



**College of Massage Therapists of Ontario
By-Law No. 2**

Election of Members to Council

Interpretation

1. Singular and Plural / Masculine and Feminine

In these and all by-laws of the College, the singular shall include the plural, the plural shall include the singular, the masculine shall include the feminine and the feminine shall include the masculine.

2. Consistency with the *Regulated Health Professions Act, 1991 (RHPA, 1991)* and the *Massage Therapy Act, 1991*

All provisions of these and all by-laws of the College shall be interpreted in a manner consistent with the *RHPA, 1991* and the *Massage Therapy Act, 1991* and where any inconsistency is found to exist, the inconsistent provision shall, where practical, be severed from the by-law.

3. Calculating Time

A reference to the number of days between two events means calendar days and excludes the day on which the first event happens and includes the day on which the second event happens.

4. Statutory Holidays

A time limit that would otherwise expire on a statutory holiday or a weekend is extended to include the next day that is not a statutory holiday or a weekend.

Definitions

1. In this By-Law, unless otherwise defined or required by the context,
 - (A) "**Act**" means the *Massage Therapy Act, 1991*, and includes the regulations made under it;
 - (B) "**Academic Council Member**" means an elected Council member who meets the eligibility requirements outlined in section 9;
 - (C) "**Appointed Council Member**" means a person appointed to Council by the Lieutenant Governor in Council;
 - (D) "**By-laws**" means all by-laws of the College;
 - (E) "**Code**" means the *Health Professions Procedural Code*, which is Schedule 2 of the *Regulated Health Professions Act, 1991*;
 - (F) "**College**" means the College of Massage Therapists of Ontario (CMTO);
 - (G) "**Committee**" means a committee established under section 10 of the *Code* or a committee established under these by-laws;
 - (H) "**Committee Member**" means a member of a committee;
 - (I) "**Committee Meeting**" means a meeting of any committee but does not include a hearing or a meeting of a panel of a committee;
 - (J) "**Council**" means the Council established under section 5 of the *Massage Therapy Act, 1991*;
 - (K) "**Council Meeting**" means a meeting of Council;
 - (L) "**Council Member**" means an elected or appointed member of the Council;
 - (M) "**Elected Council Member**" means a registrant of the College elected to Council in accordance with these by-laws, and includes an academic Council member;
 - (N) "**Electoral District of a Registrant**" or a "registrant's electoral district" means the electoral district to which the registrant has been assigned in the Register of the College, and is the district in which the registrant principally practices, or, if the registrant holds an inactive certificate of registration, is the district in which the registrant principally resides;
 - (O) "**Professional Association**" means an organized group of registrants or interested party who promote and advocate for the interests of the profession, but does not include an educational institute whose sole purpose is to educate;
 - (P) "**Quorum**" means 50% of the Council members plus one;
 - (Q) "**Registrant**" means a person or health profession corporation registered with the College, as the case may be;
 - (R) "**Registrar**" means the Registrar and Chief Executive Officer of the College, or in the case of the absence or inability of the Registrar, the Deputy Registrar of the College and/or includes a person appointed as Interim Registrar by the Council;
 - (S) "**Resolution**" means a resolution passed by a majority of votes cast by those Council members in attendance at the meeting and voting on the resolution, where a quorum is present;
 - (T) "**RHPA**" means the *Regulated Health Professions Act, 1991*, including its associated regulations and the *Code*.

Any term not defined in this By-Law shall have the meaning provided to it in the *RHPA, 1991* or the *Massage Therapy Act, 1991*.

Electoral Districts

2. Council shall consist of:

- (A) Nine elected Council members elected from the following electoral districts (with necessary modifications by the Registrar to ensure that the entire province is covered and that there is no overlap of districts):
- i. **District 1**, composed of the territorial districts of Kenora, Rainy River, Thunder Bay, Cochrane, Algoma, Manitoulin, Sudbury and Timiskaming;
 - ii. **District 2**, composed of the territorial district of Nipissing, the counties of Renfrew, Hastings, Prince Edward, Frontenac and Lanark, the united counties of Lennox and Addington, Leeds and Grenville, Prescott and Russell, Stormont, Dundas and Glengarry and the regional municipality of Ottawa-Carleton;
 - iii. **District 3**, composed of the district municipality of Muskoka, the territorial district of Parry Sound, the counties of Haliburton, Peterborough, Northumberland, the City of Kawartha Lakes and the regional municipalities of Durham and York;
 - iv. **District 4**, composed of City of Toronto west from Yonge Street;
 - v. **District 5**, composed of the counties of Simcoe, Dufferin, Wellington, Halton and Peel;
 - vi. **District 6**, composed of the counties of Grey, Bruce, Huron, Perth, Oxford, Elgin, Kent, Middlesex, Lambton and Essex;
 - vii. **District 7**, composed of Academic members;
 - viii. **District 8**, composed of the counties of Waterloo, Hamilton-Wentworth, Brant, Haldimand-Norfolk and Niagara; and
 - ix. **District 9**, composed of the City of Toronto east from Yonge Street.
- (B) At least five and no more than eight Council members appointed by the Lieutenant Governor of Ontario.

Voting Eligibility

3. A registrant is eligible to vote in an election for Council if, on the date of the election, the registrant:

- (A) i. Principally practises Massage Therapy in the electoral district; or

- ii. If the registrant is not engaged in the practice of Massage Therapy, principally resides in the electoral district; or
 - iii. Meets the eligibility requirements for an Academic Member set out in section 9;
- (B) Is not in default of payment of any prescribed fees;
- (C) Is not in default of completing and returning any form required by the regulations or by-laws; and
- (D) Is the holder of a general or inactive certificate of registration.

Dates of Elections

4. Elections for Council shall take place as follows:
- (A) For districts 3, 4 and 8, one Council member each in 2016, and every third year thereafter;
 - (B) For districts 1, 6 and 9, one Council member each in 2017, and in every third year thereafter; and
 - (C) For districts 2, 5 and 7, one Council member each in 2018, and every third year thereafter.

Timing of Council Member Elections

5. Elections of members to the Council shall be held on January 11, or, if January 11 falls on a weekend, the Monday following January 11, and the date of the election shall be the deadline for the receipt of ballots.
6. Council may redefine:
- (A) The geographic area of each electoral district; and
 - (B) The number of elected Council members for each electoral district, to create balanced representation amongst the electoral districts.

Term of Office for Elected Council Members

7. The term of office of an elected Council member is three years, beginning from the first regular Council meeting after the member was elected, until her/his successor takes office in accordance with these by-laws.
8. A Council member may serve more than one term. However, no person may be elected to Council for more than nine consecutive years.

Eligibility for Election of Council Members (Non-Academic)

9. A registrant shall be eligible for election to Council (other than as an academic Council member) if s/he:
- (A) By the deadline for the receipt of the nomination:
 - i. Principally resides in or practises Massage Therapy in the district for which s/he is seeking election;
 - ii. Does not qualify to run for election as an academic Council member; and
 - iii. Is the holder of a general or inactive certificate of registration;
 - (B) Was not within the last two years:
 - i. An elected representative, director or officer or employee of, or a party to a contractual relationship to provide services to, the Registered Massage Therapists' Association of Ontario or similar professional association; or
 - ii. An appointed committee Chairperson or member of a committee of the Registered Massage Therapists' Association of Ontario or similar professional association, such that it is reasonable to expect that a real or apparent conflict of interest may arise;
 - (C) Has not been employed or contracted by the CMTO within the previous two years;
 - (D) Is not in default of payment of any prescribed fees;
 - (E) Is not in default of completing and returning any form required by the regulations or by-laws;
 - (F) Is not in default of any obligation to the College under a regulation, including the Quality Assurance regulation, or by-law;
 - (G) Is not the subject of any disciplinary or incapacity proceedings;
 - (H) The registrant's certificate of registration has not been subject to a term, limitation or condition other than one prescribed by regulation;
 - (I) S/he has not been revoked pursuant to any order that may have been issued by the Discipline Committee;
 - (J) A period of at least six years has elapsed since:

- i. The registrant complied with all aspects of any order that may have been issued by the Discipline Committee or Fitness to Practise Committee;
 - ii. The registrant's certificate of registration has been suspended pursuant to any order that may have been issued by the Discipline Committee; and
- (K) Has not been disqualified by Council as a Council member or committee member in the preceding six years.

Eligibility for Election of Academic Council Members

10. A registrant is eligible for election to Council as an academic Council member if, on the date of election:
- (A) S/he has maintained at least 12 student contact hours per week, through classroom teaching, academic advising and/or curriculum development, in a Massage Therapy school or program, accredited by the College, during each of the previous three years;
 - (B) S/he did not have a financial interest in the educational institution in the last 12 months;
 - (C) S/he was not within the previous two years:
 - i. An elected representative, director or officer or employee of, or a party to a contractual relationship to provide services to, the Registered Massage Therapists' Association of Ontario or similar professional association; or
 - ii. An appointed committee Chairperson or member of a committee of the Registered Massage Therapists' Association of Ontario or similar professional association, such that it is reasonable to expect that a real or apparent conflict of interest may arise;
 - (D) S/he has not been employed or contracted by the CMTO within the previous two years;
 - (E) S/he is not in default of payment of any prescribed fees;
 - (F) S/he is not in default of completing and returning any form required by the regulations or by-laws;
 - (G) Is not in default of any obligation to the College under a regulation, including the Quality Assurance regulation, or by-law;
 - (H) Her/his certificate of registration has not been subject to a term, limitation or condition other than one prescribed by regulation;
 - (I) S/he is not the subject of any disciplinary or incapacity proceedings;
 - (J) S/he has not been revoked pursuant to any order that was issued by the Discipline Committee;
 - (K) A period of at least six years has elapsed since:

- i. The registrant complied with all aspects of any order that may have been issued by the Discipline Committee or Fitness to Practise Committee;
 - ii. The registrant's certificate of registration has been suspended pursuant to any order that may have been issued by the Discipline Committee; and
- (L) S/he has not been disqualified by Council from being a Council member or committee member in the preceding six years.
11. No registrant shall simultaneously be:
- (A) A candidate for academic Council member and a candidate for Council member in another electoral district; or
 - (B) An academic Council member and a candidate for Council member in another electoral district, unless the academic Council member's term ends on the date of the first Council meeting following the election.
12. No candidate for Council member shall be a candidate in more than one electoral district during an election.

Conducting the Election

13. The Registrar shall supervise and administer the election of candidates and, in carrying out that duty may:
- (A) Appoint returning officers and scrutineers;
 - (B) Establish a deadline for the receiving of ballots;
 - (C) Establish procedures for the processing and counting of ballots;
 - (D) Provide for the notification of all candidates and registrants of the results of the election; and
 - (E) Provide for the destruction of the ballots following an election and any recounts.

Election Procedure/Nominating

14. No later than 65 days before the date of the election, every registrant who is eligible to vote, shall be notified of the date, time and place of the election and the nomination procedure.

Nomination Procedure

15. A nomination of a candidate for election as a Council member shall:
- (A) Be in writing;

- (B) Be given to the Registrar at least 45 days before the date of the election;
 - (C) Be signed by the candidate and bear the names and signatures of at least 10 registrants eligible to vote in the electoral district in which the election is to be held, one of whom shall be the registrant nominating the candidate;
 - (D) For an academic Council member, be signed by the candidate and bear the names and signatures of at least two registrants eligible to vote in electoral district 7, one of whom shall be the registrant nominating the candidate; and
 - (E) Include a one page biographical note and, if the candidate wishes, a short statement as to how the candidate intends to fulfill her/his role and responsibilities.
16. A candidate may withdraw her/his nomination for election to the Council and shall advise the Registrar in writing not more than five days after the close of nominations.

Acclamation

17. If a position in an electoral district is not contested, the Registrar shall declare the candidate elected by acclamation.

Election Procedure

18. No later than 30 days before the date of an election, the Registrar shall send to every registrant eligible to vote in an electoral district in which an election is to take place a list of the candidates in the electoral district, a ballot form and an explanation of the voting procedure (or equivalent if ballots are supplied electronically).
19. Voting for candidates for election to the Council shall be by secret ballot, using the ballot forms supplied by the Registrar (or equivalent if ballots are supplied electronically).
20. Each registrant shall be entitled to vote once for each Council position up for election in the electoral district in which, at least 30 days before the date of an election, the registrant principally practises or, if the registrant is not engaged in the practice of Massage Therapy, s/he principally resides; unless s/he meets the eligibility requirements for an Academic Council member set out in section 9, in which case s/he is only entitled to vote once for each Council position up for election in electoral district 7.
21. Where there is a tie in an election of members to the Council, the Registrar shall break the tie by lot.
22. A candidate may require a recount of the ballots by giving a written request to the Registrar no more than 10 days after the date of an election and paying the fee prescribed by the Registrar.

23. The Registrar shall hold the recount no more than 10 days after receiving a candidate's request. The candidate requesting the recount and the candidate previously declared the winner (or a designate of each) shall be entitled to be present at the recount.
24. If the outcome of the recount changes the election results:
 - (A) The candidate requesting the recount shall be refunded the recount fee paid; and
 - (B) The candidate who has now received the most votes on the ballot shall be declared elected.
25. If the recount of the votes on the ballot results in a tie, the Registrar shall resolve the deadlock by lot.
26. Where an issue arises with respect to the recount that is not governed by these by-laws, the Registrar shall resolve the dispute in a fair and democratic manner.
27. The results of an election shall not be declared invalid solely on the basis of a minor irregularity.
28. The Registrar shall report the results of the election to Council and the registrants.

Extraordinary Circumstance

29. If, for whatever reason, the election cannot be held in the time or manner intended, the Registrar may delay or extend the election so as to hold the election in a fair and democratic manner.

Grounds for Disqualifying or Sanctioning an Elected Council Member or Committee Member

30. Council shall disqualify an elected Council member or committee member from sitting on Council or a committee, as the case may be, if s/he:
 - (A) No longer meets the eligibility criteria established for election;
 - (B) Is found by a panel of the Discipline Committee to be incompetent or to have committed an act of professional misconduct; and
 - (C) Is found by a panel of the Fitness to Practise Committee to be an incapacitated registrant.
31. Council may disqualify an elected Council member or committee member from sitting on Council or a committee, as the case may be, if s/he:
 - (A) Breaches section 36 of the *RHPA, 1991* or the by-laws of the College that require Council members or committee members to preserve the confidentiality of information

disclosed during the course of her/his duties as a Council member or committee member;

(B) Has a term, condition or limitation placed on his or her certificate of registration other than one prescribed by regulation; and

(C) Subject to the discretion of Council to excuse the absence:

- i. Fails to attend any two of three consecutive regular meetings of the Council;
- ii. Fails to attend any two of three consecutive regular meetings of a committee of which s/he is a member;
- iii. Fails to attend a hearing or proceeding, or part thereof, of a panel on which s/he sits;
- iv. Fails, in the opinion of Council, to discharge her/his duties to the College, including, but not limited to, by being in a conflict of interest or otherwise being in breach of a College by-law, regulation, the *RHPA, 1991* or the College's governance policies; and
- v. Acts or behaves in a manner that, in the opinion of Council, could reasonably be seen to bring disrepute to the reputation of Council or the College.

32. An elected Council member who is disqualified from sitting on the Council ceases to be a member of the Council, and her/his seat becomes vacant upon her/his disqualification.

Grounds for Disqualifying or Sanctioning an Appointed Council Member

33. (A) Council shall request the Public Appointments Secretariat to disqualify and remove an appointed Council member from Council if the appointed Council member:

- i. Becomes a registrant;
- ii. Becomes an elected representative, Board member, director, officer or employee of, or enters into a contractual relationship to provide services to the Registered Massage Therapists' Association of Ontario or similar professional organization;
- iii. Becomes an appointed committee Chairperson or member of a committee of the Registered Massage Therapists' Association of Ontario or similar professional association, such that it is reasonable to expect that a real or apparent conflict may arise; or

(B) Council may request the Public Appointments Secretariat to disqualify and remove an appointed Council member from Council if the appointed Council member:

- i. Breaches section 36 of the *RHPA, 1991* or the by-laws of the College that require committee members to preserve the confidentiality of information obtained in the course of his or her duties as a committee member;
- ii. Subject to the discretion of Council to excuse the absence:
 - (a) Fails to attend any two of three consecutive regular meetings of the Council;
 - (b) Fails to attend any two of three consecutive regular meetings of a committee of which s/he is a member;
 - (c) Fails to attend a hearing or proceeding, or part thereof, of a panel on which s/he sits;
 - (d) Fails, in the opinion of Council, to discharge her/his duties to the College, including, but not limited to, by being in a conflict of interest or otherwise being in breach of a College by-law, regulation, the *RHPA, 1991* or the College's governance policies; or
 - (e) Acts or behaves in a manner that, in the opinion of Council, could reasonably be seen to bring disrepute to the reputation of Council or the College.

34. The College may also request the removal of an appointed Council member or sanction an appointed Council member if he or she contravenes her/his duties (including abiding by the College's Code of Conduct and conflict of interest provisions).

Process for Disqualifying or Sanctioning a Council Member and Committee Member

35. The following process shall be used to disqualify or sanction an elected Council member, committee member or appointed Council member (the "Subject Member") under section 21.
- (A) Where a Council member or the Registrar believes that the College should consider the disqualification or sanction of the Subject Member, the Council member or Registrar shall advise the Executive Committee in writing;
 - (B) The Executive Committee shall provide the Subject Member with:
 - i. Notice of the concerns in writing; and
 - ii. Thirty days to respond in writing to the Executive Committee.
 - (C) The Executive Committee shall, based on a majority vote, make a preliminary determination on the facts and report those facts and the determination to the Subject Member and the individual who brought the matter to the Executive Committee's attention and Council;

- (D) If any of the Executive Committee, the individual who brought the matter to the Executive Committee's attention or the Subject Member is of the view that further action may be required of Council, they shall provide, in writing, their concern to the attention of the President within 15 days after being notified and the issue will be placed on the agenda for the next Council meeting. The Executive Committee, the Subject Member and the individual who brought the matter to the Executive Committee's attention will then be advised of the date of the Council meeting, and the opportunity make written and/or oral submissions to Council, should any of them wish to do so;
- (E) Council shall determine the relevant facts and, if appropriate, disqualify, request the disqualification of or sanction the Subject Member;
- (F) Sanctions may include:
 - i. Censure of the Subject Member;
 - ii. Removal of the Subject Member from any committee on which s/he sit; and
 - iii. Any other sanction that the Executive Committee or Council, as the case may be, deems appropriate.
- (G) In determining the appropriate sanction Council should be guided by the principle that the primary purpose of sanctions is to protect the College and to change behaviour that could be potentially harmful to the College;
- (H) A resolution shall be required to disqualify or sanction the Subject Member;
- (I) The Subject Member shall be temporarily suspended as a Council member or committee member until a final decision by the College has been rendered, or the Public Appointments Secretariat has removed the appointed Council member, as the case may be;
- (J) Before any debate is had or vote is taken by Council, Council shall consider whether the public should be excluded from all or part of the meeting in accordance with the *Code*;
- (K) If the Subject Member is disqualified or removed as a Council member or committee member, the College shall act as if a vacancy had been created as a result of a resignation; and
- (L) A Subject Member who has been disqualified ceases to be a Council member and a member of all committees. In the case of an appointed Council member who has been disqualified as a committee member, Council shall request the Public Appointments Secretariat to disqualify and remove the appointed Council member.

Temporary Suspension of a Council Member or Committee Member

36. A Council member or committee member who becomes the subject of a disciplinary or incapacity proceeding (including, in the case of an elected Council member, one which originates at any time after the deadline for receipt of nominations), shall not serve on Council or on any committee until a final decision in the disciplinary or incapacity proceeding (including any appeal) has been rendered.

37. An elected Council member and/or a committee member who, after having been provided with an opportunity to rectify a failure in their obligations to the College:

(A) Remains in default of any fee, charge or order for costs owing to the College;

(B) Fails to submit to the College all required forms and documents; or

(C) Ceases to otherwise be in good standing with the College;

shall not serve on Council or any committee until the failure is remedied or the elected Council member and/or committee member is disqualified.

Filling Vacancies

38. If an elected Council member's seat becomes vacant during the first two years of a Council member's term:

(A) Council shall appoint the candidate who received the most votes during the previous election to fill the vacant position in that district provided that:

i. The candidate agrees to fill the vacant position; and

ii. The candidate is eligible to be a Council member; or

(B) If the above requirements cannot be satisfied, the Registrar shall hold a by-election to fill the vacancy.

39. If the seat of an elected Council member becomes vacant in the third year of a Council member's term, Council is not required to fill the vacancy.

40. The term of the replacement Council member shall continue until the term of the previous elected Council member's term would have expired.

Administration

41. This By-Law shall be administered by the Registrar.

Effective Date

42. This By-Law comes into force on the date enacted.

Enacted November 19, 1999

Amended July 2000, November 2008, May 2009, June 2010, August 2010, May 2015