

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, October 25, 2019

9:00 a.m. - 4:00 p.m.

Present

Professional Members

Ed Chung

Matthew Doyle

Peter Ferguson

Martin Hayles

Sasha Kozera

Sonia Maragoni

Cesar Mendez

Peter Stavropoulos

Eliot To

Millicent Vorkapich-Hill

Public Members

Donna Coyne

Jim Daley

Andrew Gassmann

Aladdin Mohaghegh

Agnes Potts

Regrets:

Winnie Linker

Staff: Felecia Smith, Registrar and CAO

Legal Counsel: Alan Bromstein

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

Part 3

5. For Decision

5.1 Update on Election

Peter Ferguson is being appointed as a chiropodist member for District 1, Peter Stavropoulos for Districts 1 and 2 for a podiatrist member and Eliot To as the new selected member for the Michener. He replaces Adrian Dobrowsky.

(ii) Podiatrist Member:

- Application from Peter Stavropoulos

MOTION

THAT Council appoint Peter Stavropoulos as a podiatrist member of Council for Districts 1 and 2 to fill the vacancy created by there having been no nominations for that position despite two calls for nomination.

CARRIED UNANIMOUSLY

5.2 Selected Member

- Elliot To - Application to Council

Mr. To is replacing Adrian Dowbrowsky

MOTION

THAT Council appoint Eliot To to be a selected member of Council.

CARRIED UNANIMOUSLY

(i) Chiropodist Member:

a) District 1 – to be appointed – Applicants:

- Peter Ferguson*
- Eugene Ng*
- Riaz Bagha*
- Patrick Rainville*
- Donna Shewfelt*

A question was asked as to what process is used to make the recommendation to Council. There is no interview. It is based on the CV, the members' previous work with the College (e.g. on various committees), general experiences within the profession and perhaps other work they have been involved in. Council is not involved in initially selecting the member for recommendation. However, if Council members have a particular concern about the person being recommended, they could raise it in advance with the Registrar who would bring it forward to the Executive or the President. The recommendation could be reconsidered. Council does not have to support the recommendation.

MOTION

THAT Council appoint Peter John Ferguson as a Chiropodist member of Council for District 1 to fill the vacancy created by there having been no nomination for that position despite two calls for nominations.

CARRIED UNANIMOUSLY

b) District 2 – Sasha Kozera acclaimed

5.3 Election of President

Mr. Bromstein explained the election process to Council. Mr. Hayles was nominated for the position of President. There being no other nominations for the position of President, Mr. Hayles was acclaimed for a second term.

Election of Vice-President

Ms. Kozera was nominated for the position. Mr. Mendez was also nominated.

MOTION

To appoint Felecia Smith, Alan Bromstein and Ray Macdonald as scrutineers for the 2019 election.

CARRIED UNANIMOUSLY

Mr. Mendez was elected as Vice-President.

5.4 Election of Remaining Positions on Executive Committee

Mr. Stavropoulos was acclaimed as the podiatrist member on Executive.

Mr. Gassmann, public member, was acclaimed to the Executive Committee. Donna Coyne, public member, was acclaimed to the Executive Committee.

The Registrar handed the Chair back to Mr Hayles, President...

The Executive met to set up the committees. Short recess....

The meeting resumed.

Part 1

1. Call to Order, Mr. Ray McDonald was appointed Secretary,
Approval of the Agenda

MOTION

That Council approve the agenda for the October 25, 2019 meeting as presented.

CARRIED UNANIMOUSLY

2. Declaration of Conflict of Interest - No one came forward with a conflict of interest.
Taping Policy – No one is to tape or record the meeting other than Ray McDonald.
Welcoming of Guests and Observers
 - Tara Breckenridge – Ministry of Health
 - Greg Lawrence – OSC
 - Bruce Ramsden - OPMA

3. Approval of Minutes of the June 22, 2019 Meeting

MOTION

THAT Council approve the minutes of June 22, 2019 meeting, as amended.

CARRIED UNANIMOUSLY

Part 2

1. Discussion

4.2 Amended Orthotics Standard & Covering Letter [deferred]

The Registrar explained that the committee has worked very hard on amending the standard and are very passionate about it. When it was forwarded to the Executive Committee, it was felt that it was not ready to come to Council yet. The message in the standard was not clear enough to reflect what

ICRC and discipline wanted reflected. The intention is to have the Chairs of ICRC and Discipline, Ms. Georgiou, legal counsel and the Registrar meet and thereafter to have legal counsel tighten up the language. Mr. Bromstein explained that the lawyer will not be able to deal with substantive matters but can help with the wording to make it clear when and if there is discretion. The standard will go back to Standards and Guidelines and then to Executive.

4.4 Status of Database Implementation

All the data has been transferred over – we are just looking for errors. Thereafter they are working on annual renewal or payment of fees. We will provide information to our members about how to log in etc.

4.3 Coordinator – Professional Conduct and Hearings – Update

On the Friday of Labour Day, the Registrar was advised that the person who took over for Meghan Hoult while she is on maternity leave, Lisa, was leaving on September 20th. The Registrar was able to find another person, Meghan Clarke, through a friend, interviewed and hired her. She joined the College in enough time to be able to be trained by Lisa. Meghan worked at the CNO for about 8 years. She is a lawyer and understands what is needed to be done.

4.5 Practice Resource Liaison – Update

The responses are due back on November 8, 2019. Thus far there have been 3 applications. This person will deal with questions about standards, guidelines etc develop resources, a database of commonly asked questions and perhaps help with the newsletter.

4.6 Lumino Health database

A number of members have contacted the College about Lumino. The members thought that the company was putting them into a potential conflict of interest by requesting that they pay to get referrals. The database is a listing of many health care providers and they are rated based on feedback from the plan members. Initially it was free and then members were asked to upgrade to the premium membership which put the person at the top of the list. In small print it says sponsored. Mr Bromstein commented that this is much like Google searches where you pay to have your name first, second etc. Based on the current professional misconduct regulation it does not appear members would be committing professional misconduct by paying to have their name higher on the list. There is no professional misconduct involved in saying that a member wants to pay \$20.00 to be at the top of the list. This is not a referral – it is simply where you want to be on an advertising list.

4.7 Health Canada and the Use of Lasers

Health Canada put out a statement to say that effective lasers were not approved for the treatment of onychomycosis. The Registrar was able to speak directly to a Director and so did the President. Lasers do not treat the underlying infection – they were never approved for that. Members do not have to stop using lasers but must provide informed consent and complete transparency to patients that the laser will not cure the onychomycosis. It might make the nails look better but the fungus is completely unaffected and still present. The Registrar provided the Director with a copy of the e-mail blast that went out to our members.

4.8 Teleconference with Sunlife and Manulife

This was a spinoff teleconference arising from contact with CHLIA, zero tolerance, poor business practices and fraud prevention. These were also two contacts of Matthew Doyle. It became obvious that they are also keen to be proactive in trying to prevent fraud. On the call were Martin Hayles, Jim

Daley, Mathew Doyle and the Registrar. We tried to drill down on the insurance companies delisting of professional members. They were not keen to share lists of people – they said it was proprietary information. There is an appeals mechanism that may vary between one insurance company to another. The amount of information they share with the College when they provide a complaint varies dramatically – some companies provide a complete package of information while others require a summons for documentation. The Registrar continually mentioned that the College needs to be aware of which of our members is delisted and why so that we are able to deal with it. We want to be certain that the member and matter have been appropriately dealt with and to take appropriate action if necessary. Apparently, the insurance companies share information amongst themselves. The insurance companies review the public registry and if they see that someone has been through the discipline process for something ‘fraudulent’ or inappropriate business practices they will be delisted. The member is advised in advance that they will be delisted. Mr Mendez commented that our roles, the College and insurance companies, are not always aligned. We need to find common ground.

4.9 Pedicures - IPAC Standards (Insufficient to protect public)

Public Health put out a Guide to Infection Prevention and Control in Personal Service Settings, 3rd edition found at https://www.publichealthontario.ca/-/media/documents/guide-ipac-personal-service-settings?fbclid=IwAR1KQq-gKCx5U_wbQeT2WPmyh1y96PdTkywwzdCdp0E7vflAKcay1S6BK2Y. One section deals with esthetics and pedicures. These people are performing basic routine foot care, nail care with instruments that can break the skin and have not been properly sterilized. Currently, their instruments only need to be disinfected, not sterilized. Given what our members do, we owe it to the public to bring this to Public Health’s attention saying that there is a gap and this puts patients at risk. The standard related to infection control in that setting should be the same as the standard for our members. The College will communicate with the appropriate bodies the concerns that Council has regarding this standard for salons.

4.10 Proposed Amendments to Drug Regulation

The Registrar reminded Council that on September 13, Council approved circulation of the proposed amendments to the drug regulation. The comments are due back by November 22nd. We have only had one comment back from the Ontario College of Pharmacists that was forwarded to Mr. Mendez. It was agreed that Council will meet on Friday November 29th at 12 noon to hopefully finally approve the amendments to the Regulation.

4.11 Quarterly Financial Statements

Jim Daley reported on this. Revenue is down but it has been primarily impacted by first time registrant fees and corporation fees – these are timing issues. The budget is annual and the monies allocated over the 12 months of the year. Revenue is also linked to cost recovery in discipline which has not happened this year – it will no doubt flip over into next year. Expenses are in order. We have over two million in the bank and our primary liability is deferred revenue and that is because we receive all our revenues in the beginning of the year. Membership fees are allocated to revenues on a monthly basis. At the end of the year that number will effectively be zero. Our cash resources will be down but not significantly.

4.12 Treating Your Spouse -Tanase v. The College of Dental Hygienists of Ontario – fyi

This is a case of a dental hygienist who was disciplined because he was having sex with his spouse while she was a patient and a complaint was made. The spouse posted on her Facebook page that

she had a phobia about dentists and her husband got her over it. Someone saw the posting and complained. The member was found guilty of sexual abuse and revoked for a minimum of 5 years. He appealed to Divisional Court. This is a zero-tolerance policy in the RHPA. The court rejected 3 constitutional arguments as to why this was unfair and rejected all of them (e.g. cruel and unusual punishment for a 5-year revocation). The case highlights two things. One even as in our College where we have asked for an exemption from sexual abuse for treating one's spouse it is still sexual abuse. The courts have basically said there is no other way to interpret this legislation. The member was told by a colleague that he could treat his spouse because the college passed an exemption regulation. The regulation is not passed by government. Therefore, the law today is that it is sexual abuse to have intimate relations (etc) with anyone who you treat, including your spouse, unless the College has a spousal exemption regulation. This individual was revoked for a minimum of 5 years by the Discipline Committee because he was having sexual relations with a patient who was described in the proceedings as his spouse.

MOTION

Moved by: Jim Daley

Seconded by: Donna Coyne

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

In camera....

4.1 Government Relations [Melissa Lantsman will be in attendance]

Upon resuming...

4.13 Performance Measurement Framework (CPMF) - government initiative for measuring how well colleges are executing mandate in the public interest [update at meeting]

Tara Breckenridge, from the Ministry of Health, provided an overview of the upcoming plans. This is a college performance measurement framework. There is not a readily accessible meaningful way to determine how Colleges are executing against their mandate. Currently the only really mandated piece of public accountability is the annual report. There is very little detail in the legislation about what this has to include. Colleges report on their activities and not the outcome of the activities. There is inconsistencies and variabilities among colleges. Another reason why the Ministry is undertaking this project is that patients and patient's representatives want to know that when they go to a professional there is a college that is overseeing the professionals in their best interest. There is not a lot of information publicly available about these outcomes and no benchmarks to compare outcomes against. In 2018, there were 750 different measures or pieces of information that colleges reported on and 425 of these were unique amongst the 26 colleges. An example of a unique measure would be how you communicate any HPARB decisions that comes down, the types of complaints, categories of complaints used, how many complaints in each area or registration decision. It will also help colleges track their own performance.

A working group was struck to have a diverse and representative input from all of the colleges. Work began in 2018. We initially began with four large areas and then standards and measures and evidence

was brought forth for consideration. The group is currently in the validations stage. There is a plan for broader public consultation which will include members of the more general public and additional experts from Ontario, nationally and internationally as well. The aim is to have a final version of the CPMS ready the end of December. How do you measure what you are preventing? How do you know that what the College is doing is specifically tied to that outcome? Some have such a small sample size they're not reliable. It is mostly focusing on what process and activities you have in place.

There will be high level overarching domains. These are the areas that you need to perform well in to be an effective regulator as per the definition of the CPMS in literature and what not. The standards are high level goals or area or best practices that we would expect to be implemented in a well performing regulator. When you get to the performance measures you are looking at what outcomes do I need to meet those best practices or to perform well and meet those standards. The very bottom layer is the evidence. What do I have to show to demonstrate that I am meeting this standard?

The first domain is operations excellence which includes sound governance, strategic and financial planning. Council members understand their role and responsibilities and have the appropriate competencies to support the work that is being done. How do we ensure that we are keeping up with the strategic plan?

The second area is suitability to practice. This is looking at registration, complaints and discipline processes within the College. The next area is continuous quality improvement. This includes QA or supporting members in their own practice. How does the College use quality improvement processes to improve the way you operate yourself. Finally, how does the College support the ministry and health work force planning and how do you collaborate with the greater system.

In Phase 2, the Ministry will take the information received and try to establish best practices and benchmarks. In the final stage they will move toward more of an assessment. This is an opportunity for Colleges to show what they are doing great – that there does not need to be any modernization.

Part 3

5. For Decision

5.5 Formation of Statutory Committees

Mr Hayles read out the names of the committee members. The Chart is attached.

MOTION

Moved by: Mr. Hayles

Seconded by: Mr. Mendez

THAT Council approve the slate of members of the standing and statutory committees and ad hoc committees.

CARRIED

Abstention 1

5.6 By-law Amendments – The Public Register* [recommendation for final approval]

The changes to the register by-law are found at Tab 15. The Registration numbers will be removed from the public register. By having them posted it gives people access and the ability to use the number. This is a preventative measure. The OPMA requested that the short form and long form

of a person's education be included on the public register. It was suggested that Council vote on the by-law amendments and separately deal with how the education should appear on the register. If we change the way we present the education, it is an interpretation of how we put that information on the register. The by-law does not need to be recirculated.

Recommendation

**THAT Council amend the College's General By-law No.1 by revoking Article 42 of the By-law and substituting Article 42 as set out in Appendix 15
CARRIED UNANIMOUSLY (2/3 majority)**

Going forward, only the entry to practice will appear on the register.

MOTION

Moved by: Peter Stavropoulos

Seconded by; Millicent Vorkapich-Hill

THAT Council approve, when reasonably attainable, the public register which reflects the degrees be amended to include the full name of the degree and the short form in brackets thereafter.

CARRIED

3 abstentions

5.7 By-law Amendment – Fees By-law No.2 – Section 4.02* [recommendation for final approval]

This amendment was made because the previous wording stated that the member's year end was different from the College's year end which created the need for a year end accrual for membership revenue. Now the year ends are the same.

Recommendation

**THAT Council revoke Article 4.02 of By-law no.2, Fees and replace it with the following: "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 end ending on December 31st of that calendar year."
CARRIED UNANIMOUSLY**

5.8 Profile of Competencies Document – [recommendation for final approval]

There were 3 comments received:

1. That the document referred to the wrong number of colleges – this has been corrected;
2. A member noted that it said he and she instead of their and that has been corrected; and
3. The OPMA submitted a number of comments that were reviewed by Executive.

There may have been confusion relating to the title of the document when it was circulated. This is not a standard of practice. Entry to Practice was also added because these are basically used to write the registration examination.

MOTION

THAT Council approve the Profile of Entry to Practice Competencies set out in Tab 16.

CARRIED

One Abstention

The question that remains is what is the effective date for the document? The College's psychometrist suggested that it should take a program 12 months to make any adjustments. If one compensates for the students, it would take 3^{1/2} years from today's date to ensure that all individuals in the program would not be affected by any changes midway through their education. Mr. Mendez indicated that making these changes is a big undertaking for Michener because every course has been based on the old competencies. Each course will have to be examined.

5.9 Renewal Stickers – should the College continue this process?

The blue renewal stickers are provided to members when they pay their annual fee. The College did a market survey and discovered, not surprisingly, that Colleges do not, for the most part, provide these anymore. The College is going digital and paperless so it does not fit the upcoming situation.

MOTION

THAT the College cease the practice of providing a sticker to a member after payment of their annual fee, effective immediately.

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

The Committee has had an increased number of meetings. There are two HPARB appeals in process. MS. Vorkapich-Hill provided the names of two podiatrists who are willing to join ICRC. They were previously members of Council. They will need to be trained before they can be put on a panel. There have been some issues with not having enough podiatrists to choose from when putting together panels. People will be reminded to respond to the doodle poll – many do not.

6.2 Discipline – Cesar Mendez

There are two matters being scheduled for hearing and eight potentially new matters where the allegations are being drafted.

6.3 Quality Assurance - Anna Georgiou

The report speaks for itself. All the practice assessments are complete.

6.4 Registration – Agnes Potts

The registration committee only receives cases where there are concerns. The Registrar registers everyone who meets all the requirements unless there is a concern or they do not meet the requirements.

Part 5

7. Working Group/Other Committee Reports

7.1 Standards and Guidelines* [Anna Georgiou]

See 4.2 above

7.2 Registration Examination – [Stephanie Shlemkevich]

Seventy two percent of initial candidates passed the examinations, both clinical, jurisprudence and the competency component. Approximately 6% failed the exam and took the supplemental. The pass rate for nurses was 91% and physiotherapists 84% last year. The College's examination is clearly doing its job. The process improves every year.

7.3 Audit Committee

See 4.1 above.

7.4 Strategic Planning Committee - nothing to report

7.5 Registrar's Review and Compensation Committee

Winnie Linker will chair the Committee. Her background is in human resources. The President, Ms. Linker and the Registrar had an initial meeting in August.

8. In Camera Session

9. Next Meeting

9.1 Items for Agenda – Next Council Meeting

9.2 Next Meeting Date – February 28, 2020

- We need to set up meetings for 2022, 2023, 2024
 - The Registrar will circulate these dates to Council.

10. Adjournment