

How will the Registrar decide if charges are relevant to a member's suitability to practice?



Melisse L. Willems, MA, LLB
Registrar & ED

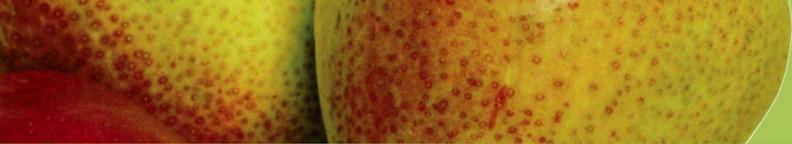
If someone were to ask you to make a decision using your discretion, what would it mean to you? You'd probably take it to mean that you were free to use your own judgement to make that decision. It would likely imply that you had the expertise and experience needed to make the decision, that you were a responsible decision-maker and that your ability to make decisions could be trusted. Registered Dietitians are a good example of this. The College expects members to use their own discretion to make competent and safe client-centred decisions in their practice, based on their knowledge and skills.

The College also makes discretionary decisions on a number of fronts. Members picked up on this recently when the College circulated draft by-laws for consultation which will require members to provide the College with information about charges, bail conditions and convictions that may be published on the College's website. The by-laws have now been approved by Council and will come into effect January 1, 2016. What concerned members who commented on the by-laws was that they give the Registrar & ED the authority to determine which charges, bail conditions and convictions are relevant to a member's suitability to practice and are to be published on the Register of Dietitians. Members wanted to know, "what does it mean to determine that something is relevant to a member's suitability to practice", and "just how is the Registrar's discretion going to be exercised?"

I was in Ottawa at the end of September giving a presentation to a number of federal and other regulators on this very topic. In particular, I discussed what regulatory discretion is and what it isn't.

WHAT IS REGULATORY DISCRETION?

Regulatory discretion is acting with reasoned judgement, relevance, good faith, proper purpose and independence. It is NOT arbitrariness. Legislation and by-laws allow for discretionary



decision-making because it encourages flexibility, context, fairness, innovation and draws on the decision-maker's expertise and looks to the particular circumstances of the situation at hand before a decision is made.

At the College, discretionary decisions are not made in a vacuum. We draw on our own expertise, member comments and feedback, collaboration with other Colleges, subject-matter experts, lawyers and accountants. We research best practices and model policies. In short, we do our homework. We think it's important that our members and the public know that.

DETERMINING A MEMBER'S SUITABILITY TO PRACTISE

The College has developed a policy to clarify some of the parameters and criteria which will guide the Registrar in determining what charges, bail conditions and offences are relevant to safe and ethical dietetics practice. The policy will come into effect January 1, 2016.

The guiding principles expressed in the policy include:

i. Whether the offence occurred while practising the profession;

- ii. Whether there is any connection to the profession such that it would bring disgrace and dishonour to it;
- iii. Whether the offence put an individual or the public at risk;
- iv. Whether the offence is part of a pattern of behaviour or an isolated event;
- v. Whether the offence can be seen to present a risk to people in the practice setting of the member; and/or
- vi. Whether the offence suggests discrimination, disregard or disrespect for people based on a ground protected by the Human Rights Code (race, colour, ancestry, creed (religion), place of origin, ethnic origin, citizenship, sex (including pregnancy, gender identity), sexual orientation, age, marital status, family status, disability, receipt of public assistance).

In exercising our public protection mandate, we are committed to transparent and fair policies and processes. To view the entire policy, go to the College website at www.collegeofdietitians.org and enter, "Registrar Discretion", in the search box.

