College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

Council Meeting

Thursday, October 12, 2017

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

NOTICE OF MEETING OF COUNCIL

A meeting of the College of Midwives of Ontario will take place on Thursday, October 12, 2017, in the College's Board Room at 21 St. Clair Ave. E., Suite 303, Toronto, Ontario.

The meeting will convene at 9:30 AM.

Kelly Dobbin, RM
Registrar

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

College of Midwives of Ontario
Council Meetings – Guidelines for Observers

- Council meetings are held at the College of Midwives of Ontario in the Board Room (21 St. Clair Ave E, Suite 303, Toronto ON)
- Those attending the Council meetings as observers do not participate in the meeting.
- Observers are asked to be quiet during the meeting, and keep side conversations to a minimum.
- Observers are asked to limit comings and goings during the meeting. There are morning and afternoon refreshment breaks and a one-hour break for lunch.
- Please turn off or silence mobile devices while in the Council Board Room.
- If a portion of the meeting is closed to the public, an announcement will be made to move in-camera. If known in advance, in-camera items are noted on the agenda. The agenda is posted to the College website two weeks prior to the scheduled Council meeting.
- The College is a fragrance-free environment. This applies to all staff, members, Council representatives and visitors to the College.
- Observers can access the Council package materials approximately two weeks prior to the scheduled Council Meeting.

If you have any questions after the meeting, please contact Amy Fournier at a.fournier@cmo.on.ca or 416-640-2252, ext. 204.

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

COUNCIL AGENDA

Thursday, October 12, 2017, 09:30 AM to 5:00 PM

College of Midwives of Ontario (21 St Clair Ave, Suite 303, Toronto, Ontario)

Item	Discussion Topic	Presenter	Time	Action	Materials	Pg
1.	Call to Order: Welcome, Safety Review & Land Acknowledgment	Tiffany Haidon	9:30	INFORMATION		
2.	Conflict of Interest	Tiffany Haidon	9:35			
3.	Enquiries	Tiffany Haidon	9:36	INFORMATION		
4.	Review and Approval of Proposed Agenda	Tiffany Haidon	9:37	MOTION	1. Agenda	4-6
5.	Consent Agenda - Draft Minutes of June 28, 2017, Council Meeting - Inquiries, Complaints and Reports Committee Report - Discipline Committee - Fitness to Practise Committee - Quality Assurance Committee - Registration Committee	Tiffany Haidon	9:40	MOTION	1. Draft Minutes 2. ICRC Report 3. Professional Conduct – Current Files 4. Discipline Committee Report 5. Fitness to Practise Report 6. QAC Report 7. Registration Committee Report	7-19
6.	Professional Standards: Public Consultation Feedback	Professional Standards Working Group	9:45	DISCUSSION	1. Briefing Note 2. Letter from AOM 3. Professional Standards DRAFT	20-40
BREAK, 11:15						

Item	Discussion Topic	Presenter	Time	Action	Materials	Pg
7.	Regulations Update: - Laboratories Regulation - Prescribing & Administering Drugs	Kelly Dobbin	11:30	DISCUSSION/ MOTION	1. Briefing Note 2. Proposed Changes to the Laboratories Regulation 3. Changes to Laboratories Regulation – TABLE 4. Briefing Note 5. Proposed Changes to the Designated Drugs Regulation	41-77
LUNCH, 12:45-1:30						
8.	**In camera**: Registrar's Performance Evaluation	Tiffany Haidon	1:30	MOTION		
9.	Registrar's Report	Kelly Dobbin	2:00	MOTION	1. Registrar's Report	78-84
10.	President's Report	Tiffany Haidon	2:30	MOTION	1. President's Report 2. Scope of Practice letter from Minister	85-88
11.	Executive Committee Report - Q1 Statement of Operations - Privacy Code & Terms of Reference - President's Job Description - Council Training Attendance & Time Commitment Requirements	Tiffany Haidon	2:40	MOTION	1. Q1 Statement of Operations 2. Briefing Note 3. Privacy Code w/ Track Changes 4. Executive Committee Terms of Reference 5. Briefing Note 6. President's Job Description 7. Briefing Note	89-122
12.	Client Relations Committee Report	Carron Canning	3:10	MOTION	1. CRC Report to Council 2. Relevant Legislative Provisions 3. RIA: SAPP 4. SAPP critique 5. SAPP revised	123-139

Item	Discussion Topic	Presenter	Time	Action	Materials	Pg
BREAK, 3:45						
13.	**Election**: Executive Committee	Kelly Dobbin	4:00	MOTION		
14.	Approval of slate of Council members for 2017/2018	Tiffany Haidon	4:45	MOTION	1. Slate of Council Members	140
15.	Housekeeping		4:55	INFORMATION		
16.	Adjournment	Tiffany Haidon	5:00	MOTION		
	Next Meetings: December 12 & 13, 2017; March 20 & 21, 2018; June 12 & 13, 2018; October 10 & 11, 2018			INFORMATION	1. Governance Calendar	141

Minutes of Council Meeting
Held on June 28, 2017, 9:30 am to 5:00 pm
Boardroom (21 St. Clair Avenue East)

Chair	Tiffany Haidon, RM
Present	Carron Canning, RM, Rochelle Dickenson, Tiffany Haidon, RM, Claudette Leduc, RM, Jennifer Lemon, Lilly Martin, RM, Wendy Murko, RM, Gemma Salamat, Jan Teevan, RM
Regrets	Philip Playfair, Caroline Brett
Ex-Officio	Kelly Dobbin
Staff	Carolyn Doornekamp, Marina Solakhyan, Amy Fournier, Johanna Geraci, Shivani Sharma, Nadja Gale, Krista Madani, Victoria Marshall, Naakai Garnette
Recorder	Amy Fournier

1. Call to Order, Safety and Welcome

Tiffany Haidon, Chair, called the meeting to order at 9:32 am and welcomed all present.

2. Declaration of Conflict of Interests

None declared.

3. **Enquires**

None.

4. **Proposed Agenda**

MOTION: THAT THE PROPOSED AGENDA OF JUNE 28, 2017 BE APPROVED AS PRESENTED.
Moved: Rochelle Dickenson
Seconded: Isabelle Milot
CARRIED

5. Consent Agenda

MOTION: THAT THE CONSENT AGENDA CONSISTING OF:

- Draft Minutes of March 22, 2017 Council Meeting
- Draft Minutes of May 2, 2017 Council Meeting
- Inquiries, Complaints and Reports Committee Report
- Discipline Committee Report
- Fitness to Practise Committee Report
- Client Relations Committee Report

BE APPROVED AS PRESENTED
Moved: Jan Teevan
Seconded: Gemma Salamat
CARRIED

6. Professional Standards for Midwives

Tiffany Haidon, Chair, introduced Jennifer Lemon, Isabelle Milot, Lilly Martin and Wendy Murko, Members of the Professionalism Standards Working Group. Working group members outlined the work they have been doing on the professional standards.

The working group then introduced Johanna Geraci, Quality Assurance Manager, and Marina Solakhyan, Director of Policy and Quality Assurance, to present the professional standards for midwives.

Council members were guided through the Professional Standards for Midwives document and clarifications were provided as needed.

Staff outlined the timeline for the Professional Standards, which includes two public consultations and stakeholder meetings. The Professional Standards Working Group will meet in September to review public consultation feedback from the first round of public consultation. Any revisions will be presented to Council in October. The second public consultation will take place after the October Council meeting.

There will be a presentation on Professional Standards at the CMO Member Education Day on November 1, 2017. The final standards document will be presented to Council in December for approval. In early 2018, the College will meet with members to educate them on the standards and how to implement them. The College anticipates a May 2018 Implementation date.

7. Registrar's Report

Kelly Dobbin, Registrar, presented highlights from her report including an update on the status of Bill 87, noting that many of its provisions are now in force. The CMO is working with legal counsel to develop processes to implement the required changes. The remaining provisions that are not yet in force will be implemented upon proclamation.

Kelly informed Council that the Quality Assurance Regulation and the Professional Conduct Regulation will be submitted to the Ministry of Health upon approval of the March 22, 2017 Council meeting minutes.

Council was also provided with a debrief on the recent International Confederation of Midwives Triennial Congress that took place in Toronto from June 18-27. The CMO participated in a symposium presentation and a concurrent session at the congress.

MOTION: THAT THE REGISTRAR'S REPORT BE ACCEPTED AS PRESENTED
Moved: Lilly Martin
Seconded: Rochelle Dickenson
CARRIED

8. President's Report

Tiffany Haidon, Chair, summarized her report to Council and noted that, going forward, the President's Report will move from a verbal to a written report in October 2017.

MOTION: THAT THE PRESIDNE'T REPORT TO COUNCIL BE ACCEPTED AS PRESENTED.
Moved: Claudette Leduc
Seconded: Isabelle Milot
CARRIED

9. In-camera

The Council moved in-camera at 1:25 PM.

MOTION: THAT THE PUBLIC BE EXCLUDED FROM THE MEETING PURSUANT TO CLAUSE 7.2(B) OF THE HEALTH PROFESSIONS PROCEDURAL CODE OF THE REGULATED HEALTH PROFESSIONS ACT, 1991, IN THAT FINANCIAL OR PERSONAL OR OTHER MATTERS MAY BE DISCLOSED OF SUCH A NATURE THAT THE HARM CREATED BY THE DISCLOSURE WOULD OUTWEIGH THE DESIRABILITY OF ADHERING TO THE PRINCIPLE THAT THE MEETINGS BE OPEN TO THE PUBLIC.

MOVED: Claudette Leduc
SECONDED: Jan Teevan
CARRIED

MOTION: THAT THE MEETING RESUME TO OPEN SESSION AT 1:35 PM

10. Audited Financial Statements

Blair MacKenzie summarized the audit process and informed Council that he and his colleagues met with the Executive Committee regarding how to approach the audit and how Executive Committee members observed the audit process. He indicated that the results of the College's audit were consistent with best practices and other regulated professions, and indicated that the results of the audit were consistent as in previous years.

Jennifer Lemon, Vice-President & Public Member, explained how the Executive Committee is using Auditor Assessment tool and encouraged all Council members to review the tool and become familiar with it.

MOTION: THAT THE 2016-2017 AUDITED FINANCIAL STATEMENTS BE APPROVED AS PRESENTED.
MOVED: Gemma Salamat
SECONDED: Jan Teevan

11. Executive Committee Report

Tiffany Haidon, Chair, presented the Executive Committee report to Council, and provided a debrief on the audit process and the tool.

Carolyn Doornekamp, Director of Operations, presented the Q4 Statement of Operations that was previously approved by the Executive Committee on May 31, 2017.

Tiffany Haidon presented the non-council committee member appointments governance policy. She noted that to strengthen the College's process for non-Council appointments, staff has drafted a governance policy document pertaining to the appointment of non-Council members. In addition to the information regarding non-Council appointments noted in the General By-laws (eligibility, term of office and removal), the drafted policy includes selection criteria, maximum term and application and re-appointment process.

Tiffany Haidon presented in-camera minutes' template and noted that Council will begin using the template in October 2017.

MOTION: THAT THE NON-COUNCIL MEMBER APPOINTMENTS POLICY BE APPROVED AS PRESENTED; AND THAT THE EXECUTIVE COMMITTEE REPORT, INCLUDING THE Q4 STATEMENT OF OPERATIONS BE ACCEPTED AS PRESENTED.
Moved: Wendy Murko
Seconded: Claudette Leduc
CARRIED

12. New policy development process

Tiffany Haidon, Chair, introduced the topic and Marina Solakhyan, Director of Policy & Quality Assurance, presented the new process to Council members. Marina indicated that the Regulatory Impact Assessment tool was developed as part of risk-based regulation.

MOTION: THAT THE POLICY DEVELOPMENT PROCESS BE ADOPTED AS PRESENTED.
Moved: Lilly Martin
Seconded: Gemma Salamat
CARRIED

13. College's Role in IPAC

Tiffany Haidon, Chair, introduced topic and Kelly Dobbin, Registrar, provided information on the College's role in Infection Prevention and Control. She provided the Council with background on IPAC's role in health protection and promotion and Public Health's involvement in the process. As IPAC resides outside of the Regulated Health Professions Act, the role of regulatory bodies is not explicit. More information has been provided by the Ministry of Health and Long-Term Care, Public Health and Independent Health Facilities (IHF) to educate regulatory colleges in their role in public health breaches or lapses.

14. Quality Assurance Committee Report

Jan Teevan, Quality Assurance Committee Chair, introduced and summarized the QAC report to Council. Johanna Geraci, Quality Assurance Manager, presented on QAP Findings & Recommendations report and the proposed QAP framework. Johanna described that the process in creating this report involved conducting member focus groups at four sites across the province and information collected from rural and remote questionnaires.

MOTION: THAT THE QUALITY ASSURANCE COMMITTEE REPORT BE APPROVED AS PRESENTED.
Moved: Rochelle Dickenson
Seconded: Lilly Martin
CARRIED

15. Registration Committee Report

Isabelle Milot, Registration Committee Chair, introduced the report. Naakai Garnette, Director of Professional Conduct & Regulatory Affairs, presented the draft continuing competencies policy, providing background information on how it was drafted. Naakai specified that the continuing competencies in Neonatal Resuscitation, Cardiopulmonary Resuscitation (CPR) and Emergency Skills require an in-person component to be accepted.

There was some discussion around the different levels of CPR training, with some professional members indicating that CPR certifications were no longer categorized as Level C and Health Care Provider (HCP). As the draft policy specifically indicates that the College will only accept CPR

certifications at the HCP level, the policy will return to staff for revisions and further research and will return to the Registration Committee for review at their next scheduled meeting.

ACTION: The policy will return to staff for revisions and further research and will return to the Registration Committee for review at their next scheduled meeting.

Isabelle Milot informed Council that on July 1, 2017, successful completion of the College's Jurisprudence Course becomes a registration requirement for all applicants. The course entails a review of the Jurisprudence Handbook, followed by the successful completion of an e-module that includes exam questions.

MOTION: THAT THE REGISTRATION COMMITTEE REPORT BE ACCEPTED AS PRESENTED, WITH THE CONTINUING COMPETENCIES POLICY TO RETURN TO COMMITTEE FOR FURTHER CONSIDERATION.

Moved: Claudette Leduc
Seconded: Jan Teevan

16. Annual Report

Tiffany Haidon, Chair, introduced the Annual Report to the Council and indicated that, once approved and once the final financial statements are received, the College will provide a copy to members, stakeholders and the Ministry.

MOTION: THAT THE ANNUAL REPORT 2016-2017 BE APPROVED AS PRESENTED.
Moved: Lilly Martin
Seconded: Carron Canning

17. Election of President

Kelly Dobbin, Registrar, informed the Council that Tiffany Haidon was the only candidate to put her name forward to run for President.

MOTION: THAT THE COUNCIL ACCEPTS THE ACCLAMATION OF TIFFANY HAIDON, RM, AS PRESIDENT EFFECTIVE IMMEDIATELY TO OCTOBER 12, 2017.

Moved: Jan Teevan
Second: Claudette Leduc

MOTION: THAT THE MEETING BE ADJOURNED AT 4:45 PM
Moved: Jan Teevan
Second: Rochelle Dickenson
CARRIED

ICRC COMMITTEE
REPORT TO COUNCIL – October 2017

Committee Members

Chair	Wendy Murko, RM
Professional	Carron Canning, RM; Wendy Murko, RM; Tiffany Haidon, RM
Public	Jennifer Lemon; Rochelle Dickenson
Non-Council	Lisa Nussey, RM; Edan Thomas, RM; Heather Brechin, RM

Committee Meetings

An ICRC Committee Meeting was held on Friday, September 8, 2017 from 9:00–1:00 via teleconference. An additional meeting is scheduled to take place on November 14, 2017 from 9:00–1:00 via teleconference.

Panel Meetings/Hearings

- COIN 257RI: to deliver a caution (in person, June 27, 2017)
- COIN 262C: for deliberation (via email, June 29, 2017)
- COIN 267C: for deliberation (teleconference, August 8,2017)
- COIN 265C: for deliberation (teleconference, September 15, 2017)

Items

The ICRC made the following decisions on September 8, 2017:

- To implement the proposed benchmarks for the complaints and reports processes.
- To revise the ICRC Risk Assessment Tool, aligning with Bill 87 and other clarifications.
- To discontinue the use of written cautions as an ICRC disposition effective September 8, 2017.

Attachments:

1. Professional Conduct Current Files Listing (as of June 30, 2017)

Respectfully Submitted,

Wendy Murko, Chair

Professional Conduct Report to Council
Current Files in Progress as of June 30, 2017

TOTAL ACTIVE CASES	18
Mandatory Reports COIN 252	1
Complaints COINs 260/261, 262, 263/264, 265, 267, 273, 275/276/277	11
Fitness to Practice/Incapacity	0
Registrar's Investigations/ Registrar's Inquiries COINs 266, 269/270, 271, 272, 274	6
Closed since last Report (June 9, 2017) COINs 243C, 245/246/247C, 249C, 254RI, 255R, 268I	8
Active complaints beyond 150 days COINs 260/261, 262, 263/264, 265, 267	7
Decision Drafting & Review COINs 252R, 260/261C, 262C, 263/264C	6

TOTAL MONITORED CASES	11
Discipline	0
Complaints & Reports COINs 214R, 217A, 236C, 238/239C, 243C, 244C, 257RI	8
Fitness to Practice/Incapacity	0
HPARB / Judicial Review COINs 236C, 238/239C	3
Closed since last Report (June 9, 2017) COINs 250C, 251C	2

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

DISCIPLINE COMMITTEE
REPORT TO COUNCIL – September 2017

Committee Members

Chair	Lilly Martin, RM
Professional	Jan Teevan, RM, Claudette Leduc, RM, Lilly Martin, RM
Public	Jennifer Lemon, Rochelle Dickenson, Gemma Salamat
Non-Council	None

Committee Meetings

The Discipline Committee meeting is currently scheduled to take place on Thursday, October 26, 2017 from 10:00–12:00. Updates to procedures from Bill 87 will be reviewed during this time.

Panel Meetings/Hearings

N/A

Items

N/A

Attachments:

N/A

Respectfully Submitted,

Lilly Martin, Chair

FITNESS TO PRACTISE COMMITTEE
REPORT TO COUNCIL – September 2017

Committee Members

Chair	Lilly Martin, RM
Professional	Jan Teevan, RM, Claudette Leduc, RM, Lilly Martin, RM
Public	Jennifer Lemon, Rochelle Dickenson, Gemma Salamat
Non-Council	None

Committee Meetings

The Fitness to Practise Committee meeting is currently scheduled to take place on Thursday, October 26, 2017 from 10:00–12:00. Updates to procedures from Bill 87 will be reviewed during this time.

Panel Meetings/Hearings:

N/A

Items:

N/A

Attachments:

N/A

Respectfully Submitted,

Lilly Martin, Chair

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

QUALITY ASSURANCE COMMITTEE
REPORT TO COUNCIL – SEPTEMBER 2017

Committee Members

Chair	Jan Teevan, RM
Professional	Jan Teevan RM; Isabelle Milot, RM; Lilly Martin, RM
Public	Gemma Salamat
Non-Council	Mylene Shields, RM; Tia Sarkar, RM

Committee Meetings

September 15, 2017 9:30-12:30 (teleconference)

Panel Meetings/Hearings

July 26, 2017 (via email)

Trainings

None.

Items

- **Revised Quality Assurance Program Framework**
  The Quality Assurance Committee (QAC) continued to discuss the upcoming changes to the Quality Assurance Program. The QAC directed staff to conduct further research on peer case reviews, techniques for self-assessing and declarations of completion.
- **Revised QAP non-compliance decision-making tool**
  More detail was added to the QAP non-compliance decision-making tool that the QAC uses to make decisions at non-compliance panels. The QAC approved the revised tool and will begin using it for non-compliance panels effective immediately.

Formal Motions to Council

None.

Respectfully Submitted,

Jan Teevan, Chair

REGISITRATION COMMITTEE
REPORT TO COUNCIL – September 2017

Committee Members

Chair	Isabelle Milot, RM
Professional	Carron Canning, RM; Isabelle Milot, RM
Public	Gemma Salamat; Jennifer Lemon
Non-Council	Mylene Shields, RM; Alexandra Nikitakis, RM

Committee Meetings

- September 13, 2017 – ¼ day teleconference

Panel Meetings/Hearings

- September 22, 2017 – Application for re-registration- Requalification

Trainings

None.

Items

College of Midwives of Ontario: Membership Stats (as of June 30, 2017)	
625	General
70	General with New Registrant Conditions
4	Supervised Practice
154	Inactive
853	Current Members
215	Resigned as a Member
21	Revoked for non-payment of fees
8	Revoked for failure to meet registration requirements
1	Revoked by order of the Discipline Committee
3	Suspended for non-payment of fees
1	Expired Certificate of Registration
3	Deceased
Changes Between April 1, 2017 to June 30, 2017	
1	New Members
2	Re-registrations
5	Resignations
2	Deceased
-4	Net change during first quarter (April-June)

Renewal

Registration renewal successfully launched on schedule on August 1, 2017. The department has received inquiries about the CPR continuing competency requirements (i.e., the validity of online CPR courses). Members have been advised that online courses are acceptable until further notice, provided that the course meets or exceeds the guidelines for Health Care Provider as outlined in the Policy on Continuing Competencies.

New Registrants

Confirmations of new registrant funding began August 31, 2017. Since that time, 50 new registrations (44 General with New Registrant Conditions, 6 Supervised) have been processed. There have been no applications denied nor referred to the Registration Committee at the time of reporting.

Canadian Midwifery Registration Exam (CMRE)

The Fall sitting of the CMRE is scheduled for October 26, 2017. Six candidate applications have been received. Due to the small numbers, the exam will be invigilated in the boardroom at the College. There are no other Ontario locations hosting the exam.

Healthcare Insurance Reciprocal of Canada (HIROC) Checklist

The HIROC checklist related to Registration and Licensure will be a standing item on the Registration Committee meeting agenda. Many of the items that were identified by HIROC to help inform the potential risks related to Registration and Licensure and the resulting areas of improvement, align with the recommendations for changes to policies, procedures and tools that have been identified through the streamlining process, using the risk-based approach to regulation that the College has adopted. Identified areas of improvement will be incorporated into the Department and Committee's work plan to complete the program within two years.

Office of the Fairness Commissioner (OFC) Update

On September 1, 2017, amendments to the Fair Access to Regulated Professions and Compulsory Trades Act (FARPACTA) contained within Bill 27, the Burden Reduction Act, 2016 were proclaimed and are now in effect. These amendments resulted in governance and reporting structure changes and the OFC is now staffed by the Ontario Public Service. The mandate remains the same and the OFC will work with regulators to asses and advise to ensure fair, objective, impartial and transparent registration practices among regulated professions and trades.

On August 31, 2017, Nuzhat Jafri, the first and only Executive Director, left the OFC after 10 years. On September 8, 2017, the OFC announced that Doris Dumais is the new Director of the organization. With these changes, the OFC will be undertaking a risk based compliance program. The OFC will be following up with Colleges regarding the assessment cycle that had been put on hold during the recent transition period. A tentative meeting between the OFC and the College is scheduled for December 14, 2017.

Risk-based Regulation and Streamlining

Directed by the College's strategic priority of the implementation of Risk-based Regulation, a comprehensive review of registration policies and forms was completed by College staff. The review identified two courses of action to how we approach current registration policies and tools:

1. Revision – the policy/tool is relevant and necessary within current regulatory framework but requires revision.
2. Rescind – the policy/tool does not meet the criteria for a policy and includes information outlined in the Code, regulation, a procedure or information better suited for publication on the College website or in a handbook.

In addition, the process has identified a list of new policies and procedures for future consideration and development. The Registration Committee is in the process of reviewing and approving the recommendations before making a formal motion to Council in December.

Jurisprudence Course

The jurisprudence course has successfully been implemented as an entry-to-practise requirement as of July 1, 2017. Section 7.7 of the Registration Regulation outlines completion of the course for issuance of a General or Supervised Practice certificate of registration, therefore the Course also applies to members applying to switch class from Inactive to General. The Committee is now considering how this requirement will be applied to members of the College and has sought legal counsel advice.

Respectfully Submitted,

Isabelle Milot, RM, Chair

FOR DISCUSSION

Briefing Note for Council

Subject: Revisions to the first draft of the Professional Standards based on the first public consultation.

Background

The Professional Standards for Midwives (Professional Standards) is being developed to set a minimum standard of expected behaviour for midwives using a principles-based approach. The Professional Standards will eventually replace numerous current College standards. The document was circulated for public consultation, along with a consultation paper explaining the changes and their rationale, on July 14, 2017. The consultation was due to end on August 25 but was extended to September 1, 2017, based on members requesting additional time. The Professional Standards Working Group (Working Group) met on September 25 to discuss the consultation process and make further recommendations to the draft.

A response to the questions and comments arising from the consultation, as well as a second draft of the Professional Standards, will go out for public consultation this fall. This consultation will coincide with the College's Member Education Day (November 1, 2017), where the proposed new standards will be discussed and additional feedback obtained.

Key Considerations

The consultation involved feedback gathered in three different ways: a survey, comments on the website, and e-mails sent directly to the College. The breakdown of responses is as follows: 36 completed survey, 26 open-ended responses were posted on the website, and 10 e-mails and letters were sent directly to the College (a letter from the Association of Ontario Midwives (AOM) is attached).

From the wide variety of comments the following key themes emerged:

1. Strong agreement with our approach to streamlining our standards of practice that would allow midwives to practice with more flexibility and in more innovative ways. Strong support, particularly from other regulators, for our increased focus on clients and the broader public interest.
2. A broad welcome for the Professional Standards by the profession and members of the public. This was tempered by expressions of concern that midwives might not have the knowledge, skills and judgement to practice competently in the absence of prescriptive rules, that we should be clearer in our expectations of midwives and that more detail was needed in the Professional Standards.
3. Some respondents were firmly opposed to our overall approach to informed choice, choice of birthplace and continuity of care.

4. Some respondents were opposed to rescinding some of the standards with the implementation of the Professional Standards. They argued midwifery is a marginalized profession and midwives require advocacy tools (in the way of our existing standards).

The absence of feedback to specific new standards is also important information. For example, there was no feedback regarding replacing the current College standard that requires two midwives attend every birth (currently housed in the *Ontario Midwifery Model of Care*) with the requirement that a midwife and a second competent care provider attend every birth.

In addition to seeking feedback through public consultation, the College's legal counsel was consulted for the first time since the document was drafted. Feedback was also received during the September 25 meeting of the Professional Standards Working Group. The current Professional Standards document has been revised based on all the feedback received to date. Minor editing and language changes have been incorporated into the document while larger additions and deletions are tracked and rationales provided. The document still has some language inconsistencies (e.g., the use of client instead of clients) and these will continue to be addressed as the document is further developed.

Recommendations

This item is brought to Council for discussion. The second round of consultation is scheduled to launch during the week of October 16th.

Implementation Date

The proposed implementation date for the Professional Standards is June 2018, subject to Council's approval.

Legislative and Other References

All the current standards can be accessed on the College website at:
http://www.cmo.on.ca/quality-assurance/standards-of-practice/

Attachments

1. Professional Standards for Midwives draft
2. Letter from the AOM

Submitted by: Professional Standards Working Group

Association of Ontario Midwives
Delivering what matters.

August 25th, 2017

Tiffany Haidon, President
College of Midwives of Ontario
55 St. Clair Ave. W., Suite 812, Box 27
Toronto, ON M4V 2Y7

Dear Tiffany:

Re: Draft Professional Standards for Midwives

We appreciate the opportunities the CMO has provided to the AOM to ask questions and better understand the College's regulatory transformation. We have provided some specific feedback on the Draft Professionals Standards document to Johanna Geraci and Marina Solakhyan, both in person and in writing. This letter addresses one over-arching concern about the need to maintain certain foundational standards that currently support midwives to uphold client autonomy and informed choice.

We understand that it is not the regulatory body's role to impose a model of practice onto the profession. However, the College has the legislated role of ensuring public protection within the context of midwifery care. In order to ensure safe and quality midwifery care, the public must know and understand midwives' scope of practice and the foundational principles that are currently found in the CMO's standards. We believe it is the College's role, in order to protect the public, to articulate these foundational principles through the maintaining of certain key standards.

We completely agree that having a less specific and prescriptive approach to regulation has the potential to allow midwives to practice with greater flexibility to meet the needs of their communities. However, midwives and midwifery care are still largely marginalized in the healthcare system and within individual institutions. This marginalization has the potential to negatively impact client care and jeopardize client safety. Such negative impacts are most likely to be seen in the following areas: client's choices regarding their care may be restricted through hospital policies; medically unnecessary transfers of care may be imposed leading to increasing clinical risks; continuity of care may be disrupted leading to poorer clinical outcomes. College standards can protect clients from these situations and the resultant clinical and client satisfaction outcomes.

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Many midwives currently use College documents (such as the Home and Out-of-Hospital Births and Informed Choice standards) when challenged by physicians for supporting a client's choice. The power of a document issued by the regulatory body cannot be underestimated in terms of its ability to act as a shield for midwives advocating for the care that their client has chosen. Statements from the AOM lack the authority required to shield midwives from such encroachments the way that a statement from midwives' regulator can. Client care will be directly affected if midwives cannot challenge threats to client choice and client autonomy with the backing of these College documents.

It is for these reasons that we feel strongly that the "Midwifery Model of Care", especially the foundational principles of informed choice, choice of birthplace, and continuity of care need to be emphasized in the Professional Standards document (or in another document). Even though the current draft Professional Standards addresses these elements, they are not articulated in great enough detail to be understood by the public and interprofessional colleagues. For example, the common definition of "person-centred care" as adopted by many hospitals cannot be assumed to be the same as what is commonly understood in the midwifery community. Similarly, standard statements like: "Provide client with a choice between home and hospital births", lack specificity which could lead to physicians to challenge midwives who support clients to have out of hospital births under contentious circumstances by obstetrical standards (e.g., VBACs). The lack of specificity about VBAC in particular has the potential to negatively impact VBAC rates.

An explanation of midwifery "foundational principles", the principles that the public demanded and that led to the establishment of professional midwifery in Ontario, could be maintained in another standard (one that is not rescinded) or could be included in the overview section of the Professional Standards document. The inclusion of these principles in the Professional Standards document highlight them as the bedrock on which the professional standards are built. Clients, members of the public and other healthcare providers who access this document will understand the expectation of adherence to these foundational principles. We strongly recommend the following statements be maintained so that their importance is not minimized within a larger broader document:

- Code of ethics
- Home and Out of Hospital Birth
- Informed choice
- VBAC and choice of birthplace
- Continuity of care

We are happy to further discuss any of these points with you and again, appreciate this opportunity to provide feedback.

Yours truly,

Elizabeth Brandeis, RM, President

Cc: Kelly Dobbin, CEO & Registrar, CMO
Kelly Stadelbauer, Executive Director, AOM
Allyson Booth, Director Quality and Risk Management, AOM

PROFESSIONAL STANDARDS FOR MIDWIVES

OVERVIEW

The Professional Standards for Midwives (Professional "Standards") describes what is expected of all midwives registered with the College of Midwives of Ontario ("College"). The Professional Standards sets out the College's mandatory requirements regarding your practice and conduct and ~~to~~ they help you achieve the best outcomes for your clients and the public.

All midwives involved in client care hold the role of a trusted professional. There are duties arising from this role and obligations owed to others, including your clients, ~~and~~ the public, your peers, ~~and~~ other health care providers and your regulator.

It is your responsibility to be familiar with and comply with the Professional Standards. You must use your judgement in applying the principles to the various situations you will face as a midwife. However, no standard can foresee or address every issue or ethical dilemma which may arise throughout your professional career. You must always strive to uphold the ~~the intention of the~~ Professional Standards.

You must always act in accordance with the law. The Professional Standards is not a substitute for legislation and regulations that govern the midwifery profession in Ontario. If there is any conflict between the Professional Standards and the law, the law prevails.
Because midwives provide ~~Providing~~ care in a variety of settings including homes, clinics and institutional settings, you must also be aware of, and work in accordance with, the standards afforded by each of the locations where you practice, including practice guidelines, institutional policies and procedures and community standards. When those guidelines, institutional policies and procedures and community standards are less stringent than, or contradict these Standards, you must comply with all College Standards.
While many standards are compiled, written down and formally approved by the College, other standards are not documented and are unwritten expectations that describe the generally accepted practices of midwives who work in similar contexts in Ontario.

~~The Professional Standards is designed for multiple audiences: midwives, midwifery students, clients receiving midwifery care, the members of the public, and other health care providers~~

Comment [A1]: This was added because midwives cannot always comply with 2 sets of standards simultaneously (e.g. informed choice about some types of births might go against hospital policies).

Comment [A2]: Consider more description about the "hierarchy" of documents (law, standards, guidelines)

Comment [A3]: Added to provide more guidance about standards

The Principles

Five (5) mandatory principles form the Professional Standards. These principles define the fundamental ethical, ~~and~~ professional standards that the College expects all practices and individual midwives to meet when providing midwifery services. The standards are not negotiable or discretionary. You must, however, use your judgement in interpreting and applying the principles and the standards to the various situations you will face as a midwife. Compliance with the principles is subject to any overriding legal obligations.

You must practice according to the standards expected of you by:

- Demonstrating professional knowledge and practice
- Providing person-centred care
- Demonstrating leadership and collaboration
- Acting with integrity
- Being committed to self-regulation

Structure of the Professional Standards

The Professional Standards is/are divided into five (5) ~~sections~~ principles. Each ~~section~~ principle includes ~~the overriding principle~~ a definition of the principle and a set of standards. The standards describe what midwives ~~are expected to~~ must achieve for compliance with the relevant principle. For midwives with practice management responsibilities, there are additional standards at the end of each section that apply to you.

Interpretation

Words highlighted in grey are defined in the Glossary.

PROFESSIONAL KNOWLEDGE AND PRACTICE

Professional Knowledge and Practice focuses on developing and maintaining the knowledge and clinical skills necessary to provide high quality care to clients. All midwives practising in Ontario ~~have a duty to~~ must possess the knowledge, skills and behaviours relevant to their professional practice. They must exercise good clinical and professional judgment to provide safe and effective care. Midwives must be committed to an ongoing process of learning, self-assessment, evaluation and identifying ways to best meet client needs.

To demonstrate Professional Knowledge and Practice, you must meet the following standards:

1. Maintain core competencies and ensure you have the training and skills required to perform any advanced competencies that are part of your practice.
2. ~~Work within the limits of your advanced competencies~~
   - ~~2.1. be aware of deficiencies in your practice~~
   - ~~2.2. take steps to address any deficiencies and carry out further training where necessary~~
3. Work within the boundaries of the Midwifery Act related to scope of practice and the controlled acts authorized to midwives,
4. Know, understand and adhere to the standards of the profession and other relevant standards that affect your practice.
5. When you are also a member of another regulated profession and acting in this capacity ~~When acting in a dual registrant capacity:~~
   - 5.1. Inform clients if any part of a proposed service or treatment is outside the scope of midwifery practice
   - 5.2. inform clients if any part of a proposed service or treatment will be administered outside your role as a midwife
   - 5.3. maintain ~~separate~~ midwifery records separate from the other professional records
   - 5.4. ensure clients know that they are not obliged to receive care from you in your capacity as another regulated professional
6. ~~Make records contemporaneously and chronologically;~~
7. Maintain contemporaneous, accurate, objective and legible records of the care that was provided during ~~the course of~~ client care and include:

Comment [A4]: Added relevant parts of the #2 "advanced competencies" to this standard and deleted #2.

Comment [A5]: Deleted because combined this with the standard below (#7) and deleted it.

7.1. what was provided, when it was provided, and why it was provided
7.2. to whom it was provided and who provided it
7.3. relevant clinical findings
7.4. information given to clients and a reasonable belief that ~~acknowledgement~~ it has been understood
7.5. decisions made about care
7.6. the clients' acceptance of associated risks when their choice conflicts with professional advice
7.7. any medications prescribed or other care or treatments performed or ordered
7.8. the name and signature of the person writing entries and the date
7.9. indication of any late entries made and the reasons why

8. ~~Assess clients' conditions, taking account of their history as well as their views and values~~
9. Provide treatments consistent with the standards of the profession, and based on the current and accepted evidence
10. Order tests and prescribe medications ~~are ordered and prescribed~~ only when you have adequate knowledge of clients' health and are satisfied that tests ~~treatment~~ and medications are ~~appropriate~~ clinically indicated
11. Maintain and carry supplies and equipment necessary for safe care in home settings ~~are maintained~~.
12. Effectively use the healthcare resources available to you.
13. Continuously monitor and make efforts to improve the quality of your practice using ~~practice~~ reflection and client and peer feedback.

Midwives with practice management responsibilities:

14. Maintain a practice environment that supports compliance with relevant legislation, regulations, policies and standards governing the practice of midwifery ~~and the operation of midwifery clinics~~.
15. ~~Ensure supplies and equipment necessary for the delivery of safe care in both clinic and home settings are available to midwives in your practice~~. Ensure adequate funding for essential operational supplies

Comment [A6]: This was added to provide further guidance

Comment [A7]: Deleted because covered elsewhere

Comment [A8]: Deleted because redundant

Comment [A9]: changed because it was felt that those with practice management responsibilities could not be accountable for funding all equipment but that they should ensure adequate funding for operation supplies.

16. Develop and maintain quality improvement systems to support the professional performance of midwives and to enhance the quality of client care.

PERSON-CENTRED CARE

Person-centred care is focused on the client and their life context. Person-centred care recognizes the central role the client has in their own health care, and responds to their unique needs, values and preferences. Working with individuals in partnership, person-centred care offers high-quality care provided with compassion, respect and trust.

To achieve Person-Centred care, you must meet the following standards:

17. ~~Take reasonable steps to~~ Ensure that every birth you attend as the most responsible provider is also attended by a second midwife or another individual competent to perform the role of second attendant
18. ~~Provide equitable access to care for all midwifery clients and those seeking to become midwifery clients.~~
19. Listen to clients and provide information in ways they can understand.
20. Support clients to be active participants in managing their own health ~~take an interest in, and responsibility for, managing their own health~~ and the health of their newborns.
21. Recognize clients as the primary decision-makers and provide informed choice in all aspects of care by:
    - 21.1. providing ~~them with the necessary~~ information so they feel ~~to be~~ fully informed when making ~~and participate in~~ decisions about their care
    - 21.2. making every effort to understand and appreciate what is motivating their choices
    - 21.3. allowing them adequate time for decision-making
    - 21.4. supporting their right to accept or refuse treatment
    - 21.5. providing them with the potential benefits, risks, and alternatives to procedures, tests and medications
    - 21.6. respecting the degree to which they want to be involved in decisions about their care

Comment [A10]: "Person-centred care" is used instead of "client-centred care" because it is a term used in the literature to describe personalized care that considers the whole person rather than care focussed on the individual as "client" or "patient"

Comment [A11]: The standard on second birth attendants will be revised by the time the professional standards are approved.

Comment [A12]: Changed to highlight active participation of clients

Comment [A13]: More details added to this standard to strengthen informed choice

Comment [A14]: Deleted here because added above

22. Ensure clients have 24-hour access ~~to continuous~~ to midwifery care throughout pregnancy, birth and postpartum ~~characterized by 24-hour access to midwifery care~~ or, where midwifery care is not available, to suitable alternate care known to ~~the~~ each client.
23. Provide clients with a choice between home and hospital births.
24. Take reasonable steps to provide care during labour, birth and the early postpartum in the setting chosen by clients.
25. Ensure that your personal biases do not adversely affect client care.

Midwives with practice management responsibilities must also:

26. Have systems in place to ensure that access to midwifery services is based on clients' need for midwifery care ~~current and potential clients have equitable access to midwifery care.~~
27. Manage your practice effectively for the benefit of your clients.

LEADERSHIP AND COLLABORATION

Leadership and Collaboration requires that you work both independently and together with midwives, other regulated and unregulated health care providers in relationships of reciprocal trust. Leadership and Collaboration demands that midwives work with clearly defined roles and responsibilities in all health care settings and when in health care teams. Communication, cooperation and coordination are integral to the principle of Leadership and Collaboration.

To demonstrate Leadership and Collaboration, you must meet the following standards:

28. Be accountable and responsible for clients in your care and for your professional decisions and actions the ~~outcome of your individual practise~~.
29. ~~Maximize~~ Provide continuity of care ~~throughout the course of a client's care~~ by developing and maintaining an ongoing relationship of trust with the your clients
30. Establish and work within systems that are clear to clients when their care is shared ~~between~~ within a team of midwives by:

Comment [A15]: wording revised to make it clearer

Comment [A16]: Replaced "provide" with "take reasonable steps to provide" because it was felt "provide" is an unachievable standard

Comment [A17]: Added to clarify that this is not an emotional relationship

30.1. assuming primary responsibility for all the care you provide ~~clients in your care~~, including when client care is routinely provided by more than one midwife

30.2. Ensure that the results from all tests, treatments, consultations and referrals are ~~all relevant client information is~~ received ~~and available~~ in a timely manner

30.3. make every effort to ensure that a care provider known to the client is available to attend the birth

30.4. follow consistent care plans agreed upon by all the midwives in the team ~~am providing information and advice to clients that is consistent with the other midwives in your team~~

30.5. provide complete and accurate client information to the other midwife at the time care is handed over to them.

31. Take reasonable steps to continue in a supportive role ~~when~~ with clients when their care is ~~temporarily~~ transferred to another care provider.

32. Coordinate client care with other providers when an alternative to midwifery ~~alternate~~ care is requested.

33. Consult with or transfer care to another care provider when the required care exceeds your knowledge and skills unless you believe that not providing care could result in harm.

34. Provide complete and accurate client information to the most responsible provider ~~other health care provider~~ at the time care is transferred

35. Ensure that clients and health care providers know who is the most responsible provider throughout ~~client~~ their care, including delegations, consultations and transfers of care.

36. ~~Advocate on your client's behalf.~~

37. Be accountable for your decisions to delegate and accept delegations of controlled acts by:

37.1. delegating acts only to individuals whom you know to be competent to carry out the delegated act, and who are authorized to accept the delegation

37.2. delegating only those acts you are authorized and competent to perform

37.3. accepting only delegated acts that you are competent to perform.

Comment [A18]: Perhaps this is already clear?

Comment [A19]: Changed for clarity

Comment [A20]: Changed to highlight a consistent plan rather than "advice"

Comment [A21]: Is this too similar to #34?

Comment [A22]: "Continue" was replaced with "take reasonable steps to continue" because it was felt "continue" was an unachievable standard.

Comment [A23]: Deleted because advocacy is not a minimum standard

INTEGRITY

Comment [A24]: Strengthened definition

Integrity is a fundamental quality of any person who seeks to practise as a member of the midwifery profession. Every midwife has a duty to practice ~~the profession~~ truthfully and

honestly with the best interest of their clients as paramount. Integrity demands that midwives willingly and consistently do what is right, maintaining the reputation and values of the profession. If a client has any doubt about their midwife's integrity, ~~the midwife's usefulness to the client~~ ~~and the~~ reputation of the midwife ~~within the profession~~ will be compromised, regardless of how clinically competent the midwife may be.

To demonstrate Integrity, you must meet the following standards:

38. Conduct yourself in a way that promotes clients' trust in you and the public's trust in the midwifery profession.
39. Never abandon clients in labour
40. Be honest and candid ~~about your experience, qualifications and current role~~ in all professional dealings with clients, midwives, other health care providers and the College
41. Disclose to the client any harm sustained to them while under your care. Disclosure must include explaining to clients promptly and accurately:
    - 41.1. the facts of the incident
    - 41.2. anticipated short-term and long-term effects
    - 41.3. recommended actions to address the consequences.
42. Avoid caring for clients while ~~acting~~ in a conflict of interest, unless all the following circumstances apply:
    - 42.1. you are satisfied that it is in the best interests of the clients for you to ~~act~~ care for them
    - 42.2. you have explained the conflict ~~relevant issues and risks~~ to the clients and have advised them of their right to seek care from another provider
    - 42.3. ~~and~~ you have a reasonable belief that they understand the conflict and their right to seek care elsewhere
    - 42.4. you have documented the clients' consent ~~in writing~~ to you ~~acting~~ providing care despite the conflict.
43. Take every reasonable precaution to protect the privacy and confidentiality of your clients' personal health information, unless release of information is required or permitted by law.
44. Avoid the use of professional qualifications in the promotion of commercial products.

Comment [A25]: Added to reiterate this provision and ensure all issues in the current code of ethics are addressed.

Comment [A26]: Language throughout this standard strengthened and explained

45. Recommend the use of products or services ~~only~~ based on evidence and clinical judgement and not commercial gain.
46. Make referrals to other health care providers only based on the client's best interest and not ~~by any pre-set arrangements~~ financial gain.
47. Recognize the power imbalance inherent in the midwife-client relationship; establish and maintain clear and appropriate professional boundaries always.
48. Never pursue or engage in a sexual relationship with a client.~~Abstain from using~~ ~~your professional position~~ to pursue sexual or emotional relationships with clients or their family members.
49. Practise free of any mental or physical condition or disorder that ~~prevents you from proving safe and ethical care~~ affects your ability to provide safe and effective care.
50. Recognize the limits imposed by fatigue, stress or illness, and adjust your practice to the extent that is necessary to provide safe and effective care.

Midwives with practice management responsibilities must also:

51. ~~Manage practice in a way that encourages equality of opportunity and respect for diversity.~~
52. Manage practice in a way that supports the physical and mental well-being of all individuals involved in client care
53. Ensure that information you publicize about your practice or any other practice is ~~true~~, accurate and verifiable.

COMMITMENT TO SELF-REGULATION

Self-regulation is a privilege that recognizes the maturity of the profession and honours the knowledge and skills possessed by its members. Midwifery was accorded this privilege based on the premise that midwives will uphold the standards and reputation of the profession, protect and promote the best interests of clients and the public, and collectively act in a manner that reflects well on the profession. Self-regulation requires that each midwife participate in the self-regulatory process.

To demonstrate Commitment to Self-Regulation, you must meet the following standards:

Comment [A27]: Standard clarified

Comment [A28]: Wording changed to strengthen standard on sexual relationships

54. Co-operate fully with all College procedures. This duty applies to:
    - 54.1. investigations of your practice ~~against you~~ or relating to others
    - 54.2. peer and practice assessments and audits
    - 54.3. referrals to a committee panel
    - 54.4. any other proceedings before the College.
55. ~~Comply with any written notice from the College~~
56. ~~Communicate with the College in a cooperative manner. This includes:~~
57. advising the College, in writing, of information, and any changes to the information, required to be maintained in the register or provided to the College
58. responding promptly to College correspondence that requires a response.
59. Do not discourage or ~~Not~~ prevent anyone from filing a complaint or raising a concern against you.
60. Appropriately supervise students and peers ~~whom you have a duty to supervise~~, and provide honest and objective assessments of their practice ~~competence and conduct~~.
61. Know, understand and comply with mandatory reporting obligations.
62. Provide appropriate information to your clients about how the midwifery profession is regulated in Ontario, including how the College's complaints process.

Midwives with practice management responsibilities must also:

63. Establish a system to deal with clients' expressed concerns promptly, fairly and openly.

Comment [A29]: Removed because it suggests members must reply to notices that do not require a response.

Comment [A30]: These were previously sub-points under standard 59 but are now separate standards.

GLOSSARY

The Glossary comprises a set of defined terms which are used in the Professional Standards. Defined terms ~~in their defined meaning~~ are highlighted in grey within the individual standards under each principle. The Glossary may also contain commentary and interpretation.

Boundaries

means a clear separation between professional conduct aimed at meeting the needs of a client and the midwife's personal views, feelings and relationships which are not relevant to a client-midwife relationship.

~~**Canadian Midwifery Regulators' Council (CMRC)**~~

~~means a network of provincial and territorial midwifery regulatory authorities. These regulators are the only bodies in Canada with the exclusive, legislated mandate of public protection.~~

Client

To define it based on Council approved definition

College

means the College of Midwives of Ontario established under the *Midwifery Act, 1991.*

~~**Complaints process**~~

~~means the College's complaints process as described on the College's website.~~

Comment [A31]: Definition self-evident

~~**Concern**~~

~~means an expressed concern about the quality of care clients have received from a midwife. This is different from the College's formal complaints process.~~

Comment [A32]: Definition self-evident

~~**Condition**~~

~~means having a condition as defined in section 1(1) of *the Health Professions Procedural Code*, Schedule 2 of *the Regulated Health Professions Act, 1991*, as suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the member's practice be restricted or that the member no longer be permitted to practise.~~

Conflict of interest

arises when a midwife, entrusted with acting in the best interests of a client, also has professional, personal, financial or other interests or relationships with third parties which

may undermine the midwife's professional judgment and affect their care of the client. ~~Multiple interests are not uncommon. A conflict of interest requires identification, appropriate disclosure and accountability.~~

Confidentiality and Privacy

means complying with the legal and professional duty to maintain the confidentiality of clients' personal health information and protecting that information from inappropriate access. The *Personal Health Information Protection Act, 2004* (*PHIPA*) governs midwives' use of personal health information, including its collection, use, permitted disclosure, and access.

Comment [A33]: Privacy was added to this term because PHIPA addresses both and it seems appropriate, for the purposes of this document, to put them together.

For more guidance, refer to the *Personal Health Information Protection Act, 2004* (PHIPA) and the College's Guide on Compliance with the Personal Health Information Protection Act. Examples of legislation requiring disclosure include the *Regulated Health Professions Act, 1991* and *the Health Professions Procedural Code*; the *Highway Traffic Act*; the *Child and Family Services Act*.

Consultation

means a discussion with another professional (e.g., a midwife or physician) who has a particular area of expertise for the purpose of seeking clinical advice ~~The request from a midwife to another health care provider (e.g., a physician, or a midwife) for clinical assessment and recommendations~~.

Controlled acts authorized to midwives

means the list of controlled acts provided to midwives pursuant to section 4 of the *Midwifery Act, 1991*

Core competencies

means the competencies expected of midwives, upon entry to practice and for ongoing registration with the College to be able to work within the midwifery scope of practice

and provide safe and effective care in both hospital and home settings. The core competencies are set out in the *Canadian Competencies for Midwives* developed by the Canadian Midwifery Regulators' Council, a network of provincial and territorial midwifery regulatory authorities, and is available on the College's website.

Delegation

means a process where a regulated health professional who is authorized to perform a controlled act, designates that authority to someone else who is not authorized to perfrom that controlled act. ~~performing a controlled act another health care practitioner provider, who is authorized to perform that controlled act, has it.~~ Delegation can be made to another regulated health care ~~practitioner~~ provider or to an unregistered person. For example, a midwife can delegate the insertion of a catheter into a client during labour to an unregistered ~~second~~ birth attendant if the midwife is confident that the ~~second~~ birth attendant has the skill, knowledge and judgement necessary to perform the controlled acts. Similarly, a physician can delegate a controlled act, such as placing an instrument, hand or finger into an artificial opening into the body, to a midwife.

Comment [A34]: Clarified definition

~~**Dual registrant**~~

~~means holding registration with the College and with another health profession in Ontario regulated under the *Regulated Health Professions Act, 1991* (e.g. nursing).~~

Comment [A35]: Deleted because the term is no longer used in the document and has been replaced with a description in the standard

~~**Equitable access**~~

~~means the opportunity for a client to receive midwifery care based on their perceived need for midwifery care.~~

Early postpartum

means the time period from birth to 7 days after birth

~~**Harm**~~

~~means an unintended and negative health outcome that occurs during midwifery care. Harm results from errors or lapses in care caused by a midwife, other member of the health care team or a failure of the health care delivery system.~~

Comment [A36]: Definition deleted because self-evident

~~**In the manner outlined in the College bylaws**~~

~~has the meaning as in sections 14.06, 15.1, 15.02, 15.04 of the General By-law.~~

Information designated as public

means information required by sections 23(2) of *the Health Professions Procedural Code*, Schedule 2 of *the Regulated Health Professions Act, 1991* and articles 14 and 15 of the General by-law.

Maintained in the register or provided to the College

means information provided to the College as required by section 23(2) of *the Health Professions Procedural Code*, Schedule 2 of *the Regulated Health Professions Act, 1991*, other acts and regulations (e.g., Registration Regulation), and Articles 14 and 15 of the General by-law.

Mandatory reporting obligation

means a statutory responsibility to report relevant matters to the College or other authorities. For more guidance, refer to the College's Guide on Mandatory Reporting. You must seek advice from the College or other relevant organizations if you are unsure about your mandatory reporting obligations.

Midwifery Act

means the ~~*Midwifery Act, 1991*~~, the legislation that sets out the midwifery scope of practice and controlled acts that are authorized to midwives as well as provisions on title protection and Council composition. Through the *Health Professions Procedural Code,* Schedule 2 of *the Regulated Health Professions Act, 1991*, it also gives the College the authority to develop regulations (e.g., Designated Drugs Regulation).

Most responsible provider (MRP)

means a midwife or another health care provider who holds overall responsibility for leading and coordinating the delivery and organization of a client's care at a specific

moment in time. ~~The MRP is also accountable for the care that is provided when in this role.~~

Quality improvement systems

means developing and maintaining a systematic approach for measuring and improving client outcomes. Quality Improvement is a team process and includes monitoring and data collection (including client feedback), implementation of quality improvement measures, and evaluation.

Scope of Practice

has the same meaning as in section 3 of the *Midwifery Act, 1991*.

~~**Standards of the profession**~~

~~means the generally agreed upon and commonly accepted way of providing midwifery care as determined and supported by midwifery experts. Sometimes the details of the standards of the profession are not formally outlined by the College. For example, the College may not have a document describing exactly how a midwife must assess a client. Often how the standard is applied changes with the circumstances (e.g., the answers the client gives to the midwife's questions will change how the assessment is done). Standards of the profession are learned through education, professional reading and learning, experience in practice and in discussions with other midwives. Standards of the profession are always changing and community specific.~~

Comment [A37]: Deleted because it has now been described in the introduction to the document

Supervise

means overseeing a midwife who holds a supervised practice certificate of registration; a midwife who holds a general certificate of registration with new registrant conditions or a term, condition and limitation; and a student during their clinical placement.

Transfer

means the transfer of responsibility from a midwife to another midwife or a physician for some, or all, of the duration of the client's care.

Briefing Note for Council

Subject: Proposed changes to O. Reg. 682 Laboratories Regulation, under the *Laboratory and Specimen Collection Centre Licensing Act, 1990*

Summary

The Laboratories Regulation 682 of the *Laboratory and Specimen Collection Centre Licensing Act, 1990* permits midwives to order laboratory tests and collect specimens in accordance with a specific list outlined in Appendix B. The College has identified barriers to access to care and challenges to timely and appropriate care arising from the list and the inability to make timely changes. The College recommends rescinding Appendix B and revising s.9(1)(a)(ii) of the regulation to permit midwives to order laboratory tests appropriate for client care. The Ministry has recently prioritized midwives' increased access to laboratory tests.

Background

The College has worked with the Ministry on several occasions since 1994 to update the list of tests in Appendix B to reflect evolving standards of practice in low-risk maternity care. In that time, minimal changes to the list have been made, despite efforts to increase access to appropriate testing and improve care delivered by midwives.

In 2008, the College conducted a broad consultation with its membership whereby 95% of respondents were supportive of increasing access to additional tests for their clients. Midwives cited limited access to appropriate care for clients and a negative impact on interprofessional consulting relationships as the primary challenges associated with the current limitations.

In 2010, the College formally submitted changes to the Regulation to include a broader list of tests that reflected the then-current standard of practice of low-risk maternity care providers. Unfortunately, the proposed changes have not yet been considered, making the current list and the 2010 proposed list, critically out of date.

In 2016, the College resumed its meetings with the Ministry to discuss the need for change to the Laboratories Regulation since the current list continues to pose barriers to safe, timely and effective care by midwives and results in poor use of health system dollars.

Key Considerations

The College is proposing a regulation change that reflects midwives' current scope of practice and competencies and is flexible to adapt to evolving standards of practice in low-risk maternity care.

Recommendations

The following motion is submitted for approval:

Approve proposed changes to O. Reg. 682 Laboratories Regulation, under the *Laboratory and Specimen Collection Centre Licensing Act, 1990* for 60-day consultation.

Implementation Date

The College will conduct a minimum 60-day consultation following the October Council meeting. Considering the concurrent consultation on Professional Standards, the College will stagger and increase the timeframe to encourage greater participation. Feedback will be analyzed and brought forward to Council for consideration in March 2018. If Council is satisfied with a version that is substantially the same, it may approve for formal submission to the Ministry at that time.

Legislative and Other References

Laboratory and Specimen Collection Centre Licensing Act, R.S.O. 1990

Attachments

1. 2017 CMO proposed Changes to Laboratories Regulation Report
2. Laboratories Regulation Submission table

Submitted by:

Kelly Dobbin, Registrar & CEO

PROPOSED CHANGES TO THE LABORATORIES REGULATION O.REG 682

College of Midwives of Ontario, September 2017

Introduction

The College is committed to achieving our 2017-2020 Strategic Priority of Modernizing Legislation and Regulations. We invest the necessary time and resources to undertake this work in accordance with our public interest mandate. The proposed changes in this report are expected to:

- Ensure safe provision of care by midwives
- Improve client experience and outcomes
- Improve access to care through the removal of barriers to safe, timely and quality care
- Optimize midwifery competencies and scope of practice
- Meet the Ministry's strategic objectives in the Patients' First Plan
- Address technological advances in maternal newborn care
- Improve the effectiveness and efficiency of the health care system
- Demonstrate best practices in professional regulation
- Support evidence-based health systems and workforce planning

Proposed changes to O. Reg. 335/12 General Regulation and O. Reg. 338/09 Professional Misconduct Regulation, made under the *Midwifery Act, 1991*, have been formally submitted to the Ministry of Health and Long-Term Care for consideration.

In this report, the following legislation and regulations are addressed:

1. O. Reg. 682 Laboratories Regulation, under the *Laboratory and Specimen Collection Centre Licensing Act, 1990*

O. Reg. 682 Laboratories Regulation

Background

The Laboratory Regulation 682 of the *Laboratory and Specimen Collection Centre Licensing Act* permits midwives to order laboratory tests and collect specimens in accordance with a specific list outlined in Appendix B.

The College worked with the Ministry on several occasions since 1994 to update the list of tests in Appendix B to reflect evolving standards of practice in low-risk maternity care. In that time, minimal changes to the list have been made, despite College efforts to significantly increase access to appropriate testing and improve care delivered by midwives. In 2008, the College conducted a broad consultation with its membership whereby 252 of 264 respondents were supportive of increasing access to additional tests for their clients (95%). Midwives cited limited access to appropriate care for clients and a negative impact on interprofessional consulting relationships as the primary challenges associated with the current limitations. In 2010, the College formally submitted changes to the Regulation to include a broad list of tests that reflected the then current standard of

practice of low-risk maternity care providers. Unfortunately, the proposed changes have not yet been considered, making the current list and the 2010 proposed list, critically out of date.

In 2016, the College resumed its meetings with the Ministry to discuss the need for change to the Laboratories Regulation since the current list continues to pose barriers to safe, timely and effective care by midwives and results in poor use of health system dollars. The College proposes a regulation change that reflects midwives' current scope of practice and competencies and is flexible to adapt to evolving standards of practice in low-risk maternity care.

Identified Gaps or Challenges

Midwifery clients currently experience a gap in access to tests.

Community standards for diagnostics and laboratory testing change quickly and often. Based on best evidence, a once "gold-standard" test is replaced with a new and more reliable one. Research and technology that lead to improvements in practice and community standards often involve testing for confirmation of diagnosis before proceeding with recommended course of action. Due to the slow and complicated processes of requesting changes to the list of laboratory tests midwives may order, midwifery clients are not able to receive appropriate testing without having to find a "work-around" by also accessing primary or specialist physician care. For example, midwives are unable to order appropriate genetic testing for clients despite having the knowledge and skill to order and manage the results appropriately. All Ontario women who are eligible for Non-Invasive Prenatal Testing (NIPT) can access this test directly through their physician but not their primary care midwife. Midwifery clients can only access the Integrated Prenatal Screening (IPS), which includes ultrasound and Maternal Serum Screening, now considered a substandard test in Ontario. Therefore, midwifery clients must also seek care from a family physician or a consulting obstetrician to access the NIPT. This frequently encountered scenario is a poor use of health care resources, client time, and physician time and does not appropriately reflect midwives' role in primary care provision. Furthermore, the potential for fragmented and uncoordinated care is increased.

Midwifery clients experience delay in benefitting from necessary consultations.

In instances where midwives do and should request a consultation with a specialist, the consultant has incomplete information upon the first visit due to midwives' lack of access to appropriate laboratory testing. Consultants often request clients to arrive for their consultation with specific testing already completed. Midwives, however, cannot order these tests, resulting in unnecessary steps, delay and frustration on the part of midwives, clients and our physicians. Midwifery clients are therefore attending unnecessary consultations with physicians to first obtain tests, and then clients must return for a subsequent consultation to receive management plans or advice.

Midwifery clients do not currently benefit from reliable and rapid testing available in other clinical office settings.

Portable laboratory diagnostic technology is rapidly improving and becoming affordable and simple for health care providers to use. As some diagnostic testing moves outside the laboratory setting and into clinician offices or client homes, midwives should not be prevented from offering similar benefits to their clients.

Recommendations & Rationale

Recommendation 1:

Rescind Appendix B of the Laboratories Regulation and revise s.9(1)(a)(ii) to permit midwives to order laboratory tests as appropriate for client care, as follows:

9. (1) The owner and the operator of a laboratory shall ensure that the staff of the laboratory,
(a) examine specimens from humans only,
(i) at the request of a legally qualified medical practitioner or a dentist,
(ii) at the request of a midwife, ~~in respect of a test specified in Appendix B,~~
(ii.1) at the request of a person who lawfully practises a health profession in a jurisdiction outside Ontario, if in that jurisdiction a laboratory may lawfully examine specimens at the request of that person,
(iii) at the request of an insurer or an agent within the meaning of the Insurance Act, in respect of HIV Antibody testing,
(iv) at the request of a registered nurse who holds an extended certificate of registration under the Nursing Act, 1991,
(v) at the request of a person who is a participant in the provincial colorectal cancer screening program, in respect of a test or tests for the purposes of the program, or
(vi) at the request of a member of the College of Naturopaths of Ontario, in respect of a test specified in Appendix C;

Rationale:

Midwifery clients should have timely access to all diagnostic tests that may be needed during their pregnancy, birth and postpartum. Midwifery clients should not be subjected to unnecessary barriers in receiving quality maternity care.

As primary maternity care providers, midwives require the authority to order any laboratory test necessary for clients and infants in the prenatal, intrapartum and postpartum periods in accordance with community standards of practice. Midwives have the necessary knowledge and skill to safely and effectively order laboratory tests for clients, within their scope of practice. Laboratory testing and screening is often the first point of inquiry to allow a practitioner to understand a client's condition; that testing will provide facts and information to inform a given health care scenario. The current list does

not accurately reflect midwives' responsibilities nor the public's expectations of quality care and presents a barrier to access to care.

There is no increased risk to the public to have midwives ordering tests within their scope of practice. Midwives already work within the boundaries of the *Midwifery Act*, the controlled acts authorized to midwives, the standards of the profession and the limits of their individual competence. They are accountable and responsible for clients in their care and consult and coordinate care with additional or alternate providers when care the client requests or requires exceeds their knowledge, skill and judgment. The proposed regulation change reflects midwives' current scope of practice and competencies and is not an expanded scope request.

It is a standard of the profession to provide complete and accurate client information at the time care is transferred to another care provider. Removing the appendix and permitting midwives to order tests appropriate for client care facilitates interprofessional care as specialist care will only be accessed when necessary and consultants will be more readily informed to make appropriate diagnoses and care plans.

There are financial benefits to this proposed change. All care provided by midwives, including the act of ordering of laboratory tests, is included in the midwives' billable course of care. The midwife would not experience any financial gain in ordering additional lab tests. While there is a cost to the system for the laboratory tests, these tests would be in accordance with community standards of practice and would not require duplication by a specialist consultant. It is a standard of practice for low-risk maternity care providers to recommend specialist involvement when laboratory findings reach certain levels. When midwives are permitted to order tests according to client need, midwives will have prior knowledge of laboratory findings and will recommend consultations in accordance with those community standards. Currently, in some circumstances, midwives arrange consultations to obtain that information, costing the health care system additional and unnecessary billings and burden.

The time and resources required on the part of the College, stakeholders and the Ministry to make regulation changes on an annual or more frequent basis is not achievable nor sustainable, as evidenced by experience. Under the lens of risk-based regulatory framework, a prescriptive list does not further protect the public from harm but rather introduces unintended consequences of delay, unequal access to care, and inefficient use of health care resources.

There is precedent for this policy recommendation as Nurse Practitioners, once limited to ordering tests to a list in Appendix A, successfully requested the removal of their list in 2011 and are permitted to order tests as appropriate to client care.

Recommendation 2:

Revise the Laboratories Regulation to permit midwives to perform laboratory tests for the exclusive purpose of diagnosing or treating their own clients in the course of their midwifery practice, as follows:

13.2 A member of the College of Midwives of Ontario who performs laboratory tests for the exclusive purpose of diagnosing or treating their own clients in the course of their midwifery practice is exempted from the provisions of sections 5 to 16 of the Act and from the provisions of this Regulation.

Rationale:

Portable laboratory diagnostic technology is rapidly improving and becoming affordable and simple for health care providers to provide point of care testing. As additional reliable diagnostic testing moves outside the laboratory setting and into clinician offices or client homes, midwives should not be prevented from offering similar benefits to their clients.

The proposed change will facilitate earlier results, diagnosis and initiation of appropriate care plans. Furthermore, if testing can be done in the home, midwifery clients would not need to change their preferred location of receiving midwifery care in the home during the early postpartum period.

There is no increased risk to the public to have midwives performing laboratory tests for the exclusive purpose of diagnosing or treating their own clients in the course of their midwifery practice. Midwives already work within the boundaries of the *Midwifery Act*, the controlled acts authorized to midwives, the standards of the profession and the limits of their individual competence. They are accountable and responsible for clients in their care and consult and coordinate care with additional or alternate providers when care the client requests or requires exceeds their knowledge, skill and judgment. Furthermore, midwives are responsible for maintaining and testing equipment according to manufacturer's guidelines and community standards.

There are no financial implications to this proposed change. All care provided by midwives, including performing laboratory tests, is included in the midwives' billable course of care. The midwife would not experience any financial gain in performing rapid laboratory tests in the clinical office setting. There may be financial relief to the Ministry of Health if laboratory tests are conducted in the clinical office setting, but the numbers of tests would be low and would not result in a significant impact.

COLLEGE OF MIDWIVES OF ONTARIO

DRAFT PROPOSED CHANGES TO LABORATORIES REGULATION 682 UNDER THE *LABORATORY AND SPECIMENCOLLECTION CENTRE LICENSING ACT*

Current Language	Proposed Language 2017	Rationale	Stakeholder Feedback	CMO Recommendations
1. In this Regulation, "fiscal year" means the 12-month period beginning on April 1; ("exercice") "laboratory director" means a person who is responsible for the administration of the scientific and technical operation of a laboratory including the supervision of tests and the reporting of the results of the tests; ("directeur de laboratoire") "laboratory supervisor" means a person who under the general supervision of a laboratory director supervises laboratory personnel and who may perform tests requiring special scientific skills; ("superviseur de laboratoire") "laboratory technician" means a person who under direct supervision performs laboratory tests which require limited technical skill and responsibilities; ("technicien de laboratoire") "laboratory technologist" means a person who under general supervision performs tests which require the exercise of independent judgment; ("technologiste de laboratoire") "relevant" means appropriate to the classes of tests for which the laboratory is licensed; ("pertinent") "spouse" means, (a) a spouse as defined in section 1 of the *Family Law Act*, or (b) either of two persons who live together in a conjugal relationship outside marriage; ("conjoint") "technical director" has the same meaning as "laboratory supervisor". ("directeur technique") R.R.O. 1990, Reg. 682, s. 1; O. Reg. 352/98, s. 1; O. Reg. 68/00, s. 1; O. Reg. 331/05, s. 1; O. Reg. 324/07, s. 1.	No proposed changes			
2. The following classes of tests are prescribed for the purposes of the Act and this Regulation: 1. Bacteriology. 2. Virology. 3. Mycology. 4. Parasitology. 5. Immunology. 6. Serology HIV Antibody. 7. Hematology.	No proposed changes			

8. Biochemistry. 9. Cytology. 10. Immunoassays. 11. Histology (Pathology). 12. Immunohematology. 13. Cytogenetics. 14. Molecular Genetics. 15. Genetics.				
3. (1) An application for a licence, or a provisional licence, to establish, operate or maintain a laboratory, or renewal thereof, shall be submitted to the Director. R.R.O. 1990, Reg. 682, s. 3 (1). (2) The fee for the issuance or renewal of a licence is $1,262 plus an additional $200 for each test that the licensee is authorized to perform under the licence that is not listed as a service in the schedule of laboratory benefits. O. Reg. 358/02, s. 1. (3) The fee for the issuance or renewal of a provisional licence is $631 plus an additional $100 for each test that the licensee is authorized to perform under the licence that is not listed as a service in the schedule of laboratory benefits. O. Reg. 358/02, s. 1. (3.1) In subsections (2) and (3), "schedule of laboratory benefits" means the schedule of laboratory benefits as defined in subsection 1 (1) of Regulation 552 of the Revised Regulations of Ontario, 1990 made under the *Health Insurance Act*. O. Reg. 17/01, s. 1. (4) The operator of a licensed laboratory shall post the licence in a conspicuous place in the laboratory. R.R.O. 1990, Reg. 682, s. 3 (4). (5) The operator of a licensed laboratory shall post the accreditation certificate issued by the agency designated under section 14 in a conspicuous place in the laboratory. O. Reg. 25/08, s. 1.	No proposed changes			
4. (1) A licence or renewal thereof that is issued to establish, operate or maintain a laboratory is subject to the following conditions: 1. That the operator and owner engage the services of a laboratory director. 2. That the operator and owner only engage the services of a person as laboratory director, laboratory supervisor, technical director, laboratory technologist or laboratory technician who meets the qualifications prescribed by section 6 or who is otherwise	No proposed changes			

exempted under section 7. 3. That the management and operation of the laboratory is at the address set out in the licence for the laboratory. 4. That an Alphafetoprotein screen, HCG or Estriol, Inhibin or Pregnancy Associated Plasma Protein type A (PAPP-A) test or any combination of them not be performed if the person requesting the test indicates that the test is for a fetal assessment. 5. That a Hepatitis B surface antigen test not be performed if the person requesting the test indicates that the test is for a prenatal assessment. 6. That the Newborn Screening Test for amino acidopathies, fatty acid oxidation defects, organic acidemias, endocrinopathies, hemoglobinopathies, biotinidase, galactosemia, cystic fibrosis or severe combined immune deficiency not be performed if the person requesting the test indicates that the test is for newborn screening. 7. That the ColonCancerCheck FOBT not be performed. 8. That no payment or consideration of any kind be provided or offered to any donor of blood or blood constituents in return for the donation, whether directly or indirectly. 9. That no compensation for any expenditure of any kind or for time, travel or commitment be made to any donor of blood or blood constituents, whether directly or indirectly. R.R.O. 1990, Reg. 682, s. 4; O. Reg. 399/93, s. 1 (1); O. Reg. 239/04, s. 2; O. Reg. 421/06, s. 1 (1); O. Reg. 25/08, s. 2; O. Reg. 51/08, s. 1 (1); O. Reg. 165/13, s. 1; O. Reg. 65/14, s. 1. (2) A laboratory is exempt from the condition in paragraph 4 of subsection (1) if it is operated by any of the following: 1. Children's Hospital of Eastern Ontario. 2. Credit Valley Hospital. 3. North York General Hospital (General site). 4. Lakeridge Health Corporation (Oshawa site). 5. Sudbury Regional Hospital (St. Joseph's Health Centre Site). 6. Mount Sinai Hospital. 7. London Health Sciences Centre (South Street Campus). O. Reg. 399/93, s. 1 (2); O. Reg. 564/00, s. 1. (3) A laboratory is exempt from the condition in paragraph 5 of subsection (1) if it is operated by,				

(a) a public hospital; or (b) the Ontario Agency for Health Protection and Promotion. O. Reg. 446/08, s. 1. (4) A laboratory operated by the Children's Hospital of Eastern Ontario is exempt from the condition in paragraph 6 of subsection (1). O. Reg. 421/06, s. 1 (2). (5) A laboratory is exempt from the condition in paragraph 7 of subsection (1) if it has entered into a Participation Agreement with the Ministry. O. Reg. 51/08, s. 1 (2). (6) In subsection (5), "Participation Agreement" means an agreement between a laboratory and the Ministry under the Laboratory Services Funding Framework Agreement for the Colorectal Cancer Screening Program in which the laboratory agrees to conditions in respect of their participation in the program, including conditions that the laboratory will, (a) use the ColonCancerCheck FOBT kit for the purposes of the program, (b) distribute the ColonCancerCheck FOBT kits to, (i) legally qualified medical practitioners, (ii) registered nurses who hold an extended certificate of registration under the *Nursing Act, 1991*, and (iii) pharmacies, (c) provide the ColonCancerCheck FOBT kits to participants accessing the program through Telehealth Ontario, (d) report on the distribution and provision of the ColonCancerCheck FOBT kits under clauses (b) and (c) to Cancer Care Ontario for the purposes of the Ontario Cancer Screening Registry, and (e) participate in a quality assurance program that is designed for the program. O. Reg. 51/08, s. 1 (2); O. Reg. 142/11, s. 1.				
4.1 (1) No owner or operator of a laboratory shall, directly or indirectly, confer a benefit, or permit another person to confer a benefit on his or her behalf, on, (a) a health professional at whose request the laboratory examines specimens; (b) a member of the family of a health professional referred to in clause (a); or (c) a corporation that is owned or controlled by a health professional referred to in clause (a), by a member of the health professional's	No proposed changes			

family or by another corporation that is owned or controlled by the health professional or a member of his or her family. O. Reg. 206/96, s. 1. (2) For the purposes of subsection (1), an owner or operator of a laboratory confers a benefit on a person referred to in clause (1) (a), (b) or (c) by giving the person a gift, benefit or advantage of any kind, and, without limiting the generality of the foregoing, (a) by providing goods or services to the person at a cost that is less than the fair market value of the goods or services; (b) by paying all or part of the person's debts or financial obligations; (c) by lending the person money; or (d) by extending credit for goods and services to the person unless, (i) the credit is normally extended to persons in the ordinary course of business, (ii) the credit is extended under a written agreement that fixes the term for which the credit is extended and the rate of interest, and (iii) the term for which the credit is extended and the rate of interest at which the credit is extended are comparable to the terms and rates prevailing in the market at the time the credit is advanced. O. Reg. 206/96, s. 1. (3) For the purposes of subsection (1), an owner or operator of a laboratory confers a benefit on a health professional referred to in clause (1) (a) by purchasing services from the health professional or paying a third party for services provided by the health professional unless, (a) the services are paid for under a written contract; (b) the services are of a kind ordinarily provided by the health professional; and (c) the amount paid for the services is not excessive having regard to the nature of the services. O. Reg. 206/96, s. 1. (4) Despite subsections (1), (2) and (3), the owner or operator of a laboratory may employ the spouse or a member of the family of a health professional referred to in clause (1) (a), if the remuneration of the employee is reasonable given the nature of the employee's duties, the amount of time for which the employee is paid and his or her performance at work. O. Reg. 206/96, s. 1; O. Reg. 68/00, s. 2; O. Reg. 331/05, s. 2. (5) Despite subsections (1), (2) and (3), the				

owner or operator of a laboratory may provide supplies and equipment to a health professional referred to in clause (1) (a), with or without charge, if the supplies or equipment are to be used exclusively for the procurement or maintenance of specimens to be sent to the laboratory or for the reporting of the results of laboratory tests. O. Reg. 206/96, s. 1.				
4.2 (1) No owner or operator of a laboratory shall enter into an agreement to rent premises to or from a person referred to in clause 4.1 (1) (a), (b) or (c), or permit another person to enter into such an agreement on his or her behalf, unless the amount of rent payable under the agreement is comparable to the amount of rent paid for similar premises in the same geographic area. O. Reg. 206/96, s. 1. (2) No owner or operator of a laboratory shall enter into an agreement to rent premises to or from a person referred to in clause 4.1 (1) (a), (b) or (c), or permit another person to enter into such an agreement on his or her behalf, if the agreement provides for an amount of rent that varies in accordance with the number of services, or the monetary value of services, that are referred to the laboratory by the health professional referred to in clause 4.1 (1) (a), (b) or (c), as the case may be. O. Reg. 206/96, s. 1.	No proposed changes			
4.3 (1) Sections 4.1 and 4.2 do not apply if the benefit is conferred on, or the rental agreement provides that premises be rented to or from, (a) a health professional who holds at least a 50 per cent ownership interest in the laboratory or who is a member of the family of a person who holds at least a 50 per cent ownership interest in the laboratory; (b) a member of the family of a health professional who holds at least a 50 per cent ownership interest in the laboratory; (c) two or more health professionals who jointly hold at least a 50 per cent ownership interest in the laboratory; or (d) a corporation that is owned or controlled by a person referred to in clauses (a) or (b) or that is jointly owned or controlled by two or more health professionals referred to in clause (c). O. Reg. 206/96, s. 1. (2) For the purposes of subsection (1), a person holds at least a 50 per cent ownership interest in a laboratory that is a corporation if the person holds 50 per cent or more of the issued shares of the corporation. O. Reg. 206/96, s. 1.	No proposed changes			
4.4 (1) In sections 4.1, 4.2 and 4.3,	No proposed changes			

"health professional" means a member of a College of a health profession referred to in Schedule 1 of the *Regulated Health Professions Act, 1991*. O. Reg. 206/96, s. 1. (2) For the purposes of sections 4.1, 4.2 and 4.3, a person is a member of another person's family if, (a) the person is the child or direct descendant of the other or is the brother or sister of the other; (b) the person is married to the other or to a person who is the child, the descendant, the brother or sister of the other; or (c) the person is the child of the brother or sister of the other. O. Reg. 206/96, s. 1. (3) In subsection (2), "child" includes, with respect to any person, any other person with whom the person stands in the role of a parent. O. Reg. 206/96, s. 1.				
5. An applicant for a licence to establish, operate or maintain a laboratory shall, (a) have adequate laboratory staff who are qualified to perform the classes of tests for which the licence is sought; and (b) have equipment and premises that are suitable for the performance of the tests for which the licence is sought. R.R.O. 1990, Reg. 682, s. 5.	No proposed changes			
6. (1) The qualifications for a laboratory director are that the person, (a) is a legally qualified medical practitioner who has been certified by the Royal College of Physicians and Surgeons of Canada in a branch of laboratory medicine; or (b) is a legally qualified medical practitioner who has two years of post-graduate training in a clinical laboratory or laboratories approved by the Director; or (c) has obtained from a university approved by the Director an academic doctorate degree with a relevant chemical, physical or biological science as a major subject and has two post-graduate years of laboratory training and experience in a laboratory or laboratories approved by the Director; or (d) has obtained from a university approved by the Director a master's degree with a relevant chemical, physical or biological science as a major subject and has five post-graduate years of laboratory training and experience in a laboratory or laboratories approved by the Director. R.R.O. 1990, Reg. 682, s. 6 (1).	No proposed changes			

(2) The qualifications for a laboratory supervisor or technical director are that the person, (a) is a legally qualified medical practitioner who has one post-graduate year of experience in a relevant laboratory specialty in a laboratory or laboratories approved by the Director; or (b) has obtained from a university approved by the Director an academic doctorate degree with a relevant chemical, physical or biological science as a major subject and has one post-graduate year of experience in a relevant laboratory specialty in a laboratory or laboratories approved by the Director; or (c) has obtained from a university approved by the Director a master's degree with a relevant chemical, physical or biological science as a major subject and has two post-graduate years of relevant laboratory training and experience in a laboratory or laboratories approved by the Director; or (d) has obtained from a university approved by the Director a bachelor's degree with a relevant chemical, physical or biological science as a major subject and has a minimum of three post-graduate years of relevant laboratory training and experience of which at least two years shall have been in a laboratory or laboratories approved by the Director; or (e) is qualified as a laboratory technologist, and, (i) has at least six years of relevant laboratory experience approved by the Director, or (ii) has successfully completed relevant courses that together with experience are acceptable to the Director as equivalent to the experience referred to in subclause (i). R.R.O. 1990, Reg. 682, s. 6 (2). (3) The qualifications for a laboratory technologist are that the person, (a) has obtained from a university approved by the Director a bachelor's degree with a relevant chemical, physical or biological science as a major subject and has been employed for a minimum of one year as a laboratory technician in a laboratory approved by the Director; or (b) is recognized as a technologist by a technologist society in Canada, Great Britain or the United States, whose courses of study are approved by the Director; or (c) has obtained a diploma as a laboratory technologist from an Ontario Community College; or				

(d) has education or experience or both that is approved by the Director as equivalent to the standards prescribed in clause (a), (b) or (c). R.R.O. 1990, Reg. 682, s. 6 (3). (4) The qualifications for a laboratory technician are that the person, (a) has obtained an Ontario Secondary School Graduation Diploma or is able to produce evidence of equivalent standing that is approved by the Director and has served two years as a technical trainee in a laboratory approved by the Director; or (b) has obtained an Ontario Secondary School Graduation Diploma or is able to produce evidence of equivalent standing that is approved by the Director and has successfully completed relevant courses which together with experience are in the opinion of the Director equivalent to the standards prescribed in clause (a). R.R.O. 1990, Reg. 682, s. 6 (4).				
7. Where a person is unable to meet the qualifications listed in section 6 for any particular category of employment, the person is exempted from the requirements of the said section in so far as they relate to that category of employment if he or she was employed in a laboratory on the 1st day of November, 1972, as a, (a) laboratory director; (b) laboratory supervisor or technical director; (c) laboratory technologist; or (d) laboratory technician, and has submitted evidence to the Director sufficient to satisfy the Director as to his or her competence and ability to adequately perform the duties of his or her office. R.R.O. 1990, Reg. 682, s. 7.				
8. (1) No laboratory director shall work or be employed as a laboratory director or laboratory supervisor in more than two laboratories unless the Director approves on the basis of need in the area or areas in which the laboratories are situated. R.R.O. 1990, Reg. 682, s. 8 (1). (2) A laboratory supervisor shall not work or be employed as a laboratory supervisor in more than two laboratories unless the Director approves on the basis of need in the area or areas in which the laboratories are situated. R.R.O. 1990, Reg. 682, s. 8 (2).	No proposed changes			

9. (1) The owner and the operator of a laboratory shall ensure that the staff of the laboratory, (a) examine specimens from humans only, (i) at the request of a legally qualified medical practitioner or a dentist, (ii) at the request of a midwife, in respect of a test specified in Appendix B, (ii.1) at the request of a person who lawfully practises a health profession in a jurisdiction outside Ontario, if in that jurisdiction a laboratory may lawfully examine specimens at the request of that person, (iii) at the request of an insurer or an agent within the meaning of the *Insurance Act*, in respect of HIV Antibody testing, (iv) at the request of a registered nurse who holds an extended certificate of registration under the *Nursing Act, 1991*, (v) at the request of a person who is a participant in the provincial colorectal cancer screening program, in respect of a test or tests for the purposes of the program, or (vi) at the request of a member of the College of Naturopaths of Ontario, in respect of a test specified in Appendix C; (a.1) report the results of tests performed as part of the provincial colorectal cancer screening program to Cancer Care Ontario for the purposes of the Ontario Cancer Screening Registry; (b) except in the case of a person described under subclause (a) (v), report the results of a test directly to the person who requested it and include in the report the name of the laboratory that received the specimen and the name and address of the laboratory in which the test was performed; (b.1) in the case of a person described under subclause (a) (v), report the results to Cancer Care Ontario for the purposes of the Ontario Cancer Screening Registry but not to the person; (c) report all positive laboratory findings that indicate the presumptive presence or presence of any reportable disease within the meaning of the *Health Protection and Promotion Act* to the medical officer of health of the health unit in which the person who gives rise to the case resides within 24 hours after the test is conducted, unless section 5.1 of Regulation 569 of the Revised Regulations of Ontario, 1990 (Reports) made under that	9. (1) The owner and the operator of a laboratory shall ensure that the staff of the laboratory, (a) examine specimens from humans only, (i) at the request of a legally qualified medical practitioner or a dentist, (ii) at the request of a midwife~~, in respect of a test specified in Appendix B,~~ *No other proposed changes in this section.*	Midwifery clients should have timely access to all diagnostic tests that may be needed during their pregnancy, birth and postpartum. Midwifery clients should not be subjected to unnecessary barriers in receiving quality maternity care. As primary maternity care providers, midwives require the authority to order any laboratory test necessary for clients and infants in the prenatal, intrapartum and postpartum periods in accordance with community standards of practice. Midwives have the necessary knowledge and skill to safely and effectively order laboratory tests for clients, within their scope of practice. Laboratory testing and screening is often the first point of inquiry to allow a practitioner to understand a client's condition; that testing will provide facts and information to inform a given health care scenario. The current list does not accurately reflect midwives' responsibilities nor the public's expectations of quality care and presents a barrier to access to care. There is no increased risk to the public to have midwives ordering tests within their scope of practice. Midwives already work within the boundaries of the *Midwifery Act*, the controlled acts authorized to midwives, the standards of the profession and the limits of their individual competence. They are accountable and responsible for clients in their care and consult and coordinate care with additional or alternate providers when care the client requests or requires exceeds their knowledge, skill and judgment. It is a standard of the profession to provide complete and accurate client information at the time care is transferred to another care provider. Removing the appendix and permitting midwives to order tests appropriate for client care facilitates interprofessional care as specialist care will only be accessed when necessary and consultants will be more readily informed to make appropriate diagnoses and care plans. There are financial benefits to this proposed change. All care provided by midwives, including the act of ordering of laboratory tests, is included in the midwives' billable course of care. The midwife would not experience any financial gain in ordering additional lab tests. While there is a cost to		

Act applies; (d) establish a quality control program that is acceptable to the Director; (e) maintain such records and submit such reports as the Director may require and produce such records and reports as are considered necessary for purposes of this Regulation to the Director for inspection at all reasonable times; (f) analyze and report upon test samples submitted to the laboratory by the Director. R.R.O. 1990, Reg. 682, s. 9; O. Reg. 795/93, s. 1; O. Reg. 206/96, s. 2 (1); O. Reg. 46/98, s. 1; O. Reg. 324/07, s. 3; O. Reg. 65/08, s. 1; O. Reg. 142/11, s. 2; O. Reg. 215/11, s. 1; O. Reg. 142/15, s. 1; O. Reg. 169/15, s. 1. (1.1) For the purposes of assisting staff of a laboratory to perform their duties in examining a specimen from an individual, the owner and the operator of the laboratory may collect personal health information about the individual indirectly from the person referred to in subclause (1) (a) (ii.1) or (iii) who makes the request for the examination. O. Reg. 336/04, s. 1. (2) In this section, "health profession" means a health profession referred to in Schedule 1 to the *Regulated Health Professions Act, 1991*. O. Reg. 206/96, s. 2 (2).		the system for the laboratory tests, these tests would be in accordance with community standards of practice and would not require duplication by a specialist consultant. It is a standard of practice for low-risk maternity care providers to recommend specialist involvement when laboratory findings reach certain levels. When midwives are permitted to order tests according to client need, midwives will have prior knowledge of laboratory findings and will recommend consultations in accordance with those community standards. Currently, in some circumstances, midwives arrange consultations to obtain that information, costing the health care system additional and unnecessary billings and burden. The time and resources required on the part of the College, stakeholders and the Ministry to make regulation changes on an annual or more frequent basis is not achievable nor sustainable, as evidenced by experience. Under the lens of risk-based regulatory framework, a prescriptive list does not further protect the public from harm but rather introduces unintended consequences of delay, unequal access to care, and inefficient use of health care resources. There is precedent for this policy recommendation as Nurse Practitioners, once limited to ordering tests to a list in Appendix A, successfully requested the removal of their list in 2011 and are permitted to order tests as appropriate to client care.		
10. The owner or operator of a laboratory may notify, (a) legally qualified medical practitioners; (b) laboratory owners or directors of licensed laboratories, or both; and (c) the Director, respecting the information set out in subsection 15 (1) of the Act. R.R.O. 1990, Reg. 682, s. 10.	No proposed changes			
11. Laboratories operated by a ministry of the Crown in right of the Province of Ontario and every blood donor clinic of the Canadian Blood Services are exempt from the provisions of sections 5 to 16 of the Act and from the provisions of this Regulation. R.R.O. 1990, Reg. 682, s. 11; O. Reg. 239/04, s. 3, O. Reg. 169/15, s. 2.	No proposed changes			

12. All pharmacies and all pharmaceutical chemists employed in a pharmacy are exempt from the provisions of sections 5 to 16 of the Act and from the provisions of this Regulation with respect only to the performance of immunologic tests for pregnancy. R.R.O. 1990, Reg. 682, s. 12; O. Reg. 169/15, s. 2.	No proposed changes			
13. Every legally qualified medical practitioner who performs laboratory tests for the exclusive purpose of diagnosing or treating his or her own patients in the course of his or her medical practice is exempted from the provisions of sections 5 to 16 of the Act and from the provisions of this Regulation. R.R.O. 1990, Reg. 682, s. 13; O. Reg. 169/15, s. 2.	No proposed changes			
13.1 Every member of the College of Naturopaths of Ontario who performs laboratory tests in his or her own office, in the course of his or her naturopathic practice, for the exclusive purposes of diagnosing or treating his or her own patients is exempted from the provisions of sections 5 to 16 of the Act and from the provisions of this Regulation with respect to the performance of the tests set out in Appendix D. O. Reg. 169/15, s. 3.	No proposed changes			
	13.2 A member of the College of Midwives of Ontario who performs laboratory tests for the exclusive purpose of diagnosing or treating their own clients in the course of their midwifery practice is exempted from the provisions of sections 5 to 16 of the Act and from the provisions of this Regulation.	Portable laboratory diagnostic technology is rapidly improving and becoming affordable and simple for health care providers to provide point of care testing. As additional reliable diagnostic testing moves outside the laboratory setting and into clinician offices or client homes, midwives should not be prevented from offering similar benefits to their clients. The proposed change will facilitate earlier results, diagnosis and initiation of appropriate care plans. Furthermore, if testing can be done in the home, midwifery clients would not need to change their preferred location of receiving midwifery care in the home during the early postpartum period. There is no increased risk to the public to have midwives performing laboratory tests for the exclusive purpose of diagnosing or treating their own clients in the course of their midwifery practice. Midwives already work within the boundaries of the *Midwifery Act*, the controlled acts authorized to midwives, the standards of the profession and the limits of their individual competence. They are accountable and responsible for clients in their care and consult and coordinate care with		

		additional or alternate providers when care the client requests or requires exceeds their knowledge, skill and judgment. Furthermore, midwives are responsible for maintaining and testing equipment according to manufacturer's guidelines and community standards. There are no financial implications to this proposed change. All care provided by midwives, including performing laboratory tests, is included in the midwives' billable course of care. The midwife would not experience any financial gain in performing rapid laboratory tests in the clinical office setting. There may be financial relief to the Ministry of Health if laboratory tests are conducted in the clinical office setting, but the numbers of tests would be low and would not result in a significant impact.		
14. Institute for Quality Management in Healthcare is designated as an agency to carry out a quality management program. O. Reg. 260/15, s. 1.	No proposed changes			
15. For the purposes of clause 9 (14) (c) of the Act, the fees set out in Column 2 of the Table to this section are prescribed for the classes of tests set out opposite those fees in Column 1.	No proposed changes			
APPENDIX A REVOKED: O. Reg. 324/07, s. 5.		Nurse Practitioners, once limited to ordering tests to a list in Appendix A, successfully requested the removal of their list in 2011 and are now permitted to order tests as appropriate to client care.		

APPENDIX B TESTS THAT A MIDWIFE MAY REQUEST 1. Bilirubin — Total. 2. Bilirubin — conjugated. 3. Glucose. 4. Urinalysis — routine (includes microscopic). 5. Estriol. 6. HCG. 7. Hepatitis Associated Antigen or Antibody Immunoassay. 8. Newborn Screening Test for amino acidopathies, fatty acid oxidation defects, organic acidemias, endocrinopathies, hemoglobinopathies, biotinidase, galactosemia, cystic fibrosis or severe combined immune deficiency. 9. Alphafetoprotein Screen. 10. Albumin quantitative. 11. Serum Ferritin. 12. Serum Folate. 13.-16. REVOKED: O. Reg. 71/07, s. 1 (1). 17. Sickle cell solubility test (screen). 18. Kleihauer. 19. Antibody Identification. 20. Antibody Screen. 21. Blood group — ABO and Rho (D). 22. Blood group — per antigen. 23. Direct Anti-human globulin test. 24. Cervicovaginal specimens. 25. REVOKED: O. Reg. 71/07, s. 1 (1). 26. Chlamydia. 27. Culture — cervical, vaginal (includes GC). 28. Culture — other swabs or pus. 29. Culture — urine. 30. Virus isolation. 31. Wet preparation (for fungus, trichomonas, parasites). 32. Strep B rapid screen. 33. Pregnancy Test. 34. Virus antibodies — hemagglutination inhibition or ELISA technique (Rubella). 35. Non-cultural, indirect antibody or antigen assays by fluorescence, agglutination or ELISA technique (Toxoplasmosis).	~~APPENDIX B~~ ~~TESTS THAT A MIDWIFE MAY REQUEST~~ ~~1. Bilirubin — Total.~~ ~~2. Bilirubin — conjugated.~~ ~~3. Glucose.~~ ~~4. Urinalysis — routine (includes microscopic).~~ ~~5. Estriol.~~ ~~6. HCG.~~ ~~7. Hepatitis Associated Antigen or Antibody Immunoassay.~~ ~~8. Newborn Screening Test for amino acidopathies, fatty acid oxidation defects, organic acidemias, endocrinopathies, hemoglobinopathies, biotinidase, galactosemia, cystic fibrosis or severe combined immune deficiency.~~ ~~9. Alphafetoprotein Screen.~~ ~~10. Albumin quantitative.~~ ~~11. Serum Ferritin.~~ ~~12. Serum Folate.~~ ~~13. 16. REVOKED: O. Reg. 71/07, s. 1 (1).~~ ~~17. Sickle cell solubility test (screen).~~ ~~18. Kleihauer.~~ ~~19. Antibody Identification.~~ ~~20. Antibody Screen.~~ ~~21. Blood group — ABO and Rho (D).~~ ~~22. Blood group — per antigen.~~ ~~23. Direct Anti-human globulin test.~~ ~~24. Cervicovaginal specimens.~~ ~~25. REVOKED: O. Reg. 71/07, s. 1 (1).~~ ~~26. Chlamydia.~~ ~~27. Culture — cervical, vaginal (includes GC).~~ ~~28. Culture — other swabs or pus.~~ ~~29. Culture — urine.~~ ~~30. Virus isolation.~~ ~~31. Wet preparation (for fungus, trichomonas, parasites).~~ ~~32. Strep B rapid screen.~~ ~~33. Pregnancy Test.~~ ~~34. Virus antibodies — hemagglutination inhibition or ELISA technique (Rubella).~~ ~~35. Non-cultural, indirect antibody or antigen assays by fluorescence, agglutination or ELISA technique (Toxoplasmosis).~~	Rationale is provided in section 9(1) above.		

36. Serology HIV Antibody. 37. VDRL. 38. Glucose tolerance test in pregnancy. 39. REVOKED: O. Reg. 71/07, s. 1 (1). 40. Inhibin. 41. Pregnancy Associated Plasma Protein type A (PAPP-A). 42. Complete blood count (any method). 43. Smear only, Gram or Papanicolaou stain. O. Reg. 536/98, s. 2; O. Reg. 239/04, s. 5; O. Reg. 421/06, s. 2; O. Reg. 71/07, s. 1; O. Reg. 25/08, s. 3; O. Reg. 165/13, s.	~~36. Serology HIV Antibody.~~ ~~37. VDRL.~~ ~~38. Glucose tolerance test in pregnancy.~~ ~~39. REVOKED: O. Reg. 71/07, s. 1 (1).~~ ~~40. Inhibin.~~ ~~41. Pregnancy Associated Plasma Protein type A (PAPP-A).~~ ~~42. Complete blood count (any method).~~ ~~43. Smear only, Gram or Papanicolaou stain.~~ ~~O. Reg. 536/98, s. 2; O. Reg. 239/04, s. 5; O. Reg. 421/06, s. 2; O. Reg. 71/07, s. 1; O. Reg. 25/08, s. 3; O. Reg. 165/13, s.~~			

Briefing Note for Council

Subject: Proposed changes to O. Reg. 884/93 Designated Drugs Regulation, under the *Midwifery Act, 1991*

Summary

The College is recommending revisions to the Designated Drugs Regulation to authorize broad prescribing authority to midwives, appropriate to client care, within the scope of midwifery, including Controlled Substances and excluding the drugs prohibited to midwives under the New Classes of Practitioners Regulations. The Ministry of Health has recently prioritized midwives' expansion of scope of practice to include prescribing controlled substances.

Background

The Designated Drug Regulation lists specific drugs that midwives may prescribe and administer. In certain circumstances, it also restricts the use of a drug for a specific purpose.

Since 2003, the College has identified barriers in access to safe and effective medicines treating common conditions of low-risk pregnancy, labour and postpartum. In 2004, the College made a formal submission to Ministry to revise the Designated Drug Regulation to list categories of drugs as opposed to specifying individual drugs. Unfortunately, the Ministry did not support the submission at that time and requested the College to submit a revised regulation, listing additional itemized drugs. After making amendments to the College's 2005 re-submission, the Ministry eventually approved the version of the Designated Drug Regulation in 2010, the same version that is in effect today. Considerable time and resources by the College and the Ministry were allocated to this revision, which, in the end, was out of date before it was formally approved.

In 2016, the College resumed its meetings with the Ministry to discuss the need for change to the Designated Drugs Regulation since the current list continues to pose barriers to safe, timely and effective care by midwives and results in poor use of health system dollars.

Key Considerations

The College is proposing a regulation change to authorize broad prescribing authority to midwives, appropriate to client care, within the scope of midwifery. This change reflects midwives' current scope of practice and competencies and is

flexible to adapt to evolving standards of practice in low-risk maternity care.

In addition, the College is also recommending a regulation change to authorize the prescribing of controlled substances by midwives, appropriate to client care, within the scope of midwifery, and excluding the drugs prohibited to midwives under the New Classes of Practitioners Regulations. This regulation change would require midwives to obtain additional competencies due to the high risk of misuse, addiction and diversion of controlled substances.

The College has recently hired a consultant to assist us with the research and policy recommendations necessary to move forward with midwives prescribing controlled substances. Policy recommendations will include the prohibition of delegating the act of prescribing, setting appropriate limits to midwives' prescribing of controlled substances in a revised standard, an education/course approval plan, and a revision to the bylaws to ensure the public is aware of the member's inability to prescribe controlled substances until they have successfully completed the approved course.

Recommendations

The College is not seeking approval of the proposed changes at this time as it is only appropriate to consider such changes with a revised standard setting appropriate limits to midwives' prescribing of controlled substances and an education/course approval plan in place. The College is seeking discussion only and recommendations for further consideration.

Implementation Date

The College will be working closely with the Ministry in the coming months and anticipates bringing forward recommendations for approval in December 2017 or March 2018. At that time, Council may approve the regulation to conduct a 60-day public consultation. Feedback from the consultation will be analyzed and brought forward to Council for consideration at the following Council meeting. If Council is satisfied with a version that is substantially the same, it may approve for formal submission to the Ministry at that time.

Legislative and Other References

Midwifery Act, 1991
O. Reg. 884/93 Designated Drugs Regulation

Attachments

1. 2017 College proposed Changes to Designated Drugs Regulation Report

Submitted by:

Kelly Dobbin, Registrar & CEO

PROPOSED CHANGES TO THE DESIGNATED DRUGS REGULATION O.REG 884/93

College of Midwives of Ontario, September 2017

Designated Drug Regulation

Introduction

The College is committed to achieving our 2017-2020 Strategic Priority of Modernizing Legislation and Regulations. We invest the necessary time and resources to undertake this work in accordance with our public interest mandate. The proposed changes in this report are expected to:

- Ensure safe provision of care by midwives
- Improve client experience and outcomes
- Improve access to care through the removal of barriers to safe, timely and quality care
- Optimize midwifery competencies and scope of practice
- Meet the Ministry's strategic objectives in the Patients' First Plan.
- Address technological advances in maternal newborn care
- Improve the effectiveness and efficiency of the health care system
- Demonstrate best practices in professional regulation
- Support evidence-based health systems and workforce planning

Proposed changes to O. Reg. 335/12 General Regulation and O. Reg. 338/09 Professional Misconduct Regulation, made under the *Midwifery Act*, 1991, have been formally submitted to the Ministry of Health and Long-Term Care for consideration.

In this report, the following regulation is addressed:

O. Reg. 884/93 Designated Drugs Regulation, under the *Midwifery Act, 1991*

Background

The *Midwifery Act, 1991* authorizes registered midwives, engaged in the practice of midwifery, to perform the following prescribing and administering related controlled acts:

- Administering, by injection or inhalation, a substance designated in the regulations.
- Prescribing drugs designated in the regulations.
- Administering suppository drugs designated in the regulations beyond the anal verge during pregnancy, labour and the post-partum period.
- Administering a substance by injection or inhalation (ordered by a member of the College of Physicians and Surgeons of Ontario).

The Designated Drug Regulation lists specific drugs that midwives may prescribe and administer. In certain circumstances, it also restricts the use of a drug for a specific purpose.

In 2003, Ergonovine Maleate, a drug specified in the Designated Drugs Regulation to treat postpartum hemorrhage became temporarily unavailable to the health care sector for a prolonged period. This posed a risk to women choosing to birth with midwives as there was no ability to treat postpartum haemorrhage if the first line option, Oxytocin, failed. In hospital settings, some midwives administered other commonly prescribed second line drugs on the order of a physician, however in many hospitals midwives were required to transfer care unnecessarily, thus delaying access to necessary treatment and significantly increasing costs to the health system in general. Women choosing home birth at that time made decisions to change their planned place of birth to hospital or assume an increased risk to birth at home.

During that time, the College worked closely with the Ministry to urgently revise the Designated Drug Regulation to add Carboprost, a second line anti-haemorrhagic, to the list. This process took over a year and utilized considerable resources to make this minimal, yet necessary change. By the time the regulation was approved, Ergonovine Maleate was already available and back in use.

Considering this experience, the College made a formal submission Ministry in 2004 to revise the Designated Drug Regulation to have categories of drugs listed as opposed to specifying individual drugs. This change would have assisted clients in obtaining necessary treatment from midwives if a similar situation to Ergonovine Maleate availability arose. Unfortunately, the Ministry did not support the submission at that time and requested a revised regulation, listing additional itemized drugs, to be submitted. After making amendments to the College's 2005 re-submission, the Ministry eventually approved the version of the Designated Drug Regulation in 2010, the same version that is in effect today. Again, considerable time and resources by the College and the Ministry were allocated to this revision, which, in the end, was out of date before it was formally approved.

In 2009, the College of Nurses of Ontario (CNO) made submissions to the Standing Committee on Social Policy regarding Bill 179, clarifying that they were no longer in support of a list of drugs for nurse practitioner prescribing. The CNO presented important arguments that placed broad prescribing authority and the controlled act of dispensing in the interest of the public. In 2011, the Ministry supported this argument and nurse practitioners have safely prescribed and dispensing drugs appropriate to client care and within their scope of practice for the past six years.

In 2016, the College of Optometrists of Ontario formally submitted a similar request to the Ministry requesting broad prescribing authority within the optometrist scope of practice. The College of Optometrists is still waiting to learn if their regulation may be changed accordingly.

The College of Midwives of Ontario was the first jurisdiction in Canada to regulate midwifery. Most provinces and territories have since followed, excluding Prince Edward Island and the Yukon. Many Colleges adopted Ontario's model of regulation and provided authority to prescribe in accordance with an itemized list. However, Alberta is in the process of submitting regulation changes to authorize broad prescribing to midwives. British Columbia, Saskatchewan, Manitoba, and Nova Scotia provide midwives the authority to prescribe according to categories,

but have yet to adopt a broad prescribing authority regime. In contrast, midwifery regulators in New Zealand, United States, and the UK provide midwives broad prescribing authority.

On November 1, 2012, *The New Classes of Practitioners Regulations* under the *Controlled Drugs and Substances Act* (Canada) enabled midwives to provide safe and timely care to clients requiring treatment using controlled drugs and substances. This federal legislation is subject to limitations at the provincial level. Both British Columbia and Nova Scotia enacted provincial legislation on April 1, 2017 to enable registered midwives, with demonstrated competency, to prescribe narcotics and other controlled substances in the course of providing midwifery care. On April 19, 2017, nurse practitioners, with demonstrated competency, became the first new class of practitioner in Ontario to prescribe controlled drugs and substances.

The College's *Prescribing and Administering Drugs Standard* sets appropriate limits, conditions and processes to ensure midwifery prescribing is safe and effective.

Identified Gaps & Challenges

Midwifery clients currently experience a barrier in access to safe and effective medicines treating common conditions of low-risk pregnancy, labour and postpartum. Clients of family physicians who also offer low-risk maternity care, are not denied this access. When new medications or guidelines are approved for use in Canada, midwives authorized to prescribe and administer substances according to a list are not able to incorporate advancements in care into practice without regulatory changes. Like all fields of health, low-risk maternity care is ever-evolving. Midwives are accountable for providing comprehensive care to clients and newborns that is supported by best evidence and community standard. When a former drug treatment of choice is replaced by a safer or more effective option, midwives are unable to adapt their practice accordingly. Instead, midwives and their clients must find "work-arounds" by having clients book additional appointments with their family physician (who may not regularly care for pregnant clients), nurse practitioner, walk-in clinic, obstetrician or emergency department to obtain drug treatment for a low-risk condition. This situation is unfair to the client, who must spend unnecessary time and resources to attend additional clinic visits, and it is also costly to the health system in OHIP fees and physician/NP time. In addition, safe care is compromised as it leads to fragmented and uncoordinated care. A drug list imposes an artificial barrier between the midwife's competency to safely prescribe a particular drug for particular client at a particular time and the client's right to timely access to treatment.

The current drug regulation further limits midwives' prescribing by limiting prescribing of drugs to situations and routes of administration. For example, according to the current regulation, midwives have the authority to prescribe Penicillin G for preventing neonatal group B streptococcal (GBS) disease and it can only be administered intravenous (IV) and only during labour. However, midwife has no authority to prescribe Penicillin orally to treat GBS bacteriuria, a common urinary tract infection in pregnancy that midwives routinely screen for and treat with antibiotics. The current treatment regimen for GBS bacteriuria in pregnancy is amoxicillin, penicillin or cephalexin, none of which midwives can prescribe for oral use. Instead, midwives have access to four other antibiotics for the treatment of urinary tract infections (UTI). When a client presents with a UTI caused by bacteria that is not susceptible to one of the four antibiotics that midwives can prescribe orally, the client must then go see their family physician or nurse-practitioner, or if they have neither they need to go to a walk-in clinic or be referred to an obstetrician to receive a prescription. This fragmented care poses unnecessary burdens on

clients and the health care system and it significantly impacts clients with limited resources, transportations issues, or who experience other socio-economic factors that limit access to care. Midwives have the competency to treat these conditions and the drug list acts as an artificial barrier to receiving faster access to the right care.

Midwives provide primary care to clients throughout pregnancy, labour, birth and postpartum and develop trusting relationships throughout. Midwives are well positioned to provide comprehensive contraception counselling and prescribing options to clients prior to their departure from midwifery care. Despite midwives routinely counselling clients on their contraceptive choices, they are unable to provide the necessary continuity of care to prescribe contraceptive pills, IUDs or other contraceptives to their clients. Midwives in British Columbia, Saskatchewan, Manitoba, Nova Scotia and Northwest Territories have prescribed contraceptives for many years and it is an entry-level competency in those jurisdictions. Midwifery clients in Ontario, however, must arrange for additional care to seek contraception prescription services, despite having competent midwives available to provide these services at no additional cost to the province or client. Lack of contraceptive prescribing rights for midwives results in a barrier for midwifery clients to access the right care at the right time from the right provider.

Ontarians are diverse, and so are the communities where midwives practice. Midwives ought to be able to respond to the needs of communities and facilitate safe access to medicines. For example, in many level-one hospitals, labouring clients do not have 24-hour access to epidurals in labour. Common practice amongst low-risk maternity care providers in hospitals without, or with limited, epidural services is to prescribe narcotics in labour to manage pain. Midwives in Ontario do not currently have access to controlled substances and cannot prescribe these effective medications in labour or postpartum for short-term pain management. When midwifery clients need narcotic pain management in labour, midwives are required to consult with the attending or on-call hospital physician to prescribe a medication in accordance with clear practice guidelines and hospital policy. Midwives typically continue to manage of the care of the client once the narcotics have been administered. This duplication of services is a burden on rural physicians, a burden on the health system in general, and delays access to care for midwifery clients.

Other controlled substances, such as Benzodiazepines, provide therapeutic rest in prodromal labour and short term treatment of excessive anxiety during the postpartum period. Currently, midwives may not prescribe these controlled substances, despite being commonly prescribed by other low-risk maternity care providers in these short-term situations. Midwifery clients, who should remain at home in prodromal labour to rest, are required to attend labour and delivery triage units in hospital to be seen by a physician to be treated with benzodiazepines, only to then return home to rest and continue care with their midwife. This duplication of services is a burden to the system, delays access to treatment for midwifery clients, and requires the client to travel outside the home, to the hospital, for care that need not be delivered in hospital.

Midwives in British Columbia and Nova Scotia may now prescribe Benzodiazepines for prodromal labour and excessive anxiety in the postpartum period so that clients can remain in the comfort of their home where midwifery care can safely be provided.

Clients seek midwifery care in early pregnancy and some will choose to terminate the pregnancy within those early weeks, for personal reasons or non-viable pregnancies. Midwives do not currently have access to prescribing Mifegymiso (mifepristone and misoprostol tablets), the early termination drug that is now available to Ontarians for free if they receive a prescription

from a physician or nurse-practitioner who have taken the approved online course. Clients who are already in care with a midwife should have faster access to the drug, especially because it can only be administered within 49 days of pregnancy. Midwives now refer clients to medical or surgical abortion providers when clients choose to terminate their pregnancies. In many rural and remote communities, abortion services are not accessible close to home. Midwives, who have taken the online course and have the competencies to provide medical abortion services, should be ensuring continuity of care for midwifery clients throughout the termination process without unnecessary referrals to physicians or emergency departments in hospitals.

Regulation Making Authority

In accordance with the S.11 (1) of the *Midwifery Act, 1991*, subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations:

> (a) designating the substances that may be administered by injection or inhalation by members in the course of engaging in the practice of midwifery;
>
> (b) designating the drugs that may be prescribed or the suppository drugs that may be administered by members in the course of engaging in the practice of midwifery;
>
> (c) specifying the drugs that a member may use in the course of engaging in the practice of midwifery;
>
> (d) governing the performance of the procedure under paragraph 10 of section 4, including establishing requirements for performing the procedure and the circumstances in which the procedure may be performed;
>
> (e) regulating and governing the prescribing, administering or using of drugs by members and ancillary matters, including, without limiting the generality of the foregoing,
>
> > (i) setting requirements respecting the prescribing, administering or using of drugs,
> >
> > (ii) governing the purposes for which, or the circumstances under which, drugs may be prescribed, administered or used,
> >
> > (iii) setting prohibitions.

Furthermore, S.11 (2) of the Act stipulates the following:

(2) A regulation made under clause (1) (a), (b) or (c) may designate or specify individual substances or drugs or categories of substances or drugs. 2009, c. 26, s. 16 (4).

The College Council has the authority to make regulations regarding drugs and substances that may be prescribed and administered by registered midwives engaged in the practice of midwifery. The College does not support specifying individual drugs and substances in regulation as this leads to unintended negative consequences for midwives and their clients. It is not possible to create a comprehensive and up-to-date list of substances that also aligns with best practice, community standards and the safest care for clients. Guiding documents, such as clinical practice guidelines and prescription guides are the most reliable tools for safe prescribing

where regulated practitioners are also held to a standard of practice, as midwives, physicians, nurse practitioners and others with prescribing authority are. There is no justifiable public interest rationale for restricting midwife prescribing to a list of drugs and substances, as evidenced by the change to nurse practitioner prescribing rights in 2011.

Recommendation

Revise O. Reg. 884/93 Designated Drugs Regulation to authorize broad prescribing authority to midwives appropriate to client care within the scope of midwifery, including Controlled Substances and excluding the drugs prohibited to midwives under the New Classes of Practitioners Regulations, as follows:

Prescribing

1.

(1) A member may prescribe any scheduled or unscheduled drug, treatment or device for treatment of a condition that is within the midwifery scope of practice and the member's individual knowledge, skill and judgment.

(2) A member who is authorized to prescribe a drug shall not delegate the performance of prescribing a drug to any other person.

(3) A member who is authorized to prescribe a drug shall not prescribe a controlled substance except where authorized by section 2 (1).

***(4)** A member shall not engage in conduct that results, directly or indirectly, in a personal or financial benefit that conflicts with their professional or ethical duty to a client as a result of prescribing a drug.*

(5) A member who prescribes a drug shall comply with all applicable federal and provincial laws related to prescribing a drug.

(6) A member may only prescribe a drug if:

(i) The member has a therapeutic relationship with the client for whom the drug is prescribed; and

(ii) The member prescribes the drug for therapeutic purposes only.

(7) A member must retain a copy of the information recorded on the prescription as part of the client's health record.

2.

(1) A member who meets the conditions set out in section 1 of this regulation is authorized to prescribe a controlled substance, except those prohibited to midwives in Canada's New Classes of Practitioners Regulation, if the member satisfies the Registrar that the member has, within any time period set by Council, successfully completed education approved by Council that was specifically designed to educate registered midwives to safely, effectively and ethically prescribe controlled substances.

(2) The education mentioned in subsection (1) may be education that is either independent of or part of the education and training required to become a registered midwife.

Administration of a Substance

3.

(1) A member may administer any drug for treatment of a condition that is within the midwifery scope of practice and the member's individual knowledge, skill and judgment.

(2) A member may only administer a substance if,

(i) a therapeutic relationship exists between the member and the client for whom the administration of a substance is performed; and

(ii) the procedure is performed only for therapeutic purposes.

Rationale

The recommended amendment is intended to increase public safety by ensuring that midwives have access to the appropriate drugs and substances available to them, while also ensuring midwives' use of those drugs is appropriate based on a midwife's knowledge, skill and judgment within the scope of practice as per the *Midwifery Act, 1991*. In addition, the College standard *Prescribing and Administering Drugs* will be revised and will continue to ensure appropriate limits, conditions and processes to ensure midwifery prescribing is safe and effective. For example, midwives must comply with all applicable federal and provincial legislation related to prescribing and administering medication; midwives must prescribe and administer in a safe and ethical manner, in the best interest of the client, and only where there is a therapeutic professional relationship with the client and only for therapeutic purposes. Furthermore, narcotic administration in labour is restricted to the hospital setting.

Broad prescribing authority within the scope of midwifery is in the public's interest. It enables immediate and earlier access to appropriate drug therapy for midwifery clients, especially for those with limited access to resources (rural or vulnerable populations) who could receive more timely and equitable access to drug therapies. It reduces burden of the health system, physicians and clients by eliminating the need for unnecessary "work-arounds" where clients require in-person consultations with physicians for care that falls within the midwifery competency and scope of practice. It enables safe care by promoting continuity of care and reducing fragmented care when additional providers need not be involved. In contrast, a list of drugs and substances is more harmful to client care than it is helpful. A list of drugs and substances is not in the public interest because there will always be needless delay from when a midwife may need to prescribe a drug to when that drug can be added to the list. Each time this happens, care is undermined.

Midwives are accountable for the care they provide within their scope of practice. Midwives are knowledgeable and safe prescribers who are accountable for their own clinical decisions. The College standards of practice reflect this accountability, the legislative framework reinforces it, and yet the current drug and substances list undermines it. Midwives currently have access to the controlled act of prescribing *because* they are competent to prescribe drugs and substances, and have demonstrated this competence since proclamation of the *Midwifery Act, 1991*.

Prescribing is a core element of midwifery education, it is reflected in the national core competencies and it is a common part of practice. At entry to practice, midwives are competent to prescribe, in every province and territory where midwifery is regulated.

The controlled act of prescribing is not a discrete and isolated activity connected to a specific list of itemized drugs and substances. Rather, it is an integral part of a process of providing comprehensive midwifery care to clients, within a therapeutic relationship. Like all other providers, before prescribing a drug, a midwife assesses a client's health by taking a health history and conducting a physical exam. The midwife formulates a differential diagnosis, a systematic process of elimination through analyzing symptoms, medical history and clinical findings, to narrow down the list of potential diagnoses and treatment options. The midwife also takes inventory of all the medications the client is taking to reduce the risk of interactions. The midwife then decides on the most appropriate course of action. If that course of action is a drug or substance that is best prescribed by the midwife, the midwife will write the prescription or administer the drug, document it in the client record and monitor the client's response to treatment.

Midwives only prescribe drugs and substances that they are competent to prescribe and that are relevant to the client population they serve. While not all drugs and substances, even within the midwifery scope of practice, are relevant to daily practice, midwives are required to know their limits in competency and prescribe and administer in accordance with their professional standards. Other practitioners with broad prescribing authority have significantly broader scopes of practice than midwives. Those practitioners do not have the prior knowledge or experience of prescribing every drug or substance available. Those practitioners appropriately limit their prescribing practice to reflect their level of competency and when client need requires a drug that is unfamiliar to them, the provider assesses their level of competence, obtains the required information and education to safely prescribe the drug, or refers the client to another practitioner or specialist who has the competency.

A midwife who is competent to prescribe in general is competent to prescribe from a range of drugs and substances. There is no correlation between a list of drugs and substances and safe prescribing. There are currently over 50 drugs and substances on the midwife's drug list and each has the potential to cause harm if prescribed or administered incorrectly or without sufficient knowledge, skill or judgment. The list does not ensure safety or protection from harm, rather it is midwifery competencies and professional practice standards that promote and guide safe prescribing and administration.

Additional Requirements for Controlled Substances

The College is committed to ensuring safe prescribing practices by midwives. Prescribing and administering controlled substances requires additional knowledge and accountabilities, due to the high risk of misuse, addiction and diversion. With patient safety being paramount, the regulation prohibits the delegation of the controlled act of prescribing controlled drugs and substances. In addition, midwives must successfully complete a Council-approved course prior to prescribing and administering controlled drugs and substances. A course developed and administered by the Midwifery Education Program at the University of British Columbia is currently available online to all registered midwives throughout the country. The College of Midwives of British Columbia and the Nova Scotia Midwifery Regulatory Council have approved

this course for midwives in their provinces, supporting the movement of qualified midwives between provinces.

It is the expectation that all midwives registered to practise will become competent in prescribing controlled drugs and substances, within the midwifery scope of practice. Information regarding a member's inability to safely prescribe controlled substances shall be noted on the public register. Any member who has not completed the approved education will not be authorized to prescribe controlled substances and their public register profile will state "This member cannot prescribe controlled substances. They have not completed the education needed to do so."

Canada's New Classes of Practitioners Regulations prohibits midwives' prescribing of heroin, cannabis, opium, methadone, buprenorphine, amphetamine, benzphetamine, methamphetamine, phenmetrazine, phendimetrazine and anabolic steroids. The College's standard on Prescribing and Administering Drugs will refer to these restrictions and set additional limits, conditions and processes to ensure prescribing controlled substances is safe and effective. For example: midwives must comply with all applicable federal and provincial legislation related to prescribing and administering controlled substances; midwives must prescribe and administer in a safe and ethical manner, in the best interest of the client and only where there is a therapeutic professional relationship with the client and only for therapeutic purposes; midwives are prohibited from storing narcotics at their place of practice or transporting narcotics in the community; narcotics prescribed and administered in labour are restricted to the hospital setting.

Impact Analysis

Public

- Faster access to the right care, at the right time, by the right provider.
- Midwifery clients, especially those with limited access to resources (rural areas, vulnerable populations) will receive equitable access to drug therapies.
- Client comfort and well-being is supported where timely treatment with a controlled substance is required.
- The overall management of certain conditions in pregnancy will be improved by having the midwife initiate treatment and monitor response to initial treatment before determining if a specialist consultation is required.
- May reduce the risk of complications by contributing to earlier treatment of illness.

Midwives

- Midwives registered to practise must enroll and successfully complete a course for midwives prescribing controlled substances (approximately $600/midwife)
- Improved ability to provide continuity of care to clients and reduce risks resulting from fragmented care.

- As prescribing is already a core competency of midwives and part of services provided within the billable course of care, there is no financial advantage for midwives.

Other regulated health professions

- Burden is reduced on physician time required to provide drug therapy that falls within midwifery scope of practice.

Other Ministry or Government Programs

- There are no financial burdens to the health system. In contrast, system resources currently used to "work around" the regulation restriction could be re-directed to other patient care priorities and costs to the system could be directed back into the healthcare system.
- Resources required to approve future changes to regulations are reduced.

Other jurisdictions

- Promotes labour mobility between provinces with authority to prescribe controlled substances.

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Registrar-CEO Quarterly Report

From: **Kelly Dobbin, Registrar-CEO**
To: **Council**
Date: **October 12, 2017**

1. General Highlights

President Tiffany Haidon received a letter from the Hon. Eric Hoskins on September 20th in regard to the prescribing of controlled substances and ordering of laboratory tests by midwives. The Minister has requested the College to cooperate with the Ministry to move forward on these initiatives. The College believes these changes are in the public interest, and that this expansion will improve access to quality care in Ontario, benefitting midwifery clients. The College has been proactive on these matters, having devoted time and resources to these two initiatives, in accordance with our strategic priority to modernize legislation and regulations. Proposed changes to O. Reg 682 Laboratories under the Laboratory and Specimen Collection Centre Licensing Act is agenda item 7 for decision.

The College is pleased to extend a warm welcome to our new public members of Council, Deirdre Brett, Susan (Sally) Lewis, and John Stasiw. We are also pleased to welcome professional members Lisa Nussey, Claire Ramlogan-Salanga and Edan Thomas who have been elected to Council and begin their term at the end of our October 12th meeting. Former public members Caroline Brett and Phillip Playfair recently resigned and we offer them our gratitude for their years of service. We also thank professional members Claudette Leduc and Carron Canning for their contribution to Council and wish all our departing Council members well.

Midwives have the authority to order pregnancy diagnostic ultrasounds and pelvic diagnostic ultrasounds under the Controlled Acts Regulation of the *Regulated Health Professions Act, 1991* (RHPA). However, the Schedule of Facility Fees for Independent Health Facilities (IHF Schedule) states "Ultrasound for normal, complicated or high risk pregnancy (but not for the postpartum period) rendered in an Independent Health Facility is insured when referred by a midwife who is a member of the College of Midwives of Ontario." This has been interpreted by some IHFs to mean that postpartum ultrasounds are uninsured. A restriction on payment in the IHF setting presents a barrier to optimal care, and would be arbitrary, as midwives can order these ultrasounds in the hospital setting. In our mandate of protecting the public, and ensuring quality midwifery care, we wrote to the Ministry of Health for clarification on this matter. The Ministry advised that

this interpretation of the IHF Schedule was incorrect, and that midwives can order ultrasounds in the postpartum period in an IHF. According to the Ministry of Health, the language in the IHF Schedule is meant to indicate that postpartum ultrasounds cannot be claimed as pregnancy ultrasounds. In the postpartum period, midwives can order insured pelvic ultrasounds. There are no OHIP payment rules that block payment to a physician for a pelvic ultrasound when the service is ordered by a midwife. To clarify this situation, the Ministry of Health's Health Services Branch will send a bulletin to IHFs, and will propose amendments to the IHF Schedule and to the section 9 of the Diagnostic Ultrasound Preamble in the Schedule of Benefits for Physician Services.

The Ministry recently announced that previously unregulated medical diagnostic sonographers will be regulated under the College of Medical Radiation Technologists of Ontario (CMRTO), beginning as early as January 2018. The CMRTO has been proactive on this initiative and is prepared to meet this short deadline. The CMRTO consulted with the College of Midwives over a year ago and we believe that regulation of these health professionals protects the public, and midwifery clients who obtain ultrasounds ordered by midwives. The Ministry is focused on making necessary changes to the Controlled Acts Regulation, under the RHPA, to name registered medical diagnostic sonographers as health professionals authorized to perform the controlled act of applying soundwaves. The College is working closely with the Ministry to ensure any amendments don't impose unintended consequences on midwives' current practice with respect to diagnostic ultrasound.

2. Strategic Priorities

i. Modernization of Legislation & Regulations

The College made formal submissions to the Ministry in September regarding Council approved changes to O. Reg. 335/12 General (Quality Assurance) and O. Reg. 388/09 Professional Misconduct. We will continue to work closely with the Ministry to enact the proposed changes.

Proposed changes to O. Reg 682 Laboratories under the Laboratory and Specimen Collection Centre Licensing Act is agenda item 7 for decision.

The College is also proposing changes to the O. Reg. 884/93 Designated Drugs to authorize broad prescribing authority to midwives, appropriate to client care, within the scope of midwifery, including Controlled Substances and excluding the drugs prohibited to midwives under the New Classes of Practitioners Regulations. The College is not seeking approval of the proposed changes at this time as it is only appropriate to consider such changes with a

revised standard setting limits to midwives' prescribing of controlled substances and an education/course approval plan in place.

Proposed changes to O. Reg 168/11 Registration are ongoing and remain at the Registration Committee level. The Registration Committee will review further proposed changes to the Registration Regulation during their November meeting, which incorporates the committee's feedback during their initial review.

ii. Implementation of Risk-Based Regulation

The Professional Conduct department conducted a comprehensive file review to identify areas for process improvement and to establish benchmarks for complaints and Registrar Report investigations. Upon completion of the review, a report detailing the results and a plan for improvement was shared with the ICRC during their September meeting. The ICRC decided to adopt the proposed benchmarks, effective immediately, and implement the recommendations for process improvement with respect to investigations, decision writing and the scheduling of panels.

The Registration department completed a registration policy review and developed a streamlining plan. A Registration streamlining plan outlining and categorizing the various registration policies and tools was provided to the Registration Committee for their consideration during their September meeting and will be further considered by the committee in November. The Registration department is also reviewing all current processes and resulting documents to ensure they are consistent, transparent, impartial, objective and fair in preparation for the College's General Duty Self-Assessment by the Office of the Fairness Commissioner.

The Professional Conduct, Registration and Operations departments completed and submitted the Healthcare Insurance Reciprocal of Canada's (HIROC) Risk Assessment Checklist program, a web-based, self-assessment program developed to improve College's internal processes and systems. The identified areas of improvement will be incorporated into departmental work plans and will be completed over the next two years.

Directed by the College's strategic priority of the implementation of risk-based regulation, staff continue to work on the data strategy. The strategy which outlines how the College will capture, share and use data, will help transition the College into a more data-driven organization. The insights we derive from analyzing our data will give us a better understanding of the regulatory environment and will allow us to detect, understand and respond appropriately to risks and issues. The strategy will be presented to Council in December.

The first consultation on the Professional Standards for Midwives (Professional Standards) closed on September 1st. As directed by Council, the development of the Professional Standards is a major step forward in reforming our current standards of practice. It forms the first phase of a wider program of work to streamline our approach to regulation to promote targeted and proportionate regulation in the public interest. We are grateful for the time and effort given by respondents to replying in detail to our first consultation, and we welcome both the support of, and challenge to, our proposals. The comments have provided us with a spectrum of views from the midwives, regulatory and midwifery stakeholders as well as the clients and the public. The revised document will be presented to Council at its October meeting. The second round of consultations will be launched shortly after the Council meeting.

iii. Public Participation & Engagement

Staff is in the process of developing a Public Participation and Engagement Strategy. The strategy will help us engage the clients and the public in a more meaningful way. We are committed to including public's voice in the College's decision-making process in order to help us create more efficient programs and processes. The strategy will be presented to Council in December.

3. Stakeholder Engagement

The College continues to meet regularly with stakeholders, including other health Colleges, midwifery sector representatives and the Ministry of Health.

College staff presented to first year McMaster Midwifery Education Program and International Midwifery Pre-Registration Program students in September. These annual presentations inform midwifery students of the role of the College and the process of applying for registration with the College.

College staff attended Ontario Regulators for Access Consortium (ORAC) meetings in June and September to discuss topics such as Risk Management with respect to registration matters and the HealthForce Integration Research and Education for Internationally Educated Health Professionals project.

In July, College staff participated in the Ministry of Health's Infection Prevention and Control Working Group.

College staff is participating in the FHRCO Bill 87 Implementation Working Group. This working group is focused on supporting regulatory health colleges to develop consistent and robust processes in relation to the complex amendments to the RHPA as a result of Bill 87. The first meeting in September focused on the

new power of the Registrar to accept the withdrawal of a complaint at the request of the complainant, the broadened ability of the ICRC to issue interim orders, and preparing for the expansion of the funding for therapy program for victims of sexual abuse.

The College is participating in a "small colleges" cooperation and collaboration initiative that seeks opportunities to increase productivity and reduce expenditures by working together on projects, including back end operations. Any changes that result from this initiative will be shared with Council.

The College is attending an in-person Canadian Midwifery Regulators' Council Board of Director's meeting in Halifax on October 1-2, 2017. Highlights from this meeting will be shared verbally with Council.

4. Executive Expectations

i. Interaction with Registrants and Members of the Public

The College continues to communicate regularly with members and stakeholders through email notifications, quarterly newsletters, annual reports, Twitter and Facebook. In addition, we regularly assist members and stakeholders via email and telephone.

Member Education Day takes place on November 1, 2017 in Toronto and will be live-streamed to members throughout the province. We have confirmed Deanna Williams and Zubin Austin as keynote speakers for the event. Ms. Williams will speak to the role of a College and its duty to protect the public within the context of self-regulation. Dr. Austin will present on the topics of competency and professionalism.

ii. Programs and Projects

The database development project continues to evolve and requires leadership by the Director of Operations and additional time and effort by all departments. The registration renewal process and Quality Assurance Program reports for 2016/2017 are well underway and refinements made to the database system and member portal in preparation for renewal season are proving invaluable in making the season manageable for our small team.

A new revenue reconciliation process has been put in place to reduce the burden on the finance and registration staff during year end. A new database report can now be produced that allowed us to build a comprehensive monthly

reconciliation system that is less time consuming and more accurate than previous systems. The Director of Operations is leading this process with the support of the Registration Department.

The College continues to act in its role as regulator of the two Ontario Birth Centre facilities and is conducting a review and revision of the Clinical Practice Parameters and Facility Standards. The initial review is complete and draft documents have been shared with the two Ontario Birth Centres and the Independent Health Facilities Program of the Ministry of Health and Long-Term Care. A meeting with the Ministry is taking place September 28th.

The ICRC is steadily implementing changes to their processes as a result of Bill 87, the *Protecting Patients Act*. In addition, the ICRC has decided to discontinue the use of written cautions as an ICRC disposition in the spirit of consistency with other regulatory health Colleges in Ontario. Consistency among health regulatory Colleges is increasingly important to demonstrate our collective commitment to the public interest.

As of July 1, 2017, successful completion of the College's Jurisprudence Course has been implemented as a registration requirement for all applicants. The Registration committee is currently considering the implementation of the College's jurisprudence course for members applying to switch from the Inactive to General class in accordance with Section 7.7. of the Registration Regulation.

The Registration department is developing a criminal background check process and implementation plan to be reviewed by the Registration committee meeting during their November meeting.

In accordance with the College's procurement policy, a written rationale is being provided to Council when the Registrar uses her discretion to proceed with a non-competitive process in the hiring of a contractor. The College required the immediate services of a contractor to conduct research and make policy recommendations with respect to midwives prescribing controlled substances. The Registrar was fortunate to have available to her a contractor with a proven track-record with the College and uniquely suited to this work. The contractor had worked as a midwife and prescribed narcotics in that role in her previous jurisdiction, is a current prescriber of controlled substances in Ontario having successfully completed the courses approved by the College of Nurses of Ontario, and regularly conducts health policy research. Considering the contractor's unique skill set, proven track record, and the short time frame in which these policy recommendations are requested, the Registrar, with the approval of the President, chose this candidate for the contract. It should be

noted that the two other recent contract agreements entered by the College proceeded with a competitive process outlined in the policy.

Status updates of other projects can be provided at Council upon request.

iii. Human Resources

In accordance with Council's governance policy RE7 (Registrar-CEO Expectations: Compensation Administration), Mungall Consulting is in the process of undertaking the assessment of salaries and positions within the organization to ensure they are based on fair market value in relation to the assigned tasks and level of responsibility. This work was last accomplished in 2014 and it is considered best practice to re-evaluate approximately every three years. In preparation for this assessment a comprehensive review of the College's job descriptions was undertaken, and staff each signed off on an updated description. The associated accountabilities document was also reviewed and revised. These revisions ensure that the assessment produces the most accurate results possible.

The health benefits plan was renewed with Sunlife and Critical Illness Insurance was added as a benefit for all College employees. This added insurance was a cost-effective alternative to the more expensive option of short term disability insurance. Employees that are affected by an identified critical illness would now have access to funds until they were able to return to their position at the College.

The Director of Operations is currently reviewing the College's personnel policies. The policies were last reviewed prior to the creation of the College's governance policies. In accordance with Council's governance policy RE1 (Registrar-CEO Expectations: Interaction with Staff), the Registrar is expected to "establish human resource policies, acceptable to Council, that govern staff and their working conditions." The Registrar takes the position that the Registrar is ultimately accountable for all expectations listed in RE1 and does not require formal approval by Council. All College policies are shared with Council upon request and can be reviewed as part of the Registrar's annual performance review. The current personnel policies, developed prior to our change to policy governance, state that they are approved by Council. I ask Council for clarification on this discrepancy and commit to sharing with Council any high-level changes made to the existing policies, should Council agree that the revised policies do not require formal approval by Council.

Lastly, we were pleased to welcome Zahra Grant back from maternity leave to her position in the Registration Department.

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

President's Report

From: Tiffany Haidon, President
To: Council
Date: October 12, 2017

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1. General Highlights

On September 20th, I received a letter from Hon. Eric Hoskins indicating his Ministry's priority of increasing access to health care regarding midwives prescribing controlled substances and ordering additional laboratory tests. Our focus at the College of Midwives of Ontario is regulating midwifery in the public interest, and inspiring trust and confidence in the profession by leading in regulatory excellence. We believe these changes are in the public interest and will improve access to quality care in Ontario, benefitting midwifery clients. I look forward to continuing work on these initiatives with the Ministry.

2. Governance

I would personally like to welcome our recently appointed public members of Council, Deirdre Brett, Sally Lewis, and John Stasiw as well as our newly elected professional members Lisa Nussey, Claire Ramlogan-Salanga and Edan Thomas. A special thank you to former public members Caroline Brett and Phillip Playfair and outgoing professional members Carron Canning and Claudette Leduc for their contribution and dedication to Council over the past several years.

In accordance with our Governance Process policy GP10, Council evaluated its own performance on the responsibilities highlighted in the Governance Process Policies and Council Registrar-CEO Linkage policies. The results of the evaluations were analyzed and reviewed by the Executive Committee. A presentation will be provided to Council during the Executive Committee report.

Council Peer Evaluations have been completed and circulated to individual members for personal reflection and review. I have offered to arrange phone meetings with all members of Council to discuss peer evaluations and will continue to make myself available to those who have not yet responded.

I have conducted weekly meetings with the Registrar to stay abreast of current issues and provide support as needed. In addition, I had the opportunity to attend the Registration Committee meeting and the Client Relations Committee meeting in an ex-officio capacity. I will continue to prioritize this work and plan to

regularly attend committee meetings to further my understanding of the comprehensive work of the College.

As a new President, I identified the need for professional development in public speaking and presentation effectiveness. In September, I was fortunate to attend a two-day certificate program at the Schulich School of Business at York University addressing these competencies. I found the program to be extremely relevant to the needs of an incoming president and I look forward to implementing my newly acquired skills throughout my tenure.

3. Stakeholder Engagement

In September, the College hosted the Ontario Midwifery Strategy Council (OMSC) and the Ontario Midwifery Reference Group (OMRG) meetings. As Chair, I was fortunate to facilitate the important discussions that took place amongst representatives from the three Ontario Midwifery Education Programs (MEP), the Association of Ontario Midwives (AOM), the National Aboriginal Council of Midwives (NACM), the Provincial Council for Maternal and Child Health (PCMCH), the Ontario Midwifery Program (OMP) of the Primary Health Care Branch of the Ministry of Health and Long-Term Care (MOHLTC), the Priority and Acute Programs Branch of the MOHLTC, and the Ministry of Advanced Education and Skills Development (MAESD).

On October 1-2, I will be attending the board of directors meeting of the Canadian Midwifery Regulators' Council (CMRC) in Halifax and will attend the Canadian Network of Agencies for Regulation (CNAR) conference in Halifax on October 3-4. I will provide a verbal report to Council highlighting issues and learnings from those two events.

Ministry of Health and Long-Term Care

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Ontario

SEP 2 0 2017

HLTC2966MC-2017-25

Ms. Tiffany Haidon
President
College of Midwives of Ontario
21 St. Clair Avenue East, Suite 303
Toronto Ontario M4T 1L9

Dear Ms. Haidon:

I am writing in regard to the prescribing controlled drugs and substances and ordering of laboratory tests by midwives.

The *Patients First: Action Plan for Health Care* sets out four pillars that underlie our government's plan to change and improve our health care system: Access, Connect, Inform and Protect. As part of the Access pillar, the government is committed to providing increased access to the right care, which includes expanding scopes of practice. To this end, I have asked the ministry to move forward on assessing scope of practice changes beginning with the *Regulated Health Professions Statute Law Amendment Act*, or Bill 179.

I have directed the ministry to implement an approach to reviewing scope of practice requests based on the principles of putting patients first. The ministry has developed a Model for the Evaluation of Scopes of Practice in Ontario (MESPO), a framework that sets out a rigorous approach that focuses on patient need, system need and safe practice, to guide decision-making and implementation. The MESPO framework will be used to assess all scope changes going forward.

To help achieve the Patients First Action Plan's objective to increase access to the right care at the right time, the scopes of practice initiative will require extensive work between the College and the ministry.

I am asking for your College's cooperation in working with the ministry to move forward on these items, which will involve making of both College and government regulations. Ministry staff will be in contact with your College to discuss timelines and the staging activities related to this work. Staff will work with you to move these forward as quickly as possible.

I would like to thank you for your continued contributions to the healthcare system in Ontario and I look forward to your participation on this important project.

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Yours sincerely,

Dr. Eric Hoskins
Minister

c: Dr. Robert Bell, Deputy Minister, MOHLTC
Denise Cole, Assistant Deputy Minister, HWPRAD, MOHLTC
Kelly Dobbin, Registrar and Chief Executive Officer, College of Midwives of Ontario
Elizabeth Brandeis, President, Association of Ontario Midwives
Kelly Stadelbauer, Executive Director, Association of Ontario Midwives

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EXECUTIVE COMMITTEE
REPORT TO COUNCIL – SEPTEMBER 2017

Committee Members

Chair	Tiffany Haidon, RM
Professional	Claudette Leduc RM; Tiffany Haidon, RM
Public	Rochelle Dickenson; Jennifer Lemon
Non-Council	None.

Committee Meetings
September 6, 2017 (9:30-5:00)
September 21, 2017 (10:00-1:00)

Trainings
None

Items

- **Approved on behalf of Council - Q1 Statement of Operations**
  The College's Q1 statement of operations was approved at the Executive Committee meeting on September 6, 2017. This item is brought to Council for information – please see attached.

- **Privacy Code and Executive Committee Terms of Reference**
  This item is brought to Council for approval – please see the background material attached.

- **President's Job Description and the role of Vice-Presidents**
  This item is brought to Council for approval – please see the background material attached.

- **Council Training Attendance**
  This item is brought to Council for discussion and approval – please see the background material attached.

- **Council Evaluations**
  A presentation will be provided to Council during the meeting.

- **Non-Council Committee Appointments**
  The Executive Committee discussed the number of non-council appointments required for 2017-2018. They agreed on the following recommendations made by committee chairs:
    - Quality Assurance Committee, Client Relations Committee and Registration Committee will each benefit from two (2) non-council members.

- The Inquiries, Complaints and Reports Committee would benefit from three (3) non-council appointments.

On September 19, 2017, the College put a call out to the membership regarding non-Council committee appointments. Non-Council committee appointment recommendations will be made at the November 2017 Executive Committee meeting and approved by Council in December. As per the policy, all current non-Council members are required to submit an expression of interest form in October and may be re-appointed in accordance with the Committee appointment guidelines.

- Healthcare Insurance Reciprocal of Canada (HIROC) Checklists
  The College has been collaborating with HIROC to complete the Risk Assessment Checklist program, developed and administered by HIROC. It is a web-based, self-assessment program that aims to improve College's internal processes and systems. 7 risks were identified as high for health regulatory colleges (in terms of cost). The College undertook to complete all modules for regulatory colleges. Executive will be in charge of overseeing 4 of the 7 modules – inappropriate release or denial to release information; privacy breach; wrongful dismissal, and employee fraud. HIROC checklists was added as a standing item on the Executive's agenda until the program has been satisfactorily completed (by the end of 2019).

- Registrar's Performance Review
  Executive's report to Council will be discussed in-camera.

- Assessment of External Auditor
  The process is now underway for the annual assessment of our auditor. In May, the Executive Committee had the opportunity to attend an on-site day to meet with the audit team, ask questions, and observe the audit process. Carolyn Doornekamp provided financial training to the three Executive Committee members in attendance to enhance their ability to evaluate both the audit process and financial statements more critically. This information, as well as meetings with Blair MacKenzie of Hillborn LLP throughout the year, will form the foundation of the annual assessment that Executive will draft at their November meeting. In December, Executive will bring their summary report to Council, as well as a recommendation for next year's evaluation (annual versus comprehensive assessment). The assessment tool is available to all Council members, and Executive welcomes feedback from everyone. The committee will meet on November 15 to consolidate and finalize our evaluation. Please send any submissions to Tiffany Haidon before that meeting.

Formal Motions to Council:

1. That the Privacy Code & Executive Committee Terms of Reference be approved as presented
2. That the President's Job Description be approved as presented
3. That the requirements for council training days be approved as presented
4. That the Executive Committee's report be accepted as presented.

Attachments:

1. Q1 Statement of Operations
2. Briefing note re: Privacy Code & Executive Committee Terms of Reference
3. Privacy Code & Executive Committee Terms of Reference
4. Briefing note re: President's Job Description and the role of Vice-Presidents
5. President's Job Description
6. Briefing note re: Council Training Attendance

Respectfully Submitted,

Tiffany Haidon, Chair

CMO STATEMENT OF OPERATIONS: FISCAL April 1, 2017- March 31, 2018 (F18)

Q1 Statement

BUDGET CATEGORY	F18 BUDGET AMOUNT	F18 Budget to end of Q1	Q1 Spending April 1, 2017-June 30, 2017	Q1 Spending April 1, 2016-June 30, 2016	Percentage Variance Against Budget	Variance Notes F18 to Budget
STAFF- Salaries and Benefits						
Sub-Total	**$1,401,917**	**$350,479.25**	**$261,503**	**$273,921**	**18.65%**	
OPERATIONAL COSTS						
Professional Fees						
Sub-Total	**$93,086**	**$23,272**	**$4,383**	**$34,203**	**4.71%**	
Council, Committees and Panels Per Diem Expenses						
Sub-Total	**$165,486**	**$41,372**	**$33,665**	**$35,197**	**20.34%**	
Office and General						
Sub-Total	**$384,125**	**$96,031**	**$75,345**	**$100,363**	**19.61%**	
Membership Fees						
Sub-Total	**$29,994**	**$7,499**	**$6,708**	**$21,783**	**22.36%**	
Conferences and Meetings						
Sub-Total	**$20,686**	**$5,172**	**$4,519**	**$4,447**	**21.85%**	
Program & Project Expenses						
Sub-Total	**$380,541**	**$95,135**	**$4,542**	**$13,273**	**1.19%**	
CAPITAL COSTS						
Sub-Total	**$40,680**	**$10,170**	**$10,183**	**$11,088**	**25.03%**	
TOTALS	**$2,516,515**	**$629,129**	**$400,848**	**$494,275**	**63.71%**	
REVENUE FROM FEES	**$1,717,100**	**$429,275**	**$417,037**	**$358,283**	**97.15%**	

BIRTH CENTRE DETAILS F18	
Birth Centre Grant	$64,192
3 months of Budget	$16,048
Birth Centre Expenses (3 months)	$11,015
Net Birth Centre	**$53,177**

ACCRUAL DETAILS F18	
Accrued Liabilities for 3 months	$24,462
Accrued Liability Usage for 3 months*	$59,377

**The annual accrual is divided by four here to represent a quarter of the total accrual. It is difficult to compare this estimate to the spending against the accrual because often more of the spending happens in the first two quarters of the year (these are existing COINS from prior to April 1). Alternatively, you will note a significant underspend in the I&H Complaints, Investigations, Audits line (in this line we see spending for newly opened COINs which would be low in the first quarters). There may be some overage against the accrual by year end, but it is too early to predict. The quarterly statement for Q2 and Q3 will give us a better idea of annual costs.*

Briefing Note for Council

Subject: Privacy Code and Executive Committee Terms of Reference Revisions

Background

The College's Privacy Code has been updated to account for changes to the College's systems over the last few years; the College now collects some basic analytics via its website and social media platforms, and the College's data is now stored on the cloud. The Code has been updated to reflect these changes and is being brought to Council for approval. To align with the revised Privacy Code, the Executive Committee Terms of Reference were also updated.

Key Considerations

With the change to cloud services the College received advice from legal counsel that our Privacy Code should be updated to reflect the change. The College, until 2015, housed its data on a physical server in the office but moved to cloud services in 2015 (Microsoft 365 and Dropbox). The revision the Code for these purposed allowed staff to make other small changes to ensure the Code was accurate. The revisions to the Code have been vetted by legal counsel.

It should be noted that the code has always mentioned a Privacy Working Group, and the terms of reference for the Executive Committee needs to be updated to reflect their role as the Privacy Working Group. The Working Group would only be contacted if there was a privacy challenge that could not be resolved the College's Information Officer (Director of Operations). To date, we have not received an inquiry in this area.

The Director of Operations plans a comprehensive review of all access, privacy, information technology and records management systems, policies, and practices at the College in 2018. This current Privacy Code revision was necessary to ensure the Code reflected current practice and the future review will reflect on all systems and result in possible additional changes.

The Executive Committee reviewed the proposed changes to the Code and the Terms of Reference at their September 6, 2017, meeting and supports these changes.

Implementation Date

Immediately after the Council meeting, subject to approval. This revised document will be shared with College staff, and uploaded to the College website. Contractors will be asked to acknowledge this revised Privacy Code in future contracts.

Recommendations

The following motion is submitted for approval:

- That the revised Privacy Code be approved as presented
- That the revised Executive Committee Terms of Reference be approved as presented.

Attachments

- Privacy Code (Sept 2017) Track Changes
- Executive Committee Terms of Reference

Submitted by:

Executive Committee

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PRIVACY CODE
COLLEGE OF MIDWIVES OF ONTARIO

Preamble

Midwifery is a self-governing health profession in Ontario under the *Regulated Health Professions Act*, 1991 (RHPA). Under the RHPA, it is the duty of the Minister of Health and Long-Term Care to ensure that health professions are regulated and co-ordinated in the public interest.

The College of Midwives of Ontario was established by the *Midwifery Act*, 1991 and has the following objects as set out in the Health Professions Procedural Code (being Schedule 2 to the RHPA):

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the RHPA and the regulations and by-laws.

2 To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.

3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.

4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing competence among the members.

4.1 To develop, in collaboration and consultation with other Colleges, standards of knowledge, skill and judgement related to the performance of controlled acts common among health professions to enhance inter-professional collaboration, while respecting the unique character of individual health professions and their members.

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5. To develop, establish and maintain standards of professional ethics for the members.

6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Code and the *Regulated Health Professions Act*, 1991.

7. To administer the health profession Act, this Code and the RHPA as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College.

8. To promote and enhance relations between the College and its members, other health profession colleges, key stakeholders, and the public.

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9. To promote inter-professional collaboration with other health profession colleges.

10. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues.

11. Any other objects relating to human health care that the Council considers desirable. 1991 c. 18, Sched. 2, s. 3 (1); 2007, c.10, Sched. M, s. 18; 2009, s. 24 (11).

In carrying out its objects, the College has a duty to serve and protect the public interest.

The legal powers and duties of the College are set out in the RHPA, the Health Professions Procedural Code and the *Midwifery Act*. The activities of the College are subject to a number of oversight mechanisms including both general and specific oversight by the Ontario Minister of Health and Long-Term Care and specific oversight by the Health Professions Appeal and Review Board and the Health Professions Regulatory Advisory Council.

The College has been designated by Industry Canada as an "investigative body" under the federal *Personal Information Protection and Electronic Documents Act.* This means the College can collect, and third parties can provide, personal information to the College without the consent of the individual involved, including that of clients. In addition, the *Personal Health Information Protection Act,* 2004 expressly permits health information custodians to provide personal health information to the College without consent. The most relevant provisions of that Act are as follows:

Non-application of Act

9.(2) Nothing in this Act shall be construed to interfere with,... Deleted: ,

(e) the regulatory activities of a College under the *Regulated Heath Professions Act*, 1991, the College under the *Social Work and Social Service Work Act*, 1998 or the Board under the *Drugless Practitioners Act*; or

Disclosures related to this or other Acts

43.(1) A health information custodian may disclose personal health information about an individual,...

(b) to a College within the meaning of the *Regulated Health Professions Act*, 1991 for the purpose of the administration or enforcement of the *Drug and Pharmacies Regulation Act*, the *Regulated Health Professions Act*, 1991 or an Act named in Schedule 1 to that Act;

In the course of fulfilling its mandate, the College may collect, use and disclose personal information regarding applicants for membership, members, clients and persons employed, retained, elected or appointed for the purpose of the administration of the Legislation. The

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personal information being collected is critical to the College's ability to effectively regulate the profession in the public interest.

Individuals who are employed, retained or appointed by the College as well as every member of the College Council or a College committee are required by section 36 of the RHPA to preserve confidentiality with respect to all information that comes to their knowledge. Breach of this provision can lead to the imposition of fines of up to $25,000.00 for a first offence and not more than $50,000 for a second or subsequent offence. (Section 36 of the RHPA is attached as Schedule 1 to this Privacy Code.) Further, in accordance with College by-laws, members of Council and committees are required to sign a confidentiality agreement approved by Council (which can be accessed on the Council website). Every employee, contracted consultant, and volunteer shall sign an agreement to preserve confidentiality of all information relating to College business that comes to their knowledge in the course of their duties at the College. This may be an independent agreement or a confidentiality clause within an employment/service contract. In addition, personal information handled by the College is subject to the provisions of this Privacy Code.

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We use a number of consultants and agencies that may, in the course of their duties, have limited access to personal information we hold. These include an investigator, information technology consultants, building services, bookkeepers and accountants, temporary workers, and our landlord. We restrict their access to any personal information we hold as much as possible. We also have their assurance that they will follow appropriate privacy principles.

The College's collection, use and disclosure of personal information in the course of carrying out its regulatory activities is done for the purpose of regulating the profession in the public interest. These regulatory activities are not of a commercial character. Accordingly, the performance of the College of its statutory duties is not covered by the federal *Personal Information Protection and Electronic Documents Act*. The College has adopted this Privacy Code voluntarily to provide a voluntary mechanism through which the College can provide appropriate privacy rights to individuals involved in the College's activities while still enabling the College to meet its statutory mandate under the RHPA, the Health Professions Procedural Code and the *Midwifery Act*, 1991.

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In addition, the College collects, uses and discloses personal information to maintain a subscribers list for the College's registrants' binder updates and Member Communiqué, which could be viewed as a commercial activity. This Privacy Code also applies to the subscribers list.

Definition of Terms

The following terms used in this Privacy Code have the meanings set out below:

"Board" means the Health Professions Appeal and Review Board.

"By-laws" means the by-laws of the College passed under the authority of section 94 of the RHPA Procedural Code.

"client" is deemed to include an individual to whom an applicant or member of the College has purported to provide professional services.

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"College" means College of Midwives of Ontario.

"Discipline Committee" means the Discipline Committee of the College as required by the RHPA Procedural Code.

"health information custodian" has the meaning set out in section 3 of the *Personal Health Information Act*.

"Inquiries, Complaints and Reports Committee" means the Inquiries, Complaints and Reports Committee of the College as required by the RHPA Procedural Code.

"Legislation" means the RHPA, RHPA Procedural Code, *Midwifery Act*, Regulations and By-laws.

Deleted: "Discipline Committee" means the Discipline Committee of the College as required by the RHPA Procedural Code.

"member" means a member of the College.

"organization" includes an individual, a corporation, an association, a partnership, and/or a trade union.

"personal information" means information about an identifiable individual but does not include the name, title, or business address or telephone number of an individual.

Deleted: "client" is deemed to include an individual to whom an applicant or member of the College has purported to provide professional services.

"Privacy Working Group" means the Executive Committee.

Deleted: "Profession Specific Act" means the Midwifery Act, 1991.

"Registration Committee" means the Registration Committee of the College as required by the RHPA Procedural Code.

"Regulations" means the regulations made under the RHPA and/or regulations made under the *Midwifery Act*.

"RHPA" means the *Regulated Health Professions Act*, 1991 as amended from time to time.

"RHPA Procedural Code" means the Health Professions Procedural Code (being Schedule 2 to the RHPA).

"third party" means a person other than the College and the individual to whom personal information relates.

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Principle 1 – Accountability

The Information Officer is accountable for compliance with these policies and procedures. Complaints or questions regarding the manner in which personal information is being handled by the College should be directed to the Information Officer who can be reached at 21 St. Clair Avenue East, Suite 303, Toronto, Ontario M4T 1L9 416-640-2252 or operations@cmo.on.ca.

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The College will provide orientation and training to all employees and appointees as well as all members of Council, committees or working groups regarding their obligations pursuant to section 36 of the RHPA and this Privacy Code.

The College's confidentiality and privacy policies are available on the College's website at www.cmo.on.ca and on request by phone at 416-640-2252 or by mail at 21 St. Clair Avenue East Suite 303, Toronto, Ontario M4T 1L9 or email at operations@cmo.on.ca.

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Principle 2 – Identifying Purposes

The purpose for which the College collects, uses and discloses personal information is to administer and enforce the Legislation.

Collection, Use and Disclosure of Information About Members

The College collects and uses personal information regarding its members for the following purposes:

- to assess whether a member continues to meet the standards of qualification for a certificate of registration;
- to investigate complaints regarding the conduct or actions of a member of the College;
- to investigate whether a member has committed an act of professional misconduct or is incompetent;
- to inquire whether a member is incapacitated;
- to negotiate and implement informal resolutions, including acknowledgements and undertakings that provide for reviewing samples of client records;
- to hold a hearing of allegations of a member's professional misconduct or incompetence or of allegations that a member is incapacitated;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its members;
- to administer the program established by the College to provide funding for therapy and counselling for persons who, while a client, were sexually abused by members of the College;
- to investigate reports filed about members of the College under the RHPA Procedural Code;
- to assess whether a former member's certificate of registration should be reinstated;

- to provide statistical information for human resource planning and demographic and research studies for regulatory purposes;
- to provide information about members to the public for regulatory purposes such as public register information and information about discipline hearings
- to administer or enforce the Legislation.

The College may collect personal information regarding a member from the member and colleagues of the member, clients of the member and third parties, for the purposes set out above. Personal information regarding members is collected by the College from time to time and at regular intervals.

The College discloses personal information regarding its members only as permitted by section 36 of the RHPA, in accordance with subsection 23(2) of the RHPA Procedural Code, Article 16 of the College's by-laws, or as required by law. For example, the College is required under the RHPA Procedural Code to maintain a public register containing information about its members. The RHPA Procedural Code and the By-laws require the College to make the information available on its website and to provide access to designated information to a person who requests it.

Information About Colleagues and Clients

The College collects and uses personal information regarding the colleagues and clients of members of the College for the following purposes:

- to investigate complaints regarding the conduct or actions of a member of the College;
- to investigate whether a member has committed an act of professional misconduct or is incompetent;
- to inquire whether a member is incapacitated;
- to hold a hearing of allegations of a member's professional misconduct or incompetence or of allegations that a member is incapacitated;
- to negotiate and implement informal resolutions, including acknowledgements and undertakings that provide for reviewing samples of client records;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its members;
- to administer the program established by the College to provide funding for therapy and counselling for persons who, while clients, {allege they} were sexually abused by members of the College;

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- to investigate reports filed about members of the College under the RHPA Procedural Code;
- to assess whether a member continues to meet the standards of qualification for a certificate of registration;
- to assess whether a former member's certificate of registration should be reinstated;
- to provide information about members to the public for regulatory purposes such as public register information and information about discipline hearings;
- to administer or enforce the Legislation.

The College may collect personal information regarding a colleague and client of a member of the College from the colleague, the client, the member and third parties for the purposes set out above.

The College discloses personal information regarding the colleagues and clients of members only as permitted by section 36 of the RHPA or as required by law. For example, hearings of the Discipline Committee are required, subject to certain exceptions, to be open to the public. Evidence at a hearing of the Discipline Committee may include personal information regarding the member who is the subject of the allegation of professional misconduct or incompetence, as well as personal information regarding the member's clients related to the allegations of professional misconduct or incompetence. Another example of disclosure of personal information about clients of members relates to complaints regarding the conduct or actions of members. Where a complainant, who is a client of a member, or a member does not agree with a decision of the Inquiries, Complaints and Reports Committee, subject to certain exceptions, either person can request a review by the Board. The RHPA Procedural Code requires that the College disclose to the Board a record of the investigation and the documents and things upon which the decision was based. This disclosure may include personal information about a client of a member.

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Personal health information disclosed to the College by a health information custodian is only used for the purpose for which the disclosure was made to enable the College to carry out its statutory and legal duties. This is consistent with s. 49 of the *Personal Health Information Protection Act*, 2004.

Information About Applicants For Registration and Potential Members

The College collects and uses personal information regarding applicants and potential members and the clients of applicants and potential members to assess whether an applicant or potential member meets, and continues to meet, the standards of qualification to be issued a certificate of registration and to administer or enforce the Legislation. The College discloses personal information regarding applicants and potential members and their clients only as permitted by Section 36 of the RHPA or as required by law. For example, the RHPA Procedural Code provides a

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procedure for an applicant who does not agree with a decision of the Registration Committee to request a review or a hearing by the Board. The RHPA Procedural Code requires that the College disclose to the Board a copy of the order and reasons of the Registration Committee and the documents and things upon which the decision was based. This disclosure of personal information to the Board is required under the RHPA Procedural Code.

Collection, Use and Disclosure Regarding Subscribers

The College collects and uses personal information regarding subscribers to our mailing lists fo the purpose of distributing updates and distributing the most recent Newsletter. The type of information we collect for these purposes include name, email address, and, if volunteered, thei reason for subscribing. This information is only disclosed to third parties with express consen unless one of the exceptions in the *Personal Information Protection and Electronic Documents Ac* applies (e.g., disclosure required by law). The College collects analytics from its social media platforms (e.g. Twitter, Facebook) for the purposes of analysis.

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The College collects, uses and discloses information for secondary purposes. The most common example being to invoice for goods and services that are not paid for at the time and to collect unpaid accounts.

Information Related to Unauthorized Practice and Holding Out

The College collects and uses personal information regarding individuals who may be practising the profession of Midwifery or holding themselves out as practicing the profession, and their clients to investigate whether the individual has contravened or is contravening the Legislation and to administer or enforce the Legislation. The College discloses personal information regarding such individuals only as permitted by section 36 of the RHPA or as required by law.

Information Related to Administering the Legislation

The College collects and uses personal information regarding individuals who are retained, elected or appointed for the purpose of the administration of the *Midwifery Act* including the following:

- to review prospective candidates and retain or appoint persons for the purpose of the administration of the Act;
- to maintain records to ensure accurate remuneration and payment of expenses, and all documentation required by law and by the various levels of government in accordance with sound accounting practices;
- to communicate with the person (e.g., home contact information);

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- to maintain accurate and fair accounts of any disputes, possible conflicts of interest or misconduct involving a person retained or appointed for the purpose of the administration of the Legislation or a member of the Council or committee of the College;

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- for purpose of making payments.

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The College discloses personal information regarding the individuals referred to above only as permitted by section 36 of the RHPA or as required by law.

Specifying the Identified Purpose

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected, either at the time of collection or after collection but before use, except where to do so would defeat the purpose of the Legislation or be inconsistent with the Legislation.

The College will state the identified purposes in such a manner that an individual can reasonably understand how the information will be used or disclosed.

Where personal information is collected for one purpose, the College reserves the right to use and disclose the information for another regulatory purpose where it is in the public interest to do so. For example, when the College is investigating a complaint it may review the other files at the College about that member to the extent that they have information relevant to the current complaint. There are some exceptions. For example, most personal information collected for quality assurance purposes will not be used for disciplinary purposes.

Principle 3 – Consent

The College collects personal information for purposes related to its objects (see Preamble for the College's objects on page 1) including for the purpose of the proper administration and enforcement of the Legislation and for other related regulatory purposes. In carrying out its objects, the College has a duty to serve and protect the public interest.

Where practicable, the College may make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected as described in Principle 2. Obtaining consent of the individuals would, in many cases, defeat the purposes of the College's collecting, using and disclosing the personal information. Personal information will only be collected, used and disclosed without the knowledge and consent of the individual for the purpose of the administration or enforcement of the Legislation and in accordance with any applicable provisions of the Legislation. For example, personal information about a client may be collected and used without the client's consent for the purpose of the College's quality assurance program regarding the assessment of a member's practice in accordance with the RHPA Procedural Code and the Regulations. Another example is that personal information about a client may be collected and used without the client's consent for the purpose of an investigation of a member in accordance with the RHPA Procedural Code and the Regulations.

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Principle 4 – Limiting Collection

The College collects only the personal information that is required for the purposes identified in Principle 2 of this Privacy Code. The College collects personal information using procedures that are fair and lawful.

Personal information regarding clients must be collected as part of the College's regulatory function. This information is typically obtained by the College as part of an investigation or quality assurance program. The focus of these inquiries is the conduct, competence or capacity of the member and the protection of the public. The College only collects personal information to satisfy this regulatory purpose.

Principle 5 – Limiting Use, Disclosure or Retention

The College uses personal information only for the purposes identified in Principle 2 and in accordance with the provisions of the Legislation. Personal information is only disclosed in accordance with the provisions of section 36 of the RHPA or as required by law.

The College de-identifies personal information where feasible by using numbers instead of names in several areas such as the complaints, discipline, and compiling statistics.

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The RHPA Procedural Code and By-laws clearly designate the information regarding members that is publicly available and the By-laws can be accessed from the College website at www.cmo.on.ca or by contacting the College at 21 St. Clair Avenue East, Suite 303, Toronto, Ontario M4T 1L9 by phone at 416-640-2252 or email at operations@cmo.on.ca. Under the RHPA Procedural Code, the College is required to publish certain information regarding discipline hearings conducted by the Discipline Committee.

Under the RHPA Procedural Code, discipline hearings conducted by the Discipline Committee are open to the public. Evidence at a discipline hearing may include personal information regarding the member and the member's clients and colleagues related to allegations of professional misconduct or incompetence. Under the RHPA Procedural Code, the panel of the Discipline Committee has the discretion to close a hearing under certain prescribed circumstances and/or restrict the publication of personal information where appropriate. Under the RHPA Procedural Code, reviews of decisions of the Inquiries, Complaints and Reports Committee and Registration Committee by the Board are open to the public. Similarly, the Board has the discretion to restrict the disclosure of personal information in its review process. The objective of these regulatory processes is always the protection of the public.

The College has a record retention policy in place and conducts regular audits to ensure that personal information that is no longer required to be kept is destroyed, erased or made anonymous. Specific information regarding the record retention policy can be obtained by contacting the Information Officer at the College.

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Principle 6 – Accuracy

It is in the best interest of the public that the College collects, uses and discloses only accurate personal information in regulating the profession. The College therefore uses its best efforts to ensure that the information it collects, uses and discloses is accurate. However, in order to be accountable for its collection, use and disclosure of information, the College makes corrections to information without obliterating the original entry.

Members are required to provide the College with current name, contact and employment information and to advise the College of changes within fourteen (14) days of any change. This information is also updated annually when members renew their registration with the College.

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Principle 7 – Safeguards

The College works to ensure that personal information it holds is secure. The College uses cloud based email and data storage systems that store data on North American servers. The College does what it reasonably can do to protect the privacy of its members, the public and anyone else from which it collects personal information, but there are limitations on what safeguards it can impose in information stored in the United States of America as a result of the limitations contained in the *US Patriot Act*. The College does not take any responsibility for any harm that may be caused if personal information is accessed by others pursuant to the *US Patriot Act*. The College ensures that personal information is stored in electronic and physical files that are secure. Security measures are in place to safeguard this information. These measures include restricting access to personal information to authorized personnel, ensuring that physical files are under lock and key and ensuring that electronic files are password protected. The College reviews its security measures periodically to ensure that all personal information is secure.

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Employees of the College receive an orientation and ongoing training regarding the information safeguards required for personal information and their importance. External consultants and agencies with access to personal information must enter into confidentiality agreements with us

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The College ensures that personal information that is no longer required to be retained is disposed of in a confidential and secure fashion (e.g., shredding, or in the case of an electronic document,, destruction of the hard drive or other secure and permanent disposal method).

Principle 8 - Openness

The College's confidentiality and privacy policies are available to the public and its members via the College's website at www.cmo.on.ca or may be requested by phone at 416-640-2252 or by mail at 21 St. Clair Avenue East, Suite 303, Toronto, Ontario M4T 1L9. Inquiries concerning the College's policies and practices for collecting, using and disclosing personal information may be directed to the Information Officer at 416-640-2252 or operations@cmo.on.ca.

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Principle 9 - Individual Access

Access

Where the College holds personal information about an individual, upon written request, the College may allow access to the information to that individual, unless providing access could reasonably be expected to interfere with the administration or enforcement of the Legislation or it is impracticable or impossible for the College to retrieve the information.

Examples of situations where access may be denied include:

- Information contains references to another individual(s) that cannot be severed;
- Disclosure may result in significant risk of harm to the requestor or a third party;
- Information was collected or created in the course of an inspection, investigation, inquiry, assessment or similar procedure;
- Disclosure may defeat the purposes for which the information was collected;
- Information cannot be disclosed for legal, security or commercial proprietary reasons;
- Information is subject to solicitor-client or other privilege;
- Information was generated in the course of a dispute or resolution process;
- The request is frivolous, vexatious, made in bad faith or otherwise an abuse of process.

In cases where the personal information forms part of a record created by another organization, the College will refer the individual to the organization that created the record (unless it is inappropriate to do so) so that the individual may obtain access to the personal information from the organization rather than the College.

While the College's response will typically be provided at no cost or minimal cost to the individual, depending on the nature of the request and the amount of information involved, the College reserves the right to impose a cost recovery fee. In these circumstances, the College will inform the individual of the approximate cost to provide the response and proceed upon payment by the individual of the cost.

The College will make every effort to respond to the request within thirty days and to assist the individual in understanding the information.

Individuals should send their written request for access, with contact information and sufficient information about themselves to identify them, to the Information Officer, 21 St. Clair Avenue East, Suite 303, Toronto, Ontario M4T 1L9 by phone at 416-640-2252 or email at operations@cmo.on.ca.

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In the event the College refuses to provide access to all of the personal information it holds, then the College will provide reasons for denying access. The individual may then choose to file a complaint with the Information Officer.

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Challenging accuracy and completeness of personal information

An individual has the right to request a correction of what in their view, is erroneou

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information. Where the information forms part of a record created by another organization, then the College will refer the individual to the organization that created the record (unless it is inappropriate to do so) so that the individual may challenge the accuracy or completeness of the information.

Where an individual is able to demonstrate successfully that the personal information of a factual nature (not, for example, the expression of an opinion) is inaccurate or incomplete, the College will amend the information (i.e., correct, or add information). In addition, where appropriate, the College will notify any third parties to whom the College has disclosed the erroneous information.

Where there is a dispute between the individual and the College as to the accuracy or completeness of the information, then the College will document the details of the disagreement, and, where appropriate, will advise any third party who received the contested information from the College, of the unresolved disagreement.

Principle 10 - Challenging compliance

Complaints or questions regarding the College's compliance with this Privacy Code should be directed to the Information Officer who may be reached at 21 St. Clair Avenue East, Suite 303, Toronto, Ontario M4T 1L9 by phone at 416-640-2252 or email at operations@cmo.on.ca .

If the Information Officer cannot satisfactorily resolve a complaint, the College's Privacy Working Group is available to review the complaint by;

Deleted: has a formal privacy complaints procedure that includes

- acknowledging the complaint;
- review of the complaint by the College's Privacy Working Group;
- providing a written decision and reasons to the complainant; and,
- taking appropriate measures where the complaint is found to be justified.

Please note that there is a different process for handling complaints about the conduct or actions of a member of the College. Please contact the Registrar if you wish to file a complaint about the conduct or actions of a member of the College.

Deleted: *August 16*

SCHEDULE 1
Section 36 of

THE REGULATED HEALTH PROFESSIONS ACT, 1991 as amended (as of October 21, 2013)

Confidentiality

36. (1) Every person employed, retained or appointed for the purposes of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every member of a Council or committee of a College shall keep confidential all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person except,

(a) to the extent that the information is available to the public under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*;

(b) in connection with the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;

(c) to a body that governs a profession inside or outside of Ontario;

(d) as may be required for the administration of the *Drug Interchangeability and Dispensing Fee Act*, the *Healing Arts Radiation Protection Act*, the *Health Insurance Act*, the *Independent Health Facilities Act*, the *Laboratory and Specimen Collection Centre Licensing Act*, the *Ontario Drug Benefit Act*, the *Coroners Act*, the *Controlled Drugs and Substances Act* (Canada) and the *Food and Drugs Act (Canada)*;

(d.1) for a prescribed purpose, to a public hospital that employs or provides privileges to a member of a College, where the College is investigating a complaint about that member or where the information was obtained by an investigator appointed pursuant to subsection 75 (1) or (2) of the Code, subject to the limitations, if any, provided for in regulations made under section 43;

(d.2) for a prescribed purpose, to a person other than a public hospital who belongs to a class provided for in regulations made under section 43, where a College is investigating a complaint about a member of the College or where the information was obtained by an investigator appointed pursuant to subsection 75 (1) or (2) of the Code, subject to the limitations, if any, provided for in the regulations;

Deleted: *August 16*

(e) to a police officer to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;

(f) to the counsel of the person who is required to keep the information confidential under this section;

(g) to confirm whether the College is investigating a member, if there is a compelling public interest in the disclosure of that information;

(h) where disclosure of the information is required by an Act of the Legislature or an Act of Parliament;

(i) if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons; or

(j) with the written consent of the person to whom the information relates; or

(k) to the Minister in order to allow the Minister to determine,

(i) whether the College is fulfilling its duties and carrying out its objects under this Act, a health profession Act, the *Drug and Pharmacies Regulation Act* or the *Drug Interchangeability and Dispensing Fee Act*, or

(ii) whether the Minister should exercise any power of the Minister under this Act, or any Act mentioned in subclause (i). 2007, c. 10, Sched. M, s. 7 (1); 2014, c. 14, Sched. 2, s. 10; 2017, c. 11, Sched. 5, s. 2 (1, 2)..

Reports required under Code

(1.1) Clauses (1) (c) and (d) do not apply with respect to reports required under section 85.1 or 85.2 of the Code.

Definition

(1.2) In clause (1) (e),
"law enforcement proceeding" means a proceeding in a court or tribunal that could result in a penalty or sanction being imposed. 1998, c. 18, Sched. G, s. 7 (2); 2007, c. 10, Sched. M, s. 7 (2).

Limitation

(1.3) *No person or member described in subsection (1) shall disclose, under clause (1) (e), any information with respect to a person other than a member. 1998, c. 18, Sched. G, s. 7 (2); 2007, c. 10, Sched. M, s. 7 (3).*

No requirement

(1.4) *Nothing in clause (1) (e) shall require a person described in subsection (1) to disclose information to a police officer unless the information is required to be produced under a warrant. 1998, c. 18, Sched. G, s. 7 (2); 2007, c. 10, Sched. M, s. 7 (4).*

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Confirmation of investigation

(1.5) Information disclosed under clause (l) (g) shall be limited to the fact that an investigation is or is not underway and shall not include any other information. 2007, c. 10, Sched. M, s. 7 (5).

Not compellable

(2) No person or member described in subsection (1) shall be compelled to give testimony in a civil proceeding with regard to matters that come to his or her knowledge in the course of his or her duties. 1991, c. 18, s. 36 (2).

Evidence in civil proceedings

(3) No record of a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, no report, document or thing prepared for or statement given at such a proceeding and no order or decision made in such a proceeding is admissible in a civil proceeding other than a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* or a proceeding relating to an order under section 11.1 or 11.2 of the *Ontario Drug Benefit Act*. 1991, c. 18, s. 36 (3); 1996, c. 1, Sched. G, s. 27 (2).

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

EXECUTIVE COMMITTEE
TERMS OF REFERENCE

MANDATE

The Executive Committee conducts business between Council meetings to ensure the objects of the College are being met and contributes to the development of governance excellence by the Council.

POWERS

Between meetings of the Council, the Executive Committee has all the powers of the Council with respect to any matter that, in the Committee's opinion, requires immediate attention, other than the power to make, amend or revoke a regulation or by-law.

If the Executive Committee exercises a power of the Council as outlined above, it shall report on its actions to the Council at the Council's next meeting.

RESPONSIBILITIES

Governance

The governance responsibilities of the Executive Committee shall be:

1) To ensure that the Council is able to govern the College effectively through development and periodic revision of governance policies and procedures
2) To make annual Committee and Committee Chair recommendations to Council
3) To establish and administer a process for assessing the effectiveness of the Council, its Committees and each Council member
4) To create an annual plan for Council development based on the strategic plan and the annual Council assessment
5) To conduct an annual assessment of skills and attributes to determine gaps in the composition of the Committees. Participate in the process for the selection of non-Council members to fill identified gaps.
6) To conduct the evaluation of the Registrar's performance in accordance with agreed upon strategic priorities and review and decide on compensation.

Audit and Finance

To assist the Council in fulfilling its fiduciary responsibilities in regard to financial reporting, internal control systems, relationships with auditors and ensuring accountability for the use of assets, more specifically:

1) To advise Council on the financial affairs of the College and to make recommendations to the Council on financial matters
2) To oversee the financial reporting process and monitor the integrity of the financial statements of the College
3) To ensure the independence of the external auditor
4) To review and evaluate the critical areas of financial risk and exposure as determined by management for the College, including but not limited to insurance

protection, environmental risk, political factors, assets/credit and other areas as determined from time-to-time
5) To review the appropriateness of the application and membership fee structure and other revenue charges and recommend changes to Council, as required
6) To review the budget annually and financial statements quarterly
7) To approve and maintain necessary financial policies and procedures to ensure best practice.

Risk Oversight
The risk oversight responsibilities of the Executive Committee shall be:
1) To oversee the implementation and maintenance of the College overall risk management framework and its risk appetite to ensure they are in line with emerging trends and best practice
2) To review the design and implementation of risk management strategies across the College and the procedures for monitoring the adequacy and effectiveness of those procedures
3) To report to the Council on its consideration of the above matters, identifying those areas where improvement is needed and making recommendations as appropriate.

ADMINISTRATIVE DUTIES
The Committee shall:
1) Meet at regular intervals, as needed, to ensure the proper functioning of the Committee;
2) Maintain minutes of its meetings in which shall be recorded all decisions and actions taken by it;
3) Report its actions to Council at each Council meeting or more frequently if needed;
4) Submit annually a report of its activities to the Council of the College;
5) Submit annually a report of its activities and the initiatives of each Council Committee, including its audited financial statements, to the Minister of Health and Long-Term Care.

PRIVACY
If a privacy challenge cannot be resolved by the College's Information Officer (Director of Operations), the Executive Committee shall act as the Privacy Working Group.

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MEMBERSHIP
The Executive Committee shall be comprised of at least five (5) members of the Council, at least three (3) of whom are elected professional members and at least two (2) of whom are publicly appointed members. The President, Vice President (Professional) and the Vice President (Public) of the College must be members of the Executive Committee.

CHAIR OF THE COMMITTEE
The President of the Council shall act as chair of the Executive Committee. The Registrar-CEO and the Deputy Registrar shall be designated as *ex-officio* members of the Committee.

COMMITTEE MEMBERS

All Executive Committee members must be elected to the Committee by the Council of the College. Executive Committee members shall have completed a minimum of a one (1) year term on the Council of the College prior to commencing a term on the Executive Committee.

Any committee member may resign upon written notification to the President. Committee members who are absent for more than two committee meetings per year automatically forfeit membership on the committee. The President has the discretion to approve, in advance, an extended absence of any committee member.

QUORUM
A simple majority of members of the Executive Committee, that includes at least one (1) member of the committee who is an elected professional member and one (1) member of the committee who is a publicly appointed member, shall constitute a quorum for decision-making.

DECISION MAKING
The Committee will endeavour to arrive at decisions by consensus and all members may contribute to the consensus-making process. When a vote is called, the decision will be made by a simple majority.

CONFIDENTIALITY
Every member of the Committee shall preserve confidentiality with respect to all information that comes to their knowledge in the course of their duties and shall not communicate any information to any other person.

Briefing Note for Council

Subject: President's Job Description and the role of Vice-Presidents

Background

Pursuant to s. 10.04 of the College's General By-law *the duties of the Vice-Presidents shall include all the powers and all the duties of the President in the absence or inability or refusal to act by the President and any such duties as may from time to time be assigned to him or her by Council.*

The College's governance policies (GP4) further specify that in the absence or inability of the President to act, the Vice-Presidents ensure the integrity of Council's process, and may represent Council to outside parties. In addition, the Vice-Presidents perform other supportive duties.

At the May 31, 2017, Executive Committee meeting agreed that the President's job description should be revised to clarify the appropriate processes and communications that must be put in place by the President to allow the Vice-Presidents to assume presidential duties and responsibilities in the absence of the President.

These proposed changes were added to the job description for Council's final review and approval.

Key Considerations

Please refer to the revised job description. The new wording will help to ensure smooth handover, knowledge transfer and capacity building.

Recommendations

The following recommendation is submitted for consideration:

1. That the revised President's Job Description be approved as presented.

Implementation date

Immediately

Attachments

President's Job Description

Submitted by: Executive Committee

Council President
Job Description

Overview

The President, as the elected chair of Council, is the senior leader and representative of the College of Midwives of Ontario (College or CMO) and, in conjunction with Council, is ultimately responsible for the fulfillment of the vision, mission, guiding principles, and strategic priorities of the College.

Leadership of Council and the Executive Committee

1. The President provides leadership and strategic direction by ensuring the vision and goals of the College are acted upon by Council and staff to fulfill the mandate of the College as the self-governing body of the midwifery profession in Ontario.

2. The President assures the integrity of Council's processes by ensuring that Council and its members are aware of and fulfill their governance responsibilities effectively and efficiently; comply with the *Regulated Health Professions Act* (RHPA), the Health Professions Procedural Code, the by-laws and any applicable laws; and are accountable for their performance as per the adopted CMO governance policies.

3. The President fosters a culture that promotes high morale, productivity and engagement to achieve the highest standards when working towards the goals and priorities of the College.

4. The President ensures the achievement of the CMO's goals by effective and efficient stewardship of Council and Executive Committee. In this capacity, the President:

    a. Presides at all meetings of the Council and chairs the Executive Committee.
    b. Develops an appropriate Council and Executive agenda and reporting schedules; guides meetings efficiently encouraging open dialogue; and provides thoughtful leadership on difficult and contentious issues.
    c. Ensures that structures and procedures are in place for effective nominations and elections, orientation and training, ongoing education, and evaluation of Council, Committee, Chair and individual member performance.
    d. Ensures that the annual Council orientation process and training is in place for returning and newly appointed and elected Council members.

Orients and prepares the new President and Vice-Presidents for the responsibilities of the presidency, and establishes specific objectives and areas of focus for the new President.

e. Is responsible for ensuring maintenance of Council-related files such as by-laws, policies, agendas, minutes (including in-camera minutes), financial reports and budget, and monitoring reports.

5. The President maintains regular contact with the Vice-President, Professional, and the Vice-President, Public, one of whom in the absence of the President, or in the case of conflict of interest involving the President, assumes the President's role. The President ensures there are appropriate processes and communications in place to bring this into effect, when needed.
   α. Seeks input from the Vice-Presidents in the planning of Executive Committee meeting and Council meeting agendas
   b. Holds regular meetings with the Vice-President, Professional, Vice-President, Public, and the Registrar prior to Executive Committee and Council meetings to ensure smooth handover, knowledge transfer and capacity building.
6. The President is accessible to Council members seeking answers or information about the CMO governance processes, and other appropriate issues.
7. The President is entitled to vote on matters before Council, and is a voting member of the Executive Committee.

Specific Responsibilities Relating to Council's Statutory Committees

The President serves as an *ex-officio* non-voting member of Council statutory committees, as specified in the bylaws and Terms of Reference. In this capacity, the President's role is to:

1. Ensure that all statutory committees meet on a regular basis and have appropriate recording of meetings.
2. Ensure that all statutory committees provide annual reports to Council as per the Health Professions Procedural Code.
3. Assist the committee Chairs to resolve any Committee issues as they arise, and ensure that issues are brought to Council when appropriate.

Linkage between the Council and the College's staff

The President represents the Council to the Registrar and the Deputy Registrar. In this capacity, the President's role is to:

1. Facilitates mutual understanding and respect thought effective communication of Council direction and decisions.
2. Hold regular meetings with the Registrar to discuss pertinent issues and to ensure that the policies and overall direction of the College are implemented.

3. Represent the key conduit for the Registrar with the Council and coordinates the annual performance evaluation process for the Registrar on behalf of the Council in accordance with the CMO's governance policies.
4. Work with the Registrar to ensure that the information Council receives to fulfill its responsibilities, is timely and comprehensive.
5. Ensure that the Annual Report is produced and communicated to the government and the public in accordance with the College's statutory requirements.

External Stakeholder Relationship Building

The President represents the voice of the College to all stakeholders both within and outside of the midwifery profession. In this capacity, the President's role is to:

1. Develop and maintain positive and productive relationships with the CMO's key stakeholders to advance the goals and priorities of the College by:

    a. Representing the CMO during the CMO events (e.g. Member Education Day); external conferences (e.g. The Canadian Midwifery Regulators Consortium Annual Conference, AOM Annual Conference); stakeholder and liaison meetings and on working groups.
    b. Ensuring timely and appropriate reporting of Council decisions and actions to registrants, key stakeholders, and the public.
    c. Being accessible to the membership seeking answers or general information regarding College policies/practices and other appropriate issues.
    d. Interacting with media representatives, when appropriate, to communicate Council-stated positions.

Key Competencies and Skills

The President shall demonstrate the following skills and have experience in the following areas:

- Registered midwife in the General or Inactive Class of registration;
- Ability to meet the time and travel commitments needed to fulfill presidential duties and responsibilities[1];
- Demonstrated commitment to the CMO mission, vision, guiding principles and strategic priorities;

[1] ~~Historically, the President was required to reduce their caseload by 25% (based on level 6 midwifery compensation). While it is definitely expected that anyone putting their name forward would have to be able to commit time to the position, currently there is no formal requirement that the President should reduce their caseload.~~

- Strategic thinker who understands the implications of decisions made and is aware of organizational issues, processes, and outcomes as they impact the CMO's strategic direction and key stakeholders;
- Strong, decisive leader with excellent judgment able to lead and influence others;
- A good public speaker with the ability to effectively facilitate communication during Council and Executive Committee meetings, and communicate the CMO key messages at conferences, events and stakeholder meetings;
- Demonstrates effective use of time management skills and the ability to plan and organize workflow and meetings in an efficient manner to act upon present opportunities or address problems;
- Possesses exceptional integrity and work ethics;
- Demonstrates an interest in continuous professional development, especially in the area of governance.

Accountability

The President is accountable to Council as specified in the CMO's bylaws and governance policies. In the President's absence or in the case of conflict of interest involving the President, a Vice-President shall serve as Chair of Council. However, the accountability remains with the President.

Confidentiality

The President is privy to confidential information that they must not disclose during and after their role as president. The profile of the President and their responsibilities extend past direct involvement with the College and must be maintained indefinitely.

Signing Authority

The President is designated by Council and the by-laws as one of the CMO's signing officers. In this capacity, the President may be required to sign or countersign cheques, official correspondence, reports, contracts or other documents on behalf of the CMO.

Length of Term

One year

Approved by Council: May 27, 2015
Effective Date: September 30, 2015
Revision Date: October 13, 2016
Revision Date: October 12, 2017
Next Revision Date: October 2019

Appendix A: Time Commitment

Function/Activity	Typical Time Required
Council Meetings	Eight (8) full day meeting days per year (four 2-day meetings a year in September; November; February; and May) Preparation time per one meeting day: 7 hours
Executive Meetings	Seven (7) full day in person meetings per year Preparation time per meeting: 7 hours
Statutory Committee related	Time per meeting to review agendas/minutes/follow up with Committee Chairs: 1 hour (At least 18 Statutory Committee meetings a year) *Note: The President may choose to attend any Committee meeting as an ex-officio member*
President/Registrar Conference Calls	○ 4 pre-scheduled conference calls with Registrar and staff, approximately three weeks prior to each Council meeting (1 hour each) ○ 7 pre-scheduled conference calls with Registrar and staff, approximately three weeks prior to each Executive meeting (1 hour each) ○ 40 pre-scheduled weekly check ins with Registrar (1 hour each) ○ Ad-hoc conference calls throughout the year (10 calls, approximately 1 hour in duration)
CMO Education Day	1-day a year, typically in November Preparation time: 14 hours
Stakeholder Meetings	○ CMO/AOM Liaison Meetings (half day meetings 4 times a year) ○ CMO/Midwifery Education Program (MEP) Meetings (half day meetings 3 times a year) ○ CMO/International Midwifery Preregistration Program (IMPP) Meetings (half day meetings 3 times a year) ○ CMO/Joint Risk Management Working Group (JRMWG) Meetings (full day meetings 3 times a year). Preparation time per meeting: 3 hours
Conferences	○ AOM Annual Conference (one full day per year) ○ The Canadian Midwifery Regulators Consortium (CMRC) Annual Conference (one full day per year at various locations across Canada) ○ The Canadian Association of Midwives Annual Conference (4 days per year at various locations across Canada) Preparation time: 14 hours
Total Estimated Time Commitment: 69 days per year (plus travel time)	

Briefing Note for Council

Subject: Council Training Attendance and Time Commitment Requirements

Background

In accordance with the College's by-laws and governance policies all Council and Committee members are required to attend Council and Committee meetings. All meetings are scheduled in advance taking into account the members' availability. Committee meetings are held as teleconferences, wherever possible. In addition to attendance at meetings, Council and Committee members are required to prepare for each meeting by reviewing a meeting package and any other related materials that are provided in advance of the meeting. Adequate preparation is critical to allow members to participate and contribute fully to discussions and to develop informed opinions in rendering decisions.

All Council members are also required to serve on panels for the Discipline, Fitness to Practise, Registration, Quality Assurance (QAC) and Inquiries, Complaints and Reports (ICRC) Committees. These panels require preparation (some panel packages are quite substantial and so can represent a significant commitment), attendance at a panel meeting or participation in a teleconference and, in some cases, writing (Discipline/Fitness to Practice) or review of decisions (Registration, ICRC and QAC).

Finally, all Council members are expected to attend Council training days 4 times a year.

On September 30th, 2015 Council approved the following time commitment guidelines for the College's Council members:

- All Council members are *required* to attend Council meetings. Pursuant to the College's by-laws a Council member may be disqualified, if the member fails, without reasonable cause to attend two (2) meetings of the Council in any twelve-month period. All professional members are required to be off call.
- All Council members are *expected* to attend trainings organized by the College. All professional members are encouraged to be off call.
- All Committee members are *expected* to attend Committee meetings. All professional members are encouraged to be off call.
- All Committee Chairs are *required* to attend Committee meetings. Committee Chairs, who are professional members, are required to be off call.
- All panel members are *required* to attend panel meetings. All professional members are required to be off call.
- All panel Chairs are *required* to attend panel meetings. Panel Chairs, who are professional members, are required to be off call.

Key Considerations

Council is asked to revisit its earlier decision to not require that all Council trainings be mandatory.

The College is committed to ensuring that all council and committee members (elected, appointed and non-Council) receive a comprehensive orientation, so that each council and committee member understands the role of the Council and its statutory committees, along with the contribution expected of individual council members. In addition to a comprehensive orientation when joining the Council, professional opportunities are offered to all council members to continually enhance their knowledge base relevant to the needs of the Council. Educational topics are designed to keep council members current on issues of importance and help prepare them for conversations around strategic, governance and regulatory issues. Each year, the Executive Committee reviews the Council performance evaluation results and sets educational goals for the year, whereby it seeks to allocate certain amount of resources (both human and financial) on educational matters. This is in recognition that without proper orientation and education, council and committee members will not able to effectively fulfill their Council and committee duties.

The Executive Committee recognizes that current council and committee may not be able to meet the increased time commitments required of their role and propose that the new requirement should only take effect with the start of a new term or appointment. In the meantime, all council and committee members are strongly encouraged to attend the training days organized by the College (4 days in total). In addition, Executive Committee members recommended that it become a requirement that all Council members attend the College's Member Education Day.

Recommendations

The following motion is submitted for approval:

1. That the following time commitment guidelines be approved as presented:

   - All Council members are required to attend Council meetings. Pursuant to the College's by-laws a Council member may be disqualified, if the member fails, without reasonable cause to attend two (2) meetings of the Council in any twelve-month period. All professional members are required to be off call.
   - All Council members are ***required*** to attend training days organized by the College. All professional members are ***required*** to be off call.
   - All Council members are ***required*** to attend the Member Education Day. All professional members are ***required*** to be off call.
   - All Committee members are expected to attend Committee meetings. All professional members are encouraged to be off call.
   - All Committee Chairs are required to attend Committee meetings. Committee Chairs, who are professional members, are required to be off call.

- All panel members are required to attend panel meetings. All professional members are required to be off call.
- All panel Chairs are required to attend panel meetings. Panel Chairs, who are professional members, are required to be off call.

Implementation Date

Immediately after the October 2017 Council meeting.

Attachments

None

Submitted by: Executive Committee

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

CLIENT RELATIONS COMMITTEE
REPORT TO COUNCIL – October 2017

Committee Members

Chair	Carron Canning, RM
Professional	Carron Canning, RM; Tiffany Haidon, RM; Claudette Leduc, RM; Wendy Murko, RM
Public	Rochelle Dickenson
Non-Elected	Christi Johnston

Committee Meetings

On September 28, 2017, the Committee met to discuss changes to the Client Relations Program, including those arising from Bill 87, *Protecting Patients Act, S.O. 2017, C.11.*

The Committee was informed that the following provisions are currently in force and require changes to the Client Relations Program:

1. Funding will be automatic for a person who makes a complaint or is the subject of a report that alleges sexual abuse and will be available from the time that the complaint or report is made.

2. There is an expanded list of sexual acts that would result in a mandatory revocation of a member's certificate of registration and the corresponding inability to apply for reinstatement for at least five years.

3. The maximum fine on a first offence for an individual who fails to make a mandatory report relating to sexual abuse has doubled to $50,000 and for corporations, has quadrupled to $200,000.

4. The Minister may make regulations requiring the Client Relations programs to address additional issues (e.g., civility of communications with clients). While this provision is currently in force, there have been no regulations brought forward at this time.

The Committee was also informed that the provision which affects the Sexual Abuse Prevention Program and is yet to be proclaimed is:

5. A former patient is deemed to remain a "patient" for the purposes of the sexual abuse provisions for a period of one year from when the person would otherwise cease to be a patient.

Given the changes that must be made above, the Committee was informed of the opportunity to revise the College's current Sexual Abuse Prevention Program to ensure that it is in line with the Committee's mandate in the RHPA and achieves the College's regulatory outcomes.

The Committee discussed the following for implementing Bill 87 amendments:

1. The College will have to develop funding guidelines. The Committee was informed that the Federation of Health Regulatory Colleges of Ontario (FHRCO) is in the process of initiating discussions with Colleges about how to approach this in a consistent manner and the next meeting in this regard will be taking place in October 2017. The committee was informed that the College would be monitoring the recommendations and bringing draft materials forward to the Committee for feedback, approval and implementation in early 2018.

2. The College will have to provide information on sexual acts that will result in mandatory revocation and the corresponding inability of a member to apply for reinstatement for five years. While information on penalties is currently in the Sexual Abuse Prevention Policy (SAPP), as it is a reiteration of the legislation (s. 51(5) of the HPPC) as opposed to fleshing it out in greater detail, the Committee decided that it did not meet the College's current definition of a policy and might be better presented as general information on the website.

   The Committee was provided with the consideration that while knowledge of penalties could act as a deterrent, that alone may not be a sufficient justification for including such information in the form of a policy, given that there are other non-regulatory tools that can accomplish this objective while effectively mitigating risk (as presented in the attached, Regulatory Impact Assessment for Revised Version of the SAPP).

3. The Committee approved revising the College's Guidelines for Reporting Sexual Abuse to include the following:
   - increased fines for individuals and corporations for failing to make a mandatory report;
   - including qualifications to the definition of sexual abuse as stated in the RHPA (i.e. if an act is clinically appropriate to a service being provided, it is not sexual abuse);
   - providing further clarity regarding the meaning of "reasonable grounds" to make a report;
   - providing information on how to make a report if a client does not consent to their name being disclosed and
   - including general consequences for failing to make a report.

4. The Committee was informed that the College will monitor any regulations developed by the Minister that gives additional functions to the Committee and convey that to the Committee.

5. The Committee was informed that the College would have to provide clear guidance on when the midwife-client relationship begins and ends for the purpose of calculating the one-year period referenced in the legislative provision. The Committee decided that this would be accomplished though the SAPP (see attached, Regulatory Impact Assessment for a Revised Version of the SAPP).

The Committee discussed the following for changes to other aspects of the College's Sexual Abuse Prevention Program:

1. Restructuring the "Sexual Abuse Prevention Program" – the Committee considered not using the term "program" with respect to materials developed to prevent sexual abuse and housing all information on a webpage entitled "Preventing Sexual Abuse" with all documents/resources accessible. The Committee decided that the term "program" will still be used for the Committee (i.e., The Client Relations Program) as this is mandated by the RHPA, but will be regarding a broader range of topics (i.e., not just preventing sexual abuse).

2. Creating a Sexual Abuse Complaints Guide – the Committee decided that this resource will assist with client empowerment, an objective identified by the Health Professions Regulatory Advisory Council (HPRAC) in their first report to the Colleges regarding sexual abuse prevention and one which the College currently falls short of (i.e., the

College's resources tend to be targeted to the membership as opposed to their clients). The Committee decided that the information in this guide would include advising prospective complainants regarding the definition of sexual abuse under the RHPA, how to make a complaint and how to access funding.

3. Revising the Guideline to Appropriate Professional Behaviour with Clients– the Committee decided that further work was required for this guideline in terms of language, general clarity and providing legislative references where required. It was decided that staff would bring a revised version of the Guideline to the Committee's next meeting in early 2018.

The next committee meeting will be scheduled for early 2018, pending new committee composition.

Panel Meetings/Hearings
N/A

Trainings
- On September 28, 2017, Dr. Gail Robinson provided a presentation on "Maintaining Good Boundaries" to the Committee, College staff, and council members that were able to attend

Items
- s. 1(6) of the HPPC, s. 43(1)(o) of the RHPA
- Regulatory Impact Assessment – Sexual Abuse Prevention Policy
- Sexual Abuse Prevention Policy – Current with Comments
- Sexual Abuse Prevention Policy – Revised Draft

Formal Motions to Council
- Motion to approve the Sexual Abuse Prevention Policy – Revised Draft, effective subject to the proclamation of relevant sections of the HPPC and RHPA.

Respectfully Submitted,

Carron Canning, RM, Chair

Meaning of Patient/Client

Health Professions Procedural Code

Definitions

1(6) For the purposes of subsections (3) and (5),

"patient", without restricting the ordinary meaning of the term, includes,

(a) an individual who was a member's patient within one year or such longer period of time as may be prescribed from the date on which the individual ceased to be the member's patient, and

(b) an individual who is determined to be a patient in accordance with the criteria in any regulations made under clause 43 (1) (o) of the Regulated Health Professions Act, 1991; ("patient")

Regulated Health Professions Act

Regulations

43 (1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 43 (1) of the Act is amended by adding the following clause: (See: 2017, c. 11, Sched. 5, s. 5 (1))

(o) establishing criteria for the definition of "patient" in relation to professional misconduct involving the sexual abuse of a patient for the purposes of subsection 1 (3) of the Code.

Regulatory Impact Assessment Statement

Every proposal designed to introduce or revise a regulatory measure must be accompanied by a Regulatory Impact Assessment statement. This tool is designed to encourage rigour and better regulatory outcomes.

Title of the Initiative: Sexual Abuse Prevention Policy – Revised

Context and Problem Definition

1. Clearly identify and define the problem you are trying to solve. Demonstrate why it is a problem.

   The Sexual Abuse Prevention Policy currently does not address when a midwife-client relationship begins and ends. In light of the legislative changes from Bill 87 – in particular, the 1-year period that must pass before a regulated health professional can enter into a sexual relationship with a client, we must develop guidance for the membership to be able to accurately calculate this time period. Any sexual relations occurring within the time period will be considered sexual abuse.

   We must also reframe the current policy so it meets the College's definition of a policy and other information contained in the current policy that is more appropriately suited for elsewhere is moved accordingly.

2. Is the problem about risk of harm?

   Yes – clients can be put at harm if a sexual relationship is commenced prior to the one-year period, as it would constitute sexual abuse under the RHPA.

3. If yes, explain the risks.

   Without clear guidance on when a midwife-client relationship begins and ends, there is a greater likelihood of sexual abuse occurring in the event a sexual relationship develops between a midwife and client. The consequences include potential negative effects on the victim and the member being subject to professional conduct proceedings, including the possibility of mandatory revocation of a member's certificate of registration.

Options

1. Are the risks you have identified currently managed?

No, as we do not have any information about when the midwife-client relationship begins and ends in our current Sexual Abuse Prevention Policy or elsewhere.

2. Are there any alternatives to regulation that will mitigate identified risks?

Developing such guidance falls within the domain of the College and our public protection mandate. Information on when a midwife-client relationship begins and ends requires a clear regulatory policy. This is not a problem that can be solved through other means.

Initial Assessment of Impacts

1. What are the benefits and costs of the options you are considering?

The benefit of this is clear guidance to the membership and the public about what constitutes sexual abuse. It also enhances awareness of complainants regarding sexual abuse, such that no frivolous complaints are made and legitimate complaints are brought forward.

The costs are minimal and consist solely of staff/committee time in reforming the policy.

2. Will the burden imposed by regulation be greater than the benefits of regulation?

No. Protecting the public from sexual abuse and educating members about their conduct outweighs the costs imposed by regulation.

Evidence Base, Planning of Further Work and Implementation

1. What regulatory option are you recommending to introduce?

A policy – as this is used to describe in greater detail, the issues set out in legislation. The changes come from Bill 87 and require further guidance than what will be stated in the legislative provision upon proclamation.

Similarly, much of what exists in the current "policy" does not meet the College's definition of a policy, as it is a reiteration of legislation and does not explain it further in any way. Much of that information is available through

other documents already created (Guideline for Reporting Sexual Abuse). Other aspects of information can be housed under the Client Relations part of the website (e.g. the College's general position on sexual abuse and penalties for sexual abuse, including the expanded list of acts that will result in mandatory revocation).

2. What information and data are already available?

Bill 87 amendments, including those that will be proclaimed in the near future.

Information on what constitutes the beginning and end of a midwife-client relationship. This involves reaching out to the AOM and understanding midwifery practices surrounding contractual agreements and the fiduciary relationship that exists between a midwife and client. This will be done before the Client Relations meeting in September 2017.

3. What further information needs to be gathered? How will this be done, and by when?

n/a

4. How do you plan to engage with those who will be affected by this policy proposal?

As this change is mandated by legislation and the definitions of what constitutes the beginning and end of a midwife-client relationship will be based on the existence of a fiduciary relationship supported by ethics and law, there is no need to consult with the membership, though they must certainly be informed about it once it is approved by Council.

5. Are there any areas of uncertainty that could impact the final decision?

We need to make sure that there are standard practices and an understanding among the membership regarding what constitutes the beginning and end of a midwife-client relationship. The main area of uncertainty pertains to whether the midwife client relationship can be defined solely based on contractual agreements or whether it exists outside of this context. However, while this might affect the policy's content, it will not affect the final decision for using a

policy to regulate this aspect of practice.

6. Is any particular communication or information activity foreseen? If so, what, and by when?

Once the policy is approved by Council, we will need to inform the membership about it. This will be done via updating the website, newsletter (late fall) and in the 2017 Annual Report. The exact date will have to remain flexible according to when the legislative provision is proclaimed, but the draft should be "ready to post subject to proclamation" once approved by Council.

7. How are you planning to implement and evaluate the proposed policy option?

The policy should be implemented as soon as the legislative provision is proclaimed and Council has approved. This will be done via website, newsletter and annual report content.

We can evaluate the effectiveness of the policy by monitoring sexual abuse complaints – if the allegations demonstrate an understanding different than what we have communicated to the membership and public, we will have to consider why and make any necessary adjustments to our communication strategy. We can also track questions received about the policy and revise it at a later date if more clarity is required.

Evaluation will also consist of monitoring how many people access the links to the policy via website, newsletter, and annual report.

In addition, we can monitor the work of other Colleges in this regard and Ministry recommendations.

Attachments

1. Sexual Abuse Prevention Policy
2. Sexual Abuse Prevention Policy – Revised

Submitted by: Shivani Sharma, Policy Analyst

Standard:	Sexual Abuse Prevention Policy
Approved by:	Council
Date Approved:	November 19, 2015
Date to be Reviewed:	November 2018
Revision date(s):	--
Effective date:	November 19, 2015
Attachments:	Professional Misconduct Regulation

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

SEXUAL ABUSE PREVENTION POLICY

Purpose

This policy provides guidance to midwives regarding the legislative provisions of the *Regulated Health Professions Act, 1991 (RHPA)* specific to sexual abuse. It sets out the College of Midwives of Ontario's (CMO) expectations of a midwife's behaviour within the midwife-client relationship. Non-compliance with this provision of the *RHPA* is a serious act of professional misconduct and treated as such. [1]

Comment [SS1]: The purpose of the policy should be to set out the College's definition of the beginning and end of a midwife-client relationship and assist midwives with understanding/complying with the provisions of the RHPA that address sexual abuse.

Background and Definition

The CMO is required through the *RHPA* to develop a program for midwives that includes measures for preventing and dealing with sexual abuse of clients.

"Sexual abuse" of a client by a member is defined as:

(a) Sexual intercourse or other forms of physical sexual relations between the member and the client,

(b) Touching, of a sexual nature, of the client by the member, or

(c) Behaviour or remarks of a sexual nature by the member towards the client.

"Sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.

A "client" is a person receiving midwifery services from a midwife.

Comment [SS2]: Need to expand this definition. See revised version of this policy.

The sexual abuse provisions of the *RHPA* prohibit a midwife from providing midwifery care to their spouse. [2]

Comment [SS3]: Can be moved below (i.e. to make it clear that a spouse can never be a client).

The RHPA also provides that the penalty for sexual abuse involving the more "frank" sexual acts is automatic revocation of the midwife's certificate of registration (those provisions are set out below).

Comment [SS4]: Information about penalties can be provided on the website.

[1] See Professional Misconduct Regulation

[2] See CMO *Standard on Caring for Related Persons* for more information about providing care to family and friends.

Statement of Philosophy

The College of Midwives of Ontario (CMO) maintains that sexual abuse of a client is unacceptable and will not be tolerated. The CMO is committed to prevention of such behaviour through education of its members[3] and establishing deterrents through administration of a Discipline process that reflects the seriousness of the violation. The CMO acknowledges the potential vulnerability of clients and strives to provide a reporting process that is accessible and sensitive to their needs.

The CMO has a zero tolerance policy with respect to all forms of abuse. The CMO, however, stresses that zero tolerance does not preclude appropriate professional supportive behaviour that may include physical contact that is nurturing or helpful and acceptable to the client.

The midwife-client relationship is based on mutual trust and respect; any act of abuse is a betrayal of that trust. The CMO will investigate and act upon all complaints or reports of inappropriate behaviour.

Comment [SS5]: The reason this was originally included was because HPRAC required colleges to articulate their "statement of philosophy" (which is really just the College's position on sexual abuse). However, this position can be articulated on our website and does not need to be part of this policy.

Sexual Relationship Following Termination of the Midwife-Client Relationship

Comment [SS6]: This section to be refined based on defining the end of a midwife-client relationship. Please see revised sexual abuse prevention policy.

Midwives cannot enter into a sexual relationship with any client. However, if one year has passed since the last professional contact with the client, the former client will no longer be considered a client and a sexual relationship with the former client after that year has passed would not be prohibited. In the event that the former client requires midwifery care while engaged in a sexual relationship with the midwife, the midwife is not authorized to provide any midwifery services to the former client as the individual would then become a client again and the midwife will be considered to be in violation of the *RHPA*.

Any midwife contemplating entering into a sexual relationship with a former client (again no earlier than a year after the last professional interaction) would be well advised to document carefully when the last professional interaction was and provide the former client with names of midwife colleagues who could assist the former client should the individual be in the position of requiring a midwife in future.

Comment [SS7]: Not necessary to include this as we are now defining the beginning and end of a midwife-client relationship. The language here also suggests prospective thinking re: developing a relationship as opposed to it being a general standard about documenting when a midwife-client relationship begins and ends.

Regulated Health Professions Act Penalties

The *Health Professions Procedural Code* (Schedule 2 to the *Regulated Health Professions Act)* defines the penalties for a member who has been found guilty of professional misconduct for sexually abusing a client. The panel of the Discipline Committee shall do the following:

1) Reprimand the member.

Comment [SS8]: S. 51(5)1. of the HPPC.

[3] Members should refer to the *Guideline to Appropriate Professional Behaviour with Clients* for further information

2) Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following:

Comment [SS9]: S. 51(5)3 of the HPPC.

(i) Sexual intercourse

(ii) Genital to genital, genital to anal, oral to genital, or oral to anal contact

(iii) Masturbation of the member by, or in the presence of, the client

(iv) Masturbation of the client by the member

(v) Encouragement of the client by the member to masturbate in the presence of the member

The following penalties are in addition to the other penalties that a panel of the Discipline Committee shall order:

Comment [SS10]: s.51(2) of the HPPC.

1) Directing the Registrar to suspend the member's certificate of registration

2) Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time

3) Requiring the member to pay a fine not more than $35,000 to the Minister of Finance

4) Requiring the member to reimburse the College for funding provided for the client under the program for therapy and counselling (including requiring the member to post security to guarantee any amounts required to be paid)

A panel may also require the member to pay all or part of the College's legal costs and expenses, the College's costs and expenses incurred in the investigation of the matter, and the College's costs and expenses incurred in conducting the hearing.

Further, a person whose certificate of registration was revoked for sexual abuse of a client is not permitted to apply for reinstatement until at least five years after the revocation.

Comment [SS11]: This entire section is from the Health Professions Procedural Code– it can be included on the website for informational purposes – it does not need to be in the form of a policy.

Comment [SS12]: s. 72(1)(3) of the HPPC.

Mandatory Reporting of Sexual Abuse

- All members are required to report to the CMO (or to another college if the alleged abuser is a member of another college) if they have reasonable grounds, obtained in the course of practising the profession, to believe that a member of the CMO or a different college has sexually abused a client.

- Anyone reporting in good faith will be immune from civil liability for making a report.
- All sexual abuse complaints or reports will be formally investigated and will not go through alternative dispute resolution.
- The safeguards for due process for the member will be maintained.
- The CMO will report all sexual abuse allegations that are referred to the Discipline Committee to the police.

Although reporting is mandatory, there are approaches and choices that can provide safety for everyone involved. Midwives should discuss with the client and document any decision to report. Revealing the client's name to the CMO is prohibited unless the client consents in writing to it being disclosed. The *RHPA* provides protection to a person who files a report in good faith from actions or other proceedings being taken against them.

Key points for midwives to remember when reporting sexual abuse:

- A report must be filed only if the name of the practitioner who allegedly committed abuse is known.
- A report must be filed only if the information was obtained in the course of practicing the profession.
- The client's name must not be included without obtained written consent.
- The report must be filed within 30 days to the Registrar of the College representing the profession of the person who is the subject of the report.
- The report must be filed immediately if there are reasonable grounds to believe the sexual abuse will continue or that sexual abuse of other clients will occur.
- Members who obtain reasonable grounds from their client must use their best efforts to advise the client of the requirement to file the report before doing so.

If the client does not disclose the name of the alleged offender, the midwife has no reporting duty. However, the CMO recommends that the midwife encourage the client to personally report the incident or situation to the relevant health college. It is also recommended that members carefully document any instance wherein the name of an alleged offender was requested of the client, but not provided.

Comment [SS13]: These points are covered in the Guidelines for Reporting Sexual Abuse.

Comment [SS14]: These points are better suited for the College's website re: how sexual abuse complaints and reports are handled. Does not make sense to include it in this policy.

Comment [SS15]: This is more of a standard of practice that you would conduct these sorts of discussions and should document them. It isn't necessary to include here.

Comment [SS16]: This is already covered in the Guidelines for Reporting Sexual Abuse.

Comment [SS17]: In the Guidelines for Reporting Sexual Abuse – not necessary to talk about reporting in this policy.

Comment [SS18]: This is better part of the Guidelines for Reporting Sexual Abuse. Have moved it there.

The report to the College must include the reporting member's name, the name of the member who is the subject of the report, an explanation of the alleged sexual abuse, and the client's name if consent is given.

Comment [SS19]: This is in the "Guidelines for Reporting Sexual Abuse"

Failure to report sexual abuse of clients when there are reasonable grounds to believe abuse has occurred is a matter of professional misconduct and is an offence under the RHPA. Even if the client does not want the matter reported, midwives must report – but cannot include the client's name in the report unless consent is obtained. Failing to report is a provincial offence punishable by a fine of up to $25,000 for the first offence. If discipline proceedings are brought (in addition to or instead of, a provincial offence prosecution), the midwife is subject to penalty, including reprimand, imposition of terms and conditions on registration, suspension, revocation and/or a fine of up to $35,000.

Comment [SS20]: Moved this information to the Guidelines for Reporting Sexual Abuse.

The Professional Misconduct Regulation can be found here: http://www.cmo.on.ca/professional-conduct/regulations-2/

Comment [SS21]: Unnecessary to include here.

Standard:	Sexual Abuse Prevention Policy
Approved by:	
Date Approved:	
Date to be Reviewed:	
Revision date(s):	
Effective date:	
Attachments:	

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

SEXUAL ABUSE PREVENTION POLICY

Purpose

This policy sets out the College's definition of the beginning and end of a midwife-client relationship and assists midwives in understanding and complying with the provisions of the Regulated Health Professions Act, 1991 (RHPA) that address sexual abuse.

Scope

This policy applies to all midwives registered with the College.

Definitions

A "client" is an individual that is receiving clinical care from a midwife or group of midwives that have been assigned to the individual.

"Clinical Care" is care provided to a client by a midwife or group of midwives in relation to the client's pregnancy, labour, birth, and in the postpartum period.

"Communication" refers to dialogue or authorization for an assessment that takes place in-person, electronically, through mail or through a mobile device between a midwife and client.

"Sexual abuse" of a client by a midwife is:

(a) Sexual intercourse or other forms of physical sexual relations between the member and the client,

(b) Touching, of a sexual nature, of the client by the member, or

(c) Behaviour or remarks of a sexual nature by the member towards the client.[2]

"Sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.[3]

Policy Statement

The Beginning of a Midwife-Client Relationship

[2] s. 1(3), Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991, S.O., 1991, c. 18.
[3] *Ibid*, s. 1(4).

A midwife-client relationship begins at the earliest of the following events:

- the first in-person meeting between a midwife and client, even if the client does not ultimately retain the midwife for midwifery services; or
- the first instance of communication in relation to clinical care being provided by a midwife to a client

Midwives are advised to record the date of their first in-person meeting with a client and communication in relation to clinical care being provided to the client, in the client's records.

Pursuant to the RHPA, a midwife cannot provide midwifery care to their spouse.[5] As such, a midwife's client can never be their spouse.

Sexual Relationship Prohibited During the Midwife-Client Relationship
A midwife must not become sexually involved with a client. Sexual involvement with a client is considered to be sexual abuse under the RHPA, regardless of whether the midwife believes there is consent from the client.

Termination of the Midwife-Client Relationship
A midwife-client relationship ends at the latest of the following events:

- the last in-person visit between the midwife and client; or
- the last communication in relation to the clinical care provided by the midwife to the client

Sexual Relationship Following Termination of the Midwife-Client Relationship
Pursuant to the RHPA, a former client is deemed to remain a client for the purposes of the sexual abuse provisions for a period of one year from when the former client would otherwise cease to be a client.[6]

As a result, if one year has passed since the last in-person visit or communication in relation to the clinical care provided by the midwife, the former client will no longer be considered a client and a sexual relationship with the former client after that year has passed would not be prohibited.

In the event that the former client requires midwifery care while engaged in a sexual relationship with the midwife, the midwife is not authorized to provide any midwifery services to the former client as the individual would then become a client again and the midwife will be in violation of the RHPA.

[5] *Ibid*, s. 1(5) and (6).
[6] *Ibid*, s. 1(6).

Standard:	Sexual Abuse Prevention Policy
Approved by:	
Date Approved:	
Date to be Reviewed:	
Revision date(s):	
Effective date:	
Attachments:	

College of Midwives of Ontario | Ordre des sages-femmes de l'Ontario

References

1. Health Professions Procedural Code, Schedule 2, to the Regulated Health Professions Act
2. Regulated Health Professions Act, 1991, S.O. 1991, c. 18

2017-2018 Council Members

Elected Professional Members

- Tiffany Haidon, RM
- Lilly Martin, RM
- Isabelle Milot, RM
- Wendy Murko, RM
- Lisa Nussey, RM
- Claire Ramlogan-Salanga, RM
- Jan Teevan, RM
- Edan Thomas, RM

Appointed Public Members

- Deirdre Brett
- Rochelle Dickenson
- Jennifer Lemon
- Susan Lewis
- Gemma Salamat
- John Stasiw

GOVERNANCE CALENDAR 2017-2018

February 22, 2017 Exec	March 21-22, 2017 Council	May 31, 2017 Exec	June 27-28, 2017 Council	September 6, 2017 Exec
1. Q3 statement of operations – approval 2. Proposed budget 3. Registrar's Review – informal mid-year check w/ President 4. Pre-audit conference with auditor 5. Assessment of External Auditor – Review previous year's assessment report	1. Registrar's report 2. Presentation of Annual Operation Plan (based on strategic plan) 3. Approval to submit Professional Misconduct and General Regulation to the Ministry of Health and Long Term Care 4. 2017-2020 Strategic Framework – final approval 5. 2017/2018 final approval of budget 6. Q3 statement of operations – for information **Trainings:** 1. Risk Management – A Regulatory Perspective - Deanna Williams 2. Risk-Based Regulation – Progress So Far – staff 3. Strategic Framework – Council only	1. Non-Council Member Appointments Policy 2. Q1 statement of operations - approval 3. Audited financial statements 4. Review Registrar/CEO Tool, if required	1. Professional Standards for Midwives 2. Election of President 3. Presentation on Quality Assurance Program 4. Q4 statement of operations – for information 5. Annual Report 6. Approval of audited financial statements 7. Registrar's Report **Trainings:** Making good decisions – Emily Lawrence Complaints Handling (SS) Council Evaluation surveys (as part of meeting preparation)	1. Q1 statement of operations - approval 2. Council evaluation results reviewed 3. Decision re: number of non-council vacancies 4. Registrar's Performance Review – finalize review documents (President & one VP deliver review to Registrar w/in two weeks of this meeting) 5. Assessment of External Auditor – Formal assessment begins
October 11-12, 2017 Council	**November 1, 2017 Education Day - Toronto**	**November 15, 2017 Exec**	**December 12-13, 2017 Council**	**February 7, 2018 Exec**
1. Election of Executive Committee 2. Registrar's Report 3. Professional Standards – membership feedback 4. Q1 statement of operations – for information 5. Annual Council Evaluation Report, including Council development and Education plan 6. Approval of slate of Council members for 2017/2018 Council 7. Registrar's Performance Review report to Council NOTE: Annual Conflict of interest declaration and confidentiality and Code of Conduct agreements **Trainings**: Orientation Session w/ Cathi from SML	1. Keynote speaker: Dr. Zubin Austin 2. Professional Standards – presentation	1. Committee membership and composition 2. Budget Draft – for information 3. Q2 statement of operations - approval 4. Assessment of External Auditor – review all materials and draft report for council	1. Report to Council on Registrar's performance review 2. Approval of Committee membership and composition 3. Approve Budget to Submit to RPU 4. Q2 statement of operations – for information 5. Assessment of External Auditor – Exec to present summary report	1. Assessment of External Auditor – review previous year's assessment report