## College of Massage Therapists of Ontario
### Meeting of the Council

**Agenda**

**Date:** February 13, 2018  
**Location:** 1867 Yonge Street, Toronto, ON M4S 1Y5  
Council Meeting Room – 8th Floor  
**Time:** 9:00 AM – 2:00 PM

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Item</th>
<th>Action Required</th>
<th>Item Lead</th>
<th>Approx. Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Declaration of Conflicts of Interest</td>
<td>Approval</td>
<td>Tucker</td>
<td>2 min</td>
</tr>
<tr>
<td>2.</td>
<td>Approval of the Agenda of February 13, 2018</td>
<td>Approval</td>
<td>Tucker</td>
<td>5 min</td>
</tr>
<tr>
<td>3.</td>
<td>Consent Agenda</td>
<td>Approval</td>
<td>Tucker</td>
<td>10 min</td>
</tr>
<tr>
<td>3.1</td>
<td>Minutes of November 13, 2017</td>
<td></td>
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<tr>
<td>3.2</td>
<td>Actions Arising from the Minutes of November 13, 2017</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>3.3</td>
<td>2016 – Q4 Committee Reports*</td>
<td></td>
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<tr>
<td></td>
<td>* Only those Committees that met in 2017 – Q4 submitted reports</td>
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<tr>
<td>4.</td>
<td>Items for Decision</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>4.1</td>
<td>Election of the 2018 Executive Committee - 2018 Committee Appointments Process</td>
<td>Approval</td>
<td>Flitton</td>
<td>35 min</td>
</tr>
<tr>
<td>4.2</td>
<td>2017 – Q4 Workplan Report</td>
<td>Approval</td>
<td>Flitton</td>
<td>30 min</td>
</tr>
<tr>
<td>4.2.1</td>
<td>CMTO’s 2017 Operational Dashboard</td>
<td>Approval</td>
<td>Flitton</td>
<td>20 min</td>
</tr>
<tr>
<td>4.3</td>
<td>Amendments to the 2018 Workplan</td>
<td>Approval</td>
<td>Flitton</td>
<td>10 min</td>
</tr>
<tr>
<td>4.3.1</td>
<td>Refresher Course Project - Change to Project Charter</td>
<td></td>
<td></td>
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<tr>
<td>4.3.2</td>
<td>- Clarification: QA Project Continuity</td>
<td></td>
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<tr>
<td>4.4</td>
<td>2017 – Q4 and 2018 – Q1 Registrar’s and Administration Report</td>
<td>Approval</td>
<td>Flitton</td>
<td>15 min</td>
</tr>
<tr>
<td>4.5</td>
<td>2017 – Q4 Financial Report</td>
<td>Approval</td>
<td>Flitton</td>
<td>20 min</td>
</tr>
<tr>
<td>4.6</td>
<td>Strategic Plan Refresh - Presentation</td>
<td>Approval</td>
<td>Flitton</td>
<td>30 min</td>
</tr>
<tr>
<td>4.7</td>
<td>Proposed Policy: Funding for Therapy and Counselling</td>
<td>Approval</td>
<td>Chair, CRC</td>
<td>30 min</td>
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</tbody>
</table>
### 5. **Items for Information**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Presenter</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1</td>
<td>2018 – Communications Plan Presentation</td>
<td>Information</td>
<td>20 min</td>
</tr>
<tr>
<td>5.2</td>
<td>Termination of the Clinic Regulation Working Group</td>
<td>Brennand Flitton</td>
<td>5 min</td>
</tr>
<tr>
<td>5.3</td>
<td>In Camera Session*</td>
<td></td>
<td>15 min</td>
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<table>
<thead>
<tr>
<th></th>
<th>Description</th>
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<tbody>
<tr>
<td></td>
<td><strong>New Business</strong></td>
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<table>
<thead>
<tr>
<th></th>
<th>Description</th>
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<tbody>
<tr>
<td></td>
<td><strong>Adjournment</strong></td>
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</tbody>
</table>

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Note: After the election of the Executive Committee, the Council will adjourn to conduct brief meetings of the Discipline and Fitness to Practise Committees for the purpose of electing new Chairs for 2018.

* Pursuant to 7(2)(c) of the Code
1. Call to Order

The meeting was called to order at 9:13 A.M.
L. Tucker welcomed Sam Goodwin, consultant, who facilitated some of the discussion at the Council meeting and Andrew Lewarne, Executive Director & CEO, RMTAO, who was present as an observer.

2. Declaration of Conflicts of Interest

No conflicts of interest were declared.

3. Approval of the Agenda of November 13, 2017

Item 6.2.3 “Update on Completion of 2017 Organizational and Management Risk Activities” was added to the agenda and the numbering on section 6 was corrected.

2017 November 13 – MOTION 1: A. Flint/K. Westfall-Connor

THAT the November 13, 2017 agenda be approved as amended.

CARRIED

4. Consent Agenda

2017 November 13 – MOTION 2: M. Ghandikota/J. Wellwood

THAT the consent agenda be approved as presented.

CARRIED

5. Items for Discussion

5.1 Standard for Maintaining Professional Boundaries and Preventing Sexual Abuse

C. Flitton presented an overview of the rationale for creating the Standard for Maintaining Professional Boundaries and Preventing Sexual Abuse. She addressed the comments that have been received since the Standard was circulated and identified the main concerns that had been raised by members of the public and registrants.

She assured Council that CMTO would monitor the issues raised with respect to this standard over time and determine whether
there is evidence to suggest that the Standard needs to be amended or updated. In the meantime, a revised Sample Consent Form to address some of the concerns raised since the Standard was introduced will be made available to registrants.

C. Flitton also outlined the next steps in this process, which include an e-learning resource, creating a Standards and Policies Working Group, revising and simplifying the format of Standards and developing some interpretative guidance to provide more clarity. She explained that CMTO is also considering the possibility of using a Town Hall meeting approach and/or Webinars to introduce new Standards or changes to existing ones, in future.

She advised Council that CMTO will also respond to the implementation of other recommendations from the Sexual Abuse Task Force and look for ways to maintain a focus on sexual abuse prevention.

6. Items For Decision


Council reviewed and approved the Q3 Financial Report.


CARRIED

6.2 2017 – Q3 Workplan Report

C. Flitton provided an overview of the 2017 – Q3 Workplan Report.

2017 November 13 - MOTION 4: D. Mattina/J. Wellwood

THAT Council approve the 2017 – Q3 Workplan Report as presented.

CARRIED

6.2.1 Addendum to 2018 Workplan
Council agreed to the addition of the item “Strategic Planning Project” to the 2018 Workplan.

**2017 November 13 - MOTION 5: J. Wellwood/K. Westfall-Connor**

**THAT** the 2018 workplan be amended to include Strategic Planning Review.

CARRIED

**Action:** That the 2018 Workplan be updated.

**6.2.2 QA Program Revision Update**

M. Lofsky, Director, Professional Practice, provided an overview of the proposed revised QA program. She explained that the timelines for implementation have changed and that the Self-Assessment Tool will launch in June/July 2018, with the remaining tools being launched through 2018/early 2019.

**6.2.3 Completion of 2017 Organizational and Management Risk Activities**

C. Flitton advised Council that the deliverable relating to identifying the key management data and information that Council requires to govern and oversee the affairs of the College and that Management requires to make effective operational decisions and to monitor, measure, and report on performance, could not be completed at this time due to lack of internal resources. Council agreed to defer completion of this project.

**2017 November 13 - MOTION 6: A. Flint/L. Hargreaves**

**THAT** the “Completion of 2017 Organizational and Management Risk Activities” project, be placed on the list of developmental projects on the 2018 Workplan and moved to the list of Core business projects in the 2019 workplan.

CARRIED

**Action:** That the 2018 Workplan be updated.
M. Foulds presented the proposed 2018 budget, which is expected to be a deficit budget.

2017 November 13 – MOTION 7: M. Ghandikota/K. Westfall Connor

THAT Council approve the 2018 Operating Budget, including the 2018 Capital Budget as presented.

CARRIED

6.5 Proposal to Increase Certification Exam Fees

As expenses to conduct the CMTO certification examinations have increased and do not currently cover the cost of developing and administering the examinations, Council agreed to increase the examination fees.

2017 November 13 – MOTION 8: L. White/J. Wellwood

THAT a draft amendment to By-Law No.7, increasing the Certification Examination fees to $675.00 for the Multiple Choice Question (MCQ) examination and $945.00 for the Objectively Structured Clinical Evaluation (OSCE) be circulated to registrants for feedback, and that the Certification Examination fees be reviewed annually.

After some discussion, it was agreed that the motion be amended to reflect that the implementation date of the increase would be 2019.

2017 November 13 – MOTION 9: L. White/N. Engstrom

THAT a draft amendment to By-Law No.7, increasing the Certification Examination fees, commencing for the 2019 examination cycle, to $675.00 for the Multiple Choice Question (MCQ) examination and $945.00 for the Objectively Structured Clinical Evaluation (OSCE) be circulated to registrants for feedback, and that the Certification Examination fees be reviewed annually.

CARRIED
**Action:** Circulate the proposed amendment to By-Law No. 7 to Stakeholders for comment.

### 6.6 Proposal to Appoint an Additional Public Appointee to the Registration Committee.

As the two public members on Registration Committee had a conflict of interest with respect to an application, the Executive Committee recommended an additional public member be appointed to the committee for the remainder of the term.

#### 2017 November 13 – MOTION 10: K. Sosnowski/A. Flint

**THAT** Council appoint Deb Mattina to the Registration Committee for the duration of the current committee term.

**CARRIED**

### 6.7 Amendment to Acupuncture Standard of Practice

Council approved the amended *Standard of Practice for Acupuncture* to clarify the educational requirement for CMTO to authorize a registrant to use acupuncture as an RMT in Ontario, and to amend the Educational Program Declaration form completed by acupuncture educators.

#### 2017 November 13 – MOTION 11: L. Hargreaves/J. Wellwood

**THAT** Council approve the amended *Standard of Practice for Acupuncture* to clarify the educational requirement necessary for CMTO to authorize a registrant to use acupuncture as an RMT in Ontario, effective January 2018.

**CARRIED**

**Action:** Update the *Standard of Practice for Acupuncture* and post it on the CMTO website.

**Staff**
7. **Items for Information**

7.1 **Council Member Attendance at CNAR (Verbal Reports)**

Council received verbal reports from the Council Members who attended the 2017 CLEAR and CNAR conferences.

8. **New Business**

There was no new business.

9. **Adjournment**

L. Tucker, President, presented a plaque of appreciation to D. Janveau for his many years of service and guidance, both as a Council member and past President of Council.

**2017 SEPTEMBER 11 – MOTION 12: D. Janveau/J. Wellwood**

*THAT* the Council meeting be adjourned.

*CARRIED*

The meeting was adjourned at 3:52 P.M.

L. TUCKER                  C. FLITTON

________________________________________  ________________________
L. Tucker, RMT                  C. Flitton
President                          Registrar & CEO
# ACTIONS ARISING FROM THE MINUTES OF MEETING

## Council Meeting - November 13, 2017

<table>
<thead>
<tr>
<th>Agenda Item</th>
<th>Description</th>
<th>Status</th>
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</thead>
<tbody>
<tr>
<td>6.</td>
<td>6.2.1 Addendum to 2018 Workplan</td>
<td>Completed</td>
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<tr>
<td></td>
<td>Council agreed to the addition of the item “Strategic Planning Project” to the 2018 Workplan.</td>
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<tr>
<td></td>
<td><strong>Action:</strong> That the 2018 Workplan be updated.</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>6.2.3 Completion of 2017 Organizational and Management Risk Activities</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>The deliverable relating to identifying the key management data and information that Council requires to govern and oversee the affairs of the College and that Management requires to make effective operational decisions and to monitor, measure, and report on performance, could not be completed at this time due to lack of internal resources. Council agreed to defer completion of this project.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Action:</strong> That the 2018 Workplan be updated.</td>
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</tr>
<tr>
<td>6.</td>
<td>6.5 Proposal to Increase Certification Exam Fees</td>
<td>Pending</td>
</tr>
<tr>
<td></td>
<td>Council agreed that a draft amendment to By-Law No.7, increasing the Certification Examination fees, commencing for the 2019 examination cycle, to $675.00 for the Multiple Choice Question (MCQ) examination and $945.00 for the Objectively Structured Clinical Evaluation (OSCE) be circulated to registrants for feedback, and that the Certification Examination fees be reviewed annually.</td>
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<tr>
<td></td>
<td><strong>Action:</strong> Circulate the proposed amendment to By-Law No. 7 to Stakeholders for comment.</td>
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<tr>
<td>6.7 Amendment to Acupuncture Standard of Practice</td>
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<td>-----------------------------------------------</td>
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</tbody>
</table>

Council approved the amended Standard of Practice for Acupuncture to clarify the educational requirement necessary for CMTO to authorize a registrant to use acupuncture as an RMT in Ontario, effective January 2018.

**Action:** Update the Standard of Practice for Acupuncture and post it on the CMTO website.

Completed
2017 Q4 and 2018 Q1 Executive Committee Report

Lisa Tucker, President
Lloyd White, Vice President
Jennifer Da Ponte, Executive Officer
Murthy Ghandikota, Executive Officer

The Executive Committee held the following meetings since the November 13, 2017 Council meeting:

November 15, 2017 (e-mail vote)
November 23, 2017 (e-mail vote)
December 5, 2017 (Teleconference)
February 1, 2018 (In-person meeting)

The Executive Committee made the following Decisions/Recommendations:

November 15, 2017

1. Clinic Regulation Working Group

   The members of the Executive Committee agreed to the termination of the Clinic Regulation Working Group.

November 23, 2017

1. Privacy Breach

   The Executive Committee was informed of a privacy breach which was addressed immediately in accordance with the College’s privacy policy.
December 5, 2017

1. **Massage Therapy Research Fund (MTRF)**

   The Committee denied a request for a research proposal involving acupressure to be considered for funding by the MTRF. They further clarified that a proposal for acupuncture research would only be considered for funding if what was being proposed fell squarely into the Massage Therapy Scope of Practice.

February 1, 2018

1. **Quarterly Reports**

   The Executive Committee approved the following reports for inclusion in the Council agenda package:

   - 2017 Q4 Workplan Report
   - 2017 Q4/2018 Q1 Registrar and Administration Report
   - 2017 Q4 Quarterly Financial Report

   The Executive Committee also approved the Council retreat and meeting agendas for February 12 and February 13, 2018.

2. **2017 Pre-Audit Communication**

   The Auditor, Blair McKenzie of Hilborn, met with the Executive Committee to outline the scope and extent of the audit. The audited financial statements will be presented to Council at its May 2018 meeting for approval.

3. **Registrar/CEO Performance Appraisal**

   The Executive Committee approved Sam Goodwin of Goodwin Consulting to conduct the 2017 Registrar’s Performance Appraisal.

4. **Selection Process for 2018 Committee Members**

   The members of the Committee agreed that, subsequent to the February 13, 2018 Council meeting, the incoming Executive Committee would put forward a proposed 2018 Committee Composition to Council for consideration.
5. **Selection of 2018 Non-Council Members**

Of the 30 applications for the position of non-Council members received, the Committee selected four, two for ICRC and two for the Discipline Committee. These will be included in the proposed 2018 slate of Committee appointments recommended to Council after the February 13th Council meeting.

Respectfully submitted by:

Lisa Tucker, RMT  
President  
College of Massage Therapists of Ontario
QUALITY ASSURANCE COMMITTEE REPORT

2017 Q4 (October - December)

Committee Members: Andrew Flint, Public Member (Chair)
Nancy Engstrom, RMT, Professional Member
Murthy Ghandikota, Public Member
Christin Mandalentsis, RMT, non-Council Member
Jane Wellwood, RMT, Professional Member

Committee Mandate:
The Quality Assurance Committee has responsibility for implementing a quality assurance program in accordance with regulations prescribed by the Regulated Health Professionals Act.

SUMMARY OF COMMITTEE ACTIVITIES

1. MEETING DATES
   The Committee met four times in the fourth quarter ("Q4"), on October 27, 2017, November 21, 2017, December 1, 2017 and December 19, 2017.

2. ITEMS FOR INFORMATION

   2.1 The QA Committee reviewed and approved updates to the Standards of Practice for Acupuncture. The QA Committee recommended to Council the approval to implement these changes. Council approved the Standards on November 13, 2017.

   2.2 The QA Committee reviewed a draft version of the revised Standards for Consent. The QA Committee recommended that it be reviewed and discussed by the Standards and Policy Advisory Working Group then brought back to the QA Committee in 2018.

   2.3 The QA Committee reviewed, discussed, and approved amendments to the timelines for the Quality Assurance Program Redevelopment Project.
2.4 The QA Committee reviewed information to determine equivalency of the CMTO Record Keeping Workshop and that which is offered externally to determine if registrants may take the externally offered course as part of their QA remedial activity requirements. This issue will be reconsidered when additional information is available.

2.5 The following case considerations were made:
- Review of additional information in response to notice of intention being issued – 2
- Post Peer Assessment Review – 55

3. **ITEMS SENT TO COUNCIL FOR DECISION**

3.1 The Standards for Maintaining Professional Boundaries and Preventing Sexual Abuse returned to Council for discussion on November 13, 2017.

3.2 The Quality Assurance Program Redevelopment Project revised timelines was presented to Council on November 13, 2017.

3.3 Amendements to the Standards of Practice for Acupuncture was reviewed, discussed and approved on November 13, 2017.
REGISTRATION COMMITTEE REPORT
2017 Q4 (October-December)

Committee Members:
Lesley Hargreaves, RMT, Professional Member (Chair)
Nancy Engstrom, RMT, Professional Member
Shannon Marshall, RMT, non-Council Member
Debra Mattina, Public Member (as of Nov. 13, 2017)
Hedy Miszuk, Public Member
Lloyd White, Public Member

Committee Mandate:
The Registration Committee is responsible for developing policies and processes related to registration that are transparent, objective, impartial and fair. The Committee reviews applications that have been referred by the Registrar on a case-by-case basis to ensure that all applicants meet the requirements set out by the regulation.

SUMMARY OF COMMITTEE ACTIVITIES

1. MEETING DATES
The Registration Committee held one in-person meeting on December 12, 2017.

2. ITEMS FOR INFORMATION

2.1 Applications for Initial Registration

The Committee considered three applications for Initial Registration:

<table>
<thead>
<tr>
<th>Reason for Referral</th>
<th>Decision Issued</th>
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</thead>
<tbody>
<tr>
<td>Application for Applicant with criminal convictions.</td>
<td>Additional information required; final decision will be made at the next Registration Committee meeting.</td>
</tr>
</tbody>
</table>
2.2 Other matters

The Committee considered four requests related to the Refresher Course requirement for registrants who have not provided a minimum of 500 hours of direct client care in the previous three years. The Registration Committee decided as follows:

- One registrant was exempted from meeting the requirement
- One registrant’s request to be exempted from the tutoring component of the Refresher Course was approved
- One registrant’s request for an exemption to the full Refresher Course was denied
- One registrant was referred back to staff to manage via the current Refresher Course requirements.

3. ITEMS SENT TO COUNCIL FOR DECISION

There were no items sent to Council for decision.
INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE REPORT

2017 – Q4 (October – December)

Committee Members:

Panel A:  
David Janveau, RMT, Professional Member (Committee Chair and Chair of Panel A)  
Clinton Jack, RMT, non-Council Member  
Shannon Marshall, RMT, non-Council Member  
Hedy Miszuk, Public Member  
Karen Sosnowski, RMT, Professional Member

Panel B:  
Jocelyn Acheson, Public Member (Chair of Panel B)  
Laura DiMarco, RMT, non-Council Member  
Lesley Hargreaves, RMT, Professional Member  
Nevenko Jeftic, RMT, non-Council Member  
Lloyd White, Public Member

Committee Mandate:

The Inquiries, Complaints and Reports Committee (ICRC) investigates complaints, inquiries, concerns and reports about registrants and determines a course of action in accordance with legislation, including referral to the Discipline Committee for allegations of professional misconduct, or incompetence. The Committee also has the authority to conduct inquiries for incapacity issues relating to registrants and will refer serious incapacity issues to the Fitness to Practise Committee.

SUMMARY OF COMMITTEE ACTIVITIES

1. MEETING DATES

The Committee is divided into two Panels to accommodate the number of ongoing matters, avoid any potential conflicts of interest and accommodate the selection of Panel members, should the need arise for a discipline hearing.
Collectively, the two Panels met three times for in person meetings on October 12, November 14, and December 1. In addition four teleconferences and four electronic meetings were held during the Quarter.

2. ITEMS FOR INFORMATION

The Charts below summarize the cases considered by the Committee during the Quarter:

### New Cases and Nature of Concerns

<table>
<thead>
<tr>
<th>Complaints</th>
<th>Nature of Concerns</th>
<th>Registrar Report Investigations</th>
<th>Nature of Concerns</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>1 - Breach of Standards</td>
<td>13</td>
<td>1 - Failing to Maintain Records</td>
</tr>
<tr>
<td></td>
<td>5 - Inappropriate Billings</td>
<td></td>
<td>3 - Inappropriate Billing Practices</td>
</tr>
<tr>
<td></td>
<td>9 - Sexual Abuse</td>
<td></td>
<td>0 - Practising Outside Scope</td>
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<tr>
<td></td>
<td>0 - Treatment Causing Injury</td>
<td></td>
<td>0 - Referrals from Quality Assurance Committee</td>
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<tr>
<td></td>
<td>1 - Unprofessional Conduct</td>
<td></td>
<td>1 - Unprofessional Conduct</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>8 - Sexual Abuse</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>0 - Incapacity</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0 - Non-Compliance</td>
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### Completed Cases and Outcomes

<table>
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<tr>
<th>Complaints</th>
<th>Outcomes</th>
<th>Registrar Reports Investigations</th>
<th>Outcomes</th>
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<tbody>
<tr>
<td>3</td>
<td>1 - No Further Action</td>
<td>12</td>
<td>0 - No Further Action</td>
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<tr>
<td></td>
<td>0 - Referral to Discipline</td>
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<td>9 - Referral to Discipline</td>
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<td>0 - SCERP and Oral Caution</td>
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<td>0 - Undertaking &amp; Oral Caution</td>
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<td>1 - SCERP</td>
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<td>0 - Undertaking</td>
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<td>2 - Undertaking</td>
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<tr>
<td></td>
<td>1 - Letter of Recommendation</td>
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### Incapacity Cases and Outcomes

<table>
<thead>
<tr>
<th></th>
<th>New Cases</th>
<th>Pending cases</th>
<th>Closed Cases</th>
<th>Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incapacity</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1 - Undertaking</td>
</tr>
</tbody>
</table>
Complaint Cases before Health Professions Appeal and Review Board (HPARB)

<table>
<thead>
<tr>
<th>New Cases</th>
<th>Pending cases</th>
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<tr>
<td>2</td>
<td>2</td>
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</table>

Pending Cases

<table>
<thead>
<tr>
<th>Complaints</th>
<th>Registrar Report Investigations</th>
<th>Incapacity Inquiries</th>
<th>Total Number of Cases</th>
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<tbody>
<tr>
<td>81</td>
<td>86</td>
<td>4</td>
<td>171</td>
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</table>

3. ITEMS SENT TO COUNCIL FOR DECISION

There were no items sent to Council for decision.
DISCIPLINE COMMITTEE REPORT

2017 – Q4 (October–December)

Committee Members:
Kim Westfall-Connor, RMT, Professional Member (Chair)
Jocelyn Acheson, Public Member
Anna Cantalini, RMT, non-Council Member
Jennifer DaPonte, RMT, Professional Member
Nancy Engstrom, RMT, Professional Member
Andrew Flint, Public Member
Murthy Ghandikota, Public Member
Dave Janveau, RMT, Professional Member
Lesley Hargreaves, RMT, Professional Member
Debra Mattina, Public Member
Christin Mandalentsis, RMT, non-Council Member
Hedy Miszuk, Public Member
Karen Sosnowski, RMT, Professional Member
Lisa Tucker, RMT, Professional Member
Jane Wellwood, RMT, Professional Member
Lloyd White, Public Member

Committee Mandate:
The Discipline Committee is responsible for conducting hearings related to allegations of registrants’ professional misconduct or incompetence. As part of this process, the Committee may make decisions to revoke or suspend a registrant’s Certificate of Registration or impose other terms and conditions, where appropriate.
SUMMARY OF COMMITTEE ACTIVITIES

1. MEETING DATES
The Committee met in the fourth quarter on November 20, 2017 for sexual abuse sensitivity training and to review the Discipline Committee Rules of Procedure. The revised Rules of Procedure were finalized on November 30. A copy of the revised Discipline Committee Rules of Procedure is attached to this report for information.

2. ITEMS FOR INFORMATION

2.1 The Committee held seven hearings in Q4 and two motions to adjourn. Of the seven cases, four cases involved guilty pleas, two cases were contested and one case was a penalty hearing.

2.2 The Committee completed and released decisions in 11 matters:

2. CMTO v. Jiang Han (2017)
5. CMTO v. Daryosh Goldar (2017)
7. CMTO v. Ewa Tekien (2017)
8. CMTO v Laura Brien
9. CMTO v. Tiezheng Li (2017)
10. CMTO v. Christopher Semenuk (2017)

A summary of the decisions are available on the College’s website and full-text versions are published on Canlii.

2.3 Pre-Hearing Conferences were held in 6 cases during the Quarter.
The table below summarizes the matters before the Discipline Committee in the Quarter:

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<th>Last Hearing Date</th>
<th>Format of Hearing</th>
<th>Nature of Findings</th>
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<td>1. Jiang Han</td>
<td>October 13, 2017</td>
<td>Admission of Professional Misconduct – Joint Submission on Penalty</td>
<td>Findings of professional misconduct including falsifying a record and submitting an account the Registrant knew was false or misleading</td>
</tr>
<tr>
<td>2. Jian Feng Feng</td>
<td>October 13, 2017</td>
<td>Admission of Professional Misconduct – Joint Submission on Penalty</td>
<td>Findings of professional misconduct including falsifying a record and signing or issuing a document the Registrant knew contained a false or misleading statement</td>
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<td>4. Alison Burnham</td>
<td>October 26, 2017</td>
<td>Contested Hearing on Liability and Penalty</td>
<td>Findings of professional misconduct including practising while suspended and signing or issuing a document the Registrant knew contained a false or misleading statement</td>
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<td>5. Cristina Edwards</td>
<td>October 30, 2017</td>
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</tr>
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<td>6. Francis Austin Pierre</td>
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<td>Motion granted to no fixed date</td>
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### Agenda Item 3.3.5

#### Discipline Committee Report

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#### 3. ITEMS SENT TO COUNCIL FOR DECISION

There were no items sent to Council for decision.
# DISCIPLINE COMMITTEE RULES

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RULE 1 - INTERPRETATION AND APPLICATION

1.01 Definitions

(1) In these Rules, unless the context requires otherwise, words that are not defined in sub-rule 1.01(2) have the meaning defined in the Regulated Health Professions Act, 1991, S.O. 1991, c. 18 and the Statutory Powers Procedure Act, R.S.O 1990 c. s.22.

(2) In these Rules,

"Business Day" means any day other than a Holiday.

"Code" means the Health Professions Procedural Code, which is Schedule 2 to the Regulated Health Professions Act, 1991.

"College" means the College of Massage Therapists of Ontario.

"Committee" means the Discipline Committee of the College.

"Committee or Panel Chair" means the chair of the Committee or Discipline Panel.

"Committee or Panel Chair" means the Committee or Panel.

"Discipline Panel" means a panel of Committee members selected by the Committee Chair.

"Electronic or electronically" in the course of a proceeding means the use of conference telephone call or videoconference or some other form of electronic technology allowing persons to hear and communicate with one another simultaneously.

"Hearing" means the process before a Discipline Panel constituted under either section 38 of the Code (in the case of allegations of professional misconduct or incompetence) or sections 72 and 73 of the Code (in the case of an application for reinstatement).
“Hearings Office” means the employee or employees of the College who are assigned the duty of providing administrative assistance to the Discipline Committee.

“Holiday” means any Saturday or Sunday, New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day, and where New Year’s Day or Canada Day falls on a Saturday or Sunday, the following Monday is a holiday, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays, and where Christmas Day falls on a Friday, the following Monday is a holiday.

"Independent Legal Counsel" means the lawyer appointed to provide advice to the Committee and/or a Discipline Panel.

"Member" means a member or former member of the College who has been named in a Notice of Hearing. “Member” may be used interchangeably with “Registrant”.

"Notice of Hearing" means a document issued by the College under the Code which contains one or more allegations of professional misconduct and/or incompetence against a Registrant.

"Pre-hearing Chair" means the person designated by the Committee Chair to preside over the pre-hearing conference.

"Proceeding" means any step in the discipline hearing process, and includes a motion, a pre-hearing conference, a hearing to set a Hearing date, and a Hearing.

“Prosecutor” means the lawyer or lawyers appointed by the College to prosecute allegations against one or more registrants before the Discipline Committee.

"Record" means a copy of all exhibits from a proceeding and all written Reasons for Decision, Decision and Orders, and includes any transcripts of the Hearing.
“Registrant” means a registrant or former registrant of the College who has been named in a Notice of Hearing. “Registrant” may be used interchangeably with “Member”.

“Representative” means a person authorized under the Law Society Act to represent a person in a proceeding.

"Vulnerable Witness" means a witness who, in the opinion of a Discipline Panel, will have difficulty testifying or will have difficulty testifying in the presence of a party for appropriate reasons related to age, disability, illness, trauma, emotional state or similar cause of vulnerability.

“Written Hearing” means a hearing under Rule 8 held by a Discipline Panel by means of the exchange of written documents.

1.02 Interpretation of Rules

(1) Where matters are not specifically provided for in these Rules, the Regulated Health Professions Act, 1991 or the Statutory Powers Procedure Act, the practice will be determined by analogy to them.

(2) Where there is an inconsistency between these Rules and the Regulated Health Professions Act, 1991 or the Statutory Powers Procedure Act, the provisions of those statutes will govern.

(3) Anything these Rules require or permit a Representative to do can be done by the Registrant, if the Registrant is not represented.

1.03 Application of Rules

(1) These Rules apply to all proceedings before the Discipline Committee of the College including, with all necessary modifications, applications for reinstatement made under sections 72 and 73 of the Code.

1.04 Time

(1) A Discipline Panel may extend or shorten any time required by these Rules on such terms as are just, either before or after the expiration of the time.
1.05 **Substantial Compliance**

(1) If a party substantively complies with a form or notice required by or under these Rules in every important way, the party will be deemed to have met the requirements of a Rule.

(2) No proceeding is invalid only because of a defect or other irregularity in form.

1.06 **Waiving a Rule**

(1) A Rule may be waived if all parties consent or by order of a Discipline Panel.

(2) A motion to waive a Rule may be made at any time. However, a Discipline Panel may refuse to waive a Rule where a person does not bring the motion promptly.

(3) The Discipline Committee may waive a provision of these Rules on its own initiative if it first gives notice to the parties or Motion participants and provides an opportunity for submissions to be made in writing.

1.07 **Power to Control Process**

(1) Despite anything in these Rules, the Discipline Committee may make any order that is necessary to control its process. In making such an order the Discipline Committee must take into consideration the public interest, the interests of witnesses and the Registrant’s right to make full answer and defence to the allegations.

**RULE 2 - PROCEDURES PRIOR TO HEARING**

2.01 **Location of Hearings**

(1) All Hearings will be held at the offices of the College 1867 Yonge St #810, Toronto, ON M4S 1Y5, unless otherwise directed by the Hearings Office. If the Hearing is to be held anywhere other than the offices of the College, the Hearings Office shall provide notice to the parties by email or in writing as soon as is practical to do so.

2.02 **Serving or Delivering Documents**

(1) A document is properly served or delivered if it is:

(a) sent in accordance with section 39 of the *Regulated Health Professions Act*;

(b) served personally and service is proven;

(c) sent by e-mail and in that case is deemed to have been delivered on the same day the e-mail was sent, if receipt of the e-mail is confirmed by the
recipient (and every recipient has a duty to confirm receipt of all e-mail messages in proceedings covered by these Rules);

(d) sent by courier and in that case is deemed to have been delivered on the day of the delivery receipt; or

(e) sent as directed by the Committee.

(2) Documents served or delivered after 5:00 p.m. will be deemed to have been received on the next day that is not a Holiday.

RULE 3 - PRE-HEARING CONFERENCES

3.01 Scheduling

(1) A pre-hearing conference shall be scheduled if a party requests a pre-hearing conference. Additional pre-hearing conferences may be scheduled at the request of a party.

(2) When a pre-hearing conference is to be held, the Committee Chair will designate a person to act as the Pre-hearing Chair at the pre-hearing conference. The Pre-hearing Chair must not be a member of the Discipline Panel presiding over the Hearing.

(3) When a pre-hearing conference is to be held, unless the Pre-hearing Chair agrees otherwise, the College's Prosecutor, a member of the College staff, the Registrant and, if applicable, the Registrant's representative must participate in the pre-hearing conference. The pre-hearing conference may be conducted either electronically or in person.

(4) The Pre-hearing Chair may request that Independent Legal Counsel attend a pre-hearing conference.

3.02 Pre-Hearing Conference Memorandum

(1) Not less than 20 days before the pre-hearing conference, the College will prepare a pre-hearing conference memorandum, which may be in Form 4, and provide a copy to the Registrant and to the Pre-hearing Chair. The pre-hearing conference memorandum must identify the factual and legal issues in dispute, and briefly set out the College's position.

(2) The Registrant may deliver a pre-hearing conference memorandum to the College not less than 10 days before the pre-hearing conference.
The College and the Registrant, if the Registrant prepares a pre-hearing conference memorandum, shall file the pre-hearing conference memorandum with the Pre-hearing Chair by marking it "Attention: Pre-hearing Chair" and:

(a) leaving it with the receptionist at the College;
(b) sending it by courier to the College;
(c) if it is less than 20 pages, faxing it to the College at (416) 489-2625; or
(d) sending it by email to the College at professionalconduct@cmto.com.

3.03 Confidentiality and Use of Pre-hearing Chair's Report

(1) The pre-hearing conference will not be open to the public. Unless both parties consent, all communications, with the exception of formal orders made by the Pre-hearing Chair, at a pre-hearing conference must be kept confidential and constitute without prejudice settlement discussions. This includes any pre-hearing conference memoranda and the Pre-hearing Chair's notes and records.

(2) When a pre-hearing conference is to be held, the parties shall be prepared to discuss all of the topics set out in the Pre-hearing Conference Memorandum, including the following:

(a) the strengths and weaknesses of each party’s case;
(b) whether any facts can be agreed to;
(c) whether any or all of the issues can be settled or narrowed;
(d) the content and timing of any additional disclosure;
(e) the scheduling of any Motions to be heard before the hearing;
(f) the appropriate Order in the event that findings of professional misconduct and/or incompetence are made;
(g) the delivery and form of documents, written arguments and books of authorities that will be used at the hearing and whether the Discipline Committee will review them before the hearing;
(h) the estimated length and scheduling of the hearing; and
(i) any other matter that may assist in the just and expeditious disposition of the proceeding.
(3) The Pre-hearing Chair may give directions or make any order(s) that they consider necessary or advisable with respect to the conduct of the proceeding.

(4) Any orders, directions, undertakings and agreements made at a Pre-hearing conference shall be recorded in a report prepared by or under the direction of the Pre-hearing Chair and a copy of the report shall be distributed to the parties.

(5) If a party disagrees with the accuracy of the Pre-hearing Chair’s report, the party shall, within seven (7) days after receiving the report, deliver to the Hearings Office and the other party, written notice of the specific area of disagreement. The party receiving written notice shall, within five (5) days, deliver any responding comments to the other party and to the Hearings Office, after which time the Pre-hearing Chair may revise the report if indicated.

RULE 4 - ADJOURNMENTS

4.01 Timing

(1) Where both parties have received formal notification of the date for a Hearing or pre-hearing conference, requests for adjournment of such Hearing or pre-hearing conference shall be made at the earliest opportunity after the party or counsel making the request becomes aware that an adjournment is required.

4.02 Consent to be Obtained

(1) A party seeking an adjournment shall attempt to obtain the consent of the other party before bringing a request before the Discipline Committee. If consent is obtained, then the Hearings Office shall be informed of the adjournment and of any new dates agreed to by the parties and there shall be no requirement for consideration of the adjournment request by a member of the Discipline Committee.

4.03 Where Consent Not Obtained

(1) Where consent of the other party is not obtained, then requests for adjournment of a Hearing or pre-hearing conference date, in advance of the Hearing or pre-hearing conference date, should be made in writing, after consulting the other party, using the Adjournment Request form found on the College’s website at www.cmto.com or obtained through the Hearings Office.

4.04 Method of Hearing

(1) Requests for adjournment of a Hearing or pre-hearing conference date made in advance of the Hearing or pre-hearing conference date shall be heard and decided
by the Chair or a member of the Discipline Committee appointed by the Chair and shall be considered in writing or electronically.

(2) If the Hearing has already commenced, any request for an adjournment shall be brought to the Discipline Panel assigned for the Hearing. The Discipline Panel may:

(a) dispose summarily of a request for adjournment that is on consent or unopposed; or

(b) direct that the request proceed by way of a formal Motion before the Hearing panel.

4.05 Factors to Be Considered

(1) In deciding whether or not to grant an adjournment (and if so, on what terms), the following factors will be considered:

(a) balancing the right of the parties to a fair hearing against the desirability of an expeditious hearing;

(b) whether there is prejudice to a person;

(c) how long the requesting party had to prepare for the Hearing;

(d) whether the request for an adjournment was made promptly;

(e) the efforts made to avoid the adjournment;

(f) the number of prior requests for an adjournment;

(g) whether the public is at risk if an adjournment is granted;

(h) the proposed length of the adjournment;

(i) the costs of an adjournment;

(j) the public interest; and

(k) any other factor deemed relevant to determine whether the adjournment request should be granted.

4.06 Conditions May Be Imposed

(1) The Chair or a Discipline Panel may grant an adjournment on such terms and conditions as they consider just.
RULE 5 - MOTIONS

5.01 Initiating Motions

(1) A person can initiate a Motion by filing with the Hearings Office and delivering to the other party and any other Motion participants a Motion Record, which shall include the Notice of Motion in accordance with Form 2, and all affidavits and any materials to be relied upon, unless the nature of the Motion or the circumstances make the Motion Record impractical.

(2) All issues shall be raised in a Motion as soon as possible, unless the nature of the Motion requires that it be heard during the Hearing itself.

5.02 How Motions To Be Heard

(1) A Motion in a proceeding may be heard and determined by way of oral argument, in writing or electronically.

5.03 Timing, Delivery and Filing of Materials

(1) The person initiating a Motion shall file with the Hearings Office and deliver to the responding party/Motion participants the Motion Record, at least fifteen (15) days before the date the Motion is to be heard.

(2) The responding party/Motion participants shall file with the Hearings Office and deliver to the initiating party their materials in the form of a responding Motion Record, at least ten (10) days before the date the Motion is to be heard.

(3) Where a party/Motion participant intends to rely on a factum, written submissions and/or a book of authorities, those documents shall be filed with the Hearings Office and delivered, in the case of the person initiating the Motion, at least seven (7) days before, and in the case of a responding party/Motion participant, at least three (3) Business Days, before the date the Motion is to be heard.

(4) Motion participants may file a document with the Hearings Office by marking it "Attention: Discipline Committee" and:

   (a) leaving it with the receptionist at the College;

   (b) sending it by courier to the College;

   (c) if it is less than 20 pages, faxing it to the College at (416) 489-2625; or

   (d) sending it by email to the College at professionalconduct@cmto.com.
5.04 Assigning a Motion Panel

(1) The Chair or the Chair’s delegate shall assign one or more members of the Discipline Committee to hear a Motion.

(2) A Motion participant who believes that the Hearing should not be heard by the member(s) of the Discipline Committee who sat on the Motion panel shall request a direction from the Motion panel on the matter in the Notice of Motion or Notice of Cross-Motion.

5.05 Scheduling

(1) Where a Motion is to be heard in person, the Hearings Office will contact the participants to schedule a date for the Motion after the person initiating Motion has filed their Motion Record with the Hearings Office.

(2) Where a Motion is to be held in writing or electronically, the member(s) of the Discipline Committee assigned to decide the Motion shall do so after all of the materials referred to in this rule have been filed.

5.06 Evidence

(1) Evidence on a Motion shall be given by affidavit unless the Chair or a member of the Discipline Committee orders that it be given in some other form, or unless otherwise provided by law.

(2) All affidavits used on a Motion shall:

   (a) be confined to the statement of facts within the personal knowledge of the affiant, except that the affidavit may contain statements of the affiant’s information and belief, if the source of the information and the fact of the belief are specified in the affidavit; and

   (b) be signed by the affiant and sworn or affirmed before a person authorized to administer oaths or affirmations, which person shall also mark all exhibits as such to the affidavit.

(3) A Motion participant may cross-examine the deponent of an affidavit filed by another Motion participant only if the parties consent or with leave of the Discipline Committee.

(4) The Discipline Committee shall direct that the deponent of an affidavit be cross-examined where the interests of the case require it.
(5) Sub-rules (3) and (4) do not prevent a deponent from being cross-examined on an affidavit during the Hearing.

5.07 Orders

(1) Immediately after a Motion has been determined, the person initiating the Motion shall, and any other Motion participant may:

(a) prepare a draft order;

(b) seek written approval from the responding party and any other Motion participants as to its form and content; and

(c) deliver the draft order, together with any written approval(s), to the Hearings Office.

5.08 Limitations on Submissions

(1) No Motion participant shall take more than one hour, including a reply, to make oral submissions on a Motion without the prior permission of the Chair or a member of the Discipline Committee.

5.09 Communications

(1) Any communications to the Hearings Office regarding a Motion shall be in writing and copied to all Motion participants.

RULE 6 - NOTICE OF CONSTITUTIONAL QUESTION

6.01 Timing for Notice

(1) A party who intends to raise a constitutional issue or question at a Hearing or on a Motion must formally give notice of such to the Attorney General of Canada and the Attorney General of Ontario. Notice must be given not less than 15 days before the issue or question is to be argued before a Discipline Panel.

6.02 Submissions by Attorney General

(1) The Attorney General of Canada and/or the Attorney General of Ontario may give evidence and make submissions to the Discipline Panel regarding the constitutional issue or question.
RULE 7 - EXCHANGE AND USE OF DISCLOSURE

7.01 Exchange of Documents

(1) Each party to a proceeding shall deliver to every other party, in advance of the Hearing, (a) a list of, and (b) if not previously produced, copies of, all documents and things that the party intends to produce or enter as evidence at the Hearing.

(2) Each party to a proceeding shall deliver to every other party, in advance of the Hearing, a list containing the identity of any witnesses the party intends to call.

(3) The College must produce the information set out in (1) and (2) above as soon as is reasonably practicable after the Notice of Hearing is served but in any case not less than fifteen (15) days before the commencement of the Hearing.

(4) Subject to Rule 7.01(5), any other party must produce the information set out in (1) and (2) above as soon as is reasonably practicable after disclosure by the College under this Rule, but in any case not less than ten (10) days before the commencement of the Hearing.

(5) In the event that the College produces any information set out in (1) and (2) above less than fifteen (15) days before the commencement of the Hearing, any other party who wishes to produce information set out in (1) and (2) above in response to same must produce the information as soon as is reasonably practicable after disclosure by the College under this Rule, but in any case not less than five (5) days after disclosure by the College and prior to the commencement of the Hearing.

(6) A party who does not disclose a document or thing in compliance with this Rule may not refer to the document or thing or introduce it in evidence at the Hearing without leave of the Discipline Panel, which may be granted on any conditions that the Discipline Panel considers just.

7.02 No Waiver of Privilege

(1) Despite anything in these Rules, a party or participant in the proceedings is not required to disclose or produce any document or evidence that is privileged or otherwise protected from disclosure by law.

7.03 Order for Disclosure

(1) At any stage in a proceeding, a Discipline Panel may:

(a) order that a party provide to another party and to the Discipline Panel any particulars that the Discipline Panel considers necessary for a full and satisfactory understanding of the subject of the proceeding; or
7.04 Motions for Production of Documents from a Third Party

(1) A motion by a party relating to the production of documents in the possession of a third party cannot be brought before the commencement of the Hearing. The Notice of Motion relating to the production of documents must be provided to the person possessing the documents and to any other person having a significant interest, including a privacy interest, in the documents.

(2) In considering such a motion, the Discipline Panel must take into account:

(a) the relevance of the document to a significant issue in the Hearing;
(b) whether it would be unfair to require the party bringing the motion to proceed to the Hearing without the document;
(c) any claim that the document is privileged; and
(d) whether any person has a significant interest in the document, including a privacy interest.

(3) Where, in relation to a Hearing involving allegations of a Registrant’s misconduct of a sexual nature, the Registrant seeks an order of the panel of the Discipline Committee for the production and disclosure of a record that contains information in respect of which a person who is not a party to the Hearing has a reasonable expectation of privacy, any one or more of the following assertions made by the Registrant are not sufficient on their own to establish that the record is likely relevant to an issue in the Hearing or to the competence of a witness to testify:

(a) that the record exists;
(b) that the record relates to medical or psychiatric treatment, therapy or counselling that the complainant or a witness has received or is receiving;
(c) that the record relates to the incident that is the subject-matter of the proceedings;
(d) that the record may disclose a prior inconsistent statement of the complainant or a witness;
(e) that the record may relate to the credibility of the complainant or a witness;
(f) that the record may relate to the reliability of the testimony of the complainant or a witness merely because the complainant or witness has received or is receiving psychiatric treatment, therapy or counselling;

(g) that the record may reveal allegations of sexual abuse of the complainant or a witness by a person other than the member;

(h) that the record relates to the sexual activity of the complainant or a witness with any person, including the Registrant;

(i) that the record relates to the presence or absence of a recent complaint;

(j) that the record relates to the sexual reputation of the complainant or a witness; or

(k) that the record was made close in time to a complaint or report or to the activity that forms the subject-matter of the allegation against the Registrant.

(4) A panel of the Discipline Committee or the Discipline Committee Chair or their delegate may, on motion by a party, order that a person who has possession or control of the record produce the record or part of the record to the Discipline Panel or Discipline Committee Chair if the panel is satisfied that the party has established that the record is likely relevant to an issue in the hearing or to the competence of a witness to testify in the hearing and the production of the record is necessary in the interest of justice.

(5) Where after reviewing a record produced pursuant to this Rule, the Discipline Panel or the Discipline Committee Chair or their delegate is satisfied that the record or any portion thereof is likely relevant to an issue in the hearing or to the competence of a witness to testify in the hearing and that the production of the record is necessary in the interest of justice, such record or portion thereof shall be produced to the parties.

(6) In determining whether to grant an order for the production of records in accordance with this Rule, the Discipline Panel shall consider,

(a) the regulatory nature of the proceedings;

(b) the primary purpose of the proceedings, which is to protect the public and regulate the profession in the public interest;

(c) the privacy interest of the complainant or a witness in the record sought; and

(d) the nature and purpose of the record sought in the Motion.
Despite anything in these Rules, the Discipline Panel shall, upon the application of any person who has a privacy interest in the records referred to in this Rule, grant the person standing on the Registrant’s Motion for production of the records.

RULE 8 - WRITTEN AND ELECTRONIC HEARINGS AND PROCEEDINGS

8.01 Ability to Conduct a Hearing or Proceeding in Writing or Electronically

(1) A Discipline Panel may allow all or part of a proceeding to be heard in writing and/or electronically if:

(a) the parties consent; or

(b) the parties do not consent, and the Discipline Panel, after hearing submissions from the parties, makes an order that the proceeding should be heard in this way.

8.02 Electronic Hearings

(1) This sub-rule applies to any proceeding or part of a proceeding that is held electronically including motions, pre-hearing conferences and hearings.

(2) At least 48 hours before an electronic proceeding is scheduled to commence, the Hearings Office shall instruct participants on how to participate in the electronic proceedings and the participants shall comply with those instructions.

(3) Unless otherwise provided for in the Rules, every person participating in the proceeding shall deliver, at least 3 business days before the proceeding, every document upon which the person intends to rely, in sequentially numbered pages.

(4) Every person participating in the proceeding shall ensure that they can be reached at the telephone number provided to the Hearings Office beginning at five minutes before the proceeding is scheduled to commence.

(5) Where a Discipline Panel permits a proceeding, all or in part, to be conducted electronically and the proceeding involves witnesses, every effort should be made to have the witnesses participate by means where the Discipline Panel can both see and hear the witnesses simultaneously.

8.03 Written Proceedings

(1) The Discipline Panel may hold all or part of a proceeding or hearing in writing with the consent of the parties.
(2) All documents in a written proceeding shall be delivered according to the schedule approved by the Discipline Panel or agreed to by the parties.

**RULE 9 - PROCEDURE RELATED TO THE HEARING**

**9.01 Public Access to Hearing**

(1) A Hearing shall be open to the public in accordance with section 45 of the Code.

**9.02 Electronic Devices and Publication of Proceedings**

(1) No person may:

(a) take or attempt to take a photograph, audio or video recording or other record by any means at a proceeding; or

(b) publish, broadcast, reproduce or otherwise disseminate a photograph, audio or video recording or other record taken in contravention of this sub-rule.

(2) Sub-rule 9.02(1) does not apply to:

(a) a person unobtrusively making handwritten or typed notes, or sketches at a proceeding;

(b) a party or a party’s representative unobtrusively making an audio recording at a proceeding that is used only as a substitute for handwritten or typed notes for the purposes of the proceeding;

(c) a person taking a photograph, audio or video recording or other record with the prior written authorization of the Discipline Panel;

(d) the court reporter; or

(e) a person using a device to compensate for a disability.

**9.03 Information Relating to Registrant’s Capacity**

(1) If there is information in a proceeding to suggest that the Registrant may be incapacitated, the Discipline Committee may:

(a) ask the parties if they have had an opportunity to consider the information and whether all or part of the conduct at issue in the allegations relates to the Registrant’s capacity;

(b) ask the parties whether or not there are parallel incapacity proceedings;
(c) grant an adjournment to permit the College to consider whether to initiate incapacity proceedings to deal with all or part of the conduct in issue;

(d) if a finding has been made by the Discipline Committee and if there are parallel incapacity proceedings, ask the parties for details of the status of the incapacity proceedings and any order made by the Fitness to Practise Committee;

(e) ask the parties if they would like to make submissions about whether the public should be excluded from all or part of the Hearing; and/or

(f) do anything else relevant that may assist the Discipline Panel in the circumstances.

9.04 Oral and Written Arguments

(1) A Discipline Panel may place reasonable limits on the length of oral and/or written submissions.

(2) A Discipline Panel may, after hearing submissions, order the parties to submit written arguments on some or all of the issues at the Hearing, and may give directions as to the form and timing of such written arguments.

9.05 Use of Evidence by Hearing Panel

(1) Nothing is admissible in evidence at a Hearing that would be inadmissible in a court in a civil action.

(2) The findings of a Discipline Panel shall be based exclusively on evidence admitted before it.

9.06 Obtaining a Summons to Compel the Attendance of a Witness

(1) A party who requires a witness to attend the hearing and believes they require a summons to compel them to attend must complete the Summons to Witness Form available at www.cmto.com or through the Hearings Office and provide it to the Hearings Office for signature by the Chair or their delegate.

(2) The summons may require the person summoned to produce at the Hearing, documents and things specified in the summons.

(3) The summons must be served personally on the person to be summoned.

(4) The person summoned is entitled to receive the same fees or allowances for attending or participating in the hearing as are paid to a person summoned to
attend before the Superior Court of Justice. The party obtaining the summons must pay the fees or allowances.

9.07 Excluding Witnesses

(1) A Discipline Panel may order that one or more witnesses be excluded from the hearing until called to give evidence.

(2) An order under sub-rule (1) may not be made in respect of a party to the proceeding or a witness whose presence is required to instruct counsel, but the Discipline Panel may require any such witness to give evidence before other witnesses are called to give evidence on behalf of that party.

(3) Where an order is made excluding one or more witnesses from the hearing, no person shall communicate or permit the communication to an excluded witness of any evidence given during the witness’ absence from the hearing until after the witness has been called and has given evidence.

9.08 Vulnerable Witnesses

(1) A Discipline Panel may order that a support person be permitted to be present and to sit near a vulnerable witness while testifying, and may issue directions regarding the conduct of the support person during the testimony of the witness.

(2) A Discipline Panel may order that a vulnerable witness provide their testimony in a manner that would allow the vulnerable witness not to see the Registrant if the Discipline Panel is of the opinion that this is necessary to obtain a full and candid account of the matter.

(3) Where a witness is vulnerable, and a Registrant is not represented, the Prosecutor may apply to have a representative appointed to conduct the cross-examination and the Chair or the Discipline Panel may order that a representative be appointed to cross-examine the witness.

9.09 Expert Witnesses and Reports

(1) A party who intends to call an expert witness at a Hearing must, not less than 10 days before the Hearing, serve an expert report on the other party. The expert report must be signed by the expert, and must set out the expert’s name, address and qualifications, and the substance of their proposed testimony; or, if the expert has not prepared a written report, a written summary of the expert’s evidence.

(2) Each party must inform any prospective expert witness that it is the duty of an expert to assist the Discipline Panel on matters within the expert’s expertise, and
that this duty overrides any obligation to the person from whom they have received instructions or payment. The expert must certify, in the expert’s written report (or, if there is no written report, during the expert’s testimony) that the expert is aware of and understands this duty.

(3) Where the Discipline Panel hears testimony of an expert witness, it may also admit the expert witness’ report as an exhibit at the Hearing.

(4) A Discipline Panel may, in its discretion, allow a party to introduce expert evidence that is inadmissible under this Rule, and may make directions it considers necessary to ensure that the other parties are not prejudiced.

9.10 Non-party Participation in Hearing

(1) On application by a person who is not a party to the proceedings, a Discipline Panel may allow a non-party to participate in a Hearing if,

(a) the good character, propriety of conduct or competence of the non-party is in issue at the Hearing; or

(b) the participation of the non-party would, in the opinion of the Discipline Panel, be of assistance to the panel.

(2) The Discipline Panel must determine the extent to which a non-party who is allowed to participate may do so, including the ability of the person to make oral or written submissions, to lead evidence and to cross-examine witnesses.

9.11 Public Access to Hearing Record

(1) A member of the public has, subject to any order prohibiting publication, a right to access the Notice of Hearing, a transcript of evidence if available, any Agreed Statement of Fact, and any Joint Submission as to Penalty, without having to bring a motion.

(2) If a member of the public wishes to have access to any other part of the Hearing Record, the person must bring a motion before the Discipline Panel or Committee, and must give notice to the parties and any other interested person. The Notice of Motion must set out the purpose, scope of the access and the intended use being sought and, if the person is requesting permission to duplicate an exhibit, sufficient details that would allow the Committee or Discipline Panel to consider whether or not duplication would adversely affect the integrity of the exhibit.

(3) Prior to making its decision on a motion for access to all or part of the Hearing Record, the Committee or Discipline Panel must consider the submissions of the person seeking access, the parties and any other persons having an interest. The Committee or Discipline Panel may consider the following factors:
(a) the general principle that hearings be open to the public;
(b) the intended use of the exhibit;
(c) proprietary or privacy interests in the exhibit;
(d) the timing of the request and, specifically, whether it was made during or after the Hearing;
(e) interference with the proper and orderly conduct of the Hearing;
(f) interference with the Registrant's right to a fair hearing; and
(g) any other factor that may be relevant to the Committee’s or Discipline Panel's decision.

(4) In the event that the Committee or Discipline Panel decides to grant access to all or part of the Hearing Record, it may decide to limit who may access the Hearing Record and how it may be used. The Committee or Discipline Panel must be satisfied that the security of any exhibit will be protected, and may provide for supervision and control of any exhibit by a person designated by it.

(5) Before granting a member of the public access to any part of the Hearing Record, the College must redact any portion of the material that is the subject of an order prohibiting publication and may redact the document(s) to prevent disclosure of the names and any other identifying personal information of any complainants, patients, or witnesses, and the names of any institutions.

RULE 10 - AWARDS OF COSTS

10.01 Costs for Non-compliance with Rules

(1) Where a Discipline Panel is entitled to order the payment of costs and/or expenses by a party pursuant to section 53 or 53.1 of the Code, the Discipline Panel may consider, among other factors, the failure of a party to comply with these Rules and whether the conduct of the party has been unreasonable, frivolous or vexatious or a party has acted in bad faith, including but not limited to late requests for adjournments..

10.02 Procedure for Requesting Costs

(1) A party requesting an order for costs must provide an explanation and, where practicable, evidence of the costs they have incurred.
RULE 11 - REINSTALLATION APPLICATIONS

(1) This Rule applies to applications for reinstatement made under sections 72 and 73 of the Code.

(2) A Registrant making an application for reinstatement must deliver a Notice of Application specifying:

(a) the order sought;

(b) the grounds of the application;

(c) the evidence that the Registrant intends to rely on; and

(d) the anticipated length of the Hearing.

(3) A Registrant making an application for reinstatement must comply with the policies and practices of the College, including those related to credentialing requirements and re-entering practice.

(4) Unless the Committee directs otherwise, the Registrant making an application for reinstatement must deliver eight (8) copies of:

(a) the record of the original Hearing;

(b) the record of any previous applications for reinstatement (including the transcript of any previous reinstatement hearing);

(c) the transcript of the original Hearing; and

(d) any document upon which the Registrant intends to rely.

(5) The Committee will not schedule a reinstatement application for a Hearing until the Registrant complies with sub-rules (2), (3) and (4).

(6) Once a reinstatement application has been scheduled, the Hearings Office shall deliver a Notice of Reinstatement Hearing to the parties.
FORM 2: NOTICE OF MOTION

DISCIPLINE COMMITTEE OF THE
COLLEGE OF MASSAGE THERAPISTS OF ONTARIO

B E T W E E N:

COLLEGE OF MASSAGE THERAPISTS OF ONTARIO

and

[INSERT NAME OF REGISTRANT], R.M.T.

NOTICE OF MOTION

THE [IDENTIFY MOVING PARTY] WILL make a motion to the Discipline Committee of the College of Massage Therapists of Ontario, on [day], [date], at [time], or as soon after that time as the motion can be heard, at 1867 Yonge Street, Suite 810, Toronto, Ontario.

THE MOTION IS FOR [set out the specific Order that is sought].

THE GROUNDS FOR THE MOTION ARE [specify the grounds to be argued, including a reference to any statutory provision or rule to be relied on].

THE FOLLOWING DOCUMENTARY EVIDENCE WILL be used at the hearing of the motion: [list the affidavits or other documents to be relied on].

[Date] [Name, address, telephone and facsimile number of the moving party or their representative]

TO: [Name, address, telephone and facsimile number of responding party or their representative]
FORM 3: ORDER

DISCIPLINE COMMITTEE OF THE
COLLEGE OF MASSAGE THERAPISTS OF ONTARIO

[names of Discipline Committee members] )

) [day and date(s) of hearing]

)}}

B E T W E E N:

COLLEGE OF MASSAGE THERAPISTS OF ONTARIO

and

[INSERT NAME OF REGISTRANT], R.M.T.

ORDER

THIS MOTION, made by [identify moving party] for [state the relief sought in the Notice of Motion], was heard by the Discipline Committee of the College of Massage Therapists of Ontario at 1867 Yonge Street, Suite 810, Toronto, Ontario on [day], [date], [or by conference call].

ON READING the [list the material filed on the motion] and on hearing the submissions of [(name of the moving party) or representative for (name of moving party), [where applicable, add "(name of moving party) appearing in person" or "no one appearing for (name of moving party), although properly served as appears from (indicate proof of service)],

THE DISCIPLINE COMMITTEE ORDERS that ...

[signature of chair]
FORM 4: PRE-HEARING CONFERENCE MEMORANDUM

DISCIPLINE COMMITTEE OF THE
COLLEGE OF MASSAGE THERAPISTS OF ONTARIO

BETWEEN:

COLLEGE OF MASSAGE THERAPISTS OF ONTARIO

and

[INSERT NAME OF REGISTRANT], R.M.T.

PRE-HEARING CONFERENCE MEMORANDUM OF THE COLLEGE
[OR OF THE REGISTRANT]

Date of Pre-hearing Conference:

College Counsel:

Defence Representative (if applicable):

BACKGROUND INFORMATION

1. Please attach a copy of the Notice of Hearing to this memorandum.

2. Set out a brief statement of the College's [Registrant's] case, including factual disputes and the anticipated evidence of witnesses.

3. Provide a description of the legal issues to be determined at the hearing.

4. Attach a copy of any document that would assist the Presiding Officer at the pre-hearing conference.

ADDITIONAL STEPS BEFORE THE HEARING

5. Motions:
   - Will you be bringing any motions?
• If so, what order will you seek and on what grounds?

• When do you intend to bring each motion?

6. Disclosure:

• Are there any issues with respect to disclosure?
  • Has the College made full disclosure to the Registrant?

• Have both parties produced all of the expert reports upon which they intend to rely?

• If disclosure has not yet been completed, can the parties agree on a date by which it will be done?

7. Admissions:

• Are there any facts or allegations that can be admitted?

• Can the admissibility of documents be agreed upon?

• Is it possible to develop an Agreed Statement of Facts?

• Is it possible to develop a Joint Submission on Penalty?

8. Joint Book of Documents:

• Is it a possible to develop a Joint Book of Documents?

• If so, by what date will the Joint Book be delivered?

• Should the Discipline Panel be able to review the Joint Book before the Hearing?

9. Written arguments:

• Are there any issues which should be dealt with through written argument instead of oral argument during the Hearing or during a motion?
• When should written arguments be delivered by?

• Should the Discipline Panel be able to review written arguments before the Hearing?

**PLANNING THE HEARING**

10. Hearing:

• Are you ready for the Hearing?

• Should the matter be expedited?

• Are there any special considerations affecting the setting of a date (such as the availability of witness)?

• How long will the Hearing last?

• Estimate the length of time it will take to hear any motions you anticipate bringing during the Hearing.

• List your witnesses and estimated length of time you anticipate it will take to hear their evidence.

• Will you be requesting that the Committee issue a summons (to require a person to attend or provide evidence at the Hearing). If so, identify the person(s).

• Do you object to the Committee issuing a summons requested by a party and, if so, on what grounds?

11. Memorandum or Directions

• Should the Presiding Officer provide a signed Memorandum or written directions to the parties to record facts, documents or issues where the parties have reached agreement?

• Are there any matters that should be included in a Memorandum or written directions to be given by the Presiding Officer?
(Date) (Signature of party or representative who will be attending the hearing)
AD HOC COMMITTEE ON GOVERNANCE

2017 Q4 (October - December)

Committee Members:
Lloyd White, Public Member (Chair)
David Janveau, RMT, Professional Member
Hedy Miszuk, Public Member
Lisa Tucker, RMT, Professional Member
Karen Sosnowski, RMT, Professional Member
Jane Wellwood, RMT, Professional Member
Kim Westfall-Connor, RMT, Professional Member

Committee Mandate:
To conduct a review of the Governance Manual to ensure an updated and internally consistent set of governance policies.

SUMMARY OF COMMITTEE ACTIVITIES

1. MEETING DATES

The Committee met once in the fourth quarter, on October 16, 2017 (in-person)

2. ITEMS FOR INFORMATION

The Committee continued its discussions on the following items

- Council Evaluation Process
- Transparency of Council Meetings
- Rules of Order
- Deputation at Council Meetings
• Use of Social Media
• Conflict of Interest
• Attendance at Conferences
• Selection Criteria for non-Council Members, and
• By-laws with respect to The Register and Committee Composition

The Committee agreed that the proposed Council evaluation process be presented to Council at its February retreat for consideration.

The Committee also recommended an increase in the number of non-Council members on the ICRC and Discipline Committees. Subsequent to the meeting, it was agreed to increase the number of non-Council members on the Discipline Committee by two. Discussion on whether to increase the number of ICRC Committee members will be brought back to the Committee for further consideration.

3. **ITEMS FOR DECISION**

There were no items brought forward to Council for decision.
College of Massage Therapists of Ontario  
By-Law No. 3  

The Election of the Officers of the College

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.

   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. Holidays  
   A time limit that would otherwise expire on a holiday or a weekend is extended to include the next day that is not a 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) "Appointed Council Member" means a person appointed to Council by the Lieutenant Governor in Council;
(C) "By-laws" means all by-laws of the College;
(D) "Code" means the Health Professions Procedural Code, which is Schedule 2 of the Regulated Health Professions Act, 1991;
(E) "College" means the College of Massage Therapists of Ontario (CMTO);
(F) "Committee" means a committee established under section 10 of the Code or a committee established under these by-laws;
(G) "Committee Member" means a member of a Committee;
(H) "Council" means the Council established under section 5 of the Massage Therapy Act, 1991;
(I) "Council Meeting" means a meeting of Council;
(J) "Council Member" means an elected Council member and/or appointed Council member;
(K) "Elected Council Member" means a registrant of the College elected to Council in accordance with these by-laws, and includes an academic Council member;
(L) "Elected Officers" means the President, Vice President and Executive officers, who are elected by the Council, and who constitute the Executive Committee;
(M) "Executive Officer" is one of the members of the Executive Committee, elected by the Council, and is an officer of the College;
(N) "President" means the President of the College, who is a member of the Executive Committee, elected by the Council, and who is an officer of the College;
(O) "Quorum" means 50% of the Council members plus one;
(P) "Registrant" means a person or health profession corporation registered with the College, as the case may be;
(Q) "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;
(R) "Resolution" means a vote of a majority of those Council members in attendance at the meeting and voting on the resolution, where a quorum is present;
(S) "RHPA" means the Regulated Health Professions Act, 1991, including its associated regulations and the Code;
(T) "Vice President" means the Vice President of the College, who is a member of the Executive Committee, elected by the Council, and who is an officer of the College.
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*.

**Officers of the College**

2. (A) i. The College shall have four elected officers, including a President, a Vice President and two Executive Officers, whom shall be elected annually from among the members of Council, by all Council members present at the first Council meeting in a calendar year that takes place after the scheduled date for an election of Council members.

   ii. The Council shall elect the four elected officers in the following order: President, Vice President and two Executive Officers.

   (B) At least one of the officers must be an elected Council member and at least one must be an appointed Council member.

**Election Procedure**

3. (A) At the first regular meeting of Council in a calendar year that takes place after the scheduled date for an election of Council members, the Registrar shall call for nominations of candidates for each of the four elected officer positions.

   (B) If there is only one nominee for a position, that person shall be elected by acclamation.

   (C) If there is more than one candidate for an office, the voting will be conducted by secret ballot, and the results shall be counted, recorded and reported by the Registrar with the assistance of one Council member who is not nominated for an elected officer position, and election to an office is confirmed by a majority of the votes cast.

   (D) Where no candidate receives a majority vote, the candidate receiving the fewest votes shall be disqualified and the Council shall, by secret ballot, vote on the remaining candidates until one candidate receives a majority vote.

   (F) If there is a tie in votes cast, the Registrar shall resolve the deadlock by lot.

   (G) Where an issue arises that is not governed by these by-laws during an election, the Registrar shall resolve the dispute in a fair and democratic manner.

**Duties of the President**

4. (A) The President, with Council, is responsible for fulfilling the mandate, objectives and strategic plans of the College. The President is directly accountable to Council and indirectly accountable to the government, the public and the profession for the effective
governance of the College.

(B) The President’s duties include:

i. Providing effective leadership for Council;

ii. Presiding as Chair of all Council meetings and Executive Committee meetings, unless another Chair has been appointed;

iii. Overseeing the operations of Council, including approving the agenda for Council meetings and presenting an Executive Committee report at each Council meeting;

iv. Working with the Registrar to ensure the efficient conduct of all Council meetings and Executive Committee meetings and that decisions of Council and the Executive Committee are implemented;

v. Participating in the recruitment and orientation of new Council members, officers, committee members, Chairs and non-Council members;

vi. Overseeing and ensuring that a process is in place to fairly evaluate the Registrar;

vii. Representing the College as the authorized spokesperson on Council policies and positions;

viii. Signing contracts and/or documents on behalf of the College;

ix. Liaising with the Registrar on any issue relating to the interaction between Council members and College staff; and

x. Any other duty determined by Council.

Duties of the Vice President

5. (A) The Vice President is directly accountable to Council and indirectly accountable to the government, the public and the profession for the effective governance of the College.

(B) The Vice President’s duties include:

i. Serving on the Executive Committee;

ii. Any duty delegated by the President;

iii. Signing contracts and/or documents on behalf of the College; and

iv. Any other duty determined by Council.
In the absence, inability or refusal of the President to act, the Vice President shall have all the powers and perform all the duties of the President.

**Duties of a Council Member**

6. (A) The primary functions of a Council member include:

   i. To debate and establish College policy;

   ii. To serve as a link between the College and those who elect or appoint him or her;

   iii. To fulfill the duties as set out in the *RHPA, 1991*; and

   iv. To assist the College in fulfilling its objects under the *RHPA, 1991*.

   (B) Council member duties include:

   i. Working with Council to abide by, develop, enforce and propose amendments to:

      (a) The *RHPA, 1991*;

      (b) The *Massage Therapy Act, 1991*; and

      (c) These by-laws;

   ii. Establishing policy, strategic direction and goals of the College, including approving statements of principles and positions related to College policy;

   iii. Supporting and implementing Council decisions;

   iv. Preparing for each Council meeting;

   v. Monitoring the performance of the Registrar through feedback reports prepared by the President;

   vi. Ensuring appropriate succession planning for the Registrar; and

   vii. Any other duty determined by Council.

**Term of Elected Officers**

7. (A) The term of an elected officer shall be for approximately one year from the date of election as an officer.
The term commences at the Council meeting at which the officer is elected, and continues until his or her successor is elected at a Council meeting the following year.

**Vacancy of Offices**

8. (A) If the office of President becomes vacant before the expiry of the term:
   
   i. The Vice President shall assume the office of President until the completion of the original term; and
   
   ii. The position of Vice President shall be filled by an election at the next meeting of the Council. The person elected to fill the vacancy shall serve out the term of the person being replaced.

(B) If the office of Vice President becomes vacant before the expiry of the Vice President’s term:

   i. The President shall appoint one of the Executive Officers to assume the office of the Vice President until the completion of the original term; and
   
   ii. The position of that Executive Officer shall be filled by an election at the next meeting of the Council. The person elected to fill the vacancy shall serve out the term of the person being replaced.

(C) If one of the Executive Officer positions becomes vacant before the expiry of her/his term, the position of Executive Officer shall be filled by an election at the next meeting of the Council. The person elected to fill the vacancy shall serve out the term of the person being replaced.

**Administration**

9. This By-Law shall be administered by the Registrar of the College.

**Effective Date**

10. This By-Law comes into force on the day enacted.

Enacted November 19, 1999
Amended February 2014, May 2014
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<td>Conflict of Interest Guideline</td>
<td>Operational Director, Policy and Communications/DR</td>
<td>Increased accountability of CMTO and registrants for preventing conflict of interest</td>
</tr>
<tr>
<td>Continuous Quality Improvement</td>
<td>Identify a Learning Management System (LMS) for acupuncture and other initiatives</td>
<td>Operational Director, Professional Practice</td>
<td>Increased potential for knowledge transfer.</td>
</tr>
<tr>
<td>Year</td>
<td>Professional Conduct</td>
<td>Registration</td>
<td>Certification</td>
</tr>
<tr>
<td>------</td>
<td>----------------------</td>
<td>--------------</td>
<td>---------------</td>
</tr>
<tr>
<td>2017</td>
<td>148</td>
<td>5550</td>
<td>1,157</td>
</tr>
<tr>
<td>2018</td>
<td>196</td>
<td>4247</td>
<td>1,110</td>
</tr>
<tr>
<td>2019</td>
<td>201</td>
<td>3849</td>
<td>927</td>
</tr>
<tr>
<td>2020</td>
<td>184</td>
<td>2932</td>
<td>1267</td>
</tr>
<tr>
<td>2021</td>
<td>102</td>
<td>2932</td>
<td>1134</td>
</tr>
<tr>
<td>2022</td>
<td>97</td>
<td>2932</td>
<td>1103</td>
</tr>
<tr>
<td>2023</td>
<td>102</td>
<td>2932</td>
<td>1134</td>
</tr>
<tr>
<td>2024</td>
<td>97</td>
<td>2932</td>
<td>1103</td>
</tr>
</tbody>
</table>

**Notation:**
- MCQ: Multiple Choice Questions
- OSCE: Objective Structured Clinical Exam
- CEU: Continuing Education Units
- SAT: Survey and Action Team
- QAP: Quality Assurance Program
- ICRC: International Council of Nurses

**Additional Information:**
- **OSCE:** 2016: 1250 MCQ attempts, 1250 OSCE attempts
- **2017:** 1167 MCQ attempts, 1167 OSCE attempts
- **2018:** 1096 MCQ attempts, 1093 OSCE attempts; 4622 emails
- **2019:** 1103 OSCE attempts, 1103 MCQ attempts
- **2020:** 1134 OSCE attempts, 1134 MCQ attempts
- **2021:** 1103 OSCE attempts, 1103 MCQ attempts
- **2022:** 1134 OSCE attempts, 1134 MCQ attempts
- **2023:** 1103 OSCE attempts, 1103 MCQ attempts
- **2024:** 1134 OSCE attempts, 1134 MCQ attempts

**Work Flow:**
- **Station 5 template was redesigned to accommodate new standards of practice.**
- **120 case scenarios/17 per station were edited to reflect content outline changes.**
- **A 227 total items were translated (includes some approved items from 2016).**
- **1350 OSCE attempts, 1350 MCQ attempts.**
- **2382 completed + 1072 corrections required.**
- **1387 OSCE attempts.**
- **1121 MCQ attempts.**
- **1387 OSCE attempts.**
- **1121 MCQ attempts.**

**Contact Information:**
- **Email:** GeneralCertificate@licc.net
- **Phone:** 13114
- **Fax:** 12863

**Certification:**
- **# of new exam candidates:**
  - # of QAP inquires: 1,153
  - # of CEU processed: 1,053
  - # of SAT processed: 1,053
  - # of peer assessments completed: 68
  - # of informal investigations: 138
  - # of regulatory investigation cases: 1,157
  - # of current cases for Discipline: 150
  - # of current cases for Fitness to Practice: 113
  - # of current cases for ICRC: 114

**Professional Practice:**
- **# of surveys done:**
  - 67 surveys + 67 e-blasts
  - 67 surveys + 67 e-blasts
  - 67 surveys + 67 e-blasts
  - 67 surveys + 67 e-blasts
  - 67 surveys + 67 e-blasts

**Practice Specialist:**
- **# of practice requests:**
  - 138
  - 138
  - 138
  - 138
  - 138

**Corporate Services:**
- **# of surveys conducted / mass emails sent:**
  - 22 surveys / 36 e-blats
  - 22 surveys / 36 e-blats
  - 22 surveys / 36 e-blats
  - 22 surveys / 36 e-blats
  - 22 surveys / 36 e-blats

**DASHBOARD - OPERATIONAL**
- **# of member data changes processed:**
  - 11217 OSCE attempts
  - 11106 MCQ attempts
  - 57 OSCE days
  - 11387 OSCE attempts
  - 11211 MCQ attempts

**Services:**
- **# of new exam candidates:**
  - 1350 OSCE attempts
  - 1350 MCQ attempts
  - 1350 OSCE attempts
  - 1350 MCQ attempts
  - 1350 OSCE attempts
  - 1350 MCQ attempts

**Data:**
- **Information captured in # of exam attempts:**
  - 1350 OSCE attempts
  - 1350 MCQ attempts
  - 1350 OSCE attempts
  - 1350 MCQ attempts
  - 1350 OSCE attempts
  - 1350 MCQ attempts

**Call and e-mail volume:**
- **average Number of phone calls per month:**
  - 16
  - 16
  - 16
  - 16
  - 16

**Professional Development activities:**
- **# of educational workshops attended:**
  - 57
  - 57
  - 57
  - 57
  - 57

**Membership:**
- **# of members participating in the profession:**
  - 15 surveys/60 email blasts
  - 15 surveys/60 email blasts
  - 15 surveys/60 email blasts
  - 15 surveys/60 email blasts
  - 15 surveys/60 email blasts

**Other data changes, e.g., address changes:**
- **Other data changes, e.g., address changes, unattainable:**
  - 362
  - 362
  - 362
  - 362
  - 362

**# of formal investigations:**
- **# of inquiries / consultations:**
  - 36
  - 36
  - 36
  - 36
  - 36

**Regulatory:**
- **# of regulatory investigation cases:**
  - 1,157
  - 1,157
  - 1,157
  - 1,157
  - 1,157

**Professional work flow:**
- **average Number of phone calls per month:**
  - 16
  - 16
  - 16
  - 16
  - 16
MEMO TO COUNCIL

Date: January 24, 2018

From: Valerie Browne, Director, Registration Services

Re: Update on the Development of a New Refresher Course

Background:

The Registration Regulation under the *Massage Therapy Act, 1991* and the Education Requirement for Exam Eligibility and Initial Registration Policy require applicants and registrants to successfully complete a refresher course in the following situations:

- **Registration Examination Candidates** who graduated more than three years prior to their exam date
- **Applicants for Initial Registration (IR)** who graduated more than three years prior to their application date (this includes former registrants [resigned or revoked] who graduated more than three years prior to their current application date)
- **Holders of an Inactive Certificate (IN) who wish to reinstate their General Certificate (GC)** who have been IN for more than three years
- **GC Registrants who report that they have not completed a minimum of 500 hours of practice in a regulated/recognized jurisdiction in the previous three years**

It’s important to note that Examination Candidates who graduated more than three years prior to their exam date must take the Refresher Course to ensure currency of education. The Refresher Course is not an examination prep course.

The current refresher course has two components:

- **Standards and Regulations Online Workshop**: 4-week online program developed and delivered by CMTO, usually offered approximately eight times per year.
- **Tutoring Component**: The length of the tutoring varies depending on the gaps to be filled and how long the student or registrant has been away from school/practice. There is a
requirement for a minimum of 10 hours of the practical component of tutoring for the General Refresher, and a minimum of 16 hours of the practical component of tutoring for the Refresher Course with Enhanced Practicum.

The current Refresher Course Policy has been in place since September 2004. One of the projects in CMTO’s 2017 Work Plan was the development and implementation of an updated Refresher Course. This project has not been completed.

**Issues:**

There are two key issues that are having an impact on the development and implementation of an updated Refresher Course:

1. **The different needs of Refresher Course participants**
   The focus for Certification Examination candidates and applicants for registration is the entry-to-practice competencies. These competencies are the same for all exam candidates and applicants and a single solution refresher course could meet their needs.

   However, a registrant who has not met the practice hour requirement for maintaining a General Certificate of registration, or who has been IN for more than three years, is already past the entry-to-practice stage. For this individual, a more flexible refresher course that addresses the specifics of their career arc and their evolving competency may be more appropriate.

2. **The need to align an updated Refresher Course with the principles being incorporated into the revised Quality Assurance Program**
   A great deal of research and consultation has been, and continues to be, undertaken and/or reviewed in support of the development of a revised Quality Assurance program. This program is being designed to be useful and relevant to practitioners in every practice setting, for every practice focus and at every stage of an RMT’s career. The refresher course for registrants is effectively a quality assurance mechanism (as opposed to an entry-to-practice mechanism for exam candidates and applicants), and should reflect the principles and concepts of the Quality Assurance program. Accordingly, it may be premature to proceed with the development of a registrant Refresher Course until the work being carried out for the revised Quality Assurance program is complete.

In order to ensure that the Refresher Course is in sync with the revised Quality Assurance program, development of the Refresher Course has been delayed.
Recommendation:

It is becoming increasingly clear that CMTO would benefit from two different refresher course programs, one for exam candidates and applicants, and one for registrants. Accordingly, staff are now recommending that the CMTO Refresher Course be developed and implemented as two distinct programs, an Applicant Refresher Course for examination candidates and applicants for registration, and a Registrant Refresher Course for registrants who have not met the client care requirement for maintaining their GC, or who have been IN for more than three years when they wish to move to a GC.

In 2017, the Work Plan included a project for “development and implementation of an updated Refresher Course”. This project was carried over into the 2018 Work Plan. However, in order to implement the above-noted recommendation, it is suggested that the project for 2018 be amended to, “Development and Implementation of an Applicant Refresher Course and a Registrant Refresher Course”. The deliverables for this project would be an Applicant Refresher Course program that meets the needs of exam candidates and applicants, and a Registrant Refresher Course program that meets the needs of current registrants. It is recommended that the target completion date for the Applicant Refresher Course be 2018 Q4. Given the timeframe under which the revised QA program is being developed and its impact on the Registrant Refresher Course, it is recommended that the target completion date for the Registrant Refresher Course be 2019 Q4.

Impact Statement:

CMTO will continue to run the current two-step Refresher Course as described above until such time as an Applicant Refresher Course is available, at which time the current Refresher Course would continue to be used only by registrants until the Registrant Refresher Course is available.

Draft Motion:

That the “Development and implementation of an updated Refresher Course” project in the 2018 work plan be updated to “Development and Implementation of an Applicant Refresher Course and a Registrant Refresher Course”; that the deliverables for this project are an Applicant Refresher Course program that meets the needs of exam candidates and applicants, and a Registrant Refresher Course program that meets the needs of current registrants; and that the target completion dates are 2018 Q4 for the Applicant Refresher Course, and 2019 Q4 for the Registrant Refresher Course.
<table>
<thead>
<tr>
<th>Project Charter Element</th>
<th>Description</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Title:</td>
<td><em>Give the project a name which is reasonably referable to the project.</em></td>
<td>Refresher Course Review and Update</td>
</tr>
<tr>
<td>Project Lead Executive:</td>
<td><em>Who is CMTO executive responsible for leading and delivering the project.</em></td>
<td>Director, Registration Services</td>
</tr>
<tr>
<td>Project Background:</td>
<td><em>Provide any essential background information necessary to understand why the project should be/was initiated.</em></td>
<td>The current Refresher Course policy and program were established in 2004 and have not been updated since that time. Subsequent to preliminary work being completed on this project in 2017, it was determined that work undertaken to update CMTO’s QA program could have an impact on the Refresher Course design. Given the quality assurance element of the Refresher Course, it’s important for the foundations underpinning this program to be consistent with CMTO’s QA initiatives.</td>
</tr>
<tr>
<td>Project Purpose:</td>
<td><em>What is this project aiming to achieve? What problem will it solve or improvement will it result in?</em></td>
<td>To ensure that appropriate, objective and fair remediation is available for exam candidates, applicants and registrants who are identified as needing to update their knowledge, skill and judgement prior to writing the exam, registering with CMTO or returning to active practice.</td>
</tr>
<tr>
<td>Strategic Alignment:</td>
<td><em>How does this project align with corporate, organization or strategic objectives and priorities?</em></td>
<td>This project supports Continuous Quality Improvement as well as Regulatory Modernization in the strategic plan.</td>
</tr>
<tr>
<td>Project Outcomes:</td>
<td><em>What are the measureable business or other outcomes that the project will achieve; Who will benefit from this outcome; How will these outcomes be measured?</em></td>
<td>Development and implementation of an effective review/remediation program that meets the above-noted purpose.</td>
</tr>
<tr>
<td>Project Deliverables:</td>
<td><em>What tangible product(s) will be delivered as part of project?</em></td>
<td>A Refresher Course Program with two streams: an Applicant Refresher Course for examination candidates and applicants to CMTO, and a Registrant Refresher Course for current registrants.</td>
</tr>
<tr>
<td>In-Scope:</td>
<td><em>What features are as part of this initiative.</em></td>
<td>An RFP will be developed to engage a third party to develop the Applicant Refresher Course; elements of the CMTO’s revised QA program may be used and/or re-purposed for the Registrant Refresher Course; third party education providers may be eligible to be approved to participate in the delivery of the Refresher Course program; a fully online option may be suitable for some refresher course participants; the Applicant Refresher Course is expected to differ significantly from the Registrant Refresher Course.</td>
</tr>
<tr>
<td>Out-of-Scope:</td>
<td><em>What features are not part of this initiative.</em></td>
<td>None at this time.</td>
</tr>
<tr>
<td>Assumptions:</td>
<td><em>Identify assumptions, at the time of writing the charter, are considered true, real or certain for purposes of planning</em></td>
<td>That an appropriate consultant will be identified to develop the Applicant Refresher Course; that components of the revised QA program can be used to inform the development of the Registrant Refresher Course; that it is possible to develop a Refresher Course Program that can be accessed from anywhere in Ontario.</td>
</tr>
<tr>
<td>Constraints:</td>
<td>Identify constraints/factors that are outside the control of the project team, that will limit available options and affect performance of the project. Consider time, budget, scope, quality, availability/skills of resources, priorities</td>
<td>Ensuring the financial viability of the Refresher Course programs; delays in the implementation of the revised QA program would have an impact on the development and implementation of the Registrant Refresher Course.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Implications for other CMTO Departments:</td>
<td>Does this initiative have any impact on other CMTO departments? Will other CMTO departments be expected to do something as part of developing and implementing the initiative? Once completed, will the initiative require any other CMTO department to change some aspect of their operations?</td>
<td>The Registrant Refresher Course will take into consideration the work done on the QA program, potentially make use of some of that work and be consistent with the fundamentals underpinning that work.</td>
</tr>
<tr>
<td>Completion Date:</td>
<td>During which quarter will the project be completed?</td>
<td>Applicant Refresher Course: 2018 Q4; Registrant Refresher Course: 2019 Q4</td>
</tr>
</tbody>
</table>
MEMO TO COUNCIL

To: Council
Date: February 5, 2018
From: Marnie Lofsky, Director, Professional Practice
Re: Quality Assurance Program Project Charter and Plan

Issue:
This briefing note was prepared to provide Council with greater clarity regarding the continuity between 2017 and 2018 in relation to the Quality Assurance Program Revision project.

Background:
To address the goal of “Quality” in the 2016 – 2018 Strategic Plan, the original project charter was developed and titled “Develop the overarching blueprint (informed by the 2015 lit review) for the revised quality assurance program and the associated implementation plan.” This project outlined phases 1 and 2 of the project and spanned 2016 through 2017.

- The project deliverables included:
  o establishing a foundational document and framework;
  o revision of the Standards of Practice
  o stakeholder consultation
  o development and pilot testing of new tools
  o Implementation of the full program
Part way through 2017, it was determined that this project as set out in the project charter was too large to effectively manage and should be divided into smaller phases.

- At the February 14, 2017 Council meeting, the Standards of Practice Review and Development project was approved and added to the 2017 Workplan – thereby removing this component from the original project and establishing it as its own, stand-alone project.

- The original Project Charter was re-written to better reflect the remaining project and deliverables (absent the Standards of Practice revisions) and this was brought to Council on September, 11, 2017, as part of the 2018 Workplan, for approval.

- The new Project Charter is titled “Testing and implementation of Revised QA Program and create evaluation component of the QA program” and better aligns with the Quality Strategic Goal for the 2016-2018 Strategic Plan. This project will be implemented in 2018 and 2019 and continues where the previous project left off.

- The new project deliverables included:
  - Develop and test a Self-Assessment Tool, Learning Plan, Practice Stimulated Activity/Exercise, and Peer Assessment Tool
  - Develop and implement mandatory educational module
  - Create resources (video/webinar) to introduce new Quality Assurance Program
  - Establish a system to evaluate the program’s impact, identification of risk factors, and compliance.
To: Executive Committee

Date: February 1, 2018

From: C. Flitton, Registrar & CEO

Re: 2017- Q4, 2018 – Q1 Registrar and Administration Report

1. Activities

The following provides an overview of the Registrar’s activities since the November 13, 2017 Council Meeting:

- November 9, 2017 – Meeting with Alcohol and Gaming Commission of Ontario CEO, Jean Major to discuss general regulatory issues.
- November 30, 2017 – Attended, with CMTO President, Lisa Tucker, RMT second of two annual meetings with RMTAO President Krystin Bokalo, RMT and Andrew Lewarne, RMT, Executive Director to discuss various matters.
- December 4, 2017 – Attendance at Managing Cultural Differences Workshop – Part 1 conducted for CMTO staff.
- December 4, 2017 – Participated with Angie Brennand, Director Policy and Communications, in teleconference with Allison Henry, Director, Health System Labour Relations and Regulatory Policy Branch, Health Workforce Planning and Regulatory Affairs Division.
- December 5, 2017 – Executive Committee Teleconference
- December 11, 2017 – FHRCO Board of Directors Meeting
- December 13, 2017 – Meeting with Auditor regarding audit preparation.
- January 11, 2018 – supervised and administered the election procedures in the District 7 Election to Council.
- January 17 and 18, 2018 – Conducted initial orientation for 4 new council members, Maketo Binzangi, Public Member, Shannon Marshall, RMT, Neven Jeftic, RMT and Dawn Oehring, RMT.
- January 24, 2018 – Meeting with Andrew Lewarne, RMT, Executive Director, RMTAO to discuss various matters of concern to RMTAO.
• January 25, 2018 – Attended meeting with Counsel Public Affairs to discuss various communications matters.
• January 28, 2018 – Gave presentation on CMTO’s Strategic Plan at RMTAO AGM along with Marnie Lofsky, Director, Professional Practice
• January 31, 2018 – Conducted second new council member orientation session with Lisa Tucker, RMT, President.
• February 1, 2018 – Executive Committee Meeting

2. **Upcoming Meetings**

• February 8, 2018 - FHRCO meeting

3. **Administration Activities/Information since last Report**

• CMTCA started receiving applications for preliminary accreditation from several educational programs, including some programs in Ontario, and before the end of Q4. One program (not in Ontario) was granted full accreditation subsequent to a site visit.
MEMO TO COUNCIL

Date: February 5, 2018
From: Corinne Flitton, Registrar & CEO
Subject: Q4 Financial Report for the 12 months ended December 31, 2017

BACKGROUND:

The attached unaudited financial statements for the 4th quarter of 2017 (Q4) include:

a) **Statement of Revenues and Expenses**: summarizing revenues and expenses for fiscal year ended December 31, 2017 compared to the budget for the same period and the 2016 audited financial statements.

b) **Statement of Financial Position** (Balance Sheet) as at December 31, 2017 compared to the 2016 audited financial statements.

ANALYSIS OF VARIANCES:

I. **Statement of Revenues and Expenses**

For the twelve months ended December 31, 2017, the College generated $79K in net surplus, versus a projected deficit of $297K. However, the results presented for 2017 are preliminary as the fiscal 2017 audit will commence shortly and certain adjustments including those related to investment income, amortization and the accrual for complaints and discipline costs are to be recorded.

The analysis below provides an explanation of significant variances from budget.
### Revenues

<table>
<thead>
<tr>
<th>Revenue Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration fees</td>
<td>Inactive renewals were in line with budget whereas general renewals were less than budget by approximately 100 registrants. Registrant growth and total registrant numbers remain robust with 762 new registrants in 2017.</td>
</tr>
<tr>
<td>Examination fees</td>
<td>MCQ revenues were above budget by $53K; mainly composed of 90 more attempts. OSCE revenues were above budget by $119K; mainly composed of 137 more attempts.</td>
</tr>
<tr>
<td>Investment income</td>
<td>Fiscal 2017 investment income has not yet been accounted for. Staff continue to work closely with our investment advisor to ensure safety of capital and maximize income generated by our restricted funds, within the parameters of our investment policy.</td>
</tr>
</tbody>
</table>

### Expenses

<table>
<thead>
<tr>
<th>Expense Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council and committees</td>
<td>Council and committees expenses are above budget as a result of an increase in the number of discipline hearings and ICRC meetings due to an increase in the number of cases and the College's attempt to address the backlog of hearings. The QA committee also met four more times than budgeted to discuss development of the new QA program.</td>
</tr>
<tr>
<td>ICRC and Discipline</td>
<td>Investigation, ICRC and Discipline costs remain the key driver to costs in excess of budget including longer, more complex and contested hearings. In addition, more cases were received during the year - 138 new complaints (2016 – 93 new complaints) with 49 referred to Discipline (2016 – 11).</td>
</tr>
<tr>
<td>Examinations</td>
<td>Examinations expenses were $164k below budget. This is due in part to efficiencies realized by process updates, fewer content development meetings than originally budgeted, lower translation costs and a contingency for additional meetings that wasn’t used.</td>
</tr>
<tr>
<td>Category</td>
<td>Description</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Quality Assurance</td>
<td>The department spent $50k less due to the deferral of a training session that was targeted to help peer assessors employ new skills as part of updates to the current Peer Assessment Process as well as process improvements at the Quality Assurance Committee level. The decrease in training was offset by an increase in peer assessor expenses ($26k over budget) as the department changed its policy for assigning peer assessors to cases, to eliminate potential conflicts of interest, resulting in greater travel expenses.</td>
</tr>
<tr>
<td>Communications</td>
<td>Communications expenses are below budget due to less resources spent on media, focus groups, consultations and general communications. Media – deferred production of videos related to the Protecting Patients Act after the release of the standard of practice for maintaining professional boundaries and preventing sexual abuse as CMTO is determining the best way to produce the video and ensure knowledge transfer. Focus group and consultations – CMTO planned to hold a meeting with facilitators and the general public on policy changes, brochure etc. but other means (Survey Monkey surveys) were used instead. General communication - CMTO decided to defer the implementation of a Microsite and instead used existing technology e.g. Survey Monkey to perform consultations with public and registrants on various issues.</td>
</tr>
<tr>
<td>Salaries and benefits</td>
<td>Salaries and benefits had a favourable variance as a number of positions remained vacant, creating net savings during the year.</td>
</tr>
<tr>
<td>Consulting fees</td>
<td>Consulting fees are below budget due to initiatives that have been deferred to next year. This relates to deferral of consultation for the Quality Assurance Program revisions and the refresher course.</td>
</tr>
<tr>
<td>Legal fees</td>
<td>Legal fees are above budget as the College sought more than expected advice on standards and governance. Advice was required on the new Protecting Patients Act. Counsel was also required for a number of matters related to the College's business process and organizational reviews. Overall, the environment required more general advice to inform decision making.</td>
</tr>
<tr>
<td>Amortization</td>
<td>Fiscal 2017 amortization expense has not yet been accounted for.</td>
</tr>
</tbody>
</table>
Other costs

No additional funds were paid to the Massage Therapy Research Fund (administered by the University of Toronto’s Centre for Integrative Medicine (CIM) until the end of June 2017 and Applied Research, Innovation, and Entrepreneurship Services, Centennial College beginning in July, 2017).

II. Statement of Financial Position

The analysis below provides an explanation of significant variances from fiscal 2016 year end balances.

 Assets

<table>
<thead>
<tr>
<th>Cash and Investments</th>
<th>The combined net change reflects surplus for the year ($79k per Statement of Revenues and Expenses) and the receipt of funds obtained from renewals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital assets</td>
<td>The change reflects additions during the year related to the construction of new office space and the purchase of office furniture and computers.</td>
</tr>
</tbody>
</table>

 Liabilities

| Deferred fees: registration and exams | The change reflects an increase in fees from $589 (2017 renewal fee) to $598 (2018 renewal fee). In addition, compared to the prior year, 300 more registrants renewed before the end of the fiscal year. |
# Statement of Revenues and Expenses for the year ended December 31, 2017

<table>
<thead>
<tr>
<th></th>
<th>Actual YTD</th>
<th>Budget YTD</th>
<th>Variance</th>
<th>Variance %</th>
<th>2016 Audited Financial Statements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Registration fees</td>
<td>$7,984,830</td>
<td>$8,046,928</td>
<td>$(62,098)</td>
<td>-0.77%</td>
<td>$7,620,644</td>
</tr>
<tr>
<td>Examination fees</td>
<td>$1,400,455</td>
<td>$1,227,750</td>
<td>$172,705</td>
<td>14.07%</td>
<td>$1,511,350</td>
</tr>
<tr>
<td>Investment income</td>
<td>$15,554</td>
<td>$120,000</td>
<td>$(104,446)</td>
<td>-87.04%</td>
<td>$173,987</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td>$9,400,839</td>
<td>$9,394,678</td>
<td>$6,161</td>
<td>0.07%</td>
<td>$9,305,981</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Council and committees</td>
<td>$312,858</td>
<td>$252,200</td>
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<td><strong>MTRF Contributions</strong></td>
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<td><strong>Excess of Revenue over Expenses for the period</strong></td>
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BRIEFING NOTE TO COUNCIL

Date: January 31, 2018

From: Client Relations Committee

Re: Proposed Policy Update – Funding for Therapy and Counselling

Background:

According to current provisions of the Regulated Health Professions Act, 1991, (RHPA) funding for therapy and counselling can only be provided to a client if there is a finding of sexual abuse by the Discipline Committee.

In today’s environment, the current provisions are no longer considered adequate, primarily because not all cases involving clients who have experienced sexual abuse by a Registered Massage Therapist (RMT) proceed to a discipline hearing. For example, the RMT could sign a statement admitting to the abuse and agree (through an undertaking) never to practise Massage Therapy again, or an RMT may have been found guilty of sexual assault by a court (in a manner equivalent to sexual abuse in the RHPA) but not go through CMTO’s discipline process. For this reason, CMTO has been proposing to broaden the eligibility criteria for funding for therapy and counselling for a number of years.

In an effort to broaden these provisions, on December 5, 2016, CMTO’s Council approved a proposed Regulation for Funding for Therapy and Counselling (Attachment A: Proposed Regulation Under the Massage Therapy Act, 1991, Funding for Therapy and Counselling for Clients Sexually Abused by a Member) and directed that the regulation be circulated to stakeholders for consultation. On December 6, 2016, CMTO began the consultation and invited stakeholders to comment via an on-line consultation mechanism.

However, on December 8, 2016, the Government of Ontario introduced Bill 87, the Protecting Patients Act, 2017. The Act (once this section is in force) will expand the current funding criteria to:

a) Make funding automatic for a person who makes a complaint or is the subject of a report that alleges sexual abuse;
b) Make funding available from the time that the complaint or report has been made, and mandate that a funding decision be made within a reasonable time; and

c) Potentially expand the types of expenses for which funding must be provided (e.g., travel or childcare costs).

Of the three funding eligibility scenarios described above (1) the current scenario; (2) the changes expected as part of the Protecting Patients Act; and (3) CMTO’s proposed regulation, the current scenario is the most restrictive, as funding for therapy and counselling can only be accessed upon a finding by the Discipline Committee. The new scenario (scenario 2) expected to come into effect in 2018 under the Protecting Patients Act, is broader than the current scenario in that all clients who are complainants or subject of a report would be eligible. However, scenario 3, the proposed regulations that Council had approved, offered the broadest range of scenarios where a client could access funding for therapy and counselling.

For example, under scenario 3, funding could be provided to an individual if “there is sufficient evidence presented to the Client Relations Committee to support a reasonable belief that the person, while a client, was sexually abused by a registrant”.

For Consideration:

In December 2016, CMTO intended to broaden its funding eligibility provisions via regulation. Once Bill 87 was introduced and passed, CMTO began waiting for the broader funding provisions in the Protecting Patients Act to come into force before considering whether to move forward with the previous proposed regulations.

Given that the Province of Ontario is currently developing its own regulations on funding for therapy and counselling, legal counsel has now recommended that CMTO consider broadening its current funding provisions by policy instead of through regulation. Once the regulations under the Protecting Patients Act are passed (and the section of the Act is proclaimed), CMTO can then consider whether or not to pursue the changes in the optimal way (via regulation).

A proposed policy change that would allow CMTO to broaden its funding eligibility criteria is contained in Attachment B: Proposed Policy for Funding Therapy and Counselling. Attachment C shows the changes that are proposed compared to the policy that is currently in place.

The proposed policy change would broaden CMTO’s funding eligibility provisions in a way similar to CMTO’s proposed regulations (from 2016), and would likely result in increased costs to the College for therapy and counselling.

The proposed policy would make applicants eligible for funding for therapy and counselling if:

(a) it is alleged, in a complaint or report, that the applicant while a client, was sexually abused by a registrant or former registrant;
(b) there has been a finding by a panel of the College’s Discipline Committee that the applicant, while a client, was sexually abused by a registrant or former registrant;

(c) a registrant or former registrant enters into an undertaking with the College to provide funding for therapy and counselling;

(d) there is an admission made by a registrant in a statement to the College or in an agreement with the College that he or she sexually abused the applicant while the applicant was a client of the registrant or former registrant;

(e) a registrant or former registrant has been convicted under the Criminal Code (Canada) of sexually assaulting the applicant while the applicant was a client of the registrant or former registrant and the facts supporting the sexual assault constitute sexual abuse within the meaning of the Health Professions Procedural Code;

(f) there is a statement, contained in the written reasons of a committee of the College given after a hearing, that the applicant, while a client, was sexually abused by a registrant or former registrant; or

(g) there is sufficient evidence presented to the Client Relations Committee to support a reasonable belief that the applicant, while a client, was sexually abused by a registrant or former registrant.

There is, however, a risk to pursuing this change in policy versus regulation. Statutorily, the College can add additional criteria for funding through a regulation, not through a policy. Eligibility requirements (a) and (d) – (g) above could be challenged. For example, registrants may challenge the College on its funding of therapy and counselling that is not legislatively authorized.

A challenge could be initiated through a judicial/court process in an effort to have CMTO recover the funding from applicants. CMTO believes there is a very low probability that it would ever be forced to recover funding for therapy and counselling from those who have suffered sexual abuse. A challenge could also be initiated to the Government of Ontario, arguing that CMTO is funding therapy through a process that is not legislatively authorized. CMTO believes that there is a very low probability that the Government of Ontario would direct CMTO to stop providing funding for therapy and counselling to those who have suffered sexual abuse, particularly because other colleges operate under these same provisions contained in regulation, and because the government has been working to broaden health regulatory colleges’ funding provisions.

The proposed policy is also in line with the changes that Council agreed to consult on and would have considered submitting to the Government of Ontario for adoption in early 2017.
Consultation feedback (from late 2016/early 2017) on the proposed regulations was very positive. Of 210 respondents, 82 percent supported the proposed regulations and 18 percent did not. Comments from those who did not support the proposed regulations (Attachment A) included concerns about higher annual fees, and statements that all registrants should not be funding therapy and counselling for sexual abuse by a subset of registrants.

Given that CMTO would like to broaden its eligibility requirements for funding for therapy and counselling, and given that we are awaiting the government’s proclamation of the relevant section of the Protecting Patients Act, the Client Relations Committee recommends that Council consider approving the policy changes contained in Attachments B/C.

**Draft Motion:**

THAT Council approve the Internal Policy for Administering CMTO’s Funding for Therapy and Counselling Program as presented, and that the Policy be effective immediately.

**Action:**

If Council approves the Internal Policy for Administering CMTO’s Funding for Therapy and Counselling Program, staff will update administrative processes and work with the Client Relations Committee to operationalize the new Program.

**Attachments:**

Attachment A: Proposed Regulation Under the *Massage Therapy Act, 1991*, Funding for Therapy and Counselling for Clients Sexually Abused by a Member

Attachment B: Proposed Internal Policy for Administering CMTO’s Funding Therapy and Counselling Program (clean copy)

Attachment C: Proposed Internal Policy for Administering CMTO’s Funding Therapy and Counselling Program (changes are tracked)
Appendix A
Proposed Regulation Under the Massage Therapy Act, 1991
Funding for Therapy and Counselling for Clients Sexually Abused by a Member

Definition
1. In this Regulation,
   “member” includes a former member

Eligibility for Funding
2. The Client Relations Committee shall determine whether a person is eligible for funding under clause 85.7 (4) (a) of the Health Professions Procedural Code or under section 3 of this regulation.

Alternative Eligibility
3. (1) The alternative requirements for a person to be eligible for funding under clause 85.7 (4) (b) of the Health Professions Procedural Code are that,
   (a) the person submits an application for funding to the Client Relations Committee in the form provided by the Committee which shall include the name of the member whose conduct may entitle the person to funding;
   (b) the person provides any other information as required by the Client Relations Committee; and
   (c) any of the circumstances described in subsection (2) exist.

   (2) The circumstances in which a person may be eligible for funding are as follows:
   (a) there is a finding by a court that the person, while a client, was sexually assaulted by a member within the meaning of the Criminal Code;
   (b) there is a finding by a court or administrative tribunal that a person, while a client was sexually abused by a member;
   (c) there is an admission made by a member in a statement to the College or in an agreement with the College that he or she sexually abused the person while the person was a client of the member;
   (d) there is an allegation that the person, while a client, was sexually abused by the member which results in an informal resolution with the member that contemplates funding for therapy or counselling;
(e) the person satisfies the Inquiries, Complaints and Reports Committee that there is a high probability that the person, while a client, was sexually abused by a member but a hearing of the Discipline Committee is not held for one of the following reasons: 
   i. the member is deceased or cannot be located;
   ii. the member is incapacitated;
   iii. the member has resigned and agreed not to practise again;
   iv. the member’s certificate of registration was revoked for misconduct of a sexual nature toward another client;
   v. there is a finding by the Discipline Committee that the member sexually abused another person and, in the Committee’s opinion, the public interest would not be served by conducting another discipline hearing;
   vi. the person is unable to testify before the Discipline Committee as result of a physical or mental condition

(f) at a hearing of the Discipline Committee into the conduct of a member, the person testifies that he or she was sexually abused by the member while a client and the Discipline Committee acknowledges in its written reasons that the testimony was credible;

(g) there is a finding made by the Discipline Committee that conduct of a sexual nature had occurred between the person, while a client, and a member and such conduct resulted in a finding of professional misconduct or incompetence against the member;

(h) there is a statement contained in the written reasons of the Discipline Committee given after a hearing which satisfies the Client Relations Committee that the person, while a client, was sexually abused by the member; or

(i) there is sufficient evidence presented to the Client Relations Committee to support a reasonable belief that the person, while a client, was sexually abused by a member.

**Eligibility for Funding not a Finding against the Member**

4. A decision by the Client Relations Committee that a person is eligible for funding for therapy or counselling does not constitute a finding against the member and shall not be considered by any other committee of the College dealing with the member.
Pre-Regulated Health Professions Act, 1991 Abuse

5. A person who is otherwise eligible for funding for therapy or counselling under section 3 is not eligible for funding if the therapy or counselling for which funding is requested relates to sexual abuse by a member that occurred before December 31, 1993 unless, in the opinion of the Client Relations Committee, the granting of funding would be just and equitable having regard to the following:

(a) whether the need for therapy or counselling results directly or indirectly from the alleged sexual abuse;

(b) the availability of other sources of funding; and

(c) the College’s resources.
The Client Relations Committee is responsible for the administration of the College’s funding program.

Under provisions of Health Professions Procedural Code of the *Regulated Health Professions Act, 1991 (RHPA)*, each College is required to set up a program to provide funding for therapy and counselling for persons who, while clients, were sexually abused by registrants.

The *Protecting Patients Act, 2017*, will make funding automatic for a client who makes a complaint or is the subject of a Mandatory Report that alleges sexual abuse. The new broadened funding rules (RHPA s. 43(1)(y), Code s. 1.1, 85.7, 95(1)(q.1)) expand funding eligibility significantly, as previously a client was only eligible for funding if there was a finding of sexual abuse of a registrant by the Discipline Committee. An appeal of a decision does not affect the client’s right to eligibility.

Under provisions of the Code the client may choose a therapist or counsellor of their choice. The therapist or counsellor does not have to be a regulated health professional.

The College has established the following Policy to outline the application of the funding program as set out below.
Internal Policy for Administering CMTO’s
Funding for Therapy and Counselling Program

This document outlines CMTO’s funding for therapy and counselling program policy.

1. **Eligibility Requirements**

1.1 The applicant is eligible for funding for therapy and counselling if:

   (a) it is alleged, in a complaint or report, that the applicant while a client, was sexually abused by a registrant or former registrant;
   (b) there has been a finding by a panel of the College’s Discipline Committee that the applicant, while a client, was sexually abused by a registrant or former registrant;
   (c) a registrant or former registrant enters into an undertaking with the College to provide funding for therapy and counselling;
   (d) there is an admission made by a registrant in a statement to the College or in an agreement with the College that he or she sexually abused the applicant while the applicant was a client of the registrant or former registrant;
   (e) a registrant or former registrant has been convicted under the Criminal Code (Canada) of sexually assaulting the applicant while the applicant was a client of the registrant or former registrant and the facts supporting the sexual assault constitute sexual abuse within the meaning of the Health Professions Procedural Code;
   (f) there is a statement, contained in the written reasons of a committee of the College given after a hearing, that the applicant, while a client, was sexually abused by a registrant or former registrant; or
   (g) there is sufficient evidence presented to the Client Relations Committee to support a reasonable belief that the applicant, while a client, was sexually abused by a registrant or former registrant.

1.2 The applicant does not have to undergo any psychological or other assessment of need in order to obtain the funding.

1.3 The applicant is still eligible even if the finding of a discipline panel is under appeal.
1.4 CMTO’s Director of Professional Conduct provides the Director of Policy and Communications with the names of potential applicants as they become available.

1.5 The Director of Policy and Communications or Director of Professional Conduct sends each potential applicant a letter inviting them to apply for the program and providing the requisite information and forms.

2. **Application Process**

2.1 The applicant is to submit the completed application form to the College c/o the Director, Policy and Communications.

2.2 The applicant is free to choose the therapist or counsellor to provide treatment, provided the therapist or counsellor:

   2.2.1 Does not have a family relationship with the applicant:
   2.2.2 Has not been found guilty of professional misconduct of a sexual nature at any time or in any jurisdiction or been found civilly or criminally liable for an act of a similar nature; and
   2.2.3 The therapist or counsellor does not have to be a regulated health professional under the RHPA.

2.3 CMTO staff will review the therapist or counsellor’s qualifications (via website and public register if available) to satisfy the College that the proposed counsellor or therapist meets the qualifications under 2.2. All therapists and counsellors listed by applicants will be asked to complete a declaration that they have not been found guilty of professional misconduct of a sexual nature at any time or in any jurisdiction or been found civilly or criminally liable for an act of a similar nature.

2.4 If the therapist or counsellor chosen by the applicant is not a member of a regulated health profession, the College may require the applicant to sign a document indicating that he or she understands that the therapist or counsellor is not subject to professional discipline.
2.5 If all of the requirements in Sections 1, and 2.1-2.4 are satisfied, the application for funding is approved. The applicant will be notified in writing within a maximum of 60 days after receipt of completed documentation regarding funding.

2.6 CMTO staff will provide an update to the Client Relations Committee at each Client Relations Committee meeting.

2.7 In the event that there is an unresolved question about whether the application meets the requirements, the application will be brought forward to the Client Relations Committee for consideration. In bringing forward the application, CMTO staff will:
   - anonymize the information;
   - limit the details of the nature of the issues to only what is strictly necessary in order to decide whether to approve the funding; and
   - provide the application to as few CRC members as possible (use only the minimum needed in order meet quorum requirements).

2.8 If, following discussion, the Client Relations Committee does not approve the funding, the applicant will be provided with its reasons in writing.

3. **Amount and Duration of Funding**

3.1 Following approval, the applicant will be asked to, within thirty (30) days following receipt of the invoice, forward to the College to the attention of the Director of Policy and Communications the invoice(s) for services received from the approved therapist or counsellor rendering treatment.

3.2 The maximum funding available to each applicant is established by the RHPA and is equivalent to the amount that the Ontario Health Insurance Plan (OHIP) would pay for 200 half-hour sessions of individual out-patient psychotherapy with a psychiatrist.

3.3 The funding is accessible over a five-year period.

3.4 The funding shall only be used to pay for therapy or counselling, and shall not be applied directly or indirectly for any other purpose.
3.5 The funding is to be reduced by the amount that OHIP or a private insurer is required to pay for therapy or counselling.

4. **Administration of Funding**

4.1 If the applicant changes therapist or counsellor while being funded by the College, the new therapist or counsellor is required to go through the same approval process as the previous therapist or counsellor.
Client Relations Committee
Internal Policy for Administering CMTO’s
Funding for Therapy and Counselling Program

The Client Relations Committee is responsible for the administration of the College’s funding program.

Under provisions of Health Professions Procedural Code of the *Regulated Health Professions Act, 1991 (RHPA)*, each College is required to set up a program to provide funding for therapy and counselling for persons who, while clients, were sexually abused by registrants.

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Under provisions of the Code the client may choose a therapist or counsellor of their choice. The therapist or counsellor does not have to be a regulated health professional.

The College has established the following Policy to outline the application of the funding program as set out below.
Internal Policy for Administering CMTO’s Funding for Therapy and Counselling Program

This document outlines the requirements of CMTO’s funding for therapy and counselling program policy. The requirements are as follows:

1. Eligibility Requirements

1.1 The applicant is eligible for funding for therapy and counselling if:

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(e) a registrant or former registrant has been convicted under the Criminal Code (Canada) of sexually assaulting the applicant while the applicant was a client of the registrant or former registrant and the facts supporting the sexual assault constitute sexual abuse within the meaning of the Health Professions Procedural Code;
(f) there is a statement, contained in the written reasons of a committee of the College given after a hearing, that the applicant, while a client, was sexually abused by a registrant or former registrant; or

1.2 The applicant does not have to undergo any psychological or other assessment of need in order to obtain the funding.

1.3 The applicant is still eligible even if the panel’s finding of a discipline panel is under appeal.
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2.2.2 Has not been found guilty of professional misconduct of a sexual nature at any time or in any jurisdiction or been found civilly or criminally liable for an act of a similar nature; and

2.2.3 The therapist or counsellor does not have to be a regulated health professional under the RHPA.

2.3 CMTO staff will review the therapist or counsellor’s qualifications (via website and public register if available) to satisfy the College that the proposed counsellor or therapist meets the qualifications under 2.2. All therapists and counsellors listed by applicants will be asked to complete a declaration that they have not been found guilty of professional misconduct of a sexual nature at any time or in any jurisdiction or been found civilly or criminally liable for an act of a similar nature.

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2.6 CMTO staff will provide an update to the Client Relations Committee at each Client Relations Committee meeting.

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- anonymize the information;
- limit the details of the nature of the issues to only what is strictly necessary in order to decide whether to approve the funding; and
- provide the application to as few CRC members as possible (use only the minimum needed in order to meet quorum requirements).

2.8 If, following discussion, the Client Relations Committee does not approve the funding, the applicant will be provided with its reasons in writing.

3. Amount and Duration of Funding

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3.3 The funding is accessible over a five-year period.

3.4 The funding shall only be used to pay for therapy or counselling, and shall not be applied directly or indirectly for any other purpose.
3.5 The funding is to be reduced by the amount that OHIP or a private insurer is required to pay for therapy or counselling.

4. Administration of Funding

4.1 The application and information about the Funding for Therapy and Counselling will be forwarded to the applicant once the decision of the panel of the Discipline Committee has been read into the record.

4.2 If the applicant changes therapist or counsellor while being funded by the College, the new therapist or counsellor is required to go through the same approval process as the previous therapist or counsellor.
BRIEFING NOTE

To: Council

Date: February 2, 2018

From: C. Flitton, Registrar & CEO

Re: Dissolution of Clinic Regulation Working Group

The text of this briefing note was prepared by the College of Physiotherapists of Ontario, which kindly gave permission to CMTO to reproduce it for Council.

Issue

The Clinic Regulation Working Group has agreed to end their work on the clinic regulation project. We are very pleased with the collaboration on this important project to pursue the public interest. The Working Group was able to raise awareness of a gap in patient protection to the Ministry. Ministry staff signaled an interest in exploring ways to address it. However, due to competing government priorities the Ministry is not able to make a formal commitment to take action at this time. As a result the Working Group is does not anticipate being able to move this issue forward.

Background

The Clinic Regulation Working Group was formed in early 2015 with a number of health Colleges to explore potential ways to regulate clinics in Ontario. The colleges shared a concern about a gap in accountability where clinics and their unregulated owners do not have a formal duty of care to patients, and no formal accountability for the quality of the care provided in their clinics. The Working Group sees this as a serious gap in public protection.

The Working Group undertook research and analysis to explore potential solutions. The research looked at facility regulation in comparable jurisdictions across the world. Based on that research, the Working Group developed a hypothetical model for clinic regulation and consulted with a wide range of stakeholders to determine its feasibility. The feedback we received indicated that while stakeholders agreed that there are issues in clinics, they have reservations about the costs and implications of full clinic regulation. The Working Group concluded that the
public interest could be served by a range of possible interventions, yielding varying elements and degrees of public protection.

The Working Group is certain that some form of clinic oversight would serve the public interest. In September 2016, the Working Group formally submitted a report to the Minister of Health and Long-Term Care, and recommended further exploration to identify a solution that will best protect patients in Ontario.

The Working Group proposed that the government establish a forum for the examination and discussion of how to ensure that Ontarians receive safe, patient-centred care in all settings.

Since submitting the report in September 2016, the Working Group has had ongoing discussions with Ministry staff to ensure they understand the concern that the Working Group has identified, and to discuss how the group can work with them to meaningfully address the problem. The Group was encouraged when the Minister’s staff signaled interest in taking some action.

Most recently, since the tabling of Bill 160, *Strengthening Quality and Accountability for Patients Act*, the Working Group’s discussions with the Ministry has focused on the potential to address clinic regulation under the proposed *Oversight of Health Facilities and Devices Act*. Even though the proposed oversight regime is intended to address the existing independent health facilities, the definition of “community health facility” in the proposed legislation appears to be sufficiently broad to potentially include other types of clinics.

In early November, the College of Physiotherapists of Ontario, on behalf of the Working Group, appeared before the Standing Committee on General Government as part of the public hearings on Bill 160. The presentation highlighted the accountability gap that the Working Group has identified, and asked that the government consider incorporating clinic regulation into the community health facility regime that is proposed in Bill 160. The questions and comments from the Committee members suggested that they acknowledged the problems that stem from the current accountability gap, and that it should be addressed to protect the public. However, it is not clear what action, if any, the government will take regarding this issue.

In the most recent meeting with Ministry staff in early November, they indicated that their immediate priority is to transition the existing independent health facilities into the new community health facility regime, and that consideration of other types of clinics would happen only after that initial phase of work is complete. The Ministry also expressed the desire to have more concrete evidence of the risk of harm that results from the accountability gap that the Working Group has identified before considering potential solutions.
The Working Group believes that to provide any further evidence of harm would require a detailed economic analysis at the system level, which would be outside of the mandate and expertise of the colleges to do so. We asked that the Ministry consider carrying out this work.

The Working Group does not believe that any further work on its part would be fruitful, and has agreed to formally conclude its work on the clinic regulation project. The Working Group sent a letter to the Ministry to urge them to undertake the work to determine how best to address the accountability gap.

**Attachments:**

- Clinic Regulation Working Group Letter to the Ministry of Health and Long-Term Care (December 1, 2017)
December 1, 2017

Lynn Guerriero              Denise Cole
Assistant Deputy Minister    Assistant Deputy Minister
Negotiations and Accountability  Health Workforce Planning and
Management Division          Regulatory Affairs Division

Dear Ms. Guerriero and Ms. Cole,

I am writing on behalf of the Clinic Regulation Working Group in response to your letter of November 3, 2017.

Thank you for your consideration of the Working Group’s report. It is still our hope that the ministry will consider the inclusion of non-medical clinics in the proposed Community Health Facility oversight regime. We appreciate the ministry’s desire to determine a course of action based on consideration of a solid evidence base and sound analysis. However, it would appear that any additional evidence and analysis beyond what the Working Group has already considered would likely involve a detailed economic analysis at the system level. That kind of analysis would be beyond the mandate and the expertise of the regulatory Colleges to conduct.

The Working Group believes that the ministry would have the resources and expertise to do that kind of analysis, and we urge the ministry to undertake that work to determine how the gap in accountability can be best addressed to improve patient protection. If the ministry undertakes this work in the future, the Working Group would be happy to assist in any way we can.

Thank you again for your consideration of the Clinic Regulation Working Group’s report.

On behalf of the Clinic Regulation Working Group,

Shenda Tanchak
Registrar & CEO
College of Physiotherapists of Ontario