COLLEGE OF CHIROPODISTS ONTARIO

PUT YOUR BEST FOOT FORWARD

NEWSLETTER ~SPRING 2012

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YOUR COLLEGE AND YOU = 'WE'

Felecia Smith LL.B, Registrar

Dear Members,

Your 'College and You' does equal 'WE'! The College protects the public's right to safe, competent and ethical foot care by supporting chiropodists and podiatrists in adhering to legislative requirements, maintaining the standards of practice of the profession and also by holding them accountable for their conduct and practice. The role of the members is not only to provide safe, quality care but also to accept accountability for doing so. Registration with the College allows individuals to use the title chiropodist or podiatrist, practice autonomously, and exercise the privilege of self-regulation.

In partnership, 'WE' demonstrate our mutual goals to enhance the reputation and bring honour to the profession.

'WE' are proud to uphold our Mission Statement:
The College of Chiropodists of Ontario has a duty to serve and protect the public interest. The College will ensure that the public receives competent care from chiropodists and podiatrists by:

- Regulating the practice of the profession and governing the members in accordance with the ***Chiropody Act, 1991***, the ***Regulated Health Professions Act*** and the regulations and by-laws.
- Establishing standards of practice.
- Establishing educational requirements for entry to practice and continuing competence.
- Addressing any concerns from the public.
- Educating and providing information to the public about chiropody and podiatry.

Continued public trust in the profession and in the principle of self-regulation is dependent on the commitment of the College and each individual member to maintain personal high standards of ethical conduct.

The ***Regulated Health Professions Act, 1991 (RHPA)*** requires all regulated colleges to have a Public Register for its Members. On this register, the public can access information about any Member: registration status, classification, practice locations, education, corporations, and languages spoken. In addition, any discipline referral or hearing must be documented. If there are any terms, conditions or limitations on a member's

certificate of registration, the details are noted. The College is creating a ***"Members' Only"*** section on the College website. More details will follow, as we build this to your advantage. If you have a suggestion as to what features you'd like to see, please speak to me or contact Judy Cohen, at extension 224.

In this newsletter we are featuring the ***Inquiries, Reports and Complaints Committee*** ("ICRC") and explaining the complaints process. The numbers of complaints received in the past year has significantly increased. Complaints from insurance companies are on the rise and as a consequence, insurance companies are conducting audits more frequently. Billing/record keeping/advertising/incentives/patient relations are the core problems found within these complaints. The ICRC has recently referred 3 complaints to the Discipline Committee. It is in your best interest to review the College Regulations, Standards, and Guidelines, and when necessary act upon the information offered in this newsletter. Alternatively, you can call the College and ask for guidance.

As of January 1, 2012, the ***Accessibility for Ontarians with Disabilities Act (AODA***) came into force in Ontario outlining new requirements for accessibility. Please read the information on p. 7 of this bulletin.

I wanted to bring the following information about Identity Theft to your attention. Our College has had two such situations in the past two years. Although the following article appears to be geared more towards motor vehicles fraud, it contains general information about identity theft. On January 26, 2012, representatives from the Federation made a presentation to the Auto Insurance Reform- Regulatory Practices Working Group. The presentation was an overview of the requirements of the Health Regulatory Colleges under the RHPA. This group is focusing exclusively on auto insurance. The Financial Services Commission of Ontario has published a brochure which is now on its website entitled ***Reducing Abuse and Fraud in Health Care Services for Auto Insurance; Everyone Has a Role to Play.*** It can be found at: http://www.fsco.gov.on.ca/en/auto/brochures/Pages/auto-reducing-abuse.aspx

College of Chiropodists of Ontario 2012 'Survey' Results will be found as a separate attachment to this bulletin. The questionnaire that so many of you responded to was designed to generate the data necessary to respond specifically to HPRAC's criteria and questionnaire. A total of 579 surveys were sent out. The participation rate was approximately 73% which is absolutely amazing! Thank you so much to all the members who took the time and who responded.

I am pleased to report that Council Minutes are now posted on the College website for easy reference to what the College is doing. As always, if you have concerns or questions please contact the College or e-mail me directly at fsmith@cocoo.on.ca.

WE can work together to protect the public's right to safe, competent and ethical foot care by supporting you in your practice.

COLLEGE DRUG REGULATION 338/98:
INJECTIONS, PRESCRIPTIONS, INHALATION

Inhalation Regulation

At the October 2011 Council Meeting, it was reported that members and stakeholders sent in their comments regarding the draft Inhalation Regulation. Thank you for taking the time to respond. Your feedback was not only valuable, but very helpful.

At the February 2012 Council meeting, Council approved the Inhalation Regulation which will allow a member to administer a substance by inhalation. The Registrar has sent the Inhalation Regulation package of materials to the Ministry of Health and Long Term Care. It is hoped that the Ministry will substantially complete their review and grant approval of this regulation by the fall of 2012. Similar to the drug Regulation, once the Regulation has been passed by the government, the College will need to determine what courses/training will be required before members will be able to administer a substance by inhalation

Administering by Injection Substances into the Foot

All members are responsible to continually update their knowledge and skill to ensure appropriate care is given to their patients and to ensure that they only perform procedures that they are competent to perform.

While most of our members have been approved for injecting substances into the foot, this does not mean that each member is competent to inject in the foot all substances authorized by our regulation. If, for example, you have only been injecting local anaesthesia and are not current on the standards of practice for injecting other substances, you should not be performing that procedure until you obtain the necessary knowledge and training to do so in accordance with the current standards of practice. In this connection, you may wish to know that at their February 24, 2012 meeting, Council recognized the need to have a course dealing with injecting substances into the foot available for members. At the request of the College, the Michener Institute is in the process of developing a "Local Anaesthetics and Injections" course through its Continuing Education department. This course will cover all aspects (pharmacology, indications, contraindications, complications, related emergencies, techniques, current/evidence based advancements and recommendations, etc.) of all the injectables currently listed on our regulation and will consist of both didactic (online) and practical (Michener Lab Facilities) components. This will be a comprehensive course suitable for not only those with no previous exposure to this material or experience in these techniques, but will also be an excellent review for those who would like to update their knowledge and skills or simply desire a refresher on these concepts. This course will be available in September and information should soon be available on the Michener`s website.

Below is an excerpt from the College's Drug Regulation that lists the substances that maybe administered by injection into the foot. Please be aware that Dermal Fillers are NOT approved substances listed in the Regulations and they CANNOT be injected into the foot by our members.

REGULATION 203/94 – Drug Regulation

SCHEDULE 1

SUBSTANCES ADMINISTERED BY INJECTION INTO THE FOOT

Betamethasone sodium phosphate beta-acetate

Dexamethasone sodium phosphate

Hydrocortisone sodium succinate

Methylprednisolone acetate

Triamcinolone acetonide

Denatured alcohol 4% (ethyl alcohol)

Bupivacaine

Lidocaine hydrochloride (with or without epinephrine)

Mepivacaine hydrochloride

Sterile saline solution

B12- Cyanocobalamin

Draft Infection Control Standard of Practice & Draft Orthotics Standard of Practice

Council has also continued to review the two draft Standards of Practice: Infection Control and Orthotics Amended Standards that were circulated for comment. Once again, we appreciate your input; we received many excellent comments and suggestions. Currently the Practice Working group is reviewing these comments and we are hoping to be able to discuss the possible draft amendments at the June 8, 2012 Council meeting. The College will advise you when these have been finally approved and in effect. The goal is to have Council finally approve the amendments to the Standards at their fall meeting in October. The College will advise you when the amendments have been finalized and the new Standards of Practice are in effect. Once the Infection Control Standard is finalized, the same process will be repeated for the Orthotics Standard of Practice.

Policy Relating to Third Party Request for Member Information – Just so you know…

The College shall not and will not voluntarily provide any information to third parties relating to its members other than what is available on the College's Public Register, except in accordance with the provisions of the Health Professions Procedural Code or as otherwise required by law.

Technical Advisory Committee

Council adopted the formation of a Technical Advisory Committee chaired by Peter Stavropoulos. This committee is a fact finding or question answering committee for professional related or treatment related questions that arise from time to time. The terms of reference for the committee are to: "Prepare an appropriate response for practice type questions raised by members or insurance companies to assist the Registrar, the Executive Committee and Council in responding to these questions. All recommendations which are brought forward to Council must be supported by evidence based research and must be approved by Council." The Committee Members are: Ruth Avelino, Jonathan Haslehurst, John Lanthier and Tracy Oliver.

Elections 2012

Please review the College By-Laws Schedules 1, 2 and 3 for detailed information on the election process. The 2012 will take place in Districts 5 & 6 for chiropodists and Districts 5 & 6, Combined District 3 for podiatrists.

If you are not interested in being on Council, are you interested in being a non-council committee member? Please consider taking an active role on College committees as a non-Council member.

The following committees are required by By-Law to appoint "at least one non-council committee member":

- √ Inquiries, Complaints And Reports Committee
- √ Discipline Committee
- √ Fitness To Practise Committee
- √ Quality Assurance Committee

ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (AODA)

Did you know? Are you aware of your duty?

"One in seven people in Ontario have a disability. Over the next 20 years, that number will rise as the population ages. Creating a province where every person who lives or visits can participate fully makes sense for Ontario`s people, businesses and communities."
http://www.mcss.gov.on.ca/en/mcss/programs/accessibility/

In Ontario all organizations/businesses (public and private) that provide goods or services to the public must comply by January 1st, 2012. It's the law.

Examples of sites that will assist you in making the necessary adaptations to your workplace are:

http://www.accessabilityadvantage.ca/about-aoda.php

www.peopleaccess.ca

To help organizations ensure their staff complies, there is a 45-minute online Customer Service Course http://aodatraining.org/#content available for purchase, designed by CNIB in partnership with March of Dimes Canada and the Canadian Hearing Society. Through the use of video vignettes you will receive specific advice on delivering services to persons with disabilities and ensure your clinic/office staff has achieved the necessary knowledge and compliance.
http://aodatraining.org/cms-assets/documents/29153-392828.a-e-learning-course-rev.pdf

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By-Election to Council

IN THE BY-ELECTION IN DISTRICT 2 FOR A CHIROPODIST MEMBER OF COUNCIL

We welcome Mr. Jamie Mazcko

Draft Professional Misconduct Regulation:

College Council wishes to acknowledge and thank everyone, including the OSC and the OPMA, for their helpful comments and perspectives relating to the draft Professional Misconduct Regulation. Council continues to review and deliberate the many excellent comments you submitted. The College received 20 separate, thoughtful and insightful comments from stakeholders regarding this draft Regulation. From your comments, "Practice Names" clearly garnered the most comments. The current Regulation actually addresses practice names - it says that it could be deemed to be professional misconduct when ***"using a name other than the member's name, as set out in the register, in the course of providing or offering to provide services within the scope of practice of the profession."***

At the last Council meeting, there was a general discussion about the issues that had been raised from the circulation to stakeholders. The Executive Committee has undertaken to review all the comments in detail and bring forth recommendations to address the concerns at the June 8, 2012 Council meeting. The College also plans to do a series of Q &A's that speaks to your questions and provides general clarity about the proposed Regulation. Once Council finally approves the draft Regulation, it must then be approved by the government. It is a very long process. We will keep you apprised of our progress.

Registration Regulation

Since December 2011, the Registrar and College Counsel, Mr. Bromstein, have had numerous discussions with Ministry staff regarding the College's draft proposed amendments to the Regulation. As you will recall, the proposed draft was circulated to all our members for comment. The College was informed by the Ministry that because it had a deadline of May 31, 2012 to complete all amendments relating to AIT, there was not enough time to properly deal with ***all*** of the College's proposed changes in time to meet their AIT deadline. Therefore, the Ministry asked the College to assist them by agreeing that the Ministry proceed with only the amendments necessary for compliance with the sections in the Code of the ***Regulated Health Professions Act*** dealing with AIT to ensure their approval. The remainder of the proposed amendments the College put forth will continue to be reviewed separately by the Ministry. At their February 24, 2012 meeting , College Council agreed to the Ministry's request as long as the proposed AIT amendments be exempted from circulation to our members again as they had already been circulated. The request was made to the Minister and on April 1, 2012, the Minister approved of the exemption of the circulation period and the AIT amendments to the Regulation are proceeding.

REMINDER: The draft Professional Misconduct Regulation and the two draft Standards of Practice are not yet in effect.

Amendment to the General By-law

There are 2 draft amendments to the General By-law that are set to come back to Council for a decision at the June 8, 2012 Council Meeting:[1] [2]

By-law Amendment for Posting Who Can Prescribe Information on the Public Register

A question arose as to how pharmacists, for example, were able to determine if a member was allowed to prescribe drugs or inject substances into the foot. The College periodically receives calls from a pharmacist, but the questions usually relate to WHAT our members can prescribe as opposed to WHO can prescribe. However, if a pharmacist is interested in knowing whether a member could prescribe oral drugs, for example, and the question arose after office hours or on a weekend, the pharmacist would have to wait until the next day or Monday to have his question answered. Therefore, if the College amends its By-law to allow this information on the public register, the information would then be posted on the website.

Reviving the Drug Committee

The Executive Committee has approved the re-establishment of the Drug Committee. This Committee will be reviewing new drugs and drug classes that should be considered in order to update the present approved College drug list. This is an ongoing project. The Drug Committee will be asked to work closely with the Drug Authority Working Group, once it has been formed by the government. The Drug Authority Working Group is meant to have oversight over prescribing rights for all

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[1] **Amendment to the General By-law**

That Council approve, in principle, the amendment to article 42.06 of the College's General By-law to add two new paragraphs 11.1 and 11.2 as follows:

11.1 Where a member is not authorized to inject a substance, a notation to that effect
11.2 Where a member is not authorized to prescribe any drugs, a notation to that affect.

AND FURTHER to circulate for 60 days the proposed amendment to members and other stakeholders for comment.

[2] **Amendment to the Fees By-Law**

That Council approve, in principle, the amendment to the College's Fees By-law to add a new Article 5.2.01 under the heading "Fee for Assessment" as follows;
5.2.01 Where a person or applicant wishes Council to assess whether he or she meets the Standard of Practice to permit that person to inject a substance into the foot or prescribe a drug, the member or applicant shall pay a fee of:
a) $1,250.00 if the assessment relates to whether he or she meets the standard of practice to both inject a substance into the foot and to prescribe a drug;
b) $625.00 if the assessment relates to whether he or she meets the standards of practice to either inject a substance into the foot or to prescribe a drug, *but not both*.

health professionals This is an important liaison for the College because in examining the available drugs, the Committee will be mindful of new drugs and drug classes that will be a necessary and vital component for practice under the new podiatry model that is being sought through the HPRAC review.

Competency Review

The College has undertaken a review of the competencies of all of our members in preparation for the HPRAC review. The College has hired Professional Examination Services (PES) to assist with this project, which is just getting underway. The following Members are assisting the College with this endeavour – their role is to provide information and materials to PES so that they are able to formulate a report that will be given to Council for decision and action:

Francois Allart	Biomechanics/Orthotics
Mark Bradley	UK programs
Robert Chelin	US DPM Academic and National Board of Podiatric Examiners
Julie DeSimone	George Brown
Catherine Gray	Michener
James Hill	HPRAC Model
John Lanthier	Wound Care/PAD/Diabetic Limb Salvage
Ian McLean	Wound Care/PAD/Diabetic Limb Salvage
Cesar Mendez	HPRAC Model
Tony Merendino	HPRAC Model
Vish Ramcharitar	Biomechanics/Orthotics
Member at Large:	
Samir Sekhon	Chiropodist
College Members:	
Peter Stavropoulos	President
Colin McQuistan	Vice-President
Felecia Smith	Registrar

Ways To Prevent A Complaint Being Lodged Against You!

As noted earlier, the College is seeing an increased number of complaints at ICRC and an increased number of referrals to discipline. In the pages that follow, we provide examples of the types of complaints the College receives. The purpose of doing so is to provide guidance so that members avoid a complaint.

Under the ***Regulated Health Professions Act, 1991*** and the ***Regulated Health Procedural Code,*** the College is ***required*** to investigate every complaint it receives.

The Inquiries, Complaints and Reports Committee ("ICRC") is the College Committee that receives all complaints, deliberates, and makes dispositions. There are podiatrists, chiropodists and public members on this committee.

In 2009, amendments to the ***Regulated Health Professions Act*** required all ICRC panels in Ontario to consider members' prior complaints when making decisions about current ones.

The preponderance of complaints that the College receives falls into the following categories – we have provided examples of the types of problems that occur:

1. Insurance matters where there are billing irregularities and incomplete/erroneous records

Examples:

- Members bill insurance at maximum for patients' policies. Justification lacking for why this was necessary
- Charging a fee in excess in relation to services or devices charged for
- Clinical records not legible and no consent to treatment is in the file
- Clinical records lacking any supportive information
- Foam box impressions used and not plaster of paris casting
- Records lack any patient history
- Charts lack details of assessment/examination
- Member only do assessment – no fitting, dispensing or follow up

2. Clients unhappy with orthotics, treatment, patient care

Examples:

- Patient's shoes are wrong size
- Orthotics do not fit
- Patient complain they felt coerced to consent to treatment and/or to select shoe type
- Chiropodist/podiatrist would not listen to patient
- Member was rude and disrespectful
- Patient's toe cut, toe nail cut too short, caused infection and member unconcerned and rude
- Patient given poorly constructed orthotic. Said to be custom-made but over the counter

3. Fraudulent records

Examples

- Back dated treatment date so patient could claim insurance.
- As a favour charge patient less than amount billed to insurance

4. Standards of Practice: Patient Relations

Examples

- Patient felt rushed and options for treatment not explained
- Patient feels concerns not listened to
- Patient encouraged by member to use insurance to get orthotics& shoes
- Orthotics took too long to receive – nothing done about it

5. Communication

Examples

- Patient complains no consent to treatment
- Failure to explain expenses and fees to patient
- Failure to explain refund policy or to have one readily available or posted
- Discussion with patient in waiting room – breach of confidentiality

6. Advertising irregularities in print and on websites

Examples

- Chiropodists holding themselves out as Podiatrists in yellow pages and print ads
- Advertising as "The Best" etc
- Misuse of the title Doctor. Doctor title found on letterhead, business cards, signatures for insurance forms, yellow pages [Neither chiropodist nor podiatrist can use the title doctor.]
- Offering "free consultation" "free assessment"

7. Infection Control

Examples:

- Using non-sterile equipment
- No paper on chair
- No paper slippers to go from room to room
- Toes (nail) not dressed after being cut too short and bleeding occurred
- Instruments reused

REMEMBER!

Your Registration Number = Your Identification
Your Signature = Your Endorsement

Do not put your name and your professional reputation on the line by signing a document that you know is not 100% accurate and does not expressly reflect the services you have provided to the patient. If you have not seen and examined the patient, you cannot sign a prescription for orthotics.

Do you have a Refund Policy?
If so, is it posted for your patients to see?

Safeguard yourself by posting your office policies and ensuring your patients are informed. Advise them.

Please review the following "Advertising Reminders and Responsibilities"

ADVERTISING: REMINDERS AND RESPONSIBILITIES

The College is receiving far many complaints dealing with advertising issues. This should not be occurring because adverting is not a difficult issue. If you follow the requirements in the Regulation and Guidelines, you will avoid a complaint. The Advertising section in the General By -law and the Advertising Guideline are both found on the College's website at www.cocoo.on.ca. Please read them in their entirety as well as the overview below!!

1. Ensure the accuracy of your listings in the Yellow pages, websites and print ads. It is your responsibility to do so.

2. You must identify yourself as Chiropodist or Podiatrist. The terms "Chiropodist" and "Podiatrist" are not interchangeable. You shall only use the Title indicated on your Certificate of Registration. This also includes listings under the restricted headings "Chiropodist" and "Podiatrist" in the Yellow Pages and on Google Search. It is your responsibility to ensure the listings are accurate. Please check and make any necessary corrections.

3. Podiatrists and Chiropodists both practice “chiropody” under the ***Chiropody Act, 1991***

4. No matter if you are a Podiatrist or a Chiropodist you shall not call yourself “DOCTOR or use the “Dr.” title in any advertising. Your receptionist should not answer the phone, ”Dr.’s office”.

5. You shall not offer incentives such as FREE shoes, FREE assessments, FREE consultation.

6. Advertising must be truthful, objective, and must not be self-aggrandizing.

7. You shall not refer to yourself as a “Specialist in…”, “Expert”, “Certified…”,“Best”

8. You shall not include “testimonials” from patients or others.

9. You cannot make claims or guarantees as to treatment: “nearly painless’ or give “a guaranteed cure”; you cannot guarantee the effectiveness of any treatment, drug, or equipment.

10. Advertising that you treat the “ankle” is not permitted. “Ankle Treatment” does not fall under the scope of practice.

Chiropody Act, 1991 SCOPE OF PRACTICE

"The practice of chiropody is the assessment of the foot and the treatment and prevention of diseases, disorders or dysfunctions of the foot by therapeutic, orthotic or palliative means. 1991, c. 20, s. 4."

ADVERTISING REGULATION AT A GLANCE

Chiropody Act, 1991

ONTARIO REGULATION 203/94
GENERAL PART II
ADVERTISING

7. (1) An advertisement with respect to a member's practice must not contain:

(a) anything that is false, misleading or self laudatory;
(b) anything that, because of its nature, cannot be verified;
(c) an endorsement other than an endorsement by an organization that is known to have expertise relevant to the subject matter of the endorsement;
(d) any testimonial;
(e) a reference to a drug or to a particular brand of equipment used to provide health services;
(f) a claim or guarantee as to the quality or effectiveness of services provided;
(g) anything that promotes or is likely to promote the excessive or unnecessary use of services. O. Reg. 746/94, s. 2.

(2) An advertisement must be readily comprehensible to the persons to whom it is directed. O. Reg. 746/94, s.2

8. (1) In any advertisement, a member who is registered as a chiropodist shall clearly identify himself or herself as a chiropodist and a member who is registered as a podiatrist shall clearly identify himself or herself as a podiatrist. O. Reg. 746/94, s.

(2) No member shall hold himself or herself out,
(a) as a chiropodist unless the member is registered as a chiropodist; or
(b) as a podiatrist unless the member is registered as a podiatrist. O. Reg. 746/94, s.

9. No member shall indicate after his or her name,
(a) a diploma or degree other than a diploma or degree held by the member; and
(b) the word "chiropodist" if the member is not registered as a chiropodist or the word "podiatrist" if the member is not registered as a podiatrist. O. Reg. 746/94, s. 2.

10. A member shall not contact or communicate individually with, or cause or allow any person to contact or communicate individually with, a potential patient either in person, by telephone, by mail or by any other means of individualized communication, in an attempt to solicit business. O. Reg. 746/94, s.

11. No member shall appear in, or permit the use of the member's name in, an advertisement that is for a purpose other than the promotion of the member's own practice if the advertisement implies, or could be reasonably interpreted to imply, that the professional expertise of the member is relevant to the subject-matter of the advertisement. O. Reg. 746/94, s. 2.

12. A member shall not advertise or permit advertising with respect to the member's practice in contravention of this Part. O. Reg. 746/94, s. 2.

STA NDARDS OF PRACTICE – ORTHOTICS

We also continue to receive many complaints dealing with orthotics…once again, it is your obligation to know what the Standard says and to apply it. Here is an Excerpt from "The Standard of Practice for Orthotics 2009: Please review the Standard of Practice in its entirety – it is on the College's website!!

Prescription of a Functional Orthotic should include:

- A thorough biomechanical examination with appropriate measurements taken and recorded
- A stance and gait analysis
- Non weight-bearing plaster of paris casts, non- weight-bearing STS slipper casts or equivalent, or three dimensional, non-weight-bearing scanning of the feet.

(Note: The Standard does not include a foam box casting method)

Construction of Accommodative Orthotic Devices
The orthotic devices must be constructed from the prescription and fabricated from appropriate materials in consideration of the patient's diagnosis, footwear and activities.

Delivering the devices to the patient (Applies to Functional and Accommodative Devices)

1. New orthotics should be fitted by the practitioner to ensure that the fit of the device meets the prescription, and the contours of the patient's foot.
2. The practitioner should provide the following advice/guidelines to the patient in a manner that can be understood by the patient:

Guidelines for developing tolerance and acceptance of the devices

- Time frames to achieve potential results
- Appropriate footwear for the patient's:
  a. condition
  b. activities
  c. orthotic devices.

3. The requirements for follow-up to the dispensing of orthotic devices should include:

- Providing short term instructions for usage of the devices.
- Offering a follow-up appointment within a reasonable period of time after dispensing the orthotic devices (such as 3-4 weeks). This should be documented in the patient record. A telephone follow up would suffice, if the patient does not require or attend a follow-up visit.
- Advice to the patient regarding the need for periodic long-term check-ups

Richard Steinecke is the senior partner of the law firm Steinecke Maciura LeBlanc. He practises exclusively in the area of professional regulation.

Records and Regulation
By: Richard Steinecke

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This week a group of pharmacists sought an injunction to prevent Zellers from selling their client records to two major grocery store chains for millions of dollars. The pharmacists claimed that they owned the records and that it was not in the best interests of their clients for the corporate owner to sell the records. Clients, they say, would likely prefer that the pharmacists keep the records, particularly if they open up a pharmacy close by their previous location.

Regulators, of course, have no interest in the commercial value of records. However, regulators do have an interest in their ability to access the records for regulatory purposes. They also have an interest in continuity of service for clients. It appears that the good will associated with client records has taken priority over professional regulation.

Gone are the days when it can be assumed that a practitioner makes and keeps their client records. Records would only be transferred if the practitioner retired and sold his or her practice. Disputes would typically only arise where a practitioner's employee or associate wanted a copy of the record to open his or her own office.

With creative corporate structures developing, multi-disciplinary practices becoming normal and the size of professional firms growing exponentially, the traditional approach to client records is no longer feasible. While not widely recognized at the time, the privacy legislation of the last decade put a spike in the heart of the old model. Privacy statutes introduced the concept of custodians for record keeping and put the duty for maintaining records in the hands of the custodian. In settings other than a small office of single-profession practitioners, the custodian would not necessarily be a regulated professional. The unregulated custodian now had the legal muscle to pry control of the records from the regulated professional.

Of course, there was a trade-off. The custodian had a duty to safely maintain the records, make them accessible to the client and retain them for a responsible period of time. However, if the custodian was unregulated, the regulator would have difficulty monitoring the location of the records (particularly if the practitioner was no longer there) and enforcing retention rules became more difficult.

Some tools do remain for regulators to ensure regulatory access to the records and to promote continuity of client services. For example, regulators can always go through the practitioner to ensure that the practitioner has access to the records. In addition, regulators can go through the client to use the client's right of access to the records (especially if the client is a complainant). Also, many regulators have the right to summons records. Besides, even corporate operators would usually prefer to remain on the good side of regulators who obviously are not competitors.

Unregulated ownership of client records is part of a larger issue for regulators. The unregulated owner will often control other administrative aspects of the services provided. Such administrative control can interfere with a practitioner's ability to act professionally. For example, unregulated owners often places the advertising, books the appointments, provides the necessary supplies and equipment, influences the degree of support services available, bills for the services and terminates "difficult" practitioners. It is easy for that administrative role to have a significant impact on the quality and ethics of the services provided by the professionals on site.

In order to combat undue influence by unregulated owners, some regulators have encouraged (or even required) their members to enter into written contracts defining the role of the owners. In particular, the practitioner should have a clause in the contract giving him or her control over the professional aspects of the practice, including record keeping retention and access. Such a provision ensures that the unregulated owner respects the professionalism and regulatory oversight inherent in a regulated profession.

Regulators may wish to review their enabling legislation to ensure that it has sufficient tools for accessing records held by unregulated custodians. Indeed, regulators might even wish to ensure that the enabling legislation permits the regulator to require its members to have a written contractual provision with unregulated owners giving the practitioner control over all professional matters.

Ontario Hospital Act

No member of the College may go into a hospital to treat his/her patient. ***Your patient is not your patient in a hospital setting.*** There are enormous risks involved with infection control, injury, germs, privacy, charts, disposals, etc.

ANKLE BLOCK... Just so you know

The College received an inquiry as to whether an ankle block was or was not within the scope of practice. The College discussed this question and determined that "ankle block" is really a misnomer. It is not blocking the nerves of the ankle, and it's not an injection into the ankle. Rather, it is an injection into the foot utilized to produce anesthesia of structures within the foot. Therefore, it is authorized under the legislation.

COLLEGE STATISTICS

There were 3 new members who registered with the College from October 1st to December 31st 2011. All were from out-of-province. We currently have 578 members; 508 chiropodists and 70 podiatrist members.

We welcome the following new members:

Francois Allart

Jamie Mandlsohn

Ehsan Tabrizi

Next Council Meetings

Friday, June 8, 2012
and
Friday, October 12, 2012

9: 00 a.m. – 5:00 p.m.

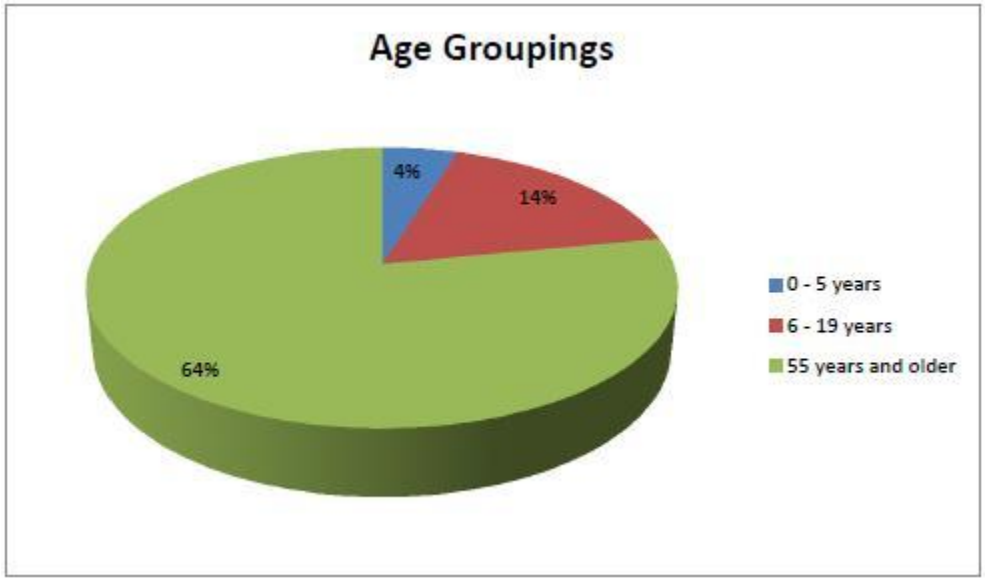
This meeting will be held at the 180 Dundas Street West,
19th floor boardroom
Toronto, Ontario

All Council meetings of the College of Chiropodists of Ontario are open to the membership and to the public. If you would like to attend the meeting, please call the College at 416 452-1333 ext. 226 and speak to Sheila to R.S.V.P.

2012 College of Chiropodists of Ontario Survey Results

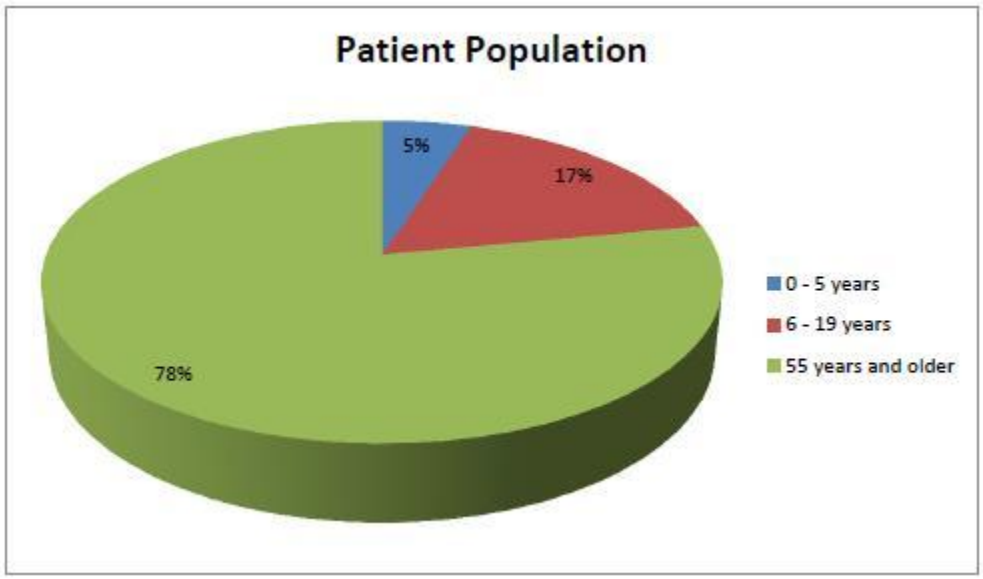
For each of the questions listed below the number of responses vary due to the fact many respondents did not answer all the questions or their answers were not submitted in a useable format. A total of 579 surveys were sent out. On average the participation rate was 73%.

Please identify the age groupings of your current patients.



Summary:

- On average 64% of all respondents patients are 55 years and older. The median is 65%.
- Total number of respondents = 460.

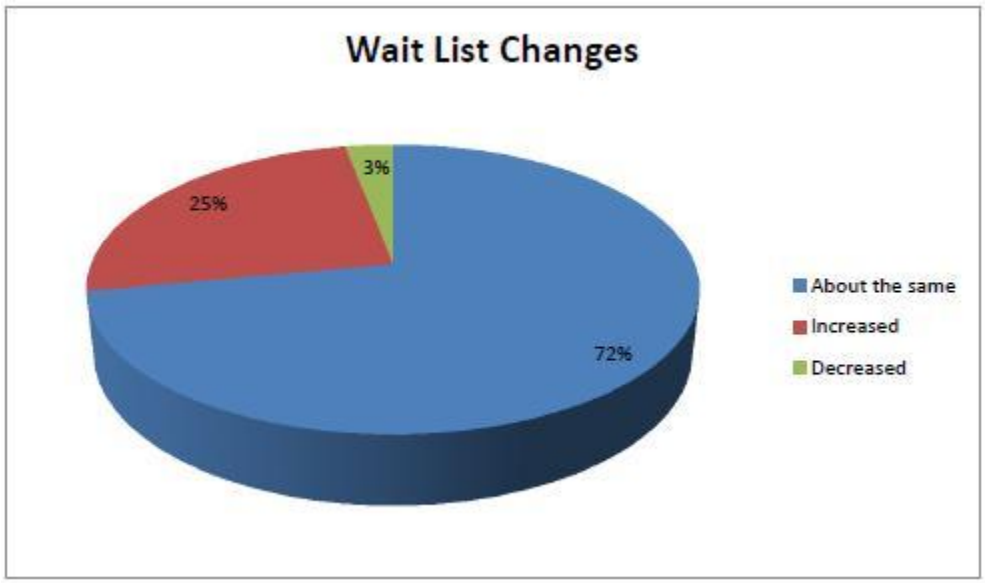


Summary:

- When we look at the combined totals for all three age groupings, patients 55 years and older represent 78%, patients 6 to 19 years make up 17%, and patients 0 to 5 years account for 5%.

- Total number of respondents = 460.

Has your wait list changed over the past year?



Summary:

- 72% of respondents indicated their wait lists are about the same as they were last year.
- 25% of respondents indicated their wait lists have increased over the past year. (see below)
- 3% of respondents indicated their wait lists have decreased over the past year. (see below)
- Total number of respondents = 447.

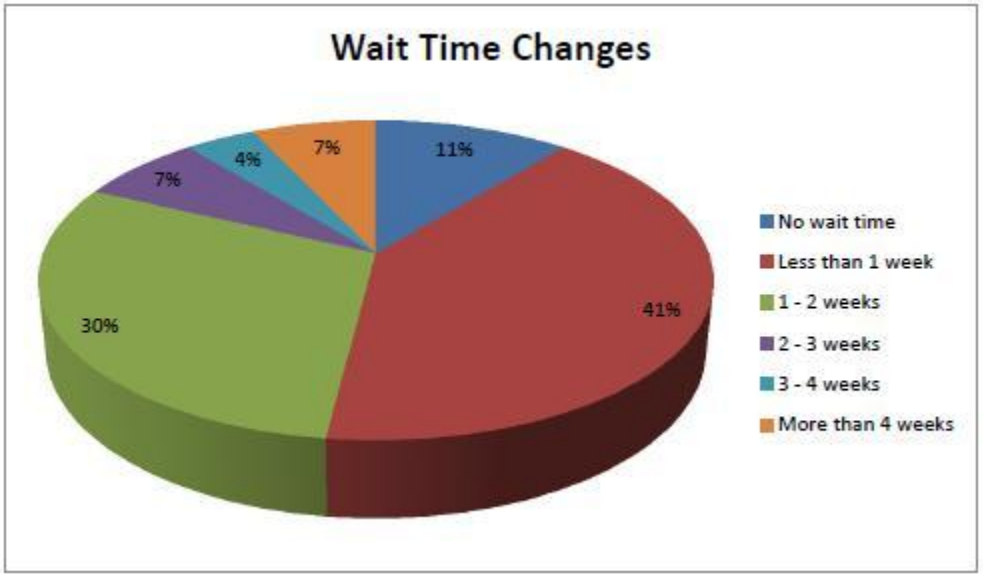
Summary:

- Of the 111 respondents who indicated their wait list has increased the exact amount of time in days varies greatly.
- The low end is 1 day and the high end is 200 days.
- The average is 20 days and the median is 7 days.
- However, without including the top 4 unusually high-end outliers the average increase in wait time becomes 15 days and the median remains constant at 7 days.

Summary:

- Of the 14 respondents who indicated their wait lists have decreased, 12 of them reported a decrease of 1 week or less.
- The low end is 2 days and the high end is 60 days.
- The average is 10 days and the median is 5 days.
- However, without including the top 2 unusually high-end outliers the average decrease in wait time becomes 4.5 days and the median reverts to 4 days.

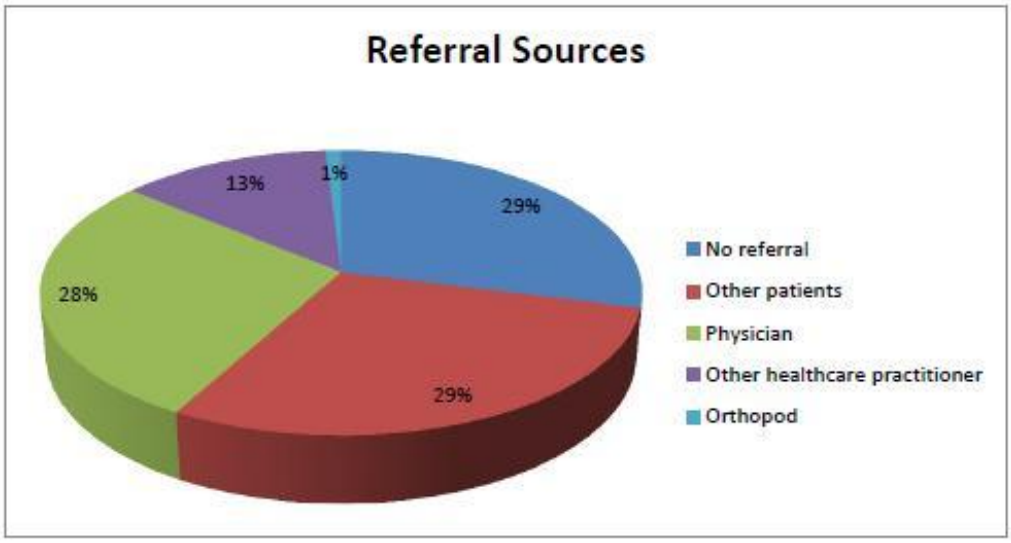
Over the last year, what has been the average wait time for your patients to obtain treatment (i.e. time elapsed between scheduling and having their first consultation)?



Summary:

- The majority of respondents (41%) indicated that over the past year their wait time has been less than 1 week.
- 30% reported a wait time of 1 to 2 weeks.
- 11% have no wait time at all.
- 7% have wait times of 2 to 3 weeks and 4% have wait times between 3 and 4 weeks.
- 7% stated their wait times were more than 4 weeks. For these 33 respondents their average wait time is 7.5 weeks and their median wait time is 6 weeks.
- Total number of respondents = 465.

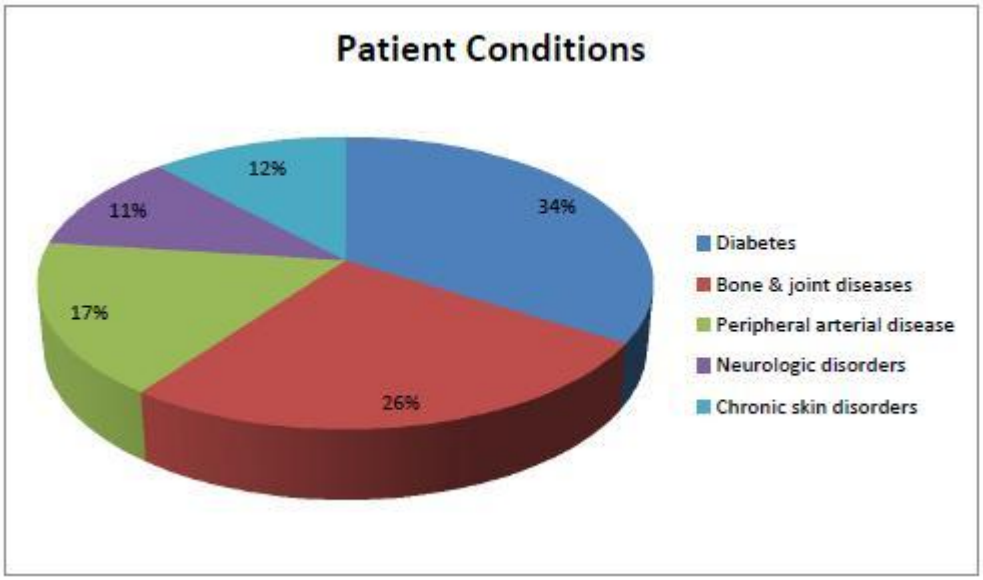
Please identify the referral sources for your patients.



Summary:

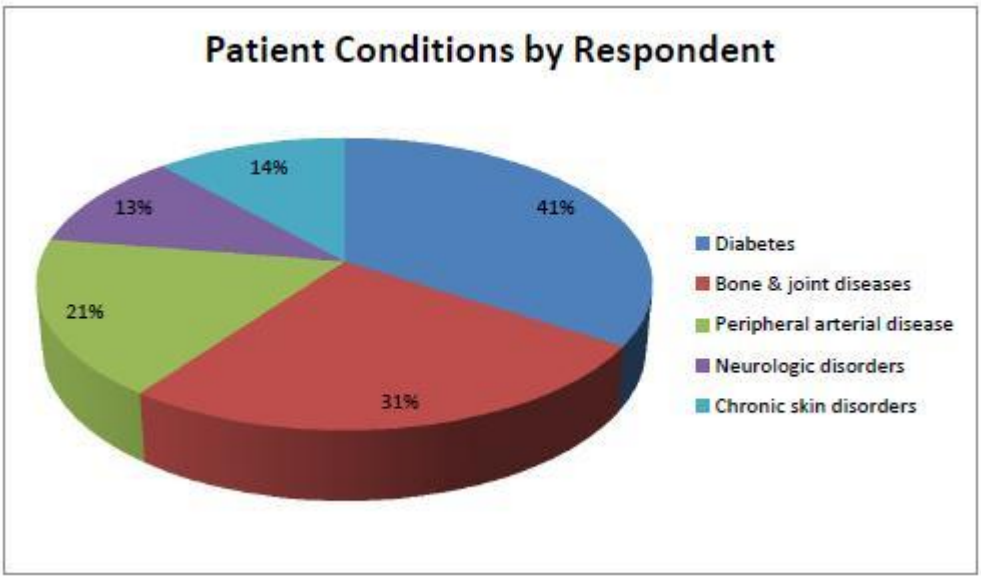
- No referral, other patient referrals, and physician referrals all rank as the top referral sources.
- No referral (or patient self-referral) was indicated by 29% of respondents. This is in part due to their advertising and marketing practices. Although, a question about their communications activities was not included in the survey, many respondents listed various methods utilized in the “please specify” section of this question. They include having their own website, use of yellow pages and local newspapers, practice signage, attending health fairs, speaking engagements, and word of mouth by family and friends, as well as specialty shoe stores and ski shops. Also mentioned was having their names included in the directories on the COCOO and OPMA websites.
- 29% of referrals came from other patients.
- 28% of referrals came from physicians.
- 13% of referrals came from other healthcare practitioners. These include dieticians, nephrologists, physiotherapists, nurses (diabetic), nurse practitioners, chiropractors, endocrinologists, pharmacists, and radiation technologists. Also mentioned were the Community Care Access Centres, Diabetic Education Centre, Family Heath Teams, health clinics, and social workers.
- Total number of respondents = 433.

Over the past year, what percentage of your patients presented with the following conditions?



Summary:

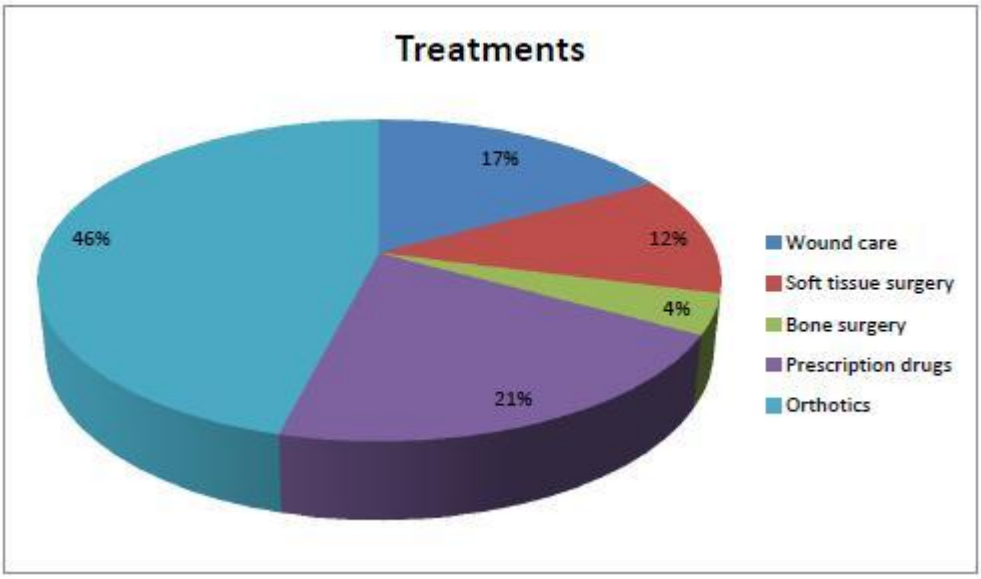
- 34% of all patients over the past year presented with diabetes.
- Followed by bone and joint diseases (26%), peripheral arterial disease (17%), chronic skin disorders (12%), and neurological disorders (11%).
- Total number of respondents = 430.
- These percentages need to be viewed with caution as they represent the total of only the five conditions listed.



Summary:

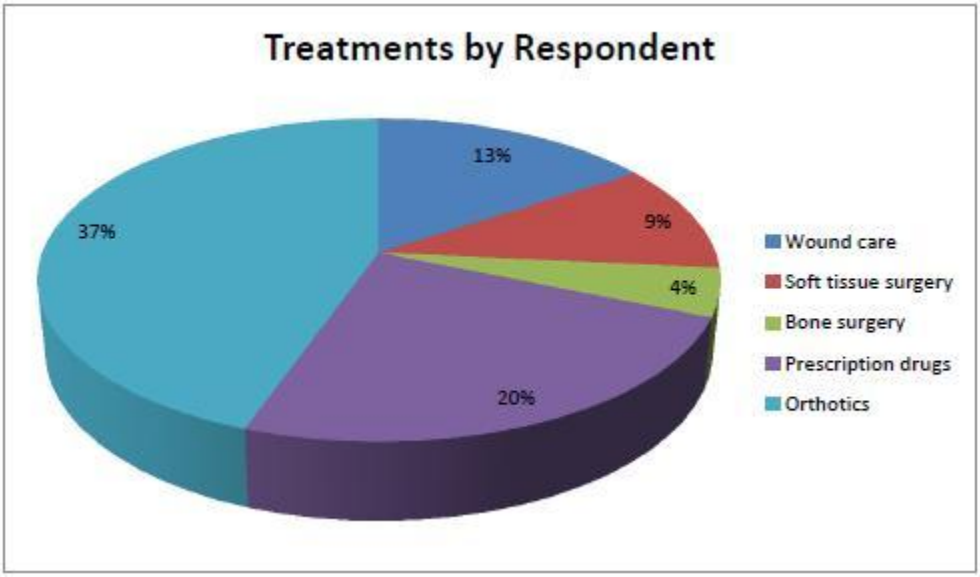
- On average 41% of all respondents' patients over the past year presented with diabetes. The median is 40%.
- Bone & joint disease followed at 31% with the median being 30%.
- On average 21% of all respondents' patients over the past year presented with peripheral arterial disease. The median is 20%.
- Chronic skin disorders and neurological disorders average out at 14% and 13% respectively.
- Total number of respondents = 430.
- Percentages are indexed over 100 because the weighted percentages are skewed for multiple condition answers.

Over the past year, what percentage of your patients required the following treatment?



Summary:

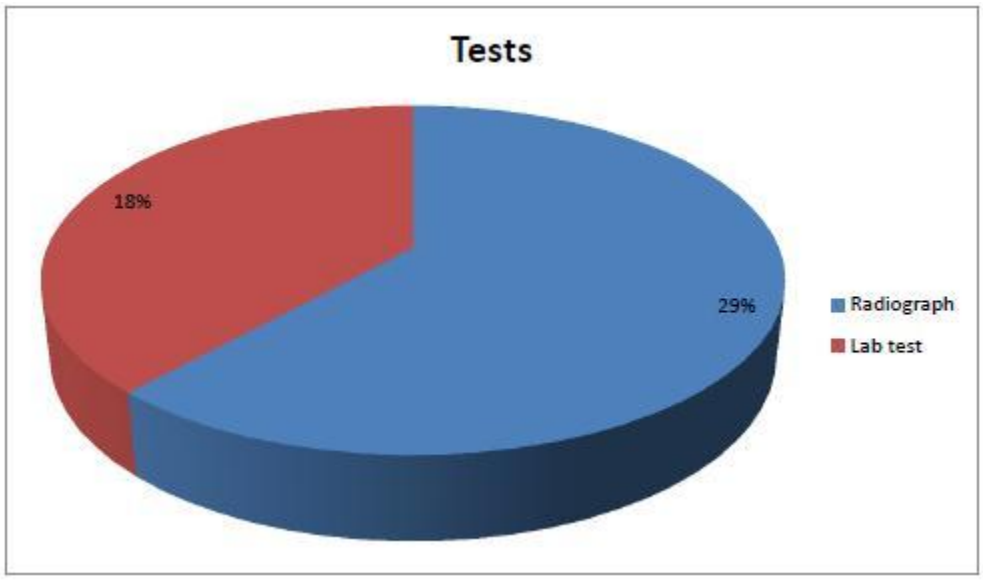
- 46% of all patients over the past year required orthotics treatment.
- Followed by prescription drugs (21%), wound care (17%), soft tissue surgery (12%), and bone surgery (4%).
- Total number of respondents = 441.
- These percentages need to be viewed with caution as they represent the total of only the five treatments listed.



Summary:

- On average 37% of all respondents' patients over the past year required orthotics treatment. The median is 40%.
- Prescription drugs followed at 20% with the median also being 20%.
- On average 13% of all respondents' patients over the past year required wound care treatment. The median is 10%.
- Soft tissue surgery and bone surgery treatments average out at 9% and 4% respectively.
- Total number of respondents = 441.
- Percentages are indexed below 100 because the weighted percentages are skewed for only five treatments.

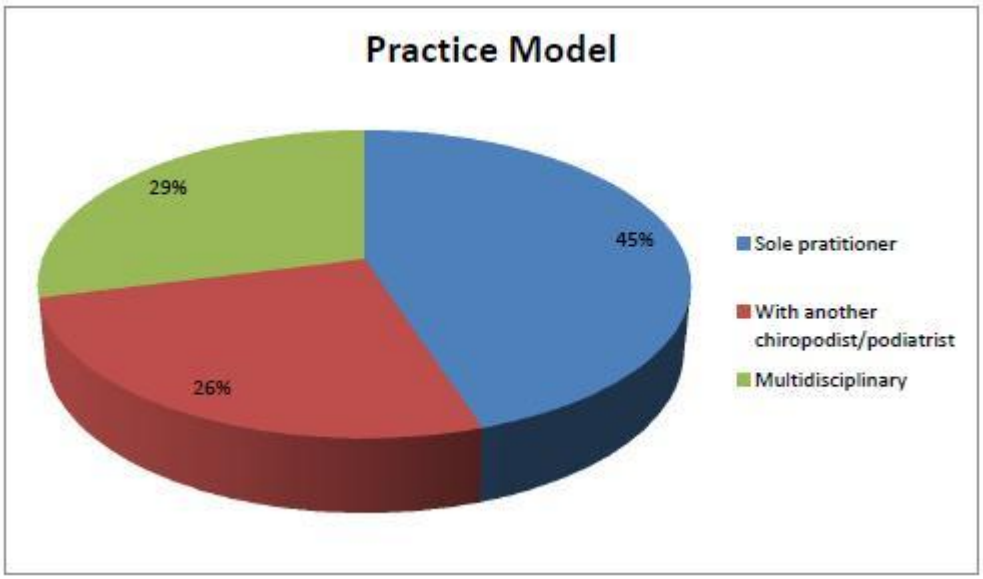
Over the past year, what percentage of your patients required tests for your diagnoses?



Summary:

- 29% of all patients required a radiograph. The median is 20%.
- 18% of all patients required a lab test. The median is 15%.
- Total number of respondents = 326.

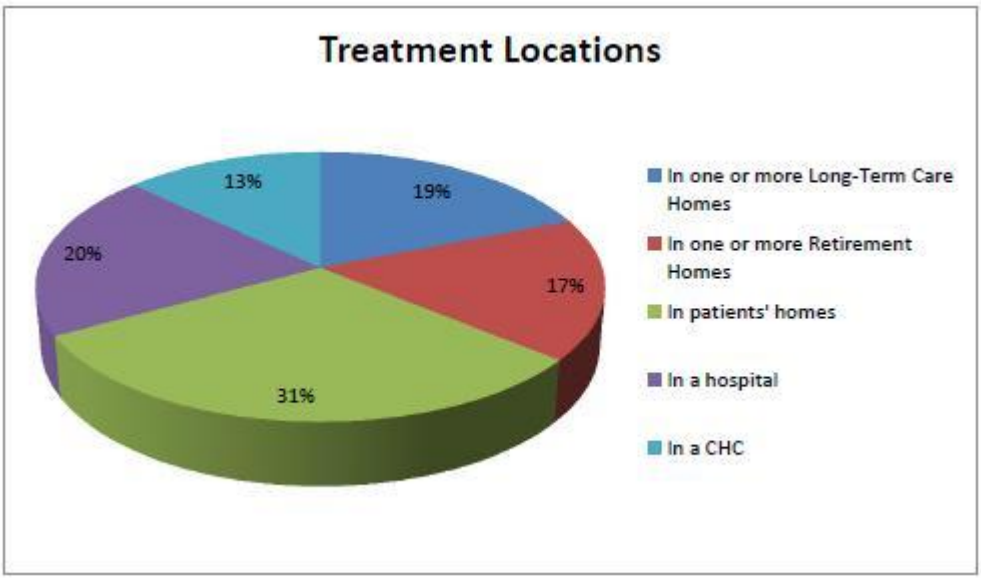
Please describe your practice model.



Summary:

- 45% of all respondents are sole practitioners.
- 29% listed their practice model as a multidisciplinary setting and 26% with another chiropodist/podiatrist.
- Total number of respondents = 475.
- Many respondents reported a mix of practice models.

Where do you provide treatments?



Summary:

- Almost a third of all respondents treat patients in their homes.
- This is followed closely by hospital treatments (20%), in one or more Long-Term Care Homes (19%), and in one or more Retirement Homes (17%).
- Treatment in a CHC is 13%.
- Total number of respondents = 312.
- Many respondents treat patients in more than one location.
- On the other hand, many sole practitioners treat their patients in their office only.