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**College of Chiropractors of Ontario**  
**Executive Committee Report to Council – By-law 6: Elections**  
**September 13 - 14, 2019**

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- Members:** Dr. Dennis Mizel, *President*  
Mr. Rob MacKay, *Vice-President*  
Dr. Cliff Hardick, *Treasurer*  
Dr. Peter Amlinger  
Dr. Janet D’Arcy  
Ms Georgia Allan  
Ms Karoline Bourdeau
- Staff Support:** Mr. Joel Friedman, *Director, Policy and Research*  
Ms Jo-Ann Willson, *Registrar and General Counsel*

## **I Introduction**

- On Monday, September 2, 2019, the Executive Committee (“Committee”) had a teleconference call to review the various feedback relating to By-law 6: Elections for the purpose of preparing recommendations for Council’s consideration at the September 13-14, 2019 Council meeting. The deadline for feedback was Friday, August 30, 2019 at 4:00 p.m. Thank you to the staff for staying late on the last long weekend of the summer to prepare the information package for the Committee’s consideration.
- Consistent with Mr. Steinecke’s advice, the information relating to the feedback re: By-law 6: Elections was not distributed to Council members who are faculty at CMCC, and Dr. Janet D’Arcy did not receive the information or participate on the Executive Committee’s teleconference call on September 2, 2019 to review the feedback and consider the recommendations to Council. I would like to thank the members of the Committee who carefully reviewed the large volume of feedback and participated on the teleconference call on the Labour Day Long Weekend.
- The topic of By-law 6: Elections is scheduled to be addressed on Saturday, September 14, 2019 at 1:00 p.m. when Mr. Steinecke will be attending to provide legal advice as required. If Council seeks legal advice on any aspects, that advice should be sought in camera, and not during the public portion of the meeting. Not going in camera to receive legal advice could be construed as CCO waiving the privilege attached to advice received. Please note Mr. Steinecke must leave the Council meeting no later than 2:30 p.m. Following the Executive Committee Report, all other committee reports will be presented.

## II Public Information

- There are two matters for Council’s consideration. The first, is what aspects of the feedback relating to By-law 6: Elections should be posted on CCO’s website, whether any names of specific individuals should be redacted and whether individuals referenced in the feedback should be given an opportunity to provide comment about the feedback referencing them. Some stakeholders have indicated they would like their feedback to be public, and some stakeholders have already broadly posted or circulated their own feedback. However, the determination of what information is public is *up to Council*. The Committee did not consider this aspect on the September 2, 2019 meeting, but we have subsequently received advice from Mr. Steinecke, and the following recommendation is for Council’s consideration:

<b><i>Recommendation 1:</i></b>
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*That all feedback relating to By-law 6: Elections be posted on CCO’s website with an appropriate preamble.*

- Suggested wording for a preamble relating to the By-law 6: Feedback to be posted on the website is as follows:
- *CCO is interested in encouraging respectful, professional debate on topics affecting the regulation of the chiropractic in the public interest. The policy decisions for CCO are a responsibility of CCO Council to make. In the interests of openness and transparency, CCO has included all feedback received without commenting on the accuracy of the comments. If any stakeholder has further comments, please forward them to CCO at the earliest opportunity. It is unhelpful to make comments about individuals in your submissions on policy issues. Keep in mind that the CCO may post your submission publicly. Please focus your comments on CCO’s public interest mandate, and mission, vision, values and strategic objectives. Thank you.*
- On a go forward basis, the Committee will be considering options to making feedback publically available such as establishing a portal which allows stakeholders including members to upload their submissions directly. Recommendations concerning how feedback is solicited and made public will be considered by the Committee at a future meeting. Mr. Joel Friedman is researching best practices from other colleges about information being made public in the interests of openness and transparency, and how that is balanced against avoiding the circulation of any comments which may be inaccurate or potentially defamatory or libelous.



### III By-law 6: Elections Amendments

- The second aspect for Council to consider is the recommendations relating to amendments to By-law 6: Elections. In considering the recommendation, please keep the following in mind:
  - The issue of conflict of interest and bias for CMCC faculty has arisen in a number of contexts and in various feedback over the past several years, and arose in feedback relating to the 2019 elections. Out of nine elected chiropractor positions on CCO Council, four are currently filled by CMCC faculty.
  - There are two other colleges that have restrictions on faculty eligibility, including the College of Optometrists, which, like chiropractic, has only one accredited educational institution in English Canada. It is inaccurate to say there are no other health regulatory colleges with a restriction on faculty from the educational programs participating on the regulatory council. The nature of those restrictions vary.
  - CMCC and its leadership has adopted certain positions on various aspects of chiropractic, including the March 27, 2019 agreement to be a signatory to the International Clinical and Professional Chiropractic Education Position statement, which when originally circulated by CMCC to stakeholders, included a reference to overwhelming support (98 %) from the faculty of CMCC of the content of the position statement and also included the following statement: *“It is highly unlikely that the Board would have voted to become a signatory if the faculty had not so strongly supported the issue.”* Whether or not CMCC faculty agree with the known views of CMCC’s leadership, they have a real or perceived financial conflict of interest by virtue of being employed by CMCC.
  - Issues such as an acceptable definition of subluxation, patient confidentiality, and advice to patients about the frequency of treatment are important regulatory discussions which should be informed by the broad base of CCO’s membership including members who are in full time practice or who have graduated from other accredited chiropractic institutions, and the important input of CCO’s public members.
  - There have been “real life” examples of the conflicts in actions at CCO. In addition to the by-law amendment, the Committee should include on the next Committee agenda the development of best practices to avoid any current real or perceived conflicts of interest for recommendation to Council in advance of the committees being composed in April 2020. Examples might *include*:
    - registration, ICRC and discipline panels should have at least one chiropractor in full time practice with patients; and

- a Council member whose full time employment is at an educational institution should not chair the Registration Committee or participate in the development of the Legislation and Ethics Examination as a requirement for entry to practice.
- Another aspect of feedback relating to By-law 6: Elections relates to continuing education. If CMCC faculty are precluded from discussing continuing education for CCO members on the basis that CMCC faculty may be providing that continuing education, other Council members who provide continuing education through other organizations would also have a conflict and should not participate in those discussions or vote on any policy decisions by Council concerning the topic of continuing education requirements for CCO members.
- At the September 2, 2019 Committee meeting, the Committee unanimously approved the following recommendation:

***Recommendation Arising from September 2, 2019 Committee Meeting:***

*That Council approve amendments to By-law 6: Elections as follows:*

6.9 A member is eligible for election to Council in an electoral district, if on the closing date of nominations and anytime up to and including the date of the election:

(f) the member is not, and has not been in the 12 months before the date of the election, an employee, officer or director of any professional organization such that a real or apparent conflict of interest may arise, including but not limited to being an employee, officer or director of the CMCC, UQTR, OCA, CCA, CCPA, AFC, CCEB, CSCE or the CCEC of the FCC;

6.29 The Council shall disqualify an elected member from sitting on Council if the elected member:

(g) becomes at any time after nomination an employee, officer or director of any professional chiropractic organization such that a real or apparent conflict of interest may arise, including but not limited to being an employee, officer or director of the CMCC, UQTR, OCA, CCA, CCPA, AFC, CCEB, CSCE or the Accreditation Standards and Policies Committee or the CCEC of the FCC;



6.36 CCO Council will select one academic appointment to sit as a nonvoting academic adviser on CCO Council and committees from a list of up to 3 nominees provided by CMCC for a three year term, starting in March 2020.

***Revised Recommendation:***

- Although the Committee approved the recommendation above, I have subsequently had the opportunity to reflect on a revision to the motion and obtain legal advice on wording which would recognize the conflicts, be respectful of the feedback, and demonstrate leadership in addressing the important issues concerning By-law 6: Elections.
- During the course of the discussion at Committee on September 2, 2019, this evolution in the recommendation was discussed, however I needed an opportunity to see how it would sit in the by-law and of course consult with Mr. Steinecke. Now that this has been done, I believe it is the right approach. There has been insufficient time to schedule another Committee meeting, but the Committee has unanimously approved the revised recommendation as circulated. The revised recommendation, is consistent with the spirit of the motion approved by the Committee on September 2, 2019, and is unanimously supported by the Committee which reviewed the draft by e-mail.
- The revised recommendation dedicates one of the three Toronto positions to an academic position which would be a voting position on Council. The Academic Position would not be selected by Council, but would be elected by the full CCO membership. The faculty who would be eligible would be those listed as faculty by CMCC. The recommended amendments to By-law6: Elections would not require any changes to the *Chiropractic Act*, and would be authorized through the by-laws. The wording of the revised recommendation is:

*That Council approve amendments to By-law 6: Elections as follows:*

**Revised Recommendation – Dedicated Academic Electoral District**

Article 6.1 is amended by adding the following:

Electoral District 7: Academic comprised of the entire province of Ontario.

Article 6.2 is repealed and replaced with the following:

6.2 A member is eligible to vote in District 7 and in the electoral district in which the member, as of January 1st of the election year, has his/her primary practice, or if the member is not engaged in the practice of chiropractic, in which the member has his/her primary residence.

Article 6.3 is amended by replacing the existing table with the following table:

<b>Column 1</b>	<b>Column 2</b>
Electoral District	Number of Members
1	1
2	1
3	1
4	2
5	2
6	1
7	1

Clause (b) of article 6.6 is amended by replacing “and for one member from electoral district 4” with “and for one member from electoral district 7”.

Article 6.9 is amended by deleting the word “and” after clause (i) and by adding new clauses (k) and (l) as follows:

(k) for District 7 only, the member is a member of the faculty of the CMCC; and

(l) for any district other than District 7, the member is not eligible for election in District 7.

Article 6.29 is amended by inserting between clause (f) and clause (g) the following new clause:

(f.1) in the case of a Council member from District 7, ceases to be a member of the faculty of the CMCC;

Article 6 is amended by adding the following new clause:

6.39 Where insufficient candidates are nominated for a district by the close of nominations, the Council may nominate a member even though the member does not have his/her primary practice and is not engaged in the practice of chiropractic in the district and, for District 7, is not a member of the faculty of the CMCC.

- Attached to this report is a copy of what the amended By-law 6: Elections would look like with the above noted changes.

#### **IV Conclusion**

- This has been a challenging and important discussion, and I thank all of you for your thoughtful feedback and respectful discourse.

Respectfully submitted by,

Dr. Dennis Mizel,  
President

