



# the Sentinel

A Newsletter of the College of Dental Surgeons of British Columbia

## Will the Real Public Interest Please Stand Up?

It is a motherhood statement that regulators protect the public interest. A typical mandate for a professional regulator is that it regulates the quality and ethical aspects of the practice of the profession so that the public interest is served and protected. The difficulty is in applying that general concept to the everyday decisions of the organization.

There are many reasons why there is often a lack of consensus in applying this general mandate statement to specific situations, including the following:

The public interest mandate statement of regulators is often, as described above, set out in very broad terms. Usually these mandate statements are based on the "objects clause" in the regulator's enabling statute or articles of incorporation. Little guidance is offered on how to balance the competing factors that form part of most decisions.

Some of the confusion is caused by the election process for members of governing Councils or Boards of regulators. The election process may, incorrectly, suggest the Parliamentary model where representatives are elected to act on behalf of their constituents. Re-election can become a concern for some Council or Board members if a controversial regulatory issue arises during their term.

The public interest is a subjective concept. There is no absolutely right response in any situation (although there may be some "wrong" reactions).

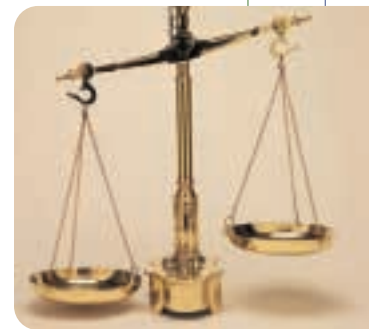
There will always be room for debate even among thoughtful, right-thinking individuals.

Perspective is everything. In the same situation a client can be significantly harmed, the practitioner may have responded to competing pressures and the media may be looking for a hook for a story. Each might legitimately take a different view of the matter.

Human nature has an infinite capacity to delude oneself. One can honestly believe that what is good for oneself is also good for everyone else even when most objective observers would disagree.

**Faced with these considerations, regulators must search carefully for the true public interest. In doing so, most regulators consider carefully the following:**

*Start with one's enabling legislation or articles of incorporation.* In addition to setting out the mandate statement for the organization, this document will also describe the regulator's expected activities and



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## College Well Prepared for HPA Act

Also: Improvements to governance policy, complaints review, and participation



President's Report

Dr. Robert Rosenstock

This past year, our Council members have worked very cohesively with our highly regarded government appointed public representatives, resulting in significant progress in College initiatives. Our Registrar, Heather Laing, and our very capable College staff have put these resolutions into motion.

The *Health Professions Amendment Act* received Royal Assent on October 23, 2003. We were well prepared for this event. Council, our Registrar and staff had worked diligently with our legal counsel, Davis and Co., and presented submissions to government with suggested improvements, many of which were accepted by government. The Minister of Health Planning, the Honourable Sindi Hawkins, congratulated us for our constructive input. Full implementation of the *Health Professions Act* (HPA), as it relates to our College, will be an ongoing process that could take one to two years. One hurdle is to define scopes of practice for each of the professions under the Act. Committees have begun work on defining the specific and interdisciplinary scopes of practice for dentists, and duties and procedures for certified dental assistants.

During the period when the profession is transitioning to the *Health Professions Act*, the Dentists Act will continue to apply. The composition of Council presently remains under the Rules of the Dentists Act. Abiding by these Rules, Council was able and willing to agree to downsize to 21 Council members from the current 27. The 2004 elections will be based on this new number. Council also informally voted to further decrease its number to 15 after the profession is designated under the *Health Professions Act*.

A Quality Assurance Program, which is a requirement under the HPA as a means of enhancing and monitoring professional performance, is in the discussion stage. We feel this could take up to three to four years to implement although, hopefully, many concepts can be honed from similar plans developed in other areas such as Alberta and Ontario.

After approximately two years of consulting with Caroline Oliver and other governance experts, the College has adopted a governance manual that provides for policy governance. Council and Executive meetings will be forums for

policy discussion. Over time, the manual will be adjusted to reflect changing interpretations and positions of Council. The College has adopted a modified Carver Model. This means Council will direct the Registrar as to its policies and what Council wants to achieve, and the Registrar is then responsible for all College staff and their activities. Council will receive and review regularly scheduled monitoring reports to determine that the Registrar is achieving the specific results stipulated by Council.

Complaints process changes, as advocated by the Regulatory Review Task Force, are now in place. We are confident that the system has been made fairer and more transparent, and feel, over a period of time, registrants will see the College's disciplinary process in a more positive light although probably still one best to be avoided!

Council is in the process of developing and adopting a policy ensuring that more registrants become involved in College committees by placing term limits on members, and filling vacant positions with volunteers, most of whom have not previously served on committees. Please let the College know if you are interested in serving your profession in this way.

A Strategic Planning Workshop has been scheduled for this June to discuss what the College's focus should be in the next two to three years. The role of certified dental assistants is expected to be a major topic of this session.

Thank you to Dr. Dan Stoneman and Dr. Peter Lobb for their strong support, and to Council and our College staff for making this progress possible.

## Privacy a Big Priority

As part of our ongoing commitment to ensure the privacy of the public, registrants and staff, the College has developed a policy that clearly outlines our intentions with regard to privacy protection. The College's Privacy Policy is currently posted on our website ([www.cdsbc.org](http://www.cdsbc.org)) and hard copies will be made available upon request.

The College of Dental Surgeons is committed to protecting the privacy of the public, its registrants and its staff.

This is the College's Privacy Policy. It sets out the commitments we make and principles we follow when dealing with personal information. We understand the importance of maintaining privacy and are committed to collecting and using your personal information responsibly.

Personal Information is any identifiable information about any individual. This information can include; name, home address, telephone number, fax number, email address, gender, marital status, date of birth, dental records, etc.

The following principles comprise the College's Privacy Policy.

**Accountability** – The College is responsible for any personal information under its control. The Privacy Officer for the College is accountable for maintaining and ensuring compliance with the Privacy Policy.

**Identifying the Purpose of Collecting Information** – The purpose for collecting any personal information will be made available before or at the time of collection. The College will only collect information necessary for the identified purpose and will retain information only as long as necessary to fulfill the purpose of collection and to meet business and legal purposes.

**Consent** – Your knowledge and consent to collect, use or disclose personal information is required under the College's Privacy Policy except where the Freedom of Information and Protection of Privacy Act (FOIPPA) or other law authorizes collection/use/disclosure without consent. Consent is a voluntary agreement regarding the collection or use of personal information. Consent can be express (oral or written) or implied.

**Limiting Use, Disclosure and Retention** – The College will not use any personal information other than for the purpose it was collected or for purposes consented to or authorized by FOIPPA or other law. Information will be destroyed in a secure manner in accordance with the College's record retention schedule.

**Accuracy of Information** – The College makes every effort to ensure that all personal information is accurate, complete and current.

**Safeguards for Personal Information** – The College has taken appropriate measures to ensure that all recorded personal information is safeguarded against unauthorized access, disclosure or use.

**Availability of the Privacy Policy** – The College will make available information about the policies and practices relating to the management of personal information.

**Access to Personal Information** – Upon written request, and within 30 working days, you are entitled to access personal information under the control of the College subject to the exceptions to access as set out in FOIPPA. Information can only be released to third parties if express consent is provided to the College.

**Compliance and Complaints** – Complaints, concerns or questions are to be addressed in writing to the Privacy Officer for the College. The Privacy Officer will investigate all complaints made to the office in writing. If the complaint is justified, the Privacy Officer will take measures to correct and if necessary make changes to existing privacy policies and procedures. If the complaint cannot be resolved to your satisfaction by the College, you will be provided with the contact information for the appropriate government agency for further information.

### Contact:

Privacy Officer  
College of Dental Surgeons  
of British Columbia  
500 – 1765 West 8th Avenue  
Vancouver, B.C. V6J 5C6

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## 2004 Year of Transition



### Registrar's Report

Heather Laing

**T**hese are interesting times for the dental profession. We continue to be in a period of transition.

You will have read elsewhere in this issue of the Sentinel, and in the previous issue, about many of the things that have been happening and those that are ongoing. Let me begin by focusing on only two, each of which will require considerable input and work from many registrants.

First, during the next year and beyond, the profession will be brought under the Health Professions Act. The College will be proceeding, with the assistance of our legal advisors, to resolve scope of practice issues and to draft bylaws.

Second, Quality Assurance will be increasingly important to the profession as we review, over the next few years, how to augment our present method of ensuring continuing competency and develop new programs.

Meanwhile, your College continues to function diligently and efficiently on your behalf, doing the everyday things that are usually "below the radar screen." As I write this in January, let me take a few moments to set out some of these for you.

With the Continuing Education cycle ending on December 31, 2003, the staff handled hundreds of calls assisting registrants to determine whether they had sufficient CE to be eligible to be re-licensed. We are pleased to say that as of January 2004, the Registrants Only section of the College website allows registrants to check CE credits directly. The CDA Committee is currently reviewing and updating the content of the BC Board Theoretical Exam, the last review having been done five years ago. Also in January, approximately 8,500 licence renewals were mailed. In the envelopes, there were on average seven enclosures that had to be printed, collated, stuffed and mailed. All of this was organized and implemented by College staff.

Around the same time, the receptionist received, on one day, 175 phone calls, 50 letters and 60 faxes. The Clinic continued to operate, providing services to 24 study groups. The complaints staff received 10 new complaints and continued to investigate many others, and registration dealt 500 CDA and dentist inquires and requests for BC licence.

And of course, I should not forget the flood! When water began to pour in from the roof (a pipe froze due to the cold weather), we all contributed our wastebaskets until help could arrive.

What is the theme that runs through all of this? Our aim is a College respected by registrants and the public alike, an institution that is seen to be fair and respectful in all its dealings. We will get there by constructing a sound operating model and managing the College with quiet effectiveness. But there is more. We must also act in a fair, reasonable and consistent manner at all times to earn the respect and reputation that we should have – a self-regulating body that cares deeply about its registrants and the public and is able to protect the interests of both in a fair and even handed way.

In the months ahead, I and the other members of the College staff will continue to strive towards these objectives.

To that end, we want to hear from you about your concerns and priorities. We will continue to communicate our vision, and we welcome your thoughts and ideas. Most importantly, we need and appreciate your active involvement in the work of the College.

I will end as I began. There are both challenges and opportunities ahead. We have made a good beginning, and there is much more to do together.

### Continued from front cover

programs (e.g., entry to practice standards, complaints and discipline procedures, quality assurance initiatives, a Code of Ethics, and public education obligations). These topics should be the focus of debate in your organization.

*Contrast what is not generally in the public interest.* Sometimes one can understand a concept better by appreciating what it is not. Advancing the profession's self-interest, through promotion of higher fees and restricting competition, for example, is generally not in the public interest. Similarly, advancing the personal interests of a Council or staff member are not in the public interest.

*Recognize there is an overlap between the public interest and enlightened self-interest.* Most members of a profession would agree that preserving the reputation of the profession, encouraging easy access to services and disciplining bad members are a good thing. So would members of the public. Simply because the profession supports a proposition does not mean that it is not in the public interest. However, if a regulator and a professional self-interest association always agree, that may be a concern.

Fairness to members is equally important as protecting the public. The Ontario Court of Appeal has said that there is no value in a regulator viewing the protection of the public as being more important than fairness to its members. Both duties are important and undermining one does not, in the long run, advance the other.

*Distinguish between goals and methods.* The goal of a regulator is to serve the public, not advance the interests of its members.

However, a regulator can only be effective if it has the general support of the profession. Thus, sensitive communication and consultation with the profession are required by a regulator. Occasionally a regulator might better take a less direct or more gradual approach to achieving its regulatory goals than it might otherwise prefer.

Even with these principles in mind, it is rare that a regulator can identify one course of action as being absolutely in the public interest. Usually there are degrees of reasonableness in a debate. Even if one could identify the correct decision, who has the authority to tell a Council or Board member or a committee what to do? At best, a pattern of behaviour emerges. Rather than trying to identify the public interest for individual issues, leaders of a regulator might better expend their energy in fostering a public interest culture in their organization. Such a culture can pervade the organization in a way that advances the public interest for years to come.

### Leaders can foster a public interest culture in their organization in the following ways:

*Structural considerations.* The structure of an organization can have a significant impact on its culture. Ensuring that there are an adequate number of public appointees can assist a self-governing profession to consider perspectives other than that of the profession itself. Rotating terms for Council or Board members can avoid precipitous changes in composition and ensure the socialization of new persons to the public interest mandate of the organization. Longer terms for Council or

Board members can also assist them in seeing the longer term implications of their decisions. Built-in scrutiny and accountability, particularly to external bodies, can balance self-regulation with service to the public interest.

*Orientation processes.* Council, Board and staff members should receive intense and formal

orientation as to their mandate. That orientation should include an explicit discussion of the public interest. Using a number of respected internal and external presenters can help get the message across. Written materials should provide a permanent resource on the topic.

**Fairness to members is equally important as protecting the public. Both duties are important and undermining one does not, in the long run, advance the other.**

### Model the "public interest" everywhere.

Policy documents should explain how each option will advance the public interest. During debates and consultation processes, the discussion should mention the public interest constantly. When a position appears to reflect a self-interested perspective, ask how it supports the public interest mandate of the regulator.

### Educate the profession constantly as to the regulator's role.

The regulator should ensure that there is an ethics and jurisprudence component to all professional training and continuing education programs. The regulator's newsletter needs to be persistent on this point. The mandate of the regulator should be emphasized on its website. The regulator should actively seek speaking invitations so that it can discuss the "social contract" that it represents between the profession and the public with the profession and others. Organizational slogans can promote this world view as well.

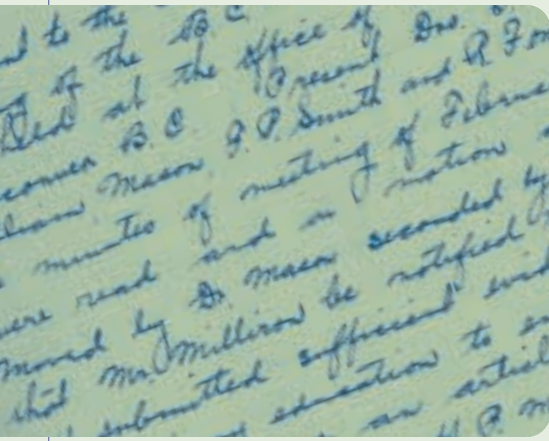
### Attempt to regain control over the election process.

While it may be too late for some professions, the election process should be consistent with the public interest mandate of the organization. Expressly set out the regulator's mandate and role in election notices. Regulators should have election rules about campaigning and, if possible, campaign literature so that it is clear that elected Council or Board members do not

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## Council Highlights > November 28, 2003



### College Finances

Current revenues and expenditures reflect a small surplus.

Due to additional costs in the 2003/2004 fiscal year relating to the appointment of a new Registrar and CEO and the retirement of a Deputy Registrar, there is less flexibility in the budget for the rest of the fiscal year.

Council has approved licence fees for 2004/2005 of \$2,495 for dentists, and \$210 for certified dental assistants.

Council approved a budget for the 2004/2005 fiscal year which includes funds to hire two new deputy registrars and a part-time communications coordinator, and to develop a contingency fund.

Council decided the debt on College Place will be paid down at \$125,000 plus interest annually; Council also decided to use any surplus funds to pay down the debt on College Place to an annual maximum of \$250,000.

### Health Professions Act

Bills 62 and 81, amending the Health Professions Act, have been passed by the Legislature. These bills give the government the authority to designate

the professions of dentistry, medicine, registered nursing, chiropractic, optometry, podiatry and pharmacy as "health professions" under the HPA.

Bills 62 and 81 will not affect the College until the government passes regulations. Until dentistry is designated as a health profession under the HPA, the College and the profession of dentistry will continue to be regulated by the Dentists Act.

Before dentistry can be designated a health profession under the HPA, the government will need to make regulations governing the scope of practice of dentists, and changes to the College's Rules (to be called Bylaws under the HPA) will also be required.

Council passed a motion that all College registrants must continue to practise and teach based on current practice standards during the transition from the Dentists Act to the HPA.

### Council Size

Council decided to reduce the size of Council from 27 to 21 persons, as of the 2004 elections. The result is that Council as of the 2004 election will be comprised of one president, one treasurer, nine members from the existing dental electoral districts, one specialist, one UBC representative, one certified dental assistant and seven public representatives.

Council also discussed the possibility of more restructuring after dentistry is designated a health profession under the HPA, and the Dentists Act no longer applies. A substantial majority of Council members at the meeting favoured reducing the size of Council to 15 persons under the HPA, to consist of one president, one president-elect, six members from dental electoral districts, one specialist, one certified dental assistant and five public representatives.

The proposal contemplates the amalgamation of some dental electoral districts: Kootenay and Thompson-Okanagan; Prince George and Peace River; and Upper Island and Victoria & District.

- The proposal also contemplates:
- the specialist representative on Council will be an elected position, with all certified specialists eligible to vote for the specialist representative, but not for representatives of dental electoral districts;
  - the certified dental assistant on Council will also be an elected position;
  - a third elected officer, in addition to the president and president elect, will be selected from the dentists on Council.

Although the proposal does not require a UBC representative on Council, Council favours using other means (like UBC representation on College committees) to preserve the strong relationship between the College and UBC.

The restructuring of Council under the HPA, including the election procedures to be used, will need to be established in bylaws approved by Council under the HPA.

### 2004 Election

Council approved the following dates for the 2004 election:

Notice of Election and Call for Nominations: no later than February 3, 2004

Close of Nominations: Wednesday, April 7, 2004

Mail ballots, voting instructions, and candidates statements: Monday, May 3, 2004

Election count: Thursday, May 27, 2004

### Committee Membership

The College Committees and Task Forces Committee has agreed on principles for the selection, rotation, and reappointment of committee members, and intends to report to the Executive Committee in 2004 on the implementation of those principles.

In the interim, the College Committees and Task Forces Committee recommended the elected officers randomly select volunteers from existing volunteer lists to fill vacancies on committees for one-year terms.

### Accreditation Committee

Council approved some changes to the Minimal and Moderate Sedation Services in Dentistry document.

### Nominations and Awards Committee

The Awards to be presented at the 2004 College Awards Ceremony are:

#### Honoured Member Award

- Dr. Ron Markey
- Dr. Ted Ramage

#### Distinguished Service Award

- Dr. Norman Ferguson
- Dr. Raymond Greenfeld
- Dr. Douglas McDougall
- Dr. Charles Slonecker
- Dr. John Zaporinuk

### Certificate of Merit

- Dr. Phil Barer
- Dr. David Christie
- Dr. Bob Clarke
- Dr. Myron Faryna
- Dr. Larry Goldstein
- Ms. Dianna Hiebert
- Dr. Dave Hodges
- Dr. Ernie Schmidt
- Ms. Sherry Sikora
- Dr. Richard Wilczek
- Ms. Jane Wong
- Dr. Maurice Wong
- Dr. Leon Woolf

### Certificate of Appreciation

- Mr. Gordon McConnell
- Dr. George Maryniak
- Dr. John Gould

The Nomination and Awards Committee will be responsible for ensuring candidates are nominated for each position in the College elections, and choosing candidates to be acclaimed for any unfilled positions.

### Insurance Companies/Personal Information Protection Act

Council members were of the view that the Association of Dental Surgeons of British Columbia would be the appropriate body to contact insurance companies to voice concerns of B.C. dentists about access to patients' insurance coverage information and related Personal Information Protection Act limits on that access.

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"represent" those who elected them. Rather, the election process is a means of selecting respected members of the profession to regulate that profession in the public interest.

*Obtain external input regularly.* In that way, the regulator can obtain fresh perspectives about its role and the impact of its activities. External input can be obtained through in-house education sessions, surveys of how other regulators approach similar policy issues, consultation with interest groups and analysis by consultants of the competing public interest considerations of an upcoming major decision.

The public interest is a process, a product of educational experiences, a systemic issue, in short a matter of corporate culture, rather than simply confronting a misguided individual.

*By Richard Steinecke*

*Excerpt from Grey Areas Newsletter. Published by Steinecke Maciura LeBlanc.*

[www.sml-law.com](http://www.sml-law.com)





### College employee profile

#### Betty Larsen

Betty Larsen is the Manager of Operations at the College of Dental Surgeons and the cog that keeps the College wheels turning. She came to the College in September 1992.

Over the years, she has held the positions of Senior Secretary, Complaints Officer and Manager of Complaints, and in 1997 she was promoted to her present position.

Betty's friendly, easy-going manner and approachable style make her well-liked by staff. Empathy is one of Betty's admirable qualities, and her door is always open to discuss matters of concern to the staff. They know that she is always ready to offer valuable suggestions when presented with a problem and appreciate her willingness to offer assistance. Her keen mind and many years of experience are a great asset to the College and its staff.

Betty's many responsibilities include human resources management, as well as overseeing the administration/operations of the College. She is responsible for certified dental assisting regulation and is also involved with certified dental assisting regulatory authorities on a national level. In addition, she is currently Chair of the Joint Venture Management Committee for College Place.

Betty says her time at the College has been a challenging and most rewarding experience. "The staff at the College are wonderful. We are like one big family, which makes for an excellent working environment," she says. "I consider myself fortunate to have the opportunity to meet, work with and develop friendships with so many great people at the College and in the dental profession, both in B.C. and nationally."

The College is greatly appreciative of Betty for her dedication these past years, and we look forward to her continued success as Manager of Operations at the College.

*The Sentinel* is published by the:

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Readers questions, comments and content suggestions for the *Sentinel* are welcome and may be forwarded to the Editor, c/o the College.

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*The Sentinel* and other communications circulated by the College are the primary source of information about regulation for dentists and certified dental assistants in BC. Registrants are responsible for reading these publications to ensure they are aware of current standards, policies and guidelines.



### It's all on the web!

The College has received many positive comments on the new website — [www.cdsbc.org](http://www.cdsbc.org). If you haven't already done so, please take a moment to look at the site. It's user friendly and full of helpful information, such as the *Dentists Act*, the Rules, registration information, ongoing updates on policy statements, information sheets and guidelines. You can even read the *Sentinel*!

Our new "Registrants Only" section is up and running, and registrants can now check their individual continuing education points on line! Please go to "Registrants Only" and follow the simple log-in instructions.