

BY-LAW NO. 5**QUALIFICATIONS AND APPOINTMENT OF NON-COUNCIL MEMBERS TO COMMITTEES OF THE COLLEGE**

1. This by-law applies with respect to the appointment by council of members who are not members of the council to a committee of the College.

2. In this by-law,

“committee member” means a member of a committee of the College who is not a member of the council;

“designated register address of a member” is,

- (a) the address in Ontario where the member practises or if the member practises at more than one address, the address designated by the member as his or her register address; or
- (b) if the member does not practise, the address in Ontario where the member resides;

“electoral districts” means the electoral districts as set up in the by-laws of the College governing election of council members save and except that for the purposes of this by-law Electoral District 3A being composed of the territorial districts of Algoma, Cochrane, Manitoulin, Nipissing, Timiskaming and the Regional Municipality of Sudbury, and Electoral District 3B being composed of the territorial districts of Kenora, Rainy River and Thunder Bay;

“eligibility date” means, in the case of a member applying for random selection, 9:00 a.m. on the day 14 days prior to the day on which the random selection is to take place and, in the case of a member applying for appointment to the professional liability program committee, 9:00 a.m. on the day upon which applications for the appointment must be submitted to the registrar.

ELIGIBILITY FOR APPOINTMENT

3. (1) A member is eligible for appointment to a committee if, on the eligibility date,
- (a) in respect of a member who is seeking to be appointed through the random selection process, the member completed and signed a written application in a form approved by the council and that form was received by the registrar;
 - (b) in respect of a member who is seeking to be appointed through the random selection process, the member was not randomly selected in the two consecutive selections immediately prior;
 - (c) the member holds a general or specialty certificate of registration;
 - ~~(d) the member has been a member of the College holding a general or specialty certificate of registration for a minimum of five years;~~
 - (d.1) if a member has been found guilty of an offence under the Criminal Code (Canada), a period of at least three years has elapsed since the member fully complied with any penalty imposed as a result of that finding or if no penalty was imposed, a period of at least three years has elapsed since the finding was made;
 - (e) the member is not in default of any fees, fines or other amounts owed to the College;
 - (f) the member is not in default of completing and returning any form prescribed by the Regulations or required by the by-laws of the College;
 - (g) the member is not the subject of any disciplinary or incapacity proceeding;
 - (h) the member's certificate of registration is not subject to a term, condition or limitation other than one applicable to all members

holding that class of certificate;

- (i) a period of at least three years has elapsed since the member complied with all aspects of an order of a panel of the discipline or fitness to practise committee;
 - (j) if the member was disqualified by the council from serving as a member of a council or a member of a committee, a period of at least three years has elapsed since that disqualification;
 - (j.1) the member is not ineligible for election or selection to council as a result of the provisions of subsection 8(3) or subsection 23(4) of By-Law No. 6¹;
 - (k) the member is not and has not been during the previous two years,
 - I a director or other member of the board of directors, governing council or other governing body of;
 - II officer of; or
 - III Executive Director, Chief Administrative Officer or other appointed official of
- the Canadian Dental Association, Ontario Dental Association, a national or provincial dental specialty association or organization or other like national or provincial association or organization; and
- (l) the member is not and has not been engaged as a dental consultant to a third party dental benefits provider during the previous three years.

~~(1.1) For greater certainty, the provisions of clause (b) of subsection (1) cease to apply to a member in the calendar year which is two years~~

¹ Subsection 8(3) and subsection 23(4) of By-Law No. 6 make members who have been elected or selected to council for four consecutive terms ineligible to be re-elected or re-selected until they have remained off council for at least two consecutive terms.

~~following the member's last random selection.~~

- (1.2) An appointment through the random selection process due to a vacancy, including an appointment pursuant to subsection 16(5), shall be considered a selection in determining whether a member is ineligible for appointment pursuant to clause (b) of subsection (1).
- (2) A member may be either a committee member or a member of the council but not both.
- (3) In the event a member who is a committee member becomes a member of council, the member's appointment as a committee member automatically terminates.
- (4) A member who has applied to be appointed as a committee member and who is also standing for election to council in an electoral district election held on the same date as the random selection of committee members [pursuant to subsection 9(1)] is ineligible for appointment as a committee member if the member receives the highest number of votes in that electoral district's election.

DISQUALIFICATION

4. (1) The council shall terminate the appointment of a member to a committee if council is satisfied that the member,
 - (a) ceased to meet the eligibility requirements for appointment to a committee set out in section 3;
 - (b) is found to have committed an act of professional misconduct or is found to be incompetent by a panel of the discipline committee;
 - (c) is found to be an incapacitated member by a panel of the fitness to practise committee;

- (d) fails, without reasonable cause, to attend three consecutive meetings of a committee of which he or she is a member;
 - (e) fails, without reasonable cause, to attend a hearing of a panel of a committee for which he or she has been selected; or
 - (f) breaches section 36 of the Regulated Health Professions Act, 1991.
- (2) A member whose appointment as a committee member is terminated under subsection (1) ceases to be a member of the committee.
 - (3) A member of a committee appointed under this by-law is also subject to disqualification by council for breaching the College's Conflict of Interest By-Law.

RESIGNATION

- 5. (1) If a committee member resigns, the resignation shall be irrevocable and may not be withdrawn.
 - (2) The resignation is effective upon receipt by the president, vice-president or registrar.
- 6. There shall be eighteen members appointed by council to serve on the committees of the College and each member shall be appointed by council in accordance with this by-law.
- 7. (1) One member shall be randomly selected from eligible candidates from each of the electoral districts including Electoral District 3A and 3B in accordance with the provisions of sections 8 to 12.
 - (2) Five members shall be selected as members of the professional liability program committee in accordance with the provisions of section 17.

ELIGIBLE CANDIDATES – RANDOM SELECTION

- 8. A member is eligible for random selection in the electoral district in which his or her designated register address is situate.

9. (1) The random selection under subsection 7(1) shall take place on the same date as the election of council members (not including by-elections), namely, on the second Wednesday of December in the year 2002 and in every second year after that.
- (2) Not later than forty-five days before the date of the random selection, the registrar shall notify every member of the opportunity to be appointed as a committee member, the eligibility date, the eligibility criteria and the procedure to follow in order to be a candidate for random selection.
10. The registrar shall supervise the random selection under subsection 7(1) and without limiting the generality of the foregoing shall
 - (a) determine whether each member whose name has been put forward for consideration is eligible for appointment;
 - (b) separate the eligible candidates by electoral district (including electoral district 3A and 3B) based on the member's designated register address.
11. Where the registrar determines that any member is not eligible for appointment, the registrar shall notify the member as soon as possible as to why the registrar believes that the member is not eligible and provide the member with an opportunity to make written submissions to the executive committee contesting the registrar's ruling. The executive committee shall have the final say as to whether an individual is or is not eligible for random selection.
12. The name of each of candidate eligible for random selection shall be placed in thirteen separate boxes segregated by electoral district (including 3A and 3B) and one name shall be drawn from each of the boxes at random by the registrar or his/her designate, in the presence of two scrutineers appointed by the registrar.
- 12.1 (1) Following the random selection, the registrar or his designate, shall personally contact each member who was randomly selected and advise them of that fact as well as of the requirement that the member submit a curriculum vitae to the executive committee within 5 days or such greater period as shall be permitted by the registrar.

- (2) If the registrar or his designate is unable to personally contact the randomly selected member within two days of the random selection taking place, the registrar shall send by courier a notice in writing containing the information referred to in subsection (1).
- (3) A member who is randomly selected and who fails to provide the curriculum vitae referred to in subsection (1) within the time specified therein shall be deemed to be disqualified.

13. Where there is an interruption of mail service during the process to obtain eligible candidates, the registrar shall extend the date for the random selection for such period as the registrar considers necessary to compensate for the interruption.

13.1 In the event there is no candidate eligible for random selection in any one or more of the thirteen separate boxes segregated by electoral district [including 3A and 3B] as provided for in section 12, the executive committee may select, in such manner as it considers appropriate, a member who has his or her designated register address in the electoral district from which no eligible candidates were available, to recommend to council for appointment.

PLACING RANDOMLY SELECTED MEMBERS ON COMMITTEES

- 14. (1)** The council, after receiving the recommendations of the executive committee, shall appoint the randomly selected members to the committees of the College, other than the professional liability program committee, in accordance with the by-laws of the College or any protocol established by the council.
- (2) Council may remove any committee member appointed in accordance with subsection (1) from a committee and reassign that committee member to another committee.

TERM OF OFFICE – RANDOMLY SELECTED MEMBERS

15. (1) Except in the case of an appointment due to a vacancy, the term of office of a committee member appointed hereunder commences on the date of his or her appointment and continues until the council meeting next following the general election of members to council (not including by-elections).
- (2) In the case of an appointment due to a vacancy, the term of office shall be for the balance of the term of office of the person who he or she replaced.
- (3) Subject to clause (b) of subsection 3(1), nothing herein prevents a committee member from being reappointed.

VACANCY – RANDOMLY SELECTED MEMBERS

16. (1) If a vacancy occurs as a result of the death, resignation, disqualification or other termination of a committee member who was randomly selected, the registrar shall determine from which electoral district the committee member was randomly selected and shall randomly select from the balance of the eligible candidates of that electoral district as at the previous election date a replacement of candidate.
- (2) After selecting the replacement candidate, that member shall be contacted by the registrar to determine if the member continues to wish to be considered for appointment and if so, whether that member is eligible for appointment.
- (3) To be eligible for appointment pursuant to subsection(2), the candidate must
 - (a) continue to have his or her designated register address in the electoral district from which he or she was randomly selected pursuant to subsection 16(1); and
 - (b) meet the eligibility criteria set out in clauses 3(1) (a) through (1), respectively, on the date when he or she was randomly selected

pursuant to subsection 16(1).

- (4) If the chosen candidate does not wish to serve or is determined by the registrar to be ineligible (subject to review by the executive committee), another name shall be chosen in the same manner as provided in this section until a willing, eligible candidate is selected at which point the executive committee shall recommend to the council the appointment of that candidate.
- (5) If no eligible candidate can be found, the executive committee may select, in such manner as it considers appropriate, a replacement candidate to recommend to council for appointment.

**ELIGIBLE CANDIDATES – PROFESSIONAL LIABILITY
PROGRAM COMMITTEE**

- 17. (1) At least sixty days prior to the anticipated expiry of the term of office of a professional liability program committee member, the registrar shall determine an eligibility date and advise all members of the opportunity to be appointed by council as a professional liability program committee member, the date and time upon which applications must be received, the eligibility criteria and the procedure to be followed to be a candidate.
- (2) The procedure may, with the approval of council or the executive committee, include the completion of a form or forms as well as the submission of relevant documentation including, without limitation, the applicant's curriculum vitae.
- (3) Where there is an interruption of mail service during the process to obtain eligible candidates, the registrar shall extend the date for the receipt of applications for such period as the registrar considers necessary to compensate for the interruption.
- (4) After the eligibility date, the registrar shall prepare a list of all eligible candidates and provide that list as well as documentation received from the candidate to the executive committee for its consideration. The executive committee shall prepare for council a list of recommendations for appointment of members to the professional liability program committee which list shall have the candidates ranked in order of the

executive committee's preference. The list shall contain at least the number of candidates in respect of which the executive committee anticipates that there will be positions to fill and may include the names of other eligible candidates who could be considered as alternatives.

- (5) Following the receipt of the executive committee recommendations, the council shall appoint members to the professional liability program committee.

TERM OF OFFICE – PROFESSIONAL LIABILITY PROGRAM COMMITTEE MEMBERS

18. (1) Subject to subsection (4), and except in the case of an appointment due to a vacancy, the term of office of a committee member appointed to the professional liability program committee hereunder commences on the date of his or her appointment and continues until the first regular council meeting in the third calendar year after the appointment.
- (2) In the case of an appointment due to a vacancy, the term of office shall be for the balance of the term of office of the person who he or she replaced.
- (3) Nothing herein prevents a professional liability program committee member from being reappointed however no person shall be reappointed where the reappointment would permit the person to serve as an appointee for more than nine consecutive years.
- (4) Notwithstanding the provisions of subsection (1), the appointment of two (of the five) committee members to the professional liability program committee which takes place at the initial meeting of council following the general election of elected members of the council in January, 2003, shall each provide for a term of office commencing on the date of his or her appointment and continuing until the first regular council meeting in the second calendar year after the appointment.

VACANCY – PROFESSIONAL LIABILITY PROGRAM COMMITTEE MEMBERS

- 19. (1)** If a vacancy occurs as a result of the death, resignation, disqualification or other termination of a member appointed to the professional liability program committee, the executive committee shall recommend to the council a replacement to fill the vacancy from those eligible candidates as at the previous eligibility date ensuring that the recommended member meets the eligibility criteria set out in clauses (a) through (1), respectively, on the date he or she was selected by the executive committee in accordance with this subsection.
- (2) If no acceptable eligible candidate can be found, the executive committee may select, in such manner as it considers appropriate, a replacement candidate to recommend to council for appointment.