

<b>SCHEDULE 7 TO BY-LAW NO. 1</b>
-----------------------------------

**CODE OF CONDUCT FOR COUNCIL MEMBERS****PREAMBLE**

1. In order for members of council to properly perform their duties, it is expected that each member of council shall:
  - (a) familiarize himself/herself with the *Regulated Health Professions Act, 1991*, the *Dentistry Act, 1991*, the regulations under those *Acts*, the by-laws of the College, and any other records and documents which may be necessary for the performance of his/her duties,
  - (b) take part in committee work of the College and serve actively during his/her term of office on any committees to which he/she has been appointed,
  - (c) exercise care, diligence, skill and prudence in carrying out the business of the College,
  - (d) seek to enhance the public and the members' perception of the College, its council and the profession of dentistry, and
  - (e) observe the civilities of behaviour that is consistent with ladies and gentlemen who hold the position of members of the council.

**THE CODE OF CONDUCT**

2. In performing his/her duties, each member of council:

- 
- (a) shall comply with the provisions of the *Regulated Health Professions Act, 1991*, the *Dentistry Act, 1991*, the regulations made under both *Acts* and the by-laws of the College,
  - (b) shall ensure that confidential matters coming to their attention as members of council or committees are not disclosed by them except as required for the performance of his/her duties or as directed by the council,
  - (c) subject to the provisions of this Code of Conduct and any Conflict of Interest requirements, shall have the right to voice his/her opinion on subjects of concern to council and in so doing may, before a vote, exercise his/her ability to persuade other members to reach similar opinions. Such persuasive methods may be employed outside council meeting times with the understanding that there is no quid pro quo. In addition, such persuasive actions must not be used if the member being persuaded declares them to be unwelcome,
  - (d) shall not communicate to the members of any statutory committee in respect of any matter which is the subject of an application for registration or reinstatement, a complaint, an investigation by the College, a discipline or fitness to practise proceeding or which could be reasonably perceived as influencing or attempting to influence any member of a committee in making a statutory decision, except where he/she is a member of the panel/committee which is making the decision,
  - (e) subject to clause (d), may exercise his/her right to express his/her views to individual members of other committees (provided the committee member does not find them to be unwelcome) and have the right to ask to be present at a committee meeting (other than PLP or when a committee is making a statutory decision) by requesting permission from the chair. It should be clear that such members of council have observer status only and, as such, are not due any fees or expenses, cannot vote and can only take part in the discussion with the approval of the chair,

- 
- (f) shall be free when visiting local societies, study clubs or other similar gatherings, to state that the member disagreed with an issue decided by council and to point out exactly why the disagreement exists. When so engaged there shall be no reference to personalities nor any attempt to encourage a lack of respect for council or any member of council, and
  - (g) subject to the provisions of this Code of Conduct or any Conflict of Interest requirements, shall not be deprived of the right to clearly state his/her views on topics and to express those views forcefully provided that those expressions are confined to a discussion of facts and only facts. Discourse shall not be allowed to degenerate into attacks on or innuendoes between members of council.
3. Where the registrar believes, on reasonable and probable grounds, that a member of council may have breached the Code of Conduct, the registrar shall:
- (a) provide in writing to the member whose conduct has been brought into question the basis for the registrar's belief,
  - (b) provide that member with twenty days to provide a written response,
  - (c) once the written response has been received or the twenty days referred to in clause (b) has expired, provide the executive committee with the information referred to in clauses (a) and (b) above, and
  - (d) unless the executive committee directs that a special meeting of council be called, place the matter on the agenda of the next regular council meeting.
4. Where the registrar receives a written statement from a member of council alleging that another member of council has breached this Code of Conduct and the basis for that belief, the registrar shall:

- (a) provide a copy of the written statement to the member whose conduct has been called into question,
- (b) provide that member with twenty days to provide a written response,
- (c) once the written response has been received or the twenty days referred to in clause (b) has expired, provide the executive committee with the information referred to in clauses (a) and (b) above, and
- (d) unless the executive committee directs that a special meeting of council be called, place the matter on the agenda of the next regular council meeting.

## **SANCTIONS**

- 5. Where an alleged breach of this Code of Conduct occurs at a council meeting while council is in session, such alleged breach would be handled by the chair in accordance with normal parliamentary rules and where council determines that a breach of this Code of Conduct did take place,
  - (a) the chair would request the member of council to refrain from inappropriate conduct;
  - (b) if this action fails, the chair would provide a sterner warning by calling the member of council to order;
  - (c) if the inappropriate conduct continues, the council may by resolution order an apology and may suspend the member of council from the meeting until the apology is forthcoming.
- 6. (1) Where an alleged breach of this Code of Conduct, other than one referred to in section 5 occurs, and unless council determines to hold a hearing in accordance with subsection (2), council shall adopt a process to deal with the alleged breach which is consistent with normal parliamentary rules and which provides

- 
- the member of council whose conduct has been called into question with an opportunity to explain to council his/her actions. Where the council determines, without holding a hearing, that a breach of this Code of Conduct did take place, the council may do any of the following:
- (a) request a change in the behaviour of the member of council;
  - (b) demand an apology;
  - (c) as a final action, suspend the member of council until an apology or resolution acceptable to the council is reached.
- (2) Where council determines that the alleged breach, if proven, may be sufficiently serious to warrant the disqualification of the member of council whose conduct has been called into question, it shall appoint a retired Justice of the Ontario Superior Court of Justice (“Commissioner”) to hold a hearing to determine:
- (a) if there has been a breach of the Code of Conduct;
  - (b) the circumstances surrounding the breach; and
  - (c) the effect or anticipated effect on the College of the breach.
- (3) The Commissioner shall determine who, in addition to the member whose conduct has been called into question, shall be parties to the hearing and, where appropriate, may appoint legal counsel to present evidence of the alleged breach.
- (4) Where council determines to hold a hearing as referred to in subsection (2), the Commissioner shall use a process that provides the member whose conduct is in question with full and continuing disclosure of the evidence which will be presented at the hearing as well as an opportunity to make written or oral submissions or both to the Commissioner. To the extent reasonably possible,

- the provisions of the *Statutory Powers Procedure Act* shall be used in respect of the hearing.
- (5) Where council determines to hold a hearing as referred to in subsection (2), it may suspend the member whose conduct has been brought into question from some or all of his/her duties with the council, including all committees of the College, until the matter is finally disposed of if the council is satisfied that the suspension is necessary to ensure the integrity of the College and/or its processes.
  - (6) The hearing shall be completed within forty-five days of the appointment of the Commissioner or such other period of time as shall be permitted by the Executive Committee.
  - (7) After considering all of the evidence, the Commissioner shall determine and provide a written report to council which shall include the Commissioner's findings as to:
    - (a) whether a breach of the Code of Conduct occurred;
    - (b) whether the breach was due to inadvertence or as a result of the wilful conduct or the gross neglect of the member; and
    - (c) whether the council member's action has had or is likely to have serious and substantial negative implications to the College;as well as the Commissioner's reasons for that opinion.
  - (8) The Commissioner shall deliver to the parties and to the registrar the report referred to in subsection (7) as soon as possible following the completion of the hearing.
  - (9) The registrar shall provide a copy of the report to the executive committee and unless the executive committee directs that a special meeting of council be

- 
- called, the report and the decision of what action to take as a result of the report shall be included in the agenda at the next meeting of council.
- (10) Where the Commissioner determines that no breach of the Code of Conduct occurred, council shall take no further action and any suspension imposed pursuant to subsection (4) shall automatically be lifted upon the release of the report.
- (11) Where the Commissioner determines that a breach of the Code of Conduct occurred, council may adopt either in whole or in part any or all of the findings of the Commissioner and where council determines that a serious breach of the Code of Conduct occurred it may:
- (a) demand an apology and suspend the member from council until an apology is received or other resolution acceptable to council is reached; or
  - (b) where council determines that the breach was wilful or caused by the gross neglect of the member or, that although inadvertent, the council member's action has had or is likely to have serious and substantial negative implications to the College, request the immediate written resignation of the member from the council and if not received forthwith, disqualify the member from sitting on council.
- (12) If the council disqualifies the member in accordance with clause (b) of subsection (11), it shall:
- (a) in the case of a member of council appointed by the Lieutenant-Governor in Council, immediately advise the Minister of its finding; and
  - (b) in the case of a member of council who is a member of the profession, treat the situation in the same way as if a vacancy had been created as a result of the resignation of that council member.

**PROCEDURAL AND OTHER SAFEGUARDS**

7. (1) In determining whether a hearing should be held, whether an interim suspension should be imposed, whether a sanction should be imposed and, if so, the appropriate sanction to be imposed, council shall be mindful of the general principle that sanctions, except in the most extreme cases, shall not be used to punish members of council, but rather, to change potentially harmful behaviour.
  - (2) Council shall not consider whether to hold a hearing, suspend the member as a member of council or take any action to disqualify a member of council without first providing that member with an opportunity to address council either personally or by his/her solicitor.
8. A resolution of at least two-thirds of the members of council at a meeting duly called for that purpose shall be required in order to:
- (a) hold a hearing referred to in subsection 6(2);
  - (b) impose an interim suspension on the member of council in accordance with subsection 6(5); or
  - (c) disqualify a member of council in accordance with clause (b) subsection 6(11).
9. The member of council whose conduct is the subject of concern shall not take part in any council deliberation or vote which is taken pursuant to this Code of Conduct.
10. Any deliberation or vote taken under this Code of Conduct shall be with the public excluded from the meeting unless the member whose conduct is the subject of concern requests that a public meeting be held.

- 11.** A member of council who is the subject of a vote taken under this Code of Conduct shall not be present during the vote on those issues and shall not be counted as a member of council in determining whether a quorum exists or whether the resolution was carried or defeated.

121621v2