

## Special Levy

### 1. What is the purpose of the special levy?

This special levy will restore funds to the reserve fund which were required to be used for an extraordinary regulatory purpose. [This matter](#), where a member was found to be ungovernable by a panel of the Discipline Committee and may be the first time in Canada where a member of a regulated health profession has been found to be ungovernable.

### 2. What is the reserve fund?

A reserve fund is a highly liquid asset set aside to meet any unexpected costs. The College uses the term “reserve fund” to refer to that portion of the Unrestricted Net Assets (on the balance sheet of the audited financial statement) which are cash or cash equivalent. It may be determined by subtracting Current Liabilities from Current Assets.

### 3. Why does the College need a reserve fund?

In return for the privilege of self-regulation in the public interest and the public trust it engenders, a health profession is obligated to regulate its members and protect the public in accordance with the legislated regulatory framework and standards of practice. The cost of self-regulation is born entirely by the members of each College – financial or legal assistance from government is not available. Reacting to regulatory challenges is unpredictable and can be expensive but must be done correctly and in accordance with legislation. Consequently, the reserve fund ensures that our College can continue to comply with our statutory mandate and appropriately address challenges which may arise without notice and cannot be predicted or budgeted for.

### 4. How much is in the reserve fund currently?

The College’s unrestricted net assets on December 31, 2015 was \$1,145,881 of which \$243,779 was reserve fund, that is to say, cash or cash equivalent. Unrestricted net assets on December 31, 2012 were \$1,356,107 of which \$752,439 was in cash or cash equivalent. This is \$508,660 change in the reserve fund is largely related to the purchase, renovation and relocation of the College office but also due to the significant cost of unexpected and un-budgeted litigation. Our auditors are of the opinion that, given the cost of litigation, the increasing number of members and the possibility of litigation and other future challenges, the reserve fund should be restored sooner rather than later.

### 5. Why was a special levy required? How much have we paid?

Your College has paid \$180,075.88 from our reserve fund for discipline hearing costs, legal fees, investigative costs, and disbursements in relation to numerous regulatory and court proceedings against [Dr. Jerry Mackenzie](#) since January 1, 2013 in furtherance of its role to protect the public.

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#### 6. How much does Dr. Mackenzie owe the College?

He has been assessed fines and costs in accordance with the tariff set out in the Bylaws, payable to the College, totaling approximately \$88,885.00 for the discipline hearings. The Court has also awarded the College special costs for the contempt application of approximately \$36,300.00. Dr. Mackenzie has claimed penury.

#### 7. Were all registrants assessed the special levy?

In establishing the special levy, the Board prudently considered the matter and determined that, if you were a registered member of the College on December 1, 2015, regardless of when you were registered and whether you were practising or non-practising, you were assessed a special levy of \$250, as all registrants equally share both liability and entitlement in their College. Your notice of the special levy and invoice was sent, on January 8, 2016, to the e-mail address you had provided the College.

#### 8. What if I am unable to pay the special levy?

The special levy of \$250 is due on March 31, 2016. Interest accrues on all fees due to the College from registrants and optometric corporations at the interest rate established by the Court Order Interest Act; however, any outstanding fee or debt owed to the College must be paid in order to renew registration.

#### 9. How could the College allow spending to reach \$180,000?

The College cannot disregard complaints from the public, professional misconduct of our registrants and unauthorized practice of optometry; nor is the College in a position to abandon an investigation or discipline proceeding due to cost.

#### 10. Why did the College impose a special levy instead of increasing registration fees over a period of several years?

Fairness is one of the College's guiding values. Future registrants, who were not members of the College when the expenses were incurred, are not expected to bear the cost of removing a registrant from practice and the consequent litigation. Transparency is another of the College's guiding values. Costs incurred in furtherance of our role of public protection have been communicated to the membership.

#### 11. Does Professional Liability Insurance (PLI) cover any of this?

Typically, Professional Liability coverage provides insurance protection for wrongful acts to a third party (actual or alleged negligent acts, errors or omissions) committed when acting within your scope of practice as an optometrist. Your coverage insures payment of

both compensatory damages and legal costs associated with a claim. Fines and costs awarded to the regulatory body are not typically included in that coverage.

## 12.Can I pay the Special Levy online?

Unfortunately, the cost of implementing an online payment procedure for the Special Levy was prohibitive. Payments must be made by cheque, as the College is not in a position to process cash, debit or credit card payments.