COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

ANNUAL GENERAL MEETING OF THE COUNCIL OF THE COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO
AGENDA

June 21–22, 2017
At
The College Board Room
375 University Avenue, Suite 800, Toronto

Day One: June 21, 2017 In Service

9:00 AM		**Welcome and Introduction**	**Page #**
	1	**Approval of the Agenda** For Decision	**5**
	2	**Motion to go *in camera* pursuant to section 7(2) of the Health Professions Procedural Code** For Decision	**189**
		For Information	
10:30 AM	**3**	**Sexual Abuse Awareness Training** Stephanie Swayne, a social worker practicing in the area of sexual abuse, will present an information session on how we can all become more aware of potential sexual abuse issues.	**11**
12:30 - 1:15 PM		**Lunch**	
	4	**Fiduciary Duty/Conflict of Interest** Rod Hamilton will be providing council a brief and easy to understand overview of why you should care about fiduciary duty and conflict of interest.	**12**
	5	**Council Members at Outreach**	**13**
	6	**AGRE Governance Day Report** Sharee Mandel, one of the attendees at the AGRE Governance Day, will describe the discussions held at this session, which focussed on exploring ideas that might improve the governance structure of colleges.	**14**

7 **Risk-Based Regulation** **15**

Shenda Tanchak will describe the principles of risk-based regulation and how our College does and does not follow these principles.

8 **Role of Essential Competencies** **16**

The essential competencies are the knowledge, skills and attitudes required by physiotherapists. Fiona Campbell will describe the roles of the competencies in Our regulatory activities.

9 **What is Physio? A Tool for Understanding When a Treatment is Physiotherapy for Regulatory Purposes** **17**

The scope of physiotherapy practice is broad. Defining the perimeters can be challenging. Some activities performed by physiotherapists may not be subject to regulatory oversight. Some of them may not be eligible for compensation by third party payors. Anita Ashton will demonstrate two tools to help address these situations.

10 **New Certificate of Registration to Facilitate Cross Border Care** **18**

Council is advised that as a result of extensive work and negotiations with our provincial counterparts we are pleased to announce that we have all adopted a framework which will facilitate the provision of physiotherapy care across borders.

11 **Canadian Alliance of Physiotherapy Regulators (CAPR) Update** **20**
For Information

12 **Annual Committee Reports – 2016 to 2017** **28**

- Executive Committee
- Registration Committee
- Quality Assurance Committee
- Patient Relations Committee
  - Funding for Therapy
- Inquiries, Reports and Complaints Committee
- Discipline and Fitness to Practice Committees
- Finance Committee
  - Q4 Financial Reports

13 **Committee Slate Approval** **46**
Motion For Decision

Council needs to approve the proposed 2017-18 committee slate (with chairs).

	14	**Council Photos**	__
		Day Two: June 22, 2017	
9:00 AM		**Welcome and President's Announcements**	__
	15 **Motion**	**Approval of the March 22-23, 2017 Council Minutes** For Decision	**55**
9:15 AM	**16** **Motion**	**2016– 2017 Audited Financial Statements** For Decision Council is being asked to review and approve the 2016-2017 Audited Financial Statements ending March 31, 2017.	**72**
	17	**Registrar's Report** For Information • Dashboard Report • Bill 87 Update	**90**
	18	**Appointment of Academic Representative from Queen's University** For Decision The appointment by Queen's University of Kathleen Norman as an academic member of Council requires consideration by Council.	**200**
	19 **Motion**	**Request for Recorded Votes – Rules of Order** For Decision Should Council alter its rules of order to permit councillors to have their votes be recorded upon request?	**91**
	20 **Motion**	**For Approval: Boundaries and Sexual Abuse Standard** For Decision The physiotherapist's responsibility is always to maintain professional boundaries with their patients. The proposed Boundaries and Sexual Abuse Standard describes how physiotherapists should uphold this expectation. Council is being asked to consider the briefing materials provided and approve the proposed Boundaries and Sexual Abuse Standard with an effective date of August 1, 2017.	**109**
	21 **Motion**	**For Approval: Supervision Standard** For Decision	**123**

The proposed Supervision Standard captures the expectations for physiotherapists who supervise any individual involved in patient care. Council is being asked to consider the briefing materials provided and approve the proposed Supervision Standard with an effective date of September 1, 2017.

22	**Update on the Audit of Compliance with the Advertising Standard** For information	**143**
23 **Motion**	**For Approval: Conflict of Interest Standard** For Decision	**144**

Staff have completed a review of the Conflict of Interest Standard, and are putting forward a proposed Standard. The Executive Committee recommends that Council approve the proposed Standard.

24	**For Approval: Restricted Titles, Credentials and Specialty Designations Standard**	**172**
Motion	For Decision	

Council is asked to approve the proposed Restricted Titles, Credentials and Specialty Designations Standard. The proposed Standard consolidates content from the current Standard, as well as a number of other published documents.

25	**President's Report** For Information	**190**

- Q4 Committee Activity Summary
- Executive Committee Report
- OPA Reflection from Janet Law

Adjournment

Future Council Meeting Dates

- September 28 – 29, 2017
- December 14 – 15, 2017
- March 19 – 20, 2018
- June 25 – 26, 2018

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 1

Motion

Council Meeting
June 21–22, 2017

Agenda #1: Approval of the agenda

It is moved by

_____,

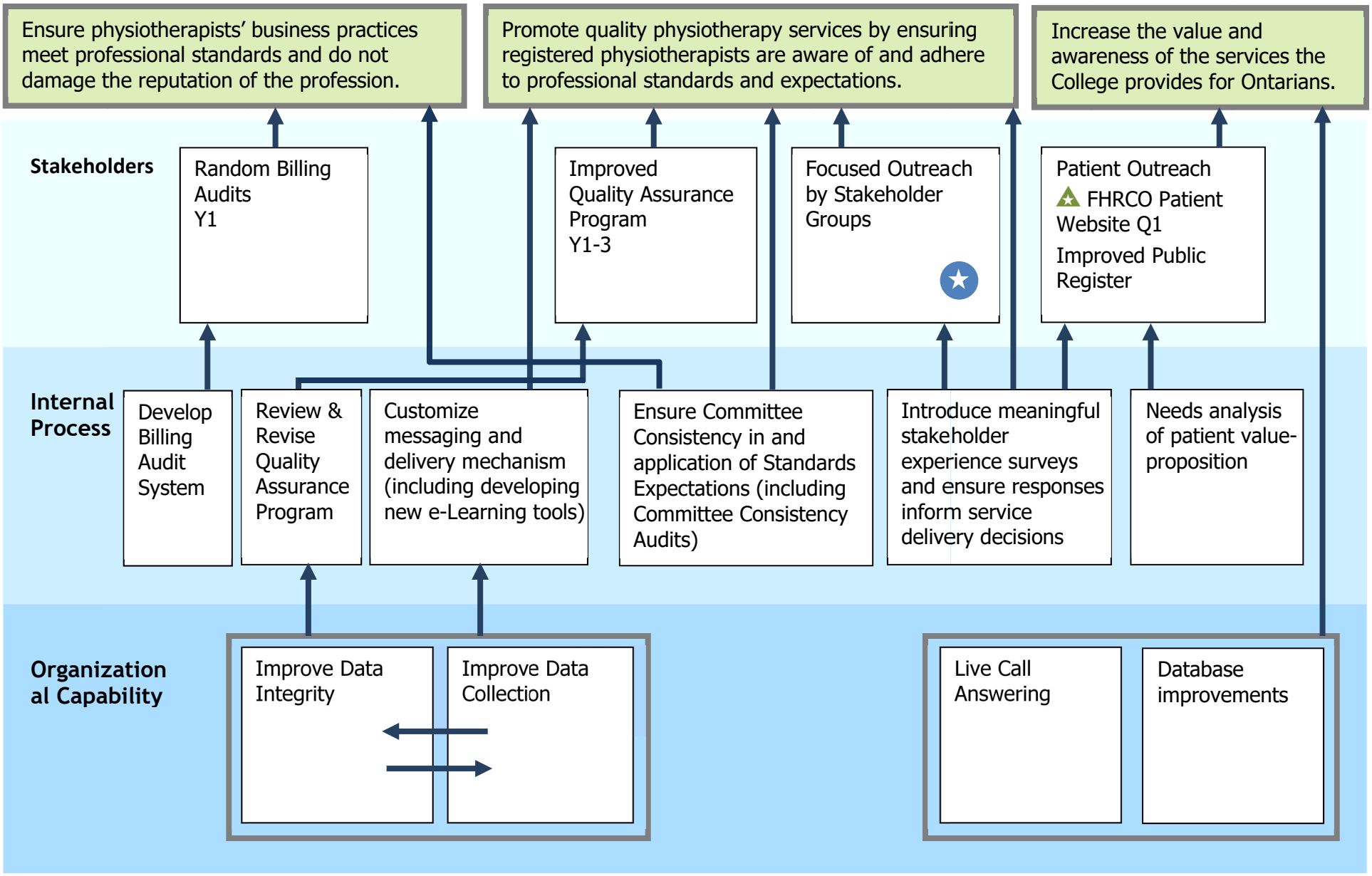
and seconded by

_____,

that:

the agenda be accepted with the possibility for changes to the order of items to address time constraints.

Strategy Map 2017–2020



Ongoing/External

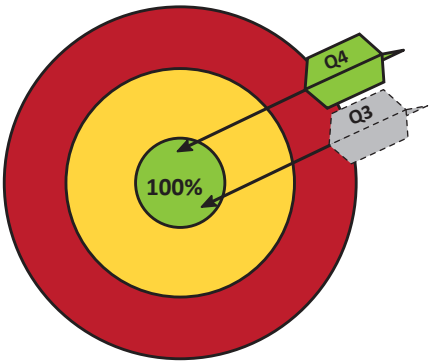
Y1: Supervisors, Students, Educators
Y2-3: Internationally Educated PTs, Employers, Insurers and Registration Ceremony for new graduates

College Dashboard

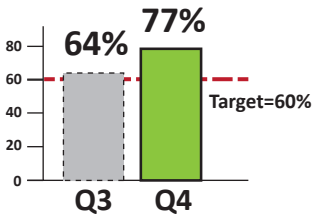
(Q4) JANUARY–MARCH 2017

Strategic

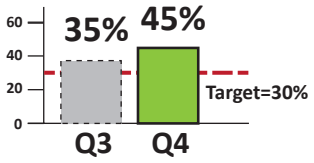
Completion of Tactics



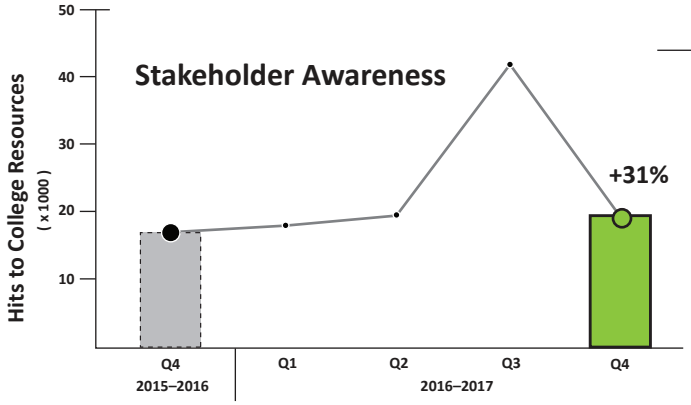
Improved Communications

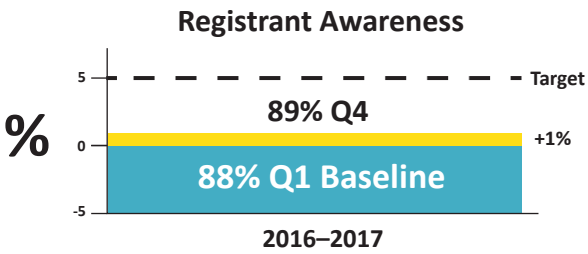


Newsletter
Open Rate

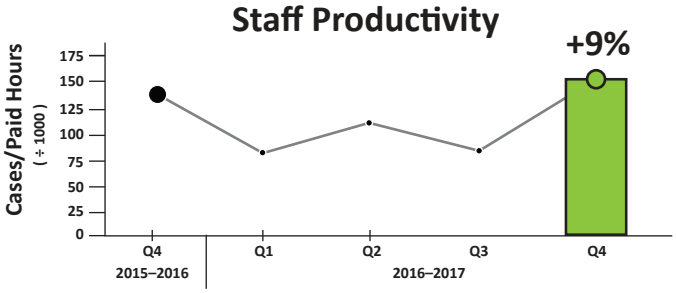


Newsletter
Click Through Rate



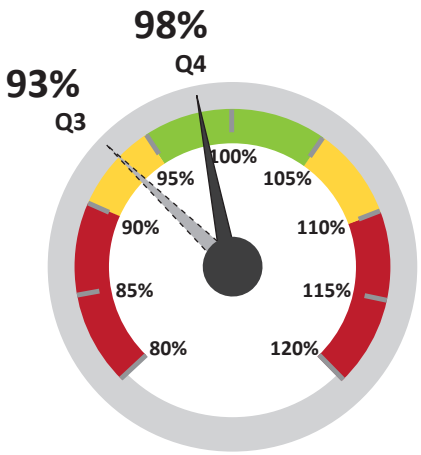


Operational



Financial Accountability

Actual to Budget Spending (Year to Date)



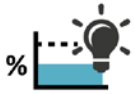
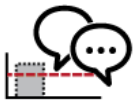
	Target	Q3	Q4
Human Resource Excellence			
Absenteeism	< 1.7 days per employee		
Committee Performance			
ICRC	Met all Statutory timelines		
Quality Management	Met all Statutory timelines		
Registration	Met all Statutory timelines		
Technology Disruptions	Met all targets		

OPERATIONAL INDICATORS

What We Measure	Why We Measure	Quarterly Results
Financial Accountability Ratio of actual spending to budgeted spending 	To demonstrate sound budget management by monitoring what was spent compared to what was budgeted. Target = Within 5% Year to Date (YTD)	**Target achieved** **98%** actual to budgeted spending for YTD
Human Resource Excellence Measure of absenteeism rates 	To provide an indication of overall organizational health. Absenteeism rates serve as a proxy for good recruiting and performance management policies. Target = Absenteeism rate is within industry standard. Absenteeism ≤ 1.7 days per employee	**Target achieved** **1.49 days** absent per employee
Staff Productivity Ratio of the number of cases closed per number of staff paid hours 	To monitor the relationship between staff paid time and the number of member-specific cases processed. Managing PT-specific cases is an important aspect of the work that staff do. Target = Maintain or improve productivity levels	**Target achieved** **9% increase** in cases per person hours paid compared to Q4 2016
Committee Performance Composite measure of the statutory obligations of all 3 committees 	To ensure that each Committee meets the specific timeline and notice requirements outlined in the RHPA. Target = Meet all statutory requirements each quarter	**Targets not achieved** Program areas met the requirement to provide notice. ICRC saw significant improvement in achieving target since implementation of performance

		improvement plan in the later part of Q3, with minor delays of three notice letters early in Q4. Quality Assurance and Registration met all notice timelines.

STRATEGIC INDICATORS

What We Measure	Why We Measure	Quarterly Results
Stakeholder Awareness Hits to College Resources 	To monitor whether our communications efforts effectively bring people to our resources. We assume that if there are more visits to our resources, we can improve awareness of standards and other requirements. Target = Increase by 5% the number of times College resources are accessed year over year	**Targets achieved** **31% increase** in hits to College resources
Completion of Strategic Tactics Projects meeting benchmarks as set out in approved project plans 	To ensure that strategic projects stay on track. Target = All projects meet all milestones each quarter	**Targets achieved**
Registrant Awareness Awareness as measured by survey every 6 months 	If our communications are effective, they are educating PTs so we test PTs on an issue every six months to see whether their scores improve. Target = Increase survey awareness scores by 5% every 6 months	**Close to target** **1% increase** in awareness score Effectiveness of survey to measure registrant awareness is under consideration
Improved Communications with PTs Newsletter: a) open rate b) click through rate 	In order to reach our target audience, we must make our messages compelling. This measure tells us whether our messages are interesting enough for PTs to read them and the materials they reference. Target = Maintain or improve newsletter open rates (≥ 60%) and click through rates (≥ 30%) each per quarter	**Targets achieved** Newsletter Open Rate = **77%** Click Through Rate = **45%**

Technology Disruptions Number and severity of incidents 	To ensure that we have technology, equipment and infrastructure that meets our needs. Target = Maintain technology related incidents within predetermined limits: Zero critical incidents AND < 10 major incidents AND < 40 minor incidents per quarter	**Targets achieved** 20 minor tech incidents, zero major or critical incidents

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Agenda #3: Sexual Abuse Awareness Training

Facilitated by Stephanie Swayne

For Information

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Agenda #4: Fiduciary Duty/ Conflict of Interest

For Information

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Agenda #5: Council Members at Outreach

For Information

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Agenda #6: AGRE Governance Day Report

For Information

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Agenda #7: Risk–Based Regulation

For Information

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Agenda #8: Role of Essential Competencies

For Information

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Agenda #9: What is Physio? A Tool for Understanding When a Treatment is Physiotherapy for Regulatory Purposes

For Information

Meeting Date:	June 21, 2017
Agenda Item #:	10
Issue:	**For Information Only:** New Certificate of Registration to Facilitate Cross Border Care
Submitted by:	Shenda Tanchak – Registrar &CEO

Council is advised that as a result of extensive work and negotiations with our provincial counterparts we are pleased to announce that we have all adopted a framework which will facilitate the provision of physiotherapy care across borders.

Why Does this Matter?

In Ontario and many other parts of Canada there are many areas which are underserviced in terms of health care. We hear of patients being discharged after surgery and a physiotherapist will only be able to see them once a month or maybe not at all. This initiative will ensure that we are facilitating access to patient care and encouraging physiotherapists to consider innovative ways to incorporate technology into their practice.

Previously physiotherapists who worked in more than one province had to register in each province. This would result in the physiotherapist paying thousands of dollars in registration fees each year. Each province has committed to providing these certificates to physiotherapists at a reduced fee and simplifying the application process which will remove regulatory barriers and hopefully result in more patients being able to access care in a timely manner.

How will this work?

Physiotherapists who practice in another Canadian province will be able to apply for an Independent Practice Certificate of Registration - Extended Access with Restrictions if:

- They started patient care in their home province and want to continue to provide care to the patient in Ontario; or
- services are not currently available in a certain geographic area in Ontario and there is a patient need.

The current regulation allows the College to issue an Independent Practice Certificate of Registration. It also permits these certificates to include terms, limitations or conditions (TCLs). When PTs are issued Independent Practice Certificates of Registration - Extended Access with Restrictions, these conditions spelled out in the above bullets will appear as part of the information about them on the public register**.**

How will the Care be Delivered?

The possibilities are endless. It could include in-person patient care, videoconferencing, email, apps, web-based communication, and/or wearable technology. Personnel may or may not be present with the patient but the physiotherapist overseeing the care will need to ensure that they are meeting the regulatory requirements in Ontario.

What are the Fees or Costs?
An applicant will pay a $100 initial application fee. These certificates of registration will be valid from April 1 to March 31 and they can be renewed annually. The annual renewal fee will be $100.

Will the Applicants be Required to Roster once they Receive a Certificate of Registration?
Yes. Physiotherapists who include any of the rostered activities in their practice will need to confirm that they have the required training, education and experience to safely perform the rostered activities. [1]

Will these individuals participate in the College's Peer Assessment Program, Complete the Professional Issues Self Assessment (PISA) or Jurisprudence?
No. Physiotherapists who hold an Independent Practice Certificate of Registration – Extended Access with Restrictions will need to meet the registration and ongoing professional development requirements in their home province.

Patient Complaints
The patient may wish to file their complaint in Ontario or in the physiotherapist's home province. The Colleges in the two provinces will work together on the investigation.

When will it Start?
Different provinces will be rolling out their program at different times. In Ontario we will be ready to accept applications on June 23, 2017.

- [1] tracheal suctioning
- spinal manipulation
- acupuncture (including dry needling)
- treating a wound below the dermis
- assessing or rehabilitating pelvic musculature and
- administering a substance by inhalation
- treatment where they use PTAs/Physiotherapist Assistants

Canadian Alliance of Physiotherapy Regulators

Report

The board of directors met by teleconference on March 30, 2017. It approved the 2016 draft financial statements (see accompanying statements – if you require more detailed statements, please speak to me and I will forward by e-mail). As well, the board reviewed its first ever case of alleged cheating, and set sanctions.

The board then met in Toronto on April 4 and 5, 2017, to continue its strategic planning. Significant progress was made, and the excitement is building as the organization moves towards communicating and publishing its new strategic direction.

The board next met in Toronto on May 12, 2017. It discussed the "TRIPLE P" project (physiotherapy practice profile), which has been completed, and will guide the development of an up-to-date exam blueprint. It also discussed its evolving and improving relationship with the academic sector. And, the board was updated on the new standard setting process that essentially converts the written component of the exam from a normative based assessment to a criteria based assessment. The May, 2017 written exam will be the first time that this new process is instituted.

Please note that two Ontarians were honored with the 2016 Recognition Award:

Jane Goldberg (Toronto) – Written Test Generation Team

Helen McKay (Toronto) – Clinical Test Development Group

Data on pass rates and fail rates:

	PASS RATE	
	Written	Clinical
2008 - 2012	53%	67%
2013 – 2017	47%	57%

2014– 2017

Canadian trained - 9 have failed the written exam 3 times (0.4 %)

- 6 have failed the clinical exam 3 times (0.3%)

Internationally Educated (IEPT) - 47% pass rate on written

-57 % pass rate on clinical

BUT, the overall unsuccessful rate is under 10% !!!

Regards,

Darryn Mandel

CAPR

Summary Statement of Financial Position

As at December 31, 2016

	2016	2015
ASSETS	4 820 428	4 248 544
LIABILITIES	1 372 813	1 075 246
NET ASSETS		
Invested in capital assets	100 286	131 070
Contingency Reserve	1 517 227	1 517 227
Designated Reserve	532 134	551 796
Unrestricted	1 297 968	973 205
TOTAL NET ASSETS	3 447 968	3 173 296

CAPR

Summary Statement of Operations

Year End December 31, 2016

	2016	2015
Revenue	5 574 894	4 995 193
Expenses	5 300 577	4 458 516
Excess of Revenue over Expenses	274 317	536 677

April 3, 2017

CAPR Canadian Alliance of Physiotherapy Regulators | ACORP Alliance canadienne des organismes de réglementation de la physiothérapie

THIS AND THAT

Canadian Alliance of Physiotherapy Regulators Newsletter

In this issue:

A Word From the CEO

Katya Masnyk

CAPR leadership recently joined physiotherapy education program leaders and clinical placement coordinators (CCPUP and NACEP) for a day of communication and collaboration. The goal was to explore opportunities to better align Canadian physiotherapy education and physiotherapy competency assessment. In an historic “first”, CAPR and CCPUP have agreed to continue regular discussion of issues of mutual interest, including potential data exploration and joint research opportunities. I am very encouraged by the outcomes of the day and believe this promising collaboration will lead to a stronger physiotherapy profession.

CAPR Wins Human Rights Challenge

In 2016, an exam candidate - after failing the Physiotherapy Competency Exam 3 times and losing eligibility for future attempts - claimed his test anxiety constituted a disability that should be accommodated with an additional attempt at the exam. When CAPR refused to provide him an additional attempt, he complained that CAPR discriminated against him on the grounds of mental and physical disability. He filed a complaint with the BC Human Rights Tribunal.

The Decision

In January 2017, the Tribunal dismissed the complaint. It stated that in this case "there was no reasonable prospect that [the candidate's] complaint could succeed because there is no evidence that he had a mental or physical disability within the meaning of the Code".

The Rationale

The Tribunal cited a previous decision: "A bare assertion of pain or anxiety is not...a sufficient basis upon which to allege that one has a mental disability". CAPR is pleased that the BC Human Rights Tribunal has supported its position and feels that the finding provides some clarity for future decisions relating to test anxiety.

Health Career Options Guide Launched

Many internationally educated health professionals (IEHPs) find credential recognition and job search within their discipline to be extremely challenging.

They may want to consider related work options, either temporarily or permanently.

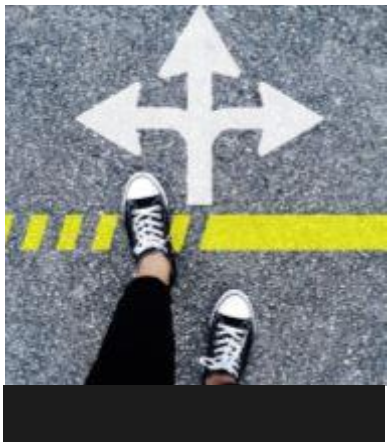
Assess Health Careers Canada has created online Health Career Options Guides for IEHPs from 10 different professions, including physiotherapists.

For each profession, the Guide contains:

- A basic description of the profession in Canada
- Frequently asked questions about working in Canada
- A list of related career options
- A description of the related career including working conditions, required qualifications and communication skills, expected wages and related websites.

The Health Career Options Guides were launched on April 1. To check out the options guide for physiotherapists, click here.

Key Statistics



Credential Assessment Wait Times

As of March 31, 2017

Files with a precedent: 5 weeks (benchmark: 10 – 12 weeks)
Files without a precedent: 12 weeks (benchmark: 16 – 18 weeks)

Credential Application Volumes—YTD

Budgeted Number of Applications to March 31 = 201
Actual Number of Applications Received to March 24 = 170

Examination Volumes—YTD

Written Component YTD Number Budgeted = 345 Actual = 361
Clinical Component YTD Number Budgeted = 0 Actual = 0

Did You Know?

That CAPR now has its own official Facebook page? Candidates can get updates on registration deadlines, exam result release dates or learn what's new and exciting at CAPR.
Read more here.

That as of April 1, the College of Physiotherapists of Ontario has changed the requirements relating to Provisional Practice Certificates of Registration?
Read more here.

That the World Confederation for Physical Therapy (WCPT) and the International Network of Physiotherapy Regulatory Authorities (INPTRA) have announced a formal collaboration?
Read more here.

Contact Us

Canadian Alliance of Physiotherapy Regulators

1243 Islington Ave,
Toronto, ON
M8X 1Y9

(416) 234-8800

info@alliancept.org

Visit our website at
www.alliancept.org

To unsubscribe, click here

Connecting and Learning

On February 23 and 24, 2017, CAPR gathered subject matter experts - clinicians from all settings and academics - from across the country to assist in a passing score setting exercise for the written component of the Physiotherapy Competency Exam. The day was a big success and CAPR is indebted to the SMEs for the time and expertise they shared.

March 5 - 8, the Association of Test Publishers hosted their annual Innovations in Testing Conference. Both Katya Masnyk and Hervé Jodouin attended the conference which featured sessions on innovative test question design, improvements to score reports, and designing tests considering the human element.

It was a busy month for Katya, who also met with the councils of the Nova Scotia College of Physiotherapists and Physiotherapy Alberta - College and Association. In each case, she spoke about CAPR's strategic planning, including where we have been and where we are going as an organization.

Credentialling Officers, Rebecca Chamula and Shereen Mir-Jabbar had an article published in the newsletter of The Association of International Credential Evaluation Professionals entitled, 6 Facts about the Credentialling Process for IEPTs Who Want to Practice Physiotherapy in Canada.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
EXECUTIVE COMMITTEE

Committee Membership and Number of Meetings in 2016/17 Fiscal Year:

Stephen Mangoff – Chair
Gary Rehan
Catherine Hecimovich
Darryn Mandel
Tyrone Skanes
Peter Ruttan (Until June 15, 2016)
Zita Devan (Until June 15, 2016)

In person meetings were held on the following dates:

- May 31, 2016
- September 7, 2016
- November 22, 2016
- March 7, 2017

Teleconference meetings were held on the following dates:

- June 10, 2016

About the Committee

The Executive Committee's role is to provide leadership to Council, to promote governance excellence at all levels, and to facilitate effective functioning of the College. In certain circumstances the Executive Committee can act on behalf of Council between meetings and when required, will reconstitute itself as the College Privacy Committee to deal with appeals about how personal information is managed by the College.

Trends and/or Issues of Note

- At the June 10, 2016 Executive meeting the Offer to amend the lease for Suite 800, was approved.
- All Executive decisions have been included in the Executive Committee Report to Council in the Council packages.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
REGISTRATION COMMITTEE

Registration Committee Members:
Gary Rehan—Chair
Jennifer Dolling
Marcia Dunn
Shadi Katirai
Nadine Graham

About the Committee:
The role of the Registration Committee is to review applications that come to the College that may not meet registration requirements. The Committee must decide whether to issue certificates of registration in these cases. The Committee also monitors entry to practice issues in the provincial, national and international environments.

Committee Activity:
The Registration Committee met eight times via teleconference over the past year.

The Committee considered 16 cases. Ten applicants were granted certificates of registration with or without terms, conditions and limitations, and six were denied certificates. One decision was appealed through the Health Professions Review and Appeal Board. The Registration Committee decision was upheld.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
QUALITY ASSURANCE COMMITTEE

Committee Membership and Number of Meetings in 2016/17 Fiscal Year:
Theresa Stevens (Chair)
Deborah Lucy
James Lee
Ron Bourret
Jatinder Bains
Kelly Brewer

The Quality Assurance Committee met, in person, once per quarter: June, September, December, and June 2017. The Committee had one teleconference in December 2017 following the Committee meeting in December.

Statistics

The Committee Considered 38 cases (12%) of all practice assessments whereas staff reviewed 272 cases (88%)
Outcomes of Committee reviewed cases included the following:

- 20 successfully completed assessments
- 5 successfully completed assessments with additional recommendations
- 13 practice enhancements (10 were directed with a coach)

During this year 7 practice enhancements closed.

Record keeping continues to be the most highly identified area where concerns identified. In all practice assessments 23% included record keeping concerns. Problems related to record keeping include the absence or inconsistent documentation of treatment goals, reassessments, consent or care delivered by the physiotherapist assistant.

Concerns connected to the chart stimulated recall are present in 11% of practice assessments and compared to last year this percentage has doubled. Clinical reasoning and failure to have a written plan for adverse events associated with controlled acts are two problems identified in this area.

Finally, practice issues are present in 9% of practice assessment outcomes. Various issues arise in this section including concerns about consent processes, identifying the health information custodian, infection control, and written communication plans for physiotherapists supervising physiotherapist assistants. Practice issues have almost doubled in percentage compared to last year's data.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
PATIENT RELATIONS COMMITTEE

Committee Membership and Number of Meetings in 2016/17 Fiscal Year:

Sharee Mandel, Chair
Vinh Lu, Professional Member
Lisa Tichband, Professional Member
Shadi Katirai, Public Representative

Meeting dates: December 19, 2016

Statistics
During the period of April 1, 2016 to March 31, 2017 the Patient Relations Committee met once and considered one application for funding for therapy and counseling. The Committee approved the application.

IMPORTANT INFORMATION FOR COUNCIL TO BE AWARE OF

- **NOTE: This occurred after March 31, 2017**

Trends and/or Issues of Note:
In May 2017 the College received an application for funding for therapy and counseling from a former patient of a physiotherapist. The patient had previously filed a complaint with the College which was referred to the Discipline Committee for a hearing. At the conclusion of the hearing the physiotherapist was found to have committed various acts of professional misconduct:

The panel found that the physiotherapist:
a) Touched the patient on her thighs while demonstrating her injuries in a manner that was not clinically appropriate, for which he did not have consent and that was a violation of the patient's personal boundaries.
b) Leaned his body against the patient and violated her personal boundaries without her consent.
c) Touched the side of the patient's breast under her arm as she was leaving the room and did not acknowledge, apologize or otherwise explain the touch to the patient.
d) Initially placed part of the patient's foot against his crotch area during a clinically indicated calf stretch resulting in the patient feeling that his genitals were beneath her foot. Then repositioned her foot appropriately against his thigh for the balance of the stretch; however did not acknowledge, apologize or otherwise explain the contact with his crotch/genitals to the patient.

e) Rubbed the patient's back in a manner that was not appreciated by the patient and for which he did not have her consent.

The Panel **was not** satisfied that the touching was of a sexual nature, a term that is defined in subsections 1(3) and (4) of the Health Professions Procedural Code of the Regulated Health Professions Act, 1991.

On May 23, 2017 the Patient Relations Committee considered that the patient was not eligible for funding for therapy and counseling under the current regulation but they approved the application for the following reasons:

- The patient's need for treatment and request for funding.
- The patient's report of how the incident has had an impact on her (victim impact statement from the hearing).
- The pending changes described in Bill 87 - the Protecting Patients Act which will permit patients to seek funding at the point that they file a complaint with the College
- The current environment where stakeholders are demanding more from the regulatory health colleges as it relates to protecting patients (the government of Ontario, the Ministry of Health and Long Term Care, the public, and the media).

Budgetary Implications

As per the regulation a patient could access up to $16 060 over a five year period for therapy and counseling. The College has sufficient funds to cover these costs.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE

Committee Membership and Number of Meetings in 2016/17 Fiscal Year:

Committee Membership:
Michelle Addison – Chair
Tyrone Skanes
Sharee Mandel
Gary Rehan
Deb Lucy
Jane Darville

Number of Meetings in 2016/17 Fiscal Year:
10 – 9 face-to-face and 1 teleconference

Trends and/or Issues of Note

- Increase in the number of Specified Continuing Education and Remediation Program (SCERP) dispositions
- Communication issues noted in many matters

Statistics

Number of matters considered + breakdown of outcomes

Number of matters considered:
122

Breakdown- number of specific outcomes:

- 28 approve the appointment of investigator
- 34 no action
- 12 specified continuing education and remediation program
- 2 specified continuing education and remediation program and a caution
- 3 caution
- 14 advice and recommendation
- 3 defer for additional investigation
- 2 defer for prosecutorial viability assessment
- 2 defer for legal opinion
- 6 refer to discipline committee for a hearing

- 1 refer to incapacity proceedings
- 6 defer for draft allegations
- 1 rescind appointment of investigator
- 1 direction to negotiate an agreement and undertaking
- 6 defer for additional information
- 1 defer for draft allegations and additional information

Number of appeals + outcomes

Number of appeals:
10 appealed to the Health Professions Appeal and Review Board (HPARB)

2 appealed to Divisional Court (Judicial Review)

Outcomes:
4 ICRC decisions upheld by HPARB

1 HPARB matter returned to ICRC for further investigation

Other HPARB matters and Divisional Court matters are still active in the appeals process

Possibly – nature of concerns (if info is available)

Not available

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
DISCIPLINE & FITNESS TO PRACTISE COMMITTEE

Committee Membership and Number of Meetings in 2016/17 Fiscal Year:

Catherine Hecimovich—Chair
Ron Bourret, Public representative
Sheila Cameron, Professional member
Zita Devan, Public representative
Nadine Graham, Academic representative
Janet Law, Professional member
James Lee, Public representative
Darryn Mandel, Professional member
Daniel Negro, Professional member (as of December 13, 2016)
Lori Neill, Professional member
James Wernham, Professional member (as of December 13, 2016)

Trends and/or Issues of Note:
Over the last couple of years the Discipline Committee has seen an increase in the number of referrals from the Inquiries, Complaints and Reports Committee.

	Number of Referrals from the ICRC
2013/2014	1
2014/2015	6
2015/2016	6
2016/2017	4

The allegations have varied: inappropriate business practices, inappropriate use of support personnel, and poor record keeping, failure to meet professional obligations as it relates to the College, and sexual abuse / boundary violations.

Where referrals have included an allegation related to the inappropriate use of support personnel, there is often a concern that a Physiotherapy Assistant (PTA) is acting as a Physiotherapist in that they are conducting assessments, communicating a diagnosis and preparing the patient goals / treatment plans.

Statistics
For the period of April 1, 2016 to March 31, 2017

Discipline Hearings Completed: 8

CPO and Graham Jones	Uncontested	December 5, 2016
CPO and Zak Bayat	Return from Divisional Court	May 4, 2016
CPO and Zak Bayat	Adjourned	June 9, 2016
CPO and Zak Bayat	Adjourned	June 9, 2016
CPO and Zak Bayat	Adjourned	June 9, 2016
CPO and Oren Smith	Uncontested	March 8, 2017 decision pending
CPO and A Hanna	Adjourned	June 14, 2016
CPO and M Singh	Uncontested	November 15, 2016

Discipline Hearings in Progress: 1

CPO and Neil Boon	Contested	Started June 7, 2016

Discipline Hearings Pending: 5

- CPO and France Laberge (completed June 5, 2017)
- CPO and Joselyne Bellamy (completed June 5, 2017)
- CPO and Joselyne Bellamy (completed June 5, 2017)
- CPO and Lo Ming Lum (completed June 6, 2017)
- CPO and Jeklina Konjarski (completed June 6, 2017)

Fitness to Practise Hearings Pending, In Progress or Completed: 0

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Annual Report
April 1, 2016 to March 31, 2017
FINANCE COMMITTEE

Committee Membership and Number of Meetings in 2016/17 Fiscal Year:

James Lee - Chair
Lisa Tichband
Janet Law
Stephen Mangoff
Gary Rehan
Shenda Tanchak
Robyn MacArthur – from January 2017
Peer Flach – to December 2016

Teleconference meetings were held on the following dates:
May 12, 2016 – Pre-Audit Call
May 27, 2016 – Post-Audit Call & Q4 Expense Variances
August 18, 2016 – Q1 Expense Variances
February 15, 2017 – Secondary Budget Review prior to Executive and March Council Meetings
March 10, 2017 – Combined with Executive - Budget update for Capital Expenditures on the new office space

In person meetings were held on the following dates:

November 10, 2016 – Q2 Expense Variances & Financial Literacy Training
February 3, 2017 – Initial 2017-2018 Fiscal Budget Review & Q3 Expense Variances

Trends and/or Issues of Note:

Three Major Events occurred in the year concerning the Finance Committee:

- The College moved to new space, incurring significant cost and requiring new accounting within the fiscal year
- The College entered into an agreement to purchase a new Database
- New Auditors (Hilborn) were selected following a vendor review, and have now completed their first year-end audit.

Meeting Date:	June 21-22, 2017
Agenda Item #:	11
Issue:	Q4 financial reports for fiscal year 2016/2017 & Amended Budgets
Submitted by:	Robyn MacArthur

The following pages show various reports on Q4 of fiscal year 2016/2017, and for the full year. They have been reviewed by the Finance Committee and Executive Committees.

Additionally, we include for information, the amended operating and capital budgets for the current 2017/2018 fiscal year. Changes are based on the Hilborn recommendations that have been accepted by Finance Committee.

Executive Summary

The College's spending level was at 95% of target for the year. Please see variance analysis for details.

Attachments:

- 2016-2017 Q4 & Full Year Statement of Operations with variance analysis
- Balance sheet as at 03/31/2017
- Amended Operating and Capital Budgets

College of Physiotherapists of Ontario
Statement of Operations - Budget vs. Actual
April 2016 through March 2017

	Q4			YTD			
	Jan - Mar 17	Budget	% of Budget	Apr '16 - Mar 17	Budget	% of Budget	Notes for Council
Ordinary Income/Expense							
Income							
4007 · Registration fee credits	-2,473.35	0.00	100.0%	-45,002.87	-30,527.00	147.42%	Issued more fee credits than anticipated as more PTs went on maternity leave
4004 · Cost recovery from cost orders	0.00	6,750.00	0.0%	14,000.00	24,300.00	57.61%	Anticipated cost payments in a given quarter were not realized due to the scheduling of hearings
4003 · Remediation Chargeback	3,058.54	10,200.00	29.99%	18,591.74	28,800.00	64.56%	Anticipated costs will appear in Q1 2017.
4001 · Registration Fees	1,405,708.39	1,328,841.20	105.79%	5,407,726.40	5,237,952.20	103.24%	
4002 · Interest Income	33,813.33	16,436.37	205.72%	109,041.38	65,745.48	165.85%	Budget only included interest in Savings and not investments
4010 · Miscellaneous Income	725.00	300.00	241.67%	2,853.35	4,200.00	67.94%	
Total Income	1,440,831.91	1,362,527.57	105.75%	5,507,210.00	5,330,470.68	103.32%	
Gross Profit	1,440,831.91	1,362,527.57	105.75%	5,507,210.00	5,330,470.68	103.32%	
Expense							
5000 · Committee Per Diem							
5001 · Chairs meeting - per diem	0.00	0.00	0.0%	821.16	1,635.40	50.21%	
5002 · ICRC - per diem	3,097.00	5,522.40	56.08%	23,101.00	31,624.20	73.05%	One ICRC Meeting has been cancelled
5003 · Council - per diem	12,784.50	11,341.50	112.72%	41,404.50	45,366.00	91.27%	Council Per diems were budgeted at the maximum allowance; under spending is a result of lower per diem claims.
5005 · Discipline Committee - per diem	3,028.00	5,540.00	54.66%	25,453.00	21,722.76	117.17%	Contested hearings required more days than anticipated. Overall, in several cases we have been able to deal with more than one referral in one day.
5006 · Executive - per diem	4,545.00	3,802.32	119.53%	12,356.50	17,225.28	71.74%	Cost is lower than anticipated costs due to President not claiming for additional time for presidential duties.
5010 · Patient Relations - per diem	1,210.00	1,835.40	65.93%	2,618.00	5,837.20	44.85%	
5011 · QM Committee - per diem	2,881.00	1,308.32	220.21%	11,085.00	5,233.28	211.82%	No Committee Prep time was built into the budget
5012 · Registration Com. - per diem	0.00	1,224.70	0.0%	1,271.50	5,774.94	22.02%	Budgeted in person meeting was changed to a 2-hour teleconference in Q2 and applications requiring committee consideration are down compared to previous years.
5017 · Finance Committee - per diem	1,503.50	1,776.65	84.63%	3,107.50	2,956.65	105.1%	
Total 5000 · Committee Per Diem	29,049.00	32,351.29	89.79%	121,218.16	137,375.71	88.24%	
5050 · Committee Reimbursed Expenses							
5051 · Chairs meeting - expenses	0.00	0.00	0.0%	8,531.22	2,141.32	398.41%	Unbudgeted Discipline Chair's training and facilitation training for President and Vice President
5052 · ICRC - expenses	2,694.23	3,726.12	72.31%	21,346.72	22,356.69	95.48%	
5053 · Council - expenses	14,976.06	11,871.95	126.15%	71,378.59	68,220.91	104.63%	Unbudgeted expenses that are budgeted for next year (CAPR)
5055 · Discipline Committee - expenses	2,380.77	10,000.00	23.81%	26,456.96	39,395.50	67.16%	Hearings did not proceed as anticipated.
5056 · Executive Committee - expenses	3,490.30	1,963.06	177.8%	11,562.65	7,852.24	147.25%	Average travel/accommodation cost for Executive Committee higher than overall average used for budgeting.
5061 · Patient Relations - expenses	505.40	3,504.38	14.42%	1,251.43	10,513.14	11.9%	Committee members were local - travel expenses were minimal and accommodations were not required
5062 · QM Committee - expenses	2,694.63	1,713.06	157.3%	7,009.00	6,852.24	102.29%	
5063 · Registration Comm. - expenses	0.00	0.00	0.0%	0.00	1,384.79	0.0%	
5075 · Finance Committee - expenses	698.51	984.79	70.93%	1,954.23	984.79	198.44%	Full Year - no budget in Q3
Total 5050 · Committee Reimbursed Expenses	27,439.90	33,763.36	81.27%	149,490.80	159,701.62	93.61%	
5100 · Information Management							
5102 · Software	2,641.60	2,525.07	104.62%	7,369.83	5,890.86	125.11%	Accounting software subscription not budgeted.
5103 · IT Maintenance	18,788.68	15,000.75	125.25%	72,884.34	75,503.00	96.53%	
5104 · IT Database	31,796.57	0.00	100.0%	31,796.57	20,000.00	158.98%	Remaining Novantis expenses after refund agreement
Total 5100 · Information Management	53,226.85	17,525.82	303.71%	112,050.74	101,393.86	110.51%	
5200 · Insurance	2,355.48	2,343.60	100.51%	9,465.39	9,374.40	100.97%	

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2017-05-29
Accrual Basis

College of Physiotherapists of Ontario
Statement of Operations - Budget vs. Actual
April 2016 through March 2017

	Q4			YTD			
	Jan - Mar 17	Budget	% of Budget	Apr '16 - Mar 17	Budget	% of Budget	Notes for Council
5300 · Networking, Conf. & Travel	2,010.45	6,232.00	32.26%	31,954.58	37,658.00	84.86%	Shenda did not attend FARB Regulatory Law Seminar; OPA food and taxi were over budgeted (Fiona did not stay at the hotel); Fiona did not attend the Touchstone Conference
5400 · Office and General							
5402 · Bank & service charges	36,085.35	41,800.42	86.33%	145,911.93	164,825.14	88.53%	
5403 · Maintenance & repairs	1,769.91	488.79	362.1%	6,670.82	19,455.16	34.29%	Move related costs included in Budget, to be capitalized in new fiscal
5405 · Memberships & publications	49,651.93	49,835.95	99.63%	188,728.61	193,523.21	97.52%	Variance results from lower costs for College and OPA memberships / Expired Publications not being renewed
5407 · Office & kitchen supplies	4,405.54	4,300.00	102.45%	17,389.34	17,200.00	101.1%	
5408 · Postage & courier	1,778.43	2,800.00	63.52%	10,370.97	11,200.00	92.6%	Focus on electronic messaging
5409 · Rent	121,273.67	96,642.00	125.49%	308,963.21	305,914.87	101.0%	Quarter includes 1 month rent for Suite 800 - not in budget
5411 · Printing, Filing & Stationery	4,220.94	3,123.00	135.16%	11,971.63	12,492.00	95.83%	Move related storage in Q4
5412 · Telephone & Internet	8,341.16	7,350.23	113.48%	30,980.77	33,430.92	92.67%	
5413 · Bad Debt	12,334.72	0.00	100.0%	12,334.72	0.00	100.0%	Writeoff's to match AR policy on receivables over 90 days
Total 5400 · Office and General	239,861.65	206,340.39	116.25%	733,322.00	758,041.30	96.74%	
5500 · Regulatory Effectiveness							
5503 · Council Education	3,418.12	6,853.00	49.88%	34,078.27	36,053.00	94.52%	Underspending in the quarter resulted from the way OPA costs were budgetted (budget was doubled in Q4 instead of being distributed to Q1 and Q4. Also Q4 OPA conference was budgeted for Hamilton, however this was a Toronto conference resulting in lower expenses.
5504 · Elections	0.00	3,200.00	0.0%	3,650.00	3,200.00	114.06%	Vendor increased fees and US dollar fluctuation
5505 · Policy Development	-747.77	30,800.00	-2.43%	102,619.69	119,845.00	85.63%	Variance results from cost savings in the by-law project and the records project, lower costs from AGRE, the delay in the registration regulation and the sharing of costs for the clinic regulation proejct.
Total 5500 · Regulatory Effectiveness	2,670.35	40,853.00	6.54%	140,347.96	159,098.00	88.22%	
5600 · Communications							
5605 · French Language Services	2,819.92	2,000.00	141.0%	8,262.97	6,000.00	137.72%	Requests for French translation exceeded expectations. Had a complainant who requested communications in French.
5620 · Print Communication	6,026.48	0.00	100.0%	11,164.63	0.00	100.0%	
5621 · Online Communication	107,073.61	31,743.15	337.31%	180,921.73	164,200.60	110.18%	Unexpected PISA-related costs as a result of staff departure, additional hosting costs, fluctuating US dollar and changes to website project.
5622 · In-Person Communication	6,804.25	1,500.00	453.62%	23,740.08	19,800.00	119.9%	Interest in outreach exceeded projections leading to a need for additional food, drink and A/V and room requirements.
Total 5600 · Communications	122,724.26	35,243.15	348.22%	224,089.41	190,000.60	117.94%	
5700 · Professional fees							
5701 · Audit	4,500.00	3,000.00	150.0%	21,588.35	12,000.00	179.9%	Audit closure took more hours than accrued for. Approval of new auditor also brought with it higher accruals compared to budget.
5702 · Hearing Expenses	367.82	2,081.46	17.67%	12,987.22	7,967.63	163.0%	Need for transcripts from hearing days was higher than anticipated
5704 · Investigations	6,377.88	5,900.00	108.1%	19,388.64	27,600.00	70.25%	The need for external service providers and expert opinions was less than anticipated
5750 · Legal							
5753 · Legal - Professional Conduct							
5760 · General Counsel	9,390.95	13,750.00	68.3%	25,471.56	55,000.00	46.31%	The requests for PVAs and general legal advice related to PC activities was less than anticipated. This is in part related to the extensive backlog within the team
5761 · Independent Legal Advice	13,511.00	18,984.00	71.17%	47,756.07	69,291.60	68.92%	The need for ILC services was less than anticipated given that 4 hearings were adjourned sine die

College of Physiotherapists of Ontario
Statement of Operations - Budget vs. Actual
April 2016 through March 2017

	Q4			YTD			
	Jan - Mar 17	Budget	% of Budget	Apr '16 - Mar 17	Budget	% of Budget	Notes for Council
5762 · Hearing Counsel	30,972.81	39,154.50	79.1%	112,966.95	123,119.15	91.75%	Some cases not progressing through the court system as anticipated.
5763 · Divisional Court appeals	386.00	0.00	100.0%	6,035.15	35,000.00	17.24%	Anticipated divisional court matter did not proceed
5753 · Legal - Professional Conduct - Other	0.00			-2,702.06			
Total 5753 · Legal - Professional Conduct	54,260.76	71,888.50	75.48%	189,527.67	282,410.75	67.11%	
5755 · General Legal	4,021.86	2,500.00	160.87%	21,141.96	10,000.00	211.42%	The requests for PVAs and general legal advice related to PC activities was less than anticipated. This is in part related to the extensive backlog within the team
Total 5750 · Legal	58,282.62	74,388.50	78.35%	210,669.63	292,410.75	72.05%	
Total 5700 · Professional fees	69,528.32	85,369.96	81.44%	264,633.84	339,978.38	77.84%	
5800 · Programs							
5810 · Quality Mgmt Program							
5811 · QM Program Development & Eval.	0.00	86.00	0.0%	0.00	242.00	0.0%	
5821 · Assessor Travel	10,999.46	18,400.00	59.78%	70,056.45	87,850.00	79.75%	Early year projections for selection costs were too high. The adjustments made compensated for this trend resulted in number of assessments being lower than target.
5823 · Assessor Training	0.00	0.00	0.0%	51,997.52	51,344.51	101.27%	Early year projections for selection costs were too high. The adjustments made compensated for this trend resulted in number of assessments being lower than target.
5824 · Assessor Onsite Assessment Fee	29,327.50	33,488.00	87.58%	115,322.50	133,952.00	86.09%	Early year projections for selection costs were too high. The adjustments made compensated for this trend resulted in number of assessments being lower than target.
Total 5810 · Quality Mgmt Program	40,326.96	51,974.00	77.59%	237,376.47	273,388.51	86.83%	
5802 · Jurisprudence	7,580.00	5,650.00	134.16%	35,057.12	31,330.00	111.9%	3rd party support for Jurisprudence required for emailing and notifying members of obligation to complete, not included in budget
5870 · Practice Enhancement - QM							
5871 · QM Practice Enhancement fees	791.44	0.00	100.0%	3,326.44	0.00	100.0%	
5872 · QM Practice Enhancement travel	0.00	0.00	0.0%	648.16	0.00	100.0%	
5870 · Practice Enhancement - QM - Other	223.08	1,050.00	21.25%	223.08	4,200.00	5.31%	The Committee assigned far fewer than anticipated number of PTs to PE. This resulted in costs being lower than projected.
Total 5870 · Practice Enhancement - QM	1,014.52	1,050.00	96.62%	4,197.68	4,200.00	99.95%	
5880 · Remediation - PC	3,836.72	10,200.00	37.62%	19,978.59	28,800.00	69.37%	Fewer sessions and less costs than was anticipated.
5890 · Sexual Abuse Therapy	2,375.00	3,000.00	79.17%	3,825.00	12,000.00	31.88%	Lower than anticipated SA therapy costs
Total 5800 · Programs	55,133.20	71,874.00	76.71%	300,434.86	349,718.51	85.91%	
5900 · Staffing							
5901 · Salaries	610,863.52	562,583.70	108.58%	2,402,071.21	2,367,262.14	101.47%	Double counting for Salary for Corp. Services for 1 month (March) & Vacation Payouts to Employees who left & a couple of Market Adjustments to Salaries not budgeted for
5902 · Employer Benefits	22,222.60	19,535.88	113.75%	86,826.40	80,152.96	108.33%	Budget assumptions below actual rates
5903 · Employer RRSP Contribution	29,545.05	29,741.04	99.34%	116,439.01	116,151.53	100.25%	
5904 · Consultant fees	63,239.27	13,500.00	468.44%	111,511.91	87,500.00	127.44%	Director, Corp Services Contract
5905 · Staff Development	16,250.84	15,509.38	104.78%	92,087.14	125,007.62	73.67%	Costs for unanticipated staff training were balanced by staff changes that reduced the amount spent on conference attendences.
5906 · Recruitment	0.00	400.00	0.0%	1,297.24	1,600.00	81.08%	
5907 · Staff Recognition	4,522.06	2,100.00	215.34%	9,146.58	11,330.00	80.73%	Lower than anticpated costs for staff recognition.
5911 · CPP - Canadian Pension Plan	30,645.54	27,238.82	112.51%	77,762.73	67,516.15	115.18%	
5912 · EI - Employment Insurance	14,390.38	14,467.57	99.47%	36,542.73	35,554.12	102.78%	Budget assumptions below actual rates
5913 · EHT - Employer Health Tax	3,886.48	2,181.01	178.2%	43,203.76	37,090.17	116.48%	Budget assumptions below actual rates
5914 · Vacation Pay Adjustment	0.00	0.00	0.0%	0.00	0.00	0.0%	
Total 5900 · Staffing	795,565.74	687,257.40	115.76%	2,976,888.71	2,929,164.69	101.63%	

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2017-05-29
Accrual Basis

College of Physiotherapists of Ontario
Statement of Operations - Budget vs. Actual
April 2016 through March 2017

	Q4			YTD			
	Jan - Mar 17	Budget	% of Budget	Apr '16 - Mar 17	Budget	% of Budget	Notes for Council
Total Expense	1,399,565.20	1,219,153.97	114.8%	5,063,896.45	5,171,505.07	97.92%	
Net Ordinary Income	41,266.71	143,373.60	28.78%	443,313.55	158,965.61	278.87%	
Other Income/Expense							
Other Income							
6001 · Amortization	25,435.17	-181,186.68	-14.04%	-60,070.55	-217,236.72	27.65%	Budget assumed Database Purchase
Total Other Income	25,435.17	-181,186.68	-14.04%	-60,070.55	-217,236.72	27.65%	
Net Other Income	25,435.17	-181,186.68	-14.04%	-60,070.55	-217,236.72	27.65%	
Net Income	**66,701.88**	**-37,813.08**	**-176.4%**	**383,243.00**	**-58,271.11**	**-657.69%**	

College of Physiotherapists of Ontario
Balance Sheet
As of 31 March 2017

	31 Mar 17	31 Mar 16	Change
ASSETS			
Current Assets			
Chequing/Savings			
1000 · Cash on Hand			
1001 · Petty Cash	250.00	250.00	0.00
1002 · Petty Cash (USD)	200.00	200.00	0.00
1003 · CC Clearing - RBC - 100-999-2	226,536.49	2,737,474.10	-2,510,937.61
1005 · Operating - RBC - 102-953-7	102,396.08	-41,684.10	144,080.18
1000 · Cash on Hand - Other	195.16	195.16	0.00
Total 1000 · Cash on Hand	329,577.73	2,696,435.16	-2,366,857.43
1100 · Investments			
1102 · Investments - Short Term	1,159,494.15	4,597,667.96	-3,438,173.81
1103 · Savings - RBC - 100-663-4	7,104,759.84	4,025,201.08	3,079,558.76
1104 · Investments - Long Term	3,547,068.40	0.00	3,547,068.40
Total 1100 · Investments	11,811,322.39	8,622,869.04	3,188,453.35
Total Chequing/Savings	12,140,900.12	11,319,304.20	821,595.92
Accounts Receivable			
1200 · Accounts Receivable	246,931.22	271,051.60	-24,120.38
Total Accounts Receivable	246,931.22	271,051.60	-24,120.38
Other Current Assets			
1201 · Allowance for Doubtful Accounts	-235,834.72	-223,500.00	-12,334.72
1400 · Prepaid Expenses			
1401 · Prepaid Software	8,021.64	117,268.78	-109,247.14
1403 · Prepaid IT services	13,916.47	10,281.28	3,635.19
1405 · Prepaid Insurance	4,697.72	6,320.16	-1,622.44
1406 · Prepaid Membership	134,284.65	124,941.77	9,342.88
1408 · Prepaid staff development	11,311.13	3,849.34	7,461.79
1410 · Prepaid meetings	19,744.57	10,658.20	9,086.37
1411 · Prepaid Rent	22,712.72	0.00	22,712.72
Total 1400 · Prepaid Expenses	214,688.90	273,319.53	-58,630.63
Total Other Current Assets	-21,145.82	49,819.53	-70,965.35
Total Current Assets	12,366,685.52	11,640,175.33	726,510.19
Fixed Assets			
1301 · Computer equipment	287,095.82	274,977.12	12,118.70
1302 · Computer Software	7,940.84	87,991.01	-80,050.17
1305 · Computer equipment - Acc dep	-267,757.35	-213,925.78	-53,831.57
1306 · Computer Software - Acc Dep	-6,126.36	-29,004.18	22,877.82
1310 · Furniture and Equipment	464,531.23	464,531.23	0.00
1312 · Furniture and Equipment - Dep	-460,354.65	-431,237.85	-29,116.80
1320 · Leasehold Improvements	402,013.85	402,013.85	0.00
1322 · Leasehold Improvments -Acc dep	-402,013.85	-402,013.85	0.00
1325 · Construction Work In Progress	154,742.89	0.00	154,742.89
Total Fixed Assets	180,072.42	153,331.55	26,740.87
TOTAL ASSETS	**12,546,757.94**	**11,793,506.88**	**753,251.06**

College of Physiotherapists of Ontario
Balance Sheet
As of 31 March 2017

	31 Mar 17	31 Mar 16	Change
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
2000 · Accounts Payable	113,619.29	44,996.60	68,622.69
Total Accounts Payable	113,619.29	44,996.60	68,622.69
Other Current Liabilities			
2010 · Accrued Liabilities	261,686.62	59,782.40	201,904.22
2011 · Vacation Accrual	87,729.01	0.00	87,729.01
2100 · Deferred Revenue			
2101 · Deferred Registration Fees	5,143,180.00	4,846,627.07	296,552.93
2105 · Deferred credit card charges	0.00	-125,268.07	125,268.07
2110 · Banked refunds	35,125.48	30,722.06	4,403.42
Total 2100 · Deferred Revenue	5,178,305.48	4,752,081.06	426,224.42
2150 · Other Payables			
2151 · Due to Great-West Life	0.00	1,204.10	-1,204.10
2152 · Due to London Life (RRSP)	14,817.66	3,966.84	10,850.82
Total 2150 · Other Payables	14,817.66	5,170.94	9,646.72
Total Other Current Liabilities	5,542,538.77	4,817,034.40	725,504.37
Total Current Liabilities	5,656,158.06	4,862,031.00	794,127.06
Total Liabilities	5,656,158.06		5,656,158.06
2190 · Lease Inducements	0.00	20,086.80	-20,086.80
Total Long Term Liabilities	0.00	20,086.80	-20,086.80
Total Liabilities	5,656,158.06	4,882,117.80	774,040.26
Equity			
3000 · Unrestricted Reserve	303,936.00	258,058.34	45,877.66
3001 · Invested in Capital Assets	180,073.00	153,330.65	26,742.35
3010 · Restricted Reserves			
3011 · Contingency Reserve	6,078,725.00	5,171,999.81	906,725.19
3012 · Fee Stabilization Reserve	327,865.00	1,328,000.19	-1,000,135.19
Total 3010 · Restricted Reserves	6,406,590.00	6,500,000.00	-93,410.00
3900 · Retained Earnings	-331,676.00	-591,967.00	260,291.00
Net Income	331,676.88	591,967.09	-260,290.21
Total Equity	6,890,599.88	6,911,389.08	-20,789.20
TOTAL LIABILITIES & EQUITY	**12,546,757.94**	**11,793,506.88**	**753,251.06**

	Operating Budget														
	Approved Budget for 2017-2018					Ammended Budget for 2017-2018					Change in Budget for 2017-2018				
	Q1	Q2	Q3	Q4	Full Year	Q1	Q2	Q3	Q4	Full Year	Q1	Q2	Q3	Q4	Full Year
	Apr - Jun 17	Jul - Sep 17	Oct - Dec 17	Jan - Mar 18	Apr '17 - Mar 18	Apr - Jun 17	Jul - Sep 17	Oct - Dec 17	Jan - Mar 18	Apr '17 - Mar 18	Apr - Jun 17	Jul - Sep 17	Oct - Dec 17	Jan - Mar 18	Apr '17 - Mar 18
Ordinary Income/Expense															
Income															
Total Income	1,292,331.56	1,348,915.01	1,349,015.06	1,386,548.85	5,376,810.48	1,292,331.56	1,348,915.01	1,349,015.06	1,386,548.85	5,376,810.48	0.00	0.00	0.00	0.00	0.00
Gross Profit	1,292,331.56	1,348,915.01	1,349,015.06	1,386,548.85	5,376,810.48	1,292,331.56	1,348,915.01	1,349,015.06	1,386,548.85	5,376,810.48	0.00	0.00	0.00	0.00	0.00
Expense															
5000 · Committee Per Diem															
Total 5000 · Committee Per Diem	35,851.63	25,205.07	34,575.93	47,396.88	143,029.51	35,851.63	25,205.07	34,575.93	47,396.88	143,029.51	0.00	0.00	0.00	0.00	0.00
5050 · Committee Reimbursed Expenses															
Total 5050 · Committee Reimbursed Expenses	52,398.03	21,122.84	29,674.71	43,311.42	146,507.00	52,398.03	21,122.84	29,674.71	43,311.42	146,507.00	0.00	0.00	0.00	0.00	0.00
5100 · Information Management															
5101 · IT Hardware	1,934.37	1,934.37	1,934.37	1,934.37	7,737.48	1,934.37	1,934.37	1,934.37	1,934.37	7,737.48	0.00	0.00	0.00	0.00	0.00
5102 · Software	2,030.41	2,030.41	2,030.41	17,834.03	23,925.26	2,030.41	2,030.41	2,030.41	17,834.03	23,925.26	0.00	0.00	0.00	0.00	0.00
5103 · IT Maintenance	18,972.00	18,972.00	18,972.00	18,972.00	75,888.00	0.00	240,696.86	240,696.86	240,696.86	722,090.57	-18,972.00	221,724.86	221,724.86	221,724.86	646,202.57
Total 5100 · Information Management	22,936.78	22,936.78	22,936.78	38,740.40	107,550.74	3,964.78	244,661.64	244,661.64	260,465.26	753,753.31	-18,972.00	221,724.86	221,724.86	221,724.86	646,202.57
5200 · Insurance	2,344.40	2,344.40	2,375.75	2,375.75	9,440.30	2,344.40	2,344.40	2,375.75	2,375.75	9,440.30	0.00	0.00	0.00	0.00	0.00
5300 · Networking, Conf. & Travel	2,394.50	13,403.52	29,074.76	1,298.00	46,170.78	2,394.50	13,403.52	29,074.76	1,298.00	46,170.78	0.00	0.00	0.00	0.00	0.00
5400 · Office and General															
Total 5400 · Office and General	240,799.96	213,561.16	221,269.98	215,618.18	891,249.28	240,799.96	213,561.16	221,269.98	215,618.18	891,249.28	0.00	0.00	0.00	0.00	0.00
5500 · Regulatory Effectiveness															
Total 5500 · Regulatory Effectiveness	18,932.20	22,053.51	47,918.59	4,020.00	92,924.30	18,932.20	22,053.51	47,918.59	4,020.00	92,924.30	0.00	0.00	0.00	0.00	0.00
5600 · Communications															
Total 5600 · Communications	23,590.00	37,490.00	60,540.00	41,990.00	163,610.00	23,590.00	37,490.00	60,540.00	41,990.00	163,610.00	0.00	0.00	0.00	0.00	0.00
5700 · Professional fees															
Total 5700 · Professional fees	78,837.79	69,673.90	65,640.63	158,746.98	372,899.30	78,837.79	69,673.90	65,640.63	158,746.98	372,899.30	0.00	0.00	0.00	0.00	0.00
5800 · Programs															
Total 5800 · Programs	125,193.65	101,738.15	74,460.65	71,665.65	373,058.10	125,193.65	101,738.15	74,460.65	71,665.65	373,058.10	0.00	0.00	0.00	0.00	0.00
5900 · Staffing															
5901 · Salaries	628,816.35	670,895.20	653,470.67	655,573.75	2,608,755.97	628,816.35	670,895.20	653,470.67	655,573.75	2,608,755.97	0.00	0.00	0.00	0.00	0.00
5902 · Employer Benefits	23,412.45	24,209.47	24,607.98	24,607.98	96,837.88	23,412.45	24,209.47	24,607.98	24,607.98	96,837.88	0.00	0.00	0.00	0.00	0.00
5903 · Employer RRSP Contribution	28,191.89	29,272.26	29,812.05	31,264.26	118,540.46	28,191.89	29,272.26	29,812.05	31,264.26	118,540.46	0.00	0.00	0.00	0.00	0.00
5904 · Consultant fees	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5905 · Staff Development	8,117.45	29,218.00	38,040.11	13,675.00	89,050.56	8,117.45	29,218.00	38,040.11	13,675.00	89,050.56	0.00	0.00	0.00	0.00	0.00
5906 · Recruitment	400.00	400.00	400.00	400.00	1,600.00	400.00	400.00	400.00	400.00	1,600.00	0.00	0.00	0.00	0.00	0.00
5907 · Staff Recognition	2,230.00	2,410.00	5,480.00	2,410.00	12,530.00	2,230.00	2,410.00	5,480.00	2,410.00	12,530.00	0.00	0.00	0.00	0.00	0.00
5911 · CPP - Canadian Pension Plan	23,658.57	14,075.17	6,953.19	31,951.10	76,638.03	23,658.57	14,075.17	6,953.19	31,951.10	76,638.03	0.00	0.00	0.00	0.00	0.00
5912 · EI - Employment Insurance	10,838.39	6,397.52	3,079.97	14,718.37	35,034.25	10,838.39	6,397.52	3,079.97	14,718.37	35,034.25	0.00	0.00	0.00	0.00	0.00
5913 · EHT - Employer Health Tax	12,261.91	13,082.46	12,742.68	4,008.69	42,095.74	12,261.91	13,082.46	12,742.68	4,008.69	42,095.74	0.00	0.00	0.00	0.00	0.00
5914 · Vacation Accrual	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00	5,000.00
Total 5900 · Staffing	737,927.01	789,960.08	774,586.65	778,609.15	3,081,082.89	737,927.01	789,960.08	774,586.65	783,609.15	3,086,082.89	0.00	0.00	0.00	5,000.00	5,000.00
Total Expense	1,341,205.95	1,319,489.41	1,363,054.43	1,403,772.41	5,427,522.20	1,322,233.95	1,541,214.27	1,584,779.29	1,630,497.27	6,078,724.77	-18,972.00	221,724.86	221,724.86	226,724.86	651,202.57
Net Ordinary Income	-48,874.39	29,425.60	-14,039.37	-17,223.56	-50,711.72	-29,902.39	-192,299.26	-235,764.23	-243,948.42	-701,914.29	18,972.00	-221,724.86	-221,724.86	-226,724.86	-651,202.57
Other Income/Expense															
Other Income															
6001 · Amortization	-20,724.96	-833.33	-16,861.13	-29,361.13	-67,780.55	-25,329.53	-18,952.33	-18,952.33	-18,952.33	-82,186.52	-4,604.57	-18,119.00	-2,091.20	10,408.80	-14,405.97
Total Other Income	-20,724.96	-833.33	-16,861.13	-29,361.13	-67,780.55	-25,329.53	-18,952.33	-18,952.33	-18,952.33	-82,186.52	-4,604.57	-18,119.00	-2,091.20	10,408.80	-14,405.97
Net Other Income	-20,724.96	-833.33	-16,861.13	-29,361.13	-67,780.55	-25,329.53	-18,952.33	-18,952.33	-18,952.33	-82,186.52	-4,604.57	-18,119.00	-2,091.20	10,408.80	-14,405.97
Net Income	-69,599.35	28,592.27	-30,900.50	-46,584.69	-118,492.27	-55,231.92	-211,251.59	-254,716.56	-262,900.75	-784,100.81	14,367.43	-239,843.86	-223,816.06	-216,316.06	-665,608.54

	Capital Budget														
	Q1	Q2	Q3	Q4	Full Year	Q1	Q2	Q3	Q4	Full Year	Q1	Q2	Q3	Q4	Full Year
Office Move to 8th Floor					812,010.38					812,010.38	0.00	0.00	0.00	0.00	0.00
CRM					722,090.57					0.00	0.00	0.00	0.00	0.00	-722,090.57
IT Hardware					10,000.00					10,000.00	0.00	0.00	0.00	0.00	0.00
Total Capital Budget 2017-2018	0.00	0.00	0.00	0.00	1,544,100.95	0.00	0.00	0.00	0.00	822,010.38	0.00	0.00	0.00	0.00	-722,090.57

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 13

Motion

Council Meeting
June 21–22, 2017

Agenda #13: Committee Slate Approval

It is moved by _____,

and seconded by

_____,

that:

Council approve the proposed 2017-18 committee slate (with Chairs).

Meeting Date:	June 21-22, 2017
Agenda Item #:	13
Issue:	Proposed Council Committee Slate
Submitted by:	Rod Hamilton

Issue:

Council needs to approve the proposed 2017-18 committee slate (with chairs).

Background:

The process for the development of the College committee slate is now integrated with the Council performance review process so that information arising out of that process can be incorporated into the development of the proposed committee slate. This means that a proposed committee slate is developed prior to the Annual General Meeting for approval by Council at that meeting.

Council will recall that in order to make the process for developing the slate of proposed committee memberships as objective as possible, it incorporates a variety of information types. This includes:

- Performance of committee members. As noted above, information on the assessment of committee members' performance by the committee chairs is now collected by the President and a brief summary of this information in incorporated into the slate development process.
- Committee preference. Councillors and current non-council committee members are asked to express interest in the top three committees they would be interested in sitting on, ranked in order of preference.
- Committee experience. Councillors and non-council committee members are asked to provide information on their committee experience and related skills
- Interest in chairing. Councillors and non-council committee member are asked to indicate if they are interested in chairing a committee.
- A brief summary of observations on committee members provided by the directors associated with each committee is also included.
- A measure for succession planning that promotes the allocation of less experienced people to committees associated with fewer high stakes decisions was incorporated (where possible).

Committee Slates

As a reminder of the process used to allocate people to committees, staff assign a numerical point value to each discrete category of information collected. This information is then entered into a spreadsheet organized by each committee. This spreadsheet then calculates numerical values corresponding to a rough indication of who might be most suitable to serve on each committee.

In order to respect the confidentiality of the feedback provided by the participants in the process (committee members, chairs and staff), the compilation and assessment this raw data is undertaken by one senior staff person and is not shared with others in the organization.

The raw values are then assessed against a number of other considerations relevant to committee membership including the required composition of the committee (professional, public or non-council), the need to avoid conflicts of interest arising from committee appointments, and the need to distribute committee work as equitably as circumstances allow while respecting people's ability to commit time.

This process then leads to a proposed slate for each committee's membership. This outcome is always a compromise since the goals of the exercise are to enable the College to staff each of its committees, and where possible, provide learning opportunities for committee members.

In keeping with previous practice, the College President offered suggestions for the choice of committee chairs.

The proposed committee slate, along with the proposed committee chairs was reviewed by the Executive Committee in early June. A couple of minor suggestions were made and Executive is now recommending it to Council for approval.

Slate

The proposed committee slate is appended to this briefing material. When considering this material, Council should note that the recently approved by-law changes confirmed the recent practice of having an ICRC with six active members of the committee.

In addition, a list of all the councilors and non-council committee members and their allocation to committees is appended. This is the Committee Workload Assessment sheet. It is intended to allow easier consideration of how many committees each member is assigned to.

The final attachment is a list of the people who have expressed an interest in chairing one or more committees and the committees they are interested in chairing.

It is important to note that due to the changes in committee sizes, the required composition of committees, as well as the fact that at the moment Council is short one public appointee and one academic appointee, some Council members may not have as many committee memberships as they have previously and some may have more than they want. Some committee preferences may also not have been met due to the needs of the committees.

One of the most significant changes is the proposed addition of Deb Lucy as non-Council committee member. Deb has expressed an interest in maintaining her connection with the College in a non-Council committee role and this wish has been accommodated with a proposed appointment to the QA committee.

One other issue that Council should note is that the proposed slate reflects the fact that the Council composition currently only has one Academic appointee (Nadine Graham), since as noted above, Deb Lucy's appointment has expired.

Queen's University (the next university in the appointments rotation) was approached for an appointee and they offered Kathleen Norman as their proposed candidate. When the Executive Committee considered the ratification of Dr. Norman at their meeting earlier in June, they were concerned that while she fulfilled the College's eligibility requirements, up until very recently, she had held an appointment on the OPA Board of Directors. While the College's by-laws for the appointment of academic members do not include the requirement for a one year cooling off period, the Executive Committee was concerned about the public perception of appointing a Councillor who until so recently had been on the OPA Board and declined to ratify her appointment. Executive then requested that staff approach Queens to suggest an alternative appointment. This request has been submitted to Queens.

Non-Council Committee Members

Council will recall that identifying potential qualified candidates to serves as non-council committee members has always been challenging for the College since such candidates are often identified on previous relationships with the College rather than through a competency based selection process.

As such Council may also wish to consider developing a more formalized process to identify potential non-council committee members. If Council believes that it would be worthwhile to consider developing a process for identifying potential non-council members, it might be helpful to base it on the process recently used to identify appropriate non-council committee members for the Discipline Committee.

In this instance committee appointment was treated in a manner similar to a job recruitment. So rather than just issue a general call for interest, or choose from some pre-identified group of members, when the committee members were needed the College recruited applicants for the roles.

Here is an overview of the process used:

1. Staff program managers identified the key competencies required of non-council committee members for the committee.
2. The College recruited physiotherapists interested in the role.
3. The College screened potential committee members to ensure they demonstrated the required competencies.

Once this process was complete, the recommendations of the program manager were fed into the Committee selection process at the staff level. It should be noted that the committee slate developed at the staff level is subject to review by the College's Executive Committee and Council, so no commitment could be made to potential applicants till the decision on committee memberships was ratified by Council.

In keeping with the concept of competency based appointments, based on direction from Council, some version of this process could over time come to be used for all non-council committee appointments.

Decision Sought:

That Council approve the proposed 2017-18 committee slate (with chairs).

Attachments:

- Proposed Committee Slate
- Committee Workload Assessment
- Interest in Chairing

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

PROPOSED COLLEGE COMMITTEE STRUCTURE & COMPOSITION – June, 2017

COMMITTEE	REQUIRED COMMITTEE COMPOSITION	MEMBERSHIP	BRIEF DESCRIPTION OF STATUTORY COMMITTEE'S RESPONSIBILITIES	Staff Support
EXECUTIVE	5 people: • At least 3 Professional Members of Council • At least 1 but not more than 2 Public Appointees • Must include President and Vice President	Gary Rehan (Chair) Catherine Hecimovich VP Theresa Stevens Darryn Mandel Tyrone Skanes	The Committee provides leadership to Council, promotes governance excellence at all levels, facilitates effective functioning of the College, in certain circumstances, to act on behalf of Council between meetings and when required, to reconstitute itself as the College privacy committee to deal with appeals regarding the manner in which personal information is managed by the College. The Committee has all powers of the Council with respect to any matter that requires immediate attention, other than the power to make, amend or revoke a regulation or by-law.	Shenda Tanchak Elicia Ramdhin
INQUIRIES, COMPLAINTS AND REPORTS (ICRC)	At least 6 people at least • 2 are Professional Members of Council • 2 are Public Appointees • 1 is Non Council	Michelle Addison (proposed chair) Sharee Mandel Gary Rehan Tyrone Skanes Jane Darville Vinh Lu	ICRC investigates complaints and considers reports as per section 79 of the Code related to the conduct or action, competencies or capacity of registrants as it relates to their practicing the profession.	Sandi Keough Tess Currie
DISCIPLINE & FITNESS TO PRACTISE	At least 10 people: • 2-7 Professional Members • 3 Public Appointees • Up to 5 Non-Council Members	Cathy Hecimovich (proposed chair) Nadine Graham Lisa Tichband Darryn Mandel Zita Devan Ron Bourret James Lee Sheila Cameron Lori Neill Jim Wernham Daniel Negro	A panel of at least 3-5 persons convenes to hear allegations of conduct or incompetence as referred by the ICRC. A panel of at least 3-5 persons convenes to hear allegations of incapacity as referred by the health inquiry panel of the ICRC. Hearings are in a judicial setting and can last from one to several days. Decisions and Reasons are documented in detail.	Anita Ashton Elicia Ramdhin

COMMITTEE	REQUIRED COMMITTEE COMPOSITION	MEMBERSHIP	BRIEF DESCRIPTION OF STATUTORY COMMITTEE'S RESPONSIBILITIES	Staff Support
QUALITY ASSURANCE	2 Professional Members 2 Public Appointees 2 Non-Council Members	Theresa Stevens (proposed chair) Lisa Tichband Ron Bourret James Lee Deb Lucy Jatinder Bains	The Committee is to administer the College's Quality Assurance program as defined in section 80.1 of the Code that is intended to assure the quality and safety of professional practice and promote continuing competence among the registrants.	Shelley Martin Cici Czigler
REGISTRATION	1 Professional Member 1 Academic Member 2 Public Appointees 1 Non-Council Member	Janet Law Nadine Graham Jane Darville Jennifer Dolling (proposed chair) Marcia Dunn	The Committee makes decisions on registration applications that do not meet the criteria for issuance of a certificate of registration by the Registrar and to ensure that processes related to entry are fair, transparent and objective.	Mary Kennedy
PATIENT RELATIONS	2 Professional Members 1 Public Appointee 1 Non-Council Member	Sharee Mandel (proposed chair) Nicole Graham Zita Devan Jatinder Bains	The Committee is to advise Council with respect to the patient relations program and to administer the program to provide funding for therapy and counselling.	Anita Ashton
FINANCE (non statutory)	President Vice President 3 Councillors at least 1or 2 Public Appointees	Gary Rehan Cathy Hecimovich James Lee (proposed chair) Nicole Graham Janet Law	The Committee is to monitor significant financial planning, management and reporting matters of the College, to make recommendations and deliver reports to Council, and to serve as the College's audit committee.	Shenda Tanchak Robyn MacArthur
Provincial Alliance Representative		Darryn Mandel		

Committee Workload Assessment 2017-18

Name	Exec	ICRC	Dis/Fit	Reg.	PRC	QAC	Finance	CAPR
1.Theresa Stevens	X					X		
2. Gary Rehan	X	X					X	
3. Janet Law				X			X	
4. Darryn Mandel	X		X					X
5. Nicole Graham					X		X	
6. Lisa Tichband			X			X		
7. Sharee Mandel		X			X			
8. Cathy Hecimovich	X		X				X	
9. Academic – TBD								
10.Nadine Graham			X	X				
11. Jane Darville		X		X				
12. Zita Devan			X		X			
13. Tyrone Skanes	X	X						
14. Ron Bourret			X			X		
15. James Lee			X			X	X	
16. Jennifer Dolling				X				
17. Public - TBD								
1. Vinh Lu		X						
2. Marcia Dunn				X				
3. Jatinder Bains					X	X		
5. Sheila Cameron			X					
6. Michelle Addison		X						
7. Lori Neill			X					
8. Jim Wernham			X					
9. Daniel Negro			X					
10. Deb Lucy						X		

Those who are interested in chairing a committee 2017-18

Name	ICRC	Discipline/Fitness	Registration	PRC	QA	Finance
1. Theresa Stevens	Yes				Yes	
2. Jane Darville	Yes		Yes			
3. Cathy Hecimovich		Yes	Yes			Yes
4. Darryn Mandel					Yes	
5. Gary Rehan			Yes			
6. Sharee Mandel				Yes		
7. James Lee						Yes
8. Janet Law				Yes		
9. Ron Bourett		Yes				
10. Michelle Addison	Yes					
11. Deb Lucy	Yes		Yes		Yes	
12. Jenn Dolling			Yes			

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.:15

Motion

Council Meeting
June 21–22, 2017

Agenda #15: Approval of the Council Meeting Minutes of March 22 and 23, 2017

It is moved by

_____,

and seconded by

_____,

that:

the Council meeting minutes of March 22 and 23, 2017 be approved as presented.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

DRAFT – MEETING OF THE COUNCIL OF THE COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

MINUTES
March 22 & 23, 2017
At
The College Board Room
375 University Avenue, Suite 901, Toronto

Attendees:

Mr. Stephen Mangoff (President)
Mr. Gary Rehan (Vice President)
Mr. Ron Bourret
Ms. Jane Darville
Ms. Zita Devan
Ms. Theresa Stevens
Ms. Nadine Graham
Mr. Darryn Mandel
Ms. Janet Law
Mr. James Lee
Ms. Catherine Hecimovich
Ms. Deborah Lucy
Ms. Sharee Mandel
Mr. Tyrone Skanes
Ms. Lisa Tichband
Ms. Shadi Katirai (March 22, 2017)

Recorder: Ms. Elicia Ramdhin

Regrets: Ms. Shadi Katirai (March 23, 2017)
Ms. Jennifer Dolling (March 22 and 23, 2017)

Observers: Ms. Lisa Tucker, President, College of Massage Therapists (March 22, 2017)
Ms. Kate McLeod, Ontario Physiotherapy Association (March 22 and 23, 2017)

9:00AM **Welcome**

1.0 Approval of the Agenda

Motion 1.0

It is moved by Ms. Jane Darville and seconded by Ms. Zita Devan that:

CARRIED.

The agenda be approved as circulated.

Mr. Ron Bourret entered the Council chambers at 9:30 a.m.

2.0 Approval of the Council Meeting Minutes of December 12 & 13, 2016

Motion 2.0

It is moved by Ms. Deborah Lucy and seconded by Ms. Theresa Stevens that:

The Council meeting minutes of December 12 and 13, 2016 be approved as presented. **CARRIED.**

DRAFT

3.0 Addition: Discussion of Council Election Candidate

Motion 3.0

Mr. Gary Rehan declared a conflict of interest and left the Council chambers.

It is moved by Mr. Tyrone Skanes and seconded by Mr. Darryn Mandel that:

Mr. Scott Vowels, candidate from District 4 – Eastern, be disqualified based on bylaw 13 subsection 8, from the Council election. **CARRIED.**

Staff was directed to inform members of District 4 – Eastern of the change to the nomination ballet and to provide the members of that district with the opportunity to revote.

4.0 Registrar's Report: Final Report on the 2013–2017 Strategic Plan

Ms. Shenda Tanchak, Registrar, provided a report on the goals, deliverables and accomplishments of the 2013–2017 Strategic Plan to Council.

The 2013–2017 goals were:

1. Improve Protection of the Integrity of the Title Physiotherapist and the College Registration Number.
2. Improve College Oversight of Physiotherapists' Use of Support Personnel/Assistants.
3. Ensure College Expectations Respond To The Evolving Environment.

Work on these goals will continue but in a limited capacity. It was noted Standards are continuing to evolve and it is anticipated that projects like Clinic Regulation may continue to require College participation.

5.0 FHRCO Patient Website: Presentation

Ms. Lisa Pretty, Director of Communications, provided Council with an update on the progress of the Federation of Health Regulatory Colleges of Ontario (FHRCO) new patient website. The primary goal is to act as a conduit for members of the public to gain centralized access all 26 Regulatory College websites. This is phase one of the project – phase two may look at alternative methods for public engagement.

DRAFT

6.0 By-law Review 2016/17

Motion 6.0

It is moved by Mr. Tyrone Skanes and seconded by Ms. Sharee Mandel that:

Council approve the proposed revisions to the by-laws. **CARRIED.**

7.0 Strategic Goals

Ms. Tanchak reviewed the process for the development of the 2017 – 2020 Strategic Goals and timeline. It was noted the Goals will be achieved through a balanced scorecard approach. The strategic tactics have been grouped into three levels: organizational capability, internal process and stakeholders.

8.0 Request to go *in camera* pursuant to Section 7(2) of the Health Professions Procedural Code

Motion 8.0

It is moved by Mr. Tyrone Skanes and seconded by Ms. Catherine Hecimovich that:

Council move to the *in camera* to discuss matters pursuant to Section 7(2) of the Health Professions Procedural Code. **CARRIED.**

Council returned to the public portion of the meeting at 11:45 am.

9.0 Q3 Financial Reports for Fiscal Year 2016/2017

The financial statements for the third quarter of the financial year was reviewed by Ms. Robyn MacArthur, Director of Corporate Services. It is anticipated that the underspending in the second and third quarter will be balanced by the fourth quarter, and a break even budget is predicted for the year end.

10.0 Approval of the Operating and Capital Budgets 2017/2018

Motion 10.0

It is moved by Mr. Tyrone Skanes and seconded by Ms. Sharee Mandel that:

Council approves the 2017-2018 Operating and Capital Budgets. **CARRIED.**

DRAFT

11.0 What is Physiotherapy?

With the practice of physiotherapy evolving, the College's Practice Advice team and some Committees have seen an increase in questions regarding scope of practice. The Canadian Alliance of Physiotherapy Regulators (CAPR) developed a tool to assist in scope discussions to determine whether a particular modality is in or outside of the scope of practice of physiotherapy.

Ms. Fiona Campbell, Senior Physiotherapist Advisor, used a real life example of Cryotherapy to demonstrate how the tool works with Council.

Although the tool is not in its final form, it will be posted on the College website for the use of individual practitioners.

12.0 Supervision Workshop

Council participated in a workshop where they were asked to provide feedback on what expectations should be included in the Supervision Standard.

The workshop was conducted in two parts:

- Part one: They were asked what expectations should be included in the Standard.
- Part two: Which type(s) of supervisees the expectations should apply to.

There were two expectations that group one and two disagreed with:

- Expectation 19 - the physiotherapist must co-sign all of the supervisee's charting.
- Expectation 24- the physiotherapist must immediately notify the College, in writing, if he or she is unable to fulfill their responsibilities as a supervisor were disagreed upon.

Council discussed expectations 19 and 24 and decided neither should be included in the Standard.

In part two of the workshop, Council discussed who each of the expectations should apply to. Council noted co-signing charts is not enforceable but needs to be investigated further.

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9:00AM **13.0** **Canadian Alliance of Physiotherapy Regulators Update**

Mr. Darryn Mandel noted the Canadian Alliance of Physiotherapy Regulators (CAPR) Board of Directors has approved their 2017 budget and has made two policy changes: the requirement for onsite training of Canadian graduates has been removed to be consistent with the requirements for Internationally Educated Physiotherapists and, the requirement for completing clinical practice in the province in which physiotherapists receive their education was removed.

He also noted there was a 10 day delay in the release of exam results due to an extensive study performed on the data.

14.0 **Canadian Alliance of Physiotherapy Regulators Exam Scoring**

Dr. Hervé Jodouin, National Director, Credentials & Examinations presented to Council on the CAPR Licensing exam, development of the examination questions and future changes (a copy of which forms Appendix "A" to the minutes of this meeting).

15.0 **Collaborative Care Guideline**

Motion 15.0

It is moved by Ms. Catherine Hecimovich and seconded by Ms. Sharee Mandel that:

Council approve the development of a Collaborative Care Guideline. **CARRIED.**

16.0 **Duty to Provide Care Guideline**

Motion 16.0

It is moved by Ms. Catherine Hecimovich and seconded by Mr. Gary Rehan that:

Council approve the development of a Duty to Provide Care Guideline. **CARRIED.**

17.0 **Bill 87 "Protecting Patients Act"**

Bill 87, Protection Patients Act was introduced in December 2016. Council was provided with an update on the FHRCO submission in support of the Bill and, their suggested amendments to improve the functionality of the proposed provisions. Council discussed the possible implications to the College.

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18.0 AGRE's Governance Work

Mr. Rod Hamilton, Associate Registrar – Policy and Quality Assurance, provided an update on Advisory Group for Regulatory Excellence's (AGRE) governance work. Their current work revolves around reviewing the recommendations to changes to the governance structure from the College of Nurses of Ontario's study. Council discussed the possible implications to the College.

19.0 President's Report

Mr. Mangoff announced the following Councillors will attend the pre-identified learning opportunities:

1. Council on Licensure Enforcement and Regulation (CLEAR) North American meeting: James Lee and Sharee Mandel.
2. Canadian Network of Associations of Regulators (CNAR): Lisa Tichband
3. Federation of State Boards of Physical Therapy (FSBPT): Gary Rehan.
4. Society of Ontario Adjudicators and Regulators (SOAR): Theresa Stevens and Ron Bourret.
5. Council on Licensure, Enforcement & Regulation (CLEAR) International Congress: Catherine Hecimovich and Jennifer Dolling.
6. Ontario Physiotherapy Association (OPA) 2018: Janet Law.

It was also noted with the review of the RHPA underway, outstanding items such as physiotherapists being able to order diagnostics, are likely to be brought forward.

20.0 Election: Executive Committee

Mr. Mangoff provided an overview of the format for the election and indicated the new office will take effect in June 2017.

Ballots with the nominees for President, Vice President and Executive Committee were distributed.

Before voting, Mr. Mangoff appointed Mr. Hamilton and Ms. Ashton as scrutineers; there were no objections.

Election of the President
The following nomination was highlighted:

DRAFT

President:

- Mr. Gary Rehan

Mr. Mangoff called for additional nominations from the floor; none were presented. Mr. Rehan was acclaimed President.

Election of the Vice President

The following nominations were highlighted:

Vice President:

- Mr. Darryn Mandel
- Ms. Catherine Hecimovich

Mr. Mangoff called for additional nominations from the floor; none were presented. Nominees were given the opportunity to provide a verbal candidate statement.

Councillors anonymously voted but returned with a tie. Another round of voting occurred also resulting in a tied. Following the procedures of the Election, Ms. Tanchak, selected the name of one candidate through random draw.

Ms. Catherine Hecimovich was elected as Vice President for the 2017-2018 year.

Election of the Executive Committee

The following nominations were highlighted:

Executive Committee:

- Mr. Darryn Mandel
- Ms. Catherine Hecimovich
- Ms. Sharee Mandel
- Ms. Janet Law
- Ms. Theresa Stevens
- Mr. Tyrone Skanes

Mr. Tyrone Skanes was acclaimed as the only public member.

Mr. Mangoff called for additional nominations- there were no new nominations. Nominees were given the opportunity to provide a verbal candidate statement.

Councillors anonymously voted and the following were elected to the Executive Committee for the 2017-2018 year:

DRAFT

- Mr. Gary Rehan (President)
- Ms. Catherine Hecimovich (Vice President)
- Mr. Tyrone Skanes
- Mr. Darryn Mandel
- Ms. Theresa Stevens

Mr. Mangoff noted in consultation with the Executive Committee, Mr. Darryn Mandel has been appointed as the College Canadian Alliance of Physiotherapy Regulators (CAPR) Board representative.

Motion to adjourn by Sharee. Meeting was adjourned at 1:30 p.m.

Adjournment

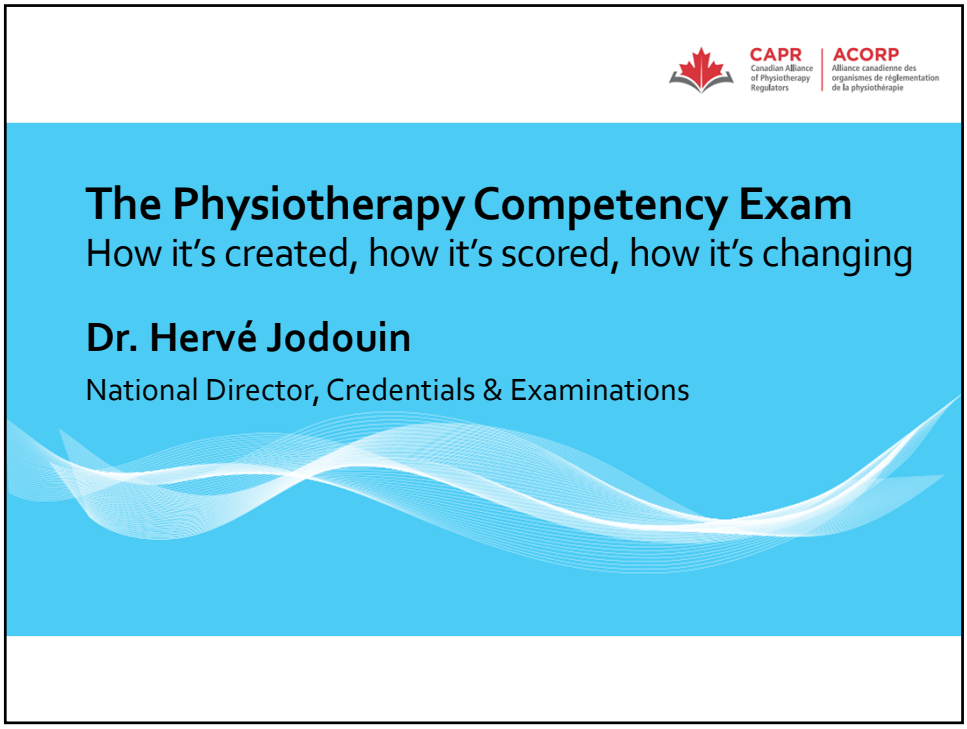
21.0 It was moved by Ms. Sharee Mandel that the meeting be adjourned.

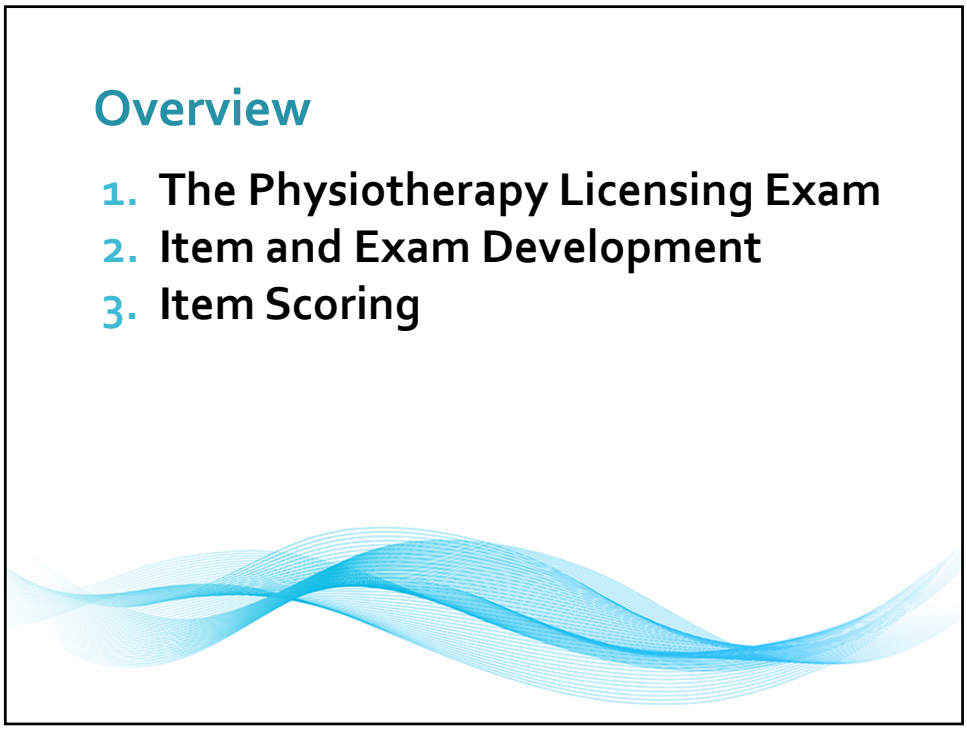
CARRIED.

Mr. Mangoff adjourned the meeting at 1:30 p.m.

Gary Rehan, President

DRAFT


CAPR
Canadian Alliance of Physiotherapy Regulators
ACORP
Alliance canadienne des organismes de réglementation de la physiothérapie
The Physiotherapy Competency Exam
How it's created, how it's scored, how it's changing
Dr. Hervé Jodouin
National Director, Credentials & Examinations


Overview
1. The Physiotherapy Licensing Exam
2. Item and Exam Development
3. Item Scoring

Part 1: PCE Overview

1. A quick word about context
2. Overall purpose
3. Pass rates—historically and comparatively

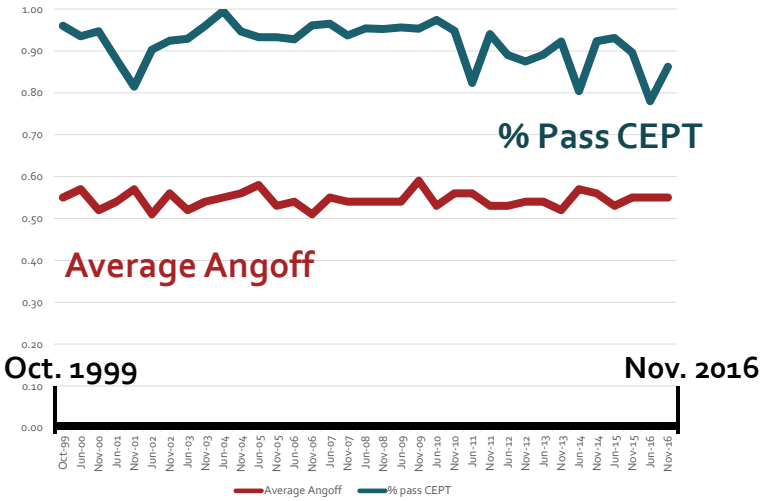
Exam Validity: A Clear Purpose

Physiotherapy Competency Exam Purpose

- To ensure PTs practicing in Canada have the **minimum competence** (knowledge, skills & abilities) required for safe and effective practice regardless of experience or program of education
- To ensure the **assessment** of this competence is standardized for all candidates entering practice in Canada
- **To protect the public**

Let's Talk About Pass Rates

Comparison of the overall clinical exam pass rates to the CEPT and overall clinical exam pass rates to the mean Angoff difficulty rating



The Written Exam: Us and Them

Organization		Pass Rates for First Attempts			
			2014	2015	2016
CAPR	Canadian Educated	Written Component	94%	92%	93%
Medical Doctors	Canadian Trained	MCCQE I written (Medical Council of Canada Qualifying Examination)	98%	95%	
Dietetic		CDRE written (Canadian Dietetic Registration Exam)	95%	96%	
Nursing	Ontario Educated	Written	85%	69%	
Dentists		Written	89%	88%	89%
Dental Hygienists		NDHCE Written (National Dental Hygiene Certification Examination)			80%
Chiropractors	Canadian	Component A Written		91%	
	Canadian	Component B Written		97%	
Occupational Therapists		Written	88%	86%	
Optometry		Written and Clinical	86%	90%	90%
Physiotherapy	FSBPT (US PT testing agency)	Written US candidates	91%	91%	94%

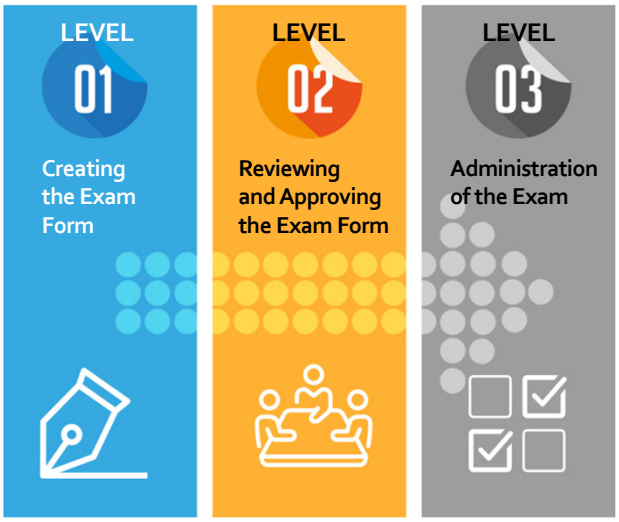
The Clinical Exam: Us and Them

Organization		Pass rates for first attempts				
			2013	2014	2015	2016
CAPR	Canadian Educated	Clinical component	92%	91%	90%	84%
Medical Doctors	Canadian Trained	MCCQE II clinical (Medical Council of Canada Qualifying Examination)	95%	94%	92%	
Dentists		OSCE	97%	99%	95%	94%
Chiropractors	Canadian	Component COSCE			93%	
Opticians		National Optical Sciences Examination—Eyeglasses Examination		85%	84%	84%
		National Optical Sciences Examination—Advanced Practice Contact Lens Examination		68%	68%	69%
Optometry		Written and Clinical	95%	86%	90%	90%

Item Development Process

- **Blueprint lnked** item assigned to writing team
- **Team develops and reviews**
- **Second team** provides feedback
- **Original team** edits per feedback
- **National chairs** and others review
- **Accepted items** added to bank for field test, rejected back to start
- **CLINICAL ONLY**—items selected for exam
- **CLINICAL ONLY**—reviewed by local team
- **CLINICAL ONLY**—reviewed by National CTDG
- **Field tested and reviewed** (examiner comments for clinical)
- **Inserted into item bank**
- **Selected for exam**

Exam Development



Creating the Exam Form

- **200 items are selected** from the item bank to match the blueprint(Yardstick)
- **Items are reviewed** for content and level of difficulty, balance of content (e.g. not all questions are about pediatrics or about knees)
- **CAPRs PT Advisor reviews each item—** She approves the final version of the exam.

Reviewing and Approving the Exam Form

- **16 stations are selected** from the item bank to match the blueprint by our PT advisor.
- **The Clinical Development Test Group reviews each station**. They approve the final version of the exam.
- **Items are reviewed** for content and level of difficulty, balance of content, potential for safety issues (critical step given that only have 16 stations)

Standard Setting

The Written Exam

- Modified Angoff to recommend cut score to the Board of Directors
- Done either when the Blueprint has changed or every 3 to 5 years

The Clinical Exam

- Modified Angoff at each administration to determine the borderline candidates used for the calculation of the cut score

Scoring: The Written Exam

03

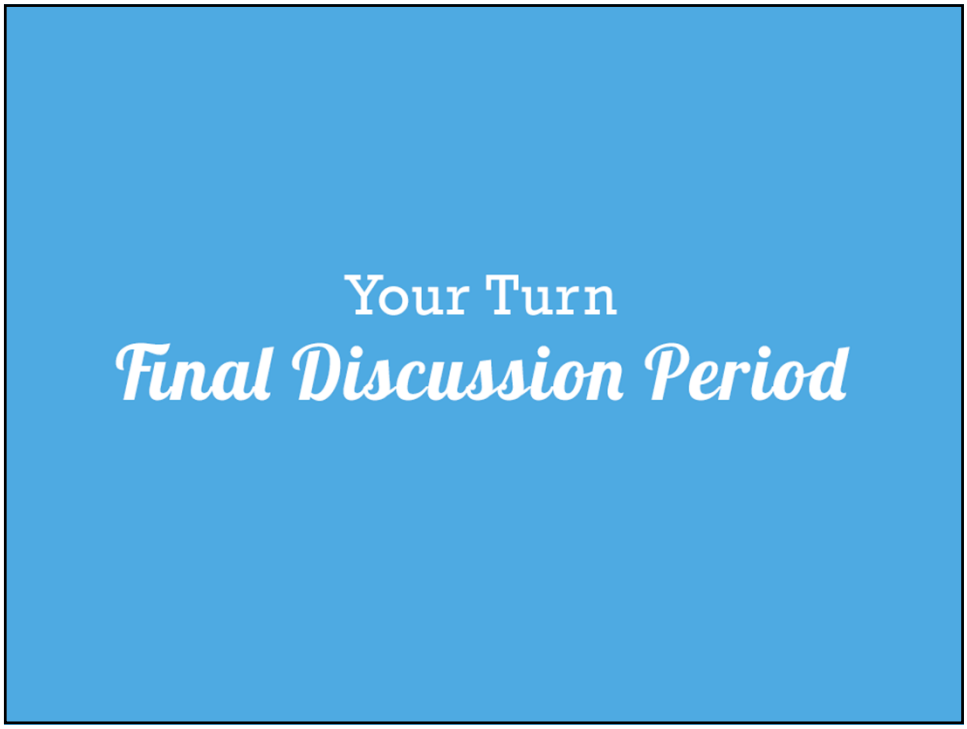
- **All questions are equally weighted.** Correct responses are worth 1 mark. Incorrect responses receive no marks. No deduction for incorrect responses.
- **Raw scores** are standardized to allow for comparability across administrations.
- **Standard depends** on reference group of Canadian first-time test takers (until now).
- **The passing score** for the Written Component is currently set at 330 on the standard score scale.
- **Any questions that perform poorly** is reviewed by the Key Validation Committee. The Committee may change the accepted answer or may delete the question from the final scoring.

Scoring: The Clinical Exam

03

Pass/Fail determinations are made for each candidate using three criteria:

1. The candidate has a score above the cut score (total score criterion)
2. The candidate has passed a minimum number of stations.
3. The candidates has fewer than 1 major or two minor safety and/or professionalism flags.


Your Turn
Final Discussion Period

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 16

Motion

Council Meeting
June 21–22, 2017

Agenda #16: 2016/2017 Audited Financial Statements

It is moved by

_____,

and seconded by

_____,

that:

Council approve the 2016-2017 Audited Financial Statements ending March 31, 2017.

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

FINANCIAL STATEMENTS

MARCH 31, 2017

Draft Statements Subject to Revision

HILBORN LLP

HILBORN LLP

Independent Auditor's Report

To the Council of the
College of Physiotherapists of Ontario

We have audited the accompanying financial statements of the College of Physiotherapists of Ontario, which comprise the statement of financial position as at March 31, 2017, and the statements of operations, changes in net assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements
Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility
Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the organization's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the organization's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion
In our opinion, the financial statements present fairly, in all material respects, the financial position of the College of Physiotherapists of Ontario as at March 31, 2017, and the results of its operations and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Comparative Financial Statements
The comparative financial statements were audited by another firm of Chartered Professional Accountants who expressed an unmodified opinion in their Independent Auditor's Report dated June 17, 2016.

Toronto, Ontario
To be determined

Chartered Professional Accountants
Licensed Public Accountants

Draft Statements Subject to Revision

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

Statement of Financial Position

March 31	2017 $	2016 $
ASSETS		
Current assets		
Cash	**7,434,338**	6,721,636
Investments (note 4)	**1,159,494**	593,618
Prepaid expenses	**225,785**	320,871
	8,819,617	7,636,125
Investments (note 4)	**3,547,068**	4,004,050
Capital assets (note 5)	**180,073**	153,332
	3,727,141	4,157,382
	12,546,758	11,793,507
LIABILITIES		
Current liabilities		
Accounts payable and accrued liabilities (note 6)	**477,854**	337,148
Deferred registration fees	**5,178,305**	4,877,349
Deferred lease incentives	**-**	20,087
	5,656,159	5,234,584
NET ASSETS		
Invested in capital assets	**180,073**	153,332
Internally restricted for contingency (note 7)	**6,078,725**	5,172,000
Internally restricted for fee stabilization (note 8)	**327,865**	1,328,000
Unrestricted	**303,936**	(94,409)
	6,890,599	6,558,923
	12,546,758	11,793,507

The accompanying notes are an integral part of these financial statements

Approved on behalf of the Council:

President

Vice-President

Draft Statements Subject to Revision

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

Statement of Operations

Year ended March 31	2017 $	2016 $
Revenues		
Registration fees	**5,330,262**	5,432,412
Investment income	**141,503**	146,961
Sundry	**35,445**	88,562
	5,507,210	5,667,935
Expenses		
Salaries and benefits	**2,950,420**	2,762,452
Administration and office	**739,698**	669,523
Programs	**300,435**	306,300
Communications	**224,089**	296,612
Professional fees	**319,634**	289,748
Organizational effectiveness	**140,348**	236,574
Committee fees and expenses	**263,709**	193,731
Information management	**145,175**	103,137
Networking, representation and travel	**31,955**	62,047
Amortization	**60,071**	156,019
	5,175,534	5,076,143
Excess of revenues over expenses for the year	**331,676**	591,792

The accompanying notes are an integral part of these financial statements

Draft Statements Subject to Revision

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

Statement of Changes in Net Assets

Year ended March 31

	Invested in capital assets $	Internally restricted for contingency (note 7) $	Internally restricted for fee stabilization (note 8) $	Unrestricted $	2017 Total $
Balance, beginning of year	153,332	5,172,000	1,328,000	(94,409)	**6,558,923**
Excess of revenues over expenses (expenses over revenues) for the year	(101,834)	-	-	433,510	**331,676**
Purchase of capital assets	128,575	-	-	(128,575)	**-**
Internally imposed restriction (notes 7 and 8)	-	906,725	(1,000,135)	93,410	**-**
Balance, end of year	180,073	6,078,725	327,865	303,936	**6,890,599**

	Invested in capital assets $	Internally restricted for contingency (note 7) $	Internally restricted for fee stabilization (note 8) $	Unrestricted $	2016 Total $
Balance, beginning of year	185,036	5,481,000	379,000	(77,905)	5,967,131
Excess of revenues over expenses (expenses over revenues) for the year	(156,019)	-	-	747,811	591,792
Purchase of capital assets	124,315	-	-	(124,315)	-
Internally imposed restriction (notes 7 and 8)	-	(309,000)	949,000	(640,000)	-
Balance, end of year	153,332	5,172,000	1,328,000	(94,409)	6,558,923

The accompanying notes are an integral part of these financial statements

Draft Statements Subject to Revision

COLLEGE OF PHYSIOTHERAPISTS OF ONTARIO

Statement of Cash Flows

Year ended March 31	2017 $	2016 $
Cash flows from operating activities		
Excess of revenues over expenses for the year	**331,676**	591,792
Adjustments to determine net cash provided by (used in) operating activities		
Amortization of capital assets	**60,071**	156,019
Interest capitalized on investments	**(91,588)**	(78,383)
Interest received on investments capitalized in prior years	**75,901**	94,723
Amortization of deferred lease incentives	**(20,087)**	(34,435)
Write-off of capital assets	**41,763**	-
	397,736	729,716
Change in non-cash working capital items		
Decrease (increase) in prepaid expenses	**95,086**	(92,508)
Increase (decrease) in accounts payable and accrued liabilities	**140,706**	(18,668)
Increase in deferred registration fees	**300,956**	15,889
	934,484	634,429
Cash flows from investing activities		
Purchase of investments	**(612,698)**	(1,169,451)
Purchase of capital assets	**(128,575)**	(124,315)
Proceeds from disposal of investments	**519,491**	1,041,620
	(221,782)	(252,146)
Net change in cash	**712,702**	382,283
Cash, beginning of year	**6,721,636**	6,339,353
Cash, end of year	**7,434,338**	6,721,636

The accompanying notes are an integral part of these financial statements

Draft Statements Subject to Revision

March 31, 2017

Nature and description of the organization

The College of Physiotherapists of Ontario ("College") was incorporated as a non-share capital corporation under the Regulated Health Professions Act, 1991 ("RHPA"). As the regulator and governing body of the physiotherapists profession in Ontario, the College's major function is to administer the Physiotherapy Act, 1991 in the public interest.

The College is a not-for-profit organization, as described in Section 149(1)(l) of the Income Tax Act, and therefore is not subject to income taxes.

1. **Significant accounting policies**

These financial statements have been prepared in accordance with Canadian accounting standards for not-for-profit organizations and include the following significant accounting policies:

(a) **Revenue recognition**

Registration fees

Registration fees are recognized as revenue proportionately over the fiscal year to which they relate. The registration year of the College coincides with that of the fiscal year of the College, being April 1 to March 31. Registration fees received in advance of the registration year to which they relate are recorded as deferred registration fees.

Investment income

Investment income comprises interest from cash and investments.

Revenue is recognized on an accrual basis. Interest on investments is recognized over the terms of the investments using the effective interest method.

(b) **Investments**

Investments consist of guaranteed investment certificates and fixed income investments whose term to maturity is greater than three months from date of acquisition. Investments maturing within twelve months from the year-end date are classified as current.

Draft Statements Subject to Revision

March 31, 2017

1. **Significant accounting policies (continued)**

(c) **Capital assets**

The costs of capital assets are capitalized upon meeting the criteria for recognition as a capital asset, with the exception of expenditures on internally generated intangible assets during the development phase, which are expensed as incurred. The cost of a capital asset comprises its purchase price and any directly attributable cost of preparing the asset for its intended use.

Capital assets are measured at cost less accumulated amortization and accumulated impairment losses.

Amortization is provided for, upon commencement of the utilization of the assets, using methods and rates designed to amortize the cost of the capital assets over their estimated useful lives. The methods and annual amortization rates are as follows:

Furniture and fixtures	5 years straight-line
Computer equipment	3 years straight-line
Computer software	2 years straight-line

Amortization of leasehold improvements is recorded on a straight-line basis over the remaining term of the lease.

Assets not ready for use are not amortized until used in a productive capacity.

A capital asset is tested for impairment whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. If any potential impairment is identified, the amount of the impairment is quantified by comparing the carrying value of the capital asset to its fair value. Any impairment of the capital asset is charged to income in the year in which the impairment occurs.

An impairment loss is not reversed if the fair value of the capital asset subsequently increases.

(d) **Deferred lease incentives**

Lease incentives received include free rent benefits and tenant inducements received in cash.

Lease incentives received in connection with original leases are amortized to income on a straight-line basis over the terms of the original leases. Lease incentives received in connection with re-negotiated leases are amortized to income on a straight-line basis over the period from the expiration date of the original lease to the expiration date of the re-negotiated lease.

Draft Statements Subject to Revision

1. **Significant accounting policies (continued)**

(e) **Financial instruments**

(i) **Measurement of financial assets and liabilities**

The College initially measures its financial assets and financial liabilities at fair value adjusted by the amount of transaction costs directly attributable to the instrument.

The College subsequently measures all its financial assets and financial liabilities at amortized cost.

Amortized cost is the amount at which a financial asset or financial liability is measured at initial recognition minus principal repayments, plus or minus the cumulative amortization of any difference between that initial amount and the maturity amount, and minus any reduction for impairment.

Financial assets measured at amortized cost include cash and investments.

Financial liabilities measured at amortized cost include accounts payable and accrued liabilities.

(ii) **Impairment**

At the end of each reporting period, the College assesses whether there are any indications that a financial asset measured at amortized cost may be impaired. Objective evidence of impairment includes observable data that comes to the attention of the College, including but not limited to the following events: significant financial difficulty of the issuer; a breach of contract, such as a default or delinquency in interest or principal payments; and bankruptcy or other financial reorganization proceedings.

When there is an indication of impairment, the College determines whether a significant adverse change has occurred during the year in the expected timing or amount of future cash flows from the financial asset.

When the College identifies a significant adverse change in the expected timing or amount of future cash flows from a financial asset, it reduces the carrying amount of the financial asset to the greater of the following:

- the present value of the cash flows expected to be generated by holding the financial asset discounted using a current market rate of interest appropriate to the financial asset; and

- the amount that could be realized by selling the financial asset at the statement of financial position date.

Draft Statements Subject to Revision

March 31, 2017

1. **Significant accounting policies (continued)**

(e) **Financial instruments (continued)**

(ii) **Impairment (continued)**

Any impairment of the financial asset is charged to income in the year in which the impairment occurs.

When the extent of impairment of a previously written-down financial asset decreases and the decrease can be related to an event occurring after the impairment was recognized, the previously recognized impairment loss is reversed to the extent of the improvement, but not in excess of the impairment loss. The amount of the reversal is recognized in income in the year the reversal occurs.

(f) **Management estimates**

The preparation of financial statements in conformity with Canadian accounting standards for not-for-profit organizations requires management to make judgments, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the current year. Actual results may differ from the estimates, the impact of which would be recorded in future years.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the year in which the estimates are revised and in any future years affected.

2. **Prior period adjustments**

The following matters were adjusted with retrospective application to prior years. The impact of the adjustments described below, to the financial statements, is summarized following the narrative.

Obligations in respect of reported complaints and discipline matters

The responsibilities borne by the College as required by the RHPA in regulating the physiotherapy profession include investigating and resolving complaints and disciplinary matters brought forward by both members of the public and those within the profession. In previous years, the College had not recorded or otherwise disclosed the liabilities associated with the known obligation to perform these investigations and resolve these reported matters.

The costs associated with the resolution of complaints and disciplinary matters are recognized in the year the complaint is received. These costs are therefore a liability of the College.

As a result, the College has changed its accounting policy to recognize the costs associated with the resolution of complaints and disciplinary matters as a liability and expense in the year the complaint is received.

Draft Statements Subject to Revision

2. **Prior period adjustments (continued)**

Obligation in respect of vacation pay

Throughout the year, the employees of the College earn vacation benefits as they render services to the College. In previous years, the College had recognized the cost of vacation benefits at the time vacation was taken or paid.

The costs associated with vacation benefits are recognized in the year the employee provides the service. These costs are therefore a liability of the College.

As a result, the College has changed its accounting policy to recognize the costs associated with vacation benefits as a liability and expense in the year the employee provides the service.

Capitalization of transaction costs

Annual registration fees are collected in advance of the registration year. The College incurs credit card transaction costs in order to collect the registration fees. In previous years, the transaction costs had been capitalized and included in the College's current liabilities as a reduction of deferred registration fees.

Upon collection of the registration fees there is no further benefit derived from the credit card transaction costs.

As a result, the College has changed its accounting policy to recognize credit card transaction costs as period expenses in the year incurred.

The impact of the adjustments upon balances included within the statement of financial position at March 31, 2016 are summarized below.

	March 31, 2016 $
Previously presented accounts payable and accrued liabilities	109,949
Accrual for complaints and discipline liability	113,000
Accrual for vacation pay liability	114,199
Accounts payable and accrued liabilities as restated	337,148

Draft Statements Subject to Revision

2. **Prior period adjustments (continued)**

	March 31, 2016 $
Previously presented deferred registration fees	4,752,081
Recognition of transaction costs as period expenses	125,268
Deferred registration fees as restated	4,877,349
Previously presented unrestricted net assets	258,058
Accrual for complaints and discipline liability	(113,000)
Accrual for vacation pay liability	(114,199)
Recognition of transaction costs as period expenses	(125,268)
Unrestricted net assets as restated	(94,409)

The impact of the adjustments upon balances included within the statement of operations for the year ended March 31, 2016 are summarized below.

Previously presented excess of revenues over expenses for the year	591,967
Accrual for complaints and discipline liability	(10,000)
Accrual for vacation pay liability	(15,468)
Recognition of transaction costs as period expenses	25,293
Excess of revenues over expenses for the year as restated	591,792

The impact of the adjustments upon the opening balances included within the statement of changes in net assets for the year ended March 31, 2016 are summarized below:

	April 1, 2015 $
Previously presented unrestricted net assets	274,387
Accrual for complaints and discipline liability	(103,000)
Accrual for vacation pay liability	(98,731)
Recognition of transaction costs as period expenses	(150,561)
Unrestricted net assets as restated	(77,905)

Draft Statements Subject to Revision

3. Financial instrument risk management

The College is exposed to various risks through its financial instruments. The following analysis provides a measure of the College's risk exposure and concentrations.

The financial instruments of the College and the nature of the risks to which those instruments may be subject are as follows:

	Risks				
			Market risk		
Financial instrument	Credit	Liquidity	Currency	Interest rate	Other price
Cash	X			X	
Investments	X			X	
Accounts payable and accrued liabilities		X			

Credit risk

The College is exposed to credit risk resulting from the possibility that parties may default on their financial obligations, or if there is a concentration of transactions carried out with the same party, or if there is a concentration of financial obligations which have similar economic characteristics that could be similarly affected by changes in economic conditions, such that the College could incur a financial loss. The College does not hold directly any collateral as security for financial obligations of counterparties.

The maximum exposure of the College to credit risk is as follows:

	2017 $	2016 $
Cash	7,434,338	6,721,636
Investments	4,706,562	4,597,668
	12,140,900	11,319,304

The College reduces its exposure to the credit risk of cash by maintaining balances with a Canadian financial institution.

Liquidity risk

Liquidity risk is the risk that the College will not be able to meet a demand for cash or fund its obligations as they come due.

The College meets its liquidity requirements by preparing and monitoring detailed forecasts of cash flows from operations and anticipated investing and financing activities and holding assets that can be readily converted into cash.

Draft Statements Subject to Revision

3. **Financial instrument risk management (continued)**

Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk is comprised of currency risk, interest rate risk and other price risk.

Currency risk

Currency risk refers to the risk that the fair value of financial instruments or future cash flows associated with the instruments will fluctuate due to changes in foreign exchange rates.

The College is not exposed to currency risk.

Interest rate risk

Interest rate risk refers to the risk that the fair value of financial instruments or future cash flows associated with the instruments will fluctuate due to changes in market interest rates.

The College is exposed to interest rate risk on its cash and investments.

The College does not use derivative financial instruments to manage its exposure to interest rate risk.

Other price risk

Other price risk refers to the risk that the fair value of financial instruments or future cash flows associated with the instruments will fluctuate because of changes in market prices (other than those arising from currency risk or interest rate risk), whether those changes are caused by factors specific to the individual instrument or its issuer or factors affecting all similar instruments traded in the market.

The College is not exposed to other price risk.

Changes in risk

There have been no significant changes in the risk profile of the financial instruments of the College from that of the prior year.

4. **Investments**

	2017 $	2016 $
Current	1,159,494	593,618
Long-term	3,547,068	4,004,050
	4,706,562	4,597,668

Draft Statements Subject to Revision

4. **Investments (continued)**

Investments have effective interest rates ranging from 1.50% to 3.55% (2016 - 1.47% to 3.55%), and maturity dates ranging from July 2017 to August 2021 (2016 - June 2016 to March 2021).

5. **Capital assets**

	Cost $	Accumulated Amortization $	2017 Net $
Furniture and fixtures	464,531	460,354	4,177
Computer equipment	287,096	267,758	19,338
Computer software	7,941	6,126	1,815
Leasehold improvements	402,014	402,014	-
Assets not ready for use	154,743	-	154,743
	1,316,325	1,136,252	180,073

	Cost $	Accumulated Amortization $	2016 Net $
Furniture and fixtures	464,531	431,238	33,293
Computer equipment	274,978	213,926	61,052
Computer software	87,991	29,004	58,987
Leasehold improvements	402,014	402,014	-
	1,229,514	1,076,182	153,332

Assets not ready for use consist of build-out costs of the new office premises occupied by the College in fiscal 2018 and deposits on furniture (note 9).

6. **Accounts payable and accrued liabilities**

	2017 $	2016 $
Trade payables and accrued liabilities	309,854	224,148
Accrued liabilities - complaints and discipline	168,000	113,000
	477,854	337,148

Draft Statements Subject to Revision

7. **Net assets internally restricted for contingency**

The Council has determined that the College will maintain a contingency reserve fund to provide business continuity in instances of specific unplanned or emergency events. It can also include additional amounts approved by Council to be held for the purpose of planned future changes that will build long-term capacity.

During the year, the Council of the College approved a transfer of $906,725 from unrestricted net assets to net assets internally restricted for contingency.

During the prior year, the Council of the College approved a transfer of $309,000 from net assets internally restricted for contingency to unrestricted net assets.

The internal restriction is subject to the direction of the Council upon the recommendation of the Finance Committee.

8. **Net assets internally restricted for fee stabilization**

The Council has also approved the creation of a fee stabilization reserve to hold funds set aside to maintain the registration fees stable for as long as possible.

During the year, the Council of the College approved a transfer of $1,000,135 from net assets internally restricted for fee stabilization to unrestricted net assets.

During the prior year, the Council of the College approved a transfer of $949,000 from unrestricted net assets to net assets internally restricted for fee stabilization.

The internal restriction is subject to the direction of the Council upon the recommendation of the Finance Committee.

9. **Commitment / subsequent event**

Effective March 1, 2017, the College entered into a lease agreement for its new office premises. The College moved to the premises May 1, 2017.

The College is committed to lease the office premises until February 28, 2027. The future annual lease payments, including an estimate of premises common area expenses, are as follows:

	$
2018	480,663
2019	481,689
2020	492,984
2021	494,011
2022	505,306
Subsequent years	2,558,347
	5,013,000

Pursuant to the lease, the College is entitled to receive tenant inducements in an amount up to $271,000 upon incurring eligible costs equal to or greater than that amount.

Draft Statements Subject to Revision

HILBORN

LISTENERS. THINKERS. DOERS.

Draft Statements Subject to Revision

401 Bay Street · Suite 3100 · P.O. Box 49 · Toronto · ON · CA · M5H 2Y4 · P416-364-1359 · F416-364-9503 · hilbornca.com

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Agenda #17: Registrar's Report

For Information

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 19

Motion

Council Meeting
June 21–22, 2017

Agenda #19: Request for Recorded Votes – Rules of Order

It is moved by

_____,

and seconded by

_____,

that:

the College change its rules of order to permit councillors, upon request to Council, to have their individual votes recorded.

Meeting Date:	June 21-22, 2017
Agenda Item #:	19
Issue:	Request for Recorded Votes – Rules of Order
Submitted by:	Rod Hamilton

Issue:

Should Council automatically approve councillors' requests to have their votes on matters be recorded?

Background:

At the March meeting of Council, one councillor made a request that his vote on a matter be recorded. This request was made on the understanding that this practice was permitted in the College's rules of order and that similar requests have been made and approved in the past.

Upon close investigation of the request using the College's current rules of order, Kerr and King's Procedures for Meetings and Organizations, 3rd Edition, it became clear that these rules **do not** support automatic approval of requests for recorded votes.

Further investigation and discussion with councillors also made it clear that Council has not been strictly in compliance with its own rules on this issue on past votes. This is probably due to the fact that these rules are still relatively new for the College and the College's previous rules were less strict in this area.

Why did College change its rules?

The Kerr and King rules of order were adopted by Council in September 2011, replacing the previous rules of order, J. G. Bourinot's Rules of Order.

The decision to change the rules was made on the basis of legal advice indicating that the College should move from the very parliamentary-focused process encompassed by Bourinot's to a more corporate-orientated rule.

This is significant because parliamentary-orientated rules are intended to recognize discussions and decisions made on a partisan basis (i.e. where members' loyalty is to their party, where there are party differences in what members can or cannot support, where members represent their constituents, and where a member's voting record may be material to the ongoing support of constituents).

On the other hand, rules oriented to corporate boards recognize that the loyalty of the board members is to the board and the member has a fiduciary responsibility to the board. (i.e. the concept of speaking with one voice, or board solidarity where members have an obligation to support the decision of board).

The speaking with one voice concept is an important one. Boards are always supposed to speak with one corporate voice. In other words, while open debate and discussion is encouraged prior to a vote, once a decision has been made, the board has only one voice – the one voice is the will of the majority and the decision of the board.

This is because a board, while made up of individuals, is a single corporate entity. When board decisions are publicly disagreed with by a board member, the board is no longer a single entity[i].

This change is reflected in the advice that the current rules of order provide in the context of how the outcome of a vote is recognized. Kerr and King indicate that the normal practice for voting is to ask for a voice vote or a show of hands and then simply announce that the motion is approved or rejected by the meeting (p. 151, 197). Individual votes or abstentions are not recorded as it is the majority vote that reflects the decision of the board.

Kerr and King do recognize that there circumstances where more formality is required so the rules include provisions to hold a quantitative vote (i.e. a vote where each individual vote is counted) (p. 151, 196). This might be needed in circumstances such as when a vote is very close, or when the vote needs a 2/3 majority.

However, in order to hold a formal quantitative vote, it must be proposed in the form of a motion and approved by the board before it can occur.

Further, even the holding of a quantitative votes does not means that the result of the individual votes would be recorded. In fact, if there is a desire for the individual votes on the motion to be recorded, this request must either be part of the motion for a quantitative vote, or a separate motion which must be approved before individual votes can be recorded.

Even when a quantitative vote is recorded, it should be noted that the number of abstentions on the vote is not recorded except when people have abstained for a defined reason such as a conflict of interest.

What all this means is that the College's current rules of order are intended to recognize and promote the fiduciary obligation of the board to 'speak with one voice', that counted and recorded votes are very much the exception, and they can only be held when moved and adopted by the Council.

<u>Executive Committee' views</u>

When the Executive Committee considered this issue they were of the view that there is nothing intrinsically wrong with recording votes upon request. There was also the suggestion that having a record of voting might be useful when an elected councillor up for re-election wished to offer this voting record to gain the support of voters.

As a result the Executive Committee suggested that Council make a change to its rules of order to permit individuals councillors to, upon request, have their votes recorded. This would only apply to individuals and not to the votes of Council as a whole.

<u>Issues to Consider</u>

In considering this question, Council may wish to give some consideration to issues such as the following, which may have a significant bearing on the issue.

1. Councillors have a fiduciary responsibility to the College. This requires that once decisions are made, all members of the Council support them. In the context of recorded vote, it is not the opposition to the issue that is problematic, it is interpretation of this opposition by an external viewer that has the potential to be troublesome.

2. Council is obliged by its own Code of Conduct to speak with one voice. This requires that once decisions are made, all members of the Council support them. This is essentially the same concern as above – it is not the opposition that is problematic, it is the failure to support the final outcome, even indirectly by offering one's voting record to gain support of voters.

3. Council meetings are open and the records of those meeting are a matter of public record. This means that the recorded votes do have the potential to demonstrate dissension with the boards' final decisions. Again, the problem is not the opposition and discussion that is supposed to occur prior to the vote – it is the possible interpretation of a recorded vote as ongoing opposition.

4. The literature on governance is replete with discussions on the risks associated with boards' failure to speak with one voice.

   Samples of some of these discussions are appended. One might summarize these concerns by saying that no matter how it occurs – whether through ongoing formal opposition, informal discussions with friends, the use of one's voting record as a campaign tool, a board member's failure to support the final decisions of the board ends up undermining the board's position and ultimately its success.

   Please note that some of these discussions are stated very strongly and express significant concern about incursions into board solidarity!

<u>Discussion</u>

To many, the information provided above may seem to be an overreaction to what is appears to be a not-unreasonable request for an individual to have his vote on a matter before Council be recorded.

And it is quite possible that a Council decision to permit recorded votes upon request may have little impact upon the way that the rest of the world sees the College.

However, given that the College has made considerable efforts to evolve its governance model to promote the policy governance ideal of speaking with one voice, staff would like to point out that what seems like a minor decision to change the way the College's rules of order are applied may ultimately have a more detrimental effect.

As noted above, when the Executive Committee originally considered this issue, with significantly less background, they were of the view that the College should change its interpretation of it rules of order to permit councillors have their individual votes on decisions before Council to be recorded upon request.

As such, this is substance of the motion before Council.

Decision Sought:

That the College change its rules of order to permit councillors have their individual votes on decisions before Council to be recorded upon request.

Appendices:

- Strive: The power of one voice. www.strive.com
- The practical approach to board unity. www.artsjournal.com
- Why governance boards speak with one voice. www.gdpconsulating.ca
- Frequently Asked Questions. www.PolicyGovernance.com

[i] Why boards must always speak with one voice. www.xpastor.org

an article by STRiVE!®

The Power of One Voice

By Ralph Kikkert, 2000

In the movie *D2 The Mighty Ducks* coach Gordon Bombay had all the players join each other in a small area and a rope was tied around them. Then he told them to skate. One player tried skating one way, another player went a different way and sure enough, they all fell down. They tried skating in different directions again and again, each time falling and yelling at each other. No one would let the others take charge and they went nowhere, bruising each other in the process.

After falling, getting frustrated, and experiencing pain, they realized their lack of progress and started to work together. They agreed first to skate in one direction and then another. They began to function as a team. Even if only one player wanted to skate in an opposite direction there were problems for the whole team. With the coach's help they followed a unified direction and performed exceptionally well skating as one group, supporting each other as they moved.

The coach spoke with a single voice for the team to enable all of the players to move in one direction instead of all the players speaking out their individually desired directions. When the players stopped going in their own directions the team experienced success.
Organizations and boards are also teams. They need to decide—after discussion—one direction and speak with one voice. Failing to speak with one voice outside the board room will cause much conflict, pain, and lack of progress for the board and the organization.

Word to the Wise

One voice—one direction; many voices—no direction.

This article examines the why's and how's of speaking with one voice to help boards ensure that their organization doesn't end up spouting off different directions and going nowhere.

The Power of One Voice

In working with boards, it is evident that some board members do not like being told what they can or cannot say in public. This controlling aspect of the board discourages

"freedom of speech". Our society promotes and our constitution states that we have freedom of speech, so people wonder why a board should operate differently.

Once you become a board member, however, you no longer are considered by others as an individual or 'just a member' of the organization. Rather, when you speak it is now perceived by others as the board or organization speaking—even if you feel, or try to clarify, that you are speaking as an individual. This is why speaking in contradiction to the board is so damaging.

We strongly discourage any board member from sharing her personal views outside the board room if they are contrary to the board's position unless she first resigns from the board and then no longer is representing the board. Even speaking against the board's position to friends and key supporters outside the meeting is inappropriate. This is because of the consequences that come from a board speaking out with more than one voice and thereby failing to communicate a consistent message.

Some consequences from a board speaking with more than one voice are:

- Stakeholders become confused.
- Politicking by board members and members of the organization increases and may become the norm, wasting precious energy and time.
- Board members reduce their respect for other board members who speak out contrary to the board.
- Outspoken board members no longer have influence on key issues in future board meetings due to reduced respect from others on the board.
- Conflict becomes commonplace at board meetings.
- The media pounces on divergent viewpoints of board members, exposes these divergent views, and allows the public image of the organization to falter.
- People capable of being good board members refuse to join the board due to the conflict, image, and 'games' evident with and within the board, resulting in a less qualified board.
- The organization fails to move ahead because the focus of board meetings is on governance process and conflict rather than directing and protecting in the best interests of the organization's owners.
- Owners and stakeholders reduce their confidence in the organization, sell their shares or do not renew their membership, or choose to do business with the competition.

- The organization may not progress towards its goals.

There are many serious, negative consequences of speaking against the board. Board members who do speak out typically are frustrated. Their focus is somewhat selfish rather than on being an effective part of the board. If they would express their frustrations at board meetings the board could address their concerns. Inside the boardroom board members are to be encouraged to speak their views. This builds great discussions and enables board members to explore various options which best serve the organization and its owners. Outside the board room, however, board members are to speak with one voice.

How Does A Board Speak With One Voice?

It is common for a board to have members who 'represent' a geographical region or interest group. For a board member to bring issues from his constituents is good—both for the board and for his constituents. However, voting as your constituents wish, if not in the best interests of the ownership as a whole, is inappropriate. Communicating your vote or preference back to your geographic area is also not in the best interests of the organization.

Many times board members are elected or appointed to represent their constituents and believe they need to vote for their constituents' interests rather than what is best for the entire organization. They feel they need to communicate their vote back to the constituents to ensure credibility and assist in their re-election. The problem with this thinking is that it is illegal to only represent your constituents. Board members could be sued for not looking after the best interests of the organization as a whole. It also leads to many problems and conflicts for the board and the organization.

Board members are called to be leaders. Leadership involves making difficult decisions that will serve the organization and all the owners, putting their personal and constituents' agendas aside. It involves communicating the board's position in spite of politics and narrow interests.

Unless there are agreed-upon expectations for your board about who speaks for the board and what you may or may not communicate as a board member, there is a risk that the board may speak with many voices. We encourage you to assign a board member to speak to the public on policy issues. Typically boards delegate the speaking of board policies to the chairperson of the board. Some boards delegate this task to

their secretary or another board member. When people from the media call, they are encouraged to talk to the spokesperson to get a consistent message.

The key is to have one voice which means one perspective—everyone who speaks on an issue communicates the same message.

Gathering Input from Owners

Communication with the shareholders is critical if board members are to gather input and be effective trustees. Encouraging input at regional meetings is a good way to receive input from owners before decisions are made. Through discussion, the board member gains a better understanding of issues and the ramifications of different solutions. The shareholders gain a better understanding of the complexity of the issues and are often more receptive to the final decisions made.

What Do Boards Share with Owners

Boards are encouraged to share decisions and information on ownership issues. Sharing policies enables the owners to hold the board accountable for their actions on behalf of all shareholders. Policies of direction for the organization and protection of the owners' interests are shared with the owners to give the owners confidence and to provide an opportunity for readjustment.

Many owners ask their local board member for his opinion. In these circumstances it is wise for board members to share some of the diversity of thinking which will influence the decision, and reasons why different options would be considered. This strategy enables board members to build their credibility without exposing themselves to conflict with the board.

Some board members wish to share inner workings, how they will vote on an issue prior to a board decision, opinions, and voting by individual board members with people who ask. Giving a personal opinion—especially after a vote has taken place at a board meeting—is dangerous and can lead to tremendous conflict. Ask yourself as a board member 'Why do they want this information?' Will it help my relationship with my fellow board members and with these interested parties? Will it be beneficial for the organization if I expose certain decisions and perspectives? Usually people who wish this information will use it against someone else or the organization in time. There is rarely any organizational benefit in exposing your opinion or sharing how you or other

board members voted on issues. There may be some short-term personal political benefits at the organization's expense; however, in the long term both the individual and the organization lose.

Working with Unrealistic Expectations

The owners or members often have unrealistic expectations of their local board member. Dealing with this is not an easy task, especially if the board members in the past have shared operational details or personal opinions rather than only board decisions. Listed below are some methods to educate owners about appropriate expectations.

- Ensure the agenda of shareholder meetings only contains board or policy issues.
- Communicate board decisions and the rationale for the decision with the owners.
- Take staff with you to meetings. Ask staff to answer and present all operational issues if any arise. (Board members present and answer all policy issues.)
- Have the meeting chairperson advise owners that she will redirect customer or operational questions to staff. Then during question period address customer issues to staff if staff are in attendance or ask the member to contact staff the next day.
- Clarify the purpose of the meeting and clearly state that owners' meetings only deal with direction and protection issues.

Include in the shareholders' meeting, time to gather input from owners in areas of directing the organization and protecting the interests of the owners. Involve and focus the owners on ownership issues rather than letting them move to customer issues.

Summary

Speaking with one voice is critical to avoid conflict, maintain the organization's image, and enable the organization to thrive. Trying to please all board members by allowing them to share their views in public only reduces the effectiveness of the organization and the board.

Diversity and speaking one's views in board meetings enables great decision making. It is what great organizations need. Unity in public communicates oneness and a common direction for staff and owners. Anything different leads to ineffectiveness and conflict.

When board members support the concept of speaking with a single voice they enable the organization to achieve its goals by focussing all staff, board, and owners in a clear direction.

Capitalize on the “power of one voice” for your organization. It is sure to serve your board well.

The practical approach to board unity

February 21, 2006 by Andrew Taylor

I just had reason to revisit the wonderful writing of John Carver on governing boards (you can find a useful summary of his work here, or read the book). And I was struck again by the clarity and consistency of his approach to an otherwise hazy endeavor. If you can get past his personal hubris (one of his books calls him the ”Creator of the World’s Most Provocative and Systematic Governance Model”), you’ll find true insights into boards that focus, and boards that flail.

One of the most powerful elements of Carver’s model is his principal of ”One Voice.” We all know that governing boards work best when they can engage in honest and open debate, but then move forward with clarity and consistency. While other writing on board governance covers this ground in aspirational tones (”can’t we all just get along?”), Carver crafts a practical approach to the challenge.

A governing board only has ”one voice,” because its structure and its nature offers no alternative. It’s ”one voice or none at all.”

In Carver’s view, a governing board *only* speaks when it makes a decision following its accepted process (a resolution put to a majority vote, usually). Up until that moment — in all the conversations, disagreements, debates, and modifications — it’s not the board speaking, only the board members. Says he:

The board speaks authoritatively when it passes an official motion at a properly constituted meeting. Statements by board members have no authority. In other words, the board speaks with one voice or not at all. The ”one voice” principle makes it possible to know what the board has said, and what it has not said. This is important when the board gives instructions to one or more subordinates. ”One voice” does not require unanimous votes. But it does require all board members, even those who lost the vote, to respect the decision that was made. Board decisions can be changed by the board, but never by board members.

While the distinction may seem semantic, it’s extraordinarily powerful. It clarifies for board members that they have no individual authority over the organization, only authority as a collective. It clarifies for staff and leadership the difference between debate and decision — only one of which should drive their work. During a two-hour board meeting, the board may speak only a few times — even though the conversation has dragged on forever.

Of course, the ”one voice” principal *does* require a lot of its board members — that they avoid the post-game politics when a resolution doesn’t go as they had hoped; that they don’t plot with sidegroups on the board to block the action despite the vote to move

forward; that staff doesn’t collar individual board members to find a workaround that’s more to their liking.

Carver’s approach still isn’t easy, but at least it’s clear. And that’s a massive step forward for anyone that cares to take it.

Share the Love:

Why Governance Boards Speak With One Voice

by Brenda | Apr 26, 2012 | Executive Leadership and Board Governance |

Even though some boards are comprised of seven or more members, it is vital to remember that one of the reasons governance teams exist is to ensure the organizational mandate is achieved. Every member is there to help the board govern. They do not have any individual powers and do not represent the board without permission.

It is possible for boards to have members who do not believe in the wholeness of the board. They want to deliver their own message and only be seen to be part of the team when all is well. However, when friction begins and external pressure is placed on them, they want to break from the team and present their own story.

They make excellent board members as long as everything is going as they think it should. When decisions are different from the options they proposed they want to make statements such as

- They made that decision but I didn't agree with it
- I did my best but they wouldn't listen to me
- I presented your case but they didn't see it my way.

Unfortunately, if a board has 15 members it cannot function effectively when each board member acts as if he is a power unto himself. The best board members recognize that sometimes their peers may agree with their point of view and sometimes they will not. Just as they want those that disagreed with a decision to support that decision when it was one they support, it is imperative that they show the same respect when the situation is reversed.

When this does not happen, team solidarity is compromised and trust is lost. It is possible that board members will employ tactics that they would otherwise avoid. These include

- Holding meetings outside the official meeting
- Soliciting support for a stance prior to a board meeting
- Making decisions at the executive committee rather than bring them to the board.

Boards need to challenge board members who do not respect the team. (For more on essential team characteristics follow this link) Boards that appoint members could avoid such persons by asking about individuals' behaviour on prior boards before putting their names forward for selection.

Frequently Asked Questions

The Board

Doing the board's work

More FAQs: model | owners | board | policies | ends | means | committees | monitoring | ceo | staff | getting started | consulting

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Doing the board's work

1. Just what is the board's work?

The job of every board that is truly a governing (versus advisory) board is to ensure that (a) there is an authoritative and effective link between an organization's owners and the operations of that organization, (b) the relevant values of the board as owner-representative are explicit, up to date, and accessible, and (c) the actual performance of the organization matches that which the board has stipulated. Those three outputs (or "values added" or "job products") are true for all governing boards, but for some boards additional ones are relevant, such as donor funding, legislative change, or other contributions that the board assumes as its own personal responsibility.

top

2. Doesn't Sarbanes-Oxley Act (in the USA) supersede Policy Governance?

No. Like corporate governance codes worldwide, S-Ox (as it is called) focuses on lack of transparency, conflict of interest, and other misbehaviors listed corporate boards have been guilty of. It does not apply to non-listed companies or to nonprofits. However, it contributes little to the nature of governance. Like traffic laws that prohibit speeding and certain turns, it protects shareholders from boards more than it helps boards learn how to govern. Like the road rules in which a driver can comply with all the rules and

still be a bad driver, S-Ox doesn't make better boards nor does it stimulate their interest in better governance so much as in lawful compliance.

top

3. What is the right board size?

We know of no right board size. The size in any specific situation should be that which most likely assures that the board will get its job done. Experience seems to demonstrate that a size in the neighborhood of seven is best for enabling a board to truly be in control of itself, to have spirited yet productive debate, and to engineer further input from larger groups when necessary. Large boards are easier to manipulate, find it almost impossible to govern themselves, and give rise to cliques and stage-managing.

top

4. How does the board evaluate itself?

Board evaluation of itself follows the same rule as evaluation of the CEO: it must be against criteria and done regularly. The criteria for self-evaluation can all be found in board policy categories governance process and board-management delegation. In those policies, the board will have set out its expectations of itself. It is much more important that self-evaluation be frequent than that it be laboratory-precise.

top

5. How is an agenda developed?

It is very important that the board's agenda be, truly, the board's agenda rather than the CEO's agenda for the board. Contrary to common practice in which the CEO supplies an agenda, in Policy Governance the board produces its own, for a proper governance agenda is not a rehashing of management decisions. The proper agenda is about the kinds of debates and decisions that proactive governance requires, not an interminable review of staff activities and rendering approvals, both of which are poor uses of board time and wisdom. The actual meeting agenda is but a single installment of a longer range agenda that the board itself should carefully develop, only then possibly to charge the chair with meeting-by-meeting fine tuning. A board that cannot govern itself has no hope of governing an organization.

top

6. Do Policy Governance boards have a consent agenda?

Yes, but the consent agenda is used in a way that is a little different from what we have been used to seeing. In Policy Governance, all issues are either the board's to decide or are delegated to CEO to decide. The only issues that would come to the board's agenda are those that the board has to deliberate and decide. Other matters are left to the CEO. But there are boards that are compelled by outside authorities, such as funders, regulators and accreditors, to make decisions that, in fact, have been and should have been delegated to the CEO. In such cases, the CEO brings the item to the consent agenda, demonstrating that the board's acceptance of the items is safe since they comply with existing board policies. In these circumstances, items are not removed from the consent agenda, for to remove them would be to undelegate them.

top

7. How can a board speak with one voice when members disagree?

No problem at all. There should be healthy, even passionate disagreement on a board in order for it to presume to be representing diversity in the ownership. So disagreement is a blessing not a blockage. After fair debate, if there are not enough votes to pass a measure, then the board has not spoken. If there are enough votes, the board has spoken. And what is thereby spoken is the "one voice" we have written about. The board should expect its CEO to treat a 5-4 vote exactly the same as a 9-0 vote. It is an irresponsible board that expects the CEO to deal with its inability to reach a decision or to invoke a calculus to handle a split vote.

top

8. If a board member dissents and says so publicly, what should a board do?

A board member who disagrees with a decision made by the board has every right to do so. Indeed, there would be something wrong with a board that always agreed unanimously with everything. It is usual that important issues are issues about which people disagree. In the Policy Governance board, this disagreement is thoroughly expressed and considered before the final decision is made. This enables everyone to say that the process used was fair, open and inclusive. The board then requires that the dissenting board member who announces his or her dissent also announce that the process used was proper.

top

9. What board member behavior can be considered "sabotage"?

Although people will define the term in a variety of ways, in Policy Governance it would be sabotage if a single board member tries to "end run" the board. It is not sabotage to disagree with other board members, no matter how passionately. But it is sabotage to attempt to undo what the board has legitimately delegated to the CEO. Such sabotage cannot succeed, however, if the board is doing its job the way it should. That includes the board's protecting staff from individual board members when they snipe at, grill, or otherwise act toward staff as if a dissident board member has the right to set criteria for operational performance individually. So while differences of opinion, values, or points of view among board members should be active and transparent to all, a CEO affected by board members' differences rather than what the board as a body finally decides is a certain sign of poor governance.

top

10. Is the model against board fund raising?

Not at all. Governing at its irreducible minimum includes (a) a respectable link between ownership and board, (b) explicit and comprehensive expression by the board of governing values, and (c) assurance that the operational part of the organization successfully performs. For some organizations the board's duty cannot be fulfilled without bringing in funds, most likely donor funds. For those organizations, the board will give itself this duty in addition to the fundamentals of governing. But proper governing is the base upon which the board adds this or other duties. Policy Governance prevents putting fund raising up front, leaving governance to be something the board gets around to if there is time. Fund raising is never as important as governing an organization such that it is worth raising funds for.

top

11. For board independence, shouldn't board meetings exclude all staff including the CEO?

No. There is rarely a reason for the board to meet without its CEO. Independence doesn't require the absence of staff or going without applicable staff input. It means the board must have the assertive strength to listen to many viewpoints, weigh the relevant values, then make its decision. Each decision must be—in the board's independent judgment—one of fidelity to the ownership. Because the CEO is an important resource to the board, as well as the board's single authoritative link to the operational organization, he or she should normally be present. The presence of other staff can, in most cases, be left up to the CEO. And, though there is no explicit Policy Governance rule about it, we feel any borderline situation should be decided in the direction of transparency.

top

12. What's wrong with choosing nonprofit board members for skills that can help staff?

Individual board *members* might be able to help staff and may do so under Policy Governance, but only if staff wants that help. The job of the *board*, however, is not to help staff, but to own the business as owner-representatives. So one job is compulsory and by the total board, while the other is optional and by individuals. Board members should be chosen to ensure governance skills, then if their help is acceptable to them and staff, they can help. But it is folly to elevate the discretionary above the critical or even risk giving short shrift to the capabilities of governance. Governance requires intelligent, wise generalists.

top

13. Our public school board is elected to run the school system, is it not?

No. Your school board is elected to see that the general public (those who own the system) get their money's worth in appropriate student learning. Boards aren't very good at running anything, including schools. That is why they employ a CEO, normally called superintendent or director of education. A wise school board sees itself as the public's purchasing agent with respect to education. A purchasing agent decides what is to be bought and what it should cost, then holds the vendor accountable. That is what a board using Policy Governance does when it creates ends policies, except that the vendor is the CEO.

top

More FAQs: model | owners | board | policies | ends | means | committees | monitoring | ceo | staff | getting started | consulting

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Motion No.: 20.0

Motion

Council Meeting
June 21–22, 2017

Agenda #20: For Approval: Boundaries and Sexual Abuse Standard

It is moved by

_____,

and seconded by

_____,

that:

Council approve the proposed Boundaries and Sexual Abuse Standard with an effective date of August 1, 2017.

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Motion No.: 20.1

Motion

Council Meeting
June 21–22, 2017

Agenda #20: For Approval: Boundaries and Sexual Abuse Standard

It is moved by

_____,

and seconded by

_____,

that:

Council rescind the current Therapeutic Relationships and Professional Boundaries Standard with an effective date of August 1, 2017.

Meeting Date:	June 22, 2017
Agenda Item #:	20
Issue:	For Approval: Boundaries and Sexual Abuse Standard
Submitted by:	Téjia Bain, Junior Policy Analyst

Issue:

Council is being asked to consider the briefing materials provided and:

1. Approve the proposed Boundaries and Sexual Abuse Standard with an effective date of August 1, 2017, and
2. Rescind the current Therapeutic Relationships and Professional Boundaries Standard with an effective date of August 1, 2017.

Background:

As part of the continuing work on the large Standards review project, the College's existing Therapeutic Relationships and Professional Boundaries Standard is under review. As with other reviews, the goal of this review is to ensure that the Standard is relevant to today's practice environment and useful for physiotherapists and other users.

In addition to an environmental scan of boundary and sexual abuse issues and trends in the regulatory world, staff carried out an extensive consultation for this Standard review which consisted of feedback gathering from several key stakeholders. In March 2017, the Executive Committee discussed staff's findings and a proposal for a revised Standard. After reviewing the Standard proposed, the Executive Committee recommended that staff make several changes to the language and expand on a few key concepts that would make the Standard more understandable to members.

Taking the Executive Committee's recommendations into consideration, staff reassessed all consultation feedback, paying specific attention to the issues that physiotherapists have faced in the past with maintaining professionalism within the therapeutic relationship. At the June 2017 Executive Committee, staff brought forward a newly-revised Standard that addressed the concerns identified in the earlier meeting.

Council is also aware that the anticipated changes to the *Regulated Health Professions Act, 1991* (*RHPA*) in Bill 87 will have a significant impact on how regulators will be required to respond to sexual abuse matters. Bill 87 was passed on May 30, 2017, but the changes to the *RHPA* that are relevant to the Boundaries and Sexual Abuse Standard have yet to come into effect. Staff has ensured that the new developments in the Bill 87 movement through legislation were considered during the development of the Boundaries and Sexual Abuse Standard.

The Executive Committee is recommending that Council consider and approve the proposed Boundaries and Sexual Abuse Standard in Appendix 1.

Consultation

At the onset of consultation for the Boundaries and Sexual Abuse Standard, staff sought out feedback from the public on what boundaries in the therapeutic relationship means to them, and how the current Standard could be improved to better protect patients. Staff met with the Citizen's Advisory Group who highlighted the importance of education for physiotherapists and the public on boundaries and pointed out that the expectations in the Standard need to be clear and realistic, especially considering the sensitivity of the subject.

Staff also convened a special Patient Relations Committee expert panel to discuss how physiotherapists are expected to maintain boundaries in practice and how the Standard should be used to reinforce these expectations. We also sought the advice of the College's legal counsel who specializes in sexual abuse law, as well as several experts in the field of boundaries and sexual abuse. The Ontario Physiotherapy Association also provided feedback on an earlier draft of the Standard.

After receiving direction from the Executive Committee in March 2017, staff took a closer look at the feedback provided by the College's legal advisor and made changes to the draft Standard that addressed some the concerns she raised. In addition to this, we reviewed all tracked practice advice questions on boundaries and sexual abuse, and analysed past related complaints and cases of the Inquiries, Complaints, and Reports Committee, Discipline Committee, and the courts to identify how the Standard should be applied in response to the questions and cases.

Finally, the Executive Committee advised staff to make a few minor changes to the draft Standard at their June 2017 meeting. The proposed Boundaries and Sexual Abuse Standard reflects the changes recommended.

A summary of all the feedback gathered during the consultation for the Boundaries and Sexual Abuse Standard can be made available upon request.

Concerns highlighted during consultation for the Boundaries and Sexual Abuse Standard

In the proposed Boundaries and Sexual Abuse Standard, we have incorporated the Executive Committee's recommendations and made a few additional changes to address outstanding concerns. These concerns as are follows:

1. **Incorporating the definition of a patient**

The current Bill 87 legislation defines a patient as *an individual who was a member's patient within one year or such longer period of time as may be prescribed from the date on which the individual ceased to be the member's patient*. This inherently addresses the concern about when it is acceptable for a health professional to have an intimate relationship with a person who has been discharged from their care, the minimum being at least one year after discharge.

During the June 2017 meeting, the Executive Committee discussed whether or not to include the definition of a patient in the Boundaries and Sexual Abuse Standard before the Bill 87 legislation comes into effect. The

alternative option presented by staff was to incorporate the expectation in the current Therapeutic Relationships and Professional Boundaries Standard about treating former patients into the proposed Boundaries and Sexual Abuse Standard (see Section 3, point 3). The Executive Committee decided on the option to keep the expectation about dating former patients since it is unknown when the legislation defining a patient (and the one-year cooling off period) in the *RHPA* will actually come into effect. We also know, though, that members prefer concreate guidance on what is and is not acceptable, which can be provided with a set time frame.

Staff is seeking direction from Council on whether to include the definition of a patient (which incorporates the one-year cooling off period) into the Boundaries and Sexual Abuse Standard now, or to authorize staff to add the definition of a patient once Bill 87 comes into effect.

2. Treating relatives and close persons

On several occasions stakeholders have highlighted concerns about potentially causing barriers to care by prohibiting physiotherapists from treating their relatives and other close persons, especially in small towns. However, research shows that when a professional has a personal relationship with a patient outside of the therapeutic relationship, there is a significant risk that their judgement can be impaired when providing care, which ultimately is not in the best interest of the patient.

Taking this into consideration, the revised Boundaries and Sexual Abuse Standard restricts the treatment of relatives and close persons but allows for treatment in emergency circumstances. Of particular importance is the prohibition on charging a fee in these circumstances. If members do feel obliged to treat in an emergency, no fee can be charged[1].

Similar to the language in the proposed Supervision Standard, the proposed Boundaries and Sexual Abuse Standard states that *physiotherapists must not treat their relatives or those with whom they have a close or intimate relationship* to address the Executive Committee's concerns about addressing close persons in the Standards. In this way, the definition of a relative can be used in the Conflict of Interest Standard, Supervision Standard and Boundaries and Sexual Abuse Standard.

3. Addition of Mandatory Reporting obligation

The *Health Professions Procedural Code* (the *Code*) requires a member to file a mandatory report if they become aware that another health professional has sexually abused a patient (see Section 85.1(1), the *Code*). In order to make this longstanding obligation more accessible, it has been added to the proposed Boundaries and Sexual Abuse Standard to reinforce the importance of making mandatory reports and the consequences of not doing so. The language has also been extended beyond the minimum requirements in the law in order to encourage members to make reports.

[1] The prohibition on charging a fee when treating a relative was moved from the Conflict of Interest Standard to the Boundaries and Sexual Abuse Standard. In order to ensure continuity in our rules, the revised Conflict of Interest Standard and the revised Boundaries and Sexual Abuse Standard should have the same effective date.

A full content summary for the proposed Boundaries and Sexual Abuse Standard can be found in Appendix 2.

Decision Sought

Council is being asked to consider the briefing materials provided and:

1. Approve the proposed Boundaries and Sexual Abuse Standard with an effective date of August 1, 2017, and
2. Rescind the current Therapeutic Relationships and Professional Boundaries Standard with an effective date of August 1, 2017.

Attachments:

- Appendix 1: Proposed Boundaries and Sexual Abuse Standard
- Appendix 2: Content summary for the proposed Boundaries and Sexual Abuse Standard
- Appendix 3: Therapeutic Relationships and Professional Boundaries Standard

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Appendix 1: Proposed Boundaries and Sexual Abuse Standard

1. Authority and responsibility

- Physiotherapists must maintain professional boundaries with their patients at all times. Physiotherapists must not sexually abuse their patients.

2. Managing professional boundaries

Boundaries in patient care are physical and emotional limits of the therapeutic relationship between the patient and the physiotherapist. The physiotherapist's responsibility is always to act in the patient's best interest and to manage the boundaries within the therapeutic relationship.

When managing the boundaries of the therapeutic relationship, the physiotherapist must:

- recognize that each patient's boundaries will be unique to their own experiences, including their culture, age, values or experiences of trauma.
- be sensitive to the practice setting, especially when providing care in an informal environment, such as a patient's home.
- respond appropriately when a professional boundary is breached. This involves identifying the breach, correcting the inappropriate behaviour, and documenting the actions taken to address the breach in the patient's record.

Some examples of situations that pose a risk for a boundary violation include personal disclosure by the physiotherapist, giving or receiving gifts, engaging in business or leisure activities with a patient, and most frequently, comments, words or gestures that are not directly related to clinical care.

3. Restrictions for maintaining professional boundaries

When a close or intimate relationship exists between the physiotherapist and the patient because of an emotional or other strong bond, it can impair the physiotherapist's professional judgement.

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- Physiotherapists must not enter into intimate or romantic relationships with their patients or their patients' relatives or support persons.

- Physiotherapists must not treat their relatives or those with whom they have a close or intimate relationship, except in the case of an emergency, in which case, fees cannot be charged.

- Physiotherapists must not enter into intimate or romantic relationships with former patients unless:
    - A reasonable period of time has elapsed since the patient was discharged from physiotherapy care,
    - The imbalance of power inherent in the therapeutic relationship between the physiotherapist and the patient no longer exists, and
    - The patient is no longer dependent on the physiotherapist.

4. Sexual abuse

Sexual abuse of a patient means,

(a) sexual intercourse or other forms of physical sexual relations between the member and the patient,

(b) touching, of a sexual nature, of the patient by the member, or

(c) behaviour or remarks of a sexual nature by the member towards the patient.

For these purposes "sexual nature" does not include touching or conduct of a clinical nature appropriate to the service provided.

5. Mandatory reporting of sexual abuse

If a physiotherapist becomes aware that a regulated health professional may have sexually abused a patient, they must report it to the professional college to which the other health professional belongs. Failure to do so may result in disciplinary action by the College.

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Note: The definitions will not be included in the Standard but will be provided using hyperlinks. It is included in this document to assist in the interpretation of the expectations.

Definitions

A **relative** is a person who is related to the physiotherapist in one of the following ways:

- spouse or common-law partner*
- parent
- child
- sibling (brother or sister)
- through marriage (father-in-law, mother-in-law, son or daughter-in-law, brother or sister-in-law, stepfather, stepmother, stepchildren, stepbrothers or sisters)
- through adoption (adoptive parents or siblings, adopted children).

*Common-law partners are people who have lived together as a couple for at least one year, or who have a child together, or who have entered into a cohabitation agreement.

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Appendix 2: Content summary for the proposed Boundaries and Sexual Abuse Standard

Section 1: Authority and responsibility

In accordance with our new plain-language format for revised Standards, the authority and responsibility section sets the tone for the rest of the Standard and captures the overarching expectation of the Standard that members must uphold.

Section 2: Managing professional boundaries

This section expands on what boundaries are and what the physiotherapist should do to manage boundaries with patients. The first requirement to recognize that each patient has a unique idea of what boundaries are was incorporated to highlight that each patient's unique boundaries can impact the way they interact with the physiotherapist and perceive the actions of the physiotherapist. For example, a trauma victim can be extremely sensitive to touch in certain areas and so the physiotherapist should adjust the way he or she interacts with and provides treatment to that patient with this awareness. This expectation was recommended by the College's legal advisor who has an extensive background in sexual abuse law.

The expectation to be sensitive to the practice setting was pulled from the Therapeutic Relationship and Professional Boundaries Guide as one of the strategies to manage the limits or boundaries of the therapeutic relationships. Staff believed that this strategy was particularly important, especially given that providing treatment to a patient in very close and personal settings can create a greater risk of boundary violations and even sexual abuse.

The third expectation explains what a physiotherapist should do when a professional boundary has been breached. The Therapeutic Relationships and Professional Boundaries Standard requires the physiotherapist to take immediate remedial action once signs of a boundary crossing are recognized and to correct inappropriate comments, behaviors or attitudes. The Boundaries and Sexual Abuse Standard takes this a step further by not only requiring the physiotherapist to identify and correct a breach of the boundaries in the therapeutic relationship, but also to document the actions taken to address the breach. The requirement to document is particularly important because having a record of the breach can be vital information in the future to verify what actually happened.

Section 3: Restrictions for maintaining professional boundaries

This section has an introductory statement that provides the rationale for the restrictions that follow—close or intimate relationships between a physiotherapist and a patient can lead to impaired judgement.

Physiotherapists risk impairing their professional judgement when treating persons they know personally because it can be difficult to provide consistently objective treatment in such circumstances.

The draft Standard essentially prohibits physiotherapists from having a close or intimate relationship and a therapeutic relationship with an individual simultaneously. The only exception included is when emergency care is needed, in which case a fee cannot be charged. The fee reference is specifically included to dissuade physiotherapists from taking advantage of the exception in the expectation.

Lastly, an expectation was included to specify criteria for dating a former patient. Staff is seeking direction from Councillors on this expectation (see briefing note).

Section 4: Sexual abuse

This section specifically defines sexual abuse as per the definition in the *RHPA.* This was recommended by the Executive Committee to ensure that members have the legislative definition of sexual abuse within the Standard itself. The expectation that physiotherapists must not sexually abuse their patients is found in the Authority and Responsibility section of the Standard.

Section 5: Mandatory reporting for sexual abuse

The College's Professional Misconduct regulations stipulate that failure to make a mandatory report required by *The Health Professions Procedural Code* (*the Code)* is an act of professional misconduct. Incorporating the mandatory reporting obligation into the Boundaries and Sexual Abuse Standard so that it is easier for members to recognize and reference could lead to an increase in reports that could prevent sexual abuse of patients from happening and protect patients. The language of the expectation has also been extended beyond the minimum requirements in the law in order to encourage members to make reports.

Therapeutic Relationships and Professional Boundaries

College publications contain practice parameters and standards which should be considered by all Ontario physiotherapists in the care of their patients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Introduction

The relationship between a patient and a physiotherapist/physical therapist is fundamental to the delivery of safe, quality and effective physiotherapy care. This therapeutic relationship is based on trust, respect, personal closeness and the appropriate use of the physiotherapist's inherent power. The physiotherapist establishes and maintains this essential relationship not only by using knowledge, skills and judgment but also by applying effective communication strategies and interpersonal skills. Regardless of the setting and the length of the interaction, the physiotherapist is expected to act professionally and appropriately manage the boundaries of the relationship.

This standard describes the expectations of physiotherapists in establishing appropriate therapeutic relationships and maintaining professional boundaries with patients.

Standard Statement

Physiotherapists are responsible for understanding the difference between a therapeutic and personal relationship with a patient in order to establish and maintain appropriate professional boundaries. They are responsible for managing the relationship at all times in the best interest of the patient.

Performance Expectations

Physiotherapists demonstrate the Standard by:

1. Understanding the difference between a therapeutic relationship and a personal relationship with a patient and being cognizant of the components that characterize the difference:
    - Power
    - Trust
    - Respect
    - Personal Closeness
2. Refraining from any activity that constitutes sexual abuse, neglect or any other types of abuse such as emotional, financial or physical.

3. Accepting the responsibility for always managing the patient-therapist relationship by:
    - continuously self-evaluating their conduct and correcting any inappropriate comments, behaviours or attitudes; and
    - recognizing the signs in an interaction with a patient that, if not managed appropriately, could lead to a boundary crossing and taking immediate remedial action.
4. Demonstrating sensitivity to religious and cultural beliefs, values and lifestyles.
5. Recognizing that the treatment of a partner or family member may constitute a conflict of interest and should only occur after other options have been explored or are unavailable.
6. In all other circumstances, excluding paragraph five (5), refraining from entering into a close personal relationship with a patient, a patient's partner or family member while the patient is receiving physiotherapy treatment.
7. Refraining from entering into a close personal relationship with a former patient unless:
    - a reasonable period of time has elapsed since the patient was discharged from physiotherapy care;
    - the physiotherapist is reasonably satisfied that the power differential inherent in a therapeutic relationship no longer exists; and
    - the physiotherapist reasonably believes the patient is not dependent on him/her.

Definitions

Therapeutic Relationship: The relationship that exists between a physiotherapist and patient during the course of physiotherapy care.

Close Personal Relationship: A "close personal relationship" in the context of this Standard means a relationship with a person that has elements of specialness, exclusivity or intimacy. Joining the same community organization would not usually, in the context of this Standard, constitute a close personal relationship.

Sexual Abuse: Schedule 2, paragraph 1(3) of the Regulated Health Professions Act (RHPA), defines sexual abuse as:

- sexual intercourse or other forms of physical sexual relations between the member and the patient,
- touching, of a sexual nature, of the patient by the member, or
- behaviour or remarks of a sexual nature by the member towards the patient

"sexual nature" does not include touching, behaviour or remarks of a clinical nature appropriate to the services provided

References

College of Physiotherapists of Ontario Standards for Professional Practice: Conflict of Interest (+ Guide to the Standard)

Managing Challenging Interpersonal Situations (+ Guide to the Standard)

Code of Ethics

Briefing Note: Professional Reporting Obligations

For further information and assistance in incorporating this Standard into practice, see the accompanying Guide to Therapeutic Relationships and Professional Boundaries.

Legislative References

Regulated Health Professions Act (RHPA), 1991

Ontario Human Rights Code , 1990

Date approved: June 2005

Reviewed: December 2008, August 2012

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.:21.0

Motion

Council Meeting
June 21–22, 2017

Agenda #21: For Approval: Supervision Standard

It is moved by

_____,

and seconded by

_____,

that:

Council approve the proposed Supervision Standard (with any necessary amendments) with an effective date of September 1, 2017,

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.:21.1

Motion

Council Meeting
June 21–22, 2017

Agenda #21: For Approval: Supervision Standard

It is moved by

_____,

and seconded by

_____,

that:

Council rescind the current Supervision of Student Learners Standard with an effective date of September 1, 2017.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.:21.2

Motion

Council Meeting
June 21–22, 2017

Agenda #21: For Approval: Supervision Standard

It is moved by

_____,

and seconded by

_____,

that:

Council authorize staff to add the expectation to restrict supervision of relatives and close persons to the Physiotherapist Assistants Standard.

Meeting Date:	June 22, 2017
Agenda Item #:	21
Issue:	For Approval: Supervision Standard
Submitted by:	Téjia Bain, Junior Policy Analyst

Issue:

Council is being asked to consider the briefing materials provided and:

1. Approve the proposed Supervision Standard (with any necessary amendments) with an effective date of September 1, 2017,
2. Rescind the current Supervision of Student Learners Standard with an effective date of September 1, 2017, and
3. Authorize staff to add the expectation to restrict supervision of relatives and close persons to the Physiotherapist Assistants Standard.

Background

At the March 2017 Council meeting, staff conducted a workshop with Councillors to obtain their feedback on expectations for a new Supervision Standard. This new Standard will provide the expectations for any physiotherapist supervising another person involved in patient care. It will not only provide the expectations for supervisors of students and other unregulated individuals under supervision, but it will also provide the expectations for the supervisors of Physiotherapy Residents and other physiotherapists under supervision.

The idea for developing a Supervision Standard originally came out of the Standards Project review of the Supervision of Student Learners Standard. At the onset of this project review, staff recognized that physiotherapists commonly supervised groups of people – namely Physiotherapy Residents, other physiotherapists, and volunteers – with no existing Standard of practice to be held accountable to. After this discovery, staff extensively researched policies, standards and literature on supervision to identify the similarities and differences in the supervision of known supervisory groups. Case law was also reviewed to better understand how the courts enforced rules of law related to supervision. A summary table of analysis for the main supervisory groups addressed by the proposed Supervision Standard can be found in Appendix 2.

The Supervision Standard was drafted in light of the commonalities and differences between supervisory arrangements and provides a list of expectations that will be useful for physiotherapists providing supervision in today's practice environment.

Consultation

Considering the significant impact that a Supervision Standard can have on supervisory programs and arrangements, staff carried out an extensive consultation with various relevant stakeholders. Interviews were conducted with past and present supervisors, academic coordinators of supervisory programs, individuals who

have been supervised, and internal staff at the College. Past discussions with the College's Citizens Advisory Group on supervision were also considered.

The focus of our initial consultation was to determine what supervision actually looks like in practice today. After analysing the information gathered from stakeholders and the researched data on best practice and trends in supervision, staff derived a list of possible expectations for the Supervision Standard. This list of expectations was provided to Council in a workshop where Councillors gave staff their feedback on which expectations the College should be responsible for enforcing and which supervisory groups the expectations should apply to.

After gathering Council's feedback, staff focused on the challenge of incorporating all of the varying expectations into one overarching Standard. Once a draft Standard was created, the goal of the second phase of consultation was to determine if the expectations in the draft Standard would create issues with compliance among physiotherapists and enforcement by the College. Practice Advisors were asked to use the draft Standard to respond to common questions about supervision, and feedback was sought from the Professional Conduct department on how the draft Standard could have been applied in past discipline cases. The Ontario Physiotherapy Association was also given the opportunity to provide comment on the draft Standard, and a few changes were made to the draft Standard to address their concerns. Their response letter to the Supervision Standard draft can be found in Appendix 3.

Staff also involved the academic community in the second phase of consultation by organizing a teleconference with clinical instructors from the Ontario universities. Their input on the potential impact of the Standard on their student programs was extremely valuable. Additionally, a plain language expert was consulted to ensure that the Standard is clear and easy to understand.

Finally, the Executive Committee advised staff to make a few minor changes to the draft Standard. The proposed Supervision Standard in Appendix 1 reflects the changes recommended. Additional changes based on staff's considerations after the Executive Committee meeting are indicated in blue.

A summary of all the feedback gathered during the consultation for the Supervision Standard can be made available upon request.

Concerns highlighted during consultation for the Supervision Standard

During the second phase of consultation for the Supervision Standard, staff took note of a few concerns identified by stakeholders. These concerns are described below:

1. **Consistency in the definition of a relative**

The word 'relative' is used in three proposed Standards being considered by Council: The Conflict of Interest Standard, the Boundaries and Sexual Abuse Standard, and the Supervision Standard. In the context of the Supervision Standard, physiotherapists are restricted from supervising relatives because of the high risk that their professional judgement can be impaired when supervising and/or assigning care of a patient to someone who they have a personal relationship with.

When the Executive Committee first considered the definition of a relative in the Conflict of Interest Standard, they expressed concern that people who are not the physiotherapist's immediate relative (as captured by the definition) but still had a close personal relationship with the physiotherapist were not addressed. An example given of such a close person was a long-term foster child.

Despite the difference in context of the three Standards, it is important to have a consistent definition of a relative that works across all Standards in order to prevent confusion among the membership. As mentioned in the Conflict of Interest Standard briefing, staff has addressed the Executive Committee's concern without changing the proposed definition. In the proposed Supervision Standard, staff has made a change to the relevant expectation itself rather than the definition of a relative in order to ensure that other close persons who are not relatives have been captured. The expectation now reads:

> *A physiotherapist cannot supervise a relative or a person with whom they have a close or intimate relationship.*

For this reason, staff suggests keeping the definition of a relative as drafted.

Note: Should a physiotherapist be investigated for not upholding this expectation, the ICRC or Discipline Committee will determine if the relationship should be considered "close" or "intimate" in the context of the circumstances. Staff can provide guidance to the Committees to help them make this determination when necessary.

2. Alignment with the Physiotherapist Assistants Standard

A major consideration for staff in developing the Supervision Standard was the recently revised Physiotherapist Assistants Standard. Since the Supervision Standard would also capture physiotherapist assistants as a supervisory group, it was particularly important that the expectations of the Supervision Standard aligned with the Physiotherapist Assistants Standard. As you read through the proposed Supervision Standard you will see that several of the expectations in the Standard are either identical or very similar to those in the Physiotherapist Assistants Standard to ensure consistency.

Taking this into consideration, staff is recommending that the restriction on supervising relatives and close persons apply to any person being supervised by a physiotherapist, including physiotherapist assistants. Should Council agree with this recommendation, staff is requesting that this expectation be added to the Physiotherapist Assistants Standard.

3. Specific expectation for student supervision that requires the co-signature of student charting

During staff's consultation with university clinical instructors, participants pointed out that co-signing student charting is necessary for ensuring that the physiotherapist takes responsibility for the care that the student provides. Without this expectation, the academics did not see any other practical way for their clinical instructors to keep track of what care the student has provided. Staff therefore recommends incorporating this expectation into the proposed Standard.

4. **Exception for certain students on the restriction for assigning controlled activities**

Our Controlled Acts and Other Restricted Activities Standard prohibits the delegation of acupuncture, communicating a diagnosis, internal assessment or internal rehabilitation of pelvic musculature, and spinal manipulation. However, under Section 29(1)(b) of the *RHPA*, the performance of a controlled act within the scope of practice is allowed for individuals who are fulfilling the requirement to become a member of the profession and are under the supervision of a member. Therefore, we created an exception to the restriction on assigning these controlled acts that specifies this.

Topics for discussion

Staff would like Councillors to discuss and provide direction on the following issues brought forward:

- **Names and titles of non-members who provide care on patient invoices** (Section 6, point 2)

This expectation currently only applies to supervisors of physiotherapist assistants and is found in the Physiotherapist Assistants Standard. Council approved this expectation in the Physiotherapist Assistants Standard on the basis that it would encourage increased transparency with patients so that they are aware of who has provided their care. During the Supervision Standard workshop, Councillors agreed that this expectation should apply to all individuals under supervision who are not members of the College.

During consultation for the Supervision Standard, the Ontario Physiotherapy Association and several academics expressed concern that including students' names on invoices may result in insurance claim denials and unexpected barriers to accessing physiotherapy care. When this expectation came into effect in the Physiotherapist Assistants Standard, the College responded to these concerns by holding conference calls with major insurance companies in Ontario to ensure that they understood this rule change and that the quality of physiotherapy care that patients receive from a physiotherapist assistant has been and will remain up to the Standards of Practice of the profession. A similar exercise can be done for the Supervision Standard.

Because the concern has been brought up on several occasions, staff is seeking direction from Council on whether or not it should be included in the Supervision Standard. Staff will present the pros and cons of this expectation during the Council meeting.

- **"Same quality of care"** (Section 3, point 2)

On several occasions stakeholders have pointed out that individuals who have not met the qualifications to be a physiotherapist cannot deliver care with the same quality as a physiotherapist would provide. However, if one believes that the care delivered by a supervised person, who the physiotherapist has determined is competent, is not the same high quality of care that would be delivered by the physiotherapist themselves, it implies that patients are getting substandard care from persons under supervision. Many involved in the supervision of physiotherapy students and PT Residents would argue that this is not the case.

Staff is seeking direction from Council on whether or not the words "same quality of care" should remain in the expectation or if it should be changed. Please note that if this expectation is changed in the Supervision Standard, it must also be changed in the Physiotherapist Assistants Standard to ensure consistency between the two Standards.

Decision Sought:

Council is being asked to consider the briefing material provided and:

1. Approve the proposed Supervision Standard (with any necessary amendments) with an effective date of September 1, 2017,
2. Rescind the current Supervision of Student Learners Standard with an effective date of September 1, 2017, and
3. Authorize staff to add the expectation to restrict supervision of relatives and close persons to the Physiotherapist Assistants Standard.

Attachments:

- Appendix 1: Supervision Standard as recommended by the Executive Committee (with staff amendments as indicated)
- Appendix 2: Summary comparison of supervisory groups
- Appendix 3: Letter from the OPA in response to the Supervision Standard draft
- Appendix 4: Supervision of Student Learners Standard

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Appendix 1: Proposed Supervision Standard (with staff amendments as indicated)

1. Accountability and responsibility

This Standard applies to physiotherapists who supervise the following people when they are involved in physiotherapy patient care:

- physiotherapy residents
- physiotherapists under supervision
- individuals who are not ~~registered with~~members of the College, including students and volunteers

In all cases, the supervising physiotherapist remains responsible and accountable for ensuring that the Standards of Practice of the profession are upheld when individuals under their supervision are providing patient care**.**

2. Restrictions in supervision

A physiotherapist cannot supervise a relative or a person with whom they have a close or intimate relationship.

3. Assigning care

When assigning care, the supervising physiotherapist must:

- assign only activities that he or she has the knowledge, skill, and judgement to perform.
- ensure that the supervised person has the knowledge, skill, and judgement to deliver the care safely and with the same quality of care as the physiotherapist would provide.

4. Determining the level of supervision

The physiotherapist must adjust the level of supervision in accordance with patient need. Closer supervision is required in situations of higher patient risk.

Factors that influence patient risk include the patient's condition, the clinical environment and the abilities and experience of the person under supervision. Supervision may include direct observation, periodic chart reviews, discussions about the patient's condition, or other means of communication.

DRAFT

5. Supervising individuals who are ~~registered with~~ members of the College

In addition to the expectations described in Sections 1-4, when supervising individuals who are ~~registered with~~members of the College, the supervising physiotherapist must:

- maintain records that demonstrate the adequacy of their supervision.
- ensure that the person being supervised does not perform any controlled act that the physiotherapist is not rostered to perform.
- ~~uphold the mandatory reporting obligations of the College as required in the Supervision Agreement~~.

6. Supervising individuals who are not ~~registered with~~members of the College

When supervising individuals who are not ~~registered with~~members of the College, the physiotherapist remains responsible for all of the patient's care provided by the supervised person. In addition to the expectations described in Sections 1-4, the physiotherapist:

- must discuss the roles and responsibilities of the physiotherapist and the supervised person with each patient or their substitute decision maker. They should know the supervised person by name and title and give their consent to the care.
- must ensure that the supervised person's name and title appear on invoices whenever they have provided all or part of the treatment.
- must designate another physiotherapist that the supervised person can contact if the supervising physiotherapist cannot be reached. The alternate supervisor must be able to assume responsibility for decisions about the patient's care, have the knowledge, skill, and judgement to perform the supervised care, and be able to intervene when necessary.
- must immediately discontinue the supervised person's involvement in a patient's care if their actions place the patient at risk or if the patient withdraws their consent to treatment by the supervised person.
- must ensure that patient records and related documentation completed by a student include the student's name and status, and the co-signature of the physiotherapist.
- must not assign any controlled act that has been delegated to the supervising physiotherapist by another health professional.
- must not assign the controlled acts of spinal manipulation, internal assessment or internal rehabilitation of pelvic musculature, acupuncture and communicating a diagnosis unless the supervised person is fulfilling the requirements to become a member of the physiotherapy profession. In such cases, direct supervision must be provided until the supervised person can perform the controlled act with a consistent level of competency.

DRAFT

Note: The definitions will not be included in the Standard but will be provided using hyperlinks. It is included in this document to assist in the interpretation of the expectations.

Definitions

A **relative** is a person who is related to the physiotherapist in one of the following ways:

- spouse or common-law partner*
- parent
- child
- sibling (brother or sister)
- through marriage (father-in-law, mother-in-law, son or daughter-in-law, brother or sister-in-law, stepfather, stepmother, stepchildren, stepbrothers or sisters)
- through adoption (adoptive parents or siblings, adopted children).

*Common-law partners are people who have lived together as a couple for at least one year, or who have a child together, or who have entered into a cohabitation agreement.

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Appendix 2: Summary comparison of supervisory groups (based on *current* supervision standards)

Criteria of Analysis	High school Co-op students	PTA/OTA/Kin Students	PTAs	PT Students	IEPTs in a bridging program	PT Residents
Purpose of Supervisory arrangement	Learning requirement before graduation	Completing a clinical placement for a college or university support worker program	Hired and trained to assist and work under the supervision of a PT	Necessary for completion of PT university program; based on entry to practice requirements of the CAPR	Clinical experience to help improve skills and employment prospects as well as prepare for the PCE *Addresses gaps identified by the CAPR	To gain clinical experience before the clinical PCE and while waiting on results
Who coordinates the Supervision	Co-op Education Teacher and Placement Supervisor at the school	Placement program coordinator	Work site HR coordinator or employer	Director/Academic Coordinator of Clinical Education and Centre Coordinator of Clinical Education	Academic Coordinator, Centre Coordinators of Clinical Education (CCCEs)	Resident finds the supervisor; the College approves the supervisor
Selection criteria for supervisors	Registration with the College; specific criteria decided by co-op educator	Registration with the College Years of experience required varies by program	-Registration with the College -No conduct history that restricts ability to supervise -Other selection criteria are determined by the employer	-Registration with the College -Universities ask for offers from a list of clinical partners; supervisors volunteer to provide supervision **CCCEs for clinical partners know the competencies of the CIs*	-Registration with the College - a list of clinical partners offer supervision sites; once the needs of the students are assessed, students are matched with the PTs who volunteer to provide supervision **CCCEs for clinical partners know the competencies of the CIs*	-Registration with the College - at least 3 years of practice in Ontario -No PC history related to supervision -NO TCLs that prevent the PT from supervising -No relatives/conflicts of interest with the Resident
Supervision Environment (What does supervision look like in practice?)	Consists mainly of job shadowing; very limited patient care activities performed by this group	These students usually work in multiple support roles. The type of supervision is dependent	PTAs are usually hired to assist multiple PTs in various clinical settings. The level of supervision	-Very structured supervision program determined by the university program.	- Very structured supervision program determined by the bridging program.	The type of supervision (direct or indirect) is dependent on the arrangement between the

Criteria of Analysis	High school Co-op students	PTA/OTA/Kin Students	PTAs	PT Students	IEPTs in a bridging program	PT Residents
		on the practice environment and the identified focus of the clinical experience that is specific to the student. In some settings, OTA and PTA students work under the supervision of an OTA or PTA.	required depends on the competency and skills of the PTA.	-PT Students have specific goals that they must achieve by the end of their clinical placements, and are assessed on a regular basis throughout the placement.	-students identify areas of practice that they need improvement in and their supervision is tailored to address those needs. -they are given feedback regularly and provided with a comprehensive evaluation after their placements.	supervisor and the PT Resident. Most PT Residents work autonomously. Supervisors are expected to adjust their level of supervision with the needs of the Resident.
Record keeping and Billing	Student's tasks are monitored daily through direct supervision; students complete log sheets that are reviewed by the supervisor daily Student name not required on the invoice	Unknown if patient records are completed by this group; if so, a co-signature is required Student name not required on the invoice	Co-signature of the supervisor is not required on patient records completed by the PTA PTA's name and title are required on the invoice	Co-signature of supervisor required on patient records when task is performed by the student Student name not required on the invoice	Co-signature of supervisor required on patient records when task is performed by the student Student name not required on the invoice	Residents have their own billing number and are liable for their actions; co-signature of supervisor not required on invoice or patient records
References	-Ministry of Education Cooperative Education Policies and Procedures Manual -webpages about co-ops from several Ontario high schools	-interview with University of Guelph Kinesiology Program director -Ontario PTA/Kin program websites and documentation	-PTA Standard -Internal research for the PTA Standard	-Policy documents of the 5 university PT programs -interviews with clinical instructors and coordinators -CAPR website	-Interview with OIEBP coordinator -UofT bridging program website -CAPR website	-Provisional Practice documents of the College -College staff

<u>Note</u>: Supervision of a volunteer is normally arranged between the physiotherapist and the volunteer. If the volunteer provides patient care of any kind, the volunteer would be regarded as a physiotherapist assistant and the relevant expectations would apply.

ONTARIO PHYSIOTHERAPY ASSOCIATION

June 7, 2017

Mr. Rod Hamilton
Assistant Registrar, Policy & Quality Management
College of Physiotherapists of Ontario
375 University Avenue, Suite 901
Toronto, Ontario
M5G 2J5

RE: Ontario Physiotherapy Association's Response to Standard Consultation

Dear Mr. Hamilton,

I am writing on behalf of the Ontario Physiotherapy Association (OPA) and our members in response to the College of Physiotherapists of Ontario's (the College) consultation on the draft of the proposed Supervision Standard.

We thank you for the opportunity to participate in the consultation on the revised Standard. We reviewed the draft provided and, informed by our Board of Directors, expert member feedback and the experience of colleague professions. We offer the following recommendations and comments for consideration.

An Informed Patient and Risk Management

The OPA fully supports the College in setting clear expectations for the supervision of others involved in patient care that will support physiotherapists to understand, and carry out, the responsibilities and requirements of this role.

We support the clarity as drafted in the defining of how to assess level of risk and complexity in determining the appropriate level of supervision and the drafted requirement to provide an alternate contact should the supervising physiotherapist not be reachable.

We believe in an informed patient and consent to treatment by a supervised person. That this informed consent be documented in the patient record, allows for a record of the process of informed consent as with any other interventions by a physiotherapist. We also support that care

by a supervised person should be withdrawn immediately if the patient is placed in a risk situation and that it is always the right of the patient to withdraw consent to be treated by a supervised individual.

Supervised Person's Name on Invoices

We are extremely concerned by the requirement to include the name and title of any supervised person on invoices under section 6 *Supervising individuals who are not registered with the College*. The requirement reads:

> *6. Supervising Individuals who are not registered with the College*
>
> *When supervising individuals who are not registered with the College, the physiotherapist remains responsible for all of the patient's care provided by the supervised person. The physiotherapist must:*
>
> - *ensure that the supervised person's name and title appear on invoices whenever they have provided all or part of the treatment.*

The requirement to include student names on invoices presents a catastrophic risk to the sustainability of student clinical placements in private practice. If insurers refuse to cover services in which a student participates in providing care, clinics will be unable to offer student placements, or to allow students to participate in the provision of patient care. This will fundamentally alter access to necessary training for student physiotherapists.

We know from the experience of psychological associates that a significant number of insurance companies have refused to cover services delivered by students and residents. Recent information from this group indicates that in one class of 17 graduate students only one student was able to secure a practicum primarily due to the withdrawal of offers by those in private practice settings.

During the consultation on the physiotherapist assistant (PTA) Standard, many stakeholders expressed their concern that including PTA names on invoices may result in insurers refusing to provide coverage to benefit holders. Through implementation of the PTA Standard we have seen these fears become reality. We know that treatment including a PTA remains the care, and responsibility of the treating physiotherapist. However, associating billing for that care, or components of it with PTA has encouraged insurers to create their own definition of a physiotherapists' care and enforce it through denied claims. This definition is not based on the competencies, scope or practice of physiotherapists, nor on patient safety or need, but on a narrowing of what physiotherapy means for both patients and providers. This has had a negative impact on patients who now face new and often unexpected barriers in accessing care. It has also had an impact on clinics, physiotherapists and physiotherapist assistants who are either limited in their ability to offer care to clients, or must modify their treatment and business models to meet insurer demands rather than the interest and needs of patients.

The experience of the PTA standard has shown us that far from theoretical concerns, requiring student names on invoices is very likely to have consequences for patient access to physiotherapy services through extended health insurance.

We urge the College to consider the critical need for practical, clinical experience in the development of competent clinicians. To ensure future physiotherapists graduate with the skills that they need to provide safe, effective care for patients, the College must remove the requirement to include the name of supervised persons on invoices. This in turn can have a negative impact on access to necessary physiotherapy services for Ontarians.

It is our understanding that the primary intent of requiring the names of all individuals involved in treatment on invoices is to implement additional supports for patients' awareness and understanding of who is providing their care. We agree wholeheartedly that patients should be supported to understand the roles of their care providers. Consent and patient education are primary to the clinical relationship. However, there are many ways in which patients are, and can be further supported to understand the different roles of individuals involved in their physiotherapy treatment. There are also other means of providing patients with a record of the individuals involved in their treatment that do not link different models of care to billing. It is imperative that the College look to processes that support patient education without introducing additional risk to patients and the profession.

Equal Quality of Care

It is not possible to measure or ensure 'same quality of care as the physiotherapist would provide'. A physiotherapist with more experience and training will perform interventions that reflect that experience and training. This requirement in the standard would ensure that no interventions or tasks could be performed by students or by others not registered with the College such as physiotherapist assistants from participating in the care circle.

We strongly recommend that protection of the public in situations of assigned care or care provided in a learning setting can be achieved with the following edit;

Change:

- *Ensure that the person has the knowledge, skill, and judgement to deliver the care safely and with the same quality of care as the physiotherapist would provide.*

To:

- *Ensure that the supervised person has the knowledge, skill, and judgement to deliver the care safely and competently.*

Clarity Regarding Physiotherapist Assistants

There is a separate standard that details the supervision requirements for physiotherapists working physiotherapist assistants. Due to this we assume that the section applying to those not

registered with the College does not apply to the supervision of physiotherapist assistants but that is not clear in the draft as circulated. Being explicit in the application of this standard to the relationship between the physiotherapist and physiotherapist assistant is critical. If this standard does not apply to the supervision of physiotherapist assistants this would also need to be explicitly stated and suggest the following (additions underlined):

> 1. *Accountability and responsibility*
>
> *This Standard applies to registered physiotherapists who supervise the following people when they are involved in patient care:*
> - *physiotherapy residents*
> - *physiotherapists under supervision*
> - *individuals who are not registered with the College, including students and volunteers but excluding physiotherapist assistants.**
>
> **For standards directly related to working with Physiotherapy Assistants please see (add link)*

Defining Relative

We would suggest that for clarity, the definition of relative be consistent with that used in other Standards (for example, the Standard on Sexual Abuse). The definition in the draft Supervision Standard combines ways of being related with examples that seem to imply relation by blood. This may be interpreted as qualifying relationships through marriage or adoption. We suggest that for consistency the definition below provided in the draft Standard on Sexual Abuse be used in this standard.

> *A **relative** is someone who is:*
> - *related by blood, such as a child, grandchild, parent, grandparent, brother or sister*
> - *related by marriage, such as a spouse, a common-law partner, child- or grand-child-in-law, parent- or grand-parent-in-law, brother- or sister-in-law. (Common-law partners are people who have lived together in a conjugal relationship for at least one year, or have a child together, or have entered into a cohabitation agreement.)*
> - *related by adoption, whether legal or informal; for example, an adopted child or grandchild, adoptive parent or grandparent.*

Additional Considerations

We are aware that in consultation for previous Standards, the College has indicated their intent to provide further clarification or guidance through additional documents. There are some areas of this Standard where we believe more information in supporting documents would be required such that physiotherapists are able to ensure that they are meeting their Standards. For example the proposed standard states:

ONTARIO PHYSIOTHERAPY ASSOCIATION

5. *Supervising individuals who are registered with the College*

When supervising individuals who are registered with the College, the supervising physiotherapist must:

- *maintain records that demonstrate the adequacy of their supervision.*

To support physiotherapists to be compliant with Standards, the expectation of specific records required and the level of supervision that would be considered adequate must either be made clear in a Standard guide, or physiotherapists must be given an understanding of where to seek this information for their particular case.

We appreciate the work that the College continues to dedicate to increasing the clarity of Standards for Professional Practice, and to serve and protect the public. The OPA is happy to assist in any way we can and, as always, we would be pleased to meet with you to discuss the points we have made in this submission.

Sincerely,

Dorianne Sauvé
Chief Executive Officer

Cc:

Stephen Mangoff, President
College of Physiotherapists of Ontario

Shenda Tanchak, Registrar
College of Physiotherapists of Ontario

Wendy Smith, President
Ontario Physiotherapy Association

Standard for Professional Practice Supervision of Student Learners

College publications contain practice parameters and standards which should be considered by all Ontario physiotherapists in the care of their patients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Introduction

The College recognizes the importance of practical learning for health science students and encourages registrants to contribute to the preparation of students for future health care practice. Students involved in learning may include physiotherapy/physical therapy students from Canada or abroad, internationally educated physiotherapists/physical therapists in a bridging program, support personnel students, or learners from other health professions.

Supervising students is one way in which physiotherapists/physical therapists can promote their ongoing continuing competence, and in fact, can include this in their mandatory professional portfolio.

Standard Statement

In the event of any inconsistency between this standard and any legislation that governs the practice of physiotherapists/physical therapists, the legislation governs.

To ensure public protection, registrants supervising a student will assume professional responsibility and accountability for the care provided by the student. Registrants will balance the need to encourage a student's autonomy and learning with a level of supervision appropriate to the care assigned, and the knowledge, skill and clinical reasoning of the student. A registrant will only supervise a student within the registrant's individual sphere of competence and within the scope of physiotherapy/physical therapy practice.

Common Performance Expectations for the Supervision of Students

A physiotherapist/physical therapist demonstrates the standard by:

1. Evaluating the knowledge, skills and clinical reasoning of the student (s) being supervised prior to assigning patient care.
2. Ensuring that the duties assigned to a student are appropriate for the complexity of the environment/practice setting and the student's
    - level of education;
    - experience; and
    - confidence.
3. Ensuring that he or she supervises students at a level appropriate to the activities that the student will perform, minimizing any potential risk of harm to the patient and providing safe, quality care.
4. Ensuring informed consent from a patient or his/her substitute decision makers is obtained when involving a student in patient care.

5. Ensuring that a physiotherapy/physical therapy student performs a controlled act or authorized activity only when:
    - the activity is within the scope of practice of the profession;
    - the activity is authorized to physiotherapists/physical therapists;
    - the registrant supervising the physiotherapy/physical therapy student in the performance of the activity is competent to perform the controlled act[1] or authorized activity;
    - the physiotherapy/physical therapy student's performance of the controlled act or the authorized activity is under the direct supervision[2] of a registrant until he/she is able to safely and effectively perform the act with a consistent level of competence; and
    - the supervision of the physiotherapy/physical therapy student's performance of a controlled act or authorized activity continues at a level appropriate to the risk of harm thereafter.
6. Maintaining professional accountability for all aspects of patient care performed by students supervised by a physiotherapist including:
    - interpretation of referrals;
    - initial assessments and evaluations;
    - the development, evaluation and modification of the treatment plan;
    - communication;
    - documentation and billing; and
    - discharge planning
7. Ensuring ongoing evaluation of a student to ensure that the student's performance of assigned clinical interventions, services and activities meets generally accepted professional standards of practice[3].
8. Ensuring that patient health records and related documentation written or completed by students include the student's name and status.
9. Ensuring that patient health records and related documentation written or completed by a student include the co-signature of the supervisor.
10. Immediately discontinuing student involvement in patient care in circumstances where the student's actions or deficient knowledge, skills and clinical reasoning places the public at risk, or where the patient withdraws consent for their involvement.

References

Physiotherapy Act, Section 3, 4
Regulated Health Professions Act, Section 27, 29
Standard for Professional Practice: Physiotherapists Working with Physiotherapist Support Personnel
Guide to the Standard for Physiotherapists Working with Physiotherapist Support Personnel
Essential Competency Profile for Physiotherapists in Canada, October 2009
College of Physiotherapists of Ontario, Code of Ethics

February 2006, Updated November 2010, March 2011

[1] As per section 28 of the Regulated Health Professions Act (RHPA) learners of controlled acts may only be supervised by individuals of that same profession or by another authorized professional through delegation.

[2] Direct supervision is defined: where a registrant is physically present to observe and correct, as needed, the performance of the student. The goal of direct supervision is to provide reasonable assurance to the supervisor that the student's level of actual performance meets his/her stated or expected performance of the particular task or activity.

[3] When supervising physiotherapy students, the required standard to be met would be the standard of practice of physiotherapy – students of other professions may be held to a different standard of practice. While similar activities in different professions may generally be governed by similar standards, there may be essential differences that, as a supervisor, it will be important to be aware of.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Agenda #22: Update on the Audit of Compliance with the Advertising Standard

For Information

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.:23

Council Meeting
June 21-22, 2017

Agenda #23: For Approval: Conflict of Interest Standard

It is moved by

_____,

and seconded by

_____,

that:

Council approve the proposed Conflict of Interest Standard with an effective date of August 1, 2017.

Meeting Date:	June 21-22, 2017
Agenda Item #:	23
Issue:	For Approval: Conflict of Interest Standard
Submitted by:	Joyce Huang, Policy Analyst

Issue:

Council is asked to approve the proposed Conflict of Interest Standard with an effective date of August 1, 2017[1].

Background:

The Conflict of Interest Standard is being reviewed and updated as part of the College's standards review project. Staff have completed the review and are putting forward a proposed Conflict of Interest Standard. The Executive Committee recommends that Council approve the proposed Standard, with minor amendments.

The review of the Conflict of Interest Standard involved several stages of work, including initial research, discussion at an expert panel, discussion at a Council workshop session, consultation with internal and external stakeholder groups, and several rounds of review by the Executive Committee. After each step in this process, staff incorporated the feedback and direction received into content for the proposed Standard. Staff also asked a plain language expert to review the proposed content to ensure that it is clear and easy to understand for end users.

A summary of the research findings and stakeholder feedback is provided in the report in Appendix 3. An overview of the review process is shown on the chart in Appendix 4.

Highlight of Changes in the Proposed Standard:

Below is a summary of the substantive changes in the proposed Standard compared to the current Conflict of Interest Standard:

- *Emphasis on recognizing and managing conflicts of interest:* The proposed Standard acknowledges that there will always be conflicts of interest, and the goal is for physiotherapists to recognize and manage those conflicts so that the patient's interest remains paramount. They must do so by avoiding the conflict of interest, or by disclosing and discussing it with the patient.

[1] One of the proposed changes to the Conflict of Interest Standard is to move the provisions regarding the treatment of relatives to the Professional Boundaries Standard. In order to ensure continuity in our rules, the updated Conflict of Interest Standard and the updated Professional Boundaries Standard should have the same effective date.

- *Provisions about treating relatives moved to the Professional Boundaries Standard:* The proposed Conflict of Interest Standard is about financial conflicts of interest, whereas treating relatives is a relational conflict of interest. The expectations regarding treating relatives have been moved to the Professional Boundaries Standard.

- *Removed prohibition on volume-based benefits, but kickbacks are still prohibited:* In discussions with Council and Executive Committee, they agreed that kickbacks should be prohibited, but were concerned that the blanket prohibition on volume-based benefits in the current Standard might inadvertently prohibit legitimate profit sharing arrangements. The Executive Committee also expressed the belief that College rules should not constrain how physiotherapists are compensated and how they operate their businesses where there was no evidence of patient risk in the absence of doing so. In the proposed Standard, the blanket prohibition on volume-based benefits has been removed, but kickbacks are still prohibited as a result of how "conflict of interest" is defined.

- *Physiotherapists will be allowed to sell products at a profit:* The current Standard prohibits physiotherapists from selling products to patients at a profit. Members of Council and Executive Committee generally agreed that even though selling products in their practice puts physiotherapists in a conflict of interest, patients would benefit from the convenience of being able to buy products from their physiotherapists. They believed that when it comes to health products, patients are able to be informed consumers, as many of them already do buy health products with or without a physiotherapist's recommendation. Therefore they believed that the College does not need to restrict physiotherapists from selling products for profit, but that physiotherapists must manage the conflict of interest by disclosing it to patients and making them aware of alternatives.

- *Removed the requirement to disclose conflicts of interest to the College upon request:* The College's Professional Misconduct Regulations already require physiotherapists to respond to written requests from the College, therefore there is no need to re-state that obligation in this Standard.

Executive Committee Recommendation:

The Executive Committee considered the proposed Standard and recommends that Council approve it, with some minor amendments:

- Add an example in the definition of "conflict of interest" to make it clear that volume-based kickbacks or rebates are prohibited.
- Remove the requirement to disclose a conflict of interest to anyone who might rely on a report about the physiotherapist's services to take action. The Executive Committee believes that this specific requirement is not necessary, because patients are sufficiently protected by the other expectations in the Standard, and the College has not received any complaints about this specific issue (disclosure to third parties).

Staff also made additional language edits in the proposed Standard for greater accuracy and clarity.

Definition of "relative"

In the proposed Standard, the term "relative" is defined as people who are in the physiotherapist's immediate family (spouse, parent, child, or sibling), who are related by blood, marriage, or adoption. This definition of "relative" is also used in the proposed Supervision and Professional Boundaries Standards.

When the Executive Committee considered the proposed Conflict of Interest Standard at the June 2017 meeting, they noted that situations where a physiotherapist's actions enrich people they are close to but are not in their immediate family are also problematic, and should be addressed in the Standard. To achieve that, they suggested that the definition of "relative" should be more flexible so as to allow a Committee to determine who is a "relative" based on the specific facts in a case.

Staff considered the intent of the Executive Committee's direction, and believe that the proposed Standard can address that scenario without making a change to the definition of "relative".

The proposed Conflict of Interest has been purposefully drafted to focus on situations where there is a competition between a physiotherapist's self-interest and a patient's interest, particularly financial self-interest. In this context, when a physiotherapist's actions benefit members of their immediate family, they are *de facto* in a conflict of interest because of their shared financial interests. It can be assumed that a financial benefit to a physiotherapist's immediate family would also benefit the physiotherapist directly or indirectly.

On the other hand, when a physiotherapist's actions benefit other people with whom they have a relationship, the financial benefit does not automatically flow through to the physiotherapist. If the physiotherapist were to benefit from that personally, then the benefit would have to be overtly transferred (for example, through monetary payments or gifts). In that case, the Standard would prohibit that because the physiotherapist would be receiving an inappropriate benefit as defined in the Standard.

For that reason, staff suggest keeping the definition of "relative" as drafted.

Decision Sought:

Council is asked to approve the proposed Conflict of Interest Standard with an effective date of August 1, 2017.

Attachments:

- Appendix 1: Proposed Conflict of Interest Standard
- Appendix 2: Standard for Professional Practice - Conflict of Interest
- Appendix 3: Conflict of Interest Standard – Research and Stakeholder Consultation Feedback (as of June 2017)
- Appendix 4: Overview of Review Process for the Conflict of Interest Standard

Appendix 1: Proposed Conflict of Interest Standard

Conflict of Interest Standard

1. Recognizing and avoiding conflict of interest

Physiotherapists must recognize and manage situations that may result in a real, potential, or perceived conflict of interest.

Physiotherapists should avoid any situation that may result in a conflict of interest whenever possible.

If it is not possible to avoid a conflict of interest, physiotherapists must:

- Disclose and discuss the situation with the patient before providing the services
- Make the patient aware of practical alternatives if there are any
- Document the discussion in the patient's record.

2. Recommending products or services

Physiotherapists must not recommend products or services to patients that are not clinically indicated.

If a physiotherapist suggests that a patient purchase a product or service in which the physiotherapist or their relative has a financial interest, then the physiotherapist must:

- Disclose the nature of the financial interest to the patient in advance
- Make the patient aware of any practical alternative sources for the product or service
- Assure the patient that if they choose an alternate supplier, it will not adversely affect their care
- Document the discussion in the patient's record.

3. Benefits for referrals

Physiotherapists must not give any benefit to another person, or receive any benefit from another person, for a patient referral.

Physiotherapists must make referrals based on patient need. When making referrals, physiotherapists must make the patient aware of a range of practical alternatives.

Note: *The definitions are <u>not</u> part of the Standard, they will be provided using hyper-links. They are included in this document to assist the interpretation of the expectations.*

Definitions:

Conflict of interest is the competition between a physiotherapist's self-interest and the patient's interest.

A physiotherapist is in a conflict of interest if:

- Your professional actions or decisions result in a benefit to you, a relative, or a corporation in which you or a relative has an interest.

  Example: You receive a $10 fee for every patient you refer to the gym next door to your office.

  Example: You refer all your patients to get massage therapy at your wife's spa.

- You offer or give a benefit to someone else.

  Example: You pay the doctor in your building $10 for every patient he refers to your practice.

  Example: You give a $20 gift card to each patient who refers someone to your clinic.

- You ask for or receive a benefit for favourable treatment or help in a business deal. (commonly known as a "kickback")

  Example: A knee brace manufacturer gives you a $10 rebate for each knee brace for agreeing to only sell their brand in your clinic.

  Example: A drug company pays you a $100 commission for every 10 bottles of their muscle cream that you sell.

Potential or perceived conflict of interest is when a reasonable person might suspect that a physiotherapist is in a conflict of interest.

A **relative** is a person who is related to the physiotherapist in one of the following ways:

- spouse or common-law partner*
- parent
- child
- sibling (brother or sister)
- through marriage (father-in-law, mother-in-law, son or daughter-in-law, brother or sister-in-law, stepfather, stepmother, stepchildren, stepbrothers or sisters)
- through adoption (adoptive parents or siblings, adopted children).

*Common-law partners are people who have lived together as a couple for at least one year, or who have a child together, or who have entered into a cohabitation agreement.

A **benefit** is any direct or indirect gift, reward, advantage, or payment. Here are some examples:

- Money that is not a payment for goods or services rendered at fair market value

  Example: You normally charge $50 to write a report for lawyers. One lawyer offers to pay you $500 for each report if you refer patients to their firm.

  Example: You rent office space next to a gym. The landlord who owns the gym wants to charge you 20% above market rate with a promise to refer gym members to your practice.

- Goods, services, tickets or contest entries provided free or at a discount

Example: You give a doctor season tickets to the local hockey team in exchange for referring patients to your practice.

Example: A lawyer who frequently refers clients to you asks you to provide physiotherapy treatment to him and his family for free.

- Preferential terms, subsidies, or discounts on a loan, debt or other financial obligation

  Example: You want to take out a $10,000 loan to renovate your house. An orthotics manufacturer offers to make the loan to you with no interest if you agree to sell their brand of orthotics exclusively in your clinic.

Standard for Professional Practice - Conflict of Interest

College publications contain practice parameters and standards which should be considered by all Ontario physiotherapists in the care of their patients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Introduction

A conflict of interest arises when a registrant puts him or herself into a position where reasonable people, including patients, could conclude that his or her professional judgment is influenced by financial or personal benefit. In fact, even if a registrant's judgment is not actually compromised, there may be concerns over conflict of interest. If circumstances cause a reasonable person to suspect that the registrant's judgment is affected, this constitutes a potential conflict of interest.

Therefore, a conflict of interest may be either actual or potential. Conflicts of interest can arise where a registrant engages in any private or personal business, undertaking or other activity in which:

- The registrant's private or personal interest directly or indirectly conflicts, may conflict, or may reasonably be perceived as conflicting with his or her duties or responsibilities as a health care professional; or
- The registrant's private or personal interest directly or indirectly influences, may influence or may reasonably be perceived as influencing the exercise of the registrant's professional duties or responsibilities.

A conflict of interest may also arise in many other circumstances that include research; the employment of a family member; one's strongly held personal view; the receipt of benefits from suppliers of equipment and supplies; or the referral of a patient seen in one setting to another setting in which the registrant works.

Whether actual or potential, conflicts of interest give patients the impression that their care, or the costs associated with providing their care, may be adversely affected. For this reason, conflicts of interest are to be avoided. As a fundamental component of ethical and quality care, it is in the public interest for physiotherapists to place the interests of their patients ahead of their own personal and financial interests. Appropriate standards of integrity must be maintained when engaging in professional responsibilities. Given this understanding, the College's definition of professional misconduct includes practising the profession while the registrant is in a conflict of interest.

Registrants are entitled to practice in a manner that permits them to profit from their professional knowledge, education and experience. However, certain kinds of businesses and business relationships or arrangements are inherently inconsistent with registrants' professional obligations to their patients

and are therefore inappropriate. In other cases, the relationship or arrangement is only acceptable if appropriate safeguards are put in place.

This Standard for Professional Practice describes the College's expectations of registrants to assist them in avoiding circumstances that may result in a real or potential conflict of interest.

Standard Statement

In the event of any inconsistency between this standard and any legislation that governs the practice of physiotherapists, the legislation governs.

Registrants will avoid all circumstances that may result in real, potential or perceived conflicts of interest by refraining from participating in any activity or arrangement where their participation provides the potential for their professional judgment to be compromised. The conflict of interest situation is not avoided by structuring the arrangement to move any benefit arising to a related person.

Performance Expectations

A physiotherapist demonstrates the standard by ensuring the following:

Recommending products or services

1. When assessing or treating a patient the registrant:
   a. Refrains from suggesting or advising patients to make a purchase(s) from a particular vendor of health care products if the registrant or a related person has a financial interest in that vendor unless the registrant also informs the patient in advance about the nature of the financial interest. If reasonable to do so, the registrant provides the patient with information on at least one other source of the product(s).
   b. Refrains from suggesting or advising patients to obtain services from a practice (other than the practice in which the advice is given), if the registrant or a related person has a financial interest in the practice, unless the registrant also informs the patient in advance about the financial interest. If reasonable, the registrant provides the patient with information on at least one other source of the service(s).
   c. Provides advice and/or suggestions about product(s) or service(s) that reflect the standards of practice of the profession.
   d. Assures the patient that his or her selection of an alternate supplier of the product or service will not adversely affect the assessment, care or treatment that the registrant provides.
   e. Refrains from selling any product to a patient for more than the original cost plus a reasonable dispensing or inventory fee.
   f. Documents in the patient record any discussions with patients related to conflict of interest.

Volume-related agreements

2. Refrains from entering into any agreement[1] in which he or she or a related person receives a benefit that is related to the volume of the services provided, the number of referrals made, the profit made or the amount of the fee charged.

Referral to

3. In circumstances in which the registrant refers, or may refer a patient to another person, the registrant or a related person does not:
   a. offer, request, or accept any benefit to or from any person for the referral; or
   b. permit the offering, requesting, or accepting of any benefit to or from any person for the referral.

Referral from

4. In circumstances in which the registrant accepts a referral, or may accept a referral of a patient from another person, the registrant or a related person does not:
   a. offer, request, or accept any benefit to or from any person for the referral; or
   b. permit the offering, requesting, or accepting of any benefit to or from any person for the referral.

Services to related persons[2]

5. The registrant refrains from providing any professional services to related persons[3] unless:
   a. no fees are charged for the provision of this service; and
   b. he or she discloses his or her relationship to the related person to anyone who receives a report on the services provided in circumstances where the party receiving the report may reasonably rely on the report to take any action.

Disclosure to the College

8. Upon request, the registrant provides the Registrar the details of any activity or arrangement that the registrant, or a related person, has that might, if not structured appropriately, involve a conflict of interest.

Definitions

Benefit: Any gift[4] (financial or non-financial), advantage, or payment of any kind, whether direct or indirect, including:

- monetary payments, other than those that pay for services rendered at fair market value (e.g., paying an excessive fee for a report from a referral source);

1 This might include agreements such as a lease or a referral agreement. This restriction would not apply to partnerships, associateships or employment agreements.

2 Please note that recent case law from the Ontario Court of Appeal indicates that there is no spousal exception to the sexual abuse provisions.

3 See definition section for a definition of a related person.

4 This is not intended to prohibit a physiotherapist from accepting or giving items of token value as a form of appreciation

- rebates, credits or discounts on, or reimbursement of the cost of goods or services;
- the receipt of goods or services at no charge or a cost which is less than prevailing market value;
- the distribution of goods or services at no charge or a cost which is less than prevailing market value;
- the payment or reduction of any amount of any debt or financial obligation;
- the receipt of any consultation fee or other fees for services rendered;
- loans, where the interest rates or repayment terms do not reflect prevailing market trends.

Related person: A related person is a person related by blood, marriage, partnership or adoption, or a corporation in which a registrant or a related person has an interest (unless the interest is ownership of shares of a publicly traded corporation that the registrant or the related person does not directly or indirectly control). For more specificity:

- Persons are related by blood if one person is the child or other descendent of the other or one person is the brother or sister of the other;
- Persons are related by marriage if one person is the spouse of another or is the spouse of a person who is connected by blood relationship to the other;
- Persons are spouses if they are married to each other or are living in a conjugal relationship outside marriage and have cohabited for at least one year, are together the parents of a child or have entered into a cohabitation agreement under the Family Law Act;
- Persons are partners if they are either of two persons who have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives; and
- Persons are related by adoption when one person has been adopted, either legally or in fact, as the child of the other or as the child or a person who is connected by blood relationship (other than as a brother or sister) to the other.

References and Resources

Other

Essential Competency Profile for Physiotherapists in Canada

College Documents

Professional Misconduct Regulation, Ontario Regulation 388/08
Code of Ethics
Standard for Professional Practice: Advertising
Standard for Professional Practice: Fees & Billing
Guide to the Standards for Professional Practice: Advertising, Fees & Billing and Conflict of Interest
Standard for Professional Practice: Record Keeping
Guide to the Standard for Professional Practice: Record Keeping

Appendix 3: Conflict of Interest Standard – Research and Stakeholder Consultation Feedback (as of June 2017)

Assumptions

1. Standards must be consistent with other laws that govern Canadians.
2. Health care professionals are in a fiduciary relationship with patients, which is based on high trust between the professional and the patient, and the knowledge differential between professionals and patients. Therefore, health care professionals should be held to higher standards than non-health care professionals.
3. Physiotherapists have an ethical duty to act in the best interest of patients.
4. Acting with honesty and integrity is fundamental to the delivery of high quality, safe and professional services.
5. The purpose of conflict of interest rules is to help maintain the integrity of professional judgment, and patients' confidence in that judgment.
6. Based on advice from the Health Professions Appeal and Review Board (HPARB) in many of its decisions, it is good practice to provide clear guidelines to professionals on how to meet their professional obligations, rather than relying solely on the Professional Misconduct Regulations.

Content in the Proposed Standard

Proposed content:

1. Recognizing and avoiding conflict of interest

Physiotherapists must recognize and manage situations that may result in a real, potential, or perceived conflict of interest.

Physiotherapists should avoid any situation that may result in a conflict of interest whenever possible.

Research:

Current Rules

- The Professional Misconduct Regulations state that it is an act of professional misconduct to practice the profession while the physiotherapist is in a conflict of interest.

The environment

- A significant portion of physiotherapists in Ontario are working in private practice. The legitimate profit motive in private practice can give rise to many conflicts between the economic and financial interest of physiotherapists and the best interest of patients.
- This seems to be confirmed by the fact that most Practice Advice questions about Conflict of Interest come from physiotherapists in private practice.
- The College consulted a group of patient volunteers about issues related to conflicts of interest. Several participants pointed out that the for-profit care model seems to introduce conflicts of interest, particularly a conflict between the interest of the clinic owner, who wants to maximize profits, and the

interest of patients.

- We surveyed a small group of physiotherapists in 2013, and some respondents acknowledged that working in a private for-profit practice has affected how they practice in some way, which could put them in a conflict of interest situation.
- All regulators in Ontario prohibit their members from practicing while in a conflict of interest. Many regulators in Ontario and in other jurisdictions require their members to avoid situations that could result in conflict of interest or could compromise their judgment.
- Empirical evidence shows that financial relationships do in fact bias the decisions of health care professionals, and that conflicts of interest contribute to bias.
- The medical ethics literature recognizes that conflicts of interest exist in all human interactions, and that they are not inherently problematic. Problems arise when health professionals do not recognize the conflict and address it appropriately.

Public's perspective

- Patients are in a vulnerable position, and place a high degree of trust in the professional. They expect that health care professionals will act based on patient well-being. If a patient perceives that the professional is influenced by other motives, such as their personal benefit, then the patient may lose trust in that professional, and potentially in the profession as a whole.
- Due to the power and knowledge differential between health professionals and patients, and the fact that patients are in a vulnerable position, patients are not in a good position to judge the potential impacts of conflicts of interest.
- We commissioned a survey of physiotherapy patients in 2014, and asked them what concerns they might have when they go see a physiotherapist. About one-third of the respondents said that they are concerned that the physiotherapist would be more interested in making a profit than providing treatment and recommending products that benefit the patient.

Case Law

- In its review of cases involving conflicts of interest, the Health Professions Appeal and Review Board (HPARB) has affirmed the principle that the judgment of health care professionals should not be unduly influenced.

Problems we are seeing

- College program data suggest that the most common conflict of interest situation that comes up is giving benefits to other healthcare providers and to patients for referrals.
- In the six fiscal years up to March 2016, there were 19 professional conduct cases involving an alleged breach of the Conflict of Interest standard. One of those cases resulted in action against the physiotherapist.

Executive Committee and Council Feedback:

- During the Council workshop discussion in September 2016, it was noted that for physiotherapists working in the private practice setting, conflict of interest exists in every interaction with patients. The important thing is for physiotherapists to be aware of the conflict of interest, and then to manage it appropriately. The group felt that this should be the underlying principle of the Standard. In response, staff added a requirement to the Standard that physiotherapists must recognize and manage conflicts of interest.
- During the Executive Committee meeting in March 2017, some members of the Committee suggested that the requirement that physiotherapists avoid conflicts of interests whenever possible may not be necessary as the Standard already requires physiotherapists to acknowledge and manage conflicts of interest. However, this expectation corresponds to s. 5 in the College's Professional Misconduct Regulations, which prohibits physiotherapists from

practicing the profession while in a conflict of interest. The Executive Committee asked staff to investigate whether this requirement could be removed from the Standard without changing the Professional Misconduct Regulations.

- After further investigation, staff suggested that the requirement to avoid conflicts of interest should remain in the Standard so that the Standard remains consistent with the Professional Misconduct Regulations. The Executive Committee agreed with this recommendation.

Proposed content:

If it is not possible to avoid a conflict of interest, physiotherapists must:

- Disclose and discuss the situation with the patient before providing the services
- Make the patient aware of practical alternatives if there are any
- Document the discussion in the patient's record.

Research:

The environment

- The medical ethics literature recognizes that it is not always possible to avoid all situations that could lead to conflicts of interest.
- In the medical ethics literature, disclosure is considered the golden rule in managing conflicts of interest. If there is any possibility that the situation may cause patients or others to feel uncomfortable, then disclosure is prudent.
- Disclosure is an effective way to manage conflicts of interest in situations where those who would be affected are in a good position to assess the risks. In those cases, disclosing a conflict of interest situation would allow them to make an informed decision.
- In other situations where those who receive the information may not know how to interpret it, or may not have reasonable alternative courses of action, then disclosure alone is not sufficient to address the conflict. In those cases, prohibition of the activity or the elimination of the conflict may be necessary.
- A number of other regulators require members to disclose or openly acknowledge conflicts of interest.

Public's perspective

- Disclosing conflicts of interest to patients will help them make an informed decision about their care.
- Proactive disclosure also has the potential to increase a patient's trust and confidence in the professional, because they feel that the professional is being open and honest.

Physiotherapists' perspective

- We surveyed a small group of physiotherapists, and asked them what they believe is the reasonable thing to do in a situation where there is a perceived conflict of interest. Almost all respondents said that they would have a discussion with the patient about it.

Expert Panel feedback

- The College consulted a group of expert stakeholders about this Standard. The group agreed with this expectation.

Case Law

- In a number of cases reviewed by the Health Professions Appeal and Review Board (HPARB), the Board agreed that the conflict of interest situations in those cases were appropriately managed through disclosure of the conflict.

Problems we are seeing

- In the six fiscal years up to March 2016, there were 19 professional conduct cases involving an alleged breach of the Conflict of Interest standard. Most of those cases involved a perceived conflict of interest or the appearance of bias. There was no evidence to suggest that the physiotherapist was unduly influenced or could have been unduly influence by a conflict of interest, but the perception was nonetheless there.

Stakeholder Consultation Feedback (January-February 2017):

- Some respondents pointed out that there are several instances where the requirement to provide alternatives should apply, including when physiotherapists discuss a conflict of interest situation with a patient. In response, staff suggested adding that requirement to this section of the Standard.
- There was concern that where a physiotherapist is required to provide alternatives to patients, there could be a loophole whereby the physiotherapist provides alternatives that are impractical which in effect influences the patient's choice. The suggestion was for the Standard to also require the alternatives to be reasonable and practical. In response, staff suggested that in all instances in the Standard where the physiotherapist is required to offer alternatives to patients, that a qualifier is added so that they are required to offer "practical" alternatives.

Executive Committee and Council Feedback:

- During the Council workshop discussion in September 2016, some members in the group asked for clarification regarding when discussions about conflicts of interest should occur in the course of providing services to patients. Others in the group believed that such discussions should occur as the earliest point possible in the physiotherapist-patient interaction, because the purpose of such discussions is to help patients make informed decisions about their care.
- In the March 2017 version of the proposed Standard, there were three instances where physiotherapists are required to give patients information about practical alternatives for services, products, and referrals. The Executive Committee was concerned that this would require physiotherapists to recommend alternatives about which they may not have full information. Instead, they suggested that physiotherapists should be required to make patients aware that there are alternatives, which would be sufficient to meet the obligation to help patients make informed choices about their care. Corresponding changes were made to this section of the Standard.
- In the June 2017 version of the proposed Standard, there was a requirement in this section that, in addition to disclosing conflicts of interest to patients, the physiotherapist must also disclose a conflict of interest to anyone who might rely on a report about their services to take action. During the discussion at the June Executive Committee meeting, the Committee believed that this specific requirement may not be necessary. The Committee believes that patients are sufficiently protected by the other requirements in this section, and the College has not received any complaints about this specific issue (disclosure to third parties). Therefore they suggested that this specific requirement should be removed.

Proposed content:

2. Recommending products or services

Physiotherapists must not recommend products or services to patients that are not clinically indicated.

If a physiotherapist suggests that a patient purchase a product or service in which the physiotherapist or their relative has a financial interest, then the physiotherapist must:

- Disclose the nature of the financial interest to the patient in advance
- Make the patient aware of any practical alternative sources for the product or service
- Assure the patient that if they choose an alternate supplier, it will not adversely affect their care
- Document the discussion in the patient's record.

Research:

The environment

- The medical ethics literature suggests that disclosure alone is not always adequate to address conflict of interest situations. In situations where patients are not in a position to assess the impact of a conflict of interest, or the situation has the potential to deeply affect the patient's trust, then other measures may be necessary, such as prohibition of the activity, or requiring the professional to avoid or eliminate the conflict situation.
- Empirical evidence shows that the referral patterns of health professionals to other providers are influenced by the fact that they have a financial interest in that provider.
- About 10% of registered physiotherapists work in a combination of public and private sector. College program data suggest that both physiotherapists and patients seem to be unsure as to what is appropriate when a physiotherapist provides service under both publicly-funded and private pay programs. Members often ask whether it is a conflict of interest for a physiotherapist to treat the same patient under both publicly-funded and privately funded streams.
- Many other regulators have similar provisions where they prohibit or advise their members against recommending products and services to patients if they or a related person has a financial interest in it. If the professionals do make such recommendations, then the regulators require them to take certain actions. Disclosure of the financial interest to the patient is the most common requirement. A few regulators also require the professionals to tell patients about alternative providers, and assure them that their choice in provider will not negatively affect the care they receive.

Public's perspective

- Patients place their trust in professionals to do what is in their best interest, including when the professional recommends products or services to them.
- Declaring any interest the professional may have when they recommend a product of service, and providing alternative providers, would help patients make an informed choice.
- By assuring that a patient's choice in where to get a product or service will not negatively affect the care they receive from a professional, the patient will be reassured that the professional's judgment is not compromised when providing care to them.

Expert Panel feedback

- The College consulted a group of expert stakeholders about this Standard. The group made the following comments and suggestions about this expectation:
    - Some in the group noted the convenience factor for patients when they are able to buy products in the same place where they see the physiotherapist.

- Some in the group suggested that Subsection a) (disclosing the financial interest to the patient) can be removed, as Subsections b) and c) (offering alternatives, and reassurance about no negative consequences) are sufficient to protect patients. They believed the most important aspect is ensuring patients have the information they need to make an informed choice.
- Others in the group also pointed out that Subsection a) is vague and open to different interpretations, which is another reason why we should consider removing it from the Standard.
- One member suggested that the Standard should clarify what is the intent of this expectation, and provide more clarity about how much detail should be provided in a conflict of interest disclosure.
- One of the questions the group considered was whether the College should offer additional guidance to physiotherapists who refer patients between different funding streams. The group felt that the College should not express a particular position or provide guidance about that. They noted that such practice is commonplace, and it is not a conflict of interest issue as long as patients are told that they are being switched from one funding stream to another, and are provided with information about the different funding streams. They believe that this situation can be managed through proper disclosure.

<u>Case Law</u>

- In cases it has reviewed, the Health Professions Appeal and Review Board (HPARB) has articulated a couple of nuances to this particular type of conflict situation:
  - When the connection between the professional who recommends a product or service, and the provider of the product or service, is remote, then it is not, on the face of it, a conflict of interest.
  - When a professional recommends a particular *type* of device or treatment to a patient based on best clinical judgment, without offering alternatives, that does not constitute a conflict of interest.

<u>Problems we are seeing</u>

- We surveyed a small group of physiotherapists, and asked them if they have observed any inappropriate behaviour related to conflict of interest among their peers. Two physiotherapists said that they have seen other therapists recommend products for financial gain rather than patient benefit, and refer patients to specific providers without giving them a full range of options.
- The College consulted a group of patient volunteers, and asked them if they have observed any problems related to conflicts of interest. One of the participants shared that some providers seem to recommend treatments or products to patients which are sold by the clinic, when it is unclear whether the treatment or products are based on evidence, and actually offer benefits to patients.

Stakeholder Consultation Feedback (January-February 2017):

- There was concern that where a physiotherapist is required to provide alternatives to patients, there could be a loophole whereby the physiotherapist provides alternatives that are impractical which in effect influences the patient's choice. The suggestion was for the Standard to also require the alternatives to be reasonable and practical. In response, staff suggested that in all instances in the Standard where the physiotherapist is required to offer alternatives to patients, that a qualifier is added so that they are required to offer "practical" alternatives.

Executive Committee and Council Feedback:

- In the March 2017 version of the proposed Standard, there were three instances where physiotherapists are required to give patients information about practical alternatives for services, products, and referrals. The Executive Committee was concerned that this would require physiotherapists to

recommend alternatives about which they may not have full information. Instead, they suggested that physiotherapists should be required to make patients aware that there are alternatives, which would be sufficient to meet the obligation to help patients make informed choices about their care. Corresponding changes were made to this section of the Standard.

Proposed content:

3. Benefits for referrals

Physiotherapists must not give any benefit to another person, or receive any benefit from another person, for a patient referral.

Physiotherapists must make referrals based on patient need. When making referrals, physiotherapists must make the patient aware of a range of practical alternatives.

Research:

Current Rules

- The Professional Misconduct Regulations state that it is an act of professional misconduct to receive, request or confer a benefit, directly or indirectly, in relation to the referral of a patient.

The environment

- A significant portion of physiotherapists in Ontario are working in private practice. Because the volume of patients seen in private clinics partly depends on referrals, physiotherapists in private practice may have an interest in establishing special arrangements to induce others to make referrals.
- Based on College program data, offering benefits to patients for making referrals seems to be an emerging practice. The prohibition against offering incentives for referrals has traditionally been understood to apply to referrals between health professionals. Physiotherapists may not be clear that this prohibition applies to referrals from patients as well.
- The medical ethics literature suggests that in situations where patients are not in a position to assess the impact of a conflict of interest, or where the situation has the potential to deeply affect the patient's trust, then prohibition of the activity may be necessary.
- Many other regulators also have prohibitions against professionals giving or receiving benefits for referrals. Only one regulator allows for exceptions to this prohibition.
- The College consulted a group of expert stakeholders about this Standard. The group asked staff to conduct additional research about the ethical issues related to giving and receiving gifts. Most of the research about this issue comes from the medical ethics field, specifically related to the impact of gifts and other benefits physicians receive from the pharmaceutical industry. Here is a summary of the relevant findings:
    - Receiving gifts is one of several forms of interaction between physicians and industry. The overall impact of these interactions is negative; they influence physicians' attitudes and behaviour in ways that are against the interest of patients and the health care system.
    - Current ethical guidelines prohibit cash gifts and gifts that have conditions attached, but allow for small gifts of token value, if they can benefit patients (for example, educational material).
    - However, research shows that even small gifts of token value can influence behaviour. Due to the strong social norm of reciprocity, the recipient of gifts, no matter what size, feel an obligation to reciprocate, which influences their behaviour. In some cases the recipients may not even be

conscious of this influence.
    - While some experts believed that a ban on all gifts would be best practice, they also acknowledge that complete prohibition may not be practical.

Public's perspective

- Patients place their trust in the professional to act in their best interest. Patients are not in a position to judge whether a professional is making a referral based on benefit to them, or if the professional was influenced by their personal benefit.
- The College consulted a group of patient volunteers, and asked them what they think about physiotherapists giving incentives to patients for making referrals. Most participants felt that this practice is not appropriate. They do not have issues with patients making those referrals, but felt that giving patients incentives for referrals would be unethical and unprofessional.
- The patient group also suggested that the Standard should specify that the prohibition on offering incentives for referrals apply to patients as well as other health care providers.

Physiotherapists' perspective

- We surveyed a small group of physiotherapists, and asked them if there are any circumstances where it is acceptable to give incentives or benefits to someone for making referrals. Most of the respondents said that this practice is not acceptable. Some of them added that referrals should be made based on benefit to the patient, and incentives would promote or create a conflict of interest.

Expert Panel feedback

- The College consulted a group of expert stakeholders about this Standard. The group made the following comments about this expectation:
    - Some in the group noted that sometimes other health professionals and patients may give small gifts to physiotherapists as a token of thanks. The group debated whether gifts should be allowed at all, and if they are, whether there should be a limit to the value. The group did not come to a consensus about this issue. The group asked staff to conduct additional research about this issue.
    - Some in the group also noted that it can be difficult to define and therefore enforce a rule that limits gifts to a "reasonable" amount or a "token value", as those concepts are subjective.
    - Regarding the specific issue of offering incentives to patients for making referrals, the group generally agreed that this practice is not appropriate, as it may affect the therapeutic relationship. This is true whether the incentive is direct (e.g. receiving a discount on their next session), or indirect (e.g. entering a draw to win a prize).

Case Law

- In one case reviewed by the Health Professions Appeal and Review Board (HPARB), the Board agreed with the Committee that offering benefits to patients for making referrals to a professional may constitute a conflict of interest because the intent is to encourage more business for the professional.

Problems we are seeing

- College program data suggest that the most common conflict of interest situation that comes up is giving benefits to other health care providers, employees, and to patients for referrals.
- We surveyed a small group of physiotherapists, and asked them if they have observed any inappropriate behaviour related to conflict of interest among their peers. One respondent said that they are aware of another therapist receiving a benefit from a vendor in return for patient referrals.

Stakeholder Consultation Feedback (January-February 2017):

- Some respondents pointed out that there are several instances where the requirement to provide alternatives should apply, including when physiotherapists make a referral. In response, staff suggested adding that requirement to this section of the Standard.
- There was concern that where a physiotherapist is required to provide alternatives to patients, there could be a loophole whereby the physiotherapist provides alternatives that are impractical which in effect influences the patient's choice. The suggestion was for the Standard to also require the alternatives to be reasonable and practical. In response, staff suggested that in all instances in the Standard where the physiotherapist is required to offer alternatives to patients, that a qualifier is added so that they are required to offer "practical" alternatives.

Executive Committee and Council Feedback:

- In the March 2017 version of the proposed Standard, there were three instances where physiotherapists are required to give patients information about practical alternatives for services, products, and referrals. The Executive Committee was concerned that this would require physiotherapists to recommend alternatives about which they may not have full information. Instead, they suggested that physiotherapists should be required to make patients aware that there are alternatives, which would be sufficient to meet the obligation to help patients make informed choices about their care. Corresponding changes were made to this section of the Standard.
- During the Executive Committee meeting in March 2017, the Committee expressed the belief that College rules should not constrain how physiotherapists are compensated and how they operate their businesses where there was no evidence of patient risk in the absence of doing so. Based on that principle, one Executive Committee member questioned whether it is still appropriate to prohibit benefits for referrals. However, this expectation corresponds to s. 36 in the College's Professional Misconduct Regulations, which prohibits physiotherapists from giving or receiving a benefit in relation to a patient referral. The Executive Committee asked staff to investigate whether this requirement could be removed from the Standard without changing the Professional Misconduct Regulations.
- After further investigation, staff suggested that the prohibition on benefits for referrals should remain in the Standard so that the Standard remains consistent with the Professional Misconduct Regulations. The Executive Committee agreed with this recommendation.

Content that Has Been Removed from the Standard

Expectation:

The registrant refrains from providing any professional services to related persons unless:

a. no fees are charged for the provision of this service; and
b. he or she discloses his or her relationship to the related person to anyone who receives a report on the services provided in circumstances where the party receiving the report may reasonably rely on the report to take any action.

(This content has been removed from the Conflict of Interest Standard and incorporated into the Professional Boundaries Standard, which is also currently under review.)

Recommendation and Rationale:

- Move to the Professional Boundaries Standard.
- Most of the expectations in the current Conflict of Interest Standard relate to financial conflicts of interest, whereas treating related persons is a relational conflict of interest. Staff suggest that this expectation be moved to the revised Professional Boundaries standard, which also contains a provision about treating related persons.
- In the event that the revised Conflict of Interest Standard receives final approval before the Professional Boundaries standard is reviewed, staff suggest retaining this expectation in the Conflict of Interest standard until the revised Professional Boundaries standard is approved. This will ensure that there is continuity in the expectations.

Executive Committee and Council feedback:

- The Executive Committee was in support of moving this content to the Professional Boundaries Standard.

Expectation:

Volume-related agreements

Refrains from entering into any agreement in which he or she or a related person receives a benefit that is related to the volume of the services provided, the number of referrals made, the profit made or the amount of the fee charged.

Research:

The environment

- The medical ethics literature suggests that in situations where patients are not in a position to assess the impact of a conflict of interest, or where the situation has the potential to deeply affect the patient's trust, then prohibition of the activity may be necessary.
- Several other regulators have a similar prohibition against professionals entering into agreements where they receive benefits based on volume. A few of those regulators specify which types of arrangements the prohibition applies to.

Public's perspective

- Patients place their trust in the professional to act in their best interest. Patients are not in a position to judge whether a professional is providing a service or making a referral based on benefit to them, or if the professional was influenced by their personal benefit.

Expert Panel feedback

- The College consulted a group of expert stakeholders about this Standard. The group agreed that kickbacks based on volume are not appropriate, and that this expectation is needed. However the group noted that they were not entirely clear what is meant by the current wording of the expectation, so more clarification may be needed.

Case Law

- In a case reviewed by the Health Professions Appeal and Review Board (HPARB), the Board agrees that in a situation where a volume-based benefit flows to a person related to the professional, that constitutes a conflict of interest.

Problems we are seeing

- We are not aware of any at this time.

Stakeholder Consultation Feedback (January-February 2017):

- The draft Standard that was circulated for consultation did not contain a prohibition against benefits based on volume. Some respondents pointed out that the draft Standard does not seem to address situations where physiotherapists receive benefits from someone based on the volume of patients, services, fees, or profits. In response, staff suggested adding the expectation to the Standard.

Executive Committee and Council Feedback:

- During the Council workshop discussion in September 2016, the group strongly supported a prohibition on kickbacks. However, the group also noted that some fee splitting models are acceptable, and in some cases it is clinically advisable for a patient to see multiple providers with different scopes. Therefore, the language in the revised Standard should be more clear about which types of fee splitting or referral practices are acceptable, and which types are not.
- The March 2017 version of the proposed Standard contained a prohibition against physiotherapists receiving benefits based on volume of patients, services, fees or profits. The Executive Committee believed that the College should not have rules that would constrain how physiotherapists are compensated and how they operate their businesses where there was no evidence of patient risk in the absence of doing so. For that reason, they suggested that the prohibition against benefits based on volume should be removed. The current version of the proposed Standard does not have that prohibition.

Expectation:

Disclosure to the College

Upon request, the registrant provides the Registrar the details of any activity or arrangement that the registrant, or a related person, has that might, if not

structured appropriately, involve a conflict of interest.

Research:

Current Rules

- The Professional Misconduct Regulations require physiotherapists to reply appropriately or within a reasonable time to a written inquiry from the College.

The environment

- Currently the College asks for conflict of interest information in the Quality Assurance peer assessment process. After an assessor has been matched to a physiotherapist who has been selected for a peer assessment, they are asked to declare if they have any conflicts of interest (for example, if they know each other as friends or colleagues), to ensure that the assessment is objective and unbiased.
- A few other regulators have this disclosure requirement in their conflict of interest standards.

Public's perspective

- Some types of conflicts of interest are not readily apparent to patients. Therefore they would need to rely on the regulator, who is in a position to find out about these conflicts, to take action to protect their interest.
- The College consulted a group of patient volunteers about this Standard, and they suggested that the College should actually ask physiotherapists about conflicts of interest.

Problems we are seeing

- None that we are aware of at this time.

Stakeholder consultation feedback (January-February 2017):

- The draft Standard that was circulated for consultation contained a requirement that physiotherapists disclose conflicts of interest to the College when requested. Some respondents wondered whether the requirement is necessary. The Professional Misconduct Regulations already require physiotherapists to reply to a written inquiry from the College. Currently, the only instance where the College asks about a conflict of interest is in the context of the Quality Assurance practice assessment. However, that disclosure requirement can be managed operationally through the program's policies. Therefore, staff suggested removing the requirement to disclose conflicts of interest to the College from the Standard.

Executive Committee and Council feedback:

- During the Council workshop discussion in September 2016, a member of the discussion group suggested that there should be a requirement that physiotherapists must disclose conflicts of interest in a timely fashion and in writing. That requirement currently exists under Section 13 of the College's Professional Conduct Regulations.

Expectation:

Physiotherapists should refrain from selling a product to a patient for more than the original cost plus a reasonable dispensing or inventory fee.

Research:

The environment

- A significant portion of physiotherapists in Ontario are working in private practice. The legitimate profit motive in private practice can give rise to many conflicts between the economic and financial interest of physiotherapists and the best interest of patients.
- Regarding the sale of products in general, the Practice Advisor has received questions from physiotherapists and employers about whether it is acceptable to sell products in their practice, including products that are not necessarily related to physiotherapy treatment.
- The medical ethics literature suggests that in situations where patients are not in a position to assess the impact of a conflict of interest, or where the situation has the potential to deeply affect the patient's trust, then prohibition of the activity may be necessary.
- A few other regulators have a similar prohibition against professionals selling a product to patients for a profit. A couple of regulators allow the sale of products for profit if specific conditions are met.
- The College consulted a group of expert stakeholders about this Standard. The group debated the issue of physiotherapists selling products, and asked staff to find out how other professions who also sell products deal with this issue. Staff contacted the Colleges for pharmacists, optometrists, and audiologists and speech-language pathologists for information. The research found that none of these Colleges have restrictions on what products can be sold in their members' practices. However, they have various safeguards in place to protect the public, such as:
    - A Code of Ethics that requires members to put patient's best interests before the members' personal interests and their employers' interests.
    - Conflict of Interest rules that require members to offer all brands of products to the public, disclose if the member has a financial interest in the sale of a particular product, and reassure the patient that the product they recommend does meet their needs.
    - Members are required to tell patients that they can buy products from anywhere they like, whether they are products prescribed by the professional, or over-the-counter products.
    - If a member chooses to recommend a particular product that is sold in the practice, the recommendation and any claims of superiority should be based on evidence, patients should be told what is in the product (for example, specific active ingredients), and told about alternatives. The member must declare if they have a financial interest in the sale of the product.
    - If a customer walks in to the practice and buys something, the member does not have a therapeutic relationship with them. However, if the customer asks the member for information about a product, then the member should provide advice based on their professional knowledge and judgment.
    - Even though members do not necessarily have control over the decision to sell specific products, if the member believes that a product being sold is detrimental to the public, then they have an obligation to say or do something about it.

Public's perspective

- Patients are in a vulnerable position when they go to see health care professionals, which create the potential for exploitation. Patients place their trust in the professional to act in their best interest. Selling products to patients for a profit could be seen as exploitation of their trust.
- The sale of products that are not related to physiotherapy treatment in a physiotherapist's practice has the potential to mislead patients in two ways: that the products are related to or beneficial for physiotherapy treatment; and that the physiotherapist endorses the specific brand or product.

Expert Panel feedback

- The College consulted a group of expert stakeholders about this Standard. In addition to feedback about the current expectation, we also asked the group

whether the College should provide additional guidance regarding when it is acceptable for physiotherapists to sell products to patients. The group debated at length about whether physiotherapists should be allowed to sell products, and if so, what parameters should be in place. There was no consensus among the group. The following is a summary of their comments:

- Members of the group identified three approaches to this issue:
  - An "all or nothing" approach, either allow physiotherapists to sell products, or don't
  - Physiotherapists should only be allowed to sell clinically-related products
  - Physiotherapists should be allowed to sell any product they want, but there should be a separation between products that are clinically-related and products that are not
- If the product is directly related to a patient's treatment, then it should be documented in the patient's clinical record as such
- One member in the group believed that if a customer walks into a physiotherapist's practice to buy a product, but does not have a therapeutic relationship with the physiotherapist, then the disclosure requirements about recommending products should not apply
- Several members believed that if physiotherapists are allowed to sell retail products, then:
  - They should be allowed to charge a mark-up, just as any other retailer would
  - They should separate the retail aspect of their practice from the physiotherapy aspect
  - They should make clear that they are not endorsing the products that are sold in their practice
- Some members in the group believe that the current expectation should be removed from the Standard, for various reasons:
  - This issue is already covered by Expectation 4 (what physiotherapists must do if they recommend products that financial benefits them), particularly the requirement to tell patients about alternative providers for the product
  - What is a reasonable dispensing or inventory fee is very subjective and hard to determine
  - If physiotherapy has become a business, does this prohibition still make sense?
- Some in the group noted that if a physiotherapist works in a multidisciplinary clinic, then they should not be held responsible for products sold by the other professionals
- The group noted that this issue is similar to pharmacists selling natural products, and optometrists dispensing eye glasses, and they asked staff to find out how those Colleges address the issue

<u>Case Law</u>

- In one case involving the sale of products, the Health Professions Appeal and Review Board (HPARB) provided clarity in terms of what is considered a product. In this case, the products sold by a physician are not available for sale commercially, and can only be administered at a physician's office. The Board determined that they are nonetheless health products, and should not be considered as services. Therefore the prohibition against selling a product for profit should apply.
- In another case, HPARB agreed with a Committee's determination that if the professional does not make a profit from the sale of a product, then it is not a conflict of interest.

<u>Problems we are seeing</u>

- We are not aware of any at this time.

Executive Committee and Council feedback:

a) Should the Standard restrict physiotherapists to only selling products related to physiotherapy treatment?

- The sale of products that are not related to physiotherapy treatment in a physiotherapist's practice has the potential to mislead patients in two ways: that the products are related to or beneficial for physiotherapy treatment; and that the physiotherapist endorses the specific brand or product.
- On the other hand, allowing physiotherapists to sell products that are related to physiotherapy treatment offers convenience for patients who need those products for their treatment.
- When the Executive Committee debated this issue, it was noted that any time a physiotherapist sells products to patients, they are in a conflict of interest situation. There is a benefit to patients in being able to buy products from their physiotherapist, and it is a common practice for physiotherapists to sell products. Therefore, the Standard should not prohibit this practice.
- The Council discussion group also debated this issue. The group felt that physiotherapists should not sell products that are not related to physiotherapy treatment, but also acknowledge that it is very difficult to make that distinction for health and wellness products. After some debate, the Council discussion group agreed with the Executive Committee that physiotherapists should be allowed to sell any product they choose.

b) If there are no restrictions on what kinds of products can be sold by physiotherapists, then should the Standard require certain safeguards?

- The Executive Committee suggested that in order to protect patients, the Standard should ensure that physiotherapists provide patients with options, and not coerce patients to buy a product from the physiotherapist. In the proposed content for the Standard, there is already a section which requires physiotherapists to do this.
- The Council discussion group believed that allowing physiotherapists to sell products would benefit patients by offering the added convenience. They emphasized the need for the physiotherapist to recognize and manage any conflicts of interest that could arise, which would protect patients' interests.

c) Should physiotherapists be allowed to sell products for profit?

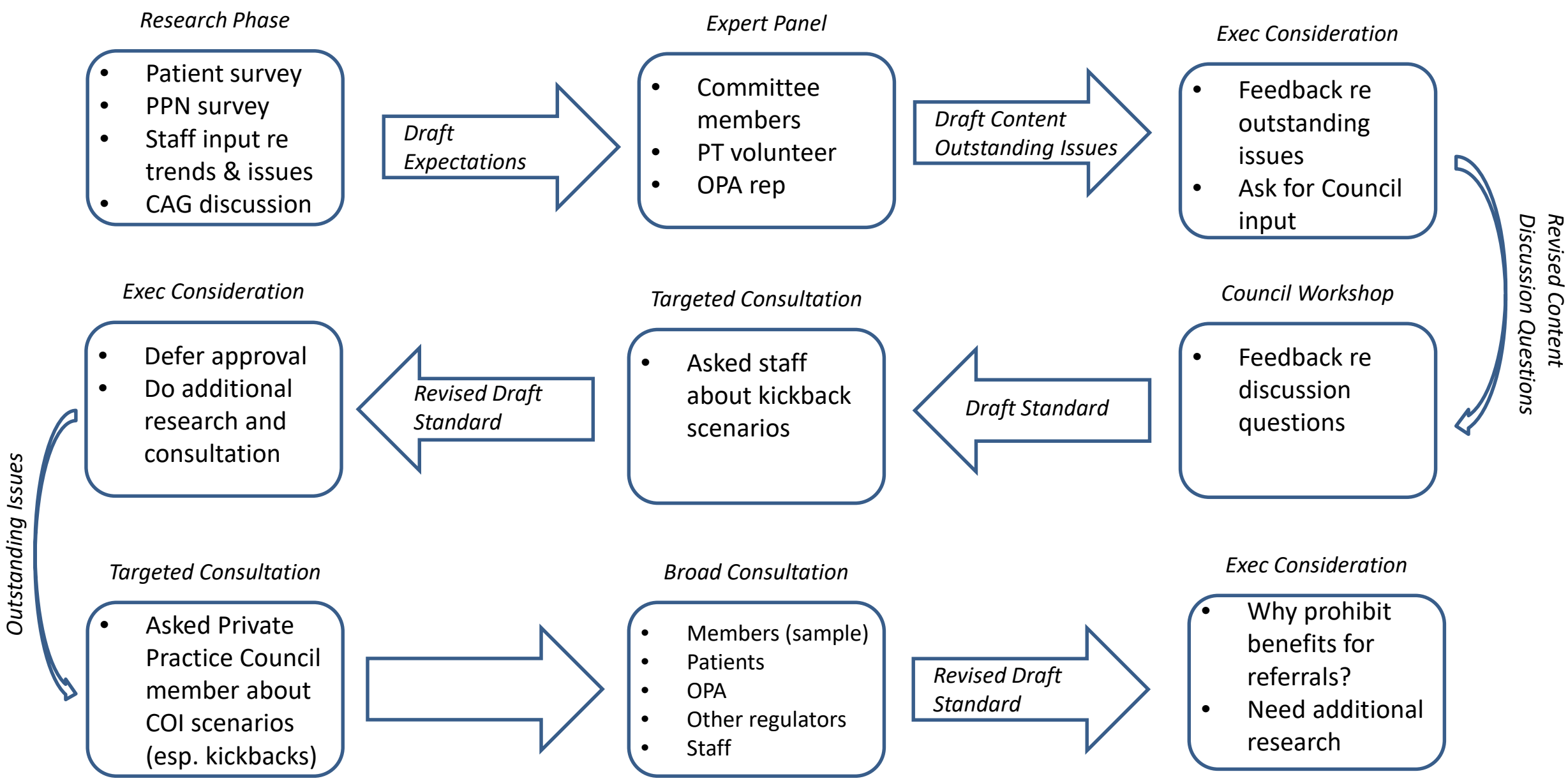
- The current Conflict of Interest Standard states that physiotherapists must not sell a product to a patient for more than the original cost plus a reasonable dispensing or inventory fee.
- The sale of products in a physiotherapy practice creates the potential for the physiotherapist to be in a conflict of interest, because the physiotherapist's judgment could be influenced by considerations about profit from the sales.
- When the Executive Committee considered this issue, they did not believe that patients are at risk. The Executive Committee believed that patients are able to determine for themselves whether they should buy a product, and at what price. It was noted that patients already do buy many products, with or without a recommendation from a health care professional. The consensus in the Committee was that physiotherapists should be allowed to sell products at a profit.
- The Council discussion group also came to the conclusion that physiotherapists should be allowed to sell products at a profit. They noted that when recommending a product to patients, the physiotherapist can also help the patient choose the most appropriate product and fitting the product, which is a valuable service for the patient. It requires the physiotherapist's time, knowledge, and skills, so it is reasonable that they should be compensated for those activities. The group also felt that it is not the role of the College to determine what price physiotherapists should charge for products.

Expectation:

The conflict of interest situation is not avoided by structuring the arrangement to move any benefit arising to a related person.

Proposed action and rationale: • Include in the definition of “conflict of Interest”. This statement is a clarification of the definition of “conflict of interest”, rather than an expectation in itself.
<u>Expectation:</u> When assessing or treating a patient the registrant: • Provides advice and/or suggestions about product(s) or service(s) that reflect the standards of practice of the profession.
Proposed action and rationale: • Remove this expectation. Physiotherapists are expected to follow standards of practice of the profession in all aspects of their practice, therefore this expectation is redundant.

Appendix 4: Overview of Review Process for the Conflict of Interest Standard



COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 24.0

Council Meeting
June 21-22, 2017

Agenda #24: For Approval: Restricted Titles, Credentials and Specialty Designations Standard

It is moved by

_____,

and seconded by

_____,

that:

Council approve the proposed Restricted Titles, Credentials and Specialty Designations Standard with an effective date of July 1, 2017.

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 24.1

Council Meeting
June 21-22, 2017

Agenda #24: For Approval: Restricted Titles, Credentials and Specialty Designations Standard

It is moved by

_____,

and seconded by

_____,

that:

The College discontinues the publication of the following documents:

- Information Bulletin – Use of Title: Acupuncturist
- Information Bulletin – Non Physiotherapists Use of Restricted Titles and Holding Out
- Position Statement – Animal Rehabilitation
- Position Statement – Specialty Designations

Meeting Date:	June 21-22, 2017
Agenda Item #:	24
Issue:	For Approval: Restricted Titles, Credentials and Specialty Designations Standard
Submitted by:	Joyce Huang, Policy Analyst

Issue:

Council is asked to approve:

1. The proposed Restricted Titles, Credentials and Specialty Designations Standard with an effective date of July 1, 2017, and
2. That the College discontinues the publication of the following documents:
    - Information Bulletin – Use of Title: Acupuncturist
    - Information Bulletin – Non Physiotherapists Use of Restricted Titles and Holding Out
    - Position Statement – Animal Rehabilitation
    - Position Statement – Specialty Designations

Background:

The College currently publishes five documents that relate to the use of restricted titles, credentials and specialty designations. In addition, there are several provisions in the College's Professional Misconduct Regulations that relate to how physiotherapists represent their qualifications. As part of the Standards Review Project, staff recommend combining the existing content in these documents into one clear Standard.

Legal Review

Staff conducted a legal review by looking at case law, interpretive guidance, and rules of other regulators. This review found that the College's current rules are consistent with existing laws.

- Rules regarding the use of professional titles and designations have been challenged in several jurisdictions on the grounds that it violates the protection for freedom of expression in s. 2 of the *Charter*. However, the Supreme Court of Canada and lower level courts have ruled that restrictions on the use of professional titles and designations are justified under the *Charter* because they protect vulnerable patients from being confused about the qualifications of their healthcare providers.

- In several cases reviewed by the Health Professions Appeals and Review Board (HPARB), the Board agreed with committees that health professionals cannot use specialty titles if they are not certified by a program that is approved by their colleges. The Board also agreed with the committees that due to the knowledge differential between health professionals and patients, the onus should be on the professional to communicate their credentials clearly and unequivocally. That also means that health professionals should take reasonable steps to prevent miscommunication of their credentials by someone else.

- The Competition Bureau has published a few reports which look at professional regulation in the context of competition law. It does not appear that the Bureau has a position regarding the restrictions on the use of professional titles and designations. The Bureau has expressed support for allowing professionals to use specialty designations through a recognized certification program. They noted that this is beneficial for consumers by increasing the quantity and quality of information available, which would allow them to choose a professional that best suit their needs.

- Currently, 12 other health regulatory colleges in Ontario publish Standards or guidance regarding the use of restricted titles and specialty designations. Our College is consistent with these other colleges in their interpretation of the legislation and their position on the use of specialty designations.

Stakeholder Feedback

Because the proposed Standard is a consolidation of existing rules about the use of titles, and most of these rules are grounded in legislation and regulations, staff determined that consulting members about the draft Standard would have limited value.

However, staff did consult internal and external stakeholders about the accuracy, clarity and utility of the proposed Standard.

- We consulted College staff to determine the utility of the proposed Standard for the different College program areas. The feedback indicates that the proposed Standard would be effective for answering Practice Advice questions from members, and for enforcement in professional misconduct cases.

- We reached out to the Ontario Physiotherapy Association (OPA) and asked them to share the questions they receive from their members about use of titles and credentials, and any concerns they have about the current Standard. In their response, the OPA has indicated that their members have asked about the use of the title “Doctor”, the confusion between protected title and job titles, and how to represent their “specialist” title. Staff believe that the proposed Standard clearly articulates the expectations related to those queries. Additional clarification could also be provided through Practice Advice.

- We notified the colleges for veterinarians and traditional Chinese medicine of our proposal to publish a single document about title use, and discontinue the publication of current documents about the use of the “acupuncturist” title and animal rehabilitation. They had no concerns with the proposed approach.

Executive Committee Recommendation:

The Executive Committee considered the proposed Standard, and recommends that Council approve it, with one minor amendment. The proposed Standard that was brought forward to the Executive Committee contained an expectation that when members are engaging in clinical practice, they must use the correct title associated with their class of registration (that is, either “physiotherapist” or “physiotherapy resident”).

The Executive Committee believes that using the correct title associated with the member's class of registration is in the public's interest even in non-clinical settings. Therefore they recommended that this expectation be broadened to capture that. Staff re-drafted parts of Section 2 in the proposed Standard to capture that intent.

Decision Sought:

Council is asked to approve:

1. The proposed Restricted Titles, Credentials and Specialty Designations Standard with an effective date of July 1, 2017, and
2. That the College discontinues the publication of the following documents:
    - Information Bulletin – Use of Title: Acupuncturist
    - Information Bulletin – Non Physiotherapists Use of Restricted Titles and Holding Out
    - Position Statement – Animal Rehabilitation
    - Position Statement – Specialty Designations

Attachments:

- Appendix 1: Proposed Restricted Titles, Credentials and Specialty Designations Standard
- Appendix 2: Standard for Professional Practice: The Use of Restricted Titles, Credentials, and Specialty Designations (2012)
- Appendix 3: Information Bulletin – Use of Title: Acupuncturist
- Appendix 4: Information Bulletin – Non Physiotherapists Use of Restricted Titles and Holding Out
- Appendix 5: Position Statement – Animal Rehabilitation
- Appendix 6: Position Statement – Specialty Designations

Appendix 1: Proposed Restricted Titles, Credentials and Specialty Designations Standard

Restricted Titles, Credentials and Specialty Designations Standard

1. Authority and responsibility

Members must represent their qualifications in a manner that is true, accurate and not misleading.

2. Use of the "physiotherapist" title

Only members of the College can use the title "physiotherapist." This includes variations and short forms, such as "physical therapist," "PT," and equivalent terms in other languages.

Members must use their title when they are engaging in physiotherapy clinical practice.

Whenever members use their title, they must use the title associated with their class of certificate of registration:

- Members with a certificate of independent practice or a courtesy registration must use the "physiotherapist" title.
- Members with a certificate of provisional practice must use the "physiotherapy resident" title. This includes variations and short forms such as "physical therapy resident," "PT resident," and equivalent terms in other languages.

Members must not use the "physiotherapist" or "physiotherapy resident" title when they are practicing outside of the scope of practice of physiotherapy. For example, members who perform animal rehabilitation must not use the "physiotherapist" title when they are providing care to animals.

3. Use of the "physiotherapist" title by non-members

It is illegal for anyone who is not a member of the College to use the title "physiotherapist."

Members must not help non-members to "hold themselves out as" (claim to be) physiotherapists.

Members who believe that a non-member is holding themselves out as a physiotherapist must report this to the College.

4. Use of the "specialist" title

Members must not use the title "specialist" unless they:

- Have completed a specialty certification program recognized by the College, and
- Ensure that this information is included in the Public Register.

5. Use of other credentials

Members may use other credentials. When members are engaging in physiotherapy clinical practice, they must give their name and qualifications in this order:

1) Their name as it appears on the Public Register
2) The "physiotherapist" or "physiotherapy resident" title
3) Other credentials

6. Use of other restricted titles

Members must not use the title "doctor" or the short form "Dr." in the course of offering or providing physiotherapy care.

Members must only use other restricted titles in accordance with the law. For example, members must not use the title "acupuncturist" unless they are also registered with the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario.

The Use of Restricted Titles, Credentials and Specialty Designations

College official documents contain practice parameters and standards which should be considered by all Ontario physiotherapists in the care of their patients and in the practice of the profession. College official documents are developed in consultation with the profession and describe current professional expectations. It is important to note that these College official documents may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Introduction

According to the Physiotherapy Act, only registrants of the College are permitted to use the titles "physiotherapist" and "physical therapist", variations and abbreviations thereof such as "PT", or equivalent terms in other languages. The purpose of this legislation is to protect the public by ensuring appropriate and authorized use of these titles.

The ability to use of title is a privilege granted to registrants of a regulatory organization who have demonstrated that they possess the required educational qualifications, knowledge, skills and attributes to practice their profession. Registrants are accountable for the delivery of professional services and as such, a title of registration provides the public with important information.

Every physiotherapist/physical therapist who is registered with the College is entitled to use the protected titles associated with his or her class of certificate of registration. No one other than a College registrant is permitted to use the titles restricted by the Physiotherapy Act or to hold himself/herself out as a physiotherapist or physical therapist.

These restricted titles are also official marks. Official marks are words that have been registered with the Canadian Intellectual Property Office through the federal Trade-marks Act. The Canadian Alliance of Physiotherapy Regulators (The Alliance) has the authority for the use of official marks throughout Canada. The official marks for the profession at the national level include practice words (e.g. physiotherapy and physical therapy) and title words (e.g. physical therapist, physiotherapist and PT)[1]

Physiotherapists/physical therapists may also wish to use other credentials in combination with the restricted titles granted to them by the College. The College takes a national approach to the recognition of specialty designations and relies on the rigour of the Canadian Alliance of Physiotherapy Regulators' specialty recognition review process when granting permission to use the title "specialist".[2]

1 Official marks statement, Canadian Alliance of Physiotherapy Regulators, February 2010, http://www.alliancept.org/pdfs/alliance_resources_official_marks_eng.pdf

2 Please see the College of Physiotherapists of Ontario's Position Statement Specialty Designations

Standard Statement

In the event of any inconsistency between this standard and any legislation that governs the practice of physiotherapists, the legislation governs.

Registrants, when engaging in physiotherapy clinical practice will use their restricted title associated with the certificate of registration they hold (see Appendix A). Title use is not permitted in any context in which a registrant is practicing outside the scope of practice of physiotherapy.

Registrants may use other credentials. When a registrant engages in physiotherapy clinical practice, this credential use will occur in conjunction with, and after the use of the restricted title. It is the restricted title that distinguishes physiotherapists/physical therapists from other health care providers and assists patients with understanding who is providing their care.

Registrants who use any additional credential(s) will present them accurately, honestly, and in accordance with any legal restrictions.[3]

Performance Expectations

A registrant of the College demonstrates appropriate use of restricted titles by:

1. Using titles permitted by the Physiotherapy Act
    a. "physiotherapist"
    b. "physical therapist",
    c. variations and abbreviations of these term
    d. equivalent terms in other languages

2. Only using the title associated with his/her certificate of registration (Appendix A).
3. Ensuring that the restricted title directly follows their name (e.g. Joan P. Jones, PT)when used in clinical practice.
4. Using other credentials in addition to their protected title, with the restricted title appearing first in order of reference.
5. Only using the title "doctor"[4] or its abbreviation (associated with a completed doctoral degree) in non clinical settings.
6. Only using specialty designations recognized by the College.[5]

3 The College's Professional Misconduct Regulation forbids registrants from using the title "specialist" unless a registrant holds a specialty designation recognized by the College.

4 The Regulated Professions Act restricts the use of title "doctor", in the context of providing or offering to provide health care to individuals in Ontario, to only those people who are registered with the College of Physicians and Surgeons, Optometrists, Chiropractors, Psychologists and Dentists.

5 The designations granted by the specialty certification programs recognized by The Alliance are the designations registrants are entitled to use in conjunction with the title "specialist". A list of such designations is available from the College.

Definitions

Clinical Practice: The provision of direct or indirect health care or advice to patients including any component of assessment, analysis of findings or provision of treatment to patients and the assignment of any portion of care to support personnel. This includes roles involving assessment, consultation or provision of treatment in schools, industry or fitness centres, occasional weekend or relief work or short term vacation coverage. Even an interaction with one patient per year falls within this definition.

Credentials: A general term for a variety of degrees, qualifications or designations, etc. granted by agencies including professional association, academic institutions, and educational bodies.

Doctor: An education credential associated with PhD. or doctor programs. The RHPA contains special provisions that govern the use of this education credential in the context of the health care environment (see footnote 4).

References

- Regulated Health Professions Act, Section 33
- Physiotherapy Act, Section 8
- Ontario Regulation 532/98, General Part III, Registration
- Ontario Regulation 388/08, Professional Misconduct

Date approved: September 2005
Updated: January 2007, June 2010, March 2012

Appendix A - Titles by Registration Category

Independent Practice or Courtesy

1. Physiotherapists holding certificates of registration of Independent Practice or Courtesy Certificates of Registration will use any of the following restricted titles to indicate their registration with the College when they engage in physiotherapy clinical practice:

    - Physiotherapist
    - Physical therapist
    - The abbreviation “PT”
    - physiothérapeute
    - L’abréviation “pht”
    - A variation or equivalent of these titles in another language

Provisional Practice

2. Physiotherapists holding Provisional Practice certificates of Registration will use any of the following restricted titles to indicate their registration with the College when they engage in physiotherapy clinical practice:

    - Physiotherapy-resident
    - PT-resident
    - Interne en physiothérapie
    - Interne-pht
    - a variation or equivalent of these titles in another language

Use of Title: Acupuncturist

The Traditional Chinese Medicine (TCM) Act, proclaimed April 1, 2013, established the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario as a self-governing regulatory body under the Regulated Health Professions Act.

As such, the title "acupuncturist" becomes a protected title for registrants of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (CTCMPAO) in the same way the title "physiotherapist" is protected for registrants of the College of Physiotherapists of Ontario.

These changes mean that physiotherapists cannot call themselves acupuncturists unless they are also registered with CTCMPAO.

Physiotherapists retain the ability to provide acupuncture under the exception provision when it is performed within the scope of practice of physiotherapy and in accordance with the standards of practice of the profession.

Please refer to the Standard and Guide for Professional Practice: Performance of Authorized Activities, available in Standards section of the College website at www.collegept.org.

References/Resources/Links

Traditional Chinese Medicine Act: www.e-laws.gov.on.ca
CTCMPAO website: www.ctcmpao.on.ca

March 2007
Reviewed January 2008, February 2009, April 2013

Non Physiotherapists Use of Restricted Titles and Holding Out

Physiotherapy is a regulated profession in Ontario. Individuals must be registered with the College of Physiotherapists of Ontario to use the restricted title of physiotherapist. No one other than a registered physiotherapist can lawfully call themselves a physiotherapist or physical therapist[1].

The Regulated Health Professions Act (RHPA) and the Physiotherapy Act are the laws that define who can use the title physiotherapist, physical therapist, and any variations or abbreviations of these titles (e.g. PT). This includes their use in other languages.

Further, the law does not permit non registered persons to hold themselves out as a physiotherapist. This means an individual cannot imply or suggest they are a registered physiotherapist or physical therapist when they are not.

In circumstances where a registered physiotherapist assists any person not registered with the College to hold himself or herself out, this behavior is considered professional misconduct. Registered physiotherapists must report to the College the name of a person who is not registered with the College and believed to be holding themselves out. Failure to do so can also be considered professional misconduct.

The College of Physiotherapists of Ontario takes seriously all claims of misuse of titles or of persons holding themselves out to be a registered physiotherapist or physical therapist. All substantiated reports of this nature are investigated and action is taken where appropriate. A number of remedies are available to the College to enforce compliance with the law.

These remedies include:

- Education
- Cease and desist notifications
- Application for a court injunction, and
- Prosecution for committing an offence

Findings of guilt in a prosecution may result in a fine of up to $25,000 for a first offence and up to $50,000 for a subsequent offence.

Physiotherapist titles are also official marks. Official marks are words that have been registered with the Canadian Intellectual Property Office through the federal Trade-marks Act. The Canadian Alliance of Physiotherapy Regulators (The Alliance) has the authority for the use of official marks throughout Canada. The official marks for the profession at the national level include practice words (e.g. physiotherapy and physical therapy) and title words (e.g. physical therapist, physiotherapist and PT)[2]

1 Whenever "physiotherapist" is used, the reader can also include the title "physical therapist"

2 Official marks statement, Canadian Alliance of Physiotherapy Regulators, February 2010, web link; http://www.alliancept.org/pdfs/alliance_resources_official_marks_eng.pdf

Definition

Holding out: When the conduct of the person is such that a reasonable member of the public would infer that the person is qualified to practice as a physiotherapist in Ontario. A person who conveys the sense that he/she is a member of the profession, when he/she is not, may be considered to be "holding out".

For further information, please refer to the Inappropriate Use of Title and Holding Out information under the Professional Conduct section of the College's website www.collegept.org.

References

- Statutes of Ontario. "Regulated Health Professions Act, 1991".
- Statutes of Ontario. "Physiotherapy Act, 1991".
- Ontario Regulation 532/98, General: Part III. Registration
- Ontario Regulation 388/08, Professional Misconduct
- Official Marks Statement – Canadian Alliance of Physiotherapy Regulators

Animal Rehabilitation

Introduction

The College of Physiotherapists of Ontario is mandated by the Regulated Health Professions Act (RHPA) to protect the public interest in relation to the delivery of physiotherapy services by physiotherapists to Ontarians. Within its prescribed mandate the College aims to protect and serve the public interest by ensuring that physiotherapists provide high quality, competent and ethical services.

Background

The RHPA governs the majority of the delivery of human health care by health professionals in Ontario. The Physiotherapy Act, a component of the RHPA model, provides a definition of scope of practice of physiotherapy and restricts the use of the title "physiotherapist" or "PT" to those individuals who are registrants of the College.

The Veterinarians Act exclusively governs the delivery of animal health care by health professionals in Ontario. The Veterinarians Act provides exclusive scope of practice respecting animal care to licensed veterinarians by prohibiting anyone who is not a holder of a veterinary licence from engaging in the practice of veterinary medicine or holding himself or herself as engaging in the practice of veterinary medicine. Animal health care is regulated by the College of Veterinarians of Ontario.

Position

It is the position of the College that animal rehabilitation is outside the defined scope of practice of physiotherapists in Ontario. As such, animal rehabilitation is not within the mandate of the RHPA or the College.

College registrants who choose to provide health care to both humans and animals are engaging in dual practice and their activities are governed by the College's expectations for registrants who engage in dual practice. In these circumstances human physiotherapy care is regulated by the College of Physiotherapists and animal rehabilitation is regulated by the College of Veterinarians.

College registrants should note that because providing health care to animals is outside the scope of practice of physiotherapists in Ontario:

- the use of the protected titles granted to physiotherapists in the Physiotherapy Act is prohibited; and
- the time spent in the provision of animal health care does not apply to the College's practice hour requirement for continued registration.

As such, College registrants who choose to provide health care to animals should:

- recognize that their health care activities are within the protected scope of practice of veterinarians; and
- ensure that their provision of health care to animals is in accordance with the rules and standards of the College of Veterinarians.

In keeping with this position, the College of Physiotherapists of Ontario will work cooperatively with the College of Veterinarians on complaints received about registrants that may be related to issues including inappropriate title use or behavior unbecoming of a professional while working with animals.

This position statement has been developed in collaboration with the College of Veterinarians of Ontario.

References

- College of Physiotherapists of Ontario. Standards for Professional Practice: Dual Health Care Practice.
- College of Veterinarians of Ontario. Position Statement: Animal Rehabilitation in Veterinary Practice.
- Physiotherapy Act
- Regulated Health Professions Act
- Veterinarians Act

November 2004
Reviewed January 2007
Revised June 2007

The information contained in this position statement may be time limited. Persons referring to this information more than two years from the date of publication should contact the College to confirm that the information is current.

Specialty Designations

Introduction

The College recognizes that many people registered with the College (registrants) have invested considerable time and resources to improve their knowledge and skills in areas of physiotherapy practice. The development of additional knowledge within the practice of physiotherapy is of benefit to both the public and the profession as a whole.

The College is also aware that being able to provide information on additional knowledge that a registrant has is useful to both the public and the profession when such services are being sought out. However, the utility of offering this information must be balanced by the need to ensure that the public is not inadvertently led to the conclusion that a registrant's additional training is the same as a formal specialist certification that would permit the registrant to call him or herself a specialist.

For the purpose of this position statement, and based on its review of issues relating to specialization, the College recognizes a "specialist" to be a registrant who possesses a specialist certification in a defined area of physiotherapy practice.

Registrants should note that physiotherapist specialist certification programs are different from other kinds of programs that offer additional training, and possibly certification, in areas of physiotherapy practice.

A physiotherapy specialist certification program requires formal post-graduate training that meets a predefined body of knowledge and competencies as well as an evaluation process that involves an examination. Further, specialist certification programs are also characterized by having a requirement for periodic recertification.

In order for a registrant to use a title that indicates that he/she is a specialist, the registrant must hold a specialty designation that is approved by the College. The Canadian Alliance of Physiotherapy Regulators (The Alliance) has developed a rigorous specialty recognition review process that allows a national approach to specialty recognition. As such, the College will consider the approval of specialty certifications recognized by The Alliance as designations that College registrants are entitled to use in conjunction with the title "specialist".

Position

Registrants may apply to the College for permission to use the title "specialist". Only specialty certification programs approved by The Alliance as meeting the level of rigour required to satisfy the use of title "specialist" in Canada will be considered by the College. A registrant granted permission to use the title "specialist" in Ontario will comply with the Standard for Professional Practice: Use of Restricted Titles, Credentials and Specialty Designations and will use his or her restricted title first (i.e. physiotherapist/physical therapist or PT) followed by his or her approved specialty designation. Registrants entitled to use the title "specialist" will have the relevant information indicting the type of specialty certification(s) he or she holds listed in the College's Public Register.

References

- Revised Regulations of Ontario. "Professional Misconduct Regulation, Ontario Regulation 388/08
- Standard for Professional Practice: Use of Restricted Title, Credentials and Specialty Designations.

Date approved: September 2003 Revised January 2007 March 2012

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 2

Motion

Council Meeting
June 21–22, 2017

Agenda #2: Motion to go *"in camera"* pursuant to Section 7(2) of the Health Professions Procedural Code

It is moved by

_____,

and seconded by

_____,

that:

Council move to the *in camera* portion of its meeting to discuss matters in keeping with Section 7(2) of the Health Professions Procedural Code.

REPORT TO COUNCIL- COMMITTEE ACTIVITY SUMMARY
(Q4) January, February, March 2017

	# of Meetings		# of Cases Considered	# of Appeal Decisions Received (HPARB or Divisional Court)	Type of Outcomes		Q3 2016/17
	F2F	Tel					
Registration	**0**	**3**	**3**	**0**	Certificate Granted (with or without terms, conditions and limitations)		**2**
					Certificate Denied		**1**
ICRC	**1**	**1**	**17**	**2**	Direction provided to staff (case ongoing)		**0**
					Investigator appointed		**4**
					Referral to Discipline		**2**
					Incapacity Inquiry or Referral to Fitness to Practice		**0**
					Other decision		**11**
Quality Management	**1**	**0**	**12**	0	**Practice Assessment**	Successfully Completed (with or without recommendations)	**4**
						Practice Enhancement Required	**5**
					Practice Enhancement	Successfully Completed	**3**
						Second Practice Enhancement or Reassessment Required	**0**
					Requests for Deferral or Exemption	Granted	**0**
						Denied	**0**
Discipline ** deliberation days not included**	**1**	**0**	**1**	**0**	**Hearings Pending**		**5**
					Hearing Outcomes	Revoked	
						Suspended (with or without terms, conditions and limitations)	**1**
						Terms, Conditions and Limitations only	
						Other Adjourned indefinitely In progress	**1 in progress**
Fitness to Practice	**0**	**0**	**0**	**0**	**Hearings Pending**		**0**
					Hearing Outcomes	Revoked	**0**
						Suspended	**0**
						Terms, Conditions and Limitations	**0**
Patient Relations	**0**	**0**	**0**	n/a	**Request for Funding**	Granted	**0**
						Denied	**0**

ISSUES AND TRENDS

Registration – Nothing to report

ICRC – Nothing to report

Quality Assurance – Nothing to report

REPORT TO COUNCIL- COMMITTEE ACTIVITY SUMMARY
(Q4) January, February, March 2017

Discipline and Fitness to Practice – increase in the number of referrals to the Discipline Committee. Where possible multiple hearings are being scheduled on the same day to increase efficiency.

Patient Relations – Nothing to report

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

EXECUTIVE COMMITTEE'S REPORT TO COUNCIL

Date: June 22, 2017

Committee Chair: Mr. Stephen Mangoff, President

Committee Members: Mr. Gary Rehan, Vice President
Mr. Darryn Mandel
Ms. Catherine Hecimovich
Mr. Tyrone Skanes

Support Staff: Ms. Shenda Tanchak
Ms. Elicia Ramdhin

Meetings:

Meetings held since last report:

- June 7, 2017

Planned upcoming meetings:

- September 7, 2017
- November 27, 2017
- February 28, 2018
- June 7, 2018

JUNE 7, 2017 EXECUTIVE COMMITTEE MEETING

1. **Use of Restricted Titles, Credentials, and Specialty Designations Draft Standard**
   The Executive Committee recommended that Council approve the proposed Restricted Titles, Credentials and Specialty Designations Standard with an effective date of July 1, 2017 and that Council discontinue the publication of the following documents:

   - Information Bulletin – Use of Title: Acupuncturist
   - Information Bulletin – Non Physiotherapists Use of Restricted Titles and Holding Out
   - Position Statement – Animal Rehabilitation
   - Position Statement – Specialty Designations

2. **Draft Conflict of Interest Standard**
   The Executive Committee recommended that Council approve the proposed Conflict of Interest Standard with an effective date of August 1, 2017.

3. **2017-2018 Committee Slate Approval**

   The Executive Committee recommended that Council approves the proposed 2017 -2018 committee slate with chairs.

4. **Request for Recorded Votes – Rules of Order**

   The Executive Committee recommended that the College continue to use Kerr and King's with the amendment that individuals votes could be recorded upon request.

5. **Draft Supervision Standard**

   The Executive Committee recommended that Council approve the draft Supervision Standard and rescind the current Supervision of Student Learners Standard with an effective date of September 1, 2017, and authorize staff to add the expectation to restrict supervision of a relative as amended to the Physiotherapists Assistants Standard.

6. **Draft Boundaries and Sexual Abuse Standard**

   The Executive Committee recommended that Council approve the Boundaries and Sexual Abuse Standard and rescind the current Therapeutic Relationships and Professional Boundaries Standard with an effective date of August 1, 2017 and authorize staff to make changes to the definition of a patient once the Bill 87 legislation comes into effect.

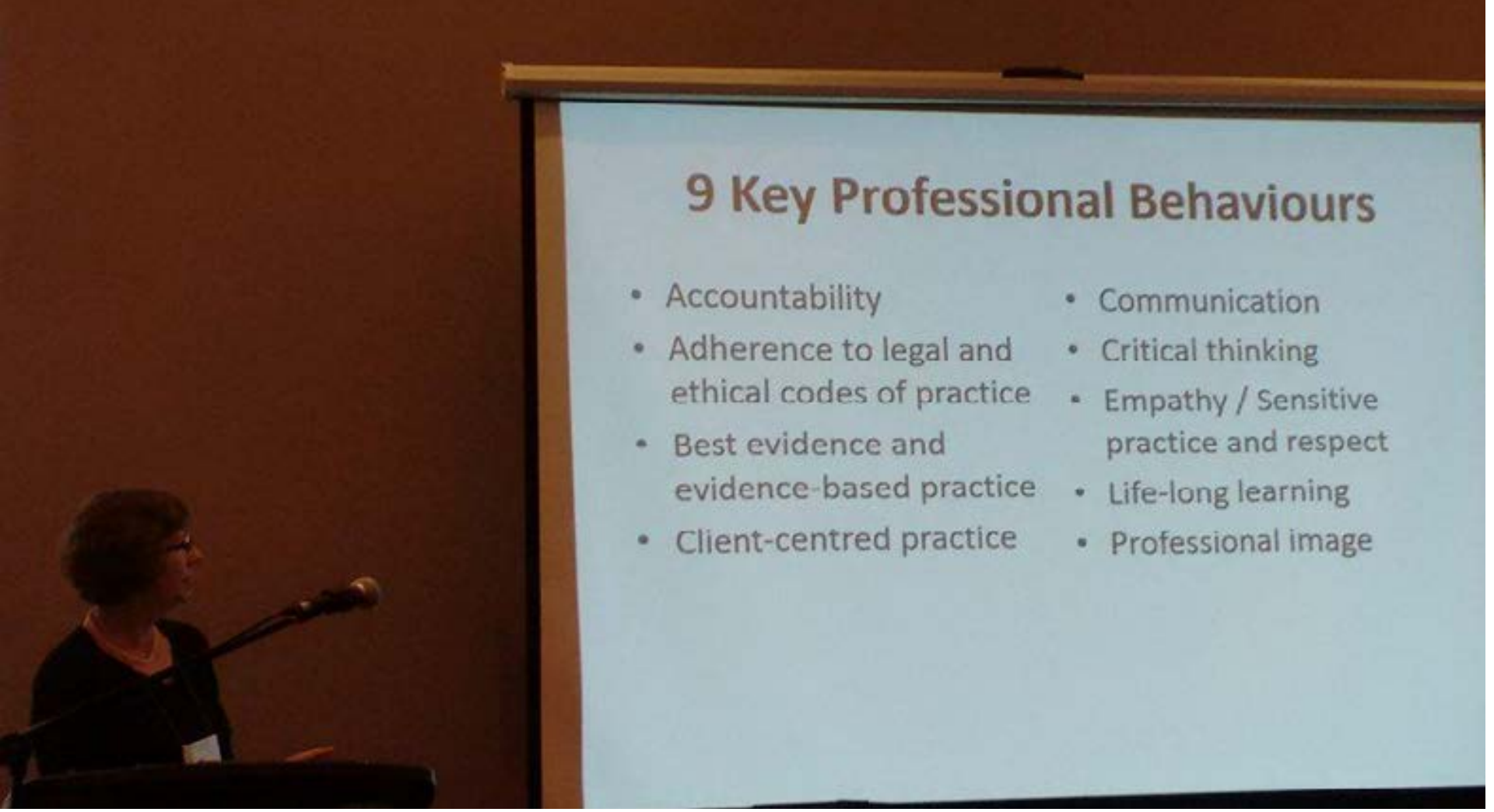
Reflections from OPA

March 2017

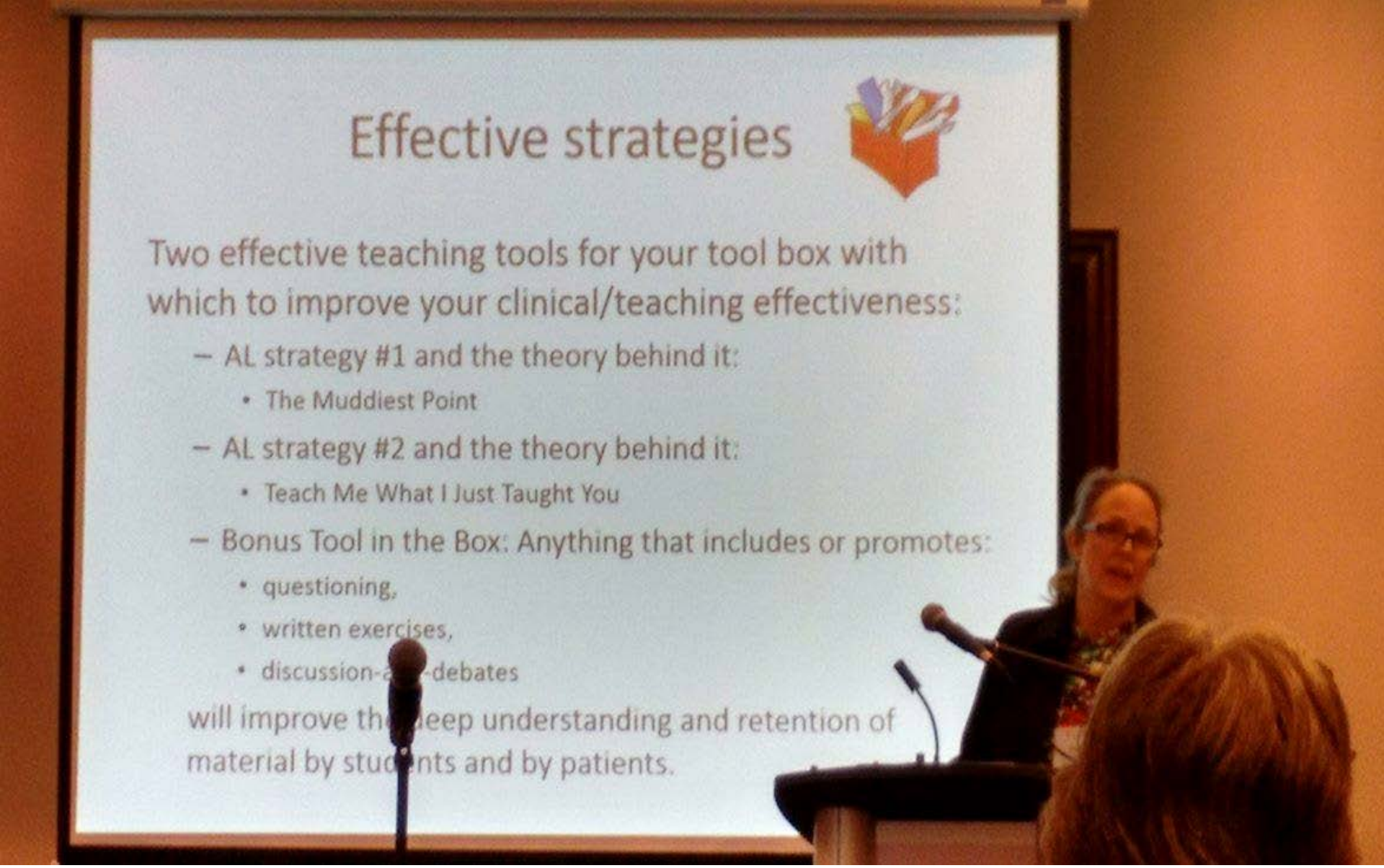
Janet Law

PT MSc BScPT(Hons)

Shenda and Steve asked PTs for ideas for QM: Registrants were engaged and the group generated discussion points and ideas. At my table, my Queen's professors explained why education points system does not translate to learning. I think OPA conference is a good avenue to gather feedback from registrants who are interested. The research findings presented also helped registrants to understand why QM is needed.

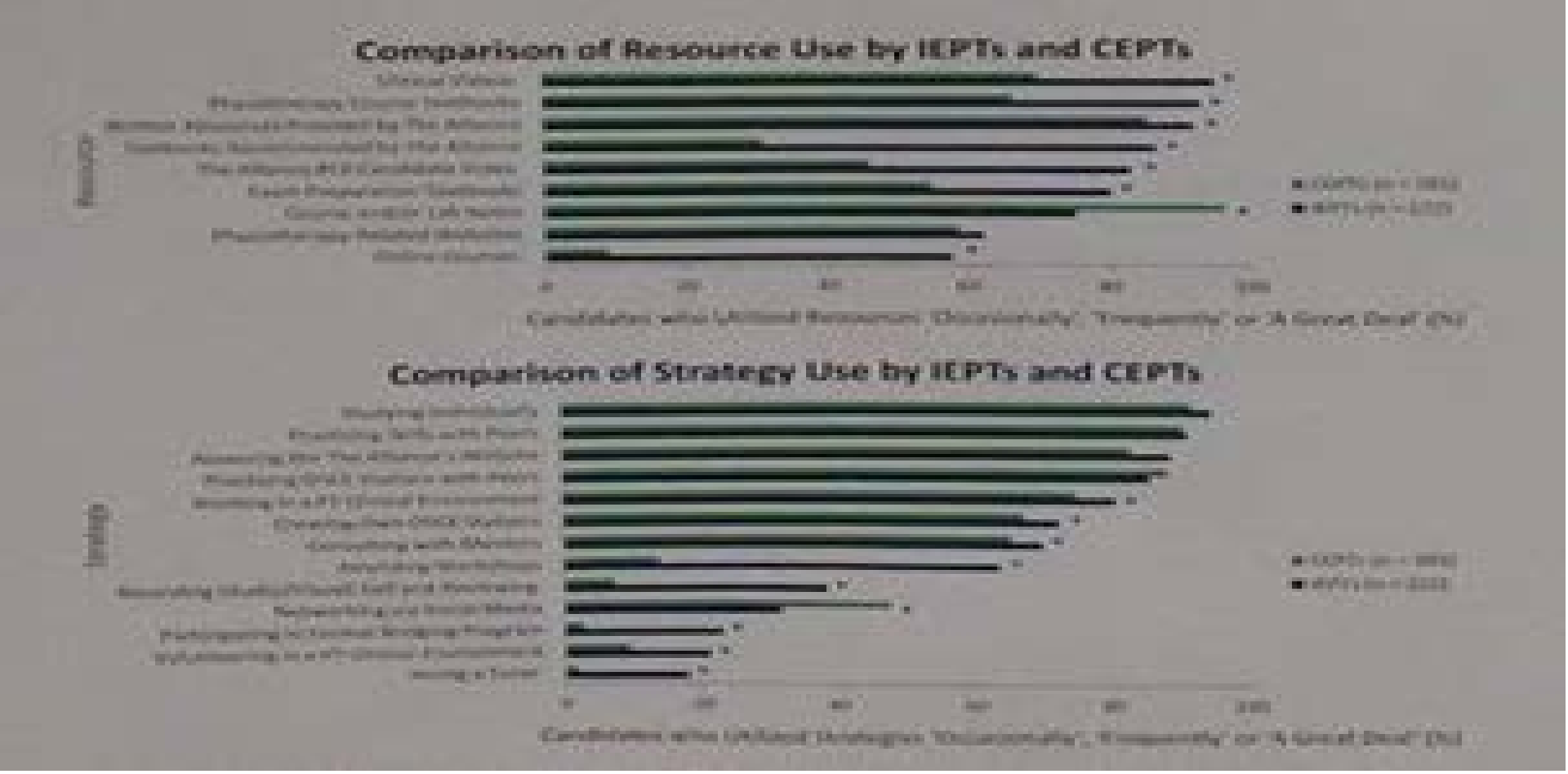


To me, many workshops were not clinically-based. One was on a study looking at professional behaviours and values. I think this study may be helpful in our QM development. I also see that registrants see professionalism just as important as clinical skills. Further, it was interesting to hear how Canadian PTs differ from US.



I believe we are teachers to each other , especially for PTs in their professional work, and for QM coaches. I wish this workshop included role play to apply techniques, as well as techniques on giving feedback.

OPA was very successful in engaging the student population – A significant proportion of attendees were students and many of them are workshop and /or poster presenters. This is a study of relevance to the College: They found IEPTs are older, have more clinical experience and they differ from Canadian trained PTs in terms of strategy and resource utilization.



Of note, IEPTs have a lower passing rate despite putting in significant amount of effort and utilizing a greater number resources: They practise skills with peers, just like Canadian educated PTs. They also hired private tutor and volunteering in PT settings. Those mentors / tutors can potentially be their supervisors when they are waiting to write the practical exam. This study is of particular interests to me as the Council is working on supervision standard review. *(I can send you the actual photo so you can see the details of the findings*

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 18.0

Motion

Council Meeting
June 21–22, 2017

Agenda #18: Appointment of Academic Representative from Queen's University

It is moved by

_____,

and seconded by

_____,

that:

Council amend section 3.2 (2)(j) and (m) of the College By-Law as follows (underlined section reflect the changes):

> j) the Member is not and has not been in the twelve months before the selection a director, officer, committee member, employee or holder of any position of decision-making influence of any organization of physiotherapists that has as its primary mandate the promotion of the physiotherapy profession;
>
> (m) the Member does not hold and has not held in the twelve months before the selection a responsible position with any organization or group whose mandate or interests conflict with the mandate of the College; and

COLLEGE OF PHYSIOTHERAPISTS of ONTARIO | ORDRE DES PHYSIOTHÉRAPEUTES de l'ONTARIO

Motion No.: 18.1

Motion

Council Meeting
June 21–22, 2017

Agenda #18: Appointment of Academic Representative from Queen's University

It is moved by

_____,

and seconded by

_____,

that:

The appointment of Kathleen Norman to Council be ratified.

Meeting Date:	June 21 and 22, 2017
Agenda Item #:	18
Issue:	Appointment of Academic Representative from Queen's University
Submitted by:	Shenda Tanchak/Rod Hamilton

Issue:

The appointment by Queen's University of Kathleen Norman as an academic member of Council requires consideration by Council.

Background:

The Council composition currently only has one Academic appointee (Nadine Graham), since Deb Lucy's appointment has expired.

Queen's University (the next university in the appointments rotation) was approached for an appointee.

Queen's selected Kathleen Norman for the appointment.

The Executive Committee considered Dr. Norman's appointment at its meeting in June. They were concerned that despite the fact that she fulfilled the College's eligibility requirements, up until very recently, she had held an appointment on the OPA Board of Directors.

While the College's by-laws for the appointment of academic members do not include the requirement for a one year cooling off period, the Executive Committee's concern related to the public perception of appointing a Councillor who until so recently had been on the OPA Board.

While the Executive Committee agreed that she was eligible, according to By-law section 3.2 (set out below) they were very concerned about the inconsistency between the requirements for academics and for elected members, who are subject to the one year cooling off period.

ACADEMIC COUNCILLORS

3.2. (1) For the purposes of section 6 (1) (c) of the Act, two Members who are members of a faculty of physiotherapy or physical therapy of a university in Ontario shall be selected in accordance with this section to serve on Council as Academic Councillors.

(2) A Member is eligible to serve on Council as an Academic Councillor if:

(a) the Member holds a certificate of registration authorizing independent practice;

(b) the Member is not in default of any obligation to the College under the Regulations or the By-laws;

(c) the Member is not the subject of a Discipline or Fitness to Practise proceeding;

(d) the Member has not been found guilty of professional misconduct, to be incompetent, or to be incapacitated at any time in the six years before the date of the selection;

(e) the Member's certificate of registration has not been revoked or suspended for professional misconduct, incompetence or incapacity at any time in the six years immediately before the selection;

(f) the Member has not been found to be mentally incompetent under the *Substitute Decisions Act*, *1992* or the *Mental Health Act*;

(g) in the six years before the selection, the Member's certificate of registration has not been subject to a term, condition or limitation other than one prescribed by regulation;

(h) the Member has not been found guilty of an offence under the Criminal Code or the Health Insurance Act that is relevant to the Member's suitability to serve as a Councillor, unless a pardon or record suspension has been granted with respect to the finding;

(i) the Member has not been disqualified or removed from Council in the three years before the selection;

(j) the Member is not a director, officer, committee member, employee or holder of any position of decision-making influence of any organization of physiotherapists that has as its primary mandate the promotion of the physiotherapy profession;

(k) the Member is not a participant (other than on behalf of the College) in a legal action or application against the College;

(l) the Member does not have a current notation on the register of a caution, undertaking or specified continuing education or remediation program directed by the Inquiries, Complaints or Reports Committee;

(m) the Member does not hold a responsible position with any organization or group whose mandate or interests conflict with the mandate of the College; and

(n) the Member discloses all potential conflicts of interest in writing to the Registrar within five business days of being nominated and either does not have a conflict of interest to serve as a Councillor or has agreed to remove any such conflict of interest before taking office.

(3) One Member shall be selected from a university mentioned in Column 1 of the following Table in the corresponding years indicated in Column 2:

Column 1	**Column 2**
Queen's University	2017 and thereafter every 7 and 8 years alternatively
University of Ottawa	2018 and thereafter every 8 and 7 years alternatively
University of Toronto	2020 and thereafter every 8 and 7 years alternatively

University of Western Ontario	2014 and thereafter every 7 and 8 years alternatively
McMaster University	2015 and thereafter every 8 and 7 years alternatively

(4) An Academic Councillor shall be selected by Council in accordance with the above schedule at the first regular Council meeting following an election of Council and the Academic Councillor shall serve for a three-year term of office.

(5) In a selection year for a university, the physical therapy or physiotherapy faculty at that university shall submit for Council approval the name of a Member who is willing and eligible to serve as a Councillor. The candidate may be any member of the physical therapy or physiotherapy faculty. If the university does not submit a name of an eligible candidate for Council's approval in accordance with this section, Council may nevertheless select a Member that meets the above eligibility requirements from any faculty of physiotherapy or physical therapy of a university in Ontario.

(6) If an Academic Councillor dies, resigns, is disqualified or otherwise removed from Council, an eligible replacement shall be selected to serve the remainder of the term of office from among the members of the faculty of physiotherapy or physical therapy from which the former Academic Councillor was selected.

(7) An Academic Councillor selected under this section is disqualified from sitting on Council if the Academic Councillor:

(a) ceases to be a Member with a certificate of registration authorizing independent practice;

(b) no longer is a member of the faculty of physiotherapy or physical therapy from which he or she was selected;

(c) is in default of any obligation to the College under the Regulations or the By-laws for over 60 days;

(d) becomes the subject of a Discipline or Fitness to Practise proceeding;

(e) is found guilty of professional misconduct, to be incompetent, or to be incapacitated;

(f) is found guilty of an offence under the *Criminal Code* or the *Health Insurance Act* that is relevant to the Academic Member's suitability to serve as a Councillor, unless a pardon or record suspension has been granted with respect to the finding;

(g) remains or becomes a director, officer, committee member, employee or holder of any position of decision-making influence of any organization of physiotherapists that has as its primary mandate the promotion of the physiotherapy profession;

(h) is found to be mentally incompetent under the *Substitute Decisions Act*, *1992*, or the *Mental Health Act*;

(i) continues to hold or assumes a responsible position with any organization or group whose mandate or interests conflict with the mandate of the College;

(j) becomes a participant (other than on behalf of the College) in a legal action or application against the College;

(k) has a notation posted on the register of a caution, undertaking or specified continuing education or remediation program directed by the Inquiries, Complaints or Reports Committee;

(l) fails to attend two consecutive regular meetings of Council without good reason in the opinion of Council; or

(m) fails, in the opinion of Council, to discharge properly or honestly any office to which he or she has been selected or appointed.

(8) Subsections (7)(a), (b), (d), (e), (f) and (h) shall result in automatic disqualification.

(9) Subsections (7)(c), (g), (i), (j), (k), (l) and (m) shall result in a vote by Council regarding the disqualification of the Councillor.

How should the issue be addressed?

As can be seen from subsection 4 of the by-law highlighted above, it would appear that Council has a positive obligation to appoint an academic representative in accordance with the schedule. There would appear to be no discretion to reject an eligible candidate.

When considering the issue and in keeping with its concern about the possible appearance of conflict, the Executive Committee concluded that rather than act on the requirement to forward the ratification of Dr. Norman's appointment to Council, they would rather change the by-law so the College would no longer be required to appoint Dr. Norman to the Council.

However, according to section 7.2 of its by-laws, the Executive Committee does not have the authority to either make a change to the by-laws or refuse to appoint Dr. Norman.

As indicated below, the Executive Committee is only entitled to make decisions on behalf of Council in unusual circumstances such as where a matter requires attention between Council meetings.

7.2. The Executive Committee may exercise all the powers and duties of Council with respect to any matter that, in the opinion of the Executive Committee, requires attention between meetings of Council except to make, amend or revoke a regulation or by-law or unless the Executive Committee is otherwise restricted by the Executive Committee limitations established in the College's governance policies as approved by Council.

With these limits to its authority in mind, the Executive Committee decided to bring a motion to Council recommending that the by-law be amended to add a requirement for a cooling off period for academic appointees, consistent with that of elected members.

If Council were to approve this motion, these changes to the By-Law would immediately come in effect and Dr. Norman would no longer be eligible to be appointed to Council as an Academic member.

If Council does not approve the proposed change to the by-law, then the current eligibility rules would remain in effect, and Council would be obliged to approve a motion that would ratify Queen's appointment of Dr. Norman to the College Council.

Issues to consider

When considering the recommendation of the Executive Committee to amend the eligibility by-law for Academic appointees, Council may wish to consider the following information:

- The difference between the eligibility requirement for elected councillors and academic councillors is not an error or an oversight. It was an intentional change made by Council to make it easier for the College to obtain academic appointees from the universities. Academics, due to the nature of their work are typically appointed to numerous organizations and boards, which often have different mandates from the College. Requiring an academic to recuse themselves from all such appointments at least a year in advance of their appointment to the College is not only administratively difficult for the universities to manage but also troublesome for the academics in terms of meeting their role obligations.

- The by-law's authority to allow the universities to appoint the academic representative is also intentional. This provision replaced an earlier process for the appointment of academic representatives that gave the authority to choose and appoint academic representative directly to the College Council. However the practical implications of having the College interfere directly in the way that the faculties managed their workload and staffing meant that this rule was never actually complied with. The process now captured in the by-law was intended to reflect how the appointments process actually worked.

- The Physiotherapy Act's requirement that the College's Council include at least one but no more than two academic appointees can be a problem for some faculties to meet. Heavy workload, research and teaching obligations as well as their other duties to represent the faculty externally make the time commitment associated with having to appoint one faculty member as councillor are difficult for some faculties to manage. This problem may also suggest a need to consider the possible implications of making the appointment process for academics more rigorous (please see Dr Norman's attached letter at Appendix one for a practical description of this concern).

- The decision previously made by Council to lower the eligibility bar for academic appointments was based in an evaluation that the value of having the academic member on Council outweighed the potential prejudice or appearance of unfairness of appointing someone who had recent Association experience.

Decision Sought:

Does Council approve Council's recommendation to make the following changes to the by-law in keeping with Executive Committee's recommendation:

That Council amend section 3.2 (2)(j) and (m) of the College By-Law as follows (underlined section reflect the changes):

j) the Member is not and has not been in the twelve months before the selection a director, officer, committee member, employee or holder of any position of decision-making influence of any organization of physiotherapists that has as its primary mandate the promotion of the physiotherapy profession;

(m) the Member does not hold and has not held in the twelve months before the selection a responsible position with any organization or group whose mandate or interests conflict with the mandate of the College; and

If Council does not approve changes to the by-laws, Council would be required by its by-laws to approve the following motion:

That the appointment to Council of Kathleen Norman by Queen's University be ratified.

Appendix One

Kathleen Norman's response

June 19, 2017

Dear Shenda,

Thank you for explaining the rationale for why the ratification of the appointment was declined by the Executive Committee.

As I think you are aware, I resigned from the Board of Directors of OPA specifically in order to be eligible for appointment to the Council, in keeping with the current By-Law 3.2 (2) (j). We did not anticipate that Executive Committee would choose a course of action based on By-Laws not yet written.

Thank you for indicating that Queen's is welcome to appoint a different representative to College Council at this time. However, we regret to inform you that we are currently unable to identify anyone else who is both eligible and available. Please understand that we are a small group and we looked really carefully to consider who could possibly take on this role.

With regard to eligibility, we must rule out several of our colleagues based on College By-Laws: i.e., those who are not members of the College [By-Law 3.2 (2) (a)]; those who are current members of CPA Division committees [By-Law 3.2 (2) (j)]; those who are on short-term contracts at the University who may not maintain their eligibility [By-Law 3.2 (7) (b)].

That leaves us to consider only a few other colleagues with regard to availability. All of those other colleagues have personal or career stage circumstances that mean that they cannot or should not consider taking on a role that requires the number of days of travel per year to Toronto expected of a Council member.

It is disappointing to us that Queen's is unable to provide an academic appointee that the Executive Committee deems suitable. Had we known that there would be a decision based on By-Laws not yet written, we might have been preparing differently for the past few months. We take seriously our responsibility to contribute to regulation of physiotherapy in Ontario, and we hope we have made it clear why we have no other candidates to propose at this time. We acknowledge that you stated that Executive Committee would be pleased to reconsider my appointment next May. We would like to convey in return that if Council chooses to appoint me to Council earlier than that, I would be pleased to take up the appointment. I will not be travelling to Toronto for the June 21-22 Council meeting. However, I already have the future dates of Council meetings in my calendar (to the extent that they are known) and will endeavour to protect those dates, should it be the wish of Council to have me join.

With best regards,
Kathleen E. Norman, PT, PhD