

# COLLEGE OF CHIROPODISTS OF ONTARIO

## Minutes

### Meeting of the Council of the College of Chiropractors of Ontario

180 Dundas Street West

19<sup>th</sup> Floor Boardroom

Toronto, Ontario

Friday, February 23, 2018

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

#### **Present**

##### *Professional Members*

Ed Chung

Julie DeSimone

Matt Doyle

Stephen Haber

Martin Hayles

Jamie Mandlsohn

Tony Merendino

Millicent Vorkapich-Hill

##### *Public Members*

Donna Coyne

Jim Daley

Grace King

Winnie Linker

Sohail Mall

Agnes Potts

#### **Regrets:**

Adrian Dobrowsky

Sasha Kozera

Aladdin Mohaghegh

**Staff:** Felecia Smith, Registrar and CAO

**Legal Counsel:** Alan Bromstein & Sarah Yun

#### **Observers:**

Bruce Ramsden, OPMA

Sonia Maragoni, OSC

#### **Guests:**

Dr. Micheal Beazely

Don Gracey

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**\*\*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

The Registrar suggested the addition of Item 5.5 – Approval of the Bachelor of Podiatry program at the University of Newcastle (Australia) for 2007-2010.

### **MOTION**

**Moved by: Pete Guy**

**Seconded by: Tony Merendino**

**That Council approve the agenda, as amended, for the meeting of Council dated February 23, 2018**

**CARRIED UNANIMOUSLY**

2. Declaration of Conflict of Interest, Taping 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.

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

## Part 2

### **1. Update and Discussion**

#### 4.1 Proposed Changes to the Chiropractic Model in Ontario – Update (Don)

Mr. Gracey indicated we are in the time before the election when things are completely unpredictable. The writs need to be issued no later than the first week of May, 2018. May 9<sup>th</sup> is the absolute last date. Whatever is on the order paper dies, no regulations are passed, no funding announcements are made. There is a chance that the budget will be introduced later and then the legislature will be dissolved. If this happens, the budget will not be debated or passed and it will not allow the new leader of the opposition to gain visibility. No decisions will be made until after March 10<sup>th</sup>. There are basically 2 tracks for the College in terms of the path forward – one is to have the legislation as part of the budget bill which is still very much active. We would be a schedule to the budget and therefore any changes in the budget should not affect the changes in the schedules. The second track is intermingled with the Ministry officials wish to massively transform the regulatory framework for the regulation of professions. They want to reduce the number of colleges through deregulations, amalgamations, mergers etc. to what will look very much like the U.K regulatory system. They want to move from a controlled acts approach to what they refer to as a competency based approach. This is their current focus. Their aim is to bring forward their ideas sometime in the fall 2018. There is an opportunity for changes for the profession through regulation changes for x-rays, forms of energy and laboratory tests etc. There is a meeting scheduled with the Ministry and representatives of the College on February 27<sup>th</sup> to talk about where things currently stand and the

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direction that the Ministry would like to take. We will wait to see what the Ministry has to say in the context of that meeting.

There is a good chance that the health bureaucracy would like to include whatever legislative amendments or statutory amendments required for these changes in an omnibus bill with other health professional acts and massive amendments to the RHPA in much the same way as happened in 1991. Such a major overhaul would probably not occur until 2019 or 2020. Mr. Gracey indicated that the problems this College is facing is happening to all professions. There is no sense of follow through on commitments that have been made at either the political or bureaucratic levels. It is the worst situation he has seen either from working inside the government or outside the government. Last August, Mr. Gracey believed that there was a 50/50 chance that our legislation would be included within Bill 160. It obviously did not happen.

A question was raised regarding the drug regulation. It is highly unlikely that since the legislature ends at the latest May 9<sup>th</sup>, that they will get to the regulation. The government has not been responsive to any of the Colleges. The Registrar indicated that after the last Executive meeting she sent an e-mail to the policy adviser dealing with our drug regulation that we had heard through the grapevine that the Ministry was waiting for something from the College. She asked for them to please explain if that is true and if so, what are they waiting for (in reality there is nothing outstanding).

## Part 1

### 2. Approval of Minutes of the October 27, 2017 Meeting

#### **MOTION**

**Moved by: Agnes Potts**

**Seconded by: Jim Daley**

**THAT Council approve the minutes of the October 27, 2017 meeting, as presented.**

**CARRIED UNANIMOUSLY**

## Part 2

### 1. Update and Discussion

#### 4.2 Public Health and Infection Control – Update

The Practice Working Group has met a number of times along with meetings with the Public Health Ontario (PHO) officials who have reviewed our standard and made recommendations. There is a meeting scheduled for March 5, 2018. We are hopeful to have the final amended Standard of Practice on Infection Control to Council in June. If people look at the dental guideline, it is close to where we will end up. There has been some confusion over the role of the Public Health units in clarifying the difference between PHO and the regional public health units and their responsibility. Essentially PHO sets the guidelines with their various committees such as PIDECC and that is a resource that the regional independent public health units generally use. PHO does not just show up at a practitioners' door on their own volition. They only visit an office if someone with a reportable disease has visited a particular clinic - PHO will follow up with that clinic and any clinic or place the person has visited.

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#### 4.3 Accessible Parking Passes – Ministry review - fyi

The Registrar advised that the Ministry of Consumer and Government Services is conducting a policy review of the accessible parking permit program and they are hoping to consult with all the health regulatory colleges. A teleconference was hastily arranged at the beginning of February for all the health regulatory colleges whose members can prescribe these passes. The Auditor General's report in 2013 suggested that the Ministry of Consumer Affairs should improve processes relating to these passes. A lot of people are abusing the system and parking enforcement people are having difficulties dealing with the issues. People are harassing those people who have invisible disabilities with an accessible parking pass. The next step in the review is that the Ministry is going to send the health regulatory colleges involved a questionnaire. We have not as yet received it.

#### 4.4 Manulife Provider Agreement

The Registrar received the document from a member. The only information we have been provided is that Manulife selected a group of health practitioners in the London area as part of a pilot project in relation to the provider agreement (Tab 4). It deals with products only. The Registrar was advised that two chiropractors and ten podiatrists were selected. The Executive Committee reviewed the document and instructed the Registrar to write to the member to obtain more information surrounding the reasons why Manulife is doing this. The Executive's issue was whether this was a college or an association issue. Members should be seeking their own legal advice. We also suggested that the member contact the associations. Manulife also want members to sign an indemnity which is the most significant part of this agreement. We will await further information from the member.

#### 4.5 Michener Labour Market Survey\* –fyi

The College helped the Michener with the survey by sending it to our members. We were provided with a copy of the results. It is provided for review and information.

#### 4.6 Acupuncture - Standard of Practice – Follow-up from Survey

The College sent out a survey to members. One hundred and thirty two people responded. Fifty-six percent or seventy four respondents indicated that they would use acupuncture in their practice and forty-four percent or fifty eight respondents said no. The recommendation from Executive is that the College look at preparing a standard of practice for acupuncture in the next 24 months. The Executive did not think that this was an immediate priority given what else is on the list. It was pointed out that in reality only ten percent of the whole membership indicated that they would use acupuncture, nine percent said no and ninety two percent did not reply. Mr. Bromstein explained that acupuncture is exempted under the controlled act exemptions in the RHPA. Members can do it if they do so in accordance with the standard of practice set by the college as opposed to a regulation. The College has taken the position that because there is no standard, members should not be using acupuncture in their practice. There was a discussion about how the following motion should be interpreted – does the College prepare a standard in the next 24 months or simply reassess whether we prepare a standard in the next 24 months? The intention is to bring the issue back but not necessarily create a standard within 24 months.

#### **MOTION**

**THAT the college look at preparing a standard of practice for acupuncture in the next 24 months**

**CARRIED**

#### 4.7 Guideline for Extraosseous Subtalar Joint Implant Procedure

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Ms. Vorkapich-Hill indicated that the intention is for Mr. Merendino, Mr. Hayles and Ms. Vorkapich-Hill to get together shortly and review the current guideline, make any necessary changes and bring it back to Council for further approval. Reference was made to the letter received from the OPMA dated February 16, 2018. The Association asked that the guideline be withdrawn because it identifies the procedure as experimental which means that podiatrists' malpractice insurers may no longer cover the practitioners who perform the procedure. The extended health benefits providers and third party insurers may also no longer cover the procedure. The OPMA felt that this could not only affect Ontario but across Canada as well and put podiatrists and their patients at a significant disadvantage and in a vulnerable medical/legal situation. Council members indicated that the data dealing with whether it is experimental or not is a grey area but definitely needs some fine tuning. It was determined that the 3 members of the Executive will fine tune the Guideline, bring it back to Executive and then to Council. The professional members and Executive can also consider the concerns of the OPMA. It was felt that Council was absolutely right to pass a guideline. In light of the publicity over this procedure, Council did not want to withdraw this guideline. We may tweak it, change it or delete it and substitute a new guideline but the College needs something in place until that occurs.

## Part 3

### 5. For Decision

#### 5.1 General By-law No. 1 amendments –Register

These amendments are as a result of Bill 87 - Protecting Patients Act – which created amendments to the Regulated Health Professions Act. The amendments relate to increasing transparency and what needs to go on the public register and dealing with matters relating to sexual abuse and inappropriate contact. SCERPS, (specified continuing education and remediation programs) which can be ordered by the ICRC now, do not come off the register within 24 months as we have in the by-laws. They can now only come off the register in accordance with the legislation. This means that they are unlikely to come off at all. Mr. Bromstein highlighted some of the changes as follows:

#### 42.05

1. 7 – The notation of every caution the member has received from a panel of the ICRC under paragraph 3 of subsection 26.1 of the Code and any specified continuing education or remediation programs required by a panel of the ICRC using its powers under paragraph 4 of subsection 26 of the Code. SCERPS and cautions both go on the register. We already had it on our register but the language needed some tweaking in that we had a provision to remove them and that would now be inconsistent with the legislation. We had it coming off in 24 months but now they stay on until taken off in accordance with the legislation
2. 11 –A notation and synopsis of any acknowledgements and undertakings in relation to matters involving allegations of professional misconduct. Undertakings are now public.
3. 18 – If you have an inspection program the outcomes of the inspection must be on the register.
4. The Minister has also kept unto himself the ability to put more things on the register through a regulation under the RHPA as opposed to changing the legislation.

#### 42.06

1. 9 – Has been deleted because the information about a member who has died is already now required by the legislation.
  2. 9.1 – We already had a bylaw dealing with notations when the member attends for a caution from the ICRC. We have now simply added that once a member has received a caution, a notation to that effect and the date the member received the caution. It was not in our by-law before because we expected it would come off after a certain period of time.
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3. 9.2 – Deals with SCERPS. We now need to put in the specified continuing education or remediation program, not a summary. We have added the completion date so the public knows when the course was taken.
4. 7.1 – Not much change. If there is a restriction on the member’s right to practice as imposed by a court or other lawful authority and if the college is aware of the restriction, we need to put a summary of that restriction, including the name of the court or other lawful authority that imposed the restriction and the date the restriction was imposed (we have that now). If it is under appeal, a notation of that fact shall be removed once the appeal is finally disposed of.
6. 15(c) – “Board of Inquiry’ has been removed since there is no one who has been suspended at the College by the board.
7. 16 – where an allegation of professional misconduct or incompetence has been referred to the Discipline Committee in respect of a member and is outstanding, we are putting in a copy of the specified allegations which is new because that is what the Code is really looking for. We are also providing a copy of the Notice of Hearing which we have been doing.
8. 18 – This is a significant change that we do not have much control over. The results of the Discipline proceeding that are contained in the register, the date on which a panel of Discipline made its decision including the date on which the panel ordered a penalty is required now by the new legislation.
9. 19.1 - We must now post discipline committee decisions of no finding. Alternatively, the College could withdraw all the allegations for some reason and the committee accepts the withdrawal and makes no finding of professional misconduct. This has to go up for 90 days from the release of the reasons why there is no finding. Section 56 of the Code says that the college shall, [mandatory] publish the panel’s decisions and its reasons or a summary of its reasons in its annual report which goes to the government by the way and may publish the decision and reasons or a summary in any other publications of the college. The College shall publish the name of the member who is the subject of the proceeding if the results of the proceeding may be obtained by a person from the register or the member requests it. Here is the dilemma. After 100 days, the register is clean. It has to be published and had to have the member’s name on it. Our website needs to have a list of all our discipline decisions. The College already does this with a link to the reasons and decision even if there is no finding. It comes off the register but we have a right and an obligation to publish these things so the public will know and that transparency is being provided through a listing of all our discipline decisions.
- 10.21.1 – It now reads that “if someone has a finding of guilt of which the college is aware if made by a court or after January 2015 against a member in respect of any” ...we are suggesting changing it to offences in any jurisdiction...that the registrar has reviewed and determined is relevant to the member’s suitability to practise. The recommendation is to change words “relative to the member’s suitability to practice’ to “the registrar believes it is in the public interest to be posted in the register.”
11. 42.08.01 and 42.08.02 – these dealt with SCERPs and cautions that are inconsistent with the new legislation so these have been removed

In 42.06, 21.1, the words “has reviewed and determined is relevant to the member’s suitability to practice” was replaced with the words “believes is in the public interest to be posted on the register”

## **MOTION**

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**THAT the proposed amendments to the College's By-law No.1 – General, in particular the amendments to article 42 as shown in Appendix 6 be approved, in principle and circulated for at least 60 days to members and other stakeholders for comment**  
**CARRIED UNANIMOUSLY**

5.2 General By-law No. 1 amendments – Member Information -Practice locations\*

An issue arose at a recent meeting of the Executive Committee. It was unclear from the language used in Article 44.01(ii) of the by-law whether the College is entitled to get information about all of the locations at which members practise. The Executive Committee felt it was appropriate to amend the by-law to make it clear that that was the intention. Members must have a business address on the register but they can designate their business address. There has to be a way that the public can contact the individual. The College still knows how to contact everybody because they have home addresses they can contact a person through. If a member is doing a locum, they should advise the College. You must provide the information on the annual renewals or you could be accused of committing professional misconduct and be sent to a discipline committee, you could be cautioned or you could end up with some other action by the ICRC. Members also sign a declaration on the annual renewal saying that the information contained therein is truthful. Under s. 44.02, members have an ongoing obligation to advise the registrar of any changes to the information that was originally provided on the annual form.

**MOTION**

**THAT the proposed amendments to the college's by-law No. 1 General, in particular, the amendments to article 44.02(i) as shown in appendix 7 be approved, in principle and circulated for at least 60 days to members and other stakeholders for comment.**

**CARRIED UNANIMOUSLY**

5.3 Draft Budget - 2018

Mr. Daley indicated that the budget is prepared by the Registrar. He reviewed every line, checked all the math, ensured it worked, reviewed all the notes, and made sure the notes matched to the actual budget document. There were a couple of minor things that had to be tweaked but nothing of any significance. He compared the budget both to the previous year, which is noted as well as the forecast 2017, and then compared it to the approved budget for 2017. Mr. Daley was looking for reasonableness. It then went to the Executive committee for review and the result is the recommendation put forth. A question was raised whether we should budget for a consultant for ICRC. Mr. Daley indicated that historically we have tended to go over budget broadly speaking. There tends to be room in the budget generally without it ever affecting the bottom line. The costs relating to printing and courier are, for the most part, related to ICRC and discipline. A comment was made by Ms. Linker that the budget notes were very helpful.

**MOTION**

**Moved by: Jim Daley**

**Seconded by: Agnes Potts**

**THAT Council approve the January 1, 2018 to December 31, 2018 budget, as presented at Tab 8 of the agenda materials.**

**CARRIED UNANIMOUSLY**

5.5 Approval of the Bachelor of Podiatry program at the University of Newcastle (Australia) for 2007-2010

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Dr. Beazely was present for this portion of the meeting. He is an associate professor at the School of Pharmacy at the University of Waterloo. He came to know the Registrar when he got involved with HPRAC who was doing a large project on prescribing authorities for everyone except physicians. He has since completed some comparisons between training of Ontario chiropodists compared to international programs, particularly those from the U.K. and Australia. In the past year Dr. Beazely reviewed the Charles Sturt University from Australia which was a Bachelor of Podiatry program and the University of East London which was a Bachelor of Science in Podiatric Medicine. The current project is a review of the Newcastle Bachelor of Podiatry program, similar in structure to the one completed last year for Australia. He has compared it to last year's Michener curriculum. In doing so he grouped the work as follows; 3 basic fundamental courses - anatomy, biomechanics, physiology - podiatric medicine series of course, clinical practice type courses, labs, local anaesthetics, pharmacology and finally special populations, electives and evidence based research. The applicant from the University of Newcastle program in 2010 submitted a transcript which lists all the courses, some description of faculty and staff and all the course outlines. Dr. Beazely matched the course outlines by area to what is currently being taught in Ontario and where possible, discussed items such as assessment, specific types of content, clinic hours etc. The Newcastle program matches fairly well, at least by content, to what is being taught currently in Ontario. Dr. Beazely noted two points: 1. He could not find much detail about a local anaesthetic course as it is only mentioned in the course outlines for pharmacology and surgery courses at Newcastle; and 2. Clinical hours – Michener has about 1000 hours and in Newcastle, he could only find clinical time that added up to 300 hours. The time he found was linked to a course and there could have been time in rotations or placements that occurred outside of a specific course. The Registrar indicated that in terms of local anaesthetic, we require each applicant outside of Ontario to prove competence separately for it and for prescribing. If they cannot, they must take the Michener courses. Mr. Merendino suggested that Newcastle should have the model route for the clinical hours. Graduates of Newcastle are recognized by the Australian/New Zealand Podiatry accreditation Council and the Podiatry Board of Australia. The Registrar indicated that Council has approved Charles Sturt for the year 2009-2012. The logic of Council at the time was that they have to pass our exam in any event to register. The only question for Council is the approval of the program. Issues such as practising 3 months in 2 years or whether he has had any problems in the past are issues for the Registrar and the Registration Committee.

#### **MOTION**

**Moved by: Tony Merendino**

**Seconded by: Martin Hayles**

**THAT Council approve the Bachelor of Podiatry program at the University of Newcastle (Australia) for the years 2007 to 2010 provided that the Registrar is first satisfied that that program was approved for licensure in Australia in 2010 and provided that the applicant satisfies the Registrar that he or she has completed at least 1,000 hours of clinical time in the program.**

**CARRIED UNANIMOUSLY**

A general discussion took place about how to avoid the course to course review. One way to approach this is to say that if an applicant is acceptable in another jurisdiction they should be acceptable for the College. This would allow the College to mutually recognize all the programs that allow individuals to be registered as a podiatrist in Australia. We should find out how they are regulated in another country and whether the practice in that country is equivalent to the practice in Ontario. We could come to a decision that if people feel strongly that anyone qualified to practice in Australia should now be approved to write the exam and the program approved, we can make changes to the way we process these matters. Given the small numbers of these matters per year, and until the new regulation is approved, it was agreed to leave the process as we currently have it.

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- 5.4 Proceeding to obtain a Benchmark report regarding Registrar's remuneration package– follow up from Council meeting and Executive direction [See item 7.4]

## 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

A suggestion was made that we provide a report that tracks the number of complaints we receive and RI's conducted as a gross number.

6.2 Discipline – Cesar Mendez

There are 3 discipline hearings currently pending. It is about 6 months from the time of the referral to the hearing. The delay is usually from members' counsel with requests for disclosure or motions, interim interlocutory motions before the hearing and a prehearing and all sorts of processes.

6.3 Quality Assurance - Anna Georgiou

The Registrar reported that the review of all the practice reviews are all completed. There is only one matter still outstanding and that is a revisit. There were initially two revisits and one has been completed with no problems outstanding. The CE random selection will be occurring in March, 2018.

6.4 Registration – Agnes Potts [no report]

## Part 5

### 7. Working Group Reports

7.1 Practice Working Group [Anna Georgiou] [see 4.2 above]

7.2 Registration Examination – [Stephanie Shlemkevich & Meghan Hault]

Mr. Hayles reported that the College sent an e-mail looking for new members to join the committee because it is an onerous task and retention can be quite difficult.

7.3 Standing Drug Committee [no report]

7.4 Strategic Planning and Registrar's Review and Compensation Committee

Mr. Guy provided the report. The committee met on January 30, 2018. The committee discussed the database implementation by Visual Antidote (VA). The Registrar updated that the contract has been drafted. The contract has been sent to VA who has forwarded it to their lawyers. The registrar's performance survey that was completed this past December was also discussed. Some changes were implemented for 2017 and more changes will occur with the December 2018 survey. The committee also discussed the market survey review. This was a recommendation in the Mercer report that is meant to look at the entire salary compensation structure of other colleges in Ontario. At the October 2017 Council meeting, Council authorized the expenditure of \$10,000 to obtain a benchmark report if the Executive Committee is satisfied that the information will assist Council in its yearend review of the Registrar relating to her compensation. Based on the motion, the Executive felt it needed more information and that will be dealt with. The final matter that was

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discussed is what to do in an emergency situation if the Registrar would not be able to undertake her duties for a period of time. The information is in the by-laws and has been put into our operations manual.

## **8. In Camera Session**

### **Motion**

**Moved by: Sohail Mall**

**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 the harm created by the disclosure would outweigh the desirability of adhering to the principle that meetings be open to the public.**

**CARRIED UNANIMOUSLY**

## **9. Next Meeting**

9.1 Items for Agenda – Next Council Meeting

9.2 Next Meeting Date – June 22, 2018

## **10. Adjournment**

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