



Memo

Date: May 2, 2019
To: Members of Council
From: Irene Dembek, OCT
Chair, Fitness to Practise Committee
Subject: Report of the Fitness to Practise Committee

Committee Meetings/Hearing Dates

Meetings

A Fitness to Practise Committee meeting was held on May 2, 2019.

Hearing Dates (January 1 to April 30, 2019)

January: 17
February: N/A
March: 18
April: 11.

Summary of Discussions

a) Joint Training

At the May 1, 2019 Joint Training of the Discipline and Fitness to Practise Committees and their roster members, Julie Maciura, Steinecke Maciura LeBlanc, provided training on disclosure, pre-hearings and the role of Independent Legal Counsel.

b) Meetings

At the May 2, 2019 Fitness to Practise Committee meeting the committee members discussed the following topics:

Report of the Ad Hoc Committee on Adjudicator Code of Conduct

The Ad Hoc Committee on Adjudicator Code of Conduct was formed as a result of a resolution made by the Fitness to Practise Committee in November 2018 to develop a code of ethics applicable to the committee's adjudicative activities.

The committee reviewed the Ad Hoc Committee's recommendations and adopted the Code of Professional and Ethical Responsibilities – For Discipline and Fitness to Practise Committee Members and Roster Members Who Serve on Panels of Those Committees, Attachment 1 to this report.

Misconduct and Incapacity Overlap

Julie Maciura of Steinecke Maciura LeBlanc, Independent Legal Counsel, addressed the overlap of professional misconduct and incapacity issues that may arise in hearings, as an information item. She explained how to appropriately handle the overlap of these types of issues in the context of disciplinary hearings.

Statistics Overview

Patrick Winter, Intake Officer, presented information on five-year comparative statistics from initial concerns through to open hearings.

Statistics

There was one Fitness to Practise matter concluded from January 1, 2019 to March 31, 2019. The Member was found to be incapacitated and had terms, conditions or limitations placed on the member's certificate.

Motions Referred to Council

No motions were referred to Council.

Duties/Mandate of the Fitness to Practise Committee

The duties and mandate of the Fitness to Practise Committee are described in Appendix 1 of this document.

Future Committee Training and Meeting Dates

Wednesday November 27, 2019: Training-Learning Session

Thursday November 28, 2019: Meeting.

Upcoming Hearings (May 1 to August 31, 2019)

May N/A

June 24

July N/A

Aug N/A.

Members of the Fitness to Practise Committee

Diane Ballantyne, OCT (Vice-Chair)

Jean-Luc Bernard, OCT

Irene Dembek, OCT (Chair)

Rebecca Forte, OCT

Mary Ellen Guicciardi, OCT

John Hamilton, OCT

Godwin Ifedi

Marlène Marwah

Sara Nouini, OCT

Alicia Nunn, OCT

Thomas Potter

Nicola Powadiuk, OCT

Jonathan Rose

Stéphane Vallée, OCT



Irene Dembek, OCT

APPENDIX 1

Fitness to Practise Committee

Mandate

To deal with fitness to practise issues. (OCTA, s. 3(1))

Nature of the Fitness to Practise Committee's work

The Fitness to Practise Committee:

- a) shall hear and determine matters directed or referred to it under section 26, 29 or 33. (OCTA, s. 31(1)(a));
- b) shall perform such other duties as are assigned to it by the Council. (OCTA, s. 31 (1)(b)); and
- c) may, after a hearing, find a member to be incapacitated if, in its opinion, the member is suffering from a physical or mental condition or disorder such that the member is unfit to continue to carry out his or her professional responsibilities or that a certificate held by the member under this Act should be made subject to terms, conditions or limitations. (OCTA, s. 31 (2)).

Powers of the Fitness to Practise Committee

Where the Fitness to Practise Committee finds a member to be incapacitated, it may make an order doing one or more of the following:

- a) Directing the Registrar to revoke any certificate held by the member under the Act.
- b) Directing the Registrar to suspend any certificate held by the member under the Act for a stated period, not exceeding 24 months.
- c) Directing the Registrar to impose specified terms, conditions or limitations on any certificate held by the member under the Act.
- d) Directing that the imposition of a penalty be postponed for a specified period and not be imposed if specified terms are met within that period. (OCTA, s. 31 (3)).
- e) In making an order directing that the imposition of a penalty be postponed for a specified period and not be imposed if specified terms are met within that period, the Committee may specify the terms it considers appropriate, including but not limited to terms requiring the production to the Committee of evidence satisfactory to it that any physical or mental condition or disorder in respect of which the penalty was imposed has been resolved. (OCTA, s. 31 (4)).

- f) In making an order revoking or suspending a certificate or imposing terms, conditions or limitations on a certificate, the Committee may fix a period during which the member may not apply for reinstatement or variation of the order. (OCTA, s. 31(5)).
 - a) Where the Fitness to Practise Committee is of the opinion that the commencement of the proceeding was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion of them as the Committee fixes. (OCTA, s. 31 (7)).
 - b) A hearing of the Fitness to Practise Committee shall, subject to written notice by the member received by the Registrar before the day the hearing commences, be closed to the public. (OCTA, s. 32 (8)).