

COLLEGE OF CHIROPODISTS OF ONTARIO

Approved Minutes

Meeting of the Council of the College of Chiropractors of Ontario

180 Dundas Street West

19th Floor Boardroom

Toronto, Ontario

Friday, June 24, 2016

9:00 a.m. - 3:00 p.m.

Present

Professional Members

Ed Chung

Julie DeSimone

Peter Guy

Stephen Haber

Martin Hayles

John Infanti

Jamie Maczko

Ann-Marie McLaren

Tony Merendino

Millicent Vorkapich-Hill

Public Members

Donna Coyne

Jim Daley

Khalid Daud

Grace King

Sohail Mall

Regrets:

Agnes Potts

Staff: Felecia Smith, Registrar and CAO

Legal Counsel: Alan Bromstein

Observers:

John Hardy

Sasha Kozera, Chiropractor

Sonia Maragoni, President, OSC

Kel Sherkin, OPMA

Bruce Ramsden, OPMA

****THE AGENDA ITEMS MAY NOT NECESSARILY BE DEALT WITH IN THE ORDER THEY APPEAR****

Part 1

The President acknowledged the service of Council members Jamie Maczko and Ann-Marie McLaren and presented them with a plaque of honour. Both Councillors terms will be completed at the commencement of the October 21, 2016 meeting.

1. Call to Order, Appointment of Secretary

Ray MacDonald was appointed secretary.

2. Declaration of Conflict of Interest, Taping Policy, Welcoming Policy, Welcoming of Observers

There were no declarations of conflict of interest with respect to the approved agenda. The policy against taping of the meeting was announced by the President. All observers were welcomed by the President.

3. Approval of the Agenda

Moved by: Julie DeSimmone

Seconded by: Jim Daley

THAT Council approve the agenda of the June 24, 2016 meeting of Council as presented.

Carried Unanimously

4. Approval of the Minutes of the February 24, 2016 Meeting

MOTION

Moved by: Jim Daley

Seconded by: Tony Merendino

THAT Council approve the minutes of the February 24, 2016 meeting, as presented.

CARRIED UNANIMOUSLY

Part 3

5. For Decision

5.1 Approval of the Audited Financial Statements for 2015

Mr Daley, Chair of the Audit Committee, presented the Audited Financial Statements. The revenues were in line with what was budgeted and the expenses were well controlled in all material respects. Two thousand and fifteen resulted in a surplus of \$386,000 versus a budgeted surplus of \$201,000 which was significantly better than the \$267,000 deficit from last year. The net asset deficit that the College was carrying from 2014 has been eliminated and the College is now in a significantly better financial position. Cash and short term deposits are at \$362,000 which is up from \$101,000 where we were last year. Overall, the result was very positive. It was a clean audit. There was one minor correction made that was well below the materiality threshold and there was one audit adjustment which was the auditor's fee. Only two corrections to the audit is a very positive result. There were no significant control deficiencies identified, no fraud detected through the audit and management was well prepared and fully cooperative.

MOTION

THAT Council approve the College's audited financial statements for the year ended December 31st 2015 as appended at Tab 5 of the agenda book.

CARRIED UNANIMOUSLY

5.2 Appointment of the Auditors for 2016

The Audit Committee is recommending the reappointment of Clarke, Henning. The firm has provided good service to the College and Mr. Daley indicated that he was impressed with the service he received from the partner this year. Secondly, they come to the College at a very reasonable cost. An audit fee of \$5,000.00 is very reasonable. Clarke Henning is a very well established mid-tier firm in Toronto. There have been no discipline decisions against the firm or any of the partners the College has traditionally dealt with or the partner that we dealt with this year. They deal with four other health regulatory Colleges and they know what we are about and what a College is about and our requirements. The Committee is comfortable in recommending to Council that Clarke Henning be appointed for another year.

MOTION

THAT Council appoint the firm of Clarke, Henning, LLP to be the College's auditors for 2016.

CARRIED UNANIMOUSLY

5.3 Code of Conduct for Council Members

(i) Code of Conduct

There was one change made to the Code. The President advised that the reason the words 'personal or' was removed from item 13 is because it could be interpreted to mean that your status as Council member on your LinkedIn profile could not be included. There is no problem having it on LinkedIn because it is your professional C.V. or your resume that is on the site. Council members should not be using their Council status for business promotional materials, advertisements or business cards. If a member has a biography on their website, they cannot include their Council or committee status either. The idea is that there is to be no business advantage to anyone by saying that they are a member of Council. It is fine on a C.V. or LinkedIn but not on business, promotional materials, advertisements or business cards. Mr. Bromstein indicated that commonsense approach has to be applied. Someone will not be upset about another member saying in a C.V. that between blank to blank years they were blank at the College. However, if someone is trying to gain an advantage in a business by saying come and have me treat you because I was formerly the Chair of the ICRC at the College and I know all about the things that go wrong – that would not be appropriate.

MOTION

THAT Council amend paragraph 13 of the Code of Conduct to remove 'personal or'; AND THAT Council adopt the policy entitled Code of Conduct for Members of Council and Committees attached at Appendix 6, effective September 1, 2016.

CARRIED UNANIMOUSLY

(ii) Draft Code of Conduct by-law

Mr. Bromstein explained that the current bylaws contemplated the potential for a Code of Conduct. The by-laws deal with a couple of different situations - individuals who act in a conflict of interest and those who might act when they have a bias. A conflict of interest is about a Councillor or a related person gaining a financial advantage as a result of a decision Council

makes. This could occur at a Council meeting if the Councillor awards a contract to someone and their sister is a director/officer or a shareholder of that company. There would be a financial benefit to that person. This rarely occurs. What does occur, however, are biases arising where individuals will participate in something when they have a bias and put the College in the position where serious repercussions can occur. An example of bias is someone in the midst of a discipline deliberation providing information to the panel which the person should not have had and which effectively voids the ability of the whole panel to continue the hearing. Everyone then gets sued for 10 million and it costs the college a great deal of money to defend the action. When this occurs, simply the person should simply advise that s/he is not going to be able to participate in the proceeding and leave – ask for a recess and/or ask ILC for advice or the Registrar.

When there is an issue with a Council member pursuant to the Code of Conduct the following are highlights of the process:

1. In the first instance the matter goes to the Executive Committee. The Committee will try to resolve the issue. It is the least costly way to deal with these matters. If the Executive believes further action is required the issue will be placed on the agenda for the next Council meeting. The Registrar shall advise the person whose conduct is of concern the date of the next meeting and his or her opportunity to make written or oral submission to Council (s. 13.01)
2. When there is a dispute about the facts, Council can appoint an independent third party to investigate and provide reports to Council respecting the facts. This is expensive because a former Judge of the Superior Court or senior legal counsel or someone of that tenure is being appointed. A third party appointment (ITP) is discretionary. The ITP provides a report to Council. Two thirds majority is needed for the appointment
3. There is an interim power to suspend the person if Council believes that the integrity of the College or its processes could be compromised. Two thirds majority is required.
4. The question is whether the breach was due to inadvertence or wilful conduct or gross neglect. If Council determines that there was a breach, Council asks for the person's resignation or demand an apology.

Sanctions should be used not to punish the person but to protect the College and to change the behaviour that is potentially harmful to the College

MOTION

THAT Council approve the new by-law being by-law No. 4, Code of Conduct for Council and Committee Members, as set out in Appendix 7.

CARRIED UNANIMOUSLY

(iii) Code of Conduct Acknowledgement

The question was asked whether obligations regarding advertising, for example, continue after a person is off Council. The suggestion made was that former members ought not to advertise that fact.

MOTION

THAT Council approve the use of the form titled Code of Conduct Acknowledgement and Agreement for Council and non-Council committee members as set out in Appendix 9; AND direct the Registrar to

1. **Have current Council and committee members complete and sign the form and provide an original copy to the Registrar before September 1, 2016; AND**
2. **Have each new Councillor and committee member complete and sign the form and provide an original copy to the Registrar before the Councillor or Committee member commences to participate as a Councillor or Committee member for the College.**

CARRIED UNANIMOUSLY

5.4 Technical Committee Report – Is Cold laser Therapy within the Scope of Practice of a Chiropractor? –Approval of Report

Mr. Hayles indicated that there is absolutely no issue with practitioners using cold lasers. The Committee felt that some type of guideline should be created but not a formal standard of practice to help members. This would indicate to the public and other health care professionals that we are on the forefront of use of this modality. An amendment was made on page 6 of the report (page 63 of the Council binder), second paragraph to strike the words “for two principle reasons: first, its underlying biochemical mechanisms.”

MOTION

THAT Council amend the wording of the Technical Committee report second paragraph, page 6 to delete “for two principle reasons: first, its underlying biochemical mechanisms.”

CARRIED UNANIMOUSLY

(i) Should a guideline for the use of lasers be developed?

The question was raised that if a guideline is developed for the use of a laser, do we need to do one for electrosurgery, ultrasound and any other modality that is out there and being used? There are also so many types of lasers. If the guideline is general will it really have any value or mean anything. The question is whether members are even meeting the basic standards – for e.g., having a laser safety officer in their clinic. If this is similar to orthotics where the College has a set procedure outlining what members need to do then a standard of practice could set this out. If there are certain elements that the Colleges needs to inform members about that we can develop a guideline. If this is merely for education purposes it could simply be a direction to reminding members of their general obligations in using any equipment, including equipment that may be relatively new to the profession. The issue of putting a guideline or standard in place is how quickly we can maintain and update each to stay current.

MOTION

Moved by: Martin Hayles

Seconded by: Ann-Marie McLaren

THAT Council direct that the College prepare a guideline for the use of all lasers by its members.

CARRIED

Mr. Hayles suggested that a good starting point would be the guideline developed by the College of Physicians and Surgeons in B.C. It discusses safe use including applying the correct number of watts per centimeter squared etc. The Executive Committee will determine which Committee would be the appropriate one to create the guideline.

5.5 Appointment of Selected Councillor - Adrian Dobrowsky

MOTION

THAT Adrian Dobrowsky be appointed to Council as a selected member of Council

CARRIED UNANIMOUSLY

5.6 Practice Working Group – Change of the Chair

MOTION

Moved by: Grace King

Seconded by: Martin Hayles

THAT Council confirm the appointment of Anna Georgiou as the Chair of the Practice Working Group

CARRIED UNANIMOUSLY

5.7 Clinic Regulation Working Group – Approval of Draft Final Report

MOTION

Moved by: Donna Coyne

Seconded by: Khalid Daud

THAT Council approve the submission of the Clinic Regulation Working Group as found at Tab 11 with the expectation that it will ultimately be submitted to the Minister of Health and Long Term Care

CARRIED UNANIMOUSLY

5.8 Officer's and Director's Liability Insurance* - Review of Policy of Insurance

The Registrar advised that when she had initially placed this on the Executive agenda, it was so that Council could review the policy and discuss whether there should be an increase to coverage. However, she advised that it is now a moot point – because of the two lawsuits, Encon will not increase coverage, at least not in this year period. Most likely, at this point in time, another insurer would not even take on the College nor increase coverage. The Registrar also advised that she was waiting for over a month to determine whether Encon would continue with the Directors and Officers coverage for the College since the renewal is done on a yearly basis. A question was asked about insurance for 'high risk' Colleges. Mr. Bromstein indicated that there are no high risk Colleges because Colleges have immunity from civil proceedings from anything done in the exercise or intended exercise of their duties in good faith.

5.9 Letter from the CFPM Regarding CBC

The letter found at Appendix 13 is a formal public response to the letter received by the College from the Canadian Federation of Podiatric Medicine.

MOTION

Moved by: Sohail Mall

Seconded by: Khalid Daud

THAT Council approve the draft letter found at Appendix 13 to the Canadian Federation of Podiatric Medicine

CARRIED UNANIMOUSLY

5.11 Possible Amendments to the Infection Control Standard of Practice

There was debate at the Practice Working Group Committee about whether some of what was in the Public Health standard was too much and went too far for our members in relation to quarantining of instruments. Mr Guy explained that the suggestion from Public Health is to run a biological indicator every day and then set those instruments aside for a 24 hour period or as long as the biological indicator

would come back indicating that the load is okay. Members would need a large number of instruments. [this item is continued below under agenda item 5.11]

8. In Camera Session

MOTION

Moved by: Pete Guy

Seconded by: Jamie Maczko

THAT the public be excluded from the meeting pursuant to clause 7.2(e) of the Health Professions Procedural Code of the Regulated Health Professions Act, 1991, in that instructions will be given to or opinions received from solicitors for the College.

CARRIED UNANIMOUSLY

Upon resuming...

Part 2

1. Update and Discussion

4.1 HPRAC - Don Gracey

Mr. Gracey indicated that he had spoken to the Minister's office the day before and the report is to be released soon. Apparently the report has to be reformatted and translated. As a brief history:

1. The report was released by HPRAC on August 28, 2016;
2. Mr. Gracey saw the Minister of Health on November 4th and was told that they were waiting for a briefing from the Ministry as to what the report was all about and the implications etc.; and
3. After Christmas he was told that the report would be released by the end of February.

The next election will be June 2018 so we are getting into a time crunch for having the legislation receive Royal Assent before then. The Regulations could not possibly be done by that date. The Ministry is not going to send it out for comment again. Mr. Gracey commented that he does not see the Dupont matters affecting the report. What the College is asking for is in line with the government's own priorities and objectives.

The Ministry is looking at a number of matters including what is to be done with a section of the Sexual Abuse Task Force Report, what changes should be made to the RHPA (although the report has not been released), suggestions that there are too many colleges and whether some should be merged together, other way to deal with this issue other than RHPA type arrangements, should be there be a new group in place to oversee all of the Colleges and whether the election and appointment of Council members work in the public interest. The Registrar confirmed that she had had a discussion with the Ministry and the College is in fact caught up in these changes.

Part 4

6. Other Statutory Committee Reports

(Available from committees that have met since the last meeting of Council)

6.1 ICRC – Millicent Vorkapich-Hill

Ms. Vorkapich-Hill explained that the reason ‘take no further action’ is high is because the College can no longer provide any written cautions. Issues may not be serious enough to provide a SCERP or to send a matter to discipline. Mr. Bromstein explained that even in a situation of take no further action, the College can still advise the member of what the member should or should not be doing in the future. It would not be called a written caution. The Committee can only refer to discipline, require a SCERP or have the member attend before the Committee for an oral caution. If a member is advised to change something and it is not changed and it comes back to the Committee, then obviously something else should happen. Advice is being given by the Committee but they are formally not taking any further action.

6.2 Discipline – Cesar Mendez

The report was reviewed.

6.3 Quality Assurance

The Registrar reported that about 88 members’ CE logs need to be reviewed, approximately 10 from the previous cycle. There are two follow up matters relating to the random practice assessment. One is a revisit regarding record keeping and the other is monitoring also in relation to record keeping

6.4 Registration – [no report]

Part 5

7. Working Group Reports

7.1 Practice Working Group [no report]

7.2 Registration Examination – [Stephanie Shlemkevich & Meghan Hoult]

The Registrar advised that the exam took place on June 2, 3, 2016. The exam went off flawlessly. Dr. Harley indicated that the exam results are statistically where they should be. There were different types of OSCE stations this year.

7.3 HPRAC Referral Committee – (see agenda item 4.1 above) Peter Stavropoulos & Jamie Maczko [oral report]

7.4 Education Committee – [no report]

7.5 Standing Drug Committee [no report]

7.6 Strategic Planning and Registrar’s Performance and Compensation - Pete Guy

The Committee held their first meeting by teleconference on May 11th. There were two components - strategic planning and the Registrar’s performance and compensation (the latter will be discussed in camera). There were a number of items the Committee disused – HPRAC, the website, members annual renewal process, standards of practice, updates to guidelines and policies. The Committee agreed upon the website as the first priority in terms of modernizing it. The Committee also wants to emulate the RCDSO’s website as the gold standard. Janice Carson, who assists the College with our IT matters, has put forward a suggested package for the website that can be customized for our website. It is reasonably priced and Janice would be able to do most, if not all, the work. If updates need to be made, Tera could be trained to do them. The cost

estimate is approximately \$9,000.00 for the platform. Apparently a number of Colleges are using this platform. Eventually the goal is to have the annual renewals on line. We are hoping to finalize the modernization of the website by December 2016.

7.7 Audit Committee Report - Jim Daley [see agenda items 5.1 & 5.2]

Part 3

5. For Decision [cont'd]

5.11 Possible Amendments to the Infection Control Standard of Practice [continued]

Mr. Hayles continued as to whether there is any evidence that using a biological indicator and quarantining your instruments for three days creates any less infections than monitoring one's autoclave once a week. Every autoclave has its own systems to check – every package has its own chemical indicator and every lead has its own chemical investigator and once a week a biological test is completed. How much more will another level improve sterilization? The document indicates that it is intended to provide best practices only and that healthcare settings are encouraged towards these best practices in an effort to improve quality of care.

The suggestion was made that Ms. Georgiou contact Dr. Gardner at the Royal College of Dental Surgeons to see how they have dealt with Public Health. It was suggested that the Practice Working Group review the dentistry infection control guideline. WeirFoulds will also look into the legal reach of Public Health. It was also suggested that we put the updated link to the updated 2016 documents that are on Public Health's website.

5.10 Public Relations and the College

Mr. Mall explained that when the CBC and media attention was ongoing, we questioned what the best way was to address PR matters in the future. The Executive invited Ms. Nancy Coldham to attend their meeting and provide a presentation on how a PR person could assist. She is familiar with the College process and what is involved in a regulatory body and she comes with many years of media and PR relations experience. This is her area of expertise. Ms. Coldham is also Mr. Gracey's spouse and a partner at CG Group. She could be hired on an as needed basis.

4.2 Proposed Draft Regulations – Update

The Registrar reported that she had a meeting with Allison Henry and Stephen Chang at the Ministry in which she reviewed all of our outstanding regulations. Registration regulation – the Registrar received a draft back late yesterday – it is probably the same draft reviewed a while back. The sexual abuse exemption regulation will not go forward until the Sexual Abuse Task Force report is released as it is related. Professional misconduct regulation – there is a group of Colleges who have put forth amendments and the Ministry wishes to deal with them as a unit. The drug regulation – the Registrar just received a set of questions back from the Ministry which will be forwarded to Cesar Mendez as well as Mr. Bromstein. The Ministry is hopeful it might be able to push both the registration regulation and the drug regulation forward, together, for final approval in the fall session.

4.3 Can Members use the College Logo on their Advertising?

The answer is no. Every member is registered with the College but it does not give the members the right to use the logo.

4.4 Transparency Initiative - Council Agenda Posted on College Website

The agenda will indicate that it is a draft and be posted on the College's website before the meeting.

4.5 Inhalation Standard of Practice – Update

Mr. Bromstein and the Registrar must still review the amendments that Mr. Mendez has sent. The standard also requires a companion bylaw. This standard is not the College's highest legal priority amongst other priorities.

4.7 PAC Meeting at the Michener

The Registrar indicated that the minutes speak for themselves. This meeting takes place on a yearly basis with the Michener's stakeholder. It is focused on changes to their program and clinical placements.

8. In Camera Session

MOTION

Moved by: Jim Daley

Seconded by: Jamie Maczko

THAT the public be excluded from the meeting pursuant to clause 7.2(e) of the Health Professions Procedural Code of the Regulated Health Professions Act, 1991, in that instructions will be given to or opinions received from solicitors for the College.

9. Next Meeting

9.1 Items for Agenda – Next Council Meeting

9.2 Next Meeting Date –October 21, 2016

10. Adjournment