



Royal College of
Dental Surgeons of Ontario

Ensuring Continued Trust

6 Crescent Road,
Toronto, ON Canada M4W 1T1
T: 416.961.6555 F: 416.961.5814
Toll Free: 1.800.565.4591 www.rcdso.org

November 14, 2014

VIA COURIER

Honourable Dr. Eric Hoskins
Minister of Health and Long-Term Care
10th Floor, Hepburn Block
80 Grosvenor Street
Toronto, Ontario M7A 2C4

Dear Minister,

Further to your letter of October 3, 2014, and that of Ms. Suzanne McGurn's, Assistant Deputy Minister, of October 28, 2014, we are pleased to submit our response to your inquiries.

Please read this together with our letter and appendices of October 6, 2014, for our full response.

All of these materials are posted on our website as per your request.

We will also be sending by e-file the full submission to Ms. Suzanne McGurn.

At yesterday's Council meeting, amendments to By-Law 7, regarding the Register, were approved in principle and will be finalized by Council before the end of the year.

There are references to the by-law throughout the submission and I am attaching it for your easy reference.

Based on the submissions included in this report, the College believes that it is meeting or exceeding best practices for transparency in all aspects of the College's mandate. We remain committed to a process of continual review and improvement, and will continue to examine ways in which we can expand and improve upon our dedication to transparency in both principle and practice.

Yours truly,

Handwritten signature of Dr. Peter Trainor in black ink.

Dr. Peter Trainor
President

Handwritten signature of Irwin W. Fefergrad in black ink.

Irwin W. Fefergrad, C.S., B.A., B.C.L., LL.B
Registrar

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Enclosure:

- c: Honourable Dr. Eric Hoskins, Minister of Health and Long-Term Care, MOHLTC
- Dr. Bob Bell, Deputy Minister, MOHLTC
- Ms. Helen Angus, Associate Deputy Minister, Policy and Transformation, MOHLTC
- Ms. Allison Henry, Manager, Regulatory Programs Unit, MOHLTC
- Mr. John Amodeo, Director, Health Systems Labour Relations and Regulatory Policy Branch, MOHLTC



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MEMO

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TO: ONTARIO DENTISTS AND
KEY STAKEHOLDERS
FROM: IRWIN FEFERGRAD, REGISTRAR

DATE: OCTOBER 10, 2014

REGARDING: WHY IS THE COLLEGE PROPOSING EXPANSION OF THE INFORMATION ABOUT MEMBERS ON THE PUBLIC REGISTER?

In response to increasing requests from the Minister of Health and Long-Term Care, the College is proposing **by-law amendments** that would expand the information on the public register.

This new information would include:

- oral cautions ordered by the Inquiries, Complaints and Reports Committee;
- specified continuing education or remediation programs required by the Inquiries, Complaints and Reports Committee;
- additional details regarding allegations of professional misconduct or incompetence referred to the Discipline Committee;
- findings of guilt in a criminal offence relevant to a member's suitability to practise.

It is important to put these proposed changes into the political and social context in which regulators, like RCDSO, now operate.

Over the past several years, Dispatch articles have addressed the growing concerns from government and consumers on health care regulators for more disclosure of information about their members.

These are reasonable requests. Most people cannot judge the quality of care in an obvious way. If you are not satisfied with the TV you bought, you can take it back. But health care is different. The consequences can be serious, even fatal. The public needs someone in their corner. That is where the regulator comes in.

Self-regulation is an intricate balancing act. We must never lose the confidence of our members. You too have a right to expect service and support from your regulator. You need to know that your regulator is responsive to the challenges you face every day.

However, at the same time, as a regulator we must look at everything we do through the lens of public safety and protection. Trust of the public in the concept of self-regulation is fragile. It must be constantly earned and validated. In doing that, we are guided by our core values of trust, accountability, equality, accessibility, fairness, responsiveness and transparency.

The public's trust in health care regulators has been dramatically shaken over the last ten months or so. The front pages of the Toronto Star, the largest daily newspaper in the country, have grabbed the attention of the public and the Minister of Health.

At the end of July, there was an in-depth article about the secrecy of the province's health care regulators. This was followed several days later by a lead editorial condemning "the tradition of secrecy in the medical profession that does more to protect the reputations of doctors than the well-being of patients."

This was not the first time this year that this issue hit the front pages. In January, the media had another lead story with the headline "Doctors, dentists, pharmacists: The mistakes you can't know about."

Three days after the publication of that story, the then Minister of Health was quoted in the Star saying "it is very important" that colleges "never lose sight that their job is to protect the public."

The next big salvo was the first week of October. A media investigation revealed that patients at out-of-hospital clinics had developed life-threatening infections over a period of months. These clinics had been inspected by a regulator but this information about infection control issues had not been disclosed to the public.

That was enough for this Minister of Health, Dr. Eric Hoskins. He took action.

On Saturday, October 4 at 3:55 pm, all the health care regulatory colleges received a **letter from the Minister** formally requesting that each college take concrete steps to develop and establish measures to continuously increase transparency in College processes and decision-making, and to make more information available to consumers. College Councils must report back to the health ministry by December 1, 2014, with their plan to increase transparency.

This time the request has teeth in it. The Minister has unequivocally stated that he will use his powers under the Regulated Health Professions Act to "take any and all necessary measures to ensure that the public interest remains paramount." In other words, if we don't take action on our own, he will step in and require Councils to take action that he deems is necessary.

True to our values, transparency is at the **forefront of recent initiatives** here at the College. We immediately shared our good news story with the Minister.

On Monday, October 6, the College sent a **detailed letter to Minister Hoskins** demonstrating how our commitment to transparency permeates the entire operations of the College.

As you will recall, last year by-law changes were made to allow for posting on the public register of any deficiencies found during office inspections for facility permits issued for the use of sedation

and anesthesia and for the operation of dental CT scanners. This is an area of significant impact on the safety of the public, as we issue close to 1,500 facility permits annually.

Now we are taking the next step to further expand the information on the public register. This move is based on what the public told us when RCDSO, along with five other major health care regulators, commissioned a survey of public views on this issue in March of this year. We wanted to find out what information the public wants in order to make decisions about their choice of health care practitioners.

The public told us they want to know three things: criminal convictions, status of a practitioner's licence and complaints that result in discipline and/or educational action. The bottom-line is that consumers want to feel safe. They are right to have that expectation.

In practical terms, this means making more information about our registrants available to the public to help them make an informed decision in the choice of their health care provider.

We have to do an even better job of reporting to the public on how self-regulation works in their interest and increase public confidence in the self-regulation model. If we fail in that duty, we put the privilege of self-regulation as we know it in jeopardy.

ALL RESPONSES TO THE PROPOSED BY-LAW AMENDMENTS MUST BE RECEIVED BY THE COLLEGE ON OR BEFORE WEDNESDAY, NOVEMBER 12, 2014.

5. (1) In accordance with the authorization provided by paragraph 14 of subsection 23(2) of the Code, the following additional information shall be kept in the register:
1. Any changes in the member's name which have been made in the register since he or she obtained a degree in dentistry, if known to the College.
 2. Each member's registration number.
 3. The date when each member's certificate of registration was first issued or, if the member was licensed under Part II of the Health Disciplines Act, the date when the member was first licensed by the College.
 4. If the person ceased to be a member as a result of his or her resignation or death, the last year during which the person was a member.
 5. The name of the university from which each member received his or her degree in dentistry and the year in which the degree was obtained.
 6. The classes of certificates of registration held by each member, the date on which each was issued and, if applicable, the termination or expiration date of each.
 7. When the member holds a certificate of registration in a specialty class, the member's specialty and the name of the university and the year in which the member completed his or her specialty training.
 8. The address and telephone number of
 - (a) each member's principal place of practice in Ontario, and
 - (b) all other locations where the member practises.

- 8.1 Where a member is authorized to prescribe, order and take dental CT scans, whether that authority relates to Dentoalveolar CT scans or both Dentoalveolar CT and Craniofacial CT scans.
- 8.2 Where a member is the holder of a facility permit issued by the College permitting the member to install and operate a dental CT scanner
 - (a) a notation of that fact;
 - (b) the type of dental CT scanner for which the facility permit was issued by the College;
 - (c) the practice location named in the facility permit;
 - (c.1) a summary of each deficiency found during any inspection of the facility carried out by the College after the introduction of this clause (c.1), until the Registrar or failing the Registrar, the Quality Assurance Committee, is satisfied that the deficiency has been rectified; (provision effective January 6, 2014) and
 - (d) the name of each member authorized to prescribe, order and take dental CT scans at that practice location and the type of dental CT scans that each member is authorized to prescribe, order and take at that location.
9. If the member uses or is associated with a member or members who use a practice name, the practice name and the locations for which the name is used.
10. Any information in respect of a member that the member and the College agreed should be included in the register.

- 10.1 If the member's certificate of registration is subject to any terms, conditions or limitations, other than those applicable to all members holding that class of certificate, the date upon which the terms, conditions or limitations were effective and whether the terms, conditions or limitations were imposed or voluntary.
- 10.2 If the member's certificate of registration was suspended or revoked, the date upon which the suspension or revocation was effective and where the suspension or revocation was lifted, the date upon which the suspension or revocation was lifted.
11. If the member's certificate of registration is subject to an interim order of the executive committee or the inquiries, complaints and reports committee, a notation of that fact, the nature of that order and its effective date, until the interim order expires.

11.1 Where a decision of a panel of the inquiries, complaints and reports committee made on or after October 1, 2015 includes a requirement that the member attend before a panel of that committee to be cautioned (as is authorized by paragraph 3 of subsection 26(1) of the Code),

- (a) a notation of that fact including a summary of the caution;
- (b) the date of the panel's decision; and
- (c) if applicable, a notation that the panel's decision is subject to a review or appeal and therefore not yet final.

11.2 Where a decision of a panel of the inquiries, complaints and reports committee made on or after October 1, 2015 includes a requirement that the member complete a specified continuing education or remediation program (as is authorized by paragraph 4 of subsection 26(1) and subsection 26(3) of the Code),

- (a) a notation of that fact including a summary of the continuing education or remediation program(s);

(b) the date of the panel's decision; and

(c) if applicable, a notation that the panel's decision is subject to a review or appeal and therefore not yet final.

12. Where a member's certificate of registration is suspended for non-payment of a fee, a notation of that fact and the date upon which the suspension took effect.

13. Where a member's certificate of registration is suspended for failure to submit to a physical or mental examination as required by a board of inquiry or the inquiries, complaints and reports committee, a notation of that fact and the date upon which the suspension took effect and, if applicable, the date upon which the suspension was lifted.

~~14. Where an allegation of professional misconduct or incompetence has been referred to the discipline committee and not yet disposed of,~~

~~(a) a brief summary of each specified allegation; and~~

~~(b) the anticipated date of the hearing, if the hearing date has been set.~~

14. Where an allegation of professional misconduct or incompetence has been referred to the discipline committee on or after October 1, 2015 and not yet disposed of:

(a) a brief summary of each specified allegation that has been referred;

(b) the date of the referral;

(c) the status of the discipline hearing and, if the hearing date has been set, the date set for the hearing; and

(d) the Notice of Hearing.

15. Where the question of the member's capacity has been referred to the fitness to practise committee and not yet disposed of, a notation of that fact.
- 15.1 Where a member agreed to resign to avoid a proceeding before the Discipline or Fitness to Practise Committee or resigned while a discipline or fitness to practise proceeding was outstanding, a notation of that fact.
- 15.2 A summary of any existing restriction on the member's right to practise that has resulted from an undertaking given by the member to the College or an agreement entered into between the member and the College.
 - 15.2.1 A summary of any finding of guilt of which the College is aware if made by a court against a member, in respect of any criminal offence, in any jurisdiction, that the Registrar has reviewed and determined is relevant to the member's suitability to practise.
- 15.3 A summary of any existing restriction on the member's right to practise that has been imposed by a court or other lawful authority, if the College is aware of the restriction, including the name of the court or other lawful authority that imposed the restriction and the date the restriction was imposed.
16. Where a decision of the discipline committee has been published by the College after March 30, 2000, with the member's name included,
 - (a) a notation of that fact; and
 - (b) identification of the specific publication containing that information.
- 16.1 Where the result of a disciplinary proceeding is contained in the register, the date on which the panel of the Discipline Committee made the finding of professional misconduct or incompetence.

- 16.2 Where the result of an incapacity proceeding is contained in the register, the date on which the panel of the Fitness to Practise Committee made the finding of incapacity.
17. Where a member is authorized by the College to administer moderate sedation, deep sedation and/or general anaesthesia,
- (a) a notation of the highest modality of sedation and/or general anaesthesia that the member is authorized to administer;
 - (b) if the member is a “Visiting Member” (meaning that the member is authorized to perform moderate sedation, deep sedation and/or general anaesthesia in a dental office for which a Type B Facility Permit has been issued by the College), a notation of that fact and the date of the last inspection under By-Law No. 13 related to that member; and
 - (c) a summary of each deficiency found during any inspection related to the member carried out under By-Law No. 13 until the Registrar, or failing the Registrar, the Sedation and General Anaesthesia Committee, is satisfied that the deficiency has been rectified.
- 17.1 Where a member is the holder of a facility permit issued by the College permitting the administration of moderate sedation, deep sedation and/or general anaesthesia at that facility
- (a) a notation of that fact;
 - (b) the practice location named in the facility permit;
 - (c) a notation of the type(s) of facility permit(s) issued to the member;
 - (d) the date of the last inspection of the facility carried out under By-Law No. 13; and

- (e) a summary of each deficiency found during any inspection of the facility carried out under By-Law No. 13 until the Registrar, or failing the Registrar, the Sedation and General Anaesthesia Committee, is satisfied that the deficiency has been rectified.
- 17.2 A listing of each dental office for which a facility permit authorizing the administration of moderate sedation, deep sedation and/or general anaesthesia at a dental office has been issued by the College, including
- (a) the name of the dentist who is the holder of the facility permit;
 - (b) the type(s) of facility permit(s) issued by the College related to that dental office;
 - (c) in the case of a dental office for which a Type A Facility Permit has been issued, a notation of the highest modality of sedation and/or general anaesthesia that is authorized to be administered at the facility;
 - (d) the practice location named in the facility permit; and
 - (e) a summary of each deficiency found during any inspection of the facility carried out under By-Law No. 13 until the Registrar, or failing the Registrar, the Sedation and General Anaesthesia Committee, is satisfied that the deficiency has been rectified.
- 17.3 A listing of each member who has been authorized by the College to administer moderate sedation, deep sedation and/or general anaesthesia at a dental office that holds a facility permit authorizing the administration of moderate sedation, deep sedation and/or general anaesthesia, including

- (a) the name and registration number of the member;
 - (b) a notation of the highest modality of sedation and/or general anaesthesia that the member is authorized to administer;
 - (c) if the member is a “Visiting Member” (meaning that the member is authorized to perform moderate sedation, deep sedation and/or general anaesthesia in a dental office for which a Type B Facility Permit has been issued by the College), a notation of that fact and the date of the last inspection under By-Law No. 13 related to that member; and
 - (d) a summary of each deficiency found during any inspection related to the member carried out under By-Law No. 13 until the Registrar, or failing the Registrar, the Sedation and General Anaesthesia Committee, is satisfied that the deficiency has been rectified.
18. The date of issuance of each certificate of authorization of a health profession corporation and whether it is current, suspended, cancelled or revoked.
19. If the certificate of authorization of a health profession corporation has been suspended or revoked, the date of the suspension or revocation and the reason for the suspension or revocation.
20. If the certificate of authorization of a health profession corporation has been cancelled, the date of cancellation and a notation that the certificate was cancelled at the request of the corporation which no longer practises dentistry.
- (2) Unless otherwise required by the Code, information required to be kept in the register with regard to a former member who is deceased may be removed from the register six years after the date of the former member's death.

- (3) Unless otherwise required by the Code and subject to subsection 5(4), information required to be kept in the register with regard to a former member who resigned may be removed from the register six years after the effective date of the former member's resignation.
 - (4) Subsection 5(3) does not apply in the case of a former member who
 - (a) resigned and agreed never to practise again in Ontario during or as a result of a proceeding under section 25 of the Code;
 - (b) agreed to resign to avoid a proceeding before the Discipline or Fitness to Practise Committee; or
 - (c) resigned while a proceeding before the Discipline or Fitness to Practise Committee was outstanding.
- 5.1 All of the information referred to in section 4 and subsection 5(1) is information designated to be withheld from the public pursuant to subsection 23(6) of the Code such that the registrar may refuse to disclose to an individual or to post on the College's website any or all of that information if the registrar has reasonable grounds to believe that disclosure of that information may jeopardize the safety of an individual.
- 5.2 The information required under paragraph 11.1 of subsection 5(1) shall be removed from the register 24 months after the Registrar is satisfied that the member has appeared before a panel of the inquiries, complaints and reports committee and received the caution.
- 5.3 The information required under paragraph 11.2 of subsection 5(1) shall be removed from the register once the Registrar is satisfied that the member has successfully completed the specified continuing education and/or remediation program(s) which was the subject of the decision of the panel of the inquiries, complaints and reports committee.