

TO: Council

FROM: Governance Committee

DATE: May 28, 2018

SUBJECT: By-Law Amendment – Requiring Public Members to chair Council, ICRC and Discipline

PURPOSE:

To review proposed amendments to the COO by-laws pertaining to the eligibility criteria to chair the Council, the Inquiries, Complaints and Reports Committee and the Discipline Committee, and to determine whether to circulate these proposed amendments for public feedback.

BACKGROUND:

On May 30, 2017 the Ontario Government passed the *Protecting Patients Act* (also known as Bill 87), which resulted in significant amendments to the *Regulated Health Professions Act, 1991*.

In the lead up to Bill 87, the Ontario Government initiated a task force to look into patient sexual abuse. The Sexual Abuse Task Force released a report in 2016 in which one of its key recommendation was to transfer the investigation and adjudication of all sexual abuse complaints from the colleges to an independent public agency.

While at present, no steps have been taken to implement this particular recommendation, the Bill 87 amendments did include a provision that empowers the Minister to make regulations that would dictate all aspects of the structure of statutory committees, such as composition, panel quorum, eligibility requirements, and grounds for disqualification.

FOR CONSIDERATION: PROPOSED BY-LAW AMENDMENT

In an effort to continually advance its commitment to accountability and to fostering public trust, a proposal was put forward to consider amending the College's by-laws to require that a Public Member act as chair of any or all of the following:

- Council;
- ICRC; and/or
- Discipline Committee.

The rationale for doing so would be to ensure that a publicly appointed member who is not an optician oversees the work of the Council, as well as the two College committees that are tasked with investigating and prosecuting members for professional misconduct, including allegations of sexual abuse.

Presently, only one other health regulatory college in Ontario, the College of Denturists, requires the president of its council to be a public member.

Article 6.01 of the College of Denturists' By-laws provide as follows:

6.01 Eligibility for Nomination Only a member of Council is eligible for nomination or election as an officer of the College, and only a member of Council who has been appointed by the Lieutenant Governor in Council is eligible for nomination or election as President.¹

Another college, the College of Medical Laboratory Technologists, elects two vice-presidents: one of whom is an elected member, and one of whom is a public member:

23.3 Of the two Vice-Presidents, one shall be a member of the Council who is a member of the College, the other shall be a member of the Council appointed to the Council by the Lieutenant Governor in Council.²

At present, no health regulatory college requires the chairs of the ICRC or Discipline Committee to be public members.

¹ By-Laws of the College of Denturists of Ontario, <https://denturists-cdo.com/Resources/Legislation-Regs-By-laws/By-laws/CDO-By-laws.aspx>

² Consolidated Bylaws of the College of Medical Laboratory Technologists of Ontario, http://www.cmlto.com/images/stories/About_CMLTO/cmlto_cons_bylaws.pdf

RECOMMENDATION:

The Governance Committee recommends that the Council seek feedback from the public on whether it should amend the College's by-laws to require that the Council, the ICRC and the Discipline Committee be chaired by public members.

ACTION REQUIRED:

Attached is a chart which details the current language and proposed amendments to the by-laws. The proposed changes would amend the by-laws to require that:

- The President of the Executive Committee/Chair of Council be a Public Member, and the Vice-President of Executive Committee/Vice-Chair Council be an Elected Member
- The Chair of the ICRC be a Public Member
- The Chair of the Discipline Committee be a Public Member

Council is asked to decide whether to circulate the proposed by-law amendments for public feedback.

Proposed Amendments to the COO By-Laws

Current Language	Proposed Language
ARTICLE 10: STATUTORY COMMITTEE COMPOSITION	
<p>10.1 Executive Committee</p> <p>(a) The Executive Committee shall be composed of the President, the Vice-President and three additional Council Members. The Executive Committee shall consist of:</p> <p>(i) three Elected Council Members; and</p> <p>(ii) two Public Council Members.</p>	<p>10.1 Executive Committee</p> <p>(a) The Executive Committee shall be composed of the <u>following:</u></p> <p><u>(i) the President, who shall be a Public Council Member;</u></p> <p><u>(ii) the Vice-President, who shall be an Elected Council Member; and</u></p> <p><u>(iii) three additional members, two of whom shall be Elected Council Members and one of whom shall be a Public Council Member.</u></p>
<p>10.3 Inquiries, Complaints and Reports Committee</p> <p>(a) The Inquiries, Complaints and Reports Committee shall be composed of at least ten (10) Committee Members, being:</p> <p>(i) at least four Elected Council Members; and</p> <p>(ii) at least three Public Council Members.</p>	<p>10.3 Inquiries, Complaints and Reports Committee</p> <p>(a) The Inquiries, Complaints and Reports Committee shall be composed of at least ten (10) Committee Members, being:</p> <p>(i) at least four Elected Council Members; and</p> <p>(ii) at least three Public Council Members.</p> <p><u>(b) The chair of the Inquiries, Complaints and Reports Committee shall be a Public Council Member.</u></p>

<p>10.4 Discipline Committee</p> <p>(a) The Discipline Committee shall be composed of at least twelve (12) Committee Members, being:</p> <p>(i) at least four Elected Council Members; and</p> <p>(ii) all Public Council Members.</p>	<p>10.4 Discipline Committee</p> <p>(a) The Discipline Committee shall be composed of at least twelve (12) Committee Members, being:</p> <p>(i) at least four Elected Council Members; and</p> <p>(ii) all Public Council Members.</p> <p><u>(b) The chair of the Discipline Committee shall be a Public Council Member.</u></p>
<p>ARTICLE 12: COMMITTEE APPOINTMENTS AND PROCEDURES</p>	
<p>12.1 Chair and Vice-Chair</p> <p>(b) The chair and vice-chair of each committee, other than the Executive Committee, shall be elected from among the members of the respective committees. The election may take place at or before the first meeting of the year.</p>	<p>12.1 Chair and Vice-Chair</p> <p>(b) The chair and vice-chair of each committee, other than the Executive Committee, shall be elected from among the members of the respective committees, <u>having regard to the requirements set out in Articles 10.3 and 10.4.</u> The election may take place at or before the first meeting of the year.</p>