
Memorandum

Robertson Stromberg LLP

ROBERTSON
STROMBERG

To: College of Dental Surgeons of Saskatchewan
From: Robertson Stromberg LLP
Date: November 8, 2021
File No: 6130.148
Subject: CDSS Council and Registrar Conflict of Interest Policy

Under cover of this memorandum you will find the suggested wording for a new “Conflict of Interest Policy” as requested by the College of Dental Surgeons of Saskatchewan (the “CDSS”). The substance of this policy was created through an accumulation of policies and procedures that other self regulatory bodies, such as the Law Society of Saskatchewan (“LSS”) and the College of Physicians and Surgeons of Saskatchewan (“CPSS”), have implemented. Such policies and procedures provide regulatory bodies with explicit and unambiguous direction for circumstances wherein members of council are faced with a complaint.

The Conflict of Interest Policy is intended to act as a supplementary guide that will operate in conjunction with *The Dental Disciplines Act*, *The Dental Disciplines Act* Bylaws, and The CDSS Administrative Bylaws. Careful consideration has been given to the definitions included throughout, such as “conflict of interest” and “adversarial relationship”. The global intent of the policy is to provide guidance to the CDSS for circumstances wherein members of council or the registrar are placed in direct opposition with the interests of the CDSS as a result of a conflict of interest and/or a complaint.

Please find enclosed for your review and consideration the CDSS “Conflict of Interest Policy” memorandum, as well as copies of the aforementioned LSS and CPSS policies for your convenience.

Should any questions arise, please do not hesitate to contact me.

TAB A

To: Sean M. Sinclair
From: Willemien Kruger
File No: 6130.148
Subject: CDSS Council and Registrar Conflict of Interest Policy Wording

As set out in the Administrative Bylaws of the CDSS, it is the duty of council to establish policies regarding the role and governance of the CDSS.

CONFLICT OF INTEREST POLICY

I. CONFLICT OF INTEREST

- (a) A conflict of interest refers to personal, occupational or financial considerations that may affect, or appear to affect, a member of council or the registrar's objectivity, judgment or ability to act in the best interests of the College.
- (b) The personal interests of immediate family members or close personal or business associates of a member of council or the registrar are considered to also be the personal interests of the council member or registrar.
- (c) A perceived or apparent conflict of interest may exist when a reasonable, well-informed person has a reasonable belief that a member of council or the registrar has a conflict of interest, even if there is no real conflict.
- (d) Full disclosure, in itself, does not remove a conflict of interest.

II. DETERMINING WHETHER A CONFLICT OF INTEREST EXISTS

- (a) Members of council and the registrar shall disclose a potential, real or perceived conflict of interest as soon as the issue arises and before the College or its committees are to deal with the matter at issue.
- (b) Other members of council who are aware of a potential, real or perceived conflict of interest on the part of a fellow member of council or the registrar should raise the issue for clarification first with the member of council or registrar in question, and if the matter remains unresolved, then with a member of the Executive Committee.
- (c) In circumstances involving a conflict of interest, a member of council and the registrar are encouraged to consult informally with the Executive Committee to seek guidance.
- (d) The Executive Committee may engage legal counsel for clarification or assistance in the determining whether a matter constitutes a potential, real or perceived conflict of interest.

III. COMPLAINTS AGAINST COUNCIL MEMBERS

At each stage of the complaints process as set out under Part III of this Policy, the Executive Committee should consider whether the complaint places the member of council or registrar in an adversarial relationship with the College and if so, the President or other relevant authority may revoke any appointments to the College committees or ask the member of council to take a leave of absence from serving as a member of council pending completion of the investigation, hearing, disposition of penalty or sentence, as the case may be.

For further clarity, should a complaint be alleged against a member of the Executive Committee, the remaining two members of the Executive Committee shall consider whether the complaint places the Executive Committee member in an adversarial relationship with the College and if so, the President, Vice President, or other relevant authority may revoke any appointments to the College committees or ask the council member to take a leave of absence from serving as a council member pending completion of the investigation, hearing, disposition of penalty or sentence, as the case may be.

1. ADVERSERIAL RELATIONSHIP

- (a) Only where members of council or the registrar are placed in direct opposition with the interests of the College as a result of a conflict of interest and/or a complaint, or it is declared so by the Executive Committee, then the member of council or the registrar shall be considered to be in an adversarial relationship with the College.
- (b) Members of council, or the registrar, who have received a form of review, notice, or correspondence from the College regarding advertising practices are not considered to be in an adversarial relationship with the College unless the Executive Committee indicates otherwise or the member of council or the registrar faces a disciplinary action related to the advertising practice.

2. WHERE THE COLLEGE RECEIVES A COMPLAINT AGAINST A MEMBER OF COUNCIL

- (a) A complaint received by the College or referred by any of the committees that involves a member of council shall be addressed pursuant to Bylaw 9.4 of *The Dental Disciplines Act* Bylaws.
- (b) In addition to the process as set out in Bylaw 9.4 of *The Dental Disciplines Act* Bylaws, the registrar shall notify the Executive Committee of the complaint for the purposes of assessing whether a conflict of interest exists and whether a council member's involvement with College committees or council should be suspended until the matter is resolved.

3. WHERE THE COLLEGE RECEIVES A COMPLAINT AGAINST THE REGISTRAR

- (a) Should a complaint be alleged against the registrar, then the complaint received by the College or referred by any of the committees shall be addressed pursuant to Bylaw 9.4 of *The Dental Disciplines Act* Bylaws; however the complaint shall bypass the registrar and shall be referred directly to the Executive Committee and/or legal counsel for the purposes of assessing whether a conflict of interest exists and whether the registrar's involvement with the College activities should be suspended until the matter is resolved.

4. PENDING AN INVESTIGATION OR DISCIPLINARY OUTCOME

- (a) The Executive Committee may request that a member of council or the registrar voluntarily resign from College activities, and/or College committees including, but not limited to, the Mediation Committee, Quality Assurance Committee, the Professional Conduct Committee, and the Discipline Committee; hearing and appeal panels; and/or any other council activities the Executive Committee recommends.
 - (i) Notice of voluntary resignation shall be provided to the Executive Committee in written form by the member of council or the registrar.
 - (ii) Should a member of council or the registrar neglect or refuse to resign voluntarily upon receipt of such a recommendation, then the Executive Committee may revoke any appointments to College committees and/or activities it deems appropriate.
 - (A) The Executive Committee shall provide the council member with written notice of revocation.

5. FINDING OF PROFESSIONAL INCOMPETENCE AND/OR PROFESSIONAL MISCONDUCT OF A MEMBER OF COUNCIL

- (a) Where a finding of professional incompetence and/or professional misconduct is made against a member of council, the Executive Committee or other applicable committee Chairs shall review the decision and having reviewed the matter with council, may:
 - (i) revoke any appointments to College committees;
 - (ii) refrain from appointing the member of council to the Mediation Committee, Quality Assurance Committee, the Professional Conduct Committee, the Discipline Committee, or Hearing or Appeal Panel; and
 - (iii) ask the member of council to resign or take a leave of absence from serving on council for any period of time the Executive Committee deems appropriate.

TAB B

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| NAME OF POLICY | C-VIII: Bencher Conflict of Interest Policy | |
| SOCIETY REFERENCES | | |
| APPROVAL DATE: November 2013 | Reviewed: February 16, 2021 | Revised: February 26, 2021 |

This policy is intended to assist Benchers, members and other Society volunteers to discharge their duties with integrity while acting for the Society.

A. CONFLICT OF INTEREST GUIDELINES

i. Each Bencher is Responsible to:

- a. Be independent and impartial;
- b. Act with honesty and integrity;
- c. Carry out all the duties of a Bencher in a manner consistent with the public interest;
- d. Exercise vigilance for and declare any apparent or real personal conflict of interest - which includes self-interest, outside pressure, expectation of reward, or fear of criticism - in accordance with the *Code of Professional Conduct* and this Policy;
- e. Act at all times in the public interest rather than in the interests of particular constituencies or members; and
- f. Perform Bencher duties and transact the affairs of the Society in such a manner that promotes public confidence and trust in the integrity, objectivity and impartiality of the Benchers.

ii. Definition of Conflict of Interest

- a. A conflict of interest refers to personal, occupational or financial considerations that may affect, or appear to affect, a Bencher's objectivity, judgment or ability to act in the best interests of the Society.
- b. The personal interests of immediate family members or close personal or business associates of a Bencher are considered to also be the personal interests of the Bencher.
- c. A perceived or apparent conflict of interest may exist when a reasonable, well informed person has a reasonable belief that a Bencher has a conflict of interest, even if there is no real conflict.
- d. Full disclosure, in itself, does not remove a conflict of interest.

iii. No Pecuniary Benefit

- a. No Bencher shall directly or indirectly offer or accept cash payments, gifts, gratuities, privileges or other personal rewards, intended to influence the activities or affairs of the Society.
- b. Benchers may give or receive modest gifts or hospitality as a matter of general and accepted business practice.
- c. Notwithstanding anything herein, Benchers may receive reimbursement for reasonable expenses incurred by them in the performance of their duties or payment of honorariums as permitted in the Rules.
- d. The pecuniary interests of immediate family members or close personal or business associates of a Bencher are considered to also be the pecuniary interests of the Bencher.

iv. Transactions that may benefit a Bencher or a Bencher's Associates

- a. It is in the Society's interest to obtain competent and cost-effective legal services from practitioners whose skills, training and experience are appropriate to the task. The Society may retain the services of a Bencher or Bencher's firm, with the approval of the Executive Committee.
- b. A Bencher should not participate in any way in a decision to retain the services of the Bencher's firm.
- c. The Society does not pay a preferential rate for legal services to a Bencher's law firm.
- d. Any business entity in which a Bencher has a substantial financial interest should not transact business with the Society other than for legal service.
- e. A Bencher shall not have any involvement in the hiring, supervision, evaluation, promotion, remuneration or firing of a family member, business associate, or friend.

v. Accepting Appointment to Boards or Committees of Other Organizations

A Bencher should not join a board of directors or a committee of an organization whose objectives may be in conflict with those of the Society, including but not restricted to an organization whose purpose is to promote the interests of lawyers. It is important that the Benchers be, and be seen to be, independent of any organization described above.

vi. Appearing as Counsel

- a. A Bencher should not appear personally on behalf of a member in any proceeding that relates to the work of the Society or one of its committees.
- b. A Bencher should not appear before the courts on behalf of a member or the Society in a discipline, admissions or Special Fund matter.
- c. Members of a Bencher's firm may represent members or the Society, but the Bencher concerned should not participate in any decision relating to that representation.

vii. Appearing as a Witness

- a. A Bencher should not voluntarily testify as a character witness in a Society proceeding unless, due to the particular facts of the situation, the Bencher's refusal to do so would unfairly prejudice the case for the member.
- b. A Bencher who gives evidence in court on a matter of legal ethics should make clear to all parties and to the court that the Bencher speaks to his or her own understanding of matters in issue and is not a spokesperson for the Society.

B. BENCHER DUTIES

i. Policy Decisions

A Bencher should not participate in a policy decision of the Benchers or of a committee of the Society when the Bencher has a conflict of interest in accordance with section A of this Policy, including but not restricted to the following:

- a. The Bencher or the Bencher's firm represents a client whose interests will be significantly affected by the decision;
- b. The Bencher or the Bencher's firm has obtained, through a solicitor-client relationship or an employment relationship, confidential or privileged information that may influence the person's decision on the matter; or
- c. The Bencher's employer has a significant interest in the decision that is distinct from the legal profession as a whole.

ii. Participation in Hearing Committees, Hearing and Appeal Panels, Investigation Committees and Bencher Decisions

- a. Care should be exercised to avoid situations in which there may be an appearance of a conflict of interest or bias in relation to discipline, admissions or Special Fund proceedings. A Bencher should not participate in an investigation or hearing process of the Benchers or of a committee of the Society when the Bencher has a conflict of interest in accordance with section A of this Policy. A Bencher who is in doubt about a situation should discuss the matter with the President or the Chair of the relevant committee.
- b. Before agreeing to serve on an investigation committee or a Hearing Committee or Hearing or Appeal Panel or on any other Society proceeding, Benchers should consider whether they or any member of their firm is associated in the practice of law or has a personal, business or professional relationship with the respondent, applicant or claimant, or counsel for any party which would constitute a conflict of interest in accordance with the principles in section A of this Policy.
- c. A Bencher should not participate in a decision of a Hearing Committee, Hearing or Appeal Panel or of the Benchers if a member of the Bencher's firm gives evidence in the proceeding.

iii. Previous Involvement in a Discipline Matter

A Bencher should not sit on the Hearing Committee that hears a formal complaint if the Bencher was exposed to details relating to the formal complaint in their capacity as a member of the Conduct Investigation Committee, Competency Committee, Ethics Committee or a Conduct Review Committee.

C. COMPLAINTS INVOLVING BENCHERS

i. Adversarial Relationship

At each stage of the complaints process under this part, the Executive Committee should consider whether the complaint places the Bencher in an adversarial relationship with the Society and if so, the President or other relevant authority may revoke any appointments to Society committees or ask the Bencher to take a leave of absence from serving as a Bencher pending completion of the investigation, hearing, disposition of penalty or sentence, as the case may be.

ii. Complaint

Where the Society receives a complaint against a Bencher:

- a). The complaint shall be referred to the Executive Committee who will make a recommendation as to whether the Bencher should be appointed to investigation committees, Hearing Committees, or Hearing or Appeal Panels pending completion of the investigation; and
- b). The Bencher is encouraged to consult with the Executive Committee to seek guidance on whether the Bencher should voluntarily resign from certain Bencher activities pending completion of the investigation.

iii. Competency Committee or Ethics Committee Review

When a complaint about a Bencher or a Bencher's firm is referred to the Competency Committee (for Professional Standards consideration) or the Ethics Committee, the President should appoint a special committee of non-Bencher members to make a determination in accordance with the powers conferred by the Rules on the Competency Committee or the Ethics Committee, as the case may be.

iv. Investigation

TBD.

v. Formal Complaint

- a). Where a formal complaint has been issued against a Bencher, the Bencher should voluntarily resign from all Hearing Committees, Hearing and Appeal Panels and the Conduct Investigation Committee and abstain from the adjudication of complaints by any other Society committee pending completion of the hearing or disposition of penalty. The Bencher should refrain from attending any Bencher or Society committee meetings, and from taking part in any Bencher or Society committee work or policy decisions.
- b). The Executive Committee or other applicable committee Chairs shall review the complaint and shall revoke any appointments to Society committees and recommend that the Benchers revoke any appointments to external committees.
- c). The Executive Committee and the applicable committee Chairs may allow the Bencher to continue some or all Bencher duties, if to do otherwise would cause a greater injustice to a member whose conduct is being adjudicated by a Bencher who is the subject of a formal complaint.

vi. Finding of Conduct Unbecoming

- a). Where a finding of conduct unbecoming is made against a Bencher, the Executive Committee or other applicable committee Chairs, shall review the complaint and, having reviewed the matter with the Benchers, may:
 - i. revoke any appointments to Society committees and recommend that the Benchers revoke any appointments to external committees;
 - ii. refrain from appointing the Bencher to the Conduct Investigation Committee or a Hearing Committee or Hearing or Appeal Panel;
and the Executive Committee may:
 - iii. ask the Bencher to resign or take a leave of absence from serving as a Bencher for any period of time the Executive Committee deems appropriate.

D. DETERMINING WHETHER A CONFLICT OF INTEREST EXISTS

- a). Benchers should disclose a potential, real or perceived conflict of interest as soon as the issue arises and before the Society or its committees deal with the matter at issue.
- b). In situations involving a conflict of interest, a Bencher
 - i. is encouraged to consult informally with the Executive Committee to seek guidance; and
 - ii. may seek a ruling on the matter by the Benchers.
- c). When a ruling is sought, the Benchers may require any Bencher concerned in the matter to:

- i. leave the meeting;
 - ii. remain in the meeting to inform the Benchers, but not otherwise participate in the debate or decision; or
 - iii. abstain from voting.
- d). Other Benchers who are aware of a real, potential or perceived conflict of interest on the part of a fellow Bencher should raise the issue for clarification, first with the Bencher in question and, if still unresolved, with the Executive Director.

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6. Councilors will respect the confidentiality appropriate to issues of a sensitive nature. Confidential information includes the following:

- Information that is considered at the in-camera session of Council;
- Information contained in a document that is assigned a “Confid.” designation;
- Information that by Council direction is to be redacted from documents if the document is requested by a member of the public.

There may be circumstances in which maintaining the confidentiality of such information is not consistent with an appropriate balance between confidentiality and transparency found in GP-2. In such circumstances, Councilors will maintain confidentiality of the information unless the president, or in the president’s absence, the vice-president, authorizes the Councilor to disclose that information.

7. Councilors may not attempt to exercise individual authority over the organization except as explicitly set forth in Council policies.

7.1. Councilors’ interaction with the Registrar or with staff must recognize that any individual Councilor or group of Councilors does not have authority other than that explicitly stated in Council policy.

7.2. Councilors’ interaction with the public, press or other entities must recognize the same limitation and the similar inability of any Councilor (s) to speak for the Council except to repeat explicitly stated Council decisions.

7.3. Councilors will make no judgments of the performance of the Registrar or the staff except where the performance is assessed against explicit Council policies by the process described in Policy CR-3.

7.4. Councilors shall not encourage direct communication with staff who attempt to bypass the administration but shall encourage staff to utilize reporting lines within the administration to bring their concerns to the Council.

8. Councilors must respect the authority of the president at all times.

9. The Council and its committees speak with a united voice. Councilors who abstain or vote against a motion must adhere to and support the decision of the majority. Councilors will be proactive in identifying and reporting any breach of this policy.

10. Councilors must be committed to upholding the decisions of the Council.

11. Councilors and members of committees will be prepared for all meetings by reading the material to be well informed and able to participate effectively.

12. Councilors shall be familiar with **The Medical Profession Act, 1981**, Bylaws, and policies of the College as well as the rules of procedure and proper conduct of a meeting so that any decision of the Council may be made in an efficient, knowledgeable and expeditious fashion.

13. Councilors shall regularly take part in educational activities which will assist them in carrying out their responsibilities.
14. Councilors shall attend meetings on a regular and punctual basis. Council will notify the Minister of Health if a public member of Council has been absent from more than three consecutive regular meetings. If a member of Council who is not a public member has been absent from more than three consecutive regular meetings, the Council may consider whether that constitutes a basis to remove the Councilor from office pursuant to College bylaws.
15. Councilors shall ensure that unethical activities not covered or specifically prohibited by the foregoing or any other legislation are not condoned.

A Councilor who is alleged to have violated the Code of Conduct shall be informed in writing and shall be allowed to present his/her views of such alleged breach at the next Council meeting. The complaining party must be identified. If the complaining party is a Councilor, he/she and the respondent Councilor shall absent themselves from any vote upon resolution of censure or other action that may be brought by the Councilors. Councilors who are found to have violated the Code of Conduct may be subject to censure. Where the Council considers the violation of the Code of Conduct compromises the integrity of the Councilor or the Council, the Councilor may be asked to resign or may be removed from office in accordance with College bylaws.

16. This Code of Conduct applies to Councilors, members of committees appointed by Council and any other person representing or doing work for the College

**COLLEGE OF PHYSICIANS AND SURGEONS OF SASKATCHEWAN
COUNCIL POLICY**

Policy Name: Conflict of Interest

Number: GP-10

Policy Type: Governance Process

Date Approved: April 16, 2010

Amended November 25, 2017, January 25, 2018

1. No Councilor, or his or her spouse/partner, or dependent child, shall enter into any business arrangement with the College in which they are interested directly or indirectly except:
 - 1.1. On a written and competitive basis; and
 - 1.2. Having declared any interest therein, and the applicable Councilor having refrained from voting thereon.
2. Any Councilor having an occasional conflict of interest shall declare the fact of that conflict before discussion of the question and absent him/herself from the portion of the meeting during which discussion or voting affected by that conflict takes place. Such conflicts of interest include, but are not limited to:
 - 2.1. Any question affecting a private corporation of which the Councilor or his/her immediate family (spouse/partner, or dependent child), is a shareholder or a public corporation in which he/she or immediate family holds more than five percent of the number of voting securities issued (excluding mutual funds). This does not apply to decisions of general application related to professional corporations;
 - 2.2. Any question affecting a partnership or firm of which he/she is a member;
 - 2.3. Any question affecting an organization of which he/she is a Board Member;
 - 2.4. Any question in which the Councilor or a member of his/her immediate family (defined as spouse/partner or dependent child) has a direct or indirect financial interest;
 - 2.5. Any other matter in which the Councilor's ability to act in the best interest of the organization may be or appear to be compromised by an outside interest.
3. A Councilor who abstains from participation due to conflict of interest is still included in determining quorum.
4. In case of disagreement regarding a Councilor's conflict of interest, a majority vote of Council shall decide.
5. The minutes must record all declarations of conflict of interest and whether the Councilor was present when the matter was discussed.

6. Councilors shall annually complete a declaration that they are aware of the contents of GP-9 and GP-10 and that they are acting in accordance with the letter and spirit of the policy.