarded to the Registrar & CEO as set out in paragraph 4, the Council shall annually consider adjusting the Registrar's based salary for inflation using an average of the following three sources:

a) Morneau Sobeco (or a similar compensation/HR-benefits consulting firm) that publishes data each year forecasting salary adjustments,
b) Canadian Society of Association Executives that includes projections on increases employees of not-for-profits expect their governing boards to approve for the next year,
c) Consumer Price Index (CPI) data as published by Statistics Canada.

Council shall approve the annual salary adjustment as part of an in camera session in January annually, at the same time it is considering the Registrar & CEO's objectives and priorities and development plan, as well as the College's budgets.

Registrar Annual Performance Evaluation

FOR THE PERIOD APRIL 1, 20XX TO MARCH 31, 20XX

Index

The College of Naturopaths of Ontario

Registrar & CEO Performance Evaluation
April 1, 20XX to March 31, 20XX
Executive Summary

Introduction

This is an Executive Summary of the Registrar & CEO Performance Review for the period April 1, 20XX to March 31, 20XX. The Performance Review is made up of a total of six documents, including this Executive Summary and five individual forms as follows:

- Form 1 – Annual Objectives and Priority Projects
- Form 2 – Management Practices Assessment
- Form 3 – Determining/Calculating Bonus
- Form 4 – Registrar Development Plan
- Form 5 – Comments, Acknowledgement and Signatures

Process Overview

The review is conducted in two timeframes. First, from December to early January, the Registrar prepares the proposed Annual Objectives and Priority Projects (Form 1) including performance indicators and the proposed Registrar Development Plan (Form 4), including the development activities, benefits and costs. These are reviewed and discussed with the Registrar by the Review Panel and presented to Council for approval in January to become effective at the beginning of the review period, April 1st.

Second, after the completion of the review period, which ends March 31st annually, the Registrar completes the self-assessment components of the Annual Objectives and Priority Projects (Form 1), the Management Practices Assessment (Form 2) and the Registrar Development Plan (Form 4), specifically identifying the outcomes. The Review Panel reviews these documents, completes their assessment component (including use of the Employee Survey), considers and completes the Determining/Calculating Bonus (Form 3), considers and drafts any comments on the Outcomes section of the Registrar Development Plan (Form 4), drafts any general comments on the Comments, Acknowledgement and Signatures document (Form 5). These are discussed in draft form with the Registrar & CEO and presented to the Council for discussion, review and approval. Final outcomes are presented to the Registrar & CEO at which time the Comments, Acknowledgement and Signatures (Form 5) is signed.

Assessment Summary

FORM 1 - Annual Objectives and Priority Projects

No.	Objective/Priority Project	Weight	Self Assessment	Panel Assessment
1.		2		
2.		2		
3.		2		
4.		1		
5		1		

FORM 2 – Management Practices Assessment

No.	Competency	Self Assessment	Panel Assessment

1.	Organizational Planning and Management		
2.	Financial Management		
3.	Governance		
4.	Human Resources Management		
5.	External Relations		
6.	Statutory Duties		
7.	Professionalism, Judgment, Tact and Diplomacy		
8.	Vision, Decision-making and Ethics		
9.	Collaboration, Facilitation and Commitment		
10.	Innovation, Creativity and Change		

FORM 3 – Determining/Calculating Bonus

Part A: Scoring

Total Score for Annual Objectives	Total Score for Role Performance	Total Overall Score	Max Score Available
XX	**YY**	**ZZ**	**90**

Part B: Bonus Valuation

Total Overall Score	Bonus Valuation Parameters	Bonus Available (10% of base salary)	Bonus Awarded
ZZ	❒ 76+ points = 100% ❒ 69-75 points = 80% ❒ 61-68 points = 60% ❒ 54-60 points = 40% ❒ 46-53 points = 20% ❒ 0-45 points = 0%	**$XX,XXX**	**$XX,XXX**

FORM 4 – Registrar Development Plan

DEVELOPMENT PLAN REPORT – Part B	
Registrar's Report on Professional Development Outcomes in *Concluding Y*ear	**Review Panel Response**

FORM 5 – Comments, Acknowledgement and Signatures

Comments/Feedback for Registrar

The College of Naturopaths of Ontario

REGISTRAR & CEO PERFORMANCE EVALUATION
FORM 1: ANNUAL OBJECTIVES AND PRIORITY PROJECTS
REGISTRAR and REVIEW PANEL

Employee Name:			
Position Title:	Registrar & CEO		
Date Hired:		Date Started Present Position:	
Date Reviewed:		Date of Last Review:	
Review for Period:			
Reviewed By (Names):			
Reviewed By (Title):	Review Panel		

Annual Objectives Approved by Council (maximum four)

Note: Setting the annual objectives is a conversation with the Registrar-CEO, Review Panel, and Council. The annual objectives will be proposed by the Registrar; reviewed, possibly refined, and then recommended to Council by the Review Panel. Council will provide feedback and direction and the Review Panel will then finalize and communicate the objectives based on Council's decision. These annual objectives will either be key initiatives to advance the strategic plan and/or major projects of strategic importance to CONO. Each objective or project the Registrar proposes, and that is adopted, will include performance indicators. In addition to the four pre-set objectives/project outcomes, a fifth initiative may be added during the year based on an emerging priority need that the Registrar has needed to address (e.g., COVID-19).

1. Identify the objectives or projects approved for the year in order of importance. **The Registrar-CEO's self-assessment** *will refer to the measures/outcomes denoting success, results, and any issues that influenced the outcome unfavourably and why the issue(s) could not be overcome*:

Objective/Project #1 **Add Title**	**Registrar Self-Evaluation**
Summary:	
Performance Indicator(s):	

Weighted: 2	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ **1 (Low)**	❑ **2**	❑ **3**	❑ **4**	❑ **5 (High)**	
Comments:					

Objective/Project #2 **Add Title**	**Registrar Self-Evaluation**				
Summary:					
Performance Indicator(s):					
Weighted: 2	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ **1 (Low)**	❑ **2**	❑ **3**	❑ **4**	❑ **5 (High)**	
Comments:					

Objective/Project #3 Add Title	Registrar Self-Evaluation				
Summary:					
Performance Indicator(s):					
Weighted: 2	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ **1 (Low)**	❑ **2**	❑ **3**	❑ **4**	❑ **5 (High)**	
Comments:					

Objective/Project #4 Add Title	Registrar Self-Evaluation
Summary:	

Performance Indicator(s):					
Weighted: 1	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ **1 (Low)**	❑ **2**	❑ **3**	❑ **4**	❑ **5 (High)**	
Comments:					

Objective/Project #5 **Add Title**	**Registrar Self-Evaluation**				
Summary:					
Performance Indicator(s):					
Weighted: 1	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ **1 (Low)**	❑ **2**	❑ **3**	❑ **4**	❑ **5 (High)**	
Comments:					

The College of Naturopaths of Ontario

REGISTRAR & CEO PERFORMANCE EVALUATION
FORM 2: MANAGEMENT PRACTICES ASSESSMENT
REGISTRAR and REVIEW PANEL

Employee Name:			
Position Title:	Registrar & CEO		
Date Hired:		Date Started Present Position:	
Date Reviewed:		Date of Last Review:	
Review for Period:			
Reviewed By (Names):			
Reviewed By (Title):	Review Panel		

Purpose: This annual review is designed to provide an opportunity for both parties to review the past year. The main purpose of this evaluation is to provide constructive suggestions for improvement and to evaluate past performance against the goals and objectives of the position.

I. Organizational Planning and Management

Performance Indicators	Registrar Self-Evaluation				
• Was an annual operating plan in support of the work of Council developed and approved? • Did the operations reflect the intent and priorities of the Council? • Were detailed plans developed and maintained for each Committee? • Were the operations of the committees managed within appropriate parameters? (Survey)	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)	
Comments					

II. Financial Management

Performance Indicators	Registrar Self-Evaluation				
• Were the financial results of the organization monitored adequately? • Were appropriate financial controls established and maintained? • Were financial reports provided to Council and were they presented in a timely manner? • Were the necessary materials and information provided in support of the audit process? • Did the audit result in any reports of concerns with respect to management practices?	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)	
Comments					

III. Governance

Performance Indicators	Registrar Self-Evaluation				
• Were the overall operations of the Council managed appropriately and in accordance with generally accepted management principles? • Were the overall operations of the Council managed in a manner that is consistent with the vision, mission, and values of the organization? • Has the Registrar met the stated or understood limitations placed upon him within the timeframe covered by this review?	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)	
Comments					

IV. Human Resources Management

Performance Indicators	Registrar Self-Evaluation				
• Has the Registrar established and maintained human resource structures to support the organization, i.e. fulfill its current obligations and strategies? • Has the Registrar developed and implemented human resource practices to attract, retain, reward, and develop staff? • Has the Registrar developed and implemented policies applicable to the staff and ensured that those are communicated and available to staff? (Survey) • Have policies and processes been implemented to fairly evaluate staff performance on a regular basis? (Survey) • Did the Registrar demonstrate an understanding of self-assessment, monitoring and staff development techniques and practices, maintain a career management plan and use of a mentor? • Did the Registrar demonstrate the principles of continual learning and promote the value of learning for self and others? (Survey) • Has the Registrar provided opportunities for staff to exchange information regarding the College's operations, priorities and issues being managed? (Survey) • Has the Registrar treated all staff with fairness across the entire organization? (Survey) • Has the Registrar built and maintained a positive and safe work culture within the organization? (Survey) • Has the Registrar built and maintained a team-oriented workplace through regular team social activities? (Survey)	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					

❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)
Comments				

V. External Relations

Performance Indicators	Registrar Self-Evaluation				
• Did the Registrar maintain important relationships with the Ministry of Health and other governmental department as needed? • Did the registrar foster and maintain relationships with other health regulatory organizations within Ontario and across Canada as needed? • Did the Registrar foster and maintain relationships with professional associations as needed? • Did the Registrar foster and maintain relationships with educational programs as needed?	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5

Council Assessment				
❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)
Comments				

VI. Statutory Duties

Performance Indicators	Registrar Self-Evaluation				
• Did the Registrar ensure that the registration program was fully operational through the issuance of certificates of registration, class changes, and name changes? • Did the Registrar ensure that the examinations and entry-to-practice programs were fully operational? • Were suspensions and revocations applied as required? • Was the public register fully operational and properly maintained? • Were TCLs applied and removed against certificates of registration as required by the Committees of the College? • Were the complaints, reports, and investigations fully operational? • Were disciplinary processes fully executed as required including hearings held, orders applied and proper follow up conducted?	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5

• Was the quality assurance program fully operational?						
Council Assessment						
❑ 1 (Low)	❑ 2	❑ 3		❑ 4	❑ 5 (High)	
Comments						

VII. Professionalism, Judgment, Tact and Diplomacy

Performance Indicators	**Registrar Self-Evaluation**				
• Did the Registrar conduct himself in a professional manner that is consistent with the role of the chief executive officer of a health regulatory college? (Survey) • Did the Registrar exercise appropriate judgement in his role as a key representative of the Council or were there instances where judgement was lacking? (Survey) • Was the role performed tactfully by the Registrar or were there situations that were not handled tactfully? • Did the Registrar exercise diplomacy in the performance of his role on behalf of the Council or were there instances where diplomacy was lacking?	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)	
Comments					

VIII. Vision, Decision-making and Ethics

Performance Indicators	**Registrar Self-Evaluation**				
• Did the Registrar demonstrate an understanding of the importance of values and vision as well as the methods and processes for development and promotion of them? • Did the Registrar demonstrate an understanding of decision-making tools and their applications in developing problem-solving strategies? • Did the Registrar demonstrate an understanding of ethical responsibilities and dilemmas? • Did the Registrar demonstrate adherence to established ethical standards? (Survey)	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3	❑ 4	❑ 5 (High)	
Comments					

IX. Leadership, Collaboration, Facilitation and Commitment

Performance Indicators	**Registrar Self-Evaluation**

• Did the Registrar demonstrate knowledge and understanding of team building techniques and dynamics? (Survey) • Did the Registrar lead a multi-function team using effective communication skills as well as build and motivate teams inside and outside of the organization? (Survey) • Did the Registrar demonstrate necessary self-direction and self-motivation techniques? • Did the Registrar facilitate consensus building and a commitment toward the mission and its implementation? • Did the Registrar provide guidance, support and assistance to Council?					
	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3		❑ 4	❑ 5 (High)
Comments					

X. Innovation, Creativity and Change

Performance Indicators	**Registrar Self-Evaluation**				
• Did the Registrar demonstrate an awareness of successful practices to establish innovative and creative environments? • Were innovative and creative products, services, practices, and approaches implemented by or under the direction of the Registrar? • Did the Registrar create an environment where innovation and creativity are encouraged and did he lead by example? (Survey) • Did the Registrar demonstrate knowledge of change management practices and the importance of flexibility and negotiation? • Did the Registrar anticipate, respond, and adapt his approach and style to different leadership demands?					
	❑ 1	❑ 2	❑ 3	❑ 4	❑ 5
Council Assessment					
❑ 1 (Low)	❑ 2	❑ 3		❑ 4	❑ 5 (High)
Comments					

The College of Naturopaths of Ontario

REGISTRAR & CEO PERFORMANCE EVALUATION
FORM 3: DETERMINING/CALCULATING BONUS
REGISTRAR and REVIEW PANEL

Employee Name:			
Position Title:	Registrar & CEO		
Date Hired:		Date Started Present Position:	
Date Reviewed:		Date of Last Review:	
Review for Period:			
Reviewed By (Names):			
Reviewed By (Title):	Review Panel		

Purpose: This annual review is designed to provide an opportunity for both parties to review the past year. The main purpose of this evaluation is to provide constructive suggestions for improvement and to evaluate past performance against the goals and objectives of the position. A second component of the evaluation is to determine whether the Registrar shall be entitled to a bonus based on their overall performance.

The available bonus is up to 10% of the base salary.

Performance Rating

5 - Outstanding/Significantly exceeded expectations
4 – Very good/Surpassed expectations
3 – Good/Performance as expected
2 – Needs improvement/Outcome not fully met
1 – Unsatisfactory/Did not meet expectation/goal

Weighting of Annual Objectives/Priority Projects

Based upon the importance of the initiative (how mission critical?), it may have a weighting of one or two (i.e., two = double points). This must also be determined in advance when the annual objectives are set.

Bonus Payout Valuation

Over 76 points: 100% of bonus
69-75 points: 80% of bonus
61-68 points: 60% of bonus
54-60 points: 40% of bonus
46-53 points: 20% bonus
0-45 points: No bonus

Annual Objective/Target & Result	Performance Rating - Goals	Goal Weighting (1 or 2)	Performance Rating - Job	SCORE (Rating X Weight)
1 xxx	5	2		
2 xxx	5	2		
3 xxx	5	2		
4 xxx	5	1		

5 xxx	5	1		
TOTAL FOR ANNUAL GOALS (Max 40)				
Organizational Planning and Management	5			
Financial Management	5			
Governance	5			
Human Resources Management	5			
External Relations	5			
Statutory Duties	5			
Professionalism, Judgment, Tact and Diplomacy	5			
Vision, Decision-making and Ethics	5			
Collaboration, Facilitation and Commitment	5			
Innovation, Creativity and Change	5			
TOTAL FOR ROLE PERFORMANCE (50 max)	50 max.		XX actual	
TOTAL FOR BONUS		Points for Goal performance: XX Points for Job Performance: YY		

ZZ

Employee Name:			
Position Title:	Registrar & CEO		
Date Hired:		Date Started Present Position:	
Date Reviewed:		Date of Last Review:	
Review for Period:			
Reviewed By (Names):			
Reviewed By (Title):	Review Panel		

Purpose: This annual review is designed to provide an opportunity for both parties to review the past year. The main purpose of this evaluation is to provide constructive suggestions for improvement and to evaluate past performance against the goals and objectives of the position. The purpose of this form is to establish the Registrar's professional development plans and objectives for the coming year (Part A) and to review the outcomes at the conclusion of the year (Part B)

REGISTRAR DEVELOPMENT PLAN 202__-202__ Part A	
Professional Development Proposals from Registrar	Council Response (accepted, declined, or revised)
1.	
Benefit:	
Estimated Cost and Time Commitment:	Approved Amount:
2.	
Benefit:	
Estimated Cost and Time Commitment:	Approved Amount:

3.	
Benefit:	
Estimated Cost and Time Commitment:	Approved Amount:

Acknowledgement:

The signature below indicates the agreement of the Review Panel and the Registrar on the professional development plan for the Registrar & CEO for the coming year and that the approval of the Council has been received.

President _____ Date _____

Vice-President _____ Date _____

Registrar & CEO _____ Date _____

DEVELOPMENT PLAN REPORT – Part B	
Registrar's Report on Professional Development Outcomes in *Past Y*ear	**Council Response**

Employee Name:			
Position Title:	Registrar & CEO		
Date Hired:		Date Started Present Position:	
Date Reviewed:		Date of Last Review:	
Review for Period:			
Reviewed By (Names):			
Reviewed By (Title):	Review Panel		

Final Comments from the Council

Acknowledgement and Signatures:

The employee's signature below indicates they have been given the opportunity to read and discuss the contents of the Registrar & CEO Performance Evaluation documents (five forms in total). It does not necessarily indicate agreement with the evaluation. Should the employee not agree with the Performance Evaluation, the employee may submit a written response to the Council, through the Review Panel. The Registrar & CEO's response will be retained in the employee's personnel file.

_____ _____

President Date

_____ _____

Vice-President Date

Registrar & CEO

Date

The following Check List has been developed to guide the Council, its appointed Registrar & CEO Performance Review Panel and the Registrar & CEO in the steps involved in the completion of the annual Registrar & CEO Performance Evaluation.

Step No.	Action	Who Leads	Involved Parties	Date	Check-box
1.	Council will appoint the Registrar & CEO Review Panel ("Review Panel") comprising four members, two professional and two public members of Council, to include the President and Vice President. The President shall be Chair.	Council	Council	October Meeting	❒
2.	The Registrar & CEO provides the Review Panel with the following documents for review and consideration.	Registrar & CEO	Review Panel	By Jan 10	❒
	a) Form 1 – Annual Objectives and Priority Projects (for coming year, beginning April 1).				
	b) Form 4 – Part A – Registrar & CEO Development Plan proposals (for coming year).				
3.	The Review Panel will discuss with the Registrar & CEO the Registrar & CEO's proposed objectives and priority projects for the following year, as well as the proposed Development Plan.	Review Panel	Registrar & CEO	By Jan 25	❒
4.	The Review Panel presents the agreed upon objectives and priority projects and the agreed upon development plan to the Council for consideration and approval.	Council	Review Panel Consultant (if applicable)	January Meeting	❒
5.	The Review Panel, in conjunction with the Registrar & CEO, identifies the data that must be provided to the Review Panel in support of the review, the timing of the process, and the date by which data will be provided.	President	Registrar & CEO Review Panel Members	By Mar. 1	❒

6.	The Registrar & CEO provides the Registrar & CEO Performance Evaluation data (the self assessment components of Form 1 and Form 2 as well as the Report area if Form 4 – Part B), including an executive summary of the supporting data, to the Registrar & CEO Review Panel.		Registrar & CEO	Review Panel	By Apr. 15	
	a)	Form 1 – Self assessment (for concluding year).				❒
	b)	Form 2 – Self assessment (for concluding year).				❒
	c)	Form 4 – Part B – Development Plan Report (for concluding year).				❒
7.	Feedback is sought on the Registrar & CEO's performance:					
	a)	The Performance Evaluation tool (Form 2 duly completed by the Registrar & CEO) is forwarded to each member of the Review Panel with instructions on how to complete the tool, with a deadline by which the tool must be returned.	Review Panel	Consultant (if applicable)	By May 15	❒
	b)	The Staff Survey is forwarded to each member of staff with instructions on how to complete the survey and the deadline for completion.	Review Panel Consultant (if applicable)	Staff	By May 15	❒
8.	The Review Panel will review the data provided by the Registrar & CEO as well as the feedback provided by the individual members of the Review Panel (input using Form 2) and the staff survey, to develop a single Performance Review Report, including the following six parts:		President	Review Panel Consultant (if applicable)	By June 10	
	a)	Form 1 – The Review Panel consider the Registrar & CEO's self-assessment and completes the proposed "Assessment" (for the concluding year) and provides any draft comments for each Objective/Priority Project.				❒

	b)	Form 2 – The Review Panel considers the Registrar & CEO's self-assessment and cumulative feedback from the Panel members, as well as takes into consideration the cumulative feedback from the staff survey and completes the proposed "Assessment" and provides any draft comments on this form (for the concluding year).				❒
	c)	Form 3 – The Review Panel, having received all relevant data, calculates the Registrar & CEO's Performance against the scale for determining whether a bonus is due to the Registrar & CEO (for the concluding year).				❒
	d)	Form 4 – The Review Panel reviews the outcomes portion of Part B of the Development Plan (from the concluding year) and drafts a proposed Council Response.				❒
	e)	Form 5 – The Review Panel drafts general comments and feedback from Council to be shared with the Registrar & CEO.				❒
9.	The Review Panel will meet with the Registrar & CEO to present its draft report; mutually discuss and propose Development Opportunities with the Registrar & CEO; and compensation changes for the year, if any. The Registrar & CEO's feedback will be incorporated into a Report to Council, including any feedback or objections that the Review Panel did not act upon.		President	Review Panel Registrar & CEO	By Jun. 30	❒
10.	The Review Panel will provide the final draft Performance Review Report at an in-camera meeting of Council. Council will review, discuss, and approve or amend (by motion) the Performance Review Report which includes:		President	Review Panel Consultant (if applicable)	July Meeting	❒
	a)	Executive Summary				

	b)	Form 1 - Annual Objectives and Priority Projects (for the concluding year, fully completed as draft)				
	c)	Form 2 – Management and Compliance (for the concluding year, fully completed as draft)				
	d)	Form 3 – Determining and Calculating Bonus (for the concluding year, fully completed as draft)				
	e)	Form 4 – Registrar & CEO Development Plan (Part B for the concluding year, fully completed as draft)				
	f)	Form 5 – Acknowledgement & Signature (for the concluding year, fully completed as draft).				
11.	The Review Panel will meet with, present and review the final Performance Review Report, which includes Forms 1 through 5 and the Executive Summary, to the Registrar & CEO.		President	Registrar & CEO Review Panel	Aug.	❒
12.	The Registrar & CEO, after receiving the report, will be required to sign Form 5 as an acknowledgement of the completion of the Evaluation process. Should the Registrar & CEO have any objections to the evaluation, they can provide those to the Council through the Review Panel. A copy of the signed report, along with any objections from the Registrar & CEO, will be placed in the personnel file of the Registrar & CEO. The Review Panel will provide the Council with information regarding any objections registered by the Registrar & CEO.		Registrar & CEO	President	Aug.	❒
13.	The Registrar & CEO will be directed to act upon the decisions of Council arising from the Report including development plan, compensation changes, and/or areas requiring improvement or change.		President	Registrar & CEO	By Aug. 31	❒

June 15, 2020

The College of Naturopaths of Ontario

Council Meeting
July 29, 2020

Zoom Teleconference
APPROVED MINUTES

Council		
Present		**Regrets**
Ms. Asifa Baig (1:1)		Dr. Tara Gignac, ND (1:2)
Dr. Kim Bretz, ND (2:2)		Dr. George Tardik, ND (1:2)
Dr. Shelley Burns, ND (2:2)[1]		
Mr. Dean Catherwood (2:2)		
Ms. Dianne Delany (2:2)		
Ms. Lisa Fenton (2:2)		
Mr. Samuel Laldin (2:2)		
Dr. Brenda Lessard-Rhead, ND (Inactive) (2:2)		
Dr. Danielle O'Connor, ND (2:2)		
Dr. Jacob Scheer, ND (2:2)		
Dr. Jordan Sokoloski, ND (2:2)		
Mr. Barry Sullivan (2:2)		
Staff Support		
Mr. Andrew Parr, CAE, Registrar & CEO		
Ms. Agnes Kupny, Director of Operations		
Mr. Jeremy Quesnelle, Deputy Registrar		
Ms. Margot White, Director of Communications		
Ms. Monika Zingaro, Administrative Assistant Operations		
Guests		**Observers**
Dr. Elena Rossi, ND, Audit Committee Chair		Mr. John Wellner, OAND

[1] Present between 9:00 a.m. – 12:00 p.m.

Mr. Thomas Kriens, Auditor		Dr. Greg Sikorski, B.Sc., ND (Alberta)
Ms. Rebecca Durcan, Legal Counsel		
Mr. Jack Shand, The Portage Group		

1. Call to Order and Welcome
The President, Dr. Kim Bretz, ND, Chair, called the meeting to order at 9:02 a.m. She welcomed everyone to the meeting.

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:	Dianne Delany
SECOND:	Samuel Laldin
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:	Danielle O'Connor
SECOND:	Shelley Burns
CARRIED.	

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

4. Monitoring Reports
4.01 President's Report
The President's Report 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 President's Report as presented.
MOVED:	Danielle O'Connor

SECOND:	Barry Sullivan
CARRIED.	

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

MOTION:	To accept the Registrar's Report as presented.
MOVED:	Jordan Sokoloski
SECOND:	Shelley Burns
CARRIED.	

5. Council Governance Policy Confirmation
5.01 Review/Issues Arising
5.01(i) 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 Registrar's Report received. Mr. Parr informed the Council members that he is currently creating an online submission form for Council to submit any recommendations, amendments, or grammatical changes to any policy for review. In addition, he mentioned he is currently creating an online manual for Council to view all current policies.

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

5.01(iii) Detailed Review – Ends Policies
Council members were asked if there were any Council members who wished to discuss the Ends Policies. No issues were noted at this time.

5.02 Detailed Review – 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. Amendment suggestions to Policy EL 04.00 and Policy EL 10.01 were brought forward for Council's feedback. Mr. Parr noted the suggestions and advised that the Policy Review Committee will review both policies and make changes if required.

6. Business
6.01 Audit Committee Report – 2019/20 Fiscal Year
A copy of the Audit Committee Report on the audit for the fiscal year April 1, 2019 to March 31, 2020, was circulated in advance of the meeting. Dr. Elena Rossi, ND, Audit Committee Chair, reviewed the report with the Council members and responded to any questions.

MOTION:	To accept the Audit Committee Report as presented.
MOVED:	Shelley Burns
SECOND:	Samuel Laldin
CARRIED.	

6.02 Auditor's Report and Audited Financial Statements
The Chair invited Mr. Thomas Kriens, Partner at Kriens~LaRose, LLP and Auditor, to present the Auditor's Report and the Audited Financial Statements to Council. Mr. Kriens presented his report and responded to questions that were brought forward from Council members.

MOTION:	To accept the Auditor's Report and approve the Audited Financial Statements for the period April 1, 2019 to March 31, 2020 as presented.
MOVED:	Dianne Delany
SECOND:	Barry Sullivan
CARRIED.	

The Chair thanked Mr. Kriens and Dr. Rossi, ND, for presenting their reports to Council.

6.03 Patient Relations – Member and Patient Guide Amendments
A briefing note outlining the amendments to the Member Guide and the Patient Information Guide, as well as both Guides were circulated in advance of the meeting. Mr. Samuel Laldin reviewed the proposed changes with the Council members and responded to any questions during the discussion.

MOTION:	To approve the amendments made to the Member Guideline and Patient Information Guideline as presented.
MOVED:	Danielle O'Connor
SECOND:	Barry Sullivan
CARRIED.	

6.04 Annual Committee Reports
The annual Committee Reports submitted by each Committee were distributed in advance of the meeting.

MOTION:	To accept the annual Committee Reports as presented.
MOVED:	Danielle O'Connor
SECOND:	Dianne Delany

CARRIED.	

6.05 Infection Control Standard of Practice Amendments
A briefing note summarizing the amendments to the Infection Control Standard of Practice, as well as corresponding documentation were circulated in advance of the meeting. Mr. Barry Sullivan reviewed the proposed changes with the Council members and responded to any questions during the discussion.

MOTION:	To approve the amended Infection Control Standard of Practice as presented.
MOVED:	Shelley Burns
SECOND:	Samuel Laldin
CARRIED.	

6.06 Guideline on Tele-practice
A briefing note outlining the creation of the Tele-practice Guideline, as well as the Guideline were distributed in advance of the meeting. Mr. Sullivan reviewed the newly developed guideline with the Council members and responded to any questions during the discussion.

MOTION:	To approve the new Tele-practice Guideline as presented.
MOVED:	Danielle O'Connor
SECOND:	Brenda Lessard-Rhead
CARRIED.	

6.07 College E-mail and Data Systems Update
A briefing note providing an update in relation to the e-mail breach and the College's data system was circulated in advance of the meeting. Mr. Parr provided a detailed timeline of the measures the College has already implemented to reduce the probability of experiencing another breach. Also, he informed the members of Council of the new updates and responded to any questions during the discussion.

6.08 Governance Report – A Mandate for Change
The draft Governance Report – A Mandate for Change was distributed in advance of the meeting. The Chair highlighted the process that was undertaken to produce the report and provided a summary of the report itself and responded to any questions during the discussion.

MOTION:	To approve the Governance Report – A Mandate for Change as presented.
MOVED:	Jordan Sokoloski
SECOND:	Jacob Scheer
CARRIED.	

6.09 Governance Implementation Plan
The draft Governance Implementation Plan was distributed in advance of the meeting. Mr. Parr provided Council a brief explanation about the plan and went through each grouping of recommendations and responded to any questions during the discussion.

MOTION:	To approve the Governance Implementation Plan as amended with the removal of Recommendation 'W'.
MOVED:	Dianne Delany
SECOND:	Samuel Laldin
CARRIED.	

6.10 Committee Appointments
The Chair notified Council members that after having a discussion prior to the meeting with Asifa Baig, the newly appointed public Council member, it is recommended to have her join the Inquiries, Complaints and Reports Committee (ICRC).

MOTION:	To appoint Asifa Baig to the Inquiries, Complaints and Reports Committee (ICRC).
MOVED:	Shelley Burns
SECOND:	Samuel Laldin
CARRIED.	

6.11 New Registrar Performance Review Process
A briefing note summarizing the process undertaken in the development of a new Registrar Performance Review Process was circulated in advance of the meeting. Mr. Jack Shand, on behalf of The Portage Group, reviewed the new process by highlighting the areas of improvement and how the end results were achieved. He responded to any questions during the discussion that followed.

Also, Mr. Sullivan thoroughly reviewed the corresponding Registrar Performance Review Process Check List explaining each step and which Forms would be completed. In addition, he summarized the proposed amendments to Policy GP 19.01, as a result of the new process being implemented.

MOTION:	To approve the changes to GP 19.01 – Registrar Annual Performance & Compensation Review as presented.
MOVED:	Danielle O'Connor
SECOND:	Samuel Laldin
CARRIED.	

7. In-Camera Session
The Chair asked for a motion to move the meeting to an in-camera session at 1:52 p.m.

MOTION:	That the Council moves to an in-camera session to discuss personnel matters, pursuant to paragraph (d) of section 7(2) of the Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991.
MOVED:	Barry Sullivan
SECOND:	Danielle O' Connor
CARRIED.	

All observers and staff left the Zoom meeting room. Ms. Agnes Kupny, Director of Operations, was invited to remain with the Council to offer advice as needed.

The Chair asked for a motion to end the in-camera portion of the meeting at 2:48 p.m.

MOTION:	That the Council meeting in-camera session ends.
MOVED:	Dianne Delany
SECOND:	Samuel Laldin
CARRIED.	

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

9. Next Meeting
The Chair noted for the Council that the next regularly scheduled meeting is set for October 28, 2020 and will be held via Zoom.

10. Adjournment
10.01 Motion to Adjourn
The Chair asked for a motion to adjourn the meeting. The meeting adjourned at 2:51 p.m.

MOTION:	To adjourn the meeting.
MOVED:	Danielle O'Connor
SECOND:	Jacob Scheer

Recorded by: Monika Zingaro
Administrative Assistant, Operations
July 29, 2020

Approved October 28, 2020