

Changes to the RCDSO Regulations on Transparency

Presentation to:

The Canadian Dental Protective Association



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2013 Toronto Star Articles

» TORONTO STAR «

Doctors, dentists, pharmacists: The mistakes you can't know about

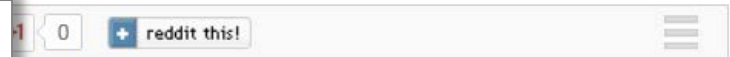
STAR INVESTIGATION: Want to find out if your health-care provider has a caution-free record? You're out of luck. The warnings given to them are being kept secret by their regulatory colleges because they aren't required to tell you about them

Health minister urged to tell colleges to publicize cautions

Health Minister Deb Matthews must take "immediate" action to ensure that Ontario's health regulatory colleges publish cautions issued to doctors, dentists and others for mistakes or improper behaviour, say opposition parties.

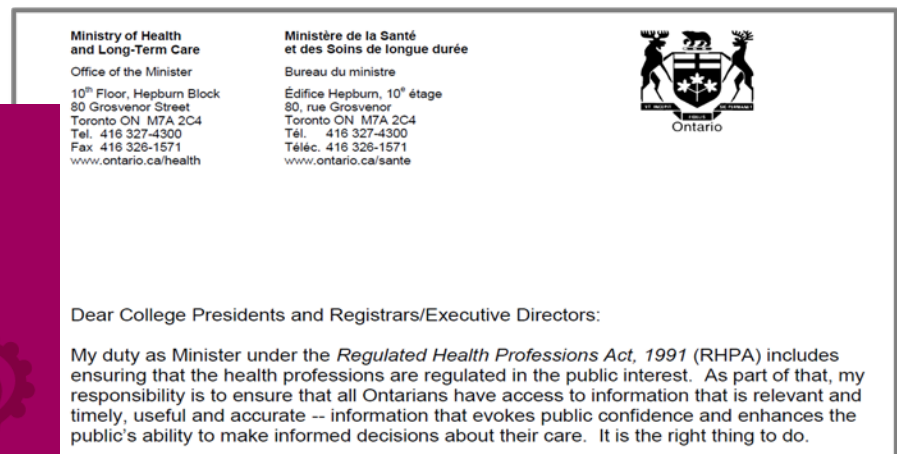
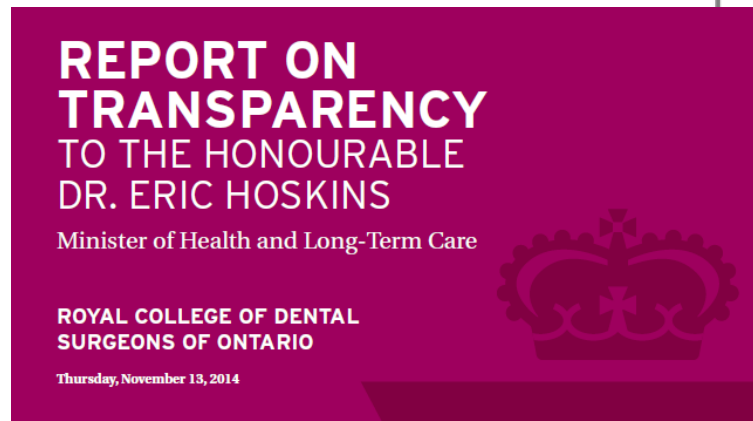
Health colleges given go-ahead to make cautions public

The colleges that regulate the province's health workers argue they are not permitted to publish the warnings they issue to doctors, dentists, nurses and others for mistakes or improper behaviour. The province says otherwise.



Minister of Health Letter re: Transparency

- **October 2014:** Minister of Health and Long-Term Care sent letter to all Colleges requesting that they make transparency a priority and take steps to increase transparency in their processes, decision-making and information disclosure practices
- Colleges were required to report back to Ministry regarding plan to increase transparency



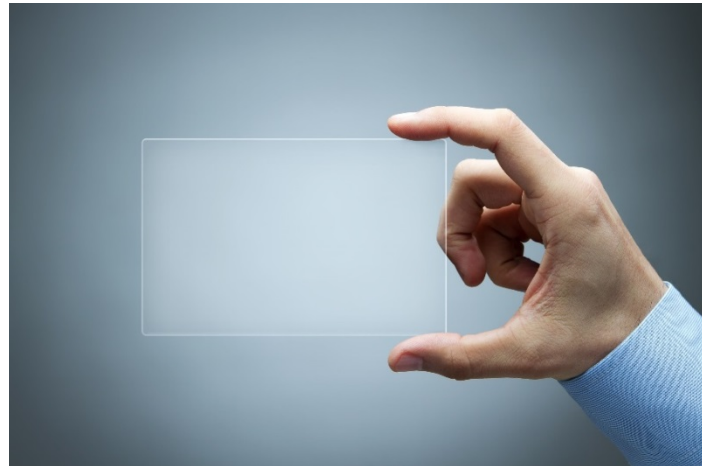
Advisory Group for Regulatory Excellence

- In 2012, six Colleges teamed up to form working group on transparency
 - Royal College of Dental Surgeons of Ontario
 - College of Physicians and Surgeons of Ontario
 - College of Nurses of Ontario
 - College of Optometrists of Ontario
 - Ontario College of Pharmacists
 - College of Physiotherapists of Ontario
- AGRE's objectives
 - Engage in discussions with the public and the professions about measures to increase transparency
 - Examine information-sharing practices and make recommendations on how regulators could make more information about their members and processes publicly available

Transparency Principles

AGRE Developed Transparency Principles (8) including:

- *The public needs access to appropriate information in order to trust that this system of self-regulation works effectively*
- *Providing more information to the public leads to improved patient choice and increased accountability for regulators*



Transparency Principles

Transparency Principles:

- *Information provided should:*
 - *enhance the public's ability to make decisions or hold the regulator accountable*
 - *be relevant, credible and accurate*
 - *Be timely, and easy to find and understand*
 - *Include context and explanation.*
- *Certain regulatory processes intended to improve competence may lead to better outcomes for the public if they happen confidentially*
- *Principles of public protection and accountability must be balanced with fairness and privacy*
- *The greater the potential risk to the public, the more important transparency becomes*

New Information on Public Register

- The RCDSO passed by-law amendments at its December 2014 Council meeting following consultations

Proposed Amendments to By-Law No. 7

In response to increasing requests from the Minister of Health and Long-Term Care for increased transparency, the College is proposing by-law amendments that would expand the information on the public register.

This information would include:

- oral cautions ordered by the Inquiries, Complaints and Reports Committee;
- specified continuing education or remediation programs required by the Inquiries, Complaints and Reports Committee;
- additional details regarding allegations of professional misconduct or incompetence referred to the Discipline Committee;
- findings of guilt in a criminal offence relevant to a member's suitability to practise.



Documents
Proposed
Amendments to By-
Law No. 7

New Information on Public Register

- **Cautions**

- Issued on or after October 1, 2015
- Includes summary of the caution, date of the decision and a notation if the caution is under appeal
- Will be removed 24 months after the member appears before the ICRC to be cautioned

- **Specified Continuing Education or Remediation Programs**

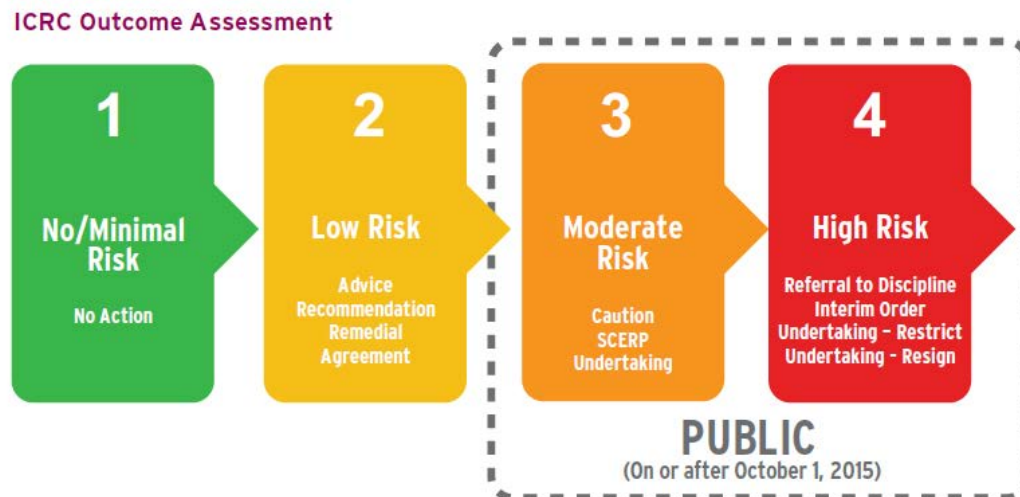
- Issued on or after October 1, 2015
- Includes summary of the SCERP, date of the decision and a notation if the SCERP is under appeal
- Will be removed after all elements of the SCERP have been completed by the member

New Information on Public Register

- **Referrals to the Discipline Committee**
 - Referrals made on or after October 1, 2015 and not yet disposed of
 - In addition to information that was already available, the public register will now include:
 - the full Notice of Hearing
 - the date of the referral
 - the status of the hearing
- **Findings of guilt under the *Criminal Code***
 - Made on or after January 1, 2015 in any jurisdiction
 - Includes the finding, the sentence, and the pertinent dates
 - Only offences the Registrar has reviewed and determined are relevant to the member's suitability to practise dentistry

ICRC Risk Assessment Framework

- The ICRC panel will use a risk assessment framework to guide decision-making process when addressing complaints and reports
- Main concern: risk to patient safety
- Panel will explain risk analysis in written reasons



ICRC Risk Assessment Framework

Definitions Of Risk Categories

Risk Category	Description
No or Minimal Risk	<ul style="list-style-type: none">• Information does not support taking regulatory action
Low Risk	<ul style="list-style-type: none">• Unlikely to have a direct impact on patient care, safety, or the public interest
Moderate Risk	<ul style="list-style-type: none">• Clinical issues requiring remediation or significant improvement through didactic or hands-on courses, mentoring, assessments and/or evaluations• Concerns related to an aspect of the member's conduct or practice that may have a direct impact on patient care, safety, or the public interest if not addressed
High Risk	<ul style="list-style-type: none">• Serious concerns regarding the member's conduct or practice that are likely to have a direct impact on patient care, safety, or the public interest• Concerns cannot be addressed through other remedial actions, or previous remedial actions have been attempted unsuccessfully• Clinical issues requiring restrictions or conditions on practice, or a withdrawal or resignation from practice

ICRC Risk Assessment Framework

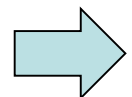
No or Minimal Risk

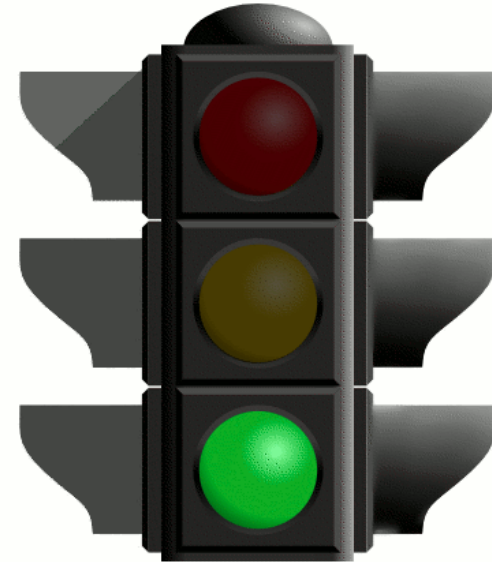
- Information does not support regulatory action

 No action taken

Low Risk

- Unlikely to have direct impact on patient care patient safety or public interest

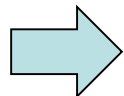
 Advice, Recommendations, Remedial Agreement



ICRC Risk Assessment Framework

Moderate Risk

- Clinical Issues requiring remediation or significant improvement through courses, mentoring, assessments, evaluation
- Concerns related to aspect of member's conduct or practice that may have a direct impact on patient care, safety or the public interest if not addressed

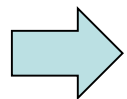
 Caution, SCERP, Undertaking to restrict practice



ICRC Risk Assessment Framework

High Risk

- Serious concerns related to member's conduct or practice that may have a direct impact on patient care, safety or the public interest
- Concerns cannot be addressed through remedial efforts
- Previous remedial efforts have been attempted unsuccessfully
- Clinical issues requiring restrictions or conditions on practice, withdrawal or resignation



Referral to Discipline, Interim Order,
Undertaking to Restrict Practice or Undertaking
to Resign



ICRC Risk Assessment Framework

- Other factors about a member will also be considered by the ICRC panel, including:
 - Proactive remediation / willingness to address issues
 - Insight / reflection
 - Willfulness / awareness / level of control
 - Cooperation with the College
 - Other mitigating/aggravating factors
 - Prior history
 - One time incident vs. pattern of conduct
 - Effect on public interest and/or confidence
 - Dishonesty / breach of trust
 - Governability

Remedial Agreements v. Undertakings

- The RCDO's ICRC Risk Assessment Framework defines these ICRC outcomes

Remedial Agreements

- Voluntary agreement between member and College in which member agrees to upgrade his or her skills in a non-clinical area of practice
- Reflective of low risk (i.e. unlikely to directly impact patient care, safety or public interest)
- Do not appear on public register

Undertakings

- Voluntary agreement between member and College in which member agrees to upgrade his or her skills in a clinical area of practice; to restrict his or her practice; or to resign from practice
- Reflective of moderate or high risk (i.e. relate to issues that can have direct impact on patient care and safety)
- Will appear on public register

Approach to Responding to Complaints: Outline

- Begin, as before, by providing your thoughts on the complaint
- Provide context for the complaint, including identity of and dentist's relationship with complainant (i.e. long-time patient, patient of colleague, competitor, etc.)
- Provide summary of care and treatment provided to patient



Approach to Responding to Complaints: Outline

- Highlight portions of patient record that support position, including where documented:
 - Advice and information re: treatment provided
 - non-compliance with advice, poor hygiene or self-care, etc.
 - reasons for concern about complication or complexity
 - complications and advice provided

Approach to Responding to Complaints: Risk Assessment

- Next, assess complaint, records and explanation using Risk Assessment Tool and consider:
 - Whether concerns alleged may be established
 - Whether non-clinical issues exist
 - If so, impact of concerns on patient care, patient safety and public interest if not addressed
 - Do they require remediation or significant improvement through courses, mentoring, assessment, evaluation?
 - Can issues be addressed voluntarily?

Approach to Responding to Complaints: Risk Assessment

- Consider whether clinical issues exist
 - If so, impact of concerns on patient care, patient safety and public interest if not addressed
 - Do they require remediation, significant improvement through courses, mentoring, assessment, evaluation?
 - Have remedial actions been undertaken in past?
 - Is restriction of practice warranted?
- Consider whether expert support is needed
- Where serious allegations of misconduct raised, may respond only where explanation can exonerate the member or propose remediation

Approach to Responding to Complaints: Response

- Respond with a view to reducing the risk of action
- Tell the “story” in a manner that permits the ICRC to reconcile the complainant’s version of events with that of the member, and puts incident in context of usual practice
- Acknowledge any concerns, shortcomings:
 - Demonstrates insight and an ability and willingness to address concerns voluntarily
 - Fear of acknowledging issues that should be acknowledged results in more findings by the ICRC and an impression that dentist has no insight
- Consider remediation that will address concerns
- Put any Prior Complaints in context
- Always demonstrate self-reflection, governability, desire to cooperate, professionalism



For More Information

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