



EXECUTIVE SUMMARY

of the

30 NOVEMBER & 1 DECEMBER, 2018 COUNCIL MEETING

COLLEGE OF PHYSICIANS AND SURGEONS OF SASKATCHEWAN

The Council of the College of Physicians and Surgeons of Saskatchewan operates under an explicit set of governance policies. It strives to make its work as transparent as possible to the medical profession and to the general public.

Those portions of Council's deliberations that are not confidential are open to observation by any person subject to space availability in the meeting room.

At the conclusion of each Council meeting an Executive Summary of the meeting is widely distributed to the district medical associations, related organizations and the public media. This Executive Summary provides a brief overview of issues discussed, decisions made, and/or actions taken by the Council. If any person wishes more detailed information about any of the issues which are not subject to confidentiality constraints, these can be obtained by contacting Ms. Sue Waddington, Executive Assistant to the Registrar, at 101 – 2174 Airport Drive, Saskatoon, Saskatchewan, S7L 6M6, phone (306) 244 7355, Fax (306) 244 2600, or email OfficeOfTheRegistrar@cps.sk.ca.

1. Council received a presentation from Mr. G. Keirstead, Chief Legal Counsel of the College of Physicians and Surgeons of British Columbia with respect to governance. Council considered some aspects of best governance and possible governance changes.
2. Council met with Minister Ottenbreit and his Chief of Staff on a number of issues of mutual interest.
3. Council received a report on the actions taken in relation to the "For Action Items" from the previous meeting.
4. Council reviewed and discussed Monitoring Reports from the Registrar with respect to:
 - (a) The Registrar's Advancement of Council's END - 6 – Professionally Led Regulation, and
 - (b) The Registrar's Compliance with Council's Executive Limitation Policies pertaining to:
 - (i) EL – 14 – Development of Policies Governing the Practice of Medicine; and
 - (ii) EL – 15 – Approval of Externally Generated Policies Governing the Practice of Medicine.

5. Council was provided an update on the actions in relation to the committee dealing with telemedicine/virtual medicine standards. The telemedicine matter has been tabled until June 2019 due to the continued work of the working group from FMRAC which will meet in January 2019 and the completed policy will be approved by the FMRAC Board of Directors in June 2019. Council considered the willingness of a member of the committee that is no longer a member of Council to remain on the committee and Council determined that additional members with expertise in IT might be helpful to this committee and it was determined that additional members could be added to the committee as needed.
6. Council received an update on the work of the Code of Professional Conduct and Conflict of Interest Bylaw review committee. The committee will have a document prepared for the January meeting to address these issues.
7. Council was updated on the work of the committee on the mandatory use of PIP/education/prescription forgery strategies and directed that staff reach out to assist the Chair and members of the committee to reactivate this work.
8. Council received a report from Mr. Burton O'Soup with suggestions as to what Council could consider doing in response to the Truth and Reconciliation Report. Council gave consideration to indigenous territory acknowledgement and requested assistance in choosing the appropriate acknowledgement to be used prior to Council and committee meetings. Council considered the recommendations from Mr. O'Soup and advised that the recognition of territory using one of the choices was provided at the beginning of this Council meeting. Council will refer the matter back to the committee members for their consideration of the most appropriate acknowledgement and to provide some guidance to Council with respect to the recommendations received from Mr. O'Soup. Council deferred the draft terms of reference for this committee. It is expected the committee will come back with consideration of the most appropriate acknowledgement of indigenous territory, and a draft response to the recommendations received from Mr. O'Soup for the January meeting.
9. Council received a report from Dr. Igbekoyi, Chair of the Sale of Goods by Physicians committee. Council determined for medically necessary products the physician must not sell the product for a price in excess of the actual cost to the physician (this may include the amortization of capital required to store, handle, ship and deliver the product/therapy) by the physician.

Council considered whether it was appropriate for a profit to be made for medically optional products and Council approved in principle a policy that will state the following:

For medically optional products, physicians must not sell the product at a price in excess of the fair market price of that product in the community. If the product is not readily available in the community, physicians must not sell the product at a price in excess of the actual price paid by the physician (this may include the amortization of capital required to store, handle, ship and deliver the product/therapy) plus a reasonable markup of no more than 20% of the entire cost.

In addition, Council approved in principle a policy that at a minimum physicians must create and maintain records detailing the following for quality assurance and recall purposes:

- a. *The actual costs of the product to the member, including any rebate or price reduction provided to the member;*

- b. The name of the manufacturer and the supplier of the product;*
- c. The date the product was supplied to the physician;*
- d. The lot number of the product, if any;*
- e. The expiry date of the product, if any; and*
- f. Any additional costs incurred by the member, including any formula or calculation used by the member to determine the additional cost added to the price of the product charged to the patient.*

Council also included in the conditions applicable to the sale of products that the physician must ensure that the patient is aware of other options for purchasing the product and that there can be no consequences to the patient/physician relationship if the patient elects not to purchase the product from the physician.

The policy approved in principle also states that prior to selling a product out of their offices, physicians may seek advice on these issues, including whether a product is medically necessary or medically optional, by contacting the College and asking to speak with a member of the Registrar's staff, or by seeking medical legal advice from the Canadian Medical Protective Association.

The policy will be disseminated to stakeholders for feedback prior to final approval. Consultation feedback is expected by the January 2019 Council meeting, for consideration of final approval of the document.

10. Council received an update from Ms. Torrance on behalf of the committee reviewing the FMRAC health policy and Mr. Burton O'Soup was added as a member to the committee.
11. Council received additional information on the issue of residents being able to sign orders under *The Youth Drug Detoxification Stabilization Act*. Council considered the information provided. The training programs and departments will be consulted respecting which of three options would be preferable to them. This matter will be further considered at the January Council meeting.
12. Council approved amended terms of reference for the Compensation and Benefits Review Committee pertaining to the Registrar's annual review and compensation.
13. Council was made aware that there is a Reasons Writing Seminar available for interested Councilors.
14. Council received a report from Ms. Torrance on the possible amendment to Bylaw 23.3(a)(vii) with respect to surgical assisting. The committee was directed to continue to work on the development of recommendations for Council.
15. Council considered an application made with respect to a request to redact personal health information from a series of documents pertaining to a penalty hearing of a physician. Council agreed that the personal health information would be redacted prior to the document being provided to the public.
16. Council conducted a penalty hearing pertaining to Dr. S. Oberholtzer. Dr. Oberholtzer admitted the charges laid against her. The charges admitted by Dr. Oberholtzer are, as follows:

You Dr. Sarah Oberholtzer are guilty of unbecoming, improper, unprofessional, or discreditable conduct contrary to the provisions of section 46(o) and/or section 46(p) of The Medical Profession Act, 1981 S.S. 1980-81 c. M-10.1, and/or bylaw 8.1(b)(ix) and/or paragraphs 7 and/or 53 of the Code of Ethics contained in bylaw 7.1 of the bylaws of the College of Physicians and Surgeons of Saskatchewan ["College"].

The evidence that will be led in support of this charge will include one or more of the following:

- a) On or about June 18, 2017 you completed a prescription in your own name for two medications, [REDACTED]*
- b) On or about June 18, 2017 you presented the prescription to [REDACTED] and asked [REDACTED] to sign it.*
- c) On or about June 23, 2017 you presented the impugned prescription to a Shoppers Drug Mart pharmacy in Saskatoon.*
- d) Upon presenting the impugned prescription you implicated another Physician as the Supervising or "Most Responsible" Physician.*
- e) The physician who you stated was the Supervising or "Most Responsible" Physician was not involved in the prescription.*

Submissions were made by Ms. Elizabeth Ulmer on behalf of Dr. Oberholtzer and by Mr. Chris Mason on behalf of the Registrar's Office. Council imposed the following penalty:

*The Council of the College of Physicians and Surgeons imposes the following penalty on Dr. Sarah Oberholtzer pursuant to **The Medical Profession Act, 1981**:*

- 1) Pursuant to section 54 (1) (e) of The Medical Professional Act, 1981, the Council hereby reprimands Dr. Oberholtzer. The format of that reprimand will be determined by the Council;*
- 2) Pursuant to section 54 (1)(g) of The Medical Profession Act, 1981, Dr. Oberholtzer is required to take an Ethics program in a form acceptable to the Registrar on or before July 31, 2019. The programs "Medical Ethics, Boundaries and Professionalism" by Case Western Reserve University and "Probe Program" by CPEP are ethics programs acceptable to the Registrar.*

17. Council heard an application from Dr. Amjad Ali. Dr. Ali made submissions on his behalf and Mr. Bryan Salte made submissions on behalf of the Registrar's Office. The issue before Council was whether the information provided to Council had changed in such a way that a different decision should be made than was made in refusing his previous application for restoration of licence. Council considered the information and declined to restore Dr. Ali's licence. Reasons for the decision will be drafted for consideration at a future meeting of Council.
18. Council reviewed the policy Renewal Questions – Use of Information by the College, approved the policy without revision and set a sunset date of 5 years. The policy will be posted on the College website.
19. Council reviewed the policy Ultrasound for Non-Medical Reasons, approved the policy without revision and set a sunset date of 5 years. The policy will be posted on the College website.

20. Council reviewed the policy Licensure of Physicians to Work in Limited Roles, accepted the revisions and set a sunset date of 5 years. The policy will be posted on the College website.
21. Council received a report from the Associate Registrar with respect to the process of electing the President and the other members of the Executive Committee. No change will be made to the current process.
22. Council received the curriculum vitae for Dr. Nora McKee for consideration of appointment to the Joint Medical Profession Review Committee and appointed Dr. McKee to the committee.
23. Council reviewed the curriculum vitae for Dr. Joshka Adam Nel for consideration of appointment to the Quality of Care Advisory Committee and appointed Dr. Nel as a physician member to the committee effective December 11, 2018.
24. Council received a presentation from Dr. R. Parikh, appealing the Registrar's decision to decline licensure. Council upheld the Registrar's decision. Reasons for the decision will follow.
25. Council received a report on the Opioid Agonist Therapy policies. Council rescinded the existing policies and approved the revised policies with a sunset date of 3 years. The policies will be posted on the College website.
26. Council considered the Opioid Agonist Therapy Guidelines and Standards document for the treatment of opioid addiction/dependence and accepted the suggested amendments relating to prescribing buprenorphine in an Emergency Department. The updated guidelines and standards will be posted on the College website.
27. Council received a report from the Kendel Distinguished Service Award Committee.
28. Council received a report from the Registrar with respect to the proposed amendments to *The Dietitians Act*. Council expressed no concerns related to the possible amendments to *The Dietitians Act*.
29. Council received a report from Ms. Amy McDonald, Director of Accounting and Finance with respect to the quarterly financial statements to the period end 30 September, 2018.
30. Council received a report from Ms. Torrance and Dr. Oberholzer with respect to the External Advisory Committee on Scope of Practice Changes that has been proposed by the Government of Saskatchewan. The differences between the first draft and the current draft were reviewed. Council noted that the current composition prohibited anyone with health or health regulatory experience from serving on the committee. Although no significant concerns were expressed related to the draft terms of reference for the External Advisory Committee on Scope of Practice Changes, Council wished to express to the government that it should develop competency matrices for appointments to the committee with particular emphasis on an ability to read and analyse scientific papers.
31. Council considered a report from the Associate Registrar on the possible adoption of a bylaw with respect to infection control. Mr. Salte reported that the draft bylaw had been provided to the SMA and the government and that the suggestions made by the Ministry were incorporated into the bylaw. Council adopted Bylaw 26.2 *Infection Control in Medical Clinics*. The bylaw will be submitted to the Minister for approval.

32. Council received a report from the Associate Registrar pertaining to penalty for sexual involvement with a patient. Council considered a number of approaches across the country and appointed a committee to review the issues in more detail. The committee will consist of Dr. O. Igbekoyi, Dr. B. Brownbridge, Mr. Ken Smith and Ms. S. Torrance. The committee has the ability to add extra members as necessary.
33. Council reviewed a request from the Registrar to authorize expending College funds to hire a part-time pharmacist to assist with the Prescription Review Program work in mitigating the opioid crisis. In particular the pharmacist will assist in preparing educational tools to assist physicians once the Microstrategies snapshot is released to physicians. Council approved the request.
34. Council received a report from the Associate Registrar with respect to possible amendment of the MAiD policy. Council accepted the amendments which included information with respect to federal reporting requirements and forms. The revised MAiD policy will be made available on the College website.
35. Council considered the frequency, content and readership of DocTalk. Additional consideration will be given as to whether there is a better way to communicate with members information that members need to have.
36. The Associate Registrar provided an update on the status of bylaws. All bylaws adopted at previous Council meetings have been approved by the Minister and are in effect.
37. Council received a report on the actions taken by the Executive Committee since the last Council meeting.
38. Council reviewed Reasons for the Decision with respect to declining a physician's licence and agreed to redact one sentence within the reasons prior to publishing on the College website.
39. Council reviewed draft Reasons for the Decision pertaining to Dr. J. Furstenberg and accepted the draft reasons. The reasons will be posted on the College website.
40. Council reviewed draft Reasons for the Decision pertaining to the penalty imposed on Dr. T. Lee at the June Council meeting and accepted the draft reasons. The reasons will be posted on the College website.
41. Council reviewed draft Reasons for the Decision pertaining to reinstating Dr. M. Horri's licence with conditions and accepted the draft reasons. The reasons will be posted on the College website.
42. Council reviewed and adopted a draft Reprimand and Reasons for Decision pertaining to the penalty imposed on Dr. A. Gandham at the September Council meeting. The reasons and reprimand will be posted on the College's website.
43. Council reviewed and adopted draft Reprimand pertaining to the penalty imposed on Dr. M. A. R. Sayeed at the September Council meeting. The reprimand will be posted on the College website.

44. Council reviewed a Preliminary Inquiry Report and charged a physician with unprofessional conduct. The charge alleges abusive behaviour towards two individuals.
45. Council considered a request to reconsider its decision to lay a charge against a physician. Council confirmed its decision to charge the physician with unprofessional conduct.
46. Council reviewed a Preliminary Inquiry Report and laid charges of unprofessional conduct against a physician. The charge alleges improper billing of the Medical Services Branch.
47. Council reviewed a Preliminary Inquiry Report and determined it would not charge a physician following an allegation of inappropriate sexual conduct with a patient. Council directed the Registrar and President to meet with the physician to discuss the conclusions and its concerns with the physician. The staff will also meet with the complainant to ensure she understands Council's decision.
48. Council reviewed a Preliminary Inquiry Report and approved dealing with the concern about the physician's conduct through an alternate dispute resolution process. If the physician apologises and takes a communications/boundaries course the charges will not be laid.
49. Council reviewed a Preliminary Inquiry Report and charged a physician with unprofessional conduct. The charge alleges improper billing and failing to exercise appropriate oversight as a Medical Director of an ultrasound facility.
50. Council received a report from Ms. Torrance with respect to Alternate Dispute Resolution and appointed a committee to review the College's use of Alternate Dispute Resolution. This committee will report back to Council in January.
51. Council approved redacting identifying information about another physician when publishing the charges against Dr. A. Gandham.