

## **DRAFT REGISTER BY-LAWS**

### **PART 18 - REGISTER**

#### **18.01 Maintaining the Register**

The Registrar shall maintain a register on behalf of the College in an up to date manner.

#### **18.02 Information that the Code Requires be Kept in the Register**

Under subsection 23(2) of the Code and subject to certain exceptions contained in the Code, certain information must be contained in the register and must be available to the public. Since June 4, 2009, the register has been required to contain the following information, which is designated by the Code as public:

- (1) each Member's name, business address and business telephone number, and, if applicable, the name of every health profession corporation of which the member is a shareholder;
- (2) the name, business address and business telephone number of every health profession corporation;
- (3) the names of the shareholders of each health profession corporation who are Members;
- (4) the Member's class of registration and specialist status (specialist status not applicable to the College at this time);
- (5) the terms, conditions and limitations that are in effect on each Member's certificate of registration;
- (6) a notation of every matter that has been referred by the ICRC to the Discipline Committee under Section 26 of the Code, and has not been finally resolved until the matter has been resolved;
- (7) the result, including a synopsis of the decision, of every disciplinary and incapacity proceeding, unless a panel of the relevant Committee makes no finding with regard to the proceeding;
- (8) a notation of every finding of professional negligence or malpractice, which may or may not relate to the Member's suitability to practise, made against the Member, unless the finding is reversed on appeal;
- (9) a notation of every revocation or suspension of a certificate of registration;
- (10) a notation of every revocation of a certificate of authorization;

- (11) information that a panel of the Registration Committee, Discipline Committee or Fitness to Practise Committee specifies shall be included in the register;
- (12) where findings of a panel of the Discipline Committee are appealed, a notation that they are under appeal, until the appeal is finally disposed of;
- (13) where, during or as a result of a proceeding under Section 25 of the Code, the Member has resigned and agreed never to practise again in Ontario, a notation of the resignation and agreement; and
- (14) any other information that is required to be kept in the register in accordance with these By-laws.

### **18.03 Additional Information that the College Requires Be Kept in the Register**

For the purposes of paragraph 14 of subsection 23(2) of the Code, and subject to sections 18.05 and 18.06, the register shall contain the following information, which is designated by the College as public pursuant to subsection 23(5) of the Code:

- (1) the Member's gender;
- (2) the date that the Member first became a Member or, if the Member was licensed under the *Health Disciplines Act*, the date when the Member was first issued a licence by the College;
- (3) each Member's certificate of registration number and the date it was issued;
- (4) a description of the Member's degree in optometry (or equivalent academic achievement) held by the Member and the year the Member obtained the degree (or equivalent academic achievement);
- (5) any language in which the Member is able to communicate and provide services to patients;
- (6) where the College is aware that the Member is currently registered or licensed to practise a profession inside or outside of Ontario, a notation of that fact;
- (7) the name and address of any optometric practise for which the Member is an employee, contractor or otherwise;
- (8) if applicable, a notation concerning the authorization by the College to prescribe drugs, and the date on which the Member received such authorization;
- (9) each Member's certificate of authorization, including:
  - (a) the name of the corporation; and

- (b) the date it was issued;
- (10) upon revision of a certificate of registration or certificate of authorization:
    - (a) details of the revision; and
    - (b) the effective date of the revision;
  - (11) the effective date of resignation of the Member;
  - (12) upon presentation of evidence of the death of the Member, the date or approximate date of death of the Member;
  - (13) a summary of any current charges against a Member, of which the College is aware in respect of a federal, provincial or other offence that the Registrar believes is relevant to the Member's suitability to practise;
  - (14) a summary of any currently existing conditions, terms, orders, directions or agreements relating to the custody or release of the Member in provincial, federal or other offence processes of which the College is aware and that the Registrar believes is relevant to the Member's suitability to practise;
  - (15) a summary of any findings of guilt of which the College is aware if made by a court after January 17, 2015, against a Member in respect of a federal, provincial or other offence that the Registrar believes is relevant to the Member's suitability to practise;
  - (16) where the Member's certificate of registration is subject to any terms, conditions and limitations, the reason for them, the Committee that imposed them and the date they took effect;
  - (17) where terms, conditions or limitations on the Member's certificate of registration have been varied or removed, the effective date of the variance or removal of those terms, conditions and limitations;
  - (18) where the Member's certificate of registration is subject to a suspension for failure to pay a fee, the reason for the suspension and the date of the suspension in addition to the fact of the suspension;
  - (19) where a suspension of the Member's certificate of registration is lifted or otherwise removed, the effective date of the lifting or removal of that suspension;
  - (20) where the Member's certificate of registration is reinstated, the effective date of the reinstatement;
  - (21) where a finding of professional negligence or malpractice is contained in the College's register, the following information;

- (a) the date of the finding;
  - (b) the court and the court file number;
  - (c) a summary of the finding; and
  - (d) the status of any appeal respecting the finding made against the Member;
- (22) where applicable, a summary of any restriction on the Member's right to practise:
- (a) resulting from an undertaking given by the Member to the College or an agreement entered into between the Member and the College; or
  - (b) of which the College is aware and which has been imposed by a court or other lawful authority, in which event the summary of the restriction shall also include the source of the restriction;
- (23) where, for a complaint received on or after October 1, 2015 or for a matter in which an investigator is appointed under 75(1)(a) or 75(1)(b) of the Code on or after October 1, 2015, a panel of the ICRC requires the Member to appear before a panel of the Committee to be cautioned,
- (a) a notation of that fact,
  - (b) a summary of the panel's decision, including a summary of the caution,
  - (c) the date of the panel's decision, and
  - (d) if applicable, a notation that the panel's decision is subject to review and therefore is not yet final, which notation shall be removed once the review is finally disposed of;
- (24) where, for a complaint received on or after October 1, 2015 or for a matter in which an investigator is appointed under 75(1)(a) or 75(1)(b) of the Code on or after October 1, 2015, a panel of the ICRC takes other action requiring a member to complete a specified continuing education or remediation program,
- (a) a notation of that fact,
  - (b) a summary of the panel's decision, including a summary of the specified continuing education or remediation program,
  - (c) the date of the panel's decision, and
  - (d) if applicable, a notation that the panel's decision is subject to review and therefore is not yet final, which notation shall be removed once the review is finally disposed of.

- (25) where, for a complaint received on or after October 1, 2015 or for a matter in which an investigator is appointed under 75(1)(a) or 75(1)(b) of the Code on or after October 1, 2015, a panel of the ICRC takes other action directing the Member to comply with an undertaking provided to the College:
- (a) a notation of that fact;
  - (b) a summary of the panel's decision, including a summary of the undertaking; and
  - (c) the date of the undertaking and of the panel's decision;
- (26) where the Member's certificate of registration is subject to an interim order of the ICRC, a notation of that fact, the nature of that order and its effective date;
- (27) where an allegation of a Member's professional misconduct or incompetence has been referred to the Discipline Committee or where the Registrar has referred an application for reinstatement to the Discipline Committee under section 73 of the Code and the matter is outstanding,
- (a) the date of the referral;
  - (b) a brief summary of each specified allegation, if applicable;
  - (c) the notice of hearing;
  - (d) the anticipated date of the hearing, if the hearing date has been set or the next scheduled date for the continuation of the hearing if the hearing has commenced;
  - (e) if the hearing is awaiting scheduling, a statement of that fact; and
  - (f) if the hearing of evidence and arguments is completed and the parties are awaiting a decision of the Discipline Committee, a statement of that fact;
- (28) where a decision of the Discipline Committee has been published by the College with the Member's name:
- (a) a notation of that fact; and
  - (b) identification of the specific publication of the College which contains the information;
- (29) the reasons for decision of every disciplinary proceeding:
- (a) in which a panel of the Discipline Committee makes a finding of professional misconduct or incompetence; and

- (b) in which a panel of the Discipline Committee makes no finding with regard to the proceeding but the Member requests that the reasons be posted in the register;
- (30) where the question of a Member's capacity has been referred to the Fitness to Practise Committee or where the Registrar has referred an application for reinstatement to the Fitness to Practise Committee under section 73 of the Code and the matter is outstanding:
  - (a) the date of the referral; and
  - (b) a notation of the referral.
- (31) where the College is aware that a pending allegation of professional misconduct or incompetence or a similar allegation has been referred to a discipline type of hearing against a Member registered or licensed to practise a profession inside or outside of Ontario and the Registrar believes that it is relevant to the Member's suitability to practise,
  - (a) a notation of that fact;
  - (b) the name of the governing body that made the referral;
  - (c) the date of the referral if available;
  - (d) a brief summary of each allegation if available; and
  - (e) the notice of hearing if available.
- (32) where the College is aware that a finding of professional misconduct or incompetence or a similar finding has been made against a Member registered or licensed to practise a profession inside or outside of Ontario, that finding has not been reversed on appeal, and the Registrar believes that it is relevant to the Member's suitability to practise,
  - (a) a notation of that fact;
  - (b) the name of the governing body that made the finding;
  - (c) the date the finding was made if available;
  - (d) a brief summary of the facts on which the finding was based if available;
  - (e) the order made if available; and
  - (f) information regarding any appeals of the finding or order if available;
- (33) where the College is aware that a finding of incapacity or similar finding has been made against a Member registered or licensed to practise a profession inside or

outside of Ontario, that finding has not been reversed on appeal, and the Registrar believes that it is relevant to the Member's suitability to practise,

- (a) a notation of the finding;
  - (b) the name of the governing body that made the finding;
  - (c) the date the finding was made if available;
  - (d) a summary of any order made if available; and
  - (e) information regarding any appeals of the finding or order if available;
- (34) in respect of a former Member, any information that was in the register at the time the former Member's registration terminated, for a period of at least two years after the termination of registration, except for any information related to discipline proceedings in Ontario, which shall be entered in the register for a period of 50 years after the termination of registration; and
- (35) any other information not otherwise referred to in this section, which the College and the Member have agreed shall be available to the public.

#### **18.04 Designated Information for Safety Exception**

- (1) All of the information required to be kept in the register under subsection 23(2) of the Code and all of the information kept in the register under 18.03 of these By-laws is designated as information that may be withheld from the public pursuant to subsection 23(6) of the Code if the Registrar has reasonable grounds to believe that disclosure of that information may jeopardize the safety of an individual.

#### **18.05 Deletion of Information**

- (1) Notwithstanding section 18.03, where after a review the ICRC has been required to remove or vary the requirement to appear for a caution or to complete a specified continuing education or remediation program:
- (a) the Registrar may delete from the register any information which would otherwise have been required to be maintained under section 18.03(23) or section 18.03(24); and
  - (b) the Registrar may enter a summary of the process leading up to and the results of any variation of a caution or a specified continuing education or remediation program.
- (2) Notwithstanding section 18.03, the Registrar is not required to maintain and may delete from the register any information which would otherwise have been required to be maintained under sections 18.03(23), 18.03(24) or 18.03(25), where:

- (a) more than three years have passed since the information was prepared or last updated;
- (b) the Member has made an application to the Registrar for the removal of the information from public access;
- (c) the Registrar is satisfied that the Member successfully fulfilled his or her obligations set out in the ICRC's decision and that the information in the register is no longer relevant to the Member's suitability to practise; and
- (d) the information does not relate to a complaint or a matter in which an investigator is appointed under 75(1)(a) or 75(1)(b) of the Code concerning sexual abuse as defined in clause (a) or (b) of the definition of "sexual abuse" in subsection 1(3) of the Code.

#### **18.06 Publication Ban and Disclosure**

- (1) Pursuant to Section 23(3) of the Code, no action shall be taken by the College with respect to information that would violate a publication ban.
- (2) The Registrar may refuse to disclose or post on the College's website information that is otherwise required to be public if:
  - (a) the Registrar has reasonable grounds to believe that such disclosure may jeopardize the safety of an individual; or
  - (b) the Registrar has reasonable grounds to believe that the information is obsolete and no longer relevant to a Member's suitability to practise.
- (3) The Registrar shall not disclose or post on the College's website information that is otherwise required to be public if it is personal health information, unless it is the personal health information of a Member and it is in the public interest that such information be disclosed. Any disclosure of a Member's personal health information shall be limited to not more than what is reasonably necessary. For the purposes these By-laws, "personal health information" means information that identifies an individual and that is referred to in clauses (a) through (g) of the definition of "personal health information" in subsection 4(1) of the *Personal Health Information Protection Act, 2004*.
- (4) The Registrar shall refuse to disclose information regarding a Member relating to disciplinary or incapacity proceeding if:
  - (a) a finding of professional misconduct was made against a Member and the order made was only a reprimand or only a fine, or a finding of incapacity was made against a Member;
  - (b) more than 6 years have passed since the information was prepared or last updated;



- (c) the Member has made an application to the relevant Committee for the removal of the information from public access because the information is no longer relevant to the Member's suitability to practise, and if:
  - (i) the relevant Committee believes that a refusal to disclose the information outweighs the desirability of public access to the information in the interest of any person affected or the public interest; and
  - (ii) the relevant Committee has directed the Registrar to remove the information from public access; and
- (d) the information does not relate to disciplinary proceedings concerning sexual abuse as defined in clause (a) or (b) of the definition of "sexual abuse" in Subsection 1(3) of the Code.

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