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**A Review and Report**  
on the complaints process of the  
College of Veterinarians of British Columbia

**April 2022**

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## 1. Executive Summary

- 1.1 This review and report on the complaints process of the College of Veterinarians of British Columbia was commissioned by the College in October 2021 and was completed in April 2022. The review was conducted by Harry Cayton, Professional Regulation and Governance, and Greg Cavouras of Sugden, McFee & Roos LLP.
- 1.2 The review was required to evaluate and report on the complaints process used by the College in terms of its efficiency and effectiveness, its compliance with the College's legislation and bylaws and against the Standards of Good Regulation for Complaints, and to make recommendations.
- 1.3 In 2015, there was a finding against the College's predecessor by the British Columbia Human Rights Tribunal. That finding has adversely affected the reputation and performance of the College but related to events from many years ago. It was not the subject of this review.
- 1.4 This review focuses on the performance by the College of one of the four key roles of a professional regulator; that of effective, efficient and fair complaints management.
- 1.5 The review considers College's performance within the legal framework in which it operates. It concludes that the College can and should significantly improve its performance within the current framework, although in the longer term some amendments to legislation and bylaws would be helpful.
- 1.6 The review assesses the performance of the College against the Standards of Good Regulation for Complaints, and finds that the College partially meets two Standards out of ten. The College does not meet eight of the ten Standards.
- 1.7 Twenty-four recommendations for improvements in the College's communications, complaints processes, decision-making, transparency and data collection, and resource allocation are set out.
- 1.8 Briefly stated, the review concludes that a rethink of the College's complaints process is required. The review recommends a serious and energetic programme of improvement, along with a commitment to providing the College's CEO with the necessary resources, so that the College can deliver on its mandate of public protection and become an efficient and effective handler of complaints.

## 2. Introduction

- 2.1 In October 2021, the authors of this report, Harry Cayton and Greg Cavouras (See Appendix 2), were asked by the Council of the College of Veterinarians of British Columbia to review the operation of its complaints process and to make recommendations for improvements.
- 2.2 The background of the review was the increasing length of time it was taking to process complaints and to reach a conclusion on them, which was causing concern to complainants, to veterinarians and to the College Council and staff. In its desire to improve its performance as a regulator, the College sought an objective assessment of its complaints process and recommendations for improvements.
- 2.3 Behind these concerns was another. In 2015, the British Columbia Human Rights Tribunal upheld a series of complaints made by registrants against the British Columbia Veterinary Medical Association<sup>1</sup> and determined that it had engaged in systemic discrimination, including in its complaints and discipline processes.
- 2.4 The 2015 HRT decision<sup>2</sup> addressed complaints that were filed in 2004-2006, and the underlying events are now almost 20 years old. However, the findings of the HRT continue to influence public and registrant perception of the College. The 2015 HRT decision has significantly affected confidence in the College and complicates its relationship with registrants.
- 2.5 The 2015 HRT decision also continues to influence College operations. In the years following the decision, a significant personnel turnover occurred. The current College council members, committee members, and staff are all acutely aware of the damage caused by the conduct that underlies the 2015 HRT decision. As one interview respondent aptly described it, since receiving the 2015 HRT decision, the College has suffered from a lack of institutional confidence.
- 2.6 This review does not revisit the findings of the HRT, as the Tribunal's findings are unequivocal and in the public domain and accepted in full by the Council of the College. Although we saw no evidence of discrimination now, the impact of the findings is background to the current problems<sup>3</sup> with the complaints process and we therefore acknowledge the relevance of the 2015 HRT decision.

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<sup>1</sup> The BCVMA is the College's predecessor under the former legislation. In September 2010, the BCVMA was restructured and became the College.

<sup>2</sup> *Brar and others v. B.C. Veterinary Medical Association and Osborne*, 2015 BCHRT 151

<sup>3</sup> While the 2015 HRT decision is important context for the College's current problems, it is important to be clear that we did not see any evidence of discrimination in the College's complaints process. Rather, our concerns arise with respect to the College's performance as measured against the Standards of Good Regulation.

- 2.7 The four key roles of a professional regulator are: establishing an accurate and comprehensive register of all those qualified and licenced to practise, setting standards of competence and conduct for the profession, ensuring that licensees remain competent, and acting on concerns raised about failure to meet professional standards, including withdrawal of the licence to practise.
- 2.8 These four regulatory roles are mutually dependent. Standards must be kept up to date and respond to concerns about practice. Quality assurance of continuing competence should provide information about the effectiveness of guidance on standards. Patterns of complaints should inform standards, and disciplinary decisions should be accurately recorded in the register. So, it is worth noting that, although this review deals only with the College's complaints process, our findings necessarily have implications for the College's other regulatory roles, and this is reflected in our recommendations (see section 7 below).
- 2.9 In reviewing what is described as the College's 'complaints process' we need to recognise a confusion which often arises about the role of professional regulators in relation to concerns raised with them about the competence or conduct of a registrant. Regulators are not charged with arbitrating or resolving disagreements or disputes between members of the public and professionals. Rather, they are charged with considering whether a concern raised with them indicates a possible breach of standards and therefore leads to remedial or disciplinary action against the professional. The College is investigating the registrant's behaviour in relation to its Standards in the public interest; it is not investigating the complaint.
- 2.10 A number of those we spoke to thought that, in trying to reduce the number of complaints to the College which are not regulatory, an alternative dispute resolution or mediation route should be introduced. We cannot support this idea desirable although such a program might seem. It is doubtful if the College's legislation would permit the diversion of complaints in this way and in any event it would merely deal with a symptom of the problem of the complaints process rather than the problem itself. Our general view of this is that if a complaint about a registrant requires a regulatory response, the regulator must respond in the public interest, not merely on terms that are acceptable to the complainant and the registrant and, conversely, if an investigation indicates that a registrant has not breached any standard, they should be able to expect that the complaint will be dismissed. We make specific recommendations for changes to the complaints process in Section 7 below.

### 3. How we conducted this review

3.1 This review took place between October 2021 and March 2022. A final report was submitted to the College of Veterinarians of British Columbia in April 2022.

3.2 The Terms of Reference of the review were:

- To evaluate the process used by the College to receive, assess, investigate and determine the outcome of complaints received about its registrants and to make recommendations for improvements to its efficiency and effectiveness in protecting the public interest;
- To consider, in particular, if the College's processes comply with the requirements of Part 2, Division 1, sections 3(2)(e) and 3(2)(f) and Part 4 of the *Veterinarians Act*, and other legal and fairness considerations;
- To evaluate the complaints and investigation processes against the Standards of Good Regulation for Complaints (see Appendix 1); and
- To consider if the complaints investigation process is effective and efficient, transparent and fair for both complainants and registrants.

3.3 The review was conducted by Harry Cayton, Professional Regulation and Governance, and Greg Cavouras of Sugden, McFee & Roos LLP (see Appendix 2).

3.4 The information on which this review is based comes from five main sources:

- The College's enabling legislation<sup>4</sup> and bylaws;
- Internal codes, procedures and policies including terms of reference for the Investigation Committee;
- Observation of meetings, reading the minutes of meetings and face-to-face (video) discussions with some College Council members, committee members and members of staff;
- Interviews with representatives of other organisations with an interest in the welfare of animals and in veterinary practice, as well as interviews with veterinarians and members of the public who had recently engaged with the complaints process; and
- A survey of veterinarians and members of the public who had recently engaged with the complaints process.<sup>5</sup>

3.5 The College invited any veterinarians and members of the public who were involved as a complainant or respondent in a recently-closed College complaint file to contact us if they wished to contribute to this review. We sent out a short survey to all who did and received 29 responses, balanced between members

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<sup>4</sup> The *Veterinarians Act*, SBC 2010, c. 15.

<sup>5</sup> The College sent out 295 survey forms to members of the public and registrants who had been through a completed complaints process in 2019 and 2020 inviting them to contact the reviewers. Twenty-nine completed survey forms were received.

of the public (14) and veterinarians (15), which provided useful qualitative information about people's experiences. We recognise this is a small number and do not draw any quantitative conclusions from it but the results were highly consistent in some areas and allow us to draw reliable qualitative assessments. With the support of the College, we offered to conduct a telephone interview with any respondent who requested it. As a result five interviews took place.

- 3.6 We spoke with 21 people in total, including College Council members, committee members, senior staff and external stakeholders, all of whom contributed to this review. We are grateful to everyone who agreed to be interviewed during this review and to speak to us about their experience of and views about the way the College handles complaints. The names of those who spoke to us are listed in Appendix 3.
- 3.7 We examined a random selection of case files chosen to represent significant decision points throughout the process. We looked at six case files, representing a range of outcomes, and assessed their compliance with the College's own procedures and against the Standards of Good Regulation for Complaints (see Appendix 1).
- 3.8 We were given access to all necessary documents and reports through a SharePoint site. All of our questions were answered by members of the College's staff team, as necessary, and we are indebted to them for their technical assistance and their thoughtful and candid responses.
- 3.9 This is a review of the College's complaints process not a review of its overall performance as a regulator. We have assessed the way in which concerns about veterinarians are received, identified as complaints, risk assessed, investigated, and what action is taken. We have considered if the complaints process is fair, consistent, transparent, well communicated and timely.
- 3.10 We have made recommendations which, if implemented by the College, will enable it to fulfil its responsibilities with greater timeliness, efficiency, transparency and consistency, and with clearer focus on the public's interests. Our recommendations and conclusions are set out in Sections 7 and 8 below.

## 4. The College's legislative basis and practice

### *Legislation*

- 4.1 The *Veterinarians Act*, SBC 2010, c. 15 is the College's constituting legislation. The Act establishes the College's legal authority and, importantly, its duty and objects. The College must act in accordance with the framework established in the Act, but the Act also allows the Council of the College considerable autonomy in creating bylaws (though these are subject to registrant approval<sup>6</sup> in most cases). The Act also reserves additional bylaw and regulation authority to the Minister of Agriculture, Food and Fisheries.
- 4.2 The Act, like most professional regulation legislation, contemplates distinct stages for complaints received by the College. At the first stage, a complaint may be dismissed without investigation if the Investigation Committee reasonably believes that the statutory criteria for dismissal apply.
- 4.3 Complaints that are not summarily dismissed must be investigated. Following an investigation, complaints may be dismissed without further action, resolved by agreement, or a citation for a discipline hearing may be issued.
- 4.4 The final stage is the 'adjudicative stage', where complaints in which a citation has been directed are adjudicated at a discipline hearing. As set out in the Terms of Reference, discussed above, the focus of this review is on the first two stages which comprise the screening, investigation, and disposition of complaints, but some reference will be made to the final adjudicative stage at certain points of overlap.
- 4.5 The investigation stage under the Act is directed by the Investigation Committee. The Investigation Committee is appointed by the College's Council, and under College Bylaw 1.48 it is made up of between 7 and 12 individuals, at least one of whom "should be a public representative". The Investigation Committee also has the ability to sit in panels, provided that the majority of the panel is made up of registrants.
- 4.6 The Investigation Committee, among other things, has the authority to dismiss a complaint without investigation, to assign an investigator (known as an "inspector" under the Act), and to, following an investigation, determine the outcome of a complaint. As will be discussed further below, the available outcomes are, broadly stated, dismissal, reprimand or remedial action by consent, or a direction for a citation and a discipline hearing.
- 4.7 The entire complaints and discipline process under the Act must be seen through the lens of the College's statutory duty and objects, the essential portions of which are set out below:

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<sup>6</sup> Section 26



- 3(1) In carrying out its objects, the college must
- (a) Protect the public interest, and
  - (b) Exercise its powers and discharge its responsibilities under this Act in the public interest.
- 3(2) The objects of the college are as follows:
- ...
  - (b) to establish, monitor and enforce standards for the practice of veterinary medicine;
  - ...
  - (d) to supervise the practice of veterinary medicine;
  - (e) to receive and investigate complaints against registrants and former registrants and to deal with issues of discipline, professional misconduct, conduct unbecoming a registrant, incompetence and incapacity;
  - (f) to establish and employ registration, investigation and discipline practices that are transparent, objective, impartial and fair;

### *Complaints Activity<sup>7</sup>*

- 4.8 For the past three fiscal years, the College has opened an average of 157 complaints annually. In the 2020-2021 year, 181 complaints were opened and 141 complaints were concluded. Of the 141 complaints that were concluded, 126 were dismissed with no further action or practice advice and 15 were resolved with a reprimand or remedial steps by consent. None led to a citation or contested disciplinary proceedings.
- 4.9 It is worth noting that for each of the past three years, the number of complaints opened (181, 129, 161) has exceeded the number of complaints closed (141, 116, 147). Meanwhile, the median time taken from the receipt of a complaint to a decision by the Investigation Committee (including cases where the complaint was dismissed without an investigation) has increased from approximately 241 days to 412 days. Significant additional time is taken to communicate these decisions, which further lengthens the process for those involved.
- 4.10 Under the Act, the complaints process is initiated in one of two ways. The first is through a complaint about a registrant delivered to the Registrar of the College. The second is through the Investigation Committee's independent power to initiate an investigation of a registrant on its own initiative.
- 4.11 Section 50(1) of the Act sets out the process for a complaint to be made to the College. It states that a person "may make a complaint against a registrant by delivering a written complaint to the registrar". There are no limitations or requirements on the subject matter of a complaint at this stage. Once received,

<sup>7</sup> All figures in this section are from the College's 2021 Annual Report, available at: <https://cvbc.ca/wp-content/uploads/2021/11/2021-Annual-Report-FINAL-1.pdf>

the registrar must then send a copy of the complaint to the Investigation Committee.

4.12 Section 52(2) of the Act permits the Investigation Committee to, on its own initiative, investigate a registrant for any of the following matters without an external complaint:

- (a) a contravention of this Act, the regulations or the bylaws;
- (b) a failure to comply with a standard, limit or condition imposed under this Act;
- (c) a failure to comply with a term, condition or requirement imposed under section 3 (4) (c) of the Labour Mobility Act;
- (d) a conviction for an indictable offence;
- (e) a conviction for an offence relating to the care or treatment of animals;
- (f) professional misconduct;
- (g) conduct unbecoming a registrant;
- (h) competence to practise veterinary medicine;
- (i) a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that may impair a registrant's ability to practise veterinary medicine.

4.13 Taken together, the Act appropriately provides a broad ability for members of the public (or other registrants) to identify a concern with a registrant, and similarly provides a broad authority for the Investigation Committee to initiate an investigation on its own motion with respect to a conduct, competence, or capacity issue. It is worth noting that the Act does not provide for an express distinction between capacity (health) matters and other types of complaints.

4.14 Also relevant to an analysis of the complaints process is the duty to report that College registrants have under the Code of Ethics established in the College Bylaws. Among other reporting requirements<sup>8</sup>, a registrant is required to immediately notify the Registrar if the registrant has reason to believe that a current or former registrant:

- (a) has contravened the Act;
- (b) has failed to comply with a limitation, term or condition imposed under the Act;
- (c) has been convicted in any jurisdiction of an offence that could give rise to concerns about the registrant's competence or fitness to practice as a veterinarian;
- (d) has engaged in unprofessional conduct or any conduct unbecoming a registrant;
- (e) has incompetently practiced veterinary medicine; or

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<sup>8</sup> Note also that registrants of the College have an obligation to report an "animal in distress" to an authorized agent of the British Columbia Society for the Prevention of Cruelty to Animals under section 22.1 of the *Prevention of Cruelty to Animals Act*. This obligation is separate from the duty to report to the College under the Code of Ethics.

(f) may be suffering from a physical ailment, emotional disturbance or an addiction to any substance that impairs his or her ability to practice veterinary medicine.

4.15 Reports made in accordance with a registrant's duty to report set out above are treated either as complaints themselves or as the basis for the Investigation Committee to initiate an investigation, depending on the registrant's preference. Neither the Act nor the College Bylaws expressly provide a registrant with any sort of immunity for a required report that is made in good faith.

#### *Application of the complaints process*

4.16 The complaints process set out in the Act applies to registrants (veterinarians) and equally to certified technicians (s. 69(2)(a)). However, while the Act recognizes certified technicians, they are not yet recognized under the CVBC Bylaws.

4.17 The Act also provides that the complaints process applies to former registrants<sup>9</sup>. Therefore, according to the Act, a registrant does not avoid the process simply by relinquishing their registration.

4.18 Upon receipt of a complaint, the Registrar must send a copy to the Investigation Committee. In practice, the College carries out this duty by examining the complaint for sufficient information and then delivering it to an "intake panel" of the Investigation Committee for review. The Intake Panel then conducts a review and determines whether to dismiss the complaint or direct an investigation, and may identify specific issues of concern for investigation.

#### *Dismissal without investigation*

4.19 Upon receipt of a complaint, the Investigation Committee conducts an initial review to determine whether or not to direct an investigation. Under section 51(1) of the Act, the Investigation Committee may dismiss all or part of a complaint without an investigation if the Investigation Committee reasonably believes that any of the following apply:

- (a) the complaint is trivial, frivolous, vexatious or made in bad faith;
- (b) the complaint concerns a matter over which the college does not have jurisdiction;
- (c) the complaint gives rise to an abuse of process;
- (d) the complaint is filed for an improper purpose or motive;
- (e) there is no reasonable prospect the complaint will be substantiated;
- (f) the substance of the complaint has been appropriately dealt with in another proceeding.

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<sup>9</sup> Section 1 definitions includes a "former registrant" for the purposes of Part 4 [Inspections, Complaints, Investigations and Discipline]. See also section 3(2)(e), referenced above, which expressly includes "former registrants" within the College's object to "receive and investigate complaints...".

- 4.20 If the Investigation Committee acts to dismiss all or part of a complaint without an investigation under this section, a written report which includes the reasons for the dismissal must be provided to the Council, the complainant, and the registrant (s. 51(2)).
- 4.21 If a complaint is not dismissed without investigation at the initial review stage, or where the Investigation Committee has initiated an investigation on its own motion, the Investigation Committee must investigate. In practice, the investigation is conducted by inspectors and subject to the oversight of the Investigation Committee.

#### *Appointment of an inspector*

- 4.22 The Investigation Committee may assign an inspector to conduct an investigation (s. 52(4)). Inspectors must be appointed by Council.<sup>10</sup> Under the College Bylaws, an inspector assigned to a complaint must report the status or results of the investigation to the Investigation Committee within 60 days of their assignment.
- 4.23 An inspector conducting an investigation may conduct an “inspection” of a registrant’s premises, equipment, materials, records, or practice (s. 52(5)). An inspector may also apply for a court order permitting search and seizure on premises, including premises of third parties (s. 53). It is an offence for any person to obstruct a person conducting an investigation (s. 56).
- 4.24 Once an investigation has been directed by the Investigation Committee, it is typically initiated by sending the complaint, along with any specific concerns identified by the Investigations Committee, to the registrant for their response. The ability to identify specific concerns for investigation is set out in College Bylaw 272(1)(c), and in practice the College appears to treat this as a requirement for initiating an investigation.

#### *Registrants’ duty to cooperate*

- 4.25 Registrants of the College are obligated to cooperate with an investigation, including providing records upon request (s. 52(3)). This is also stated in the College Bylaws (s. 275). These provisions are consistent with the general duty in regulated professions that a registrant must fully cooperate with a regulator’s investigation by responding in good faith and being “open, honest, and helpful”.<sup>11</sup>

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<sup>10</sup> Section 49(1)

<sup>11</sup> *Law Society of Ontario v. Diamond*, 2021 ONCA 255

### *Interim/extraordinary action*

- 4.26 If, during an investigation or pending a discipline hearing, the Investigation Committee considers it necessary in the public interest to take action to protect animals or persons from immediate risk to health or safety, it may, by written order, impose limits or conditions on a registrant's practice or suspend the registrant (s. 65).
- 4.27 In urgent circumstances, this can be done by the Investigation Committee without providing the registrant an opportunity to make submissions. However, this does not mean that procedural fairness can be abridged entirely – the Investigation Committee must still be mindful of the framework established by the BC Court of Appeal for interim action proceedings.<sup>12</sup> The Discipline Committee has an equivalent power that arises once a discipline hearing has begun.

### *Complaint outcomes*

- 4.28 Following an investigation, the Act requires the Investigation Committee to dispose of a complaint in one of the following three ways:
- (1) The complaint may be dismissed with no further action in certain circumstances;
  - (2) The registrant may be asked to consent to a reprimand or remedial action; or
  - (3) The Registrar may be directed to issue a citation for a discipline hearing.
- 4.29 The Investigation Committee meets approximately 10 times a year to review completed investigation reports from its inspectors and determine the outcome of complaints.

### *No further action*

- 4.30 The Act specifies that a complaint may be dismissed with no further action only if the Investigation Committee considers that one or more of the following apply (s. 57(2)):
- (a) the matter concerns an issue over which the college does not have jurisdiction;
  - (b) the substance of the matter has been appropriately dealt with in another proceeding;
  - (c) the conduct or competence to which the matter relates is satisfactory;
  - (d) if the matter relates to a complaint,
    - (i) the complaint is trivial, frivolous, vexatious or made in bad faith,
    - (ii) the complaint gives rise to an abuse of process, or
    - (iii) the complaint is filed for an improper purpose or motive.

<sup>12</sup> *Scott v. College of Massage Therapists of British Columbia*, 2016 BCCA 180

- 4.31 If none of these circumstances apply, the Act directs the Investigation Committee to take further action with respect to the complaint – either by seeking a reprimand or remedial action by consent (discussed below) or by directing the issuance of a citation for a discipline hearing.
- 4.32 When a complaint is dismissed with no further action, the Investigation Committee must provide the Council, the registrant, and the complainant (if there is one) with a written report stating the reasons for taking no further action.
- 4.33 In practice, in cases where the Investigation Committee considers that the registrant's conduct was imperfect but not rising to the level of requiring remedial or disciplinary action, the written report will include practice advice or guidance for the registrant.

#### *Consent to reprimand or remedial action*

- 4.34 In accordance with section 66 of the Act, the Investigation Committee may request in writing that the registrant do one or more of the following:
- (a) undertake not to repeat the conduct to which the matter relates;
  - (b) undertake to take educational courses specified by the investigation committee;
  - (c) consent to a reprimand;
  - (d) consent to pay to the college costs;
  - (e) undertake, or consent to, any other action specified by the investigation committee.
- 4.35 If a registrant provides the requested undertaking, the Investigation Committee must provide a summary to the complainant within 30 days (s. 66(2)). Importantly, a consent provided under this section is subject to public notification (subject to certain limited exceptions). These are identified as “consent resolutions” on the College website.<sup>13</sup>
- 4.36 If a registrant refuses to provide the requested undertaking, or fails to comply with an undertaking provided, the Investigation Committee may direct the Registrar to issue a citation for a discipline hearing (s. 66(3)).

#### *Citation for discipline hearing*

- 4.37 The Investigation Committee may, following an investigation, direct the Registrar to issue a citation for a discipline hearing (s. 57(1)(c)). This may also arise, as set out above, if a registrant refuses to provide a requested undertaking or does not comply with an undertaking that was provided (s. 66(3)).

<sup>13</sup> <https://cvbc.ca/public-protection/notification/consent-resolutions/>

- 4.38 When a citation has been directed, the process for a discipline hearing under the Act is engaged. A discipline hearing is an oral hearing with examination and cross-examination of witnesses, and is presumptively held in public. After a discipline hearing, the Discipline Committee may dismiss the matter or make findings and reprimand the respondent, impose limits or conditions on the respondent's practice, suspend or cancel the respondent's registration, and/or fine the respondent a maximum of \$50,000. The Discipline Committee also has the authority to order costs against the College or the respondent.
- 4.39 Consent resolution of matters set to be decided at a discipline hearing is also possible. The Act permits a registrant to present a written proposal to the Investigation Committee (if the discipline hearing has not yet begun) or to the Discipline Committee (if the hearing has begun), with the registrant's consent to an order with adverse determinations and/or sanctions by consent. The committee receiving the proposal may accept, reject, or request changes to the proposal. If the proposal is accepted, an order is made. These are identified as "consent orders" on the College website.<sup>14</sup>

#### *Review of decisions*

- 4.40 A registrant may appeal a decision to suspend or restrict their practice pending an investigation or pending a discipline hearing to the Supreme Court of British Columbia. An appeal may also be made with respect to determinations and orders made following a discipline hearing.
- 4.41 While registrants have the right to appeal interim orders and orders of the Discipline Committee, complainants have no statutory right to appeal or review a decision of the Investigation Committee under the Act. This does not mean that the Investigation Committee is immune from oversight. Decisions and actions remain subject to review in other forums, including judicial review by the Supreme Court of British Columbia and investigation by the Ombudsperson under the *Ombudsperson Act*. Of particular relevance to the College, allegations of discrimination, including allegations of discrimination made by respondents in the complaints process, are also subject to the jurisdiction of the BC Human Rights Tribunal under the *Human Rights Code* (see also paragraphs 2.3- 2.6 above).

#### *Monitoring compliance*

- 4.42 There is no express provision in the Act for monitoring compliance with consent resolutions or consent orders. However, the Act is clear that, if a registrant does not comply with an undertaking they provide, the Investigation Committee may direct the Registrar to issue a citation (s. 66(3)). Similarly, while not stated expressly in the Act, non-compliance with a consent order can also ground discipline proceedings.

<sup>14</sup> <https://cvbc.ca/public-protection/notification/consent-orders/>

- 4.43 This potential gap regarding monitoring has been filled by bylaw. College Bylaws 281 and 303 require the Registrar to monitor compliance, and the Registrar must report to the Investigation Committee or the Discipline Committee if they believe there is non-compliance.

*Publication and transparency*

- 4.44 Section 68 of the Act requires public notification of:
- Action taken by the Discipline Committee after a hearing (s. 68(1)(a));
  - Interim action taken by the Investigation Committee or Discipline Committee (s. 68(1)(b));
  - A remedial undertaking or consent given in response to a request by the Investigation Committee (s. 68(1)(c));
  - A consent order made to resolve a citation (s. 68(1)(d)); and
  - Any additional matter prescribed by regulation or required under the bylaws (s. 68(1)(e)).
- 4.45 The public notification must include the registrant's name, a description of the action taken, and the reasons for the action taken (s. 68(2)). Information may only be withheld if the Investigation Committee or Discipline Committee (as the case may be) considers that the public interest in public notice of the information is outweighed by the privacy interests of the complainant or another person (other than the registrant), or the privacy interests of the registrant if the matter relates to a health/capacity issue (s. 68(3)). The Act also provides the College with authority to, by bylaw, include additional information in public notices (s. 14(b)).
- 4.46 Public notification must be made in a prominent place on the College website (s. 68(5)). Importantly, actions taken which lead to public notification must also be included in the College's online registry of registrants (s. 41(2)(e)). However, the Act permits a registrant, after five years, to apply to the College Council to have the information removed from the online registry. The Council may grant the application and direct the removal of this information if the Council is satisfied that it is in the public interest to do so.



## 5. A Right-touch approach to complaints

### *Introduction*

- 5.1 In this section of the review we consider the features of an effective complaints handling process for a professional regulator and how a regulator can develop a Right-touch regulation<sup>15</sup> approach to the receipt, assessment and disposition of concerns which it receives about the professionals it regulates.
- 5.2 A professional regulator's task on receiving a concern about the performance of a professional is to evaluate it against the standards of conduct and competence that the professional is required to meet. It is not a regulator's job to resolve all and any concerns that may be raised about a professional - only those that are potentially or actually in breach of applicable professional standards. These concerns engage the regulator's mandate and should thus be considered as a complaint. Other concerns may not.
- 5.3 It is also important to recognize that a professional regulator is not charged with dispute resolution of individual matters between professionals and members of the public. The regulator's role is to superintend the practice of the profession and protect the public. This requires it to assess the evidence it obtains to assess whether or not the applicable standards have been met, consider what harm occurred or might have occurred and to take action where appropriate to ensure that similar risk of harm is unlikely to happen in the future. In view of the regulator's broader public interest mandate, it is inevitable that its process and outcomes will not always align with the individual wishes of a complainant or respondent. The College should be mindful of this.

### *Values*

- 5.4 Right-touch regulation sets out some values which regulators should apply to the way they regulate. Regulation should be proportionate, consistent, fair, targeted, accountable and agile. A regulator should ask itself whether its response to a concern is proportionate to the harm or risk of harm identified, and whether its approach is consistent both with precedent and with internal procedures. It should target its enquiries to breaches of its own professional standards and not consider that every concern or complaint is within its remit. A regulator should communicate effectively with the complainant, the professional and ultimately the public and the profession because with transparency comes accountability and trust. A regulator should move in a timely a manner as is consistent with accuracy and fairness, and decisions should be made and communicated promptly. A regulator should be agile and deliberate in responding to new information, learning from complaints and amending its processes and standards or guidance in light of what it learns.

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<sup>15</sup> *Right-touch regulation revised*, Professional Standards Authority, 2015

- 5.5 A regulator must at all times act in accordance with its governing legislation and the tenets of procedural fairness. However, these things should be interpreted and applied in a way that enables, rather than impedes, the regulator to carry out its important public duties.

### *Professional standards*

- 5.6 The first question a regulator should ask is, "Is this concern we have received likely to be a regulatory complaint and which of our professional standards might be engaged?". Many concerns raised with professional regulators are not within their remit, and clear, positive and friendly advice to potential complainants as to how a regulator can help and where to go for other assistance if it cannot should be prominent on its website. A decision to refuse a concern should be made quickly against defined and accessible criteria and should be communicated directly to the person raising the concern, with reasons given for the decision.

### *Risk Assessment*

- 5.7 Once a concern has been accepted as a complaint it should be assessed against a regulator's risk framework for professional conduct and competence. In rare cases of high risk of harm interim suspension or practice restrictions should be considered. A triage process should be applied to complaints where immediate action is not required, but a right-touch approach suggests that, rather than prioritising the most serious and complex cases, those that are capable of rapid resolution without disciplinary action should be dealt with first. This reduces the backlog of unfinished cases and allows resources to be directed to those which are complex and contested. Qualifying and quantifying the risk of harm from the profession that they oversee is a fundamental role of a regulator and understanding key areas of potential error or harm is the basis of targeted regulation. Risk assessment should feed into the development of Standards of Practice and guidance to registrants.

### *Investigation*

- 5.8 Investigations should be focussed, thorough and fair. Both complainant and registrant should be listened to with care. The process of investigation should be set out on the regulator's website, explained clearly to all parties and regular updates on progress should be provided.
- 5.9 Timeliness is also important in the public interest and as a matter of fairness. There are many causes of delay in investigations, by no means all of which are caused by the regulator. Complainants and registrants may be slow to respond, evidence may be hard to find, and accounts of what happened are often contradictory; nevertheless, the regulator should take responsibility for moving the case forward, regularly checking progress and ensuring that its own decisions are made quickly and accurately. The regulator carries an overall

duty to ensure that it is adequately resourced to carry out fair and timely investigations of all complaints it receives that are relevant to its role.

### *Screening*

- 5.10 There are three stages of decision-making in a regulatory process. First, there is the decision to accept a concern as a regulatory complaint that may engage professional standards, second, there is consideration of the evidence compiled during the investigation and whether or not the matter requires action and what action, third, there is the disciplinary tribunal which will consider serious matters that are not resolved by agreement. Disciplinary tribunals should be independent of the investigation and of the regulator's governing board or council. Many professional regulators are hampered by outmoded legislation which restrains their ability to move through a complaints and disciplinary process in a timely and efficient manner.

### *Communication*

- 5.11 Poor communication is a very frequent criticism of professional regulators. In both their communication with registrants and with people who have raised a concern, the content, language and frequency of communications are regularly found to be unsatisfactory.
- 5.12 Professional regulators should think of communication around complaints in customer service terms. They should review their 'tone of voice' keeping language simple and direct, avoiding legal or medical jargon, being respectful towards recipients and understanding their emotional and personal engagement with the complaint and the impact the process has on all involved. This is particularly so for the types of complaints the College handles, which in many cases involve the death or illness of a beloved family pet. Standard format letters may be used to speed up the process but they should be personalised and should be editable so that they are relevant to the person to whom they are sent. Personal communication is often helpful, but telephone calls and other meetings must be carefully documented.

### *Timeliness*

- 5.13 Timeliness is another area of frequent criticism of regulators' complaints processes. Slow progress may be the result of overly complex processes, insufficient resources, difficulty in obtaining evidence, tardy decision-making and lack of cooperation on the part of witnesses or the registrant.
- 5.14 As suggested in para. 5.9 (above), although not all of these hinderances to progress are caused by the regulator, it must take responsibility for the overall progress of the investigation and adjudication of a complaint. It is not realistic to set a requirement that all complaints and disciplinary processes should be completed within a specific time because some are very much more complex than others, but it is possible to attach targets and timelines to case

management and to have a realistic objective for the median time cases should take. Regulators should eliminate unnecessary steps, duplication and delays from their processes, and should insist on timely cooperation from registrants in accordance with professional standards. In a major review and transformation of their complaints process using 'lean management', the Australian Health Practitioners Regulatory Agency found that, "About thirty-five percent of our processes were 'noise' so not adding any value".<sup>16</sup>

- 5.15 Related to both communication and timeliness is timely communication. Even, and, perhaps especially, in cases where a quick resolution of a complaint is not possible, it is reasonable for complainants and registrants to expect that they will receive regular updates from the regulator. While this does add slightly to the administrative burden for the regulator, it promotes accountability and fairness. It is especially important that a decision once made is communicated to all those affected as quickly as reasonably possible.

### *Right-touch processes*

- 5.16 Applying Right-touch values and principles to complaints processes helps the regulator focus on the outcome it is trying to achieve – a competent, safe and trustworthy profession. Using these values and principles enables it to design and deliver its work in a fair, efficient, effective and accountable manner. A proper understanding of the risk of harms arising from the regulated profession, including learning from past complaints, will help target investigations on what really matters, rigorous case management will drive timeliness, consistency of decision-making will promote fairness and good communication, and openness and accountability will create public trust in the profession and in the regulator.
- 5.17 A consistently applied and well-communicated process also promotes transparency and will respond to concerns of inequitable treatment by registrants. Reviewing, learning, changing and improving should be a constant in regulatory governance.

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<sup>16</sup> [www.itnews.com.au/news/australias-health-practitioner-registrar-fixes-process-hell-513147:](http://www.itnews.com.au/news/australias-health-practitioner-registrar-fixes-process-hell-513147)  
<https://www.ahpra.gov.au/Publications/Corporate-publications.aspx>

## 6. Assessment against the Standards of Good Regulation for Complaints

- 6.1 In this section we set out our assessment of the performance of the College against the Standards of Good Regulation for Complaints. These Standards are drawn from the Standards of Good Regulation developed by the Professional Standards Authority (see Appendix 1). We hope to see a fair and open process, timeliness, good communication and action in the public interest.
- 6.2 The Standards for Complaints are intentionally demanding because Right-touch regulation aspires to excellence.<sup>17</sup> Effective complaints handling is demonstrated by outcome not merely by process. The Standards therefore require demonstration of both process and outcome. Thus a Standard may be partially met when a process is in place but an outcome not demonstrably achieved. In line with our Terms of Reference (see paragraph 3.2 above) where a Standard includes final disciplinary decisions we refer only to decisions by the Investigation Committee.
- 6.3 *Standard 1: Anybody can raise a concern, including the regulator, about the conduct and competence of a licence holder.*
- 6.3.1 The College's website states "If you are unable to resolve matters directly with your veterinarian, you may submit a formal complaint. To submit a formal complaint, you must deliver it to the Registrar in writing. The CVBC will not accept verbal or anonymous complaints".<sup>18</sup>
- 6.3.2 This is strictly in line with the Act but nevertheless excludes people who may not feel able or comfortable writing down their concerns. The College does not provide a complaint form to assist people, nor offer to assist with writing complaints down, nor make provision for people to submit their concerns in languages other than English. A bylaw<sup>19</sup> says the College may assist a complainant with a "disability" but the College does not advertise that service. The 2018 version of the Complaints Manual<sup>20</sup> says that in "very rare" cases "we will take them verbally," but this is not on the public facing website. The College has told us that it will take steps to assist people in submitting a complaint on request, and has informed us that staff recollect two occasions in the last three years when such advice has been given. We have no doubt that staff would be helpful if approached by a complainant but we have not seen sufficient evidence of this service or of it actually happening.

<sup>17</sup> *Right-touch Regulation*, Professional Standards Authority, 2010, p.1

<sup>18</sup> <https://www.cvbc.ca/public-protection/complaints-process/>

<sup>19</sup> College Bylaw 270

<sup>20</sup> *The Complaints Manual* is intended as guidance for staff on how to implement the complaints process. It is dated 2018. It was provided to us as internal guidance but we are told it has never been finalised and that it is currently under revision. The College recognises that it requires improvement, and we accept that it does not fairly reflect all of the College's activities.

- 6.3.3 Additionally, while it may be sensible in some cases for a potential complainant to first attempt to reach a resolution directly with a veterinarian, this should not be framed as a prerequisite for the submission of a complaint. A member of the public who has a concern that registrant is in breach of standards of practice or conduct is entitled to submit a complaint to the regulator at any time. The implication that this may only be done if direct resolution efforts have been made and exhausted is out of alignment with the Act and conflates private interests with the public interest. Nor is it appropriate for the College to be encouraging registrants to contact the complainant to "see if you can resolve the concerns directly" after a complaint has been received.<sup>21</sup>
- 6.3.4 There is also a related concern with respect to the prospect of a complainant 'withdrawing' a complaint to the College. The College correctly recognizes that a complainant does not have the ability to decide whether a complaint investigation should proceed but the evidence we reviewed indicates that in some cases complainants are offered the option to 'withdraw' their complaint. In our assessment, inviting or facilitating the 'withdrawal' of a complainant's participation in an investigation is inconsistent with the College's public interest mandate. Doing so may also have the unintended consequence of incorrectly signalling that complainants control the process.
- 6.3.5 Of those members of the public who had submitted complaints and who responded to our survey, a majority said that it was easy to make a complaint but less than half thought the process was clear.
- 6.3.6 We have an additional concern with respect to a registrant's duty to report set out in the College Bylaws. Many forms of conduct are subject to a mandatory report to the College.<sup>22</sup> However, the information we received indicates that registrants are reluctant to make such reports, and that they are rare. Related to that is the fact that neither the Act nor the College Bylaws provide any express protection or immunity for those who make a complaint in good faith (including mandatory reports). This has consequences. In one of the files we reviewed, we noted a reluctance by the complainant to participate in the process for fear of retaliation by the registrant, and the complainant ultimately withdrew their participation, compromising the investigation. That is not in the public interest.
- 6.3.7 There also appears to be some confusion about how the College will handle a complaint made by a registrant in accordance with the duty to report. Our understanding is that in such cases the registrant is offered the choice of whether they wish to be identified as the complainant or have the College pursue the matter under its own authority. While it may be that this enables

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<sup>21</sup> Complaints Manual 2018, p 20.

<sup>22</sup> College Bylaw 208(2)

registrants to feel more comfortable in making a required report, it contrasts with the College's unequivocal statement on its website that it will not accept anonymous complaints from members of the public, suggesting a higher level of required participation in order to advance the matter (although we have seen evidence that the College will appropriately pursue complaints in some cases even where the complainant does not wish to participate). We have a concern about the asymmetry in the way the College communicates the requirements for a complaint as between registrants, who have a professional obligation to report misconduct, and members of the public, whose interests the College exists to protect.

- 6.3.8 Overall, there does not appear to be enough guidance from the College on when the duty to report is engaged, and there is some variation in the process that will be followed when a mandatory report is submitted. Our assessment is that it is incumbent on the College to clearly explain the duty to report and to ensure that those who comply with the duty feel comfortable in doing so without fear of reprisal.
- 6.3.9 We conclude that only those able to complain in written English are able to raise a concern, so this Standard is not met. In reaching this conclusion, we acknowledge that the Act refers to a complaint being in writing, and the College's Bylaws do contemplate some level of assistance being provided. As set out in the recommendations, with some modest improvements, the College could meet this Standard.
- 6.3.10 We also conclude that the College should reconsider its process for the 'withdrawal' of complaints and provide more guidance and clarity around the scope of and process for a registrant's duty to report. Relatedly, we conclude that the College should develop a professional standard or statement in the Code of Ethics regarding non-reprisal towards any person who makes a report or a complaint in good faith.
- 6.3.11 This Standard is not met.
- 6.4 *Standard 2: Information about concerns regarding conduct and competence is shared by the regulator with employers, local authorities and other regulators within the relevant legal frameworks.*
- 6.4.1 Until very recently, it appears that the College did not think of itself as part of a larger framework of animal welfare in British Columbia. It has been rather narrowly focussed on its own concerns.
- 6.4.2 There is no reference to partner organisations on the College's website, and no indication that the College might draw the attention of other authorities such as the Ministry of Agriculture, the Chief Veterinary Officer or animal welfare organisations to concerns about veterinary practice.

- 6.4.3 We were told that complaints may be directed to the Ministry of Agriculture for health or disease related concerns but not that the College would take such an initiative itself. There is no mention of this possibility in the advice to staff in the Complaints Manual.
- 6.4.4 We were told that the relationship with the BC Society for Prevention of Cruelty to Animals has not been good in the recent past. Evidence of this can be seen in the apparently competing positions that the College<sup>23</sup> and the Society<sup>24</sup> have expressed regarding the duty to report an animal in distress that arises under the *Prevention of Cruelty to Animals Act*. This misalignment on an issue of shared concern is unhelpful, as it creates confusion and undermines the important public purpose of that legislation.
- 6.4.5 However, we are informed that relationships are improving under the initiatives of the new Chief Executive Officer. In particular, we understand that, in appropriate cases, the College may refer animal welfare issues to the Society and that it is open to the College and the Society to collaborate on issues that overlap their respective purviews. We were also informed that recently the College referred a matter related to a potential disease transmission to the Chief Veterinary Officer, and that the College coordinated with the Ministry of Agriculture in the aftermath of the recent flooding in the Fraser Valley region. We encourage the College to continue on this path and consider how it can build and develop relationships with other agencies concerned with animal welfare.
- 6.4.6 Overall, progress appears to be underway, and we encourage the College in this regard. However, based on the limited evidence available now and the lack of any uniform documented process, we conclude that this Standard is partially met.
- 6.5 *Standard 3: Where necessary, the regulator will determine if a complaint has merit and if so, whether the conduct or competence of the licence holder is impaired or, where appropriate, direct the complainant to another relevant organisation.*
- 6.5.1 The College is hampered by the limits of its legislation in achieving an efficient and effective assessment of the merits of a concern when it receives one. The Act requires that an incoming complaint be referred to the Investigation Committee. As set out in Bylaw 271, College staff only assess a complaint for completeness. The Registrar is only able to dismiss a complaint administratively if it is "incomplete". Otherwise all complaints regardless of their relevance to regulatory standards or their merits must be referred to the Investigation Committee.

<sup>23</sup> <https://www.cvbc.ca/wp-content/uploads/2020/08/Position-Statement-Duty-to-Report-Animal-Abuse-and-Neglect.pdf>

<sup>24</sup> <https://spca.bc.ca/wp-content/uploads/professional-resources-duty-to-report-for-veterinarians.pdf>



- 6.5.2 In the most recent four quarters for which we have data (Q4 of 2020 to Q3 of 2021) this requirement resulted in 208 complaints being referred to the Intake Panel (which has delegation from the Investigation Committee). Because of the volume of concerns received and administrative procedures, it takes a median time of approximately sixteen weeks for a concern to go through this initial process.
- 6.5.3 The Intake Panel, unlike the Registrar, is able to take account of the criteria set out in s. 52(1) of the Act (see para 4.19 above). There are six criteria on which a complaint may be dismissed at this stage. It seems, however, that the Intake Panel rarely does this, as around 95% of the cases coming to it are forwarded to the Investigation Committee for investigation. This suggests that the Intake Panel may not be fulfilling its function as a filter for complaints and is excessively cautious in its application of the powers in s. 52(1). This means that many cases which do not engage the College's statutory mandate are being passed to the Investigation Committee. All this achieves is an even greater backlog of cases building up in the process as well as frustration and inconvenience for complainants and veterinarians alike.
- 6.5.4 Somewhat ironically, one case file which we reviewed where the complaint was dismissed without investigation is one that did not appear to meet the statutory criteria for dismissal. This indicates that there is a lack of clarity on the criteria for dismissal and inconsistency in its application. The College should clearly communicate the legislative criteria for dismissal, ensure that the Intake Panel is sufficiently trained to understand and apply them consistently, and establish and follow a process for considering whether to dismiss a matter. This will promote clarity of the College's role, reduce the number of incoming complaints that do not engage the College's mandate, and promote public and registrant confidence through consistency and transparency.
- 6.5.5 The College told us that complainants may be advised to contact the BC Society for Prevention of Cruelty to Animals or the Ministry of Agriculture for health or disease related concerns. The College may also suggest complainants consult a lawyer if the issue relates to fees or a civil matter, or to the Ombudsperson if there are concerns around fairness after the matter is concluded. However, the College appears to have no policy of directing complainants to other sources of help at the time an initial contact is made and there is no mention of doing this, or of any other relevant organisation, in the Complaints Manual. As set out above, while the College appears to be making improvements in this area, there is much still to do.
- 6.5.6 The Ombudsman is mentioned in letters to the complainant after the complaint has concluded, and of course can only be approached at that stage.
- 6.5.7 This Standard is not met.

6.6 *Standard 4: All conduct and competence complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel (or equivalent).*

6.6.1 The College does not have a documented process for assessing risk of harm against agreed criteria at each decision point as complaints move through the process. Very few incoming concerns are (or can be) eliminated before they are passed on to the Intake Panel. The Intake Panel does not have a written procedure for assessing risk of harm nor for determining whether or not a case should be dismissed under s. 52(1).

6.6.2 We were told that if a staff member had concerns about the possible seriousness of a complaint, they could refer it to the College's legal counsel to assess it for an interim order. There is no reference to this in the Complaints Manual. We have not seen evidence that that has been done and no interim orders have been made since 2019, a period of time during which the College received more than 500 complaints. We were also told that serious complaints could be brought to the attention of the Registrar. Overall, risk assessment lacks clarity and consistency and the absence of a defined risk assessment framework and process for seeking interim orders on urgent matters is a gap in the expected performance of a public protection regulator.

6.6.3 We conclude that because of the absence of a formal risk assessment procedure and lack of evidence of a documented process for risk assessment of cases prior to their reaching the Investigation Committee (which may take many weeks) and the lack of use of interim orders at any stage, there is no systematic prioritization of serious cases. While there may be some *ad hoc* risk assessment or prioritization taking place, the process needs to be formalized and consistently applied to all cases in the public interest.

6.6.4 This Standard is not met.

6.7 *Standard 5: The complaints, discipline and enforcement<sup>25</sup> processes are transparent, fair, proportionate and focussed on serving and protecting the public interest.*

6.7.1 Our assessment is that the College should improve the transparency of its process. While the College's website is well-organized and factual, there is a lack of detail about what complainants and registrants can expect from the process. This is important. A clearly-communicated process promotes consistency and accountability for regulators. It is also of significant importance to the College in light of the HRT findings: a fair process, applied consistently and open to all participants, responds to criticisms of unfair or differential treatment.

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<sup>25</sup> The scope of our review is focussed on the complaints process, rather than discipline and enforcement.

- 6.7.2 Our survey of veterinarians and member of the public showed a stark difference of views on fairness: 12 out of 14 members of the public said the process was not fair<sup>26</sup>; only five out of 15 registrants thought so. All 14 members of the public said that the outcome was not reasonable, whereas 14 out of 15 veterinarians thought that it was. As set out above, although this is a small number of responses in absolute terms, the responses from members of the public should be of particular significance to the College. The fact that members of the public took the time to respond and provide feedback about the College's process, for no personal gain and months after the process concluded, provides some insight into the importance of the proper regulation of veterinarians to the public. The consistency in those responses provides valuable insight into how the College is seen through the eyes of the public it is meant to serve and as such should not be dismissed.
- 6.7.3 The complaints process does seek to be fair to both the complainant and the registrant in terms of their contribution of information considered by the College. However, this is significantly undermined by poor communication, delay in initiating an investigation long after the complaint was received, and unreasonable time gaps between stages in the process. At the same time, registrants and complainants are sometimes asked to respond to the College in very short turnaround times after the file has sat without activity for many weeks or months.
- 6.7.4 It is not possible to conclude that the decisions of the Investigation Committee are focussed on serving the public. While we are not suggesting that the Investigation Committee has missed the mark in all cases, there are a number of features emerging from the evidence that are impossible to ignore.
- 6.7.5 First, the College seems unwilling to take determined action – as is demonstrated by the fact that there have been no disciplinary hearings since 2015, despite having received nearly 1000 complaints during that time. Second, there is no consistent or deliberate process for considering the impact of past disciplinary history, with the result being that action is not taken against registrants who are complained about frequently, on the grounds that past behaviour is irrelevant to a present complaint.<sup>27</sup> Third, in some cases we observed that the Investigation Committee has been unwilling to choose between two versions of the same event when there is disagreement and are reluctant to take action on a supposed 'isolated mistake', however serious. We found one example of a discipline case that was dropped partly as a result of vigorous resistance from the registrant.

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<sup>26</sup> One person did not respond to this question.

<sup>27</sup> We acknowledge that College Bylaw 280 permits the Investigation Committee to consider a registrant's complaints and discipline history before accepting a registrant's consent proposal under section 67 of the Act. However, this provision is permissive, not mandatory, and only applies to a section 67 proposal (which only arises in cases in which a citation has been directed). We consider a registrant's history to be potentially relevant in all cases where concerns are identified such that action must be taken – including, in particular remedial action by consent under section 66 of the Act. Bylaw 280 does not address this situation, and the feedback we received indicates that the Investigation Committee does not routinely consider past complaints or action taken.

- 6.7.6 In the 12 months up to the commencement of this review the College issued only 18 sanctions in response to 208 complaints. Those sanctions were at the lowest level of severity: there were no interim orders, no citations, no suspensions or conditions and no referrals to discipline. While we did observe a number of well-reasoned decisions and we believe that the committee members and staff are acting in good faith, our review indicates a need for significant change.
- 6.7.7 This Standard also engages an assessment of how the College monitors undertakings and consent resolutions. While there are not many such outcomes, our review indicates a clear difference in two approaches. In some cases, the Investigation Committee appears to have complete oversight of monitoring files, to an extent that creates unnecessary delay. We are not aware of any reason why compliance monitoring cannot be done primarily through staff; indeed, that is what is contemplated by College Bylaw 281. In other cases, monitoring has been neglected entirely, to the point where a follow-up review of a registrant's medical records (to confirm improvement in practice following agreed-upon remediation) was delayed so long that it was abandoned entirely. This is not in the public interest.
- 6.7.8 While our assessment of the standards is based on our own observations, it is relevant that our survey results spoke clearly: no member of the public who responded thought the College's process was fair. For an organization with a public interest mandate, this feedback must be taken seriously.
- 6.7.9 On the other hand, two thirds of registrants thought the process was fair from their perspective, and in our observations, delay aside, respondents to a complaint generally enjoyed a high level of procedural fairness. However, this Standard considers broader considerations of fairness in the public interest, not only procedural fairness as seen through the eyes of a registrant.
- 6.7.10 This Standard is not met.
- 6.8 *Standard 6: Conduct and competence cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to the public.*
- 6.8.1 The length of time cases take to progress through the complaints process, often over two years and with a median time of more than 17 months, is recognised by the College, by veterinarians and by the public as unacceptable. We agree with that assessment. This slow process is damaging to registrants, frustrating for complainants and undermines the confidence of the public.
- 6.8.2 A breakdown of timings for Q3 of 2021 is typical. In this period it took 16 weeks to refer a complaint on to the Intake Panel and to obtain a decision to investigate

or dismiss. During that period the registrant is not notified of the complaint. Complaints that were investigated and then dismissed took a further 47 weeks, and it took another nine weeks to inform the complainant and registrant of the outcome. Cases that were investigated and concluded with a consent resolution took a median time of 78 weeks from receipt to conclusion. By any measure these times are excessive and greatly longer than those achieved by other professional regulators.

- 6.8.3 Significant delay was a feature in four of the six randomly selected case files we reviewed. In one case, the complaint was only first put before the Investigation Committee ten months after it was received. In another case, more than four months passed between the Investigation Committee's final decision and notification to the complainant and the registrant of the outcome. While these cases are not representative of the median, they show an inordinate delay that potentially compromises the fairness and effectiveness of the College's complaint process, and is no doubt very stressful for all involved.
- 6.8.4 It is important to point out that the College, and its staff in particular, recognize the problems with this level of institutional delay. The evidence we received indicates that staff and committee members are hard-working but feel unable to change the established processes. This can be explained to some degree by the difficulties created by the turnover in staff, including the Registrar, and committee members in the years following the HRT decision.
- 6.8.5 Following the judgement of the HRT in 2015, the then-president of the College announced that the College had "initiated a major review and revision of its disciplinary processes."<sup>28</sup> We saw very limited information about the progress or outcome of that review, with the exception of an information sheet issued shortly after the HRT decision that promises changes had been made to "make it easier to reach a satisfactory conclusion" to a complaint. The information sheet appears to be aimed at comforting registrants about the complaints process while the promised changes do not offer any obvious benefit to the regulation of the profession in the public interest. This was far from a "major review" or a "revision of disciplinary processes".
- 6.8.6 In 2018 the College created internal timelines for certain stages of the complaints process. As the College recognizes, these timelines are not being met and have apparently been abandoned. In practice, the number of complaints continues to increase and a backlog continues to build up. The College is losing the race between complaints received and complaints investigated and resolved. Non-compliance with these targets and the fact that the problem appears to be getting worse, not better, reinforces our view that a

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<sup>28</sup> *Fight Continues in British Columbia after Discrimination Findings.*  
<https://news.vin.com/default.aspx?pid=210&catId=633&id=7143519>

rethink of the process, including a commitment to providing the resources required to administer it in an efficient and timely way, is required.

6.8.7 This Standard is not met.

6.9 *Standard 7: All parties to a case (including the complainant) are kept updated on the progress of their case and supported to participate effectively in the process.*

6.9.1 Complaints about poor communication from the College are widely shared and were mentioned by many participants in the review. Responding to our survey, not one member of the public thought communication was good, and only half of veterinarians did. The advice in the Complaints Manual for staff handling telephone calls is defensive rather than enabling of complaints. It stresses what the College can't do, refers to closing down "long-winded" calls, and suggests that those who inquire are told, misleadingly, that the complaints process may take six to nine months, when the data reveals that it is more often taking between one and two years.

6.9.2 The contents of template letters to complainants is bureaucratic and impersonal. The language used is legalistic and not easily accessible to the public. For example, the sample letter to a member of the public whose complaint has been dismissed reads "...the Committee considers this matter is closed pursuant to s. 57(2)(c) of the Veterinarians Act." There is no explanation of what this unnecessary legalese means. The College's own timeline for keeping complainants up to date – 30, then 60, then every 90 days - is too long, and merely highlights the inefficiency of the process. Several complainants commented on the long delay between contact points and the problems with this are recognized by the College.

6.9.3 The procedure adopted by the Investigation Committee that its decisions on cases are not communicated to either the complainant or the registrant until after its minutes have been approved at a subsequent meeting introduces a discourteous and entirely unnecessary administrative delay of several weeks. In some cases it is months before the outcome is communicated.

6.9.4 In the Complaints Manual there is a significant difference in tone between how staff should communicate with complainants and with veterinarians. For example, in the template acknowledgement letter on receipt of a complaint there is no expression of sympathy towards the complainant's feelings or about possible harm to an animal. Complainants are told "It is your responsibility to keep us updated" and staff are warned that complainants may be long-winded or aggressive. In saying that, we acknowledge again that the Complaints Manual is not necessarily a complete and accurate description of all of the College's activities. We also recognize that recently the College has made a deliberate effort to better communicate its compassion towards the owners of animals who have suffered an adverse event or deceased. However, the tone

established in the Complaints Manual, which appears to be the primary source of written guidance, calls out for change and substantial revision.

- 6.9.5 In contrast to members of the public, veterinarians who have been complained about receive a courtesy call and are sent an information sheet explaining the process in detail and reassuring them, “Don’t Panic. Chances are you will get a complaint sometime in your career.”<sup>29</sup> While receipt of a complaint is undoubtedly a stressful event for a professional, and information and support in that regard is appropriate, no such helpful information is available for the public. While complainants reported that when they spoke directly with College administrative staff by phone or email they were treated with respect and kindness, looking at the process and its design as a whole it is hard not to conclude that the College is more concerned with the feelings of registrants than of the public.
- 6.9.6 Twelve out of 14 members of the public replying to our survey said that they were not listened to by the College, compared with three out of 15 veterinarians. While this feedback may be to some extent part of the public’s reported dissatisfaction with the outcome of complaints, it should not be ignored. It seems that all participants are not equally supported to participate.
- 6.9.7 This Standard is not met.
- 6.10 *Standard 8: All decisions made at the initial and final stages of the complaints and discipline process are well reasoned, consistent, and protect the public interest.*
- 6.10.1 We concern ourselves here with the decisions of the Investigation Committee and its subsidiary Intake Panel, not with disciplinary decisions (see paragraph 6.2 above).
- 6.10.2 The Intake Panel, composed of members of the Investigation Committee, is required to review all complaints that have been judged ‘complete’ by the staff team, nominally by the Registrar. The Intake Panel considers whether or not they should move forward for investigation and subsequent consideration by the Investigation Committee as a whole following the investigation.
- 6.10.3 Figures provided by the College for this review show that the Intake Panel rejects fewer than five per cent of concerns coming to it and forwards everything on to the Investigation Committee, which then dismisses the majority. Given that the Intake Panel stage in the investigation process takes many weeks it is hard to see what it adds to the process except delay.
- 6.10.4 Our review of a small number of randomly selected case files caused concern. In one case, a registrant had relevant past disciplinary history, but this received no consideration. In another case, the Investigation Committee concluded that

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<sup>29</sup> Complaints Manual, 2018 Complaint and Discipline Information Sheet.

they could not choose between competing versions of a contested event, despite the fact that neither the complainant or registrant had been interviewed about it.

- 6.10.5 In one particularly concerning case, the College initially assessed that the potential misconduct was serious enough to merit an interim practice restriction but then did not take action. At the end of the investigation, the registrant was asked to acknowledge that their treatment was not adequate and sign an undertaking to review a 22-page article. When the registrant refused, a citation was issued but the matter was subsequently dismissed with no further action. This process took over two years and in the final analysis accomplished nothing in the public interest.
- 6.10.6 The College also struggles in terms of consistency. While many of the people we spoke with thought that consistency is important, there is no deliberate process to promote consistent outcomes between similar cases. While the Investigation Committee appears to be acting in good faith to reach reasonable decisions, the analysis of similar cases does not appear to be structured, focussed or even itself repeatable.
- 6.10.7 In cases where a consent resolution is pursued following an investigation, the sanctions are inevitably modest. Thirty-eight consent resolutions have been published since 2015, and not one includes a suspension – the most common outcome is a reprimand or some modest level of directed continuing education (which is sometimes, but not always, expressly identified as being in addition to the continuing education that registrants must complete in any event).
- 6.10.8 Further, as set out above, it is impossible to ignore the lack of disciplinary action taken by the College. While we cannot assess cases that we did not review, the fact that there have been no disciplinary hearings in seven years is grossly out of step with almost every other regulator, including regulators of veterinarians in other jurisdictions<sup>30</sup>, and speaks loudly. There are only two consent orders (those which resolve a matter in which a citation has been directed) for the period 2015-2022. It is not lawful nor in the public's interest to order discipline for discipline's own sake, but we find it inconceivable that of the nearly 1000 complaints received in seven years, only two merited forced disciplinary action.
- 6.10.9 The very low level of sanctions, the failure to issue any interim orders or to refer any cases to discipline raises doubts as to whether the public interest is being served.
- 6.10.10 This Standard is not met.

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<sup>30</sup> See for example: <https://viewer.joomag.com/annual-report-2021/0806034001643304654?short&> and <https://www.abvma.ca/site/public/complaints/memberssuspended?nav=mainsidebar>



6.11 *Standard 9: All final decisions of the Complaints and Discipline Committees, apart from matters relating to the health of a licence holder are published and communicated to relevant stakeholders, within the relevant legal frameworks.*

6.11.1 The College has not published any disciplinary hearing decisions since 2015, the year of the adverse finding by the Human Rights Tribunal. The reason is that there have been no disciplinary hearings since that year. This is a sudden change. In the eight years before the HRT decision, there were 11 reported disciplinary hearings and, in the seven years since, there have been none.

6.11.2 The College does publish consent orders (those being negotiated orders made to resolve a matter in which a citation had been issued), but at the time of the preparation of this report there were only two published in the seven years since 2015, while 16 were published in the previous five years. There were none published between 2015 and 2020. We were informed that the College has had preliminary proceedings before the Discipline Committee during that period (including contested procedural applications) but that these pre-hearing decisions are not published. Consent resolutions (which are also made by agreement, but without the issuance of a citation) are also published, although sometimes with the veterinarian's name removed.

6.11.3 While the Act permits information to be withheld from publication in appropriate cases, including where the case concerns a health issue, the College's publication in some instances says only "withheld" without any explanation. We agree that in cases involving confidential health information it is appropriate to withhold the registrant's name from the required publication. However, in our assessment, stating only "withheld" is insufficient for the public to understand the nature of the case and the reason the information was withheld. Withholding information that is presumed to be public without any explanation is insufficient to preserve public confidence. As ever, a reasoned explanation will promote transparency, consistency and accountability. In any event, the College should strive to withhold only the minimum amount of information required to protect the registrant's confidential health information.

6.11.4 Unfortunately, while consent resolutions and consent orders are published on the College website, they are not included against the veterinarian's name in the College's online registry. This is inconsistent with a requirement in the Act<sup>31</sup> and means that the public searching for a veterinarian on the online registry will not have access to the professional conduct history of the veterinarian without separately searching a different portion of the website. We were also concerned to be told that the College may be inviting applications from registrants to remove publication of consent resolutions after the statutory minimum period of five years has passed. Removing publication is permissible in certain circumstances<sup>32</sup> but is not generally in the public interest and should not be

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<sup>31</sup> Section 41(2)(e)

<sup>32</sup> Section 41(4)

encouraged by the College. We find that the College should commit to much greater transparency of outcomes in the public interest.

6.11.5 It should be acknowledged that the College in recent years has made progress in transparency. Within the materials we reviewed, we observed older cases which were resolved by a 'Confidential Commitment' provided by the registrant to the College. The 'Confidential Commitment' purported to enable a consent resolution of a complaint file in which the registrant undertook to take remedial steps on the premise that the outcome not be made public – an arrangement that is in direct contravention of the mandatory publication provisions in the Act. We are informed that the College has since discontinued this practice and that is to be commended.

6.11.6 This Standard is not met.

6.12 *Standard 10: Information about complaints and discipline cases is securely retained.*

6.12.1 All regulators hold confidential personal information which needs to be kept securely and used in line with relevant legislation. In relation to complaints processes, that information may be additionally sensitive. It is important that regulators have robust information governance policies, adequate staff and volunteer training, and reporting mechanisms. As well as internal information governance policies, they should also maintain up-to-date cyber security.

6.12.2 The College has a Confidentiality Policy which it requires staff and Council and committee members to sign. It lacks an overarching information governance policy nor is an annual report on information security provided to the Council. There is no formal document retention policy.

6.12.3 There is a secure SharePoint for case files which requires two-factor identification to access but confidential information may sometimes be sent electronically between staff and committee members and not password-protected.

6.12.4 Despite these significant procedural gaps, the College has informed us that there have been no data security breaches and none have been reported to the Office of the Information and Privacy Commissioner. In the absence of proper Information Governance policies we must conclude that the College has been fortunate rather than determinative in avoiding data breaches.

6.12.5 This Standard is partially met.

### *Overall assessment*

- 6.13 It is disheartening indeed to judge that the College does not meet eight of the 10 relevant Standards of Good Regulation for Complaints and partially meets two. This is a serious indictment of its complaints process. Some mitigation may lie in the history of the College and the turmoil resulting from the HRT judgement and consequent significant changes in leadership but there have been many years in which to put things right.
- 6.14 While the College does not fully meet any of the Standards, there are positives. The process is administered by a number of hardworking people who are passionate about animal welfare and genuinely want the College to be an effective regulator. The staff work long hours with a large workload and the Investigation Committee is asked to review thousands of pages of materials in advance of almost-monthly meetings that can last nine hours or longer. It is clear too that the recently appointed CEO is committed to change, and is supported by the Council
- 6.15 It is difficult to avoid the conclusion that these energies and resources are not being harnessed effectively. Unfortunately, on the evidence we reviewed, the process as currently designed and administered is as a whole less than the sum of these parts. A rethink is needed.
- 6.16 The size of the challenge ahead requires a serious and energetic programme of improvement if the College is to become an efficient and effective handler of complaints and protector of the public. Doing so will require a significant commitment of time, money, and people. The recommendations we set out below are intended to assist it in that endeavour.

## 7. Recommendations

7.1 As we have previously observed (see paragraph 6.5.1 above) the College is hampered by outdated and restrictive legislation. Real improvements to the complaints process would be facilitated by legislative change aimed at clarifying the College's role as a regulator, giving the Registrar and their staff more decision-making powers, simplifying the requirements and creating greater flexibility for the College to respond to changing patterns of complaints and increasing workloads. While this legislative change is desirable for real long-term improvement, our assessment is that the College should focus on the many immediate improvements that are achievable within its current statutory framework. The *Veterinarians Act* is unlikely to change in the short-term, and much better performance is achievable for the College under the legislation as it currently stands. The recommendations we set out below will enable the College to move forward now and we urge it to consider them seriously.

### *Transparency and communication with the public*

7.2 Openness builds trust and confidence in the workings of a regulator. There is more the College can do to present itself to the outside world, to explain its role and to communicate effectively about how it handles complaints and what the outcomes are. The recommendations below are intended to support this.

#### 7.2.1 *Recommendation 1*

The College should review the language it uses both on its website and in correspondence to remove unnecessary legalese and to communicate clearly and simply. Signposting on the website to complaints information needs to be improved and the content rewritten to assist the public in understanding what the College does and how to raise a concern about a veterinarian.

#### 7.2.2 *Recommendation 2*

It should be made clear on the website and in response to telephone calls that help is available for those who do not easily write in English. Consideration should be given to supporting communication in languages other than English as part of the College's commitment to equality, diversity and cultural safety.

#### 7.2.3 *Recommendation 3*

The tone of the College's communications with complainants needs to be changed so it is friendly and helpful rather than directive and legalistic. College staff and inspectors should be offered training on how to deal with emotionally difficult situations. When decisions are reported reasons should be given in plain English.

#### 7.2.4 *Recommendation 4*

All complaint outcomes beyond dismissal should be reported on the College's website and included in annotations directly on the College's online registry as required by the Act.

#### 7.2.5 *Recommendation 5*

Subject to the privacy interests of third parties, all substantive decisions by the Discipline Committee, including decisions in contested pre-hearing applications, should be published.

#### 7.2.6 *Recommendation 6*

The College should publish guidance on when the duty to report is engaged and set out a clear and consistent process that will be followed when a report is made. A clear statement should be made in the College's standards or Code of Ethics that any form of retaliation against a person who makes a complaint in good faith is unacceptable.

#### 7.2.7 *Recommendation 7*

A significant number of complaints could be avoided if there was better communication between veterinarians and their clients. The College is seeking to improve the communication skills of veterinarians and to assist them in responding to difficult interactions, and this should be actively continued.

### *Reforming the complaints process*

7.3 The complaints process, as distinct from the legal requirements it must follow, is not set in stone and the College must think seriously about how it can be made more transparent, adaptable and timely. The College must commit to finding the necessary resources and implementing the necessary changes in as short a time as is practicable. The Complaints Manual needs to be comprehensively rewritten.

#### 7.3.1 *Recommendation 8*

Introduce written risk assessment criteria to be applied at all decision points in the process including before cases go to the Intake Panel. Complete and apply a decision-making framework (which has been under development for some time) for the Investigation Committee's decisions.

#### 7.3.2 *Recommendation 9*

Record if an interim order has been considered and why it is or is not required.

#### 7.3.3 *Recommendation 10*

Require all complaints going forward to the Intake Panel to have identified which professional standards they may have breached

#### 7.3.4 *Recommendation 11*

Improve training and guidance for the Intake Panel on the application of s. 52 (1) of the Act and promote its consistent application against defined standards.

#### 7.3.5 *Recommendation 12*

Change the way of working for the Intake Panel and Investigation Committee to allow more frequent and rapid decision-making. Create a larger panel of trained members meeting in small panels as soon as cases are ready to be considered and include within every panel, including the Intake Panel, at least one member of the public. The full Investigation Committee might only meet to consider the most complex and high-risk cases.

#### 7.3.6 *Recommendation 13*

Introduce a template and guidelines for Investigation Committee members on presenting cases to the Committee to increase focus, clarity and brevity.

#### 7.3.7 *Recommendation 14*

The Investigation Committee should seek the advice of legal advisors when appropriate but make its own decisions in the public interest; it and not its lawyer is the decision-maker. In recording its decision, the Investigation Committee should explain why it protects the public. Decisions of the Investigation Committee should be signed off by the chair once made and communicated immediately to the registrant and complainant.

#### 7.3.8 *Recommendation 15*

Once a registrant has been found to have breached standards, any previous Investigation Committee decisions, or failure to adhere to consent agreements or orders, should be taken into account in deciding the appropriate sanction.

#### 7.3.9 *Recommendation 16*

All conditions and remediations should be consistently monitored as required by Bylaws 281 and 303, and failure by a registrant to comply should result in further action by the College, up to and including a complaint initiated by the Registrar or a citation as permitted under the Act.

### *Enabling change to happen*

- 7.4 We do not presume to tell the College's leadership how to develop its staff team or which skill mix it requires or what resources must be found. We have already noted the diligence and hard work of both the staff and committee members who are engaged with the complaints process, but they are hampered by an overly bureaucratic approach and lack of creativity in using the legislative framework to the benefit of the public. Reforming the College's complaints process should be an organizational priority, and must be resourced accordingly. We believe that the new Chief Executive Officer has the right leadership skills to bring about the changes that are needed and should be fully

supported by the Council to do so. The recommendations below focus on how the necessary changes can be achieved.

#### 7.4.1 *Recommendation 17*

The College should regain its confidence in its ability to fulfil its role as a regulator and to do its job well on behalf of the public of British Columbia. This means making courageous decisions internally and externally to bring about change.

#### 7.4.2 *Recommendation 18*

The complaints directorate needs to refocus on streamlining procedures, eliminating duplication, rapid, confident decision-making, outward looking communication and supporting and driving change.

#### 7.4.3 *Recommendation 19*

A continuous programme of training and support for staff, inspectors and members of the Investigation Committee should be introduced. Following this a performance assessment and accountability framework should be developed.

### *Information Governance*

7.5 As already noted, regulators hold a lot of confidential information including personnel records, cases files, medical records and legal documents. This confidential information needs to be shared and seen by many people in the course of a regulator's work. The College needs a comprehensive information governance and cyber security framework.

#### 7.5.1 *Recommendation 20*

The College should produce an Information Governance and Cyber Security framework and a formal report to the Council annually.

#### 7.5.2 *Recommendation 21*

All staff and committee members with access to confidential information should be provided with data security training.

#### 7.5.3 *Recommendation 22*

The College should appoint a suitably qualified staff member as Senior Responsible Officer for information governance and that person should report annually to the Council on the maintenance of data and cyber security and on any issues.

### *Learning from complaints and monitoring of performance for improvement*

7.6 The College is not using the wealth of information which complaints data provides to constantly monitor and improve its performance. Collecting numbers and timelines from the complaints process is futile if nothing is done with the information. More valuable is qualitative information: what is being

complained about, who is being complained about, is remediation effective, are consent orders complied with? Information from complaints should feed into standard setting for veterinarians, guidance, training programmes and continuing professional development. Complaints are a rich source of information for the prevention of harm not only now but in the future. We recognise that the College is making some progress in doing this.

**7.6.1 *Recommendation 23***

The Council should continue to take an active interest in the performance data it receives about complaints, particularly trends in number, frequency and types of complaints, and use this data to improve support for veterinarians and the protection of the public. It should monitor the implementation of a programme of change. The Council should support the CEO in leading the significant program of change set out in these recommendations.

**7.6.2 *Recommendation 24***

The College should actively seek feedback from complainants and registrants about its complaints process in order to learn from their experience and improve, and should listen to the public and learn from what they say about the College.



## 8. Conclusions

- 8.1 Our assessment and review of the College's complaints process revealed a number of gaps in its expected performance as a public-interest regulator.
- 8.2 Many of the concerns we noted are connected, to some extent, with the HRT decision from 2015. The College's strained relationship with registrants, the personnel turnover in staff and committees, and the overall damage to public confidence arising from that event cannot be ignored. The ensuing commitment to comprehensively overhaul the College's complaints process has not yet been fulfilled.
- 8.3 Overall, the College's current performance against the Standards of Good Regulation indicates a need for significant change.
- 8.4 However, in our assessment, none of the problems identified during the review are unfixable. We believe that with a renewed commitment to focussing on the public interest and a willingness to challenge past practices, the College can deliver on its mandate and become an effective regulator.
- 8.5 Indeed, we have already witnessed progress. The College has ceased the unlawful practice of soliciting 'confidential commitments' to resolve complaints. Relationships with stakeholders are improving. Many people we spoke with indicated a willingness to embrace changes to the complaints process so that the College can better serve the public. We believe that this open approach will lead to meaningful improvements.
- 8.6 We have set out recommendations that we believe will assist the College in improving its performance. It is now up to the College to consider and implement those recommendations as it sees fit. The task ahead will be challenging, and it will require a commitment of time, money, and people.
- 8.7 Reforming the College's complaints process should be an organizational priority, and must be resourced accordingly. We believe that the new Chief Executive Officer has the right leadership skills to bring about the changes that are needed and should be fully supported by the Council to do so.
- 8.8 We hope that this review provides the College with an opportunity to rethink its complaints process and move past the challenges of the past. We believe that with bold action, the College can earn and build public confidence as a responsible, fair, and transparent public-interest regulator.

## Appendix 1

### Standards of Good Regulation for Complaints

NOTE: These Standards are adapted from *The Standards of Good Regulation*, Professional Standards Authority, 2016<sup>33</sup>. For the purpose of this review Standard 6 has not been assessed as it is out of scope.

1. Anybody can raise a concern, including the regulator, about the conduct and competence of a licence holder.
2. Information about concerns regarding conduct and competence is shared by the regulator with employers/local arbitrators, and other regulators within the relevant legal frameworks.
3. Where necessary, the regulator will determine if a complaint has merit and if so, whether the conduct or competence of the licence holder is impaired or, where appropriate, direct the complainant to another relevant organisation.
4. All conduct and competence complaints are reviewed on receipt and serious cases are prioritised and where appropriate referred to an interim orders panel (or equivalent).
5. The complaints, discipline and enforcement processes are transparent, fair, proportionate and focused on serving and protecting the public interest.
6. Risk of harm to the public and of damage to public confidence in the profession related to non-holders using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.
7. Conduct and competence cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to clients or the public. Where necessary the regulator protects the public by means of interim orders (or equivalent).
8. All parties to a case (including the complainant) are kept updated on the progress of their case and supported to participate effectively in the process.
9. All decisions made at the initial and final stages of the complaints and discipline process are well reasoned, consistent, and protect the public interest.
10. All final decisions of the Complaints and Discipline Committees, apart from matters relating to the health of a licence holder, are published and communicated to relevant stakeholders, within the relevant legal frameworks.
11. Information about complaints and discipline cases is securely retained.

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<sup>33</sup> [https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-of-good-regulation.pdf?sfvrsn=e3577e20\\_6](https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-of-good-regulation.pdf?sfvrsn=e3577e20_6)

## Appendix 2

### The Reviewers

#### *Harry Cayton, Professional Regulation and Governance*

Harry Cayton CBE BA BPhil DipAnth DipHA FFPH, is an advisor on professional regulation and governance and is internationally recognized for his work with regulators in the UK, Ireland, Canada, Australia and New Zealand. He has advised governments on regulatory issues in Hong Kong, Australia, Ontario and British Columbia as well as the UK. In 2018, he was appointed by the Minister of Health of British Columbia to conduct a statutory enquiry into the College of Dental Surgeons and to make recommendations on the reform of the Health Professions Act. He has recently completed a governance review for the Law Society of British Columbia.

Harry Cayton was chief executive of the Professional Standards Authority in the UK from 2007 to 2018. Before that he was National Director for Patients and the Public at the Department of Health. He has written extensively about professional regulation and created the approach to regulatory decision-making, *Right-touch regulation*, which has been influential on regulators around the world. He was also the lead author for *Rethinking Regulation* (PSA 2015). With colleagues at the Professional Standards Authority he developed the Standards of Good Regulation and the Standards of Good Governance, against which regulatory performance can be assessed. Harry is experienced in reviews and public inquiries.

He is a member of the Press Regulation Panel in the UK and advisor to Thentia Global Systems Inc.

#### *Greg Cavouras, Sugden, McFee & Roos LLP.*

Greg is a lawyer who practises in the areas of administrative law and professional regulation. Greg has experience in all aspects of professional regulation, including investigations and discipline, illegal practice, registration, development of professional standards, staff and committee member training and governance.

Greg returned to private practice in 2020, after spending the previous eight years at senior in-house positions with two regulatory bodies. As a complement to his in-house experience, Greg completed the Business Leadership Program for In-House Counsel through the Rotman School of Management and earned the designation of “Certified In-House Counsel – Canada” from the Canadian Bar Association.

While Greg’s main area of practice is professional regulation, he has experience with many other administrative regimes and in civil litigation. Greg has appeared before a wide range of administrative tribunals, all levels of court in British Columbia, and the Supreme Court of Canada.

Greg has appeared as a guest lecturer at UBC and BCIT, and has been an invited speaker at CNAR, CLEAR, and Infonex.

## Appendix 3

### People we spoke with

We are grateful to all of the people who spoke to us in the course of this review:

Megan Bergman  
John Bratty  
Lori Charvat  
Rosamund Harrison  
Camille Karlicki  
Claire Kavanagh  
Nadine Koreman  
Darcie Light  
Michele Martin  
Marcie Moriarty  
Alison Paine  
Joe Powers  
Murray Preusche  
Leanne Sackney  
Gian Sihota  
Stacey Thomas  
Corey Van't Haaff  
David Volk  
Josh Waddington  
Ben Weinberger  
Bev Worth

We also thank all those who completed and returned our survey of people who had recent experience with the College complaints process.