

BRIEFING NOTE

TO: Council

FROM: Governance Committee

DATE: February 26, 2020

SUBJECT: 13.1 Amendments to By-Law Articles 6, 7, 12 and Schedule D

☒ For Decision ☐ For Information ☐ Monitoring Report

Purpose:

To review proposed by-law amendments pertaining to the duties and conduct of Council and Committee Members.

Background:

As part of its ongoing work to update to modernize the governance structure at the COO, the Governance Committee was tasked with reviewing and updating the sections of the COO By-laws that pertain to the duties and responsibilities of Council and Committee Members, including the Code of Conduct which is set out in Schedule D.

For Consideration:

The proposed updated Code of Conduct includes detailed provisions relating to the duties of Council and Committee members, including conflicts of interest, confidentiality requirements, College communications and social media use. The new proposed Code of Conduct elaborates on the existing document to address issues of loyalty, accountability, integrity, independence and diversity for Council and Committee members. The new Code also includes the process for enforcing allegations of breaches of the Code of Conduct

Amendments have also been proposed to Articles 6, 7 and 12 of the By-laws. The proposed amendments seek to remove provisions that have been made redundant by virtue of the updated Code of Conduct, re-organize existing provisions in a more cohesive way, and ensure consistency and clarity of language, in particular the provisions dealing with the disqualification of Council and Committee members.

Some of the highlights of the proposed amendments include:

- The provisions dealing with the disqualification of Elected Council Members have been moved from Article 7 (Duties of Council Members and Committee Members) to Article 6 (Elected Council Members)

- Article 7 has been overhauled so that it sets out the foundational duties for Council and Committee Members to comply with the Code of Conduct, including conflict of interest and confidentiality, as well as the Council's power of enforcement with respect to these duties.
- Provisions have been added to clarify the process for disqualification of Council and Committee members
- The preamble to the section pertaining to disqualification of Committee members has been amended to clarify that it applies to all Committee members, including Elected Members, Public Members and Appointed Members.

The proposed amendments to by-law articles 6, 7 and 12 are attached as **Appendix 1**. Note that the chart also includes proposed amendments from the Executive Committee to the disqualification criteria for both Council and Committee members (sections 6.15(t) and 12.3(a)(xvii)).

The current Code of Conduct is attached as **Appendix 2**.

The proposed updated Code of Conduct is attached as **Appendix 3**.

Recommendations:

That Council discuss and approve the attached chart of the proposed amendments and the new proposed draft Schedule D Code of Conduct as recommended by the Governance Committee.

There is no requirement under the *Health Professions Procedural Code* that these proposed by-law amendments be circulated for stakeholder feedback prior to enactment.

Proposed By-Law Amendments

Current Language	Proposed Language	Rationale
ARTICLE 6: ELECTED COUNCIL MEMBERS		
6.3 Eligibility for Election		
<p>6.3 A Member is eligible for election to Council in an electoral district if, on the deadline for the receipt of nominations and up to and including the date of the election:</p> <p>(h) the Member has resigned, before being nominated for election, any position such as director, owner, board member, officer or employee that the Member holds with a professional association relating to opticianry;</p>	<p>6.3 A Member is eligible for election to Council in an electoral district if, on the deadline for the receipt of nominations and up to and including the date of the election:</p> <p>(h) the Member has resigned, before being nominated for election, any position such as director, owner, board member, officer or employee that the Member holds with a professional association relating to opticianry <u>any organization of or for opticians that has as its primary mandate the promotion of the opticianry profession</u>;</p>	<p>The purpose of this eligibility criteria is to preclude individuals from joining Council if they are also in a leadership positing within an organization whose mandate is in direct conflict with the College’s mandate of protecting the public.</p> <p>The proposed amendment seeks to clarify that any organization, whether or not it is considered a “professional association”, that exists to promote the opticianry profession as its primary mandate would give rise to a conflict.</p>
<p>7.22 Disqualification</p> <p>An Elected Council Member shall be disqualified from sitting on Council if he or she:</p>	<p>7.226.15 Disqualification</p> <p>An Elected Council Member shall be disqualified from sitting on Council if he or she:</p>	<p>The criteria for the disqualification of Elected Council Members is currently found in Article 7.22.</p> <p>The purpose of moving this section to Article 6 is to keep it together with other provisions pertaining to Elected Council Members, including eligibility for election, election process and vacancies.</p>
<p>(a) is found by a panel of the Discipline Committee to be incompetent or to have committed an act of professional</p>	<p>(a) is found by a panel of the Discipline Committee to be incompetent or to have committed an act of</p>	<p>No change from current.</p>

Current Language	Proposed Language	Rationale
misconduct;	professional misconduct;	
(b) is found by a panel of the Fitness to Practise Committee to be an incapacitated member;	(b) is found by a panel of the Fitness to Practise Committee to be an incapacitated member;	No change from current.
(c) in the opinion of two-thirds of Council Members present and voting, (i) fails, without reasonable cause to attend two consecutive meetings of Council, or (ii) fails, for any reason, to attend four consecutive meetings of Council;	(c) in the opinion of two-thirds of Council Members present and voting, (i)(c) fails, without reasonable cause to attend two consecutive meetings of Council, or (ii)(d) fails, for any reason, to attend four consecutive meetings of Council;	For clarity, a new proposed section 6.16 has been added below to clarify the process for disqualification. Specifically, the new section specifies which subsections trigger an automatic disqualification and which subsections require a vote by Council in order for a disqualification to be effective. Accordingly, the introductory language is being removed for redundancy, and subsections (i) and (ii) have been renumbered.
(d) in the opinion of two-thirds of Council Members present and voting, (i) fails, without reasonable cause to attend two consecutive meetings of a committee of which he or she is a member, or (ii) fails, for any reason, to attend four consecutive meetings of a committee of which he or she is a member;	(ii)(d) in the opinion of two-thirds of Council Members present and voting, (i)(e) fails, without reasonable cause to attend two consecutive meetings of a committee of which he or she is a member, or (ii)(f) fails, for any reason, to attend four consecutive meetings of a committee of which he or she is a member;	For clarity, a new proposed section 6.16 has been added below to clarify the process for disqualification. Specifically, the new section specifies which subsections trigger an automatic disqualification and which subsections require a vote by Council in order for a disqualification to be effective. Accordingly, the introductory language is being removed for redundancy, and subsections (i) and (ii) have been renumbered.
(e) holds a certificate of registration that becomes subject to a term, condition or limitation, other than a term, condition or limitation that is prescribed by Regulation;	(e)(g) holds a certificate of registration that becomes subject to a term, condition or limitation, other than a term, condition or limitation that is prescribed by Regulation;	Re-numbered.
(f) ceases to reside or practice in the electoral district for which he or she was elected;	(f)(h) ceases to reside or practice in the electoral district for which he or she was elected;	Re-numbered.

Current Language	Proposed Language	Rationale
(g) refuses to sign the agreements referred to in clause 7.13;	(g) (i) refuses to sign the agreements referred to in clause 7.13;	Re-numbered, and cross-reference to clause 7.13 has been updated.
(h) resigns from Council;	(h) (j) resigns from Council;	Re-numbered.
(i) ceases to hold a certificate of registration;	(i) (k) ceases to hold a certificate of registration;	Re-numbered.
(j) is in default of payment of any fee prescribed by College by-law for a period of more than thirty (30) days;	(j) (l) is in default of payment of any fee prescribed by College by-law for a period of more than thirty (30) days;	Re-numbered.
(k) retains or obtains a responsible position such as director, owner, board member or officer or retains employment or becomes an employee of any professional association relating to opticianry;	(k) (m) retains or obtains a responsible position such as director, owner, board member or officer or retains employment or becomes an employee of any professional association relating to opticianry organization of or for opticians that has as its primary mandate the promotion of the opticianry profession;	Re-numbered, and language referring to professional associations has been amended in the same manner and for the same purpose as section 6.3 (h), above.
(l) becomes a member of a council of any other college regulated under the RHPA;	(l) (n) becomes a member of a council of any other college regulated under the RHPA;	Re-numbered.
(m) is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification;	(m) (o) is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification;	Re-numbered.
(n) fails, in the opinion of two-thirds of Council Members present and voting, to discharge properly or honestly any office to which he or she has been elected or appointed;	(n) (p) fails, in the opinion of two-thirds of Council Members present and voting, to discharge properly or honestly any office to which he or she has been elected or appointed;	Re-numbered, and redundant language removed.

Current Language	Proposed Language	Rationale
(o) initiates, joins, continues or materially contributes to a legal proceeding against the College or any Committee or representative of the College; or	(o) (q) initiates, joins, continues or materially contributes to a legal proceeding against the College or any Committee or representative of the College; or	Re-numbered.
(p) advocates or makes a public statement (other than at a Council meeting) against a position taken by the College.	(p) (r) advocates or makes a public statement (other than at a Council meeting) against a position taken by the College.	Re-numbered.
	<u>(s) In the case of electoral district 6, ceases to be recognized by the Council as a Contact Lens Mentor in accordance with the College's contact lens mentor policy, as approved by Council.</u>	On May 28, 2018, Article 6.3(m) of the by-laws was amended to change the eligibility criteria for election to Council in district 6. Accordingly, this new subsection is being proposed which would result in the disqualification of the member sitting in district 6 if that person ceases to be recognized by the College as a Contact Lens Mentor.
	<u>(t) is in default of the requirements of the College's quality assurance program for a period of more than thirty (30) days).</u>	The addition of this criteria would make an Elected Council Member subject to disqualification if they are in default of the requirements of the College's quality assurance program at any time during their term of office. The purpose of this criteria is to ensure that all Elected Council Members are meeting their quality assurance obligations throughout their term of office.
	<u>6.16 Disqualification Process</u> <u>(a) Subsections 7.11 (a), (b), (g), (h), (i), (j), (k), (l), (n) and (s) shall result in automatic disqualification</u> <u>(b) Subsections 7.11 (c), (d), (e), (f) (m), (o), (p), (q), (r) and (t) shall result in disqualification where two-thirds of Council Members present and voting vote in favour of disqualification.</u>	This additional section clarifies which disqualification criteria result in automatic disqualification (i.e. where no action by Council is required to make it effective), and which require a vote by Council in order for the disqualification to occur. A 2/3 majority vote by Council will be required in order to disqualify an Elected Council Member for: <ul style="list-style-type: none"> failing to attend two consecutive Council or Committee meetings without reasonable cause, or

Current Language	Proposed Language	Rationale
		<p>failing to attend four Council or Committee meetings for any reason</p> <ul style="list-style-type: none"> obtaining a responsible position in an organization of or for opticians that has as its primary mandate the promotion of the opticianry profession. being found guilty of a criminal offence of such a nature that disqualification is warranted failing to discharge their office properly and honestly initiating, joining or materially contributing to a legal proceeding against the College or its committees/representatives advocating or making a public statement against a position taken by the College
<p>7.23 Eligibility Following Disqualification</p> <p>Where an Elected Council Member has been disqualified from sitting on the Council, he or she shall not be eligible to run for election for six years.</p>	<p>7.236.17 Eligibility Following Disqualification</p> <p>Where an Elected Council Member has been disqualified from sitting on the Council, he or she shall not be eligible to run for election for six years.</p>	<p>This provision has been moved from Article 7.23 to keep it together with other provisions regarding the eligibility and disqualification of Elected Council Members.</p>
ARTICLE 7: DUTIES OF COUNCIL MEMBERS AND COMMITTEE MEMBERS		
	<p><u>7.1 Code of Conduct</u></p> <p><u>All Council Members and Committee Members shall comply with the College’s Code of Conduct, which is attached as Schedule D and forms part of these by-laws.</u></p>	<p>This new proposed section makes it a duty and obligation of all Council and Committee members to comply with the Code of Conduct, and makes it clear that Schedule D forms part of the by-laws and can therefore be enforced as such.</p>
<p>7.1 Duty to Avoid Conflicts of Interest</p> <p>(a) All Council Members and Committee</p>	<p>7.21 Duty to Avoid <u>and Declare</u> Conflicts of Interest</p> <p><u>All Council Members and Committee Members shall comply with their duties, as set out in Schedule D, to avoid conflicts</u></p>	<p>Subsection (a) and the sections relating to the definition of conflict of interest have been moved to the Code of Conduct.</p>

Current Language	Proposed Language	Rationale
<p>Members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal, professional or financial interest. All Council Members and Committee Members have a duty to uphold and further the intent of the Opticianry Act to regulate the practice and profession of opticianry in Ontario, and not to represent the views of advocacy or special interest groups.</p> <p>(b) For the purposes of this by-law:</p> <p>(i) a direct or indirect personal interest includes an issue that would benefit the Council Member or Committee Member materially more than other Council Members or Committee Members (e.g., a prize awarded by the College recognizing the contributions to the profession of the daughter of a Council member);</p> <p>(ii) a direct or indirect professional interest includes an issue that would benefit the Council Member's or Committee Member's professional interests materially more than other Council Members or Committee Members (e.g. accreditation of the</p>	<p><u>of interest and appearance of bias, and to declare any actual, potential or perceived conflicts that do exist.</u></p> <p>(a) All Council Members and Committee Members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal, professional or financial interest. All Council Members and Committee Members have a duty to uphold and further the intent of the Opticianry Act to regulate the practice and profession of opticianry in Ontario, and not to represent the views of advocacy or special interest groups.</p> <p>(b) For the purposes of this by-law:</p> <p>(i) a direct or indirect personal interest includes an issue that would benefit the Council Member or Committee Member materially more than other Council Members or Committee Members (e.g., a prize awarded by the College recognizing the contributions to the profession of the daughter of a Council member);</p> <p>(ii) a direct or indirect professional interest includes an issue that would benefit the Council Member's or Committee Member's professional interests materially more than other Council Members or Committee</p>	<p>The new proposed language sets out the duty and makes reference to adhering to the Code of Conduct, where the detailed requirements will be found.</p>

Current Language	Proposed Language	Rationale
<p>school that employs a Committee Member); and</p> <p>(iii) the direct or indirect financial interests includes using one’s position to confer a material financial benefit or prevent a material financial loss to a parent, spouse, child or sibling of a Council Member or Committee Member (e.g., giving a contract to the brother of a Council Member). Here, the term “spouse” includes a common-law spouse or a same-sex partner of the person.</p>	<p>Members (e.g., accreditation of the school that employs a Committee Member); and</p> <p>(iii) — the direct or indirect financial interests includes using one’s position to confer a material financial benefit or prevent a material financial loss to a parent, spouse, child or sibling of a Council Member or Committee Member (e.g., giving a contract to the brother of a Council Member). Here, the term “spouse” includes a common-law spouse or a same-sex partner of the person.</p>	
<p>7.2 Recognition of Conflict</p> <p>Council Members and Committee Members recognize that a conflict of interest or an appearance of a conflict of interest by a Member of Council or its committees:</p> <p>(i) could bring discredit to the College;</p> <p>(ii) could amount to a breach of the fiduciary obligation of the person to the College; or</p> <p>(iii) could create liability for either the College and/or the person involved.</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>
<p>7.3 Declaration Forms</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>

Current Language	Proposed Language	Rationale
<p>Upon appointment or election, and annually thereafter if requested, every Council Member and Committee Member and every member of a working group shall fully complete and deliver to the Registrar a form, available from the Registrar, declaring his or her current and recent affiliations with professional associations and other professional organizations to facilitate compliance with the above provisions.</p>		
<p>7.4 Conflicts Recorded in Minutes</p> <p>Every declaration of a conflict of interest or appearance of conflict of interest shall be recorded in the minutes of the meeting together with a description of the nature of the conflict.</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>
<p>7.5 Conflicts Relating to Involvement with a Professional Association</p> <p>A Council Member or Committee Member shall be perceived to have a conflict of interest in a matter and should not serve on Council or its committees at all if he or she holds a responsible position such as director, owner, board member or officer in or is an employee of any professional association relating to opticianry.</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>
<p>7.6 Conflicts Relating to Position in Other Organizations</p> <p>A Council Member or a Committee Member would be perceived to have a conflict of interest in a matter and should refrain from participating in any discussion or voting if he or she holds a responsible position such as director, owner, board member or officer in or is an employee of another organization</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>

Current Language	Proposed Language	Rationale
<p>where his or her duties may be seen by a reasonable person as influencing his or her judgment in the matter under consideration of the Council or its committees. For example, an educator in a school should not participate in any decisions relating to the status of that school, its program(s) or the acceptability for registration of graduates from that school.</p>		
<p>7.7 Where a Conflict May Exist</p> <p>Where a Council Member or Committee Member believes that he or she may have a conflict of interest in any matter which is the subject of deliberation or action by Council or its committees, he or she shall:</p> <ul style="list-style-type: none"> (i) consult, as needed, with the President, the Registrar and/or legal counsel and, if there is any doubt about whether he or she may have or be perceived to have a conflict, prior to any consideration of the matter, declare the potential conflict to Council or the committee and accept Council's or the committee's direction as to whether there is an appearance of a conflict; (ii) where there appears to be a conflict of interest, not take part in the discussion of, or vote on, any question in respect of the matter; (iii) where there appears to be a conflict of interest, absent himself or herself from the portion of any meeting 	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>

Current Language	Proposed Language	Rationale
<p>relating to the matter; and</p> <p>(iv) where there appears to be a conflict of interest, not attempt in any way to influence the voting or do anything that might be perceived as attempting to influence the decision of other members on the matter.</p>		
<p>7.8 Financial Conflicts of Interest</p> <p>(a) A Council Member or Committee Member shall not vote on any matters in which he or she or any related person has a direct or indirect financial interest and shall declare the details of such interest prior to the discussion and the vote on such matter.</p> <p>(b) Every Council Member or Committee Member who is, or who has a related person who is, in any way directly or indirectly interested in a proposed contract or transaction or in a contract or transaction with the College shall declare an interest and the nature and extent of such interest in the contract or transaction at a Council meeting or Committee meeting in accordance with Article 8.11 (c) below.</p> <p>(c) In the case of a proposed contract or transaction, the Council Member or Committee Member shall declare his or her interest at the Council meeting at which the question of entering into the contract or transaction is first taken into consideration or if the Council Member or Committee</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>

Current Language	Proposed Language	Rationale
<p>Member is not present at such meeting, then at the first Council Meeting held thereafter. If the Council Member or Committee Member is not at the date of that meeting interested in the proposed contract or transaction, the Council Member or Committee Member shall make the declaration at the first Council Meeting which is held after becoming interested in the proposed contract or transaction, in the case where the Council Member or Committee Member becomes interested in a contract or transaction after it is made, the Council Member or Committee Member shall declare his or her interest at the first Council Meeting held after becoming so interested.</p> <p>(d) For the purposes of this Article, a general notice given to the remaining Council Members or Committee Members by a given Council Member or Committee Member to the effect such Council Member or Committee Member or a related person is a Council Member or Committee Member, officer or shareholder of, or is otherwise interested in, any other company, or is a member of a specified firm and is to be regarded as interested in any contract or transaction made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract or transaction so made, but no such notice is effective unless it is given at a meeting of Council Members or Committee</p>		

Current Language	Proposed Language	Rationale
<p>Members or the given Council Member or Committee Member takes reasonable steps to ensure that the delivery of such notice is acknowledged and read at the next meeting of the Council Members or Committee Members after it is given.</p> <p>(e) No Council Member or Committee Member, nor any related person, shall enter into any proposed contract or transaction with the College, except:</p> <p>(i) on a competitive bid basis; and</p> <p>(ii) where the Council Member or Committee Member has declared any interest therein, and where the Council Member or Committee Member has absented himself or herself from the meeting at which such contract or transaction was approved and where the Council Member or Committee Member has refrained from voting thereon.</p> <p>(f) Any Council Member or Committee Member who has declared an interest in any proposed contract or transaction or other financial interest with the College which is being discussed, shall absent himself or herself during the discussion of and vote upon the matter and the event shall be recorded in the minutes.</p> <p>g) Any Council Member or Committee Member who has declared an interest in any proposed</p>		

Current Language	Proposed Language	Rationale
<p>contract or transaction with the College and who has not voted thereon shall not be accountable to the College, its members, or its creditors for any profit resulting from such contract or transaction. The contract or transaction will not be voidable by reason only of the Council Member or Committee Member holding that office or of the fiduciary relationship established thereby.</p> <p>(h) Despite anything in this Article, a Council Member or Committee Member is not accountable to the College or to any of its Members or creditors for any profit realized from such contract or financial transaction and the contract or financial transaction is not by reason only of the Council Member's or Committee Member's interest therein voidable if it is confirmed by a majority of the votes cast at a general meeting of the members duly called for that purpose and if the Council Member's or Committee Member's interest in the contract or financial transaction is declared in the notice calling the meeting.</p>		
<p>7.9 Use of College Information or Property</p> <p>Council Members and Committee Members shall not use College property or information of any kind to advance their own interests, direct or indirect, except in a manner that is reasonable in the circumstances¹.</p> <p>¹ For example, if the College loans a laptop to the President for College use, the President could check personal emails</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>

Current Language	Proposed Language	Rationale
<p>during the lunch break of a meeting. However, no Council member could borrow a College laptop for personal use because his or her own laptop “crashed” and was in the shop for repairs.</p>		
<p>7.10 Staff and Contract Positions</p> <p>(a) A three-month waiting period is required before a former Council Member or Committee Member may apply for a position with the College, including but not limited to, positions as peer assessor, investigator, inspector, examiner or staff.</p> <p>(b) The Chief Examiner may, under exceptional circumstances, adjust the three-month waiting period for examiners.</p>	<p>7.410 Staff and Contract Positions</p> <p>(a) A three-month waiting period is required before a former Council Member or Committee Member may apply for a position <u>as an employee or independent contractor</u> with the College, including but not limited to, positions as peer assessor, investigator, inspector, examiner or staff.</p> <p>(b) The Chief Examiner<u>Council</u> may, under exceptional circumstances, <u>authorize the adjustment of</u> the three-month waiting period for examiners.</p>	<p>This provision has been re-numbered and reference has been added to subsection (a) to clarify that it is applicable to both employees as well as independent contractors.</p> <p>Subsection (b) has been amended in light of Council’s decision at the December 2019 meeting to eliminate the position of Chief Examiner. The purpose of this provision is to ensure that contingency arrangements can be made where absolutely required to carry out examinations. The Governance Committee will be developing a policy that will elaborate on when and in what circumstances they will authorize College staff (who will be carrying out the duties that were previously the responsibility of the Chief Examiner) to adjust the waiting period.</p>
<p>7.11 Duty of Confidentiality</p> <p>Council Members and Committee Members, staff and persons retained or appointed by the College are required to maintain confidentiality of information that comes before them in the course of discharging their duties unless disclosure is authorized by Council or is otherwise permitted under section 36 of the RHPA.</p>	<p>7.311 Duty of Confidentiality</p> <p><u>(a) All Council Members and Committee Members, staff and persons retained or appointed by the College are required to maintain confidentiality of information that comes before them in the course of discharging their duties unless disclosure is authorized by Council or is otherwise permitted under section 36 of the RHPA; shall comply with their obligations to maintain confidentiality of information that comes before them in the course of discharging their duties, as set out in Schedule D.</u></p> <p><u>(b) Council Members and Committee Members, staff and persons retained or appointed by the College are</u></p>	<p>This section establishes the general duty of confidentiality for all Council and Committee members, with details set out in the Code of Conduct.</p> <p>The section has been re-numbered and amalgamated with section 7.13.</p>

Current Language	Proposed Language	Rationale
	<u>required to sign, annually, the confidentiality or fiduciary agreements approved by Council or the Registrar, as applicable.</u>	
<p>7.12 Disclosure Under the RHPA</p> <p>Council Members and Committee Members, staff and persons retained or appointed by the College are required to understand when exceptions to the confidentiality requirement apply and seek advice if they are in doubt.</p>	Revoke	The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.
<p>7.13 Confidentiality Agreement</p> <p>Council Members and Committee Members, staff and persons retained or appointed by the College are required to sign, annually, the confidentiality or fiduciary agreements approved by Council or the Registrar, as applicable.</p>	Revoke	This provision has been amalgamated with section 7.11 (now section 7.3)
<p>7.14 Media Contacts</p> <p>All media contact shall be channelled and coordinated through the Registrar's office. Any Council Member or Committee Member or any member of a working group being asked by media representatives to provide interviews, respond to inquiries or to comment on issues concerning the regulation of the profession or the operation of the College shall not provide any such communication and shall instead refer them to the Registrar's office.</p>	Revoke	The rules regarding who may speak on behalf of Council and/or the College has been moved to the Code of Conduct as well as various policies in the Governance Manual.

Current Language	Proposed Language	Rationale
<p>7.15 College Communications</p> <p>The Registrar, the President or, in the absence of the President, the Vice-President:</p> <ul style="list-style-type: none"> (i) are the authorized spokespersons of the College, but either of them may request a Council Member or staff to perform this function, as appropriate, under the circumstances; and (ii) may communicate with the media to provide interviews, respond to inquiries or comment on issues concerning the regulation of the profession or the operation of the College. A Council Member or Committee Member shall not perform such communications unless authorized by the Registrar, the President or, in the absence of the President, the Vice-President. 	<p>Revoke</p>	<p>The rules regarding who may speak on behalf of Council and/or the College has been moved to the Code of Conduct as well as various policies in the Governance Manual.</p>
<p>7.16 Consistent Messaging</p> <p>All messages to the media and to the public must be consistent with the approved policies and positions of</p>	<p>Revoke</p>	<p>The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.</p>

Current Language	Proposed Language	Rationale
<p>the College. Any Council Member or Committee Member shall resign all positions with Council and its committees prior to expressing public disagreement with a decision, policy or position of the College or its committees and even then, shall only do so in a manner consistent with his or her ongoing fiduciary duties towards the College. This provision does not prevent a person from stating that an issue dealt with at a public meeting was vigorously debated or that it was not decided unanimously.</p>		
<p>7.17 Invitations for Speaking Engagements All requests inviting the President, the Registrar and/or Council Member or Committee Members to speak in his or her capacity as a representative of the College must be submitted, in writing, to the Registrar’s office with details of the date, time and place of the speaking engagement as well as the topic and anticipated length of the presentation.</p>	Revoke	The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.
<p>7.18 Acceptance of Invitations for Speaking Engagements The Registrar, in consultation with the President, where possible, will review all requests inviting Council Members or Committee Members to speak on behalf of the College or in his or her capacity as a representative of the College. They shall determine whether to accept the invitation and the appropriate representative to address the topic. Where feasible, Council can be asked to review any such determination. Other than as described above, no Council Member or Committee Member shall accept any request to make representations or speak on</p>	Revoke	The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.

Current Language	Proposed Language	Rationale
behalf of the College or in his or her capacity as a representative of the College.		
7.19 Content of Presentations and Reports The content of every external presentation made or report issued by a Council Member or Committee Member, College staff member, or person retained or appointed by the College must be consistent with the approved policies and positions of the College and shall be submitted, preferably at least five (5) days before the date of the presentation, to the Registrar or a person designated by the Registrar for approval.	Revoke	The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.
7.20 No Compensation No person speaking in his or her capacity as a representative of the College shall receive any payment or benefit related to the presentation or, if the payment or gift cannot in the circumstances be gracefully declined, it shall immediately be turned over to the Registrar. However, mementoes of nominal value (\$50.00 or less) may be accepted and retained.	Revoke	The subject-matter of this provision has been moved to the Code of Conduct, Schedule D.
7.21 Enforcement Process The following procedure shall be followed in the event that a Council Member or Committee Member is alleged to have contravened their duties or meets the criteria for disqualification set out in Articles 7.22 or 12.3. <div style="margin-left: 40px;">(i) A written complaint shall be filed with the Registrar. A complaint can be made by a member of the public,</div>	7.215 Enforcement Process <u>In the event that a Council Member or Committee Member is alleged to have contravened the Code of Conduct or any other duties set out in these by-laws, the Council shall follow the enforcement process set out in Schedule D.</u> The following procedure shall be followed in the event that a Council Member or Committee Member is alleged to have contravened their duties or meets the criteria for disqualification set out in Articles 7.22	This section provides that Council must establish and follow a set enforcement process to address breaches of duties by Council or Committee members, but the details of that process has been moved to the Code of Conduct. The section has also been re-numbered.

Current Language		Proposed Language	Rationale
	a Council Member or Committee Member or the Registrar. If a Council Member or a Committee Member receives such a complaint, he or she shall immediately file it with the Registrar.	or 12.3.	
(ii)	The Registrar shall forthwith report the complaint to the President and/or the Vice-President who shall bring the complaint to the Executive Committee.	(i) — A written complaint shall be filed with the Registrar. A complaint can be made by a member of the public, a Council Member or Committee Member or the Registrar. If a Council Member or a Committee Member receives such a complaint, he or she shall immediately file it with the Registrar.	
(iii)	If the Executive Committee, after any investigation it deems appropriate, believes that the complaint warrants formal action, it shall call a Council meeting. Council shall determine whether there has been a breach of duties or whether the criteria for disqualification have been met and, if so, impose the appropriate sanction. The appropriate sanction can include one or more of the following:	(ii) — The Registrar shall forthwith report the complaint to the President and/or the Vice-President who shall bring the complaint to the Executive Committee.	
(a)	censure of the Council Member or Committee Member verbally or in writing,	(iii) — If the Executive Committee, after any investigation it deems appropriate, believes that the complaint warrants formal action, it shall call a Council meeting. Council shall determine whether there has been a breach of duties or whether the criteria for disqualification have been met and, if so, impose the appropriate sanction. The appropriate sanction can include one or more of the following:	
(b)	removal of the Council Member or Committee Member from any committee and/or working group on which he or she serves,	(a) — censure of the Council Member or Committee Member verbally or in writing,	
		(b) — removal of the Council Member or Committee Member from any committee	

Current Language		Proposed Language	Rationale
	(c) disqualification of an Elected Council Member from the Council, or a report requesting removal of a Public Council member from Council to the Public Appointments Secretariat.	and/or working group on which he or she serves, (c) — disqualification of an Elected Council Member from the Council, or a report requesting removal of a Public Council member from Council to the Public Appointments Secretariat.	
(iv)	A decision finding that there has been a breach of duties or that a Council Member or Committee Member meets the criteria for disqualification set out in Articles 6.13 and 12.3, and a decision to impose a particular sanction must be approved by a majority vote of Council Members present and voting.	(iv) — A decision finding that there has been a breach of duties or that a Council Member or Committee Member meets the criteria for disqualification set out in Articles 6.13 and 12.3, and a decision to impose a particular sanction must be approved by a majority vote of Council Members present and voting.	
(v)	The Council Member or Committee Member whose conduct is the subject of concern shall not take part in the deliberation or vote, however, he or she will be given a reasonable opportunity to respond to the allegation.	(v) — The Council Member or Committee Member whose conduct is the subject of concern shall not take part in the deliberation or vote, however, he or she will be given a reasonable opportunity to respond to the allegation.	
(vi)	The President shall make his or her best efforts to report any complaints to the Executive Committee within 30 days of receiving it. The Executive Committee shall make its best efforts to conduct its investigation within 60 days of receiving it. The goal is to	(vi) — The President shall make his or her best efforts to report any complaints to the Executive Committee within 30 days of receiving it. The Executive Committee shall make its best efforts to conduct its investigation within 60	

Current Language	Proposed Language	Rationale
<p>make best efforts to bring any concerns warranting Council action within 120 days of it being brought to the attention of the College.</p>	<p>days of receiving it. The goal is to make best efforts to bring any concerns warranting Council action within 120 days of it being brought to the attention of the College.</p>	
<p>7.22 Disqualification</p> <p>An Elected Council Member shall be disqualified from sitting on Council if he or she:</p> <ul style="list-style-type: none"> (a) is found by a panel of the Discipline Committee to be incompetent or to have committed an act of professional misconduct; (b) is found by a panel of the Fitness to Practise Committee to be an incapacitated member; (c) in the opinion of two-thirds of Council Members present and voting, <ul style="list-style-type: none"> (i) fails, without reasonable cause to attend two consecutive meetings of Council, or (ii) fails, for any reason, to attend four consecutive meetings of Council; (d) in the opinion of two-thirds of Council Members present and voting, <ul style="list-style-type: none"> (i) fails, without reasonable cause to attend two consecutive meetings of a committee of which he or she is a member, or (ii) fails, for any reason, to attend four consecutive meetings of a committee 	<p>Revoke</p>	<p>As this section relates to Elected Council Members rather than the duties of Council and Committee members, it has been moved to Article 6.15.</p>

Current Language	Proposed Language	Rationale
<p>of which he or she is a member;</p> <p>(e) holds a certificate of registration that becomes subject to a term, condition or limitation, other than a term, condition or limitation that is prescribed by Regulation;</p> <p>(f) ceases to reside or practice in the electoral district for which he or she was elected;</p> <p>(g) refuses to sign the agreements referred to in clause 7.13;</p> <p>(h) resigns from Council;</p> <p>(i) ceases to hold a certificate of registration;</p> <p>(j) is in default of payment of any fee prescribed by College by-law for a period of more than thirty (30) days;</p> <p>(k) retains or obtains a responsible position such as director, owner, board member or officer or retains employment or becomes an employee of any professional association relating to opticianry;</p> <p>(l) becomes a member of a council of any other college regulated under the RHPA;</p> <p>(m) is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification;</p> <p>(n) fails, in the opinion of two-thirds of Council Members present and voting, to discharge properly or honestly any office to which he or she has been elected or appointed;</p>		

Current Language	Proposed Language	Rationale
<p>(o) initiates, joins, continues or materially contributes to a legal proceeding against the College or any Committee or representative of the College; or</p> <p>(p) advocates or makes a public statement (other than at a Council meeting) against a position taken by the College.</p>		
<p>7.23 Eligibility Following Disqualification</p> <p>Where an Elected Council Member has been disqualified from sitting on the Council, he or she shall not be eligible to run for election for six years.</p>	Revoke	As this section relates to Elected Council Members rather than the duties of Council and Committee members, it has been moved to Article 6.17
ARTICLE 12: COMMITTEE APPOINTMENTS AND PROCEDURES		
<p>12.2 Eligibility for Appointed Committee Members</p> <p>(a) A Member of the College is eligible for appointment as an Appointed Committee Member if, on the date of the appointment:</p> <p>(viii) the Member has resigned, before being appointed, any position such as director, owner, board member, officer or employee that the member holds with a professional association relating to opticianry;</p>	<p>12.2 Eligibility for Appointed Committee Members</p> <p>(a) A Member of the College is eligible for appointment as an Appointed Committee Member if, on the date of the appointment:</p> <p>(viii) the Member has resigned, before being appointed, any position such as director, owner, board member, officer or employee that the member holds with a professional association relating to opticianry <u>any organization of or for opticians that has as its primary mandate the promotion of the opticianry profession</u>;</p>	Language referring to professional associations has been amended in the same manner and for the same purpose as section 6.3 (h), above.
<p>12.3 Committee Disqualification</p>		

Current Language	Proposed Language	Rationale
12.3 (a) Council shall disqualify an Appointed Committee Member from sitting on a committee if such member:	12.3 (a) Council shall disqualify an Appointed A Committee Member <u>shall be disqualified</u> from sitting on a committee if such member:	The proposed amendments make it clear that the criteria for disqualification are applicable to all committee members, including Elected Council Members, Public Council Members and non-Council Appointed Committee Members. The language has also been amended to permit certain disqualification events to occur automatically, without requiring any action by Council. The details of which disqualification criteria will result in automatic disqualification and which will require a vote by Council are set out in proposed sections 12.3 (b) and (c) below.
(i) is found by a panel of the Discipline Committee to be incompetent or to have committed an act of professional misconduct;	(i) <u>in the case of an optician Member,</u> is found by a panel of the Discipline Committee to be incompetent or to have committed an act of professional misconduct;	This language has been added to clarify that this disqualification criteria is not applicable to committee members who are not opticians (e.g. Public Members).
(ii) is found by a panel of the Fitness to Practise Committee to be an incapacitated member;	(ii) <u>in the case of an optician Member,</u> is found by a panel of the Fitness to Practise Committee to be an incapacitated member;	This language has been added to clarify that this disqualification criteria is not applicable to committee members who are not opticians (e.g. Public Members).
(iii) in the opinion of two-thirds of the members of Council present and voting, a. fails, without reasonable cause, to attend two consecutive meetings of the committee or of a subcommittee of which he or she is a member, including any meeting held in whole or in part by teleconference, or b. fails for any reason to attend four such consecutive meetings;	(iii) in the opinion of two-thirds of the members of Council present and voting, a. fails, without reasonable cause, to attend two consecutive meetings of the committee or of a subcommittee of which he or she is a member, including any meeting held in whole or in part by teleconference, or b. (iv) fails for any reason to attend four such consecutive meetings;	Redundant language has been removed and the subsections have been renumbered.

Current Language	Proposed Language	Rationale
(iv) fails, without reasonable cause, in the opinion of two-thirds of Council Members present and voting, to attend a hearing or review of a panel for which he or she has been selected;	(iv) fails, without reasonable cause, in the opinion of two-thirds of Council Members present and voting, to attend a hearing or review of a panel for which he or she has been selected;	
(v) is in default of payment of any fee prescribed in the College by-law for a period of more than thirty (30) days;	(vi) <u>in the case of an optician Member,</u> is in default of payment of any fee prescribed in the College by-law for a period of more than thirty (30) days;	Redundant language has been removed.
(vi) is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification;	(vii) is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification;	Re-numbered.
(vii) in the case of an optician Member, neither practices nor resides in Ontario;	(viii) in the case of an optician Member, neither practices nor resides in Ontario;	Re-numbered.
(viii) in the case of an optician Member, ceases to hold a certificate of registration;	(viii ix) in the case of an optician Member, ceases to hold a certificate of registration;	Re-numbered.
(ix) retains or obtains a responsible position such as director, owner, board member or officer of retains employment or becomes an employee of any professional association relating to opticianry;	(ix) retains or obtains a responsible position such as director, owner, board member or officer of retains employment or becomes an employee of any professional association relating to opticianry <u>organization of or for opticians that has as its primary mandate the promotion of the opticianry profession;</u>	Re-numbered, and language referring to professional associations has been amended in the same manner and for the same purpose as section 6.3 (h), above.
(x) becomes a member of a council of any other college regulated under the RHPA;	(xi) becomes a member of a council of any other college regulated under the RHPA;	Re-numbered.

Current Language	Proposed Language	Rationale
(xi) holds a certificate of registration that becomes subject to a term, condition, or limitation other than one prescribed by Regulation; or	(xii) <u>in the case of an optician Member,</u> holds a certificate of registration that becomes subject to a term, condition, or limitation other than one prescribed by Regulation; or	Re-numbered, and language has been added to clarify that this disqualification criteria is not applicable to committee members who are not opticians (e.g. Public Members).
(xii) fails, in the opinion of two-thirds of Council members present and voting, to discharge properly and honestly his or her duties as a committee member.	(xiii) fails, in the opinion of two-thirds of Council members present and voting, to discharge properly and honestly his or her duties as a committee member; or <u>or</u>	Re-numbered, and redundant language removed.
	<u>(xiv) initiates, joins, continues or materially contributes to a legal proceeding against the College or any Committee or representative of the College;</u>	This has been added for consistency with the Council disqualification criteria under Article 6.15 (currently 7.22 (o)).
	<u>(xv) advocates or makes a public statement (other than at a Council meeting) against a position taken by the College; or</u>	This has been added for consistency with the Council disqualification criteria under Article 6.15 (currently 7.22 (p)).
	<u>(xvi) in the case of a Council Member, is disqualified from Council in accordance with Article 6.15.</u>	Under this new sub-section, a Council member that has been disqualified from Council will also automatically be disqualified from any committees that they set on.
	<u>(xvii) in the case of an optician Member, is in default of the requirements of the College's quality assurance program for a period of more than thirty (30) days.</u>	The addition of this criteria would make an Appointed Committee Member subject to disqualification from committees if they are in default of the requirements of the College's quality assurance program at any time during their term of office. The purpose of this criteria is to ensure that all Appointed Committee Members are meeting their quality assurance obligations throughout their term of office.
	<u>(b) Subsections 12.3 (a) (i), (ii), (vi), (viii), (ix), (xi), (xii), and (xvi) shall result in automatic disqualification.</u>	This new sub-section lists the disqualification criteria that will result in automatic disqualification (i.e. no action by Council is required to make it effective).

Current Language	Proposed Language	Rationale
	<u>(c) Subsections 12.3 (a) (iii), (iv), (v), (vii), (x), (xiii), (xiv), and (xv) shall result in disqualification where two-thirds of Council Members present and voting vote in favour of disqualification.</u>	<p>This new sub-section lists the disqualification criteria that require a vote by Council in order to become effective.</p> <p>A 2/3 majority vote by Council will be required in order to disqualify a Committee Member for:</p> <ul style="list-style-type: none"> • failing to attend two consecutive or Committee or subcommittee meetings without reasonable cause, or failing to attend four meetings for any reason. • failing to attend a hearing or review of a panel they have been selected for. • being found guilty of a criminal offence of such a nature that disqualification is warranted • obtaining a responsible position in an organization of or for opticians that has as its primary mandate the promotion of the opticianry profession. • failing to discharge their office properly and honestly • initiating, joining or materially contributing to a legal proceeding against the College or its committees/representatives • advocating or making a public statement against a position taken by the College
(b) An Appointed Committee Member who is removed under Article 12.3 (a) from sitting on a committee ceases to be a member of the committee.	(b) (d) An Appointed Committee Member who is removed under Article 12.3 (a) from sitting on a committee ceases to be a member of the committee.	Re-numbered.
	<u>(e) An Appointed Committee Member who is removed under Article 12.3 (a) from sitting on all committees which they had been appointed to under Article 8.2 (c)</u>	This new sub-section provides clarity that an Appointed Committee Member who has been disqualified from all

Current Language	Proposed Language	Rationale
	<u>(iii) or Article 12.4 ceases to be an Appointed Committee Member.</u>	committees ceases to be an Appointed Committee Member, as defined under the by-laws.
(c) Notwithstanding the above provisions that permit the removal of a committee member in specific circumstances, Council may at any time also remove a member of a committee to facilitate the effective and fair operation of the College.	(e)(f) Notwithstanding the above provisions that permit the removal of a committee member in specific circumstances, Council may at any time also remove a member of a committee to facilitate the effective and fair operation of the College.	Re-numbered.
12.8 Conduct of Meetings Unless otherwise provided for in this by-law, the provisions of Articles 7.5, 7.7, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, 7.18, 7.19, 7.20 and 7.21, which apply to Council Meetings shall apply to Committee meetings as though all references therein to Council and Council Members were to the committees and Committee Members <i>mutatis mutandis</i> .	Revoke	With the proposed amendments to Article 7 and Schedule D (Code of Conduct), this section is redundant.

APPENDIX 2 – CURRENT CODE OF CONDUCT

COLLEGE OF OPTICIANS OF ONTARIO

SCHEDULE D TO THE BY-LAW Code of Conduct

For Council and Appointed Non-Council Members

1. This Schedule applies to members of Council, Appointed Non-Council members and members of all Committees of the College.
2. Council, Appointed Non-Council members and Committee members shall at all times use their best efforts to provide progressive, collective leadership and direction to the affairs of the College of Opticians of Ontario (COO) in support of its mandate to protect the public through the regulation of Opticianry.
3. Council, Appointed Non-Council members and Committee members shall adhere to the COO's established governance model.
4. Council, Appointed Non-Council members and Committee members must, at all times, maintain high standards of integrity, honesty and loyalty when discharging their College duties. They must act in the best interest of the College. They shall:
 - (a) be familiar and comply with the provisions of the *Regulated Health Professions Act, 1991* and its regulations, the *Health Professions Procedural Code*, the *Opticianry Act*, other related statutes, their regulations, and the by-laws and policies of the College;
 - (b) be prepared to participate in Council meetings and Committee work including reading background materials and briefing documents;
 - (c) diligently take part in Committee work and actively serve on Committees as appointed by the Council;
 - (d) regularly attend meetings on time (including not missing two (2) or more consecutive meetings without reasonable cause) and participate constructively in discussions and decision-making;

- (e) offer opinions and express views on matters before the College, Council and Committee, when appropriate;
- (f) participate in all deliberations in a respectful and courteous manner, recognizing the diverse background, skills and experience of Council and Committee members;
- (g) uphold the decisions made by a majority of Council and Committees (where the Committee makes a final decision on behalf of the College)¹, regardless of the level of prior individual disagreement;
- (h) place the interests of the public, the College, Council and Committee above other, competing interests;
- (i) avoid and, where that is not possible, declare any appearance of or actual conflicts of interest;
- (j) refrain from including or referencing Council or Committee titles or positions held at the College in any personal or business promotional materials, advertisements and business cards use for economic gain (although referencing one's titles or positions held at the College in one's curriculum vitae is acceptable so long as the curriculum vitae is not overtly used in a promotional manner);²
- (k) preserve confidentiality of all information before Council or Committee unless disclosure has been authorized by Council or is otherwise exempted under s. 36(1) of the *RHPA*;
- (l) refrain from attempting to influence a statutory decision unless one is a member of the panel or, where there is no panel, of the Committee dealing with the matter;

¹ For example, where a Committee makes a recommendation to the Council, a member of the Committee who disagrees with the recommendation can express his or her dissenting views at the Council meeting. In addition, this provision does not prevent a Committee member from issuing a dissenting report (e.g., in a Discipline Committee case) so long as the dissenting Committee member thereafter accepts the majority decision (e.g., when it comes to the penalty phase of the discipline hearing) and does not speak out against the majority decision later on.

² This provision will require some good faith on the part of Council and committee members. For example, if you are asked to participate in a media interview, you would not deny that you are on the Council of the College if asked. However, if you purchase an "advertorial" and encourage the interviewer to ask about your College involvements, that would be a breach of the provision. Also keep in mind the proposed by-law provisions relating to the acceptance of invitations for speaking engagements in your capacity as a representative of the College.

- (m) respect the boundaries of staff whose role is not to report to or work for individual Council or Committee members including not contacting staff members directly, except on matters where the staff member has been assigned to provide administrative support to that Committee or the Council or where otherwise appropriate³;
- (n) be respectful of others and not engage in behaviour that might reasonably be perceived as verbal, physical or sexual abuse or harassment.

³ For example, a member of the Registration Committee can contact the staff support person for that Committee if they are missing pages for the package for an upcoming meeting. But, if the member of the Registration Committee wanted copies of a personal submission to Council to be copied for a Council meeting, he or she would approach the Registrar, not the Committee staff person (as copying personal submissions for Council is not part of the duties of the Registration Committee staff support person). If the chair of the Registration Committee felt that the staff support person was consistently and inappropriately interfering with the decision-making of the Registration Committee, he or she would take that up with the President who would speak with the Registrar.

APPENDIX 3 – PROPOSED UPDATED CODE OF CONDUCT

COLLEGE OF OPTICIANS OF ONTARIO

SCHEDULE D TO THE BY-LAW

Code of Conduct

For Council Members and Committee Members

Purpose

1. The purpose of this Code of Conduct is to ensure that Council Members and Committee Members perform their duties in a manner that promotes the highest standard of public trust and integrity.

General Obligations

2. This Schedule applies to all Council Members and Committee Members.
3. All Council Members and Committee Members shall conduct themselves ethically, respectfully and lawfully, and to act in a manner that is consistent with the College's statutory mandate to regulate opticianry in the public interest.

Loyalty

4. In carrying out their role, each Council Member and Committee Member shall demonstrate loyalty by:
 - a. Recognizing and acknowledging their fiduciary duty to act in the best interests of the College and the public, and that this duty supersedes any loyalties to other organizations, associations, persons or personal or professional interests.
 - b. Publicly upholding and supporting the decisions of Council, regardless of their personal position on the issue. This provision does not prevent a person from stating that an issue dealt with at a public meeting was vigorously debated or that it was not decided unanimously.
 - c. Adhering to the College's established governance model.

Accountability, Diligence and Competence

5. In carrying out their role, each Council Member and Committee Member shall demonstrate accountability, diligence and competence by:
 - a. Making all decisions in good faith and in the best interest of the public.

- b. Acquiring, applying and maintaining knowledge of applicable legislation (including the *RHPA* and the *Opticianry Act*), and the by-laws, policies and procedures of the College.
- c. Participating in all required orientation and training sessions.
- d. Attending Council and/or Committee meetings regularly and being on time.¹
- e. Coming prepared for Council and/or Committee meetings, having read all background materials and briefing documents.
- f. Participating constructively in discussions and decision-making.

Integrity

- 6. In carrying out their role, each Council Member and Committee Member shall demonstrate integrity by:
 - a. Not acting when in a conflict of interest and declaring all real or potential conflicts of interest (see **Appendix I**, below).
 - b. Complying with their confidentiality obligations (see **Appendix II**, below).
 - c. Refraining from engaging in any discussion about Council or Committee matters outside of the appropriate meeting setting.
 - d. Maintaining appropriate decorum during all Council and Committee meetings by adhering to the rules of order adopted by the Council.
 - e. Not attempting to exercise individual authority over the College, including not directing the work of individual College staff.
 - f. Maintaining appropriate boundaries with all other Council Members, Committee Members and staff, including refraining from behaviour that may reasonably be perceived as discriminatory or as verbal, physical or sexual abuse or harassment, and intervening as appropriate when observing such behaviour by others.
 - g. Respecting that the President (or their delegate) is the only person authorized to act as the Council's spokesperson, and that the Registrar is the only person authorized to act as the spokesperson on behalf of the College, and referring all requests for comment by the media and others to the designated spokesperson.
 - h. Refraining from including or referencing Council or Committee titles or positions held at the College in any personal or business promotional materials,

¹ This includes the requirement to not miss two (2) or more consecutive meetings without reasonable cause.

advertisements and business cards used for economic gain (although referencing one's titles or positions held at the College in one's curriculum vitae (including virtual CVs such as LinkedIn) is acceptable so long as the curriculum vitae is not overtly used in a promotional manner).

- i. Ensuring that all public communications, including communications made via social media, comply with this Code (see **Appendix III**, below).

Independence

7. In carrying out their role, each Council Member and Committee Member shall demonstrate independence by:
 - a. Making decisions impartially, fairly, using best evidence and without discrimination or bias.
 - b. Recognizing that individual Council Members or Committee Members have no authority to instruct or evaluate College staff, and no authority to insert themselves into employee operations.
 - c. Refraining from attempting to influence a decision of the Council or a Committee unless they are a member of the panel or Committee dealing with the matter and the discussion is taking place in the appropriate forum.

Diversity and Cultural Humility

8. In carrying out their role, each Council Member and Committee Member shall demonstrate diversity and cultural humility by:
 - a. Participating in discussions and deliberations in a respectful, constructive, and courteous manner.
 - b. Supporting diversity and inclusion by:
 - i. Welcoming alternative points of view.
 - ii. Demonstrating respect for other Council Members and Committee Members, staff, and all other individuals with whom they interact in the course of carrying out their duties.
 - iii. Recognizing and respecting the value of diversity and the contributions of all other Council Members and Committee Members.

Code of Conduct Enforcement

9. Concerns about a Council Member shall be brought to the attention of the President and/or Vice-President.
10. Concerns about a Committee Member shall be brought to the attention of the Committee chair and/or vice-chair.
11. The President, Vice-President, Committee chair and/or vice-chair shall report the concern to the Registrar.
12. Wherever possible, unless it is inappropriate to do so, informal resolution between the person with the concern and the Council Member or Committee Member about whom the concern pertains should be attempted before engaging the formal complaints process. Nothing in this Schedule prevents the informal resolution of Code of Conduct concerns including by providing feedback, guidance, reminders, advice or counselling or by negotiating agreements or undertakings.
13. The following process shall be followed to address a complaint filed about a Code of Conduct concern where it was not possible to reach an informal resolution before or during the process:
 - a. A written complaint shall be filed with the Registrar. A complaint can be made by a member of the public, a Council Member or Committee Member, the Registrar or a staff member. If a Council Member or Committee Member receives such a complaint, they shall immediately file it with the Registrar.
 - b. The Registrar shall report the complaint to the President and/or the Vice-President, who shall bring the complaint to the Executive Committee.
 - c. If the Executive Committee, after any investigation it deems appropriate, believes that the complaint warrants formal action, it shall call a Council meeting. Council shall determine whether there has been a breach of the Code of Conduct, and if so, impose the appropriate sanction, which can include one or more of the following:
 - i. Censure of the Council Member or Committee Member verbally or in writing;
 - ii. Removal of the Council Member or Committee Member from any committee and/or working group on which they serve in accordance with Article 12.3;
 - iii. A vote to disqualify an Elected Council Member in accordance with Article 6.15 or a report requesting removal of a Public Council Member from Council to the Public Appointments Secretariat; or

- iv. Any other sanction appropriate in the circumstances.
- d. The Council Member or Committee Member whose conduct is the subject of concern shall not take part in the deliberation or vote, however they will be given a reasonable opportunity to respond to the allegation.

APPENDIX I
to Schedule D of the By-Law

Conflict of Interest

1. The purpose of this appendix is to provide guidance on how Council Members and Committee Members are to comply with the obligations set out in the Code of Conduct to avoid and declare conflicts of interest. These provisions in no way limit the full extent of the duties set out in the Code of Conduct.
2. All Council Members and Committee Members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public and fulfils the mandate of the College. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal, professional or financial interest. All Council Members and Committee Members have a duty to uphold and further the intent of the Opticianry Act to regulate the practice and profession of opticianry in Ontario, and not to represent the views of advocacy or special interest groups.
3. Council Members and Committee Members recognize that a conflict of interest or an appearance of a conflict of interest by a Member of Council or its committees:
 - a. could bring discredit to the College;
 - b. could amount to a breach of the fiduciary obligation of the person to the College;
or
 - c. could create liability for either the College and/or the person involved.
4. The terms “conflict of interest” and “appearance of bias” are often used interchangeably. The term “conflict of interest” generally applies to policy or administrative decisions while the term “appearance of bias” generally applies to an adjudicative type of decision. For the purposes of the Code of Conduct, including this appendix, they mean the same thing.
5. A conflict of interest exists where a reasonable member of the public would conclude that a Council Member or Committee Member’s personal, professional or financial interest, relationship or affiliation may affect their judgment or the discharge of their duties to the College. A conflict of interest may be real or perceived, actual or potential, or direct or indirect.
6. For the purpose of this Schedule, the Council Member or Committee Member’s personal, professional or financial interests include the interests of a close friend, relative (parent, spouse or other romantic partner, child or sibling), or affiliated entity of a Council Member or Committee Member.

7. Council Members and Committee Members must disclose all involvements with other organizations, vendors or associations that might give rise to, or might reasonably be seen as giving rise to, a conflict.
8. Without limiting the usual and ordinary meaning of “conflict of interest” or “appearance of bias”, some examples of activities or circumstances that would usually constitute a conflict of interest or an appearance of bias for a Council Member or a Committee Member include the following:
 - a. Advising or assisting anyone in their dealings with the College, other than directing them to the appropriate member of staff at the College.
 - b. Participating in the decision-making process where the decision could confer a non-trivial personal, professional or financial benefit to themselves.
 - c. Using their position as a Council Member or Committee Member to secure special privileges or exemptions for themselves or others.
 - d. Using their position as a Council Member or Committee Member to advance their personal, professional or financial interests.
 - e. Using any information learned in the course of their duties as a Council Member or Committee Member to advance their own personal, professional or financial interests.
 - f. Acting in a manner that demonstrates, or appears to demonstrate, a closed mind on an issue that is before the Council or Committee.
 - g. Giving or receiving, or agreeing to receive, directly or indirectly, any compensation, gifts, reward or gratuity from a source except the College, or in the case of Public Council Members, the Office of the Public Appointments Secretariat of the Ontario Government, for a matter connected with or related to the Council Member or Committee Member’s service to the College, including speaking engagements given in their capacity as a Council Member or Committee Member. However, if the payment or gift cannot in the circumstances be gracefully declined, it is not a conflict of interest if the Council Member or Committee Members immediately turns it over to the Registrar. Moreover, it is not a conflict to accept and retain a memento of nominal value (\$50.00 or less) or of no commercial value (e.g. commemorative plaque).
 - h. Accepting, directly or indirectly, any compensation, gratuity, or reward from any other person that is or becomes beneficially interested in a contract or financial arrangement with the College.

- i. Holding a responsible position such as director, owner, board member or officer or is an employee of any organization of or for opticians that has as its primary mandate the promotion of the opticianry profession.
 - j. Holding a responsible position such as director, owner, board member or officer or is an employee of another organization where their duties may be seen by a reasonable person as influencing their judgment in the matter under consideration of the Council or Committees. For example, an educator in a school should not participate in any decisions relating to the status of that school, its program(s) or the acceptability for registration of graduates from that school.
 - k. Initiating, joining, continuing or materially contributing to a legal proceeding against the College or any Committee or representative of the College
 - l. Being the subject of an inquiry or investigation by the College, the police or another authority that impairs the ability of the Council Member or Committee Member to participate in a decision or to continue to serve in their position or has the potential to jeopardize public trust in the Council, the Committee or the College.
 - m. Publishing, including posting on social media or other online forum, a statement that could impair the public's confidence in the College or compromise the public image of the College or the ability of the Council Member or Committee Member to make transparent, objective, impartial and fair decisions that are in the public interest.
9. Where a Council Member or Committee Member believes that they have a conflict of interest in a particular matter, they shall:
- a. Prior to any consideration of the matter, declare to the Council or the Committee that they have a conflict of interest that prevents them from participating;
 - b. Not take part in the discussion of or vote on any question in respect of the matter;
 - c. Leave the room for the portion of the meeting relating to the matter even where the meeting is open to the public; and
 - d. Not attempt in any way to influence the voting or do anything which might reasonably be perceived as an attempt to influence other Council Members or Committee Members or the decision relating to the matter.
10. Where a Council Member or Committee Member is in doubt as to whether they have a conflict of interest, they shall consult with an appropriate person, such as the chair of the affected Committee, the President, the Registrar, a designated member of staff, or independent legal counsel in a hearing.
11. Where a Council Member or Committee Member believes that another Council Member or Committee Member has a conflict of interest that has not been declared despite any

appropriate informal communications, the first Council Member or Committee Member shall advise an appropriate person, such as the chair of the affected Committee, the President, the Registrar, a designated member of staff, or independent legal counsel in a hearing. The person who is suggested as having a conflict of interest is entitled to address the matter before any decision is made by the Council or relevant Committee, as appropriate.

12. Where the Council or a Committee concludes that one of its members has a conflict of interest that has not been declared, it can direct that the Council Member or Committee Member not participate in the discussion or decision, leave the room for that portion of the meeting, and not try to otherwise exert influence in the matter.
13. Every declaration or finding of a conflict of interest shall be recorded in the minutes of the meeting.

APPENDIX II
to Schedule D of the By-Law

Confidentiality

1. The purpose of this appendix is to provide guidance on how Council Members and Committee Members are to comply with the confidentiality obligations set out in the Code of Conduct. These provisions in no way limit the full extent of the duties set out in the Code of Conduct.
2. Council Members and Committee Members shall:
 - a. Regularly review and maintain familiarity with their legislative obligations relating to confidentiality, including section 36 of the RHPA and sections 83 and 83.1 of the Health Professions Procedural Code.
 - b. Treat all information learned in the course of their duties as confidential and shall not disclose it to any other person unless an exception set out in the legislation applies. Where a legal exception may apply, it should generally be left to College staff to disclose the information, however this does not preclude a Council Member or Committee Member from disclosing information as required for the performance of their duties, such as in rendering a decision and reasons on behalf of a Committee or a panel of a Committee.
 - c. Treat all communications within a Committee or panel of a Committee as confidential from any other person, including Council Members or Committee Members that are not part of the Committee or panel in question.
 - d. Treat internal communications within the College as confidential and shall only obtain or disclose information on a need-to-know basis.
 - e. Take reasonable measures to safeguard College information, including:
 - i. the safe management of paper documents.
 - ii. the safe management of portable electronic devices, including ensuring that all devices used to view or access College information, such as laptop computers or mobile phones, are password protected.
 - iii. avoiding the use of unsecure public networks and/or unsecure electronic forms of communication.
 - iv. avoiding discussing or displaying information in a public space where it can easily be heard and/or viewed by others.

- f. Immediately advise the Registrar if they believe there has been a breach of confidentiality by a Council Member or Committee Member, whether intentional or unintentional.

APPENDIX III
to Schedule D of the By-Law

Social Media

1. The purpose of this appendix is to provide guidance on how the Code of Conduct applies to a Council Member or Committee Member's use of social media. These provisions in no way limit the full extent of the duties set out in the Code of Conduct.
2. For the purposes of this appendix, references to "social media" will include any website, application or other online public forum that permits individuals to create and share content, participate in social networking, and/or post comments. Examples of social media and other online public forums include (as of January 2020): Twitter, LinkedIn, Facebook, Instagram, YouTube, blogs (including personal blogs, or blogging websites such as Reddit), review websites (e.g. Google or Yelp, etc.), news media sites and message boards.

Social Media undertaken for the purpose of personal or professional use

3. Council Members and Committee Members who have their own social media accounts, whether personally or through an affiliated business or other entity, shall ensure that their use of social media is consistent with the Code of Conduct. Without limiting this general requirement, some examples of conduct that would usually be viewed as violating the Code of Conduct include where the Council Member or Committee Member posts or otherwise engages with content that:
 - a. Discloses confidential information.
 - b. Gives rise to a conflict of interest or the appearance of a conflict of interest.
 - c. Contains a statement that could impair the public's confidence in the College or compromise the public image of the College or the ability of the Council Member or Committee Member to make transparent, objective, impartial and fair decisions that are in the public interest.
 - d. Expresses personal disagreement with a decision of the Council.
 - e. Gives the appearance that they are speaking on behalf of the College or the Council, or commenting on College related business, unless expressly authorized to do so.
 - f. Includes or references Council or Committee titles or positions held at the College in any personal or business promotional materials, advertisements and business cards used for economic gain (although referencing one's titles or positions held at the College in one's curriculum vitae (including virtual CVs such as LinkedIn) is acceptable so long as the curriculum vitae is not overtly used in a promotional manner).

- g. Violates appropriate boundaries with other Council Members, Committee Members or College staff.
- h. Contains a statement that may reasonably be perceived as discriminatory or as verbal, physical or sexual abuse or harassment.
- i. Purports to advise or assist anyone in their dealings with the College, other than directing them to the appropriate member of staff at the College.

College Social Media Accounts

- 4. No Council Member or Committee Member is required to follow or otherwise engage with the College social media accounts.
- 5. Council Members and Committee Members shall recognize that only designated College staff members are authorized to post content on the College's social media platforms.
- 6. Council Members and Committee Members shall:
 - a. Refrain from commenting or posting any of their own content to the College's social media platforms.
 - b. Refrain from responding to posts on behalf of the College, the Council or in their personal or professional capacity.
- 7. Council Members and Committee Members may, however, forward or re-tweet content posted by the College.