November 26, 2014

Suzanne McGurn, Assistant Deputy Minister
Health Human Resources Strategy Division
Ministry of Health and Long-Term Care
900 Bay Street
Macdonald Block, 2nd Floor, Room M2-61
Toronto ON M7A 1R3

Dear Ms. McGurn:

On behalf of the Council of the College of Midwives of Ontario ("CMO"), we are pleased to provide this report to you about the CMO’s current transparency practices and how they may be enhanced, in response to Minister Hoskins’ letter received October 4th, 2014 and your letter received October 28th, 2014.

The CMO is entirely committed to the pillars of good governance, including the principles of objectivity, fairness, impartiality and transparency. These principles guide all of the work the CMO engages in with respect to our mandated work in the Regulated Health Professions Act.

The CMO takes the transparency of its processes and activities seriously. It is continuously expanding the nature and extent of the information that it makes available to the public. It will continue to do so as it systematically reviews its processes, considers the evolution of public expectations and analyzes legislative initiatives. However, the CMO also recognizes that it must balance the benefits of transparency with the legitimate expectations of those it regulates and the unforeseen consequences of making certain information public.

Current Transparency Practices

The CMO has already put into place many transparency initiatives including adoption of the Advisory Group for Regulatory Excellence (AGRE) transparency principles and integration of those principles into the CMO’s approved 2014-2017 Strategic Plan (November 21, 2014). Most of the AGRE Phase 1 initiatives are already in place at the CMO, including making the following information publicly available: date of referral to Discipline Committee; status of Discipline hearing; Notice of Hearing and the full text of discipline decisions as of July 2014 (prior to that, only summaries of discipline hearings were posted).

Many of AGRE Phase 2 initiatives are also in place at the CMO, including making the following information publicly available: names of former members; as well, the fact that a member has
received a Written or Oral Caution appear in letters of professional conduct for a period of 2 years after issuance.

Additionally, Specified Continuing Education or Remediation Programs (SCERPs) appear on letters of professional conduct until they have been completed.

Standards of Practice

Standards of Practice are accessible to the public on our website. Archived (revoked or outdated) standards are also available for reference. As well, similar to the expectations for regulation or bylaw changes, the CMO undertakes a 60-day open consultation process for new or revised Standards of Practice with members and stakeholders (including members of the public). This process was initiated in the summer of 2014.

Registration Practices

The CMO’s website is in compliance with the Ontario Fairness Commissioner’s (OFC) recommendations to have registration fees, timelines and registration eligibility criteria readily accessible to applicants and easy to read. The CMO reports at least annually to the OFC and these reports are placed on the CMO’s website.

The CMO additionally provides applicants for registration with the information in the CMO’s files related to their applications in accordance with section 16 of the Health Professions Procedure Code (Code).

Complaints

Information regarding how to make formal complaints, what the complaints process entails, and how to speak directly with our Director of Regulatory Affairs or Registrar to ask questions about complaints processes is publicly available on the CMO website.

Complaints decisions are sent to the member complained about and the complainant.

Complaints decisions (where the result is something other than a referral to discipline or a referral to an incapacity inquiry) may be appealed by either party to the complaint to the Health Professions Appeal and Review Board (HPARB). HPARB decisions are available on the internet on the CanLII website.
Discipline

Discipline hearings are open to the public. Rare exceptions are made only in cases where an individual’s strong privacy or legal interests are in jeopardy (e.g., personal medical information, victims of sexual abuse, etc.).

Appeals of discipline decisions are heard in open court, and all appeal decisions are publicly available, usually online.

The CMO makes full disclosure of all information relevant to a discipline matter to the member so that she or he can make full answer and defence to the allegations.

Quality Assurance Program

The CMO provides detailed information about its Quality Assurance (QA) program on its website. Since the purpose of the QA Program, as specifically enunciated in the Code, is to work with members to enhance their practice, it is conducted on a “no blame” basis. The program is constructive and positive, looking for ways to improve practice rather than identifying misconduct. The legislation requires that quality assurance information about individual members be kept confidential. However, if significant concerns about a member are discovered in the course of their participation in the QA program, they are reported to the complaints and investigations process of the CMO and information often becomes publicly available through that process.

Council Activities

All dates and locations of upcoming Council meetings are posted to the CMO website. Council meetings are public.

Council also reports to the Minister annually on its regulatory activities and operations. A copy of the CMO’s annual report is also placed on its website.

Updated Identifying Information about Members

The CMO makes every effort to remind members to provide the CMO with changes to their personal and practice address, telephone and email information, as well as information related to hospital/birth centre privileges within 30 days of change (as per CMO By-laws) to allow for accurate information on the public register. The CMO has a Fees and Remuneration By-law which permits the CMO to levy a fee for every reminder letter that is sent to the member as a way of providing incentive to keep their information current.
French Language Services

The CMO makes information available in both official languages as deemed necessary and allowable by resources. All Standards of Practice are available in French and are posted to the CMO website in a timely manner.

Accessibility Measures

The CMO accommodates all requests for accessible communication for people with disabilities to the point of undue hardship and includes a detailed page about accessibility on its website.

Public Register

The CMO’s public register and all of the information required by section 23 of the Health Professions Procedural Code is made available on the CMO website. In addition, the CMO voluntarily provides the following additional information to the public by virtue of its By-laws:

15.02 – Additional Public Register Information
In addition to the information required to be contained in the register pursuant to subsection 23(2) of the Code, and for the purposes of paragraph 14 of subsection 23(2) of the Code, the register shall contain the following information with respect to each Member:
(a) any change to the Member’s name that has been made in the register of the College from the date of the Member’s initial registration with the College;
(b) the Member’s registration number;
(c) the date on which each class of registration the Member holds was obtained and, if applicable, the date on which each terminated or expired;
(d) if the Member ceased to be a Member as a result of resignation or death, a notation to that effect and the date that the resignation or death occurred, if available;
(e) the name, business address and business telephone number of every practice with which the Member is affiliated, whether as a sole proprietor, a partner, an associate or in some other capacity as a Midwife;
(f) the name of each hospital, birth centre and health facility in Ontario where the Member has privileges;
(g) any information that the College and the Member have jointly agreed will be included;
(h) where the Member’s certificate of registration is subject to an interim order under subsection 37(1) of the Code, a notation of that fact, the nature of the order and the date that it took effect;
(i) where the Member’s certificate of registration is subject to a suspension for failure to pay a fee, a notation of the suspension, and the date that the suspension took effect;
(j) where a decision of the Discipline Committee has been published by the College with the Member’s name or former name included,
   (i) a notation of that fact, and
   (ii) identification of the specific publication of the College that contains the information;
(k) where a finding of professional misconduct or incompetence has been made against the Member by another regulatory body, in or outside Ontario,
   (i) that fact,
   (ii) the date of the finding and the place where it was made, and
   (iii) a brief summary of the facts upon which the finding was based; and
(l) if a finding of incapacity has been made in respect of the Member,
   (i) the date of the finding.

New and Enhanced Measures to Increase Transparency

The CMO has made transparency a priority. The CMO is working closely with the Federation of Health Regulatory Colleges of Ontario (FHRCO) as it analyzes the work done by the AGRE group. The CMO has attended a number of FHRCO sessions on the topic during the last month.

The issue of enhancing transparency will be on the Council agenda at every meeting during the next year, at a minimum, as the Council looks for ways to enhance transparency of CMO processes. During 2015, it is anticipated that the CMO will publicly discuss, publicly consult on, and where appropriate, implement the following transparency measures:

The Council will consider implementing the remaining AGRE Phase 1 initiatives, including making public criminal findings of guilt. (Target date for Council deliberation is February 2015 Council. If approved, this will result in proposed Bylaw changes at that time).

The Council will consider implementing the remaining AGRE Phase 2 initiatives including making public: criminal charges if relevant to practice; licenses in other jurisdictions (if known); discipline findings from other jurisdictions (if known); ICRC Oral Caution; ICRC SCERP; and Undertakings. (Target date for Council deliberation is February 2015 Council. If approved, this will result in proposed By-law changes at that time).

Council will also consider placing confirmations on the public register made under 36(1)(g) of the RHPO when the CMO is investigating a member, where there is a compelling public interest in the disclosure of that information, through an amendment of the by-laws.
Second Birth Attendants Information and Alternate Practice Arrangements

Council will also consider making the following information publicly available: names of approved Second Birth Attendants with whom midwives are eligible to work; details of agreed upon alternative practice arrangements with the CMO (including limited or expanded scope permissions); transfer of the provisional custody of record information (if known) for midwives who are no longer practising, have moved out of province or are deceased.

Illegal Practitioners

Council will consider adding to its website a list of non-members who are suspected of practising illegally in Ontario and who have received “Cease and Desist” letters from the CMO (Target date for decision: February 2015). The CMO will carefully consider the risks associated with such postings, such as a lawsuit for slander or defamation, since the information may not have been proven in court.

If the CMO pursues an unauthorized practice matter in court (which it has done once in its history), then that matter is argued in open court and the decision would be publicly available.

Discretionary Release of Information Pursuant to Section 36 of the RHPA

Council will develop and publish guidelines articulating when discretionary disclosure of information (pursuant to section 36 of the Regulated Health Professions Act) will be made, including the circumstances where the CMO will report apparently criminal member behavior to police.

Discipline Hearings Where No Finding is Made

The Council will discuss and consider publishing the fact that a member went to discipline even if it resulted in no findings against the member, but the CMO does note that this would appear to be inconsistent with subsection 56(3) of the Code. The CMO will seek a legal opinion on the authority to do this.

Enhancing CMO Website

The CMO is currently revising its website to allow for increased ease and accessibility of information for members of the public (making pages easier to read and simpler navigation). In addition, the website is scheduled to undergo a number of transparency initiatives by March 31,
2015. Those initiatives include the addition of a webpage to highlight the transparency principles adopted by the CMO as well as the initiatives the CMO commits to taking.

The CMO will also add to its website a subscription button to allow members of the public to receive regular communications from the CMO including invitations to provide feedback on all standards of practice being developed or under revision.

Information will be added to the CMO website to include increased detail about statutory committees, including their constitution, functions and decision-making processes. The Committees whose mandate and duties will be described more fully than they currently are, are the Quality Assurance Committee, including the consequences for midwives who are non-compliant with the QA Program, and the Client Relations Committee.

The CMO will also provide detailed information about its Client Relations program on its website. The Client Relations Committee is currently updating the Guidelines for Appropriate Professional Behaviour with Clients and the Sexual Abuse Prevention Program, both of which will be posted to the website upon final approval from Council.

Draft Agendas for Council Meetings

Draft agendas for upcoming Council meetings will be posted to the website starting at the next Council meeting.

Birth Centres

As the entity that conducts inspection of the two Ontario Birth Centres, information will be provided on our website to clarify the CMO’s role in assessing birth centre facilities, the CMO will report on the dates of completed or scheduled assessments, and will provide hyperlinks to any reports from completed assessments conducted by the CMO on behalf of Independent Health Facilities (IHF) Program of the Ministry of Health and Long-Term Care. The CMO will continue to work with the IHF Program to increase transparency throughout this relationship.

Public Register

The CMO is currently engaged in database development to ensure the public register reflects the most accurate information to date as well as a clear and accurate history of registration information.

The CMO will also add additional locations of practice to public register (currently only main practice location is listed – Target date March 31, 2015).
Plain Language Policy

The CMO plans to develop a "Plain Language" policy for all communications with intended public audience (Target date March 31, 2015).

Fitness to Practise Matters

The CMO will work to include on its website detailed information about the work of the Fitness to Practise Committee.

Because fitness to practise matters involve the personal health information of the practitioner, usually mental illness or addiction issues, human rights considerations mandate a high degree of privacy. By virtue of the Code, fitness to practise hearings are closed to the public. However, where a finding of incapacity is made, certain information is still placed on the public register.

Publicizing this Report

The College will place this report, along with Minister's letter of October 4, 2014 and your letter of October 28, 2014 on our website as soon as possible so that stakeholders are able to hold the CMO accountable for making the changes that it has committed to make.

The CMO is looking forward to working with the Ministry and FHRCO as it pursues these and other transparency issues.

Barbara-Ann Borland, RM
President

Kelly Doobin, RM
Registrar