



109th Council Meeting

Friday, September 9, 2022 – 10:00 a.m. to 12:00 p.m.

Teleconference via Zoom & YouTube Live Stream

Please contact the College at info@denturists-cdo.com
to receive the meeting access information.

AGENDA

Item	Action	Page #
1. Call to Order		
2. Approval of Agenda	Decision	1
3. Declaration of Conflict(s) Comments on Conflict of Interest Rebecca Durcan, College Counsel, Partner, Steinecke Maciura LeBlanc	Declaration	
4. College Mission and Mandate	Information	3
5. Consent Agenda	Decision	
5.1 Minutes of the 108 th Council meeting held on June 17, 2022		5
5.2 Feedback Survey Results from the 108 th Council meeting held on June 17, 2022		10
5.3 Executive Committee Report		16
5.4 Inquiries, Complaints and Reports Committee Report		17
5.5 Discipline Committee Report		19
5.6 Fitness to Practise Committee Report		20
5.7 Patient Relations Committee Report		21
5.8 Quality Assurance Committee Report		22
5.9 Registration Committee Report		23
5.10 Qualifying Examination Committee Report		24
5.11 Qualifying Examination Appeals Committee Report		26
5.12 President's Report		27
5.13 Registrar's Report		29
5.14 Financial Report for April 1, 2022, to July 31, 2022		33
5.15 Statement of Operations for April 1, 2022, to July 31, 2022		35
5.16 Updated Statement of Operations for April 1, 2022, to July 31, 2022		36

5.17 Strategic Initiatives Budget for April 1, 2022 – July 31, 2022		37
5.18 Items of Interest:		
5.18.1 Legislative Update – June 2022		38
5.18.2 Legislative Update – July 2022		49
5.18.3 Legislative Update – August 2022		56
6. Update on Multi-Jurisdictional Examination & Approval of Additional Provincial Requirements	Information and Decision	
6.1 Briefing Note		65
6.2 Draft Additional Provincial Requirements		67
7. Draft Personal Information Privacy Policy	Decision	
7.1 Briefing Note		69
7.2 Draft Personal Information Privacy Policy		71
8. Records and Information Management Program Presentation	Information	
8.1 Presentation Slides		74
9. Honourary Retirement Status Program	Decision	
9.1 Briefing Note		86
9.2 Consultation Survey Feedback Results (Health Regulators)		90
9.3 Consultation Survey Feedback Results (Retired Denturists)		91
9.4 Current CDO Program Provisions		101
9.5 Letter to the DAO re: Program Feedback		103
9.6 Letter to the DGO re: Program Feedback		105
10. Other Business		
11. In Camera Meeting of Council		
Pursuant to Section 7(2)(d) of the Health Professions Procedural Code under the <i>Regulated Health Professions Act</i> (1991).		
12. Next Meeting Date	Information	
➤ CCDI Instructor-led Training Sessions – Friday, November 11, 2022		
• Introduction to Unconscious Bias		
• Respect in the Workplace		
➤ 110 th Council Meeting – Friday, December 9, 2022		
13. Adjournment		
Break – 12:00 p.m.		
Governance Training Workshop – 12:30 p.m. to 2:30 p.m.		
Diversity and Inclusion Fundamentals – Canadian Centre for Diversity and Inclusion (CCDI) Instructor Led Training (Session 1 of 3)		



MISSION STATEMENT

The mission of the College of Denturists of Ontario is to regulate and govern the profession of Denturism in the public interest.



MANDATE AND OBJECTIVES

Under the *Regulated Health Professions Act 1991*, the duty of each College is to serve and protect the public interest by following the objects of the legislation. The objects of the College of Denturists are:

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 inter-professional 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).



108th Council Meeting Teleconference

Held via Zoom

Friday, June 17, 2022 – 9:00 a.m. to 12:00 p.m.

MINUTES

Members Present:

Lileath Claire, Public Appointee ➤ President
Kristine Bailey, Public Appointee ➤ Vice President
Abdelatif Azzouz, Denturist
Michael Bakshy, Public Appointee
Norbert Gieger, Denturist
Elizabeth Gorham-Matthews, Denturist
Aisha Hasan, Public Appointee
Adam-Christian Mazzuca, Denturist
Garnett A. D. Pryce, Denturist
Gaganjot Singh, Public Appointee

Regrets:

Avneet Bhatia, Public Appointee
Paul Karolidis, Denturist
Christopher Reis, Denturist
Joseph Whang, Denturist

Guests:

Alexia Baker-Lanoue, Denturist
Stephen Challis, OlaTech Corporation

Legal Counsel:

Rebecca Durcan, Steinecke, Maciura and LeBlanc

Staff:

Roderick Tom-Ying, Acting Registrar and CEO
Megan Callaway, Manager, Council and Corporate Services
Tera Goldblatt, Manager, Regulatory Programs
Catherine Mackowski, Manager, Professional Conduct

1. Call to Order

The President, Ms. Kristine Bailey, called the meeting to order at 9:30 a.m.

2. Introduction of Council Members

It was reported that Ms. Alexia Baker-Lanoue's term on Council has ended, and the President

thanked her for her contributions as a member of Council for the past six years. The Acting Registrar and CEO presented a Certificate of Recognition to Ms. Baker-Lanoue and some members of Council made remarks. Ms. Baker-Lanoue also made remarks, and departed the meeting at 9:35 a.m.

The President welcomed Council members, staff, and guests joining on the YouTube LiveStream.

3. Approval of Agenda

MOTION: To approve the agenda as presented.

MOVED: N. Gieger

SECONDED: L. Claire

CARRIED

4. Declaration of Conflict(s)

Comments on conflict of interest were made by Ms. Rebecca Durcan, College Counsel. No conflicts of interest were declared.

5. College Mission and Mandate

The President drew Council members' attention to the College Mission and the College Mandate, which were provided.

6. Results of Elections – Districts 1 & 2

It was reported that Mr. Adam-Christian Mazzuca and Mr. Norbert Gieger were elected to the Council by acclamation as professional members from Districts 1 and 2 respectively.

7. Election of Officers for 2022-2023

Ms. Kristine Bailey made remarks as outgoing President.

The Acting Registrar assumed the role of Chair for the election of the Executive Committee and Officers.

MOTION: That the Executive Committee be composed of 5 members.

MOVED: A. Azzouz

SECONDED: N. Gieger

CARRIED

MOTION: That Ms. Rebecca Durcan and Ms. Megan Callaway be appointed as scrutineers.

MOVED: E. Gorham-Matthews

SECONDED: G. Pryce

CARRIED

The results of the election of the Executive Committee and Officers for 2022-2023 were:

- Lileath Claire – President – Acclaimed
- Kristine Bailey – Vice President – Acclaimed
- Norbert Gieger – Professional Member at Large – Acclaimed
- Abdelatif Azzouz – Professional Member at Large – Acclaimed
- Elizabeth Gorham-Matthews – Professional Member at Large – Acclaimed

MOTION: That the ballots be destroyed.

MOVED: A. Azzouz

SECONDED: G. Singh

CARRIED

The newly elected President, Ms. Lileath Claire, assumed the role of Chair for the remainder of the meeting.

8. Committee Appointments for 2022-2023

It was recommended that a third public member, Mr. Gaganjot Singh, be added to the proposed Committee Slate as a member of the Inquiries, Complaints & Reports Committee (ICRC).

MOTION: To approve the proposed committee slate as amended.

MOVED: E. Gorham-Matthews

SECONDED: A. Azzouz

CARRIED**9. Consent Agenda**

MOTION: To accept the Consent Agenda as presented.

MOVED: N. Gieger

SECONDED: G. Pryce

CARRIED**10. Review of the Surplus Retention Policy**

MOTION: To amend the Surplus Retention Policy to reflect a minimum of 6 months to a maximum of 12 months of budgeted yearly expenses.

MOVED: N. Gieger

SECONDED: A. Azzouz

CARRIED**11. Strategic Initiatives Budget**

MOTION: To fund the Strategic Initiatives budget from the net-unrestricted reserve fund in the amount of \$150,000 net total.

MOVED: K. Bailey

SECONDED: E. Gorham-Matthews

CARRIED**12. Proposed Vaccination Policy**

MOTION: To adopt the Vaccination Policy as presented.

MOVED: N. Gieger

SECONDED: G. Singh

CARRIED**13. Review of the "Retired" Honourary Status**

MOTION: To direct staff to conduct broader consultation/research.

MOVED: A. Azzouz

SECONDED: E. Gorham-Matthews

CARRIED**14. Applicant Portal and Member Portal Modernization Project**

MOTION: To approve the project plan as presented (all 3 modules).

MOVED: K. Bailey

SECONDED: E. Gorham-Matthews

CARRIED**15. Applicant Portal Demonstration (Breakout Room)**

A demonstration was provided by Mr. Stephen Challis, OlaTech Corporation, in a breakout room which was not broadcasted to the live stream due to the proprietary information it contained. Council members returned to the public meeting (live stream) following the demonstration for discussion and decision.

16. Other Business

No other business was raised.

17. Next Meeting Date

The following meeting dates were provided for information:

- 109th Council Meeting – Friday, September 9, 2022
- 110th Council Meeting – Friday, December 9, 2022

18. Adjournment

MOTION: To adjourn the meeting.

MOVED: N. Gieger

SECONDED: G. Singh

CARRIED

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

Lileath Claire
President

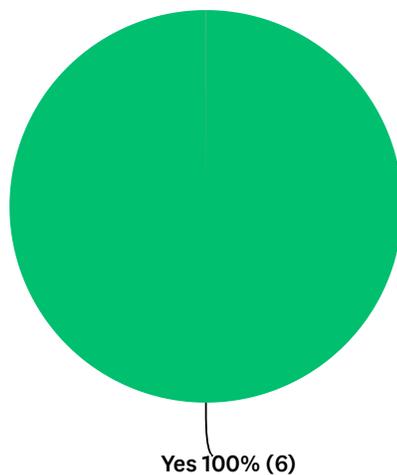
Date

Roderick Tom-Ying
Acting Registrar and CEO

Date

Q1 I received appropriate, supportive information for this Council meeting.

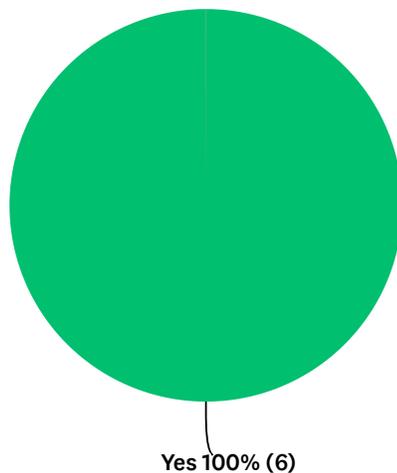
Answered: 6 Skipped: 0



#	COMMENTS	DATE
	There are no responses.	

Q2 I received this supportive information in a timely manner.

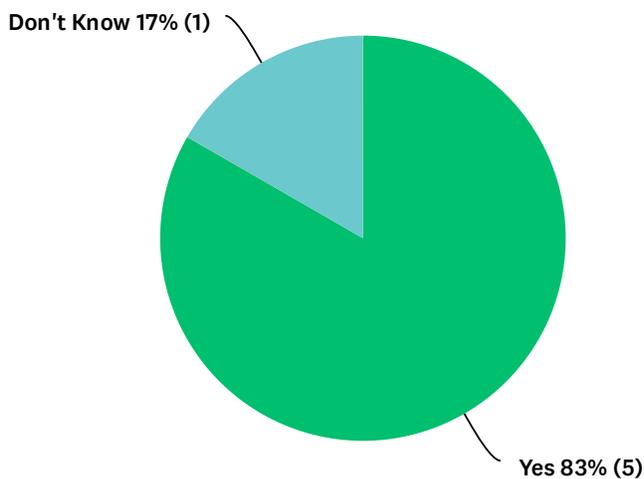
Answered: 6 Skipped: 0



#	COMMENTS	DATE
	There are no responses.	

Q3 I was prepared for this meeting.

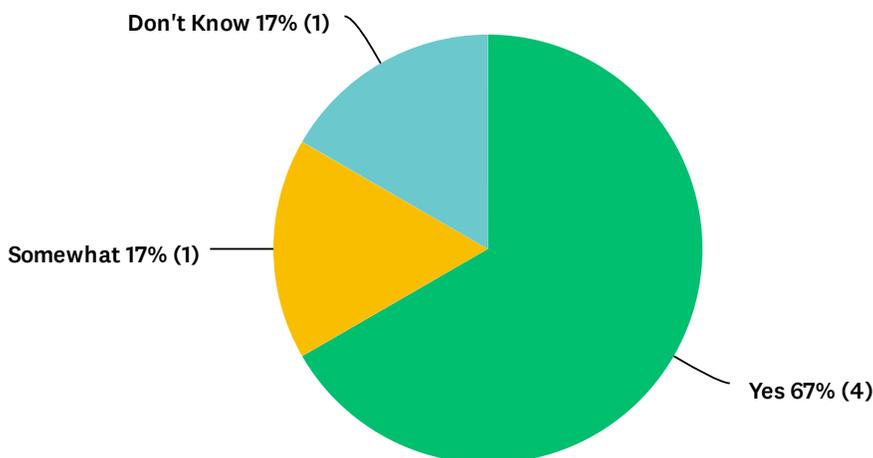
Answered: 6 Skipped: 0



#	COMMENTS	DATE
	There are no responses.	

Q4 All Council members appeared prepared for this meeting.

Answered: 6 Skipped: 0



#	COMMENTS	DATE
1	Some didn't say anything so it is hard to tell if they were prepared or not.	6/22/2022 2:58 PM
2	New members did not say much. However, others were very engaged.	6/18/2022 7:26 PM

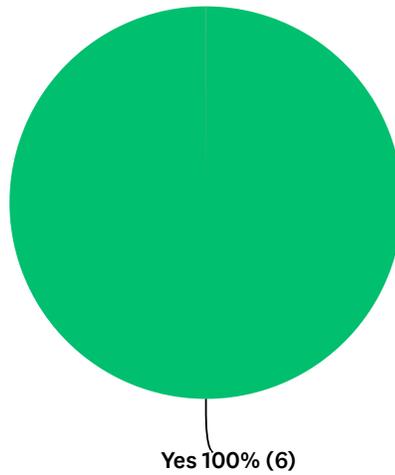
Q5 List any additional supports or resources that would have helped you better prepare for this meeting.

Answered: 1 Skipped: 5

#	RESPONSES	DATE
1	Might be helpful to have estimated time for each agenda item. Gives a sense of proportionality of discussion expected that might be helpful for newer members.	6/18/2022 7:26 PM

Q6 This meeting was effective and efficient.

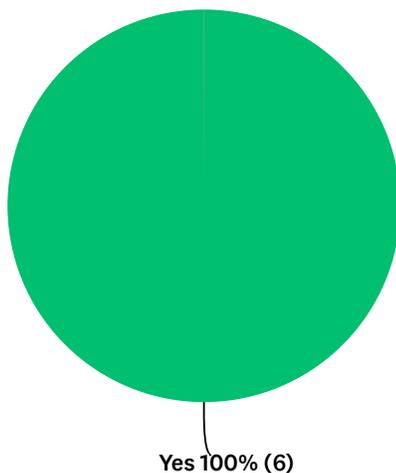
Answered: 6 Skipped: 0



#	COMMENTS	DATE
	There are no responses.	

Q7 The objectives of this meeting were achieved.

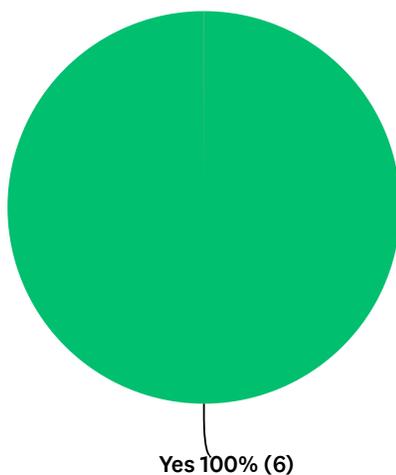
Answered: 6 Skipped: 0



#	COMMENTS	DATE
	There are no responses.	

Q8 The President chaired the meeting in a manner that enhanced Council's performance and decision-making.

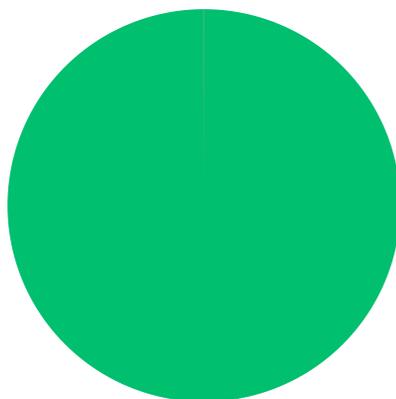
Answered: 6 Skipped: 0



#	COMMENTS	DATE
	There are no responses.	

Q9 I felt comfortable participating in the Council discussions.

Answered: 6 Skipped: 0

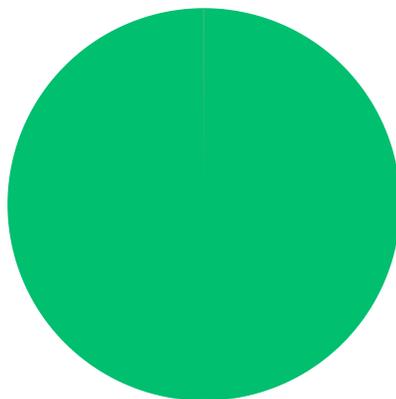


Yes 100% (6)

#	COMMENTS	DATE
	There are no responses.	

Q10 The public interest was considered in all discussions.

Answered: 6 Skipped: 0



Yes 100% (6)

#	COMMENTS	DATE
	There are no responses.	

Q11 List two strengths of this meeting.

Answered: 2 Skipped: 4

#	RESPONSES	DATE
1	Legal council CEO's preparedness	6/17/2022 1:15 PM
2	Discussions Polls	6/17/2022 12:28 PM

Agenda Item 5.2

Q12 List two ways in which the technical aspects of this meeting could have been improved.

Answered: 1 Skipped: 5

#	RESPONSES	DATE
1	A one hour until meeting starts reminder email.	6/22/2022 2:58 PM

Q13 List two ways in which Council meetings could be improved.

Answered: 1 Skipped: 5

#	RESPONSES	DATE
1	Pre-meeting communication between council	6/17/2022 1:15 PM

Q14 Additional Comments

Answered: 1 Skipped: 5

#	RESPONSES	DATE
1	How can we get feedback on the public viewing of the meeting either as it streamed or delayed? Do we know if anyone watches?	6/18/2022 7:26 PM

Q15 Other Questions that Council should be asking in a feedback survey?

Answered: 0 Skipped: 6

#	RESPONSES	DATE
	There are no responses.	



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Executive Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **1**

Activities during the Quarter:

The Executive Committee met on August 29, 2022, to consider a Clinic Name Registration Application and discuss the process for the selection of a permanent Registrar (informational item).

Two additional Clinic Name Registration Applications were considered electronically by the Committee since its last Report to Council.

Respectfully submitted by Ms. Lileath Claire
President and Chair of the Executive Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Inquiries, Complaints and Reports Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **2**

Role of the Committee

The Inquiries, Complaints and Reports Committee supports the College's commitment to the public interest in safe, competent and ethical care and service. It receives and considers complaints and reports concerning the practice and conduct of Registered Denturists.

Executive Summary

Since the June 17, 2022 Council meeting, the ICRC has considered 8 complete investigations and made final dispositions in 6 matters (5 complaints investigations).

In addition, Rebecca Durcan of Steinecke Muciura LeBlanc provided an orientation to the ICRC on August 8, 2022.

Decisions Finalized:

Complaints	5
Registrar's Reports	1
Total	0

Dispositions (some cases may have multiple dispositions or multiple members)

No Further Action	2
Advice/Recommendation/Reminder	3
SCERP (incl. Coaching and Training)	1
Deferred	2

Practice Issues (identified by ICRC at the time the decision is made)

*** Some cases may not have a Secondary Issue**

Practice Issue	Primary Issue	Secondary Issue
Clinical Skill/Execution	1	
Communication	2	2
Relationship with Patient		3
Practice Management	1	
Professional relationship	1	

Cases Considered by the Committee:

Complaints	6
Registrar's Reports	2

New Files Received during this period:

Complaints	3
------------	---

Respectfully submitted by Ms. Kris Bailey
 Chair of the Inquiries, Complaints and Reports Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Discipline Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **0**

Activities during the Quarter:

Since the last Council meeting on June 17, 2022, the Discipline Committee has not met during this quarter.

Respectfully submitted by Ms. Elizabeth (Beth) Gorham-Mathews
Chair of the Discipline Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Fitness to Practise Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **0**

Activities during the quarter:

There was no activity to report for this quarter.

Respectfully submitted by Mr. Norbert Gieger
Chair of the Fitness to Practise Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Patient Relations Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **0**

The Patient Relations Committee did not meet since its last report to Council on June 17, 2022.

Respectfully submitted by Ms. Kristine Bailey
Chair of the Patient Relations Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Quality Assurance Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **1**

Activities during the Quarter:

Since the last report to Council on June 17, 2022, the Quality Assurance Committee has met once on August 3, 2022. The Committee met to receive a fulsome orientation presentation facilitated by Natasha Danson, Legal Counsel, of Steinecke Maciura LeBlanc. Topics of the orientation included general principles, trends in quality assurance, components of CDO's QA program, powers of the QAC, and procedures.

The Committee is scheduled to meet on September 12, 2022, and on October 13, 2022.

Respectfully submitted by Mr. Abdelatif (Latif) Azzouz
Chair of the Quality Assurance Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Registration Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **1**

Activities during the Quarter:

The Registration Committee has met once on June 30, 2022, since its last report to Council on June 17, 2022.

At its June 30, 2022, meeting, the Committee met to consider one academic assessment, confirmation of terms, conditions, and limitations on two Certificates of Registration and two retired status applications.

Respectfully submitted by Ms. Elizabeth Gorham-Matthews
Chair of the Registration Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Qualifying Examination Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **2**

Activities during the Quarter:

The Qualifying Examination Committee has met twice on July 21, 2022, and July 26, 2022, since its last report to Council on June 17, 2022.

At its July 21st and July 26th meeting, the Qualifying Examination Committee reviewed the Chief Examiner's Report for the June 2022 OSCE administration, along with the item analysis prepared by Dr. Anthony Marini.

In his analysis there were 27 items from the OSCE exam that were presented to the Committee for further review, of which 6 items were previously decided upon and 1 item was deleted to ensure the validity of the candidate's final scores. Items identified as problematic were presented and reviewed by the Committee for deletion or kept in scoring.

Examination results were released on August 5, 2022. Candidates who were unsuccessful on the OSCE component of the QE were provided with a detailed performance report and information regarding the College's appeals process.

June 2022 Multi-Jurisdictional MCQ Qualifying Examination

The College of Denturists of Ontario along with the College of Alberta Denturists, and the College of Denturists of British Columbia hosted a common Multi-Jurisdictional MCQ examination for the June 2022 administration.

The MCQ examination was administered remotely in an online format with mandatory (online) remote proctoring. The online format allows the MCQ examination to proceed regardless of changes in the dynamics of the COVID-19 pandemic.

The MCQ was administered on June 14, 2022, with a total of 70 candidates attempting the examination. Of the 70 candidates, 45 candidates were from Ontario, 25 candidates from Alberta, and no candidates from British Columbia.

June 2022 MJ MCQ Results

June 2022 MJ MCQ	New	Repeat	Total
Number of candidates	56	14	70
Number of successful candidates	43	8	51
Pass rate (expressed as a percentage of all candidates)	72.9%		
Pass rate (expressed as a percentage of all <u>new</u> candidates only)	76.8%		

June 2022 OSCE Qualifying Examination

The College hosted its June OSCE examination on June 25th and 26th at the David Braley Centre in Hamilton.

June 2022 OSCE Results

June 2022 OSCE	New	Repeat	Total
Number of candidates	34	4	38
Number of successful candidates	21	2	23
Pass rate (expressed as a percentage of all candidates)	60.5%		
Pass rate (expressed as a percentage of all <u>new</u> candidates only)	61.8%		

Respectfully submitted by Mr. Abdelatif (Latif) Azzouz
Chair of the Qualifying Examination Committee



COMMITTEE REPORT TO COUNCIL

Name of Committee: **Qualifying Examination Appeals Committee**

Reporting Date: **September 9, 2022**

Number of Meetings since
last Council Meeting: **0**

Activities during the Quarter:

The Qualifying Examination Appeals Committee has not met since its last report to Council on June 17, 2022.

Respectfully submitted by Ms. Lileath Claire
Chair of the Qualifying Examination Appeals Committee



To: **Council**

From: **Lileath Claire, President**

Date: **September 9, 2022**

Subject: **President's Report**

It is my distinct honor and pleasure to highlight to you some of the key activities, events, and accomplishments of the College during the period from the last Council meeting; June 17, 2022.

Oral Health Colleges Combined COVID-19 Guidance

CDO continues to work collaboratively over the summer with RCDSO, CDHO and CDTO for joint COVID-19 guidance updates. Two staff groups established: Registrars of each College meet monthly and on as needed basis, and College COVID-19-point persons meet to review guidelines and communications plans.

Software Systems Improvements – Application, Member Portals & Compliance Centre 3 Phase Breakdown

The first phase is to design an electronic application portal for new Denturism applicants to apply and submit all documentation electronically in order to attempt the examination. Currently it is an extremely heavy paper-based process. This will provide CDO staff with additional capacity to work on other registration or strategic projects.

The second phase is to upgrade the member portal to a new cleaner, more organized design. There will be no loss in any existing functionality. The new design will modernize the look of the dated portal, reorganize information in a clearer format (instead of the current endless scrolling).

The CDO is also looking to create a "compliance centre" as phase three, a one 'stop shop' on the member portal that displays all the annual CDO requirements from the various departments, and quickly in green, yellow, or red, display if the member is in compliance for those areas. This functionality may display annual requirements such as: annual renewal completion, updating professional liability insurance expiry date, currency hours, annual QA 10 CPD requirements, etc.

Application portal - Update

CDO staff have been working daily on phase one of the project (applicant portal) and are expected to work on the member portal portion in the fall of 2022. Significant progress has been made on this piece. A soft launch is in the plan for Q1 of 2023. A firm date will be set after consideration for resources/webinars/guides for the membership being established for the launch.

CDO Registrar has reached out to the associations to garner any feedback they may have on the member portal, and whether they had any ideas that may improve its functionality.

Quality Assurance Program Activities - Peer Circles

QA Staff has worked intently over the summer to restart Peer Circles for two events in the fall (Denturists Association of Ontario's PYP event and Denturists Group of Ontario's con ed event in September and November respectively).



To: **Council**

From: **Roderick Tom-Ying, Acting Registrar and CEO**

Date: **September 9, 2022**

Subject: **Registrar's Report**

I am pleased to provide this report to Council for the period June 17, 2022 – September 9, 2022.

While the College's President's report highlights the new and ongoing larger initiatives that CDO staff have embarked on, I wanted to take the opportunity to share some of the housekeeping/operational projects that staff worked on over the summer months.

Peer Circles

The College will be reintroducing in-person Peer Circles this Fall at both the Denturists Association of Ontario's Perfecting Your Practice event on September 15 & 16, and the Denturists Group of Ontario's Continuing Education event on November 4th. This year will mark CDO's first appearance at the DGO's continuing education event and we look forward to meeting and building new relationships with Denturists at this important event. Peer Circles seeks to bring Denturists from across the province to share their ideas and thoughts on specific and unique denturism practice cases. Similarly for College Staff and Association Staff, these events present a unique opportunity to build productive relationships that better serves the interests of patients and the public.

In anticipation of these two large events, the College hosted an item writing weekend workshop on July 9th and 10th to create and build new peer circle cases that will be showcased this Fall. As well, the College also hosted a facilitator training weekend workshop on August 13th and 14th to train peer circle facilitators and allow them to familiarize themselves with the cases and learn facilitator techniques.

All in all, I am extremely pleased and excited to see the return of Peer Circles. Much credit is due to Ms. Tera Goldblatt, CDO's Manager of Regulatory Programs who spearheaded the workshops and assisted the CDO with all the logistical preparation required to bring this exciting event back to fruition. I also want to personally thank all the Denturists who graciously volunteered their valuable weekends to assist with item writing and facilitator training. Their hard work often goes unnoticed, and I wanted to provide a platform to voice the College's appreciation.

Thank you to the following Case Writers and Facilitators:

Adam Lima, Annie Chu, Christine Reekie, Chris Louie, David Mulzac, Eric Kim, Mary Shinouda, Mehran Tizhoush, Naresh Garg, Peter Saberton, Robert Velensky, Sean Akkawi, Sultana Hashimi, Sanjiv Biala, Senaa Kadhim, Tyler Ballantyne, Vincent Lo, and William Collings.



Pictured left to right: Annie Chu, Tyler Ballantyne, Sanjiv Biala at Peer Circles Item Writing



Pictured left to right: Senaa Kadhim, William Collings, Eric Kim at Peer Circles Item Writing



Peer Circles Facilitator Training on August 13 and 14, 2022



Peer Circles Facilitator Training on August 13 and 14, 2022

Gender Identifier Update

Due to a recent amendment made by the Ontario Ministry of Health, all health care professionals, including Registered Denturists, now have the option of selecting an 'unspecified' gender identifier for their online profiles. This is a new option along with 'male' and 'female' for their gender identifier.

College Staff have updated all application forms and the College's database in advance of this new option.

In support of equity, diversity, and inclusion principles, Denturists are invited to update their gender identifier on file by emailing the College's Registration Department. An email is scheduled to be sent to all Denturists providing further instructions in the Fall.

June 2022 Qualifying Examinations



The theory/knowledge (MCQ) portion of the College's Qualifying Examination was administered on June 14, 2022, and the clinical (OSCE) portion was administered on June 25 and 26, 2022.

An examination contingent from the College of Alberta Denturists consisting of Ms. Dacia Richmond, Registrar and Executive Director and Mr. Tony Ivcevic, Chief Examiner, and the College of Denturists of British Columbia consisting of Ms. Jennifer Roff, Registrar and Ms. Vyvian Burns, Executive Secretary, visited the CDO's OSCE exam to observe and learn its processes. This was the first time the CDO hosted the other two partner regulators at its OSCE examination. The field visit formed one part of the larger goal of creating a common and unified OSCE examination after the success of the multi-jurisdictional MCQ examination. Much work will be required over the next couple of years as we turn our attention to unifying the clinical component. Much thanks to Ms. Elaine Lew, Manager of Examinations, for her first successful administration of the College's OSCE examination.

Acting Registrar, Mr. Roderick Tom-Ying awards Mr. Robert Velensky, Chief Examiner, with a certificate of recognition at the June 2022 OSCE examination.

Updates

- June 2022 MCQ and OSCE examination results were released on August 5, 2022.
- College Staff will be participating in a joint virtual blanket workshop alongside staff of the CDHO on September 30, 2022, for a truth and reconciliation exercise.
- CDO Acting Registrar and President will be attending [CNAR's annual conference](#) for Canadian regulators on October 24-26, 2022.



BRIEFING NOTE

To: **Council**
From: **Roderick Tom-Ying, Acting Registrar and CEO**
Date: **September 9, 2022**
Subject: **Financial Report: April 1, 2022 – July 31, 2022**

Public Interest Rationale

The College of Denturists of Ontario's mandate is to protect the public by ensuring Registered Denturists provide safe, ethical, and competent denturism care and service in Ontario. As part of that mandate, the College Council has the overall responsibility of ensuring prudent financial stewardship of the College's financial resources as part of its core principle of good governance. Implementation of regulatory best practices, strategic planning, performance monitoring, fiscal management, external compliance, and reporting forms some of these core principles. Council must ensure that the College has a fiscally responsible and strategic operating budget each year.

Updated 2022-2023 Operating Budget and Statement of Operations

Council first approved at its March 11, 2022, meeting, the operating budget for 2022-2023 which included a \$50,000 budget for strategic initiatives. This newly created strategic initiatives budget was first funded through the operating budget.

At its June 17, 2022, meeting, Council heard from College Staff potential initiatives the College would embark on and agreed to create a separate strategic initiatives budget that is distinct from the operating budget. This budget would be funded only using the College's unrestricted net reserves, with a final net amount of \$150,000 for this newly distinct budget.

College Staff would like to clarify that the \$50,000 in initial funding was from monies allocated from the 2022-2023 operating budget. The Council's decision in June resulted in a newly distinct strategic initiatives budget that would be funded solely from the unrestricted reserves. As such, the original \$50,000 allocated for strategic initiatives as part of the operating budget has now been removed from the 2022-2023 operating budget, and an updated statement of operations is now issued. As a result of this removal, the projected net deficit from the 2022-2023 operating budget will now be \$7,382.08 instead of the previous projection of \$57,382.08.

For clarity, the previous Statement of Operations along with the updated Statement of Operations is attached. As well, the strategic initiatives budget is attached to this report.

Statement of Operations for period April 1, 2022 – July 31, 2022

I direct your attention to the column "YTD as Percentage of Budget" which indicates the percentage of the budgeted amount that has been spent (or, in the case of income, received). This report covers only the first four months of the fiscal year, consequently, the anticipated expenses will be relatively underbudget into the new fiscal year. However, not every line item adheres to this because some expenses are not expensed over time but are lump sum payments.

On the revenue side, in previous years most of the College's Registration renewal revenue is captured by the end of the renewal period, April 15. However, this year, the renewal period extends to September 30, 2022, when the second installment of the Registration renewal fee is due. The first installment or the option to pay in full, was due by April 14, 2022. As of July 31, 2022, the revenue received for Registration Fees represented 86% of our projected budget.

"Other income" and "other fees" have seen a 147% and 152% rise year to date percentage in relation to the budget. As both these budget line items are relatively small (\$4500 and \$6500 total revenue forecasted), any small fluctuation would disproportionately report a larger total budget percent increase. For "other fees", there were a larger than anticipated increase in late fees received for the annual renewal. For "other income", the CDO recorded a small income for resource sharing with another regulator as well as increased investment income (in its general savings account) due to increasing interest rates.

There are no other items of note or concern in this variance report. Most items are within target for the fiscal year.

Strategic Initiatives Budget

No expenses have been recorded under this budget at this time, the previously allocated \$150,000 for this budget remains intact.

The College anticipates the upgrading of the database and future strategic planning expenses will be used under this budget.

College of Denturists of Ontario

Income Statement (April 1, 2022-July 31, 2022)

YTD Budget to Actual	2022-2023 BUDGET	July 31/22 YTD Totals	YTD as Percentage of Budget	Remainder or In Excess of Budgeted Amount*
REVENUE				
Professional Corporation Fees	\$ 65,000.00	\$ 69,150.00	106%	\$ 4,150.00*
Registration Fees	\$ 931,190.00	\$ 800,773.75	86%	\$ 130,416.25
Other Fees	\$ 4,500.00	\$ 6,636.75	147%	\$ 2,136.75*
Qualifying Examination Fees	\$ 277,100.00	\$ 160,600.00	58%	\$ 116,500.00
Other Income	\$ 6,500.00	\$ 9,909.94	152%	\$ 3,409.94*
TOTAL REVENUE	\$ 1,284,290.00	\$ 1,047,070.44	82%	\$ 237,219.56
EXPENDITURES				
Wages & Benefits	\$ 533,528.08	\$ 187,059.71	35%	\$ 346,468.37
Professional Development	\$ 30,000.00	\$ 12,833.73	43%	\$ 17,166.27
Professional Fees	\$ 140,000.00	\$ 46,011.23	33%	\$ 93,988.77
Office & General	\$ 150,000.00	\$ 79,963.82	53%	\$ 70,036.18
Rent	\$ 130,000.00	\$ 37,892.80	29%	\$ 92,107.20
Qualifying Examination	\$ 178,144.00	\$ 106,037.43	60%	\$ 72,106.57
Council and Committees	\$ 15,000.00	\$ 6,704.40	45%	\$ 8,295.60
Quality Assurance				
QA Panel A	\$ 6,000.00	\$ 237.00	4%	\$ 5,763.00
QA Panel B	\$ 4,000.00	\$ -	0%	\$ 4,000.00
QA Assessments	\$ 35,000.00	\$ 6,930.98	20%	\$ 28,069.02
Complaints & Discipline				
Complaints	\$ 30,000.00	\$ 15,975.80	53%	\$ 14,024.20
Discipline	\$ 25,000.00	\$ 2,272.00	9%	\$ 22,728.00
Strategic Initiatives	\$ 50,000.00	\$ -	0%	\$ 50,000.00
Capital Expenditures	\$ 15,000.00	\$ 1,847.18	12%	\$ 13,152.82
TOTAL EXPENDITURES	\$ 1,341,672.08	\$ 503,766.08	38%	\$ 837,906.00
NET INCOME	-\$ 57,382.08	\$ 543,304.36		

College of Denturists of Ontario

Income Statement (April 1, 2022-July 31, 2022)

YTD Budget to Actual	2022-2023 BUDGET	July 31/22 YTD Totals	YTD as Percentage of Budget	Remainder or In Excess of Budgeted Amount*
REVENUE				
Professional Corporation Fees	\$ 65,000.00	\$ 69,150.00	106%	\$ 4,150.00*
Registration Fees	\$ 931,190.00	\$ 800,773.75	86%	\$ 130,416.25
Other Fees	\$ 4,500.00	\$ 6,636.75	147%	\$ 2,136.75*
Qualifying Examination Fees	\$ 277,100.00	\$ 160,600.00	58%	\$ 116,500.00
Other Income	\$ 6,500.00	\$ 9,909.94	152%	\$ 3,409.94*
TOTAL REVENUE	\$ 1,284,290.00	\$ 1,047,070.44	82%	\$ 237,219.56
EXPENDITURES				
Wages & Benefits	\$ 533,528.08	\$ 187,059.71	35%	\$ 346,468.37
Professional Development	\$ 30,000.00	\$ 12,833.73	43%	\$ 17,166.27
Professional Fees	\$ 140,000.00	\$ 46,011.23	33%	\$ 93,988.77
Office & General	\$ 150,000.00	\$ 79,963.82	53%	\$ 70,036.18
Rent	\$ 130,000.00	\$ 37,892.80	29%	\$ 92,107.20
Qualifying Examination	\$ 178,144.00	\$ 106,037.43	60%	\$ 72,106.57
Council and Committees	\$ 15,000.00	\$ 6,704.40	45%	\$ 8,295.60
Quality Assurance				
QA Panel A	\$ 6,000.00	\$ 237.00	4%	\$ 5,763.00
QA Panel B	\$ 4,000.00	\$ -	0%	\$ 4,000.00
QA Assessments	\$ 35,000.00	\$ 6,930.98	20%	\$ 28,069.02
Complaints & Discipline				
Complaints	\$ 30,000.00	\$ 15,975.80	53%	\$ 14,024.20
Discipline	\$ 25,000.00	\$ 2,272.00	9%	\$ 22,728.00
Capital Expenditures	\$ 15,000.00	\$ 1,847.18	12%	\$ 13,152.82
TOTAL EXPENDITURES	\$ 1,291,672.08	\$ 503,766.08	39%	\$ 787,906.00
NET INCOME	-\$ 7,382.08	\$ 543,304.36		
Strategic Initiatives*	\$ 150,000.00	\$ -	0%	\$ 150,000.00

*Strategic initiatives budgeted for 2022/23 fiscal year at \$50,000. Additional \$100,000 approved by Council at June 2022 meeting.

College of Denturists of Ontario

Strategic Initiatives (April 1, 2022-July 31, 2022)

YTD Budget to Actual	2022-2023 BUDGET	July 31/22 YTD Totals	YTD as Percentage of Budget	Remainder or In Excess of Budgeted Amount*
STRATEGIC INITIATIVES				
Initiatives	\$ 150,000.00	\$ -	0%	\$ 150,000.00
TOTAL STRATEGIC INITIATIVES	\$ 150,000.00	\$ -	0%	\$ 150,000.00



Legislative Update – What Happened in June 2022?

Prepared by Richard Steinecke

In This Issue

Ontario Bills 2
 The Ontario Legislature is in recess..... 2

Proclamations 2
 There were no relevant proclamations this month. 2

Regulations 2
 There were no relevant regulations this month. 2

Proposed Regulations Registry 2
 There were no relevant consultations this month..... 2

Bonus Features..... 2
 Limits on a Reviewing Tribunal’s Ability to Issue Directions 3
 Assistance to Self-Represented Registrants 4
 Limits to Bad Faith Allegations Against Regulatory Staff 6
 Considering Unproven Allegations When Imposing Sanction..... 7
 Make Those Restrictions Clear 7
 Misconceptions About Costs Awards 8
 Tips to Assessing Credibility 9
 Access to Crown Disclosure Briefs..... 10

Legislative Update – What Happened in June 2022?**Ontario Bills**

(www.ola.org)

The Ontario Legislature is in recess.

Proclamations

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

There were no relevant proclamations this month.

Regulations

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

There were no relevant regulations this month.

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

There were no relevant consultations this month.

Bonus Features

These are early drafts of some of the items that will appear in our blog:

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

Limits on a Reviewing Tribunal’s Ability to Issue Directions

Many complaints screening committees have their decisions subject to scrutiny by an independent tribunal. One of the options for the reviewing tribunal is to return the matter to the complaints screening committee for reconsideration. Sometimes the reviewing tribunal issues directions as to how that reconsideration should be conducted. In *College of Dental Surgeons Of British Columbia v Health Professions Review Board*, 2022 BCSC 941 (CanLII), <https://canlii.ca/t/jpnkr>, the limits to those directions were explored.

The complaint was about a dental specialist’s conduct towards and care of a patient. The registrant refused to sign a requested undertaking after the first screening committee’s decision and requested a meeting with a different panel. The second panel, after hearing from the registrant (but not the complainant) decided to take no action. The complainant sought a review by the tribunal. During the process of the review, the complainant advised the reviewing tribunal that the registrant had approached them directly in a threatening and intimidating manner. The tribunal directed the registrant not to communicate directly with the complainant.

After the review, the tribunal returned the matter to the screening committee for reconsideration and issued a number of directions. No issue was taken with the directions that the reconsideration be before a differently constituted panel, that the panel review the tribunal’s entire decision and reasons (not just a summary of it), and that the panel address the concerns identified by the tribunal. In addition, no issue was taken with the direction that any submissions be in writing so that the registrant did not have different access to the panel and so that there was a record of the communications and that such a record could be shared with the complainant for comment.

However, the Court found that the other directions were beyond the scope of the authority of the reviewing tribunal. For example, it was beyond the jurisdiction of the tribunal to direct the qualifications of those appointed to the new panel. It was for the regulator to decide whether a particular dental specialist needed to sit on the panel. Such decisions involved a number of factors including resources and alternative methods of obtaining relevant information (e.g., obtaining an independent expert opinion).

The Court took particular exception to the direction that the regulator ordered the registrant not to have any direct contact with the complainant and that, if the registrant would not undertake to refrain from doing so or did contact the complainant, there must be a referral to discipline. Any directions had to relate to the reconsideration of the original complaint. The communication between the registrant and the complainant occurred after the screening committee’s decision. In addition, there was no jurisdiction for the regulator (let alone the reviewing tribunal) to refer a matter to discipline without the investigation and procedural safeguards specified in the legislation. There was not even jurisdiction for the screening committee to issue a direction prohibiting the registrant from directly contacting the complainant.

Legislative Update – What Happened in June 2022?

Directions from a reviewing tribunal to a screening committee to reconsider a matter must relate directly to that reconsideration, must not usurp the functions assigned to the regulator, and must be within the jurisdiction of both the screening committee and the tribunal.

Assistance to Self-Represented Registrants

Many regulators hold discipline hearings for registrants who do not have legal counsel. In *Hirtle v. College of Nurses of Ontario*, 2022 ONSC 1479 (CanLII), <https://canlii.ca/t/jpmwm>, the main issue was whether the regulator had provided sufficient assistance to the self-represented registrant who was suspended for five months for inappropriate sexual remarks and behaviour towards students the registrant was training.

The Court found that more than adequate assistance was provided despite the fact that the hearing that took a full week, was hotly contested, included findings of disputed credibility, and involved a number of procedural and evidentiary rulings. The assistance was, in fact, quite extensive including:

- Legal counsel prosecuting the allegations provided the registrant in advance of the hearing a twelve-page description of the hearing process specially designed for self-represented registrants, the rules and guidelines of the committee and other explanatory documents (e.g., on how to summons a witness);
- Other written communications by legal counsel about procedure at the hearing, all of which invited the registrant to approach them if they had any questions;
- Discussion about the process at the pre-hearing conference (evidence of the nature of those discussions were admitted during the appeal);
- A detailed overview of the process by the chair of the hearing panel at the outset of the hearing, again with an invitation to ask questions at any time;
- Guidance offered about the procedure during the hearing, which advice was on the record; and
- Evidence of communications outside of the hearing room by legal counsel prosecuting the allegations and independent legal counsel (again, evidence of the nature of those discussions were admitted during the appeal).

The registrant indicated that they did not recall receiving or reviewing much of the written material, but the court inferred it had been received since it was sent to the correct address and not returned. The notice of hearing itself was served personally on the registrant and its receipt was not disputed.

The Court viewed the 2006 *Statement of Principles on Self-Represented Litigants and Accused Persons* established by the Canadian Judicial Council as relevant to disciplinary bodies and accepted that, while there was an obligation on adjudicators to provide some assistance, the registrant also had some responsibility to familiarize themselves with the hearing procedures and to prepare their own case. The Court found that the materials provided:

... included information about the following topics now at issue: the burden of proof, the ability to call and question witnesses, how to summons witnesses, the ability to deny or admit allegations and the procedural consequences of doing so, the examination and cross-examination of witnesses, the right to object, and the distinction between submissions and evidence. The appellant was also provided with a memo on the specific topic of summoning witnesses.

The Court also found that some of the assistance suggested by the registrant on the appeal, such as that the hearing panel should have suggested the registrant cross-examine witnesses on purportedly inconsistent prior statements, was beyond the appropriate role of the adjudicator. Such an intervention would have involved the adjudicator usurping the responsibility of the registrant to present their own case and could compromise the adjudicator's impartiality.

Because the assistance provided by this regulator was so extensive, it is difficult to ascertain what lesser amount of assistance would still be adequate. Regulators may wish to review the materials they now provide to self-represented litigants to put themselves in a strong position to respond to any future appeals of this nature. Also, regulators would be prudent to document the assistance they provide, especially outside of the hearing itself.

Some other “hidden gems” in this decision include:

- The Court found it unhelpful for the panel's reasons to include a general finding of credibility for each witness in one part of the reasons and specific findings of credibility on each of the disputed allegations in other parts of their reasons. The latter was the most useful.
- The Court was not concerned about the notice of hearing referring to the time period that the students were conducting their training where some of the allegations referred to behaviour after the training period. The registrant was not confused or misled about the nature and content of the allegations.
- The Court gave significant deference to the sanction, including the five-month suspension, even though it was at the high end of the range and there were some mitigating factors.

Limits to Bad Faith Allegations Against Regulatory Staff

Generally, regulators cannot be sued successfully for damages unless they acted in bad faith. Bad faith must be pleaded with particulars; a bald allegation is insufficient. In *Savic v. College of Physicians and Surgeons of Ontario*, 2022 ONSC 3403 (CanLII), <https://canlii.ca/t/jpp3g>, the issue was whether an allegation of a statement by a staff person was sufficient to impute bad faith in the regulator as a whole. The registrant alleged that a senior staff person threatened the registrant at a meeting a decade earlier as follows: “From now on, we are going to put you under microscopic scrutiny for the rest of your career ...We are going to go after you, and eventually, we will get you”. The threat was allegedly made to assist a friend of the senior staff person whose practice competed with that of the registrant.

Subsequently, the registrant was the subject of a number of complaints and proceedings and their registration was eventually revoked. The registrant could not sue for malicious prosecution because the proceedings were not resolved in the registrant’s favour (which is a requirement for suing for malicious prosecution). The registrant sued under the lesser-known grounds of abuse of process and intentional infliction of mental distress.

The Court held that the registrant had no real chance of success. Even if the threat was accurate (which the Court did not have to determine), it “strains credulity to the breaking point” to conclude that the subsequent proceedings were caused by the staff person because:

- many of the proceedings were externally generated by complaints,
- the proceedings involved decisions by independent committees beyond the control of the senior staff person
- the registrant consented to many of the dispositions,
- the revocation occurred after the senior staff person retired, and
- appeals by the registrant had been dismissed.

The Court also noted that it would be very difficult for the registrant to prove the allegations as the documents and findings of the proceedings of the committees of the regulator were inadmissible under the regulator’s enabling legislation.

The Court concluded:

There have been unimpeachable processes since then that have been concluded without any participation of those two doctors. To allow this claim to proceed would be to authorize a collateral attack on those completed proceedings.

Considering Unproven Allegations When Imposing Sanction

When a disciplinary finding is made, hearing panels need to consider the relevant circumstances and not consider the irrelevant circumstances when imposing sanction. Are unproven allegations relevant to the issue of sanction?

In *Yendamuri v. Immigration Consultants of Canada Regulatory Council*, 2022 FC 888 (CanLII), <https://canlii.ca/t/jpsd6>, a registrant admitted to issuing a false letter. The conduct resulted in only two criminal convictions, despite the laying of 88 charges. In the discussion of sanction, the hearing panel said:

Although the [Applicant] was convicted on only 2 of the 88 charges, the panel is of the opinion that the charges seen in their totality suggest a pattern of unethical conduct, even though no previous complaints were made against the Respondent.

The panel had no information about the other 86 charges. The Court was concerned by this statement. It would be rare for charges that do not result in findings to be relevant to sanction on the two matters before them. The reasons of the panel did not explain what limited relevance those charges might have. In fact, the reasons suggest that the reference to the other charges may have been improperly considered.

However, in the end, the Court determined that this flaw did not result in a reversible error. This one sentence needed to be read in context. The reasons indicate that the sanction was selected from appropriate and relevant reasons:

He was convicted of two criminal charges relating to fraud arising from the false letter he submitted; this was done in the course of his work as an Immigration Consultant; and it could have resulted in a person obtaining status in Canada based on deliberately falsified information. The Disciplinary Committee viewed the matter from its perspective as the profession's regulator. It took into account the impact of such conduct on public faith and confidence in the profession. None of this reasoning rested on the finding that the Applicant had engaged in a "pattern" of unethical conduct. The discussion of the factors that guided the Committee in reaching its penalty decision do not reflect any aspect of increasing the severity of the punishment to reflect a long-standing or ongoing pattern of misconduct.

The overall decision remained reasonable.

Make Those Restrictions Clear

Regulators often negotiate, or even impose, restrictions on registrants in various contexts including registration with conditions, resolution of complaints and discipline orders. In *Rak v.*

Ontario College of Pharmacists, 2022 ONSC 3269 (CanLII), <https://canlii.ca/t/jprqt>, the registrant consented to a discipline restriction requiring supervision by another registrant when “dispensing to” or advising or counselling a minor. This order followed criminal convictions for “computer luring, sexual interference and criminal harassment regarding minors, who were not pharmacy patients”. When investigating another registrant, College investigators observed the registrant interacting with minors and their parents without supervision. After an investigation, including reviewing video evidence, the registrant was referred to discipline.

The discipline panel found the registrant had breached the previous discipline restrictions in respect of four minors. However, on appeal, the Court set aside three of those findings because the evidence was consistent with the registrant merely interacting with the parents in the presence of the minors. In only one case (where the registrant altered a record of counselling a minor to indicate counselling of a parent) was the finding upheld. The Court indicated that the discipline panel erred in applying a broad definition of “dispensing”. The language of the restriction referred to dispensing to the minor and not in respect of the minor or in the presence of a minor. The Court also interpreted the restriction in accordance with its purpose of protecting the public from direct and unsupervised contact with minors.

The court rejected the registrant’s argument that the investigation was illegal from the outset because representatives of the regulator made observations without an appointment in respect of the conduct of the registrant. The Court affirmed an earlier case indicating that “regulators have an implied authority to do an informal investigation where they do not need the powers accompanying a formal appointment to investigate.”

Regulators should be as clear as possible in the wording of any restrictions that they negotiate or impose on registrants.

Misconceptions About Costs Awards

Many regulators are permitted to require registrants to pay some or all of the costs of a discipline hearing if a finding is made against the registrants. Generally, regulators are allowed a fair degree of latitude in selecting the amount of costs awarded. However, if the amount is based on an incorrect assumption, a court will intervene.

In *Dr. Ignacio Tan III v Alberta Veterinary Medical Association*, 2022 ABCA 221 (CanLII), <https://canlii.ca/t/jptvr>, a veterinarian was disciplined for inappropriate care, communications and record keeping related to the treatment of a pet dog. The hearing tribunal’s findings were upheld at an internal appeal within the regulator. The internal appeal body ordered the registrant to pay 80% of the costs of the internal appeal amounting to \$23,000. On appeal to the Court, the findings of misconduct were upheld. However, the proportion of the costs of the internal appeal payable by the registrant was reduced to 50%.

The Court noted that with the privilege of self-regulation:

... comes the responsibility to supervise and, when necessary, discipline members. The disciplinary process must necessarily involve costs, and any professional regulator must accept some of those costs as an inevitable consequence of self-regulation. It is acceptable for the profession to attempt to recover some of those costs back from disciplined members, but some burden of the costs of regulation is unavoidable and a proper consequence of the regulator's mandate.

The Court noted that while it is appropriate to transfer some of these costs to the registrant where a finding is made,

... full indemnity for costs is seldom appropriate. Leaving some of the burden of the costs of disciplinary proceedings on the professional regulator helps to ensure that discipline proceedings are commenced, investigated, and conducted in a proportional matter, with due regard to the expenses being incurred.

In addition, "... disciplinary system should not include a cost regime that precludes professionals [from] raising a legitimate defence".

In this case, the Court found that the appeal body fell into the misapprehension that there was a presumption or expectation that the registrant should pay most or all of the costs. The Court concluded in all of the circumstances that the registrant should only be expected to pay half of the costs of the internal appeal.

Tips to Assessing Credibility

One of the most difficult tasks for a discipline panel is assessing the credibility of witnesses, particularly in sexual misconduct cases where most of the key events do not have corroborative witnesses. In *Taliano v. College of Physicians and Surgeons of Ontario*, 2022 ONSC 3529 (CanLII), <https://canlii.ca/t/jpw2q>, the Court upheld findings of sexual abuse and sexual impropriety. Embedded in the Court's decision are some indications of why it accepted that the assessment of credibility by the discipline panel and concluded that the panel's assessment did not contain a palpable and overriding error:

- The reasons of the panel indicated that it "evaluated the totality of the evidence, engaging with the substance of the live issues and identified what was material to its decision".
- It is open to a panel to give more weight to oral evidence that was cross-examined upon than a business record that, while admissible, was not cross-examined upon.

Legislative Update – What Happened in June 2022?

- It is open to a panel to place minimal weight where a “failure to recall statements on tangential issues made in a stressful context such as a hospital [and the failure to recall] is not a factor that would have any significant effect on the reliability assessment of a witness.”
- While exaggeration or embellishment by a witness is a reason to give their weight less credibility, the absence of such does not make the evidence or a witness more credible “because it could have been worse”.
- Where there is inconsistency in the evidence of a witness, such as not mentioning a key detail in an initial interview with a regulator’s investigator, the panel can accept a plausible explanation for the omission, such as embarrassment and shame when talking to an uninvited stranger.
- A common challenge to credibility findings is that the panel engaged in uneven scrutiny of the witnesses of one side over the other. However, where the panel analyzes the concerns about all witnesses (e.g., their inconsistencies), the “fact that it was more troubled by the inconsistencies in the defence evidence than those in the College’s evidence does not mean that it subjected the former to an unfair level of scrutiny.”
- Similarly, it is open to a panel to differentiate the degree of hostility demonstrated by two witnesses where it analyzes whether that degree of hostility is understandable in the circumstances compared to a pattern of exaggeration and deflection.
- It is important for a panel addressing concerns about collusion amongst witnesses including such aspects as whether the communications amongst witnesses involved sharing details of the incident or whether the testimony of the witnesses who communicated with each other used strikingly similar language in their descriptions of the events.

Overall, hearing panels’ findings of credibility are more likely to be accepted where they engage with the issues raised in the course of the hearing.

Access to Crown Disclosure Briefs

A recent Alberta case reaffirms that regulators with the authority to compel information from registrants can require a registrant to give the regulator a copy of the Crown disclosure brief that the registrant received when facing criminal charges. In *College of Physicians v Dr Ghassan Al-Naami*, 2022 ABQB 438 (CanLII), <https://canlii.ca/t/jpxw4>, the registrant, a pediatrician, was charged with various child pornography offences. Despite providing some assurances that the regulatory investigation would be put in abeyance pending the criminal trial, the regulator re-

opened its investigation and sought the Crown disclosure brief from the registrant. The registrant objected.

The Court upheld the regulator’s authority to require production of the Crown brief. It was obviously relevant to the regulator’s investigation and the legislation required the production of it. The Court declined to address any concerns about the regulator discontinuing its previous assurances about putting the investigation in abeyance as that issue was not before the Court. The Court adopted the approach taken in *College of Physicians and Surgeons of Ontario v. Peel Regional Police*, 2009 CanLII 55315 (ON SCDC), <https://canlii.ca/t/264fv>, that the public interest concerns about access to the Crown disclosure brief were properly addressed by the regulator notifying the Attorney General who, in this case, did not object to the regulator receiving it. The Court also found that the registrant’s right to silence in criminal proceedings did not reduce the regulator’s right to receive the document.

The Court also found that providing the Crown brief to the regulator did not constitute a breach of the Criminal Code prohibitions against distributing child pornography because the regulator “is a public interest regulator entrusted by the Alberta Legislature to maintain the confidentiality of sensitive information.”

It is noteworthy that regulators often have more success in obtaining the Crown disclosure brief from their registrants than directly from law enforcement.

Legislative Update – What Happened in July 2022?

Prepared by Richard Steinecke

In This Issue

Ontario Bills 2
 The Ontario Legislature is in recess..... 2

Proclamations 2
 There were no relevant proclamations this month. 2

Regulations 2
 There were no relevant regulations this month. 2

Proposed Regulations Registry 2
 There were no relevant consultations this month..... 2

Bonus Features..... 2
 Regulators Breathe a Sigh of Relief 3
 Preliminary Screening Out of Complaints 5
 Is there a Role for Whistleblowers Who Disclosure Highly Confidential Information? 6

Legislative Update – What Happened in July 2022?

Ontario Bills

(www.ola.org)

The Ontario Legislature is in recess.

Proclamations

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

There were no relevant proclamations this month.

Regulations

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

There were no relevant regulations this month.

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

There were no relevant consultations this month.

Bonus Features

These include early drafts of some of the items that will appear in our blog:

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

Regulators Breathe a Sigh of Relief

The Supreme Court of Canada has just released its most significant decision for professional regulators since *Green v. Law Society of Manitoba*, 2017 SCC 20 (CanLII), [2017] 1 SCR 360, <https://canlii.ca/t/h2wx1>.

The issue of when inordinate delay constitutes an abuse of process in the professional disciplinary context has been uncertain since some very restrictive rules were imposed in criminal proceedings. There was concern that the Supreme Court would impose fixed deadlines (e.g., 30 months) rather than continuing to apply the “consider all of the circumstances” approach adopted more than two decades ago in *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 (CanLII), [2000] 2 SCR 307, <https://canlii.ca/t/525t>.

However, in *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29 (CanLII), <https://canlii.ca/t/jqbs7>, the Supreme Court maintained the *Blencoe* approach with some minor modifications. In the *Abrametz* case, the lawyer had been the subject of an extensive, and hotly contested, investigation into his trust accounts. While there had been no misappropriation of funds, the lawyer was found to have disregarded the rules in a dishonest way, possibly to conceal income from the tax authorities. He also was found to have made loans to clients without full disclosure and charged excessive fees for the loans.

The primary issue was whether there was inordinate delay on the part of the regulator. The Saskatchewan Court of Appeal thought so, calculating the delay as follows: “... of the 53-month period in issue, only 18 months were inherent to the process, and only 2 ½ months were attributable to Mr. Abrametz. The remainder, totaling 32½ months, the Court of Appeal concluded, was undue delay.”

The majority of the Supreme Court disagreed with the Court of Appeal’s analysis. Abuse of process in discipline matters can occur in two ways: where the hearing becomes unfair (e.g., because a key witness is no longer available) or where the delay directly causes significant prejudice to one of the parties. On the second type of abuse of process, the majority held that the *Blencoe* test continued to apply:

Blencoe sets out a three-step test to determine whether delay that does not affect hearing fairness nonetheless amounts to an abuse of process. First, the delay must be inordinate. Second, the delay must have directly caused significant prejudice. When these two requirements are met, courts or tribunals will proceed to a final assessment of whether the delay amounts to an abuse of process. Delay will amount to an abuse of process if it is manifestly unfair to a party or in some other way brings the administration of justice into disrepute

In evaluating whether a delay is inordinate, one has to look at all of the circumstances including the nature and purpose of the proceedings, the length and causes of the delay, and the complexity of the facts and issues in the case.

Legislative Update – What Happened in July 2022?

The majority of the Court explicitly chose not to apply the criminal law principles. They stated that administrative law proceedings (especially professional disciplinary proceedings) are designed to protect the public and raised different considerations. “The purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve public confidence in the profession.... Disciplinary proceedings are neither civil nor criminal, but rather [are in a category of their own].”

In terms of significant prejudice, it had to result directly from the delay itself and not from the fact that the registrant was facing serious allegations. “Examples include significant psychological harm, stigma attached to the individual’s reputation, disruption to family life, loss of work or business opportunities, as well as extended and intrusive media attention....” The registrant has an obligation to raise the issue of delay within the process and seek an expedited process.

In terms of the final assessment of abuse of process, the majority of the Court said: “When these two requirements are met, the court or tribunal should conduct a final assessment as to whether abuse of process is established. This will be so when the delay is manifestly unfair to a party to the litigation or in some other way brings the administration of justice into disrepute.”

Perhaps the most significant development from *Blencoe* is the Court’s discussion of the remedy of a stay of proceedings for inordinate delay:

When faced with a proceeding that has resulted in abuse, the court or tribunal must ask itself: would going ahead with the proceeding result in more harm to the public interest than if the proceedings were permanently halted? If the answer is yes, then a stay of proceeding should be ordered. Otherwise, the application for a stay should be dismissed. In conducting this inquiry, the court or tribunal may have regard to whether other available remedies for abuse of process, short of a stay, would adequately protect the public’s interest in the proper administration of justice.

A stay will be more difficult to obtain where the charges are more serious.

The majority of the Court indicated that regulatory tribunals should actively consider remedies short of staying (or halting) the proceedings, such as a reduced sanction (to compensate for the harm caused by the delay) or a reduction in costs payable by the registrant to the regulator.

In applying the above principles to the facts of the *Abrametz* case, the majority of the Court found that the Court of Appeal had not shown sufficient deference to the tribunal’s findings of fact about the complexity of the investigation, in attributing portions of the delay to the registrant’s failure to cooperate with the investigation, in assessing the significance of the prejudice suffered by the registrant directly because of the delay itself, and in the impact of the restrictions on the registrant’s practice during the entire process.

The majority of the Court held that there was no abuse of process.

Legislative Update – What Happened in July 2022?

Regulators should not become complacent as a result of this decision. The Court said that: “... insufficient agency resources cannot excuse inordinate delay in any case Administrative tribunals have a duty to devote adequate resources to ensure the integrity of the process....”

There are a number of other noteworthy points in the decision that will keep regulatory lawyers busy for years. For example, the Court touched, in passing, on the argument that the absence of complaints by members of the public against the registrant was a mitigating factor for the registrant. The Court said:

The absence of a complainant is a neutral factor. The public at large expects a professional who is guilty of misconduct to be effectively regulated and properly sanctioned. A professional misconduct hearing involves more than the interests of those affected; rather one needs to consider “the effect of the individual’s misconduct on both the individual client and generally on the profession in question. This public dimension is of critical significance to the mandate of professional disciplinary bodies”

Lawyers for regulators will also be analyzing the comments of the Court on the standard of review for procedural unfairness when there is a statutory ground of appeal. The Court seemed to suggest that the palpable and overriding error test should apply to the factual findings while the correctness test should be applied to the issue of whether those facts demonstrated an abuse of process.

In any event, even though the argument was unsuccessful in this case, regulators should prepare for more frequent instances where registrants place the regulator on notice that they are concerned about delay (in order to preserve their rights later in the process). In addition, delay arguments will likely be frequently raised in the sanction and costs portions of discipline hearings where findings are made against the registrant.

Preliminary Screening Out of Complaints

One increasingly popular mechanism for regulators to allocate resources and avoid subjecting registrants to unnecessary stress is to decline to investigate complaints that are frivolous, an abuse of process, have no realistic chance of resulting in regulatory action, or do not serve the public interest. However, regulators need to avoid being overly dismissive of complaints that might contain some merit. One way to balancing these considerations is to have a review process for dismissed complaints.

Such a review process was the topic in *Fawcett v College of Physicians and Surgeons of Alberta*, 2022 ABQB 452 (CanLII), <https://canlii.ca/t/iq1nz>. That case dealt with two internal reviews where the internal appeal body directed there be a fuller investigation of the concerns before a decision was made to take no action. The first complaint was dismissed because there was a parallel complaints process within the health care system raising duplication concerns. The

Legislative Update – What Happened in July 2022?

internal review resulted in a requirement for further investigation because the parallel complaints system dealt with issues other than professional misconduct. It was determined that the regulator should consider the professionalism aspects of the concern.

The second complaint dealt with public comments that were not directly related to the practice of the profession. The internal review sought additional information as to whether the comments reflected upon the professionalism of the registrant even though they were made outside of the practice of the profession.

On judicial review, the Court upheld the internal review decisions to require further investigation. The judicial review applicants were premature as there were no special circumstances warranting interfering with the ongoing processes. In addition, the decision to require additional investigation was coherent, rational, and displayed no fatal flaws and were, thus, reasonable.

Is there a Role for Whistleblowers Who Disclose Highly Confidential Information?

Regulators safeguard highly confidential information in two respects. The first is within the administration of their own operations where there is typically a significant duty of confidentiality except when a carefully crafted public interest exception applies. The second is in ensuring that registrants strictly maintain the confidentiality of client information, again with rare and usually precise exceptions.

The US case involving Reality Winner is causing reflection on the proper balance between the duty of confidentiality and the public interest in whistleblowing. Reality Winner “was sentenced to 63 months in prison — the longest sentence ever imposed against a civilian for leaking information to the media.” <https://www.cbsnews.com/news/reality-winner-espionage-act-60-minutes-2022-07-24/> The sentence has been described as disproportional given that she was revealing information about Russian interference in the election process that the President, the apparent beneficiary of the interference, was minimizing. Ms. Winner stated that her motivating for doing so was patriotic.

While the information protected by regulators does not usually involve state secrets, some analogies can still be made. While most privacy breaches involve either carelessness or self-centred motivations, some registrants raise whistleblower defences for their breach of confidentiality: *Mulligan v Ontario Civilian Police Commission*, 2020 ONSC 2031, <http://canlii.ca/t/j6fm9>. In addition, confidentiality provisions are justified solely on the basis of a compelling public interest in keeping the information private, which public interest can be debated. There have also been concerns raised, especially during the pandemic, that confidentiality expectations have been used to “muzzle” registrants who are conscientiously trying to raise awareness about policies and processes affecting health and, even, the life and death of members of the public: <https://www.ctvnews.ca/w5/did-politics-muzzle-a-doctor-who-spoke-out-about-the-ontario-government-s-covid-19-response-1.5833284>.

Legislative Update – What Happened in July 2022?

Some of the exceptions to the duty of confidentiality involve disclosure where there is concern about significant harm to individuals. Some of these exceptions are statutory (e.g., reporting where a child is in need of protection) and some are created by case law (e.g., *Smith v. Jones*, 1999 CanLII 674 (SCC), [1999] 1 SCR 455, <https://canlii.ca/t/1fqp9> - where a solicitor was concerned that their client in a criminal case posed a continuing threat to the public). However, there has been little discussion of whether there should be a broader whistleblower exception for regulators and registrants. These issues might arise in the cases currently being processed by regulators relating to public statements made by some registrants during the pandemic.

It will be difficult to develop a principled and consistent approach to the issue. There is legitimate concern about allowing individual regulatory staff or registrants to make personal judgments as to what otherwise confidential and sensitive information should be made public. However, the potentially arbitrary application of confidentiality obligations can also cause harm to society. In the interim, regulators might consider developing internal whistleblower procedures so that there is a mechanism to review potentially over-restrictive interpretations of confidentiality provisions. Regulators can also encourage similar mechanisms in their registrants' work environments. It is also likely that such countervailing public interest considerations are already being taken into account when screening complaints and imposing sanctions at discipline.

Legislative Update – What Happened in August 2022?

Prepared by Richard Steinecke

In This Issue

Ontario Bills 2

 Bill 6, *Foreign Credentials Advisory Committee Act, 2022* 2

 Bill 7, *More Beds, Better Care Act, 2022*..... 2

 Bill 11, *Speaking Out About, and Reporting On, Workplace Violence and Harassment Act, 2022* 2

Proclamations 2

 There were no relevant proclamations this month. 2

Regulations 3

 There were no relevant regulations this month. 3

Proposed Regulations Registry 3

 There were no relevant consultations this month..... 3

Bonus Features..... 3

 Ought to Have Known..... 3

 More Ambiguity on the Impact of Bankruptcy on Disciplinary Sanctions 4

 Sexual Harassment and Assault in Health Care..... 5

 Single Act, Double Fault..... 6

 Quashing an Investigation 7

 Limits to the Duty of Confidentiality by Registrants to Clients 8

 Abuse of Process can be Applied to Regulated Individuals Too..... 8

 Cumulative Impact of Sanctions..... 9

Legislative Update – What Happened in August 2022?

Ontario Bills

(www.ola.org)

Bill 6, Foreign Credentials Advisory Committee Act, 2022 – (Private Members’ Bill – First Reading) Bill 6 would establish “the Foreign Credentials Advisory Committee to review the legislation and other rules that govern the recognition of foreign credentials in Ontario, make recommendations on how to improve the recognition of foreign credentials in Ontario....”

Bill 7, More Beds, Better Care Act, 2022 – (Government Bill – Passed Third Reading and has received Royal Assent) Bill 7 would amend “the *Fixing Long-Term Care Act, 2021* to add a new provision for patients who occupy a bed in a public hospital and are designated by an attending clinician as requiring an alternate level of care. This new provision authorizes certain actions to be carried out without the consent of these patients. The actions include having a placement coordinator determine the patient’s eligibility for a long-term care home, select a home and authorize their admission to the home. They also include having certain persons conduct assessments for the purpose of determining a patient’s eligibility, requiring the licensee to admit the patient to the home when certain conditions have been met and allowing persons to collect, use and disclose personal health information, if it is necessary to carry out the actions.... A consequential amendment is made to section 47 of the *Health Care Consent Act, 1996* to clarify the relationship between crisis admissions under that section and admissions under the new provision of the *Fixing Long-Term Care Act, 2021*.”

Bill 11, Speaking Out About, and Reporting On, Workplace Violence and Harassment Act, 2022 – (Private Members’ Bill – First Reading) Bill 11 would protect workers who speak out about workplace violence and workplace harassment. Public hospitals and long-term care homes would have to report monthly on their websites how many incidences occurred in the previous month. Genesis of the Bill may relate to some recent armed incidents in emergency rooms in Southwestern Ontario: <https://lfpres.com/news/local-news/what-more-can-be-done-to-protect-health-care-workers-from-violent-attacks?s=09/>.

Proclamations

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

There were no relevant proclamations this month.

Legislative Update – What Happened in August 2022?

Regulations

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

There were no relevant regulations this month.

Proposed Regulations Registry

(www.ontariocanada.com/registry/)

There were no relevant consultations this month.

Bonus Features

These include early drafts of some of the items that will appear in our blog:

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

Ought to Have Known

A common legal phrase is that an individual “knew or ought to have known” of certain events. In discipline matters, intentional misconduct generally attracts a much more serious sanction than a failure to have noticed some circumstances. However, failure to notice can still result in serious sanction.

In *Bijanzadeh v. Ontario College of Pharmacists*, 2022 ONSC 3578 (CanLII), <https://canlii.ca/t/jr45t>, a pharmacist was found to have been duped to issue over five thousand prescriptions for hundreds of thousands of units of dangerous drugs (oxycodone tablets, oxycocet tablets, and fentanyl patches) over a period of more than three years. The drugs were issued to a small number of fake patients through forged prescriptions. More details can be found at: *Ontario (College of Pharmacists) v. Bijanzadeh*, 2021 ONCPDC 24 (CanLII), <https://canlii.ca/t/jgrhw>.

Despite the fact that the registrant satisfied both the police and the regulator that they had no knowledge of the trafficking scheme, the discipline panel concluded, and the Court supported, that the success of the scheme “was the result of her failure to take basic professional steps to discharge her obligations as a licensed pharmacist.”

Legislative Update – What Happened in August 2022?

The Court upheld the imposition of a 14-month suspension and significant remedial terms. The sanction was well within the range of reasonable and was not clearly unfit. In terms of the impact on the registrant, the Court said:

I see no merit to the argument that the College failed to take account of the appellant's personal circumstances. The nature of her business was apparent to the College in the context of the liability decision: the appellant owned and operated a pharmacy. She will not be able to continue with that business given her 14-month suspension and subsequent five years of conditions on her license. It is obvious that the overall penalty will have a profound effect on her career, and she will be unable to continue with her current business. On the other hand, the penalty will permit the appellant eventually to return to work in her chosen field, and to resurrect her career, if she applies herself diligently.

Significant sanctions do not require knowing participation in the misconduct.

More Ambiguity on the Impact of Bankruptcy on Disciplinary Sanctions

In *Alberta Securities Commission v Hennig*, 2021 ABCA 411 (CanLII), <https://canlii.ca/t/jl93g>, Alberta's highest court took a narrow view as to when disciplinary sanctions of a financial nature can be enforced after a registrant becomes bankrupt. British Columbia's highest court has recently waded into the fray.

In *Poonian v. British Columbia (Securities Commission)*, 2022 BCCA 274 (CanLII), <https://canlii.ca/t/jr8k8>, two individuals had been required to pay the regulator hefty disgorgement amounts and administrative penalties which the regulator filed with the court for enforcement purposes. While reaching the conclusion by a different route than the Court in *Hennig*, the BC Court concluded that generally the insolvency legislation "cannot be read so broadly as to include fines imposed by tribunals that are registered in a court." Such orders are not "imposed" by a court as required.

However, the BC Court found that another provision applied in this case so as to allow the regulator to enforce the orders. Insolvency legislation does not extinguish "any debt or liability arising from obtaining property or services by false pretenses or fraudulent misrepresentation". Taking a more liberal interpretation on this point than the Court in *Hennig*, the Court said:

The evidence supported the conclusion that the judgment against the Poonians was founded upon the fact they had engaged in fraudulent misrepresentation and had obtained property as a result. The judge considered the allegations upon which the Commission based its decision. There was a direct relationship between the fraudulent conduct and the fines and disgorgement order. Finally, in my view, the fact that the

Legislative Update – What Happened in August 2022?

misrepresentation was not made to the Commission does not preclude it from relying on the exemption.

Assuming this approach might be followed by other courts, regulators imposing fines or other financial sanctions should be explicit in stating when they relate to registrants obtaining a financial benefit through dishonesty. Examples might include false billing and taking client property. If those circumstances do not exist, the financial aspects of their orders might be extinguished through the bankruptcy process. As such, it may be prudent to include non-financial elements as part of the sanction, perhaps even as an alternative to fulfillment of the financial sanctions.

Sexual Harassment and Assault in Health Care

The Professional Standards Authority (PSA), the oversight body for health and social care regulators in the UK, has recently published a reflective blog on its research, work and insights on the issue of sexual harassment and assault in health care:

<https://www.professionalstandards.org.uk/news-and-blog/blog/detail/blog/2022/08/09/sexual-harassment-and-assault-in-health-and-care-getting-the-regulatory-response-right>.

While discussing the sexual abuse of patients, the focus of the blog is on sexist and sexual impropriety of colleagues. The PSA noted studies demonstrating the prevalence of the concerns, including one “which found that 91% of female respondents had experienced sexism at work within the past two years, 70% of women felt that their clinical ability had been doubted or undervalued because of their gender, and overall 84% of all respondents said there was an issue of sexism in the medical profession.” Similar concerns were noted in studies of sexual harassment, sexual assault and rape.

The PSA noted that the problem was broader than what regulators could address on their own and noted that some regulators had already taken some significant action. However, the PSA said:

We know from [research we commissioned](#) from the academic Dr Simon Christmas that where behaviour isn't challenged, it can create a culture where boundary crossing becomes accepted and normalised. [Research by Professor Rosaline Searle](#) adds to this evidence base. Her analysis of fitness to practise decisions found that those with a proclivity for sexual misconduct were more likely to cross boundaries where they witnessed others doing so, and that some perpetrators were in effect 'corrupted' by the falling standards of their workplace. This shows the vital importance of inappropriate behaviour (including 'low-level' behaviour) being challenged before it is allowed to develop into more serious violations and create a toxic workplace culture where perpetrators act with impunity.

Legislative Update – What Happened in August 2022?

In terms of action for which regulators are directly responsible, we're aware of concerns that some fitness to practise panels haven't taken sexual harassment as seriously as they should have done, particularly where this was at the lower end of the scale and involved a colleague rather than a patient. Much of the problem here is likely to be a result of a lack of training, as highlighted in the article by Rebecca Vanstone featured in this [Professional Discipline & Regulatory Team Bulletin](#).

These are observations that other regulators may find useful, even in the non-health context. See for example the shocking article about lawyers in Australia, which can be accessed at: <https://lsj.com.au/articles/the-scourge-of-inappropriate-behaviour-in-our-profession/>.

Single Act, Double Fault

A basic principle is that a person should not be punished twice for the same fault. However, that principle tends to be applied quite narrowly in the disciplinary context. In *McLeod v. Law Society of British Columbia*, 2022 BCCA 280 (CanLII), <https://canlii.ca/t/jrdx3>, a lawyer was disciplined for a number of matters related to behaviour during litigation, including bringing proceedings without a basis to find counsel on the other side in the litigation in contempt of court and to remove them from acting on the matter because of an alleged conflict of interest. The discipline tribunal made only one finding to avoid a result where there would be two findings for the same fault (a circumstance that is contrary to the so-called *Kienapple* principle). On appeal, the Court found that two findings were permissible. Even though the findings were made for the same action (bringing the proceedings) and were founded on the same definition of misconduct, there were two different aspects to the findings. The first aspect was misusing the court process. The second aspect was inappropriate conduct towards a colleague.

Where an act of misconduct has two aspects to it, two findings can be made.

The Court also dealt with the issue of whether a court file should be sealed as it contained disclosure of client communications with their lawyers and identified the parties in a family breakup matter where there was an allegation of sexual abuse of a family member. Despite the fact that the identities of the participants could be discovered by searching other public records, the Court directed the sealing of portions of the court file. However, the order was tailored so as to permit the public to follow the essence of the proceedings. In particular, the regulator was required to refile the Appeal Book redacting the identities of the family members and most of the legal advice provided to clients.

Quashing an Investigation

In what circumstances can a regulator be required to stop an investigation? That issue came up in *Morabito v. British Columbia (Securities Commission)*, 2022 BCCA 279 (CanLII), <https://canlii.ca/t/jrdx2>. An individual and their spouse were the subject of an investigation for insider trading by the securities regulator. The investigation had been ongoing for some time. The subjects of the investigation, and those associated with them, had been required to expend significant resources providing information to the regulator. As part of the investigation, the regulator had attended, with police, at the individual's home when it was likely the individual would not be there, but their spouse would be. The individual requested that the regulator quash the investigation as it was not serving the public interest and constituted an abuse of process. The regulator provided minimal evidence in response to the request. The request was denied primarily on the basis that the onus was on the individual to establish that there was no public interest in continuing the investigation. The individual argued in court that the onus should not be on the individual since it was the regulator who possessed the information necessary to justify the investigation.

The Court held that the onus was on the individual, not the regulator, to establish that continuation of the investigation was unwarranted, not in the public interest, or was an abuse of process. The procedural obligations upon the regulator were minimal at the investigation stage. Also, requiring the regulator to justify its investigation at this stage in the process created significant public interest concerns.

In my view there are also practical considerations that militate in favour of the conclusion that the subject of an investigation is not entitled to require the Commission to justify that order before the investigation has been completed and a hearing ordered under s. 161. Placing the onus on the director would normally require him or her to disclose what the investigation has shown so far and what he or she expects it will show as it progresses. In my opinion, such disclosure would open the door to the subjects of such orders to take evasive actions to forestall the discovery of possible contraventions of the [Act](#). Many investigations would grind to a halt or bog down into 'pre-hearings' that would delay and distract the Commission from completing the investigation. Moreover, the [Act](#) currently places no limit on the number of times an application for revocation may be brought; nothing would stop the subject from applying repeatedly in respect of the same matter.

The Court also found that the delay did not constitute an abuse of process. However, the Court indicated that there could be some rare circumstances in which evidence of a presumptive abuse of process raised by the subject of an investigation could require the regulator to justify its conduct.

Legislative Update – What Happened in August 2022?

Limits to the Duty of Confidentiality by Registrants to Clients

To obtain the best possible services, clients need to be forthcoming and candid with their service providers. For that reason, there is a strong duty of confidentiality imposed on registrants (i.e., the service providers). However, there are exceptions to that duty of confidentiality; child abuse is one of them. The case of *Chatillon c. R.*, 2022 QCCA 1072 (CanLII), <https://canlii.ca/t/jr9jv>, explores the tension between these competing principles.

An individual with addiction issues sought treatment. The individual believed that, in order to obtain effective treatment, they needed to be honest with their treating professionals. The individual also believed that their confession of sexual abuse of a child was confidential. The treating professionals ensured that disclosure of the information was made to the child protective authorities who, in turn informed the police. The ensuing criminal charges and finding was based entirely on the confession of the individual to their treating professionals.

The majority of the Court found that the communications were protected by privilege and could not be used in the criminal proceedings, at least. The Court even questioned, in passing, whether disclosure to the child protective authorities was required under provincial law because there was, on the facts of the case, no ongoing threat to the child. In ruling that the confession could not be used, the majority of the Court was concerned about the ability of the individual to receive effective treatment if their confession was used in this way.

The majority of the Court was particularly troubled that the treating professionals did not have a clear protocol on disclosing to the individual the limits of their duty of confidentiality before obtaining the confession. Those comments may be of special relevance to regulators in establishing standards of practice and educating registrants about the need to warn clients as to the limits of confidentiality of the information provided by clients.

Abuse of Process can be Applied to Regulated Individuals Too

Regulated individuals often argue that a regulator's conduct (or inaction) amounts to an abuse of process. However, the doctrine applies equally to regulated individuals. In *Lower v. Investment Industry Regulatory Organization of Canada*, 2022 BCCA 285 (CanLII), <https://canlii.ca/t/jrkxq>, an investment professional was disciplined for failing to cooperate with an investigation and was permanently barred from related activities. The individual did not seek to review the decision at the time. Nearly a decade later, the individual brought an application to court for a declaration that the discipline proceedings were procedurally unfair. The Court dismissed the proceedings as an abuse of process. The Court said:

Judges have an inherent and residual discretion to prevent an abuse of the court's process.... Abuse of process is a flexible doctrine. As noted by the judge, it may be

Legislative Update – What Happened in August 2022?

invoked to prevent misuse of the court’s procedure in circumstances where it would be manifestly unfair to a party to the litigation before it or would in some way bring the administration of justice into disrepute.... The doctrine focuses less on the interests of the parties and more on the integrity of the administration of justice.... Excessive delay and promoting the public interest in finality may be factors to be considered in applying the abuse of process doctrine....

Regulated individuals must, too, use the Court’s processes fairly.

Cumulative Impact of Sanctions

Discipline sanctions must not be clearly unfit (at least in contested cases; a different test applies where there is a joint submission on penalty). In determining sanction, the panel should conduct an assessment of the facts of the particular case and the sanctions imposed in other cases involving similar infractions and circumstances.

In *Llewellyn v. College of Registered Nurses of P.E.I.*, 2022 PESC 36 (CanLII), <https://canlii.ca/t/jrmsx>, the registrant (a nurse) was found to have engaged in professional misconduct by the nature of their interactions with other staff at a hospital treating the registrant’s seriously ill mother. The sanction imposed included a two-month suspension, remediation at the nurse’s own expense, a fine of \$5,000, and costs of \$10,000. The hearing panel did not conduct a detailed analysis of the circumstances of the conduct nor did the panel review precedent cases. The Court said:

Unfortunately, in the absence of reasons which reference case precedents, I am unable to find that the penalty is fit or unfit by comparison to a range of other penalties. This is problematic and something which tribunals should be mindful of in future cases.

The Court was concerned that the discipline panel may have given insufficient consideration to the personal distress the registrant was undergoing and the cumulative financial impact of the order. The Court reduced the sanction by removing the fine and halving the costs order.

In addition to analyzing the sanction in similar cases, panels should consider the cumulative impact of their orders.



BRIEFING NOTE

To: **Council**

From: **Roderick Tom-Ying, Acting Registrar and CEO**

Date: **September 9, 2022**

Subject: **Draft Additional Provincial Requirements for Accreditation**

Background

Council, in March 2019, approved EQual Canada (Accreditation Canada) as the accrediting body for denturism programs in Ontario. The College of Alberta Denturists and the College of Denturists of British Columbia also approved EQual Canada (Accreditation Canada) in a coordinated effort to proceed with the standardization of educational requirements across the three jurisdictions. The four provinces with denturism programs are Alberta, British Columbia, Ontario, and Quebec respectively.

During the accreditation process, the educational institution's program curriculum is assessed against the revised national competency profile (NCP) for the denturism profession. The revised NCP was first approved by Council in September 2020.

While the NCP captures the essential competencies of the denturism practice across the three jurisdictions, provincial differences in the scopes of practices for Denturists may exist. The accreditation process allows for provincial regulators to submit "additional provincial requirements" to EQual that will be used in accreditation surveys for that jurisdictional province. The educational programs of that province will be assessed against both the NCP and the submitted additional provincial requirements.

Both the College of Alberta Denturists and the College of Denturists of British Columbia have submitted additional provincial requirements and have had their Council's approval.

The additional provincial requirements document lists the specific legislative requirements of Ontario and CDO's requirements. This may include understanding the RHPA, the Denturism Act, Ontario's OHSA, Standards of Practice of CDO, and CDO's jurisprudence handbook etc.

The Additional Provincial Requirements document also matches the associated competencies listed in the NCP with the assessment environment appropriate to test that competency. It is important to note that the assessment environments listed represent the minimal environment in which the competency must be assessed. Educational institutions are free to test any competencies at a higher level e.g. simulation.

Potential Assessment Environments:

Academic: assessment occurs in a didactic setting (i.e., written examination, assignments, etc.)

Simulation: assessment occurs in a simulated environment (i.e., formal simulation environment, role playing, laboratory work, OSCE, etc.)

Clinical: assessment occurs in a clinical environment with the student interacting with patients, where applicable, and working on prosthesis that are for patient use.

The draft Additional Provincial Requirements for Accreditation document was adapted from both the College of Alberta Denturists and the College of Denturists of British Columbia draft copies. The potential assessment environments are aligned with that of the two regulators.

Options

After review and discussion of this item, Council may elect to:

1. Approve the draft document as presented.
2. Approve the draft document with amendments.
3. Other

Attachments

1. Draft Additional Provincial Requirements for Accreditation

Proposed Additional Provincial Requirements for Accreditation College of Denturists of Ontario

Requirement	Associated Competency	Assessment Environment
Demonstrate understanding of the Regulated Health Professions Act, 1991	1.1	Didactic
Demonstrate understanding of the Denturism Act, 1991 and associated regulations	1.1	Didactic
Demonstrate understanding of the Personal Health Information Protection Act	1.1	Didactic
Demonstrate understanding of the Occupational Health and Safety Act	1.1	Didactic
Demonstrate understanding of the Standards of Practice of the College of Denturists of Ontario	1.1	Didactic
Demonstrate understanding of the College of Denturists of Ontario's Jurisprudence Handbook	1.2	Didactic
Demonstrate understanding of the College of Denturists of Ontario's Infection Prevention and Control Guidelines	1.1	Didactic
Demonstrate understanding of the College of Denturists of Ontario's Recordkeeping Guidelines	1.1	Didactic
Demonstrates an understanding of the patient's rights and informed consent, including their right to privacy and to administer and withdraw consent.	1.1.7/3.1/2.5.3	Didactic
Demonstrate understanding of the College of Denturists of Ontario's Advertising Guidelines	1.1/5.4	Didactic
Demonstrate understanding of the College of Denturists of Ontario's Use of Social Media Guidelines	1.1/5.4	Didactic
Respond professionally to changes impacting the practice environment		Didactic
Utilize basic conflict management techniques	1.4.4	Didactic
Demonstrate understanding of prudent financial business management practices	5.5.1	Academic

**Proposed Additional Provincial Requirements for Accreditation College
of Denturists of Ontario**

Demonstrate an understanding of third-party and/or Insurance payment options	5.5.1	Clinical
Engage in reflective practice	1.3.1	Academic
Respond professionally to feedback received from others	1.3.1	Academic
Provide constructive feedback to others	1.3.5	Academic



BRIEFING NOTE

To: **Council**

From: **Roderick Tom-Ying, Acting Registrar & CEO**

Date: **September 9, 2022**

Subject: **Personal Information Privacy Policy**

Public Interest Rationale

The collection, use and disclosure of personal information in the course of carrying out regulatory activities is done for the purpose of regulating the profession of denturism in the public interest. The College of Denturists of Ontario (the College) can collect, and third parties can provide, personal information to the College without the consent of the individual(s) involved, including that of patients.

This policy provides a mechanism through which the College can deliver appropriate privacy rights to individuals involved in the College's activities while still enabling the College to meet its statutory mandate under the *Regulated Health Professions Act, 1991* (RHPA), and the *Denturism Act, 1991*.

Background

In the course of fulfilling its mandate, the College may collect, use and disclose the personal information of potential candidates, candidates, applicants, registrants, patients and persons employed, retained, elected, or appointed for the purpose of the administration of any legislation related to the governance of the College.

Individuals who are employed, retained, or appointed by the College as well as every member of the College Council or a College committee are required by section 36 of the RHPA to preserve confidentiality with respect to all information that they receive.

This draft Personal Information Privacy Policy will govern and provide College Staff with the overarching principles required when acting on behalf of the College to obtain and use personal information to administer regulatory programs.

Similar to the privacy obligations of all regulated health professionals, including Registered Denturists, as captured in the College's Standard of Practice for Confidentiality and Privacy, this operational policy will govern the use of personal information for College Staff and persons retained by the College including College Council and Committee members.

While the College's regulatory processes adhere to the *Personal Information Protection and Electronic Documents Act, 2000*, this draft policy seeks to codify and formalize in written format the principles and processes related to safeguarding the collect, use and disclosure of personal information. This draft policy may also be known as a Privacy Code or Privacy Policy for other organizations.

The rationale for the College designating this a policy over a Code is due to the organization of regulatory instruments at the College. Currently there are no other regulatory instruments that is designated a Code. The College has Standards of Practice, Guidelines, Information Sheets, Policies, and the College By-Laws. For the purposes of clarity and organization, regulatory instruments that governs College Staff or persons retained by the College fall under the category of operational policies.

Regulatory instruments that govern Registered Denturists generally fall under Standards of Practice and Guidelines. Information Sheets are reserved for quick guidance on specific current event topics that are relevant to Denturists.

The College's Registrar and CEO will act as the Information Officer as noted in the draft Personal Information policy.

For public clarity, this draft Personal Information Privacy Policy is equivalent to a Privacy Code for the College and will be published publicly.

Options

After review and discussion of this item, Council may elect to:

1. Approve the policy
2. Approve the policy following amendments
3. Request further drafting with a return to Council for consideration
4. Other

Attachments

1. Draft Personal Information Privacy Policy



TYPE	Operational
NAME	Personal Information Privacy Policy
DATE APPROVED BY COUNCIL	
DATE REVISED BY COUNCIL	

OBJECTIVE

The collection, use and disclosure of personal information in the course of carrying out regulatory activities is done for the purpose of regulating the profession of denturism in the public interest. The College of Denturists of Ontario (College) can collect, and third parties can provide, personal information to the College without the consent of the individual(s) involved, including that of patients.

This policy provides a mechanism through which the College can deliver appropriate privacy rights to individuals involved in the College's activities while still enabling the College to meet its statutory mandate under the *Regulated Health Professions Act, 1991* (RHPA), and the *Denturism Act, 1991*.

THE POLICY

In the course of fulfilling its mandate, the College may collect, use and disclose the personal information of potential candidates, candidates, applicants, registrants, patients and persons employed, retained, elected, or appointed for the purpose of the administration of any legislation related to the governance of the College.

Individuals who are employed, retained, or appointed by the College as well as every member of the College Council or a College committee are required by section 36 of the RHPA to preserve confidentiality with respect to all information that they receive. Any breach of this provision can lead to the imposition of fines as described in the legislation. Every employee, contracted consultant, and volunteer shall sign an agreement to preserve confidentiality of all information relating to College business that they receive in the course of their duties. This may be an independent agreement or a confidentiality clause within an employment/service contract.

The privacy principles outlined by the *Personal Information Protection and Electronic Documents Act, 2000* provide the framework for the College's privacy policy:

Principle 1 – Accountability: The Information Officer receives questions, complaints and/or comments about information matters. The College's policies regarding privacy and information management will be made public and available.

Principle 2 – Identifying Purposes: The College collects, uses, and discloses personal information to administer and enforce its governing legislation.

Principle 3 – Consent: The *Personal Health Information Protection Act, 2004* allows some health care providers, known as health information custodians, to provide personal health information to the College without consent. Personal information is only collected, used and disclosed without the knowledge and consent of the individual for the purpose of the administration or enforcement of the enabling legislation.

Principle 4 – Limiting Collection: The College only collects the personal information that is required for the purposes identified in Principle 2. A patient's personal information may be collected as part of the College's regulatory function. This information is typically obtained as part of an investigation or for the quality assurance program. The focus of these inquiries is the conduct, competence or capacity of the registrant and the protection of the public. The College only collects personal information to satisfy this regulatory purpose.

Principle 5 – Limiting Use, Disclosure or Retention: The College only uses personal information for the purposes identified in Principle 2 and in accordance with the provisions of the legislation. Personal information is only disclosed in accordance with the provisions of section 36 of the RHPA or as required by law.

The College has a Records and Information Governance policy in place and conducts regular audits to ensure that personal information that is no longer required to be kept is destroyed, eliminated, or made anonymous. Specific information regarding the Records and Information Governance policy can be obtained by contacting the Information Officer.

Principle 6 – Accuracy: The College exercises its best efforts to ensure that the information it collects, uses and discloses is accurate. The College makes corrections to information without removing original entries for accountability.

Principle 7 – Safeguards: The College ensures that the personal information it retains is secure. The College does what it reasonably can do to protect the privacy of registrants, the public and anyone else from which it collects personal information and ensures that personal information is stored in electronic and physical files that are secure. Security measures are in place to safeguard personal information, including restricting access to personal information to authorized personnel, ensuring that physical files are under lock and key and ensuring that electronic files are password protected. The College reviews its security measures periodically with 3rd party IT providers to ensure that all personal information is secure.

Principle 8 – Openness: The College's confidentiality and privacy policies are available on the College's website or may be requested by phone or mail. Inquiries concerning the College's policies and practices for collecting, using and disclosing personal information may be directed to the Information Officer.

Principle 9 – Individual Access: Individuals may submit written requests to the Information Officer to access their information. Access may be denied if the information is impractical or impossible to retrieve, or if releasing it could interfere with the administration or enforcement of the legislation.

Principle 10 – Challenging Compliance: Complaints or questions regarding the College's compliance with this policy should be directed to the Information Officer. Please note that there is a different process for handling complaints about the conduct or actions of a Denturist registered with the College. Please contact the College's complaints and discipline department if you wish to file a complaint about the conduct or actions of a Registered Denturist.

Information Officer's Contact Information

Attention: Information Officer

Telephone: (416) 925-6331

Email: info@denturists-cdo.com

Mail: 365 Bloor Street East, Suite 1606, Toronto, Ontario, M4W 3L4

RELATED LEGISLATION AND DOCUMENTS

Regulated Health Professions Act, 1991

Denturism Act, 1991

Personal Health Information Protection Act, 2004

Personal Information Protection and Electronic Documents Act, 2000

REVISION CONTROL

Date	Revision	Effective

RECORDS & INFORMATION MANAGEMENT (RIM) PROGRAM



COLLEGE OF DENTURISTS OF ONTARIO

109th Meeting of Council
September 9, 2022

SEPTEMBER 9, 2022

RECORDS & INFORMATION MANAGEMENT



AGENDA

- Where We Started
- Document Management Strategy
- Digitization Project
- RIM Program Development
- Staff Training
- Next Steps

WHERE WE STARTED

MOHLTC Operational Review & Audit of the CDO
PricewaterhouseCoopers Report (2012)

Operational Review and Audit of the College of Denturists of Ontario: <https://www.health.gov.on.ca/en/common/ministry/publications/reports/cdo2012/>.

RECORDS & INFORMATION MANAGEMENT

Poor Record Keeping Practices

“Our review noted **instances of poor record keeping in every area under review**. Deficiencies in record keeping include a **general lack of record keeping consistent with good business practices** as well as a **failure to comply with the College’s Record Retention Policy** and, in one instance, CDO By-laws.”

– PwC Audit Report (2012)



Resulting Risk

“Poor recordkeeping results in a **lack of accountability, transparency and stewardship over the records which are created, captured, and managed to support the activities and decision making of the College** including Council and Committees. Poor record keeping also results in the inability to retrieve documents when required in an efficient and timely manner.”

– PwC Audit Report (2012)



PwC Audit Report (2012): [https://denturists-cdo.com/Resources/Publications-\(1\)/Ministry-of-Health-and-Long-Term-Care-Audit-by-PwC.aspx](https://denturists-cdo.com/Resources/Publications-(1)/Ministry-of-Health-and-Long-Term-Care-Audit-by-PwC.aspx)

Recommendation

“We recommend that the College implement processes to ensure that records are retained in accordance with the College’s record retention policy. These processes should include **establishing specific record retention procedures** to be followed by College staff to ensure that records are retained. Procedures could include:

- **assigning responsibility to an individual** for record retention,
- **developing guidance and checklists** to support the collection and retention of records by area and committee
- **and requiring documents to be stored on the server** in specific folders rather than in email boxes.”

- PwC Audit Report (2012)



PwC Audit Report (2012): [https://denturists-cdo.com/Resources/Publications-\(1\)/Ministry-of-Health-and-Long-Term-Care-Audit-by-PwC.aspx](https://denturists-cdo.com/Resources/Publications-(1)/Ministry-of-Health-and-Long-Term-Care-Audit-by-PwC.aspx)

2017 Status Report – “In Progress”

“The CDO is in the process of examining its current record retention policy within the context of **establishing an organization-wide document management strategy**. This work will include an examination and prescription for the storage of electronic documents.”

- Status Report on PwC Audit (2017)

Status Report (2017): [https://denturists-cdo.com/Resources/Publications-\(1\)/Ministry-of-Health-and-Long-Term-Care-Audit-by-PwC.aspx](https://denturists-cdo.com/Resources/Publications-(1)/Ministry-of-Health-and-Long-Term-Care-Audit-by-PwC.aspx)

DOCUMENT MANAGEMENT STRATEGY

RIM Consultant Engaged

Document Management Strategy

Caroline Werle, Certified Records Manager

RIM Services Inc.



Project Milestones

- 2018 – Classification Structure and Retention Schedule developed and approved by Council
- 2018 – FileHold Electronic Document Management System software selected
- 2019 – Continuing Education in RIM for Manager, Council & Corporate Services
- 2020 – SharePoint implemented for Council & Committees
- 2020 – Document Digitization Project prioritized

Project Milestones

- 2021 – Majority of hard copy records digitized
- 2021 – Records & Information Governance Policy developed and approved by Council
- 2021 – Classification Structure and Retention Schedule updated
- 2021 – Business Process Manual and RIM Program Forms developed approved by Registrar
- 2021 – RIM Program implementation plan developed

+ • DIGITIZATION PROJECT • +

2020-2021: Information Management Specialist Engaged



Digitization Project

- Registration
- Professional Conduct
- Professional Corporations
- Quality Assurance
- QE/Candidate Files
- Off-Site Records

RIM PROGRAM ORIENTATION

RIM PROGRAM DEVELOPMENT

2021: Continuing Education completed, and RIM Consultant re-engaged
...evolution from the "Document Management Strategy"

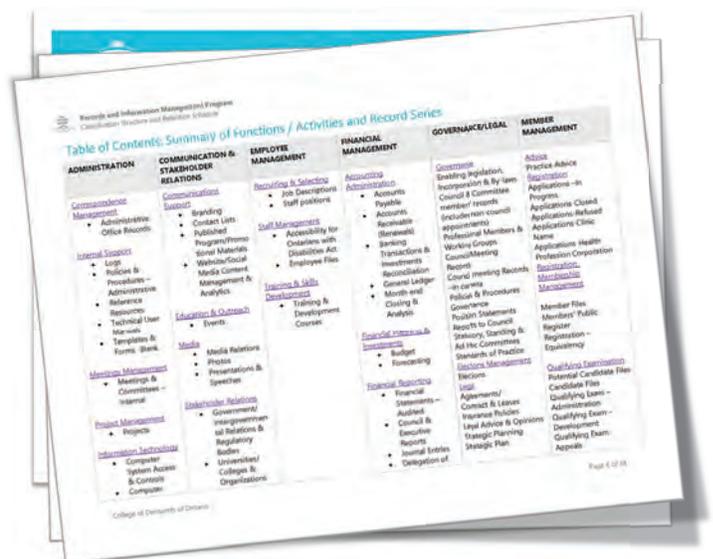
Records and Information Governance Policy

- Approved by Council – December 10, 2021
- Establishes a framework for RIM
- Ensures authenticity and reliability of records
- Clarifies staff responsibilities
 - Allows staff to create Business Processes and maintain the Classification Structure and Retention Schedule



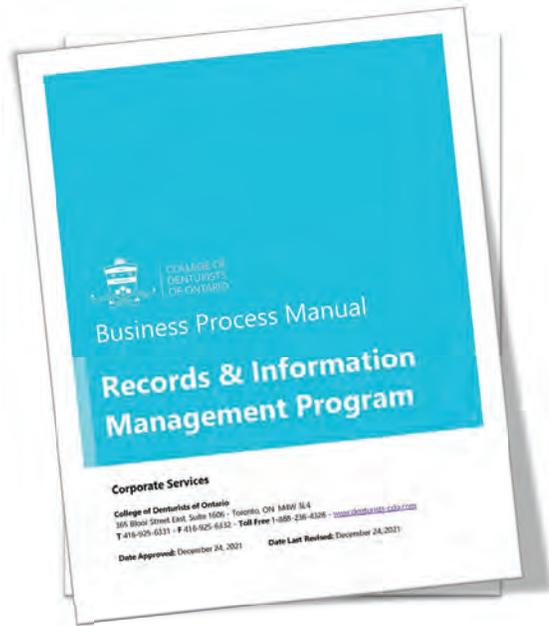
Classification Structure and Retention Schedule

- Functionally-based (ISO 15489 Standard)
- Retention Periods (legislation or best practice)
- Filing methodology
- Accountability
- Disposition
- Security classification
- Legal Citation Table



Business Process Manual

- Describes the business processes of the RIM program (operational)
 - Classifying Records
 - Naming Conventions
 - Imaged and Electronic Documents
 - Email and Mobile Messaging
 - Destroying Records
 - Records Hold Order
 - Departing Employee Records Reassignment
 - Auditing RIM Performance



RIM Program Forms

- RIM Program Audit Checklist
- Classification Structure and Retention Schedule Change Request Form
- Records Destruction Approval Forms
 - Electronic/Physical Records
- Records Transfer List for Off-site Storage

The image shows a "Record Classification Structure and Retention Schedule Change Request Form". The form is titled "Change Request Form" and includes instructions: "Complete and submit this form to the Manager, Client & Corporate Services to request a change to the CDO Record Classification Structure and Retention Schedule." It has fields for "Department/Program Name", "Staff Name and Position", "Date", and "Staff Signature". Below these fields, there is a section for "Request for:" with radio buttons for "Add New", "Change", and "Remove". The main part of the form is a table with two columns: "Area of Change" and "Reason for Request". The table is divided into two sections: "Classification Structure" and "Retention Schedule". The "Classification Structure" section includes checkboxes for "Fullname", "Activity", "Record Series", "Scope Names", "Filing Methodology", and "Accountability". The "Retention Schedule" section includes checkboxes for "Total Retention", "Disposition", "Security Classification", and "Classifications/Comments". At the bottom, there is a field for "Approved by (Name and Position)" and "Date".

STAFF TRAINING

January to April 2022: RIM Program and FileHold

Staff Training

Caroline Werle, CRM (RIM Services Inc.)

RIM Program Training: Introduction to RIM, Classification Scheme, Retention Schedules, Managing Electronic Records
– January/February 2022

Chad Haffie, CRA, CRM (Image Advantage Solutions Inc.)

Document Management Software Training: FileHold
– March/April 2022

NEXT STEPS

2022 and beyond: RIM Program and FileHold
Implementation and Administration

Next Steps

RIM Program Implementation

- Put the Records & Information Governance Policy and Business Process Manual into practice

Monitoring RIM Performance

- The RIM Program will be audited on an annual basis to ensure all policies and processes reflect current requirements and best practices

FileHold Implementation

- Files will be moved from the Shared Drives to FileHold by program area
- Once implementation is complete, FileHold will be the repository for all official College records

QUESTIONS?



BRIEFING NOTE

To: **Council**

From: **Roderick Tom-Ying, Acting Registrar & CEO**

Date: **September 9, 2022**

Subject: **Honorary Retirement Status Program**

Public Interest Rationale

The College of Denturists of Ontario's mandate is to protect the public by ensuring Registered Denturists provide safe, ethical, and competent denturism care and service in Ontario. As part of that mandate, the College routinely reviews the performance of its various initiatives as part its quality assurance processes. This review process allows programs and initiatives to be amended if required and updated to represent best practices.

Background

At the June 17, 2022, Council meeting, a formal motion was adopted to direct College Staff to conduct broader research on other honorary retirement programs from the health regulatory Colleges to garner their program offerings.

College Staff contacted the Registration Departments of the 26 health regulatory colleges to canvass their program requirements, program specifications, and any comments they may want to share with the CDO. For the regulators that did not respond directly to CDO's survey, College Staff reviewed their respective websites, published materials, College By-Laws, and College specific legislation in order to ascertain their program provisions (if any).

The Acting Registrar also provided both Denturism associations (Denturists Association of Ontario & Denturists Group of Ontario) an opportunity to provide feedback on CDO's program. The College did not receive feedback from either association but noted the summer months and shorter turnaround for feedback (3.5 weeks) as mitigating factors.

Results

Six of the 26 regulatory health colleges have an honorary retired or Life Member status, this includes the CDO. Three regulators have since discontinued the program.

Of the six regulators that have this program, two of the regulators' programs are rooted in their Registration Regulation. The remaining four regulators have the program provisions rooted in College By-Laws (CDO included).

Regulators that have an Honorary Retired or Life Member status:

- College of Chiropractors of Ontario
- College of Denturists of Ontario
- College of Naturopaths of Ontario
- College of Optometrists of Ontario
- College of Physicians and Surgeons of Ontario
- College of Psychologists of Ontario

Regulators that discontinued their Honorary Retired or Life Member status:

- College of Nurses (Discontinued March 2013)
- College of Pharmacists (Discontinued March 2022)
- College of Respiratory Therapists (Discontinued date unknown)

For the remaining regulators that do not have such program provisions for retired members, the majority of them have an Inactive Class of Registration that allows for non-practising registrants to remain part of the profession for prolonged absences. Such absences are not generally specified but can include maternity/paternity leave, sabbatical, seeking medical treatments, disability, relocation out of the province/country temporarily, or retired members.

For Discussion:

- ***Is the program working as intended?***

College Staff believe that due to the low uptake for this program, the program is not working as intended. This program increases the administrative workload for College Staff in the form of processing applications, referring applications to the Registration Committee, utilizing meeting times of the Registration Committee, processing annual renewals, and following up with late renewal members.

Honorary program members believe the value proposition is low relative to the annual renewal fee required.

- ***Is there a need to make improvements at this time?***

Some potential improvements may consist of the following:

- Eliminating the annual renewal fee and renewal application in favour of an upfront initial application fee.
 - Enhance utilization of the honorary program members by separately consulting with them on regulatory consultations due to their vast experience practicing the profession.
 - Advertise that participation on CDO's webinar series and quality assurance programming are included.
- ***Should the College have a deadline for application after the member resigns from the College? Retroactive deadline?***
 - ***When should the revised program be implemented?***

Program Variables

The following are potential program variables that can be modified/amended:

- ***Initial application fee:*** One-time, Yearly renewal
- ***Requirement to practise the profession in good standing:*** 0, 5, 10, 15, 20, 25+
- ***Yearly renewal obligation:*** yes, no
- ***Approval by the Registration Committee only:*** yes, no
- ***Approval by the Registrar only:*** yes, no
- ***Lifetime status (provisions for revocation):*** yes, no

Options

After review and discussion of this item, Council may elect to:

1. Make changes to the program as directed
2. Make no changes to the program

3. Discontinue the program
4. Other

Attachments

1. Honorary Retirement Status Consultation Feedback Results from Health Regulatory Colleges
2. Survey Feedback Results from Retired Denturists
3. Current Program Provisions
4. Letter to the DAO re: Program Feedback
5. Letter to the DGO re: Program Feedback

Regulator	Has Retired Status	Title Conferred	Regulatory Mechanism for Enactment	Requirements	Program Provisions	Renewal	Approval Mechanism	Comments
College of Denturists	Yes	Retired	By-Law	Retire in good standing, not be in default of any fees, fines, or other amounts owed, agree not to practice Denturism	Receive status designation, continued receipt of College communications, participate in activities of the College except voting or holding elected office, remain on the public register.	Application fee of \$50.00 Annual renewal and fee of \$50.00	Registration Committee	-
College of Chiropractors	Yes	Retired	Registration Regulation	In addition to requirements set in the Registration Regulation, applicant must: 1. hold either a general or inactive certificate of registration 2. not be in default of any fees, fine, or other amounts owed, 3. provide written undertaking to not engage in the Chiropractic practice or submit accounts to WSIB	Receive status designation, continued receipt of College communications, vote within their district, keep their Certificate of Authorization active (even if they are non-practicing), 2 years provision to return to the General Class after retirement	Annual renewal and fee of \$100.00	College Staff	Most understand it is a non-practising category, but unaware of annual renewal responsibility and accompanying declaration questions. Some commentary on annual renewal obligation from retired members.
College of Naturopaths	Yes	Life Registrant, Retired	By-Law	Registered for 25 years, Retire in good standing, Carry run-off insurance for 5 years after ceasing practice	Receive status designation, continued receipt of College communications, participate in activities of the College except voting or holding elected office, remain on the public register as a Life Registrant, maintain Life Registrant status with no registration fees	No annual renewal, no annual fee, no application fee	Registration Committee	-
College of Physicians and Surgeons	Yes	Emeritus	By-Law	Registered for 25 years as independent (full) license with no disciplinary history	Receive status designation and continued receipt of College communications	Annual renewal application, no annual fee, no application fee	Registration Committee	-
College of Psychologists	Yes	Retired	Registration Regulation	Must submit application not less than 60 days prior to applicant intending to cease practising the profession, must be in good standing, not in default of any fees or regulatory obligations, not a subject of any disciplinary or fitness to practise proceedings	Receive status designation, continued receipt of College communications, vote in Council elections, sit on Committees. Effective June 1, 2021, members with this Certificate are permitted to teach psychology classes, not to include supervision of student's clinical work.	Application fee of \$50.00 Annual renewal and fee of \$238.50	Registrar	Large administrative burden for staff due to annual renewal and tracking of non-respondents. Unable to change program provisions due to regulation enactment of program. Noted the significant administrative burden to process retired renewal over the active general class renewal.
College of Optometrists	Yes	Life Registrant, Retired	By-Law	Registered for 25 years, retire in good standing, not a Council Member, has not been suspended or revoked in the previous 6 years, has not had a TCL in the previous 6 years, not subject of any disciplinary or fitness to practise proceedings.	Receive status designation, continued receipt of College communications, cannot vote or hold elected office, continue to use Dr. designation with non-practising clarification, Life Member certificate provided	No annual renewal, no annual fee, no application fee	Registration Committee	-
College of Pharmacists	Discontinued	Emeritus (Discontinued March 2022 due to waning interest, public interest perspective)	Unknown	25 years registered in good standing, no disciplinary history	-	-	-	-
College of Respiratory Therapists	Discontinued	Retired (Discontinued due to waning interest, public interest perspective)	By-Law and Policy	-	-	-	-	-
College of Nurses	Discontinued	Retired (Discontinued in 2013, enacted Non-Practicing Class instead)	Unknown	65 years of age (source to be confirmed)	-	-	-	-
All other Health Regulatory Colleges do not have provisions for a Life Member or Retired Status. The majority of the Colleges who do not have a Retired Status have an Inactive Class of Registration								

Q1 Do you have any general feedback regarding the Honourary Retirement Status?

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	I think it is a valuable option registration. I am no longer practicing in denturism, to maintain my registration without a practice income or other use of the registration would be substantial financial burden without purpose. As a retired DD I can remain connected to the profession and contribute to the college or association in some capacity if I wish. The retired status can provide a pool of experience and continuity to the administrative bodies. It also allows you to keep the designation you have earned, albeit honorary, without having to meet the education component of renewal as you move on to others stages of your life.	5/4/2022 8:15 AM
2	The honorary retirement status is an excellent avenue to keep retired denturists connected to the profession. It is potentially a resource for the college to receive valuable input from experienced denturists	4/22/2022 4:20 PM

Q2 Do you have any comments regarding the Annual Renewal Process for the retirement status?

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	I had some difficulty this year as the online renewal would not work for me, I don't know if that was systemic or an individual case.	5/4/2022 8:15 AM
2	I find it a bit strange that the retirement status is labeled honourary when there is an annual fee. I don't feel very honoured when I have to pay for it. Perhaps remove the label "honourary " or make it a one time application fee.	4/22/2022 4:20 PM

Q3 Do you have any comments as it relates to the annual renewal fee? (\$50.00 + HST)

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	I think this is a reasonable amount. Were it too much more, it would become more difficult to justify the expense to keep an honorary title and contact with a profession you no long practice.	5/4/2022 8:15 AM
2	There has to be value for the money. Even though \$50 isn't much money by today's standards if someone doesn't see any value in it they won't pay. By value I don't necessarily mean that the retiree receive anything but more along the lines of feeling like they are a valuable asset to the college. If the retiree pays \$50.00 a year and receives a few emails a year that's not much incentive to stay with the program. If the retiree is occasionally asked his opinion on certain topics he/she would feel more valued.	4/22/2022 4:20 PM

Q4 Do you have any comments as it relates to the requirements to obtain this status? Current requirements:-Approval by Registration Committee- Member must be in good standing-Member must have retired from Denturism

Answered: 1 Skipped: 1

#	RESPONSES	DATE
1	Maybe there should be a minimum number of years practicing. Perhaps 10 years??	4/22/2022 4:20 PM

Q5 Do you have any comments as it relates to the entitlements of Retired members
 Current Entitlements:-remain on the Public Register as a retired member-participate in activities of the College except voting or holding elected office

Answered: 1 Skipped: 1

#	RESPONSES	DATE
1	I'm happy with the entitlements	4/22/2022 4:20 PM

Q6 Do you have any comments on the termination of retired status?-has been found to be default of any obligation to the College under the regulations or the by-laws-practices the profession or uses the protected title without first obtaining a Certificate of Registration-acts in a manner that is inconsistent with an ongoing association with the College

Answered: 1 Skipped: 1

#	RESPONSES	DATE
1	This is good	4/22/2022 4:20 PM

Q7 Do you have any suggestions for improving the Honourary Retired Status?

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	Ensure a clear return path for anyone who decides that retirement was not the path for them.	5/4/2022 8:15 AM
2	I have been an honourary retired member for a year. I practiced for 38 years and served the college on different levels right from the start including when we were Denture Therapists. I haven't been asked my opinion on anything in the last year. Perhaps reach out to the retired status members for input on various subjects.	4/22/2022 4:20 PM

Q8 What are your thoughts for the following: New requirement for minimum number of years of practice in order to obtain the honorary title e.g. 5 years, 10 years, 15 years, 20 years, 25+ years.

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	How do you decide if someone is acceptable for retirement and what that timeframe should be? They may have earned their registration then decided to work in another aspect of the field; ie research or sales. Or need to leave for personal or family reasons, raising children, eldercare, illness, etc. Do those reasons invalidate their achievement of earning their registration because they haven't practiced a required number of years?	5/4/2022 8:15 AM
2	Maybe there should be a minimum number of years practicing. Perhaps 10 years??	4/22/2022 4:20 PM

Q9 What are your thoughts for the following: One larger initial application fee vs. ongoing annual renewal

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	That might be a good idea, it is easy to lose track of the registration process once you no longer practice. although, it also limits the communication with retired members, thereby making it less likely they will be interested in contributing to the profession through work with the college or association.	5/4/2022 8:15 AM
2	I find it a bit strange that the retirement status is labeled honourary when there is an annual fee. I don't feel very honoured when I have to pay for it. Perhaps remove the label "honourary " or make it a one time application fee or both	4/22/2022 4:20 PM

Q10 Any other comments/feedback you would like to provide?

Answered: 2 Skipped: 0

#	RESPONSES	DATE
1	I would like to thank you for putting this program in place. I gave up my practice, as it no longer made sense for me, but it is a difficult decision admit it is time to end something you have worked long and hard to achieve and build. I am proud of the fact that I became a dentist and did not want to simply walk away from my time invested in this profession. Being able to say "I am a retired dentist" rather than "I was a dentist" makes a difference.	5/4/2022 8:15 AM
2	If the college is looking to tap into the experience of the retired class then maybe set up a virtual committee of retirees so they can debate various subjects and report back to the college. Being registered with the college it would be easy to obtain NDA's from the retired members to ensure confidentiality.	4/22/2022 4:20 PM



Current Retirement Program Provisions

Retired Denturists

Individuals who have resigned their Certificate of Registration with the College while in good standing are permitted to apply to use a "Retired" honorary status.

The by-laws regarding the Retired Status are:

Designation of Retired Members

Upon receiving a request, the Registration Committee may designate a Member a Retired Member if,

- i. at the time of making the request, the Member is in good standing; and
- ii. the Member has retired from the practice of Denturism and agrees not to engage in the practice of Denturism.

Entitlements of Retired Members

A Retired Member is entitled to,

- i. remain on the register of the College as a Retired Member;
- ii. participate in the activities of the College; however, the Retired Member is not entitled to vote in the election of the Council or hold elected office; and
- iii. to use the title Denturist (Retired), Registered Denturist (Retired) or DD (Ret).

Termination of Retired Membership Status

A Retired Member status shall terminate if the Registrar has reasonable grounds to believe that the person,

- i. has been found to be in default of any obligation to the College under the regulations or the by-laws;
- ii. practises the profession or uses the protected title without first obtaining a certificate of registration from the College; or
- iii. otherwise acts in a manner that is inconsistent with an ongoing association with the College.

Retired Members that wish to return to the Active class of registration will be required to apply for a Certificate of Registration and meet the registration requirements in place at the time of the application.

Annual Retired Status Renewal:

A Retired Member shall renew their Retired status annually during the College's annual renewal period.

The Renewal period generally opens March 1 and closes April 14 of each year. Retired Members are required to renew their Retired status annually by logging onto the Member Portal during the renewal period. The current annual renewal fee is (\$50 + HST = \$56.50).



Jaro Wojcicki, President, DAO
2285 Dunwin Drive, Suite 9
Mississauga, Ontario, L5L 3S3

July 29, 2022

Sent by email to: [REDACTED]

Dear Jaro Wojcicki, President,

Re: Honorary Retirement Status

I am writing to you today to garner your feedback on CDO's honorary retirement status program.

As you are aware, the CDO launched in 2018, an honorary retirement status program that allows retiring Denturists to retain the Registered Denturist title followed by "retired". The program's goal was to allow retiring Denturists to retain the title they so proudly hold after decades of serving Ontarians with denturism services. We wanted to encourage retired Denturists to stay active in the profession, retain the honour of being a registered health care professional, and to allow them to participate in CDO events and activities.

The CDO Council received a briefing on how this honorary retirement status program has performed over the past three years. We have seen an extremely low uptake for this program and have some certain ideas as to why.

I have attached to this letter the briefing note provided to Council at its June 17, 2022, meeting. I have also attached the current program provisions in appendix 1, and potential variables for the program in appendix 2. I have also instructed Ms. Tera Goldblatt, Manager of Regulatory Programs, to canvass all 26 health regulators in Ontario to learn if they have a similar program and what program provisions they currently have. I have begun the process of reaching out to Registrar colleagues to canvass the same information.

I am writing to you today to garner your feedback on the current honorary retirement status program, and whether you have any constructive feedback on how the CDO could potentially improve this program. The CDO is not looking to eliminate this

program, but simply wants to explore ways of improving it to ensure the program meets its intended goals.

The CDO Council has instructed CDO Staff to return with more information of other programs for its September 9, 2022, Council meeting. **Should you wish to provide formal or informal comments on the program, please feel free to share your thoughts with me by August 24, 2022.**

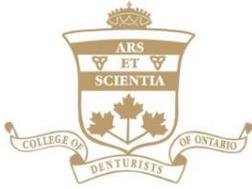
I apologize in advance for the tight turnaround especially during the summer months. Should you require additional time for the feedback, please let me know. The CDO Council is not committed to making a formal decision at its September 9, 2022 meeting, but we will strive to provide Council members with as much information as possible to make an informed decision. They may also choose to postpone a decision and direct staff for further research, or if they feel they have enough feedback and information they may choose to make amendments to the program.

Thank you in advance for all your consideration, I understand this is an important program for retired Denturists. I want to continue to honour their legacy by ensuring this program is working as intended.

Yours sincerely,



Roderick Tom-Ying
Acting Registrar & CEO



Mr. Harry Orfanidis & Mr. John Kallitsis
18 Martin Grove Road,
Etobicoke, Ontario, M9B 4J9

July 29, 2022

Sent by email to: [REDACTED], [REDACTED]

Dear Harry and John,

Re: Honorary Retirement Status

I am writing to you today to garner your feedback on CDO's honorary retirement status program.

As you are aware, the CDO launched in 2018, an honorary retirement status program that allows retiring Denturists to retain the Registered Denturist title followed by "retired". The program's goal was to allow retiring Denturists to retain the title they so proudly hold after decades of serving Ontarians with denturism services. We wanted to encourage retired Denturists to stay active in the profession, retain the honour of being a registered health care professional, and to allow them to participate in CDO events and activities.

The CDO Council received a briefing on how this honorary retirement status program has performed over the past three years. We have seen an extremely low uptake for this program and have some certain ideas as to why.

I have attached to this letter the briefing note provided to Council at its June 17, 2022, meeting. I have also attached the current program provisions in appendix 1, and potential variables for the program in appendix 2. I have also instructed Ms. Tera Goldblatt, Manager of Regulatory Programs, to canvass all 26 health regulators in Ontario to learn if they have a similar program and what program provisions they currently have. I have begun the process of reaching out to Registrar colleagues to canvass the same information.

I am writing to you today to garner your feedback on the current honorary retirement status program, and whether you have any constructive feedback on how the CDO could potentially improve this program. The CDO is not looking to eliminate this

program, but simply wants to explore ways of improving it to ensure the program meets its intended goals.

The CDO Council has instructed CDO Staff to return with more information of other programs for its September 9, 2022, Council meeting. **Should you wish to provide formal or informal comments on the program, please feel free to share your thoughts with me by August 24, 2022.**

I apologize in advance for the tight turnaround especially during the summer months. Should you require additional time for the feedback, please let me know. The CDO Council is not committed to making a formal decision at its September 9, 2022 meeting, but we will strive to provide Council members with as much information as possible to make an informed decision. They may also choose to postpone a decision and direct staff for further research, or if they feel they have enough feedback and information they may choose to make amendments to the program.

Thank you in advance for all your consideration, I understand this is an important program for retired Denturists. I want to continue to honour their legacy by ensuring this program is working as intended.

Yours sincerely,



Roderick Tom-Ying
Acting Registrar & CEO