College of Dietitians of Ontario

The College of Dietitians of Ontario is dedicated to public protection. We regulate and support Registered Dietitians for the enhancement of safe, ethical and competent nutrition services in diverse practice environments.

COUNCIL MEETING AGENDA

September 21, 2018 (9:30 am – 4:00 pm)
5775 Yonge Street, Main Floor Conference Room

Toll free: 1-866-850-3419 **Local Number:** 647-426-7652 **Conference:** 8048959566

Item & Discussion	ACTION	TIME	ATTACHMENT
1.0 Call to Order		5 mins	
2.0 Approval of Agenda	Approval/ Motion	5 mins	2.0 September 21, 2018 Council Meeting Agenda
3.0 Declaration of Conflict of Interest			
4.0 Declaration of Bias			
STRATEGIC			
5.0 Orientation Session – Richard Steinecke, Steinecke Maciura LeBlanc	Information/ Discussion	120 mins	5.1 2018 Council Member Ed'n 03
6.0 Environmental Scan	Information/ Discussion	30 mins	6.1 Environmental Scan (to follow)
POLICY			
7.0 Collaborative Care Professional Practice Guidelines for Registered Dietitians	Approval/ Motion	30 mins	7.1 Collaborative-Care-Council-Decision-Support-Document 7.2 Collaborative-Care-Professional-Practice-Guidelines-for-RDs - clean copy 7.3 Collaborative-Care-Professional-Practice-Guidelines-for-RDs - track changes
8.0 Insulin Position Statement	Approval/ Motion	60 mins	8.1 Decision Support Document Development of a Position Statement on Insulin Adjustments
OVERSIGHT & ACCOUNTABILITY			
9.0 Communications Update	Information/ Discussion	20 mins	

Item & Discussion	Action	Time	Attachment
10.0 Box Update, including Council Resources	Information	15 mins	
11.0 Audit Committee and Registrar Performance and Compensation Review Committee Appointments	Approval/ Motion	5 mins	
12.0 *In camera* Minutes from March 23, 2018 and June 22, 2018 Council minutes and motions made via email *In camera* session pursuant to s. 7(2) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*	Approval/ Motion	10 mins	
INFORMATION ITEMS (Consent Agenda)			
13.0 June 2018 Council Meeting Minutes	Information	5 mins	13.1 Draft June 21, 2018 Council Minutes 13.2 Draft June 22, 2018 Council Minutes
14.0 Executive Committee Report			14.1 Executive Committee Report
15.0 Management Report			15.1 Management Report September 2018 15.2 Legislative Update June 2018 15.3 Legislative Update July 2018 15.4 Legislative Update August 2018 15.5 Grey Areas June 2018 15.6 Stmt of Operations & Changes in Fund Balances June 30 2018 15.7 Letter from Dietitians of Canada's Business & Industry Network (DCBIN) to support title protection
EVALUATION			
16.0 Council Sharing	Information	15 mins	
17.0 Meeting Evaluators: • Ruki Kondaj • Shelagh Kerr		10 mins	
18.0 Next Meeting Evaluators: • Soliman Soliman • Suzanne Obiorah			
19.0 Reminders/Standing Items: • Update your tablet			
20.0 Adjournment			

College of Dietitians of Ontario

September 2018

COUNCIL DECISION SUPPORT DOCUMENT
Collaborative Care Professional Practice Guidelines for Registered Dietitians

DECISION SOUGHT

Council is being asked to approve, in principle, the proposed *Collaborative Care Professional Practice Guidelines for Registered Dietitians for broad consultation with dietitians* (attachment 7.2).

These practice guidelines relate to the following:

a) CDO's regulatory authority to develop Standards of Professional Practice to protect the public interest;[1] and
b) Council's commitment to developing Standards of Professional Practice as outlined in the objectives under End-Goal 1 of the College's Strategic Plan 2016-2020.

BACKGROUND

In 2016, several health regulatory colleges in Ontario established an informal working group to jointly undertake research and discussion relating to the delivery of collaborative care. The intended outcome was to develop a set of high-level principles and best practices for health care providers to aspire to when engaging in collaborative care (Appendix 1).

The need for developing a collaborative care resource was identified by the College through the risk research we conducted in 2014. A total of 1342 Ontario Dietitians (35% response rate) responded to a survey identifying high risk dietetic activities. Members indicated that context determined the types of high-risk activities/situations that could be encountered, such as conflict, communication issues, concerns with leadership, scope of practice issues and lack of understanding working in teams and in collaborative care environments. Having some form of a collaborative care resource to guide dietitians in Ontario will help to identify

the principles and best practices that a dietitian should strive for when working in collaborative care teams.

The purpose of the *Collaborative Care Professional Practice Guidelines for Registered Dietitians in Ontario* is to clarify the expectations and behaviours that a dietitian must know when working in Collaborative Care Teams and in Collaborative Care environments.

In 2018, CDO proceeded with using the principles as the underlying framework for the proposed *Collaborative Care Professional Practice Guidelines for Registered Dietitians. This w*ork was presented at the June 2018 Council Meeting. Council made recommendations for revisions and specific changes to the *Collaborative Care Professional Practice Guidelines for Registered Dietitians*, such as include more emphasis on record keeping, clarify section on 'team should have a clear leader' and make explicit some reference to food service if possible.

NEXT STEPS

Should Council approve in principle for consultation the *Collaborative Care Professional Practice Guidelines for Registered Dietitians*, staff will follow with these next steps:

1. **Council Review and Approval -** for Consultation with general membership.

2. **Circulate for Consultation –** Make any revisions directed by Council and circulate the draft *Collaborative Care Professional Practice Guidelines for Registered Dietitian* to RDs and other relevant stakeholders for feedback.

3. **Analyze Feedback and Revise –** Analyze the feedback received from the consultation and incorporate into the draft *Collaborative Care Professional Practice Guidelines for Registered Dietitian*. Depending on the level of input/required changes, steps 1-3 may need to be revisited prior to moving on to step 4.

4. **Final Council Approval -** Present to Council for final approval of the *Collaborative Care Professional Practice Guidelines for Registered Dietitian.*

5. **Publish and Communicate Broadly -** Publish the *Collaborative Care Professional Practice Guidelines for Registered Dietitian* and develop a communication plan for education to RDs and relevant stakeholders. Incorporate the resource into College publications and program tools such as the Jurisprudence Handbook, the Jurisprudence Knowledge and Assessment Tool (JKAT) and Peer & Practice Assessment.

6. **Implement a Continuous Review Schedule** - Document a clear date for when the *Collaborative Care Professional Practice Guidelines for Registered Dietitian* will be reviewed and revised to ensure currency.

POTENTIAL MOTION FOR COUNCIL APPROVAL

That Council approves the proposed *Collaborative Care Professional Practice Guidelines for Registered Dietitians (attachment* 7.2) in principle for consultation with general membership.

Or

That Council approves the proposed *Collaborative Care Professional Practice Guidelines for Registered Dietitians* (attachment 7.2) amended as follows prior with consultation to general membership:

_____
_____
_____
_____
_____
_____

MW/CC, Sept 2018

References

1 *Regulated Health Professions Act, 1991. Schedule 2: Health Professions Procedural Code.* Available from: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_91r18_e.htm#BK51

2 College of Dietitians of Ontario. *Strategic Plan 2011-2015.* Available from: http://www.cdo.on.ca/en/pdf/strategic/Strategic_Plan_2011_2015.pdf

Appendix 1

Collaborative Care Principles and Best Practices – Updated June 2017

For information

Introduction

In 2016, a number of interested colleges got together as an informal working group to jointly undertake research and discussion with the goal of identifying principles and expectations related to the delivery of collaborative care.

The intended outcome is to develop a set of high level principles and best practices that could be used to develop a standard or guideline document about collaborative care. The project group did not intend to, nor are they advocating for, creating a pan-professional standard or guideline. It was agreed that it would be up to each college to use and adapt the principles in whatever document they ultimately develop for their own members.

The project group would like to share the outcome of their work with their colleagues in the Practice Advisors Group should they find it useful for their own work. Other colleges are welcome to adapt this content for their own use. Note that the terminology used in the proposed principles and best practices is generic, other colleges may wish to use different terms that suit their respective professions.

A summary of the Practice Advisor Group's feedback at the April 2017 meeting is also attached (see Appendix 1) for reference and consideration.

How the Project Group Defines "Collaborative Care" and "Collaborative Care Team"

For the purpose of their research and discussions, the project group agreed to use the following definitions.

"Collaborative care":

> *When a team of health providers and a client work in a participatory, collaborative and coordinated approach to shared decision-making around health and social care.*

"Collaborative care team":

> *Where the patient/client and their healthcare providers work together to achieve the optimal health outcomes. It could refer to situations where the team is located in the same practice setting and interact closely, or it could refer to providers who work independently but are providing care to the same patient/client.*

Proposed principles and best practices for collaborative care

The project group propose that the following principles and best practices could be used as the basis for a collaborative care standard or guideline. The group further divided the proposed principles and best practices into two types – those that are specific to healthcare practice, and those that relate to effective teamwork in any context.

The proposed principles and best practices were updated in June 2017 to incorporate feedback from the Practice Advisors Group at the April 2017 meeting.

Proposed healthcare-specific principles and best practices for collaborative care

1. Collaborative care should be patient-/client-centred.
    - The patient/client[1] is a key participant in the collaborative care team.
    - Whenever possible, the patient/client should be treated as a member of the team.
    - If the patient/client is capable, and has expressed the desire to, they may even act as the team leader.

2. Members of a collaborative care team should have clearly-understood roles, responsibilities and accountabilities.
    - Members of a collaborative care team should clearly understand: who is on the team; the team members' roles and responsibilities; and which task(s) each team member will perform (this is especially important when there is overlapping scope or shared authority to perform controlled acts).
    - The roles, responsibilities and accountabilities in the team may differ depending on the specific needs of the patient/client, the practice setting, or other relevant factors.
    - It may be beneficial to document team members' roles and responsibilities as part of each patient's care plan.
    - There should be mutual respect and trust in the team, based on a clear understanding of each team member's competencies.

3. Each healthcare provider in the team should be individually accountable for the quality of the care they provide.

4. There should be shared decision-making in the team.
    - Decisions about care should be shared within the team, meaning they should incorporate the knowledge, skills, judgment, and evidence from all team members.

Proposed best practices for working effectively in teams

5. Effective collaboration requires effective communication.

[1] "Patient/client" also refers to the patient/client's substitute decision-maker, family and caregivers.

- The team should establish a clear process for communicating within the team, and a shared language/lexicon.
- There should be timely and clear record keeping. The team should establish how this will occur, and who will be responsible for record keeping.

6. There should be a strategy for conflict management.
    - The team should establish a clear process for conflict resolution and decision-making in the team.
    - Team members should be able to identify conflict when it occurs.

7. The team should have a team leader.
    - In the collaborative care context, the "collaborative leadership" model means that team members collaboratively determine who will provide group leadership in any given situation.
    - It may be beneficial to document who is the team leader as part of each patient's care plan.

8. The team should measure and evaluate its performance.
    - The team should establish a clear process to evaluate whether the team is meeting its goals, and how well the team is functioning.

9. Each team member should be individually accountable for their contribution to team functioning.

10. Team members should receive education and training for how to work effectively in a team.
    - There may also be opportunities for team members to educate each other based on their respective knowledge-base and expertise.

Appendix 1: Summary of Practice Advisor Group feedback on the proposed principles

Topic 1: Can you think of other principles and best practices for collaborative care that might be useful to include in a standard or guideline?

Overall, none of the participants expressed opposition or concern about the proposed principles and best practices.

Below is a list of the comments corresponding to the principles or other concepts presented in the materials.

Definition:

- Is it coordinated, collaborative, or interprofessional care? – *Additional comment from the project group: each college can adapt the definition to suit their needs.*

Principle 1: Collaborative care should be patient-/client-centred o Person-centred as opposed to patient or client-centred – *Additional comment from the project group: each college can adapt the terminology that suits their needs.*

- Include the client as a member if the team *if* it is in their best interest o Patient as the leader – is that the most appropriate way for the patient to be involved? For sure patient should be centre of care, but might it be a burden to take on a leadership role?
  - Instead: having the patient engaged, involved, being an active participant, without necessarily having a leadership role
- The patient/client/person as the team leader – do they know they are the team leader?

Principle 2: Members of a collaborative care team should have clearly-understood roles and responsibilities

- Emphasis on mutual respect and trust
- Having a project charter for the collaborative care team
- Principle 2 re clear roles and responsibilities, how will that play out in a standard or guideline?
  - Turf issues – how to build trust?
  - The colleges should collaborate with each other as well to understand other professions
- Clear accountability in the care plan, who's responsible for what
- Overlapping scope and role, it may vary depending on practice setting, need to be flexible

Principle 5: Effective collaboration requires effective communication

- There should be clear expectation about the method or guideline for communication (e.g. single file, team file, etc?) – *Additional comment from the project group: it would be up to the team to decide how the communication will occur.*

- How to best communicate – different team members may have different methods
- Information sharing: defining that more clearly, what can be shared within the circle of care, how the client will be involved
- Record keeping: not just timely, but also who and how
- Documentation and sharing of information: there are often gaps in transition of care scenarios
- How to ensure security of records if they are being moved or transferred – *Additional comment from the project group: it may be helpful to refer to other documents that talk about privacy requirements.*

Principle 7: The team should have a team leader

- Who is the team coordinator? – should be clearly identified
- Leadership: it will depend on the composition of the group. Perhaps that should be part of the care plan, who's responsible for what, who's the go-to person

Principle 10: Team members should receive education and training for how to work effectively in a team o Collaborative team education – team members educating each other

Other suggestions

- Focus should always be on the client's best interest
- Structure of a standard: start with principles, and then elaborate on the performance expectations, under different topic headings – *Additional comment from the project group: it is up to each college to decide the type and structure of the document that they develop.*
- Augmenting the language around documentation o Should use existing guidelines that some colleges already have

Topic 2: If these principles and best practices were adopted as a standard or guideline, do you think there might be unintended consequences for colleges and members?

The comments are organized by theme or topic.

Type of document o Is it a guideline/principle or a guideline? One is enforceable, and one is not o Not all organizations have the same approach to standards and guidelines o What would the document be called and how would it be taken up by each college?

- If it's a high level document, is it too nebulous so that you don't walk away with something that can be used in practice

Adoption and communication o What will be the buy-in?

- How do you gain momentum for adoption?
- Is it something to be taken as a whole, or is it like a menu of items that colleges can pick and choose from?
- Maybe create a template document that colleges can use, in whole or in part o Risks related to gaps in communications, some gray areas, if the guideline is not properly implemented
- If the document is not user-friendly, it may not get used
- If there is uneven adoption among professions that work together, might that lead to problems or confusion? If the documents are not aligned, it may even lead to conflict
- Some of the language in the document – must be clear what the language means ▪ For example, the term "leadership" might be intimidating; maybe call that role the care coordinator instead
    - Instead of a team, maybe can call it a collaborative relationship instead; some may not know they are in a collaborative care situation

Risks of non-adoption o In the absence of collaboration, there could be duplication of effort

Practical implementation issues o Trust issues, when there is personnel turnover or fill-ins, might lead to trust issues o Not all care providers are suited to providing collaborative care

- Might be some confusion on the patient's part (and their family) about who can do what o If the patient is coordinating their own care, do they have the knowledge and ability to do that?
- If the patient/client is the team leader, and they are distributing information about their care, then where does liability exist?
- Confidentiality breach – typically there is a lot of information sharing in the circle of care; it could be a challenge to confirm patient consent each time information is shared – *Additional comment from the project group: it may be helpful to include this as part of the consent discussion with the patient.*
- Do these apply to all types of practitioners even within the same college? It may not o These practices work great when the providers are in the same care setting, but is there a platform to work collaboratively in community care where the providers are dispersed?
    - For example, in the new LHIN model, is there an opportunity to create collaborative networks?

Impact on colleges

o Interprofessional reports or complaints

College of Dietitians of Ontario

Collaborative Care Professional Practice Guidelines

for Registered Dietitians in Ontario

Glossary

- **Collaborative Care**: a team of health providers and a client who work in a participatory, collaborative and coordinated approach to share decision-making around health and social care.

- **Collaborative Care Team**: clients and their healthcare providers work together to achieve the optimal health outcomes. It could refer to situations where the team is located in the same practice setting and interact closely, or it could refer to providers who work independently and/or externally, but are providing care to the same client.

- **Collaborating**: an active ongoing partnership based on sharing, co-operation and coordination in order to solve problems and provide a service, often between people from very diverse backgrounds.

- **Interprofessional**: more than one health care profession on a health care team who work together and learn from each other.

- **Interprofessional Care (IPC)**: is the provision of comprehensive health services to clients by multiple health caregivers who work collaboratively to deliver quality care within and across settings.

Introduction

The purpose of The Collaborative Care Professional Practice *Guidelines for Registered Dietitians in Ontario* is to set out the knowledge and behaviours that a dietitian must demonstrate when working in Collaborative Care Teams and in Collaborative Care environments.

Collaborative Care Professional Practice Guidelines

The statements outlined below are not intended to provide an exhaustive or definitive list of collaborative behaviours required of members. Rather, this resource can be used in companion with other College documents such as the Code of Ethics and Standards of Practice and relevant legislation, policies and any other applicable organizational guidelines or policies in the workplace.

Section 1: Dietitians understand their role as collaborators when providing collaborative care.

Dietitians need to be aware and develop an understanding of their role in collaborative contexts, including the following:

a) Collaborative Care Approach should be Client Centred.

- In addition to the professional members of the collaborative health care team, clients and family members are integral as active participants across the spectrum of care.
- The client is a key participant in the collaborative care team.
- Whenever possible, the client should be treated as a member of the team.
- If the client is capable, and has expressed the desire to, they may even act as the team leader.

b) Clarify Team Members' Roles and Responsibilities as Part of Each Client's Care Plan.

- Understanding who is capable and authorized to perform which aspects of treatment is the starting point for role clarity in a team. In many cases, there may be more than one provider sharing roles and tasks (including authority mechanisms) to best service clients.
- Members of a collaborative care team should clearly understand: who is on the team; the team members' roles and responsibilities; and which task(s) each team member will perform (this is especially important when there is overlapping scope or shared authority for performance of controlled acts).
- Dietitians recognize that the authorities, roles and responsibilities in the team may differ depending on the specific needs of the client, the practice setting, or other relevant factors.
- There should be mutual respect and trust in the team, based on a clear understanding of each team member's competencies.

- It may be beneficial to document team members' roles and responsibilities as part of each client's care plan. This will include members in the circle of care such as dietitians in food-service, community, public health, management etc.

c) Dietitians Are Accountable for Dietetic Services Delivered in Collaborative Environments.

- Dietitians have a professional obligation to maintain individual accountability when practising dietetics within collaborative environments.
- Dietitians should use critical thinking, problem-solving skills and good judgement when practising dietetics in diverse collaborative care environments.
- Records provide clear accountability of what was done and by whom. Keeping appropriate records is important for client care and is critical in the accountability for services. The quality of a dietitian's records can be a good barometer of the quality of their practice.

d) Shared Evidence-Informed Decision-Making for Quality Care.

- Dietitians are encouraged to work in a participatory and coordinated approach when providing collaborative care. This includes evidence-informed decision-making through the use of best practices and resources to support the delivery of collaborative care. An evidence-informed decision-making approach should enable the separate and shared knowledge and skills of care providers to synergistically influence the client care provided.
- Decisions should be made based on the client's informed choices and health care professionals working together to ask, access, appraise and act on the research evidence.

Section 2: Dietitians understand the process of working effectively when providing collaborative care

Dietitians need to aware and develop an understanding of how to work effectively in teams, including the following:

a) Effective Collaboration Requires Effective Communication

- The team should establish a clear process for communicating within the team, and a shared language/lexicon.
- Sometimes the only form of communication between health care providers is through the client health record. There should be timely and clear record keeping.
- Record keeping not only facilitates communication between the health team members, it prevents duplication, and enhances collaboration and coordination to optimize safe, effective and efficient health care.
- Sometimes communicating with our colleagues can be more difficult than speaking with clients. Dietitians do not have the sole responsibility for successful communication; all healthcare professionals have a mutual and shared duty to communicate effectively. Under the *Code of Ethics,* dietitians have a duty to be collegial.

- Active listening skills facilitate information sharing, seeking and decision-making.

b) There Should Be a Strategy for Conflict Management

- The team should establish a clear process for conflict resolution and decision-making.
- Team members should be able to identify conflict when it occurs.
- In the interest of client-centred care, dietitians should strive to work collaboratively with the other health professions caring for their clients. If dietitians have concerns about the safety of a nutrition treatment recommended by a practitioner from another health profession, address these concerns with the practitioner and collaborate to find the best course of action for the client.
- Dietitians have the obligation, in serving their clients' interest, to manage conflict and advocate for the client's best interest. As outlined on pages 17 - 19 in the Jurisprudence Handbook for Dietitians:
  - Know the facts; review the situation and go in with an open mind;
  - Approach the health professional in a collaborative way. For example, instead of criticizing, engage your colleague in a discussion of what options might best serve the client;
  - Try not to put the client in the middle or to 'lobby' clients for your own position;
  - Document the discussion and results; and
  - Adhere to your organization's policies regarding these matters.

c) Teams Should Have a Clear Leader

- In the collaborative care context, the "collaborative leadership" model means that team members collaboratively determine who will provide group leadership in any given situation. The leader helps the team develop synergy and engage in client-centred practices to ensure that it facilitates effective collaborative care. To do this, a collaborative leader has two functions: task orientation and relationship orientation.
  - In the task-orientation function, the collaborative leader helps others on the team keep on task in achieving safe outcomes for client care. Task oriented responsibilities include helping to maintain the integrity of the team's governance and operating processes and helping to achieve client-centred outcomes for quality services.
  - In the relationship orientation function, the leader assists the team to work more effectively. This includes ensuring effective communication among members, providing support, managing conflict, and building productive work relationships.
- It's beneficial to document who is the team leader as part of each client's care plan.
- The team leader can be a dietitian or another member of the team.

d) The team should measure and evaluate its performance and team functioning.

- The team should measure and evaluate its performance

- The team should establish a clear process to evaluate whether the team is meeting its goals, and how well the team is functioning.
- An evaluative measure will be in the best interests of the health care system: given that resources are constrained, how best can collaborative environments maximize productivity of each team without increasing costs or sacrificing safety and quality?
- Despite the type of team or location, team functioning is enhanced when team members learn about, from and with each other to practise in the interest of client-centred care.

e) Education and Training

- Team members should receive education and training for how to work effectively in a team.
- Each profession brings its own set of competencies as socialized through education, training and experience. Health-care professionals working in collaborative environments should seek out opportunities to learn from each other in ways that can enhance the effectiveness of their collaborative efforts.
- There may also be opportunities for team members to educate each other based on their respective knowledge base and expertise.
- Acknowledge the limits to your own knowledge, and continue to learn so that practice can enable the best possible outcomes.

References and Resources

World Health Organization. (2010). Framework for action on interprofessional education and collaborative practice. Geneva: Author. Retrieved from http://whqlibdoc.who.int/hq/2010/WHO_HRH_HPN_10.3_eng.pdf

The College has developed several resources to assist DIETITIANs and others in enhancing IPC within their professional practice. Refer to the following resources:

Enhancing Interprofessional Collaboration
Effective Use of Knowledge in Interprofessional Teams
Interprofessional Collaboration e-learning module
Interprofessional Collaboration Addressing Conflicts Between Health Care Professionals

College of Dietitians of Ontario

Council Attachment 7.3

Style Definition: Heading 1

Collaborative Care Professional Practice Guidelines for Registered Dietitians in Ontario

Table of Contents

Glossary

- **Collaborative Care**: a team of health providers and a ~~patient/~~client who work in a participatory, collaborative and coordinated approach to share decision-making around health and social care.

- **Collaborative Care Team**: ~~patients/~~clients and their healthcare providers work together to achieve the optimal health outcomes. It could refer to situations where the team is located in the same practice setting and interact closely, or it could refer to providers who work independently and/or externally, but are providing care to the same ~~patient/~~client.

- **Collaborating**: an active ongoing partnership based on sharing, co-operation and coordination in order to solve problems and provide a service, often between people from very diverse backgrounds.

- **Interprofessional**: more than one health care profession on a health care team who work together and learn from each other.

- **Interprofessional Care** IPC: is the provision of comprehensive health services to clients by multiple health caregivers who work collaboratively to deliver quality care within and across settings.

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~~The College of Dietitians of Ontario is dedicated to public protection.~~

~~We regulate and support Registered Dietitians for the enhancement of safe, ethical and competent nutrition services in diverse practice environments.~~

Introduction

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~~Working in teams does not necessarily mean that a dietitian is practising collaboratively or that their team approach is client centred.~~ The purpose of The Collaborative Care Professional Practice *Guidelines for Registered Dietitians in Ontario* is to set out ~~clarify~~ the knowledge~~expectations~~ and behaviours that a dietitian must demonstrate ~~know~~ when working in Collaborative Care Teams and in Collaborative Care environments.

Collaborative Care Professional Practice Guidelines

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The statements outlined below are not intended to provide an exhaustive or definitive list of collaborative behaviours required of members. Rather, this resource can be used in companion ~~Use these guidelines in conjunction~~ with other College documents such as the Code of Ethics, Standards of Practice and relevant legislation, policies and any other applicable organizational guidelines or policies in the~~your~~ workplace. ~~Dietitians should use critical thinking, problem solving skills and good judgement when practising dietetics in diverse collaborative care environments while taking into consideration the following professional practice guidelines (this list is not intended to be exhaustive)~~

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~~1.~~ Section 1: Dietitians understand their role as collaborators when providing collaborative care.

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Dietitians need to develop an in-depth understanding of their role as collaborators with a view to providing safe, competent health care in all contexts, including the following:

a) Collaborative Care Approach should be ~~Patient/~~Client Centred.

- In addition to the professional members of the collaborative health care team, the client and family members are integral as active participants across the spectrum of care..
- The ~~patient/~~client[1] is a key participant in the collaborative care team.
- Whenever possible, the client should be treated as a member of the team.
- If the ~~patient/~~client is capable, and has expressed the desire to, they may even act as the team leader.

[1] ~~"Patient/client" also refers to the patient/client's substitute decision-maker, family and caregivers.~~

- ~~Patients/clients should be able to access the continuity of care provider to ensure high-quality, client-centered continuity of care. The collaborative care environment and availability of team members will determine the extent to which dietitians will collaborate. Along with acknowledging the importance of the collaborative care team, new understanding about the integral nature of client and family as active participants across the spectrum of care adds an important dimension to the continuum of care.~~

b) Clarify Team Members' Roles and Responsibilities as Part of Each ~~Patient/~~Client's Care Plan.

- Understanding who is capable and authorized to perform which aspects of treatment is the starting point for role clarity in a team. In many cases, there may be more than one provider sharing roles and tasks (including authority mechanisms) to best service clients.
- Members of a collaborative care team should clearly understand: who is on the team; the team members' roles and responsibilities; and which task(s) each team member will perform (this is especially important when there is overlapping scope or shared authority for performance of controlled acts). ~~The *Regulated Health Professions Act, 1991* (RHPA) was deliberately created with overlapping scopes of practice for health care providers.~~
- ~~The RHPA includes provisions to allow for delegating controlled acts. The Federation of Heath Regulatory College of Ontario has developed a Guide for Developing Medical Directives and Delegations to address evolving health care needs by extending authority to relevant health care providers to perform procedures. They have also developed an IPC tool that may be of interest. Essential to any delegation of authority is that dietitians (or others) must have the required competence.~~
- Dietitians recognize that the authorities, roles and responsibilities in the team may differ depending on the specific needs of the ~~patient/~~client, the practice setting, or other relevant factors.
- There should be mutual respect and trust in the team, based on a clear understanding of each team member's competencies.
- It may be beneficial to document team members' roles and responsibilities as part of each ~~patient's/~~client's care plan. This will include members in the circle of care such as dietitians in food-service, community, public health, management etc.
- ~~Understanding who is capable and authorized to perform which aspects of treatment is the starting point for role clarity in a team. In many cases, there may be more than one provider sharing roles and tasks (including authority mechanisms) to best service clients.~~

c) Dietitians Are Accountable For Dietetic Services Deliv~~Rend~~ered In Collaborative Environments.

- ~~In keeping with the objectives given to health professions colleges in the RHPA we promote inter-professional collaboration with other health professions while being individually accountable for services provided.~~
- Dietitians ~~obtain continued competence through experience and on the job training. It~~

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~~would be up to the dietitian to assess their own professional competence as well as to refer to any organizational expectations (e.g. # of years of practice, # of hours counseling clients, etc.) that may be in place. Dietitians~~ have a ~~are well aware of their~~ professional obligation to maintain individual accountability when practising dietetics within collaborative environments. ~~their level of competence and that failure to do so may lead to professional misconduct.~~

- Dietitians should use critical thinking, problem-solving skills and good judgement when practising dietetics in diverse collaborative care environments.
- ~~Dietitians as collaborative team members should advocate for the distribution of the tasks associated with client care in the way that best serves the client's best interests. This might take into account:~~
  - ~~Clinical appropriateness (which providers have the appropriate knowledge, skills and judgement to perform particular activities?),~~
  - ~~Safety (how best to ensure seamless transition and communication between the members of the team), and~~
  - ~~Efficiency (which provider is best positioned to perform the activity in a timely manner and without undue expense).~~
- Records provide clear accountability of what was done and by whom. Keeping appropriate records is important for client care and is critical in the accountability for services. The quality of a dietitian's records can be a good barometer of the quality of their practice.

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~~• Where there is no access or significantly limited access to an interprofessional team, it is in the client's best interests that the professional or professionals available on site be trained to work to their full and authorized scope of practice. It may be that dietitians and their employers determine that it is in the best interest of clients that available dietitians increase their knowledge and skills in order to play a central role in collaborative care. Dietitians as collaborative team members may wish to apply the Dietitian Task Framework (Appendix I) by asking themselves:~~

~~o Who can? (consider scoped and controlled acts),~~

~~o Who could? (consider authorizing mechanisms, e.g. medical directives and delegation),~~

~~o Who should? (given the resources and the best person to provide best care in the best interest of clients), and~~

~~Who will? (this is your team's plan).~~

d) Shared Evidence-Informed Decision-Making for Quality Care.

- Dietitians are encouraged to work in a participatory and coordinated approach when

providing collaborative care. This includes evidence-informed decision-making through the use of best practices and resources to support the delivery of collaborative care. An evidence-informed decision-making approach should enable the separate and shared knowledge and skills of care providers to synergistically influence the client care provided. Decisions should be made based on the client's informed choices and health care professionals working together to ask, access, appraise and act on the research evidence.

Section 2: Dietitians understand the process of working effectively when providing collaborative care

Developing an understanding of how to work effectively when multiple health care professionals come together to deliver the best quality of care in every health care setting includes understanding the following principles:

a) Effective Collaboration Requires Effective Communication

- The team should establish a clear process for communicating within the team, and a shared language/lexicon.
- Sometimes the only form of communication between health care providers is through the client health record. There should be timely and clear record keeping.
- Record keeping not only facilitates communication between the health team members, it prevents duplication, and enhances collaboration and coordination to optimize safe, effective and efficient health care.
- ~~The team should establish how this will occur, and who will be responsible for record keeping. Good record keeping is essential for optimizing interprofessional collaboration. Other members of the health care team, physicians, nurses, therapists and food service personnel rely on a dietitian's entries in a client health record when implementing nutrition care plans or implementing their own treatment plans. Integrated and well maintained health records facilitate communication between the health team members, prevent duplication, and enhance coordination to optimize safe and efficient health care.~~
- ~~When using combined records, it is advisable to establish a policy surrounding combined charting so that the record keeping process is clear and that everyone who is engaging in the combined documentation follows the same practices and has the same understanding of professional accountability. Dietitians can advocate for policies and ensure that recommended interventions are implemented and sustained.~~
- Sometimes communicating with our colleagues can be more difficult than speaking with

clients. Dietitians do not have the sole responsibility for successful communication; all healthcare professionals have a mutual and shared duty to communicate effectively. Under the *Code of Ethics,* dietitians have a duty to be collegial.

- Active listening skills facilitate information sharing, seeking and decision-making.

b) There Should Be a Strategy for Conflict Management

- The team should establish a clear process for conflict resolution and decision-making.
- Team members should be able to identify conflict when it occurs.
- In the interest of client-centred care, dietitians should strive to work collaboratively with the other health professions caring for their clients. If dietitians have concerns about the safety of a nutrition treatment recommended by a practitioner from another health profession, address these concerns with the practitioner and collaborate to find the best course of action for the client.
- Dietitians have the obligation, in serving their ~~patients'/~~clients' interest, to manage conflict and advocate for the client's best interest. As outlined on pages 17 - 19 in the Jurisprudence Handbook for Dietitians:
  - Know the facts; review the situation and go in with an open mind;
  - Approach the health professional in a collaborative way. For example, instead of criticizing, engage your colleague in a discussion of what options might best serve the client;
  - Try not to put the ~~patient/~~client in the middle or to 'lobby' ~~patients/~~clients for your own position;
  - Document the discussion and results; and
  - Adhere to your organization's policies regarding these matters.

c) Teams Should Have a Clear Leader

- In the collaborative care context, the "collaborative leadership" model means that team members collaboratively determine who will provide group leadership in any given situation.
  - The leader helps the team develop synergy and engage in client-centred practices to ensure that it facilitates effective collaborative care. To do this, a collaborative leader has two functions: task orientation and relationship orientation.
    - In the task-orientation function, the collaborative leader helps others on the team keep on task in achieving safe outcomes for client care. Task oriented responsibilities include helping to maintain the integrity of the team's governance and operating processes and helping to achieve client-centred outcomes for quality services.
    - In the relationship orientation function, the leader assists the team to

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work more effectively. This includes ensuring effective communication among members, providing support, managing conflict, and building productive work relationships.

- It's beneficial to document who is the team leader as part of each ~~patient's/~~client's care plan.
- The team leader can be a dietitian or another member of the team.

~~•~~d) The team should measure and evaluate its performance and team functioning.

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- The team should measure and evaluate its performance
- The team should establish a clear process to evaluate whether the team is meeting its goals, and how well the team is functioning.
- ~~d)•~~ An evaluative measure will be in the best interests of the health care system: given that resources are constrained, how best can collaborative environments maximize productivity of each team without increasing costs or sacrificing safety and quality?

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- ~~Health care settings are not always ideal and a lack of optimal resources, such as access to an interprofessional team, often occurs. There is disparity in the availability of health care professionals in acute care, long-term care, chronic care and home care settings. In rural areas, access issues are further exacerbated.~~ Despite the type of team or location, team functioning is enhanced when team members learn about, from and with each other to practise in the interest of client-centred care.
- ~~Each team member should be individually accountable for their contribution to team functioning.~~
- ~~The development of collaborative policies and processes to provide safe, timely and effective care is critical. In situations where dietitians work with other health care providers, they should develop collaborative and communication strategies in order to work effectively and efficiently.~~
- ~~Be aware of how your own behaviour and attitudes impact functioning as a collective and how you actively foster a culture of collaboration.~~

e) Education and Training

- Team members should receive education and training for how to work effectively in a team.
- Each profession brings its own set of competencies as socialized through education, training and experience. Health-care professionals working in collaborative environments should seek out opportunities to learn from each other in ways that can enhance the effectiveness of their collaborative efforts.
- There may also be opportunities for team members to educate each other based on their respective knowledge base and expertise.

- Acknowledge the limits to your own knowledge, and continue to learn so that practice can enable the best possible outcomes.

~~Conclusion~~

~~In the interest of client-centred care, dietitians should strive to work collaboratively with the other health professions caring for their clients. Collaborative care is increasingly recognized as a key factor in safe, effective and efficient health care delivery. Dietitians are expected to engage in collaborative practices and share their expertise within and across these environments.~~

References and Resources

World Health Organization. (2010). Framework for action on interprofessional education and collaborative practice. Geneva: Author. Retrieved from http://whqlibdoc.who.int/hq/2010/WHO_HRH_HPN_10.3_eng.pdf

The College has developed several resources to assist DIETITIANs and others in enhancing IPC within their professional practice. Refer to the following resources:

Enhancing Interprofessional Collaboration
Effective Use of Knowledge in Interprofessional Teams
Interprofessional Collaboration e-learning module
Interprofessional Collaboration Addressing Conflicts Between Health Care Professionals

~~Appendix 1~~

RD Role & Task Decision Framework

RDs are encouraged to consider requests and opportunities for assuming new tasks and roles in a way that respects clients and interprofessional collaboration (IPC), and that appreciates the full scope of dietetics practice. This table shows how answering four central questions when considering, "Can I, or should I do this?", can be informed by focusing on client-centred services.

The College of Dietitians of Ontario is a resource for RDs as they explore new areas of practice.

SHOULD THE RD PERFORM THIS NEW TASK OR ROLE?	DECISIONS BASED ON CLIENT-CENTRED SERVICES
IS THE NEW TASK OR ROLE WITHIN THE RD SCOPE OF PRACTICE?	Applying a narrow interpretation of the dietetic scope of practice based on traditional roles may sometimes conflict with client needs. When it does, RDs are encouraged to consult and carefully consider whether a restrictive interpretation unnecessarily limits how clients are served. The RD scope of practice statement in the *Dietetics Act* and the College definition of practising dietetics enables a very broad spectrum of activities as the scope relates to using the knowledge of food and nutrition, and working in areas related to nutritional conditions and disorders and the prevention and treatment of these.
ARE THERE ANY LEGAL OR ORGANIZATIONAL BARRIERS TO PERFORMING THIS NEW TASK OR ROLE?	Organizational policies, the *Regulated Health Professions Act, Dietetics Act, Public Hospitals Act,* and other legislation limit who can do what and under what conditions (e.g. an order or prescription). Flexibility exists within this organizational and legal framework and is intended to be used to meet client needs as long as safety and quality are given due consideration in the decision-making.
DOES THE RD HAVE THE REQUIRED SKILLS & COMPETENCE TO PERFORM THE NEW TASK OR ROLE?	Competence includes knowledge, skill and judgment. Competent execution of roles and tasks is an essential professional responsibility to ensure clients benefit from practice activities and that they are not harmed. New areas of competence can be acquired at any time during a professional's career. If client needs are better served by having an RD perform new tasks or roles, then the RDs must consider how to acquire the new area of competence. This is an important part of the decision and planning around new tasks and roles. Simply to say "no" based on existing competence may well fail to meet client needs.
WHAT ARE THE IPC POSSIBILITIES?	**Decisions should be made in the clients' best interest, taking into consideration scope of practice and what is intrinsically related to it, organizational and legal flexibilities, and the acquisition of competence. The outcome may not lead to a simple "yes" or "no", but open to interprofessional possibilities.** THE DIETITIAN · ANOTHER HEALTH PROFESSIONAL · ANOTHER PROVIDER · A SHARED TASKED

College of Dietitians of Ontario

Attachment: 8.1

Council Decision Support Document

Development of a Position Statement on Insulin Adjustments & the Dietetic Scope of Practice in Ontario

DECISION SOUGHT

Council is being asked to answer the following questions to help inform the creation of the College's *Position Statement on Insulin Adjustments and the Dietetic Scope of Practice in Ontario*:

1. Is recommending to a client to adjust the dosage of their insulin regimen within the controlled act of prescribing a drug?

2. If adjusting insulin is not considered to be within the controlled act of prescribing a drug, does the risk of harm provision within the *Regulated Health Professions Act, 1991*, apply?

3. If the answer to both questions 1 and 2 is no, are insulin adjustments within the dietetic scope of practice?

BACKGROUND

What are Insulin Adjustments?

Clients with diabetes who require insulin to control their blood sugar levels are typically prescribed an injectable insulin regimen by their primary care provider (e.g. physician or nurse practitioner) or another medical specialist (e.g. endocrinologist). Insulin adjustments by RDs involve altering the pre-established insulin dose(s) in response to a range of blood glucose readings as it relates to the assessment of a client's food and beverage intake, physical activity and other health factors to normalize glycemia.[1]

Current Advice

Currently, the College doesn't have a formal position statement on insulin adjustments and the RD scope of practice. When asked about insulin adjustments, our practice advice is that this task falls under the controlled act of prescribing a drug within the *Regulated Health Professions Act, 1991* (RHPA). As RDs do not have the authority to prescribe drugs under the dietetic scope of practice, RDs may only adjust insulin doses under authority mechanisms (e.g. direct orders from authorized prescribers and medical directives/delegations) and within their individual level of competence.

The Grey Area

Within the RHPA there is no definition for the controlled act of prescribing a drug. It is unclear whether this control act applies only to drugs that are on Health Canada's Prescription Drug List (refer to the *How Drugs are Sold* section below), or whether it also includes other drugs (e.g. injectable insulin). A Council approved position statement will ensure that practice advice appropriately reflects the College's position.

Underlying Goal

College staff would like direction from Council to develop a formal position statement for insulin adjustments and the dietetic scope of practice to provide clarity on this matter. A growing number of RDs in Ontario are working in the area of diabetes and have reported in the College's risk research that insulin adjustments are a high risk area of dietetic practice.

ANALYSIS

How Drugs are Sold in Ontario

Staff began our analysis by examining how drugs are sold in Ontario. Health Canada determines whether or not a drug requires a prescription for sale. If a drug has been given a non-prescription status by Health Canada, it is up to the provinces and territories to determine the appropriate conditions of sale for that drug. Ontario has adopted the National Association of Pharmacy Regulatory Authorities (NAPRA) *National Drug Schedule* which determines where drugs may be sold.[2]

Under NAPRA, all of the products on Health Canada's Prescription Drug list are Schedule I drugs which require a prescription for sale and are provided to the public by the pharmacist following the diagnosis and professional intervention of a practitioner.[3] Insulin is classified as a Schedule II drug under NAPRA which does not require a prescription. Schedule II drugs are only available from a

pharmacist and must be retained within an area of the pharmacy where there is no public access and no opportunity for patient self-selection (often termed 'behind the counter').[3] While insulin is not freely available, it can be obtained from a pharmacist without a prescription.

Legal Input

To assist the College in developing a position statement, the College's legal counsel examined the following:

1. Is recommending to a client to adjust the dosage of their insulin regimen within the controlled act of prescribing a drug?

2. If adjusting insulin is not considered to be within the controlled act of prescribing a drug, does the risk of harm provision within the *Regulated Health Professions Act, 1991*, apply?

The Controlled Act of Prescribing

Is recommending to a client to adjust the dosage of their insulin regimen within the controlled act of prescribing a drug?

The eighth controlled act as cited in section 27 of the RHPA reads as follows:

"8. Prescribing, dispensing, selling or compounding a drug as defined in the *Drug and Pharmacies Regulation Act*, or supervising the part of a pharmacy where such drugs are kept."[4]

To date, there is no case law that specifically interprets what is and what is not prescribing a drug under the RHPA. A traditional interpretation suggested that recommending a client adjust their dosage of insulin that had been specified by a physician or nurse practitioner might involve the controlled act of prescribing the drug.[5]

However, a recent case involving the *College of Optometrists of Ontario v. Essilor Group Canada Inc.* provided some further insight into the controlled act of prescribing. While the *Essilor* case pertained mainly to dispensing eyewear, there was reference to prescribing drugs in the court decision. "The Court viewed prescription drugs and non-prescription drugs as qualitatively different."[5] In addition, "While the court did not explicitly say so, it implied that the controlled act of prescribing drugs referred to prescription drugs only. The inference is that Schedule II and III drugs do not need to be prescribed and that recommending them to clients would not amount to the controlled act of prescribing them."[5] Legal counsel indicated that while this recent interpretation is

reasonable, whether or not adjusting insulin is considered prescribing can only be definitively decided by the courts.[5]

Consultation with Other Colleges

The College also consulted with three other Ontario health regulatory Colleges who regulate professions that are involved in diabetes care and insulin adjustments. The College of Physicians and Surgeons, the College of Nurses and the College of Pharmacists indicated that they all view prescribing for their members to include Scheduled I, II and III drugs under NARPA. The College of Nurses and the College of Pharmacists both interpret insulin adjustments as prescribing. The College of Physicians and Surgeons did not comment on this interpretation. Refer to Appendix I for the consultation details. An overview of the positions of dietetic regulators in Canada surrounding insulin adjustments is provided in Appendix II.

Risk of Harm Clause

If adjusting insulin is not considered to be within the controlled act of prescribing a drug, does the risk of harm provision within the *Regulated Health Professions Act, 1991*, apply?

If Council is of the view that adjusting insulin does not fall within the controlled act of prescribing a drug, it will have to consider whether and how section 30 of the RHPA, the risk of harm clause, applies. Section 30 provides as follows:

"Treatment, etc., where risk of harm
30 (1) No person, other than a member treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious bodily harm may result from the treatment or advice or from an omission from them."[4]

The risk of harm provision serves to protect the public from action that is not covered by the controlled act provisions but still poses a risk of harm. It is reasonably safe to conclude that adjusting insulin falls within the type of activity covered by the risk of harm provision in that "it is reasonably foreseeable that serious bodily harm may result from the treatment or advice or from an omission from them."

If we assume that adjusting insulin falls within the risk of harm clause, Council will need to consider whether adjusting insulin falls within "a member treating or advising within the scope of practice of his or her profession" (i.e. whether adjusting insulin is within the dietetic scope of practice). If performing insulin adjustments is not within the scope of practice of dietetics, the risk of harm clause would prohibit a dietitian from performing this activity except by delegation (and subject to one other exception described below relating to daily activities).[5]

The dietetic scope of practice statement as articulated in the *Dietetics Act, 1991* includes:

"The practice of dietetics is the assessment of nutrition and nutritional conditions and the treatment and prevention of nutrition related disorders by nutritional means."[6]

If we assume that diabetes is a nutrition-related disorder rather than a physiological disorder, the question then becomes, is adjusting the dosage of insulin for a client a "nutritional means" for treating and preventing the disorder? Expert evidence would be required, but it may not be intuitive to a court that insulin is a "nutritional" treatment.[5]

If insulin is not considered a "nutritional" treatment, then an RD may be in breach of the risk of harm provision under the RHPA unless the advice is seen as assisting the client in their routine activities of daily living. Whether an RD is assisting a client with routine activities of daily living would depend on what the direction was from the practitioner who initiated the insulin regimen.[5] Was the client given the role of adjusting their dosage of insulin as part of their self-management of diabetes? If so, the RD may fall into the exception of assisting the client with routine activities of living. If the client was not given this role, then this exception might not apply and adjusting insulin for a client may be considered beyond the dietetic scope of practice.[5]

SUMMARY

Given the complexity of this issue, it is recommended that Council approve a position statement to guide the College's communications and advice to members about adjusting insulin.

With no definitive case law to guide us on this matter, legal counsel has suggested that our College build a consensus interpretation (if possible) with other health professional Colleges who have an interest in this issue. This may provide less risk and potential liability for both the College and any RDs acting on the College's interpretation of the law.[5]

QUESTIONS FOR COUNCIL CONSIDERATION

Given the above information, Council is being asked to answer the following questions to help inform the creation of the College's *Position Statement on Insulin Adjustments and the Dietetic Scope of Practice in Ontario*:

1. Does adjusting insulin fall under the controlled act of prescribing a drug?

2. If the answer to 1 is no, does adjusting insulin fall within the risk of harm provision? If it does, does adjusting insulin fall within the scope of practice of dietetics?

NEXT STEPS

1. **Draft Position Statement** - Based on the answers to the above questions posed to Council, College staff will draft the *Position Statement on Insulin Adjustments* and seek approval, in principle for the purpose of consultation, at the December 2018 Council meeting.

2. **Circulate for Consultation –** Make any revisions directed by Council and circulate the draft *Position Statement on Insulin Adjustments* to RDs and other relevant stakeholders for feedback. Planned circulation period: December 2018-January 2019.

3. **Analyze Feedback and Revise –** Analyze the feedback received from the consultation and incorporate into the draft *Position Statement on Insulin Adjustments.*

4. **Final Council Approval -** Present the revised (as applicable) *Position Statement on Insulin Adjustments* to Council for final approval at the March 2019 meeting.

5. **Publish and Communicate Broadly -** Publish the *Position Statement on Insulin Adjustments* on the College website and develop a communication plan for education to RDs and other relevant stakeholders.

6. **Incorporate into College Programs** – Include the *Position Statement on Insulin Adjustments* into College publications and program tools such as the Jurisprudence Handbook, the Jurisprudence Knowledge and Assessment Tool (JKAT) and the Peer & Practice Assessment.

DC/MW, Sept 2018

References

1. Yeung, A.Y.Y., et al. (2013). The Canadian Diabetes Association 2013 Clinical Practice Guidelines for the Prevention & Management of Diabetes in Canada. *Canadian Journal of Diabetes,* v.37, S1, p.1-227. Available from: http://guidelines.diabetes.ca/app_themes/cdacpg/resources/cpg_2013_full_en.pdf
2. Ontario College of Pharmacists. (2015). Pharmacy Connection – Keeping Current with Drug Schedule Changes. Available from: http://www.ocpinfo.com/library/practice-related/download/napraschedulingsummer2015.pdf
3. National Association of Pharmacy Regulatory Authorities. National Drug Schedules. Available from: http://napra.ca/national-drug-schedules
4. *Regulated Health Professions Act, 1991.* Controlled Acts, S. 27. Available from: https://www.ontario.ca/laws/statute/91r18
5. Steinecke, R. (2018). *Legal Review: Recommending Adjustment to Insulin Doses*. Unpublished document.
6. *Dietetics Act, 1991.* Available from: https://www.ontario.ca/laws/statute/91d26

Appendix I

Insulin Adjustments Ontario Consultation Summary July 2018

College of Physicians an Surgeons of Ontario	Ontario College of Pharmacists	College of Nurses of Ontario
• Unable to interpret the controlled act of prescribing in relation to adjusting insulin. • Prescription is not defined in CPSO's prescribing policy, but it applies to any scheduled drug. • CPSO's Practice Advisory spends ~25% of time on calls re: medical directives/delegations. CPSO has never received any complaints re: medical directives and delegations. Problems exist with individual issues not authority mechanisms.	• Views prescribing to include all drugs that are written on an authorized prescriber's prescription pad/electronic form, etc. The scheduling of the drug doesn't matter; pharmacists handle the drug as a prescription in the same way for schedule I, II and III drugs. • Views the initial regimen of insulin established by an authorized prescriber to be prescribing. • Considers adjusting insulin to be prescribing as this involves an adaptation of a prescription. • Under the pharmacist's scope of practice, they have the authority to adjust insulin. Pharmacists often do this, unless the initial prescriber requests that this is only done under medical directives, or not done at all.	• Considers initiation of insulin to be prescribing and, when doing so, NPs are expected to comply with College standards related to health assessment, diagnosis and prescribing as outlined in the *Nurse Practitioner* practice standard. • CNO would interpret insulin adjustment as prescribing and not within the current legal scope of practice for RNs. With proper authorizing mechanisms the RN is not "adjusting" but rather "administering" insulin based on an order from a physician or an NP. The order may be a direct order, which is client-specific, or a medical directive as outlined in the *Authorizing Mechanisms* practice guideline.

Appendix II

Cross-Canada Overview of Insulin Adjustment Authority

Provincial Dietetic Regulator	Insulin Adjustment Authority
British Columbia	Yes - with pre-existing insulin regimen
Alberta	Pending - regulation amendment request before government to allow RDs to adjust insulin
Manitoba	Yes - with pre-existing insulin regimen and in collaboration with medical practitioner
New Brunswick	Yes - if they meet the competences described in Health Authorities' policies
Newfoundland	No - only via medical directive/delegation
Nova Scotia	No - only via medical directive/delegation
Ontario	No – only via direct order or medical directive/delegation
PEI	Awaiting response
Quebec	No – will be submitting a proposal to the government for RD authorization to adjust insulin
Saskatchewan	Pending - regulation amendment request before government to allow RDs to adjust insulin

College of Dietitians of Ontario

The College of Dietitians of Ontario exists to regulate and support all RDs in the interest of the public of Ontario

We are dedicated to the ongoing enhancement of safe, ethical and competent nutrition services provided by Registered Dietitians in their changing practice environments

Council Attachment 13.1

ANNUAL MEETING MINUTES

June 21, 2018

5775 Yonge Street, Main Floor Conference Room

Present
Deion Weir RD-Chair
Alexandra Lacarte RD
Claudine Wilson
Erin Woodbeck RD
Marie-Louise Chartrand
Nicole Osinga RD
Roula Tzianetas RD
Ruki Kondaj
Suzanne Obiorah RD
William Franks RD

Regrets
Dawn van Engelen RD
Laila Kanji
Ray Skaff
Shelagh Kerr
Soliman A.F. Soliman

Guests
Liana Bell, Clark-Henning LLP
Kerri Labrecque RD – Committee Appointee
Khashayar Amirhosseini RD – Committee Appointee
Ruchika Wadhwa RD - Committee Appointee
Sobia Khan RD – Committee Appointee

Staff
Melisse Willems-Registrar & ED
Barbara McIntyre-QA Manager
Carole Chatalalsingh-Practice Advisor & Policy Analyst
Carolyn Lordon–Registration Program Manager
Deborah Cohen-Practice Advisor & Policy Analyst
Heena Vyas-Registration Coordinator
Ivy Marzan-Administrative Assistant, Accounting & Member Services
Jada Pierre-Executive & General Office Administrative Assistant–Minute Taker
Monique Poirier-Communications Manager
Sarah Ahmed-Controller

Thursday June 21, 2018 3:00-4:15pm

Item & Discussion	ACTION
1.0 **Call to Order**	The annual meeting was called to order at 3:08pm by D. Weir President and Chair
2.0 **Approval of Agenda**	MOTION to approve the agenda **Moved by: E. Woodbeck** **Seconded by: C. Wilson** **Carried**
3.0 **Declaration of Conflict of Interest**	No conflict of interest was declared
4.0 **Declaration of Bias**	None declared

Item & Discussion	ACTION
5.0 Auditor's Report-Liana Bell L. Bell presented the Audited Financial Statements for the Fiscal year ended March 31, 2018, and the Auditor's report on Compliance with Executive Limitations Policies for the Fiscal Year ended March 31, 2018. L. Bell reported that, in the opinion of Hilborn LLP, the Audited Final Statements present fairly, in all material respects, the financial position of the College of Dietitians of Ontario as at March 31, 2018 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. L. Bell reported that the Auditor's Report on Compliance with Executive Limitations Policies for the fiscal year ended March 31, 2018 had the following finding: No violations were identified during our audit. The Chair thanked Ms. Bell for her presentation and excused her from the rest of the meeting.	MOTION to approve the draft Audited Financial Statements and the Executive Limitations Report for the Fiscal Year Ended March 31, 2018 as presented. **Moved by: W. Franks** **Seconded by: E. Woodbeck** **Carried**
6.0 Appointment of Auditor for 2018-19 Council discussed whether to appoint Clarke Henning LLP as auditors for the 2018-19 Fiscal year.	MOTION to appoint Clarke Henning LLP as the auditors for the fiscal year 2018-19. **Moved by: M. Chartrand** **Seconded by: N. Osinga** **Carried**
7.0 Discontinuation of Committee Reports D. Weir informed Council that the Yearly Committee Reports will be discontinued as the information contained in the reports is provided to Council in other reports.	
8.0 College Highlights M. Willems presented on the College's achievements over the 2017-18 year.	

Item & Discussion	ACTION
9.0 **Tribute to Outgoing Council and Committee Members** • Alexandra Lacarte • Dianne Gaffney • Erin Woodbeck • Nicole Osinga • Ray Skaff D. Weir thanked E. Woodbeck and R. Skaff for their years of service on Council and D. Gaffney for her years of service on the Legislative Issues Committee. S. Obiorah thanked N. Osinga and A. Lacarte for their years of service on Council.	
10.0 **Adjournment**	Motion to adjourn the annual meeting at 4:07pm was moved by E. Woodbeck.

Deion Weir RD, President

Jada Pierre, Recorder

Date

Date

COUNCIL MEETING MINUTES

June 21, 2018
5775 Yonge Street, Main Floor Conference Room

Present
Deion Weir RD-Chair
Claudine Wilson
Diana Balicsak RD
Laila Kanji
Marie-Louise Chartrand
Soliman A.F. Soliman
Suzanne Obiorah RD
Teresa Taillefer RD
Trina Pearson RD
Roula Tzianetas RD
Ruki Kondaj
William Franks RD

Regrets
Dawn van Engelen RD
Ray Skaff
Shelagh Kerr

Guests
Alida Finnie RD – Committee Appointee
Cindy Tsai RD - Committee Appointee
Kerri Labrecque RD – Committee Appointee
Khashayar Amirhosseini RD – Committee Appointee
Krista Witherspoon RD – Committee Appointee
Ruchika Wadhwa RD - Committee Appointee
Sobia Khan RD – Committee Appointee

Staff
Melisse Willems-Registrar & ED
Barbara McIntyre-QA Manager
Bev Nopra-Quality Assurance Coordinator
Carole Chatalalsingh-Practice Advisor & Policy Analyst
Carolyn Lordon – Registration Program Manager
Deborah Cohen-Practice Advisor & Policy Analyst
Elsene Randall-Program Assistant
Heena Vyas Registration Coordinator
Jada Pierre-Executive & General Administration – Minute Taker
Monique Poirier-Communications Manager
Sarah Ahmed-Controller

Thursday June 21, 2018 4:15-4:30pm

ITEM & DISCUSSION	ACTION
1.0 Call to Order Welcome new Councillors • Diana Balicsak • Teresa Taillefer • Trina Pearson	The meeting was called to order by Interim Chair, M. Willems, Registrar & ED, at 4:07pm
2.0 ELECTION of Executive Committee Members o Election of President o Election of Vice-President o Election of Third Member of the Executive Committee o Election of Fourth Member of the Executive Committee	**Election of President/Chair** R. Kondaj nominated D. Weir for President of the College. The nomination was seconded by W. Franks, D. Weir accepted the nomination. After three calls, no further nominations were received for President. D. Weir was acclaimed as President of the College. **Election of Vice-President**

	D. Weir nominated D. van Engelen for Vice-President of the College. The nomination was seconded by R. Tzianetas. D. van Engelen was not present but had previously indicated her interest in this position. After three calls, no further nominations were received for Vice-President. D. van Engelen was acclaimed as Vice-President of the College. **Election of Third Member of the Executive Committee** W. Franks nominated R. Kondaj as the Third Member of the Executive Committee. The nomination was seconded by R. Tzianetas. R. Kondaj accepted the nomination. After three calls, no further nominations were received for the Third Member of the Executive Committee. R. Kondaj was acclaimed as the Third Member of the Executive Committee. **Election of Fourth Member of the Executive Committee** D. Weir nominated M. Chartrand as the Fourth Member of the Executive Committee. The nomination was seconded by S. Obiorah. M. Chartrand accepted the nomination. After three calls, no further nominations were received for the Fourth Member of the Executive Committee. M. Chartrand was acclaimed as the Fourth Member of the Executive Committee Upon the completion of the Executive Committee elections, D. Weir assumed chairing the rest of the meeting.
3.0 **ADJOURNMENT**	Motion to adjourn Council meeting at 4:16pm was moved by R. Tzianetas

Deion Weir RD, President

Jada Pierre, Recorder

Date

Date

College of Dietitians of Ontario

The College of Dietitians of Ontario exists to regulate and support all RDs in the interest of the public of Ontario

We are dedicated to the ongoing enhancement of safe, ethical and competent nutrition services provided by Registered Dietitians in their changing practice environments

COUNCIL MEETING MINUTES

June 22, 2018 (9:30am–4:00 pm)

5775 Yonge Street, Main Floor Conference Room

Council Attachment 13.2

Present

Deion Weir RD-Chair
Claudine Wilson
Diana Balicsak RD
Laila Kanji
Marie-Louise Chartrand
Roula Tzianetas RD
Ruki Kondaj
Soliman A.F. Soliman
Suzanne Obiorah RD
Teresa Taillefer RD
Trina Pearson RD
William Franks RD

Regrets

Dawn van Engelen RD
Ray Skaff
Shelagh Kerr

Guests

Alida Finnie RD - Committee Appointee
Andrej Sikic – Ministry of Health and Long-Term Care
Erin Woodbeck RD - Committee Appointee
Kerri Labrecque RD – Committee Appointee
Khashayar Amirhosseini RD – Committee Appointee
Stefania Palmeri – The Professional Titles for Dietitians in Ontario Advocacy Group, The DC Ontario FHT RD Group and AFHTO
Ruchika Wadhwa RD - Committee Appointee
Sobia Khan RD – Committee Appointee

Staff

Melisse Willems-Registrar & ED
Barbara McIntyre-QA Manager
Carole Chatalalsingh-Practice Advisor & Policy Analyst
Carolyn Lordon – Registration Program Manager
Deborah Cohen-Practice Advisor & Policy Analyst
Jada Pierre-Executive & General Office Administrative Assistant – Minute Taker
Sarah Ahmed-Controller

Item & Discussion	ACTION
1.0 Call to Order Welcome new Councillors • Diana Balicsak • Teresa Taillefer • Trina Pearson	The meeting was called to order at 9:35 a.m. by D. Weir, RD – President and Chair
2.0 Approval of Agenda Items 20.1 and 21.8 was pulled from the consent agenda for discussion.	MOTION to approve the agenda, as amended. **Moved by: R. Kondaj** **Seconded by: T. Taillefer** **Carried**

Item & Discussion	ACTION
3.0 **Declaration of Conflict of Interest** No conflict of interest was declared	
4.0 **Declaration of Bias** No bias was declared	
5.0 **Orientation to Box** L. Kershaw provided training to Council on the new Box software that will be used for Council and Committee meetings.	MOTION to permit Committee Members to participate during this part of the meeting if they have any questions. **Moved by: S. Obiorah** **Seconded by: M. Chartrand** **Carried**
6.0 **Communications Update – New Newsletter** This item will be deferred until September.	
7.0 **Review Annual Council Planning & Oversight Agenda** Council reviewed Policy G7 Annual Council Planning and Oversight Agenda for 2018/19.	
8.0 **Plan for Council Learning Needs** Council discussed what they would like their learning needs to be going forward. Items that were identified included an education session on understanding of financial reporting, and inviting R. Steinecke back for another session on governance.	
9.0 **Letter re Ontario Advocacy Initiative: Protect "Nutritionist" and "Registered"** Council discussed and decided that M. Willems will meet with the advocacy group and report to the Executive Committee.	MOTION that this be discussed with the Executive Committee and be bought back to Council. **Moved by: W. Franks** **Seconded by: L. Kanji**
10.0 **Collaborative Care Professional Practice Guidelines for Registered Dietitians** C. Chatalalsingh presented the draft Collaborative Care Guidelines document to Council for approval. Council identified several areas for revision.	MOTION that the Collaborative Care Professional Practice Guidelines (10.2) come back to Council for review and approval before going out to members. **Moved by: T. Taillefer** **Seconded by: R. Tzianetas** **Carried**

Item & Discussion	ACTION
11.0 Council & Committee Performance Evaluations Council reviewed the Council and Committee Performance Evaluation reports for 2017-18. It was noted that the feedback was generally positive with some changes to question number 5 on the Committee Survey identified and improving the challenges of teleconferencing at Council meetings.	
12.0 Committee Appointments No changes were identified.	MOTION that Council approve the proposed Committee Compositions for the 2018-19 year as presented. **Moved by: W. Franks** **Seconded by: S. Obiorah** **Carried**
13.0 Selection of Interim Committee Chairs Past practice has been that the chair of each committee for the previous year is appointed as interim chair, so long as that member is still on the committee and is willing and able to serve in this capacity. Council was in agreement with this practice for 2018-19. It was noted that for the Legislative Issues Committee the 2017-18 chair was no longer a member of the Committee and therefore a new interim chair would need to be appointed. As the Discipline Committee only meets as needed, it was decided to appoint C. Wilson as the permanent chair for the year, not as the interim chair.	MOTION that Council appoints the 2017-18 outgoing committee chairs as interim Chairs until the first committee meeting, with the exception of the Legislative Issues Committee. MOTION that Council appoints D. van Engelen as interim Chair for the Legislative Issues Committee. **Moved by: S. Obiorah** **Seconded by: R. Kondaj** **Carried** MOTION that Council appoints C. Wilson as Chair of the Discipline Committee for the 2018-19 year. **Moved by: W. Franks** **Seconded by: R. Kondaj** **Carried**
14.0 Selection of Council meeting dates 2018-19 A scheduling conflict was identified with the proposed December date and December 7 was identified as an alternative.	MOTION to approve the 2018/2019 Council dates as follows, with a change to the meeting date in December. • September 21, 2018 • December 7, 2018 • March 29, 2019 • June 20 (1/2 day) and June 21, 2019 **Move by: S. Obiorah** **Seconded by: T. Taillefer** **Carried**

Item & Discussion	ACTION
15.0 Report on year-end Financial Statements Sarah Ahmed, Controller, presented the Audited Statement of Operations and Changes in Fund Balances Results for the fiscal year end March 31, 2018.	
16.0 Registrar's Report on Executive Limitations M. Willems reported on the Executive Limitations outlined for the Registrar by giving a brief overview of what is required of those limitations and the status of the limitations at year end. No significant deviations from the Limitations were noted.	
17.0 Report on Audit of Operations of Register D. Weir reported to Council on the Audit of the Register noting some minor quality improvement work was ongoing.	
18.0 Dietitians Report-Office of the Fairness Commissioner D. Weir informed Council that the report from the Fairness Commissioner was very good with no issues identified by the OFC.	
19.0 *In camera* – Approval of *in camera* Minutes of March 23, 2018 Council Meeting ***In camera* – Draft Registrar and Executive Director Performance Evaluation**	MOTION that Council move *in Camera* at 1:32pm **Moved by: C. Wilson** **Seconded by: R. Kondaj** **Carried** MOTION to approve the Draft Registrar and Executive Director Performance Evaluation, including the goals for the 2018-19 year. **Moved by: M. Chartrand** **Seconded by: S. Soliman** **Carried** MOTION the Council move out of *in camera* session at 2:30pm. **Moved by: R. Tzianetas** **Seconded by: T. Taillefer** **Carried**

Item & Discussion	ACTION
Information Items (Consent Agenda) **20.0 March 2018 Council Meeting Minutes** **21.0 Executive Committee Report** **22.0 Audit of Operations of Register** **23.0 Management Report**	MOTION to approve the Consent Agenda, as amended. **Moved by: R. Tzianetas** **Seconded by: R. Kondaj** **Carried**
24.0 Council Sharing New Council member commented that she felt very welcomed when she arrived at the Annual meeting.	
25.0 Meeting Evaluators W. Franks R. Tzianetas	**Productivity:** Items placed on the agenda should involve an approval process. There was good participation and input from many individuals. Time was well organized. If we ran over one area, we improved later on and finished what we needed to accomplish. **Quality Decisions:** There was a good balance and variety of opinions. There was good input from everyone. **Openness and Collaboration:** Hand raising to address an issue need to be recognized by Chair, ensuring that everyone who raised their hand gets an opportunity to be heard.
26.0 Next Meeting Evaluators R. Kondaj S. Kerr	
27.0 Reminders/Standing Items Council was asked to check and see how many CDO documents are on their tablet and in their trash folder and delete items that are no longer needed.	
24.0 Adjournment	Motion to adjourn at 2:44pm was moved by S. Obiorah. **Carried**

Deion Weir RD, President

Jada Pierre, Recorder

Date

Date

College of Dietitians of Ontario

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Council Attachment 14.1

Executive Committee Report

July 2018 – Sept 2018

Committee Members: Deion Weir RD (President and Chair), Dawn van Engelen RD, Ruki Kondaj, Marie-Louise Chartrand

Support Staff: Melisse Willems (Registrar & ED), Jada Pierre, (Recorder)

The Executive Committee had a face-to-face meeting on Aug 20, 2018.

Summary of work:

- Committee orientation was completed on Aug 20, 2018 meeting. Melisse Willems provided the orientation.
- The committee work plan was reviewed
- The committee discussed appointments for the audit and RPCR committees
- The draft September Council Agenda were compiled and approved
- An email update was provided to Council following the Executive Committee meetings

Respectfully Submitted,
Deion Weir, RD
President

MANAGEMENT REPORT – September 21, 2018

SECTION 1 OVERSIGHT/METRICS

FINANCIAL

Results

Due to timing, the analysis of the first quarter results has not yet been finalized. Therefore, the first quarter financial summary will be posted in the September 2018 Meeting Materials folder in Box **(attachment # 15.6)** by the end of the day on Friday, September 14, 2018. A preliminary review of the revenues and expenditures shows that General Administration is in line with the first quarter budget and Programs are underspent due to the timing of most major expenditures, which will occur later in the year. Revenues are less than budget due to timing as well; the vast majority of revenues are received from September to October during the renewal period.

Investments Held by RBC Dominion Securities Inc. (details from May 1, 2018 to July 31, 2018):

- Investment decisions are made with the advice of the College's investment advisor at RBC.
- In June 2018, the College used cash on hand to purchase 100 common shares of BCE Inc. for $5,541.
- In June 2018, the College sold all of its investment in a Bank of Nova Scotia bond for proceeds of $247,202, all of its investment in a Province of Quebec bond for proceeds of $24,274 and part of its investment in a Province of Newfoundland bond for proceeds of $13,650; these funds and some additional funds totaling $285,500 were transferred to the Scotiabank business operating account to finance ongoing operations. These transfers are made every 3-4 months as required.
- In July 2018, the College sold all of its investment in Brookfield Asset Management preferred shares for proceeds of $379,075 and used cash on hand to purchase Bombardier Inc preferred shares for 387,248. The sale of the Brookfield preferred shares resulted in a capital gain of $2,285.
- In July 2018, the College sold part of its investment in Royal Bank common shares for proceeds of $99,680 and part of its investment in a Province of Newfoundland bond for proceeds of $659,001; these funds and cash on hand totaling $766,403 were used to purchase a Toronto Dominion Bank fixed income bond. The sale of the Royal bank common shares resulted in a capital gain of $11,913.
    - The fair market value of investments was **$2,507,231** as at July 31, 2018.
    - Note that Executive Limitation L8 (Asset Protection) #15 states: "The Registrar may not fail to limit investments in **equities to 40% of the book fund value** when market opportunities present, as recommended by the College's financial advisor". A review was conducted on the book values of the investments in May, June and July 2018; **equities** comprised **37%** of the book fund value in May, **41%** in June and **37%** in July. Therefore, the College complied with Executive Limitation L8 #15 in May and July 2018. It exceeded the 40% limitation by 1% in June 2018, due to the fact that a significant amount of investments in bonds had to be sold in order to transfer $285,500 to the College's business operating account. This temporarily increased the

ratio of equities to the total value of the portfolio. This was immediately reversed in July 2018, when the Royal Bank common shares (i.e., equities) were sold in order to purchase the Toronto Dominion fixed income bond (i.e., non-equities).

HUMAN RESOURCES

There have been no changes to report in this area. The Registrar and staff are continuing to work on the plan to hire additional staff, as approved in the 2018-19 budget.

PROGRAM ADMINISTRATION

Patient Relations Program

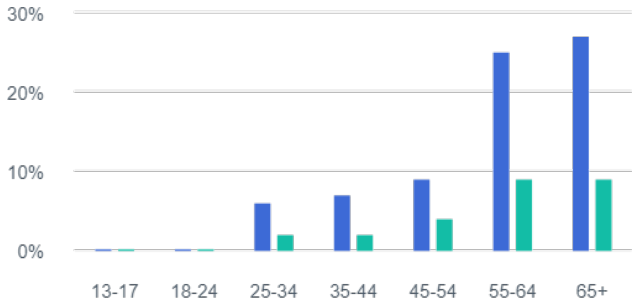
The CDO Public Education Program was launched in June 2018 and will run to March 31, 2019.

This year the public education programs includes:

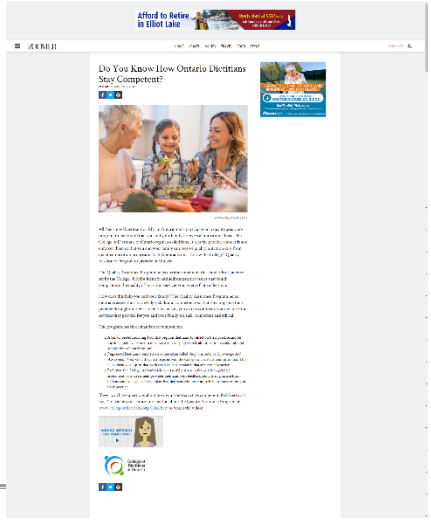
1. Creating a new video about client health records for the public: What are client health records? The video will be available by October 2018.
2. Posting our new quiz on our Facebook page and promoting it through Facebook sponsored ads. View the video quiz-here: https://www.youtube.com/watch?v=rR6gMvnyRKg&t=180s

The video-quiz was advertised at a cost of $500 for a month on our Facebook page from June 19 to July 18, 2018. Here are the results:

- Reach: 21,988
- Video views: 9231
- The graph below shows the proportion of females (blue) and males (green) who viewed the quiz. Most of our audience is 55 years or more.



3. Advertorials published in Zoomer online, email blasts to Zoomer subscribers (click on links for examples of ads that appeared in June and July).
   - http://www.everythingzoomer.com/featured/sponsored-content/2018/05/31/ask-healthcare-professionals-questions-right/
   - http://www.everythingzoomer.com/featured/sponsored-content/2018/05/31/what-are-your-rights/



- http://links.e.carp.ca/servlet/MailView?ms=MTM5MDQwOTIS1&r=MTY2NDYwNjc1NjUwS0&j=MTQ0MTYyNjgwMgS2&mt=1&rt=0

4. A content driver program has been launched through the Fifth Story news agency which includes Google AdWords, Google advertising, and ads in community newspapers. This campaign runs from September 2019 to March 2019. Partial results will be shared at the next Council meeting.

Practice Advisory Program

Practice Advisory Service

- A total of 220 inquiries were received in Q1 (April-June 2018) – not previously reported in the June 2018 Management Report due to an incomplete quarter.
- Top five areas of inquiry for Q1 2018-2019: College Requirements & Processes, Private Practice, Scope of Practice, Workplace Issues, and Consent.
- The Q1 2018-2019 Practice Advisory Service (PAS) Satisfaction Survey was disseminated to members in June 2018. Feedback from respondents:
  - 89% felt their issue/question was sufficiently addressed
  - 89% felt information they received was relevant and useful to their dietetic practice;
  - 90% were satisfied or very satisfied with the response they received from the PAS;
  - 63% reported making changes to their dietetic practice after contacting the PAS;
  - Since using the PAS, 53% have accessed the CDO website as a resource;
  - 95% would use the PAS again and 89% would recommend the service to their colleagues;
  - Comments: Fast response, thorough, clear and professional, evidence-based, referred to supporting resources; vague responses, had to call back for clarification and subsequent discussion with employer's ethics department, be more available to answer phone to discuss issues, advertise service more to improve awareness.

Presentations (Q1 April – June 2018):

Three presentations delivered:

- One on Informed Consent – Interprofessional Forum Lunch 'n Learn
- One Jurisprudence webinar to the Northern Ontario Dietetic Internship Program
- One Jurisprudence presentation to the Hospital for Sick Children Dietetic Internship Program

Annual Workshops

- The fall 2018 workshop topic will be on Record Keeping. The workshop will provide an overview of the key reasons for record keeping, including compliance with professional obligations as outlined in the 2017 *Standards of Professional Practice for Record Keeping*.
- We have scheduled 31 in-person and 5 additional video-conferencing remote OTN sites throughout Ontario from Sept-Nov 2018.

Policy Work

Collaborative Care Principles and Best Practices:

- Work to develop collaborative care principles and best practices that can be applied to the respective Colleges has been completed by a sub-group of practice advisors from the Federation of Heath Regulatory Colleges of Ontario (FHRCO). Based on the collaborative care principles and best practices, a draft collaborative care professional practice guidelines document for dietitians was developed and presented at the June 2018 Council Meeting. Council made recommendations for specific changes for review at the September Council meeting.

Dysphagia Practice Illustrations:

- Building on the Integrated Competencies for Dietetic Education and Practice, the dysphagia competencies set out additional performance indicators for dysphagia assessment and management. Work identifying practice illustrations continues. This will support the dysphagia competencies as a key College resource to inform regulatory functions and oversight. A final draft will be going to the Alliance in September for discussion and approval.

Federation of Heath Regulatory Colleges of Ontario (FHRCO) Consent & Capacity Working Group:

- CDO's participation continues on the FHRCO Consent & Capacity Working Group to assess any knowledge gaps in the area of consent and capacity and consider creating collaborative educational materials to ensure members fully understand their legal and professional obligations for obtaining consent in their practice setting.
- At the teleconference meeting on July 9, 2018, next steps were discussed. It was determined that the profession-specific survey results would be reviewed by respective Colleges and top areas for developing educational materials would be identified.
- Group will be meeting again October 9, 2018 to discuss findings.

RD Laboratory Test Ordering Authority:

- On June 25, we had a teleconference with Allison Henry, Director, Health Workforce Regulatory Oversight Branch, Health Workforce Planning and Regulatory Affairs Division of the Ministry of Health and Long-Term Care. Allison was unable to comment on the priorities for the new government and the status of pending health professions scope of practice changes such as RD lab test ordering authority. She requested to connect with her again at the end of July 2018. We reconnected and Allison's email response on August 7, 2018 cited: "We do not have any news on this front at the moment. When we do, we will certainly reach out."

Insulin Adjustments & the Dietetic Scope of Practice Position Statement:

- College staff conducted an analysis of insulin adjustments. The motivation behind this work was to ensure that our advice to RDs is appropriate to enable safe, efficient and effective client dietetic care. The intended outcome is to establish a formal Council-approved position statement surrounding insulin adjustments within dietetic practice. We will be presenting this work at the September 2018 Council meeting, seeking approval of a draft position statement, with subsequent consultation to obtain feedback from members and other stakeholders.

Telepractice Position Statement:

- In collaboration with the Registration Program, policy work is underway to draft options for Council's consideration on Telepractice Position Statement. It is expected that this will be presented at the December 2018 Council meeting.

Support to Legislative Issues Committee

Code of Ethics:

- Council directed the Legislative Issues Committee to work with staff on revising the Code of Ethics for Registered Dietitians. A draft Code of Ethics has been developed and was reviewed at the August 23, 2018 Legislative Issues Committee teleconference meeting. It was anticipated that a draft will be presented at Council in December 2018.

Quality Assurance Program

2 Step Peer and Practice Assessment 2018 (PPA)

Step 1 of the 2018 PPA is completed. Of the 223 participants, 8 members are moving onto Step 2 which is a behaviour-based interview and chart review (if applicable).

PPA Step 1 Results	
Total Participants	223
Above Cut Score (Z>-1.88)	203
elo Cu core -1.88)	11
Below Cut Score-(not moving on to Step 2)	7*
Below Cut Score-(moving on to Step 2)	4*
Above cut score (moving on to Step 2)	4**
Total moving on to Step 2	8

* 7/11 r ici n o e core -1.88 but whose survey scores were closer to 6 than to 5 were not required to move onto Step 2

** 2% of clinical and non clinical participants whose results were above the cut score randomly selected to move on to Step 2. 1/5 is deferred until 2019.

Self-Directed Learning (SDL) Tool

Annual submission of the SDL Tool has begun. The deadline for submission of the completed Tool is October 31, 2018. The Committee review of randomly selected, late and any tools requiring resbubmssion in 2017 will begin in November.

Jurisprudence Knowledge & Assessment Tool (JKAT)

The JKAT 2018 deadline for completion is September 2, 2018.

Total Participants	1826
Total Passed	1794
Failed	1

Did not complete by deadline	31

** 127 members deferred until 2019, resigned/retired during process*

Practicing fewer than 500 hours in 3 years

Once renewal is complete and member declarations have been submitted, members declaring practicing under 500 hours in the previous 3 years will be referred to the Quality Assurance Committee for review.

Standards and Compliance Program

Inquiries, Complaints and Reports Committee (ICRC)

For the period June 1 – August 31, 2018

- 3 new matters received:
  - 0 Complaints
  - 2 Reports
  - 1 Incapacity Inquiry
- 0 matters closed
- 13 open matters
  - 4 Complaints (3 returning to panel shortly; 1 going to panel for first review)
  - 6 Reports (3 returning to panel shortly; 1 ongoing investigation; 1 going to panel for first review; 1 ongoing preliminary inquiries)
  - 2 QA Referrals (2 returning to panel shortly)
  - 1 Incapacity Inquiry (going to panel for first review)

Discipline

There are no matters currently referred to either the Discipline Committee or the Fitness to Practice Committee.

Registration Program

Prior Learning Assessment and Recognition (PLAR) processes

The third administration of the Performance Based Assessment (PBA) is scheduled for October 3 at the Touchstone Institute in Toronto. There are 13 candidates registered, including one candidate in Nova Scotia. This will be the first time that the PBA will be administered to a candidate outside of Ontario. Staff are continuing to work with the other provinces to encourage adoption of the PLAR process.

Ryerson University Bridging Program

The Registration Committee will be reviewing a submission from Ryerson University regarding the practicum for internationally educated professionals in nutrition (IEPN). The intention of the submission is to enable the Committee to consider an applicant to have successfully completed the PLAR process if they receive a Level I or II result on the KCAT and then complete the IEPN certificate and practicum.

Registration Regulation

The Registrar and the Registration Program Manager met with the Office of the Fairness Commissioner on September 7 to discuss proposed amendments to the Registration Regulation. The meeting went very well and

there were no concerns identified at that time by their team. They will be providing a written comment on the proposed changes to the Regulation shortly. A second meeting with Ministry staff will be scheduled in the fall.

Annual Registration Renewal

The annual renewal process has begun. The deadline for submitting the annual renewal form and fees is October 31.

Information Technology

The College recently switched payment processors to ensure that our processing of payments is as secure as possible. It is anticipated that this new process will also result in cost savings for the College. The new process will also align well with our plans to move to online applications. A second web server was installed to ensure that we continue to meet our electronic resource needs as we continue to move from document-based systems to electronic systems. We negotiated one year free hosting for this server from our service provider.

Box has been rolled out and training has taken place. The end of September is the deadline for transitioning from eCommunities to Box for all committees and Council.

Registration and QA IT projects are being launched and are on schedule. Renewal and SDL Tool preparations were completed and launched for September 1. All newly created email templates have been reviewed and have been updated with proper branding, signature, logo, mission statement and disclaimer.

SECTION 2 ISSUES TRACKING

Title Protection

The College received another letter regarding title protection that has been included in the Council package. As directed by Council in the June meeting, staff are meeting with members of the group who have reached out to the College about this issue. The meeting has been scheduled for October. A Dietitians of Canada staff person is participating in this meeting but they have communicated to us that this issue is not a current priority for DC.

Provincial Election

The recent provincial election has put projects such as the lab-ordering work on an indefinite hold. It is unknown if and when the Ministry will move ahead with this project. Given that the provincial government will not be publicly releasing its Ministry mandate letters, we will not be able to determine from the letter to the Ministry of Health and Long-Term Care what the priorities will be and whether they involve professional regulation. We are attempting to find some answers through other channels.

Risk Management

Risk management work regarding IT systems, registration processes, Council and committee work and member-related work of insulin adjustments, telepractice, consent and capacity, collaborative care and dysphagia practice has been outlined above. In addition, staff finalized the emergency preparedness plan. Staff are also continuing work to revise our document retention policy and password/IT security policies to ensure that risks in these areas are managed appropriately.

SECTION 3 OTHER INFORMATION ITEMS

15.1 Management Report September 2018
15.2 Legislative Update June 2018
15.3 Legislative Update July 2018
15.4 Legislative Update August 2018
15.5 Grey Areas June 2018
15.6 Stmt of Operations & Changes in Fund Balances June 30 2018
15.7 Letter from Dietitians of Canada's Business & Industry Network (DCBIN) to support title protection

Prepared by Richard Steinecke

In this Issue:

- There were no relevant legislative events this month.

Bonus Features:

Ontario Bills

(See: https://www.ola.org)

The Legislative Assembly is dissolved for the election and all pending bills are dead.

Proclamations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

There were no relevant proclamations this month.

Regulations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

There were no relevant regulations this month.

Proposed Regulations Registry

(See http://www.ontariocanada.com/registry)

There were no relevant consultations this month.

Bonus Features

(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)

Even More Deference to Regulators

As reported in the *Grey Areas* newsletter, on June 15, 2018, the Supreme Court of Canada released two companion decisions in the Trinity Western University (TWU) matter. These high profile and long-awaited decisions articulate Canada's highest court's balancing of the competing rights - of respect for sexual orientation and religious belief - when they collide in the regulation of professions. However, for regulators, the real story about these decisions is the degree of deference the Court awarded to policy decisions made by regulators.

TWU offers a law degree. There was no dispute that the program meets all of the requirements for ensuring that its graduates are competent and ethical. However, TWU has a student code of conduct, based on religious belief, which its students are required to sign, that prohibits sexual activity other than in a heterosexual marriage. The issue was whether legal regulators could refuse to accredit a program that discriminates on the basis of sexual orientation.

The highest Court in British Columbia struck down a decision by the regulator to refuse registration to the graduates of TWU, primarily because the regulator made its decision based on a vote of its members rather than a principled decision on the merits. However, that Court also suggested that the decision was contrary to the protections for religious belief in the *Canadian Charter of Rights and Freedoms*. The Ontario Court of Appeal, on the other hand had reached the opposite conclusion. It held that the Ontario regulator was justified in refusing to accredit TWU on the basis that the TWU code of conduct was discriminatory. The Ontario regulator did not use a referendum process; the Benchers debated and voted on the issue.

The majority of the Supreme Court of Canada held that the regulators had engaged in a reasonable balancing of *Charter* rights against its statutory mandate. The majority acknowledged that the decision not to accredit the school did violate, in a material way, the freedom of religion of the school community. However, the decision not to accredit the school was a proportional response. Its decision was based on important considerations relating to:

> equal access to the legal profession, supporting diversity within the bar, and preventing harm to LGBTQ law students were valid means by which the LSBC could pursue its overarching statutory duty: upholding and maintaining the public interest in the administration of justice, which necessarily includes upholding a positive public *perception* of the legal profession.

The majority also noted that the regulator only had two options: to accredit or not to accredit the school, thereby making the balancing decision more stark.

There are three significant points in this decision for regulators:

1. *Accreditation decisions are not limited to ensuring graduates are competent and ethical.* The majority held that it was within the mandate of the regulator to also ensure that the school did not foster values that were inconsistent with those of the profession. The two dissenting Justices viewed this aspect of the decision as giving regulators undue authority to regulate educational programs. This broader scope of review of educational programs has implications for other contexts including recognizing international schools that may foster certain religious or cultural beliefs and for professions where different philosophical views exist.

2. *Courts will rarely require detailed reasons for policy decisions by regulators.* In fact, given the process followed by the BC regulator, there was very little in the way of rationale for the decision. However, the Court was willing to review the record to infer the rationale for the decision and impute the proportionality analysis. This approach is consistent with other recent decisions including: *Alberta College of Pharmacists v Sobeys West Inc.*, 2017 ABCA 306; *Green v Law Society of Manitoba*, 2017 SCC 20; and *Sobeys West Inc. v. College of Pharmacists of British Columbia*, 2016 BCCA 41.

3. *Member referenda were given approval.* Perhaps this is the most puzzling aspect of the majority decision as it gives support to an enhanced role for members in making decisions about their own regulation. The current consensus amongst regulators and public policy thinkers is that the regulator should have less accountability to practitioners and greater oversight from external, non-member authorities. Indeed, many are now questioning the process of electing professional members to serve on regulatory Boards. The two dissenters commented on the referendum process, calling it a violation of the statutory duty of the regulator. Likely this aspect of the majority's ruling reflects that regulators can, in appropriate cases, consult with its members in this manner rather than an endorsement of the general use of a referendum. The issue needs to be considered in the context of the nature of the decision (professional and societal values) and the specific statutory scheme and should not be viewed as a general endorsement of regulating professions through referenda.

Lawyers will be intrigued about the different approaches taken in the four separate judgments on how regulators are to analyze when they can infringe *Charter* rights. The majority took the view, questioned by four other Justices, that the usual section 1 *Charter* analysis (often called the *Oakes* test) did not apply to administrative decisions. The majority endorsed a simplified proportionality analysis approach.

While regulators have faced some pushback from the courts in some recent complaints and discipline decisions, the deference to the exercise of discretion by regulators demonstrated in the TWU decision has never been higher.

The companion decisions can be found at: http://canlii.ca/t/hsjpr and http://canlii.ca/t/hsjpt.

Test for Establishing Negligent Investigations

Regulators are sometimes criticized for their investigations. Most regulators are protected for actions taken in good faith, even if negligent. However, to the extent that regulators can be sued for negligent investigations, the test for establishing liability can be summarized as follows (see: *Tremblay v. Ottawa (Police Services Board)*, 2018 ONCA 497, http://canlii.ca/t/hs9m7):

1. The appropriate standard of care for the tort of negligent investigation is that of the reasonable police officer in similar circumstances.
2. In the laying of charges, the reasonable standard is informed by the presence of reasonable and probable grounds to believe the suspect has committed the offence.
3. This standard does not require police to establish a *prima facie* case for conviction.
4. The police are not required to evaluate the evidence to a legal standard or make legal judgments. That is the task of prosecutors, defence lawyers and judges.
5. A police officer is not required to exhaust all possible routes of investigation or inquiry, interview all potential witnesses prior to arrest, or to obtain the suspect's version of events or otherwise establish there is no valid defence before being able to form reasonable and probable grounds.

This test is probably also relevant for courts and tribunals reviewing the adequacy of a regulator's investigation in the context of complaint reviews or disciplinary hearings.

The Court in *Tremblay* noted that there should be expert evidence as to the standard of investigations in the context of the case before any finding of inadequate investigation is made. The Court also indicated that it is appropriate for investigators to choose not to interview the subject of the investigation before initiating further proceedings.

Accommodation Has to Be Requested

In *Zaidi v. Immigration Consultants of Canada Regulatory Council*, 2018 FCA 116, http://canlii.ca/t/hsjrq, the applicant for registration by a regulated profession was unable to meet the language proficiency requirements. The applicant repeatedly failed the language proficiency test and challenged the requirement as discriminatory on the basis of his medical conditions. The Court dismissed the challenge primarily on the basis that it did not have jurisdiction to hear the appeal. However, it also said that the appeal had no merit because the applicant had not sought accommodation and thus had not been refused accommodation. Thus, there is an onus on applicants to request accommodation before a complaint of discrimination on the basis of disability can be made out.

Incarceration an Order of Last Resort in Unauthorized Practice Cases

It is common to seek restraining orders against those practising the profession or holding themselves out. When an individual continues to perform a restricted activity or hold themselves out as a member

of the profession after the restraining order has been granted, it is contempt of court. Contempt of court is a serious matter. It can result in imprisonment.

In *The Law Society of Upper Canada v. Hatzitrifonos*, 2018 ONSC 3719, http://canlii.ca/t/hsl8r, Mr. Hatzitrifonos was found in contempt of court for the "repeated, wilful and deliberate" practise of law over a period of two years after a restraining order had been imposed. The regulator sought a 30-day jail term. The Court held that the primary purpose of sanction for contempt of court was to compel compliance with the law. A secondary purpose was deterrence. In this case, however, Mr. Hatzitrifonos apologized for his conduct, changed his career path to avoid the temptation to practise law again, promised his conduct would never happen again, undertook community service, and began payment of the costs he owed to the regulator. The Court said that incarceration was a last resort in contempt of court cases. It also found that a fine would be counter-productive as Mr. Hatzitrifonos had no money and very little income and it would prevent him from repaying the costs he already owed. Instead, the Court expanded the amount of community service Mr. Hatzitrifonos had to fulfill and reinforced the need to continue paying the costs owed.

The Kitchen Sink

Some appeals involve multiple issues. *Kennedy v. College of Veterinarians*, 2018 ONSC 3603, http://canlii.ca/t/hsfqb, is one of those cases. In that case the Court held as follows:

1. Theft of the court reporter's computer resulting in losing the transcript for one-and-a-half days of the hearing did not result in an inability to hold a meaningful appeal where the notes of two panel members and independent legal counsel provided sufficient information for the Court to assess the issues.
2. Where primary disclosure has been made of the regulator's evidence, a party seeking disclosure of the investigation file of another agency involved in the matter requires an *O'Connor* type of motion. The failure of the regulator to obtain the other agency's file and disclosure it is not a refusal to make primary disclosure. The fact that the practitioner made exhaustive requests for such information did not help their cause.
3. Where a party consents to the qualifications of an expert witness, they cannot later challenge the neutrality of the witness in most circumstances.
4. The regulator is not required to call an independent person as its witness at the request of the practitioner. The practitioner is in an equal position to summons the independent person.

The Court also found that the findings and reasons on credibility, penalty (i.e., revocation) and costs were reasonable.

Re-Enactment of the Events by Disciplinary Tribunal Upheld

In *College of Physiotherapists of Ontario v. Boon*, 2018 ONSC 3463, http://canlii.ca/t/hsgbg, the disciplinary tribunal had to assess the credibility of the practitioner for allegations related to the intimate touching of a patient. While the tribunal concluded the touching was not of a sexual nature,

it still found the touching to be unprofessional. In making its findings, the tribunal found the practitioner's evidence lacked plausibility because it was physically difficult to do the procedures the practitioner described in his evidence. In part this lack of plausibility was based on an attempt by the tribunal to re-enact the procedures in the deliberation room.

The primary ground of appeal by the practitioner was that this private re-enactment by the tribunal amounted to the creation of additional evidence in the absence of the parties and was thus a breach of the principles of procedural fairness. The Divisional Court disagreed. It found that the re-enactment was simply a method of assessing the detailed evidence given by the practitioner in his own evidence. There was a basis in the evidence to doubt the plausibility of the practitioner's evidence without the re-enactment. In addition, the re-enactment was an extension of what counsel for the practitioner had already requested of the tribunal during a break in the hearing: the tribunal was asked to hold a book that the practitioner testified had been shown to the patient without it touching the patient (contrary to the patient's evidence).

On the issue of sanction, while the Court was troubled by the tribunal listing the lack of remorse by the practitioner as an aggravating factor (rather than being the absence of a mitigating factor), the Court upheld the order as reasonable, particularly where the tribunal had specifically affirmed the practitioner's right to make full answer and defence.

Prepared by Richard Steinecke

In this Issue:

Bonus Features:

Ontario Bills

(See: https://www.ola.org)

Bill 3, *Compassionate Care Act, 2018* (*private members Bill – passed second reading and referred to Standing Committee on General Government)* – Bill 3 requires the Minister of Health and Long-Term Care to "develop a provincial framework designed to support improved access to hospice palliative care".

Proclamations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

There were no relevant proclamations this month.

Regulations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

There were no relevant regulations this month.

Proposed Regulations Registry

(See http://www.ontariocanada.com/registry)

There were no relevant consultations this month.

Bonus Features

(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)

Confidentiality Provision is Constitutional

In *Younano v. College of Naturopaths of Ontario,* 2018 HRTO 862, http://canlii.ca/t/hsw89, a naturopath sought a one-year extension to complete her continuing education requirements because of a medical condition. The regulator granted her a six-month extension instead. The naturopath then initiated a human rights complaint against the regulator claiming that the denial of the full extension was discriminatory. The regulator argued that the complaint had no prospect of success because its quality assurance records were protected by a confidentiality provision and were therefore inadmissible in the human rights proceeding. The naturopath accepted that point but then challenged the constitutionality of the confidentiality provision under the equality rights section of the *Canadian Charter of Rights and Freedoms*. She argued that the confidentiality provision discriminated against her because she was prevented from pursuing her claim before the Human Rights Tribunal.

The Tribunal disagreed. It found that the effect of the confidentiality provision was to limit the *forum* in which she could pursue her claims; however, her equality rights were not infringed because she could still litigate her claims against the regulator through the courts (e.g., by way of judicial review). The Tribunal also noted that the confidentiality provision affected all potential litigants in the same way and did not discriminate against the naturopath on the basis of her disability.

Because the Tribunal found the confidentiality provision to be constitutional, it applied the provision to dismiss the naturopath's claim.

Do Additional Considerations Apply to Applications for Registration by Indigenous Persons?

In *Moore v The Law Society of British Columbia*, 2018 BCSC 1084, http://canlii.ca/t/hssff, an applicant (Ms. Moore) had conditions imposed on her registration because of conduct concerns while practising in another province. Ms. Moore consented to the conditions relating to engaging a mentor and practising under supervision. However, those conditions did not work for Ms. Moore and she withdrew her consent to the conditions and sought to have them removed. The regulator refused. Ms. Moore sought judicial review on the basis that the conditions were unreasonable and that the conditions failed to take into account her background as an indigenous person. On the latter point Ms. Moore argued both that she had much to offer to the justice system because of her cultural competence in aboriginal issues and that the regulator had failed to consider her background when evaluating the significance of her discipline history in Alberta.

The Court held that there was no formal requirement on the regulator to consider her indigenous background when dealing with registration matters. However, the Court was concerned that the regulator could have done more in the circumstances:

> However, there are moments where the Law Society and the Credentials Committee could have better supported and assisted Ms. Moore in the application process. It is likely that

> supports such as meeting with Ms. Moore in person, explicitly referencing Ms. Moore's background and life experiences in the decisions or discussing them with her, or providing active support in creating conditions or proposals for mentorship, would have assisted in both protecting the public interest, and better supporting and assisting Ms. Moore in applying for transfer and fulfilling her duties in the practice of law. Improved communication from the Law Society would likely have had the effect of assisting Ms. Moore to find constructive solutions.
>
> As Ms. Moore notes and I am sure the Law Society would agree, it is also in the public interest to have practising Indigenous lawyers who can provide culturally appropriate services to clients. Supporting Indigenous lawyers in the process of becoming admitted to the bar and remaining members of the bar, whether that is accomplished through future policies or other means, will foster the process of reconciliation that the Law Society has, on its own initiative, embarked upon.

The Court also found that the decision of the regulator was reasonable. It had considered the information provided and applied criteria relating to protecting the public interest that was specified in its enabling legislation. In particular, the Court concluded that expressing misgivings about proposed conditions before consenting to them does not make that consent invalid. The Court also held that an applicant cannot withdraw consent once the final decision to register with conditions was made. The proper remedy was to apply to have the conditions removed.

After upholding the regulator's decision as reasonable, the Court then took the unusual step of suggesting to the parties how they might consider a fresh application to vary the conditions in a different manner:

> It may assist if Ms. Moore were to make another application to the Law Society to remove the conditions, that the parties engage in a form of mediation or conversation to resolve any issues that arise in that application, and in a manner that is sensitive to the issues discussed in this petition. There were opportunities in these circumstances for the Law Society to take further steps in recognizing the challenges that Ms. Moore as an Indigenous lawyer faced in entering and remaining in the profession. In addition, a conversation with the Law Society may assist Ms. Moore in finding a constructive route to the partnership she sought for her work on Indigenous justice issues.

The Court's comments reinforce the need for regulators to approach registration cases individually and not routinely apply criteria without considering any special circumstances.

It is interesting to note that shortly after this decision the regulator adopted a report to promote training on indigenous matters for students, indigenous representation on committees and reviewing standards for systemic barriers: https://s3.amazonaws.com/tld-documents.llnassets.com/0007000/7036/truthandreconciationactionplan2018.pdf. That report was obviously in the works well before this decision was released.

Defamation Challenge to Transparency Fails

Should regulators go public with safety concerns before they are fully established? That was the issue facing a regulator, a hospital and the government in the spring of 2009. A review of the radiological interpretations by Dr. Tsatsi indicated serious concerns that placed the public at risk. The regulator decided to conduct a broader review. However, Dr. Tsatsi was suspended from his position in the meantime and a press release was issued so that the public could take appropriate measures to protect their health. A decision was made to name Dr. Tsatsi publicly (rather than just send private communications to affected patients) for a number of reasons including to better enable patients to take action, to protect the reputation of other radiologists who would otherwise be placed under suspicion, and to demonstrate transparency in circumstances where the media would almost certainly identify Dr. Tsatsi in any event. Dr. Tsatsi sued for defamation.

In *Tsatsi v College of Physicians and Surgeons of Saskatchewan*, 2018 SKCA 53, http://canlii.ca/t/hswdj, Saskatchewan's highest court upheld the summary dismissal of the lawsuit. It held that the defence of justification applied in that, at the time that the statements were made, the regulator's information that the public was at risk was accurate. A subsequent investigation largely confirmed the accuracy of those statements as well, however the Court indicated that subsequent adverse information would not remove the defence. The Court also held that the defence of qualified privilege applied in that the regulator had a duty to protect the public and it acted without malice in deciding whether or not to public Dr. Tsatsi's name.

Regulators can take comfort that courts will be sympathetic to transparency initiatives taken in good faith.

Reasons for Registration Decisions

How closely do courts review reasons for decisions in registration cases? In *Alfahem v College of Physicians & Surgeons of Alberta*, 2018 ABQB 539, http://canlii.ca/t/ht02l, the answer is moderately closely.

Dr. Alfahem was an internationally trained physician who sought registration on the basis of a practice readiness assessment. During the course of the first assessment it was determined that his English language fluency skills were inadequate and he would fail the assessment. Rather than completing the assessment, Dr. Alfahem agreed to upgrade his language fluency first. A second assessor was selected to conduct the subsequent assessment. The second assessor found that Dr. Alfahem's language fluency was adequate, but found that some of his clinical skills were unsatisfactory. The regulator refused registration on the basis of the second assessment report. Dr. Alfahem challenged the decision on the basis that the reasons did not explain why the second assessment's results on clinical issues were accepted over the tentative conclusion of the first, incomplete assessment.

The Court emphasized the importance of reasons for decision in registration matters that should address the "why" for a decision. However, the Court also noted that it will scrutinize the entire record to see whether the "why" is evident. In this case it was apparent that the regulator was concerned

about the objectivity of the first assessor, who seemed to be taking a more educational approach than a true assessment approach. In addition, the first assessment was interim in nature and was not finalized. The Court was not prepared to find the reasons inadequate in the circumstances.

The Court also rejected the ground of review based on the concerns that the applicant had not had full disclosure of the materials upon which the decision was made. The Court concluded that the applicant had not established that he did not have relevant and material information.

Adjournments and Compelled Testimony

A recurring issue at hearings is whether to grant adjournments, particularly to retain legal counsel. In *Evgueni Todorov and Sophia Nikolov v. Ontario Securities Commission*, 2018 ONSC 4503, http://canlii.ca/t/ht4qv, a request for an adjournment was made by a legal counsel who indicated that he anticipated being retained in a few days. The tribunal refused the adjournment because it had been clear over many months that the defendants had to retain legal counsel for the specified hearing date, the parties had indicated an intention to retain counsel by then, no request for an adjournment was made in advance, no explanation was offered as to why legal counsel was not retained on time, and the defendants themselves failed to attend the scheduled hearing date. The Court upheld the decision. The Court indicated that while the standard of review for procedural fairness issues was correctness, since the granting of adjournments is discretionary, the Court will look to see if the refusal of the adjournment was reasonable. In these circumstances, it was reasonable given the conduct of the defendants.

A second issue was whether it was appropriate for the Securities Commission to prove its case through the admissions of the defendants obtained from them under compulsion during the course of the investigation. The Court indicated that, since these were administrative and regulatory proceedings designed to protect the public, and not criminal or penal proceedings, it was consistent with the protections in legislation and the *Canadian Charter of Rights and Freedoms* to rely on this compelled evidence. The use of this evidence did not amount to prohibited self-incrimination.

Procedure and Criteria for Accessing Mental Health Records

There are significant restrictions upon regulators gaining access to mental health records, especially from a psychiatric facility, without the consent of the patient. A Court order is required. In *Laity v. The College of Physicians and Surgeons of Ontario*, 2018 ONSC 4557, http://canlii.ca/t/ht5v7, there were "allegations that Dr. Laity sexually abused the patient and that he failed to maintain the standard of practice of the profession when he prescribed medication for her". Dr. Laity was the family physician for the patient. His chart contained two consultation notes from a psychiatrist that were relevant to the allegation of improper prescribing. In fact, an expert opinion on the concern was largely based on the consultation notes. The regulator sought a court order permitting access to the consultation notes. Dr. Laity consented to the order as he wanted to use those records to found a motion for production of the broader psychiatric records of the patient as part of his defence. The patient did not consent to the release of the consultation notes.

The Court said its task was:

> to determine whether the disclosure of the documents is essential in the interests of justice. This requires the Court to consider the relevance and probative value of the documents and the parties' ability to obtain a just determination of the proceeding between them. Weighed against the parties' interest is the patient's interest in preserving privacy and confidentiality with respect to very sensitive medical information. The onus is on the applicants to show that disclosure is essential in the interests of justice.

The Court concluded that the notes were essential to the prosecution of the professional misconduct allegations. The Court also concluded that the records were relevant to the proposed defence motion for production of the patient's broader record.

This case will be of assistance to regulators considering using psychiatric facility records in their proceedings.

Reformation of the Practitioner vs. Respect for the Profession

The Quebec Court of Appeal grappled with whether the sanctioning of a Judge should focus on whether the Judge's behaviour could be changed or whether the public's respect for the judiciary should be safeguarded. In *Bradley (Re),* 2018 QCCA 1145, http://canlii.ca/t/ht0d2, the Court dealt with a recommendation by the Quebec Judicial Council that Judge Bradley be removed from office for disrespectful conduct towards two neighbours in a $500 fence repair dispute. Judge Bradley tried to force the parties to settle the matter and, when they indicated resolution was not possible, declined to hold the hearing. It was the second complaint against Judge Bradley.

The only two sanctioning options available were a reprimand or recommending removal. The majority of the Court concluded that Judge Bradley had demonstrated insight into his conduct and had only one prior complaint in a career that involved hundreds if not thousands of cases. They ordered a reprimand. A minority of the Court would have upheld the recommendation for removal because the conduct of Judge Bradley could undermine the confidence of the public in the judiciary. This tension between the views as to which consideration should be given primacy might have been avoided if a sanction between reprimand and removal were available.

The Court also expressed concerns about the fact that the Council did not separate the hearing into a finding stage and a sanctioning stage. However, even those Justices who expressed the most serious concern about the issue concluded that the problem could be resolved by the hearing before the Court of Appeal.

Prepared by Richard Steinecke

In this Issue:

Bonus Features:

Ontario Bills

(See: https://www.ola.org)

There was no relevant legislative activity this month.

Proclamations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

There were no relevant proclamations this month.

Regulations

(See www.ontario.ca/en/ontgazette/gazlat/index.htm)

Highway Traffic Act – Earlier this year, the reporting provisions for conditions that could impair a patient's ability to drive were amended. Nurse practitioners were added to the list of practitioners (previously physicians and optometrists) who had to report such conditions. More objective criteria were provided to assist practitioners in determining whether a report had to be made. In addition, occupational therapists were given the authority to make voluntary reports. Adding this category of practitioners entitled to make voluntary reports increases the risk for other practitioners who make voluntary reports as it is less clear whether they will have immunity for making such reports in good faith. (See: O.Reg. 38/18).

Proposed Regulations Registry

(See http://www.ontariocanada.com/registry)

There were no relevant consultations this month.

Bonus Features

(Includes Excerpts from our Blog and Twitter feed found at www.sml-law.com)

Combined Investigations Upheld

The Ontario Court of Appeal has held that, under the *Regulated Health Professions Act,* the regulator is permitted to combine various processes into a single investigation. In *Abdul v Ontario College of Pharmacists* 2018 ONCA 699, http://canlii.ca/t/htpdg, the regulator received both a formal complaint and additional, overlapping, information about the conduct of the practitioner. The regulator discussed the options with the complainant who agreed to withdraw her complaint so that the entire matter could be investigated through a single Registrar's investigation. This use of the Registrar's investigation process was challenged, in part, on the basis that the complaints process, requiring the Registrar to notify the practitioner early on, was not followed. The Divisional Court accepted this argument concluding that there was no mechanism for allowing the withdrawal of the complaint and that the mandatory complaints procedures were not followed. The Divisional Court would have required parallel investigations of the two matters. The Court of Appeal reversed the decision of the Divisional Court, concluding that the legislation did not prohibit the withdrawal of a complaint (with the consent of the regulator) and that combining the matters into a single Registrar's investigation was both practical and authorized. The Court of Appeal found that there was no denial of procedural fairness by using the alternative investigative process (the requirements of which had been followed).

The Court of Appeal held that the use of the alternative process was subject to abuse of process safeguards but found there was no prejudice to the practitioner (which is often required to establish an abuse of process) on the facts of this case. In reaching this decision, the Court sidestepped the either/or dichotomy to the narrow/liberal interpretation of legislation dispute and indicated that the legislation should be interpreted in a manner that protects the public but is still fair to the practitioner. The regulator was allowed to proceed with its discipline hearing.

Jurisdiction Over Conduct Before Registration

For over a century and a half, there has been debate and inconsistent court decisions about whether regulators have jurisdiction over members for their unprofessional conduct before they were registered. On the one hand, it seems odd for a person to be accountable for their behaviour when the rules they are said to have breached did not apply to them at the time. On the other hand, the conduct could well reflect on their suitability to be a member of the profession. The Divisional Court has attempted to reconcile the case law in *Association of Professional Engineers of Ontario v. Leung*, 2018 ONSC 4527, http://canlii.ca/t/htl3k. In that case, the allegations included conduct by a certificate holder relating to what amounted to illegal practice of the profession prior to obtaining the certificate. The Discipline Committee concluded it had no jurisdiction over the conduct. The regulator appealed.

The Divisional Court said that the issue was one of interpreting the intent of the legislation. Thus, the answer could well be different under different statutes. Under the *Professional Engineers Act*, which was silent on the issue, there seemed to be a distinction between the disciplinary enforcement

mechanism, which applies only to members and certificate holders, and certain offence provisions that applies to others as well. In fact, there was a specific offence for offering services to the public without a certificate. The Court concluded that it was both reasonable and correct to view the discipline process to be available for pre-registration conduct only where the conduct continued to when the person was registered or where there was "conduct that resulted in the fraudulent procurement of a licence which negatively affected the individual's fitness to practice".

This approach to the jurisdiction over conduct that occurs before registration might become the starting point of the analysis for other regulators whose statutes are silent on the issue.

Crossing the Line

Practitioners are entitled to criticize their regulators and colleagues, to a point. However, when the tone and content of the criticism undermines the integrity of the regulatory process or brings the profession into disrepute, it crosses the line. That is what the Alberta Court of Appeal concluded in *Zuk v Alberta Dental Association and College*, 2018 ABCA 270, http://canlii.ca/t/htl8m.

Dr. Zuk, a general dentist, made numerous statements online, to traditional media and in a book alleging that orthodontic specialists and the regulator were, in effect, conspiring to prevent him and other general dentists from providing certain beneficial services to the public. The tone and language of some of the statements were disrespectful (e.g., "veneer Nazis"). The Court of appeal upheld the discipline finding was reasonable. The Court found that the statements could be viewed as advertisements in the broad sense of the term and that Dr. Zuk's freedom of expression was not infringed by the decision (applying the *Doré* analysis). It was not necessary for the regulator to establish harm to the public in order to make this finding of misconduct.

The Court also upheld a finding that Dr. Zuk had threatened the regulator by demanding it withdraw the complaints within seven days or face counter-complaints and a messy process.

However, the Court set aside as unreasonable the findings that Dr. Zuk had breached a historic undertaking that did not clearly and unambiguously cover the conduct in issue. Despite the fact that the disciplinary tribunal had otherwise handled the issue of sanction well (including considering mitigating factors), the one-year suspension and $175,000 costs award was set aside because the reversed breach of undertaking finding was significant to those conclusions.

On the matter of crossing the line, the regulator was assisted somewhat by its attempts to communicate with Dr. Zuk on the issue before commencing disciplinary action.

Further Clarity on the Mental Intent for Professional Misconduct

A recent decision of the Ontario Court of Appeal further clarifies that the required intent for a finding of professional misconduct depends on the nature of the definition of professional misconduct. As previously reported, in *The Law Society of Upper Canada v. Nguyen*, 2018 ONCA 709), http://canlii.ca/t/htqbc, a lawyer was found to have engaged in professional misconduct by failing to advise his clients (mortgage lenders) of material facts (relating to credits the purchasers received on closing). There was no dispute about those findings. The information was material and it was not disclosed. The lawyer's intent was irrelevant. However, there was a dispute as to whether the lawyer had also participated in mortgage fraud. A finding of mortgage fraud would result in a much more serious sanction.

The Court of Appeal accepted the finding of failing to maintain the standard of practice of the profession but indicated that a finding of mortgage fraud would require dishonesty, willful blindness or recklessness on the part of the practitioner. Since the hearing panel found that the practitioner had made an honest mistake, the intent requirement was not met and no finding of mortgage fraud could be made. The Court of Appeal declined to order the matter back for a new hearing on the issue as desired by the internal appeal tribunal and the Divisional Court.

Scope of Investigations

A recurring issue for regulators is the scope of investigations. In *Yu v College of Dental Surgeons of British Columbia*, 2018 BCSC 1315, http://canlii.ca/t/htc3c, a complaint was made about Dr. Yu's approach to orthodontics. Concerns were identified and an undertaking was proposed. Dr. Yu declined to provide the undertaking. The committee learned that Dr. Yu had more orthodontic patients than he had previously indicated and initiated a review of a larger sampling of files. Dr. Yu sought an injunction to halt the review, in part, because the regulator was expanding the scope of the original complaint.

The Court was of the view that since there were broader concerns and since the committee had the authority to initiate an investigation on its own authority, the review was not of concern. However, the Court found there was an issue to consider about whether the strong expression of opinion by one of the committee members about Dr. Yu's approach to orthodontics (which the committee member called "unscientific") may have influenced the decision to conduct the review even though the committee member had been removed from the committee. However, the Court concluded that Dr. Yu had not established irreparable harm and the balance of convenience favoured allowing the file review to proceed. The Court concluded:

> The public's need to be assured that the profession is being regulated and that they are protected from incompetent practice, far outweighs the needs of the individual dentist. The individual dentist never had a high expectation of privacy or right to practice without inspection and regulation.

Controlled Acts Injunction

Under the *Regulated Health Professions Act,* a College can obtain an order under the statute to prohibit unauthorized persons from performing certain activities or using protected titles. A number of recent cases have set out the criteria used by the courts to determine when to make an order. Those cases are nicely summarized in *College of Physicians and Surgeons of Ontario v Canon*, 2018 ONSC 4815, http://canlii.ca/t/htkjf. In that case, there was uncontroverted evidence that the respondent had used protected titles (e.g., Dr., osteopath), had communicated a diagnosis (e.g., slipped disc in her lower back with bursitis in both shoulders), administered injections, made spinal adjustments and had performed procedures below the dermis of patients. Interestingly, some persuasive evidence (against the individual) came from patient testimonials from his website. The Court summarized the approach on such applications by citing judicial comments in another case:

> In *Canada v. IPSCO Recycling Inc.*, at para. 51, Justice Dawson of the Federal Court summarized the legal principles that are to be applied in determining whether to grant a statutory injunction, as follows:
>
> > 51. On the basis of the authorities cited by the parties I am satisfied that where a statue provides a remedy by way of injunction, different considerations govern the exercise of the court's discretion than apply when an Attorney General sues at common law to enforce public rights. The following general principles apply when an injunction is authorized by statute:
> >
> > > (i) The court's discretion is more fettered. The factors considered by a court when considering equitable relief will have a more limited application.
> > >
> > > (ii) Specifically, an applicant will not have to prove that damages are inadequate or that irreparable harm will result if the injunction is refused.
> > >
> > > (iii) There is no need for other enforcement remedies to have been pursued.
> > >
> > > (iv) The Court retains a discretion as to whether to grant injunctive relief. Hardship from the imposition and enforcement of an injunction will generally not outweigh the public interest in having the law obeyed. However, an injunction will not issue where it would be of questionable utility or inequitable.
> > >
> > > (v) It remains more difficult to obtain a mandatory injunction. [internal citations omitted]

The Court went on to say:

> Proof of damages or proof of harm to the public is not an element of the legal test to obtain a statutory injunction.
>
> Where a public authority applies to the court to enforce legislation, and a clear breach of the legislation is established, only in exceptional circumstances will the court refuse an injunction to restrain the continued breach. The onus to raise the exceptional circumstances lies with the respondent, and those circumstances are limited; for example, to where there was a right that pre-existed the enactment contravened or where the events do not give rise to the mischief the enactment was intended to preclude. *[citations omitted]*

The restraining order was granted.

Practising Law is Practising Law

In *Law Society of Ontario v Leahy*, 2018 ONSC 4722, http://canlii.ca/t/ht9nq, the regulator sought an injunction against Mr. Leahy for practising law. Mr. Leahy did not dispute the facts but raised a number of legal defences. The Court rejected all of them including the following:

- The fact that Mr. Leahy initially received authorization to practice from the courts prior to the new regulatory regime requiring a licence to provide legal services did not require the revocation of the original authorization in order to revoke Mr. Leahy's licence to practice law.
- Federal paramountcy principles did not authorize the practising of law before a federal tribunal, at least where the federal legislation did not expressly authorize such practice.
- The exception for individuals providing services to their corporate employer did not allow the corporation to provide legal services to the public.
- The location of the corporation outside of Ontario did not oust the regulator's jurisdiction where the clients received services in Ontario.
- The exception for practitioners of other professions providing services in the scope of that profession has no application where Mr. Leahy was not registered with another profession.

The injunction was granted.

Council Attachment 15.5

Grey Areas

SML Steinecke Maciura LeBlanc Barristers & Solicitors

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

Even More Deference to Regulators

by Julie Maciura
June 2018 - No. 227

On June 15, 2018, the Supreme Court of Canada released two companion decisions in the Trinity Western University (TWU) matter. These high profile and long-awaited decisions articulate Canada's highest court's balancing of the competing rights - of respect for sexual orientation and religious belief - when they collide in the regulation of professions. However, for regulators, the real story about these decisions is the degree of deference the Court awarded to policy decisions made by regulators.

TWU offers a law degree. There was no dispute that the program meets all of the requirements for ensuring that its graduates are competent and ethical. However, TWU has a student code of conduct, based on religious belief, which its students are required to sign, that prohibits sexual activity other than in a heterosexual marriage. The issue was whether legal regulators could refuse to accredit a program that discriminates on the basis of sexual orientation.

The highest Court in British Columbia struck down a decision by the regulator to refuse registration to the graduates of TWU, primarily because the regulator made its decision based on a vote of its members rather than a principled decision on the merits. However, that Court also suggested that the decision was contrary to the protections for religious belief in the *Canadian Charter of Rights and Freedoms*. The Ontario Court of Appeal, on the other hand had reached the opposite conclusion. It held that the Ontario regulator was justified in refusing to accredit TWU on the basis that the TWU code of conduct was discriminatory. The Ontario regulator did not use a referendum process; the Benchers debated and voted on the issue.

The majority of the Supreme Court of Canada held that the regulators had engaged in a reasonable balancing of *Charter* rights against its statutory mandate. The majority acknowledged that the decision not to accredit the school did violate, in a material way, the freedom of religion of the school community. However, the decision not to accredit the school was a proportional response. Its decision was based on important considerations relating to:

> equal access to the legal profession, supporting diversity within the bar, and preventing harm to LGBTQ law students were valid means by which the LSBC could pursue its overarching statutory duty: upholding and maintaining the public interest in the administration of justice, which necessarily includes upholding a positive public *perception* of the legal profession.

The majority also noted that the regulator only had two options: to accredit or not to accredit the school, thereby making the balancing decision more stark.

There are three significant points in this decision for regulators:

1. **Accreditation decisions are not limited to ensuring graduates are competent and ethical**. The majority held that it was within the mandate of the regulator to also ensure that the school did not foster values that were inconsistent with those of the profession. The two dissenting Justices viewed this aspect of

FOR MORE INFORMATION
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the decision as giving regulators undue authority to regulate educational programs. This broader scope of review of educational programs has implications for other contexts including recognizing international schools that may foster certain religious or cultural beliefs and for professions where different philosophical views exist.

2. **Courts will rarely require detailed reasons for policy decisions by regulators**. In fact, given the process followed by the BC regulator, there was very little in the way of rationale for the decision. However, the Court was willing to review the record to infer the rationale for the decision and impute the proportionality analysis. This approach is consistent with other recent decisions including: *Alberta College of Pharmacists v Sobeys West Inc.*, 2017 ABCA 306; *Green v Law Society of Manitoba*, 2017 SCC 20; and *Sobeys West Inc. v. College of Pharmacists of British Columbia*, 2016 BCCA 41.

3. **Member referenda were given approval**. Perhaps this is the most puzzling aspect of the majority decision as it gives support to an enhanced role for members in making decisions about their own regulation. The current consensus amongst regulators and public policy thinkers is that the regulator should have less accountability to practitioners and greater oversight from external, non-member authorities. Indeed, many are now questioning the process of electing professional members to serve on regulatory Boards. The two dissenters commented on the referendum process, calling it a violation of the statutory duty of the regulator. Likely this aspect of the majority's ruling reflects that regulators can, in appropriate cases, consult with its members in this manner rather than an endorsement of the general use of a referendum. The issue needs to be considered in the context of the nature of the decision (professional and societal values) and the specific statutory scheme and should not be viewed as a general endorsement of regulating professions through referenda.

Lawyers will be intrigued about the different approaches taken in the four separate judgments on how regulators are to analyze when they can infringe *Charter* rights. The majority took the view, questioned by four other justices, that the usual section 1 *Charter* analysis (often called the *Oakes* test) did not apply to administrative decisions. The majority endorsed a simplified proportionality analysis approach.

While regulators have faced some pushback from the courts in some recent complaints and discipline decisions, the deference to the exercise of discretion by regulators demonstrated in the TWU decision has never been higher.

The companion decisions can be found at: http://canlii.ca/t/hsjpr and http://canlii.ca/t/hsjpt.

COLLEGE OF DIETITIANS OF ONTARIO
UNAUDITED STATEMENT OF OPERATIONS AND CHANGES IN FUND BALANCES
RESULTS FOR THE FISCAL YEAR ENDED MARCH 31, 2019, as at JUNE 30, 2018

Council Attachment 15.6

	3 Months Ended					
	Actuals June 30, 2018	Total Quarterly Budget June 30, 2018	Actual vs Budget % Variance	Total Annual Budget Mar 31, 2019	Comparative 3 Month Actuals June 30, 2017	June 2018 vs June 2017 % Variance
REVENUE						
Membership & Other Fees (1)	$ 47,680	$ 52,690	-10%	$ 2,646,226	$ 45,871	4%
Income Earned from MCI Fund (2)	-	-		-	11,825	-100%
Interest & Dividends (3)	21,246	16,750	27%	67,000	16,787	27%
Realized Gain/(Loss) on Sale of Investments & Capital Assets (3)	-	-		-	27,237	
TOTAL REVENUE	**68,926**	**69,440**	**-1%**	**2,713,226**	**101,720**	**-32%**
EXPENSES (Operating & Reserve)						
General & Administrative (5)	446,121	492,525	9%	1,970,100	443,437	-1%
Registration Program (6)	24,234	41,826	42%	167,304	19,184	-26%
Quality Assurance Program (7)	9,005	25,397	65%	101,586	19,045	53%
Practice Advisory Program (8)	8,944	16,541	46%	66,165	7,242	-23%
Patient Relations Program (9)	20,043	22,395	10%	89,578	15,634	-28%
Standards & Compliance Program (10)	25,929	18,540	-40%	74,161	17,805	-46%
TOTAL EXPENSES BEFORE AMTZ'N	**534,275**	**617,224**	**13%**	2,468,894	**522,347**	**-2%**
EXCESS REVENUE OVER EXPENSES (EXPENSES OVER REVENUE)	(465,349)	(547,784)		244,332	(420,626)	
Less: Non-cash expenses:						
Capital Asset Fund - Amortization (11)	(21,898)	(25,000)	12%	(100,000)	(26,059)	
Unrealized FV appreciation (depreciation) of Investments (4)	(22,106)				(36,478)	
SURPLUS/(DEFICIT) - CDO & MCI Fund	**(509,353)**	**(572,784)**		**144,332**	**(483,163)**	
MCI Funded Project Expenses (2)	**-**	**-**		$ -	**(11,825)**	
SURPLUS/(DEFICIT) - CDO	**(509,353)**	**(572,784)**		**$ 144,332**	**(494,989)**	
FUND BALANCES - beginning of year	2,112,260	2,112,260		2,112,260	1,748,222	
FUND BALANCES - June 30, 2018	**$ 1,602,908**	**$ 1,539,477**		**$ 2,256,592**	**$ 1,253,234**	

NOTES and HIGHLIGHTS:

REVENUE (actual revenues are 1% less than the Q1 budget)

(1) Revenues from members in all categories have generated **$47,680** in the first quarter (Q1). This amount is **10% less than** the Q1 budget and **in line with the prior year**. Fees received at this time of the fiscal year include application & assessment, initial and temporary registration fees. The vast majority of total fees are received by October 31, the final date of the annual membership renewal. The 3-month budget has been adjusted to reflect the fact that no annual membership fees are received in the first quarter of the fiscal year.

(2) The Ministry of Citizenship, Immigration and International Trade (MCIIT) provided the CDO with funding from March 2014 to June 2018 to develop a Competence Assessment Schema for internationally educated dietitians (known as the Prior Learning Assessment & Recognition or PLAR project). The total funding was for $690,680 over the three year period. The final payment of $11,825 was made in the first quarter of Fiscal 2018. The same amount was expensed in the first quarter of Fiscal 2018.

(3) **Investment income (interest & dividends)** of **$21,246** was received from long term investments held at RBC Dominion Securities and from an operating bank account with Scotiabank; they **27% higher than budget** and **27% higher than the prior year** due to higher than expected dividends from investments in Q1.

(4) **Unrealized depreciation** in the fair value of investments was **$22,106** (on unsold investments).
Due to the unpredictable nature of the market, gains and losses on sales of investments and the appreciation or depreciation of unsold investments cannot be budgeted for.

EXPENSES (actual expenses are 13% less than the Q1 budget)

(5) Overall, **General & Administrative** expenses are **9% less than the Q1 budget.**

Council expenses are **24% less than** the Q1 budget due to timing; 4 meetings were budgeted for evenly throughout the year, 1 of which occurred in Q1. A Council orientation meeting occurred as planned. Expenses budgeted for legal fees for work on the bylaws and for Council development will also occur later in the fiscal year.

Executive Committee held 6 of the 14 planned teleconferences, and will incur development costs later in the year when one member attends the CLEAR Conference and a consultant is hired to review the Registrar position's compensation. The **Legislative Issues Committee** has held 1 of the 6 planned teleconferences and has also budgeted for 1, face-to-face meeting to be held later in the fiscal year.

Other **General & Administrative Expenses** such as **Membership Dues** and **Insurance** are **in line** with the Q1 budget. **Rent expense** is also **in line** with the budget; in Fiscal 2017 CDO received an allowance for leasehold improvements from Bentall Kennedy for $24,304, which will be recognized over the balance of the lease term to 2023; in Fiscal 2019, a total of $3,472 will be amortized ($868/qtr). This credit offsets Rent Expense each year.

Expenses which **exceed** the Q1 budget include **Computer Expenses**, which include the costs of external IT vendors completing the website upgrade, building a new dedicated web server and integrating the database with a new credit card payments processor. Some of these costs could not have been anticipated during the time of budgeting. Total costs are expected to be in line with the budget by the end of the fiscal year. **Staff development** costs also exceed the Q1 budget due to timing; budgeted costs are spread evenly throughout the year but the cost of one conference and a deposit for Team Day occurred in Q1.

These overages are offset by **underspending** in other areas, including **Communications Initiatives, Translations, Printing, Telephone & Internet, Office Expenses, Annual Report, Legal Fees & Professional Fees.** Most of these expenses are expected to occur later in the fiscal year.

Salaries & benefits are **9% less than budget** due to the fact that an additional 1.5 full-time equivalent employees were added to the F2019 budget, but have not yet been hired. **Contracted Services** are **37% less tha**n budget because a part-time bookkeeper was budgeted for, but has not yet been hired. These positions are expected to be filled later in the year.

(6) The **Registration Program** expenses are **42% less than** the Q1 budget due to timing; the majority of **Credit Card Fees** occur from September to October (when members pay their fees by credit card), but are budgeted for throughout the year. Most **Exam Administration, Staff Development, Translation and Legal Fees** will occur during the remainder of the fiscal year. $53,852 was budgeted to administer and maintain the Knowledge and Competency Assessment Tool (KCAT) and Performance Based Assessment (PBA) for applicants; $11,712 was spent in Q1 on PBA Assessors and other costs; another PBA will be held in October 2018 and the KCAT will be held in February 2019. **The Committee is underspent by 35%** due to timing since the majority of planned meetings, legal fees and the translation costs will occur later in the fiscal the year.

(7) The **Quality Assurance Program** expenses are **65% less than** the Q1 budget due to timing; most **Staff Development, Postage, Translation and Other Consultant Expenses** are expected to occur later in the fiscal year. Funds were spent in Q1 for **Computer Expenses** related to the online 2018 renewal (Peer & Practice Assessment - PPA) and **Printing** costs related to the PPA. **The Committee** is underspent by **53%** due to timing since most meetings will also occur later in the year.

(8) The **Practice Advisory Program** expenses are **46% less than** the Q1 budget due to timing; **RD Workshops, the Translation** of various publications, **Legal Fees** and the production of 2 news videos for members on record keeping will occur later in the year ($6,000 has been spent to date on the videos).

(9) The **Patient Relations Program** expenses are **10% less than the Q1** budget due to timing; the majority of expenses in the public education campaign will occur later in the year. $20,043 was spent in Q1 in various types of media. **The Committee did not meet in** Q1; 3 teleconferences and 1 face-to-face meeting are budgeted for the year.

(10) Overall, **Standards & Compliance Program** expenses are **40% higher than** the Q1 budget; in Q1, $15,268 was spent on Investigations of members (which are conducted by an external investigator) and $7,368 was spent on Case Management (also conducted by an external manager). The costs depend on the nature of the cases being investigated and the complexity of the case management, and are difficult to budget for. The **Discipline, Fitness-to-Practice and ICRC** were underspent, but more costs are expected throughout the year. No funds were budgeted for a Hearing this year.

(12) **Amortization expense** represents the cost of the decline in value of capital asset purchases over time.

[redacted]

Subject: FW: letter from DCBIN to support title protection
Attachments: Letter to Protect Nutritionist.docx

From: Cara Rosenbloom [redacted]
Sent: Monday, September 3, 2018 10:06 PM
To: Melisse Willems <melisse.willems@collegeofdietitians.org>
Subject: letter from DCBIN to support title protection

Hi Melisse,

I hope you enjoyed a wonderful summer!

My name is Cara, and I'm the chair of Dietitians of Canada's Business and Industry Network (DCBIN).
We've been asked by the Ontario Family Health Team Network to support their initiative to ensure that "registered" and "nutritionist" are protected titles.

Attached please find a letter of support on behalf of the members of DCBIN.

Thanks,
Cara

Cara Rosenbloom RD
Words to Eat By
416 846 3865
www.wordstoeatby.ca
Twitter: @cararosenbloom
Instagram: wordstoeatby
Facebook: www.facebook.com/wordstoeatby

Dietitians of Canada
Les diététistes du Canada
Business and Industry Network

Melisse L. Willems, MA, LLB, Registrar & ED
The College of Dietitians of Ontario
5775 Yonge Street, Suite 1810
Toronto ON M2M 4J1

Sept 4, 2018

Dear Ms. Willems:

It has been brought to our attention via the *RD Family Health Team Network* in co-operation with *The Professional Titles for Dietitians in Ontario Advocacy Group* that they have undertaken an advocacy effort to protect the public against false and misleading nutrition information in Ontario. They are hoping to work with the CDO to make "registered" and "nutritionist" into protected titles in Ontario.

The Family Health Team Network asked Dietitians of Canada's Business & Industry Network (DCBIN) to write a letter to support this campaign. DCBIN Executive members emailed all DCBIN members to assess opinion, it was discovered (through anonymous vote) that 95 percent agree that DCBIN should support this initiative. They agree that the titles "registered" and "nutritionist" should be protected in Ontario, and that DCBIN should support this initiative by writing a letter to the CDO.

Practitioners in Ontario are permitted to act under the unregulated title "nutritionist" and may not have any formal training in nutrition. This is concerning, as nutritionists often offer recommendations without being held accountable to a regulatory body. Several DCBIN members provided written feedback as to why these unregulated terms are potentially harmful to the public. They sent examples of articles written by "nutritionists" that contained erroneous and misleading information; and they mentioned instances where they had to work with patients to correct mistakes that "nutritionists" had made.

Nova Scotia, Quebec and Alberta have been successful in protecting the title "nutritionist" to be used exclusively by RDs; DCBIN feels that Ontario should do the same. This will help protect the public and ensure that appropriately trained nutrition experts are relied upon to provide nutrition care.

We support the Family Health Team Network's initiative to work collaboratively with CDO to make the following policy changes:

- Amend *The Dietetics Act (1991)*[5] to protect the title "nutritionist" for use exclusively by RDs
- Amend *The Regulated Health Professions Act (1991)*[1] to protect the title "registered" for use exclusively by regulated healthcare professionals

Thank you,

DCBIN Executive (on behalf of network members)

September 21, 2018

COLLEGE OF DIETITIANS OF ONTARIO

Council Member Education Session on Governance

The main governance challenge for Council and committee members is applying general governance principles to specific situations, especially where exceptions often apply. Below are some recurring problem areas where the general principle is stated and scenarios are provided applying the principle to different circumstances. You will be asked in each scenario to characterize the five proposed responses as:

1. Acceptable
2. Unacceptable
3. Borderline.

Please be prepared to explain why you made that choice.

A. Confidentiality

Principle:

All information obtained from or through one's College role is confidential unless an exception set out in the *RHPA* applies. Exceptions are usually implemented by College staff unless the Council or committee member is fulfilling a specific regulatory role on behalf of the College.

Illustrative Scenarios:

1. Materials for an upcoming Council meeting are placed on the College's website.
    a. Prepare and distribute a written position statement expressing concerns about one of the items on the agenda.
    b. Provide the link to someone who asks about the upcoming meeting.
    c. Post the link on your business social media platforms (e.g., LinkedIn).
    d. Post the link on your personal social media platforms (e.g., Facebook).
    e. Notify people who think like you about one of the items on the agenda that concerns you without providing any comment.
2. You are on the ICRC and disagree with a decision made by the majority of the panel.
    a. Provide the entire decision and reasons to Council so that it can determine whether a written guideline on the topic is needed.
    b. Say nothing because the ICRC speaks with one voice.
    c. Write dissenting reasons for the decision to be distributed to the parties.
    d. Discuss with others outside of the Committee the reasons why you dissented.
    e. Ask the chair of the panel and ICRC support staff if you can speak with the College's lawyer about what your options are.

3. There is a front page article in a major paper criticizing certain aspects of the profession (i.e., the "complementarian" side) as being unscientific and suggesting that the College is not taking adequate action on the issue.
    a. Forward the article to the Registrar to make sure she is aware of it.
    b. Forward the article to colleagues you trust to get a read on how the profession is reacting to it.
    c. Listen to colleagues as they react to the article and suggest that they send to the Registrar any comments about how the College should respond.
    d. Suggest to your colleagues what points they should make in their written submissions to the Registrar.
    e. Post on social media your views on the article or how the College should respond.

B. Conflict of Interest and Appearance of Bias

Principle:

Council and committee members must diligently identify any belief, action or relationship that might create in the mind of a reasonable person a concern that it affects the Council and committee member's duty to make a decision solely on the basis of furthering the public interest mandate of the College. A conflict of interest typically arises in policy and operational matters and an appearance of bias typically arises in individual-specific committee matters.

Illustrative Scenarios:

1. The Quality Assurance Committee is considering a form of recertification for practitioners. The Committee lacks psychometric expertise.
    a. Suggest to the Committee that staff retain an expert in psychometry to provide assistance.
    b. Approach a psychometrist on one's own initiative for information that may assist the Committee.
    c. Research psychometric principles and prepare a paper of one's findings for the consideration of the Committee.
    d. Suggest to the Committee that staff research how other regulators are approaching this type of issue.
    e. Ask another Council member who is not on the QAC but who has significant psychometric experience what they would suggest.
2. There has been a trend by a few dietitians to use recompression chambers to manipulate metabolism. There has been some controversy on the issue because of the risk of embolism and some complaints have been received by the ICRC against dietitians who use the device.
    a. You are on the panel of the ICRC considering the matters and you propose it obtain an expert opinion on the risks and benefits and what informed consent for the procedure should contain.

   b. As a part of your usual teaching duties at a university, continue with the research you have already commenced on the risks and benefits of the device, but disqualify yourself from the panel.
   c. You use the device in your own practice, therefore you disqualify yourself.
   d. You have legal training and you know this is a controlled act, so you tell the ICRC panel that the complaint must be referred to discipline.
   e. Make verbal statements to clients and colleagues to the effect that dietitians should (or should not) be using the modality.
3. You are an instructor, but not an officer or director, at a university program in dietetics. A proposal has been made by your department to both the College and the government to allow dietitians to dispense a certain list of drugs related to nutritional disorders. The proposal comes to the Council of the College for consideration.
   a. Disclose to Council your role at the university including any involvement in the preparation of the proposal and seek guidance as to whether this creates an appearance of a conflict of interest.
   b. Consider whether you think there is a conflict of interest on your own without disclosing your role at the university (which most people know anyway) or that you provided some background research to the university on the proposal (which few people know).
   c. Obtain your own legal opinion, paid for by yourself, on the issue of whether you have a conflict of interest and act accordingly without further disclosure.
   d. Ask a trusted colleague on Council whether you should declare a conflict of interest.
   e. Ask the Registrar what you should do.

C. Roles

Principle:

An effective organization develops a consensus as to who does what and adopts mechanisms to ensure that every part of the organization performs their roles effectively. Conventions have developed as to how issues are raised for consideration to ensure that issues are prioritized appropriately, considered on their merits, and have appropriate background materials available.

Illustrative Scenarios:

1. You are a public member and a retired accountant. Previously you sat on a Council of a non-health profession where there was a fairly significant case of embezzlement by the staff person in charge of paying invoices. As the CDO has a small staff you are concerned that it too is at risk, especially since staff members appear to trust each other a lot. You are concerned that there are insufficient internal controls.

   a. Offer to work with the Registrar to review and, if necessary, enhance the internal financial controls.
   b. Ask questions at a Council meeting when the financial update is presented as to the specifics of the internal financial controls.
   c. Pose as a College supplier to test whether the internal financial controls will catch your phony invoice.
   d. Write a letter to the Registrar describing your previous experience and suggesting that the College's Audit Committee look into the matter.
   e. Write a letter to the President describing your previous experience and suggesting that the College's Audit Committee look into the matter.
2. You are not on the Discipline Committee. You are concerned that in a recently reported discipline matter involving sexual abuse the sanction appears to be too light. You are concerned that this might become the next *Peirovy* case (where there was a media storm criticizing the relevant College).
   a. Ask the Executive Committee to consider appealing the decision.
   b. Raise the concern at the next Council meeting and ask the members of the hearing panel to account for their decision.
   c. Speak informally to the chair of the hearing panel to get a better sense of why the decision was reached.
   d. Seek to put on the Council agenda the general issue of the College's handling of sexual abuse matters without referring to the case specifically.
   e. Do nothing. The people that are supposed to deal with the issue did so.
3. You learn through an external, confidential, concerned source that another, professional Council member has written a "50 Shades of Grey" book about a dietitian who had an affair with a patient.
   a. Research the matter on the internet so that you do not burn your source.
   b. Make a complaint to the ICRC about the matter.
   c. Make a formal governance complaint in accordance with the by-laws for removing Council members.
   d. Advise the President and the Registrar and let them handle it quietly.
   e. Ask the Council member about the issue and see if they will resign quietly.

D. Acting Outside of One's Scope of Authority

Principle:

Council and committee members have no individual authority; they act through the Council or the committees upon which they serve.

Illustrative Scenarios:

1. A Council member believes that it is urgent that Council consider recent negative media criticisms at its upcoming meeting.

   a. Send an email to all Council members urging that the matter be considered immediately at a special meeting of the Council with a detailed description of your concerns and proposed plan of action.
   b. At the beginning of the next Council meeting request that the item be added to the agenda.
   c. Ask Registration Committee support staff at the meeting that is being held tomorrow what the College is doing about it.
   d. Send a written request that the item be placed on the Council agenda to the President and the Registrar with an explanation of the rationale for the request.
   e. Do nothing as the College is certainly aware of the issue and let those with responsibility for the issue address it.
2. Prior to joining Council you publish actively on Twitter about dietetic issues that might be of interest to other dietitians and members of the public.
   a. Continue the Twitter postings without regard to whether the topic relates to matters that are likely to arise at the College.
   b. Continue the Twitter postings being careful to not discuss topics that relate to matters that are likely to arise at the College.
   c. Continue the Twitter postings but ask the Registrar to monitor it to make sure you are not "stepping into any cow pies".
   d. Transfer the Twitter postings to a colleague to operate while you are on Council, making clear to readers that you are not involved in the postings.
   e. Shut down the Twitter account.
3. The College is not properly constituted because it is short two public members. You have known the Assistant Deputy Minister of Health since first year university. In fact you continue to socialize occasionally. The ADM asks how things are going at the College.
   a. Use the opportunity to lobby the ADM for the urgent appointment of a public member so that Council is properly constituted.
   b. Say you are enjoying the opportunity to serve at the College but you are bound by strict rules of confidentiality and cannot discuss College matters.
   c. Mention a number of good examples of the things you like about serving at the College but don't say anything negative about your experience.
   d. Give a candid response so that the ADM is better informed of the realities of professional regulation.
   e. Obtain prior authority from Council to speak with the ADM about the urgent need for the appointment of a public member.

E. Liability

Principle:

Council and committee members do not do or say anything that might create a legal liability to the College unless expressly authorized to do so by an appropriate College representative.

Illustrative Scenarios:

1. The College issues an RFP related to providing CPD programs for its quality assurance program.
    a. Before the RFP is finalized, suggest to the Registrar some terms and conditions that should be included in the document.
    b. Notify the Registrar of potential applicants for the RFP.
    c. Suggest to a potential applicant that they would be a good candidate for the project, or suggest things to include in their proposal that would make it stronger or offer to be a reference.
    d. Apply for the position if it is right up your alley.
    e. If you know a likely proposer, stay out of the process but give some feedback to them if they are unsuccessful as to why they might not have been chosen.
2. You are on the discipline panel that made a finding against Ms. Young about improper billing. The police contact you about the matter as a part of its criminal investigation for fraud.
    a. Refer the police to the Registrar.
    b. Tell the police that you think Ms. Young was not really to blame; from the evidence at the hearing it became clear that it was really the manager of the office she worked for that was the real culprit, and they should go easy on Ms. Young.
    c. Tell the police that the decision and reasons for the case are on the College's website and they speak for themselves.
    d. Engage the police officer in conversation and, without revealing anything, record everything the officer reveals and share those notes with the Registrar in case it reveals any new concerns.
    e. Give general information to the police officer "on deep background" as the officer does not seem to understand how extended health benefits billing works for dietetic services.
3. Council is debating whether to ask the Appointments Unit to remove a public member from the Council because his substance abuse issues are embarrassing the College (at the last Council meeting he made a drunken pass at a staff member that was witnessed by members of the public). It looks like Council will take no action because of its duty to accommodate the public member's disability.
    a. Tell the Ministry of your concerns if the Council decides to take no action.
    b. At the Council meeting explain that if it does not remove the Council member you will report the matter to the Appointments Unit.
    c. At the Council meeting express your view that action needs to be taken or else the College will be subject to reputational and liability risks.
    d. Ask the Registrar, during a break in the meeting, as to her assessment of the risks to the College of each option under consideration.
    e. Invite the media in advance of the Council meeting to put pressure on Council to hold the meeting in public and shame Council into doing the right thing.

Conclusion

There are many more issues that are not addressed here in detail (e.g., speaking with one voice, avoiding obtaining any personal benefit from the College of Dietitians, managing matters related to family and friends interacting with the College). In addition, as the "Borderline" examples demonstrate, the seriousness of the concerns depends enormously on the specific circumstances. The same behaviour that might be a minor issue for you might, in a slightly different context, be a major issue for another Council or committee member (and vice versa).