

## **FACULTY OF DENTISTRY/SCHOOL OF DENTAL HYGIENE**

### **PROFESSIONAL UNSUITABILITY BY-LAW**

#### **1.0 Jurisdiction**

1.1 This By-Law applies to students enrolled in undergraduate programs in the Faculty of Dentistry. The term “Faculty of Dentistry” implies both the Faculty of Dentistry and the School of Dental Hygiene.

1.2 Students must at all times demonstrate suitability for the dental profession. In this regard students are obligated to act with integrity and diligence in carrying out their professional responsibilities, and their behaviour and conduct in relation to others must be characterized by consideration, respect and good faith.

The purpose of the Professional Unsuitability Committee is to review and make recommendations regarding the suitability of a student for the dental professions.

1.3 The Faculty of Dentistry may require a student to withdraw from the Faculty pursuant to the procedures set out in this By-Law when the student has been found unsuited for the practices of dentistry or dental hygiene because the student has been found to have engaged in unprofessional behaviour.

1.4 A student may be required to withdraw at any time throughout the academic year.

1.5 In cases of professionally unsuitable conduct of students in clinical Graduate Programs, students will normally be referred to the Manitoba Dental Association.

1.6 In cases of professionally unsuitable conduct of students in the Baccalaureate Program for Dental Hygienists, the student will normally be referred to the College of Dental Hygienists of Manitoba.

1.7 Grounds which may require withdrawal are:

- demonstrated behaviour which is exploitive, irresponsible, intentionally injurious or destructive to patients; and/or
- compromised professional judgment through self-interest and/or conflict of interest; and/or
- an acquired criminal conviction, either in Canada or any other jurisdiction, which is of such a nature as to place in question his/her fitness for the dental professions; and/or
- participation in any activity related to patient care or any activity related to the practice of the dental professions while under the influence of alcohol or drugs or while abusing prescription drugs; and/or
- engaging in behaviour or conduct that if engaged in by a practising dentist/dental hygienist would likely result in disciplinary action, including suspension or

revocation of the license to practise, by the Manitoba Dental Association or the College of Dental Hygienists of Manitoba.

#### 1.8 Conflict of Jurisdiction

If a question arises as to whether a matter falls within the academic regulations of the Faculty or this By-Law, or as to whether a matter is within the jurisdiction of the Student Discipline By-Law of the University or this By-Law, as the case may be, the question shall be referred to the President of the University for final decision.

### **2.0 Professional Unsuitability Committee (PUC)**

2.1 There shall be established within the Faculty of Dentistry a standing committee of 7 members known as the Professional Unsuitability Committee (PUC) to hear and determine matters of professional suitability of undergraduate students in the Faculty. Membership in the PUC shall be as follows:

- A Chair (non-voting, except in the case of tie), appointed by the Executive of Dental Faculty Council, who is a tenured Faculty member of the Faculty of Dentistry;
- Two full time Faculty members, elected by the Dental Faculty Council, at least one of whom shall be tenured/tenure track;
- One dental student and one dental hygiene student appointed by their respective Students' Association and ratified by the Dental Faculty Council. A student member shall serve at hearings only if the appellant is from their jurisdiction;
- One representative of the dental profession and one representative of the dental hygiene profession appointed by their respective Provincial regulatory bodies. The professional representatives shall serve at hearings only if the appellant is from their jurisdiction.

2.2 The length of term of PUC members shall be as follows:

- Chair appointed for a three-year term, renewable once;
- Faculty members elected for a two-year term, renewable once;
- Representatives from the dental profession appointed for a two-year term, renewable;
- Students appointed for a one-year term.

2.3 A quorum of the PUC shall be four (4) members, comprised of the Chair and three (3) members of the Committee, as set out in section 2.1. The Chair will endeavour to arrange meetings in a manner that facilitates the attendance of representatives from all constituencies.

2.4 In the event of a perceived conflict of interest, replacement Committee Members will be appointed/elected by the appropriate constituencies, as defined in 2.1.

### **3.0 Referral**

- 3.1 Anyone affiliated with the Faculty of Dentistry or associated clinics and/or institutions, who has a concern about the professional conduct of any student defined in 1.1, shall complete the Professional Unsuitability Referral Form (see attached) documenting the alleged incident(s). The form shall be submitted to the Associate Dean (Academic) who, if he/she deems it appropriate, will refer the matter to the Dean.
- 3.2 In no circumstances will a referral related to this bylaw involving a student enrolled in the Faculty of Dentistry be based at all on anonymous allegations or materials. The Dean (or Associate Dean) of the Faculty of Dentistry may, however, inquire or investigate into matters raised by anonymous material. Anonymous materials are defined as “materials in which the authorship has not been disclosed to the student and the PUC.”
- 3.3 If, in the opinion of the Dean, the matter involves conduct or circumstances described in Article 1.1 and 1.2 herein, the matter, including all supporting documentation, shall be referred to the Chair of the PUC within five (5) working days. The Dean will also consider whether just cause exists to suspend the student while the matter is being determined and, if so, to issue an interim suspension to the student.
- 3.4 The Chair of the PUC shall, within five (5) working days, refer the matter, including all supporting documentation, to the PUC.

### **4.0 Procedure and Due Process**

- 4.1 On receipt of a referral the PUC shall act expeditiously to complete the hearing and determine whether any of the grounds requiring withdrawal under Article 1.1 and 1.2 exist.
  - i. If no grounds are determined the Chair of the PUC shall so inform the Dean and the file shall be closed; or
  - ii. If grounds are determined, the Chair of the PUC shall, within five (5) working days,:
    - a. send a notice to the named student pursuant to Article 4.3 by registered mail to his/her last known address as found in the Faculty’s records. At the student’s request, subsequent correspondence may be sent by regular mail, email or facsimile; and
    - b. so inform the Dean.
- 4.2 Once a referral has been made to the PUC, the proceedings will continue notwithstanding that the student has subsequently voluntarily withdrawn from the Faculty or has refused to participate in the proceedings.
- 4.3 The Chair of the PUC shall inform the student in writing of:

- i. the grounds for referral to the PUC;
  - ii. the membership of the PUC;
  - iii. copies of all documents submitted by the Dean.
- 4.4 Upon receipt of the notice of referral, the student may, within a deadline of ten (10) working days, provide a written response to the Chair of the PUC. The Chair of the PUC shall provide a copy of the student's response, including all supporting documentation, to the Dean (or Designate) and to members of the PUC.
- 4.5 Upon receipt of the notice of referral, the student may, within a deadline of five (5) working days, raise concerns to the Chair of the PUC in writing about any member on the PUC whom the student believes will not be able to be objective in the consideration of his/her case (e.g. where the member of the PUC initiated, or is from the same division that the referral was initiated. Membership in the same Department from which the referral was initiated would not, *per se*, be grounds for the student to object to a member of the PUC). Where the Chair of the PUC receives such concerns, he/she shall, before the hearing, convey the concerns to every member of the PUC and inform any member identified by the student that he/she has the right to respond to the concerns in writing. The Chair shall convene the PUC, excluding any Committee member identified by the student, to determine whether or not a change in the membership of the PUC shall be made. In the event that the quorum specified in 2.3 is not achieved for this determination, the remaining Committee membership may decide this matter. The PUC may request oral submissions from the student and the Committee member challenged by the student. The remaining members of the PUC shall then determine, in closed session, whether the concern raised by the student is valid. If circumstances dictate, the Chair may make this determination alone. Where the PUC or its Chair decide that a change in the membership of the PUC shall be made, a replacement or replacements will be made in accordance with 2.4.
- 4.6 A member of the PUC shall not be disqualified from sitting as a member of the PUC hearing the matter by the sole reason that such member has had previous contact with the student or has prior personal knowledge of the matter.
- 4.7 The Chair of the PUC shall ensure that the student and the Dean (or Designate) have received all documents submitted to the PUC for consideration
- 4.8 The Chair of the PUC shall determine the date, time, and place for the Hearing. Such a hearing will be held no sooner than 10 working days from the deadline date for receipt of the student's response. The notice of the hearing shall be sent by registered mail to the student's last known address as found in the Faculty's records. The notice from the Chair shall include a statement to the effect that if the allegations contained in the referral are established to the satisfaction of the PUC, the student may be required to withdraw from the Faculty.

- 4.9 If the student fails to respond to reasonable attempts by the Chair of the PUC to proceed with the hearing, the hearing may proceed *in absentia*.

## **5.0 Hearing Procedures**

- 5.1 The student may appear in person and/or may choose to be represented and/or accompanied by a Student Advocate, UMSU representative, fellow student or other full-time member of the University community not receiving payment for appearing or working for legal aid. In addition if the student wishes, one member of his/her immediate family and/or legal counsel may be present, but solely as observers. Should the student choose to be represented and/or accompanied by any individual(s), written notification must be provided to the Chair of the PUC no later than five (5) working days prior to the Hearing date, who shall so inform the Dean (or Designate).
- 5.2 The Dean (or Designate) may also choose to have legal counsel present as an observer. Should the Faculty choose to have legal counsel present, written notification must be provided to the Chair of the PUC no later than five (5) working days prior to the Hearing date, who shall so inform the student.
- 5.3 The student and the Dean (or Designate) shall have the right to call witnesses. Written notification of all witnesses must be provided to the Chair of the PUC no later than five (5) working days prior to the Hearing date, who shall so inform the other party.
- 5.4 The Hearing shall be closed to all persons except the members of the PUC, the student, the Dean (or Designate), all individuals representing/accompanying them as stipulated in 5.1 and 5.2, and any witnesses as they are called.
- 5.5 The student and the Dean (or Designate), and/or their respective representatives (excluding immediate family member and legal counsel), shall have the right to question witnesses. At the discretion of the Chair of the PUC, and after consultation with the student and the Dean (or Designate), witnesses may remain, as observers, in the hearing room after completion of questioning.
- 5.6 The student, who is the subject of the hearing, shall not be required to give evidence but if he/she elects to do so, then the student may be questioned by members of the PUC.
- 5.7 A simple majority of PUC members hearing the matter is required for any finding or for the determination of the appropriate disposition of the matter.
- 5.8 The Chair of the PUC shall vote only to break a tie.
- 5.9 All participants in the hearing shall be bound by confidentiality in respect to information received in the hearing process. Information will only be disclosed as is reasonably necessary to implement the investigation, the resolution or the terms of any disposition imposed, or as required by law.

## 6.0 Disposition of the Matter

6.1 After hearing all the evidence, the PUC shall meet in closed session to:

- i. consider the evidence;
- ii. make its findings using a balance of probabilities standard (*i.e.* the claim against the student is more likely to be true than not true based on the evidence presented);
- iii. determine the appropriate disposition of the matter if the allegations are established to the satisfaction of the PUC;
- iv. dismiss the matter if the allegations are not established to the satisfaction of the PUC; and
- v. make any other recommendations that the PUC deems appropriate based on the hearing process.

6.2 The PUC may make any disposition it deems appropriate in the circumstances. Without limiting the generality of the foregoing, the following options, alone or in combination, are available to the PUC:

- i. determine that no further action be taken;
- ii. allow the student to remain in the program and attach conditions prescribing future conduct by the student. Such conditions to remain in effect for any period of time the PUC deems appropriate;
- iii. reprimand the student in writing;
- iv. require the student to withdraw from the Faculty for a specified period of time;
- v. require the student to withdraw from the Faculty indefinitely;
- vi. attach conditions that must be fulfilled before any application for re-admission to the Faculty will be considered;
- vii. require the student to withdraw from the Faculty with no right to apply for re-admission to the Faculty.
- viii. require notation regarding the disposition of the matter to be placed on the student's transcript, to include the period of time before which the student can request the removal of such notation.

6.3 The Chair of the PUC shall, within five (5) working days, convey in writing the disposition to both parties.

## **7.0 Appeals**

- 7.1 If the student wishes to appeal the disposition of the PUC, such appeal may be made to the Senate Appeals Committee, Office of the University Secretary, 312 Administration Building, in accordance with the procedures of that body.
- 7.2 In the event of an appeal, the implementation of any decision of the PUC may be suspended until the matter has been disposed of by the Senate Appeals Committee.
- 7.3 Notwithstanding the above, if the President of the University is satisfied that it is in the best interests of the University, the President may at any time make an order, subject to final disposition of the appropriate review authority, suspending the student from participating in any program of the University.

## **8.0 Records**

- 8.1 A record of any finding of professional unsuitability and/or disposition related thereto shall be kept on the student's academic file.

## **9.0 Amendments**

- 9.1 This By-Law may be amended by Senate alone, or by Senate after approval of such amendment(s) by Dental Faculty Council.
- 9.2 A formal review of this By-Law will be conducted every ten (10) years. The next scheduled review date for this By-Law is \_\_\_\_\_ .