



## AGENDA ITEM 6.1

### **TOPIC:     Alternative Dispute Resolution**

#### **Overview**

Section 45 of the *Veterinary Professionals Act, 2024* provides the basic structure for the College to formally incorporate alternative dispute resolution as part of its robust investigations and resolutions screening model. Section 45 of the *Veterinary Professionals Act, 2024* also permits the development of supplementary regulatory components related to alternative dispute resolution should they be required.

#### **Relevant Sections**

An overview of the relevant sections of legislation, regulation, by-law, and policy related to alternative dispute resolution (both current and future) has been attached to this cover sheet as Appendix “A.”

#### **What is Alternative Dispute Resolution?**

Alternative dispute resolution refers to a confidential method to resolve conflicts and disputes outside of more traditional complaints proceedings. Alternative dispute resolution offers a more informal, less expensive, and often quicker method for achieving a mutually supported outcome. Agreement is required between all parties and is achieved through mediation and negotiation overseen by an independent facilitator. Alternative dispute resolution also fosters a climate of co-operation and openness even if a voluntary resolution is not reached.

Alternative dispute resolution is designed to help efficiently address matters that do not contain allegations of serious harm, misconduct, incapacity, or impropriety. Alternative dispute resolution occurs without prejudice and does not negate from the College’s ability to pursue other avenues of conduct and/or competence review should issues not be resolved through the mediation and negotiation process.

#### **History of College Work Related to Alternative Dispute Resolution**

##### **Mediated Resolutions Program (MRP)**



The College has offered voluntary alternative dispute resolution through its policy-based Mediated Resolutions Program (MRP) since 2013. The goal of the MRP program is to resolve complaints in a manner that protects public interest while giving all parties the opportunity to participate in seeking a positive and constructive resolution. This approach focuses on quality improvement and education, not punishment. An independent facilitator works with all parties involved to reach a mutually agreeable settlement. The College assumes all costs associated with the mediation.

Since 2013, 104 member-related matters have been offered the opportunity to participate in the MRP program and 18 have successfully reached agreed upon resolutions.

### **Inclusion in Legislative Reform**

In its February 2018 Concept Paper to the Ministry of Agriculture, Food and Rural Affairs entitled “Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario”, the College requested an expansion of its current approach to alternative dispute resolution to allow for a mandatory program to be implemented. This request was made after several rounds of consideration and conversation amongst both the College’s Working Groups and College Council, including extensive background research and two rounds of public consultation.

While this specific threshold was not achieved under the *Veterinary Professionals Act, 2024*, the statute provides formal recognition of the inclusion and importance of the program within the College’s screening process for member-related complaints and provides a clear framework for further regulatory structure to be developed.

### **What Will Change?**

The College’s current MRP program under the *Veterinarians Act* operates on a purely policy-based approach. *The Veterinary Professionals Act, 2024* provides for a more layered approach with aspects of the program appearing in both the Act and Regulation while still permitting additional development at the policy level should it be required and/or desired.

### **Concept**

A draft concept has been developed to support the College’s work in alternative dispute resolution and to outline specific supplementary components that are required in Regulation to ensure the implementation of a clear and successful program. (attached to this cover sheet as Appendix “B”). In particular, the concept speaks to the proposed inclusion of:

1. Language Related to Administration of the Program

The concept proposes that Regulation language be developed that provides additional structure that the College requires to administer an alternative dispute resolution program



including provisions related to processes for commencement and termination, confidentiality, and access to records and information.

## 2. List of Ineligible Complaints

The concept proposes that Regulation language be developed that outlines the type of complaints that would be ineligible to participate in alternative dispute resolution to ensure that concerns related to a high risk of harm or potential harm to the public continue to be addressed through more traditional methods.

## 3. Process for an Opt-Out Program

The concept proposes that Regulation language be developed that creates an opt-out approach to alternative dispute resolution (individuals have to indicate that they do not want to participate) instead of the current opt-in approach to allow for more opportunities for individuals to engage with the program.

## Discussion

The draft concept on alternative dispute resolution is now being presented to Transition Council for its review and discussion related to next steps.

## Options

Following discussion, Transition Council may elect to:

1. Direct that the draft concept be approved for public consultation as presented or amended;
2. Direct that the draft concept be returned to College Staff for further review and development; or
3. Other.

## Attachments

1. Appendix A – Relevant Sections of Legislation, Regulation, By-Law and Policy – Alternative Dispute Resolution
2. Appendix B – Draft Concept – Alternative Dispute Resolution

## Alternative Dispute Resolution

### Relevant Sections of Legislation, Regulation, By-Law, and Policy

#### **Current Framework Under the *Veterinarians Act***

The *Veterinarians Act* does not speak specifically to alternative dispute resolution or any other informal resolution process. Since it is not explicitly mentioned by the Act, the College has been operating its Mediation Resolutions Program (MDR) under the assumption that its lack of inclusion also means that it is not explicitly prohibited by legislation. This approach was suggested by the College's legal team and has not encountered any issues since the MDR program was introduced in 2013.

For more information on the College's MDR program, please [click here](#).

#### **Future Framework under the *Veterinary Professionals Act, 2024***

##### *Veterinary Professionals Act, 2024*

##### Complaints

**43** (1) Any person may make a complaint against a member or former member by filing a written complaint with the Registrar, in accordance with the regulations, if any.

##### Notice

(2) Within 14 days of receipt of the complaint or such other time period as may be prescribed, the Registrar shall deliver notice of the complaint to the member or former member that includes any prescribed information.

##### Registrar's responsibility

(3) Upon receiving a written complaint that complies with any regulations, the Registrar may make such inquiries as they consider necessary and may take one or more of the following actions:

1. Refer the complaint to alternative dispute resolution if the complainant and member or former member against whom the complaint was made consent and the matter has not yet been referred to the Discipline and Fitness to Practise Committee.

2. Refer the complaint to the Investigations and Resolutions Committee.

3. Subject to paragraph 1 of subsection 46 (1), investigate the complaint in accordance with this Part.

##### Complainant to be informed

(4) The Registrar shall deliver to a complainant notice of receipt of the complaint that includes any prescribed information.

## Alternative Dispute Resolution

### Process

**45** (1) Alternative dispute resolution shall be conducted in accordance with the regulations and any applicable by-laws.

### Confidentiality

(2) Despite this or any other Act, all communications at an alternative dispute resolution process and the facilitator's notes and records shall remain confidential and are deemed to have been made without prejudice to the parties in any proceeding.

### Facilitator not to participate

(3) The person who acts as the alternative dispute resolution facilitator shall not participate in any proceeding concerning the same matter.

### Ratification of resolution

(4) If the complainant and the member or former member reach a resolution of the complaint through alternative dispute resolution, they shall advise the Registrar of the resolution, and the Registrar may,

(a) adopt the proposed resolution; or

(b) refer the decision of whether or not to adopt the proposed resolution to the Investigations and Resolutions Committee.

### Referral

(5) If the Registrar makes a referral under clause (4) (b), the Investigations and Resolutions Committee may,

(a) adopt the proposed resolution; or

(b) conduct or continue its own investigation of the complaint.

### Time limit

(6) If the complainant and the member or former member do not reach a resolution of the complaint within 120 days of a referral to alternative dispute resolution under paragraph 1 of subsection 43 (3), the Registrar shall refer the complaint to the Investigations and Resolutions Committee, which shall proceed with an investigation of the complaint.

### Regulations, Council

**93** (1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

1. prescribing and governing anything in this Act that is described as being prescribed, done in accordance with the regulations, provided for in the regulations or authorized or required by the

regulations, other than a matter that this Act describes as being prescribed by the Minister or Lieutenant Governor in Council or provided for in regulations made by the Minister or Lieutenant Governor in Council;

## Alternative Dispute Resolution Concept Chart

Section	Main Objectives	Primary Concepts	Additional Information	Transition Comments	Intended Outcomes
This column outlines the specific section of regulation.	This column provides an overview of the College's main objectives for the section of regulation.	This column provides a more in-depth description of the objectives sought and the associated reasoning.	This column provides any additional specific information required to ensure clarity.	This column highlights any relevant transition matters requiring consideration.	This column outlines the College's intended outcomes for the specific section.
<b>Alternative Dispute Resolution</b>	<ul style="list-style-type: none"> <li>Based on the structure outlined in the <i>Veterinary Professionals Act, 2024</i>.</li> <li>Provides an outline for ineligibility.</li> <li>Designed to encourage use of alternative dispute resolution when appropriate.</li> </ul>	<p><b>General</b></p> <p>The College is proposing the development of a regulation section related to alternative dispute resolution to align with Section 45 of the <i>Veterinary Professionals Act, 2024</i>.</p> <p><b>Purpose</b></p> <p>Alternative dispute resolution in defined cases allows for mediated solutions to specific types of disputes, which has been shown to contribute to greater satisfaction for all parties involved through outcomes such as faster resolutions, tailored resolutions, and increased compliance. Alternative dispute resolution also fosters a climate of co-operation and openness even if a voluntary resolution is not reached.</p> <p><b>Language Related to Administration of the Program</b></p> <p>The <i>Veterinary Professionals Act, 2024</i> provides the basic structure for a formal</p>	<p>The types of higher risk complaints that would be ineligible for alternative dispute resolution include those involving:</p> <ul style="list-style-type: none"> <li>The misuse of controlled substances;</li> <li>Fraud or misrepresentation;</li> <li>Falsification of records or documents;</li> <li>Any form of abuse of an animal or person;</li> <li>Serious harm to or death of an animal or person;</li> <li>Sexual impropriety;</li> <li>Criminal charges or convictions; and</li> <li>Concerns or risks related to public safety.</li> </ul>	<p>The College currently has an alternative dispute resolution process at the policy level under the <i>Veterinarians Act</i>. The <i>Veterinary Professionals Act, 2024</i> elevates this program to the level of statutory authority and permits the College to develop a more robust and collaborative program.</p>	<p>Creation of a regulatory framework that is clearly defined and encourages timely and collaborative outcomes in the public interest.</p>

Section	Main Objectives	Primary Concepts	Additional Information	Transition Comments	Intended Outcomes
		<p>alternative dispute resolution program. The College is proposing that Regulation language be developed that provides additional structures that the College requires to administer an alternative dispute resolution program including provisions related to process, confidentiality, and access to records and information.</p> <p><b>List of Ineligible Complaints</b></p> <p>The College is proposing that Regulation language be developed that outlines the types of complaints that would be ineligible to participate in alternative dispute resolution to ensure that concerns related to a higher risk of harm or potential harm to the public and/or animals continue to be addressed through more traditional methods.</p> <p><b>Encouraging Use of Alternative Dispute Resolution</b></p> <p>In recognition of the benefits and positive outcomes associated with alternative dispute resolution, the College is proposing that alternative dispute resolution be used in all applicable cases unless any participant does not consent (an opt-out instead of opt-in approach).</p>			