COLLEGE OF CHIROPODISTS OF ONTARIO

Draft Minutes

Meeting of the Council of the College of Chiropodists of Ontario

180 Dundas Street West
19th Floor Boardroom
Toronto, Ontario
Friday, June 21, 2019
9:00 a.m. - 4:00 p.m.

Present

Professional Members
Ed Chung
Matt Doyle
Stephen Haber
Martin Hayles
Jamie Mandlsohn
Sonia Maragoni
Cesar Mendez

Public Members
Donna Coyne
Jim Daley [present by phone for agenda items 5.1, 5.2 & 5.3 only]
Aladdin Mohaghegh
Agnes Potts

Regrets:
Adrian Dobrowsky
Sasha Kozera
Winnie Linker
Millicent Vorkapich-Hill

Staff: Felecia Smith, Registrar and CAO
Legal Counsel: Alan Bromstein

Part 1

1. Call to Order, Ray McDonald was appointed Secretary,

Approval of the Agenda
Medical prescriptions will be discussed under CLHIA.

MOTION
MOVED BY: Sohail Mall
SECONDED BY: Agnes Potts
THAT Council approve the agenda, as amended, for the June 21 meeting.

CARRIED UNANIMOSLY

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

The President welcomed the observers, Greg Lawrence (OSC), and Bruce Ramsden (OPMA) and Tara Breckenridge (MOH).

Approval of Minutes of the February 22, 2019 Meeting

MOTION
MOVED BY: Tony Merendino
SECONDED BY: Matt Doyle
THAT Council approve the minutes of the meeting of February 22, 2019
CARRIED UNANIMOUSLY

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

Part 3

5. For Decision

4.6 Status of Database implementation

The Registrar reported that the staff is currently doing training and still trying to sort out issues with the transfer of data. Hoping to have data fully transferred and the Public Register functioning by August - September. The Registrar commented on how complicated it is to move data onto the new database and the many details that go into establishing a new database. The aim is to have annual renewal online for this year.

Jim Daley joined by phone to deal with agenda items 5.1 5.2 and 5.3

5.1 Approval of the Audited Financial Statements for 2018

Mr. Mall asked where the College is financially heading in the coming year. Over the years the College has had some reasonably sized surpluses and we are now in a good financial position. Mr. Daley commented that the College is not in any danger with Revenue Canada in terms of the surpluses. Any discussion of a reduction of fees would occur at the time of the budgeting process at the end of this year or the beginning of the next fiscal year. There are several cases that could be going to discipline. With the adaption of the zero tolerance, policy there is probably a greater likelihood that a discipline case might be contested rather than the many uncontested discipline cases we have had.

MOTION
THAT Council approve the College's audited financial statements for the year ended December 31, 2018 as found in Appendix 9 of the Council materials.
CARRIED UNANIMOUSLY

5.2 Appointment of the Auditors for 2019

MOTION
THAT Council appoint the firm of Hillborn, LLP to be the College's auditors for the year ending December 31, 2019
CARRIED UNANIMOUSLY

5.3 Interim Financial Statements - 2019 first quarter

Mr. Mall asked whether there has been any discussion with respect to the sexual abuse therapy fund. The College is in a position to set aside more monies from the fund out of our surplus. Mr. Bromstein explained that initially when the fund came in being (Victim's Compensation fund) it allowed individuals who were found to have been sexually abused by a member to obtain assistance from the College for therapy, things that they would otherwise have to pay or out of their pockets. The legislation was recently amended so that there no longer needs to be a finding that a patient has been sexually abused. All there needs to be is an allegation, a complaint that the complainant was sexually abused by member X and they have a right to access the fund. There is no requirement in the legislation that you specifically set aside a specific amount but there is a calculation for the maximum amount any person can obtain from the fund. There is no legislative requirement to have a separate fund. The College has the authority to ask the Discipline Committee to make an order that the member reimburse the College for the costs paid to the victim. Obviously, this is not applicable with an allegation that does not end up in Discipline.

The budget is divided into twelfths and sometimes there is lumpiness in revenue or expenses. The only matter that came up was that the examination revenue seemed to be off this year versus last year. The reason for this is a timing issue and in April and May there was roughly about $53,000.00 that has been received for examination revenues. Net income is similar to last year and close to what is in the budget.

5.5 By-law Amendment – Fees By-law No.2 - Section 4.02

The Audit committee was advised that there were some difficulties relating to the preparation of the audited statements and that the Committee recommended that we change the by-law. Mr. Daley explained that the current by-law basically states that the member's year commences February the 14th and ends on February 13th and the Collee's year is January 1st to December 31st. If this was accurate then it would mean that there would need to be or should be an accrual for deferred revenue because in any given fiscal year we would not have realized all the revenue that the members have paid for their fees. On the balance sheet for the interim statement there is an amount called deferred revenue - members fees and at March 31st was $914,000. If members have paid, for example, 1.2 million in a year only a quarter at March 31st will be recognized. That number goes down throughout the year to zero but if the members have a different year than the College then during the year we are recognizing revenue that was paid for part of a previous year. The amendments put everything on the same year. This just makes it clear for financial statements so the statements will be simpler.

MOTION

That Council approve, in principle, the revocation of Article 4.02 of Bylaw No.2, FEES and replace it with the following article 4.02; The annual fee is due and payable on or before February the 14th for the year commencing on January the 1st of that calendar year and ending on December 31st of that calendar year, and

FURTHER THAT Council direct that the proposed bylaw amendment be circulated to members and other stakeholders for at least 60 days for comment.

CARRIED UNANIMOUSLY

Part 2

1. Discussion

4.4 Public Health Checklists – Update

The Registrar reported that the checklists are complete and they are on the Public Health Ontario website. The membership has been notified. Finalizing this checklist was a major accomplishment. The Registrar

indicated that other colleges are calling with congratulations and asking how we accomplished this. Currently Public Health owns the checklists so any future changes will need to go through them. Mr. Hayles commented that one of the reasons the College took this route was uniformity over auditing practices because if not, different public health units in Ontario could audit to different levels. They operate independently from Public Health Ontario. They should now be using the same tool. The checklists allow members to self-audit their practices to ensure that they are compliant. There was a last minute change by PHO relating to class 5 indicators – if a member does not have a printer on the autoclave then the member must use class 5 indicators no matter what. Previously, class 5's were only used if members wanted to pull instruments and use them before the biological indicator had passed. This is not a huge change but rather a subtle one and if we want this changed, we need to go back through PHO. We will need to amend our Standard of Practice.

Part 2

2. Discussion

4.1 MESPO – Update [Don Gracey]

Mr. Gracey provided 3 alternatives for the College moving forward. The first is the drug regulation and to keep trying to bring in the issue of ordering laboratory tests in order to prescribe drugs safely and effectively. Since the Ministry is opening the regulations under the Laboratory and Specimen Collection Centre Licensing Act for other professions, and the regulation is already drafted, it is a marginal effort for the Ministry to add to the authorities that are necessary for members to order laboratory tests to compliment the drug list. Secondly, the second report of Dr. Devlin's advisory council on hallway medicine is set to come out by the end of June. The report is going to talk about scope of practice changes and allowing health care professions to practice to the maximum of their competencies in order to create efficiencies within the health care system and to keep people out of hospitals. Third, any changes regarding scope of practice changes is dictated by the political level and the bureaucracy will do what they are instructed to do. The question is whether the College will lobby to get the scope of practice changes going. Mr. Gracey indicated that if the College agrees to lobby, it should be coordinated with the Associations.

Mr. Gracey raised the question of point of care which does not require changes to regulation or to statutes and are within the current scope of practice. If the College is going to engage in political lobbying there are 3 targets – Dr. Devlin and his people, Larissa Smith who is the Premier's senior policy advisor in the Premier's office and Emily Beddows in Minister Elliot's office. He suggested that there should be a public appointed member and professional members when dealing with the political level.

4.3 CLHIA [Canadian Life and Health Insurance Association] –Meeting of the Working Group held on June 20th - Update

Mr. Hayles, Ms. Vorkapich-Hill and the Registrar attended a teleconference meeting. This was a follow up to a preliminary discussion the Mr. Hayles and the Registrar had with the anti-fraud division of CLHIA in January. The meeting linked into issues with ICRC, zero tolerance and inappropriate business practices and maintaining the integrity of the profession for the public. The focus of the discussion was the College's role, the issues we face as a College with respect to business practices, the implementation of the zero tolerance policy and sharing of their resources. The insurance companies appear to correlate sending in a complaint and that person going to discipline. The College could use some of CLHIA's materials such as spotting fraud, reporting fraud, on our website.

In terms of delisting, we were advised that this is high level and each carrier has its own process by which someone is listed, delisted etc. They did not answer how a person gets on the list, how long they stay

there, how they come off the list. They did indicate that they are putting together a policy to share with regulatory bodies and others.

Preferred Provider
Members have been contacted around their preferred provider network. Initially it was free – a member could include their credentials, clinic details, all those kinds of things. If a member wishes to be on the top of the list, it costs about $160.00 per month. It puts members in a difficult position because now the member is purchasing the referral. The member is paying the insurance company $1,200 a year or more to move up the list so that member gets more referrals. Mr. Bromstein suggested that if what they are doing would cause a member who does it to be committing professional misconduct then the first thing we should do is contact the insurance company and indicate this is a concern. Advise the insurance company that if they do not stop what they are doing we will warn our members that if they go along with the process they may find themselves before a discipline committee. The College will provide the insurance company with an opportunity to change their process so that it does not put the member in a difficult position If the effect is similar to putting someone at the top of a Google list, there is nothing the College can do about it. If it is professional misconduct, then we need to either warn the members or have the provider stop what they are doing.

Online Prescriptions
The patient pays $75.00 and a doctor sends a prescription. It was agreed that at the very least, a letter should be sent to the CPSO. Mr. Bromstein indicated that it should not be copied to CLHIA. We should indicate that our members would not be able to do this. The suggestion was that the Registrar write to the CPSO and bring this to their attention.

4.5 Adoption of Zero tolerance position relating to inappropriate business practices (orthoses fraud etc.) – Implementation of Policy

The policy was put in the newsletter that went out to members in June. The policy is not a directive to ICRC or discipline as to how they must deal with these cases but it reflects how Council views these inappropriate business practices. It will be posted on the website and we will continue to message the membership. Similar to other policies and standards etc, this position will be an evolving one.

4.7 Proactive approach to regulation

Membership Engagement
CPD Credits
Practice Advisory Service
E-newsletter

The College has received positive feedback about the newsletter. The goal is to have another one out in August. The College will send out shorter ones and longer ones every number of months. In terms of the practice advisor position, the intent is to have the person start one day a week. Beyond phone calls, there are all sorts of practice type assistance this person can provide. Since the position is in the budget, it is up to the Registrar to put the person in place. If anything changes, the Q&A's will need to be updated immediately. The Registrar also mentioned that the College needs to ensure that the responses that are given reflect the College's position and not the individual's viewpoint. We will also need to determine whether we accept phone calls or require a recording or something in writing. We may need a script of what to advise members.

4.2 Drug Regulation – Update [see Agenda Item 4.9]

4.9 Meeting with Patrick Dicerni & Allison Henry - Update

It was disappointing that the ADM did not attend in person but dialled in via teleconference to interact at the meeting. Mr. Hayles, Ms. Vorkapich-Hill, Mr. Mendez, the Registrar and Mr. Gracey attended the meeting. Present from the Ministry was Allison Henry and Marsha Pinto. Mr. Hayles indicated that after the meeting, there appears to be a slight disconnect between classes and categories and what the Ministry perhaps infers that they are. They are using the American Hospital Classification. There are 3 or 4 levels and the lower down the level, the more specific the drug. There was no appetite for giving the profession access to lab tests. The Ministry has a process in place to get these regulations through – the same process they are using with optometrists and midwives – and that is their focus.

Mr. Mendez explained that according to the American Hospital Formulary system there are 3 different tiers. The first tier is the very general category anti-infectives. The second tier would be antibiotics and then the third tier would be listing the actual pharmaceutical categories such as penicillin, cyclosporine. It would be of benefit to the College to be as vague as possible because the more specificity, the less flexibility in terms of having these drugs available for patient care. The Ministry also mentioned a master list of all the drugs that would fit into the categories. Since this list would be outside the regulation it could easily be amended. The categories are in the Regulation, they will need to be changed by the government. In terms of the controlled substances, they have requested a list as opposed to a category, including when they would be indicated and when they would be used. Ms. Maragoni asked about off label compounding and Mr. Mendez indicated it would be very difficult to add those to the regulation. The College may be able to put some of the compounded drugs into a topical analgesic category. Given the timing and the focus of the Ministry, there is really not much opportunity to advocate for the other things that we want to assist our patients. The drug regulation is not the time to advocate for these matters. Council wishes to review the regulation before it is circulated. If we are unable to get a quorum at a teleconference meeting in August, then Exec. Will need to do it on behalf of Council

4.8 Cayton Report – B.C. – Possible Impact on Ontario (fyi only)

This report may represent things to come in the future. Mr. Cayton ran the Professional Standards Authority in the UK. The report is for information purposes only.

4.10 Michener - New Advanced Foot and Wound Care Practice Based Fellowship Program* -fyi

There is only one position and one Fellowship. The individual would be involved with different departments such as vascular, radiology or whatever the case may be under the umbrella of wound care. The position begins in September.

4.11 Inhalation & Letter from Ian McLean

Mr. McLean sent an earlier letter which the Executive dealt with and another follow up letter the day before the Council meeting. The question Mr. McLean was asking is whether someone who is doing oral sedation alone should have to take the course and get a certificate of authorization. That is, for individuals who can write benzodiazepines, should they be forced to take the inhalation course to get current on what we are asking from the standards. Oral sedatives need to be part of an inhalation standard. Those with sedative effects would not necessarily fall within the inhalation standard. The first level of patient safety is professional responsibility and staying current on changes. Mr Mendez commented that he does not foresee that anyone who prescribes any of the oral sedatives would require a certificate of authorization. There is a different intent for the use of the medications that can be prescribed to that referred to in the standard. Currently, the certificate of authorization comes as part of the use of nitrous oxide. Dentistry is now in line with charging a fee effective April 2020. The view of Council has been that

individuals who use inhalation should be paying for it and if you do not do it, you should not have to pay for it. In other words, the entire membership should not pay for it.

4.12 Government Relations [to be dealt with in camera]

Part 3

5. For Decision

5.4 By-law Amendments – The Public Register

These are legal changes that were required because of changes made to the Health Professions Procedural Code and the regulations under the *Regulated Health Professions Act*. These changes mandated what is to be public on the register and also mandated how long things would stay on the public register. This means that some of our bylaws are no longer effective or appropriate because they are inconsistent with the legislation. This is a clean up to comply with the legislation with one exception which relates to members' certificate of registration number. Several members have had their registration number stolen for the purpose of committing insurance fraud. The Executive committee determined that if it does not serve a positive purpose and does not have to be there, we should simply remove it.

MOTION

THAT the College approve, in principle, the amendment to the College's By-law No.1 by revoking Article 42 of the College's general by-law and substituting therefore Article 42 found in Appendix 11 of the Council materials; AND FURTHER THAT Council direct the proposed amendments to be circulated to members and other stakeholders for at least 60 days for comment.

CARRIED UNANIMOUSLY

5.6 Standards and Guidelines Committee – Amendments to Orthotics Standard deferred]

The Committee is still working on the standard. And, with all the College's standards, policies etc, it is a living document. A suggestion was made that legal counsel review the draft before it comes to Council, especially for wording such as 'should' 'must' or 'shall.'

5.7 Quality Assurance Program – Approval of Policy with amendments regarding continuing education requirements

The change to the policy arose in the context of expanding Category A courses. A maximum of 10 hours under Category A can be claimed for teaching students enrolled in the chiropody program at the Michener Institute, for working on college committees and/or working as a College assessor. A maximum of 5 hours could be claimed by participating in electronically delivered programs such as webinars and podcasts if there is either a valued component or some other satisfactory evidence of completion of the program. If there is not, it could be a Category B course. The number of hours can be expanded at any time. The Registrar indicated that when the practice assessment component of the QA program is finalized, it will be added to the policy.

MOTION

THAT Council approve the amended Quality Assurance policy such that once passed by Council the policy will be as found in Appendix 12 of the Council materials

CARRIED UNANIMOUSLY

5.8 Profile of Competencies Working Group

This document is used by the registration exam committee on a regular basis. Every exam question, every OSCE station is bound to a particular competency. The current format is unbelievably restrictive. There

were areas that could not be tested because they did not fit one of the profiles. The new change in the formatting makes it a lot easier to formulate questions and to test the competencies of the members that are going to enter practice. All the Michener courses and programs run on the competencies. The President thanked the members of the Working group for their excellent work in a relatively tight time frame. The group began by reviewing the podiatry competencies outside Ontario and then other medical professions within Ontario. They settled on the framework for the physiotherapy competencies. They noted that the current Profile of Competencies was a regurgitation of the legislation, by-laws and standards. It reflected what members were allowed to do as opposed to how to do things. The group approached the competencies on the basis of how an individual practises. A member cannot be a good practitioner without being professional or having good ethics. The group reviewed professional expertise, communication, management of practice, disease prevention and health, pharmacotherapy and professionalism. If there are any changes to scope of practice, for example they will easily fit into these competencies without change. The parenthesis at the end of each competency is a reference back to the original document. References to podiatrists or chiropodists being able to do certain things has been eliminated. The only one difference is that podiatrists can communicate a diagnosis and chiropodists can communicate information. In summary:

1. Category 1 – Professional expertise
2. Category 2 - Communication
3. Category 3 – is about management of practice
4. Category 4 – is a continuation of what was in the original document
5. Category 5 – pharmacotherapy. The group focused on knowing how to prescribe medication, the complications, the contraindications to prescribing medication and not specific medications themselves. If the classes change, it really makes no difference.
6. Category 6 – Professionalism - this is important – there is even a dress code of how members should appear to patients.
7. Glossary – only thing added was deportment

MOTION

THAT Council receive the report from the Competencies Working Group found at Appendix 13 of the Council materials and approve, in principle, the Profile of Competencies contained therein on the understanding that they will replace the College's existing Profile of Competencies once finally approved by Council;

AND FURTHER THAT Council direct the proposed Profile of Competencies to be circulated to members and other stakeholders for at least 60 days for comment

CARRIED UNANIMOUSLY

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

It appears that the focus of the complaints received is more on professionalism as much as the practical hands on competency issues. In terms of the e-mail Ms. Vorkapich-Hill distributed before the meeting, Mr. Bromstein commented that we are aware that there are some proceedings that have taken a significant length of time because of the time the external investigators have taken to complete the investigation. These required secondary investigations requested by ICRC. Those involved in these cases can argue anything that they wish but there has never been a case that has

been dismissed as a result of a delay in the investigation process from a professional misconduct standpoint. It does not impact an ICRC decision.

6.2 Discipline – Cesar Mendez

There have been no hearings. Mr. Mendez would become aware of a referral when a panel needs to be selected.

6.3 Quality Assurance - Anna Georgiou

As discussed, the criteria for Category A was changed. The Committee increased the frequency of the continuing education audits from 10% to 20% and increased the frequency of random site visits from 2% to 5%. Some of the criteria is being modified for the office visits in light of the public health check lists. The visit is announced and all the documentation is provided well ahead of the visit.

6.4 Registration – Agnes Potts

No meetings were held since the last Council meeting.

Part 5

7. Working Group/Other Committee Reports

7.1 Standards and Guidelines Committee

The Committee is currently working on the Orthotics standard. Following completion, they will proceed to the Advertising and Record Keeping Standards.

7.2 Registration Examination [Stephanie Shlemkevich]

The written component took place on June 6th and the Angoff on June 7th. There were 28 Michener students and 6 international students. The Registrar reported that there were more failures in the written portion than in the OSCE. Each year the administration of the exam improves. Next year any new examiners will need to attend the Angoff session. The candidates are told which stations they were not successful in. They are provided separate scores for jurisprudence and the competency based written exam.

7.3 Audit Committee* [see Agenda items 5.1, 5.2 & 5.3]

Discussed earlier in the meeting.

7.4 Competency Working Group [see item 5.8]

Discussed earlier in the meeting.

7.5 Technical Committee*

Nothing has been referred to this committee.

7.6 Strategic Planning

The committee has not met yet but will hopefully do so in the near future.

7.7 Registrar's Review and Compensation Committee [no report]

No report.

5.9 Medical Pedicures

The question from the insurance company was about services done by a chiropodist and a nurse in a podiatrist's office and whether it would be considered within the scope of practice. The services were a "whirlpool bath with sea salts and soap, feet and ankles rubbed with a sea salt scrub, feet dried with a clean towel. All nails were cut and filed. Place post-operative 70% isopropyl alcohol, callous reduced both heels, 5th metatarsal, phalangeal joints and again post op 70% alcohol. Foot cream applied to feet and nails, nail polish applied to nails." is it reasonable to bill a pedicure as part of the foot care treatment?

When does an aesthetic pedicure become a medical form of foot care? What if the nail polish is an antifungal nail polish? Is it an incentive if you do not bill for it? Is the nail polish part of routine medical foot care? Should Council provide guidance to the membership or is this between the member and the insurance company? One suggestion was to itemize the invoice and differentiate between the aesthetic component and the medical component. Applying nail polish is in the public domain. The question was asked whether Council believes this could be considered unethical or it could be acceptable if the member is honest and above board. A straw vote was taken that if everything was done in the right way is it acceptable. There was no clear decision or position taken. We can tell the membership that Council is not taking any position on whether this is appropriate or not. However, if a member is going to do this within their practice then:

1. If the member is charging for a visit they have to see the patient;
2. If the member is charging for any aesthetic components such as nail polish it has to be itemized on the invoice so that a third party provider can see that it is not part of the treatment but part of the aesthetic service that may or may not be covered by the third party benefit provider.
3. If it is not medical, HST must be charged

Nail care is within the scope but nail polish would be an aesthetic component. The application of an aesthetic nail polish is not routinely part of treatment and if someone is doing that it should be itemized separately. It is up to the insurance company whether they pay for the charge. Perhaps at the end of the day Council will take the position that if a member wants to run a medical pedicure clinic and apply nail polish, they should do so independent of their practice.

Council said goodbye to Stephen Haber and Sohail Mall. Adrian Dobrowsky's term is also over but he was not present at the meeting.

MOTION
THAT Council exclude the public from the next portion of the meeting pursuant to clause 7(2)(b) in the Health Professions Procedural Code.

8. In Camera Session

9. Next Meeting

9.1 Items for Agenda – Next Council Meeting

9.2 Next Meeting Date – October 25, 2019

10. Adjournment