

COLLEGE OF CHIROPODISTS OF ONTARIO

Draft Minutes

Meeting of the Council of the College of Chiropractors of Ontario

180 Dundas Street West

19th Floor Boardroom

Toronto, Ontario

Friday, February 24, 2017

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

Present

Professional Members

Ed Chung

Julie DeSimone

Adrian Dobrowsky

Peter Guy

Stephen Haber

Martin Hayles

John Infanti

Sasha Kozera

Jamie Mandlsohn

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 & Sarah Yun

Observers:

Sonia Maragoni, President, OSC

Bruce Ramsden, OPMA

Guests:

Don Gracey

Cesar Mendez

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

Part 1

1. Call to Order, Appointment of Secretary,
Ray MacDonald was appointed secretary.

Approval of the Agenda

There were two additions to the agenda:

- 4.9 – Approval of two educational programs from applicants to the College
- 4.10 – Infection and Control Working Group

MOTION

Moved by: Jim Daley

Seconded by: Tony Merendino

That Council approve the agenda for the meeting of Council February 24, 2017

CARRIED UNANMOUSLY

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

Millicent Vorkapich Hill advised Council that her spouse, James Hill, has recently become President of the OPMA. She advised that they are keeping matters totally separate in relation to his new position. For example, they have two totally separate e-mails. Ms. Vorkapich-Hill stated that if there is anything that could be conceived to be a conflict of interest on a going forward basis, she would certainly be willing to step aside and recuse herself from the situation.

The policy against taping of the meeting was announced by the President. All observers were welcomed by the President.

3. Approval of the Minutes of the October 21, 2016 Meeting

There were a number of minor corrections;

1. Page 7, Item 4.5 fourth line - the word 'long' should be 'log';
2. Page 8, Item 5.7 - fourth sentence midway in "are then advised" should be 'were then advised.'
3. Page 9, Item 5.9 fourth line. Towards the end of that line '2' should be struck and 'do' put in front of 'not'; and
4. Item 4.4 – it says 'non Otologist PRP' - it is supposed to be 'non-autologous PRP'

MOTION

Moved by: Adrian Dobrowsky

Seconded by: Jim Daley

THAT Council approve the minutes of the October 21, 2016 meeting of Council, as amended.

CARRIED UNANMOUSLY

Mr. Haber asked if the transcripts of the meeting were available for review if ever required. The Registrar responded by saying that they are absolutely available in both hard copy and electronically. The transcripts are not available to the public. Mr. Bromstein indicated that the

purpose of the minutes is to reflect the nature of the item and motions that arose from it, not the discussion. That is all that is important at the end of the day.

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

Part 3

5. **For Decision**

5.3 Inhalation Standard of Practice

The intention is to have Council approve the standard for circulation to stakeholders. One thing of note is that any individual, any member, wanting to perform a treatment on a patient who is under sedation, whether that sedation is a single drug, nitrous oxide or a combination of nitrous oxide and a drug, would have to follow the standard and would need the appropriate authorization (i.e. their training being reviewed by the College). Whether it is Category A, B or C as set out in the Standard, they would need something from the College that says that they are allowed to use it. The Standard is not limited to only a member using nitrous. For example, if a member has a patient walk into their office and they find out that this patient has taken a sedative drug in advance of attending and they are going to perform a procedure, the member would not be able to do so unless they were authorized by the College to deal with sedative drugs. Mr. Mendez noted that the oral component is more significant and potentially more dangerous than the actual nitrous oxide. The latter can be reversed very quickly. Once an oral drug is administered, the sedative effects can continue to build even if you are in a potential crisis. It does not matter whether the member him or herself did not administer the drug. If a sedative type drug was administered for some type of care the patient is receiving from their practitioner, whether it be anxiety disorder, depression etc., this is different than when the sedative has been administered or directed to be administered for a member's care. The member is responsible for that full spectrum of the patient's care. Podiatrists, who can now prescribe anxiolytics, will have to take the course and pass the exam in order to be able to continue to prescribe these drugs. If a patient is taking some type of drug on a regular basis to help them manage their day to day social environment, it is not a problem. If they have not taken the medication and now are only doing so to visit the member, then the member must be able to deal with any potential complications. It is not only understanding the emergency end if complications occur but also the pharmacology. There is also a concern about not giving a drug to a patient because their blood pressure could go through the roof and they could have a stroke as a result of anxiety. Patients come to an office with many different kinds of medications and members are not necessarily responsible for all the consequences of that. The difference here is that when the member starts to modify the medicine or add to it or make recommendations the responsibility changes. If a patient comes into the office and declines to tell the member that they are taking benzodiazepines then unfortunately that is a risk the patient takes. However, if the patient tells the member and the member adds additional sedative drugs and nitrous oxide is added, the College needs to ensure members know what they are doing.

There will be a date in the future when the standard and by-law come into effect and the course is available. The person who is preparing the course said that once the final standard is approved, he could have the course up and running quickly. The question to think about is whether a member needs a certificate to do Section B – Oral Administration of a Single Sedative Drug (no nitrous oxide being used) (page 15 of the standard, 199 of the Council binder) to administer an oral single sedative drug.

In order to incorporate the new ADA guideline, on page 13 of the Sedation Standard (197 in the Council binder), under Sedation Protocol, between items 1 and 2 we would like to add a new 2 which says:

“Appropriate pre-operative and written post-operative instructions must be provided to or for the patient.” This is in the new 2016 ADA guidelines. It was reflected in ss. B and C but not A of the Standard.

MOTION

Moved by: Khalid Daud

Seconded by: Donna Coyne

THAT Council approve the Standard of Practice, in principle, for the administration of inhaled substances and the use of sedation in the members’ practice as set out in Appendix 12, as amended, to be circulated to stakeholders for comments.

CARRIED UNANIMOUSLY

MOTION

Moved by: Pete Guy

Seconded by: Grace King

THAT the public be excluded from the meeting pursuant to clause 7.2(b) of the Health Professions Procedural Code of the *Regulated Health Professions Act, 1991* in that financial or personal or other matters may be disclosed that are of such a nature that the harm created by exposure would outweigh the desirability of adhering to the principle of the meeting being open to the public.

Moved In Camera...

Meeting resuming...

5.1 Budget 2017

One amendment to the budget was made ...under ICRC, the per diem should be \$4,000.00 instead of \$400.00. Mr. Mall pointed out that under special projects, the monies are for the database infrastructure and that the general administration is tied to the number of labour hours required to put that into place. He also indicated that the Executive no longer orders lunch at their meetings.

MOTION

Moved by Jim Daley

Seconded by: Millicent Vorkapich-hill

THAT Council approve the 2017 College budget, as amended.

Part 2

Update and Discussion

4.1 HPRAC – Update

The President complimented the Registrar on the synopsis found at Tab 3 of the materials. The President announced that the OSC and OPMA worked together on a joint letter that was sent to the Ministry and which reflected a high degree of collaboration. The HPRAC report is slated to be released by the end of March and there will be a 45 day stakeholder consultation. It is usual for the Minister to have another round of stakeholder comments. Thereafter, Ian Chesney wants to meet with the College, Denise Cole and Allison Henry. At a subsequent date he would like to have the same meeting with the two associations together. The legislature will probably dissolve in April or early May so that we are on strict timelines to get legislation through the legislature. Mr Gracey has been told by the House Leader’s office that they have a slot for a bill to be tabled in September 2017 which should provide ample time.

There are two problems in relation to the report; (1) the Minister does not believe that HPRAC went far enough in terms of scope of practice and other changes that the College recommended. However, the Ministry does not see this as a priority. They have other matters in the pipeline – scope of practice changes and the federal new classes of professions Regulation which requires some scope of practice changes as well; (2) the wait times the Ministry measures is from the first visit to the orthopaedic surgeon and the date for surgery instead of the intervening time from the visit to the GP and then to the orthopaedic surgeon. There are a number of things the Minister still needs to deal with including Bill 179 scope issues which are outstanding since 2009, the Federal legislation dealing with narcotics, to name a few. We are the third on the list of priorities.

The College needs to update the data in the report we provided as the most recent information is 2013. The process has begun to do so. Mr. Mall asked whether we should be pushing a media campaign. Mr. Gracey replied by saying that we should wait to see what the report says. He also said that not only are they very expensive but given all the media noise the Ministry is currently dealing with, it probably would not make an impression. It is better at this point to defer a decision until the report is released. This should not be the College's first resort. He explained that the cost for a media campaign can range from \$10,000 – \$15,000 or up to \$350,000 for a large media campaign. It depends on the issue(s). If we do a media campaign, we can go with Zoomer media because it focuses on our demographics, namely seniors. Zoomer has many platforms including magazines, radio television and a very strong social media platform. They are relatively inexpensive and their weekly audience for all platforms is about 8.5 million.

Part 3

5. For Decision

5.2 Possible Amendments to the Infection Control Standard of Practice – Practice Working Group

A member called the College awhile back and asked why the College is not following the guidelines put out by Public Health Ontario on this topic. This Practice Working Group thoroughly reviewed Public Health's guidelines and decided that the College's current guidelines are sufficient as long as members properly follow them. There is no need for amendment.

Public Health is also seeking to establish a working group to share ideas on the prevention of and response to infection control and control lapses in facilities where regulated health professionals provide health services. The purpose of the working group will be to provide a regular forum for discussing infection prevention and control, knowledge issues amongst relevant provincial bodies and health regulatory colleges. The objectives are to promote and share information between participants such as infection prevention and control, resources, case scenarios, identify IPAC issues, practices that require provincial attention, a coordinated response and investigation and what program delivery is necessary, etc. The meeting is March 6 from 10:00 – 12:00. Ms. Vorkapich-Hill offered to attend if she is able – she will check her schedule and advise the Registrar.

5.4 Mentorship Protocol

Ms. King explained that Peter Stavropoulos, the Registrar and her have been working on this project. We are creating a process for selecting mentors that are needed as a result of an ICRC or discipline decision. It is a work in progress. Council had no problem with the process outlined thus far.

5.5 Strategic Planning and Registrar's Performance and Compensation Committee

(i) Review of the Request for Proposals Document – New Database

The new website is moving forward and will be ready for launch hopefully in April if there are no glitches. In terms of the new database, Mr. Mall informed Council that it is in our 2017 budget. The plan is to send the RFP to 3 different companies that are familiar with health professional college databases. We are also going to send it to a fourth as a litmus test – this is a company Mr. Mall is familiar with in his private career.

MOTION

THAT Council approve the request for proposal for Member Management Software Solutions as set out in Appendix 14.

CARRIED

(ii) Registrar's Review and Compensation – In Camera

5.6 Guidelines for Safe Use of Lasers –Approval of Report

Mr. Hayles presented the report on behalf of the Technical Committee. Members should obviously not be doing anything that they are not trained to do or do not have the competencies to do. The research and report is a blend of Occupational Health and Safety Acts and some Federal Acts that say how lasers are regulated and how they are approved to be medical devices. Beyond this, there is little that defines what appropriate training is with regard to who is and is not skilled to use a laser. The Committee attempted to meet in the middle between those members of the public who use lasers and are obviously unregulated and not handcuffing our members in its use.

MOTION

THAT Council approve the Guideline as presented at Tab 15.

CARRIED UNANIMOUSLY

5.7 HARP

A letter was provided to a College member from HARP. The letter was presented to Executive by one of the Associations at the meeting held prior to the Executive meeting. The Registrar contacted the Director of the division that deals with HARP. A meeting is scheduled for March 7, 2017 and Stephen, Alan and the Registrar will attend

Part 2

Update and Discussion

4.2 Proposed Draft Drug Regulation – Update

The Registrar spoke with the individual responsible for this Regulation at the Ministry. The information she provided was that the Ministry was still reviewing the amended list. Someone suggested that the nurses already have a regulation in place – they do not. Rather, it is an amendment to their existing regulation which does not allow the prescribing of controlled substances. It will allow for nurse practitioners within a certain set of principles – for e.g. assisted dying- to prescribe narcotics – to prescribe them. The regulation is out for comment. There was a discussion of whether clients should send a letter to MPPs or do some type of lobbying to get the regulation moving. Mr. Bromstein said that it is not the role of the Colleges to do that – the Associations are able to do so without negative repercussions from the government. The Associations can also get their patients to deal directly with the Ministry. Legislative counsel do not have it yet as it is still in the policy area of the Ministry.

4.8 Renewal of Contract with Psychometric Services – Registration Examination

The Registrar managed to negotiate no increase to the contract even though the initial draft reflected an increase of \$5,000.00 and the per diem rate had also increased by approximately \$250.00 per day. In order to ensure that there were no more changes, the Executive acted on behalf of Council to agree to the contract and have it dealt with immediately.

4.7 Commercial Policy Renewal - fyi

The Registrar advised that she wanted Council to be aware of the insurance in place. This insurer is also covering our litigation. The policy is incredibly difficult to understand. The insurance company is responding to the commercial general liability portion of the policy in terms of the lawsuits. There is \$5 million coverage, exclusive of legal fees, because there is nothing in the policy to say that the legal fees are included in that amount. The insurance company would pay the first \$5 million in coverage. It did not seem to be a worthwhile use of College funds to fully analyze the policy given that the insurance company has accepted coverage and we expect a positive outcome. The College was given notice of a change in insurers and we neither agreed nor disagreed with the change. We did this in order to preserve our rights.

The Registrar updated matters occurring with the litigation. There were 2 actions that were commenced – one small and a larger one. The larger one has now been transferred to Toronto – it was initially started in Newmarket. There is also a motion to strike the pleadings against the College on May 4, 2017 (that date is actually May 12, 2107).

4.5 Bill 87 – Protecting Patients Act - Amendments to the RHPA and others*

The Bill is called Protecting Patients Act and amends the RHPA. It expands the College's ability to take action where there are accusations of sexual abuse. The Federation will put forward a response which does not necessarily object to what amendments are being recommended but will also suggest other amendments that need to be made. There are 4 categories in the Bill; reducing and eliminating sexual abuse, enhancing transparency, increasing powers of the Minister and finally, miscellaneous amendments.

In terms of reducing and eliminating sexual abuse, there has to be an expansion of the definition of patient to include former patients who are in that category for at least one year. Colleges can increase the timeline if they wish. The question one asks is when does the time start to run? The penalties for anything amounting to sexual abuse are being increased. The ICRC and discipline committees will no longer be able to impose terms conditions and limitations which involve gender restrictions. There is an expansion of funding for sexual abuse to pay for therapy. A claimant is entitled to claim for amounts not covered by OHIP. The funding is available if a complaint is made – the member does not have to be found guilty before this applies. There is expansion of the fines for failure to make a mandatory report.

The Minister is expanding the list of things that are going to go on the public register, one or two of which could be problematic. There is no mechanism to take anything off the public register. There is also a provision which basically says that the public register will reflect the results, including a synopsis of the decision of every disciplinary and incapacity proceeding, end stop. That means that even if there is no finding it will be posted. The intention is to include incapacity proceedings on the public register which are not now public.

There is a great deal of enhanced powers in the Minister including his ability to actually determine the composition of the statutory committees. The discipline panel will now be composed in accordance

with the Minister's regulations made under the RHPA. Since the Minister can do this by Regulation he may not even consult on this with stakeholders. There may be specialized panels with a jurist, lawyer or judge as the Chair. Public and professional members sitting with a judge is a totally different matter but may assist with legal matters. Not knowing what the result will be before the Bill is passed is troubling. The Minister is going to expand the ability for a College to provide information in a situation where there is a compelling public interest to do so, for example in some situations with the press. There are enhanced powers for ICRC to make interim orders prior to referral to discipline. There will also be an ability for the Registrar to withdraw a complaint where there is no reason to proceed. The timeframes have been extended for ADR so that the clock is not working against the College in terms of the 150 days. Currently, if a court has imposed restrictions on the member's right to practice, the date and restriction is on the public register. It is the only way the public would know about such restrictions. Members will also have a duty to report offenses.

Website

We were unable to show a demonstration of the new website due to technical difficulties and the fact that Janice was unable to join for the meeting. However, the Registrar will forward a link to Council for the new website. Janice had requested Council members to recommend stock photos that she can buy for the site.

4.9 Approval of Two Educational Programs from Applicants to College

The College has two applicants whose programs of study are not on the College's approved list of programs. There are two separate programs. The Registration Regulation requires Council to approve the programs as opposed to the Registration Committee. The Registrar is looking for Council's agreement to be able to hire an individual to review the two programs and to comment and provide a report for Council stating the equivalency of the program to the Michener program. In the past we have used Dr. Michael Beazely to assist. He is a professor of pharmacology the University of Waterloo and he did a lot of work for the College many years ago. In the past Council determined that in order to spread the cost of the assessments more evenly, the application fee for those who apply from an approved program is \$200.00 and those who apply from a program that is not approved is \$500.00. The cost for doing this will be more than \$500.00. The College does not deal with this often – the last time was probably 8 years ago.

In the proposed Regulation, the Registration Committee would approve the courses, not Council. A process would be developed. Years ago, prior to hiring Dr. Beazely, Council members who felt that they knew a little bit about a program would provide their view and judgment. Clearly this process did not work so we determined that Dr. Beazely could assist us. The College developed an application checklist that the applicant must follow which includes required documentation that must be provided. Before that, applicants would provide 2 pieces of paper and that would be it. We are approving the programs in terms of the years that the person attended the program as opposed to a blanket approval for a program. The applicants are aware that this must come back to Council in June and that approval will occur after the Registration examination is written. Even if the schools are approved by the Health Council in the UK, the College still has an independent right to consider the program.

If the program is qualified in the UK, the Registrar will engage Dr. Beazely to provide Council with information to determine if the program is approved. This was the process adopted by the last Council. If Council approves the program in June and a supplemental is run in August, these two candidates could write then. Council agreed to have the Registrar proceed to hire Dr. Beazely and bring this back at the June 2017 Council meeting.

4.6 Sexual Abuse Task Force [see agenda item 4.5]

Clearly the Minister is supportive of trying to make fundamental changes to attempt to wipe out sexual abuse in Ontario in relation to health practitioners.

4.4 Letter from OPMA & response from College [see also 4.1]

The College received a letter of introduction from the new OPMA President and Mr. Mall responded. The President acknowledged the support of the Association and the willingness to invest resources and time into HPRAC to assist the College.

Mr. Hill also mentioned the concern about the additional free pair of 'orthotic shoes.' There was a suggestion that chiropractors are doing this a great deal. Fashion footwear is being given away with an orthotic in it and they are calling it an orthopedic shoe. It is important that we address the conduct of our members and the other Colleges also address the conduct of their membership. It was suggested that a joint letter or e-mail go out from the Associations to our members in which they try to re-educate members about what they are allowed to do. Secondly we should review the chiropractors' professional misconduct regulation to determine what they are allowed to do.

4.3 Clinic Regulation – Update

In order to gain attention and traction for the report, the latest suggestion is that HPRAC do the work dealing with stakeholders and going through a formal review. The letter was sent to Minister Hoskins asking if he believes that HPRAC should deal with clinic regulation and the report. Initially when we began this process, the idea was to complete the report and hand it off to government. However, it quickly became evident that if we simply sent it, nothing would happen. Basically, we are trying to find a home for the report so next steps can be taken.

4.10 Infection and Control Working Group [see item 5.2]

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

From October 1, 2016 to January 31, 2017, ICRC met 8 times and dealt with 16 complaints. Ms. Vorkapich-Hill suggested to the complaints officer to try to keep members of panels abreast of what is happening on a file throughout so that panels will know where their matter is in the process. Also, Mr. Daley requested that if matters are appealed to HPARB, that the panel members involved in the matter are advised about the results of the appeal. Mr. Mall asked if there was a way to predict a spike in complaints and the response was that there is no way of predicting this. Mr. Bromstein referred members to the CANLII site which publishes the results of HPRAB decisions.

6.2 Discipline – Cesar Mendez

Between October and January, there was one discipline hearing and 9 referrals.

6.3 Quality Assurance - Anna Georgiou

The Registrar spoke for the Chair in presenting the report. She indicated how difficult it is to get members to comply with the continuing education requirements. There was discussion that perhaps,

with a new database, being able to track what people are doing for CE and allowing members to track their own attendances on line would assist. The Registrar mentioned that at some point the entire QA program needs to be reviewed.

6.4 Registration – Donna Coyne

Ms. Coyne reported that the Committee had met once since the last Council meeting. The Committee has requested additional information and will convene a follow-up meeting.

Part 5

7. Working Group Reports

7.1 Practice Working Group [no report] [see item 5.2]

7.2 Registration Examination – [Stephanie Shlemkevich & Meghan Hoult]

Mr. Hayles reported that the Committee continues to work on building new questions and OSCE stations. It is an ongoing process.

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]

Motion

Moved by: Pete Guy

Seconded by: Grace King

**THAT the public be excluded from the meeting pursuant to clause 7.2 (b) of the Health Professions Procedural Code of the *Regulated Health Professions Act, 1991* in that financial or personal or other matters may be disclosed of such a nature that could the harm created by the disclosure would outweigh the desirability of adhering to the principle that meetings be open to the public;
AND THAT instruction will be given or opinions received from the solicitors for the College.
CARRIED**

8. In Camera Session

1. Podologists – Follow up from last Meeting
2. Registrar's Review and Compensation
3. Survey Results and Potential Take Aways

9. Next Meeting

9.1 Items for Agenda – Next Council Meeting

9.2 Next Meeting Date –June 23, 2017

10. Adjournment

Meeting adjourned.