



Excerpt from the Regulated Health Professions Act, 1991

Schedule 2

Health Professions Procedural Code

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).

SCHEDULE 1 TO THE BY-LAWS

Code of Conduct for Members of the Council and All Committees

1. This Schedule applies to members of the Council and of all committees of the College.
2. Council and Committee Members must, at all times, maintain high standards of integrity, honesty and loyalty when discharging their College duties. They must act in the best interest of the College. They shall:
 - a. be familiar and comply with the provisions of the RHPA, its regulations and the Code, the Act, its regulations, and the By-Laws and policies of the College;
 - b. promote the public interest in his/her contributions and in all discussions and decision-making;
 - c. direct all activities toward fulfilling the College's objects as specified in legislation;
 - d. diligently take part in committee work and actively serve on committees as appointed by the Council;
 - e. regularly attend meetings on time and participate constructively in discussions;
 - f. offer opinions and express views on matters before the College, Council and committee, when appropriate;
 - g. participate in all deliberations in a respectful and courteous manner, recognizing the diverse background, skills and experience of members on Council and committees;
 - h. uphold the decisions made by a majority of Council and committees, regardless of the level of prior individual disagreement;
 - i. place the interests of the College, Council and committee above all other interests;
 - j. avoid and, where that is not possible, declare any appearance of or actual conflicts of interest;
 - k. refrain from including or referencing Council or committee positions held at the College in any personal or business promotional materials, advertisements and business cards.
 - l. preserve confidentiality of all information before Council or committee unless disclosure has been authorized by Council or otherwise exempted under s. 36(1) of the RHPA;
 - m. refrain from communicating to Members, including other Council or Committee Members, on statutory committees regarding registration, complaints, reports, investigations, disciplinary or fitness to practice proceedings which could be perceived as an attempt to influence a statutory decision or a breach of confidentiality, unless he or she is a member of the panel or, where there is no panel, of the statutory committee dealing with the matter;
 - n. respect the boundaries of staff whose role is not to report to or work for individual Council or Committee Members;

- o. be respectful of others and not engage in behaviour that might reasonably be perceived as verbal, physical or sexual abuse or harassment; and
- p. regularly evaluate his or her individual performance, and that of the collective to assure continuous improvement.

SCHEDULE 2 TO THE BY-LAWS

Rules of Order of the Council

1. In this Schedule, "Member" means a Member of the Council.
2. Each agenda topic will be introduced briefly by the person or committee representative raising it. Members may ask questions of clarification, then the person introducing the matter shall make a motion and another Member must second the motion before it can be debated.
3. When any Member wishes to speak, he or she shall so indicate by raising his or her hand and shall address the presiding officer and confine himself or herself to the matter under discussion.
4. Staff persons and consultants with expertise in a matter may be permitted by the presiding officer to answer specific questions about the matter.
5. Observers at a Council meeting are not allowed to speak to a matter that is under debate.
6. A Member may not speak again on the debate of a matter until every other Member of Council who wishes to speak to it has been given an opportunity to do so. The only exception is that the person introducing the matter or a staff person may answer questions about the matter. Members will not speak to a matter more than twice without the permission of the chair.
7. No Member may speak longer than five minutes upon any motion except with the permission of Council.
8. When a motion is under debate, no other motion can be made except to amend it, to postpone it, to put the motion to a vote, to adjourn the debate or the Council meeting or to refer the motion to a committee.
9. A motion to amend the motion then under debate shall be disposed of first. Only one motion to amend the motion under debate can be made at a time.
10. When it appears to the presiding officer that the debate in a matter has concluded, when Council has passed a motion to vote on the motion or when the time allocated to the debate of the matter has concluded, the presiding officer shall put the motion to a vote.
11. When a matter is being voted on, no Member shall enter or leave the Council room, and no further debate is permitted.
12. No Member is entitled to vote upon any motion in which he or she has a conflict of interest, and the vote of any Member so interested will be disallowed.
13. Any motion decided by the Council shall not be re-introduced during the same session except by a two-thirds vote of the Council then present.
14. Whenever the presiding officer is of the opinion that a motion offered to the Council is contrary to these rules or the By-Laws, he or she shall rule the motion out of order and give his or her reasons for doing so.

15. The presiding officer shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the Council without debate.
16. The above rules may be relaxed by the chair if it appears that greater informality is beneficial in the particular circumstances unless the Council requires strict adherence.
17. Members are not permitted to discuss a matter with observers while it is being debated.
18. Members shall turn off cell phones during Council meetings and, except during a break in the meeting, shall not use a cell phone, blackberry or other electronic device. Laptops shall only be used during Council meetings to review materials related to the matter under debate (e.g., electronic copies of background documents) and to make personal notes of the debate.
19. Members are to be silent while others are speaking.
20. In all cases not provided for in these rules or by other rules of Council, the current edition of Robert's Rules of Order shall be followed so far as they may be applicable.
21. These rules shall apply, with necessary modifications, to meetings conducted by teleconference or any other electronic means permitted by the By-Laws, including audio or teleconference.

SCHEDULE 3 TO THE BY-LAWS - Code of Ethics for Registered Members

Code of Ethics for Registered Members

All registered members of the College shall strive to attain the ideals identified in the College's Code of Ethics. The College's Code of Ethics for registered members is as follows:

1. General Responsibility

- Practise within the scope of TCM practice and abide by the laws of the jurisdiction;
- Maintain high competence (i.e., skills, knowledge and judgment) at all times;
- Practise professionally, honestly and with integrity;
- Respect the authority of the College and uphold the principles of self-regulation;
- Place the health and care of patients above personal gain.

2. Responsibility to Patients

- Recognize that the primary duty of a practitioner is the health and well-being of their patients;
- Respect a patient's value, needs, dignity and choices;
- Provide care to patients regardless of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;
- Listen and explain to patients the available treatment options, and their goal, risks, effectiveness and cost. Provide the best treatment plan to the patient after the patient understands his or her options;
- Provide timely and quality care that is consistent with the standards of the profession;
- Provide the best care to patients, recognizing one's own limitations and referring patients to other practitioners, or other health care providers when the level of care needed is beyond one's competence;
- Being honest and fair when charging fees for services and any products or prescriptions;
- Protect patients from unsafe, incompetent and unethical care;
- Respect the physical, emotional or financial integrity of patients;
- Protect the privacy and confidentiality of the health information of patients.

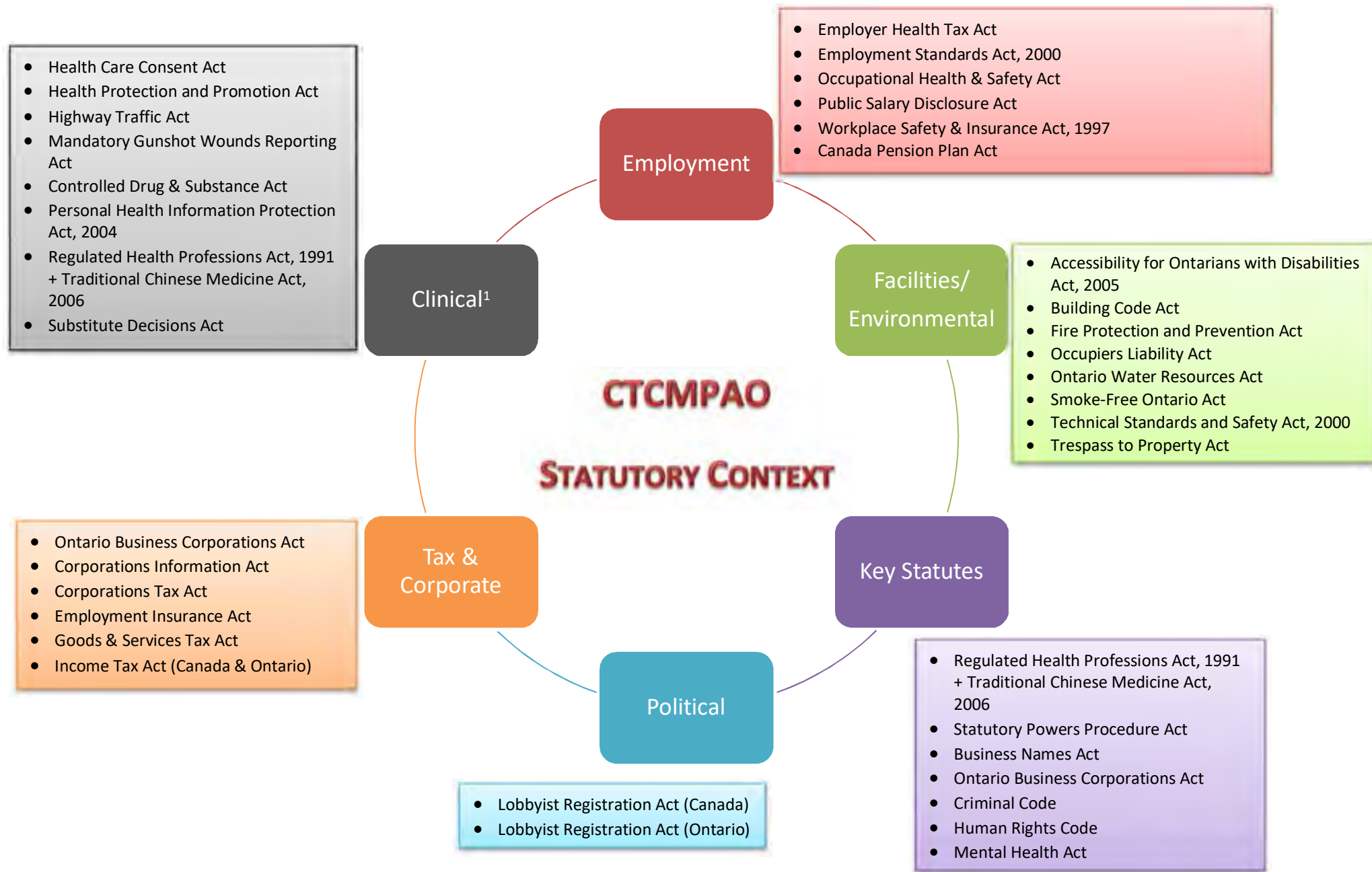
3. Responsibility to Oneself and the Profession

- Acknowledge the limitation of one's knowledge, skills and judgment;
- State one's qualification and experience honestly and fairly;
- Continually upgrade one's knowledge, skills and judgment to improve one's services to patients;
- Respect other health professionals and members of the TCM profession;
- Refrain from passing judgment on the services of another health professional or another member of the TCM profession, except when required in the interest of the patient and after obtaining appropriate information;
- Collaborate with other members of the TCM profession and with other health professionals in the interest of the patient and the public;

- Be transparent and timely in providing information to patients, or a third party when requested or authorized by the patient or by law;
- Contribute to the ongoing development of TCM practices and pass on one's knowledge and skills to others;
- Uphold the honour and dignity of the TCM profession.

4. Responsibility to the Public

- Contribute to improving the standards of health care in general;
- Contribute in matters of public health, health education, environmental protection and legislation issues that affect the quality of care to the public;
- Offer help in emergency situations, if appropriate;
- Promote and enhance inter-professional collaboration;
- Represent the profession well.



¹ Although these might not apply to the CTCMPAO directly, they are clinical statutes that could apply to members.



BRIEFING ON MEETING PROCEDURE

Guidelines for Observers Attending Council Meetings

Council meetings are open to the public. However, the public may be excluded from any Council meeting or part of a meeting pursuant to section 7 of the *Health Professions Procedural Code*.

Individuals attending as observers are requested to:

- Turn off cell phones and pagers;
- Avoid bringing in food or drinks other than water;
- Refrain from recording of proceedings by any means, including the taking of photographs, video recordings, voice recordings or via any other means;
- Be quiet during the meeting and not engage in conversation, discussion or any disruptive behaviour;
- Refrain from addressing the Council, speaking to, or giving or passing notes, documents or information to Council members while the meeting is in process;
- Refrain from lobbying of Council members during the meeting, even during breaks;
- Respect that observers are not allowed to participate in debate of any matter before the Council;
- Respect the authority of the presiding officer; and
- Take their seats in the area designated to observers.

Robert's Rules of Order – Quick Reference

1. All those who wish to speak to an item **MUST** go through the Chair.
2. The Chair will keep a list of who wishes to speak. The Chair will call on you to speak.
3. Please raise your hand to let the Chair know you wish to speak.
4. To speak more than once to the same item, you need to wait till everyone else has had a chance to speak.
5. You may ask only one question at a time.
6. Voting is done by a show of hands. If a secret ballot is necessary (i.e. elections) paper ballots are used. For teleconference meetings, members are asked to voice their vote.
7. Each item to be decided will have a MOTION. A motion will be moved and seconded prior to discussion.
8. Should an amendment be made to the motion, the amended motion will be the item to be discussed and voted upon.
9. An amendment to a motion may be done as a “friendly” amendment, meaning the person who made the motion agrees with the change. And once again, the amended motion is the one that is voted upon.
10. Once the Chair calls an end to the discussion, a vote will be taken on the motion or amended motion.
11. Council members will be asked to vote:
 - a) in favour of the motion;
 - b) opposed to the motion; or
 - c) abstain from voting.(Abstentions do not affect the outcome of the vote)
21. A simple majority is required to pass a motion. (50% plus 1)
13. All votes will be noted by the minute taker.



COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO

AGENDA

FOR the **Council Meeting**, to be held on Thursday, June 20, 2019
from 9:00 a.m. to 4:30 p.m. at
705-55 Commerce Valley Drive West, Thornhill, Ontario.

Item	Open/ In-Camera	Time	Speaker
1. Welcome and Call to Order	Open Session	9:00 a.m.	J. Dunsdon <i>Chair</i>
2. Declarations of Conflicts of Interest	Open Session		J. Dunsdon <i>Chair</i>
3. Briefing on Meeting Procedure	Open Session		J. Dunsdon <i>Chair</i>
4. Adoption of the Agenda	Open Session	9:05 a.m.	J. Dunsdon <i>Chair</i>
5. Consent Agenda a) March 25 & 26, 2019 Meeting Minutes b) Executive Committee Report i. April 3, 2019 Meeting Minutes ii. April 10, 2019 Meeting Minutes iii. April 18, 2019 Meeting Minutes c) Registration Committee Report d) Inquiries, Complaints and Reports Committee Report e) Quality Assurance Committee Report f) Patient Relations Committee Report g) Discipline Committee Report h) Fitness to Practice Committee Report i) Examination Appeals Committee Report A consent agenda is a single item on an agenda that encompasses all the things the Council would normally approve with little comment. All those items combine to become one item for approval on the agenda to be called the Consent Agenda. As a single item on the agenda, the consent agenda is voted on with a single vote - to approve the consent agenda. This means that there is no discussion on the items, that are listed in the consent agenda. If a person wishes to speak about any component of the Consent Agenda, they will alert the Chair. The component will be removed from the Consent Agenda and discussed. The remaining components of the Consent Agenda can then be approved.	Open Session	9:10 a.m. (5 minutes)	J. Dunsdon <i>Chair</i>
6. President and Vice-Presidents Remarks	Open Session	9:15 a.m. (30 minutes)	R. Dong <i>President</i> M. Cha <i>Vice-President</i>

Item	Open/ In-Camera	Time	Speaker
IN-CAMERA SESSION			
The following agenda items will be held In-Camera in accordance with Section 7.(2)b and 7.(2)d of the <i>Health Professions Procedural Code</i> , [7. (2) Despite subsection (1), the Council may exclude the public from any meeting or part of a meeting if it is satisfied that, (b) financial or personal or other matters may be disclosed of such a nature that the harm created by the disclosure would outweigh the desirability of adhering to the principle that meetings be open to the public; (d) personnel matters or property acquisitions will be discussed;]			
LUNCH			
The Council meeting will be in Open Session beginning at 1:00 p.m.			
11. Proposed Budget a) Budget Proposal - Revised b) 2019-2020 Budget Proposal Summary c) 5-year Projection Summary d) 2019-2020 5-year Financial Projection	Open Session	1:00 p.m. (20 minutes)	F. Ortale <i>Director IT, Finance & Corp Services</i>
12. Financials a) Statement of Operations Q4 b) Highlights and Points of Interest Q4	Open Session	1:20 p.m. (15 minutes)	F. Ortale <i>Director IT, Finance & Corp Services</i>
13. Reserve Policy a) Draft Reserve Policy b) 2017 Reserves Environmental Scan	Open Session	1:35 p.m. (15 minutes)	F. Ortale <i>Director IT, Finance & Corp Services</i>
14. Acting Registrar Update a) Acting Registrar's Report b) Workplan c) Amendment to Registration Regulation d) FHRCO 2018-2019 Highlights e) Legislative Update – April f) Legislative Update – May	Open Session	1:50 p.m. (15 minutes)	S. Kefalianos <i>Acting Registrar and CEO</i>
15. Regulatory Update a) Grey Areas #236 May b) Harry Cayton Report	Open Session	2:05 p.m. (30 minutes)	R. Durcan <i>Legal Counsel</i>
16. Breach of Duty	Open Session	2:35 p.m. (15 minutes)	R. Durcan <i>Legal Counsel</i>
BREAK		2:45 p.m.	

Item	Open/ In-Camera	Time	Speaker
17. Elections a) Briefing Note – Districts 4 & 5	Open Session	3:00 p.m. (10 minutes)	D. Cook <i>Executive Assistant</i>
18. Standards of Practice a) Boundaries b) Prevention of Sexual Abuse c) Consent d) Infection Control	Open Session	3:10 p.m. (50 minutes)	S. Cassman <i>Policy Analyst</i> Leanne Cheng <i>QA Coordinator</i>
19. Committee Terms of Reference a) Briefing Note <ul style="list-style-type: none"> • Executive Committee • Registration Committee • ICRC • Quality Assurance Committee • Patient Relations Committee • Discipline Committee • Fitness to Practice • Examinations Appeals Committee • Dr. Title Working Group 		4:00 p.m. (15 minutes)	S. Kefalianos <i>Acting Registrar and CEO</i>
20. Other Business	Open Session	4:15 p.m. (5 minutes)	J. Dunsdon <i>Chair</i>
21. Meeting Evaluation a) Meeting Evaluation Form	Open Session	4:20 p.m.	J. Dunsdon <i>Chair</i>
22. Next Meeting Monday, September 30, 2019	Open Session	4:25 p.m.	J. Dunsdon <i>Chair</i>
23. Adjournment for June 20, 2019	Open Session	4:30 p.m.	J. Dunsdon <i>Chair</i>

FOR YOUR INFORMATION:

Grey Areas #234, March 2019

Grey Areas #235, April 2019

Grey Areas #237, June 2019

Office of the Fairness Commissioner

2019.05.14 letter re: appointment

of an Interim Fairness Commissioner



COVER PAGE

Item #:

Topic:

Consent Agenda

Speaker:

Jim Dunsdon, Chair

Action:

MOTION



**COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO**

**MEETING OF COUNCIL
MINUTES**

March 25, 2019 from 9:00 a.m. to 3:41 p.m.
705-55 Commerce Valley Drive West, Thornhill, ON L3T 7V9

IN ATTENDANCE

External Chair

Jim Dunsdon

Council

Yvonne Blackwood	Public Member
Ming C. Cha	Professional Member
Matthew Colavecchia	Professional Member
Richard Guo Qing Dong	Professional Member
Christine Fung	Professional Member
Lihui Guo	Professional Member
Barrie Haywood	Public Member
Maureen Hopman	Public Member
Feng Li Huang	Professional Member
Shiji (Stephen) Liu	Public Member (introduced at 10:07 a.m.)
Henry Maeots	Public Member
Martial Moreau	Public Member
Ferne Woolcott	Public Member
Xianmin Yu	Professional Member
Jin Qi (Jackie) Zeng	Professional Member
Pixing Zhang	Public Member

Regrets

Martin Perras	Professional Member
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Legal Counsel

Rebecca Durcan	Steinecke, Maciura LeBlanc LLP
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Staff

Allan Mak	Registrar and CEO
Stamatis Kefalianos	Deputy Registrar and Director Statutory Programs
Francesco Ortale	Director, IT, Finance and Corporate Services
Michele Pieragostini	Manager, Professional Conduct
Ann Zeng	Manager, Registration and Exams
Dianne Cook	Executive Assistant
Temi Adewumi	Recorder

Meeting of the Council

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

March 25, 2019

Observers

Jacky Zhang, Canadian College of Chinese Medicine
 Professor Bin Jiang Wu, Canadian College of Chinese Medicine
 Andrej Sikic, MOHLTC

1. Welcome and Call to Order

After calling the meeting to order at 9:00 a.m., the Chair welcomed Council, staff and observers to the March 25, 2019 meeting of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario.

2. Declarations of Conflict of Interest and Reminder of Confidentiality

The Chair asked if any Council members had any conflicts of interest with regard to the matters being considered by Council at today's meeting and reminded Council that in-camera discussions are not to be shared outside of the meeting.

There were no conflicts of interest declared.

3. Briefing on Meeting Procedure

The Chair provided an overview of the meeting procedure.

Due to a previous infraction, an observer, Ms. Yan, was not granted permission to remain at the meeting and was forcibly removed at 10 a.m.

The meeting resumed at 10:05 a.m. The Registrar thanked staff for their calm handling for the matter. Concerns had been raised about a lack of transparency and unfairness in the voting process, the Council was also informed of changes to the method of counting the votes.

Mr. Liu was invited to introduce himself as he was not present at the start of the meeting.

4. Adoption of the Agenda

The agenda was adopted as presented.

MOTION: B. Haywood – J. Zeng

THAT the Agenda of the March 25 and 26, 2019 Meeting of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be adopted as presented.

CARRIED

Meeting of the Council

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

March 25, 2019

5. Consent Agenda

- a) December 12, 2018 Council Meeting Minutes
- b) Executive Committee Report
- c) Registration Committee Report
- d) Inquiries, Complaints and Reports Committee Report – Quarters 3 & 4
- e) Quality Assurance Committee Report
- f) Patient Relations Committee Report
- g) Discipline Committee Report – Quarters 3 & 4
- h) Fitness to Practice Committee Report
- i) Examinations Appeals Committee Report
- j) Risk Management Report

The Risk Management report was moved out of the consent agenda for discussion under New Business.

MOTION: Y. Blackwood – H. Maeots

THAT the Consent Agenda of the March 25 and 26, 2019 Meeting of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, be approved as presented.

CARRIED

6. President's Remarks

The President, Ms. Woolcott, welcomed all participants to the meeting, with a special welcome extended to the new Council members, Mr. Colavecchia, Mr. Liu and Mr. Zhang. Mention was made of the fresh perspective provided by Council members, their variety of skills, experience, and commitment to the work of the College.

Congratulations were extended to Mr. Mak, who recently obtained certification as an Association Executive.

The College's mandate is to regulate the profession in the public interest, and ensure that the public receives safe quality and ethical care. The mandate has been reflected in projects identified in the strategic plan, which outlines priorities for the next three years. Staff has developed a work plan, and the projects are outlined within the Committee reports in the consent agenda.

The College has continued to collaborate with provincial partners at CARB. The entry level competencies have recently been updated, and are now at the implementation stage. The Pan-Canadian exam is currently in development, and is used by four provinces as registration criteria. The clinical case study exam was recently completed in January, and results have been released. TCM schools are committed to providing quality training, and have also discussed their concerns with the College, as part of an effort to ensure the profession's growth. In addition, regulation is currently being developed for the Doctor title.

Communication is of importance to the College, which is demonstrated by the information placed on the website.

The need for collaboration was also emphasized. Staff were also thanked for their commitment.

Meeting of the Council

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7. Registrar and CEO Remarks

The Registrar opened his remarks by providing an update on Ms. Yan.

Ms. Woolcott was thanked for her remarks, and appreciation was expressed to the Council for providing support in his obtaining of the CAE. The new Council members were also welcomed.

An overview was provided of the various College activities:

Registration:

- 1,161 members have renewed. The renewal deadline is April 1, 2019.
- Adjustments have been made to the Alternative Document policy, which now states that educational credentials will be revised by a third party in order to ensure the legitimacy of applicants' education.
- 503 new and repeat candidates wrote the January 2019 clinical case study. The national pass rate was 66% for acupuncture and 65% for R.TCMP.

The Quality Assurance Committee has revised four Standards of Practice: record keeping, fees and billing, infection control and consent. The Standards have also been revised by a plain language editor in order to obtain a Grade 6 to 8 reading level. Once completed, the files will be brought to Council for review and to the members for consultation.

The Patient Relations Committee has also revised the application for funding for sexual abuse therapy, in response to the *Protecting Patients Act*. The Committee has also reviewed changes to the Sexual Abuse Prevention and Boundaries Standards.

To help with the development of a new framework for the Quality Assurance Program, Dr. Cane from Catalysis Consulting was invited to deliver a presentation on career span competencies.

Dr. Ruth Gallop was also invited to provide training to Council regarding the College's role in the prevention of sexual abuse, and how such matters should be addressed. A training session had been previously held for staff.

Human resources: Ms. Michelle Yu, Communications Associate, and Ms. Eva Wang, Finance Coordinator, have both left the College. Both were thanked for their work and contributions. A new staff member, Ms. Janice Moss, has replaced Ms. Wang, and recruiting is underway for the communications position.

In closing, the Registrar reminded the Council of the need to be respectful, collaborative, engaged, transparent, ethical, fair and accountable. These words were agreed upon in 2016, as well as during the March 2018 strategic planning session. Referring to extremely offensive comments made by some Council members towards other Council members, the Registrar issued a strong statement about the inappropriateness of the comments. Council members were reminded that they are serving for public interest, and such views do not align with the values of the College. Recipients of the comments were invited to speak to the Registrar, and those members who had made such comments will be spoken to personally by the Registrar.

Meeting of the Council

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8. Meeting Effectiveness Summary

- a) Orientation Meeting Effective Survey, December 11, 2018
- b) Report on results from December 12, 2018

Ms. Woolcott reported that there were positive remarks from the summary sheets of the December 11 Orientation meeting. Comments will be used for planning further training sessions.

Concerns brought forward in the Council meeting evaluation form have been addressed. It is expected that the form will reveal more need for self-reflection and self-evaluation.

9. Public Appointments

Mr. Pixing Zhang and Mr. Liu were appointed on February 16 and 28, respectively. Both were welcomed to the meeting, and invited to introduce themselves.

10. Results of the District 2 By-election

- a) Briefing Note

Mr. Colavecchia was elected in District 2 on January 7, 2019. Council members were referred to the vote results in the Council package.

11. Election Process

The Chair provided an overview of the Elections Process, and the change in procedure was explained. Scrutineers will now count the ballots in the Council meeting room.

This voting year is a transition year, as outlined in article 7.01, which will end in December 2019. The dates for the election in December will be decided upon later. The terms of office for both the President and the Vice President were read, and the scrutineers were introduced.

Appointment of Scrutineers

Rebecca Durcan of Steinecke, Maciura, LeBlanc; Stamatis Kefalianos, Deputy Registrar; and Francesco Ortale, Director IT, Finance & Corporate Services were appointed as scrutineers for the voting process.

MOTION: B. Haywood – M. Hopman

Be it resolved that Rebecca Durcan, Stamatis Kefalianos and Francesco Ortale be appointed as returning officers.

CARRIED

12. Election: President

The nominations for the position of President were:

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College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

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1. Richard Dong, Professional Member
2. Ferne Woolcott, Public Member

Both candidates declared their willingness to stand for election, and gave speeches outlining their qualifications.

The vote proceeded by secret ballot, and was counted in front of all members.

In accordance with the By-laws, **Richard Dong** was elected as President of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is elected at the first regular meeting of the newly elected Council in 2019.

13. Election of the Vice-President

An overview was provided of the duties of the Vice-President.

Presentation of Candidates

The nominations for Vice-President were:

1. Ming C. Cha, Professional Member
2. Christine Fung, Professional Member

Both candidates declared their willingness to stand for election, and gave speeches outlining their qualifications.

The vote proceeded by secret ballot and was counted in front of all members.

In accordance with the By-laws, **Ming Cha** was elected as Vice-President of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is duly elected at the first regular meeting of the newly elected Council in 2019.

14. Election: Executive Committee Members

The composition of the Executive Committee was outlined. As the President is a professional member, the election was held for two public members and one professional member.

The nominations for Public Members to the Executive Committee were:

1. Henry Maeots
2. Martial Moreau
3. Pixing Zhang
4. Ferne Woolcott

All candidates agreed to let their names stand and each candidate gave a speech outlining their qualifications.

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Council members voted for one candidate in each round by secret ballot.

Voting for Public Member #1

There was no majority in the first round. A lot was cast to determine which of the two candidates with an equal number of the lowest votes should be removed. One ballot was spoiled.

A second round of voting was held with the following candidates:

- Henry Maeots
- Pixing Zhang
- Ferne Woolcott

As there was no majority in the second round of voting, a third round was held. The candidate with the lowest number of votes was removed from the third round, and the election proceeded with the following candidates:

- Pixing Zhang
- Ferne Woolcott

In accordance with the By-laws **Pixing Zhang** was elected to the Executive Committee of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is duly elected at the first regular meeting of the newly elected Council in 2019.

Voting for Public Member #2

Votes were cast to elect the second public member. The nominees were:

- Henry Maeots
- Martial Moreau
- Ferne Woolcott

In accordance with the By-laws **Martial Moreau** was elected to the Executive Committee of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is duly elected at the first regular meeting of the newly elected Council in 2019.

Elections for Professional Member

The nominations for a Professional Member to the Executive Committee were:

1. Christine Fung
2. Feng Li Huang
3. Xianmin Yu

Candidates allowed their names to stand for the nomination, and gave a speech outlining their qualifications.

The vote proceeded by secret ballot and was counted in front of Council members.

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As there was no majority, the candidate with the lowest number of votes was removed from the list and a second round of voting was held with the following candidates:

1. Christine Fung
2. Feng Li Huang

In accordance with the By-laws **Feng Li Huang** was elected to the Executive Committee of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is duly elected at the first regular meeting of the newly elected Council in 2019.

MOTION: J. Zeng – R. Dong

THAT the ballots with respect to the election of the Officers be destroyed.

CARRIED

15. Executive Committee Meeting

At 11:55 a.m., the 2019 Executive Committee of the College of Traditional Chinese Medicine retired to hold its first Committee meeting to make the committee appointments. The meeting was recessed at 12:45 p.m. and resumed at 2:57 p.m.

16. Committee Appointments Announcement

The Committee appointments were announced at 3:23 p.m.

2019 Registration Committee Members:

Mr. Ming Cha, Ms. Feng Li Huang, Mr. Barrie Haywood, Mr. Martial Moreau, Mr. Stephen Liu, Ms. Ferne Woolcott, Mr. Xianmin Yu

2019 Inquiries, Complaints, Reports Committee Members:

Ms. Yvonne Blackwood, Mr. Matthew Colavecchia, Mr. Richard Dong, Ms. Christine Fung, Ms. Maureen Hopman, Mr. Lihui Guo, Mr. Stephen Liu, Mr. Henry Maeots, Mr. Xianmin Yu, Mr. Pixing Zhang

2019 Quality Assurance Committee Members:

Mr. Ming Cha, Mr. Matthew Colavecchia, Mr. Lihui Guo, Ms. Feng Li Huang, Mr. Henry Maeots, Mr. Martial Moreau, Mr. Pixing Zhang

2019 Patient Relations Committee Members:

Ms. Yvonne Blackwood, Ms. Christine Fung, Mr. Barrie Haywood, Ms. Feng Li Huang, Mr. Martial Moreau, Ms. Ferne Woolcott, Ms. Jackie Zeng

2019 Examinations Appeals Committee Members:

Ms. Yvonne Blackwood, Ms. Christine Fung, Ms. Maureen Hopman, Ms. Jackie Zeng

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17. Committee Chair Elections

The election of a Chair for the Statutory Committees will be held at the first meeting of each newly appointed committee.

As all Council members belong to both the Discipline and Fitness to Practice Committees, Committee chair elections were held during the Council meeting.

A Council member left the meeting during the break. The election proceeded as quorum was still maintained.

Election for the Chair of the Discipline Committee

Nominations for the position of Chair of the Discipline Committee were:

The nomination for Mr. Haywood was moved by Mr. Cha and seconded by Mr. Maeots.
The nomination for Mr. Moreau was moved by Ms. Zeng and seconded by Mr. Dong.

Both candidates accepted the nomination and gave a speech outlining their qualifications.

The vote proceeded by secret ballot.

Mr. Barrie Haywood was elected as the Chair of the Discipline Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is duly elected at the first regular meeting of the newly elected Council in 2019.

Election for the Chair of the Fitness to Practice Committee

Nominations for the position of Fitness to Practice Committee were:

The nomination for Mr. Moreau was moved by Ms. Zeng and seconded by Mr. Cha.
The nomination for Ms. Huang was moved by Mr. Moreau and seconded by Mr. Maeots.

Mr. Moreau accepted the nomination; Ms. Huang declined.

Mr. Moreau was acclaimed as the Chair of the Fitness to Practice Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to hold office until a successor is duly elected at the first regular meeting of the newly elected Council in 2019.

MOTION: F. Woolcott – Y. Blackwood

THAT the ballots with respect to the election of the Chairs be destroyed.

CARRIED

18. Training

Dr. Ruth Gallop was introduced to the Council, and presented on “Boundary Violation and Sexual Abuse

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Prevention.” The presentation focused on reporting as it pertains to colleges, and the prevention of sexual abuse by registrants. Staff had earlier received a training on the dynamics of sexual abuse.

Key points:

- The public is not aware that regulatory colleges exist to serve their interests and assume that colleges serve the professionals’ interest. Colleges need to communicate to the public that they serve the public interest.
- The *RHPA*, in 1991, added restrictions on sexual activity between patients and registrants. In 2016, modifications were added to the *RHPA*, as research showed that the zero tolerance instituted in 1991, has not worked.
- The *RHPA* has now expanded the lists of acts that require mandatory revocation, and has also extended the period of time in which a former patient and health care provider may commence a sexual relationship to a minimum of one year, post termination. Fines for failure to report have also increased, and access to counselling has increased. All registrants are required to report any member of any regulated health college, when there are grounds for sexual abuse.
- The following are banned:
 - Sexual intercourse of any form (mandatory revocation)
 - Touching of a sexual nature (mandatory revocation)
 - Behavior or remarks of a sexual nature (does not lead to mandatory revocation)

Violence is not included, as there is no concept of consent in a personal relationship between a patient and a registrant.

- The College has a mandate to educate members and to protect the public. It should uphold the legislation, and discipline members as required. Colleges are being watched very carefully by the media to ensure that the mandate to protect is being enacted, to the public’s benefit.
- All abuse involves boundary violations and abuse of power. Abuse is defined as a “significant violation of a patient’s physical, sexual and emotional well-being.” In health care, it is defined as a fundamental abuse of power, that reveals, among other things, an abandonment of client interest, a betrayal of trust and influences the quality of care.
- Council members were provided with scenarios that outlined examples of inappropriate touch and boundary violations/crossings. Practitioners were also given a may also use a number of concepts to help them determine if they are in a situation in which boundaries could be crossed. When boundary violations occur, even if consensual, it is the practitioner who is responsible to maintain the boundaries and is legally responsible for the violation.
- An overview was provided of touch, which is a complex issue, as it is necessary in a health care. It is critical that practitioners obtain consent before touch. Colleges should also be clear in their content about the definition of consent and its different forms. Consent must also be explained to and obtained from patients prior to touching sensitive areas.
- Scenarios were also provided to show the importance of documentation. Consent must always be

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documented, as should cases where there is a misunderstanding with patients, especially concerning touch. Practitioners should also document how they help patients with their comfort level, especially for those patients who have previously undergone sexual abuse.

- An overview was also provided of social media. Practitioners are advised to keep their professional websites or email separate from personal sites, and to maintain privacy settings on their social media accounts.
- The College's role in prevention is to provide education, clear policy, ethical codes, and clarify grey zones. It was also recommended that patients who have suffered sexual abuse should be provided with opportunities to ask for advice anonymously.
- When working with complainants, the College should also ensure that patients know what to do if a practitioner violates boundaries, and make the information easy to access. The patient needs to understand the process of getting a complaint to the discipline stage, and that they will have to repeat their story multiple times.
- Most members of the public believe colleges work in the practitioners' interest, and do not believe that colleges understand the impact of sexual abuse. Colleges should show sensitivity patients who come forward, understand the enormous mental, physical, emotional impact on the patient and support them in telling their stories.
- In terms of handling consent with different cultures, it was acknowledged that consent is complicated across cultures. For instance, in certain cultures, women may not make independent decisions. However, as the patient is being treated in a Western environment in which individual consent regulations have been set, practitioners cannot proceed without the individual patient's consent. This has to also be explained to members who are new to the College's regulation.
- Registrants convicted of sexual abuse are struck from the registry. However, the College is not required to report the charge to the police. Reporting is the patient's decision, as it is important for them to maintain control of the process. This is a result of the McPhedran report which emphasizes giving the complainants rights and tools, and to help them maintain a sense of control

The presentation was concluded at 2:55 p.m. Council members were invited to send any further questions to Mr. Kefalianos or contact Dr. Gallop directly via email.

Recess of Council meeting

The full Council meeting was recessed at 2:57 p.m. to allow the Executive Committee to complete the Committee appointments. The Executive Committee returned to the meeting at 3:20 p.m.

19. Adjournment

The meeting was adjourned at 3:41 p.m.

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COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO

MEETING OF COUNCIL MINUTES

March 26, 2019 from 9:00 a.m. to 4:10 p.m.
705-55 Commerce Valley Drive West, Thornhill, ON L3T 7V9

IN ATTENDANCE

External Chair

Jim Dunsdon

Council

Richard Dong	President / Professional Member
Ming C. Cha	Vice-President/ Professional Member
Matthew Colavecchia	Professional Member
Lihui Guo	Professional Member
Barrie Haywood	Public Member
Maureen Hopman	Public Member
Feng Li Huang	Professional Member
Shiji (Stephen) Liu	Public Member (from 9:40 a.m.)
Henry Maeots	Public Member
Martial Moreau	Public Member
Ferne Woolcott	Public Member
Xianmin Yu	Professional Member
Jin Qi (Jackie) Zeng	Professional Member
Pixing Zhang	Public Member

Legal Counsel

Rebecca Durcan	Steinecke, Maciura LeBlanc LLP
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Regrets

Yvonne Blackwood	Public member
Christine Fung	Professional Member
Martin Perras	Professional Member

Guests

Dr. David Cane	Catalysis Consulting
Dr. Ania Kania-Richmond	Catalysis Consulting

Staff

Allan Mak	Registrar and CEO
Stamatis Kefalianos	Deputy Registrar and Director Statutory Programs

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Francesco Ortale	Director, IT, Finance and Corporate Services
Michele Pieragostini	Manager, Professional Conduct
Ann Zeng	Manager, Registration and Exams
Leanne Cheng	QA Coordinator
Sean Cassman	Policy Analyst
Dianne Cook	Executive Assistant
Temi Adewumi	Recorder

Observers

Jenny Chau	MOHTLC
Melinda Wu	Ontario College of Traditional Chinese Medicine
Professor Bin Jiang Wu	Ontario College of Traditional Chinese Medicine
Jacky Zhang	Ontario College of Traditional Chinese Medicine

20. Welcome and Call to Order

After calling the meeting to order at 9:00 a.m., the Chair welcomed Council, staff and observers to the March 26, 2019 meeting of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario.

21. Declarations of Conflict of Interest and Reminder of Confidentiality

The Chair asked if any Council members had any conflicts of interest with regard to the matters being considered by Council at today's meeting and reminded Council that in-camera discussions are not to be shared outside of the meeting.

There were no conflicts of interest declared.

22. Reminder of Meeting Procedure

The Chair provided a reminder of the meeting procedure.

23. Training

a) Future QA Program

Drs. Cane and Richmond of Catalysis Consulting were introduced to the Council. Catalysis consulting has worked on developing entry level competencies for the College, and is now working on the development of career span competencies.

Introduction

- Entry level competencies are the basic level at which a practitioner can practice. It is book learning, with practical testing and simulation in a school setting, where clinical experience is minimal. Practitioners at this level do not have the experience gained from working with actual patients.

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- Regulators are now looking for more meaningful ways to understand continuing competence, as entry to practice standards do not demonstrate competence throughout a practitioner's career. Neither does continuing education in the form of professional development courses.
- There is now a move towards thinking about career span competencies within the QA model, which recognizes that entry to practice is a starting point. Career span competencies (CSC) are an evolution of learning throughout one's career. It is not a "one size fits all," as practitioners' careers may move in several directions depending on their experience, the type of patients they work with, if they specialize or their abilities.

Career span competencies require a different measuring standard

Traditionally, regulators have focused on measurable outcomes, such as the number of professional development hours. CSCs, on the other hand, are difficult to measure. While traditional professional development is easier to police, CSC practitioners monitor their own professional development. In addition, a CSC based system allows for practitioners to develop in their careers, or to "be the best they can be."

Catalysis' framework

- Catalysis Consulting has developed a framework for CSC, which is currently being tested by three other regulatory colleges, one of which is the CTCMA.
- As CSC varies widely among practitioners, Catalysis has developed 14 broad competencies which practitioners can use to measure their professional development. Each is accompanied by interpretation statements, and was rated highly in responses from the regulatory colleges.
- CSC also works well with the government's new trend to practice only right touch regulation, which is based on an assessment of risk factors. Its impact on public interest is evident, and also gives the College a picture of where they need to target their resources.

The two QA components

- Under the terms of the *RHPA* (Section 80.1), QA needs to be meaningful for both the registrants and the College. This is covered in two components:
- Standards-based: The College needs to be assured that all of its members are meeting the minimum standard and are safe to the public.
- Development-based: This is above the minimum benchmark, and supports the registrants moving beyond entry level standards in their profession. The College should aim to support its members in moving beyond the minimum.
- A description was provided of approaches the College can use to ensure both components are being completed. For the development phase, the College can monitor that its members complete their assessment, but it should not monitor the content of the assessment. Studies have shown that when developmental information is monitored, members tend to change their responses.
- The other reason given for moving away from a policing approach is the consideration of resources.

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Colleges are not able to monitor all members all of the time. To ensure basic standards are being met, other approaches can be adopted, such as selecting members who qualify for risk factors, or conducting peer and practice assessments, that work to support the practitioner.

- Methods of measuring for component 2 include multi-source feedback from clients, co-workers or other practitioners, based on the 14 competencies. This should also be supported by an online platform so practitioners have a tool they can use to measure their own performance. The College would only monitor participation and intervene only when there is a problem, such as non-submission.

Response to queries:

- The CSC model is relatively new, and has not been fully implemented. Colleges are advised to use component 1 as a minimum, and consider component 2 as a means for practitioners to apply their knowledge to real life situations.
- CSC is currently being implemented for CTCMA, who has made the decision to focus on development based standards first, as they impact every registrant, while the standards-based approach only affects a percentage of registrants each year. It was also noted that the QA program in BC is called the “Practice Support program,” which takes the focus away from policing.
- Many registrants currently see colleges as the “compliance police.” Colleges are starting to realize that they need to adopt a more supportive role. When self-assessments focus on compliance, it defeats the purpose of professional development.
- Both components are designed to function independently, but also overlap. Regulators need assurance of safe practice, but realize that obtaining such compliance is resource intensive. In order to ensure that minimums are being met, it was suggested that a cohort of a college’s membership could be identified that represents the entire population, or fits certain criteria, such as the characteristics of those who undergo discipline.
- It was also recommended that the online tool have a firewall between both components in order to assure registrants of confidentiality. Regulators are advised to not review individual responses, but to collect aggregate data which will help them identify trends. The Council was also advised that the quality assurance program also has extra protection granted by legislation. The Quality Assurance Committee can only release information if concerned about professional misconduct, and even then, can only release names and concerns, not the data. Catalysis Consulting can also work with colleges to ensure that whatever outputs come from the system are meaningful in to them as a regulator.
- Catalysis Consulting would work with the colleges to create a process for evaluating the questions. Council was advised that answers from the developmental component are not sent back to the College, as the goal is participation and self-monitoring. While the College does have a choice to view content, it was strongly advised that it could jeopardize the value of self-assessment, and also removes the concept of moving beyond minimum standards.

Both Drs. Cane and Richmond were thanked for their presentation.

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24. Work plan

a) Work Plan

The Registrar provided an overview of the work plan, which is based on the strategic plan's directions.

Good governance

- Ms. Woolcott, Mr. Mak, and Mr. Kefalianos attended a FHRCO session on regulatory modernization, which discussed governance frameworks.
- A training session was held for Council in December 2018.
- The updated By-Laws are now effective.
- Renewal is still open, and the new fee schedule is currently in place.

Practitioner competence

- Standards of Practice are currently being revised, and have been reviewed by the Quality Assurance and Patient Relations Committees.
- Pan-Canadian exam: The examination will adopt the computer-based format as of fall 2020. The transition timeline has been communicated to schools.
- Quality Assurance program: A presentation on the QA model and continuing career competencies was held on March 26. Further discussions will be held with Catalysis Consulting and CTCMA, as the College is in the process of revising its QA model.

Public confidence

- Doctor title: The consultants have been working with practitioners to develop a survey for members and the public. The surveys have also been circulated to TCM schools.

In response to a query, the By-Laws are reviewed on an annual basis.

The revisions to the Standards of Practice were commended.

25. Pan-Canadian Examinations

a) Privacy Breach – Letters to Participants

Mr. Kefalianos reported on a break in of his car, which had held a box containing a seating chart with the names of the candidates used to administer the examination. The candidates' personal information was not in the box, and the examination was not compromised. Candidates have been informed of the privacy breach, as has the Privacy Commissioner. As there was no personal information, the Commissioner does not require any further information or action. The College has been thanked for bringing the incident to their attention.

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b) Computer Based Testing Transition Update

Schools have been advised that the College has adopted a new transition timeline towards the computer-based testing format. The final two exams (written and clinical) will be administered in October 2019 and January 2020. The computer-based format, which combines both the written and clinical component, will commence as of fall 2020. It is based on the new blueprint and updated entry to practice competencies. The College is currently working with partners across Canada to determine the best type of practical component.

26. Dr. Title Update

a) Briefing Note

Surveys for the practitioners and public will be sent out shortly. The final report will outline key findings, an environmental scan, and provide input from the members, public and stakeholders. It will also outline benefits to the Doctor class registration. Once the report is concluded, further steps include developing the requirements for education, school program approval, competencies and entry to practice requirements.

27. Office of the Fairness Commissioner

a) Letter re: process changes

Mr. Kefalianos reported that the OFC has now changed its process of conducting assessments. Previously colleges would be assessed or audited every three years, and then adopt the OFC's recommendations. The new process is a risk-based approach that reviews colleges' data and from there assesses if the colleges are at risk in terms of fairness and registration processes. Colleges that are at high risk will then be subject to a formal audit. This new method will reduce the compliance approach, and help colleges ensure fair practices.

A background on the OFC and its mandate was provided to new Council members. In response to a query, the College submits its registration practices annually, which is compiled into a Fair Registration Practices report. This year, the OFC made two or three recommendations.

In response to a query about the connection between the College's risk assessment report and the OFC's assessment, it was noted that the 2017 OFC assessment outlined a number of issues, which the College has worked on eliminating. That has now led the College to look at other risks such as fake education credentials, and the lack of program approval. The risk report has also helped in determining tasks in the strategic plan and for setting educational and program requirements for the Doctor title.

28. Building Connected Care in Ontario

a) 2019.02.26 Memo from Deputy Minister, H. Angus

b) 2019.02.26 Email from Deputy Premier & Minister of Health and Long-Term Care, C. Elliott

The Health Minister, Christine Elliott, has sent an announcement regarding the government's plans to merge all health care agencies into a single system, with the aim of creating a more collaborative and integrated health care system.

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29. Applications for Funding Therapy and Counselling

- a) Briefing Note
- b) Forms

Mr. Kefalianos reported that the College is required to maintain funding to support patients who have been sexually abused by a member of the College. The requirement for funding related to therapy and counselling is embedded in the *RHPA* and is administered by the Public Relations Committee.

Previously, funding requests could only be made once the case had gone to the Discipline Committee. The current process, as amended by the *Protecting Patients Act*, means that patients may apply for funding as soon as they make a complaint.

Even though funding can immediately be applied, cases are still subject to the findings process. The Risk register had also outlined the need to update the funding forms and information on the website. The four forms have now been revised and reviewed by the Patient Relations Committee. Further plans are to post the forms on the website in a user-friendly format and to update the website content.

MOTION: F. Woolcott – M. Colavecchia

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario accepts the four Funding for Therapy and Counselling applications forms as presented to be effective immediately.

CARRIED

30. Financial Update

- a) Highlights and Points of Interest 3rd Quarter
- b) CTCMPAO Statement 3rd Quarter

Mr. Ortale provided an overview of the third quarter financial statement, starting with the Statement of Operations. Council members were sent the financial statements prior to the meeting.

Revenue: revenue for the College is higher than the estimated projection, due to a higher number of members than previously anticipated.

Expenses: While the College's overall operating expenses are below budget, an explanation was provided of the items for which the budget had been exceeded, for example, there are now six Council meetings instead of four. The Registration department held more meetings due to registration appeals.

Other items:

- The strategic plan has not budget line for 2019, as it occurs once every three years.
- The school program approval has been budgeted for, but expenses have not yet been incurred.
- The Pan-Canadian examination budget is over the estimation due to new item writing and per diems.
- Salary and benefits are on target.

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- IT is under budget as it is currently in a maintenance stage with fixed expenses.
- Network security is a new item which has a maintenance and support contract. This is a fixed expense.
- Costs for the payment gateway are low in this quarter, but will rise in the coming months due to renewal payments. This will also apply to credit card fees.
- Software is being developed to allow applicants to register online for the Pan-Canadian examination. This will also require use of the payment gateway.
- While there were a high number of cases in ICRC, a number of them were uncontested and resolved without legal expenses.

Overall, the College has reduced its deficit and increased its income.

Responses to queries:

- The figure of \$45,000 refers to other revenue income, in the form of cost orders. Two cost orders, for the Philip Tran case, as well as the Federation, will be written off as bad debt in the next budget.
- The accounting fee includes the auditors fee, and is a single payment. The listing is expected to reach 100% by the end of the fourth quarter. The accounting firm helps with the audit and payroll.

31. COMMUNICATION PLAN

- a) Briefing Note
- b) 2019-2021 Communications Plan

Mr. Mak reported that the plan will formalize the College's communications strategy, and help to increase awareness of the College.

There are three aims:

- a. That the public become aware of the College's existence and purpose as a regulatory body. The College also provides education to the public of what to expect during a practitioner visit.
- b. Display transparency about the College and consult with stakeholders on processes and standards.
- c. Educate the membership regarding the standards of this profession.

An overview was provided of the projects in the plan, as well as challenges, timelines and estimated budget. Outputs will include:

- Videos and webinars to educate on Standards, the Doctor title, and new QA program
- Environmental scans and surveys for the Doctor title
- Hiring of editors and writers to simplify and write content
- Creation of new guides, resources and policies for the Pan-Canadian exam.
- Consultation with schools and other regulators on how they conduct accreditation and programs.

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MOTION: M. Moreau – B. Haywood

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario accept the Communication Plan as presented.

CARRIED

32. Student Class Registration Amendment

a) Sealed Regulation Amendment

Mr. Mak reported that the MOHTLC had requested that the College review the registration regulations, to ensure compliance with AODA requirements. The table describing the College's designations has now been amended and submitted to the Ministry.

In response to a query, the amendment was to place the words "none" into the former blank box, which can now be translated into Braille.

33. Committee Terms of Reference

a) Briefing Note

- Executive Committee
- Registration Committee
- ICRC
- Quality Assurance Committee
- Patient Relations Committee
- Discipline Committee
- Fitness to Practice
- Examinations Appeals Committee

Mr. Kefalianos provided an overview of the Terms of Reference (ToR), explaining that the current ToRs are being revised to ensure consistency in content and format. The purpose of ToRs was also explained, in that they guide the operations of statutory committees. They are also mandated by the College's By-Laws for each committee. A ToR for the Doctor title working group will be revised in the near future.

ToRs are a living document, and Councils have the opportunity to update and modify them each year.

A public member expressed that several members of Council had not had enough time to review the Terms, and that approval should be deferred until the next Council meeting in June. In response to a query, the Council was advised that Committees currently operating without a ToR presents a high risk that needs to be addressed. It was also noted that as a rule, ToRs have not been approved by Council.

Further discussion was held on the need for Council members to be prepared for meetings.

The motion was moved for approval, but tabled upon the results of a vote.

MOTION: H. Maeots – B. Haywood

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of

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Ontario accept the Committee Terms of Reference as presented.

MOTION: P. Zhang – M. Cha

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario moves to table the motion to accept the Committee Terms of Reference until the June Council meeting.

CARRIED Yes: 9 Opposed: 5

34. Governance Models – Letters of Support

- a) Briefing Note
- b) College of Nurses letter to C. Elliott M.P.P. 2019.01.08
- c) College of Physicians & Surgeons letter to C. Elliott M.P.P. 2019.01.25
- d) Draft letter of support for College of Nurses

Mr. Mak reported that the College of Nurses of Ontario (CNO) is proposing a new governance model (Vision 2020), which reduces the size of the Council to just 12 members, with an equal composition of six public and professional members. Its Council would include more advisory groups. Selection of directors would be through competency and not election. In addition, all members would be paid the same per diem amount.

CNO has submitted the proposal to MOHTLC, and is asking for support from other health regulatory colleges. It was also observed that the College of Physicians and Surgeons of Ontario (CPSO), as well as the Ontario College of Teachers (OCT), are adopting similar approaches in reducing Council size, including more public representation and eliminating the overlap between the Board and statutory committee membership. The colleges have also proposed a competency-based approach. They also want the option of appointing the Executive Committee.

Council was asked to discuss the proposal's content and determine it should provide support.

Discussion ensued on the following points:

- That the CNO, CPSO or OCT could be asked to present their proposal to Council.
- A letter of appreciation could be sent to the CNO.
- A letter could be sent to indicate that CTCMPAO could consider agreement on some principles.
- As the letter will be sent to the Ministry, Council needs to be definite in its request, and should also consider the options presented by CPSO and OCT.
- A public member expressed the opinion that the college are self-regulated government bodies and professional members are more qualified to provide care, and that the suggestion of more representation by public members was ridiculous. Another public member responded that the greater the representation of professional members in a Council, the more the perception that the College represents the professional view point.

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- The Registrar emphasized that showing support of some of the principles suggested by CNO does not indicate that this College will adopt a similar structure. While the colleges are self-regulated, they are mandated to protect public interest, regardless of the Council's composition of members.
- It was further observed that the self-regulation model is currently undergoing discussions, with the potential for future changes. The proposal by the CNO is pointing to trends in regulation, which the College should take note of.
- There was agreement to not move the motion as the Council is not at the point of agreeing with the proposal. The matter will be moved to the Executive Committee for further discussion.

MOTION

~~THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario directs the Registrar to prepare a letter of support to the principles of the College of Nurses proposal to the Ministry of Health and Long-Term Care.~~

At 2:25 p.m. the Executive Committee retired to adjust the Committee appointments. The Council meeting resumed at 2:44 p.m.

34. In-camera session

The minutes of the in-camera session are recorded separately.

39. Business Arising From in-camera Session

MOTION: M. Cha – F. Woolcott

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario accept the In-Camera Minutes of the December 12, 2018 meeting as amended.

Abstained: M. Colavecchia, B. Haywood, H. Maeots

Opposed: M. Moreau

No votes: M. Hopman, J. Zeng

CARRIED

MOTION: H. Maeots – M. Moreau

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario accepts the 2019-2020 budget as presented.

DEFEATED

Yes: M. Colavecchia, B. Haywood, M. Hopman, H. Maeots, F. Woolcott

No: M. Cha, R. Dong, L. Guo, F. Huang, S. Liu, J. Zeng, X. Yu, P. Zhang

MOTION: M. Moreau – J. Zeng

THAT the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario adjourns the meeting and that the Executive Committee reconvenes at a later date to

Meeting of the Council

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

March 26, 2019

amend the budget.

CARRIED (unanimous)

MOTION: F. Woolcott – M. Moreau

THAT the meeting be moved out of camera at 4:10 p.m.

CARRIED

39. Other Business

a) Risk Management

Discussion of this item was deferred.

40. Meeting Effectiveness Form

Discussion of this item was deferred.

41. Date for Next Meeting

a) June 27, 2019

43. Adjournment

The meeting was adjourned at 4:10 p.m.

The Chair remarked that it is the Executive Committee's responsibility to take the next steps on the issue of the budget.

~~MOTION:~~

~~*THAT the meeting of the Council of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario of March 26, 2019 be adjourned until the next meeting or at the call of the President.*~~

~~CARRIED~~



FOR: Information

SUBJECT: Executive Committee Report

Executive Committee Members:

Richard Guo Qing Dong, President R. TCMP, R. Ac	Professional Member
Ming C. Cha, Vice-President R. TCMP, R. Ac	Professional Member
Feng Li Huang R. TCMP, R. Ac	Professional Member
Martial Moreau	Public Member
Pixing Zhang	Public Member

The Executive Committee met 6 times in person, since the previous Council meeting held on March 25 & 26, 2019. (March 25 & 26, 2019, April 3, 10, 18, 2019, and May 27, 2019.)

FOR INFORMATION

1. Committee Composition

The Executive Committee set the Committee Composition for 2019.

2. Change in Direction of the College

The Executive Committee, on April 10, 2019 appointed Mr. Stamatis Kefalianos (Deputy Registrar and Director Statutory Programs) as Acting Registrar and CEO replacing Mr. Allan Mak.

Mr. Mak was thanked for his seven years of dedicated service to the College.

3. Non-Council Committee Members

The Executive Committee re-visited the discussion for the addition of non-Council committee members. Including non-Council committee members would alleviate a risk for the College and ensure there is proper quorum in ICRC and Discipline. It was determined by the Executive that non-Council committee members would not be a part of the committee structure given the added financial costs to the College.

4. 2019-2020 Proposed Budget

The Executive Committee was provided with an overview of a revised proposed budget for 2019-2020 and a 5-year financial projection based on their suggested amendments. The proposed budget will be reviewed by Council at the June 2019 meeting for approval.



5. Reserve Policy

The Executive Committee reviewed the proposed Reserve Policy. The purpose of the policy is to ensure the financial stability of College. The reserve funds will include savings for discipline expenses, investigation of complaints, and funding for therapy to patients who are victims of sexual abuse. The Executive Committee recommended the reserve policy be brought forward to Council for approval.

6. Committee Terms of Reference

Draft terms of reference for all statutory committees and non-statutory committees were presented to the Executive Committee. The Committee recommended the Terms of Reference be brought to Council for approval.

7. Search Committee

The Executive Committee reviewed the best practices for setting a Selection Committee to work with the recruiting firm in the search for a permanent Registrar and CEO. The selection of the Executive Committee to act as the Search Committee and provide this leadership will be brought forward Council at the June meeting for approval.

8. Executive Search

The Executive Committee was provided with the information from four possible companies that are experienced in the recruitment of Registrars and CEO's in the regulated health profession. The Executive Committee narrowed the selection and will present their selection to Council at the June meeting for approval.

9. Elections – Districts 4 & 5

The Executive reviewed the information provided on the District 4 - Central West, which is comprised of the counties of Dufferin, Wellington, Haldimand, Brant and Norfolk, the regional municipalities of Halton, Niagara, Peel, and Waterloo, and the city of Hamilton. District 5 – West, composed of the counties of Essex, Bruce, Grey, Lambton, Elgin, Middlesex, Huron, Perth, Oxford, and the regional municipality of Chatham-Kent election process. A motion was passed recommending Council direct the Acting Registrar and CEO to set the date of October 29, 2019 for the elections for District 4 and 5.



**COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO**

**EXECUTIVE COMMITTEE MEETING
MINUTES**

April 3, 2019 from 9:00 a.m. to 4:11 p.m.
705-55 Commerce Valley Drive West, Thornhill, ON L3T 7V9

IN ATTENDANCE

Richard Dong	President / Professional Member
Ming C. Cha	Vice-President / Professional Member
Feng Li Huang	Professional Member
Martial Moreau	Public Member
Pixing Zhang	Public Member

STAFF

Allan Mak	Registrar and CEO
Stamatis Kefalianos	Deputy Registrar, Director Statutory Programs
Francesco Ortale	Director, IT, Finance and Corporate Services
Dianne Cook	Executive Assistant
Temi Adewumi	Recorder

Prior to the meeting, the Executive Committee recessed itself from 9:00 to 9:20 a.m.

1. CALL TO ORDER

The Chair called the meeting to order at 9:20 a.m., and announced that Mr. Cha would be co-chairing the meeting.

MOTION: P. Zhang – F. Huang

THAT the meeting of the Executive committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be called to order.

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST AND REMINDER OF CONFIDENTIALITY

The Chair reminded attendees that all matters discussed at the meeting were to be held in strictest confidence. It was also requested that any Executive Committee member who may have any

conflicts of interest with regard to the matters being considered by the Executive Committee at today's meeting should make it known.

There were no conflicts declared.

3. ADOPTION OF THE AGENDA

The President outlined the following amendments to the agenda:

- Committee appointments
- The March 25 and 26 Council meetings
- Performance of Council
- Review of College performance and operations
- Registrar performance review

MOTION: M. Moreau – P. Zhang

THAT the Agenda of the April 3, 2019 Meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be adopted as amended.

CARRIED

4. ORIENTATION TO EXECUTIVE COMMITTEE

Mr. Mak led the orientation training and explained the following concepts:

- The role of the College and its core functions
- Who is CTCMPAO: legislation, acts, titles
- The concept of self-regulation
- Mandate and vision: To regulate profession in public interest. Vision: to inspire confidence and trust in practice of TCM.
- Council: its role and composition
- The Registrar's role
- Staff
- Relationship between Council and staff
- Accountability
- Lines of communication
- The Executive Committee's role
- Code of Conduct
- Accounting and finances
- Financial statements
- Audit

The need for Council to speak with one voice was emphasized, even if there are personal disagreements. Concerns should be shared with the President, along with reasons, so the member can be given more information or evidence regarding their concerns.

- It was pointed out that the evaluation was not completed at the last Council meeting. As it is a reflection of the meeting, members need to know how to improve.
- A public member asked about a bidding process for the auditors and cited a need for more frequent audits. Executive Committee members were informed that a pre-audit will not be held this year, as the College is already organized, which will lead to a lower cost for services. The auditors' cost is based on time spent, and is not a fixed cost. The auditors help with processes, such as the HST, and are in contact by email.
- The audit is conducted just once a year. In response to a query, there have not been any issues in the past two or three years, that would necessitate a more frequent audit. Staff, not the auditors, prepare the quarterly reports.
- In response to concerns about the need for a more sophisticated review, staff provided an overview of the checks and balances system, which also requires a segregation of financial duties, with overview by Mr. Ortale.
- The signing process was also explained. Staff suggested that the auditor can be contacted for recommendations on more frequently review, about the cost for a quarterly audit and to also check the invoices.
- The suggestion was also made that the bank statements, which include cheques, expenses and revenue could be shown to Council. As renewal has just concluded, figures for receipts, purchase orders and invoices are all reconciled via the payment gateway, the CRM and the bank.

The President stated that the issues raised about the audit will be discussed at the next Executive Committee meeting.

The President thanked Mr. Mak for the presentation.

5. New: Review of the Registrar's performance

Mr. Mak was not present for this discussion.

After discussion on whether staff members should remain during the discussion, it was agreed that staff could remain, as their help would be needed to obtain further information from Mr. Mak about his contract. The Deputy Registrar also emphasized that staff are bound by the confidentiality outlined in the *RHPA*. Due to concerns about the content of the discussion, it was agreed to move the discussion in-camera.

MOTION: M. Cha - M. Moreau

That the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario moves in camera around 11:15 a.m.

CARRIED

Discussion of the in-camera meeting is recorded separately. Mr. Mak was not part of the in-camera discussion.

Mr. Mak returned to the meeting at 1 p.m.

6. New: Review of the College's Performance

The President brought up two points:

a. The speech by the Registrar made at the March 25 Council meeting

The Registrar had made a speech about the offensive and discriminatory comments made by one Council member about another member. The President said that he felt personally targeted, as words from the speech had been that a Council member made comments that the President of the College should be "Chinese, male and a professional member," all of which fit him personally. The President stated that all should be respectful and treat each other fairly without discrimination. The President and the Registrar had addressed the issue during a meeting the previous day, where the President had asked Mr. Mak to contact the member who complained, ask them to make a formal complaint and submit it for the next Executive Committee meeting.

Mr. Mak responded that the comments had been made in emails sent by a Council member. It was not a formal complaint, and therefore was not brought to the Executive Committee. As there is no written complaint, formal proceedings cannot occur. He emphasized the need for respect and understanding, and that the speech was made to remind everyone of the College's values.

A public member stated that the speech was not appropriate prior to the election, as it could have influenced the voting results. It was also stated that it appeared that the speech targeted a single candidate. As a staff person, the Registrar should be neutral. The speech given was not perceived to be neutral.

Mr. Mak apologized twice for the impression that he attempted to influence the election. The President stated that he would announce at the next Council meeting that there was no formal complaint and that the Registrar had apologized. Mr. Mak reiterated that he was not apologizing for the speech he had made, but for the impression that he attempted to influence Council.

Mr. Dong stated that if the comments had been made, it could ruin the Council's confidence and working environment. All Council members are equal, should be respected and have the same rights.

b. Committee appointments

The Executive Committee revised the Committee appointments at the March 26 meeting. However, the website has not been updated to reflect the changes made.

The Deputy Registrar confirmed that as the changes had been made towards the end of the Council meeting, which ended early, Council was unable to approve the revised composition. The revised appointments will be added to the next Council meeting agenda for approval. The new Committees will use the composition approved by Council until the new compositions are approved at the next Council meeting.

7. New: Non-Council members

In response to a comment that non-Council members are not needed, as there are enough Council members, the Deputy Registrar explained the historical use of non-Council members, the difficulty of obtaining quorum in ICRC and discipline, which leads to backlogs. Use of non-Council members will also increase the College's engagement with members. As most people are not aware about the College's functions, non-Council members will observe the Council's activities. As they have the power to make decisions on committees, they will understand the College more. It is also part of good governance to train future members of Council. By ensuring quorum, more risks to the College are eliminated.

An overview was also provided into how the non-Council members were selected. The call out for non-Council members led to 30 applications being received, so there is an interest from the membership to participate.

Discussion ensued on the College's financial ability to obtain non-Council members, given that membership fees should be to protect public interest, and the priority should be to improve QA activity. It was also stated that the trend among colleges is for smaller Councils. However, the Deputy Registrar stated that such colleges would still have other people appointed to committees.

Fewer members in committees leads to a risk of a lack quorum for discipline and ICRC. Other issues are loss of confidence in the College, and lack of interest in Council elections. When the College was proclaimed, its primary focus was registration. Due to this focus, QA was at a basic level. The next phase is to grow as a College, and this has been highlighted in the strategic plan.

A public member stated that the biggest concern is the amount of money spent on ICRC and Discipline. At the present time, non-Council members would be an additional expense. Until the Executive Committee figures out its direction, non-Council members are not needed.

The Executive Committee was then warned about reputational risk, as the selected non-Council members will now have to be informed about the Executive Committee's decision. The decision also detracts from engagement of members in the College.

Observations were made by a professional member about the non-Council members' experience, with statements made that most of them do not have any real TCM experience, as the majority of their education was in Western medicine, and they practised TCM after they moved to Canada. While this does not mean that they do not have a solid TCM foundation, it was recommended that they be placed in ICRC or Patient Relations. However, for important committees like Registration, QA or Exam Appeals related to professional members, non-Council members would not be needed.

The Registrar stated that non-Council members meet the registration criteria of the College. This is also reflected in the elections made at the District level, as electoral candidates have met the registration requirements, and are not selected on the basis of their education.

The President repeated that non-Council members are not a priority right now, as the Executive Committee still wants to conduct a review on the College, and its members have still not read the material related to non-Council members. It was also queried why there is so much risk related to the College and that a further discussion on this is needed.

The Executive Committee was asked to provide a reason for not moving forward with non-Council members. One reason given was that more education is needed, and that the issues from both sides need to be understood. It was also repeated that non-Council members are not a priority right now, given the current state of the Executive Committee.

A public member also stated that the ICRC has enough members. Staff responded that the ICRC is split into two panels, and the number of members does not guarantee a full quorum on either the ICRC or discipline committees. While the budget for ICRC was decreased by 16%, complaints are not doing down. Complaints need to be heard within 150 days, and not being able to do so sends a bad message to the public.

An explanation was also provided of the peer and practice assessors, with Mr. Kefalianos providing an overview of the selection process, and the process of peer assessing members.

An overview was provided of the complaints process and the source and type of complaints. The chief concern is that of insurance fraud, which affects the coverage of TCM acupuncture. A statement was made by the President that the reasons for a lack of coverage could be more complicated than fraud and care should be taken when trying to determine the reasons for lack of coverage.

The College does not seek out these cases, rather, they are reported to the College in a variety of ways. Legislation mandates that all offences need to be investigated separately. The Executive Committee was encouraged to read the regulations to become familiar with the government's requirements.

The Deputy Registrar also noted that the Ministry reviews reports from the College and is aware of the number of complaints. If proper sanctions are not issued, or the government has the impression that members are being protected, they are more likely to step in.

The President observed that all the points raised by staff show the need for more member education. Members need to be informed of the rules as soon as possible. In response, Mr. Kefalianos noted that Standards are needed first. While articles can be written informing members not to conduct fraud, there are still 26 complaints that need to be dealt with, starting with investigation, member response, and then review by ICRC.

An overview was also provided of data from investigations. The majority of complaints are about Grandparented members, not new members. Fraud is an issue of ethics, not an issue of language. A professional member stated members should be informed of the penalties, and it is the College's job to make sure members follow the rules.

The President stated that the Standards of Practice do not have to be completed before work on QA starts. Mr. Kefalianos reported that six Standards are currently being revised, and need to go through the process of review by Council and then membership consultation for 60 days. The expected completion date is in December.

A professional member reiterated that education can start with the Standards currently posted on the website. However, Mr. Kefalianos asked about the wisdom of spending resources on standards that will soon be updated. Even if standards were to be borrowed from another college, the process of would still be the same.

Once the Standards are approved, education can start. Work is also needed on profession specific standards, for which member input will be sought.

In response to a query, there are currently two non-Council members, Ms. Pritchard-Sobhani, on the Doctor title working group and Ms. Fanny Ip, on ICRC. Ms. Ip is currently on her second term in the ICRC. The suggestion was made by a public member that Ms. Ip should be moved to the QA Committee, as the ICRC has enough people, and that QA's strength should be enhanced, not that of ICRC's.

Ms. Ip would need to be willing to move to the QAC, and a rationale for the move would need to be given. Ms. Ip's expertise was cited, as she has been instrumental in QA, particularly the record keeping webinar. Moving Ms. Ip would also need to be approved by Council. The suggestion was made that legal counsel be consulted. If Ms. Ip is willing to move, her decision will be brought back to the Executive Committee, who may then move a motion.

MOTION: P. Zhang – F. Huang

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario does not recommend the appointment of Non-Council Committee Members at this time.

CARRIED

8. NEW: Appointment of two Executive Committee members to review College performance

The Deputy Registrar noted impromptu changes were being made to the agenda, and the budget had still not been discussed. The President responded that an understanding is needed of the risks outlined for the College. In response, Mr. Kefalianos referred the Executive Committee to the risk management plan in their packages, noting that College performance is a different topic. Council had previously approved a strategic plan, which deals with the issues faced by the College.

An overview was provided of the strategic plan's time frame, and the directions staff were given.

A public member stated that the strategic plan will need to be changed, so that the budget can be linked to the College's direction. More frequent meetings are needed by the Executive Committee. Mr. Kefalianos advised that the Executive Committee may make recommendations, but they still need to be approved by Council. Reasons for decisions also need to be provided.

In response to a query by the Registrar on if the Executive Committee is considering an internal audit, a public member reported that the Executive Committee wants to gather ideas from different colleges, for example CTCMA. The strategic plan, will also be changed, but as yet, there are no specific changes.

Mr. Kefalianos provided an overview of the current situation. There is currently no budget and no timeline for the Executive Committee's review. While the College will continue to function, projects such as QA or Standards of Practice cannot continue, as staff are not authorized to spend any funds. The need for reasons was repeated, as these are necessary for Council approval.

A professional member stated that the College is overdue in not educating members and cited his study about the correlation between a lack of QA and a high number of complaints. QA is urgent and cannot wait until the Standards of Practice are ready. The current information can be used to start education, warning members of penalties they will face for unprofessional conduct. It was also stated that the Ministry is aware the College has not done enough to educate members. Staff noted that the Ministry has not informed the College of such concerns, and that QA is included in the strategic plan. The budget could be reviewed in terms of communications items, and the strategic plan covers the Executive Committees' concerns.

Members of the Executive Committee stated that more time is needed, as the budget had only been rejected the week before. In addition, issues need to be addressed, and further research

needs to be conducted. The budget would be approved once a review has been conducted by a panel of two Executive Committee members.

Mr. Kefalianos cited the need for reasons and also noted that information has been provided to the Executive Committee, but the items for discussion keep changing. While the Executive Committee has cited a need to reduce costs, extra meetings raise costs.

More calls were made of the need for education, and that staff would need to prepare a work plan for educating the members. A professional member stated that he was not pleased with having to wait for the Standards to be completed before education starts, citing the high crime rate.

In response to a query about why a two-member panel is needed, instead of the entire Executive Committee, the President stated that the two members would be a professional member and a public member. The Registrar offered to provide contact information of registrars from allied colleges. The President will be in touch with Mr. Mak for further contact information, such as for the presidents of such colleges.

Mr. Moreau was also invited to be part of the review group depending on his schedule.

MOTION: F. Huang – M. Moreau

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario appoints two Executive Committee members to lead and coordinate the reviewing of the College's current performance. Mr. Richard Dong and Mr. Pixing Zhang are the two members appointed by the Executive Committee.

CARRIED (unanimous)

Budget discussion

The President asked about investments, and Mr. Ortale provided an overview of previous investment proposals. Stipulations for investing are also outlined in the By-Laws. It was suggested that investments in GICs should be proposed at the next Council meeting.

Special projects were outlined, in response to a query by the President. The Registrar has spoken with vendors who conduct school program accreditation. The figure has not yet been budgeted, due to the high cost. The opportunity exists for this to be a national project where all provinces may share expenses.

The President stated that a discussion is needed with legal counsel about the discipline and ICRC costs, as well as why 50% of cases are referred to discipline. While the public needs to be protected, fairness is needed for all parties. Mr. Kefalianos showed the ICRC flow chart which is used to determine the seriousness of each case. The portions of the Ontario regulation that governs offences was also shown. While changes to regulation may be recommended by Council, both Mr.

Mak and Mr. Kefalianos outlined the process as well as the length of time it takes for such changes to be made.

Next meeting

A professional member asked if more staff could be assigned to Quality Assurance. Mr. Kefalianos noted that this is an operational decision, that would require an increase to the budget. Discussion was held on the amount of the budget allocated to salaries, and comparisons were made of the costs by this College to other colleges. It was pointed out that the College's spending is low compared to other colleges. In addition, staffing at the College is at the bare minimum, and according to research, other colleges pay higher salaries. Comparisons cannot be made to other provinces, as each province has different structures.

The next meeting was set for April 18. It was confirmed that staff support will be needed. Staff will wait for the Executive Committee's direction. It is not yet known if the meeting of May 27 will still be held.

It was also noted that if the Executive Committee approves the budget, a Council meeting will need to be held. It was advised that the meeting be held in person, as it would be difficult to hold a teleconference with 18 people. In addition, an important issue like the budget needs to be discussed in person.

Mr. Mak stated that direction is needed from the entire Executive Committee, not just the two members selected for review. The Executive Committee will attempt to provide direction by April 18.

5. Budget Background and Planning Assumption

There was no discussion of this item.

6. Budget Discussion

- a) 2019-2020 Budget Proposal
- b) 2019-2020 Budget Proposal Summary
- c) 2019-2020 5-Year Financial Projection
- d) Overview of 5-year Expense/Revenue Forecast
- e) 2018 Budget Information

There was no discussion of this item.

7. Items Brought Forward from March 25 & 26, 2019 Council Meeting

- a) Committee Terms of Reference

There was no discussion of this item.

b) Non-Council Committee Members

This item was discussed earlier in the meeting.

c) Reserve Policy

There was no discussion of this item.

8. Next Meeting

The next meetings of the Executive Committee are tentatively scheduled for:

Monday, May 27, 2019

Monday, August 26, 2019

Monday, November 4, 2019

9. Adjournment

The meeting was adjourned at 4:11 p.m.

MOTION: P. Zhang

THAT the April 3, 2019 Meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be adjourned until the next meeting.

CARRIED



**COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO**

**EXECUTIVE COMMITTEE MEETING
IN-CAMERA MINUTES**

April 10, 2019 from 9:00 a.m. to 12:02 p.m.
705-55 Commerce Valley Drive West, Thornhill, ON L3T 7V9

IN ATTENDANCE

Richard Dong	President / Professional Member
Ming C. Cha	Vice-President / Professional Member
Feng Li Huang	Professional Member
Martial Moreau	Public Member
Pixing Zhang	Public Member

STAFF

Allan Mak	Registrar and CEO
Stamatis Kefalianos	Deputy Registrar, Director Statutory Programs
Francesco Ortale	Director, IT, Finance and Corporate Services
Temi Adewumi	Recorder

1. CALL TO ORDER

The Chair called the meeting to order at 9:00 a.m.

MOTION: P. Zhang – M. Moreau

THAT the meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be called to order.

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST AND REMINDER OF CONFIDENTIALITY

The Chair reminded attendees that all matters discussed at the meeting were to be held in strictest confidence. It was also requested that any Executive Committee member who may have any conflicts of interest with regard to the matters being considered by the Executive Committee at today's meeting should make it known.

There were no conflicts declared.

There was no agenda provided.

The President outlined two items for discussion:

- a. College performance
- b. Registrar performance

Mr. Mak was asked to leave the meeting at 9:02 a.m.

MOTION: F. Huang – P. Zhang

THAT the meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario moves in camera at 9:03 a.m.

CARRIED

IN-CAMERA SESSION

3. Registrar's performance

The President asked to move a motion that:

The Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario pursues the Sched 2s.9(2) and Sched 2 s.12(1) of the Code and orders to terminate Mr. Allan Mak's employment with the College as Registrar and CEO effective April 10, 2019.

In response to a request by Mr. Kefalianos about the need for reasons and justification, both the President and Mr. Zhang cited that the College needs a directional change. The budget is also another issue. Mr. Mak's long term service to the College is appreciated, as well as his commitment. However, the Council did not vote for the budget, which sends a clear message that directional change is needed. There were no other complaints or issues, just the need for directional change.

The directional change will take the form of more education for members, as the crime rate has increased in the last three years. The College has not done its job to protect the public interest.

It was also stated that the Executive is not against reasonable discipline measures as they are needed to protect public interest. However, the high number points to problems, which need to be explored. Staff were commended for their hard work and professionalism. However, new leadership can help to resolve the issues, and also improve the College's image. In addition, the Executive Committee wants to be proactive about the high costs of discipline and ICRC.

MOTION: M. Cha – M. Moreau

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario pursues the Sched 2s.9(2) and Sched 2 s.12(1) of the Code and orders to terminate Mr. Allan Mak's employment with the College as Registrar and CEO effective April 10, 2019.

CARRIED (unanimous)

Mr. Kefalianos provided an explanation of the legalities and process as outlined by the RHPA. The College needs a registrar in place at all times, and Mr. Mak's position needs to be filled. According to section 14 of the By-Laws, the Deputy Registrar would need to be appointed, after which it is assumed the Executive would be conducting a search. Mr. Zhang agreed.

Mr. Kefalianos also informed the Executive Committee that the Ministry of Health and Long-Term Care will need to be informed, and they will need reasons and justifications as to the Executive Committee's decision.

The Executive Committee agreed that Mr. Kefalianos is to contact the MOHTLC. Both the President and Vice-President agreed to be available to talk to the Ministry if needed.

MOTION: P. Zhang – M. Moreau

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario appoints Mr. Stamatis Kefalianos as Acting Registrar and CEO of the College effective April 10, 2019.

CARRIED (unanimous)

It was also agreed that Mr. Kefalianos will ask Mr. Mak, post transition, to provide information on CARB, or health regulatory college issues. As Mr. Mak served as the Treasurer for CARB, it was suggested that the responsibilities of the position could be passed on to the Registrar of CTCMA, along with the financial files.

MOTION: P. Zhang – M. Moreau

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario asks Mr. Francesco Ortale to assist Mr. Stamatis Kefalianos, with the leadership transition in the College.

CARRIED (unanimous)

Mr. Zhang confirmed that the termination process and contract had been discussed with legal counsel. Mr. Kefalianos informed the Executive Committee that a temporary contract is needed for the Acting Registrar position, and suggested that a draft can be written by Steinecke, Maciura, Leblanc. In addition, the Executive Committee was advised that negotiations could still occur when Mr. Mak reviews the termination contract.

The President also outlined a number of items on a checklist for completion by Mr. Mak, related to his termination.

Mr. Kefalianos left the meeting to inform Mr. Mak of the Executive Committee's decision, after which the President and Vice President, Mr. Mak and Mr. Kefalianos recessed to a separate meeting room.

The President had also prepared an announcement for the website, for which Mr. Kefalianos suggested changes. The final statement is:

The College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario is announcing changes to the Office of the Registrar. As of April 10, 2019, Mr. Stamatis Kefalianos will be fulfilling the duties of Acting Registrar and CEO of the College until the appointment of a permanent Registrar.

The Executive was also informed that the Executive Committee has fiduciary duties, as per the RHPA. It has powers between Council meetings, but also has to advise the Council in a timely manner of what changes have been made, and also present the Council with the reasons for the decision. Both Mr. Kefalianos and Mr. Ortale can help by providing information on operations, as well as data. As Mr. Mak had received a positive performance review, earlier in the year, there will be questions that need to be answered.

The earliest period in which the meeting can be convened is two weeks, as one week is needed to review the package. The Council will also need an update on the budget. The Executive Committee was also advised that the Ministry also requires that a budget be prepared, and will ask for updates if one is not provided

soon. A date needs to be set immediately, so that Council members can fit the meeting into their schedules. As part of transparency, meetings are open to the public, and are also attended by the Ministry.

Budget

Due to concerns that Committee meetings will not be held until the budget is approved, it was recommended that a motion be moved to state that the College should keep performing its regular functions (with the exception of new projects) until the budget is approved.

Mr. Kefalianos explained that, as discussed during the Council meeting, the College will not be in total shutdown, and will continue its daily functions of processing applications, complaints or QA. For committees, the first meeting after the election is usually an orientation session, so committee meetings can still be held.

Mr. Ortale reported that two staff members had left the College's employment. A new staff member has been hired in the finance position, but the offer to the communications candidate had to be put on hold, as the College is in maintenance mode. The lack of a budget also affects such new projects as the newsletter, or annual report, as skilled help needs to be hired.

Mr. Zhang advised that staff can still carry on with the daily activities needed to keep the College operating. Mr. Moreau also asked that committee meetings continue regardless of the budget not being approved.

MOTION: P. Zhang – M. Moreau

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario is directing that the fiduciary duties of the College continue until the budget is approved.

CARRIED (unanimous)

Mr. President asked that Mr. Kefalianos send him the previous contract template for the interim Registrar position.

Next steps

Mr. Kefalianos provided an overview of the process for filling in the Registrar position. Staff will research executive search firms, and ask for quotes in time for next week's meeting, or a subsequent meeting. Overall it could take two to three months for the new Registrar to be in place.

Mr. Zhang requested that a consulting firm be hired to provide direction for the College. It was noted that the firm will not review the College's operations, rather, its task would be to help the College find a new adjustment. The firm should also have an understanding of the health regulatory sector. Mr. Kefalianos outlined the process of hiring such a firm, and suggested that the best option is to work with a previous registrar, as they usually understand the role of regulation.

MOTION: M. Moreau – M. Cha

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario is directing that the College search for an Executive search firm to assist with the selection of a new Registrar.

CARRIED (unanimous)

MOTION: P. Zhang – F. Huang

THAT the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario is directing that the College search for a consultant to assist with the review of the new strategic direction for the College.

CARRIED (unanimous)

Mr. Dong asked that the Terms of Reference be created for the Doctor title working group. However, as the focus of the next meeting is the budget, it was recommended that this be postponed for another meeting.

As the budget is the priority, Mr. Kefalianos responded that the final report of Committee work can be placed in the Executive Committee's package, and if there are any questions, the manager for each department can be brought in.

The Annual reports will be prepared for the April 18 meeting. Mr. Ortale had already sent the budget for the past three years to the Executive Committee. It was confirmed that the budget is posted online.

The tentative agenda for the April 18 meeting is:

- Budget
- Annual report
- Quotes from Executive Search firms

Mr. Kefalianos will continue to provide weekly updates to the President after the April 18 meeting. It was also stated that in order for the relationship between the Executive Committee and staff to work, there is a need for transparency. The Executive Committee needs to inform staff of what information is needed, and staff will provide the information, if they are given enough time.

The President received a call from Allison Henry, from the MOTHLC, who had called about Mr. Mak no longer being in the position of Registrar. Ms. Henry was informed that Mr. Kefalianos is the Acting Registrar and will cooperate with the Executive Committee and maintain stability in the College in order to protect public interest. Ms. Henry has also requested a personal meeting with Mr. Dong.

Mr. Kefalianos outlined the Executive Committee's requests for the next meeting:

1. Review the Annual report for each committee
2. Provide background information on the work load of each committee.
3. Contact Ms. Durcan in order to obtain the previous interim registrar contract, which will be emailed to all Executive Committee members.
4. Start the search for an Executive Search firm, and obtain quotes.

At the Executive Committee's request, Mr. Kefalianos, Mr. Ortale and Ms. Adewumi left the meeting from 11:20 a.m. to 11:48 a.m., so that the Executive Committee could discuss changes to the budget.

The following two changes for the budget were proposed:

1. Restore the QA budget to the 2018 allocation of \$180,000
2. Freeze the budget for 2019 salaries, to roll back to the 2018 figures.

It was emphasized that both items, especially number 2, still require discussion.

Mr. Kefalianos advised that legal counsel needs to be obtained on the item of salary freezes, as contracts for 2019 have already been signed by the previous Executive Committee. It was requested that emails from the labour lawyer concerning the staff contracts be shared with Mr. Dong.

Mr. Ortale advised that salary freezes may lead to staff to leaving their employment with the College. He provided further explanation that the amount in the budget also includes benefits, and CPP. There are also further savings as one staff member is going on maternity leave and a Communications Coordinator has not yet been hired. A compromise could be to apply the freezes as of next year.

It was also pointed out that if Mr. Mak's termination contract is signed, regardless of the salary freeze, the College will also be paying two salaries, for both the previous and new Registrar.

An explanation was given of the five-year projection which ensures financial principles and checks are in place, and provides an overview of expenses and revenue for the five-year period.

Mr. Ortale advised that, in his role of human resources, the salary freezes run the risk of preventing the College from functioning. A lot of time and money has been spent training staff. It is difficult to train new hires and to also update them on rules and procedures. In addition, morale is low and staff are concerned about their positions.

Mr. Zhang noted that the Executive Committee wants to maintain morale. While the President offered to write staff a letter, staff fall under the Mr. Kefalianos' responsibility. Staff meetings will be held and he will speak with each person individually to reassure them about their positions and discuss their concerns. In addition, the benefits also provide a psychological service.

The Executive Committee's message is to maintain stability of the College, and that it needs a change in leadership. There is no intention to remove more staff, as a lot of work needs to be done, and professional people are needed to do it.

The package to the Executive Committee will be sent latest by Tuesday April 16.

MOTION: P. Zhang – M. Moreau

THAT the meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario comes out of in camera session at 12:02 p.m.

CARRIED (unanimous)

4. Next Meeting

The next meeting of the Executive Committee is scheduled for April 18, 2019.

5. Adjournment

The meeting was adjourned at 12:02 p.m.

MOTION: F. Huang

THAT the April 10, 2019 Meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be adjourned until the next meeting.

CARRIED



**COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO**

**SPECIAL MEETING OF THE EXECUTIVE COMMITTEE
MINUTES**

April 18, 2019 from 9:00 a.m. to 4:58 p.m.
705-55 Commerce Valley Drive West, Thornhill, ON L3T 7V9

IN ATTENDANCE

Richard Dong	President / Professional Member
Ming C. Cha	Vice-President / Professional Member
Feng Li Huang	Professional Member
Martial Moreau	Public Member
Pixing Zhang	Public Member

STAFF

Stamatis Kefalianos	Acting Registrar and CEO
Francesco Ortale	Director, IT, Finance and Corporate Services
Dianne Cook	Executive Assistant
Temi Adewumi	Recorder

1. CALL TO ORDER

The Chair called the meeting to order at 9:02 a.m., and announced that Mr. Cha would co-chair the meeting.

MOTION: P. Zhang – M. Moreau

THAT the April 18, 2019 meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be called to order.

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST AND REMINDER OF CONFIDENTIALITY

The Chair reminded attendees that all matters discussed at the meeting were to be held in strictest confidence. It was also requested that any Executive Committee member who may have any conflicts of interest with regard to the matters being considered by the Executive Committee at today's meeting should make it known.

There were no conflicts declared.

3. ADOPTION OF THE AGENDA

The following amendments were made to the agenda:

1. Update by the Acting Registrar
2. Executive Committee review
3. Performance review updates
4. Executive search firm update
5. Budget proposal discussion

Discussion of legal counsel was added under Other Business.

MOTION: M. Moreau – M. Cha

THAT the Agenda of the April 18, 2019 Meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be adopted as amended.

CARRIED

4. UPDATE BY THE ACTING REGISTRAR

Mr. Kefalianos reported that he had been receiving calls from the Ministry of Health and Long-Term Care (MOHTLC). The Ministry is alarmed by the occurrences of the past few weeks, and is also concerned about mitigating risk to the College. They have asked that the plan to replace the Registrar be submitted for their approval, before it is taken to Council.

Mr. Kefalianos has also received a lot of calls from Council members. He advised that Mr. Dong reach out to the Council, in order to keep them informed of the Executive Committee's plans and next steps. He also advised that according to the College bylaws only the President or a majority of Council members can call a special meeting of the Council.

The Ministry is aware that Mr. Kefalianos does not yet have a contract. Documents requested regarding the contract have been sent to the Executive Committee.

Mr. Kefalianos conveyed the message that any negotiations with third parties come under the office of the Registrar. Mr. Kefalianos outlined the responsibilities of the Registrar/Acting Registrar, versus that of Council. The Registrar is in charge of the College's operational direction. That includes such matters as legal opinion, external vendors, or business contracts.

The Executive Committee had sought the services of another law firm to assist with the transition of the Registrar position. Typically, in employment cases, materials are prepared with the College's legal counsel, and the request should have gone through the Registrar.

Mr. Kefalianos also asked for rationale to be provided for the Executive Committee's decisions, and reported that the Ministry has requested minutes of the Executive Committee. The Council must have the opportunity to voice their opinions on any recommendations. He also stated that as Acting Registrar, he follows the direction of Council and not the Executive Committee.

The Ministry had stated that a meeting would be arranged with the President. In addition, there has not been any response yet from Mr. Mak regarding his termination contract. This could also be a potential risk to the College in terms of litigation. The *RHPA* also requires that a registrar be in place, and for now, the position has been filled by Mr. Kefalianos, who is known to the Ministry. The plan to find a new registrar should be fair and robust, and conducted with the help of a search firm.

Comments from Executive Committee members referred to the newness of the Executive Committee, that the change in Registrar had been made due to the need for a new direction. The President confirmed that the Executive Committee is aware that it is accountable to Council, the Ministry and also the public, and will communicate with the Ministry.

5. DISCUSSION REGARDING LEGAL COUNSEL

Mr. Moreau reported that the Executive Committee has decided to engage the services of a new law firm, Weir Foulds. The firm had drafted the severance package for the previous Registrar, and also provides governance and discipline legal services.

Mr. Kefalianos pointed out that the changes in general legal counsel need to be brought to the Ministry's attention. It was also noted that Weir Foulds charges higher rates than Ms. Durcan. As Steinecke, Maciura and LeBlanc have a good reputation and are well known in the regulatory sector, the Ministry will need the rationale for the changes. He also repeated several times that the choice of legal counsel is a decision that should be made by the Registrar and not at Executive or Council.

While it was initially stated that there are no performance issues with Ms. Durcan, just a need for a different direction, subsequent comments were made about dissatisfaction expressed by Council members about her services, strong personal feelings and that Ms. Durcan had served on the Council for a long time.

Members of the Executive Committee strongly expressed the decision to no longer work with Ms. Durcan. Members of the Executive Committee also insisted that Weir Foulds be used for the time being. Further comments were made about the need for new direction, and the lack of education by the QA program, which has led to an increase in complaints and discipline. It was also stated that the professional voice has not been listened to in the College, which has led to the high crime rate.

Ms. Cook recommended that best practice is to obtain proposals from different law firms. As the Executive Committee is concerned about increased costs, the firms can also be asked to provide their estimates for service. It was agreed that a search for other law firms can be made, for comparison by the Executive Committee.

It was strongly expressed that the Executive Committee wants input into the decision. In response to Mr. Kefalianos' recommendation that the permanent Registrar should have input into the search for new legal counsel, it was stated that the Executive Committee is not willing to wait for six months before a decision is made on legal counsel. As Mr. Kefalianos is the Interim Registrar, the Executive Committee can make the decision sooner.

MOTION: M. Moreau – F. Huang

That the Executive Committee of College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario proposes a change to the College's general counsel and gives direction to the Acting Registrar to acquire information and quotes from law firms to be brought back to the Executive Committee for review.

CARRIED

6. THIRD PARTY REVIEW

Mr. Zhang confirmed that the Executive Committee wants to conduct a review of operations. Both Mr. Kefalianos and Mr. Ortale brought the Executive Committee's attention to the operational review conducted in 2016 by Ms. Deanna Williams and Mungall Consulting. The review had outlined the organizational structure and salary ranges.

An overview was also provided of the services provided by Ms. Deanna Williams, from supervision of the College of Denturists to consulting with regulatory colleges.

Mr. Kefalianos noted that in terms of staffing, the College actually requires more positions, such as a QA Manager, a TCM liaison and a communications professional.

Mr. Kefalianos asked the Executive Committee to consider if there is a need to spend more funds conducting a review when the previous review occurred just three years ago. In addition, the permanent registrar should have input into any decisions made.

In reference to the strategic plan, Mr. Zhang stated that the Executive Committee wants to conduct an external review which would identify a new direction for the College. Mr. Kefalianos noted that an argument would need to be made for the cessation of the current plan, which has just completed its first year, and asked the Executive Committee to provide its recommendations for changes to the current strategic plan.

Reasons presented were that members are harming public interest and there is a need to improve the way members are being monitored. Concerns were expressed about potential reports about the College in the *Toronto Star*. Further debate was held on the rate of complaints in the College, in comparison to other colleges. The new Executive Committee needs the review as soon as possible in order to protect public interest.

It was also expressed that the Council's vote on the budget urgently points to the lack of enough quality assurance. The priority is to find the root of the College's problems. At the present time, there is not a clear understanding of what the issues are, and further research is needed. Support was expressed for increasing the budget in order to conduct a review.

It was also expressed that the College does not need the Standards to be at 100% completion before members are informed of the rules.

Opposing views were presented on whether the current strategic plan could be put aside or improved. Mr. Kefalianos again asked for a list of the issues regarding the plan that can be taken to Council and the Ministry. It was also emphasized that the plan is still in its first stages, and the Executive Committee was asked to consider that changes required will take time to implement.

An overview was also provided of the report "An Inquiry into the Performance of Dental Surgeons of British Columbia and the Health Professions Act," by Harry Cayton.

The Executive Committee recessed for a private meeting without College staff and recorder from 10:34 a.m. to 11:14 a.m.

Upon their return, the Executive Committee was reminded that any decisions to conduct an operational review is within the Registrar's scope, while that of the strategic plan is within the Executive Committee's scope to bring forward for Council approval.

Further discussion was held on Ms. Deanna Williams' reputation, and qualifications to conduct the 2016 review. Information was also provided about Ms. Williams' role in supervising the College of Denturists. It was also repeated that the College does not have enough staff, and that the permanent Registrar should have a chance to determine the efficiency of the College's operations.

A request was made for updates to be made to the Terms of Reference (ToR) for the Doctor Title working group. It was confirmed that the Executive Committee determines the composition of the working group, and that the ToR can be prepared in time for the next Executive Meeting scheduled for May 27.

It was repeated that the operational plan had been completed in 2016 from a reputable source, and that more staff are needed. The permanent registrar should also have input into operations. It was also advised that once the Executive Committee's members participate in committees, they will have a greater sense of how the College operates. A new review will also require more funding, which would contradict the Executive Committee's desire to reduce spending.

Further reference was made to the Cayton report, which outlines how the Dental Surgeons of British Columbia failed to follow best practice guidelines. The report will be sent again to Executive Committee members, as will the report on the College of Denturists by Price Waterhouse Cooper.

Further discussion regarding legal counsel

An explanation was provided about best practice for appointing auditors. In response to a query about rules within the By-laws about appointing legal counsel, it was again explained that the appointment of legal counsel falls under operations.

The opinion was expressed that the lawyer also serves Council, and the present Council is not satisfied with the service provided. It was strongly expressed that the motion to not use Steinecke, Maciura and LeBlanc stands, and the Council is no longer willing to use Ms. Durcan's services. Mr. Kefalianos responded that there was no point to the motion, as choice of legal counsel is the Registrar's decision. He offered to obtain an opinion about who is authorized to make decisions about legal counsel from Weir Foulds.

An explanation was also provided of Ms. Durcan's role in ICRC, which is restricted to providing prosecutorial viability opinions. It was again explained that a different law firm is used during discipline hearings, in order to avoid conflict of interest.

7. EXECUTIVE SEARCH

- a. Recruitment Information
- b. Optimum Talent
- c. Search Process and Timeline
- d. Process Considerations
- e. Heather Connelly Biography

Information from four search firms was presented to the Executive Committee. All of the firms present the same range in pricing. The process of creating a search committee to work with the firm was outlined, as well as the process of hiring. The Council approves the choice of Registrar, with the Executive Committee making recommendations for approval.

More information was requested, such as companies' introductions or biographies. Due to the short timeframe, the College did not ask for formal proposals. The Executive Committee was provided with an overview of the experience for each firm, as well as one firm's method of choosing candidates.

In response to the Executive Committee's need for more time to make a decision, it was proposed that the companies could make a presentation at the May 27 meeting. The comment was made that Council does not need to be involved, and that the Executive Committee should pick a firm. The Executive Committee was reminded that the Ministry has requested the search plan.

The Executive Committee requested more quotes, as well as formal proposals from all the firms. A sample job description for the position of Registrar, from another health regulatory college, will also be sent to the Executive Committee.

8. 2019-2020 BUDGET DISCUSSION

- a. Budget Proposal
- b. Summary
- c. Background
 - i. Operational Plan
 - ii. Strategic Plan
 - iii. Risk Management Plan
 - iv. Investigation and Discipline Costs
 - v. Salary Grid
 - vi. Standards of Practice
 - vii. Accreditation Costs
 - viii. Five-year Projections
 - ix. Annual Committee Reports

Mr. Ortale provided an overview of the budget proposal, explaining the various elements, ranging from revenue to a more fulsome discussion of expenses, particularly for ICRC and discipline. Several examples were provided by staff on how costs can be reduced.

Expenses

Council and Executive Committee

Due to the recent changes to Council, the budget for Council and Executive Committee meetings has increased. In response to a query, Council meetings are estimated at \$8,000 each and Executive Committee, \$3,000 each.

Registration Committee

The amount in the proposal remains as is.

ICRC

Mr. Ortale provided a breakdown of the ICRC budget, which includes costs for legal counsel, investigations, the Committee and its meetings.

The Executive Committee had previously been shown the risk assessment tool, as well as data on complaints. It was explained that the ICRC is mandated to give due process to each complaint received, and to also allow members to respond. In response to a query, a prosecutorial viability opinion (PVO) is used to seek advice on the evidence provided, as well as the seriousness of cases. As the ICRC is made up of professional and public members, support is provided by a lawyer who sits in on committee meetings.

An overview was provided of the use of Registrar's reports, which occur when additional matters are discovered during a complaint, or when issues are brought to the College's attention. The Executive Committee was also alerted of the need to process complaints in a manner that protects public interest, and was informed that Bill 87 was changed in response to the manner in which colleges prosecuted sexual abuse cases.

An explanation was provided of how the risk assessment tool is used to determine the seriousness of a case, and how it helps the committee make consistent decisions. In response to the comment from the President that 50% of cases are referred to discipline, it was stated that the main reasons are for insurance fraud and sexual abuse.

Support was expressed by the Executive Committee for more education and the need to inform members not to commit acts of misconduct. Mr. Kefalianos noted that information can be posted in the newsletter, to inform members of what acts to avoid so they do not end up being referred to discipline. The President requested that this occur as soon as possible.

The Executive Committee was also informed that the College meets with schools to provide information on the Pan-Canadian exam, and the schools can help to inform future members about standards and proper procedures.

The number of cases in ICRC has increased this year, and one case in particular could lead to a wider investigation. The amount in the budget is currently an estimate, as there is no way to predict the number of future cases, or the ramifications of current cases. As of 2019, there are 26 files pending for which there is no decision. On average, the College processes 30 complaints, and processed 37 in 2018.

In response to a comment that the College should not be required to process complaints sent from insurance companies, the Executive Committee was informed that not processing such complaints goes against the College's mandate. Mr. Kefalianos reminded the Executive Committee that the minutes of the meeting are being shared with the Ministry. Fraud affects all members, and especially the College's reputation, which affects members getting insurance coverage.

An explanation was provided on the concept of "breach of standards," as well as how practitioners may advertise their services.

Quality Assurance

As per the Executive Committee's request, the amount allocated to QA has been increased to \$180,000 from \$65,000.

It was stated that the Executive Committee wants to change direction to provide immediate education to the members as much as possible. Some members are not fluent in English and do not visit the website. Members need to be informed of what activities they should or should not do. In addition, a high percentage of members speak other languages. Others are not confident reading in English. The issue had been ignored and such members had not been provided with alternative options. Mr. Kefalianos noted that this will be addressed when communications commence.

A lack of confidence was also expressed regarding the career span competencies presented by Dr. Cane. It was stated that self monitoring will not work, as members can lie about their professional development on their renewal form. Career span competencies make it easier for members to fail. The College should focus on conduct and educating members on policy and guidelines.

It was also requested that future surveys be translated to several languages. Future email blasts should be sent to members in their preferred languages. The Executive Committee was informed that translation costs will need to be factored into the budget. It was repeated that the Standards first need to be developed, prior to translation. Members will also need to be surveyed on their preferred medium for communication.

In response to a query of costs for Dr. Cane's presentation, it was suggested that costs can be shared with CTCMA. Mr. Kefalianos confirmed that CTCMA is already developing career span competencies, and discussions have been held with Mr. Ho on cost sharing for career span competencies, as well as the school approval program. CTCMA has also requested information on this College's standards, which can also be shared. Profession specific standards can also be worked on with both colleges.

Patient Relations

The amount in the proposal remains as is, with funds allocated to Committee costs and therapy for members who complain about sexual abuse. The President observed that education is urgently needed on this issue.

Discipline

Actuals from the past two years was presented to the Executive Committee. This year's budget has been reduced by \$29,000.

Reasons were presented for high costs, such as members representing themselves, or a lack of understanding of procedure, which leads to longer hearings. Options were presented for reducing costs, such as hiring in-house counsel. However, this would require that the College pay competitively.

An overview was also provided of pre-conference hearings. The Executive Committee was informed that members often do not make a deal, or choose to resign instead of contesting the case.

It was strongly suggested that pressure be put on members to settle. Assertions were made that members are not aware of the pre-conference stage and that this option has not been discussed at the Council level. The Executive Committee was informed that procedural fairness is required, and pressure cannot be applied. The College simply offers a deal the member can choose to accept or refuse.

An overview was provided of costs for both contested and uncontested hearings, as well as an explanation of different parties and legal counsel at each stage of both types of hearings. Support was expressed by a public member for the College changing the procedure, given the amount of money spent on discipline. The Executive Committee was informed that Council would need to approve any changes to rules of procedure for discipline.

In response to a query about whether ethnicity data is maintained for discipline cases, Executive Committee members were referred to the completed decisions which lists members by name. The statement was made that 60% of the names are Chinese. To this statement, it was pointed out that discipline is not based on ethnicity. The majority of the College's members are Chinese, and the College regulates traditional Chinese medicine.

It was confirmed that Mr. Zhang was requesting a language impact study, on how language has impacted the number of discipline cases. It was asserted that members who are Chinese are more highly represented in discipline cases than other members. The language barrier affects all aspects of the College, as highly qualified members are less likely to be able to take the registration examination in English. It was also suggested that more discovery needs to be done on practitioners who have fake qualifications, as they are most likely responsible for fraud in the profession.

Further discussion was held on need for a program approval process, the number of TCM schools, and the type of candidates that are accepted. The schools have expressed an interest in program approval, and it was agreed that the program would raise the bar of education.

Professional services

Mr. Ortale reported that the allocation for professional services has been reduced by \$50,000. This covers costs for general legal counsel, litigation and prosecuting unauthorized practitioners. Legal counsel is also used for human resources issues.

Debate ensued on the need for employment contracts for each staff member. It was strongly expressed that it is not necessary to have 18 contracts. Mr. Kefalianos noted that this practice is common to all colleges. Most of the contracts are based on a template, but the Registrar's contract is unique.

In response to a query about salary increases, the Executive Committee was informed that they are based on the staff's performance, and range from zero to 3%. Even with the increase, the College has faced more losses in staff due to non-competitive salaries. An overview was provided of salaries in other regulatory colleges, which are all higher. Mr. Mak had also made the decision to increase salaries, in order to maintain staff.

Mr. Ortale observed that the College hires candidates who are usually inexperienced. With each departure, the College needs to re-train on job skills, regulation and the *RHPA*.

Staff further confirmed that membership fees will not be increased in order to obtain higher salary ranges.

Five-year projection

Based on the figures in the projection, the College will not need to increase membership fees. An overview was provided of the amount in the reserve, which, once the target amount is achieved, could result in a reduction of membership fees. Having funds in reserve is crucial to the stability of the College.

It was also observed that the College has several high impact projects planned, such as QA, the Doctor title and program approval. The bulk of spending on such projects is at the initial development, with lower fees for subsequent maintenance.

Overall, the deficit is scheduled to decrease over the five years. The reserve is restricted, with funds set aside for complaints, discipline and a contingency fund for therapy for patients who suffer sexual abuse. Mr.

Kefalianos cited the need to reduce risk and exposure, observing that the reserve fund protects the College. Mr. Zhang had suggested investments, which is an option the College could pursue.

Mr. Kefalianos also stated that he supports the hiring freeze while he acts as Interim Registrar. The Executive Committee was reminded that a communications staff person has not been hired.

Debate ensued on the request for an independent company to review staff workload. The need to optimize resources was cited. The Executive Committee was informed that such a project falls under operations. The need for Executive Committee to trust staff was highlighted and it was further emphasized that more staff are needed. Mr. Kefalianos stated that the Executive Committee is once again blurring the lines by attempting to step into operations. Mr. Moreau responded that Mr. Kefalianos would “go a long way” to working with the Executive on the operational review and the change in legal counsel. He also stated that the Executive Committee is sensitive to certain issues. While they are willing to accept the Interim Registrar’s opinion on some issues, they attach more importance to certain other matters.

In response to the comment that the staff list appears to show a duplication of roles, the requirements of each position were outlined. It was also stated that the permanent registrar should be given an opportunity to implement such a project. While comparisons were made between different colleges, the Executive Committee was reminded of the difficulty in making comparisons, as all have unique issues.

An overview was provided of the savings this College has made in IT with the implementation of the CRM. By getting ahead of the technology, the College has saved millions of dollars. IT now accounts for 6% of the budget, and in comparison to other colleges, is a very small sum. There are also plans to reduce the amount of accounting used by the College, in a bid to save money.

Further attention was brought to the fact that this College uses a lot of people resources to manually process information. The Executive Committee was informed that the registration department used to have seven staff members, who have now been reduced to two. Future technology projects have been reduced, such as a portal for Council, updates to the database, or the development of an online application system for the Pan-Canadian exam. Mr. Ortale warned that the technology needs to be improved. The online registration system was cited as an improvement that members have adopted, and which improves efficiency.

Support was expressed by a public member to maintain the IT budget, as the College should be able to achieve its goals. While there have been complaints from Council members about other aspects of the budget, IT has not received any complaints.

Further discussion on salaries included that the Project Coordinator will not be replaced during her maternity leave, as Mr. Ortale will take on her duties. There is no contract as yet for the Interim Registrar position. The Communications position remains unfilled.

In addition, the Executive Committee needs to consider the salary for the new Registrar which ranges from \$150,000 to 200,000. In bigger colleges, the range can go up to \$600,000. It was advised that funds for the Registrar position should be added to the budget, as well as for the Communicator Coordinator.

It was also advised that the Executive Committee should consider opportunity costs, in the amount of time spent in training and getting staff skills up to speed. Information was provided of the salary amount being paid to the previous Communications Associate at her new position.

The Executive Committee recessed for a private meeting without College staff and recorder from 4:02 p.m. to 4:45 p.m.

Mr. Kefalianos informed the Executive Committee on its return that the Ministry had called again asking about progress on the budget and had been informed that there was no decision.

The President reported that he and some members of the Executive Committee would like to meet with Ms. Henry before further discussions on the budget continue.

The following was agreed upon:

- Decisions about the budget are on hold pending the Executive Committee's meeting with the Ministry.
- The allocation for IT in the budget is to be increased to the previous amount.
- The ICRC budget is to be slightly adjusted to the lower figure of \$210,000.
- The discipline budget is to be slightly reduced by \$75,000. The Executive Committee wants to focus on educating the members, which they stated will reduce the number of ICRC and discipline cases. Not all members of the Executive Committee agreed with this decision.
- The reserve policy will be brought back for discussion.
- At the next meeting, proposals from the Executive Search firms will be presented.
- Mr. Kefalianos will draft a ToR for the Doctor title working group.

9. Date of Council Meeting

There was no decision made on the date of the next Council meeting.

10. Next Meeting

The next meetings of the Executive Committee are tentatively scheduled for:

Monday, May 27, 2019

Monday, August 26, 2019

Monday, November 4, 2019

11. Adjournment

The meeting was adjourned at 4:58 p.m.

MOTION: M. Moreau – P. Zhang

THAT the April 18, 2019 Meeting of the Executive Committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario be adjourned until the next meeting.

CARRIED



FOR: Information

SUBJECT: Registration Committee Report

Registration Committee Members

Ming C. Cha (Chair) R. TCMP, R. Ac	Professional Member
Ferne Woolcott	Public Member
Martial Moreau	Public Member
Feng Li Huang R. TCMP, R. Ac	Professional Member
Barrie Haywood	Public Member
Xianmin Yu R. Ac	Public Member
Shiji (Stephen) Liu – From March 26, 2019	Public Member

Since the previous Council meeting held on March 25 & 26, 2019, the Registration Committee met once on May 8, 2019 for its Registration Committee training. The Chair for the Registration Committee was elected on this date.

COMMITTEE APPOINTMENTS

The Executive Committee has appointed Shiji (Stephen) Liu to the Registration Committee.

FOR INFORMATION

1. COMMITTEE ORIENTATION

Legal Counsel and senior staff conducted the orientation including a review of the legislative obligations for the College registration practices under the RHPA, the Human Rights Code, AODA, the TCM Act and registration regulations. The Committee members were also trained on topics related to accommodations, anti-discrimination, conflict of interest, bias and confidentiality.

2. 2019-2020 REGISTRATION RENEWAL

The College opened the renewal process to members on February 1, 2019. Only members registered in the General, Student, or Inactive Classes are able to renew.

To date, 2383 members of the 2420 eligible members have successfully submitted their renewal. 19 members were suspended due to failure to complete the annual renewal despite multiple reminders.

3. 2019 PAN-CANADIAN EXAMINATION

Application for the 2019 Pan-Canadian Examination is available online on May 1, 2019. The deadline to submit the application is July 2, 2019 at 5 pm EST.



Currently, the College has received 43 applications.

4. APPEAL TO HEALTH PROFESSIONS APPEAL AND REVIEW BOARD (HPARB)

Currently, there are eleven appeals to the Health Professionals Appeal and Review Board.

The College received the Order and Reasons from HPARB on April 1, 2019 for one appeal. HPARB confirmed the order of the Committee to direct the Registrar to refuse to grant the Applicant a certificate in the General Class of registration.

5. REGISTRATION COMMITTEE PANEL UPDATES (From April 1, 2018 – March 31, 2019)

	Decisions made by the Registration Committee			
	Approved	Approved with TCLs	Refused	Total
Transfer application	4	13	31	48
General Class application	17	14	0	31
Student Class application	0	2	0	2
Inactive to Active application	2	0	0	2
Title Variation	2	1	0	3
Totals	25	30	31	86

6. QUARTERLY MEMBERSHIP STATS (Updated as of June 3, 2019)

Registration by District

	District 1	District 2	District 3	District 4	District 5	Practicing outside Ontario	Unknown	Total
General	160	101	1490	457	65	30	48	2351
Inactive	6	1	44	14	1	11	3	80
Student	0	1	15	0	0	0	0	16
Total Members	166	103	1549	471	66	41	51	2447

- Please note that General Class members who recently register with the College are given 30 days to submit their business address. We are currently waiting for 48 General Class members to submit their business address.

Registration updates as of June 3, 2019

	30-Sep-18	31-Dec-18	31-Mar-19	3-Jun-19
General R. Ac	1163	1172	1176	1189
General R. TCMP	1177	1181	1184	1162
Student R. Ac	7	12	13	11
Student R. TCMP	3	4	5	5



Inactive R. Ac	23	22	22	40
Inactive R. TCMP	25	25	26	40
Current Members	2398	2416	2426	2447
Resigned	280	284	288	310
Expired	661	660	660	658
Revoked	87	87	92	92
Suspended	36	36	35	55
Total Registrants	3462	3483	3501	3562

Changes within the Quarter

	Jul. 1, 2018-Sep. 30, 2018	Oct. 1, 2018 – Dec. 31, 2018	Jan. 1, 2019 – Mar. 31, 2019	Apr. 1, 2019 – June 3, 2019
New member	38	21	11	62
Resignations	0	4	3	9
Revocation	0	1	1	0
Suspensions	3	3	3	20
Expired	0	1	0	0
Net Change	35	12	4	33

Members practicing with terms, conditions and limitations: 263

General Members practising with Written Language Plan: 126

2019 Jurisprudence Course Tests

Passed	Failed	Total
87	0	87

2019 Safety Program Tests

Passed	Failed	Total
94	0	94

This report is current to June 3, 2019 in anticipation of the Council meeting scheduled for June 20, 2019.



FOR: Information

SUBJECT: Inquiries, Complaints and Reports Committee Report for
2019 – Q1 (April 1, 2019 – June 30, 2019) as at June 6, 2019

Committee Members:

Panel 1

Pixing Zhang (Chair of ICRC)	Public Member
Yvonne. Blackwood	Public Member
Richard Guo Qing Dong, R.TCMP, R. Ac	Professional Member
Lihui Guo R. TCMP, R. Ac	Professional Member
Maureen Hopman	Public Member

Panel 2

Henry Maeots	Public Member
Sijiu (Stephen) Liu	Public Member
Xianmin Yu, R. Ac	Professional Member
JinQi Zeng, R. TCMP, R. Ac	Professional Member
Matthew Colavecchia, R. Ac	Professional Member
Fanny Ip, R. TCMP, R. Ac	Non-Council Professional Member

The Committee is divided into two main panels to accommodate the number of ongoing matters, and to accommodate the selection of panel members, should the need arise for a discipline hearing.

The Committee is scheduled to meet six times in Q1. One in person training session occurred on May 23, 2019. At this meeting, Pixing Zhang was elected as the Chair of ICRC. The Panels met for teleconferences on April 26 and May 30 2019. The Panels are scheduled to meet on June 7, June 13, and June 24, 2019.

New Cases and Nature of Concerns

Complaints	Nature of Concerns		Registrar Report Investigations	Nature of Concerns
5	3	Breach of a Standard	0	
	1	Improper Billing		
	1	Advertising		
	2	Record Keeping		
	1	Failing to respond to a reasonable request		

Completed Cases and Outcomes*

Note: Some decisions have more than one outcome

Complaints	Outcomes		Registrar Reports Investigations	Outcomes	
0	0	Take no action	0	0	Take no action
	0	Advice		0	Advice
	0	Written Caution		0	Written Caution
	0	Oral Caution		0	Oral Caution
	0	SCERP		0	SCERP
	0	Refer to Discipline		0	Refer to Discipline

Complaints cases before Health Professions Appeal and Review Board

New Cases	Pending Cases
	1

Pending Cases

Complaints	Registrar Report Investigations	Incapacity Inquiries	Total # cases
14	17	0	31



FOR: Information

SUBJECT: Quality Assurance Committee Report

Quality Assurance Committee Members

Feng Li Huang (Chair) R. TCMP, R. Ac	Professional Member
Barrie Haywood	Public Member
Heino (Henry) Maeots	Public Member
Lihui Guo R. TCMP, R. Ac	Professional Member
Martial Moreau	Public Member
Matthew Colavecchia R. Ac	Professional Member
Ming C. Cha R. TCMP, R. Ac	Professional Member
Pixing Zhang	Public Member

Since the last Council meeting, the Quality Assurance (QA) Committee has held an in-person meeting on June 6, 2019.

1. Orientation

Ms. Rebecca Durcan of Steinecke Maciura LeBlanc provided an orientation to support the newly appointed and existing members. The mandate of the QA Program and the College's specific Program were presented on. Ms. Durcan reminded the Committee of its strict confidentiality provisions. It was also stressed that the Committee's role is to be supportive and to engage members in their practice.

2. Standards of Practice

The Committee approved a final draft of the Standard for Consent and the Standard for Infection Control. These Standards will be presented at the June 20, 2019 Council meeting for approval. If approved, the Standards will be circulated for 60 days to the membership for feedback.

3. Self-Assessment: Non-Compliance

Each member is required to complete a self-assessment and 15 hours of professional development on an annual basis. To monitor compliance, 10% of members are selected at random each year. In 2018, 240 members were selected and provided with 90 days to submit their self-assessment and professional development tools. As of this report, there is one outstanding submission.

4. Peer and Practice Assessment: Non-Compliance

One member is non-compliant with the Peer and Practice Assessment Program.

This report is current to June 10, 2019 in anticipation of the Council meeting scheduled for June 20, 2019.



FOR: Information

SUBJECT: Patient Relations Committee Report

Patient Relations Committee Members

Ferne Woolcott (Chair)	Public Member
Barrie Haywood	Public Member
Christine Kit Yee Fung R. TCMP, R. Ac	Professional Member
Feng Li Huang R. TCMP, R. Ac	Professional Member
Jin Qi (Jackie) Zeng R. TCMP, R. Ac	Professional Member
Martial Moreau	Public Member
Yvonne Blackwood	Public Member

Since the last Council meeting, the Patient Relations Committee held two meetings by teleconference on May 13, 2019 and June 5, 2019.

1. Orientation

Members of the Committee were trained on their role in the Patient Relations and the Funding for Therapy and Counselling Programs. The legislative context and requirements to these Programs were presented. The Committee was also provided with an overview of the College specific processes related to funding and where the public can find information on sexual abuse.

2. Standards of Practice

The Committee approved a final draft of the Standard for Maintaining Professional Boundaries and the Standard for Preventing Sexual Abuse. These Standards will be presented at the June 20, 2019 Council meeting for approval. If approved, the Standards will be circulated for 60 days to the membership for feedback. These Standards will replace the current Standard for a Prohibition of a Sexual Relationship with a Patient.

3. Funding for Therapy

At its May meeting, one applicant was approved for funding for therapy and counselling. A patient is eligible for funding if it is alleged in a complaint or report that they were sexually abused by a member.

This report is current to June 10, 2019 in anticipation of the Council meeting scheduled for June 20, 2019.



FOR: Information

SUBJECT: Discipline Committee Report by Quarter (Q1- April 1, 2019 – June 30, 2019)

Every member of council is a member of the Discipline Committee.

The Committee did not schedule any discipline hearings in Q1.

The Committee did not release any decisions in this quarter.

No pre-hearing conferences were scheduled in this quarter.

As at June 7, 2019 there are 4 open cases which have been referred to the Discipline Committee by the Inquiries, Complaints and Reports Committee.

	Member Name	Status
1	Sheina, Svetlana	The Notice of Hearing was served to the Member on August 21, 2018. The Member signed an undertaking to surrender her certificate of registration effective March 15, 2019. A hearing date for a stay of proceedings is scheduled to occur on July 10, 2019.
2	Tsang, Joeie Pak Lam	The Notice of Hearing was served to the Member on June 6, 2018. The discipline hearing was scheduled to occur on May 16, 2019; however it was postponed as a result of the Member being out of the country.
3	Xu, Howard Zhilong	The Notice of Hearing was served to the Member on February 21, 2019. The matter is at the disclosure stage.
4	Tupeika, Uladzimir	The Notice of Hearing was served to the Member on March 9, 2019. An uncontested hearing is scheduled to occur on July 10, 2019.

There are two discipline decisions currently under appeal by the Member. These matters relate to the Nathalie Xian Yi Yan and George Li decisions.

This report is current as at June 7, 2019.



FOR: Information

SUBJECT: Fitness to Practice Committee Report– Q1 (April 1, 2019 – June 30, 2019)

Pursuant to the College Bylaw, every member of Council is a member of the Fitness to Practice Committee.

The committee has not had a meeting since the last Council report. There have not been any referrals to date in Q1.

Cases referred to Committee

New Cases	Pending Cases
0	0

This report is current to June 10, 2019.



FOR: Information

SUBJECT: Examination Appeals Committee Report

Examination Appeals Committee Members

Christine Kit Yee Fung (Chair) R. TCMP, R. Ac	Professional Member
Yvonne Blackwood	Public Member
Maureen Hopman – From March 26, 2019	Public Member
Jin Qi (Jackie) Zeng – From March 26, 2019 R. TCMP, R. Ac	Professional Member

Since the previous Council meeting held on March 25 & 26, 2019, the Examination Appeals Committee did not hold any meetings.

COMMITTEE APPOINTMENTS

The Executive Committee has appointed Maureen Hopman and Jin Qi (Jackie) Zeng to the Examination Appeals Committee.

This report is current to May 31, 2019 in anticipation of the Council meeting scheduled for June 20, 2019.

Agenda items will be held In-Camera in accordance with Section 7. (2)b and 7. (2)d of the *Health Professions Procedural Code*, [7. (2) Despite subsection (1), the Council may exclude the public from any meeting or part of a meeting if it is satisfied that, (b) financial or personal or other matters may be disclosed of such a nature that the harm created by the disclosure would outweigh the desirability of adhering to the principle that meetings be open to the public; (d) personnel matters or property acquisitions will be discussed;]



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Agenda Item #: 11 a)
Topic: Budget Proposal
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: MOTION



Proposed Budget 2019-2020

Line #	REVENUE	2018-2019 (Budget)	2019-2020 (Budget Proposal)	Difference	Comment
1	Registration Fees	\$ 86,351	\$ 126,900	46.96%	Increase new registration fee to \$1,300 in 2019-2020 Program are included in examination fees
2	Renewal Fees	\$ 2,532,830	\$ 3,008,000	18.76%	
3	Administration Fees	\$ 55,198	\$ 45,600	-17.39%	
4	Examination Fees	\$ 269,190	\$ 276,300	2.64%	
5	Cost Order	\$ 20,000	\$ 20,000	0.00%	
6	Interest	\$ 35,000	\$ 55,000	57.14%	
7	Sundry	\$ 5,000	\$ 500	-90.00%	
TOTAL REVENUE		\$ 3,003,569	\$ 3,532,300	17.60%	

Line #	EXPENSES	2018-2019 (Budget)	2019-2020 (NEW Budget Proposal)	Difference	Percentage Allocation
Council and Committee					
1	Council	\$ 34,800	\$ 55,100	58.33%	26%
2	Executive	\$ 13,000	\$ 27,500	111.54%	
3	Registration Committee and Panel	\$ 50,000	\$ 50,000	0.00%	
4	ICRC	\$ 290,000	\$ 210,000	-27.59%	
5	Quality Assurance	\$ 180,000	\$ 115,000	-36.11%	
6	Patient Relations	\$ 50,000	\$ 48,000	-4.00%	
7	Discipline	\$ 529,000	\$ 425,000	-19.66%	
8	Fitness to Practice	\$ 5,000	\$ 5,000	0.00%	
9	Examination	\$ 2,000	\$ 5,000	60.00%	
10	Presidential Duties	\$ -	\$ 15,000	100.00%	
		\$ 1,153,800	\$ 955,600	-17.18%	
Professional Service					
10	Legal Fees	\$ 140,000	\$ 55,000	-60.71%	3%
11	Accounting Fee	\$ 45,000	\$ 50,000	11.11%	
12	Professional Services	\$ 12,000	\$ 21,000	75.00%	
		\$ 197,000	\$ 126,000	-36.04%	
Special Programs/Project					
13	Pan-Canadian Examination	\$ 95,000	\$ 180,000	89.47%	9%
14	Doctor Title	\$ 100,000	\$ 85,000	-15.00%	
15	Strategic Planning	\$ -	\$ -	0.00%	
16	School Program Approval	\$ 50,000	\$ 50,000	0.00%	
		\$ 245,000	\$ 315,000	28.57%	
Salary and Wage					
17	Staff Salary and Benefit	\$ 1,376,993	\$ 1,501,516	9.04%	41%
18	Part-time Staff	\$ -	\$ -	0.00%	
		\$ 1,376,993	\$ 1,501,516	9.04%	
Information Technology					
19	Equipment Expense	\$ 6,000	\$ 6,000	0.00%	7%
20	Software Development	\$ 158,000	\$ 149,000	-5.70%	
21	Maintenance and Support Contr	\$ 52,000	\$ 49,200	-5.38%	
22	Onlines Services	\$ 35,300	\$ 42,000	18.98%	
23	Network Security	\$ -	\$ 5,000	100%	
		\$ 251,300	\$ 251,200	-0.04%	
Operating Cost					
24	General Operating Cost	\$ 244,700	\$ 258,300	5.56%	14%
25	Payment Gateway for Credit Card	\$ 91,200	\$ 100,000	9.65%	
26	Subscriptions and Conferences	\$ 60,000	\$ 90,000	50.00%	
27	Communications and Publication	\$ 53,500	\$ 50,000	-6.54%	
		\$ 449,400	\$ 498,300	10.88%	
TOTAL EXPENSES		\$ 3,673,493	\$ 3,647,616	-0.70%	100%
Profit\Loss		\$ (669,924)	\$ (115,316)		



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Agenda Item #: 11 b)
Topic: 2019-202 Budget Proposal Summary
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: MOTION

2019-2020 Budget Proposal

Summary

REVISED

(May 03, 2019)

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

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1.Purpose

To provide explanations for the 2019-2020 budget for the College. The budget will be presented to the Council and Executive Committee.

2.Revenue

The primary source of revenue for the College is the Annual Membership Renewal fee, followed by the new Member Registration fees. 2018-2019 is the first year that the annual membership renewal will consist of a flat fee of \$1300 and HST will not be collected.

The annual membership renewal period is from February 1, 2019 through April 1, 2019.

Although the renewal period falls in the 2018-2019 fiscal year, the membership fees will be deferred to the 2019-2020 fiscal year.

The College is forecasting that over **2300** members will renew their certificate of registration for the 2019-2020 fiscal year.

This fiscal year will see the College an annual renewal revenue increased from previous year of more than 500 thousand dollars.

The projected Annual Renewal revenue for the College this year would be **\$3,008,000** including General Class, Inactive Class, Student Class and Professional Corporations.

2.1 Detailed Description of Revenue items by line

Below is a detailed explanation of the projected revenue number defined in the 2019-2020 budget.

Line 1: 2.1.1 Registration Fees

The College is projecting a revenue amount of **\$126,900** an increase of almost 50% from the previous year.

Below is the reasoning behind the projection:

95 New Registrations for General Class with a registration fee of **\$1300**

15 New Student Class Registration with a registration fee of **\$200**

02 New Professional Corporation Registration with a registration fee of **\$200**

Note: We anticipated 5 applicants not to be accepted in the General Class (based on statistics)

(90 applicants (Line 1) only 85 new registrations)

Line 2: 2.1.2 Annual Renewals

As mentioned in paragraph 2, the projected total Annual Renewal revenue for the College this year would be **\$3,058,700** (before taxes) based on:

Below is the reasoning behind the projection:

2300 General Class members with an annual renewal fee of **\$1,300.00 (total \$2,990,000)**

10 Student Class members with an annual renewal fee of **\$200 (total \$2,000)**

05 Professional Corporations with an annual renewal fee of **\$200 (total \$1,000)**

50 Inactive Class members with an annual renewal fee of **\$300 (total \$15,000)**

Line 3: 2.1.3 Administration Fees

The College is projecting a revenue amount of **\$45,600**. Administration fees include mostly non-refundable fees such as application fees.

Below is a breakdown of the revenue amounts

Application Fees (General, Student, Professional Corp): total ~\$29,000

Late Fees, Duplicate Certificate, Letter of Standing, Reinstatement, etc., makes up the rest of the projection for a total of ~\$16,600

Line 4: 2.1.4 Examination Fees

The College anticipates that approximately 200 applicants will apply to write the Pan Canadian Examination this fall and winter and therefore we will be collecting a total amount of **\$276,300**

Below is the breakdown

200 applicants with a Pan Examination Application Fee of \$350 (**total \$70,000**)

An estimated 30% of the total number of applicants will be attempting the TCM written exam and 70% the Acupuncturist written exam.

Of the above number of candidates an estimated 70% will successfully complete the examination and proceed to the Clinical examination.

The below projection includes also candidates that failed the examination in the previous attempt.

- TCM Written 90 members at \$550 (**total \$49,500**);
- TCM Clinical 50 members at \$550 (**total \$27,500**);
- ACU Written 150 members at \$450 (**total \$67,500**);
- ACU Clinical 110 members at \$350 (**total \$38,500**);
-
- Written Rescore 15 members at \$50 (**total \$750**);
- Clinical Rescore 13 members at \$350 (**total \$4550**);

Safety Program & Jurisprudence Course: 180 applicants with a fee of \$100 (total ~\$18,000)

Total amount projected for examination fees: \$18,000+\$258,300 = **\$276,300**

Line 5: 2.1.5 Cost Orders

Based on the previous year's collection of cost awards, the College anticipates an average amount of **\$20 thousand** dollars to be collected also this year.

This amount may increase, our legal counsel is working on trying to recuperate some of the cost orders.

Line 6: 2.1.6 Bank Interest

Based on our cash account the College anticipates an accumulated interest of **\$55,000**.

Summary Revenue:

This fiscal year the College anticipates a total revenue amount of **\$3,532,300**.

A percentage of **17.60%** increased revenue compared to previous fiscal year.

3. Expenses

This year the budget has been decreased by **0.70%** compared to last year.

As usual, majority of the funds has been allocated to ICRC, Discipline and Quality assurance.

We also allocate enough funds for major projects such as the: Doctor Title, a Public Awareness Campaign, School Program Approval.

The overall funds allocated to Council and Committees have been decreased (**-11.54%**).

Special Programs/Project funds have been increased by **28.57%**, mainly due to expenses related to Pan-Canadian Examination (180k).

Below is a breakdown of the Pan-Canadian projected expenses

Per Diem	\$30,000.00
Flights/Trains/Mileage/Taxi	\$15,000.00
Hotel	\$20,000.00
Breakfast/Lunch/Dinner	\$5,000.00
Project Manager	\$20,000.00
ASI	\$90,000.00
	\$180,000.00

3.1 Council and Committees

The 2019-2020 budget for Council and Committee has been decreased by 11.54%.

Below is a high-level summary of each category:

Note: Council and Committees allocated budget includes Per Diem for professional Members, Travel expenses, Accommodations and Meals based on the number of estimated meetings and number of attendees, also the actuals of the current year have been considered to estimate a more precise budget.

The allocated funds have been estimated

Line 1: 3.1.1 Council

- Anticipating 8 in person meetings
- **Budget Estimate: \$55,100**

Line 2: 3.1.2 Executive Committee

- Anticipating 10 in person meetings
- **Budget Estimate: \$27,500**

Line 3: 3.1.3 Registration Committee and Registration Panel

- Anticipating 4 in person meetings and 4 teleconferences
- Legal fees for HPARB appeals
- **Budget Estimate: \$50,000**

Line 4: 3.1.4 Inquiries, Complaints and Reports Committee

- Anticipating 8 in person meetings
- Expenses for investigations, fees for legal opinion on cases and attendance at ICRC meetings.
- Budget have been decreased by 80 thousand dollars compared to previous year.
- **Budget Estimate: \$210,000**

Line 5: 3.1.5 Quality Assurance Committee

- Anticipating 6 in person meetings
- Costs for Assessors, training, and conducting assessments
- Webinar and Information Sessions
- Development of Self-Assessment online software (business requirements)
- Please note that **65** thousand dollars of the initially allocated **180** thousand dollars has been transferred to Salary & Wages budget in order to re-hire the Communication Coordinator
- **Budget Estimate: \$115,000**

Line 6: 3.1.6 Patient Relations Committee

- Budget for 3 in person meeting
- Budget for a Sexual Abuse therapy funding
- Patient Awareness Campaign
- **Budget Estimate: \$48,000**

Line 7: 3.1.7 Discipline Committee

Discipline Committee will see a substantially budget decrease, majority of the funds allocated to legal fees.

- Expecting several cases that will be referred to the Discipline committee.
- Expenses for legal fees (prosecutor, ILC, and mediators), and hearing costs
- This year budget has been decreased by almost 20% compared to last year budget for a total of 104 thousand dollars.
- **Budget Estimate: \$425,000**

Line 8: 3.1.8 Fitness to Practice Committee

- Budget for 1 in person meeting
- **Budget Estimate: \$5,000**

Line 9: 3.1.9 Examination Committee

- The Examination Committee is a new non-statutory committee, therefore there is no budget comparison with previous fiscal year.
- The budget is anticipated considering 3 persons and 2 meetings
- **Budget Estimate: \$5,000**

Line 10: 3.1.10 Presidential Duties

- New Budget item since this year the CTCMPAO President is a Professional Member and therefore the expenses are College responsibility.
- **Budget Estimate: \$15,000**

Total Council & Committees Budget Estimate: \$1,020,600

3.2 Professional Services

This 2018-2019-year budget estimate a decrease of almost 15% in Professional Services needs, compared to the previous year.

Below is the breakdown

Line 10: 3.2.1 Legal Fees

- Advice on various College matters, By-law amendments, governance matters, contract reviews, process advice, etc.
- Litigation matters with the Federation. The Enforcement of Cost Orders owed to the College.
- Legal matters with unauthorized practice
- Budget decreased by 60.71%,
- **Budget estimate: \$55,000**

Line 11: 3.2.2 Accounting Fees

- Bookkeeping services, payroll and annual audit.
- **Budget Estimate: \$50,000**

Line 12: 3.2.3 Professional Services

- Expert Consultation
- Recruiting\Hiring
- Translation Services

- **Budget Estimate: \$21,000**

Important Note: This budget may increase by 30K-50K based on the recruiting hiring agency for the new Registrar. Typically, these services typically range between 20% to 30% of the first-year salary of an executive.

Total Professional Services Budget Estimate: \$126,000

3.3 Special Programs/Projects

Special Programs and Projects sees an increase of 28.57% due to the increased expenses for Pan-Canadian examination consultants (Per Diem, Conferences.).

Line 13: 3.3.1 Pan Canadian Examination Development and Administration

- Sending participants for Examination Development, Item Writing, Examination Committee and Rating Session participants
- Project Manager to oversee the development and administration of the Pan Canadian Exam
- Yardstick Assessment Strategies (YAS) Cost
- **Budget Estimate: \$180,000**

Line 14: 3.3.2 Doctor Title

- Per Diem, Accommodations, Meals, Travel
- Consultant
- RFP Costs
- **Budget Estimate: \$85,000**

Line 15: 3.3.3 Strategic Planning

There will be no strategic planning funds allocated for the fiscal year 2019-2020.

Strategic Planning occurs every 3 years.

Line 16: 3.3.4 School Program Approval

- Per Diem, Accommodations, Meals, Travel
- Consultant for School Program Approval
- RFP Costs
- **Budget Estimate: \$50,000**

Total Special Programs\Projects Estimate: \$315,000

3.4 Salary and Wages

Based on the Human Resources review, salaries have been adjusted to appropriate levels.

The total budget includes, Benefits, CPP (Canada Pension Plan), EI (Employment Insurance) and EHT (Employer Health Tax) for a total of more than **\$250,000**.

Line 17: 3.4.1 Staff Salary and Benefits

- Budget based on current staffing structure
- 17 fulltime resource (including previous Registrar position)
- Budget increased by 4.32%

Line 18: 3.4.2 Part-Time Staff

- None anticipated

Important Note: This budget will still need to include (unknown at the time of this document)

1. Salary for new Registrar
2. Adjustment salary for Acting Registrar

Also:

The Project Coordinator position will not be replaced while in maternity leave (starting end of May)

Total Salary & Wages Budget Estimate: \$1,501,516

3.3 Information Technology and IT Special Projects

The Information Technology and IT Projects budget remains virtually the same of the previous year.

Within this year budget we introduced a new line item “Network Security”, this line item was previously included within “Maintenance and Support Contracts”.

The objective is to make it more transparent the funds allocated for security (i.e. Firewalls, Encryption, Disaster Recovery, etc.).

Line 19: 3.5.1 Equipment Expenses

Includes iPad maintenance, laptops, Monitors and all hardware related items.

- **Budget Estimate: \$6,000**

Line 20: 3.5.2 Software Development

Includes software development phase for CRM and Website (New Projects, Bug Fixing, General Maintenance and Updates), also licensing expenses for Microsoft Exchange and Microsoft CRM.

Furthermore, new potential CRM projects:

For example:

- Professional Corporation Online
- Council Portal
- General Class Application Online
- **Budget Estimate: \$149,000**

Line 21: 3.5.3 Maintenance & Support Contracts

- Epik\Websdepot
- Video Surveillance (Fitch Security)
- Copiers (Konica Minolta),
- Projector and Clickshare(DTS)
- **Budget Estimate: \$49,200**

Line 22: 3.5.4 Online Services

- Data Center
- Disaster Recovery
- Web Server and CTCMPAO Cloud
- Offsite Backup
- **Budget Estimate: \$42,000**

Line 23: 3.5.5 Network Security

- **Budget Estimate: \$5,000**

Total Information Technology Budget Estimate: \$251,200

3.6 Operating Costs

This year operating costs operating have been increased by almost 11%.

Office Rent and Payment Gateway for Credit Card Transactions are great majority of funds allocations.

A slight increase in the credit card transaction fees paid to Payment Gateway (Moneris) based on the increased number of practitioners using credit cards and taking advantage of our online applications.

We also allocated 30 thousand dollars for General Meeting expenses.

Line 24: 3.6.1 General Operating Costs

Below are some of the major expenditures for this section

- Office Rent
- General Postage and Courier
- Office Supplies, Stationary, Equipment Repairs and Maintenance.
- **Budget Estimate: \$258,300**

Line 25: 3.6.2 Payment Gateway for Credit Card Transactions

- Payment Gateway for Credit Card Transactions
 - We are paying Moneris an average of 2.2% per transaction based on the credit card type (MC or Visa).
 - Increase of 8% because all transactions are processed online.
- **Budget Estimate: \$100,000**

Line 26: 3.6.3 Subscriptions and Professional Development

- This includes membership fees to FHRCO, CARB, CSAE
- CLEAR Conference and Team building activities.
- General Meeting expenses
- **Budget Estimate: \$90,000**

Line 27: 3.6.4 Communications and Publications

- Communications and Publications
- Mailing Certificates, Newsletters, Google Ad, Email Campaigns, Annual Report, Social Media, etc.
- **Budget Estimate: 50,000**

Total Operating Costs Budget Estimate: \$498,300

Summary Expenses:

This fiscal year the College anticipates a total expense amount of **\$3,647,416**

This fiscal year the College anticipates a potential loss of **-\$115,316**

A percentage of budget **decrease of 0.70%** compared with previous fiscal year.



COVER PAGE

Agenda Item #: 11 c)
Topic: Original Budget to Council March 2019
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: FYI

MARCH 2019



College of Traditional Chinese Medicine
Practitioners and Acupuncturists of Ontario
Ordre des praticiens en médecine traditionnelle
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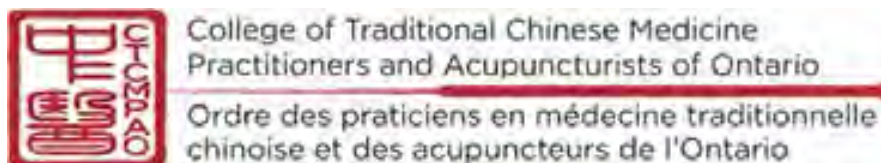
Proposed Budget 2019-2020

Line #	REVENUE	2018-2019 (Budget)	2019-2020 (Budget)	Difference	Comment
1	Registration Fees	\$ 86,351	\$ 126,900	46.96%	Increase new registration fee to \$1,300 in 2019-2020
2	Renewal Fees	\$ 2,532,830	\$ 3,058,700	20.76%	
3	Administration Fees	\$ 55,198	\$ 45,600	-17.39%	Safety Program; Jurisprudence Program are included in examination fees
4	Examination Fees	\$ 269,190	\$ 276,300	2.64%	
5	Cost Orders	\$ 20,000	\$ 20,000	0.00%	
6	Interest	\$ 35,000	\$ 35,000	0.00%	
7	Sundry	\$ 5,000	\$ 500	-90.00%	

TOTAL REVENUE	\$ 3,003,569	\$ 3,563,000	18.63%
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Line #	EXPENSES	2018-2019 (Budget)	2019-2020 (Budget)	Difference	Percentage Allocation
Council and Committee					
1	Council	\$ 34,800	\$ 44,800	28.74%	
2	Executive	\$ 13,000	\$ 13,000	0.00%	
3	Registration Committee and Panel	\$ 50,000	\$ 50,000	0.00%	
4	ICRC	\$ 290,000	\$ 243,500	-16.03%	
5	Quality Assurance	\$ 180,000	\$ 65,500	-63.61%	
6	Patient Relations	\$ 50,000	\$ 48,000	-4.00%	
7	Discipline	\$ 529,000	\$ 535,000	1.13%	
8	Fitness to Practice	\$ 5,000	\$ 5,000	0.00%	
9	Examination	\$ 2,000	\$ 5,000	60.00%	
		\$ 1,153,800	\$ 1,009,800	-12.48%	27%
Professional Service					
10	Legal Fees	\$ 140,000	\$ 100,000	-28.57%	
11	Accounting Fee	\$ 45,000	\$ 50,000	11.11%	
12	Consultants	\$ 12,000	\$ 21,000	75.00%	
		\$ 197,000	\$ 171,000	-13.20%	5%
Special Programs/Project					
13	Pan-Canadian Examination	\$ 95,000	\$ 180,000	89.47%	
14	Doctor Title	\$ 100,000	\$ 85,000	-15.00%	
15	Strategic Planning	\$ -	\$ -	0.00%	
16	School Program Approval	\$ 50,000	\$ 50,000	0.00%	
		\$ 245,000	\$ 315,000	28.57%	8%
Salary and Wage					
17	Staff Salary and Benefit	\$ 1,376,993	\$ 1,538,303	11.71%	
18	Part-time Staff	\$ -	\$ -	0.00%	
		\$ 1,376,993	\$ 1,538,303	11.71%	41%
Information Technology					
19	Equipment Expense	\$ 6,000	\$ 6,000	0.00%	
20	Software Development	\$ 158,000	\$ 152,000	-3.80%	
21	Maintenance and Support Contracts	\$ 52,000	\$ 49,000	-5.77%	
22	Online Services	\$ 35,300	\$ 41,000	16.15%	
23	Network Security	\$ -	\$ 6,000	100%	
		\$ 251,300	\$ 254,000	1.07%	7%
Operating Cost					
24	General Operating Cost	\$ 244,700	\$ 258,300	5.56%	
25	Payment Gateway for Credit Card Transaction	\$ 91,200	\$ 100,000	9.65%	
26	Subscriptions and Professional Development	\$ 60,000	\$ 65,000	8.33%	
27	Communications and Publications	\$ 53,500	\$ 50,000	-6.54%	
		\$ 449,400	\$ 473,300	5.32%	13%
TOTAL EXPENSES		\$ 3,673,493	\$ 3,761,403	2.39%	100%
Profit\Loss		\$ (669,924)	\$ (198,403)		

MARCH 2019



2019-2020 Budget Proposal

Summary

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

MARCH 2019



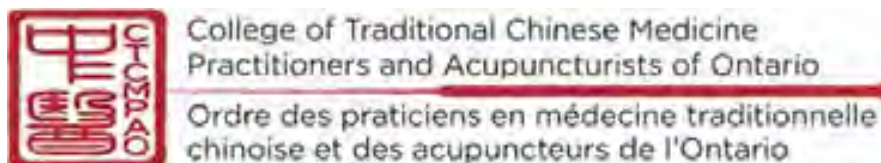
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1. Purpose

To provide explanations for the 2019-2020 budget for the College. The budget will be presented to the Council at the March 26th meeting.

2. Revenue

The primary source of revenue for the College is the Annual Membership Renewal fee, followed by the new Member Registration fees. 2018-2019 is the first year that the annual membership renewal will consist of a flat fee of \$1300 and HST will not be collected.

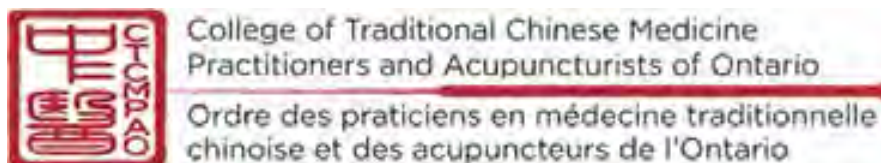
The annual membership renewal period is from February 1, 2019 through April 1, 2019.

Although the renewal period falls in the 2018-2019 fiscal year, the membership fees will be deferred to the 2019-2020 fiscal year.

The College is forecasting that over **2400** members will renew their certificate of registration for the 2019-2020 fiscal year.

This fiscal year will see the College an annual renewal revenue increased from previous year of almost 500 thousand dollars.

The projected Annual Renewal revenue for the College this year would be **\$3,058,700** including General Class, Inactive Class, Student Class and Professional Corporations.



2.1 Detailed Description of Revenue items by line

Below is a detailed explanation of the projected revenue number defined in the 2019-2020 budget.

Line 1: 2.1.1 Registration Fees

The College is projecting a revenue amount of **\$126,900** an increase of almost 50% from the previous year.

Below is the reasoning behind the projection:

95 New Registrations for General Class with a registration fee of **\$1300**

15 New Student Class Registration with a registration fee of **\$200**

02 New Professional Corporation Registration with a registration fee of **\$200**

Note: We anticipated 5 applicants not to be accepted in the General Class (based on statistics)

(90 applicants (Line 1) only 85 new registrations)

Line 2: 2.1.2 Annual Renewals

As mentioned in paragraph 2, the projected total Annual Renewal revenue for the College this year would be **\$3,058,700** (before taxes) based on:

Below is the reasoning behind the projection:

2339 General Class members with an annual renewal fee of **\$1,300.00** (total **\$3,040,700**)

10 Student Class members with an annual renewal fee of **\$200** (total **\$2,000**)

05 Professional Corporations with an annual renewal fee of **\$200** (total **\$1,000**)

50 Inactive Class members with an annual renewal fee of **\$300** (total **\$15,000**)



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Line 3: 2.1.3 Administration Fees

The College is projecting a revenue amount of **\$45,600**. Administration fees include mostly non-refundable fees such as application fees.

Below is a breakdown of the revenue amounts

Application Fees (General, Student, Professional Corp): total ~\$29,000

Late Fees, Duplicate Certificate, Letter of Standing, Reinstatement, etc., makes up the rest of the projection for a total of ~\$16,600

Line 4: 2.1.4 Examination Fees

The College anticipates that approximately 200 applicants will apply to write the Pan Canadian Examination this fall and winter and therefore we will be collecting a total amount of **\$258,300**

Below is the breakdown

200 applicants with a Pan Examination Application Fee of \$350 (total \$70,000)

An estimated 30% of the total number of applicants will be attempting the TCM written exam and 70% the Acupuncturist written exam.

Of the above number of candidates an estimated 70% will successfully complete the examination and proceed to the Clinical examination.

The below projection includes also candidates that failed the examination in the previous attempt.

- TCM Written 90 members at \$550 (total \$49,500);
- TCM Clinical 50 members at \$550 (total \$27,500);
- ACU Written 150 members at \$450 (total \$67,500);
- ACU Clinical 110 members at \$350 (total \$38,500);
-
- Written Rescore 15 members at \$50 (total \$750);
- Clinical Rescore 13 members at \$350 (total \$4550);

Safety Program & Jurisprudence Course: 180 applicants with a fee of \$100 (total ~\$18,000)

Total amount projected for examination fees: $\$18,000 + \$258,300 = \$276,300$



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Line 5: 2.1.5 Cost Orders

Based on the previous year's collection of cost awards, the College anticipates an average amount of **\$20 thousand** dollars to be collected also this year.

This amount may increase, our legal counsel is working on trying to recuperate some of the cost orders.

Line 6: 2.1.6 Bank Interest

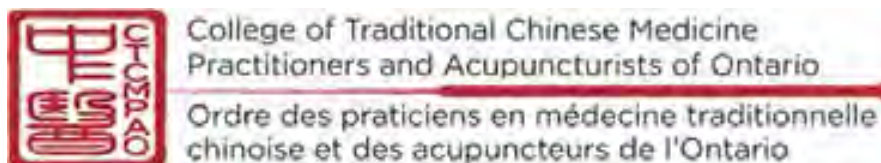
Based on our cash account the College anticipates an accumulated interest of **\$35,000** with an interest rate averaging at 1.4%.

Summary Revenue:

This fiscal year the College anticipates a total revenue amount of **\$3,563,000**.

A percentage of **18.63%** increased revenue compared to previous fiscal year.

MARCH 2019



3. Expenses

This year the budget has been **increased** by only **2.39%** compared to last year.

As usual, majority of the funds increase has been allocated to ICRC, Discipline and Quality assurance.

We also allocate enough funds for major projects such as the: Doctor Title, a Public Awareness Campaign, School Program Approval.

However, the overall funds allocated to Council and Committees have been considerably decreased (-**12.48%**).

Special Programs/Project funds have been increased by **28.57%**, mainly due to expenses related to Pan-Canadian Examination (180k).

Below is a breakdown of the Pan-Canadian projected expenses

Information Technology, IT Special Projects and Operating Costs slightly increased compared to previous year, due mainly to inflation and vendors increasing their fees.

3.1 Council and Committees

The 2019-2020 budget for Council and Committee has been decreased by 12.48%.

Below is a high-level summary of each category:

Note: Council and Committees allocated budget includes Per Diem for professional Members, Travel expenses, Accommodations and Meals based on the number of estimated meetings and number of attendees, also the actuals of the current year have been considered to estimate a more precise budget.

On a note, the number meetings increased by 2.

The allocated funds have been estimated

Line 1: 3.1.1 Council

- Anticipating 6 in person meetings
- **Budget Estimate: \$44,800**



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Line 2: 3.1.2 Executive Committee

- Anticipating 6 in person meetings
- **Budget Estimate: \$13,000**

Line 3: 3.1.3 Registration Committee and Registration Panel

- Anticipating 4 in person meetings and 4 teleconferences
- Legal fees for HPARB appeals
- **Budget Estimate: \$50,000**

Line 4: 3.1.4 Inquiries, Complaints and Reports Committee

- Anticipating 8 in person meetings
- Expenses for investigations, fees for legal opinion on cases and attendance at ICRC meetings.
- **Budget Estimate: \$243,500**

Line 5: 3.1.5 Discipline Committee

Discipline Committee will see a substantially budget increase, majority of the funds allocated to legal fees.

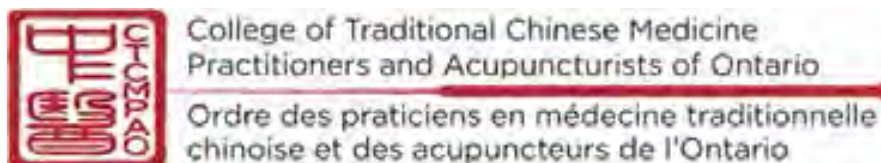
- Expecting several cases that will be referred to the Discipline committee.
- Expenses for legal fees (prosecutor, ILC, and mediators), and hearing costs
- This year budget has been slightly increased.
- **Budget Estimate: \$535,000**

Line 6: 3.1.6 Quality Assurance Committee

- Anticipating 6 in person meetings
- Costs for Assessors, training, and conducting assessments
- Webinar and Information Sessions
- Development of Self-Assessment online software (business requirements)
- **Budget Estimate: \$65,500**

Line 7: 3.1.7 Fitness to Practice Committee

- Budget for 1 in person meeting
- **Budget Estimate: \$5,000**



Line 8: 3.1.8 Patient Relations Committee

- Budget for 3 in person meeting
- Budget for a Sexual Abuse therapy funding
- Patient Awareness Campaign
- **Budget Estimate: \$48,000**

Line 9: 3.1.9 Examination Committee

- The Examination Committee is a new non-statutory committee, therefore there is no budget comparison with previous fiscal year.
- The budget is anticipated considering 3 persons and 2 meetings
- **Budget Estimate: \$5,000**

Total Council & Committees Budget Estimate: \$1,009,800

3.2 Professional Services

This 2018-2019-year budget estimate a decrease of almost 15% in Professional Services needs, compared to the previous year.

Below is the breakdown

Line 10: 3.2.1 Legal Fees

- Advice on various College matters, By-law amendments, governance matters, contract reviews, process advice, etc.
- Litigation matters with the Federation. The Enforcement of Cost Orders owed to the College.
- Legal matters with unauthorized practice
- **Budget estimate: \$100,000**

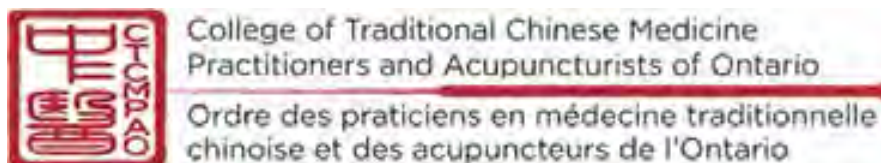
Line 11: 3.2.2 Accounting Fees

- Bookkeeping services, payroll and annual audit.
- **Budget Estimate: \$50,000**

Line 12: 3.2.3 Professional Services

- Expert Consultation
- Recruiting\Hiring
- Translation Services
- **Budget Estimate: \$10,000**

Total Professional Services Budget Estimate: \$171,000



3.3 Special Programs/Projects

Line 13: 3.3.1 Pan Canadian Examination Development and Administration

- Sending participants for Examination Development, Item Writing, Examination Committee and Rating Session participants
- Project Manager to oversee the development and administration of the Pan Canadian Exam
- Yardstick Assessment Strategies(YAS) Cost
- **Budget Estimate: \$180,000**

Line 14: 3.3.2 Doctor Title

- Per Diem, Accommodations, Meals, Travel
- Consultant
- RFP Costs
- **Budget Estimate: \$85,000**

Line 15: 3.3.3 Strategic Planning

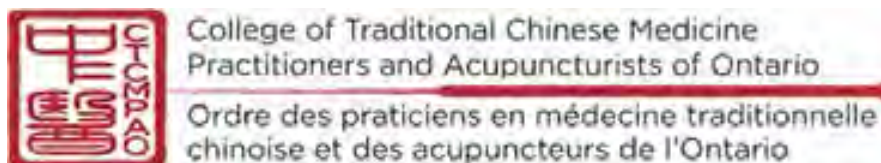
There will be no strategic planning funds allocated for the fiscal year 2019-202.

Strategic Planning occurs every 3 years.

Line 16: 3.3.4 School Program Approval

- Per Diem, Accommodations, Meals, Travel
- Consultant for School Program Approval
- RFP Costs
- **Budget Estimate: \$50,000**

Total Special Programs\Projects Estimate: \$315,000



3.4 Salary and Wages

Based on the Human Resources review, salaries have been adjusted to appropriate levels.

The total budget includes, Benefits, CPP (Canada Pension Plan), EI (Employment Insurance) and EHT (Employer Health Tax) for a total of more than **\$250,000**.

Line 17: 3.4.1 Staff Salary and Benefits

- Budget based on current staffing structure
- 18 fulltime resource

Line 18: 3.4.2 Part-Time Staff

- None anticipated

Total Salary & Wages Budget Estimate: \$1,538,303

3.3 Information Technology and IT Special Projects

The Information Technology and Projects increased by \$7000 dollars in comparison with last year's budget, for a total of \$254,000.

Line 19: 3.5.1 Equipment Expenses

Includes iPad maintenance, laptops, Monitors and all hardware related items.

- **Budget Estimate: \$6,000**

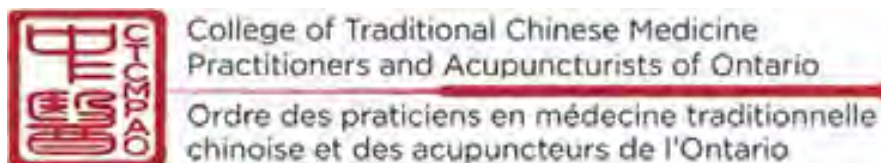
Line 20: 3.5.2 Software Development

Includes software development phase for CRM and Website, also licensing expenses for Microsoft Exchange and Microsoft CRM.

- **Budget Estimate: \$152,000**

Line 21: 3.5.3 Maintenance & Support Contracts

- Epik\Websdepot
- Video Surveillance (Fitch Security)
- Copiers (Konica Minolta),
- Projector and Clickshare(DTS)
- **Budget Estimate: \$49,000**



Line 22: 3.5.4 Online Services

- Data Center
- Disaster Recovery
- Web Server and CTCMPAO Cloud
- Offsite Backup
- **Budget Estimate: \$47,000**

Line 23: 3.5.5 Network Security

- **Budget Estimate: \$6,000**

Total Information Technology Budget Estimate: \$254,000

3.6 Operating Costs

This year operating costs operating have been increased by a bit more than 5%.

Office Rent and Payment Gateway for Credit Card Transactions are great majority of funds allocations.

A slight increase in the credit card transaction fees paid to Payment Gateway (Moneris) based on the increased number of practitioners using credit cards and taking advantage of our online applications.

Line 24: 3.6.1 General Operating Costs

Below are some of the major expenditures for this section

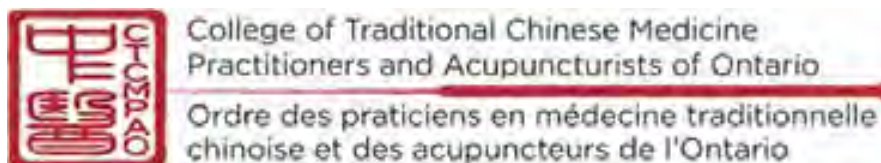
- Office Rent
- General Postage and Courier
- Office Supplies, Stationary, Equipment Repairs and Maintenance.
- **Budget Estimate: \$258,300**

Line 25: 3.6.2 Payment Gateway for Credit Card Transactions

- Payment Gateway for Credit Card Transactions
 - We are paying Moneris an average of 2.2% per transaction based on the credit card type (MC or Visa).
 - Increase of 8% because all transactions are processed online.
- **Budget Estimate: \$100,000**

Line 26: 3.6.3 Subscriptions and Professional Development

- This includes membership fees to FHRCO, CARB, CSAE
- CLEAR Conference and Team building activities.
- **Budget Estimate: \$65,000**



Line 27: 3.6.4 Communications and Publications

- Communications and Publications
- Mailing Certificates, Newsletters, Google Ad, Email Campaigns etc.
- **Budget Estimate: 50,000**

Total Operating Costs Budget Estimate: \$473,300

Summary Expenses:

This fiscal year the College anticipates a total expense amount of **\$3,761,403**

This fiscal year the College anticipates a potential loss of **-\$198,403**

A percentage of budget **increase of 2.39%** compared with previous fiscal year.

MARCH 2019



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Agenda Item #: 11 d)
Topic: 5-year Financial Projection
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: Motion

Overview 5 Years Expenses\Revenue Forecast

Revenue	2019-2020 (Year1)	2020-2021 (Year2)	2021-2022 (Year3)	2022-2023 (Year4)	2023-2024 (Year5)
Administration Fee	\$45,600.00	\$45,600.00	\$45,600.00	\$45,600.00	\$45,600.00
Examination Fees	\$276,300.00	\$276,300.00	\$276,300.00	\$276,300.00	\$276,300.00
Other Income	\$75,500.00	\$75,500.00	\$75,500.00	\$75,500.00	\$75,500.00
Registration Fees	\$126,900.00	\$133,400.00	\$146,400.00	\$159,400.00	\$159,400.00
Renewal Fees	\$3,008,000.00	\$3,066,500.00	\$3,112,000.00	\$3,157,500.00	\$3,216,000.00
Grand Total	\$3,532,300.00	\$3,597,300.00	\$3,655,800.00	\$3,714,300.00	\$3,772,800.00

Expenses	2019-2020 (Year1)	2020-2021 (Year2)	2021-2022 (Year3)	2022-2023 (Year4)	2023-2024 (Year5)
Committee	\$900,500.00	\$814,050.00	\$784,611.00	\$760,183.22	\$740,766.88
Council	\$55,100.00	\$56,202.00	\$57,326.04	\$58,472.56	\$59,642.01
Information_ Technology	\$251,200.00	\$363,820.00	\$249,402.00	\$261,042.20	\$273,846.42
Operating_ Costs	\$498,300.00	\$535,215.00	\$569,175.75	\$591,115.75	\$628,988.54
Professional_ Services	\$126,000.00	\$128,620.00	\$131,367.40	\$134,248.50	\$137,269.91
Special_ Projects	\$315,000.00	\$250,000.00	\$260,000.00	\$250,000.00	\$250,000.00
Administrative Expenses2	\$1,501,516.00	\$1,576,561.48	\$1,622,958.32	\$1,670,747.07	\$1,719,969.49
Grand Total	\$3,647,616.00	\$3,724,468.48	\$3,674,840.51	\$3,725,809.30	\$3,810,483.25
		2.06%	-1.35%	1.37%	2.22%
Profit/Loss	-\$115,316.00	-\$127,168.48	-\$19,040.51	-\$11,509.30	-\$37,683.25

	2019-2020 (Year 1)	2020-2021 (Year 2)	2021-2022 (Year 3)	2022-2023 (Year 4)	2023-2024 (Year 5)
Opening Balance	\$4,122,838.44	\$2,507,522.44	\$2,380,353.96	\$2,361,313.45	\$2,349,804.14
Net Cashflow	▼ -\$115,316.00	▼ -\$127,168.48	▼ -\$19,040.51	▼ -\$11,509.30	▼ -\$37,683.25
Reserve	-\$1,500,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Closing Balance	\$2,507,522.44	\$2,380,353.96	\$2,361,313.45	\$2,349,804.14	\$2,312,120.90

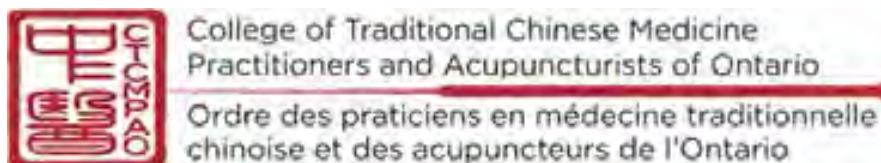
Reserve	
Internally Restricted for Complaints and Discipline	\$1,000,000.00

Internally Restricted for General Contingency	\$200,000.00
Internally Restricted Abuse and Therapy funds	\$40,000.00
Internally Restricted for Strategic Initiatives	\$260,000.00
Total Reserve	\$1,500,000.00



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Agenda Item #: 11 e)
Topic: 2019-2020 5-year Financial Projection
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: Motion



5 Years Financial Projection 2019-2023 Summary

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario

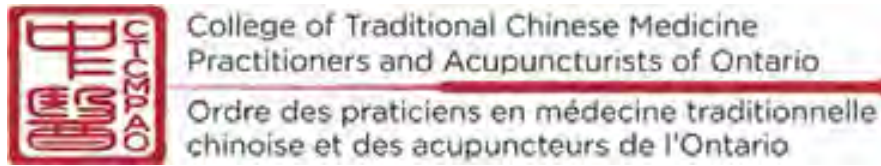
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College of Traditional Chinese Medicine
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3.2.1 Expenses Projection	7
3.2.2 Strategic Plan Considerations	9
3.4 Reserve Funds ***	10
3.5 Revenue Projection	11



1. Purpose

Objective of this document is to provide a 5-year financial projection for the CTCMPAO.

The financial projection model described is based on various assumptions concerning future revenue and expenditure expectations. These assumptions are based on historical data, future enrollment trends of members, required staffing levels, estimated Consumer Price Index (CPI) increases, and the objectives of the proposed College Strategic Plan.

This financial forecast is not to be viewed as a static document, but as a dynamic document to be reviewed and potentially updated each year with the objective to facilitate the growth and progression of the College.

This document will be presented to the Executive Committee and Council on March 26th, 2019.

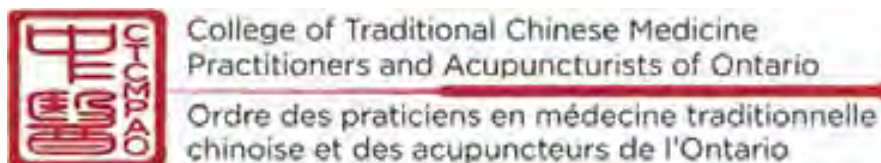
2. Current Situation and Assumptions

2.1 Opening Balance

As of January 31, 2019 (end of 2017-2018 Fiscal Year) the Closing Bank Balance is equal to **\$4,571,755.55**

Membership revenue that is projected to be collected within February and March 2019 is not considered since it will be deferred to the next fiscal year.

By averaging the expenses by month, for our projection, the opening balance to be considered is **\$ 4,122,838.44.**



2.2 Membership Fee

The projection will mainly focus on the Annual Renewal fee variance since it represents over 85% of our revenue.

For the 2019-2020 fiscal year the College collected **\$1,300** dollars from each Active member (not including inactive certificate of registration).

2.3 Projection Model

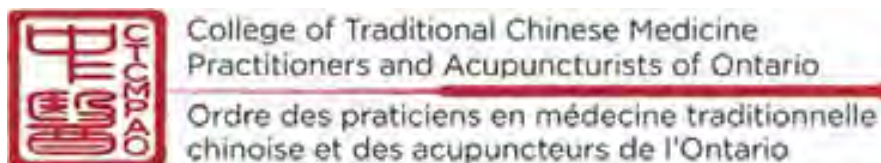
The financial projection model described is based on various assumptions concerning future revenue and expenditure expectations. These assumptions are based on historical data, future enrollment trends of members, required staffing levels, and the objectives of the proposed 2018-2021 College Strategic Plan.

3. Financial Projection

As stated earlier, several factors were considered in the analysis of the 5-year financial projection.

Below are some of the most important factors that will be discussed in more detail in the following pages:

1. Membership growth projection
2. Expenses Projection
3. Strategic Plan
4. Reserve Funds
5. Revenue Projection



3.1 Membership Growth Projection

The majority of the revenue collected by the College is its annual renewal. Therefore, the number of active members registered with the College in any given year directly impacts the College's financial stability.

In simple words,

$$\text{COLLEGE REVENUE (85\%)} = \text{NUMBER OF MEMBERS} * \text{ANNUAL RENEWAL FEE}$$

It is critical to understand and project how the membership will increase or decrease.

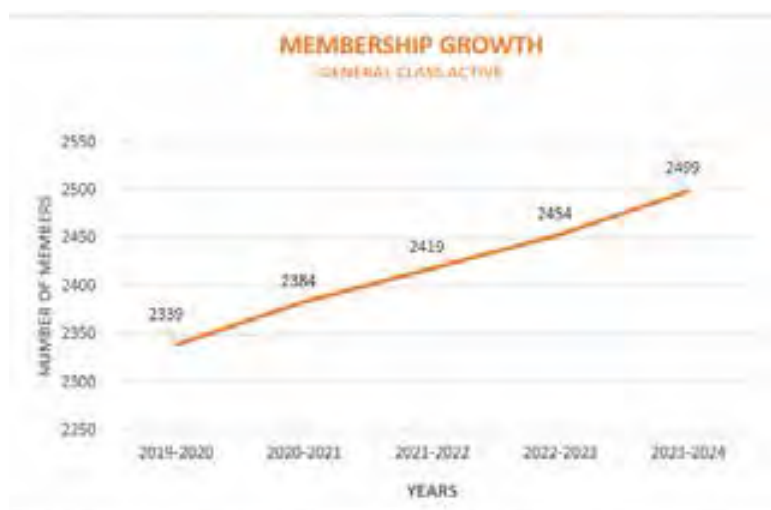
Year 1 shows the number of member we lost due to the expiry of the Grandparent certificate of registration, subsequent years will show zero values.

Other categories include loss from investigations, resignation, suspension, etc., these values have been projected based on historical data and averaged out.

New Registration is also being predicted based on historical data, for example the number of people taking the Pan Canadian exam with a successful result and registering with the College. The number raises slightly every year.

Estimated Membership Variance in Numbers	2019-2020 (Year 1)	2020-2021 (Year 2)	2021-2022 (Year 3)	2022-2023 (Year 4)	2023-2024 (Year 5)
Loss From Investigations	▼ -10	▼ -10	▼ -15	▼ -15	▼ -15
New Registrations	▲ 95	▲ 100	▲ 110	▲ 120	▲ 120
Resignation, Suspension, Revocation, etc.	▼ -10	▼ -40	▼ -50	▼ -60	▼ -60

HIGHLIGHTS



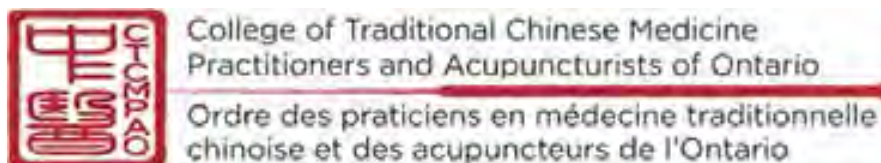
- Average loss of membership is 50 per year
- Average new Registrations is 100 per year
- ~ + 50 members per year



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Below is the detail analysis of the membership growth

Item	Description	2019-2020 (Year 1)	2020-2021 (Year 2)	2021-2022 (Year 3)	2022-2023 (Year 4)	2023-2024 (Year 5)
General Class	Application	110	110	110	110	110
General Class	Initial Registration	95	100	110	120	120
General Class	Annual Renewal	2339	2384	2419	2454	2499
Inactive Class	Application	10	10	10	10	10
Inactive Class	Annual Renewal	50	50	50	50	50
Student Class	Application	15	15	15	15	15
Student Class	Initial Registration	15	15	15	15	15
Student Class	Annual Renewal	10	10	10	10	10
Professional Corporations	Application	5	5	5	5	5
Professional Corporations	Initial Registration	2	2	2	2	2
Professional Corporations	Annual Renewal	5	5	5	5	5
Examinations	Application	200	200	200	200	200
Examinations	TCM Written	90	90	90	90	90
Examinations	TCM Clinical	50	50	50	50	50
Examinations	ACU Written	150	150	150	150	150
Examinations	ACU Clinical	110	110	110	110	110
Examinations	Rescore Written	15	15	15	15	15
Examinations	Rescore Clinical	13	13	13	13	13
Other	Transfer To Another Class	20	20	20	20	20
Other	Reinstatement	10	10	10	10	10
Other	Safety Program	90	90	90	90	90
Other	Jurisprudence Program	90	90	90	90	90
Other	Duplicate Certificate	50	50	50	50	50
Other	Letter of Standing	10	10	10	10	10
Other	Request for Application Documentation	5	5	5	5	5
Other	Service Charge for Declined Payment	2	2	2	2	2
Other	General Class Renewal Late Fee	30	30	30	30	30
Other	Inactive Class Renewal Late Fee	10	10	10	10	10
Other	Student Class Renewal Late Fee	0	0	0	0	0
Other	Prof Corporation Renewal Late Fee	0	0	0	0	0



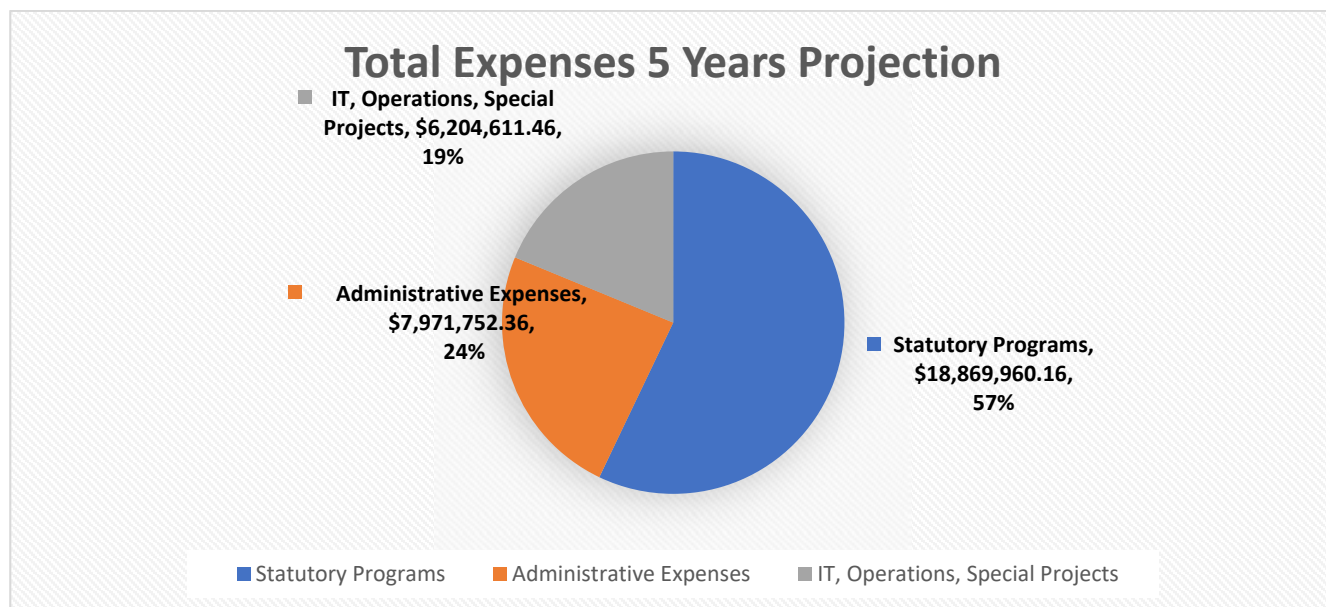
3.2 Expense Projections and Strategic Plan

3.2.1 Expenses Projection

Expense projections have been forecasted using historical data as a base figure, integrating the proposed strategic plan and the activities that ensure the College fulfills its mandate.

The below grid displays the summary of expenses and the percentage allocated during the projection

Average Amount Expenses per Year: 3.65 million



HIGHLIGHTS

Statutory Programs: 24%

Administrative Expenses: 42%

IT, Operations and Special Projects: 34%



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Details of Expenses

Category	Description	2019-2020 (Year1)	2020-2021 (Year 2)	2021-2022 (Year 3)	2022-2023 (Year 4)	2023-2024 (Year 5)
Council	Council	\$55,100.00	\$56,202.00	\$57,326.04	\$58,472.56	\$59,642.01
Committee	Executive	\$27,500.00	\$28,050.00	\$28,611.00	\$29,183.22	\$29,766.88
Committee	Registration & Panel	\$50,000.00	\$30,000.00	\$20,000.00	\$15,000.00	\$15,000.00
Committee	ICRC	\$210,000.00	\$200,000.00	\$180,000.00	\$160,000.00	\$140,000.00
Committee	Quality Assurance	\$115,000.00	\$56,000.00	\$56,000.00	\$56,000.00	\$56,000.00
Committee	Patient Relation	\$48,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
Committee	Discipline	\$425,000.00	\$425,000.00	\$425,000.00	\$425,000.00	\$425,000.00
Committee	Fitness To Practice	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
Committee	Examination	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
Committee	Presidential Duties	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00
Special_Projects	Pan-Canadian Examinations	\$180,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00
Special_Projects	Doctor Title	\$85,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00
Special_Projects	Strategic Planning	\$0.00	\$0.00	\$10,000.00	\$0.00	\$0.00
Special_Projects	School Program Approval	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
Information_Technology	Equipment Expenses	\$6,000.00	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
Information_Technology	Software Expenses	\$149,000.00	\$250,000.00	\$125,000.00	\$125,000.00	\$125,000.00
Information_Technology	Maintenance and Support Contracts	\$49,200.00	\$54,120.00	\$59,532.00	\$65,485.20	\$72,033.72
Information_Technology	Onlines Services	\$42,000.00	\$46,200.00	\$50,820.00	\$55,902.00	\$61,492.20
Information_Technology	Network Security	\$5,000.00	\$5,500.00	\$6,050.00	\$6,655.00	\$7,320.50
Professional_Services	General Legal Fees	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00
Professional_Services	Unauthorized Practice & Litigation	\$25,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
Professional_Services	Accounting/Payroll/Audit	\$50,000.00	\$52,500.00	\$55,125.00	\$57,881.25	\$60,775.31
Professional_Services	Translation	\$15,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
Professional_Services	Expert Consultation\Recruiting	\$6,000.00	\$6,120.00	\$6,242.40	\$6,367.25	\$6,494.59
Administrative Expenses	Staff Salary and Benefits	\$1,501,516.00	\$1,546,561.48	\$1,592,958.32	\$1,640,747.07	\$1,689,969.49
Administrative Expenses	Part-time Staff	\$0.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00
Operating_Costs	General Operating Costs	\$258,300.00	\$271,215.00	\$284,775.75	\$284,775.75	\$299,014.54
Operating_Costs	Payment Gateway for Credit Card Transactions	\$100,000.00	\$110,000.00	\$115,000.00	\$120,000.00	\$125,000.00
Operating_Costs	Subscriptions and Conferences	\$90,000.00	\$99,000.00	\$108,900.00	\$119,790.00	\$131,769.00
Operating_Costs	Communications and Publications	\$50,000.00	\$55,000.00	\$60,500.00	\$66,550.00	\$73,205.00
Total		\$3,647,616.00	\$3,724,468.48	\$3,674,840.51	\$3,725,809.30	\$3,810,483.25



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3.2.2 Strategic Plan Considerations

Accordingly, with the *Strategic Planning Session* held on March 5th, 2018 and strategic priorities and key activities proposed, funds have been allocated to the approved activities and scoped within the 5 years projection

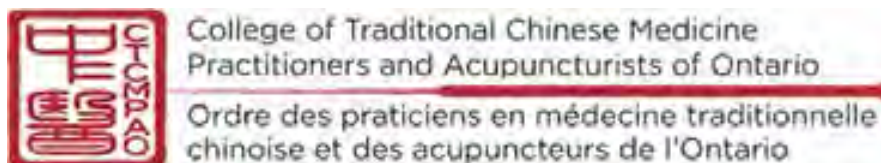
Practitioner Competence (*Strategic Plan 2018-2021*):

Enhance Quality Assurance Program and continuing education opportunities (Strategic Plan 2018-2021)

- ~ \$400,000 dollars allocated within 5 years

Public Confidence (*Strategic Plan 2018-2021*):

- *Identify program approval criteria & initiate process to ensure education of competent practitioners*
\$250,000 dollars allocated within 5 years
- *Implement class of members that can use the Dr. title –ensure excellence in competence*
~ \$500,000 dollars allocated within 5 years



3.4 Reserve Funds ***

The purpose of the reserve fund is to build and maintain an adequate level of net assets to support the College in the event of unforeseen shortfalls.

Below is the proposal to designate a portion of the College net assets for certain purposes

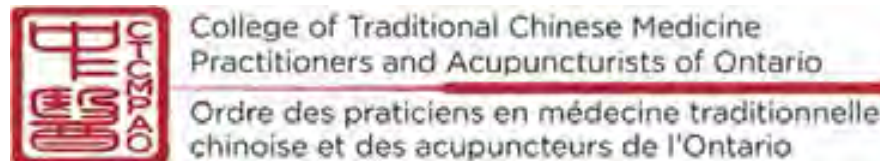
Proposal for segregation of a portion of the College asset

Reserve	
Internally Restricted for Complaints and Discipline	\$1,000,000.00
Internally Restricted for General Contingency	\$200,000.00
Internally Restricted Abuse and Therapy funds	\$40,000.00
Internally Restricted for Strategic Initiatives	\$260,000.00
Total Reserve	\$1,500,000.00

“Reserve Fund” means a fund that is segregated and reserved to meet a specified purpose.

*** A reserve policy has not yet been approved or presented.

*** An operating reserve funds policy has not yet been approved or presented.



3.5 Revenue Projection

The table below describe the projected revenue for the next 5 years. As stated earlier the main the focus of the projection needs to be focus on the Annual Renewal revenue which is directly connected with the membership growth.

The Annual Renewal projection revenue has been calculated with the assumption that annual renewal fee will remain at \$1300 for the next 4 years, likewise all other fees will remain unchanged. As you can see some of the projected revenue remains constant during the years, the reason is that we do not predict changes that may significantly impact the total revenue (please refer to Membership Growth table).

The increase in annual renewal revenue each year is based on the projected growth of our membership.

On a note, it is important to understand that projections are estimates and they assume that the existing pattern (membership growth) continues in the future.

Revenue <input type="button" value="v"/>	2019-2020 (Year1)	2020-2021 (Year2)	2021-2022 (Year3)	2022-2023 (Year4)	2023-2024 (Year5)
Administration Fee	\$45,600.00	\$45,600.00	\$45,600.00	\$45,600.00	\$45,600.00
Examination Fees	\$276,300.00	\$276,300.00	\$276,300.00	\$276,300.00	\$276,300.00
Other Income	\$75,500.00	\$75,500.00	\$75,500.00	\$75,500.00	\$75,500.00
Registration Fees	\$126,900.00	\$133,400.00	\$146,400.00	\$159,400.00	\$159,400.00
Renewal Fees	\$3,008,000.00	\$3,066,500.00	\$3,112,000.00	\$3,157,500.00	\$3,216,000.00
Grand Total	\$3,532,300.00	\$3,597,300.00	\$3,655,800.00	\$3,714,300.00	\$3,772,800.00



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Below is a detailed view of the projected revenue

Category	Item	Description	2019-2020 (Year 1)	2020-2021 (Year 2)	2021-2022 (Year 3)	2022-2023 (Year 4)	2023-2024 (Year 5)
Administration Fee	General Class	Application	\$27,500.00	\$27,500.00	\$27,500.00	\$27,500.00	\$27,500.00
Registration Fees	General Class	Initial Registration Q1	\$123,500.00	\$130,000.00	\$143,000.00	\$156,000.00	\$156,000.00
Renewal Fees	General Class	Annual Renewal	\$2,990,000.00	\$3,048,500.00	\$3,094,000.00	\$3,139,500.00	\$3,198,000.00
Administration Fee	Inactive Class	Application	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Renewal Fees	Inactive Class	Annual Renewal	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00
Administration Fee	Student Class	Application	\$750.00	\$750.00	\$750.00	\$750.00	\$750.00
Registration Fees	Student Class	Initial Registration Q1	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
Renewal Fees	Student Class	Annual Renewal	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
Administration Fee	Professional Corporations	Application	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
Registration Fees	Professional Corporations	Initial Registration Q1	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00
Renewal Fees	Professional Corporations	Annual Renewal	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
Examination Fees	Examinations	Application	\$70,000.00	\$70,000.00	\$70,000.00	\$70,000.00	\$70,000.00
Examination Fees	Examinations	TCM Written	\$49,500.00	\$49,500.00	\$49,500.00	\$49,500.00	\$49,500.00
Examination Fees	Examinations	TCM Clinical	\$27,500.00	\$27,500.00	\$27,500.00	\$27,500.00	\$27,500.00
Examination Fees	Examinations	ACU Written	\$67,500.00	\$67,500.00	\$67,500.00	\$67,500.00	\$67,500.00
Examination Fees	Examinations	ACU Clinical	\$38,500.00	\$38,500.00	\$38,500.00	\$38,500.00	\$38,500.00
Examination Fees	Examinations	Rescore Written	\$750.00	\$750.00	\$750.00	\$750.00	\$750.00
Examination Fees	Examinations	Rescore Clinical	\$4,550.00	\$4,550.00	\$4,550.00	\$4,550.00	\$4,550.00
Administration Fee	Other	Transfer To Another Class	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00
Administration Fee	Other	Reinstatement	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
Examination Fees	Other	Safety Program	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00
Examination Fees	Other	Jurisprudence Program	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00	\$9,000.00
Administration Fee	Other	Application For Variation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Administration Fee	Other	Duplicate Certificate	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
Administration Fee	Other	Letter of Standing	\$750.00	\$750.00	\$750.00	\$750.00	\$750.00
Administration Fee	Other	Request for Application Documentation	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
Administration Fee	Other	Service Charge for Declined Payment	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
Administration Fee	Other	General Class Renewal Late Fee	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
Administration Fee	Other	Inactive Class Renewal Late Fee	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Administration Fee	Other	Student Class Renewal Late Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Administration Fee	Other	Prof Corporation Renewal Late Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Income	Other	Cost Orders	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
Other Income	Other	Interest (Bank)	\$55,000.00	\$55,000.00	\$55,000.00	\$55,000.00	\$55,000.00
Other Income	Other	Sundry	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Total			\$3,532,300.00	\$3,597,300.00	\$3,655,800.00	\$3,714,300.00	\$3,772,800.00



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Agenda Item #: 12 a)
Topic: Statement of Operations 4th Quarter
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: FYI

UNAUDITED College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario
Statement of Operations

4th Quarter April 2018 - March 2019

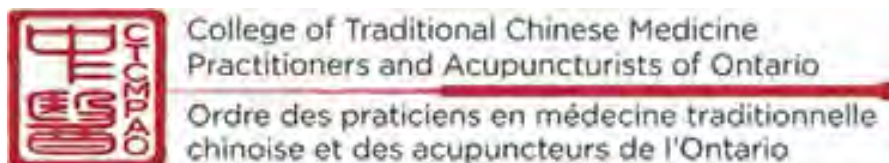
		Actuals of Q4 2018-2019	Annual Budget 2018-2019	Actual to Budget %	Budget Remaining (balance of Year)	Comment
GL Code	Revenue					
4101000	Registration Fees	\$ 101,539.09	\$ 86,351.00	117.59%	\$ (15,188.09)	Gen. Class, Inactive, Student, Corporation
4102000	Renewal Fees	\$ 2,589,801.09	\$ 2,532,830.00	102.25%	\$ (56,971.09)	Gen. Class, Inactive, Student, Corporation
4200000	Administration Fees	\$ 72,070.88	\$ 55,198.00	130.57%	\$ (16,872.88)	Application Fee, Late Fee, Transfer Fee, Other
4300000	Pan Can Examination Fees	\$ 344,550.00	\$ 251,000.00	137.27%	\$ (93,550.00)	Written, Clinical, Rescore, Application Fee,
4500000	Other Fees	\$ 36,547.44	\$ 18,190.00	200.92%	\$ (18,357.44)	Safety, Jurisprudence, Handbooks
4600000	Other Income	\$ 101,201.63	\$ 60,000.00	168.67%	\$ (41,201.63)	Cost Orders, Interest, Sundry
	Total Income	\$ 3,245,710.13	\$ 3,003,569.00	108.06%	\$ (242,141.13)	
GL Code	Expenses					
	Council & Committees	\$ 653,368.37	\$ 1,153,800.00	56.63%	\$ 500,431.63	
6100000	Council	\$ 40,963.53	\$ 34,800.00	117.71%	\$ (6,163.53)	Per Diem, Travel, Meals, Legal, etc.
6201000	Executive Committee	\$ 10,368.02	\$ 13,000.00	79.75%	\$ 2,631.98	Per Diem, Travel, Meals, Legal, etc.
6202000	Registration Committee and Panel	\$ 86,763.26	\$ 50,000.00	173.53%	\$ (36,763.26)	Per Diem, Travel, Meals, Legal, etc.
6203000	ICRC Committee	\$ 178,404.26	\$ 290,000.00	61.52%	\$ 111,595.74	Per Diem, Travel, Meals, Legal, etc.
6204000	Quality Assurance Committee	\$ 26,855.29	\$ 180,000.00	14.92%	\$ 153,144.71	Per Diem, Travel, Meals, Legal, etc.
6205000	Patient Relations Committee	\$ 4,354.40	\$ 50,000.00	8.71%	\$ 45,645.60	Per Diem, Travel, Meals, Legal, etc.
6206000	Discipline Committee	\$ 304,619.61	\$ 529,000.00	57.58%	\$ 224,380.39	Per Diem, Travel, Meals, Legal, etc.
6207000	Fitness to Practice Committee	\$ -	\$ 5,000.00	0.00%	\$ 5,000.00	Per Diem, Travel, Meals, Legal, etc.
6208000	Examination Appeals Committee	\$ 1,040.00	\$ 2,000.00	52.00%	\$ 960.00	Per Diem, Travel, Meals, Legal, etc.
6300000	Professional Services	\$ 138,699.95	\$ 197,000.00	70.41%	\$ 58,300.05	
6301000	Legal Fees	\$ 60,705.73	\$ 140,000.00	43.36%	\$ 79,294.27	Legal Counsel, Unauthorized Practice
6302000	Accounting Fee	\$ 56,762.20	\$ 45,000.00	126.14%	\$ (11,762.20)	Bookkeeping, Payroll, Auditing
6303000	Other Fees	\$ 21,232.02	\$ 12,000.00	176.93%	\$ (9,232.02)	Translation Services, Recruiting, Consultation
6400000	Special Programs/Projects	\$ 285,375.09	\$ 245,000.00	116.48%	\$ (40,375.09)	
6401000	Pan-Canadian Examinations	\$ 203,941.45	\$ 95,000.00	214.68%	\$ (108,941.45)	ASI, Per Diem, Travel, Meals, etc.
6402000	Doctor Title	\$ 81,433.64	\$ 100,000.00	81.43%	\$ 18,566.36	Per Diem, Travel, Meals, Consultant, etc.
6403000	Strategic Planning	\$ -	\$ -	0.00%	\$ -	Consultant
6404000	School Program Approval	\$ -	\$ 50,000.00	0.00%	\$ 50,000.00	
6500000	Salaries and Benefits	\$ 1,352,049.08	\$ 1,376,993.00	98.19%	\$ 24,943.92	
6500000	Salaries and Benefits	\$ 1,352,049.08	\$ 1,376,993.00	98.19%	\$ 24,943.92	Salaries, Benefits, CPP, EI RRSP, EHT
6600000	Information Technology	\$ 150,621.13	\$ 251,300.00	59.94%	\$ 100,678.87	
6602000	Equipment Expenses	\$ 1,447.71	\$ 6,000.00	24.13%	\$ 4,552.29	PC, Monitors, Printer, Modem, etc.
6603000	Software Development	\$ 60,520.30	\$ 158,000.00	38.30%	\$ 97,479.70	Database Development, Web Development
6604000	Maintenance and Support Contracts	\$ 54,802.95	\$ 52,000.00	105.39%	\$ (2,802.95)	Backup and Server Management, Monthly
6605000	Online Services	\$ 27,685.92	\$ 35,300.00	78.43%	\$ 7,614.08	Printing, etc.
6606000	Network Security	\$ 6,164.25	\$ -	0.00%	\$ (6,164.25)	Cloud Server, WDSERVITNOW
6700000	Operating Expenses	\$ 362,165.34	\$ 449,400.00	80.59%	\$ 87,234.66	
6701000	General Operating Costs	\$ 226,291.82	\$ 244,700.00	92.48%	\$ 18,408.18	
6702000	Payment Gateway	\$ 97,774.49	\$ 91,200.00	107.21%	\$ (6,574.49)	Moneris service charges at around 2.7%
6703000	Subscriptions and Conferences	\$ 36,853.68	\$ 60,000.00	61.42%	\$ 23,146.32	
6704000	Communications and Publications	\$ 1,245.35	\$ 53,500.00	2.33%	\$ 52,254.65	
45	Total Expenses	\$ 2,942,278.96	\$ 3,673,493.00	80.09%		
46	Net Income	\$ 303,431.17	\$ 669,924.00			

Authorized Signature: _____



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Agenda Item #: 12 b)
Topic: Highlights and Points of Interest – 4th Quarter
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: FYI



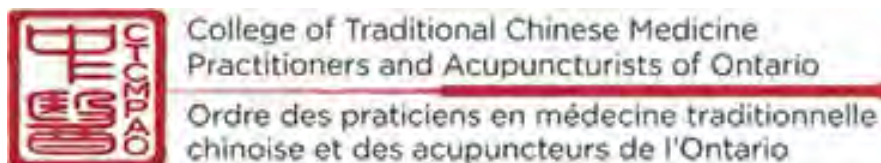
Financial Statements

4th Quarter

April 2018 – March 2019

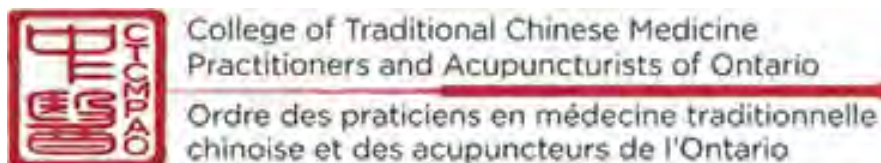
Highlights and Points of interest

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario



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What is a Balance Sheet?

The balance sheet presents a company's financial position at the end of a specified date. The balance sheet can be described as a “snapshot” of the financial position of the organization at a point in time.

For example, the amounts reported on a balance sheet dated March 31, reflect that instant when all the transactions *through March 31* have been recorded.

The major components of the Balance Sheet are: **Assets, Liabilities and Equity**

Assets: Assets are the resource with economic value that the company owns or controls. It will provide benefits to the company. (for example: Cash, Account Receivable, Prepaid Expenses, Fixed Assets, etc.)

Liabilities: Liabilities are obligations or financial debt of the company that requires the company to give up an economic benefit to settle past transactions or events. (for example: Account Payable, Deferred Revenue, Accrued Expenses, etc.)

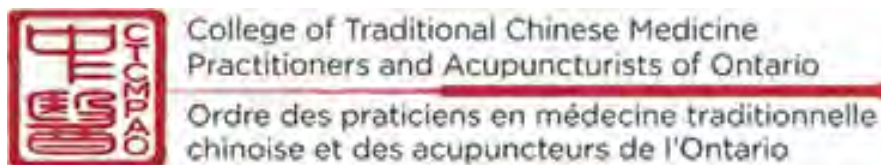
Equity: Equity states the value left over for shareholders if a company would utilize its assets to meet the liability obligations. The accounting equation is: Assets minus Liabilities equals Equity

What is a Profit & Loss Statement?

The Profit & Loss statement is a financial statement that summarizes the revenue, expense that incurred over a particular period. The purpose of the profit and loss statement is showing whether the company earned or lost money during the period being reported.

Under the accrual basis of accounting, the profit and loss statement consisted of:

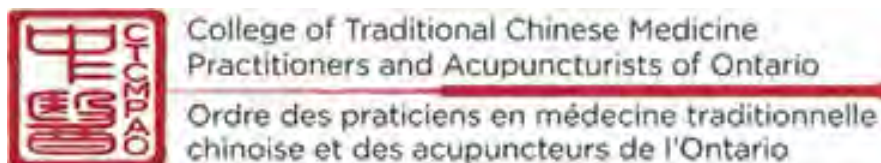
- the **revenues** (sales, service fees) that were *earned* during the accounting period, and
- the **expenses** (salaries, rent, legal fee etc.) that *match* the revenues being reported or *have expired* during the accounting period
- the **profit** is the financial benefit when the amount of revenue exceeds the amount of expense. Profit is calculated as revenues minus expenses.



What is a Statement of Operations

The statement of operations **summarizes** a company's *revenues* and *expenses* over the entire reporting period.

The Statement of Operations measures the budget variance between budgeted and actual figures. In expense section, a favorable budget variance refers to positive variances or gains, and unfavorable variance refers to a negative budget variance or shortfall; it's on the opposite under revenue section, a favorable various refers to a negative variance, and unfavorable variance refers to a positive variance.



1. Background

To provide an overview of the highlights and major point of interest defined in the provided Financial Statements (*Balance Sheet, Profit & Loss and Statement of Operations*) for the 4th Quarter of the 2018-2019 fiscal year (April 2018-March 2019).

Variance between Actuals and Annual Budget prediction is compared with the assumption that a quarter value has a 25% cap.

For example, for the third quarter we expect expenses or revenue close to 75% will indicate that we are on target, any expenses or revenue less or greater than 75% indicates over budget or underbudget.

<i>First Quarter – 25%</i>	<i>Second Quarter – 50%</i>	<i>Third Quarter - 75%</i>	<i>Fourth Quarter – 100%</i>
----------------------------	-----------------------------	----------------------------	------------------------------

Having said that, there are few exceptions to take in consideration. For example, our main source of revenue is collected between Feb-March of the current calendar year and is deferred to the first quarter of the new fiscal year, that means the actual revenue will far exceed the 25% percent expectation of a first quarter.

Same exceptions may also apply for item line expenses, where the bulk of the expense (for example Audit) is incurred in one single quarter.

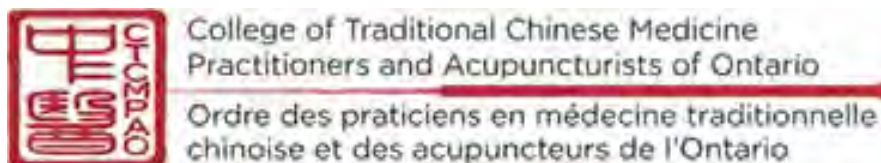
2. Balance Sheet

2.1 Point of Interests for 4th Quarter Balance Sheet

Current Assets:

The College has 3 Bank Accounts, each one of them with its own purpose:

1. Investment Account: This is the total amount of “cash” owned by the College.
As per December 31,2018 the college owns **\$ 4,777,333.35 (already reconciled with checks not cashed out)**
2. Cheque Account: This is the account used to pay all our creditors.
3. Savings Account: This account holds all revenue generated from Credit Card transactions and Money Orders. Moneris (our payment gateway) transfers on a daily basis all CC generated revenue directly to this account, the College deposits money orders and/or cheques every 2 weeks.



4. Every 2 Weeks, the savings account is cleared and the funds are transferred to the Checking Account to be used to pay our creditors. Most often further funds are required and the difference is transferred from the Investment Account.

Other Current Assets:

2.2 Cost Orders

The College has a total amount of Cost Orders receivable for the amount of **\$287,630.20** (including doubtful allowance), this is the total amount of ordered to the College for all adjudicated matters.

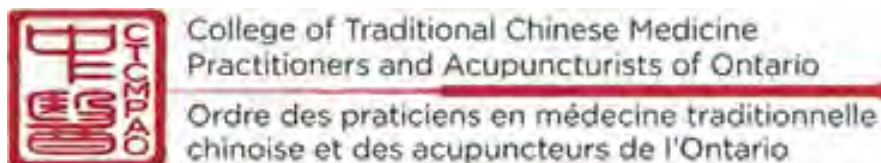
During the fourth quarter a total of **\$145,500.00** in cost orders was granted to the College. However, the actual amount recovered was of **\$4,500.00**

Name	Cost Orders awarded in Q4	Collected in Q4
Nathalie Xian Xi Yan	\$ 65,000.00	\$0.00
Alan Canon	\$ 20,000.00	\$0.00
Svetlana Sheina	\$ 500.00	\$500.00
Mark Lannard	\$ 28,299.90	\$0.00
Dan Micu		\$1,500.00
Yu-Zhen Ma		\$2,500.00
TOTAL	\$113,799.90	\$4,500.00

Below is a list of currently cost orders outstanding balances:

Name	Outstanding Balance
1102022 · Cost Order Jie Dong Wang	\$ 2,065.15
1102029 · Cost Order Ebrahim Taeb	\$ 750.00
1102030 · Cost Order Kui Li	\$ 3,500.00
1102038 · Cost Order Dan Micu	\$ 51,000.00
1102041 · Cost Order Xiao Chun Xu	\$ 3,000.00
1102044 · Cost Order Chenghua Zhan	\$ 7,500.00
1102047 · Cost Order Nathalie Xian Xi Yan	\$ 65,000.00
1102048 · Cost Order Alan Canon	\$ 20,000.00
1102052 · Cost Order Diana Turevski	\$ 10,000.00
1102053 · Cost Order Yatwah Cheung	\$ 60,000.00
1102054 · Cost Order George Li	\$ 120,000.00
1102055 · Cost Order Mark Lannard	\$ 28,299.90
TOTAL	\$ 371,115.05

Note : George Li and Nathalie Xian Xi Yan matters are under appeal.



NOTE: Philipp Tran cost award (**\$105,000**) and FOTCMA cost award (**\$110,815.05**) are not included in the previous table since they have been added to the balance sheet as allowance for doubtful account.

Fixed Assets

Fixed assets are long-term tangible or intangible properties that the College owns to generate income. For the College, fixed assets consist of furniture and equipment, computer, leasehold improvements, and software.

The fixed asset's value decreases as they age, they are subjected to periodic depreciation. The net value (book value of a fixed assets minus depreciation) of fixed asset represents the asset's long-term value.

Liabilities

Current liabilities are the debts or obligations due within a year. On our Balance Sheet, the balance of the current liabilities is **\$3,178,074.24**. The balance includes the deferred Annual Renewal for the 2018-2019 fiscal Year, accrued liabilities, credit card and account payables liability. Please refer to the P&L for the breakdown.

3. Profit & Loss

3.1 Point of Interests for 4th Quarter Profit & Loss

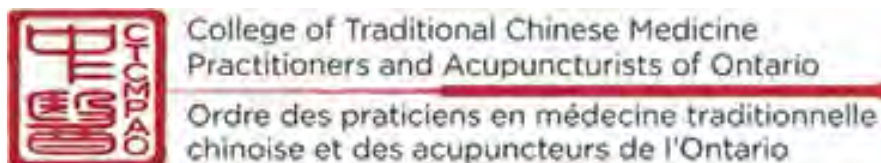
Revenue

As of March 31, 2019, the College's revenue totaled **\$3,245,710.13**. The amount consists of membership, administration and exams revenue **\$3,144,508.50** and other income **\$101,201.63** (Cost Orders & Bank Interest).

Revenue slightly exceeded the College budgeted predictions. Active renewals being our main source of income topped our initial expectations, see table below:

Active General Class Members	2320
Active Students	19
Inactive Members	47

Revenue is a **108.06%** of the projected budget, as per March 31, 2019 (not including deferred Annual Renewal revenue).



Expense

Expenses are mainly underbudget. Registration Committee and Panel is slightly overbudget due to the increased number of referrals to the committee which includes meeting time and legal fees.

4. Statement of Operations

4.1 Point of Interests for 4th Quarter Statement of Operations

Individual budget items considerations:

The items are numbered according to the Statement of Operations for ease of cross reference.

Overall College revenue exceeded projection by 8.06% for a total of \$242,141.13. Candidates taking the Safety and Jurisprudence exams doubled to a 200.92%. However, every revenue item exceeded projection.

Expenses are 20% below budget at 80.09%, the biggest savings are visible in Council and Committees with 500k savings.

(Note: For easy of reference refer to the first column on the Statement of Operations)

4102000: Revenue – Renewal Fees

Annual Renewal fees were collected in bulk during the February-March period of 2018 and the revenue was deferred to the 2018-2019 fiscal year. We did not have any historical data to predict the exact number of Grandparented members transferring to the General class.

Annual Renewal fee collected was 2.25% more than expected (includes Active, Inactive, Students and Professional Corporations).

4300000: Revenue - Pan Canadian Examination Application Fee

More candidates applied for the Pan Canadian Examination test. We collected **37.27%** more than expected.

6202000: Expenses – Registration Committee and Panel

Registration Committee and Panel expenses were over budget by 73.53% of the annual budget. The main reason is due to the increased number of referrals to the Committee and consequently increased number of meeting and legal fees.



College of Traditional Chinese Medicine
Practitioners and Acupuncturists of Ontario
Ordre des praticiens en médecine traditionnelle
chinoise et des acupuncteurs de l'Ontario

6203000: Expenses – ICRC

The ICRC is under budget at **61.52%**, some of the nature of complaints regarded matters that did not require outside investigators. This year we received more complaints compared to previous year, however less resulted in discipline referrals.

6206000: Expenses – Discipline

Discipline is also under budget at **57.78%**. There have been more uncontested matters than in previous years, leading to shorter hearings.

6401000: Expenses – Pan Canadian Examinations

Pan Canadian examination expenses were greatly overbudget with 114.68% more than projected (please review details of expenses on the Profit & Loss document). YASI was over 125k and Per Diem, Accommodation, Travel at over 78k.

6404000: Expenses – School Program Approval

Nothing to report for the second quarter. Funds have not been used

6703000: Expenses – Subscriptions and Conferences

Currently at **55.80% of the annual budget**. The majority of the expenses are for membership fees to be involved with FHRCO and CARB-TCMPA.

6704000: Expenses – Payment Gateway

Over budget by **7.21%**. With the Safety, Jurisprudence, Pan Canadian now online more candidates are using the portal and consequently credit card processing.

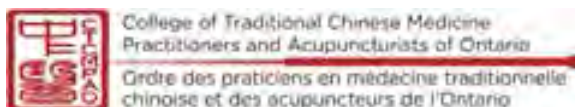
We are currently pay an average of 2.4% for each credit card transaction.

In summary, this year we managed to avoid any deficit and we concluded the fiscal year with a net income of over *300 hundred thousand dollars (\$303,433.77)*.



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Agenda Item #: 13 a), b)
Topic: Reserve Policy
Speaker: Francesco Ortale, Director IT, Finance & Corporate Services
Action: Motion



COUNCIL

Meeting Date:	June 20, 2019
Issue:	Reserve Policy
Reported By:	Stamatis Kefalianos
Action:	For Decision

Background:

The College demonstrates a relatively low order of risk when it comes to the source and predictability of operating revenue with steady and predictable funding. Almost 85% of the College's annual revenue is booked by April of each year ensuring the College can operate with a cash reserves while meeting monthly financial expenditure obligations throughout the year.

The College prepares financial statements in accordance with Canadian accounting standards for non-for-profit organizations. When it comes to revenue recognition the deferral method is applied where unrestricted contributions are recognized as income in the period they are earned. This revenue is classified as a combination of cash and investments on the balance sheet.

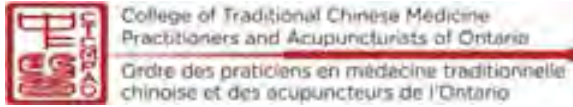
Since the College's inception it has accumulated surpluses. These funds have accumulated in the cash account under the classification of unrestricted reserves. In no case has the College set out to intentionally earn a profit from operations or to stockpile surplus cash without the intention to use the funds for a specific purpose such as to fund a program requirement, or to fund operating shortfalls. In this regard the College operates in compliance with Canadian Revenue Agency obligations.

It is important to note that accounting standards do not specify an amount of surplus cash that a not-for-profit can accumulate. The size of cash reserves depends on the particular not-for-profit business model and risk profile and the ability to demonstrate that reserves are not purposely being accumulated as profit for personally and unduly benefit staff or stakeholders.

An examination of other regulators has revealed effective practices to guide cash reserve fund approaches and address organizational operational risk. By way of background, staff looked at how other regulatory colleges classify their reserves.

This information is attached in Appendix B. In the list below, our College is not included.

- 13 of 24 Colleges maintain reserves for professional conduct
- 12 of 24 have reserves for funding of sexual abuse therapy
- 9 have reserves for strategic initiatives
- 8 have reserves for contingencies
- 7 have reserves for building/premises
- 4 have research reserves
- 3 have reserves for fee stabilization



COUNCIL

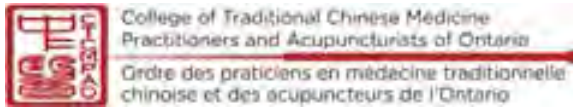
It is apparent that there is no “best practice”, although the reserve for professional conduct and funding for sexual abuse therapy appears to be most popular.

Some of the benefits of having a reserve policy include:

- Safeguard against cash-flow constraints during normal course of operations
- Have funds available to plan for future needs of the College such as office moves and renovations, legislation changes with require staff and infrastructure changes, and protect against legal actions
- Reserve levels are determined to support the mission and strategic objectives of the College
- Definitions and process are clear as to what reserves are intended for and the procedure on accessing the funds
- The reserves are within guidelines of legislation

The proposed Reserve Policy also fits within the College’s financial planning principles. As a recap for Council, the financial planning principles include:

1. Annual budgets shall generally reflect zero-based budgeting approach (i.e. all expenses must be justified and approved by Council for each fiscal year).
2. The annual operating budget shall be funded from the College’s annual operational revenue base generated by membership fees and investment income.
3. The annual budget must provide sufficient funding for operationalizing the College’s strategic and risk management priorities, including being sufficient to fulfill the College’s Vision, Mandate and Objects, including its core functions of registration, practice, quality assurance, complaints and discipline, public awareness, and any other legislated mandatory obligations, such as the public register, College website, and Sexual Abuse Prevention program.
4. The annual budget shall also provide sufficient funding for the College to carry out its governance functions, including the election of professional members and remuneration. The budget shall also provide funds for Council and ongoing College member and staff education activities.
5. In order to avoid the imposition of substantial membership fee increases, Council will formally review the need for revenue adjustments on a 5-year cycle beginning in 2019-20, and do a yearly review of the adequacy of fee revenues to meet the College’s need.
6. In accordance with standard accounting approaches, unrestricted reserve funds shall be maintained at an amount sufficient to cover at least six (6) months of annual operating expenses, unrestrictive reserve funds shall not exceed \$1.5 million over a five-year period.
7. College internally restricted reserve funds shall be maintained to cover extraordinary expenses relating to unforeseen legal costs that may arise. Internally restricted reserve funds can also be utilized to fund unforeseen emergency events and situations. The aggregate value of all internally restricted reserve funds shall not exceed \$3,000,000 (12 months of budgeted operating expenses).
8. The Colleges’ financial planning principles will be regularly reviewed, to ensure they remain valid and applicable.



COUNCIL

Maintaining sufficient balance sheet health protects the College's interest by enabling us to focus on the stability and continuity of day-to-day operations. Regulators routinely set aside a number of months' worth of operating expenses or a predetermined amount as a rule of thumb. It is important to note that no two regulators operations and risk profiles are alike. The College needs to adopt a unique restricted reserve policy to meet our specific needs and circumstances. A draft policy is outlined in Appendix A.

Council approval would be required to access reserve funds. Obtaining approval would involve the following steps:

1. Identification of the appropriate use of the fund

The Registrar and the Director, Finance and Corporate Services, in conjunction with Deputy Registrar, will identify the need for access to reserve funds and confirm that the use is consistent with the purpose as described in this policy. This requires analysis for the reason for the shortfall, the availability of any other sources of funds, and evaluation of the time period in which funds will be required and replenished.

2. Authority to use reserves

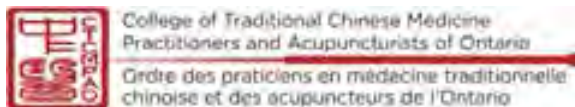
The Registrar, in conjunction with the Director, Finance and Corporate Services will submit a request to use the reserves to the Council upon the recommendation by the Executive Committee. The request will include a description of the analysis and determination of the use of funds as well as plans for replenishment to restore the reserves to the target minimum amount.

3. Reporting and Monitoring

The Registrar, in conjunction with the Director, Finance and Corporate Services, is responsible for ensuring that the reserve is maintained and used only as described in this policy. Upon approval for the use of the fund, the Director, Finance and Corporate Services, will record use of the fund and plan for replenishment and provide regular reports to the Executive and Council of progress to restore the fund to the target minimum amount.

Decision Sought:

Does Council approve the recommendation of the Executive to accept the Reserve Policy?



RESERVE POLICY – APPENDIX A

Purpose

The purpose of the reserve policy for the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario is to ensure the stability of the mandate, vision, employment and continuity of on-going operations of the organization, or to offset liabilities in the event of future catastrophic unknown costs.

Three classes of reserves:

1. Invested in Capital Assets
2. Net Assets Internally Restricted
3. Unrestricted Net Assets

Invested in Capital Assets

- This is equal to our actual Net Fixed Assets.

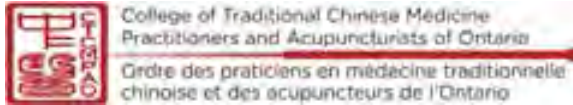
Net Assets Internally Restricted

- Internally restricted reserves are identified by specific need or strategic activity. These are funded based on estimates prepared by the College and can be adjusted as new information becomes available.
- Reserves can be added or retired as the operational needs of the College require, subject to Council approval.
- The College shall establish and maintain the following reserve funds: Investigation and Hearings Fund, Sexual Abuse Therapy Fund, Strategic Initiatives Fund, Contingency Reserve Fund, any other reserve funds as deemed appropriate by the Council.
- All transfers to and from reserve funds shall be approved by the Council upon recommendation of the Executive Committee, unless otherwise stated.
- The details of the funds are as follows:

a. Investigations and Hearings Reserve Fund

The Investigation and hearings Reserve fund is designated to cover costs, including legal costs, for the conduct of inquiries, investigations, discipline hearings, fitness to practice hearings, the Health Professions Appeal and Review Board registration appeals hearings and other hearings that may arise related to regulating the profession.

The amount to be maintained in this fund is \$1,000,000 or such other amount as may be determined by the Council.



COUNCIL

b. Sexual Abuse Therapy Fund

The Sexual Abuse Therapy Fund is designated to cover costs for funding for therapy and counselling.

The amount to be maintained in this fund is \$40,000 or such other amount as determined by the Council.

c. Strategic Initiatives Fund

The Strategic Initiatives Fund is designated to meet the anticipated future requirements of the College for strategic directions and key activities as outlined in the College's Strategic Plan.

The amount to be maintained in this fund is \$260,000 or such other amount as determined by the Council.

d. Contingency Reserve Fund

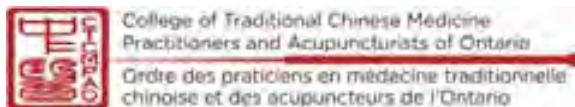
The Contingency Reserve Fund is designated to provide for extraordinary expenses that exceed or fall outside of the provisions of the College's operating budget and are not otherwise covered by the Investigations and Hearings Reserve Fund or to fund the College's obligations in extreme circumstances as determined and approved by the Council of the College including in the event that the College ceases to exist as a corporate statutory body.

The amount to be maintained in this fund is \$200,000 or such other amount as may be determined by the Council.

- The aggregate value of all internally restricted reserve funds shall not exceed \$3,000,000 (12 months of budgeted operating expenses) or such other amount as may be approved by the Council of the College.
- In the event there are surpluses in excess of this amount, the Executive Committee, will consider whether to recommend to Council means for reducing revenues or for increased spending in the service of the public, members and other stakeholders, in subsequent years.

Unrestricted Net Assets

- This is where residual funds available after each of the other funds has been met would be maintained. Operational surpluses or losses would be funded to/from this reserve.
- Unrestricted reserves funds shall be maintained at an amount sufficient to cover at least 6 months of budgeted operating expenses in a five-year projection or such other amount as may be approved by the Council of the College.



COUNCIL

Fund Access Authorization

- This policy will be reviewed annually by the Executive Committee. Changes to this policy are subject to the direction of the Council upon the recommendation of the Executive Committee.

MOTION

Appendix B

*figures were taken from each College's 2017 Annual Report financial statements

College	Invested in Capital Assets	Professional Conduct	Strategic Initiatives	Practice Research	Premises/ Building	Sexual Abuse	Contingency	Fee Stabilization	Unrestricted	Total Reserves	Revenue	Expenses	Reserves as a % of Operating Expenses	Audit Firm
Audiologists	124,124	300,000	200,000	150,000					1,032,863	1,806,987	2,958,629	2,781,837	65%	Hilborn
Chiropodists	30,574					10,000	120,000		766,507	927,081	1,404,489	1,150,846	81%	Hilborn
Chiropractors	3,315,063				2,848,044				4,799,896	10,963,003	4,983,383	4,158,172	219%	Tator, Rose, Leong
Dental Hygenists	552,539	2,000,000			1,000,000				4,663,623	8,216,162	5,633,429	4,268,031	192%	Hilborn
Dental Technologists	6,362	150,000	118,693			20,000			937,413	1,232,468	1,010,039	1,086,637	113%	Hilborn
Dentists	7,338,193		28,438,000						1,926,630	37,702,823	26,490,199	26,520,539	142%	Deloitte
Denturists	51,382	360,000				160,000			1,240,078	1,811,460	1,641,364	1,320,080	137%	Hilborn
Dietitians	232,086	162,000							1,718,174	2,112,260	2,567,819	2,203,781	96%	Hilborn
Kinesiologists	269,075	140,000			90,000	30,000			689,624	1,218,699	1,898,390	1,653,639	74%	Crowe Soberman
Massage Therapists	697,398	1,500,000	702,750	250,000					2,416,303	5,566,451	9,531,614	10,062,193	55%	Hilborn
Medical Laboratory	149,761	250,000		100,000		60,000	1,000,000	240,000	842,331	2,642,092	2,488,923	2,594,741	102%	Hilborn
Medical Radiation	931,211								1,757,505	2,688,716	3,431,910	3,614,982	74%	KPMG
Midwives	132,484					16,000			1,244,487	1,392,971	2,580,988	2,196,765	54%	Hilborn
Naturopaths	27,182		80,003			100,000			1,794,627	2,001,812	2,626,112	2,212,414	90%	Kriens Larose
Nurses	8,270,251								16,192,177	24,462,428	39,059,652	35,725,542	68%	Hilborn
Occupational Therapists	154,865	350,000			500,000	18,000	1,590,000		839,478	2,612,865	4,135,393	3,741,674	70%	Hilborn
Opticians	413,474		1,233,986		650,000	96,360	1,100,000			3,493,820	2,858,073	2,458,846	142%	Sevitt
Optometrists	181,233	200,000	400,000	50,000	2,000,000	30,000	20,000	100,000	1,653,718	4,634,951	2,588,026	2,336,243	198%	Tapp
Pharmacists	4,149,710	2,280,000					4,670,000	1,530,000	257,080	12,886,790	17,252,227	15,794,836	82%	Tinkham
Physicians	9,171,053				41,833,297				0	51,004,350	71,808,643	70,013,256	73%	Tinkham
Physiotherapists	719,349	1,000,000	750,000			100,000			3,862,813	6,432,162	5,775,780	6,234,217	103%	Hilborn
Psychologists	105,962						4,173,810		1,351,399	5,631,171	3,417,484	3,647,011	154%	Hilborn
Psychotherapists	578,404								711,047	1,289,451	3,023,097	2,886,526	45%	Crowe Soberman
Respiratory Therapists	239,454	150,000	484,684			20,000	500,000			1,394,138	1,717,611	2,005,355	70%	Hilborn
CTCMPAO	672,817								3,411,970	4,084,787	3,624,672	3,301,197	124%	Hilborn



COVER PAGE

Agenda Item #: 14 a), b), c), d), e), f)
Topic: Acting Registrar's Update
Speaker: Stamatis Kefalianos, Acting Registrar & CEO
Action: FYI



FOR: Information

SUBJECT: Acting Registrar's Report to Council – June 20, 2019

Registrar's Activities

The following provides an overview of the Acting Registrar's activities since the last Council meeting on March 25 & 26, 2019.

Operational Matters

I. Interaction with Registrants and Members of the public

- The College continues to communicate regularly with members and stakeholders through email notifications, annual reports, Twitter and Facebook. In addition, we regularly assist members and stakeholders via email and telephone.

College published a new Qi Newsletter for members on May 31. The issue provided an update on the recent election of a new President and Executive Committee, changes to the Office of the Registrar, and important information regarding the definition of a patient within the context of sexual abuse. The newsletter also highlighted important updates on the prevention of fraud and identity theft and professional corporations.

II. Programs and Projects

- The College launched a survey among registrants and the public on May 23, 2019 regarding a Doctor Class. The College has contracted R.A. Malatest and Associates Ltd., a national survey and opinion research firm to conduct this important research. The survey will end June 14, 2019 and the survey results will be reported at the next Council meeting.

III. Staffing

- It is with regret that I inform you that Michele Pieragostini has accepted another position and her last day at the College will be June 28. We wish her well in her new position. Ryan Chu will move in as Acting Manager of Professional Conduct starting July 1. Ryan has previously been the College's Professional Conduct coordinator for past two years.

Committee Meetings Attended

- April 3 – Executive Committee
- April 10 – Executive Committee
- April 18 – Executive Committee
- May 8 – Registration Committee Orientation
- May 13 – Patient Relations Committee Orientation & meeting
- May 23 – ICRC Orientation
- May 27 – Executive Committee
- June 5 – Patient Relations Committee
- June 6 – Quality Assurance Committee Orientation



- June 7 – ICRC Panel
- June 13 – ICRC Panel

Stakeholder Engagement

The College has been actively engaged with stakeholders since the last Council meeting, including the following activities:

- Call with MOHLTC Director Allison Henry; Managers Thomas Custers and Stephen Cheng April 1
- Call with Director Allison Henry; Managers Thomas Custers and Stephen Cheng April 16
- Federation of Health Regulatory Colleges of Ontario (FHRCO) Annual Meeting and Board of Directors Meeting April 25
- FHRCO Quality Assurance Working Group May 1
- Observe an Acupuncture Practical Examination at Rosemont College in Montreal with CARB partners May 30
- Citizen's Advisory Group Partner's Meeting June 3
- Responded to CBC media enquiry regarding scope of practice June 5
- Call with MOHLTC ADM Patrick Dicerri June 13

Internal Meetings/Events

- Council President and VP meetings – April 2, 16 & 30; May 14; June 12
- Steinecke Maciura LeBlanc webinar on Regulatory Governance: Best Practices and Recent Trends May 7
- Council on Licensure, Enforcement & Regulation (CLEAR) webinar on Measuring Regulatory Performance June 18

Attachments

- a) Workplan
- b) FHRCO 2018-2019 Highlights
- c) Legislative Update – April
- d) Legislative Update – May



College of Traditional Chinese Medicine
Practitioners and Acupuncturists of Ontario
Ordre des praticiens en médecine traditionnelle
chinoise et des acupuncteurs de l'Ontario

CTCMPAO Work Plan April 1, 2018 – March 31, 2021

The purpose of this **Work Plan** is to set the targets of the College for the period of April 1, 2018 – March 31, 2021. The work plan is a high-level document that outlines what is needed to accomplish each goal (collaboration, resources, target dates, anticipated obstacles and solutions).

Strategic Direction	Key Activities	Accountability/Anticipated Resources	Budget	Timelines	Current Status
Good Governance	a) Regulatory Modernization <ul style="list-style-type: none"> Participate in consultations, working groups Implement policies resulting from legislation changes 	<ul style="list-style-type: none"> Council Registrar Deputy Registrar Policy Analyst Legal Counsel 	<ul style="list-style-type: none"> \$5000 annually for legal counsel to review policies 	<ul style="list-style-type: none"> Current Ongoing 	<ul style="list-style-type: none"> The President, Registrar and Deputy Registrar attended a session hosted by FHRCO that discussed Governance Frameworks for regulatory bodies in Ontario, Nationally and internationally.
	b) Governance Enhancement <ul style="list-style-type: none"> Evaluation Process Provide training and available resources Committee Terms of Reference Prepare governance manual 	<ul style="list-style-type: none"> Council Registrar Deputy Registrar Legal Counsel Presenters 	<ul style="list-style-type: none"> \$15,000 annually for presenters and training sessions 	<ul style="list-style-type: none"> Council Evaluation Process every quarter Training conducted annually Dec 2018 December 2018/March 2019 	<ul style="list-style-type: none"> Full day Council training on December 11th, 2019, discussed College Roles and responsibilities, confidentially, conflict of interest and key trends in regulation. Updated the Council Evaluation from for the Sept 2018 Council meeting. District 3 elections held in Sept-Oct 2018 Council training for new and current members scheduled for Dec 2018 Governance manual being drafted

	c) Annual By-Law Review to ensure currency	<ul style="list-style-type: none"> • Council • Registrar • Deputy Registrar • Legal Counsel 	<ul style="list-style-type: none"> • \$5000 annually for legal counsel to review and make by-law amendments 	<ul style="list-style-type: none"> • Conducted annually January 	<ul style="list-style-type: none"> • Revised By-Laws are in effect with the new fee schedule. • Revised By-Laws and fees schedule were sent out for circulation. Back at Council for discussion and approval • Completed a full review of the By-Laws and in effect since April 1, 2018
	d) Evaluation planning <ul style="list-style-type: none"> • Develop evaluation planning tools for all statutory programs and communications with stakeholders • Setup CRM to produce reports for analysis • Surveying membership • Prepare baseline data and evaluation reports 	<ul style="list-style-type: none"> • Registrar • Deputy Registrar • Director of IT • Program Managers • IT consultant 	<ul style="list-style-type: none"> • \$15,000 to develop CRM reports 	<ul style="list-style-type: none"> • Dec 2018 - Evaluation Plan • Mar 2019 - CRM Reports • April 2019 - Membership surveys 	<ul style="list-style-type: none"> • Ministry is creating a working group to develop a framework on performance management.
Practitioner Competence	a) Develop Standards of Practice <ul style="list-style-type: none"> • Standards addressing prevention of sexual abuse (consent, communication, boundaries, etc.) • Standards for TCM modalities (acupuncture, tuina, cupping, etc) 	<ul style="list-style-type: none"> • Registrar • Deputy Registrar • Policy Analyst • SMEs (practitioners) • Legal Counsel 	<ul style="list-style-type: none"> • \$5,000 annual for per diems • \$5,000 annually for legal counsel 	<ul style="list-style-type: none"> • Jan 2019 - Standards for Prevention of Sexual Abuse • January 2020 - Profession specific standards 	<ul style="list-style-type: none"> • 4 standards of practice have been drafted pending Council approval to seek membership feedback: consent, infection control, prevention of sexual abuse, professional boundaries. • Standards have been presented to QA and Patient Relations. Will be reviewed by legal counsel and sent out for consultation.
	Professional Development <ul style="list-style-type: none"> • Produce webinars and videos for Standards of Practice and mandatory courses. 	<ul style="list-style-type: none"> • Registrar • Deputy Registrar • Director of IT • Managers • Communications Coordinator • Communications Firm 	<ul style="list-style-type: none"> • \$40,000 annually for video production/webinar costs 	<ul style="list-style-type: none"> • Semi-Annual Webinars 	<ul style="list-style-type: none"> • A webinar on record keeping was offered on Oct 10th to the membership. Over 800 members attended. • The webinar was recorded and will be posted on the College website.

	b) Enhance Entry to Practice Examination <ul style="list-style-type: none"> New exam format to increase security and consistency More examination offerings Further develop the examination item bank. 	<ul style="list-style-type: none"> Registrar Deputy Registrar Manager of Registration Project Manager SMEs (practitioners) 	<ul style="list-style-type: none"> Cost recoverable through Candidate Fees \$120,000 annually 	<ul style="list-style-type: none"> January 2020 	<ul style="list-style-type: none"> Transition timelines have been approved to offer the current PCE for one more attempt. Will be moving to CBT in the Fall of 2020.
	c) Enhance QA Program <ul style="list-style-type: none"> Hire a consultant to revamp a new QA program Develop an online QA tool for annual self-assessments 	<ul style="list-style-type: none"> Registrar Deputy Registrar Director of IT QA Coordinator QA Consultant 	<ul style="list-style-type: none"> \$180,000 for the first year \$56,000 annually after year one 	<ul style="list-style-type: none"> January 2020 	<ul style="list-style-type: none"> Dr. David Cane presented to the QA committee on Career Span Competencies and explore a new model for professional development. A similar presentation was provided to the College Council on March 26th.
Stakeholder Communications	<ul style="list-style-type: none"> Outreach with stakeholders including, schools, associations, and other organizations 	<ul style="list-style-type: none"> President Vice President Registrar Deputy Registrar Manager of Registration 	<ul style="list-style-type: none"> \$5000 annually for travel costs and printing costs 	<ul style="list-style-type: none"> Ongoing communications Annual meetings School visits 	<ul style="list-style-type: none"> Held a meeting with TCM schools on August 21 to discuss the new Exam format and provide updates to current College activities. Presented and provided remarks at Humber College TCM conference and OCTCM conference. Qi Newsletter sent out May 31.
	<ul style="list-style-type: none"> Develop a communication plan 	<ul style="list-style-type: none"> Registrar Communications Firm 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> March 2019 	<ul style="list-style-type: none"> Draft Communication Plan presented to Council on March 26, 2019
Public Confidence	School Program Approval <ul style="list-style-type: none"> RFP for a third Party to develop a process 	<ul style="list-style-type: none"> Registrar Deputy Registrar MOHLTC Consultant 	<ul style="list-style-type: none"> \$50,000 first year \$20,000 annually after year one 	<ul style="list-style-type: none"> April 2019 – RFP 	<ul style="list-style-type: none"> Exploring various options for a school program approval process. Met with a vendor to discuss program approval and accreditation options.
	TCM Education <ul style="list-style-type: none"> Further communication about differences between TCM and other acupuncture Video platform/Resources Communications plan 	<ul style="list-style-type: none"> Registrar Deputy Registrar Communications Coordinator SMEs 	<ul style="list-style-type: none"> \$40,000 for video production 	<ul style="list-style-type: none"> March 2019– Communications Plan Dec 2019 – Public communication Dec 2019 – Video platform/resources 	<ul style="list-style-type: none"> Communication plan presented at the Council meeting on Mar 2019

	Doctor Title <ul style="list-style-type: none"> • Complete Phase 1 environmental scan • Phase 2 <ul style="list-style-type: none"> ◦ Develop competencies ◦ Class entry requirements ◦ Assessment processes 	<ul style="list-style-type: none"> • Doctor Title Working Group • Registrar • Deputy Registrar • Manager of Registration 	<ul style="list-style-type: none"> • \$100,000 annually 	<ul style="list-style-type: none"> • Sept 2018 – Phase 1 • Ongoing – Phase 2 	<ul style="list-style-type: none"> • Worked with practitioners and schools to finalize the survey. It was sent out to all stakeholders. Deadline to complete survey is June 14. • Focus groups with the public and members in July • Will be sending out a survey to the membership in August.
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**Ministry of Health
and Long-Term Care**

Health Workforce Regulatory
Oversight Branch

Regulatory Oversight and
Performance Unit

438 University Avenue, 10th floor
Toronto ON M5G 2K8

Tel: 416-327-8464

**Ministère de la Santé
et des Soins de longue durée**

Direction de la surveillance réglementaire (relative
aux ressources humaines dans le domaine de la santé)

Unité de la surveillance réglementaire et de la
performance

438 avenue University, 10^e étage
Toronto ON M5G 2K8

Tél: 416-327-8464



JUN 12 2019

HLTC2958IT-2019-70

Mr. Stamatis Kefalianos
Acting Registrar & CEO
College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario
55 Commerce Valley Drive West, Suite 705
Thornhill ON L3T 7V9

BY EMAIL AND MAIL

Re: Amendments to O. Reg. 27/13 (Registration) made under the *Traditional Chinese Medicine Act, 2006*

Dear Mr. Kefalianos:

I am pleased to advise you that the above-mentioned regulation was filed with the Registrar of Regulations on June 10, 2019 as O. Reg. 184/19. The date of publication on E-laws was June 10, 2019 and the expected date of publication in the Ontario Gazette is June 29, 2019.

Sincerely,

Thomas Custers
A/Manager

c: Andrej Sikic, Policy Analyst

2018-2019 HIGHLIGHTS

FEDERATION OF HEALTH REGULATORY COLLEGES OF ONTARIO

ABOUT THE FEDERATION

CONTENTS:

President's Report	2-3
Committee Reports	2, 4-6
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FHRCO Member Stake Key Area Networks	4
Transitions	7
Online Resources	7
FHRCO Members	8

The Federation of Health Regulatory Colleges of Ontario is an incorporated, not-for-profit organization comprised of Colleges of the 26 regulated health professions in the province. The Federation focuses on regulatory matters as it promotes effective communication and cooperation among its members. Activities that support the fulfilling of the Federation's purpose include the following:

- Collective work on government priorities
- The sharing of promising practices and the identification of new initiatives
- Communication about the role of the regulator to the public and stakeholders
- Ongoing support for existing Colleges
- Mentoring for new regulators
- Development of tools and materials to support the healthcare system in regulatory areas
- Stakeholder collaboration and project participation
- Delivery of education to support key College function areas

FOCUSING ON GOVERNANCE



Kevin McCarthy, the College of Nurses of Ontario's Director, Strategy, presenting at FHRCO's Governance Workshop on December 3, 2018. Read more about the session on page 3.

Executive Committee Members:

Kevin Taylor, President
(effective October 10, 2018; previous Vice-President)

Shenda Tanchak,
President (until
September 25, 2018)

Elinor Larney, Vice-
President (effective
October 10, 2018)

Judy Rigby, Treasurer

Jo-Ann Willson, Member

Linda Gough, Past
President

PRESIDENT & EXECUTIVE COMMITTEE REPORT

This report covers the Federation's corporate year from the May 4, 2018, Annual Meeting to the April 25, 2019, Annual Meeting.

FOCUSING ON PRIORITIES AND PLANNING

In December 2018, the Federation's Board of Directors participated in a facilitated discussion related to the organization's purpose and priorities, recognizing the changing regulatory landscape and promising practices in organizational governance.

A confirmation of issues opened the day followed by an identification of FHRCO's critical functions that would address those issues. Prioritization was the next step, along with an agreement to keep the conversation going. Outcomes from those discussions are anticipated to come to fruition in the 2019-2020 year.



(Back row, from left): Brian O'Riordan (CASLPO), Anne Coghlan (CNO), Lisa Taylor (CDHO), Fazal Khan (College of Opticians of Ontario), Andrew Parr (CONO), Basil Ziv (CHO), Rod Hamilton (College of Physiotherapists of Ontario), Glenn Pettifer (College of Denturists of Ontario), Corinne Flitton (CMTO), Kelly Dobbin (CMO), Melisse Willems (College of Dietitians of Ontario), Allan Mak (CTCMPAO)

(Front row, from left): Jo-Ann Willson (CCO), Brenda Kritzer (COKO), Linda Gough (CMRTO), Kevin Taylor (CRTO), Elinor Larney (COTO), Maureen Boon for Nancy Whitmore (CPSO), Paula Garshowitz (College of Optometrists of Ontario)

(Regrets): Irwin Fefergrad (RCDSO), Nancy Lum-Wilson (OCP), Rick Morris (College of Psychologists of Ontario), Judy Rigby (CDTO), Felicia Smith (COCOO), Kathy Wilkie (CMLTO)

PRESIDENT & EXECUTIVE COMMITTEE REPORT (CONT.)

OFFICE OF THE FAIRNESS COMMISSIONER OF ONTARIO (OFC)

Elinor Larney continues to serve as FHRCO's member on the OFC's Stakeholder Engagement Committee, serving as a conduit for information-sharing. The Federation met with the Fairness Commissioner to hear more about the Office and its work related to Colleges' French-language requirements in their registration processes.

COLLEGE GOVERNANCE

A priority for the Federation continues to be helping Colleges stay informed and be prepared for changes in the area of College governance. A FHRCO Governance Session was provided on December 3, 2018, featuring Anne Coghlan, Executive Director and CEO of CNO, with Kevin McCarthy, Director, Strategy, who presented information on CNO's "Governance Vision 2020". Richard Steinecke, Steinecke Maciura LeBlanc and FHRCO legal counsel, then provided some "Perspectives on Governance". There were 70 in attendance; 20 Colleges were represented.

FHRCO INTERVENES IN IMPORTANT CASES

The Federation continues to take action when cases arise that relate to significant matters relevant to its members and to the Federation's purpose, and it would be in the public interest to intervene. FHRCO had received intervenor status in the case *Abdul v Ontario College of Pharmacists*. The case was heard on May 8, 2018, with an outcome positive for health profession regulation in Ontario.

MEETINGS WITH KEY STAKEHOLDERS AND THE FEDERATION BOARD OF DIRECTORS/EXECUTIVE COMMITTEE DURING 2018-2019 YEAR:

- Deanna Williams following her work on recommendations for the Ministry of Health and Long-Term Care (MOHLTC) related to patient sexual abuse
- MOHLTC Health Workforce Planning and Regulatory Affairs Division, providing general updates:
 - Denise Cole, Assistant Deputy Minister (ADM), with Lorraine de Braganca, A/Executive Assistant to the ADM
 - Health Workforce Regulatory Oversight Branch:
 - Allison Henry, Director
 - Stephen Cheng, Manager, Strategic Regulatory Policy Unit
 - Thomas Custers, Manager, Regulatory Oversight and Performance Unit, focusing on the College Performance Measurement Framework Project
 - Marsha Pinto, Manager, Regulatory Design and Implementation Unit
 - Doug Ross, Sr. Policy Analyst, Regulatory Oversight and Performance Unit
- Ontario's Fairness Commissioner Grant Jameson with Kim Bergeron, Senior Program Advisor (see above)
- Office of the Patient Ombudsman: Craig Thompson, Executive Director, to learn more about the Office and how Colleges and the Patient Ombudsman relate in Ontario's healthcare system

FHRCO:
Fostering
Healthy
Regulatory
Collaboration
in
Ontario



INVESTIGATIONS AND HEARINGS NETWORK

Co-Chairs (2018)

- Shaf Rahman (CRTC)
- Bonita Thornton (College of Physiotherapists of Ontario)

The Investigations and Hearings Network, open to all Federation members staff involved in investigations and hearings, provides Federation member staff with opportunities for regular meetings and online resources to share information and practice questions.

A Symposium was held on June 22nd that focused on the Health Professions Appeal and Review Board (HPARB), with presentations by Christy Hackney, Registrar & Senior Manager of the Health Boards Secretariat, and Taivi Lobu, Vice Chair, HPARB, along with Alexandra Wilbee of WeirFoulds, and Nicole Zweirs (CPSO) and Wendy Waterhouse (RCDSO).

Co-Chairs (2019)

- Andrea Lowes (CDHO)
- Amy Stein (College of Opticians of Ontario)

A second Symposium was held on November 27th, featuring Bonni Ellis who presented on expert witnesses. The event was hosted by OCP and had 30 attendees from 15 Colleges.

EDUCATIONAL OPPORTUNITIES

Federation members' Councils, Committees, and staff are provided with resources for their individual orientation, ongoing education, and training needs:

- Governance Workshop (*first held in 2018*)
- Education for Health Professional Regulators of Ontario (EHPRO) (*all aspects of the RHPA available online for members*)
- Training Videos about Patient Sexual Abuse (*available online for members*)
- Discipline Orientation Workshops (*see p.6 for more information*)
- Investigations and Hearings Symposia (*see above for more information*)
- Communications Conferences (*see p.5 for more information*)

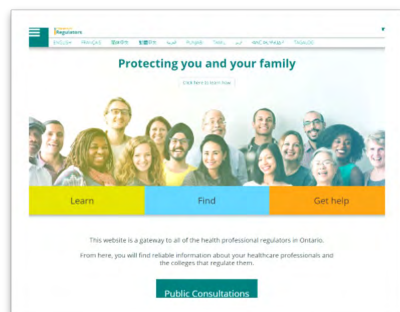
FHRCO MEMBER STAFF KEY AREA NETWORKS

Staff have access to Networks for key College areas of activity, including the following:

- | | |
|-------------------------------|----------------------|
| • Communications | • Practice Advisors |
| • Corporate Services | • Quality Assurance |
| • Investigations and Hearings | • Records Management |
| • Policy | • Registration |

COMMUNICATIONS COMMITTEE

FHRCO's Communications Committee, led by Monique Poirier, continues to provide opportunities to share expertise, focusing on support for the output of the Public Engagement Program -



www.ontariohealthregulators.on.ca (OHR), the public-facing website that provides links to Colleges, specifically their public registers, information about complaints, and public consultations. This initiative is consistent with Colleges' duty to promote and enhance relations between Colleges and the public.

Public outreach through "OHR" was a focus for the Committee with the power of Google ads and boosted Facebook posts harnessed to promote the site over the past year. Additionally, all members of provincial parliament received letters, letting them know about OHR so that they could share information with their constituents. Directly interacting with the public, many Communications Committee members and Practice Advisors from their College teams also staffed a booth at the Zoomer Show on October 27 & 28, 2019. The success of that event led to confirmation of show attendance in 2019 - October 24 & 25. (See CASLPO's Facebook post from the event, right.)



Another key event for the Communications Committee was the Communications Network-wide annual Communicators' Day, held on November 23rd and hosted by CPSO. The Day included presentations from the College of Social Workers and Social Service Workers, and The Change Foundation. This opportunity for College communications staff to interact and learn from others' experiences was well-received, with 35 attending from 23 Colleges. Thanks to Conference Planning Subcommittee chair Mark Sampson (CPSO) for leading this event.

Communications Committee Members:

- Monique Poirier (College of Dietitians of Ontario), Chair
- Angie Brennand (CMTO)
- Lisa Gibson (CASLPO)
- Margaret Goulding (CMLTO)
- Kris Green (CNO)
- Sabina Hikel for Shauna Grey (CRPO)
- Victoria Marshall (CMO) through February 14, 2019 meeting
- Lisa Prey (College of Physiotherapists of Ontario)
- Mark Sampson (CPSO)
- Nancy Stevenson (COTO)

Communicators' Day Planning Subcommittee Members:

- Mark Sampson (CPSO), Chair
- Angelo Avecillas (RCDSO)
- Maria Feldman (CMTO)
- Tova Wallace (College of Physiotherapists of Ontario)



DISCIPLINE ORIENTATION COMMITTEE

Discipline Orientation Committee Members:

- Tina Langlois (CMRTO), Chair
- Eyal Birenberg (College of Optometrists of Ontario)
- Aoife Coghlan (COTO)
- Genevieve Plummer (OCP)
- Ravi Prathivathi (CNO)

The Discipline Orientation Committee continues to deliver quality education and training programs, providing comprehensive orientation for regulatory adjudicators. Basic training programs are available twice each year. Advanced sessions are held annually and are built on the knowledge and skills regulatory adjudicators acquired by attending the Basic session or participating in hearings.

2018 Workshops:

May 25 – Basic Program: 34 registrants (13 Colleges represented)

November 1 & 2 – Basic and Advanced Programs: 22 Basic (13 Colleges) and 40 Advanced (13 Colleges)

Future Discipline Orientation Program Dates for 2019:

Basic Sessions: May 3 & October 26

Advanced Session: October 27

NOMINATIONS COMMITTEE

The Nominations Committee facilitated the annual call for nominations for the Executive Committee and Officers positions as well as members of FHRCO Committees and Chairs. Elections and appointments take place during the Board Meeting that immediately follows the Annual Meeting each year. The dedication of the many volunteers and support from member Colleges is one of the greatest of FHRCO's resources.

List of Committee Members:

- Linda Gough (CMRTO), Chair
- Kathy Wilkie (CMLTO)
- Jo-Ann Willson (CCO)

CONSENT AND CAPACITY WORKING GROUP

List of Working Group Members:

- Melisse Willems and Deborah Cohen (College of Dietitians of Ontario) (Chair)
- Heather Binkle and Sandra Carter (COTO)
- Alexandra Carling, Samidha Joglekar, and Sarah Chapman Jay (CASLPO)
- Barry Gang (College of Psychologists of Ontario)
- Téjia Bain (College of Physiotherapists of Ontario)
- Andrea Lowes (CDHO)
- Lene Marinen (CRPO)
- Justin Rafton and Mina Kavanagh (College of Optometrists of Ontario)

The Consent and Capacity Working Group was created to develop collaborative educational materials to ensure healthcare professionals fully understand their legal and professional obligations for obtaining consent in their practice settings. A survey of College members was conducted to help determine next steps.

Work continues by subgroups who are developing information to be shared with College members regarding two identified issues: capacity to consent and barriers to obtaining consent.

TRANSITIONS

FEDERATION MEMBERS:

- **Dr. Nancy Whitmore** assumed the role of Registrar/CEO of CPSO on June 4, 2018. **Dan Faulkner** had served as Interim Registrar following the reirement of **Dr. Rocco Gerace** on February 28, 2018.
- **Rod Hamilton** was named Registrar of the College of Physiotherapists of Ontario, effective December 18, 2018. Rod had served as Interim Registrar as of September 25, 2018, replacing **Shenda Tanchak**, Registrar & CEO.
- **Stamatis Kefalianos** was appointed Acting Registrar of the CTCMPAO on April 9, 2019, replacing Registrar & CEO **Allan Mak**.
- **Dr. Paula Garshowitz** announced her reirement as the College of Optometrists of Ontario's Registrar, effective the end of April 2019; Paula will be supporting the transition for the new Registrar into the summer 2019.

EXTERNAL STAKEHOLDERS:

- **Hon. Christine Elliott** was appointed Minister of Health and Long-Term Care on June 29, 2018. **Dr. Helena Jaczek** had served as Minister until the provincial election on June 7, 2018.
- **Helen Angus** was appointed Deputy Minister of Health and Long-Term care on June 29, 2018,
- **Patrick Dicerni** was appointed Assistant Deputy Minister of Health and Long-Term Care, announced on October 18, 2018, replacing **Denise Cole** who was assigned to lead an "expedited review of legislation and regulation to identify impediments to more effective and efficient operations of the health system and the Ministry in its oversight role."
- **Grant Jameson**, Fairness Commissioner, completed his term in that role on April 4, 2019.



FHRCO ONLINE RESOURCES

- An Interprofessional Guide on the Use of Orders, Directives and Delegation for Regulated Health Professionals in Ontario
- Interprofessional Collaboration (IPC) eTool
- Positions Available at FHRCO Member Colleges
- Information on College Council Meeting Dates

2018-2019 HIGHLIGHTS

Federation of Health Regulatory Colleges of Ontario



Members:

College of Audiologists and Speech-Language Pathologists of Ontario (CASLPO)

College of Chiropractors of Ontario (COCOO)

College of Chiropractors of Ontario (CCO)

College of Dental Hygienists of Ontario (CDHO)

College of Dental Technologists of Ontario (CDTO)

College of Denturists of Ontario

College of Dietitians of Ontario (CDO)

College of Homeopaths of Ontario (CHO)

College of Kinesiologists of Ontario (COKO)

College of Massage Therapists of Ontario (CMTO)

College of Medical Laboratory Technologists of Ontario (CMLTO)

College of Medical Radiation Technologists of Ontario (CMRTO)

College of Midwives of Ontario (CMO)

College of Naturopaths of Ontario (CONO)

College of Nurses of Ontario (CNO)

College of Occupational Therapists of Ontario (COTO)

College of Opticians of Ontario

College of Optometrists of Ontario

College of Physicians and Surgeons of Ontario (CPSO)

College of Physiotherapists of Ontario

College of Psychologists of Ontario

College of Registered Psychotherapists Therapists of Ontario (CRPO)

College of Respiratory Therapists of Ontario (CRTO)

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (CTCMPAO)

Ontario College of Pharmacists (OCP)

Royal College of Dental Surgeons of Ontario (RCDSO)

Federation of Health
Regulatory Colleges of
Ontario (FHRCO)

Suite 301 - 396 Osborne St
PO Box 244
Beaverton ON L0K 1A0

Phone: 416-493-4076

Fax: 1-866-814-6456

Email: info@regulatedhealthprofessions.on.ca

www.regulatedhealthprofessions.on.ca

Prepared by Richard Steinecke

In this Issue:

- Bill 102 will require a complaints mechanism for home care clinics, see p. 1
- Bill 100 creates new regulatory bodies and open hearing records, see p. 1
- Bill 74 will restructure the health care system in Ontario, see p. 2
- Bill 48 will permit the restructuring of the Council of the OCT, see p. 2
- Consultation on High Acuity Priority Access Beds in long-term care, see p. 3

Bonus Features:

- Telepractice – Connection to Ontario Test, see p. 3
- Failing to Comply with a Remedial Order, see pp. 3-4
- Geographical Jurisdiction over a Practitioner's Conduct, see p. 4
- Proving Inadequate Supervision of Unregistered Persons, see pp. 4-5
- New Approach to Vexatious Litigants, see p. 5
- Reviewing the Prior History of a Practitioner in Complaints Matters, see pp. 5-6

Ontario Bills

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

Bill 102, *Closing Oversight Loopholes for Home Care Clinics Act, 2019* – (private member's Bill – passed second reading and referred to the Standing Committee on Justice Policy) The Bill requires home care clinics to have a mechanism for responding to complaints including about health hazards related to infection prevention and control at the clinic.

Bill 100, *Protecting What Matters Most Act (Budget Measures), 2019* – (government Bill – passed second reading and referred to the Standing Committee on Finance and Economic Affairs) The Bill contains a number of measures including:

- Creating a regulator for financial planners
- Creating an alternative regulatory scheme for skilled trades and apprentices to replace the Ontario College of Trades
- Creating greater government oversight of the Ontario new homes warranty program, and
- Requiring government tribunals to provide public access to their hearing records unless an exception applies (e.g., privacy interests outweighing the right to public access). These amendments implement the recent *Toronto Star* decision by the courts. The amendments do not apply directly to professional regulatory discipline committees but do apply to certain tribunals professional regulators appear before including the Health Professions Appeal and Review Board.

Bill 74, *The People's Health Care Act, 2019* – (*government Bill – passed third reading and received royal assent*) The Bill will implement a significant restructuring of the provision of health care services in Ontario. The move was billed as a centralization of 20 agencies into one body called Ontario Health that will include the 14 LHINs, and:

- Cancer Care Ontario
- eHealth Ontario
- Trillium Gift of Life Network
- Health Shared Services
- Health Quality Ontario
- HealthForce Ontario Marketing and Recruitment Agency

However, the plan also envisions decentralization in the form of 30-50 provider groups providing coordinated care to about 300,000 persons each on average. The government is anticipating health care providers (likely anchored by at least one hospital) will make proposals that will be accepted by the government.

Details are scarce and so the impact on RHPA Colleges is unclear at this time. The most likely sources of impact are:

1. the push to finally develop centralized electronic health records for patients,
2. competition with Ontario Health as to who sets standards of practice,
3. competition as to who provides quality assurance, and
4. overlap between Ontario Health's investigative powers (re. quality of care provided) and the investigative and disciplinary power of *RHPA* Colleges.

Bill 48, *Safe and Supportive Classrooms Act, 2019* – (*government Bill – passed third reading and has received Royal Assent*) Bill 48 updates the provisions relating to sexual abuse of students for teachers and early childhood educators and permits the making of regulations relating to the composition of the Council of the Ontario College of Teachers.

Proclamations

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

There were no relevant proclamations this month.

Regulations

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

There were no relevant regulations gazetted this month.

Proposed Regulations Registry

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

Long-Term Care Homes Act – “If approved, the proposed amendments would allow the designation of High Acuity Priority Access Beds in long-term care homes. Applicants meeting the eligibility criteria would be placed on a separate waiting list for a High Acuity Priority Access Bed. Applicants to long-term care homes from hospital and the community, as well as existing long-term care home residents would be eligible for placement in High Acuity Priority Access Beds.” Comments are due by May 22, 2019.

Bonus Features

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

Telepractice – Connection to Ontario Test

The Ontario Court of Appeal set aside the lower court decision granting the College of Optometrists of Ontario and the College of Opticians of Ontario a restraining order against a British Columbia-based internet company providing eye wear to Ontario residents: *College of Optometrists of Ontario v Essilor Group Inc.*, 2019 ONCA 265. The Court held that there had to be more of a connection to Ontario than that the patients received delivery of the eyewear in Ontario for the Ontario regulators to obtain an injunction against the out-of-province company. The facts are somewhat unique (i.e., the company was acting legally according to the law of British Columbia). The reasoning was quite narrow and might well not apply to the provision of services rather than a product (as characterized by the Court). For a more in depth discussion of the case, see: www.sml-law.com/wp-content/uploads/2019/04/Greyar235.pdf.

Failing to Comply with a Remedial Order

Some regulators have the ability to impose mandatory remediation (e.g., attend for a caution, complete a course) when disposing of a complaint without first conducting a hearing or making a finding of wrongdoing. In *Cartier v College of Nurses of Ontario*, 2019 ONSC 2289 (CanLII), <<http://canlii.ca/t/hzmmhl>>, the practitioner refused to complete mandatory remediation because she believed that the complaint was unfounded. When the regulator disciplined her for not complying with the order, her defence was that there was no basis for the order to have been made in the first place. The tribunal concluded she was obliged to comply with the order.

The Divisional Court agreed. It said that neither the discipline tribunal nor the Court had the jurisdiction to assess whether the screening committee’s mandatory remediation order was well founded. That would be a collateral attack on the decision of the screening committee. If the practitioner disagreed with the mandatory remediation order, she should have sought a review or appeal through the proper channels.

Interestingly the regulator cross-appealed the discipline decision on the basis that the tribunal found that the refusal to comply was not disgraceful (it was only unprofessional). The tribunal found that to be disgraceful the conduct had to include “deceit, dishonesty or moral failing”. The regulator argued that conduct could be disgraceful if it “brings shame upon the profession and the Member”. The regulator argued conduct that was “deliberate, knowing or reckless disregard for professional obligations” was also disgraceful. The Divisional Court declined to formulate a definition of the term “disgraceful” and simply found that it was open to the tribunal, who heard the practitioner explain why she did not comply with the order, to conclude that her misguided views were only unprofessional and were not also disgraceful.

Geographical Jurisdiction over a Practitioner’s Conduct

Regulators often say that they have jurisdiction over a practitioner for their misconduct regardless of where it occurred. That proposition makes sense. The public is at risk if a practitioner is unethical or incompetent even if, in the past, that behaviour has only been demonstrated elsewhere. But how far does this proposition extend? Pretty far, according to *Saplys v Ontario Association of Architects*, 2019 ONSC 1679, <http://canlii.ca/t/hzs49>.

In that case a practitioner was alleged to have, among other things, engaged in work with a client of a former architectural firm on the same building project for a similar purpose. Under the rules in Ontario, practitioners are required to give notice of this retainer to the former architectural firm. He had not done so in this case. One of the projects was in Saskatchewan, where that rule about giving notice to the previous firm did not exist. The Divisional Court of Ontario upheld the finding by the Ontario regulator for breaching the Ontario rule. The Court held that the rule could apply to out-of-province work. It rejected the argument that the jurisdiction over the person should be limited to conduct that involves moral turpitude or that engages a concern about the protection of the public in Ontario.

The Court also held that the discipline tribunal properly excluded expert opinion evidence on the interpretation of the language in the legislation related to the scope of practice of the profession. Expert evidence regarding the usual practice of the profession or an alleged common understanding was not relevant to this issue and would not assist the panel members including those who were not architects. The Court said the expert evidence did not relate to the standard of care of an architect nor did it involve any technical or scientific knowledge that could only be understood by the Committee with the assistance of an expert.

Proving Inadequate Supervision of Unregistered Persons

Most professions have standards of practice (written or unwritten) about what tasks a practitioner can and cannot delegate to an unregistered assistant. However, it is always difficult to prove whether there was a pattern of inadequate supervision since the amount of supervision not provided is difficult to articulate. In *Farkas v The Law Society of Ontario*, 2019 ONSC 2028 (CanLII), <http://canlii.ca/t/hzgk2>, the issue was whether the lawyer provided sufficient supervision to his

unregistered staff in the filling out of refugee claim forms. The practitioner and some of the staff who worked for him testified as to his training of the staff, his personal involvement in meeting with the clients and his reviewing of the forms. However, the forms themselves were generally inadequate according to expert testimony inferring that there must have been minimal practitioner involvement. A former staff person and two clients testified as to almost complete lack of involvement of the practitioner in their cases and that the forms were signed while blank (or almost blank) and were filled in by staff who made up the contents. The Court upheld the credibility findings of the tribunal based on this combination of expert opinion evidence, one former employee and two clients because of the good reasons of the tribunal.

On the issue of costs, the Court upheld a large award (\$200,000) because the tribunal's reasons took into account the following factors: "the length of the hearing, the costs requested, the time necessary for preparation, the extensive cross-examination of the appellant, the lack of evidence of financial hardship, and comparable cases that had come before the [regulator]."

New Approach to Vexatious Litigants

Litigants who abuse the legal system have been a challenge for many decades. Recently, the approach of the courts to dealing with abusive litigants has evolved. A lengthy and fascinating decision on the topic, on a case that relates to professional regulation, is found in *Unrau v National Dental Examining Board*, 2019 ABQB 283, <http://canlii.ca/t/hzztc>. In that matter an unsuccessful examination candidate sued many individuals and entities but provided no specifics of what they had done wrong and requested "impossible remedies". The action was struck out. However, the Court, on its own motion, initiated a "show cause" process as to whether restrictions should be imposed on Mr. Unrau's ability to litigate generally. After considering the litigation history of Mr. Unrau, the Court imposed an order that Mr. Unrau had to obtain permission before continuing or initiating legal actions in Alberta.

The Court noted that the modern approach to abusive litigants was proactive, rather than reactive, including being initiated by the Court itself rather than by frustrated parties. In addition, the Court had an inherent authority to act and was not constrained by the existing vexatious litigant's legislation. Ongoing restrictions could be imposed where future abusive litigation is anticipated. The restriction, of requiring permission to continue or initiate legal proceedings, was seen as minimally impairing Mr. Unrau's access to the courts.

This "modern" approach should provide some relief to regulators who experience such challenges. Obviously, this relief is limited as it does not necessarily apply to regulatory proceedings themselves. In addition, regulators often have to initiate legal proceedings on their own to protect the public and a vexatious litigant will have a right to respond.

Reviewing the Prior History of a Practitioner in Complaints Matters

In complaints matters it is common, but not universal, that the prior complaints and discipline history of the practitioner will be reviewed. However, the weight to be placed on that prior history will vary.

In *College of Physicians and Surgeons of British Columbia v The Health Professions Review Board*, 2019 BCSC 539, <<http://canlii.ca/t/hzpm3>>, the practitioner had been disciplined for sexual misconduct a dozen years previously. The current complaint related to a failure to recognize a clinical condition. The screening committee did not consider the practitioner's prior history. The Review Board found this failure to be unreasonable and returned the matter for a new decision. The Court said:

The College had the discretion to make a finding on the degree of similarity, if any, between Dr. Fletcher's sexual misconduct in 2003 and clinical conduct matters in 2015. The 2003 Admonition was regarding Dr. Fletcher's personal relationship with a patient, which is substantially different than the clinical performance issues involved with the Complaint, except in the broadest sense that both events are breaches of professional standards. The two are not similar in time, type of conduct, context, or the standards breached.

The Court concluded that the Review Board had not assessed whether the screening committee acted reasonably in the circumstances. Rather, the Review Board inappropriately substituted its views for those of the regulator.

Prepared by Richard Steinecke

In this Issue:

- Bill 116 will establish centre of excellence for mental health and addictions, see p. 1
- Bill 100 creates new regulatory bodies and open hearing records, see p. 1

Bonus Features:

- Legal Status of a Regulator's Policies, see p. 2
- Federal Trade-Marks and Provincially Protected Terms, see p. 2
- Can a Practitioner's Privacy Be Protected by the Terms of an Adjournment?, see pp. 3-4
- Cooperation with One's Regulator Must Be Prompt, see p. 4
- US Debate about De-Regulation Just Got More Nuanced, see p. 5

Ontario Bills

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

Bill 116, *Foundations for Promoting and Protecting Mental Health and Addictions Services Act, 2019* – (government Bill – passed first reading) The Bill establishes a centre of excellence to address mental illness and addictions and makes it easier for the government to sue manufacturers and wholesalers of opioids.

Bill 100, *Protecting What Matters Most Act (Budget Measures), 2019* – (government Bill – passed third reading and received Royal Assent) The Bill contains a number of measures including:

- Creating a regulator for financial planners
- Creating an alternative regulatory scheme for skilled trades and apprentices to replace the Ontario College of Trades
- Creating greater government oversight of the Ontario new homes warranty program, and
- Requiring government tribunals to provide public access to their hearing records unless an exception applies (e.g., privacy interests outweighing the right to public access). These amendments implement the recent *Toronto Star* decision by the courts. The amendments do not apply directly to professional regulatory discipline committees but do apply to certain tribunals professional regulators appear before including the Health Professions Appeal and Review Board.

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)

There were no relevant regulations gazetted this month.

Proposed Regulations Registry

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

There are no relevant consultations listed this month.

Bonus Features

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

Legal Status of a Regulator's Policies

The Ontario Court of Appeal has re-affirmed the authority of regulators to make policies setting out the expectations of practitioners in the course of their practice. This is so even where the enabling statute authorized the enactment of standards through regulation. The difference is that a regulation is “law” that is directly enforceable at discipline whereas a policy is only a statement of expectations that may form some evidence of the existing standard of practice but is not automatically enforceable at discipline. Despite it not being formal law, it still needs to be consistent with the *Canadian Charter of Rights and Freedoms* because, at least in this case, it was implementing a specific government objective.

In the case of *Christian Medical and Dental Society of Canada v College of Physicians and Surgeons of Ontario*, 2019 ONCA 393, <<http://canlii.ca/t/j08wg>>, the Ontario Court of Appeal accepted the reasoning of the Divisional Court and concluded that the policies appropriately balanced the competing interests of access to health care (especially abortion services and medical assistance in dying) and the religious beliefs of certain physicians. The Court also gave deference to the view of the regulator that simply providing generic information to vulnerable patients of their options was an insufficient balancing of the rights; the regulator was entitled to apply its expertise to require an effective referral to a person or facility that would provide the service.

This case is consistent with other recent cases where the courts give deference to regulators when enacting policies. However, the thorough nature of the Court’s analysis indicates that it is prudent for regulators to conduct a full workup for their policies, especially when rights under the *Charter* might be affected.

Federal Trade-Marks and Provincially Protected Terms

A common method of regulation is to restrict the use of a term or designation to those who have met certain requirements. There has been some uncertainty as to whether federal trade-mark rules could be used to circumvent provincial restrictions on the use of terms and designation. The case of *Royal Demaria Wines Co. Ltd. v Lieutenant Governor in Council*, 2018 ONSC 7525, <<http://canlii.ca/t/hwn9n>>, goes a long way to dispelling those concerns.

In that case, the winery could not obtain approval for its wines, particularly its icewine, because it did not pass the taste test requirements of the provincial regulator. Under the provincial legislation, the term “icewine” was restricted to wines approved by the regulator. The winery obtained a federal trademark as “Canada’s Icewine Specialist” and sought a declaration that it could use that term to describe its products. The Court noted that the principle that federal law is paramount over inconsistent provincial law should be applied with restraint in the spirit of cooperative federalism. The fact that a federal law addressed a topic does not imply that a valid provincial law is excluded from the field. Obtaining a trade-mark does not imply a right to use the term or designation when its use was prohibited by provincial law. The Court said:

Both the [Act](#) and the [Trade-Marks Act](#) have consumer protection purposes that are consistent and compatible with each other. The *Act* furthers the consumer protection purpose of the [Trade-Marks Act](#) by ensuring that when wine manufacturers use certain terms that are also subject to provincial regulation, they are meeting quality standards. This complements, rather than frustrates, the purpose of the federal legislation.

The laws were not inconsistent in the sense that the winery could comply with both of them at the same time.

The case also contains an interesting discussion of the validity of taste tests as a regulatory tool authorized by the enabling statute. The Court also upheld the termination of the winery’s membership with the regulator if it had no wine approved within an 18-month period.

Can a Practitioner’s Privacy Be Protected by the Terms of an Adjournment?

Mr. Colpitts, a lawyer, was convicted of a serious criminal offence. He appealed the conviction. In the meantime, a resulting interim discipline process was adjourned, pending the outcome of the appeal, on the basis that he undertook not practise the profession. The agreement was confidential. After further investigation, the regulator referred Mr. Colpitts to a hearing under another provision. Mr. Colpitts sought judicial review of that decision arguing that the terms of the earlier adjournment precluded any further discipline action until the criminal appeal was heard. Mr. Colpitts asked the court to protect his privacy in the judicial review proceedings on the basis of the assurance of confidentiality he had received in the earlier adjournment matter.

The Nova Scotia Court of Appeal upheld lower court ruling that, regardless of how one interpreted the terms of his adjournment before the Law Society, he had not establish the need to have the court proceedings held anonymously: *Colpitts v Nova Scotia Barristers' Society*, 2019 NSCA 45, <<http://canlii.ca/t/j0pmz>>. The Court said:

Courts operate in the public domain, not behind closed doors, unless it is necessary to prevent a serious risk to an important public interest and the salutary effects outweigh the deleterious effects of the requested confidentiality order.

The privacy interests of a practitioner of a profession would not normally meet these criteria.

This case illustrates how the wording of agreements with practitioners should contemplate other proceedings and not just the one proceeding currently in mind.

Cooperation with One's Regulator Must Be Prompt

All practitioners have an obligation to cooperate with their regulator. At what point does a delay in providing information to the regulator demonstrate a lack of good faith cooperation? In *Law Society of Ontario v Diamond*, 2019 ONSC 3228, <<http://canlii.ca/t/j0l82>>, the Court said that it depends on the circumstances of the case. However, a failure to provide clearly requested documents for a period of four to six months (despite cooperation in providing other documents quickly), where the documents are required to be readily available, could constitute a failure to cooperate in good faith. The Court said:

It is consistent with the purpose of the Rule respecting that duty and the positive obligation it imposes on lawyers, that it is not sufficient for a lawyer to have genuine or honest belief that they are fulfilling their duty to co-operate. The efforts to co-operate must be measured against the objective standard of reasonableness....

To find otherwise would allow a lawyer who has not taken the time or made reasonable efforts to understand and comply with their obligations to be immunized from regulation by the Law Society. This would be contrary to the public interest. As noted in *Ghobrial, supra*, at para. 9, when it comes to the licensee's duty to respond to Law Society requests for information completely and promptly "it is essential that the licensee treat the response as a priority"....

Similarly, in the duty to co-operate context, a lawyer cannot be found to have acted in good faith to provide a complete and prompt response when the basis for their delay is their ignorance of their professional obligations or their negligence in making the efforts they are required to make to provide the requested information promptly....

There is nothing unreasonable about the Appeal Division's analysis of the concept of "good faith". It does not hold lawyers to a standard of perfection. It imposes a duty on them to make every reasonable effort to comply with their obligations. This is consistent with the purpose of the Rule....

This decision also reinforces that a practitioner's duty to cooperate with their regulator means a prompt and complete response to each request.

US Debate about De-Regulation Just Got More Nuanced

There has been a noticeable push in the US to de-regulate professions on the basis that regulation restricts access to workers, drives up prices, and is largely unnecessary. In a thoughtful paper, the oversimplification of those arguments is effectively dismantled. At the same time the authors argue that significant reform is required of even the professions where the risk of harm to the public is highest. See: Scheffler, Gabriel and Nunn, Ryan, "Occupational Licensing and the Limits of Public Choice Theory" (2019) *Faculty Scholarship at Penn Law* 2072: <https://scholarship.law.upenn.edu/faculty_scholarship/2072>.

The conclusion to the paper sums up the arguments nicely:

In sum, the standard public choice narrative about occupational licensing is simultaneously overinclusive and underinclusive. On one hand, it is overinclusive as it suggests that licensing laws are rarely justified, even in the face of plausible alternative explanatory accounts. If policymakers and judges were to take this narrative at face value, they might strike down many licensing laws that benefit the public. Of course, there is a strong case for subjecting licensing laws to greater scrutiny, and there are professions for which the costs of licensure clearly outweigh the benefits. Yet in other cases—perhaps in many cases—the cost-benefit calculus will be less clear.

At the same time, however, the standard public choice narrative is underinclusive as it tends to focus less on dominant professional organizations, such as physicians and lawyers, and more on smaller, lower-wage professions. This is unfortunate, since the former licensing regimes have particularly detrimental consequences for workers and consumers. In addition, the public choice narrative is underinclusive because it has little to say about professions for which there are credible public safety risks of unregulated activity. We argue that there is a strong basis for licensure reform in these professions that, while less radical than complete deregulation, would nonetheless enhance labor market access and benefit consumers.



COVER PAGE

Agenda Item #: 15
Topic: Regulatory Update
Speaker: Rebecca Durcan, Legal Counsel
Action: FYI

The Cayton Report: The Wolf Finally Arrives

by Rebecca Durcan
May 2019 - No. 236

For years observers have been saying that regulators of professions are under intense scrutiny and unless they regained public confidence then self-regulation without systematic oversight would end in Canada. Over time it has become easier to ignore these pleas as self-regulation continued to muddle along, but no longer. While the analogy to the little boy who cried wolf is imperfect (no one would call the author of the report or his agency's ideas "wolves"), the concept of snubbing previous warnings and subsequently facing real consequences is relevant.

On April 11, 2019, the long awaited report of the Professional Standards Authority (PSA) (headed at the time it was written by Harry Cayton) on the Inquiry into the College of Dental Surgeons of British Columbia was released. On the same day the Minister of Health gave the College thirty days to deliver an implementation plan for the recommendations directed at it. The Minister also announced that he has set up a steering committee to examine the recommendations related to the oversight of all regulated health professions.

Governance

Some of the key observations in the report about governance include the following:

- Boards should focus on three things:

- ensuring the College complies with its mandate and the law
 - setting strategy and monitoring performance and
 - holding the registrar and chief executive to account for delivery.
- Boards should dispense with formal rules of procedure (e.g., motions and votes) and, with rare exceptions, operate through consensus.
 - Secret ballots have no place in a public body.
 - Secret meetings (in the absence of staff) should be extremely rare and require centrally maintained minutes.
 - The Board should partner with staff to achieve the organization's mandate; staff do not just administratively implement Board directions.
 - Dysfunction in an organization occurs when Board members and staff no longer respect and trust each other.

The report's recommendations include:

- Candidates for selection to the Board from within the profession should be required to participate in an "induction programme" before being chosen.
- Officers or representatives from the professional association or similar bodies should have a three-year cooling off period before they can serve with the regulator.
- The governance committee should be abolished and Board officers should not attend audit committee meetings unless invited.
- Board members should not procure goods or services directly. Procurement should be through staff pursuant to appropriate policies.
- "The Board must stop seeing itself as the College and recognise that its role is to govern

the College and oversee its performance but that the College is run and managed by its professional staff.”

Measuring Regulatory Performance

The report assessed the performance of the College according to the criteria that the PSA uses for the bodies it oversees. The following areas were found to have not met the standard:

- Standards of practice do not identify mandatory expectations upon practitioners and are unclear in some areas.
- There is not a systematic and accountable process for identifying and developing new or revised standards.
- Standards are not clearly worded nor are they effectively communicated to the profession and to the public.
- Complaints are not appropriately assessed for risk and prioritized upon receipt.
- The complaints process is not transparent, fair, proportionate and focused on public protection because of its composition, and because of the excessive role of staff and because of the misuse of undertakings option.
- Complaints are not dealt with promptly with a view to preventing harm to the public while in process.
- Insufficient reasons are provided for actions taken on complaints.
- The regulator does not have an effective process for identifying, assessing, escalating and managing organizational risks.
- Board oversight does not include the effective use of key performance indicators and a corporate risk register.

- The regulator does not collect and use performance and outcomes information about patients and the public as a part of its strategic planning.
- The Board does not work cooperatively, with an appropriate understanding of its role as a governing body and members’ individual responsibilities.

External Relationships

The report identified a broad lack of understanding of the role of the College to regulate the profession in the public interest. This was demonstrated by the election campaign statements, the perceptions of Board members from the profession and in the history of various regulatory initiatives. Examples of the regulatory initiatives of concern was the failure to implement a standard preventing dentists from treating their spouses and the challenges faced by attempts to implement an enhanced quality assurance program. The report states:

The College needs to build a different relationship with its dentist registrants: one of both mutual respect and distance. It cannot do so when its Board is elected by registrants and partially subject to their control. It is hard for it to build a new relationship with the profession when it is so closely tied financially and through personal contact and individuals to the [professional association] and other dental organisations. An independent, effective, efficient, fair and public focussed regulator is good for the dental community as a whole. It is especially good for skilled and ethical dentists who never have a complaint.

The report stated plainly that the relationship between the regulator and the professional association was too close and strongly recommended the severing of many of those ties (e.g., the regulator cease collecting annual fees for membership in the professional association).

The report commended the affiliation of the regulator with the other health regulators in a loose umbrella organization as a model of collaboration.

The report indicated that while the regulator had regular contact with the government, one aspect of the relationship that was not working well was the appointment of public members to the Board. The criteria used in making such appointments were uncertain and there were too many vacancies.

In terms of engaging the public, the report noted a reluctance of the Board to engage with the public and the lack of a strategy to more effectively obtain the input and perspective of the very people it is mandated to protect.

Protecting the Public

This portion of the report is perhaps the most hard-hitting. It definitively states that regulators have no advocacy role. It also says:

A concern for the well-being of dentists rather than a single-minded focus on patient safety and public protection is still a part of College culture.

After providing some quotations of statements made to the inquiry by leaders in the profession, including those working for the regulator, the report states:

I don't think these perspectives are typical but for dentists who are active in the College and dental community to express them suggests a profound misunderstanding of the purpose of professional regulation and lack of concern for the safety and well-being of patients.

The report noted that the mandate of the regulator "to serve and protect the public" was broad. The report expressed concern that the regulator was reading the mandate too broadly. The report suggests that the mandate of regulators "does not ask regulators to be responsible for public health or for access to health professionals".

The report recommends that the mandate of regulators be narrowed to read:

To protect the safety of patients, to prevent harm and promote the health and well-being of the public.

The report illustrates these concerns. One instance was the failure of the regulator to establish, as required by the legislation, a patient relations committee and a program dealing with sexual abuse. The only sexual abuse guideline developed by the regulation was permissive rather than restrictive in nature (i.e., enabling dentists to treat their spouses).

Another example provided was the failure to effectively enforce the standard related to sedation and anaesthesia. This discussion included an example where a young patient experienced permanent brain damage by a practitioner who had disregarded many of the most basic requirements yet was permitted to remain in the profession.

Legislative Reform

In addition to the recommendations described above some of the more significant recommendations for legislative reform for all health regulators include the following:

- Boards be reduced to twelve members, all of whom are appointed (not through the current government process) on the basis of demonstrated skills with only half being members of the profession.
- Smaller regulators should be merged into fewer, larger ones.
- A simplified complaints system with three components: triage, investigation, and adjudication.
- An expanded duty to report publicly on all operations of the regulator including complaints outcomes.
- The Review Board should be able to initiate, on its own, a review of a complaint outcome even if there is no appeal.

Longer term reforms would include:

- Having a single set of ethical rules and conduct expectations for all health professions.
- Removing adjudication of disciplinary disputes from the regulators, to be performed by an independent body.
- That same independent body would also maintain a single register of every health practitioner in the province.
- There should be a separate independent oversight body that reviews the performance of regulators, approves some of the standards

developed by them and manages the Board member selection process.

- The independent oversight body would also employ an occupational risk assessment process that would be used to recommend which professions require formal statutory regulation.

Conclusion

In summary, the Cayton report contains a detailed review of the performance of the College of Dental Surgeons of British Columbia. It identified serious deficiencies in the governance of the regulator. It also concluded that there were gaps in the regulatory performance of the regulator in eleven areas. It commented on a number of areas for improvement in its external relationships with various groups. It concluded that the regulator was not focussed exclusively on its public interest mandate, particularly in the area of public safety.

The report makes a number of sweeping short term and long term proposals for regulatory reform for all health professional regulators. These include a completely appointed Board of twelve people, half of whom are public members, merging regulators, separating out the adjudication of discipline matters and the operation of a single public register, and the creation of an oversight agency that would review and report on the regulatory performance of the regulators.

This report is broadly consistent with recent developments in British Columbia, and other provinces including Ontario and Nova Scotia and the regulatory regime that has existed in Quebec for many years.

Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

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SML

Steinbock Maciura LeBlanc
Barristers & Solicitors

The Cayton Report can be found at:

<https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/cayton-report-college-of-dental-surgeons-2018.pdf>.

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

December 2018

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

December 21, 2018

Dear Minister Dix,

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

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

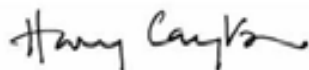
Part 1 of my report deals with the CDSBC and Part 2 with the Health Professions Act. Part 2 also makes recommendations for the wider reform of the statutory framework for health professional regulation in British Columbia.

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

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

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

Yours sincerely,



Harry Cayton CBE FFHP

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1. Introduction

- 1.1 This is the report of an Inquiry into the College of Dental Surgeons of British Columbia commissioned by the Honourable Adrian Dix, Minister of Health under section 18.1 of the Health Professions Act RSBC 1996 c183 and conducted under the provisions of the Public Inquiry Act SBC 2007.
- 1.2 The terms of reference for this Inquiry can be found in annexe 1 of this report.
- 1.3 The Inquiry began in May 2018 and concludes with the submission of this report to the Minister of Health in December 2018.
- 1.4 In order to carry out my Inquiry I have spent time in the College in May, July, September and October. In preparing this report I have drawn on:
 - Over 40 interviews with former and present Board members and senior staff members
 - Meetings and discussions with external stakeholders
 - Written submissions from other regulatory Colleges, from the Health Professions Review Board and the British Columbia Dental Association
 - Correspondence and telephone calls with members of the public, patients, individual dentists and other interested parties
 - Observation of College meetings including the Board, Governance Committee, Inquiry Committee, Nominations Committee, the Board Officers and Registrar meeting and the Senior Managers and Complaints meetings of staff
 - The Health Professions Act, the CDSBC Governance Manual, the College's internal policies and procedures, its Standards and Guidance and the wealth of information available on its website
 - Letters and emails concerning the College's business which have been submitted to the Inquiry
 - An audit of 30 complaint files
 - An assessment of evidence provided by the College against the Standards of Good Regulation
- 1.5 I consider that this evidence has been sufficient for me to form a fair assessment of the College in the matters set out in the Purpose of Inquiry, 1 (a)-(h) in my Terms of Reference.
- 1.6 I have not used individuals' names in this report. It is not my intention to criticise or blame any individual; the problems that the College has had are a corporate failure and only corporate action can remedy them. I recognise that some individuals will be identifiable by virtue of the office they hold. These are public offices and therefore they are accountable for their decisions and conduct in that office.

- 1.7 A small number of self-identified individuals has submitted evidence to me but asked that their names be kept confidential. I have respected their wishes. I have not received or used any anonymous submissions.
- 1.8 I have been assisted throughout this Inquiry by Michael Warren, Policy Manager, at the Professional Standards Authority (UK). I could not have completed this report without his consistent and reliable assistance. Luane Nisbet, Scrutiny Manager at the Authority, carried out the complaints file audit. Simon Wiklund, Senior Solicitor, has helped my thinking about reform of the Health Professions Act.
- 1.9 I am grateful to the past and present members of the Board of the CDSBC who have been unfailingly helpful and open and have welcomed my Inquiry. The staff team at the College have patiently answered every question even when they had told me the answer before and, without complaint, rearranged their working days to accommodate my needs. Some former members of staff have been similarly helpful.
- 1.10 Other individuals in British Columbia have been generous with their time and advice.
- 1.11 I have done everything I can in the time available to check facts. The confidential requirement on this report prior to its submission to the Minister has necessarily limited my ability to do that with the assistance of others. I am therefore responsible for any errors. Despite the considerable help I have received from many people the conclusions in this report are mine alone.

2. The Health Professions Act

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

- 2.1 The College of Dental Surgeons of British Columbia is the regulator of dentists, certified dental assistants and dental therapists¹ in the province. The College registers 3762 dentists, 6535 certified dental assistants and seven dental therapists in a province with a population of 4,817,000.² There are three other professional regulators of dental professions in the province: the College of Dental Hygienists of British Columbia, the College of Dental Technicians of British Columbia and the College of Denturists of British Columbia.
- 2.2 First enacted in 1990, the Health Professions Act, R.S.B.C.1996, c.18313 (Health Professions Act) establishes the legal framework for the regulation of all self-governing health professions in British Columbia. The Health Professions Act sets out the duties and objects of a College in the province.³ It provides the College with the power to create bylaws whereby it can establish procedures to elect board members, create Board committees, establish standards of academic achievement and qualifications for registration, establish standards, limits and conditions for registrants' practice, and establish and maintain continuing competence and quality assurance programmes.
- 2.3 Prior to moving to the Health Professions Act in 2009, the College of Dental Surgeons of British Columbia was regulated by provisions in the Dentists Act, 1983.
- 2.4 The College is one of 21 health regulatory colleges in the province, regulating 25 professions. There are colleges of chiropractors, dental hygienists, dental technicians, denturists, dietitians, massage therapists, physicians and surgeons, midwives, naturopathic physicians, registered nurses, licensed practical nurses, registered psychiatric nurses, occupational therapists, opticians, optometrists, pharmacists, physical therapists, podiatric surgeons, psychologists, speech and hearing health professionals, and traditional Chinese medicine practitioners and acupuncturists. One health profession, emergency medical assistants, is regulated by a Government-appointed licensing board under a separate statute. Social workers are also regulated, by the British Columbia College of Social Workers under a separate statute.

Duties and objects of a regulatory College in British Columbia (Health Professions Act)

Duties

It is the duty of a college at all times:

(a) To serve and protect the public and (b) To exercise its powers and discharge its responsibilities under all enactments in the public interest

Objects

A college has the following objects:

¹ *Annual report 17-18*, CDSBC, 2018.

² *Canada at a glance 2018*, Statistics Canada

³ *Health Professions Act*, RSBC 1996, c 183

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

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

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

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

- To develop and publish guidelines and recommendations for the purpose of assisting colleges to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair.
- 2.6 The Board, having reviewed a registration decision made by the College's Registration Committee or the handling of a complaint by the College's Inquiry Committee, may make an order either:
- Confirming the registration decision or disposition of the Inquiry Committee
 - Directing the Registration or Inquiry Committee to make a decision or disposition that could have been made by the Registration Committee or the Inquiry Committee in the matter
 - Send the matter back to the Registration or Inquiry Committee for reconsideration with directions.
- 2.7 The Health Professions Act provides that each regulatory college will have a board, which must 'govern, control and administer the affairs of its college in accordance with this Act, the regulations and the bylaws'. A board must submit an annual report to the Minister of Health. The Health Professions Act also provides that a board must ensure that its college has an accessible website that is free of charge to the public. A board has a majority of professional members, elected by registrants, and a minority of public members appointed by the Minister. A board may appoint an executive committee.
- 2.8 In addition, the Act provides that a board may make bylaws including to 'establish a registration committee, a quality assurance committee, an inquiry committee, a discipline committee and other committees the board determines are necessary or advisable'.
- 2.9 The legislative framework provides for both protected titles and the services that registrants may provide (called 'scope of practice') including restricted activities that only registrants may perform while providing services. The Health Professions Act sets out that the Minister of Health can prescribe protected titles which only registrants may use. The Minister's College specific regulation⁴ then sets out the protected titles that apply to College registrants: dentist, dental surgeon, surgeon, doctor, and dental therapist (the title 'doctor' is shared with the College of Physicians and Surgeons of British Columbia). The Minister's regulations also set out the services that may be provided by College dentistry registrants. These are recorded in Table 2 below. The services that dental therapists and certified dental assistants are authorized to provide are contained in the bylaws.

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

⁴ Dentists Regulation, 2008

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

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

Table 2: Restricted activities for dentistry registrants

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

3. Governance, conduct and probity

Elections and appointments

- 3.1 The Health Professions Act (HPA) refers to the professionals who are regulated within its framework as both 'registrants' and 'members' of a college⁵. This reflects an inherent confusion as to the nature of a college and its relationship to the people it regulates. 'Members' implies that the dentists⁶ own and control CDSBC; 'registrants' that they are registered with and controlled by the College. These two conflicting perceptions run through the way the College and its board and registrants behave and how they perceive their roles and responsibilities. A former member of staff described it thus: *'My view is that the biggest problems here, the biggest resistance here, comes from two fundamental issues. The first is the misunderstanding of the role and duties of a regulator by this registrant base. A huge misunderstanding.... You know, the lack of understanding about what the College's role is causing a lot of the issues, a lot of the disappointment and the politicking and many other things stem from this. Either a refusal to acknowledge or a... plain ignorance as what the College's role is.'*⁷
- 3.2 This idea of membership is reinforced in the requirement under the HPA for an Annual General Meeting⁸ and for annual elections to the Board of the College.⁹ This level of accountability to and control by the members creates the persistent perception that the College exists for the benefit of dentists, that it is a club rather than a regulator and that volunteerism lies at its heart. I heard many comments from dentists about the importance of 'democracy' within the College and noted the time and energy and enthusiasm that goes into the annual awards event for selected volunteers. Much stress is put on the idea of voluntary service to the College despite the fact that the majority of dentists who volunteer legitimately receive some payment. The idea that the College is a voluntary organisation rather than a professional regulator also affects the relationship between the members of the Board and the staff (see paragraph 3.22).
- 3.3 It is worth considering just what 'democracy' means in the context of the CDSBC. In the years 2014 to 2018, the average percentage of dentists voting in elections for members of the Board was 40%. The percentage of CDAs voting was an even smaller 7%. In 2017 the average voting percentage for four Board positions was 29%. Voting of course implies a choice but three dentist members of the Board were elected unopposed in 2016 and six in 2018. The voting system operates as an electoral college which creates further inconsistencies. There are over 6000 CDAs who can elect only two people to the Board whereas 3000 dentists elect ten.¹⁰

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

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

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

⁸ Health Professions Act, section 19.

⁹ Health Professions Act, section 17.

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

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

- 3.4 Of course, elections apply only to professional members of the College Board. Public members are appointed by the Minister through a process which is opaque. It appears that 'public' members may either be approached directly by government officials or may put their own names forward by indicating an interest in general or in relation to a particular profession. Names may also be suggested by the regulator's Board Officers or Registrar either formally in writing or informally. Transparency could be improved in how the names of public members come to be considered by the Ministry of Health (the Ministry) and how they are subsequently selected and allocated to various bodies. 'Public' members include, somewhat surprisingly, people who are regulated health professionals but from a different profession.
- 3.5 The lack of clarity and transparency about how public members are put forward and appointed gives rise to suspicion on the part of some dentist members of the Board that the appointment process has been manipulated. Several former and present Board members alleged to me that the previous Registrar had 'appointed his friends to the Board' or had 'packed the Board with his friends'. This is not true. Decisions as to who should be a public member of the Board are in the hands of the Minister and it has long been the practice that regulatory Colleges in British Columbia may put forward names of possible candidates. In fact, a form is provided by the Ministry for exactly that purpose and names are put forward and signed off by the President. In any event there is something unconvincing in dentist board and committee members, who are often themselves friends and colleagues or former classmates or who may share business or social interests, suggesting that public members are unduly influenced by personal or professional relationships but that they themselves are not.
- 3.6 The CDSBC has 10 committees as set out in the by-laws¹¹. It has another committee which is described as 'technically a working-group'; the so-called Governance Committee¹². In addition, it has established three other working groups bringing the total to 15.¹³ The College has not established a Patient Relations Committee as set out in the HPA¹⁴; the Board has reserved this function to itself although it seems rarely to have discussed patient relations. The College does not have a patient relations programme (see paras 6.15-6.18 below). The terms of reference of these committees and working groups while written down are not

¹¹ *Bylaws of the College of Dental Surgeons of British Columbia*, 2017.

¹² *CDSBC Annual Report 2017/18*

¹³ Working groups include: Bylaws working group, Facial aesthetics working group, Governance Committee, Finance and Audit Working Group

Committees include: Audit Committee, CDA Advisory Committee, CDA Certification Committee, Discipline Committee, Ethics Committee, Inquiry Committee, Nominations Committee, Quality Assurance Committee, Registration Committee, Sedation & General Anaesthetic Services Committee,

¹⁴ Health Professions Act, section 19, (t).

always adhered to, and when interviewed, their chairs and members could not always explain to me with confidence what their roles and responsibilities were. Particular confusion seems to exist around the roles of the Governance Committee and the Nominations Committee¹⁵ and the relationship of the 'Finance and Audit Working Group' to the Audit Committee.

- 3.7 According to the 2017/8 Annual Report the Governance Committee 'provides governance, oversight and advice to the Board'. Its former Chair, who was also Vice-President of the College, wrote in that report 'the best governance is what works best for CDSBC'¹⁶. I find both these statements problematic. A working group of the Board cannot 'provide governance' to the Board, nor can a working group established by the Board 'oversee' the Board. Since all the members of the Governance Committee are members of the Board and two of them are officers (the current President also attends *ex-officio*) it seems that it is advising itself. If the College's definition of good governance is merely 'what works' it is hard to see what ethical or external wisdom that brings. In many conversations with Board members and with the former chair of the Governance Committee it was not possible to elicit a clear explanation from anyone of the Governance Committee's role or responsibilities.
- 3.8 Uncertainty about the Governance Committee's role is also shared by some of its members. At a meeting I observed, discussion took place as to why certain items were on the agenda and what if anything they had to do with governance. Several items appeared to me to be operational and should not have needed to come to a committee at all. Other items included a proposed charter of 'Patients Rights', which having been referred from the Governance Committee to the Board and back again was referred on to the Ethics Committee. Decisions were made and agreed by the Committee only to be revisited and changed at the intervention of individual members within a day. In line with the recently introduced practice of a declaration of interests at the start of the meeting the members agreed that they all had an interest in the item on the Expenses Policy. However, when that item was reached they discussed it from their personal perspectives without any acknowledgement of the interest they had previously declared. Since the Audit Committee is responsible for expenses it's not clear why this item was on the agenda at all. It is difficult to see what added value the Governance Committee brings.
- 3.9 The Finance and Audit Working Group was established May 2012. The College's Bylaws specify that the Audit Committee has only three members. The Working Group has four members. It does not meet separately from the Audit Committee but rather attends all its meetings. Although members of the Working Group are not members of the Audit Committee they take a full part in discussions. The former chair of the Committee said, *'I have to frequently look at my notes to know who is the member and who is on the working group'*.
- 3.10 The way in which both professional members are elected and public members are appointed to the Boards of Colleges does not help good governance although this is no criticism of the individuals so elected or appointed. I make recommendations for some changes the CDSBC could make now within its existing legislation in section

¹⁵ At its meeting in September 2018 the Board agreed to rename the Nominations Committee the Awards Committee and to transfer the nominations function to the Governance Committee

¹⁶ Annual Report 2017/18

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

Conduct of the Board

- 3.11 The Board of the CDSBC has not been a happy, well-managed or constructive governance body for several years. I acknowledge however that the behaviour of Board members and its conduct of business is improving and that Board members are aware of their own difficulties.
- 3.12 The sudden change of leadership at the College in 2016 is a recent but not only source of many of its governance problems. At that election a self-declared 'slate' of six candidates stood with the intention of replacing the then President and bringing the then Registrar under control. Five of those six signed a joint declaration addressed to 'Dentists of BC'. It begins
- 'Over the last few years the executive body of the College of Dental Surgeons of British Columbia under the mandate of 'public protection' has rescinded many of the public and dental professional rights in this province'. And it concludes, 'Our registrar and President seem out of control. A group of us have formed a political slate to run against the current executive so that we can 'right the ship".¹⁷
- 3.13 I should note that the dentist who was the leader of that group and was elected President in June 2016 told me, '*We did not have changing the Registrar as part of our platform. In actual fact I had no thoughts about a new Registrar or what a replacement would look like.*'¹⁸
- 3.14 The cause of this undoubtedly genuine discontent on the part of dentists was the introduction, or attempted introduction, in 2014/15 of new standards in relation to treatment by dentists of their own family and friends, to advertising by dentists and the challenges presented by the growth of corporate dentistry. Further a proposal to change the bylaws to have the officers appointed by the Board rather than elected by the registrants as a whole caused outrage amongst those dentists who thought the College should remain under the 'democratic' control of its members. It seems to me that these changes to College policies, reasonable and proper in intention although they may have been, were not well thought through, communicated or managed. As the President elected in 2016 told me, '*There wasn't an appropriate policy process. It wasn't run out to the registrants in an appropriate way in which they could understand the rationale for its incorporation and accept it.*' The consequences damaged not only the governance and reputation of the College but were a setback to the ethical standards for dentists in British Columbia.
- 3.15 Certainly, the style and intention of the new Board members was different from before. As one public board member at the time observed, '*[The new president] had no concept of governance. His agenda was for the benefit of the dentists. He didn't understand 'protect the public' from my perspective. He just comes there to fix all the things that we've done wrong against the dentists. He actually said that in that first workshop on the first day that he came.*' Similarly a dentist member told me, '*I thought that the new people coming on - they were elected as a slate, would they work on the Board as a slate or would they be independent? And it could be that they would be independent but in reality... they weren't independent at all. They*

¹⁷ 'Dentists of BC', undated, 2016

¹⁸ Interview November 2018

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

- 3.16 The former President has an understandably different view, he told me,¹⁹ *'I tried to follow the Governance Manual to understand my responsibilities. I had to pile my way through a huge volume of stuff. The Board had not done adequate scrutiny of policy and its development. My focus was that the Board were working in harmony within the governance manual to try and make them aware that they had a responsibility for oversight. The Board should be working with the Registrar and the staff in the public interest. Many board members had not read the governance manual and some said they had never seen it. I was only there to run the meetings. I had to generate trust with Board members. I didn't have an agenda. I aimed for mutual respect and no animosity but that was difficult because two thirds of the Board were very hostile.'*
- 3.17 Nearly every Board member, past or present, with whom I spoke, told me of lack of trust between board members and between the board and the staff team. A dentist who had served on College committees said, *'I think an organization cannot lose trust in all the different levels, from the Registrar, to the executive, to the Board, to the committees and to the staff here. And I think to the public at large after that. The public is who we're trying to protect at the end of the day but if there's loss of trust anywhere along the way, it becomes dysfunctional. That's what I saw the last two years'*. A public member, similarly said, *'Trust has three components; do I trust your motivation, do I trust your skill, do I trust your process? There has become a habit in this group of 'I don't trust your motives'. What they really seem to be thinking is I don't trust your skill or your process... This has deteriorated into a mistrust of motives.'* It is a matter of regret that despite serious efforts to rebuild relationships by both new and some long-standing members of the Board and by senior staff mistrust persists. A public member of the Board reflected, *'There a very strong mistrust that seems to be threaded though the Board itself.'*
- 3.18 The working relationship between the Board and the professional staff needs to be addressed with some urgency and I look at this issue in more detail below.

Relationships between Board members and the staff

- 3.19 Two examples of the lack of trust the Board has in its own staff are the complicated arrangements they have put in place for the secure storage of the personnel records of the Registrar and their unwillingness to have their own Board Secretary take the minutes of their 'private' meetings. In the first case the Board officers,²⁰ because they did not trust the Registrar with his own personnel records, removed them physically from the College premises and stored them securely with a legal firm. Between 2016-18 the Board held some 20²¹ 'private' meetings or telephone calls with no staff present. As I report elsewhere (para 3.58) inadequate minutes

¹⁹ Interview November 2018

²⁰ Board officers are the President, Vice-President and Treasurer.

²¹ Because of inadequate records it has not been possible to determine the exact number of meetings

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

- 3.20 Two members of staff are former members of the Board. One officer of the Board is a former member of staff. Despite this rather unusual overlap, which one might hope would promote mutual understanding, there remains considerable tension between the Board and the staff team. Just as there has been a struggle within the Board for control over the direction of the College there is a struggle between the Board and the staff team for management of the operational functions of the College and about the staff's contribution to policy. As with the issue of elections this partly flows from the belief by many dentists that they 'own' the College, that the Board therefore embodies the College and that the staff are merely functionaries whose role is to do the bidding of the Board. One public board member observed, *'The Board as a whole don't mistrust staff, it's a minority that wouldn't have respect for staff but that minority would include board officers. I have heard that they have done too much by way of changing operational issues. The current Board, really the officers, don't know the line between supervising the Registrar and getting their hands on the College'*.
- 3.21 I have on a few occasions noted an unacceptable level discourtesy towards staff by individual Board members and some officers, past and present, sometimes publicly reprimanding them or challenging their competence. Unfortunately, although such damaging criticism is rare, it has gone unchallenged by other board members. Lack of respect for others if unchallenged rapidly becomes accepted conduct.
- 3.22 The tension between Board members and staff works both ways; if staff do not feel they are treated fairly by the Board or committee members they lose confidence in the leadership of the College. Staff can also be disempowered and uncertain of what is expected of them because of the unclear messages coming from the Board. As one public member observed, *'The [officers] and full Board do not use the registrar and senior staff in a very effective way. They rarely seem to turn to the registrar to ask for input, advice, and recommendations. I believe that most issues coming to the board should be framed in briefing notes which staff have researched and prepared. Staff should include a recommendation and rationale rather than posing open ended questions like, 'Staff are seeking direction from the Board.'*
- 3.23 A member of staff recently said to me, *'The staff are so frightened of the officers, they are so unpredictable, it's like walking on eggshells, so nothing gets done in case it's the wrong thing or they've changed their minds'*.²²
- 3.24 The resignation of the previous Registrar in April 2018 achieved what some dentist members wished for. One had written, *'Is there a culture in the conduct of the registrar's office which is not particularly favourable to CDSBC, the profession of dentistry in British Columbia and most importantly our duty to the public. Are we over influenced by persons trained in law and not dentistry?'*²³. Although the

²² Staff member, October 2018

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

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

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

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

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

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

Ethics and conflicts of interest

- 3.28 Every time somebody enters and leaves the College offices they pass a statement of its Standards of Practice. These remind registrants, staff and Board and committee members of their ethical responsibilities including that they should 'maintain accountability in the public interest' and ensure that they meet 'legislative requirements and professionals standards'.
- 3.29 Each Board member takes and signs an Oath of Office²⁷ on taking up their position. The wording of the Oath reads:

I do swear or solemnly affirm that:

- I will abide by the *Health Professions Act* and I will faithfully discharge the duties of the position, according to the best of my ability;
- I will act in accordance with the law and the public trust placed in me;
- I will act in the interests of the College as a whole;
- I will uphold the objects of the College and ensure that I am guided by the public interest in the performance of my duties;
- I have a duty to act honestly;
- I will declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interest;
- I will ensure that other memberships, directorships, voluntary or paid positions or affiliations remain distinct from work undertaken in the course of performing my duty as a board member;

So help me God. *[omit this phrase in an affirmation]*²⁸

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

²⁵ Email dated 20.10.18

²⁶ email dated 1.11.18

²⁷ HPA 17.11

²⁸ Health Professions General Regulation, 2017

- 3.30 In addition, the College had a 'Conflict of Interest and Confidentiality Agreement' as well as a 'Code of Conduct for Board and Committee Members'²⁹. Those were signed by all members who hold a role within the College. Financial conflicts are also covered briefly in the Financial Policies³⁰. There has been however no register of interests and no requirement for members to declare new or relevant existing interests prior to each meeting. This is now being introduced. I welcome the decision by the Board to introduce this as a standard agenda item and to have a publicly accessible register of interests. This should cover all Board and committee members and senior staff.
- 3.31 The College had a conflict of interest statement until 2016. It was comprehensive:
 'A direct or indirect conflict of interests exists when you, a friend, a family member, business associate or your corporation or partnership stand to benefit by the result or consequences of a decision made by the committee on which you are serving. A conflict of interest can also occur when your own personal interest in the outcome of a situation could influence, impair or prevent you from pursuing an objective fair and principled approach to decision-making.'
- 3.32 It went on properly to highlight the importance of perceived conflicts of interest:
 'The possibility that others will perceive that a Board or committee member is biased or has a conflict of interest in a given situation is also significant. This can arise when others perceive that the decision-maker would be unable to make an objective decision about an issue, quite apart from whether the decision-maker believes this perception to be true.'³¹
- 3.33 There is no doubt that perceived conflicts of interest can be damaging to confidence in public bodies and a failure to address them undermines their independence and their reputation. In 2016 the Governance Committee under its new chair, took issue with the Confidentiality Agreement as they thought it was too restrictive and didn't allow for any discussions with registrants. The Committee subsequently approved a Board Member Conduct Agreement which as well as reasserting that members should avoid bias and conflicts of interest and that 'Board members must maintain strict confidentiality', went on to itemise those occasions when confidential information could be shared³². Given the clarity of the College's Board Member Conduct Agreement and that all Board and committee members sign it is disappointing that very little regard seems to have been taken until recently to address the issue of real and perceived conflicts.
- 3.34 I address the relationship between the College and the British Columbia Dental Association below (para 5.21). That there is a possible conflict of interest is borne out by the College's own Governance Manual which specifies that:
 'A Board Member must not simultaneously be a board or committee member of any dental professional body where there could be a conflict with the regulatory role of CDSBC, without prior consent of the board.'

²⁹ 'Code of Conduct, Board and Committee Members' and 'Conflict of Interest and Confidentiality' CDSBC, undated.

³⁰ CDSBC Financial Policies, 2016, p5.

³¹ CDSBC Conflict of Interest and Confidentiality, nd. P2

³² Governance Committee Minutes, 5 October 2016

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

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

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

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

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

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

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

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

³³ CDSBC Governance Manual 7.6

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

- 3.40 The College Board Member Code of Conduct requires members to 'maintain strict confidentiality of College business'.³⁴ The 'Conflict of Interest and Confidentiality' statement prior to 2016 went into further detail. No one could misunderstand what confidentiality is or what was required. Despite that a confidential legal report to Board members was leaked to the *Globe and Mail* in 2017. Several Board members told me that there were frequent leaks of information from *in camera* and private Board meetings. At the September 2018 Board meeting, the College's General Counsel reported that the level of detail in a Freedom of Information request received from a *Globe & Mail* reporter would seem to indicate that they were continuing to receive confidential information. All members of the previous and incoming Board, except the President, have now signed a new additional Confidentiality Certification.³⁵
- 3.41 In spring 2016 a serious complaint was made to the College. I make no comment on the nature or content of that complaint or on its outcome. However, it is appropriate for me to review the manner in which the College Board dealt with the consequences of the complaint.
- 3.42 In February 2017 that second report was submitted to the Board. The only people who had copies were the Board members and subsequently the Registrar. The report was unequivocal in its criticism of the Colleges handling of the complaint and proposed a number of actions to remedy the matter. It advised the Board that the matter should be kept confidential. It was not.
- 3.43 On May 11, 2018 the Board held a private meeting by telephone to approve an agreement with the complainant made through their lawyer. They agreed a payment to cover the complainant's legal costs. They also agreed a donation to a charity to be made in the complainant's name. A few Board members queried the appropriateness of the latter payment. There were two concerns; was it proper for the College to make such a payment, that is, was there provision in the HPA for CDSBC to be making charitable donations and to a charity entirely unconnected to its purpose; and why was the donation to be made directly to the charity and not to the dentist? Despite these doubts the Board approved the payments. As one Board

³⁴ CDSBC Code of Conduct, 2017, Page 2

³⁵ Board meeting 15 September 2018 item 22

member said, *'There were a lot of people, board members opinions, that felt that it wasn't our duty to be making a donation of \$25,000 in anybody's name. I think the bottom line was that we agreed to it just to bring the issue to an end.'* Two members of the Board asked that their dissent be recorded in the Minutes³⁶.

- 3.44 The internal and external strife that has engulfed the College in recent years has inevitably involved obtaining legal advice and meeting its own and other's legal costs. Legal advice does not come cheap and in the three and a half financial years 2015/16 to autumn of 2018/19 the College has spent some \$320,000 on the external legal cost of protecting its own interests. In the same period the external legal costs of protecting the public were \$91,000. The College has a procurement policy but this has not been followed in the selection of any of the eight different external lawyers who have advised it during this time. There has been no formally agreed brief and no process of competitive tendering for any such contract as set out in the College Financial Policies.³⁷ The College has General Counsel on its staff, as permitted by the Bylaws³⁸ but their opinion on external legal advice has not been sought by the officers or the Board. In November 2016 without the necessary approval of the Board (which was given subsequently) the officers commissioned external legal advice on the interpretation of the HPA.³⁹ Advice which their General Counsel, an expert on the legislation, could have provided at no cost. Again, this reflects the Board's general lack of respect for or confidence in the expertise of its staff and a disregard for its own policies and procedures.

Management of meetings

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

³⁶ *In Camera* minutes, May 12 2018

³⁷ CDSBC Financial Policies, July 2016, p7.

³⁸ By-Laws 3.14

³⁹ DLA Piper report

⁴⁰ By-Laws 2.15(9) (a)-(k)

- 3.46 Meetings of both the Board and its committees could be more productive if they were shorter and more attention was given to three kinds of agenda items:
- reports for information,
 - reports on performance requiring challenge
 - and approval and papers requiring discussion and a decision.
- 3.47 Additionally, I note that the roles of a Board are:
- to ensure the College complies with its mandate and the law
 - to set strategy, to monitor performance
 - and to hold the registrar and chief executive to account for delivery
- 3.48 Board agenda items and papers should reflect those roles. At every meeting the Board should be asking itself: how are we protecting the public, what will the decisions of this meeting add to public protection? When Boards lose their way they become over-concerned with process and procedure rather than with effective decision-making and outcomes. The background papers that the Board receives should be prepared to help the Board achieve its purpose not merely to report on activities. I note that the Board is proposing to move more of its papers into what it calls a 'consent agenda', that is reports that are to be received and noted by the Board but not discussed. This is one way of freeing up Board time for more important items. However, it raises the question of why those reports are being prepared for the Board at all if they are not worthy of discussion.
- 3.49 A Reading of the minutes of meetings reveals that sometimes matters are discussed formally or raised informally which subsequently disappear from view despite the Board having proposed that some work should be undertaken. For example, the creation of the Policy Development Working Group. After the initial 'appointment' of the Working Group, there is no more information about the outputs of it in next Board meeting minutes. Sometimes, the reverse may happen where a piece of work may be completed but with no recording in the minutes that this was initiated: for example, the disbanding of the Registrar Search Working Group in 2012. There appears to be no mention of the Working Group being set up.
- 3.50 Decisions made by the Board may be challenged by a committee and decisions made in a committee overturned by members subsequently. There seems to be no formal way of recording and tracking decisions except when motions are proposed and carried. Even those appear sometimes to be contested or changed after the event. The style and format of committee minutes is not always consistent.
- 3.51 Voting on resolutions does not lend itself to consensus building or to the development of corporate responsibility. Indeed, the practice of proposing formal motions, gathering amendments and voting on them seems completely out of step with modern governance. It reinforces the idea that the College is a club and that board members represent and vote on behalf of their electorates. An effective board absorbs information, debates and discusses and aims to reach a consensus. The Chair will summarise and confirm back to a board what they have agreed. If the board are deeply split that may need to go to a vote but rarely. The Chair should not vote unless the board is evenly split. I note that at the September 2018 meeting the resolutions relating to proposals from the Bylaws Working Group on the size and membership of the new Board was by secret ballot, whereas all other votes were by show of hands. When I asked the President after the meeting why this was so, he

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

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

‘System for casting votes at the Board level.

[Name 1] suggested a polling mechanism such as Della Smith (*sic*) uses.

[Name 2] said this was not the way to go as it is important to hear everyone's opinion and for openness and transparency especially when discussing policy. These important policy decisions need to be discussed openly, consensus sought and then a decision through a motion or consensus agreement. [Name 3] agrees, saying an anonymous voting system is not transparent or consistent with good governance. The Governance Committee was satisfied with this discussion. No further action required’⁴¹

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

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

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

⁴¹ Governance Committee, 24 November 2016 Item 7.

⁴² Letter dated October 8, 2018

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

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

Financial oversight

- 3.57 This is not a financial audit of the College. I have no reason to think that the College is not well managed financially. All my questions which have related to financial matters have been answered in full and with commendable speed. It is apparent however, that the Board has not always followed its own financial policies and procedures particularly in relation to the procurement of legal advice. It is to be hoped that the Board can put behind it the many legal challenges it has recently faced but it must introduce proper procedures for the appointment of legal advisors and the management of legal contracts. It should do this through its own General Counsel to ensure an objective process.
- 3.58 It is unusual for an Audit Committee to spend time checking individual expenses claims instead of ensuring that there is a properly administered policy subject to internal audit. This is an inefficient use of its time and expertise. There is no internal audit function. In an organisation of this size it would not be proportionate to employ an internal auditor but it would be helpful to commission independent internal audit advice to the Audit Committee from an accountancy firm contracted for that purpose.
- 3.59 The College does not have a formal risk register managed by the Registrar and senior staff, reviewed by the Audit Committee and reported twice yearly to the Board. Such a Risk Register would have alerted it to some of the legal, financial and reputational risks that it has encountered in recent years and enabled it to mitigate them more effectively. Risk management is specified in the Governance Manual as one of the responsibilities of the Audit Committee.⁴³
- 3.60 The Audit Committee is an important part of the checks and balances within the College. It has an important role in maintaining financial oversight and probity. It needs to hold both the staff team and the Board to account for financial and risk management and oversight. It cannot do that effectively if officers of the College attend its meetings and compromise its independence from senior decision-makers.

⁴³ CDSBC Governance Manual, 10.3.5

4. Performance of the College

The Standards of Good Regulation

- 4.1 As part of this Inquiry the College has submitted evidence of its performance of its key regulatory functions in the light of the 28 Standards of Good Regulation. A formal performance review has not taken place but the College's internal processes and procedures have been examined. As part of this Inquiry I have observed internal complaints meetings and a meeting of the Inquiry Committee and an Inquiry panel. Thirty complaint files chosen by me were audited against the Professional Standards Authority's audit framework. I have also received submissions from dentists, patients and lawyers expressing their views on the College's conduct of complaints.
- 4.2 The Standards of Good Regulation (see Appendix 2) cover the key functions of:
- Registration
 - Standards and Guidance, and
 - Complaints and discipline
- 4.3 In addition, I have reviewed the College against the Standards for Governance (Appendix 3). In order to meet each Standard a regulator needs to demonstrate with evidence that it does so. It is not sufficient to have policies and procedures which would meet the standard if properly applied; it is necessary to show that those policies and procedures are properly applied in practice and that they produce outcomes that meet the Standards. Many regulators have proper policies and procedures but do not measure their impact or outcomes and so may meet the Standards but cannot demonstrate that they do so. This is the case with the performance of the CDSBC against some of the standards.
- 4.4 My overall conclusion is that the College meets 17 of the 28 Standards of Good Regulation as set out below. It may meet others but I cannot conclude that it does because the evidence is not available. I conclude that it has not met 11 Standards.

Registration

- 4.5 There are four standards for registration:

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

- 4.6 The HPA requires College registrars to 'maintain a register setting out, for every person granted registration under this Act, the following:
- (a) the person's name, whether the person is a registrant or a former registrant, and, if the person is a registrant, the person's business address and business telephone number;
 - (b) the class of registrants in which the person is or was registered;
 - (c) if the person is a registrant, any limits or conditions imposed under this Act on the practice of the designated health profession by the registrant;
 - (d) a notation of each cancellation or suspension of the person's registration...

- 4.7 The requirements for registration are set out in Bylaw 6 for dentists and in Bylaw 7 for Certification of Dental Assistants.
- 4.8 The College has detailed information about registration on its website. Dentists and CDA's wishing to be registered or certified by the College must show that they have passed an examination set by the National Dental Examining Board (NDEB) or National Dental Assistant Examining Board (NDEAB). The College is able to check the veracity of the information provided by applicants through the two examining Boards.
- 4.9 Applicants must fill in a detailed set of questions to verify their identity and background. Applicants submit a statutory declaration as part of the application and have it notarized. They attest that the information in their application is true and accurate. If an applicant provides any unusual information about the requirements or their background or they have admitted to any previous issues with conduct or competence in response to application questions, the application is forwarded to the Registration or Certification Committees for consideration.
- 4.10 The College responds to developments to keep its requirements current: for instance, the 2015 Dalhousie University dental student scandal in which a group of male fourth year dental students posted sexually explicit and misogynistic comments online. Questions were raised about whether those students should ever be registered as a dentist in any of the Canadian Provinces and, along with some other regulators the College added additional questions to the application form.
- 4.11 As part of registration and reinstatement for dentists, Certificates of Standing (COS) are required for all outside jurisdictions that the applicant has ever practiced in. The COS must be sent from regulator to regulator and is in the format of a common template. The COS includes confirmation that they have complied with quality assurance requirements and whether there are any previous complaints. If there are open complaints or any current or past disciplinary action these are sent to the Registration Committee for consideration.
- 4.12 As part of certification and reinstatement for CDAs, Letters of Standing are required for all outside jurisdictions that the applicant has ever practiced in. These letters confirm that they have met the quality assurance requirements in that jurisdiction. The letter must be sent from regulator to regulator and includes a note about any open complaints and any current or past disciplinary action taken. The Canadian dental assisting regulators are working on a template for a Certificate of Standing similar to the one used for dentists and we will start requiring it if the applicant is coming from a Canadian jurisdiction.
- 4.13 CDSBC provides Certificates of Standing for registrants applying to other jurisdictions.

This Standard is met.

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

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

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

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

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

4.16 For dental therapists currently only the name is shown.

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

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

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

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

This Standard is met.

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

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

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

- 4.22 The second campaign in 2015 ran with the message, 'Saying you are one doesn't make you one: make sure your health professional is regulated and accountable'. The campaign ran advertisements on bus shelters, in multicultural media and on social media. It also included short television advertisements featuring children playing the role of registered health professionals. I have viewed these advertisements which are well conceived and made. There has unfortunately been no formal measurement of their impact on public awareness of health professional regulation.
- 4.23 CDSBC reminds registrants to check that their associates, employees and co-workers are registered or certified and includes that advice in media statements and publicity.
- 4.24 The College gives publicity to anyone identified as having practised illegally. The website lists people who have been the subject of legal action for providing unauthorized dentistry services; the public can click on each name for more information.

This Standard is met.

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

- 4.25 The College takes immediate action if it is alerted to possible illegal practice. A private investigator is appointed and if warranted, a search and seizure court order is sought from the BC Supreme Court to enable a College Inspector to attend.
- 4.26 The College Inspector, the private investigator and their team in addition to police officers attend to inspect, catalogue and seize evidence.
- 4.27 The CDSBC provided evidence of the action it had taken to stop illegal practice. In 2013 it took rapid and effective action against a man who is who was believed to have provided dentistry illegally to 1,500 patients. The College issued notices along the way to keep the public, registrants and other interested stakeholders updated. It also worked with Health Authorities to draw attention to the risk of infection for patients. Advertisements were also placed in Chinese and mainstream media to inform the public of the court findings. The College offered a reward for information leading to the arrest of the dentist after he went missing. He was subsequently detained in Ontario.
- 4.28 The College is able to demonstrate that its response is proportionate in the case of another person practising illegally where the risk of infection was not considered so great that a public health notice needed to be issued.
- 4.29 The College website records action against six people for illegal dentistry between 2013 and 2015.

This Standard is met.

Standards and guidance

- 4.30 There are five standards for standards and guidance

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

- 4.31 The Health Professions Act charges the College with ‘establishing, monitoring and enforcing standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice’.⁴⁴
- 4.32 Expectations for dental practice are set out in the CDSBC Code of Ethics, and Standards of Practice documents. There are also guidance documents and topic-specific materials such as information sheets and interpretive guidelines and policies.
- 4.33 The ‘Code of Ethics’ and ‘Standards of Practice’ documents are very brief. The first is two pages and sets out five values and 13 ethical principles. It is clear and succinct. The second is only one page and has five ‘standards’ concerned with how dentists should deliver care. The College has explained that Standards are mandatory and Guidelines are recommended. It states:
- ‘Guidelines are highly recommended but – while being evidence of a standard – are not, strictly speaking, mandatory. Guidelines contain permissive language such as “should” and “may.”
- Standards are, by definition, mandatory and must be applied. Standards are clearly identified by mandatory language such as “must” and “required.”’⁴⁵
- 4.34 However, the word ‘must’ does not in fact appear in the ‘Standards of Practice’ document, which refers instead to ‘responsibilities of dentists, dental therapists and certifies dental assistants in providing care.’ It is unclear as to the status of many of the variously named ‘Standards and Guidelines’, of which there appear to be 11, ‘Information sheets’ of which there are five and ‘policies’ of which there are eight. I cannot find any document, apart from ‘Standards of Practice’ which is transparently a standard. The majority are described as guidelines, practice guidelines or merely given a title describing their subject matter. At the same time some documents called guidelines use mandatory language; the ‘Dental Record keeping Guidelines’ say ‘Dentists *must* (my emphasis) now keep complete dental records...’ and ‘Other records that must be retained...’ There are no standards for Patient Relations. The ‘Patient Relations Program’, despite being a requirement in the HPA, falls under ‘policies’ not standards or guidance and the relevant document merely refers the reader to separate ‘guidance’ on the treatment of spouses. There is no description of a patient relations standard or of what the ‘program’ is. There is a statement that the HPA requires the College to have such a program.
- 4.35 The purpose of information sheets is also unclear. For example, ‘Building the Dentist-Patient Relationship’⁴⁶ where the first few lines are, ‘The core of the dentist-patient relationship is a trusting relationship. This document provides some of the *key obligations* (my italics) and roles’ that each of the dentist and the patient can expect of each other.’ If this is a key obligation why is just an ‘information sheet’ and is a ‘key obligation’ different from a required standard?

⁴⁴ HPA s. 16(2)(d)

⁴⁵ *Standards & Guidelines*, CDSBC website.

⁴⁶ CDSBC *Building the Dentist Patient relationship*. 2015

- 4.36 The College has a range of documents covering good clinical practice in a wide number of areas. The College's ethical principles prioritize 'the health and well-being' of patients and its standards of practice state that the first responsibility of dental professionals is 'patient-centered care'.
- 4.37 The College does respond to new issues in dentistry such as the development of 'corporate dentistry'. It is currently revising Patient-Centred Care and the Business of Dentistry, first published in 2015 to address new business models for dentistry, specifically concerns about the corporatization of dentistry. It addresses the conflict between the dentist as healthcare professional and as a business person, and requires that the dentist put the healthcare needs of their patient above all other considerations.
- 4.38 The College has recently responded to the legislation of cannabis in Canada by issuing a reminder in October 2018 that the new law does not change registrants' obligations; they cannot practise while impaired, they cannot prescribe marijuana, and patients who are impaired cannot provide informed consent.
- 4.39 The evidence demonstrating that the College meets this standard is mixed. There is significant lack of clarity about what is a standard and what is guidance, and this makes it difficult to understand what is mandated and what is optional good practice.

This Standard is not met.

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

- 4.40 The College issues Information Sheets on specialist topics:
- Appropriate use of VELscope in Dentistry (to provide clarity to registrants and the public regarding the use of VELscope screening to identify potential oral mucosal diseases, including oral cancer)
 - Schedule 1 Drugs and Dentists Scope of Practice (addresses the use of Botox by dentists)
 - Confidentiality clauses in settlement agreements (registrants cannot dissuade or prohibit anyone from making a complaint to the College)
- 4.41 When the College identifies issues that may affect public safety, it may publish topic-specific information. For example, in 2016 it reminded dentists of their legal and professional obligations in dental emergencies and in 2018, in response to a rise in the use of CBCT (cone beam computed tomography) scanners it issued a reminder about best practices regarding Diagnostic Interpretation.
- 4.42 Because the College does not have a systematic and accountable program of identifying new topics for standards, guidance or information it is not possible to judge whether these are the most important or necessary new topics for improved patient centered care. Nevertheless, the evidence suggests this Standard is met.

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

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

- 4.43 The College does not have a systematic and accountable program of identifying new topics for standards, guidance or information. Nor does it have a regular and consistent program of revision of existing documents. Although ultimately the Board is accountable the manner by which topics emerge as important enough to require new standards or guidance or information provision is haphazard.
- 4.44 Three committees have some direct responsibility written into their terms of reference. The Quality Assurance Committee, 'develops and reviews practice standards, other than sedation and general anaesthetic standards, and recommends to the Board changes that the Committee considers appropriate to those standards.' The Sedation and General Anaesthetic Services Committee has a specific purpose; 'to review the sedation and general anaesthetic standards and recommend changes as appropriate, and to assess the compliance of dentists with the standards'. The Ethics Committee's terms of reference have as one objective, 'reviews standards of professional ethics and recommends changes as required'. The Quality Assurance Committee is also responsible for overseeing and improving continuing professional development. It is not apparent how a programme of work is prioritised and coordinated between these three committees and the Board and the professional staff.
- 4.45 In 2015/16 the College created a new 'policy development process'. This was in response to two deeply unpopular changes to guidance where registrants felt there had not been adequate consultation and/or strongly disagreed with the College's approach. The policy development process applies to standards and guidance as well as to the College's internal policies and procedures.
- 4.46 The College says it has started working on a process to review standards and guidelines and that it is developing closer collaboration between its complaints and quality assurance functions.
- 4.47 These initiatives are necessary and welcome but the College must establish an accountable, managed process for the development and revision of standards and guidance.

This Standard is not met.

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

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

- 4.49 None of these documents are referred to as a 'Standard'. Along the side of the same page are the headings 'Code of Ethics and Standards of Practice', that takes a website user to two documents. In this case 'Standards of Practice' describes principles, such as 'do no harm' and 'maintain accountability in the public interest'. These are good principles for dentists to follow but are they measurable Standards? Below the heading 'Standards of Practice' there is another, 'Standards and Guidelines', this has the same list of 11 documents none of which on the face of it appear to be a 'Standard'. The practice of anaesthesia is potentially highly dangerous so a clear Standard is to be expected. Instead we are faced again with a document titled only 'Sedation and Anaesthesia', with the introduction, 'All general dentists and certified specialists administering sedation and general anaesthesia must adhere to the requirements outlined in CDSBC's relevant standards and guidelines.' This is odd because it uses 'must' in relation to guidelines and because the link takes you to the 'Registration and Renewal' page of the website not to the Standards. There appear to be three separate standards for sedation and anaesthesia, each with several unconsolidated addenda. Below 'Standards and Guidelines' are the headings 'Information Sheets' and 'Policies'. Information Sheets seems straightforward, but why is 'dismissing a patient' an information sheet not guidance? 'Policies' is even more confusing; 'Patient Relations' is a policy; I would expect a Standard saying what sexual boundaries were, what standard of conduct the College required and what action the College will take, including removal of licence, if a dental professional were proved to have breached this Standard. Instead a web user follows a link to the bylaw that says it is not sexual misconduct to sleep with your spouse even if you are providing them with dental services.
- 4.50 It is not clear why some topics are policies, some are information sheets, some are guidance and virtually nothing is clearly and unequivocally a Standard.
- 4.51 The College does have an active communications policy using both digital and print media to communicate to registrants and the public about our initiatives, events, consultations and news -- including new and revised 'expectations for practice'. Hard copies of standards and guidance documents are mailed to registrants. Changes and updates are published in the electronic and print newsletter. Registrants are regularly reminded of the need to keep their contact information current, and may not unsubscribe from College publications.
- 4.52 When the Infection Prevention and Control Guidelines were created the key points were published on a wipeable Infection Prevention and Control Wall Poster that was distributed to all registrants. It does not appear however that there is any requirement on registrants to display the poster.
- 4.53 The College provides courses and presentations for registrants and has a presence at the two main annual dental conferences: the Pacific Dental Conference and the Thompson Okanagan Dental Conference. It also delivers courses to regional dental societies in British Columbia and hosts events in various parts of the province.
- 4.54 The College has a social media presence and tries to communicate effectively through provincial newspapers and broadcast media.
- 4.55 Information about how to complain is easy to find on the College websites and its complaints information is translated into seven languages. Translation services are used during the College's investigations if appropriate, to ensure it understands the concerns raised by patients.

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

This Standard is not met.

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

- 4.57 All registrants must meet Quality Assurance requirements to renew their registration annually. These requirements include:
- Dentists: 90 continuing education credit hours per three year cycle and minimum 900 continuous practice hours in the previous three calendar years
 - Dental Therapists: 75 continuing education credit hours per three year cycle and minimum 900 continuous practice hours in the previous three calendar years
 - CDAs: 36 continuing education credit hours per three year cycle and a minimum 600 continuing practice hours providing the restricted activities in the previous three calendar years
- 4.58 Registrants are required to submit evidence of the completion of these requirements through the College website. Those reports need confirmation by College staff.
- 4.59 Each autumn the College identifies those registrants who have not met the continuing education requirement. Those registrants are reminded that they have until December 31 to complete the requirement or they will not be able to renew their registration.
- 4.60 Each year at renewal registrants submit the hours they practised for the previous year and these are logged.
- 4.61 The College creates and delivers continuing education courses for registrants, both in-person and online. The courses are developed for the topics that relate specifically to the College's mandate of public protection and for which there is not an alternative.
- 4.62 The College is currently consulting on a significant revision of its Quality Assurance programme. This has been a lengthy process and involves substantial changes. On the face of it the current consultation is throwing up important practical difficulties as well as support for the intention of the programme. In order to strengthen its programme the College may wish to consider how it can measure the impact of the Quality Assurance programme rather than just recording inputs and activity. The College needs as part of its consultation to be smarter about measuring outcomes rather than inputs.

This Standard is met.

Complaints and discipline

4.63 There are ten standards for complaints and discipline

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

- 4.64 Patients, or their advocates or other members of the public who have concerns about a registrant can raise their concerns with the College. Registrants also can complain and, in some cases, have a duty to report. Insurance companies also report on registrants as do other health colleges. To make it easier for patients to raise concerns in 2018 the College added an online complaint form. The new form provides clarity to patients about what information is needed from them when they submit a complaint.
- 4.65 An overview of key complaints information has been translated into seven additional languages: Chinese (simplified and traditional), French, Hindi, Korean, Punjabi, Spanish and Vietnamese.
- 4.66 The College says that inquiries staff assist the public by directing them to other agencies or providing advice regarding the complaints process. However, complainants who have contacted me during the course of this Inquiry have reported difficulty in getting the College to respond as they expect. It is understandable that the College requires a complaint in writing but this does not always seem to be clear to complainants. Nor is the offer of telephone help to those who need it made directly. In an email exchange shared with me as part of its evidence the complaints officer stresses to the complainant, 'If you wish to lodge a complaint, we require your complaint in writing with your signature'. This is after the complainant has already provided the information asked for in a series of emails. There is no offer of help over the telephone. Another email from the College reads, 'If you still wish to lodge a complaint with the College, we may be able to review your complaint with respect to staff relations and dentist/office supervision of staff and perhaps ethics. However, the College requires signed complain submissions before it can be reviewed by the Intake Panel of the Inquiry Committee for approval to open a complaint file and to conduct an investigation.' There is a bureaucratic and formal tone to these official responses which are intended to be helpful but feel discouraging.
- 4.67 As well as complaints being accepted from patients, dentists, CDAs and others the registrar can initiate a complaint and the Inquiry Committee can investigate on its account for instance if concerns about one dentist emerge while investigating a complaint about another.
- 4.68 The College needs to review the tone and language used in its initial exchanges with potential complainants so that the College can obtain the information it needs to assess if a complaint is valid as quickly as possible and with the least inconvenience to the complainant.

This Standard is met.

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

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

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

- 4.70 Public notification of resolutions to complaints or discipline matters is provided to other regulators in British Columbia and Canada as a matter of routine or elsewhere as required by the HPA and the CDSBC Bylaws.
- 4.71 As part of registration and reinstatement for dentists, Certificates of Standing (COS) are issued to outside jurisdictions. The COS is sent from the CDSBC to the other regulator and is in format required between all Canadian jurisdictions. The COS includes a listing of previous complaints both open and closed and any disciplinary action taken.
- 4.72 The legal framework of the HPA restricts public access to full information about complaints against dentists and CDAs but the College complies with all its responsibilities.

This Standard is met.

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

- 4.73 All complaint letters are considered. A few are closed by the registrar as not raising health or competence issues. They are reviewed and risk assessed by the complaints team. The majority are referred to the intake panel of the Inquiry Committee the same day.
- 4.74 If following the risk assessment it appears that action is necessary to protect the public during the investigation of a registrant, or pending a hearing of the Discipline Committee, the College may take interim action to restrict practise or suspend a dentist or CDA.
- 4.75 The College employs inspectors who investigate complaints. Most are dentists, legal expertise is also available in the team.
- 4.76 An investigation report is provided to the Inquiry Committee. It includes a summary of the steps taken in the investigation and relevant information received. The investigator's comments are set out separately.
- 4.77 The Inquiry committee is composed of dentists, CDAs, and public volunteers. They are expected to review all the materials in advance of the meetings. At each meeting the Committee has a long list of files to review and more often than not meets by telephone conference. This makes it difficult for volunteer members to engage fully in discussion. My observation of an Inquiry Committee is that there was very little discussion or analysis of individual files by the Committee. In the majority of cases the proposals put forward by the complaints team seem to have been accepted.
- 4.78 The vast majority of complaints are resolved by consent. In 2016/17, four percent and in 2017/18, ten percent were referred to a Disciplinary Committee and all of those were subsequently closed by consent.

- 4.79 During the course of an investigation the College advises patients with concerns about criminal behaviour of a registrant to contact the police. If appropriate the College will contact the police directly.
- 4.80 It is difficult to determine if the action taken by the College in relation to the many complaints that are resolved by consent is 'appropriate'. The number of dentists continuing to receive complaints after they have agreed to remedial action by consent suggests that the original decision by the Inquiry Committee was not appropriate. A decision in favour of further remedial action is also therefore likely to be inappropriate.

This Standard is met.

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

- 4.81 The CDSBC has recently introduced a basic risk assessment tool to its consideration of incoming complaints. There is simple categorisation of risk (no risk, minimal, low, moderate, high) at the bottom of the 'New Correspondence Checklist.' The checklist is accompanied by a series of tables headed 'Elements of Risk Analysis'. These list criteria under five areas of practice that those assessing risk could take into account.
- 4.82 There are also criteria attempting to indicate the meaning of 'low', 'moderate' risk and so on. These include what regulatory action might result having regard to the seriousness of the complaint. Since action in response to complaints is entirely the responsibility of the Inquiry Committee and only then after the complaint has been fully investigated I do not think it right for those assessing the initial risk of as yet uninvestigated, unproven complaints to be having any regard for a possible outcome.
- 4.83 Complaints are considered on receipt at the weekly complaints team meeting and potential issues identified. The complaints team receives a copy of the registrant's complaint history if there is one. Any files assessed as low risk are addressed quickly, usually with a letter or telephone discussion about practice advice. Other matters are fully investigated. The Initial Intake Form directs attention to action that should be taken to prevent a high-risk dentist or CDA from practising or to restrict their practice by consent. Matters of high risk for potential harm are identified and flagged to immediately ask the Inquiry Committee to address as a section 35 proceeding for an extraordinary remedy.
- 4.84 The introduction of the new risk assessment process is an important and welcome step but it needs to take into account a wider range of matters and to be focused on immediate risk of harm to patients from continuing practise by the dentist complained about. The risk assessment approach was only adopted in principle by the Inquiry Committee at its meeting in October 2018 and therefore is not yet in place. I suggest that the College trials this approach and assesses its effectiveness.
- This Standard is not met.

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

- 4.85 The College provides clear information about the complaints process on its website. The, albeit limited, feedback from its complaints survey suggests that both complainants and registrants understand the process.
- 4.86 In the course of this inquiry I have received a range of opinions from patients, dentists and lawyers all criticising the complaints process and alleging unfairness of various kinds. Unsurprisingly the criticisms and perspectives are inconsistent and do not lead to any particular solutions. In my view some of the problems arise from the HPA itself and I address these in Part 2 below. Others arise from the approach that the College has chosen to take, particularly as regards Memorandums of Acknowledgment and Understanding. Requiring dentists to take remedial action whether or not the failing is susceptible to remediation (such as dishonesty) or when insight is not demonstrated or there are repeated similar complaints does not appear to be effective.
- 4.87 The requirement in the HPA for the Inquiry Committee to determine that a matter is 'serious' before it has been fully assessed risks inconsistency and much bargaining between registrants and the College.
- 4.88 Another concern is the lack of independence of the process and therefore potentially unfairness. The Inquiry Committee is not independent of the College Board. Members of the College Board sit on the Inquiry Committee. If Board members are involved there is a perceived or actual risk that the interests of the College (cost of legal action, time, inconvenience) may influence decision-making. Moreover, dentist members of the College Board are elected and therefore beholden to their colleagues.
- 4.89 I am aware of one incident in which a dentist Board member of the College raised a live investigation with the Registrar expressing a view on the evidence in relation to a dentist they knew personally. This is completely improper and has the potential to invalidate the objectivity of the complaints process.⁴⁷
- 4.90 The Inquiry Committee has too much work to do and therefore has difficulty in giving all complaints the thorough and objective assessment they deserve.
- 4.91 The Inquiry Committee is not sufficiently independent of the staff. The investigators frequently make recommendations to the Committee rather than objectively presenting the findings of their investigation. The staff also prepare proposals for Memoranda of Acknowledgement and Understanding, these are shared with the dentist concerned *before* they have been put to the Inquiry Committee and have sometimes been signed off by the dentist in advance although they are not asked or expected to do so. This procedure has no doubt developed with good intentions, to speed up the process and facilitate a consent order. In practice it subverts the independence of the Inquiry Committee in making its own decisions independently of the investigators. It is important too that the legal advisor does not direct the Inquiry Committee but advises it only on matters of law.
- 4.92 The Health Professions Review Board does provide a check on fairness as complainants can ask it to review if an investigation was adequate or a disposition

⁴⁷ Personal communication, November 2018

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

- 4.93 The HPRB can also assist with mediation between dissatisfied complainants and the College. This is a valuable process even if not always successful in resolving differences.
- 4.94 The majority of complaints which are taken forward are resolved by consent and with a range of remedial activities to be undertaken by the registrant. The monitoring of compliance is not as robust or consistent as it should be. The Complaints team are under resourced in this regard. Data on the effectiveness of this remedial approach has recently begun to be collected and I welcome this. In due course it will be possible to see if the public is protected by this approach. The high number of dentists who continue to be complained about after remedial action suggests that it is not. When sufficient data is available the Inquiry Committee and Board should review its position.
- 4.95 I make recommendations about improvements that could be made to the Inquiry Committee process within the existing legislation in para 6.28 below. On the basis of current evidence I cannot say this Standard is met.

This Standard is not met.

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

- 4.96 The CDSBC recognises that it has challenges with the length of time some complaints take to be investigated and resolved. Delays are sometimes the result of defensive action by the registrant or their legal advisors so it is not possible to establish a definitive timeline. Nevertheless, the College should have but does not have indicative target times for each stage of the complaints process. For example⁴⁸:

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

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

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

Table 3: UK General Dental Council complaints data tables

- 4.97 Unless the College collects this kind of data or similar it is not in a position to measure its own performance or to identify where more resources are needed or where performance is improving or getting worse.
- 4.98 The College does prioritize cases assessed as high risk and if there is a serious risk of harm these cases will proceed quickly to the Inquiry Committee for consideration of an extraordinary proceeding.
- 4.99 The length of time taken to resolve a complaint may have an impact on the safety of patients if a dentist continues to practise while unsafe. The new risk assessment process being introduced should reduce this possibility.
- 4.100 The CDSBC is aware that complaint file lists are very long and the potential for harm is not always immediately apparent at intake. It is working towards a process for reassessing potential for harm by having investigators review records once received. The Board and senior management are aware of the need for a significant increase in resources which should decrease the length of time to reach a resolution.
- 4.101 I do not think the College can be confident that it meets this Standard although it does everything it can within its current process and resources to do so.
- 4.102 This Standard is not met.

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

- 4.103 The complaints team acknowledge complaints with an opening letter. The registrant is notified, provided with the complaint submission and asked for a response and the complete patient record and if relevant, the names of other dentists or providers involved in patient care. The parties receive timeline letters as required by the HPA.
- 4.104 If a complaint progresses staff begin collecting records and other responses, including setting up telephone meetings with registrants and complainants. The investigators as well as the director of professional conduct monitor the progress. The investigator provides a draft of the investigation memorandum to the registrant and any response is captured before a final memorandum is sent to the Inquiry Committee.
- 4.105 As a complaint is being investigated, the complainant is updated and included by providing the response from the registrant and the complainant is invited to comment on the response. Investigators have telephone or in person meetings with the complainant to ensure their concerns are heard.
- 4.106 Complainants may receive the second opinion reports if they choose to seek a review through the Health Professions Review Process.

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

This Standard is met.

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

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

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

- 4.109 The weekly 'complaints meetings' which review incoming complaints and progress on current investigations aid consistency. The new risk assessment element of the 'New File' form will also help this. The discussions I have observed are thorough but the minutes of the meeting are brief and record decisions but not reasons.
- 4.110 Memoranda to the Inquiry Committee are detailed and comprehensive however where there is a recommendation to the committee a reason for that particular recommendation is not provided.
- 4.111 Discipline citations include the particulars of the allegations of misconduct. The drafting of the citations follows a consistent process and the evidence for the allegations is provided.
- 4.112 Inquiry Committee directions are recorded in minutes of meetings however full reasons for those decisions are not recorded as a matter of routine.
- 4.113 Subsequently the Discipline Panel will make determinations and issue a decision. The public report of the decision does not provide reasons.

This Standard is not met.

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

- 4.114 The HPA restricts the amount of transparency of decisions made though the complaints process. The CDSBC limits this further by seeking to close the majority of complaints by consent. This is very unsatisfactory from a patient's perspective but complies with the legislation.
- 4.115 Where a matter has been determined to be serious and/or it has reached a disciplinary hearing the complaint and its outcome are published. These decisions are clearly reported on the College website and are easy to find. The complainant is

⁴⁹ HPRB, Annual Report 2017

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

This Standard is met.

Information about complaints is securely retained

- 4.116 CDSBC has developed a Privacy and Security Policy to clarify and enhance the retention of complaints information.
- 4.117 All complaint records are kept on site and protected. Access to the database is assigned according to staff job responsibilities. Only the complaints department can access the complaints area of the database.
- 4.118 There is a portal for the Inquiry Committee to gain temporary secure access to complaints files that they are reviewing at a given meeting. Granting access to the inquiry committee portal is done at the discretion of a departmental manager according to the policy. Identification of patients is protected: patients names are redacted from citations. At a recent hearing public attending were asked to sign a visitor policy and maintain confidentiality regarding witness personal information.
- 4.119 Consistent with the new Privacy and Security Policy, all patient information and other confidential records that it sends will be encrypted; this is already happening in some instances. The College plans to roll out a secure file share server for outside sources to upload content. The security of complaints information should be improved as a result of the expansion of the College's office space in 2019. All complaints information will in a separate office which will require a security pass to access.
- 4.120 The new Privacy and Security Policy and the changes being introduced will enhance data security which is already well managed in relation to complaints. The College has confirmed that there were no data breaches in the last year.

This Standard is met.

Governance

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

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

- 4.122 The College has a number of mechanisms for assessing and managing risk. Although these may be useful and effective in themselves, they do not appear to be part of an overall assurance framework. There is no formal risk register which can be assessed periodically by management, the Audit Committee and the Board.
- 4.123 The Registrar provides an 'Executive Limitation report' quarterly to the Board. This seems to be a bureaucratic and time-consuming process for managing a perceived risk that the Registrar might exceed their authority. The Limitation Report sets limitations on their discretion and requires them to report on what they have not done. The Executive Limitation reports cover matters such as 'Treatment of Registrants', 'Treatment of Staff', 'Financial Conditions and Activities'. I have never

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

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

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

This Standard is not met.

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

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

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

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

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

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

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

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

- 4.132 Monthly financial statements are reviewed by the Audit Committee and Finance Working Group following the approval of the Registrar. The Board reviews the most recent financial statements at each Board meeting.
- 4.133 There is a budget setting process with appropriate levels of approvals at each stage. The annual budget is approved by the Board and outlines how funds are allocated to best fulfil the College's mandate and strategic plan objectives. The Audit Committee keeps the budget and expenditure under review.
- 4.134 The College has an Investment Policy for the proper and cautious management of its reserves. It also holds a Contingency Reserve Fund for unanticipated or unbudgeted expenses which are consistent with the objectives of CDSBC. Any disbursements from the Contingency Reserve Fund require a special resolution of the Board.
- 4.135 Several restricted reserve funds have been established to manage the building which the College jointly owns, to provide for investment in information technology, and to provide for legal costs related to complaints and discipline.
- 4.136 Following the external audit, the Board reviews the post audit report and approves the audited financial statements.
- 4.137 I have pointed out elsewhere (paragraph 3.48) that the Board has not followed its own procurement policy in relation to legal advice. I have also said that I consider the hybrid Audit Committee plus Finance and Audit working group is unsatisfactory in terms of the proper independence of the Audit Committee.
- Nevertheless, I conclude that this Standard is met.

The regulator engages effectively with patients and the public

- 4.138 The College does not have a patient and public engagement policy. In some aspects of its work it does try to engage effectively. It has good public facing communications.
- 4.139 The College website is well designed and apart from my concerns about the difficulty of actually identifying the Standards dentists and CDAs should meet, it is welcoming and user friendly for members of the public and patients. The website is accessible and information for patients clearly signposted.
- 4.140 Open and closed consultations are posted on the website and are also distributed to public patient groups depending on the topic under consultation. This fall the College added an online consultation forum in an effort to make its consultation and engagement efforts easier for participants. Anyone can now post their response to a consultation, see what others have to say, and respond.
- 4.141 The College issues public statements in response to public concerns such as the brain injury suffered by a child in Alberta while undergoing dental sedation or the group of male dental students at Dalhousie University, who were alleged to have made online threats of violence against women.
- 4.142 The complaints process provides a valuable source of patient comments. Complaints staff respond to well over 100 calls per month: they answer questions and provide information. The College recognises this but does not capture the information provided or the personal contacts in a systematic way. In 2016, the College instituted an exit survey for registrants and complainants to help in

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

- 4.143 Members of the public who contact the College about how to make a complaint or about the complaint process are provided with information on how to do so. Complainants can now submit a complaint online. Key complaints information and 'Frequently Asked Questions' about the process are available in seven languages. The College has adopted the Declaration of Commitment to Cultural Safety and Humility. I was concerned to learn that staff answering enquiries had been told not to inform patients that their dentist was required to have insurance. This has now been corrected.
- 4.144 The Board is currently considering opening Board meetings to questions and comments from members of the public.
- 4.145 The College undoubtedly strives to communicate effectively with patients and the public and to be supportive and helpful to those who wish to make a complaint.
- 4.146 College should bring its patient-facing activities together. In order to add value to its understanding of patients there needs to be better internal coordination and sharing of information. I welcome the objective under Goal 2 in the new Strategic Plan⁵⁰ 'to actively engage the public and patients in decision-making'.

Overall, I consider this Standard is met.

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

- 4.147 The Board and the senior staff are clear in their commitment to increased transparency. The new Strategic Plan for 2019-22 (approved in November 2018) highlights the College's commitment to transparency. Its values include, 'ethical, open and transparent' and its goals 'Identify and strengthen productive relationships with stakeholders'.
- 4.148 The College publishes an annual report, and aims to make improvements to the information/data it provides on an ongoing basis. For example, in the 2017/18 annual report, it added more information about the complaints files that are referred to by the Health Professions Review Board and enhanced the financial information that was presented so it now includes pie charts for each of revenue and expenses.
- 4.149 The names of committee and Board members, including a short biography and a photo, are published on the website, as are the names of staff. It is not possible through the website to contact individuals directly.
- 4.150 CDSBC publishes annual summaries of complaints where the decision required the registrant to take action to address concerns found during the investigation. This is beyond the publication requirements outlined in the *Health Professions Act*. Discipline notices or notices of complaints involving serious matters are published on the CDSBC website for 10 years.

⁵⁰ CDSBC Strategic Plan 2019-2022

- 4.151 The Annual General Meeting is webcast. The Board is currently considering opening the public sessions of Board meetings and the AGM to questions and comments from members of the public.
- 4.152 The College held 'listening sessions' for dentists around the province in 2017-18 to provide an opportunity for registrants to be engaged early on with policy development initiatives.
- 4.153 CDSBC has a policy development process that emphasizes engagement with registrants and other stakeholders. The website lists open and closed consultations.
- 4.154 Public Board minutes are posted on the website after each meeting once they are approved, although the content of the minutes is limited.

This Standard is met.

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

- 4.155 As described above (paras 3.20-26) the relationship between the Board and the staff team needs further work to develop mutual trust and an effective partnership. The Board currently requires a significant level of reporting from the staff; quarterly management reports, quarterly registration reports, quarterly complaints reports, quarterly financial reports, operational plan progress reports. My observation is that these reports are about activity rather than performance. The volume is such that the Board has neither the time nor the ability to analyse the reports effectively. A board does not need to know everything. It needs to know that its strategic objectives are being delivered, that the organisation's resources are sufficient and effectively deployed and whether performance is improving or declining.
- 4.156 There are no agreed key performance indicators or regular reporting against them, nor is there a corporate risk register.
- 4.157 The quarterly Executive Limitation report is not about effective oversight but, as its title suggests, about limiting and controlling the registrar. The line summarising the purpose of each section of the report begins, 'The Registrar shall not cause or allow...' or 'The Registrar may not...' This is not a sensible risk management nor staff management for that matter.

This Standard is not met.

The Board sets strategic objectives for the organisation

- 4.158 A strategic planning process is set out in the Governance Manual. During 2018 the Board has developed a new Strategic Plan which is a significant improvement on before. The plan was developed through two Board workshops. It involved a pre-survey of board members, an environmental scan, a SWOT analysis, identification of key strategic issues and initial priority setting. In September the Board reviewed and refined the draft. It was published for consultation and was subsequently approved at the November 2018 meeting.
- 4.159 The new Strategic Plan has four high level goals, a set of operational objectives and identified success measures. It is to be hoped that the Board will use this new Strategic Plan to refocus and improve the way staff report to the Board so that it can measure performance against its agreed goals and success measures.

This Standard is met.

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

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

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

Currently, this Standard is not met.

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

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

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

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

This Standard is not met.

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

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

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

Table 4: Summary of review of standards

5. External relationships

- 5.1 The Health Professions Act requires a College ‘to promote and enhance collaborative relations with other Colleges, regional Health boards designated under the Health Authorities Act and other entities in the Provincial health system post-secondary education institutions and the government.’⁵¹
- 5.2 The Board Code of Conduct summarises the requirement well:
- ‘As stewards of the public trust, the Board aspires to maintain the confidence of the public, the government, and the dental profession in the College’s ability to fulfil its important statutory responsibilities. Board members must: Exercise all powers and discharge all responsibilities in the public interest above all other considerations.’⁵²
- 2.2 Overall the College appears to have good working relationships with its partner organisations both in dentistry and in regulation. Understandably it directs most of its interest and energy to dental associations and organisations and is active in Provincial and Canadian national bodies for dental education and regulation: ‘The nature/extent of our external relationships is in keeping with the relative importance of stakeholders in upholding our mandate. In other words, we work more closely with organizations such Canadian Dental Regulatory Authorities Federation, Canadian Dental Assisting Regulatory Authorities, the National Dental Examining Board, Commission on Dental Accreditation of Canada, other health regulators in BC, and the educational institutions that train our registrants.’⁵³
- 5.3 I suggest the College also needs to direct some of its attention to improving engagement with the wider health community in British Columbia and with the patients and the public whom it exists to serve.

Dentists

- 5.4 The relatively small proportion of dentists who vote in College elections or respond to most College consultations suggests that the College does not figure largely in their professional lives. There is nothing very unusual or odd in that. As Right-touch regulation proposes, regulation should create a framework for professionalism⁵⁴. Recent research by the Professional Standards Authority found that:
- ‘Professional identity exists independently of the register. The register acts as a means of validating existing professional identity and giving evidence of a community of practice of shared professional identities but it does not generate professional identity. The register is a tangible way of viewing a community that already exists’.⁵⁵
- 5.5 In general, the study finds health professionals draw their sense of personal commitment and value from their teachers, mentors, colleagues and professional community not from being a regulated profession. Regulators need to understand

⁵¹ HPA s16.2(k)(i)

⁵² *CDSBC Board Member Conduct Agreement*, CDSBC, 2017.

⁵³ Email from CDSBC, November 18, 2018

⁵⁴ *Right-touch Regulation*, Professional Standards Authority 2010 and 2015

⁵⁵ *The regulator’s role in professional identity: validator not creator*, Professional Standards Authority, 2018

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

- 5.6 Self-regulation needs the consent of the regulated. It does not need their enthusiastic support but it does need their acceptance. A small number of dentists are active and vocal in their criticisms of the College. Their objections appear to focus on all and any attempt by the College to issue new standards and guidance, to change its governance and on the alleged unfairness of the complaints process. If their belief is that as professionals they can be trusted to behave well without the guidance or supervision of the College that is hardly borne out by the intemperate and sometimes abusive language they use or the extreme opinions they express. Self-regulation needs the consent of the regulated but it also needs the confidence of the public. The undermining of the CDSBC by some of its own registrants puts the survival of the College itself at risk of loss of public and Government confidence.
- 5.7 The College relies very substantially on volunteers to populate its committees. Many people are generous with their time and expertise but volunteers are not chosen against any formal set of competencies, instead they either self-nominate or are approached by a board officer or committee chair who knows them. Training for voluntary roles within the College is limited. Some dentists have got involved only when they have felt their personal interests have been threatened by the College and so arrive with a declared bias or intention of their own. This is particularly so when the College has tried to put the public interest before dentists' convenience or financial freedoms as in the 2015 proposed 'Boundaries in the Practitioner-Patient Relationship'. One dentist who stood for election on the basis of opposition to that proposed standard admitted, *'So we arrive only to discover, and this is again perhaps a bit of a revelation to me, because you typically run I suppose on an election thinking somehow you can change something. Only to discover that the people that elected you, you don't really speak for them. So I find myself in this environment in this building in the College as a Board member. I go, oh okay, it is not quite the way I thought it would be... Okay because quite honestly I didn't really have a clear idea.'* After lobbying led by the BCDA, and for which that Association subsequently took credit, the proposed Standard was reduced to Guidance and now only asserts some principles and leaves dentists to make their own decisions.
- 5.8 The former President, elected as he was on a wave of discontent, was active in taking the message of the College to dentists through British Columbia. He ran a large number of meetings throughout the Province: *'I took a different approach and went out to the registrants and basically said, 'We're here, our mandate is to protect the public what are you seeing out there to give you concerns that the public is not being looked after...so that we could come back to the Board and identify what those issues were and develop policies to address that.'*⁵⁶
- 5.9 In November 2018 the College consulted on its enhanced Quality Assurance programme. Quality Assurance is the term the CDSBC uses for setting requirements for continuing professional development for both dentists and CDAs. The new Quality Assurance standards have been several years in planning and have engaged many dentists in their development. The enhanced programme has appropriate objectives:

⁵⁶ Interview, November 2018

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

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

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

5.11 To professional self-interest:

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

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

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

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

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

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

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

Certified Dental Assistants

- 5.15 The College's relationship with Certified Dental Assistants is ambivalent to say the least. Some of the problem derives from the College bylaws which do not give CDAs equal status within the College. CDAs hold a certificate granted by the College but are not regarded as registrants or members. Despite there being twice as many CDAs as dentists they have only two seats on the Board in comparison to the dentists' 10'.⁵⁸ At its meeting in September 2018 the Board voted, in reducing the size of the Board, to limit CDAs to one seat only. As one CDA remarked, *'We can run their practices for them but we can't run their College.'*⁵⁹
- 5.16 The College used to collect the fees for the Certified Dental Assistants of British Columbia (CDABC) but soon after the College was established it voted to stop doing so. As one CDA remarked *'Dentists sometimes don't play nice'*.
- 5.17 The College does not require dentists to employ CDAs as assistants. They can employ anyone as a 'chairside assistant' although those persons are not able to carry out independent activities as CDAs can.
- 5.18 The College has two CDA Committees; a CDA Certification Committee and a CDA Advisory Committee. It has not sought to develop a proper scope of practice for CDAs, something which they would welcome as an enhancement of their professional practice. CDA issues seem rarely to be discussed or given much attention by the Board. It is hard to avoid the impression that for some, CDAs are second class citizens.

Dental Therapists

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

⁵⁸ CDSBC Board, CDSBC.

⁵⁹ It reversed that decision and other reforms at its meeting in November 2018

⁶⁰ *All regulated health professions commit to a safer health system for First Nations and Aboriginal People*, First Nations Health Authority, 2017.

The other dental colleges

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

The British Columbia Dental Association

- 5.21 The relationship between the College and the British Columbia Dental Association is too close: *'When a registrant pays their fees to the College, a portion of that fee goes to support the advocacy group, the British Columbia Dental Association. To me that makes the separation of the College's role of public protection difficult for consumers to see when it has this close financial relationship to the professional body'* (former public member of the Board).
- 5.22 The Governance Manual recognises the importance of the independence of the College. It stipulates a gap of two years before someone who has served on the board of directors of any provincial or national dental association is eligible to be a Board Member and three years after a member of the Board has left the College before they can serve in a role with a regional, provincial or national dental association⁶³.
- 5.23 A former dentist member of the Board commented, *'So point number eight, relationship between the college and the stakeholders. They have a very close relationship with the BCDA, which can create problems... Also the College of Dental Surgeons regulates dental assistants. I have said I think this is odd since dental assistants are often employed by dentists, this is an imbalance of power.'*
- 5.24 That the objectives of the Association and College are closely aligned, at least in the minds of some dentist leaders is, apparent in an email from the then President of the Association to the incoming President of the College in June 2016, *'The College and the BCDA need to support a strong profession- so let's make that tomorrow's goal!!!'*⁶⁴ The then President of the Association is now President of the College. The dentist who was elected vice-President of the College in 2016 received a Merit Award the same year from the Association for campaigning against

⁶¹ Figures obtained from the Annual Reports or on-line registers of the Colleges

⁶² HPA 16.2(k)(ii)

⁶³ Governance Manual, page.3.2, section 3.4.

⁶⁴ Email from BCDA President to CDSBC President-elect dated 29 June 2016

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

- 5.25 The closeness of the relationship is recognised by those outside of the dental community. In its submission to this Inquiry the British Columbia College of Nursing Professionals observed that during the three nursing colleges' conversations about amalgamation, they took into consideration, *'the CDSBC's governance challenges...and aimed to ensure that special interests, such as those of a professional advocacy association or union, would not undermine the College's public interest mandate by negatively impacting the new College's Board composition.'*⁶⁷
- 5.26 The Bylaws say that the College 'may' collect fees for the Association⁶⁸, not that it must or should. This is very clearly a discretionary power. In a letter to this Inquiry the BCDA observed that, *'it is the legislature that has expressly permitted a public body to collection [sic] of such membership fees, a clear indication that, as a matter of public policy, the legislature has concluded that such a practice is not inconsistent with the public interest; otherwise, the HPA would specifically disallow it.'*⁶⁹ That interpretation is reasonable but at the same time the legislation permits the College not to collect such fees so it is for the College and the College alone to determine that it is in the public interest and if it is proper for the College to do so. The legislation is permissive not directive. The College has already determined not to collect the fees for the CDABC so it is clearly free to make the same decision in relation to the BCDA should it wish to do so.
- 5.27 The College agrees annually by a motion of its Board to collect the fees for the Association. The Association does not publish its annual accounts or provide the College with a justification of its fee for the coming year, it merely provides the College with a statement of the amount it requires to be collected on its behalf. As there is no breakdown of the Association's expenditure there is no way the Board can make an assessment of the extent to which the fees are justified by 'the public interest' as distinct from the professional or private interests of dentists.
- 5.28 When the College collects fees for the Association and itself from dentists it does so as a single fee and does not differentiate between the sum for registration with the College and the payment for membership of the Association. This is not transparent. The Association does not provide the College with a list of its members from whom to collect its fee. Both the College and the Association appear to assume that every dentist wishes to be a member of the voluntary Association. I am informed that dentists are not required to be members of the Association but as the College collects fees from them whether they are or not that discretion is non-

⁶⁵ *Celebrating 2016 Award Recipients*, BCDA, 2016.

⁶⁶ Joint letter from the CDSBC and BCDA dated 6 November 2015

⁶⁷ Letter from the BCCNP to the Inquiry dated September 24, 2018

⁶⁸ CDSBC Bylaws 3.10

⁶⁹ Written evidence to the Inquiry from the BCDA dated September 17, 2018

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

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

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

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

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

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

⁷⁰ Email from the chair of the CDSBC to the Executive Director and Chair of the BCDA dated October 18, 2018.

⁷¹ CDCA A Path to Addressing Critical Gaps in Dental Healthcare, 2017 and BDCA Submission on Poverty Reduction, 2018

⁷² 'Two Organisations; One profession' in The Bridge, Spring 2018, p7.

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

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

Post-secondary education

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

The BC Health Regulators

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

Health Practitioners Review Board

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

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

The Ministry of Health

- 5.38 The HPA grants colleges freedom to self-regulate in the public interest but also ties the regulator into public responsibility and accountability to government. The CDSBC has regular communication with Ministry of Health official, and occasionally with the Chief Dental Officer. Officials have addressed the College Board.
- 5.39 The Ministry, along with the Crown Agency Board Resource Office (CABRO), is responsible for deciding who is appointed as a public member of the boards of the Colleges. Colleges have raised concerns that this process can lack transparency and efficiency.
- 5.40 I asked all the colleges if they had current or imminent vacancies for public members on their boards. My calculation is that at the time of submitting this report, there may be over 25 vacancies unfilled at the end of 2018 and that at least seven colleges may not have enough public board members to comply with their bylaws.
- 5.41 It is possible that the current system of appointing public members to boards could work more efficiently and transparently. That is a matter for the Ministry not this report.

Patients and the Public

- 5.42 The College has no systematic engagement with patients as individuals or through their representative groups. In fact, as reported above (para 3.49) some board members seem wary of the public and unwilling to engage with them directly or to open board meetings to their comments and questions. The acting registrar and colleagues have shown themselves willing to engage directly with patient complainants, to address their concerns and to learn from them. I commend this and encourage the College to be more purposeful in meeting, hearing and responding to patients directly.
- 5.43 The College does conduct a complaints survey⁷⁴ which covers both complainants and registrants. This is a welcome attempt to obtain feedback. Unfortunately, the numbers of complainants responding is so low that its usefulness is extremely limited. In the 2017-18 period only 16 complainants responded. The Annual Report for that period records that the College received 309 complaints. Given that those few respondents disagree with each other on many questions, except that College staff are courteous and respectful, it is not possible to draw any useful conclusions. Conducting a survey of this kind is desirable but the College really must rethink its

⁷³ HPA s50.55

⁷⁴ *Complaints Process Exit Survey, March 2017-February 2018*, CDSBC, 2018

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

- 5.44 I recommend that the College develop a patient and public engagement strategy, seeking to inform the public about its role, to make it easy for them to respond to consultations, to engage with patients who complain to learn from them and to improve the College's response to them. Patients and the public are not a threat to the College as some seem to believe but a resource for learning and improvement. The new Strategic Plan agreed in November 2018 provides a good opportunity to do this.
- 5.45 Regulators cannot work effectively alone or in isolation from the wider social structures of which they are apart. In the past, to some, self-regulation meant self-determination and isolation. A sentiment which lingers on in the claims 'We are different', 'We are special', 'We can be trusted to be left alone'. None of those claims are sustainable in the face of the many failures of professional regulation in many jurisdictions over many years nor in response to the needs of modern health services.

6. Protecting the public

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

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

- 6.2 I have observed that on the CDSBC Board and committees discussion about protecting the interests of dentists rather than of the public remains an underlying theme. But I also recognise the changes of attitude and action that are being brought about by the Board, committees and senior staff. This significant shift towards prioritising public protection is strongly expressed in the new CDSBC Strategic Plan 2019-22.
- 6.3 It is my conclusion that the Board of the College has not always in the past put fully into effect its role in ensuring the safety of dental patients and in protecting the public. Some dentists both on the Board and on College committees continue to believe that the College should protect dentists. This was explicit in the statement on Governance and Operations in the 2017/18 Annual Report which reads, 'Board, committees, registrants and staff understand the role and limitations of the College with respect to regulatory vs. advocacy functions'.⁷⁶ The College in fact has no advocacy functions and the only limits to its regulatory functions are those set out in its legislation or which it has chosen to apply to itself.
- 6.4 Nowhere in the summary of the former Strategic Plan set out in the 2017/18 Annual Report do the words 'patient safety' or 'public protection' appear. The College, it says, 'supports the professional rights and responsibilities' of dentists but it is silent on the rights of patients. A former staff member told me, *'Elections lead to the sense of entitlement over the College's operations that registrants hold. They hold it very dearly. You ought to see, if you haven't seen already, many examples of vitriolic correspondence from registrants saying that it's so unfair that a dentist agreed to something to resolve a complaint. That there was a gun to their head. That there was excessive pressure. It's truly pathetic.'*⁷⁷
- 6.5 A concern for the well-being of dentists rather than a single-minded focus on patient safety and public protection is still a part of College culture. A member of the Inquiry Committee wrote to me, *'The College should not conduct itself to protect the public at the expense of the dentist's physical and mental well-being...'*⁷⁸ For this Inquiry Committee member, responsible for complaints and discipline, the welfare of dentists comes before the welfare of patients. Another dentist wrote to me in

⁷⁵ *Acting in the Public's Interest? Self-Governance in Health Professions: The Ombudsman's Perspective*, 2003 p 3.

⁷⁶ CDSBC Annual Report 2017/18, p2-3

⁷⁷ Public Board member, interview, July 2018

⁷⁸ Written evidence submitted to the Inquiry, July 2018

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

- 6.6 The College is in practice far from being dismissive of the well-being of dentists and CDAs. It seeks to check if health issues underlie problems with performance and then actively tries to agree with them voluntary withdrawal from practice. It has established a health and well-being programme for those unable to practise though drug or alcohol abuse or issues with mental health. It is a worthy objective, compassionate in intention and desirable to achieve. But why is the regulatory College rather than the membership Association running it? The welfare of dentists in trouble should surely be the concern of their Association and it would be a proper collaboration for the College to refer dentists who needed help for whatever reason to the Association which exists for their benefit. I don't doubt the needs of this group of unwell dentists and CDAs but I do doubt that it is a regulator's role to arrange and sometimes pay for healthcare for them. There is no comparable rehabilitation service provided by the College for the patients whose health and well-being has been damaged by dentists.
- 6.7 I asked the board officers who were in post from 2016/18 what 'protection of the public' meant to them and how during their period in office the College had improved patient safety. One told me, *'I know, the things that we were upset about didn't have a lot to do with patient's safety.... The Board has been stuck, we have accomplished virtually nothing because of this issue.'*⁸⁰ The minutes of board meetings provide little evidence of an organisation focussing its attention on public protection. As a dentist Board member said, *'A lot of time had to be spent in the last two years just sorting out the Board, rather than focusing on protecting the public.'*⁸¹
- 6.8 The former President however strongly defended their track record.⁸² He shared with me *'the things we were able to accomplish as a board, things I was really proud of.'* He cited the standards for sedation and anaesthetic dentistry, the establishment of a national programme through CDRAF (Canadian Dental Regulation Authorities Federation) for specialty recognition of dental anaesthesia, the development of the College's new Quality Assurance process, the change to Bylaw 12 so that it allowed advertising compliant with the Canadian Charter of Rights and Freedoms⁸³, new standards for dentists to provide and advertise Botox and facial fillers and the wellness programme for dentists. *'Our focus was on harm reduction and rehabilitation'*, he told me.
- 6.9 The former President described the 'listening sessions' with dentists which he had instituted. *'That was a big push of mine. I developed blogs for the College so that I*

⁷⁹ Submission to the Inquiry dated November 2018

⁸⁰ Interview, July 2018

⁸¹ Interview July 2018

⁸² Interview November 2018

⁸³ The Constitution Act 1982

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

- 6.10 *'In one ethnic area, he said 'the community, a south-Asian community, has made a universal decision not to accept co-payments from patients. This does not really affect the public except that it cuts the cost but it is not compliant with the College regulations and bylaws and puts the College at risk... We also addressed risk to the public of corporate entities, this was part of my platform, determining patient treatment to maximize income; putting the public at risk of unnecessary treatment.'* Having identified these issues, he told me, the Board worked with the ethics committee to improve the Code of Ethics and developed 'Patient-centred Care and the Business of Dentistry'. *'These are all things that we've done to show we are working in the public interest and protecting the public,'* he said.
- 6.11 I recognise that many of the issues as highlighted by the former President do indeed have possible adverse outcomes for patients; either under-treatment through lack of access or over-treatment because of over-supply and the need for dentists to make an income. However, they are all issues of dental ethics, advertising, commercialisation, and dental fees rather than patient safety issues in themselves. They arise out of the economics of dentistry in the Province.
- 6.12 It seems to me that CDSBC's underlying cultural resistance to being fully focussed on the safety of patients, despite the efforts of many people to move it in that direction, derives in part from a number of problems with the Health Professions Act. The first is the defined purpose of the legislation, the 'Duties and Objects of a College', which is no longer sufficient to protect the interests of the citizens of BC, the second, which I have dealt with in paras 3.1-3.3 above, is the electoral system and the confusion of membership with registration; third there is a curious caution about creating and publishing unequivocal Standards of Dentistry, against which dentists can be held to account; fourth, the complaints process is over complicated and open to protracted negotiation by health professionals and their lawyers; and fifth the College's commitment to voluntary consent and remediation as an outcome of complaints has tipped the balance so far that it has become sometimes both unsatisfactory for dentists and to the detriment of public protection. I comment on possible changes to the HPA in Part 2 but also I set out some ideas for improving public protection within the existing legal framework.
- 6.13 Professional regulators promote safety and protect the public in three ways; they only register and allow to practise those who meet the requirements for registration; they set clear, mandatory standards for competence and conduct; they hold professionals to account for observing those standards and may restrict or remove practise rights from those who breach them.
- 6.14 In the assessment against the Standards of Good Regulation the College failed to meet two out of five Standards for Standards and Guidance. When proposals from

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

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

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

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

'Patient relations program

13.03 (1) The board must establish a patient relations program to seek to prevent professional misconduct, including professional misconduct of a sexual nature.

(2) For the purposes of the patient relations program, the board must

(a) establish and maintain procedures by which the college deals with complaints of professional misconduct of a sexual nature,

(b) monitor and periodically evaluate the operation of procedures established under paragraph (a), and

(c) develop guidelines for the conduct of dentists, dental therapists and certified dental assistants with their patients.'⁸⁵

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

⁸⁴ HPA S16

⁸⁵ CDSBC, Bylaws 3.03

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

- 6.19 Sedation and anaesthesia are a highly dangerous area of a dentist's possible work. the College should take very seriously breaches of its standards in this area of practice. In 2015 a College disciplinary panel made the disturbing decision not to cancel the registration of a dentist who had permanently brain damaged a young woman through his own deliberate acts. The dentist provided deep sedation when he was not permitted to do so, failed to follow College guidelines, published false claims that he was authorised to provide sedation, failed to exercise the level of skill and care necessary and failed to monitor his patients. It appears from the penalty decision summary⁸⁷ that apart from ruining this young woman's life and no doubt the happiness of her family, he put other patients at risk. He received a three month suspension and a fine. The handling of this case by the CDSBC raises questions about its commitment to upholding standards of the profession and surely failed to give the public confidence that the CDSBC had either their safety or their interests at heart.
- 6.20 Recently the CDSBC has reviewed and strengthened its Standards and Guidance for sedation and anaesthesia, which have been in place since 2008 and continues to update them. The Standards require dentists to be qualified to be registered and for dental offices to be inspected 'If you own a dental office and intend to administer general anaesthesia to your patients, you must register your qualifications with CDSBC and must apply to have your facility inspected by the College'⁸⁸. Of course, all these and others were ignored by the dentist who brain damaged a girl but has been allowed by the College to continue to practise.
- 6.21 The inspection regime put in place by the CDSBC involves an annual self-assessment by the dentist provider with a tri-annual independent inspection. The consequent reports are considered by the Sedation Committee.⁸⁹ The College says that it is short of inspectors and that reports and therefore approvals may be delayed. It only covers the provision of deep sedation and general anaesthesia not light or moderate sedation.
- 6.22 This inspection regime was criticised by the College of Physicians and Surgeons of BC (CPSBC) in its submission to this Inquiry. The CPSBC wrote:

Both the College of Physicians and Surgeons of BC and the College of Dental Surgeons of BC accredit private facilities in which advanced procedures requiring some level of sedation or general anaesthesia are provided... These private facilities are subject to accreditation requirements whether by the College of Physicians and Surgeons, or the College of Dental Surgeons.

'We bring to your attention that the accreditation standards for the two programs are significantly different. For example, the College of Dental Surgeons does not assess facilities that only provide light or moderate IV

⁸⁶ CPSBC, Practice Standard Treating Self, Family Members and Those with Whom You Have a Non-professional Relationship, 2017

⁸⁷ Discipline Panel decision summary of Dr. Bobby Rishiraj, CDSBC, 2015.

⁸⁸ CDSBC, General Anaesthesia.

⁸⁹ CDSBC, Current Authorization Process for Deep Sedation and General Anaesthesia Facilities, 2018

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

- 6.23 I am not in a position to assess the difference in thoroughness of the two approaches but given the demonstrably serious risks to patients of sedation and anaesthesia, I suggest that both Colleges meet to agree a shared approach and inspection regime and to ensure mutual confidence in the safety of patients.
- 6.24 Dentists and patients would benefit if the College adopted a more structured and consistent approach to the revision of current standards and the identification, writing and approval of new standards. I suggest that the Ethics Committee be renamed the Standards and Guidance Committee and that it is charged, on behalf of the Board, with overseeing a programme of regular checks on existing standards, the risk-assessment and determination of which new dental practices require new standards or guidance or information to be published, the establishment of expert groups to develop those standards or guidance and their approval and submission to the Board. The College should build on and systematise learning from complaints, professional concerns and horizon scanning in determining risks and its priorities. The College should adopt a consistent taxonomy of 'standards', 'guidance' and 'information' and criteria for how potential harms fall into which category. In published documents these terms should be used obviously and repeatedly. The College should stop calling standards and guidance 'policies' and reserve that term for internal College policies, such as the Finance Policy or the Safe & Respectful Work Place policy. The current 'policy development process' could readily be adapted as a standards and guidance development process. A possible structure for this more coordinated approach is set out in the diagram below.

⁹⁰ Letter from the CPSBC dated September 24, 2018

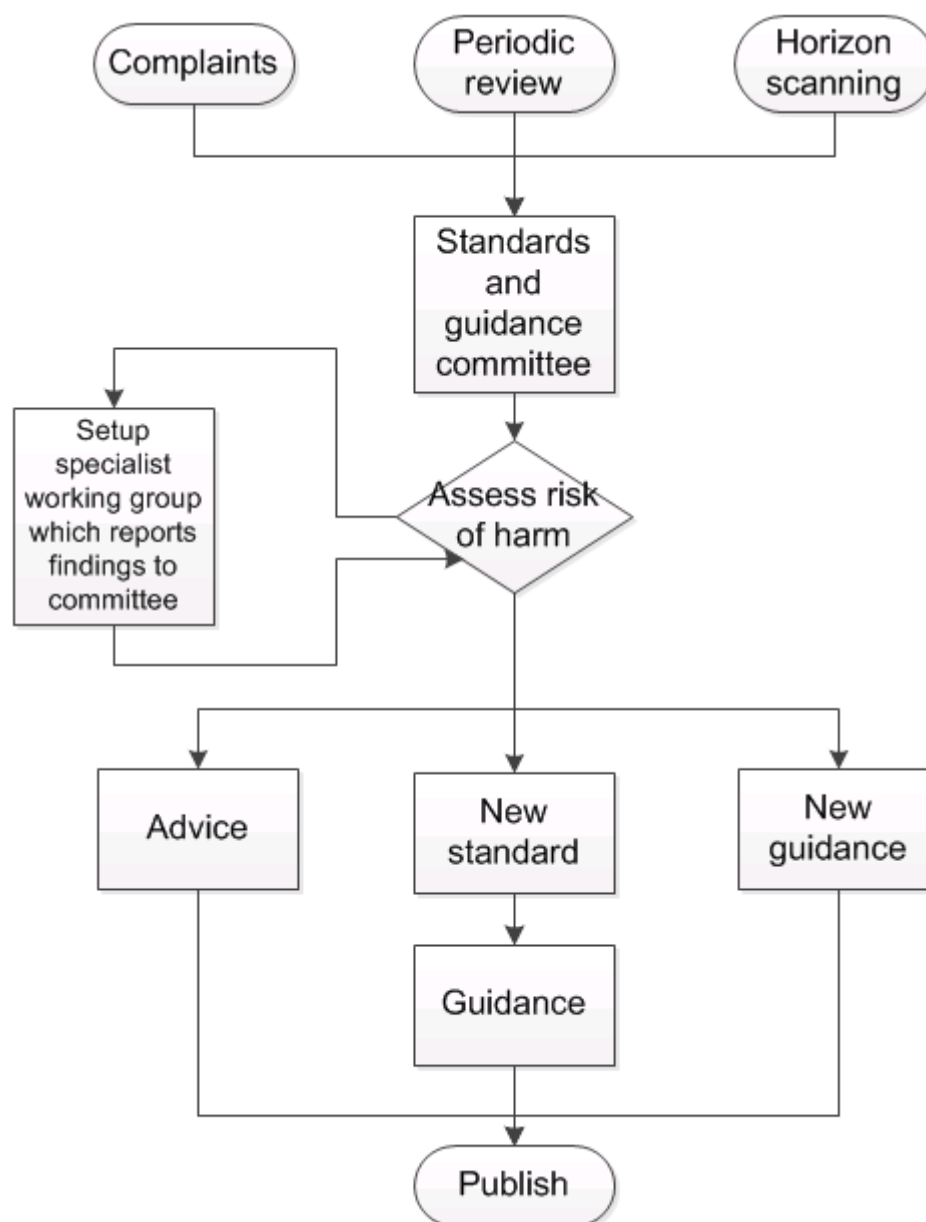


Table 5: Standards and guidance development process

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

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

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

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

⁹¹ HPA s16.1

maintaining patient safety, upholding the standards of the profession, maintaining public confidence. The HPA does not ask regulators to be responsible for public health or for access to health professionals. Of course, regulatory actions have an impact on supply (raise standards and you reduce supply, lower standards and you increase supply) but that should not influence the regulator in setting the appropriate standard. In July 2018 the BCDA wrote to the Chair of the Bylaws Working Group of the College about the ‘supply’ of Certified Dental Assistants⁹². They complained that the supply of CDAs had not matched the increase in the number of dentists and suggested that the College might reduce the registration requirements for CDAs especially in relation to their returning to practise. Supply is not the responsibility of a health regulator; it is a matter for the government of British Columbia to ensure supply and to intervene in the workforce market if necessary.

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

- Build on the recently introduced risk assessment for complaints and use the Registrar’s power to dismiss trivial and vexatious complaints more regularly. At the same time, based on assessed risk of harm, refer to an interim order hearing when there is a continuing risk to patients
- Stop assuming that remediation works in every case when the evidence shows it does not. Dentists who have a second complaint having previously signed an MAU should not be allowed to do so again. Stop hoping that dishonesty can be remediated by an ethics course
- Move towards professionalising the Inquiry Committee by paying members properly for attendance in person and introducing mandatory training and appraisal on an annual basis. Separate membership of the Inquiry Committee from the Board of the College so that it is clearly independent, ensure that legal advisors only give advice and do not direct the decision-makers. Publish reasons for all decisions⁹³. Always put the interests of patients before the interests of dentists or the College
- Publish guidance on triage, Inquiry Committee and Discipline Committee processes and outcomes. This would clarify for the public, dentists and Committee Members/Registrar the approach to be taken to decisions and the factors to be taken into account at the relevant decision-making stages
- Set out a Case Management Protocol – to address matters causing delay by clearly setting out the expectations for case preparation and listing by both the College and the Dentist

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

⁹² Letter from the President of the BCDA to the Chair of the Bylaws Working Group, June, 26 2018

⁹³ See page 3 of the Annual Report of the HPRB, July 2018

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

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

'Ethical, open and transparent'

'Patient-centred and engaged with the public'

'clearly stated standards of competence and conduct'

'An effective process for development, review and revision of standards'

'Using data and risk-assessment to enhance regulatory effectiveness'

'A risk-based framework to prioritize complaints'

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

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

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

⁹⁴ Email to all Board members, December 2018

7. Recommendations

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

Governance, conduct and probity

1. That the Board continues with its plans to reduce its size, increase the representation of public members and to appoint its officers from within its membership. An induction programme should be required of those dentists and CDAs wishing to stand for election before they do so. This will help ensure that those entering the Board fully understand the role that it is expected of them and how they should undertake it.
2. That no one who has held an officer position in the British Columbia Dental Association (BCDA) or any other representative organisation for dentists should be allowed to stand for election until at least three years has passed since they held that office.
3. That no dentist about whom a complaint is under investigation should stand for election or be appointed to a committee until the complaint has been resolved in their favour. No dentist against whom a complaint has been upheld should be a member of the Board or any committee of the College.
4. Any dentist who is a member of the Board or a committee of the College who has a complaint under investigation should stand down until the complaint is resolved.
5. That the Board should review its committee structure and the number of committees it has with the aim of reducing them and making the College's decision-making more stream-lined and effective. The Governance Committee should be abolished. A new Standards & Guidance Committee should be created out of the Ethics Committee and taking on certain functions of the Quality Assurance Committee which should focus its work on Continuing Professional Development. The College should decide if a Remuneration Committee to deal with confidential HR matters requiring oversight of the Board should be created.
6. The Board officers, the Registrar and College staff should be more assiduous at monitoring progress on workstreams and recording the implementation of decisions. The introduction of an action log attached to the minutes of a meeting would enable Board members and staff to keep track of decisions and outstanding actions.
7. The College should create a risk register which should be maintained by the senior staff and monitored by the Audit Committee and reported to the Board.
8. The Board should continue in its current trajectory of increasing transparency around as much of its business as possible to public scrutiny and being ready to be held accountable to the public whom it exists to serve. The Board

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

9. The College should renew its commitment to proper procurement policies and should conduct its legal contracts through its General Counsel and not through individual Board officers. It should consider introducing an internal audit function to support the Audit Committee. Board officers should not attend the Audit Committee except when invited to do so. In reviewing its committee structure the Board should consider if there is any value in continuing with the Finance and Audit Working Group.
10. The Board must recalibrate its relationship with its expert staff team. The Board must stop seeing itself as the College and recognise that its role is to govern the College and oversee its performance but that the College is run and managed by its professional staff. The Board and staff need to form a constructive and respectful partnership. Despite good intentions on all sides this is far from being achieved.

Performance of the College

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

External Relationships

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

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

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

8. Introduction to Part 2

- 8.1 This is part 2 of the report of an Inquiry into the College of Dental Surgeons of British Columbia commissioned by the Honourable Adrian Dix, Minister of Health under section 18.1 of the Health Professions Act RSBC 1996 c183 and conducted under the provisions of the Public Inquiries Act.
- 8.2 The terms of reference for this Inquiry can be found in annexe 1 of this report.
- 8.3 The Inquiry began in May 2018 and concludes with the submission of this report to the Minister of Health in December 2018.
- 8.4 In the Introduction of Part 1 of this report I set out the activities undertaken in order to carry out my Inquiry. I will not repeat them here.
- 8.5 This Part of the report deals with the statutory framework for the regulation of health professionals in British Columbia. In particular it relates to the purposes of the inquiry 2 (a)-(d) as set out in the Terms of Reference.
- 8.6 I consider first, changes that might be made to the Health Professions Act to improve public protection and create a more efficient and flexible statutory framework without changing the structures by which regulation is currently delivered. Second, I suggest wider reforms which would require the creation of a new Act and different functions and component parts to the regulatory system.
- 8.7 In preparing this part of the report I have been assisted by many conversations with regulators, lawyers, health professionals and patients in BC. The meetings of the BCHR that I have attended have been particularly useful, as have the written submissions of some colleges to this Inquiry. I am grateful to all of them for sharing their time and expertise.
- 8.8 I have also drawn on the work done by the Australian Health Practitioners Regulation Agency⁹⁶ and the Professional Standards Authority in the UK⁹⁷. I have learned much from reviews carried out for the Royal College of Dental Surgeons of Ontario, the College of Registered Nurses of BC, the Engineers and Geoscientists of BC and work with regulators across Canada. Officials in the Ministry of Health in BC have been unfailingly helpful but scrupulous to never compromise my independence.
- 8.9 I have been assisted throughout this Inquiry by Michael Warren, Policy Manager, at the Professional Standards Authority. I could not have completed this report without his diligence and attention to detail. Simon Wiklund, Senior Solicitor, has helped my thinking about reform of the HPA.

⁹⁶ See for example, Health Practitioner regulation in Australia: using the right-touch, Fletcher, Interligi & Robertson in *Right-touch regulation in practice, International perspectives* PSA 2018

⁹⁷ In particular, *Regulation Rethought; proposals for reform*, PSA 2016

9. Reforming or replacing the Health Professions Act

Context

- 9.1 The framework for the regulation for health professions in British Columbia was developed thirty years ago and brought into law through the Health Professions Act in 1979. The risks and benefits of healthcare practices have changed hugely since then. The status and diversity of health professions has changed, public expectations and requirements have changed, the health needs of our populations have changed. Quite simply the Health Professions Act is no longer adequate for modern regulation. That does not mean it is wholly without merit, but it does mean that significant change is needed if it is to meet future requirements for the safety of patients and the protection of the public of British Columbia.
- 9.2 Healthcare systems around the world are facing similar challenges. These are:
 - Aging populations
 - An increase in multiple long-term health conditions
 - The increasing cost of health technologies
 - Rising public expectations and consumer demands
 - A global shortage of healthcare workers
- 9.3 Canada is little different from other developed countries; infant mortality is low and life expectancy increasing. Over 18% of the population of BC is over 60 years of age⁹⁸. Diabetes and Alzheimer's disease are on the increase. Obesity in adults has been estimated at 64% across Canada as a whole but BC has the lowest obesity rate of any Province. Nevertheless, over the next twenty years and more health systems will be competing for resources and will need significant workforce reform, greater flexibility and the ability to obtain advantage from new technologies including artificial intelligence (AI). The regulatory implications of AI alone are only just beginning to be considered.
- 9.4 A regulatory framework that will last another twenty years needs to be effective to protect patients, flexible to adapt to change, efficient to provide value for money to registrants, and reliable to promote public confidence.
- 9.5 In setting out some proposals both for reform within the current regulatory framework and wider legislative changes I have been aware of the invitation from the Ministry of Health to the British Columbia Health Regulators (BCHR) to submit their own ideas for change. I welcome that invitation and the different perspectives BCHR will bring. My ideas and theirs are in no way in competition. BCHR have already shown themselves as a forward looking and constructive group and I hope that the Minister will find our contributions complementary if not

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

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

- 9.6 I am also aware of the reforms to professional regulation being proposed by the government of BC in the areas of real estate and most recently in environmentally significant occupations as set out in the 'Professional Reliance Review'⁹⁹ and in the subsequent Professional Governance Act¹⁰⁰. The structural changes being made in these sectors provide a context for the government's possible thinking about health regulation although I note it is specifically excluded from the Professional Reliance Act.
- 9.7 I am also mindful that the recommendations I make here follow immediately from my review and assessment of the CDSBC. I have been careful not to let the particular difficulties that the CDSBC has experienced colour my proposals for reform except where I consider the HPA contributes to those difficulties. There are 21 separate Colleges, with no doubt their own strengths and weaknesses. That there must be significant variation given their very different size and resources is part of the problem with the HPA, which is overarching legislation applied to very different professions and colleges. I have tried not to generalise from the CDSBC to the colleges as a whole.
- 9.8 That there are 21 regulatory Colleges in British Columbia does raise questions about the durability and indeed common-sense of setting up separate regulators for every occupation regardless of its numerical strength or its risk profile. The colleges in BC cover about 118,000 registrants. The smallest has only 78 registrants (podiatric surgeons), the largest, BC College of Nursing Professionals, 55,000. The highest annual fees are paid by registrants of the smaller regulators'; optometrists (805) pay \$1390, midwives (228) pay \$2340, while Nursing Professionals pay between \$450 and \$650. This is in line with research findings for both the UK and Australia which show that the larger the register, certainly up to 100 thousand registrants, the greater the economies of 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.
- 9.9 The economic consequences of professional self-regulation are regularly ignored. As the figures above indicate regulation is a tax on work; a payment for the privilege of working. The consequence of course is an increase in the price of that occupation's services. Self-regulation also hands control of supply to the occupation. As Adam Smith the 18th century social economist put it 250 years ago, 'People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in

⁹⁹ *Final Report of the Review of Professional Reliance in Natural Recourse Decision-Making 2018*

¹⁰⁰ Professional Governance Act SBC 2018

¹⁰¹ *Review of the cost effectiveness and efficiency of the health professional regulators*, PSA, 2012 and *cost-effectiveness and efficiency review of the Australian National Registration and Accreditation Scheme*, PSA, 2014

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

- 9.10 Professional regulation is not scientifically based, it is a social construct. This can easily be seen by comparing which occupations are or are not regulated in different jurisdictions. Very frequently whether a profession is regulated by statute or not will depend on history, geography and politics. Rarely does it depend on a proper assessment of risk of harm or an evaluation of the costs and benefits to the public.
- 9.11 An example of the weakness in public protection of fragmented self-regulation may be seen in the case of a BC naturopathic physician who breached their College's standards on vaccination and reportedly treated an autistic child with a homeopathic remedy containing saliva from a rabid dog¹⁰³. A complaint was made to the College of Naturopathic Physicians by the BC Naturopathic Association. They stated, 'We take no pleasure in filing a complaint against a registrant with our college, but we do so, first and foremost, in the public interest to protect our profession's reputation and to ensure that safe, competent and ethical care is delivered to all patients'. The Association may have been more committed to safe ethical care than the regulatory college.¹⁰⁴ According to the brief Public Notification on the website of the College of Naturopathic Physicians of BC, in November 2018, after 'a collegial discussion' the registrant was allowed to resign from the College with no action taken on the grounds that they said didn't agree with the standards¹⁰⁵. This renders the purpose of professional regulation meaningless. If it is a defence to say after the event, 'I didn't agree with the standards' then both registration and standards are pointless.
- 9.12 Patients I have spoken to do not have great confidence in the colleges or in health regulation generally. It should be a matter of concern to all colleges and health professionals that a patient who provided evidence to this Inquiry concerning a regulatory complaint asked to remain anonymous because of fear of rejection or retaliation by other health professionals treating them in the future. They told me, 'It could have repercussions if I was known to be someone that tried to put a dent in this culture they seem to have'¹⁰⁶. It is unacceptable that patients lack confidence in the ethics of health professionals.
- 9.13 In considering possible changes to the wider framework of professional regulation in BC I have made a number of assumptions. I set them out here so that my proposals may be assessed against them. If my assumptions are wrong, it may be that my proposals are not credible. My assumptions are:
 - That the Ministry of Health is serious about reform and open-minded about the possibilities

¹⁰² Adam Smith, *An Enquiry into the Nature and Causes of the Wealth of Nations*, 1776

¹⁰³ A 4-year-old was 'growling like a dog.' A B.C. naturopath's cure? Rabid dog saliva, Global News, April 2018.

¹⁰⁴ Uproar in Canada after homeopath gives boy pill made from rabid dog's saliva, Guardian, April 2018.

¹⁰⁵ Public notification, College of Naturopathic Physicians of British Columbia,

¹⁰⁶ Email December 2018

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

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

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

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

Reforming the Health Professions Act

A new mandate

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

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

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

'It is the duty of a college at all times;

To protect the safety of patients, to prevent harm and promote the health and well-being of the public.'

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

Governance

- 9.18 The HPA is ambiguous in its use of 'members' and 'registrants'. The concept of membership has led to many misunderstandings about the nature of professional regulation. The idea of membership should be discarded and replaced throughout with 'registrant.' If Colleges do not have members, then there is no need for an Annual General Meeting not indeed any of the other trappings of a club such as award ceremonies and gifts to volunteers. Some will protest that this removes the principle of professional self-regulation. It does. Unlimited self-regulation has in general proved itself unable to keep patients safe or to adapt to changing healthcare provision and changing public expectations. Professional regulation needs to be shared between the profession and the public in the interests of society as a whole.
- 9.19 The construction of boards for colleges is unsatisfactory. This is not a reflection of the competence or motivation of the individuals who are elected or appointed but on what is an inadequate process for determining who should run these important public institutions.
- 9.20 It would be beneficial to move to fully appointed boards combining health professionals and members of the public in equal parts. However, the appointment process as currently operated in British Columbia is not independent, transparent, competency based. It cannot be relied upon at the present time to take on a broader role.
- 9.21 I suggest as an interim measure that colleges introduce an effective nominations process for professionals standing for election to the board. The colleges should publish the competencies they are looking for and candidates for election should demonstrate they have the right skills and competencies to be a board member before standing for election. The chair should be elected by the Board. Public members should be eligible for election as chair. The audit chair should continue to be nominated though the public appointment process. There is no need for a

- treasurer if a college is no longer a club. The choice of having a vice-chair or not should be left to each board. Vice-chairs, like chairs should be chosen by the Board.
- 9.22 The Government should consider the process for the appointment of public members so that it is more transparent, with public criteria and competencies for appointment and attention paid to the skill mix on individual boards.
 - 9.23 Boards should be reduced in size; the most effective size for a board is generally agreed to be between eight and 12 people. This aids engagement and discussion and promotes corporate decision-making,¹⁰⁷
 - 9.24 Terms of office should be extended to three years, renewable for a further three years, to provide continuity and the expertise which comes with experience. This should apply to elected as well as appointed members. The current structure encourages amateurism and short-term planning. Regulation is a long-term business.
 - 9.25 The number of statutory committees should be reduced; Audit and Risk, Registration, Inquiry and Discipline are probably essential. Otherwise colleges should be free to manage their own functions and involve registrants in the most appropriate way for each task. Appointment to committees should be based on competence and merit.
 - 9.26 Colleges should be given greater freedom to change their own rules and bylaws. Current arrangements are too cumbersome to allow them to respond to change (see para 10.19 below).
 - 9.27 Colleges should separate themselves entirely from professional associations. They should not collect fees for professional associations or give them grants. Of course, such associations or unions have a role to play and are often key stakeholders for colleges, but they should not be accorded special privileges or special influence on college decision-making.
 - 9.28 If a higher performance is to be expected of board and committee members, they should be adequately rewarded. Board and committee members, both professional and public should be paid for the time they give and the expertise they provide. This is particularly relevant to the inquiry and discipline committees which in the larger colleges may have too many cases for them to give the level of independent scrutiny and decision-making that they require. If the size of boards and the number of committees is reduced the cost of adequate payments to members will not be large and will be offset by gains in efficiency.
 - 9.29 The Board should be removed from any involvement in complaints and discipline. inquiry Committees and disciplinary panels should be independent, separately appointed and should have regular training and appraisal. They should be paid for their significant responsibilities.
 - 9.30 Part 2.01 of the HPA sets out arrangements for the amalgamation of colleges. The Ministry of Health should actively encourage and facilitate mergers,

¹⁰⁷ PSA 2011, *Board size and effectiveness*.

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

- 9.31 It is possible to envisage groupings of colleges around particular services such as dentistry (currently four colleges) or by creating a multi-occupation college, as has been done in Ireland¹⁰⁸ and the UK¹⁰⁹. These regulators have provided effective and efficient services to both patients and registrants of multiple smaller occupations. I await with interest the views of the British Columbia Health Regulators on how the reduction in number of regulators should be progressed.
- 9.32 The Ministry of Health should as a matter of policy place a moratorium on creating any new colleges and should consult on how any occupations currently under consideration for regulation could be registered with an existing College.

Clarity of language and meaning within the HPA

- 9.33 Just as the HPA uses 'members' and 'registrants' interchangeably there are other terms with more legal significance which are ambiguous or poorly defined. This is unhelpful to registrants, complainants and colleges.
- 9.34 The HPA defines 'professional misconduct' as including 'sexual misconduct, unethical conduct, infamous conduct and conduct unbecoming a member of the health profession'¹¹⁰. Separately it defines 'unprofessional conduct' as 'including professional misconduct'. The word 'including' suggests there are other behaviours which might constitute unprofessional conduct, but which are not professional misconduct. This is unclear and open to interpretation.
- 9.35 The definition of 'serious matter' is even more problematic. The HPA says a serious matter 'means a matter which, if admitted or proven following an investigation under this Part, would ordinarily result in an order being made under section 39 (2) (b) to (e)'. This is a somewhat circular definition since before an investigation is complete it is not truly possible to know what the appropriate outcome will be. Colleges are therefore left guessing the likely outcome and of course having made a decision at an early stage that the matter is or is not 'serious' based on its possible outcome are likely to work towards that end. The characterisation of something as a 'serious matter' or not has very significant consequences because of its link to publication.
- 9.36 The test is problematic as the decision as to whether a matter is 'serious' can determine whether or not publication of the outcome is required. Consent or undertakings in relation to 'serious matters' may be published, if matters are not 'serious' they can be kept secret. Publication is a difficult part of the process for registrants and is often contested. The controversy and perverse incentives

¹⁰⁸ [CORU](#)

¹⁰⁹ [Health and Care Professions Council](#)

¹¹⁰ HPA s.26

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

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

Complaints and discipline

- 9.38 The purpose of the investigation of complaints and the disciplinary process is to protect patients and reduce harms, to secure public trust in professions and to promote professional standards. These objectives need to guide the outcome of all complaints.
- 9.39 There needs to be a common entry route for all types of complaints or referrals so that all are prepared in the same way and sufficient information gathered before consideration by the registrar or Inquiry Committee.
- 9.40 The HPA complaints process needs significant revision to make it more efficient and effective, transparent and fair. Table 6 below sets out the current complaints and disciplinary process in the HPA.

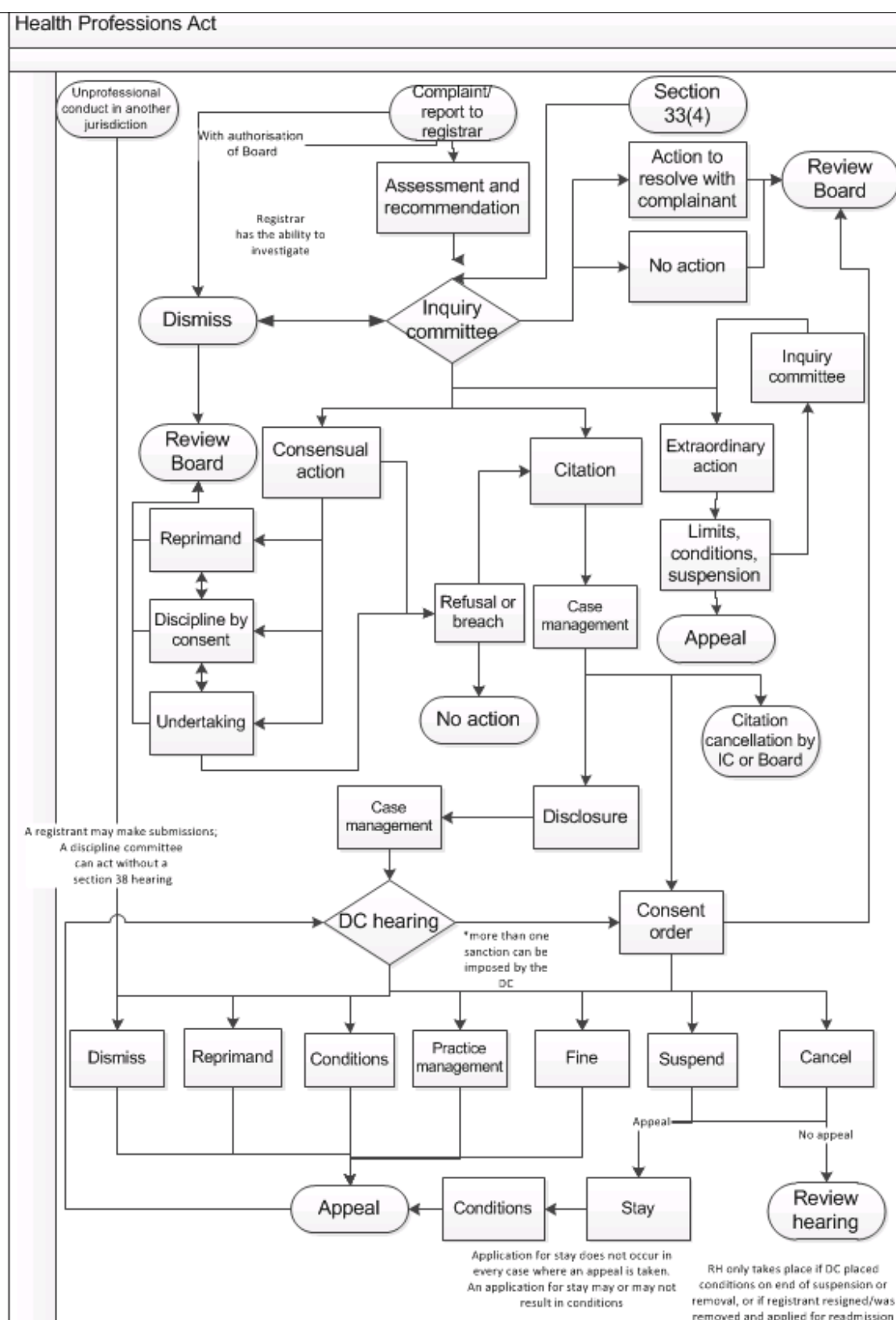


Table 6: Health Professions Act

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

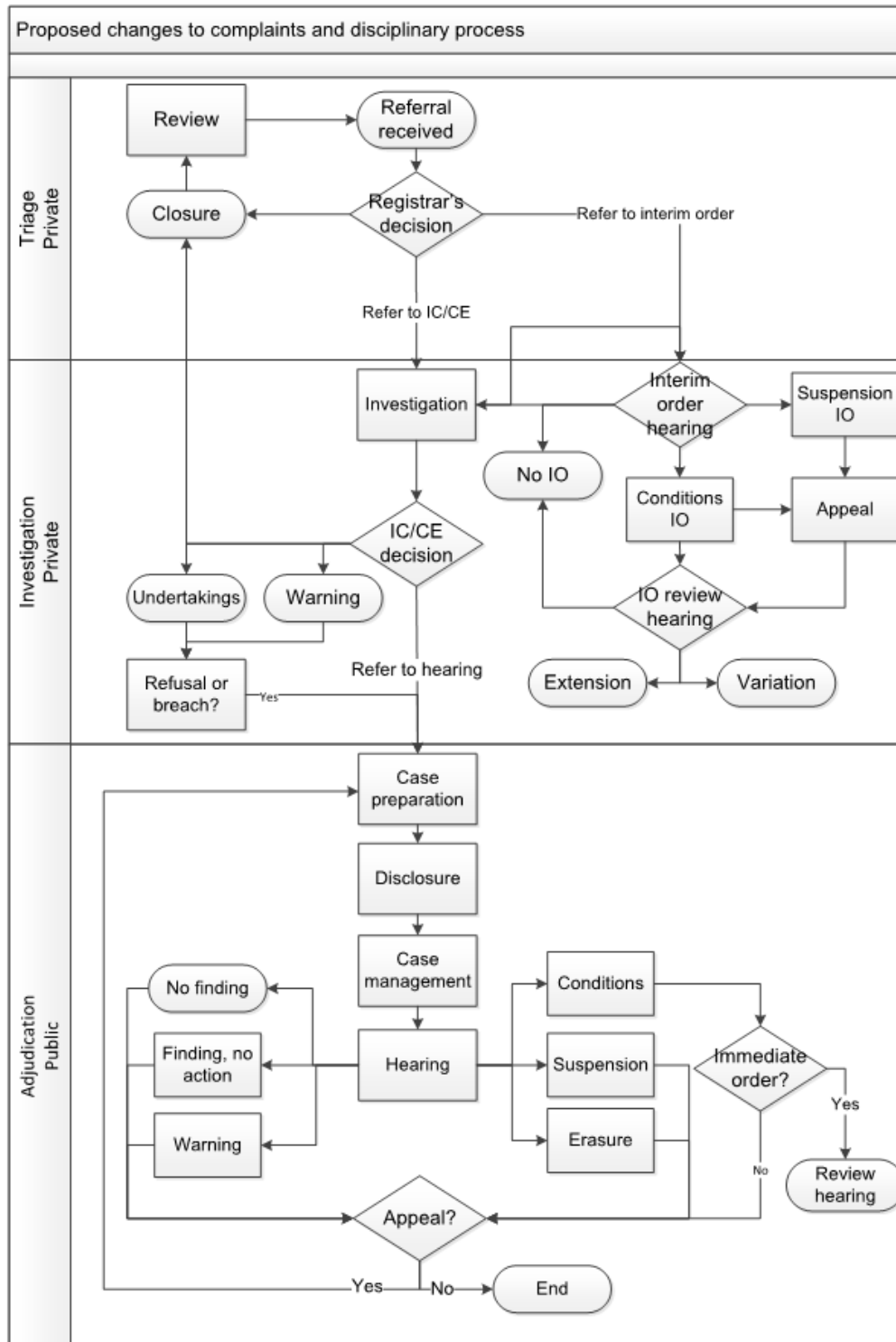


Table 7: Proposed changes to complaints and disciplinary process

- 9.42 This revised process (Table 7) would establish a clearer separation between the various stages; complaint acceptance (steps taken prior to and including decision by Registrar), investigation (steps taken by Inquiry Committee) and adjudication (steps taken by Discipline Committee).
- 9.43 The HPA does not establish a complaints resolution system, but rather a disciplinary regime. Section 33(6)(b) however creates an option for the Inquiry Committee to take action to resolve a matter between the complainant and registrant. This has been removed in the process proposed in Table 7 as matters not raising issues of competence or conduct, such as complaints about poor service or price, should be dealt with in an alternative way and not by a regulator¹¹¹.
- 9.44 The ability of the registrar to dispose of complaints as set out in section 33(2)(c) of the HPA is unsatisfactory. The HPRB in its written submission to this Inquiry¹¹² explains the complex problem succinctly:
- 'Unfortunately the statutory language by which registrars must decide whether they have jurisdiction is extremely complex both in operation and application. This is most acutely the case under Section 32(3)(c) authorizes the registrar to dismiss a complaint or make a request under 36(1) only where the complaint, 'contains allegations that if admitted or proven, would constitute a matter other than a serious matter, subject to investigation by the inquiry committee under section 33(4).' Applying this section requires the registrar (a) to take the allegations as given, (b) to consider the definition of 'serious matter' in section 26 and then (c) to cross reference to section 39 of the HPA and make an assessment as to whether, if the allegations were admitted or proven the disciplinary committee's remedy would 'ordinarily result' in a fine or a reprimand (in which case the registrar has jurisdiction) or would 'ordinarily result' in a license suspension, revocation or 'limits or conditions' on the respondents practice....These are unnecessarily complex and unsatisfactory provisions on which to base what should be a simple jurisdictional test.'
- 9.45 I agree with the HPRB
- 9.46 The difficulty created by the term 'serious matter' has already been noted. Colleges need defined thresholds at each stage of the process, for registrar closures, which outcomes are appropriate when considered by Inquiry Committee. For example, when a case will raise issues of competence or fitness to practise, when a case will be closed, when a case will be resolved with the complainant, when a case will result in a reprimand or remedial action and when a case will result in citation.
- 9.47 Another concern is the lack of clarity about the consideration of a registrant's past history. A history of upheld complaints is clearly relevant to sanction, particularly if remediation has previously been prescribed but has failed to improve

¹¹¹ The BCDA which provides a fees schedule for dentists could also provide an arbitration service for patient disputes over fees

¹¹² Written submission from the HPRB, December 6, 2018

performance. As, again the HPRB point out, 'The consideration of past conduct history appears to be discretionary (HPA s39.2). College complaint dispositions rarely if ever, explain the basis on which decision-makers exercise their discretion even to consider this information, or how it was considered if it was considered.'¹¹³ The HPRB recommended that the colleges should develop a shared policy on past regulatory history. I support the view of the HPRB in this regard and recommend that changes along the line of those already implemented in Ontario¹¹⁴ are adopted.

- 9.48 The Registrar should have the option to refer a matter for extraordinary action before and separate from consideration by the Inquiry Committee (which should maintain its power to refer for extraordinary action). This is necessary for protection of patients. The need to take extraordinary action should be determined by an adjudicatory panel separate from the Registrar or Inquiry Committee to maintain separation between investigation and adjudication.
- 9.49 Defined and consistently applied thresholds at each stage will be fairer to registrants and clear to complainants. They will make it harder for registrars to use the 'summary dismissal' in cases where there has been a serious harmful outcome - even if they are legally entitled to do so. Such decisions undermine public confidence in the regulation of the professions.
- 9.50 When the Registrar or the Inquiry Committee conclude that a registrant should undertake remedial education or training they are limited to a 'request' that they should do so. If the registrant declines, the only option for the college is to institute disciplinary proceedings. As the HPRB points out, in practice this rarely happens. Colleges need the power, when appropriate, to mandate remediation. A further issue with remediation is the apparent lack of a requirement that a registrant shows insight before accepting remediation. Without insight remediation is morally and educationally vacuous.
- 9.51 There needs to be clarification that once a citation has been issued, the outcome of the case will be published, even if a consent order is agreed, because it has passed a threshold of seriousness/risk to the public.
- 9.52 Under section 53(1)(b) of the HPA the board of a college may authorize disclosure of information in the public interest. In the interests of speed and efficiency this power should be extended to the Registrar.
- 9.53 Inquiry committees should have wider powers to dispose of matters under section 33 of the HPA. This could enable more matters to be dealt with proportionately.
- 9.54 The option for a registrant to make a proposal to the inquiry committee after the discipline committee has 'assumed jurisdiction' should be removed. (s37.1(5)). There should be no settlement once a matter is referred to a hearing by citation unless that settlement is considered and agreed by the Discipline Committee at a hearing and public protection and the public interest taken into account.

¹¹³ HPRB written submission to the Inquiry December 2018

¹¹⁴ Ontario, Regulated Health Professions Act, 2007

- 9.55 The imposition of Discipline Committee actions such as suspension or conditions should be able to be imposed immediately pending resolution of any appeal to the Supreme Court. The option to stay a Disciplinary Committee action to cancel or suspend a registrant should be removed as this undermines the Committee's decision.
- 9.56 The role of fines should be reconsidered. They have no contribution to make to patient safety. They may be a disincentive to wrong actions but do not improve clinical practice in the incompetent professional. The use of fines should be reserved for financial misdemeanours or for failure to co-operate with the regulatory process or for deliberate delaying tactics during the disciplinary process.
- 9.57 The statutory time limit for complaints should be removed and other means of ensuring case are dealt with as rapidly as possible while ensuring fair process are imposed. Section 50.56 of the HPA should be repealed.
- 9.58 I recognise that there may be other improvements and simplifications of the HPA which a more thorough legal analysis could suggest, and that consultation on such changes will be needed to ensure clarity and avoid unintended consequences.

Increase transparency

- 9.59 Colleges need to increase the openness and transparency of their work. There is considerable variation in practice and the BCHR should encourage best practice to be adopted by all. Board meetings should be open to the public and time should be reserved for visitors to ask questions or to comment. The assumption should be that business will be done in daylight. Boards, if voting, should not have secret ballots; board members are accountable for their decisions.
- 9.60 Some regulators have very good, informative and easy to navigate websites others are lacking in content, a few have pages 'under construction'. All colleges should aim to emulate the best and to learn from each other. Colleges should publish the maximum information possible within the legislation about complaints.
- 9.61 The HPA builds secrecy into the complaints process. In doing so it protects registrants but not the public. Only a small number of outcomes from complaints are published. The HPA limits publication to decisions
- Concerning conduct that, if proven or admitted, would normally result in the imposition of practice restrictions, a suspension or cancellation of registration, or a fine;
 - Where discipline is applied after a citation is issued for a hearing before the Discipline Committee; or
 - That involve the imposition of practice restrictions, or the suspension or cancellation of registration.
- 9.62 It is not possible for patients to give informed consent to care if they do not know that their health practitioner has had a complaint upheld against them. It should

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

- 9.63 All colleges publish an annual report. They vary considerably in quality and content. The Minister to Health should specify the information and performance data that should be published by each college annually to inform registrants and the public and to allow for direct comparison between them.
- 9.64 The minimum dataset to be published by all colleges, as well as financial data required by law, should include for the reporting period;
- Information on the revision of Standards and Guidance and any new Standards and Guidance published
 - Information on current registrants, new registrants, international registrants and any registrant appeals
 - The number of complaints received, the number progressing to Inquiry Committee, the number progressing to a disciplinary panel
 - The median length of time taken to resolve complaints
 - The outcome of complaints including remediation and sanctions imposed
 - The College's approach to learning from complaints and what it has learned
 - The College's information security and data protection policy and any breaches
 - The College's commitment to diversity and equalities and to First Nations healthcare
- 9.65 The Colleges should work together to agree, a consistent way of reporting this data so that they can assess their own performance and benchmark themselves against others. Developing a framework that both regulators and government agree on will make Annual Reports more useful and support future performance improvements. Effective and comparable reporting of data will improve transparency and accountability.

Develop the role of the Health and Professions Review Board

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

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

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

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

A framework for the future

- 10.1 The current model of professional regulation will not be adequate to protect patients and the public or to represent the interests of citizens in the future. Reforming the HPA will improve the ability to prevent harms, promote patient safety and hold the confidence of professions but it will not be sufficient to create a regulatory framework fit for the future of healthcare. New legislation will be necessary to achieve structural reform.
- 10.2 In numerous jurisdictions self-regulation of the liberal professions has shown itself slow to adapt to the expectations of consumers. In healthcare in particular it has struggled to adapt to the changing needs and expectations of patients, to new technologies and to new business and delivery models. Regulation based on the supposed uniqueness of individual occupations runs counter to contemporary practice through effective team-based inter-professional collaboration. It also protects existing occupational boundaries against new roles and ways of working, putting up barriers to desirable developments in the expansion of the health workforce.
- 10.3 There is a lack of relentless focus on the safety of patients in many but not all of the current colleges. Their governance is insufficiently independent, lacking a competency framework, a way of managing skill mix or clear accountability to the public they serve.
- 10.4 Lack of Public trust in the current regulators is reflected in media headlines such as
'College of Dental Surgeons oversees 'secret world of discipline' ¹¹⁵
'Vancouver chiropractor resigns from College Board over anti-vaccine video'¹¹⁶
'The disturbing record behind one of B.C.'s top billing doctors'¹¹⁷
'College of Naturopaths under investigation for offering treatment to 'eliminate autism'¹¹⁸
 Such reports undermine the self-regulatory model and deservedly so.
- 10.5 The objectives of a new regulatory framework should be:
 - To deliver safe and good quality care provided to patients and the public.
 - To restore public trust and professional confidence in regulation

¹¹⁵ *Pain 'started the day he worked on me' says B.C. woman now suing dentist, along with 7 other ex-patients*, CBC, 2016

¹¹⁶ *Vancouver chiropractor resigns from college board over anti-vaccine video*, CBC, 2018

¹¹⁷ *The disturbing record behind one of B.C.'s top billing doctors*, Globe and Mail, 2018.

¹¹⁸ *B.C. naturopaths under investigation for offering treatment to 'eliminate autism'*, Global News, 2018

- To be risk-based and proportionate
 - To be fair and consistent
 - To be efficient and effective
 - To be open and accountable
 - To be agile and adaptable
 - To promote collaboration between occupations
- 10.6 In order to meet these objectives while working with the strengths of the existing arrangements in British Columbia I suggest the following new structures and arrangements.
- 10.7 Reconstitute the colleges as bodies responsible for setting standards and licencing health professionals who are within their jurisdiction. This might cover two or more occupations within a single college.
- 10.8 The colleges should agree a single code of ethics and conduct for all health professions. There is no reason why the ethics of doctors, say, should be different from those of dentists or of chiropractors. If an occupation presents risk of harm that warrants statutory intervention, then it should adhere to high and shared ethical standards
- 10.9 The colleges should remain responsible, as now, for setting Standards for clinical competence and practise and for issuing guidance to their registrants.
- 10.10 The colleges would issue a licence to practise for individuals who met the good character and clinical competence requirements for registration.
- 10.11 The colleges would remain responsible for assuring continuing competence and for assessing registrants prior to annual renewal of their licence.
- 10.12 Colleges would investigate complaints but not adjudicate on them.

Establish a single register and adjudication body for all health professionals

- 10.13 The names of all registrants should be held on a single register. When the colleges issue a licence to a practitioner they should upload their information in consistent format to the shared single register. The register should include the name, recognised qualifications, place of work and all or any sanctions imposed in relation to complaints. The register must be open to the public and to potential patients or employers.
- 10.14 A new body should be established to do this; a professional registration and adjudication agency. It should hold a single register of all regulated health professionals. As it holds the register it should also manage the adjudication process for imposing conditions of practise on registrants and ultimately for removing them from the register. It should therefore be responsible for establishing inquiry committees and disciplinary panels to adjudicate on complaints. This will create a proper independence from the licencing and

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

- 10.15 A single register should make it easier for members of the public, patients, employers and registrants to identify individual health professionals. It will help to build trust in the public that their complaints are being considered independently and openly. It should mitigate concerns by registrants that decisions by inquiry committees are unduly influenced by college investigators. A single register and adjudication body will create economies of scale and consistent disciplinary decisions, which should benefit the public, patients and registrants.
- 10.16 The shared code of ethics and conduct jointly agreed by the colleges would be required of all registrants and would be the standard against which unethical behaviours or unprofessional conduct was judged by an inquiry committee or disciplinary panel. Matters of clinical competence would as now be judged against standards established by the relevant college for that profession. Committees and panels would as now be composed of public and professional members the latter drawn from the relevant profession if clinical competence was the issue under consideration. Such members should not be serving board members of any college. Members of committees and panels should be appropriately paid, appraised annually and removed if their performance is unsatisfactory.

A new oversight body for the regulatory framework

- 10.17 If such a different regulatory framework were to be established, with greater transparency and accountability the question arises as to whether further oversight or supervision might be necessary. Full disclosure of all licencing bodies and the register and tribunal and HPRB of performance data to the public to registrants and to the government might be sufficient to hold the components accountable. However, the consolidation, analysis and interpretation of the data would remain desirable. As would action to improve performance. The registration and adjudication body would need to be brought into the framework for data collection and publication.
- 10.18 The Health Professions Review Board already has oversight of some small part of the complaints and discipline process. It has as I suggest in paragraph 9.67 above capacity to add further value to the existing regulatory system. The new model I propose however requires a greater and somewhat different level of oversight. I have considered whether the UK's Professional Standards Authority* is a form of oversight that would be useful in BC. I have concluded that while some of the functions of the Authority¹¹⁹ could be usefully replicated, its role and

¹¹⁹ The Professional Standards Authority is the oversight body of nine statutory professional regulators in healthcare in the UK.

*NOTE: As the Authority's former Chief Executive I declare an interest.

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

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

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

10.20 This new oversight body would absorb the functions of the HPRB. This implies no criticism of the HPRB but I consider its functions need to be part of a wider remit. The proposed Office of the Superintendent of Professional Governance¹²⁰ to be

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

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

Introduce a risk assessed model for determining who should be regulated

- 10.21 In order to make progress on reform of the professional regulatory framework there should be a policy commitment that no new colleges are created. There should be active encouragement existing colleges to follow the lead of the nursing colleges and to seek partners for amalgamation. The smaller colleges are a priority and are likely to benefit most from the economies of scale and increased capacity arising from mergers.
- 10.22 An evidence based occupational risk assessment process should be developed and implemented to identify the potential risks of harm from occupations within the health sector and to consider the appropriate mitigations¹²¹. Only if statutory regulation is necessary should it be proposed. Other levels of assurance may be sufficient to manage the risks. The new oversight office should make recommendations to the Minister including as to which college new occupations should be allocated.
- 10.23 The occupational risk assessment should be the responsibility of the new oversight office. The decision as to which occupations should be regulated should remain with the Minister.
- 10.24 Table 8 below summarises the changes in responsibility for regulatory functions here proposed and where those functions will be carried out under different arrangements. The table is complemented by a diagram 9 beneath it showing the suggested roles of the Ministry of Health, Oversight Body, Registration and Adjudication Body, and the Colleges.

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

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

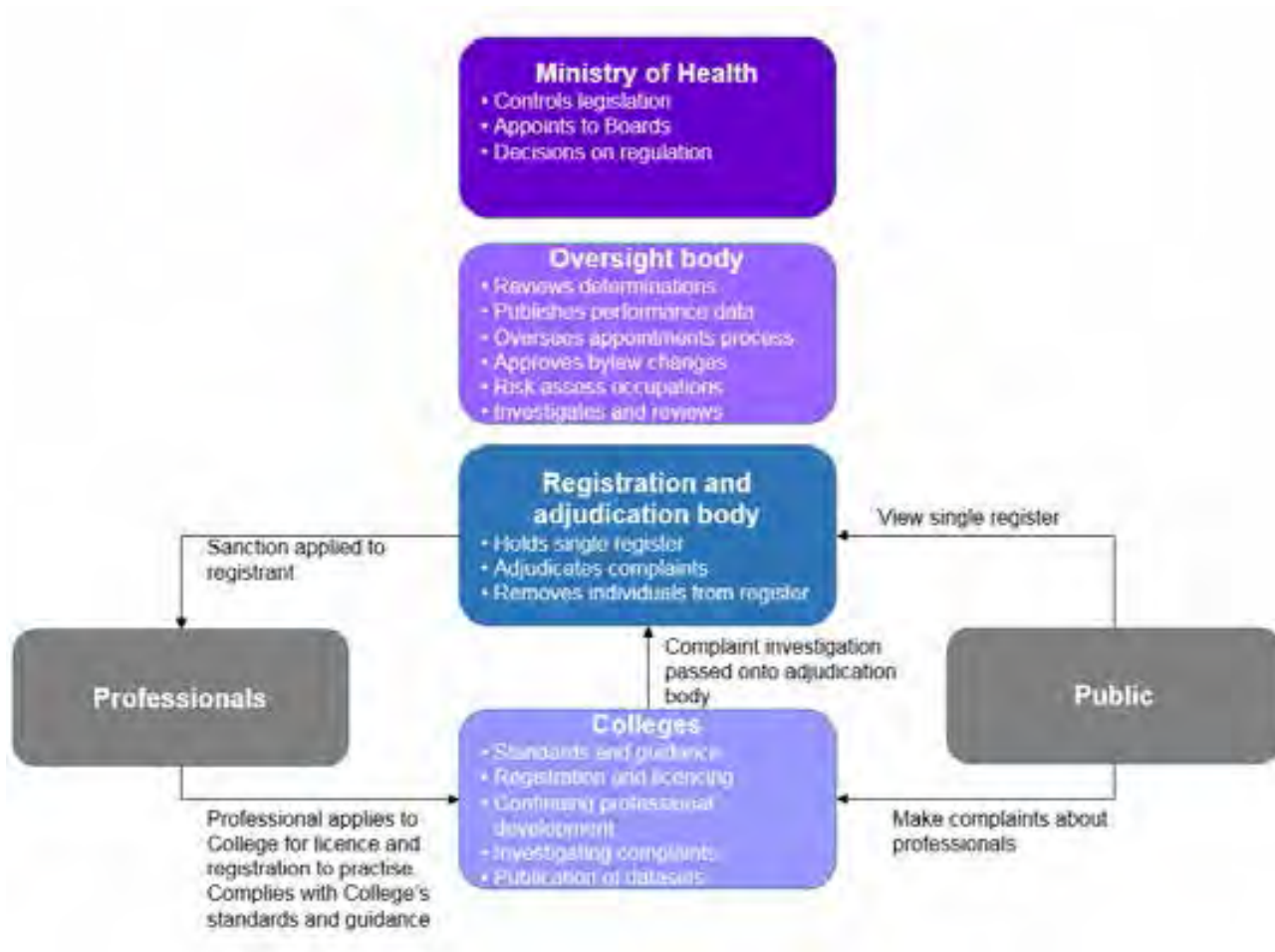


Table 8 and diagram 9: Both explain the different arrangements for professional regulation proposed in this Inquiry

11. Conclusions

- 11.1 There are many amendments and improvements that could be made to the Health Professionals Act to make it fairer to both registrants and complainants, clearer and easier to operate for Colleges and more transparent to the public. I have suggested some of the improvements that could be made in this report.
- 11.2 If the HPA is to be amended a full consultation on changes and a careful consideration of how they would actually work out on practice will be needed. Right-touch regulation warns us of the importance of considering the unintended consequences of regulatory changes as well as their benefits.
- 11.3 It is my conclusion, however, that changes to the HPA alone will be insufficient to create the flexible, public focussed, team-based and efficient regulatory system needed to support the delivery of safe healthcare in the future.
- 11.4 A complete overhaul of the way health professional regulation is conceived and delivered is required. I have set out a new structure to improve governance, performance, fairness, efficiency and cost effectiveness. I hope that the Ministry of Health, with the support of the colleges and, importantly, the health professions themselves, will seize the opportunity created by this review to work together to shape reform in the interests of the citizens of British Columbia.

Appendix 1 People and organisations that provided evidence

The following organisations provided written evidence to the Inquiry:

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

The following people provided evidence to the Inquiry¹²²:

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

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

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

Appendix 2 Standards of good regulation

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

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

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

Appendix 3 Standards of Governance

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

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

Annex 1 Terms of Reference

PROVINCE OF BRITISH COLUMBIA

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

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

TERMS OF REFERENCE

Purposes of Inquiry

1. Harry Cayton is to inquire into, make findings of fact, and provide advice and opinions respecting whether the College adheres to best practices for governance of regulated professions and whether the College is fulfilling its mandate under section 16 of the *Act* including, but not limited to,
 - (a) the effectiveness of the College in ensuring:
 - (i) members of the Board discharge their duty to act in the public interest and fulfil their duties in accordance with the Oath of Office set out in 17.11 of the *Act* and section 4 of the Health Professions General Regulation B.C. Reg. 275/2008;
 - (ii) persons appointed by the Board to committees of the Board and College discharge their statutory duties under the *Act*, in the public interest;
 - (iii) there are mutually respectful relationships between Board members and professional staff of the college;
 - (iv) senior staff of the College treat each other and all College staff with respect and professionalism; and
 - (v) the College has established clear and appropriate policies and procedures to resolve conflicts or disputes between Board members or between Board members and College staff or amongst College staff;
 - (b) whether, to carry out its statutory mandate respecting the handling of complaints about registrants pursuant to Part 3 of the *Act*:

- (i) the College bylaws, standards, practices and procedures respecting complaints are in accordance with the Act and are focused on and effectively protect the public safety and the public interest; and
 - (ii) investigations and complaints are processed in a timely and effective manner;
 - (c) whether the College bylaws, guidelines, standards of practice and policies established by the Board to guide registrant conduct are in the public interest and ensure public safety;
 - (d) whether the College has an effective program to monitor and enforce bylaws, guidelines, standards of practice and policies that ensure the protection of the public interest; and
 - (e) whether the College practices respecting public notification and reporting are consistent with the Act and show appropriate transparency including the reporting of college activities, bylaws, finances and decisions to registrants, government and the public.
2. Harry Cayton is make recommendations respecting changes to the Act and regulations made under the Act which he considers necessary or appropriate in order to enhance:
- (a) the effective administration and operation of a college to assist in carrying out the duties and objects of a college under section 16 of the Act;
 - (b) the ability of a board of a college to utilize best practices for governance of regulated professions;
 - (c) the transparency and accountability of a college; and
 - (d) the public interest and public safety generally.

Conduct of the Inquiry

3. Without limiting the powers of Mr. Cayton under section 18.1 of the Act:
- (a) For the purposes of the inquiry into the matters described in paragraph 1(b), Harry Cayton shall review a sampling of complaints including their handling and disposition by the College. The manner of the selection of the sample of the complaints for this purpose shall be determined by Harry Cayton.
 - (b) The report to the Minister respecting shall not
 - (i) include any information that would identify any complainant or any registrant who is the subject of a complaint; and

- (ii) make any finding or allegation of misconduct with respect to any person.
- (c) Investigation or adjudication of any specific complaint submitted to the College pursuant to Part 3 of the Act by Harry Cayton is outside the scope of the inquiry.
- (d) Harry Cayton may observe Board meetings of the Board and meetings of any committee of the College or the Board and may observe any aspect of the administration and operations of the College.
- (e) Harry Cayton may consult with such individuals and organizations as he considers necessary or desirable.
- (f) Harry Cayton may engage other persons to assist him with the inquiry as he determines necessary or desirable.
- (g) Harry Cayton shall submit a report to the Minister of Health no later than December 1, 2018.

April 11, 2018
Date


Adrian Dix
Minister of Health

**COVER PAGE**

Agenda Item #: 17
Topic: District 4 & 5 Election
Speaker: Dianne Cook, Executive Assistant
Action: MOTION

Meeting Date:	June 20, 2019
Issue:	Council Member Elections Districts 4 & 5
Reported By:	Dianne Cook, Executive Assistant
Action:	For Discussion and Decision

Background

As per section 4.06 of the College By-Laws, the professional Council Member positions for District 4 & 5 are up for election in 2019 for a three-year term ending in 2022. Section 4.07 of the College By-Law state that the Registrar, as directed by Council, shall set the date for the election to Council of candidates in each electoral district.

District 4

There are 2 available positions on Council from Electoral District 4. There are approximately 466 Members eligible to vote in District 4 – Central West, which is comprised of the counties of Dufferin, Wellington, Haldimand, Brant and Norfolk, the regional municipalities of Halton, Niagara, Peel, and Waterloo, and the city of Hamilton.

District 5

There is 1 available position on Council from Electoral District 5. There are approximately 70 Members eligible to vote in District 5 – West comprised of the counties of Essex, Bruce, Grey, Lambton, Elgin, Middlesex, Huron, Perth, Oxford, and the regional municipality of Chatham-Kent.

Proposed Dates and Time Lines

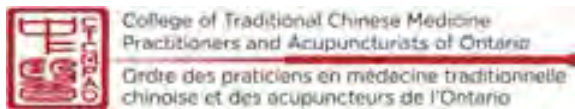
The chart below shows the proposed timelines along with schedule of dates in line with By-Laws 4.01 – 4.26.

Members eligible to vote will have 30 days to cast their ballot beginning September 27, 2019 – October 29, 2019 at 5:00 p.m. The electronic ballot will contain a link to the member's profile on the public registry, their biographical statement and if desired a head shot photograph.

ELECTION DATE	October 29
Nomination Package Out (minimum 90-days prior to election date)	July 19
Nominations due (minimum 60-days prior to election date)	August 20
Voting Ballots sent to members (minimum 30 days prior)	September 27
End of Voting timeline Election Day 5:00 p.m. EST	October 29
Ballot Report	October 30
Notification of candidates	October 30
Notification & posting of results (if no recount is requested)	November 15

The first Council meeting following the elections:

Council Training Day	Tuesday, December 10, 2019
Council Meeting	Wednesday, December 11, 2019



COUNCIL

Decision

Council to direct the Registrar to set the date of October 29, 2019 as the date of elections for **District 4** and **District 5**.

MOTION



COVER PAGE

Agenda Item #: 18 a)
Topic: Standards of Practice, Professional Boundaries
Speaker: Leanne Cheng, Quality Assurance Coordinator
Action: MOTION

Meeting Date:	June 20, 2019
Issue:	Standard for Maintaining Professional Boundaries
Reported By:	Leanne Cheng
Action:	Decision

Background

Most regulated health colleges have a standard for maintaining professional boundaries, however, the College does not. This information is set out in the Jurisprudence Handbook. Knowing the principles of the Handbook, tested through an examination, is a non-exemptible requirement to become a member of the College. It is important for the College to establish a standard that communicates the accountabilities of members with patients.

This Standard was developed by the Patient Relations Committee as it falls under their mandate. As per the *Regulated Health Professions Act, 1991* the Patient Relations Program must have measures for preventing and dealing with sexual abuse of patients. These measures must include guidelines for the conduct of members with their patients.

Summary

The patient-practitioner relationship has a power imbalance in favour of the member. It comes from the reliance of a patient on a practitioner's care to support their health. This trust is inherent and members should not abuse it. This Standard sets out the accountability that members have to establish and maintain a professional boundary.

This Standard will address four principles:

1. Member should refrain from treating patients with whom they have a close personal relationship.
2. Members must set professional boundaries with each patient.
3. Member must maintain professional boundaries with their patients.
4. Members must safeguard the privacy and dignity of their patients.

Decision

That Council approves the draft Standard for Maintaining Professional Boundaries for external consultation.

Standard for Maintaining Professional Boundaries

Professional boundaries are the physical and emotional limits placed on the patient-practitioner relationship. Patients share personal information with members. They also depend on their professional knowledge for their care. This results in a power imbalance in favour of the member.

Members must establish professional boundaries to prevent the abuse of this power and to promote trust and respect. Breaching a professional boundary can harm a patient and the therapeutic relationship.

This standard addresses the following principles:

[Principle 1: Members should refrain from treating patients with whom they have a close personal relationship.](#)

[Principle 2: Members must set professional boundaries with each patient.](#)

[Principle 3: Members must maintain professional boundaries with their patients.](#)

[Principle 4: Members must safeguard the privacy and dignity of their patients.](#)

Principle 1: Members should refrain from treating patients with whom they have a close personal relationship.

Members should refrain from treating people with whom they have a close personal relationship, such as a friend, relative, or business partner. Strong personal, emotional, or business ties can impair a member's professional judgement.

Members must never treat a spouse or a person with whom they have a sexual relationship, except in an [emergency](#).

Applying the principle to practice

Members may need to treat a person with whom they have a close personal relationship if there is no other option available for the required service. This could occur, for example when the member is in a remote area, or when a patient has suffered past trauma and requires treatment from someone they know well. In these cases, the member must inform the patient about the potential boundary and conflict of interest issues.

Emergencies

Members may provide services in an emergency. An emergency is when there is a reason to believe that a person will suffer severely or risk serious bodily harm unless they receive treatment right away. If possible, members must transfer patient care to another health professional as soon as they can.

Record keeping

Members must record the reasons why they have treated a person with whom they have a close personal relationship. They must note the discussions they had with the patient about potential boundary and conflict of interest issues.

When they transfer the patient's care to another healthcare professional, they must make a complete note of this in the patient's record.

Principle 2: Members must set professional boundaries with each patient.

The responsibility for setting boundaries in the patient-practitioner relationship rests with the member. Each patient's boundaries will be unique to their own experiences, including their culture, gender, age, beliefs, values, and sexual identity. It is important to be sensitive to any history of trauma.

Applying the principle to practice

Members must touch patients only in a therapeutic manner. They must ensure that their behaviour or remarks cannot be interpreted as inappropriate or offensive.

Here are some examples of situations that pose the risk of a boundary violation:

- disclosing information about the member's personal life to a patient
- giving or receiving gifts
- taking part in business or leisure activities with a patient
- making comments or gestures that are not directly related to clinical care.

Members must also set and maintain appropriate boundaries with patients' families, caregivers, and support persons.

Record keeping

Members must note in each patient's file anything that will affect or place limits on the patient's personal boundaries, such as a history of trauma.

Principle 3: Members must maintain professional boundaries with their patients.

Sometimes a member may cross a professional boundary in a harmless and therapeutic manner. While a single boundary crossing may not cause harm, a series of such crossings may lead to a boundary violation.

That is why members must monitor professional boundaries as the patient-practitioner relationship develops and make changes as needed.

Applying the principle to practice

Whenever something occurs that could lead to a boundary violation, move quickly to address it. Identify the breach and correct the inappropriate behaviour.

If a member finds that they cannot maintain professional boundaries, they must take these steps to end the patient-practitioner relationship:

1. Provide notice to the patient of the decision.
2. Help the patient find another practitioner.
3. Explain the fees for providing the patient with a copy of their record or transferring a copy to their new practitioner.

Record keeping

Members must document boundary crossings or violations and any corrective actions taken in the patient record.

If the member ends the patient-practitioner relationship, they must record the reasons and actions taken.

Principle 4: Members must safeguard the privacy and dignity of their patients.

Members must talk openly with their patients about assessment and treatment procedures, such as touching and positioning, that could impose on their personal boundaries.

Applying the principle to practice

Members must discuss the measures they can take to make their patient more comfortable, such as:

- providing them with a secure and private place to undress
- using draping techniques during assessment and treatment
- having a third person whom the patient trusts present for support.

Members must always obtain written consent from the patient for procedures that involve [contact with sensitive areas](#).

Record keeping

Members must keep the patient's written consent for contact with sensitive areas on file, as well as any other measures taken, such as having a trusted third person present.



COVER PAGE

Agenda Item #: 18 b)
Topic: Standards of Practice, Prevention of Sexual Abuse
Speaker: Leanne Cheng, Quality Assurance Coordinator
Action: MOTION

Meeting Date:	June 20, 2019
Issue:	Standard for Preventing Sexual Abuse
Reported By:	Leanne Cheng
Action:	Decision

Background

The College currently has one standard related to sexual abuse, Standard (6): Prohibition of a Sexual Relationship with a Patient. It no longer aligns with the *Regulated Health Professions Act, 1991* since the changes of the *Protecting Patients Act, 2017* came into effect. Within the context of sexual abuse, an individual is now considered to be a “patient” for a period of one year following the end of the patient-practitioner relationship. The new Standard for Preventing Sexual Abuse will align with these legislative changes.

This Standard was developed by the Patient Relations Committee as it falls under their mandate. As per the *Regulated Health Professions Act, 1991* the Patient Relations Program must have measures for preventing and dealing with sexual abuse of patients. These measures must include guidelines for the conduct of members with their patients.

Summary

A member, being in a position of trust and power, has a duty to act in the patient’s best interests. This Standard reinforces the zero-tolerance policy on sexual abuse of patients. There is a proposed requirement for members to obtain written consent for treatment that involves contact with sensitive areas. This was adopted by the College of Massage Therapists of Ontario in September of 2017 and comes from a recommendation by Dr. Ruth Gallop, an expert on boundary violations by healthcare professionals. The requirement to obtain written consent may mitigate the increase in sexual abuse cases the College has seen.

There are three principles addressed in this standard:

1. Member must not sexually abuse their patients.
2. Members must always get written consent for treatment that involves contact with sensitive areas.
3. Members must report sexual abuse.

Decision

That Council approves the draft Standard for Preventing Sexual Abuse for external consultation.

Standard for Preventing Sexual Abuse

The [Regulated Health Professions Act, 1991](#) prohibits sexual relations between members and patients. Sexual relations between a member and a patient are considered sexual abuse. The Act defines sexual abuse as:

- Sexual intercourse or other forms of physical sexual relations
- Touching of a sexual nature
- Behaviour or remarks of a sexual nature.

Touching, behaviour, or remarks that are clinically appropriate and related to the service being provided are not included in the definition of sexual abuse.

This standard addresses the following principles:

[Principle 1: Members must not sexually abuse their patients.](#)

[Principle 2: Members must always get written consent for treatment that involves contact with sensitive areas.](#)

[Principle 3: Members must report sexual abuse.](#)

Principle 1: Members must not sexually abuse their patients.

Sexual abuse of a patient is a serious breach of patient trust. It involves a misuse of power in the patient-practitioner relationship. A patient's consent to participate is not a defense of sexual abuse. The imbalance of power means that a patient cannot consent.

Applying the principle to practice

Members must never enter into a sexual relationship with a current patient.

Former patients

Members can only enter into a sexual relationship with a former patient under the following conditions:

- At least one year has passed since the last patient visit or the date that the patient-practitioner relationship ended.
- The sexual relationship is not based on the trust and intimacy developed during the patient-practitioner relationship, and there is no longer a power imbalance in favour of the member.

Emergencies

Members must not provide services to a person with whom they have a sexual relationship, including spouses, except in an emergency. An emergency means that there is reason to believe that the person will suffer severely or is at risk of serious bodily harm unless treatment is provided. If possible, the member must transfer patient care to another health professional as soon as they can.

Record keeping

Members must record the nature of the emergency and note the information of the healthcare professional to whom they transferred the patient's care.

Principle 2: Members must always get written consent for treatment that involves contact with sensitive areas.

Sensitive areas include the upper and inner thigh, buttocks, penis, vagina, breasts, and chest wall muscles.

Applying the principle to practice

The College's [Standard for Consent](#) requires members to always tell patients what body parts will be touched during a proposed treatment. However, when the proposed treatment involves sensitive areas, members must take extra care to explain what areas will be touched, how it will be touched, why it is necessary to touch, and whether it will be exposed during the treatment.

If the touch involves the breast, members should not touch the nipple or the areola. If sensitive areas are being treated, they should be exposed as little as possible. Draping and positioning should be discussed before treatment.

Members should consider the history, gender, and culture of patients when talking about this. These factors may affect how a patient feels about contact in sensitive areas.

Record keeping

Members must always have a record of the patient's written consent to treatment in sensitive areas. They must carefully chart the conversation with the patient to ensure that both the patient and member are fully aware of what can occur during the proposed treatment.

Principle 3: Members must report sexual abuse.

If a member has reason to believe that another regulated health professional has sexually abused a patient, they must file a report.

*Applying the principle to practice***If the patient told the member about the abuse**

Members must explain to the patient that they are required by law to make a report. The member must ask the patient if they can include their name. If the patient agrees, their consent must be in writing.

Where and when to file the report

Members must file their written report with the Registrar of the regulated college that the health professional belongs to.

To prevent continued abuse, the report must be filed as soon as possible, and no later than 30 days after learning of the alleged abuse.

What to include in the report:

- The name of the person filing the report
- The name of the health professional who is the subject of the report
- Details of the alleged sexual abuse
- The name of the patient who may have been sexually abused, if they have consented in writing to give their name.

Record keeping

Members must keep a copy of the report and the patient's signed consent on file.

Learn more about the laws governing our practice:

[CTCMPAO's Jurisprudence Course Handbook](#)

[Professional Misconduct Regulation of the *Traditional Chinese Medicine Act, 2006*](#)



COVER PAGE

Agenda Item #: 18 c)
Topic: Standards of Practice, Consent
Speaker: Sean Cassman, Policy Analyst
Action: MOTION

Meeting Date:	June 20, 2019
Issue:	Standard for Consent
Reported By:	Sean Cassman
Action:	Decision

Background

The College's current standards touch on consent; however, they do not include any information that would help a member understand the proper way to obtain consent, or allow patients to understand their right to give, refuse, or withdraw consent. Most regulated health colleges have a dedicated standard for consent to explain these concepts. This information is set out in the Jurisprudence Handbook. Knowing the principles of the Handbook, tested through an examination, is a non-exemptible requirement to become a member of the College. It is important for the College to establish a standard that communicates the accountabilities of members with patients.

This Standard was developed by the Quality Assurance Committee as it falls under their mandate.

Summary

The *Health Care Consent Act, 1996* requires members of the College to obtain informed consent for all treatment they provide. The act sets out what information must be provided to the patient for the consent to be considered informed, and allows consent to be given through either expressed or implied means. Furthermore, the act establishes requirements for who can provide consent on behalf of a patient in the event that they are unable to do so on their own. This standard describes the procedures members must go through to determine if a patient is able to give consent, how to obtain consent, and when members should rely on expressed consent versus implied consent.

This Standard will address five principles:

1. Member must assess whether the patient is able to consent or not. If not, they must confirm a substitute decision maker.
2. Members must obtain informed consent before and throughout treatment.
3. Member must always get expressed consent for treatment that involves contact with sensitive areas.
4. Members must respect the patient's right to withdraw consent at any time.
5. Members must follow the law for collecting, using, and sharing personal health information

Decision

That Council approves the draft Standard for Consent for external consultation.

Standard for Consent

The [Health Care Consent Act, 1996](#) requires members of the College to obtain informed consent for all treatment they provide. **Informed** consent means that patients:

- have all the information they need in order to make an informed decision and
- know they have the right to decide to receive treatment, refuse treatment, or withdraw consent for treatment.

This standard addresses the following principles:

[Principle 1: Members must assess whether the patient is able to consent or not. If not, they must confirm a substitute decision maker](#)

[Principle 2: Members must obtain informed consent before and throughout treatment.](#)

[Principle 3: Members must always get expressed consent for treatment that involves contact with sensitive areas.](#)

[Principle 4: Members must respect the patient's right to withdraw consent at any time.](#)

[Principle 5: Members must follow the law for collecting, using, and sharing personal health information.](#)

Principle 1: Members must assess whether the patient is able to consent or not. If not, they must confirm a substitute decision maker.

A person is able to provide informed consent if they understand:

- the nature of the treatment and its possible outcomes
- what will happen if they decide not to have the treatment.

Applying the principle to practice

Members must keep in mind that ability to understand can come and go. A person may be able to consent to some treatments but not others. Members should keep assessing a patient's capacity as time goes on. This is to ensure that members are obtaining consent from the proper person.

Do not **assume** that a person is unable to consent because:

- they have a mental or neurological illness
- their speech is impaired
- there is a language barrier
- they have a disability
- they are minors or they have reached an advanced age.

Even if the patient has a substitute decision maker in place, the member should make sure that the patient understands the consent process. If needed, use gestures, interpreters, or communication tools such as computer software.

If the patient is unable to consent, tell them why this finding has been made. Explain that they have the right to a review. Members can help them with the review process or direct them to the College for help.

Make sure that the patient knows who will be making decisions for them. The patient should be involved in discussions between the member and substitute decision maker when possible.

Confirming the substitute decision maker

In most cases, substitute decision makers are close family who come with the patient for treatment. If there is more than one substitute decision maker who is willing and able to do this, the member must decide which one will give consent. The *Health Care Consent Act* says the person who is **highest** on this list must be chosen:

1. A person appointed guardian by the courts with the authority to consent to treatment
2. A person who has a signed Power of Attorney for Personal Care that the patient made when they were capable
3. A representative appointed by the Consent and Capacity Board
4. A spouse or partner
5. An adult child or parent (custodial parent if the child is a minor)
6. A parent of a minor who is not the custodial parent but who has a right of access
7. A brother or sister
8. Any other relative

Record keeping

Members must have the substitute decision maker's name and contact information on file. If there is a legal document such as a Power of Attorney for Personal Care, or proof of right of access for a custodial parent, a copy must be kept on record.

Principle 2: Members must obtain informed consent before and throughout treatment.

Consent must be freely given and never obtained by telling the patient anything that is untrue.

Consent is an ongoing process. Members should re-confirm consent at each visit.

Applying the principle to practice

Members must ensure that patients are informed before they decide about the proposed treatment. That means they must understand:

- The nature of the treatment (including the body parts that will be touched)
- What benefits they can expect from the treatment
- Any risks from having the treatment
- Any side effects of the treatment
- Other options instead of this treatment
- What will likely happen if they do not have the treatment
- What the treatment will cost.

Members must invite the patient's questions about the treatment and respond to all of them before they ask for consent.

Expressed and implied consent

Expressed consent means that a person consents in a direct way to the treatment, by saying they consent or by consenting in writing.

Implied consent means that a person speaks or behaves in a way that shows they consent. For example, when a patient gives their health history, it implies that they are consenting to an assessment. Another example would be following instructions to prepare for treatment. For instance, if a member instructs a patient to fast for 24 hours and they do so, it implies consent to the treatment.

When to ask for consent

In addition to getting consent before treatment starts, members must ask for consent again if:

- Any other person, such as a student, or anyone under supervision will help with the treatment.
- The member wants to adjust the treatment in any way that changes the expected benefits, risks, or side effects.
- The member wants to start a new form of treatment.

Are there times when members can give treatment without consent?

Yes, but this is very rare. Members can assess and treat a patient without consent if they are in an **emergency** situation and **all** of these factors apply:

- The member has tried to communicate with the patient but they are unable to give or refuse consent because of a language barrier, illness, or disability.
- Waiting to receive consent will cause prolonged suffering, or put the patient's health at risk.
- There is no reason to believe that the patient does not want treatment.

Record keeping

The College strongly recommends that members ask patients to read and sign a general consent form before starting treatment. The consent form should be in clear, easy-to-understand language. It should state that:

- The member has explained the proposed treatment to them and the patient is [fully informed](#).
- The patient agrees to the treatment (Include details of what the patient consented to and did not consent to.)
- The patient consents (or does not consent) to having treatment from students and other staff under supervision.
- The patient consents to having their [personal health information](#) gathered, used, and shared within the limits of the law.

If members are using an interpreter or an alternative way to communicate with the patient, such as computer software, the consent form should note this. If the patient has a substitute decision maker, discuss the consent form with both present and have the substitute decision maker sign.

In addition to the general consent form, members must continue to ask for consent if anything about the treatment changes. A note of the patient's verbal consent to specific treatments should be kept in records.

Principle 3: Members must always get written consent for treatment that involves contact with sensitive areas.

Sensitive areas include the upper and inner thigh, buttocks, penis, vagina, breasts, and chest wall muscles.

Applying the principle to practice

Members must advise patients what body parts will be touched during a proposed treatment (see above). However, when the proposed treatment involves sensitive areas, members must take extra care in explaining what areas will be touched, how it will be touched, why it is necessary to touch and whether it will be exposed during the treatment. All of this should be carefully charted to ensure that the patient and the member are in agreement on the limits of the consent.

If the touch involves the breast, members should not touch the nipple or the areola.

If sensitive areas are being treated, they should be exposed as little as possible.

When talking with patients about this, think about the patient's history, gender, and culture. These factors may affect how they feel about contact in sensitive areas.

Record keeping

Members must always have a record of the patient's written consent to treatment in sensitive areas. As noted above, this dialogue should be carefully charted to ensure that both the patient and the member are fully aware as to what can occur during the proposed treatment.

Principle 4: Members must respect the patient's right to withdraw consent at any time.

Members must ensure that patients and substitute decision makers understand their right to withdraw consent.

Applying the principle to practice

When a patient decides to withdraw consent, respect their decision. Explain what will happen if they stop the treatment.

Record keeping

All services or treatment given to date must be documented in the patient file.

Document the reasons the patient gave for withdrawing their consent.

Principle 5: Members must follow the law for collecting, using, and sharing personal health information.

The [*Personal Health Information Protection Act, 2004*](#) sets out when a member must ask for consent to collect, use, and disclose personal health information.

Here are some examples of personal health information:

- information about the patient's physical or mental health
- the health history of the patient's family
- names of the patient's other health care providers
- the patient's treatment plan
- information about health care coverage, such as the patient's OHIP number and extended health coverage
- name of the patient's substitute decision-maker.

Applying the principle to practice

Collecting information

The Act allows members to collect **only** information that is needed for providing health care to the patient. In most cases, implied consent for collecting information is enough.

Using information

The Act allows members to use personal health information without consent **only** for the purpose it was gathered. For example, consent is not needed to use the information to:

- treat the patient
- improve the quality of care
- train other practitioners
- obtain payment.

Members must get the patient's consent if to use the information for any other purpose.

Sharing information

In most cases, members must have the patient's written consent if they wish to share personal health information with anyone outside their practice.

There are some exceptions to this rule. The Act says that members may share personal health information without consent when:

- Members share information with other health care providers
- Members have reason to believe that if they do not share information, someone is at risk of being harmed
- Members need to share information to help determine if the patient is able to give consent
- Disclosure is required as part of a legal process, such as a summons or court order
- The College asks for information as part of an investigation or the Quality Assurance program.

If members wish to use or share information for a reason that requires consent, they must have the patient's expressed consent.

Record keeping

Members must document both implied and expressed consent in the patient's file.

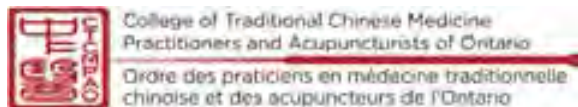
Learn more about the laws governing our practice:

[CTCMPAO's Jurisprudence Course Handbook](#)



COVER PAGE

Agenda Item #: 18 d)
Topic: Standards of Practice, Infection Control
Speaker: Sean Cassman, Policy Analyst
Action: MOTION



COUNCIL

Meeting Date:	June 20, 2019
Issue:	Standard for Infection Control
Reported By:	Sean Cassman
Action:	Decision

Background

The College currently has a standard on safe practice; however, this standard does not adequately set minimum expectations for infection control. Most regulated health colleges have a dedicated standard for infection control to set these expectations. Information on infection control is set out in the Safety Handbook. Knowing the principles of the Handbook, tested through an examination, is a non-exemptible requirement to become a member of the College. It is important for the College to establish a standard that communicates how the information in the handbook is implemented into the member's practice.

This standard was developed by the Quality Assurance Committee as it falls under their mandate.

Summary

Members are responsible for maintaining a safe, clean work environment. They must follow evidence-based procedures to minimize the risk of transmitting infectious agents. There are a number of resources, such as the Safety Handbook, to inform them of these procedures. However, we do not have a standard to explain how the College expects these procedures be implemented into a members practice. This standard describes the process a member should go through to determine the infection risks at their practice, and sets minimum requirements for procedures to address those risks. Additionally, the standard will provide the member with a number of resources to further their understanding of infection control.

This Standard will address three principles:

1. Member must keep their knowledge of infection control current.
2. Members must assess the risks for contamination and transmission of infectious agents.
3. Member must carry out infection control procedures.

Decision

That Council approves the draft Standard for Infection Control for external consultation.

Standard for Infection Control

Members are responsible for maintaining a safe, clean work environment. They must follow evidence-based procedures to minimize the risk of transmitting infectious agents.

Infectious agents are micro-organisms that cause infection or disease. The four most common types of infectious agents are viruses, bacteria, fungi, and parasites.

This standard addresses the following principles:

[Principle 1: Members must keep their knowledge of infection control current.](#)

[Principle 2: Members must assess the risks for contamination and transmission of infectious agents.](#)

[Principle 3: Members must carry out infection control procedures.](#)

Principle 1: Members must keep their knowledge of infection control current.

Infection control procedures are the steps that healthcare workers must take to prevent infection from taking place or spreading in the healthcare setting. Infection control procedures are based on how an infectious agent is transmitted. This includes transmission between patients, from patients to healthcare workers, and from healthcare workers to patients.

Evidence-based procedures are steps that the member follows based on solid, up-to-date research. Members must keep their knowledge of evidence-based infection control procedures up to date.

Applying the principle to practice

Members should use resources such as the College's [Safety Program Handbook](#). They must be able to identify the infection risks that can occur in the practice of traditional Chinese medicine, and any changes to infection control procedures.

Record Keeping

Members should keep infection control resources on file to help guide their practice.

Principle 2: Members must assess the risks for contamination and transmission of infectious agents

Members must identify the risks within their practice setting (the internal practice environment). They must also be aware of risks present in their community and region (the external practice environment).

Applying the principle to practice

When they assess risks in the internal practice environment, members should consider:

- The type of treatment planned for the patient
- The patient's overall health condition
- The health and immunization status of people in the practice environment. This includes other patients, practitioners, and staff.

When they assess risks in the external practice environment, members should consider:

- The time of year (For example, winter months will likely have an increase in colds and the flu.)
- Outbreaks of infectious diseases in the community
- Information released by public health officials ([Public Health Agency of Canada](#), [Ontario Public Health](#), municipal health authorities)

Record Keeping

Members should keep a record of their risk assessments to guide their infection control procedures.

Principle 3 – Members must carry out infection control procedures.

Members must create and carry out infection control procedures guided by the results of their risk assessment.

Applying the principle to practice

As a minimum, members must have infection control procedures in place for:

- Hand washing and personal hygiene
- Using personal protective barriers (such as gloves, gowns, and masks)
- Cleaning, disinfecting, and sterilizing equipment and the practice environment
- Safely using and disposing of sharps and other biohazard waste.

Equipment and supplies

Members must have the resources needed to support infection control procedures. This includes:

- Sinks, liquid soap, and alcohol-based hand rubs
- Disinfectants
- Personal protective barriers
- Sharps disposal containers
- Biohazard waste containers

Workplace training

Members must ensure that all practitioners, staff, and patients are familiar with the infection control procedures.

Record Keeping

Members should keep a detailed inventory of infection control supplies.

Infection control procedures should be easy for members and staff to access.

Learn more about infection control:

[World Health Organization – Tools for Infection Control in Healthcare](#)

[Public Health Ontario – Infection Prevention and Control \(IPAC\) – Online Learning](#)

[Public Health Ontario – Performing a Risk Assessment Related to Routine Practices and Additional Precautions](#)

[Public Health Ontario – Routine Practices Fact Sheet for all Healthcare Settings](#)

[Public Health Ontario – Best Practice Guidelines for Hand Hygiene](#)

[Public Health Ontario – Best Practice Guidelines for Infection Prevention and Control](#)

[Public Health Ontario – Best Practice Guidelines for Cleaning, Disinfection and Sterilization](#)

[Public Health Ontario – Best Practice Guidelines for Environmental Cleaning](#)

[Infection Prevention and Control \(IPAC\) Canada – Evidence-based Guidelines](#)



COVER PAGE

Agenda Item #: 19

Topic: Terms of Reference – MOTION(s)

Speaker: Stamatis Kefalianos, Acting Registrar and CEO

Action: MOTION(s)

Meeting Date:	June 20, 2019
Issue:	Terms of Reference
Reported By:	Stamatis Kefalianos
Action:	For Decision

Background:

Council approved the College's Risk Management plan in the spring of 2017. The Risk Management plan reflects Council's direction as to the critical activities that should be undertaken over the next few years.

Under the governance section of the Risk Register, the College staff identified issues pertaining to inconsistent or a lack of Terms of References for its statutory committees. The failure to modernize and keep Terms of References up to date may lead to poor Committee outcomes and a loss of adaptability to future trends and developments.

A key initiative to establishing strong functional governance is establishing clear and transparent Terms of References for each respective College Committee.

In general terms, a terms of reference document outlines the ways in which a group of people agree to work together to accomplish common goals. The terms of reference are an important step in creating a shared set of expectations and building accountabilities for members, as well as explaining some of the supporting roles.

What makes an effective term of reference?

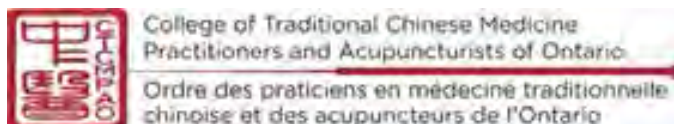
- It clearly describes the Committee's purpose, structure and operating rules
- It defines roles and accountabilities for the Committee
- It is easy to read and understand
- It can change as the nature of the work of the Committee evolves.

College bylaws require that Terms of References are established for each Committee, but do not specify a process for its review and approval. The new Terms of References specify an evaluation protocol to include Council approval for amendments. Finally, all Terms of References have been reviewed by legal counsel.

Decision Sought:

That Council approve as recommended by the Executive Committee, the Terms of Reference for both the statutory and non-statutory committees to ensure they are relevant and up to date?

MOTION



NAME	Terms of Reference – Executive Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Executive Committee (the “Committee”) conducts business between Council meetings to ensure the objects of the College are being met and contributes to the development of effective and good governance.

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(1) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations and By-laws made under these Act.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- Monitoring proper operations of the College in cooperation with the Registrar;
- To advise Council on the financial affairs of the College and to make recommendations to the Council on financial matters;
- Presenting to Council for approval slates of candidates for committee appointments;
- To establish and administer a process for assessing the effectiveness of the Council, and its Committees;
- Prepare the agendas for meetings of the Council;
- To conduct the evaluation of the Registrar’s performance in accordance with agreed upon strategic priorities and review and decide on compensation; and

- Perform such other duties and tasks as assigned to the Committee by Council or as authorized under the Code.

The Committee is also empowered to act on behalf of Council between meetings on matters that require immediate attention. However, the Committee cannot make, amend or revoke a by-law or regulation during this period. Council members will be apprised of such actions in a timely manner, and an opportunity provided for Council to review decisions made in such circumstances at the next scheduled meeting of Council.

Composition of Committee

The Committee shall be elected by the Council and composed of the President, the Vice-President and three (3) members of Council. Of the five (5) elected Committee members, three (3) members of the Executive Committee shall be professional members and two (2) members shall be public members.

Term of Office

The Committee shall be elected annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair of the Executive Committee shall be the President.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

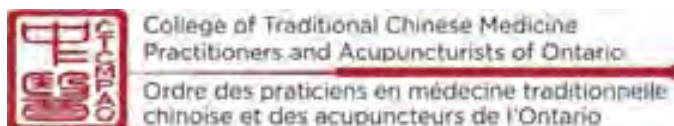
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Registration Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	10 June 2019

Purpose

The Registration Committee (the “Committee”) is mandated to ensure protection of the public interest by providing strategic direction to the College and to the Registrar with regards to the registration processes of the College.

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(2) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations made under these Act.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- Oversee on behalf of the Council, the College’s review of its registration practices to ensure they are transparent, objective, impartial and fair;
- Advise the Council, on the Registration Requirements of the College, including education, examinations and qualifications criteria;
- Develop policies and procedures necessary to administer the Registration program;
- Meeting in the form of panels to make decisions regarding applications for registration referred to it by the Registrar in accordance with the Code, the Registration Regulation, and College policy;

- Consider applications for registration referred to it by the Registrar where:
 - The Registrar is of the view that the applicant may not qualify for registration;
 - The Registrar believes that a term, condition, or limitation should be imposed on the applicant's Certificate of Registration; or
 - The Registrar intends to refuse the application;
- Consider applications to remove or modify a term, condition or limitation that was imposed as a result of a Registration Proceeding;
- Consider applications and applicants' submissions and make orders with respect to the disposition of the application in accordance with the Code;
- Oversee the College's participation in hearings or reviews of the Registration Committee's decisions before the Health Professions Appeal and Review Board;
- Prepare a fair registration practices report annually or at such other times as the Fairness Commissioner may specify;
- Oversee the implementation of registration practices audit every three years or as required by the Fairness Commissioner;
- Provide other reports and information to the Fairness Commissioner as required; and
- Develop amendments to the Registration Regulation, for approval by Council and the Ministry of Health and Long-Term Care.

Composition of Committee

Members of the Committee shall be appointed by Council and shall include:

- i) At least two (2) professional members who are members of the Council;
- ii) At least one (1) public member who is a member of the Council; and
- iii) One (1) or more professional members who are not members of Council, if Council so wishes.

Panels of the Committee shall be appointed by the Chair and shall be comprised of at least three (3) members of the Committee, at least one (1) of whom shall be a public member of the Council. The Chair of Committee shall, at the time of appointing a Panel, designate one (1) member of the panel as the Chair of the Panel.

Term of Office

The Committee shall be appointed annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Committee.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

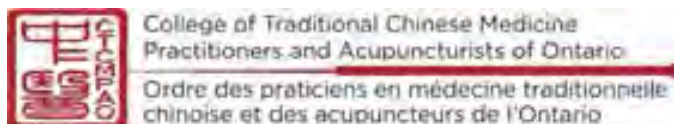
Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any

information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Inquiries, Complaints and Reports Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Inquiries, Complaints and Reports Committee (the “Committee”) is mandated to protect of the public interest by:

- Establishing policies and procedures to direct the actions of the College or its staff with respect to complaints received about members of the College;
- Appointing panels to review Complaints and consider Reports against members of the College;

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(3) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations made under these Act.

Duties and Responsibilities

The Inquiries, Complaints and Reports Committee (ICRC) shall be responsible for the following activities:

- Advise Council on the development and maintenance of policies and procedures governing the inquiries, complaints and reports processes;
- By way of panels appointed by the ICRC Chair, investigate complaints, review the submissions from the member(s), make reasonable efforts to ensure a thorough investigation has occurred and take appropriate action in accordance with section 26 of the Code;
- Dispose of complaints within the timeframes allowed in the Act;
- By way of panels appointed by the ICRC Chair, consider Reports submitted by the Registrar, review the submissions from the member(s), make reasonable efforts to ensure that all relevant

information has been obtained and take appropriate action in accordance with section 26 of the Code;

- By way of panels appointed by the ICRC Chair, inquire into whether a member is incapacitated and take appropriate action in accordance with sections 58 to 63 of the Code;
- To consider the need for interim orders and emergency appointments of an investigator where required;
- To issue to the parties a written decision with reasons (with certain exceptions);
- To issue to the parties a notice of the right to request a review of the decision through the Health Professions Appeal and Review Board (for complaint matters only);
- To consider the feedback provided, where available, from the Health Professions Appeal and Review Board as related to decisions of the ICRC; and,
- Develop amendments to the Professional Misconduct Regulation of the Act, for approval by Council and the Ministry of Health and Long-Term Care.

Composition of Committee

The Committee shall be appointed by Council and shall include:

- i) At least two (2) professional members who are members of the Council;
- ii) At least one (1) public member who is a member of the Council; and
- iii) One (1) or more professional members who are not members of Council, if Council so wishes.

Panels of the Committee shall be appointed by the Chair and shall be comprised of at least three (3) members of the Committee, at least one (1) of whom shall be a public member of the Council. The Chair of Committee shall, at the time of appointing a Panel, designate one (1) member of the panel as the Chair of the Panel.

Term of Office

The Committee shall be appointed annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Committee.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

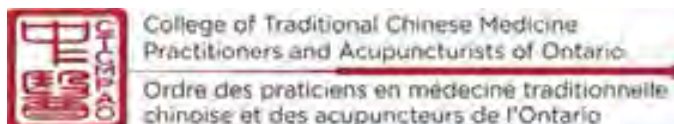
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Quality Assurance Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Quality Assurance Committee (the “Committee”) is mandated to protect the public interest by creating a quality assurance program that monitors and encourages members to practise competently.

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(6) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee. Committee members will note that the Committee has additional statutory confidentiality provisions as set out in the Code.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations made under these Act.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- Develop and modify/refine a Quality Assurance Program (the “Program”) that includes, but is not limited to:
 - Continuing education or professional development;
 - Self, peer and practice assessments; and
 - A mechanism for the College to monitor members’ participation in and compliance with the Program.
- Monitor members’ participation in the Program which includes:
 - Facilitating members’ participation;
 - Ensuring members have participated adequately; and
 - Following up on members whose participation is found to be unsatisfactory.
- Establish such policies and procedures necessary to administer the Program;

- Review and make recommendations to develop, edit, or modify Standards of Practice, to be submitted for approval of Council;
- Appoint and arrange for the training of assessors for the purposes of the Program;
- Receive and review reports from assessors for members that have been assessed and take such action as is, in the opinion of the Committee, permitted under section 80.2 of the Code to ensure the continued competence of the member;
- Disclose the name of the member and allegations against the member to the Inquiries, Complaints and Reports Committee if the Committee is of the opinion that the member may have committed an act of professional misconduct, or may be incompetent or incapacitated (Code, s. 80.2(1)(4)); and,
- Develop amendments to the Quality Assurance Regulation of the Act, for approval by Council and the Ministry of Health and Long-Term Care.

Composition of Committee

The Committee shall be appointed by Council and shall include:

- i) At least two (2) professional members who are members of the Council;
- ii) At least two (2) public members who are members of the Council; and
- iii) One (1) or more professional members who are not members of Council, if Council so wishes.

Term of Office

The Committee shall be appointed annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Committee.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

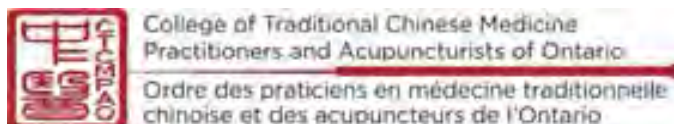
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Patient Relations Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Patient Relations Committee (the “Committee”) is mandated to ensure protection of the public interest by monitoring and amending the Patient Relations Program. The Patient Relations Program shall include measures for preventing or dealing with sexual abuse of patients by members of the College.

The Committee shall also administer the Funding for Therapy of patients who were subjected to sexual abuse by members of the College.

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(7) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations made under these Act.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- Advise the Council on the Patient Relations Program of the College, which shall include the following:
 - Develop and recommend to Council measures for preventing and dealing with sexual abuse of patients, including but not necessarily limited to:
 - Educational requirements for members;
 - Guidelines for the conduct of members and their patients;
 - Training for the College’s staff; and

- The provision of information to the public
- Administer on behalf of the Council the Funding for Therapy and Counselling Program of the College, including:
 - Developing policies and procedures governing the administration of requests for funding;
 - Developing appropriate forms for patients to seek funding for counselling or therapy under this program; and
 - Processing any requests for funding in a timely manner.

Composition of Committee

The Committee shall be appointed by Council and shall include:

- i) At least one (1) professional member who is a member of the Council;
- ii) At least two (2) public members who are members of the Council; and
- iii) One (1) or more professional members who are not members of Council, if Council so wishes.

Term of Office

The Committee shall be appointed annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Committee.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

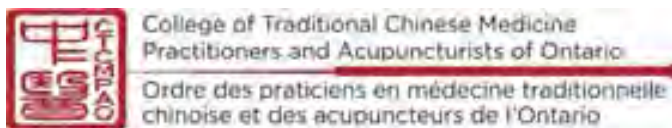
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Discipline Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Discipline Committee (the “Committee”) is mandated to protect the public interest by establishing and maintaining a framework for dealing with matters referred to it for discipline by the Inquiries, Complaints and Reports Committee.

Although the Committee is a committee of the College it is independent of the College. It fairly and impartially holds hearings between the College and members of the College.

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(4) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations made under these Act.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- To review and update all policies and documents of the College with regard to the Disciplinary process;
- To hold hearings, by way of panels, on specified allegations of a member’s conduct and/or competence referred by the Inquiries, Complaints and Reports Committee, in accordance with the requirements of the legislation;
- To hold hearings, by way of panels, on a member’s application for reinstatement of a certificate of registration, if the certificate was revoked on the grounds of professional misconduct or incompetence;

- To consider applications from persons who are not parties to the hearing to participate in the hearing according to the circumstances defined in section 41.1 of the Code and to determine the extent of the participation;
- To make orders excluding the public from a hearing or a part of a hearing in accordance with the circumstances defined in section 45 of the Code;
- To make orders preventing public disclosure of matters discussed at the hearing in accordance with section 45 of the Code;
- To, upon request of a witness in a sexual abuse case, make an order that no person shall publish the identity of the witness in accordance with section 47 of the Code;
- To, when a member has been found to have committed an act of professional misconduct or to be incompetent, make an order(s) for penalty or costs in accordance with section 51,53, 53.1 and 54 of the Code;
- To have decisions and reasons and ensure that the findings of a hearing are made public;
- To review and approve the Rules of Procedures of the Committee.

Composition of Committee

The Committee shall be composed of every member of Council and one (1) or more College members who are not members of Council if Council so wishes.

Panels of the Committee shall be appointed by the Chair and shall be comprised of at least three (3) members of the Committee and no more than five (5) members of the Committee, at least two (2) of whom shall be public members of the Council and at least one (1) of whom shall be a professional member of the Council.

The Chair of Committee shall, at the time of appointing a Panel, designate one (1) member of the panel as the Chair of the Panel.

No member shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing or who has taken part in a matter before the Inquiries, Complaints and Reports Committee or Quality Assurance Committee relating to the same member who is the subject of the panel's hearing.

Term of Office

The Committee shall be appointed annually.

In accordance with s.39 of the Code, if a member of the Committee is appointed to a panel and the member ceases to be a member of the Committee after the hearing has commenced, the member shall remain a member of the panel until the final disposition of the hearing.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Council.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

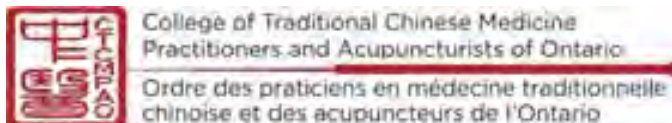
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Fitness to Practise Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Fitness to Practise Committee (the “Committee”) is mandated to protect the public interest by establishing and maintaining a framework for dealing with matters referred to it for incapacity by the Inquiries, Complaints and Reports Committee.

Although the Committee is a committee of the College it is independent of the College. It fairly and impartially holds closed hearings between the College and members of the College.

Accountability

The Committee is a statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is established pursuant to section 10(1)(5) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”).

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Traditional Chinese Medicine Act, 2006* (the “Act”) and the Regulations made under these Act.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- To review and update all policies and documents of the College with regard to the Fitness to Practise process;
- To hold closed hearings, by way of panels, on specified allegations of a member’s capacity to practise the profession as referred by the Inquiries, Complaints and Reports Committee, in accordance with the requirements of the legislation;
- To hold closed hearings, by way of panels, on a member’s application for reinstatement of a Certificate of Registration if the Certificate was revoked on the grounds of incapacity;
- To, if a panel finds a member to be an incapacitated member, make orders in accordance with section 69 of the Code;

- To issue to the parties a written decision with reasons at the conclusion of the proceedings;
- To review and approve the Rules of Procedure of the Committee;

Composition of Committee

The Committee shall be composed of every member of Council and one (1) or more College members who are not members of Council if Council so wishes.

Panels of the Committee shall be appointed by the Chair and shall be comprised of at least three (3) members of the Committee, at least one (1) of whom shall be a public member of the Council. The Chair of Committee shall, at the time of appointing a Panel, designate one (1) member of the panel as the Chair of the Panel.

No member shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing or who has taken part in a matter before the Inquiries, Complaints and Reports Committee or Quality Assurance Committee relating to the same member who is the subject of the panel's hearing.

Term of Office

The Committee shall be appointed annually.

In accordance with s.39 of the Code, if a member of the Committee is appointed to a panel and the member ceases to be a member of the Committee after the hearing has commenced, the member shall remain a member of the panel until the final disposition of the hearing.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Council.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

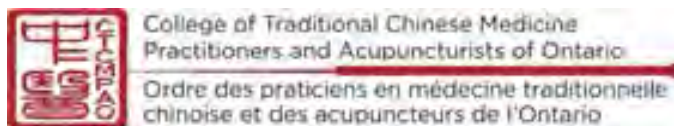
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Examination Appeals Committee		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Examination Appeals Committee (the “Committee”) responsible for hearing all appeals from candidates who have failed the Pan-Canadian examination written or clinical case-study component for TCM Practitioners or Acupuncturists and who meet the College specified criteria for filing an appeal.

Accountability

The Committee is a non-statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is accountable directly to Council. Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Committee.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Committee receive training in their role to carry out the responsibilities of the Committee. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized by these Terms of Reference.

Duties and Responsibilities

Working under the direction of the Council and with the Manager, Registration and Examination, the Committee shall be responsible for the following activities:

- Addressing all appeals and reports within the principles of administrative and procedural fairness;
- Providing written decisions and reasons to applicants within a reasonable time in respect to granting or denying an appeal.
- Ensuring all appeals are disposed of within 60 days of receiving all information required from the candidate and as stipulated in the Examination Appeals Policy;
- If there is any further delay beyond the time given, the Committee must inform the candidate of the reason for the delay and the date by which a final decision will be made and communicated to the candidate; and

- Guiding the Manager, Registration and Examinations on the need for further inquiries or information from the candidate for purposes of dealing with the appeal.

Composition of Committee

The Committee shall be appointed by Council and shall include:

- At least one (1) professional member who is a member of the Council;
- At least one (1) public member who is a member of the Council;
- One (1) or more professional members who are not members of Council, if Council so wishes.

No member of the Examination Appeals Committee shall be, or within the previous twelve (12) months, have been a member of the Registration Committee and/or Examination Committee.

Term of Office

The Committee shall be appointed annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Committee shall be three (3) members of the Committee.

Selection of the Chair

The Chair shall be appointed by the Committee.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Committee Records

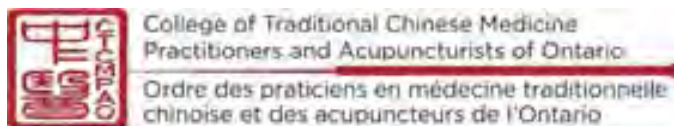
The Committee Chair shall ensure that accurate minutes of all Committee meetings and proceedings are recorded and approved.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.



NAME	Terms of Reference – Doctor Title Working Group		
TYPE	Council		
DATE APPROVED		DATE REVISED	

Purpose

The Doctor Title Working Group (the “Working Group”) is to prepare recommendations to the Council and Executive Committee for the development of the “Dr.” Title Class regulation. The working group shall conduct research, synthesize information, make recommendations and undertake project activities at the request of the Council for development of the “Dr.” Title Class regulation.

Accountability

The Working Group is a non-statutory committee of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and is accountable directly to Council. Each member of the Working Group must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security and integrity of all materials during and after their term on the Working Group.

Members must declare any conflict of interests prior to the discussion of individual files or at any time a conflict of interest or the potential for one arises.

Council will ensure that members of the Working Group receive training in their role to carry out the responsibilities of the Working Group. In addition, Council will ensure that members receive such legislated training and other training deemed necessary for the effective discharge of their responsibilities.

Limitations

The Working Group shall only exercise the authority, and fulfill the duties and responsibilities authorized by these Terms of Reference.

Duties and Responsibilities

Working under the direction of the Council and with the Registrar, the Committee shall be responsible for the following activities under Phase 1 of the three-phase project:

- Consider the background material and supporting documentation provided to it by the Registrar for the regulation development process;
- Undertake and synthesize research, analyse and assess risk through environmental scan concerning the current and future Traditional Chinese Medicine practise in Canada and outside of Canada and assess key findings to be factored into the development process;

- Propose an Annual Work Plan and budget to ensure that duties and responsibilities listed in the Terms of Reference are scheduled to be achieved;
- Review and recommend for the approval of Council, regulation development projects and initiatives;
- Co-ordinate, follow-up and monitor programs as project development and operations proceed;
- Provide report and recommendations to the Council on the activities of the working group.

Composition of Working Group

The Working Group shall be appointed by Council will consist of a minimum of six to a maximum of ten public and professional members of Council and shall include a balance of both professional and public members of the Council and one (1) of more professional members who are not members of Council, if Council so wishes.

Criteria for Membership

Members of the working group are expected to be:

- Able to work with the *RHPA, the Traditional Chinese Medicine Act, 2006* and the regulatory framework for healthcare professions in Ontario;
- Able to work with “Dr.” Title Class regulations (if applicable) and standards governing the Traditional Chinese Medicine and/or Acupuncture practice in other jurisdictions;
- Familiar with the concept and process of developing competencies;
- Are expected to be available and committed to participating fully in the working group;
- Able to synthesize and analyse complex data and information;
- Professional Members should have a minimum of 5 (five) years of clinical experience in the TCM profession. Preference will be given to General Class Certificate holders;
- Professional Members cannot be an owner, director, board member or officer in a TCM/Acupuncture Association or a director, owner, board member or officer in a TCM/Acupuncture School (public or private); and,
- Any non-Council Members of the working group will be required:
 - i. to abide by schedule 1 to the By-Laws “*Code of Conduct for Members of the Council and All Committees.*” and;
 - ii. to sign an oath of confidentiality

Term of Office

The Working Group shall be appointed annually.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Working Group to conduct its business.

Quorum

Pursuant to section 12.10 of the By-laws of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario, quorum for meetings of the Working Group shall be three (3) members of the Working Group.

Selection of the Chair

The Chair shall be appointed by the Working Group.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Working Group members to preside at the meeting. If the Chair is unable to delegate his or her chairing duties, the Working Group shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Working Group level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the By-laws, every motion that properly comes before a Working Group shall be decided by a simple majority of the votes cast at the meeting by the Working Group members present.

The Chair, as a member of the Working Group, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Working Group shall provide a report of its activities at every Council meeting on activities that have been undertaken since the last report. The Working Group prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Working Group members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Working Group members have a duty to uphold and further the intent of the Act to regulate the professional practice of traditional Chinese medicine practitioners and acupuncturists in Ontario, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the by-laws.

Working Group Records

The Working Group Chair shall ensure that accurate minutes of all meetings and proceedings are recorded and approved. The Registrar shall act as a group leader during the meetings and provide advice and recommendation.

Confidentiality

Members of the Working Group will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Working Group are especially stringent. Members of the Working Group shall not discuss with anyone any information that the Working Group considers, even in a general nature, except for the purposes of providing the annual report to Council.

Evaluation

The Working Group terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by Council.

Five Years Later: UK Duty of Candour Matures

by Julie Maciura
March 2019 - No. 234

Regulators are increasingly experimenting with strategies to change the approaches and attitudes of the profession as a whole rather than just engaging in enforcement activities in relation to individual practitioners. One such experiment in the United Kingdom is celebrating its fifth birthday. The Professional Standards Authority (PSA) has recently released a report analyzing the outcome of the initiative, identifying barriers to its full implementation and suggesting enhancements.

In 2014 the health professional regulators in the UK published a joint statement expressing the expectation that practitioners be candid with patients when things went wrong. This was part of a coordinated effort that included health organizations and institutions that flowed from the Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry. Also called the “Francis Report”, it concluded that a lack of openness contributed to the suffering and death of hundreds of patients from poor care.

The duty of candour is more than just being open with patients. It is defined in the joint statement as follows:

Every healthcare professional must be open and honest with patients when something goes wrong with their treatment or care which causes, or has the potential to cause, harm or distress.

This duty includes:

- telling the patient when something has gone wrong;
- apologizing to the patient;
- offering an appropriate remedy or support to put matters right (if possible); and
- explaining fully the short and long-term effects of what has happened.

The joint statement also indicated that practitioners must likewise be open and honest with their colleagues, employers and regulators, raising concerns where appropriate and not stopping others from raising concerns.

In assessing the evolution and effectiveness of the duty of candour, the PSA report identified a number of barriers:

1. Organizations “which had a blame culture, or a culture of defensiveness, were not environments in which the professional duty of candour could thrive”. In those cultures being candid could adversely affect a practitioner’s career.
2. The passage of time, due to workload or discovering the error afterwards, can result in a closed “window of opportunity” reducing the authenticity of the disclosure and apology.
3. A lack of education and training in communication skills and the rationale for candour makes it difficult for practitioners to implement the obligation.
4. Fear of regulatory, civil or even criminal litigation discourages candour especially in light of the recent prosecution of Dr. Hadiza

Bawa-Garba¹. The PSA noted that many experts believed that being candid reduces legal liability, but that this is a difficult message to communicate to practitioners. There is also a “myth” that being candid or apologizing can result in higher insurance premiums and a denial of coverage.

5. Some felt that professional regulators had not done enough to set standards for and communicate the expectations of candour. Similar to the previous point, perceptions of a blame culture within regulators is a disincentive to being candid.
6. A few comments obtained by the PSA related to disclosure and overwhelming patients with information they did not particularly want to know. The PSA noted the risk of reverting to a paternalistic approach to disclosure associated with this concern.
7. High performing practitioners sometimes have personal difficulty acknowledging they have made an error.

The PSA then examined how regulators had already helped embed the duty of candour, including:

1. Health regulators had incorporated the obligation in their standards.
2. Many regulators had incorporated the duty, including its rationale and its benefits to practitioners in the education and training to become practitioners.

3. Many regulators also incorporated the requirement into the continuing professional development requirements for practitioners.
4. Some regulators have included an absence of candour as grounds for discipline and the presence of candour as a mitigating factor for penalty. However, the absence of candour is often part of a broader concern about dishonesty and was often not communicated as a separate concept.
5. Some regulators have communicated on the topic with other stakeholders in the health care system.

The PSA urged regulators to take additional measures to encourage candour including:

1. Publishing case studies, not only as an effective communications tool, but to help practitioners identify and relate the duty to their actual practices;
2. Ensuring that practitioners understand the positive impact candour can have on patients (and indeed the general public) and the adverse impact a lack of candour can have on them;
3. Shifting the communications message to practitioners away from the “stick” of complying with the requirement and toward the benefits to the practitioner and their practice setting flowing from openness;
4. Working with other stakeholders, especially employers and system regulators, to understand and promote candour together;
5. On a related point, collaboration by regulators to provide support in implementing candour in multi-disciplinary teams;

¹ Dr. Bawa-Garba was disciplined after having been found criminally responsible for manslaughter for the death of a child following a series of institutional and individual errors.

6. Joint action by regulators to communicate a consistent message about candour, just like they did with the initial joint statement;
7. Indicating how a practitioner being candid will be used positively in the complaints and discipline process;
8. Clarifying the scope of the duty (e.g., distinguishing patient “distress” which invokes the duty, from patient discomfort that does not), perhaps through case studies; and
9. Education and training in candour for all programs leading to registration.

The PSA report concludes: “This report has shown that there is not one way to embed a culture of candour, instead regulators, professional bodies, providers and education bodies need to work together.”

Regulators elsewhere can benefit from studying this report on the initiative in the UK. The duty of candour is a regulatory tool to try to change behaviour in a systemic way rather than by just disciplining individuals for misconduct. It is analogous to other initiatives regulators have developed in such areas as client-centred care, informed consent / choice, know your client, and sexual abuse prevention plans. It is a shame, as was noted by the PSA, that progress in such matters is so difficult to measure.

To view the PSA report, see:

https://www.professionalstandards.org.uk/docs/default-source/publications/research-paper/telling-patients-the-truth-when-something-goes-wrong---how-have-professional-regulators-encouraged-professionals-to-be-candid-to-patients.pdf?sfvrsn=100f7520_4

Telepractice Rules Become More Complicated

by Bernie LeBlanc
April 2019 - No. 235

A decision released by the Ontario Court of Appeal yesterday makes it more difficult to determine when electronic, cross-border professional services can be restricted.

In *College of Optometrists of Ontario v Essilor Group Inc.*, 2019 ONCA 265 the issue was whether practitioners based in British Columbia could provide eyeglasses and contact lenses to Ontario residents. Ontario residents would order the lenses from a company in British Columbia that would manufacture the lenses outside of Ontario and then deliver them to the Ontario resident. The primary issue was whether the ordering and receipt of the lenses in Ontario was sufficient to cause the company to breach the prohibition against “dispensing” lenses in Ontario without being registered in Ontario.

The Ontario Superior Court of Justice had found that there was a breach of the provision and proposed to issue a restraining order.

The Ontario Court of Appeal took the usual interpretive approach that has emerged from the recent case law in analogous cases. The legislation must be interpreted in light of its goals and purpose. Words that have a particular meaning in commercial transactions may not necessarily have the same meaning in a regulatory context. “The ‘both here and there’ nature of online, Internet-based transactions” has to be considered when interpreting the provisions. Courts need to look at the entire context to determine

whether there is a “sufficient connection” to Ontario for the regulator to have jurisdiction over practitioners based elsewhere.

However, in applying those principles to the facts of the case, the Court of Appeal reached a different decision than the lower court Judge. The key considerations persuading the Court of Appeal that there was an insufficient connection to Ontario to grant a restraining order against the company, Essilor, included the following:

1. Essilor complied with the laws of British Columbia that allow online dispensing of lenses without a personal interaction with the patient. The Court said:

The distinctive feature of this case is that Essilor, as the online provider of prescription eyewear, operates out of a Canadian province that maintains a regulated health professions regime which closely resembles that in Ontario, save for the manner of selling prescription eyewear online. Essilor complies with the health care standards set by the British Columbia regulatory regime for the provision of prescription eyewear. The steps Essilor performs to meet those regulatory health care standards take place in British Columbia prior to the delivery of the product out-of-province.

2. The ordering of the lenses should not be considered a connection with Ontario because the conduct in Ontario is by the patient (who did the ordering) and not Essilor.

3. The transaction involves both a health care service (providing lenses) and a commercial transaction (the sale). That the commercial transaction occurred in Ontario is less significant to the “sufficient connection” to Ontario issue than if the health care service was provided in Ontario. On this point the Court said:

The simple act of delivery of finished prescription eyewear, without more, is one such commercial aspect. And that is Essilor’s sole connection with Ontario in the case of its online sales.

4. The Court concluded that the omission to comply with the health-based Ontario requirement that a practitioner fit the lenses was not determinative. The Court said:

In the circumstances of this case, acceding to such an argument would effectively prohibit Ontario consumers from purchasing prescription eyewear online from a supplier in another province, where the supplier has complied with that province’s health professions regulatory regime, unless delivery of the product is channelled through the office of an Ontario optometrist or optician. Applying the constitutional principle of territorial limits on the scope of provincial legislative authority in that way would in effect sanction the creation of a monopoly over the importation of prescription eyewear into Ontario from other provinces.

The Court concluded, in part, as follows:

In other words, the “dispensing” of prescription eyewear, as that term is used in the *RHPA* s. 27(2), includes the “delivery” of the product to the patient or customer. However, the discrete act of delivering eyewear to a person primarily has a commercial aspect, not a health care one: delivery completes the order placed by the customer. Where the supplier of the prescription eyewear operates in another province and complies with that province’s health professions regulatory regime when filling an online order placed by an Ontario customer, the final act of delivering that product to the Ontario purchaser does not amount to the performance of a “controlled act” by the supplier within the meaning of the *RHPA* s. 27(1).

The decision did not discuss the evidence of the risk of patient harm that could result by the patient using lenses that have not been fitted.

This decision is dependent on the specific facts of this case, which are probably unique. The legality of process, if the patient had resided in British Columbia, appears to have been important to the Court.

However, the case does suggest that where the activity involves the delivery of a product, and where the only activity in Ontario is the delivery of the product to the client, there may need to be additional circumstances or considerations to give the Ontario regulator jurisdiction over the out-of-province supplier. However, the discussion does also suggest that to the extent that a service was provided (e.g.,

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providing advice or counselling to an Ontario resident), the outcome might well have been different.

The *Essilor* decision can be found at: <http://www.ontariocourts.ca/decisions/2019/2019ONCA0265.htm>. It is too early to know whether leave to appeal to the Supreme Court of Canada will be sought.

Complaints Process Checklist

by Erica Richler

June 2019 - No. 237

Last month the Saskatchewan Registered Nurses Association (SRNA) released a report by the Professional Standards Authority (PSA) reviewing its complaints process. The SRNA is the regulatory body for registered nurses in Saskatchewan. The PSA has been called upon by a number of regulators in Canada, and around the world, to review current processes and evaluate what is going well and to identify areas for improvement.

A careful reading of the report identifies the following checklist for what the PSA regards as an excellent complaints process that demonstrably protects the public.

1. Accessible Process

- ☐ Easy access for people who need assistance in making a written complaint to do so through verbal communications.
- ☐ Written policies and procedures for the regulator to initiate a complaint (or similar process) on its own initiative.
- ☐ Written policies and procedures for the regulator to initiate a complaint (or similar process) for conduct by former members and non-registrants.
- ☐ Written policies and procedures for the regulator to address new concerns arising during the course of investigating an existing complaint.
- ☐ Established process to educate the public, employers and registrants so that they are

aware of their ability to raise concerns about registrants.

2. Sharing Information

- ☐ Information about complaints is systematically recorded, analyzed and made public, is shared with stakeholders and other relevant organizations (e.g., police, employers, other regulators) and is reported to the Board / Council. Trends are identified and used to guide the regulator in its pro-active regulatory activities.
- ☐ Participants in the complaints process are surveyed afterwards and the data is analyzed to improve the performance of the complaints process.

3. Appropriate Investigation and Screening

- ☐ New screening Committee members are given an orientation document as well as other forms of orientation.
- ☐ Written policies and procedures provide for an initial triage of complaints with matters related to safety prioritized and matters of little concern closed without a full investigation.
- ☐ Written policies and procedures provide for a written investigation plan for a fair, impartial and appropriate investigation of matters not closed initially, including providing the complainant with an opportunity to reply to the registrant's response.
- ☐ Written policies and procedures and training of screening Committee members on the criteria to be applied to review the adequacy of the investigation before deliberating on the outcome of the complaint.

FOR MORE INFORMATION

This newsletter is published by Steinecke Maciura LeBlanc, a law firm practising in the field of professional regulation. If you are not receiving a copy and would like one, please contact: Richard Steinecke, Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-626-6897 Fax: 416-593-7867, E-Mail: info@sml-law.com

WANT TO REPRINT AN ARTICLE

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

- ☐ Written policies and procedures and training of screening Committee members on the criteria to be applied at each stage of its decision-making process, including guidance on what factors should be taken into account for each outcome available.
 - ☐ There should be a system of quality control that enables the regulator to identify inconsistencies in the nature of the investigation and the outcomes for complaints matters and a system for addressing any identified inconsistencies.
4. Serious Complaints are Prioritized
- ☐ Upon receipt, complaints are subject to a formal risk assessment to prioritize serious allegations.
 - ☐ Written policies and procedures guide staff in conducting this formal risk assessment and documenting the reasons for the assessment.
 - ☐ Complaints are also subject to ongoing risk assessment based on timeframes and relevant stages of their investigation.
5. Complaints Process is Transparent, Fair, Proportionate and Focused on Public Protection
- ☐ Any differences in treatment between complainants and registrants (e.g., telephone vs. in-person interviews, frequency in providing updates) are clearly justified.
 - ☐ Consideration is given to who attends screening Committee meetings to ensure that a perception is not created that the room is dominated by practitioners.
 - ☐ Written summaries of the investigation are preferable to verbal reports by staff.
 - ☐ A review is offered of cases that are not referred to discipline.
- ☐ The discussion of individual cases uses the criteria developed in item 3, above.
6. Complaints are Dealt with Quickly
- ☐ The regulator periodically reviews the needs of the complaints process and assesses whether additional resources are needed to deal with complaints on a timely basis.
 - ☐ The progress of complaints is reviewed monthly by senior management and statistical reports are provided quarterly to the Board to ensure that any delays are identified and addressed.
 - ☐ The regulator has a pathway map for complaints to the point of closure to identify areas for improving timeliness. Explicit responsibility is assigned to staff for completing each stage in the pathway for accountability purposes.
7. Regular Updates are Provided to the Parties
- ☐ Written policies and procedures provide timelines for updating the parties on the progress of complaints with complainants receiving updates as frequently as registrants.
8. Decisions are Appropriate and Reasoned
- ☐ Past and pending decisions in respect of the same registrant are brought to the attention of the screening Committee before the outcome is determined.
 - ☐ The screening Committee provides meaningful reasons that explain the investigative choices made and the rationale for the outcome of the complaint based on the criteria developed in item 3 above.

9. Final Decisions are Published as Permitted by the Enabling Legislation

- ☐ Recognizing that discipline decisions are “final” and are published, the screening Committee has written policies and procedures as to when their decisions will be published and what identifying information is included in such publication.

10. Information about Complaints is Securely Retained

- ☐ Written policies and procedures help ensure that information about complaints is not inadvertently disclosed to those with no need to know, including the handling of mail related to complaints matters, the organization of complaints files, and the physical measures taken to protect files. There should be a complaints-specific document in addition to general organizational documents dealing with privacy.
- ☐ Written policies and procedures identify the process for dealing with any privacy breaches.

The full report entitled “A Review Conducted for the Saskatchewan Registered Nurses Association” can be found at:

<https://www.srna.org/wp-content/uploads/2019/05/Professional-Standards-Authority-Review-May-2019.pdf>.



FAIRNESS COMMISSIONER

COMMISSAIRE À L'ÉQUITÉ

OFFICE OF THE FAIRNESS COMMISSIONER
BUREAU DU COMMISSAIRE À L'ÉQUITÉ

595 rue Bay St., Suite/Bureau 1201, Toronto ON M7A 2B4

MEMORANDUM**TO:**Regulated Professions, Health Regulatory Colleges, and
Compulsory Trades (Ontario)

André Gariépy, Commissaire à l'admission aux
professions, Office des professions du Québec
Ximena Munoz, Manitoba Fairness Commissioner
Fair Registration Practices Act Review Officer, Fair
Registration Practices Act Review Office

Deputy Attorney General, Deputy Minister of
Agriculture, Food and Rural Affairs, Deputy Minister of
Children, Community and Social Services, Deputy
Minister of Education, Deputy Minister of Energy,
Northern Development and Mines, Deputy Minister of
Health and Long-Term Care, Deputy Minister of Natural
Resources and Forestry (Ontario)

FROM:

George Zegarac
Interim Fairness Commissioner

DATE:

May 14, 2019

SUBJECT:

Appointment of Interim Fairness Commissioner

This letter is to announce that I will serve as the Interim Fairness
Commissioner for a period of one year or until the new Fairness Commissioner
is appointed. I am honoured to assume this important role to serve Ontarians.

In this capacity, I will continue to promote transparency, objectivity,
impartiality and fairness in Ontario's regulated professions and compulsory
trades. I am currently serving as Deputy Minister of the Ministry of Training,
Colleges and Universities, and I will continue in this role during my time as the
Fairness Commissioner.

The Office of the Fairness Commissioner's staff and I are looking forward to
working with you.

OFFICE OF THE FAIRNESS COMMISSIONER
BUREAU DU COMMISSAIRE À L'ÉQUITÉ

I would like to express my sincere thanks to outgoing Fairness Commissioner Grant Jameson.

Sincerely,



George Zegarac
Interim Fairness Commissioner