Mandatory Reporting of Dismissal or Resignation Related to Incompetence or Incapacity of a Member

What is the concept?

The *Veterinarians Act* does not currently include mandatory reporting provisions related to incompetence or incapacity. However, this concept is not unfamiliar to veterinarians as they currently have a number of other mandatory reporting obligations under different federal and provincial legislation and regulations, such as the *Animal Health Act* and regulations, the *Health Protection and Promotion Act* and regulations, the *Ontario Society for the Prevention of Cruelty to Animals Act*, the *Controlled Drugs and Substances Act* and regulations, and the *Health of Animals Act* and regulations.

Introducing a carefully circumscribed provision on mandatory reporting by employers or facility directors in the *Veterinarians Act* related to the dismissal or resignation of a licensed member involving significant incompetence or incapacity, would allow the College to mitigate risks to the public by receiving timely information regarding licensed members whose practice poses a risk to the public and may require remediation or rehabilitation.

Why is the College Considering Changes to this Concept?

There are a number of reasons to propose the concept of mandatory reporting for introduction in the Act.

First is the concept of organizational silence. This refers to a collective-level phenomenon of saying or doing very little in response to significant problems that, if unchecked, can proliferate in professions, which can erode public trust, and thereby prevent meaningful discussions on significant patient safety issues. If such discussions go unstated, a “culture of silence” can reign and potentially dangerous problems are swept “under the rug.”

Secondly, members are often privy to more specific information about how other members practice, which the College and the public are not. From a public trust point of view, substance abuse, incapacity, and severe incompetence can be significant and extremely problematic. Mandatory reporting would be a useful mechanism with which to manage these issues by alerting the College if there is a concern that a veterinarian is not practising safely. This would
allow the College to take action to protect the public and use innovative approaches to help rehabilitate or remediate veterinarians as necessary.

Finally, instituting a mandatory reporting system would align with public expectations and assumptions with respect to the College’s role in mitigating risk and taking action to ensure public protection.

**What is Proposed?**

The circumstances in which it is proposed that mandatory reporting will take place is either after a licensed member, who is an employer or a facility director, has terminated the employment or contract (locum) of another licensed member (who is a veterinarian) for reasons of either incapacity or incompetence, or if the licensed member resigns before the employer or facility director can address the concerns. Mandatory reporting by associates or staff has intentionally been excluded from the model as they are not involved in oversight of veterinary facilities and many such complaints can be dealt with internally by human resources. Associates and staff would still be free to make reports to the College in circumstances in which they believe it is warranted, but such reports are not mandated under this proposed concept.

Circumstances that might justify a mandatory report would be cases where there is repetitive lack of standard of care in which a veterinarian displays deficiencies in his or her knowledge, skill, or judgment, or a fairly serious health problem which interferes with a veterinarian’s competence or ability to provide care. A report would have to be made to the College within a certain number of days following the termination or resignation of the veterinarian by the employer or facility director, and must contain the reason(s) for the termination or reason(s) for intending to terminate if the member resigned before the employer could take action. The College would then conduct its own investigations after it receives a report. A report would not constitute a finding of professional misconduct, incapacity, or incompetence against the member who is the subject of the report. Only a panel of the College’s Discipline Committee or an impairment panel of the Discipline Committee can make such a conclusion.

It is suggested that the proposal regarding mandatory reporting should include an immunity provision for reports stating that no action or other proceeding shall be instituted against a person for filing a report in good faith.

**Next steps:**

All perspectives shared during the legislative reform consultations will be compiled into a report and shared with the College Council. The report will also be available online.

*Please note: This is not a final consultation. Legislative reform discussions are in the early stages. The College and Council welcome your feedback on the initial concepts.*