



BY-LAW NO. 4: CODE OF CONDUCT OF COUNCILLORS AND COMMITTEE MEMBERS

DEFINITIONS

1.01 In this by-law and in any other by-law of the College, unless otherwise defined or required by the context of the specific provision,

“**bias**” includes a reasonable apprehension of bias as described by Articles 7.03 and 7.05

“**committee**” means a committee or a panel of a committee of the College including any statutory, standing or ad hoc committee;

“**committee member**” means a member of a committee other than an employee of the College serving on an ad hoc or standing committee;

“**panel**” means a panel of a statutory committee of the College;

“**related corporation**” means a corporation wholly or substantially owned or controlled by the councillor or committee member or related person of that councillor or committee member;

“**related person**” is any person who has one of the following relationships to the councillor or committee member or to the spouse of the councillor or committee member, whether based on blood, marriage, common-law or adoption, namely:

- i) child or spouse of a child;
- ii) grandchild or spouse of a grandchild;
- iii) parent or spouse of a parent; grandparent or spouse of a grandparent;
- iv) sibling or spouse of a sibling



and in respect of the definition of related person,

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child or his or her family;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is a natural parent of the child;

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

2.01 A conflict of interest may be actual or potential, real or perceived, direct or indirect.

3.01 A conflict of interest exists where

- i) a reasonable person knowing the relevant facts would conclude or perceive that the exercise of the councillor's or committee member's judgment was likely to have been influenced by the personal financial interest of the councillor or committee member or by the financial interest of a related person or a related corporation of that councillor or committee member;
- ii) the councillor is a person who holds a position with another organization such that reasonable person knowing the relevant facts would conclude or perceive that the exercise of the councillor's judgment was likely to have been influenced by that councillor's responsibilities or duties to that other organization; or
- iii) the committee member is a person who holds a position with another organization such that a reasonable person knowing the relevant facts would conclude or perceive that the exercise of the committee member's judgment was likely to have been influenced by that committee member's responsibilities or duties to that other organization.

4.01 A councillor shall be deemed to have a conflict of interest if he or she is



- i) a director or other member of the governing body of;
- ii) an officer of; or
- iii) the executive director or chief administrative officer of
- iv) an international, national or provincial association or organization whose members are predominately chiropodists, podiatrists or other foot care providers or a combination of chiropodists, podiatrists and other foot care providers.

4.02 A councillor or committee member shall be deemed to have a conflict of interest if he or she applies for employment with the College unless he or she first resigns as a councillor or committee member.

5.01 Subject to Article 5.02, each councillor and each committee member shall, prior to commencing to serve as a councillor or committee member, provide to the Registrar a list of all of the organizations for which he or she serves and in respect of which it is reasonably conceivable that a conflict of interest could arise, including details of the nature of the duties the individual has with that organization.

5.02 A councillor or committee member who is a councillor or committee member when Article 5.01 of this by-law comes into force shall have sixty days from that date to provide the list referred to in Article 5.01.

5.03 Each councillor and committee member shall also advise the Registrar of any changes to the information provided under Article 5.01 or 5.02 within a reasonable period of the change taking place.

6.01 The Registrar shall provide the information referred to in Articles 5.01, 5.02 and 5.03 to the Executive Committee.

7.01 A bias exists where there is actual bias or reasonable apprehension of bias.



- 7.02 A bias exists in the context of a hearing or meeting involving a decision that directly affects a named person where the committee member who is a member of the decision-making panel has an association, relationship, non-financial interest or activity that is incompatible with his or her responsibilities as an impartial decision-maker.
- 7.03 There is reasonable apprehension of bias in the context of a hearing or meeting involving a decision that directly affects a named person if a reasonable person, well informed of the facts, might reasonably conclude that the committee member's decision was not impartial nor based solely on the evidence or information properly received by the committee, but rather, influenced by the existence of personal extraneous factors which may include but are not limited to
- i) the committee member's connection with the issue(s) or the decision(s) to be made; or
 - ii) the committee member's connection with a person or persons involved in the proceeding, including the person who is the subject matter of the hearing or meeting or any person whose evidence or information is presented at the hearing or meeting.
- 7.04 A bias exists in the context of the meeting of Council or a committee which does not involve a decision that directly affects a named person if the councillor or committee member's decision was one not impartially made in the best interests of the College, but rather, influenced by the existence of personal extraneous factors.
- 7.05 There is reasonable apprehension of bias in the context of a meeting of Council or a committee which does not involve a decision that directly affects a named person if a reasonable person, well informed of the facts, might reasonably conclude that the councillor or committee member's decision was one not impartially made in the best interests of the College, but rather, influenced by the existence of personal extraneous factors.



- 8.01 If a councillor believes that he or she has a conflict of interest or bias in respect of any matter which is the subject of either debate or action or intended action by Council, the councillor shall,
- i) prior to any consideration of the matter at a meeting of Council, disclose to the Council the fact that he or she has a conflict of interest or bias which prevents him or her from participating;
 - ii) not take part in the discussion of or vote on any question in respect of the matter;
 - iii) absent himself or herself from that portion of the meeting relating to the matter; and
 - iv) not attempt in any way to influence the voting or do anything which might be reasonably perceived as an attempt to influence the other councillors or the decision relating to that matter.
- 8.02 Where a councillor declares a conflict of interest or bias in accordance with Article 8.01, that fact shall be reflected in the minutes of that meeting of Council.
- 9.01 If a committee member believes that he or she has a conflict of interest or bias respecting any action or intended action of that committee, the committee member shall,
- i) in the case of a member of a committee which is holding a hearing,
 - (a) immediately upon determining that a conflict of interest or bias may exist, disclose to the chair of the panel the existence of a potential conflict of interest or bias without disclosing any details and, if required, ask the chair for a recess;
 - (b) if the committee member is not sure whether to excuse himself or herself from the panel, privately disclose the conflict of interest or bias to the panel's independent legal counsel in order to seek legal advice;



- (c) unless the member is satisfied that no conflict of interest or bias exists, decline to participate in any way in respect of the hearing and remove himself or herself from the panel; and
 - (d) where the member removes himself or herself from the panel, not attempt in any way to influence or do anything which might be reasonably perceived as an attempt to influence any of the other members of the panel or of the committee or the outcome of the hearing; and
 - ii) in the case of a member of a committee which while not holding a hearing is involved in a matter which directly affects the rights of a specifically named member or person (e.g. Patient Relations Committee, Inquiries, Complaints and Reports Committee, Executive Committee, Quality Assurance Committee, Registration Committee),
 - (a) immediately upon determining that a conflict of interest or bias may exist, disclose to the chair of the panel or if no panel exists, the chair of the committee or meeting, the existence of a potential conflict of interest or bias without disclosing any details and if required, ask the chair for a recess;
 - (b) if the committee member is not sure whether to excuse himself or herself from the committee in respect of the matter, privately disclose the conflict of interest or bias to the Registrar or the Registrar's delegate to obtain advice;
 - (c) unless the member is satisfied that no conflict of interest or bias exists, decline to participate in any way in respect of the matter; and
 - (d) where the member declines to participate in any way in respect of the matter, not attempt in any way to influence or do anything which might be reasonably perceived as an attempt to influence



any of the other members of the panel or of the committee or the outcome in respect of the matter.

- 9.02 Where a committee member declares a conflict of interest or bias in accordance with Article 9.01 (ii), that fact shall be recorded in the minutes of that committee's meeting.
- 10.01 Where a councillor believes that another councillor or a committee member has breached any Code of Conduct for councillors and committee members adopted by Council or breached this by-law, he or she may advise the Executive Committee in writing.
- 10.02 If the Registrar receives information that indicates that a councillor or committee member may have breached any Code of Conduct for councillors and committee members adopted by Council or breached this by-law, the Registrar may report the information to the Executive Committee in writing.
- 11.01 The Executive Committee shall notify the person whose conduct is the subject of concern of the nature of the concern and provide that person with a reasonable opportunity to make written or oral submissions or both to the Executive Committee.
- 12.01 The Executive Committee shall make a preliminary determination of the relevant facts and report those facts to the person whose conduct is the subject of concern.
- 12.02 The Executive Committee shall make reasonable efforts to resolve the matter to its satisfaction.
- 13.01 If the Executive Committee is of the view that further action may be required by Council, the issue shall be placed on the agenda for the next meeting of Council.
- 14.01 The Registrar shall advise the person whose conduct is the subject of concern of the date of the next meeting of Council and of his or her opportunity to make either written or oral submissions to the Council should he or she wish to do so.



- 15.01 After providing the opportunity referred to in Article 14.01, Council shall determine whether any material facts are in dispute.
- 15.02 If material facts are in dispute, Council shall adopt a fair and reasonable process to determine those facts which may include the appointment of an independent third party (“ITP”) to investigate and provide a written report to Council respecting those facts.
- 15.03 Where Council does not appoint an ITP, the process to determine those facts shall provide the person whose conduct is in question with disclosure of the allegations and relevant information supporting the allegations as well as an opportunity to make written or oral submissions or both to the Council.
- 15.04 Where Council does not appoint an ITP, it shall endeavour to make the decisions required by Article 19 at or before the next regular meeting of Council.
- 16.01 Whether or not Council determines to appoint an ITP, it may suspend the person whose conduct has been brought into question from all of his or her duties with the Council, including all committees of the College, until the matter is finally disposed of provided Council is satisfied that the suspension is necessary to ensure the integrity of the College and/or its processes.
- 17.01 Where an ITP is appointed, the ITP shall use a process that provides the person whose conduct is in question with disclosure of the allegations and relevant information supporting the allegations as well as an opportunity to make written or oral submissions or both to the ITP.
- 17.02 After completing the investigation, the ITP shall provide a written report to Council which shall include the ITP's findings as to whether, in the ITP's opinion, the person whose conduct is the subject of concern breached any Code of Conduct for councillors and committee members adopted by Council or breached this by-law and, if so,
- i) whether, in the ITP's opinion, the breach was due to inadvertence or as a result of the wilful conduct or the gross neglect of the person; and



- ii) whether, in the ITP's opinion, the person's actions have had or are likely to have serious and substantial negative implications for the College, as well as the ITP's reasons for those findings and opinions.

17.03 The ITP shall complete the investigation and deliver to the Registrar the report referred to in Article 17.02 within forty-five days or such longer period of time as may be permitted by the Executive Committee.

17.04 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 determination of what action to take in respect of the person whose conduct is the subject of concern shall be included in the agenda of the next regular meeting of Council.

18.01 The Council may adopt either in whole or in part any of the findings and opinions of the ITP.

19.01 Following the determination of all of the relevant facts, Council shall determine whether the person breached any Code of Conduct for councillors and committee members adopted by Council or breached this by-law.

19.02 If Council determines that the person did not breach any Code of Conduct for councillors and committee members adopted by Council or breach this by-law, no further action shall be taken and any suspension imposed by Article 16.01 shall automatically be lifted.

19.03 Where Council determines that the person breached any Code of Conduct for councillors and committee members adopted by Council or breached this by-law, it shall

- i) in the case of a councillor, and where Council determines that the breach was wilful or caused by the gross neglect of the councillor or, that although inadvertent, the councillor's actions have had or are likely to have serious and substantial negative implications for the College, request the immediate written resignation of the person from the Council and all



committees, and if the resignation is not received forthwith, disqualify the councillor;

- ii) in the case of a committee member who is not a councillor, and where Council determines that the breach was wilful or caused by the gross neglect of the committee member or, that although inadvertent, the committee member's actions have had or are likely to have serious and substantial negative implications for the College, request the immediate written resignation of the person from all committees, and if the resignation is not received forthwith, disqualify the committee member; or
- iii) where action under clause i) or ii) is not considered appropriate, demand an apology and, if considered appropriate, suspend the person from any and all duties of Council or a committee or both until an apology is received or other resolution acceptable to Council is reached.

19.04 If Council disqualifies a councillor from Council, it shall

- i) in the case of an elected councillor, treat the situation in the same way as if a vacancy had been created as a result of the resignation of that councillor; and
- ii) in the case of a councillor appointed by the Lieutenant-Governor in Council, suspend the councillor from all of his or her duties with the Council including all committees of the College and immediately advise the Minister of Health and Long-Term Care of its decision and the reasons for it.

19.05 If Council determines to disqualify a committee member, it shall

- i) in the case of a non-council committee member, treat the situation in the same way as if a vacancy had been created as a result of the resignation of that non-council committee appointee; and



- ii) in the case of a committee member who is not a non-council committee appointee, remove the person from all committees.

PROCEDURAL AND OTHER SAFEGUARDS

- 20.01 In determining whether to appoint an ITP, 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 protect the College and to change behaviour which would be potentially harmful to the College.
- 21.01 Council shall not consider whether to appoint an ITP, suspend the person whose conduct is the subject of concern or take any action to disqualify the person without first providing that person with an opportunity to address Council either personally or by his or her solicitor.
- 22.01 A resolution of at least two-thirds of the councillors present at a meeting of Council duly called for that purpose shall be required in order to
- i) appoint an ITP pursuant to Article 15.02;
 - ii) impose an interim suspension in accordance with Article 16.01; or
 - iii) disqualify a councillor in accordance with this by-law.
- 22.02 A majority resolution of the councillors present at a meeting of Council duly called for that purpose shall be required in order to disqualify a non-council committee member in accordance with this by-law.
- 23.01 A councillor whose conduct is the subject of a debate or vote under this by-law shall not be present during the debate or vote and shall not be counted as a member of Council in determining whether a quorum exists or whether the motion was carried or defeated.



- 24.01 Before any debate is had or vote taken by Council pursuant to this by-law, Council shall consider whether the public should be excluded from the meeting in accordance with the Code.