



**Ontario College
of Pharmacists**

Putting patients first since 1871

MINUTES OF MEETING

OF COUNCIL

DECEMBER 7, 2015

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MONDAY, DECEMBER 7, 2015 – 9:00 A.M.

COUNCIL CHAMBERS, ONTARIO COLLEGE OF PHARMACISTS

Elected Members

District H Dr. Regis Vaillancourt, Ottawa
District H Ms. Christine Donaldson, Windsor
District K Dr. Esmail Merani, Carleton Place
District K Mr. Mark F. Scanlon, Peterborough
District L Ms. Jillian Grocholsky, Fonthill
District L Dr. Michael Nashat, Brampton
District L Mr. Farid Wassef, Stouffville - **Regrets**
District M Mr. Fayez Kosa, Toronto
District M Mr. Don Organ, Toronto
District M Ms. Laura Weyland, Toronto - **Regrets**
District N Mr. Gerry Cook, London
District N Mr. Chris Leung, Windsor
District N Dr. Karen Riley, Sarnia - **Regrets**
District P Mr. Jon MacDonald, Sault Ste. Marie
District P Mr. Douglas Stewart, Sudbury
District T Ms. Michelle Filo, Sudbury
District TH Mr. Goran Petrovic, Kitchener

Dr. Heather Boon, Dean, Leslie Dan Faculty of Pharmacy, University of Toronto
Dr. David Edwards, Hallman Director, School of Pharmacy, University of Waterloo

Members Appointed by the Lieutenant-Governor-in-Council

Ms. Kathleen Al-Zand, Ottawa
Ms. Linda Bracken, Marmora - **Regrets**
Mr. Ronald Farrell, Sundridge
Mr. Javaid Khan, Markham
Mr. John Laframboise, Ottawa
Mr. Lewis Lederman, Ottawa
Mr. Aladdin Mohaghegh, Toronto - **Regrets**
Ms. Sylvia Moustacalis, Toronto
Mr. Shahid Rashdi, Mississauga - **Regrets**
Ms. Joy Sommerfreund, London

Staff present

Ms. Connie Campbell, Director, Finance and Administration
Ms. Susan James, Director, Competence
Mr. Marshall Moleschi, CEO and Registrar
Ms. Ushma Rajdev, Council and Executive Liaison
Ms. Anne Resnick, Deputy Registrar/Director, Conduct

Invited Guests

Dr. Nadia Aleem, Ms. Linda Callander, Dr. Reena Chopra, Ms. Anushka Darko-Mensah and Ms. Brittney Stein - Centre for Addiction and Mental Health (CAMH)

1. Noting Members Present

Member attendance was noted.

2 Declaration of Conflict

President Merani declared his conflict for agenda item 9.5 (Briefing Note regarding Pharmacy ownership). Registrar Moleschi advised that agenda item 9.5A provides clarity and guidance on conflict of interest and suggested that members of Council declare their conflicts after discussion had occurred. Accordingly, there were no other conflicts declared at this time.

3. Approval of Agenda

It was moved and seconded that the Agenda be approved. CARRIED.

4. President's Opening Remarks

4.1 Briefing Note - President's Report to Council

The President referred to his report which summarized his activities since the previous Council meeting. These included attending various committee meetings at the College and various phone calls and meetings with the Registrar and the Vice President.

Council was advised that Past President Scanlon had been appointed the College representative on NAPRA (National Association of Pharmacy Regulatory Authorities). Mr. Scanlon will replace the current representative, Ms. Wiersema, in April 2016.

4.2 Briefing Note - September 2015 Council Meeting Evaluation

Referring to the September 2015 Council Meeting evaluation, Dr. Merani thanked respondents for the constructive suggestions, noting that it was through such feedback that efficiency and effectiveness of meetings is achieved, and encouraged Council members to continue to provide input.

5. Approval of Minutes of Previous Meeting

5.1 Minutes of September 2015 Council Meeting

It was moved and seconded that the Minutes of the September 2015 meeting be approved. CARRIED.

6. Notice of Motions Intended to be Introduced

There were none.

7. Motions, Notice of Which Had Previously Been Given

There were none.

8. Inquiries

There were none.

9. Matters Arising from Previous Meetings

9.1 Briefing Note - Registrar's Report to Council

Mr. Moleschi highlighted the salient points from his report and responded to questions from the floor.

He advised that NAPRA's Pharmacists' Gateway - the national portal to help applicants who graduated with a pharmacy degree not accredited by the Canadian Council for Accreditation of Pharmacy Programs – was mentioned as a positive change in a recently published OFC (Ontario Fairness Commissioner) Report. The portal promotes a fair, consistent approach to registration in all Canadian provinces and is seen to be a very useful tool for international applicants.

It was also noted that December 3rd marked the fifth anniversary of the Regulation of Pharmacy Technicians. Registrar Moleschi provided some statistics on the supply, distribution and practice characteristics of pharmacists in selected provinces and territories in Canada.

Council heard about Bill 33 (an Act to reduce the abuse of fentanyl patches and other controlled substance patches), which sets out requirements for prescribers as well as rules that apply to persons who dispense these substances. Mr. Moleschi advised that he has been in touch with the Ministry to advise that the College would like to be engaged in discussions on this issue in order to facilitate compliance with the requirements.

Referring to the section on Ministry/Legislative Initiatives, Mr. Moleschi advised Council that the Health Human Resources Strategy Division at the Ministry of Health and Long-Term Care established a transparency Strategy which aims to build on existing efforts to enhance and standardize measures adopted by health regulatory colleges to increase their transparency practices in support of the *Patients First: The Action Plan for Health Care*. To this end, the ministry established the Transparency Working Group (TWG), comprised of representatives of the ministry, colleges and from the wider health system, as well as members of the public, to advise and assist the ministry in shaping and implementing the transparency Strategy. He further advised that at an upcoming FHRCO (Federation of Health Regulatory Colleges of Ontario) Board meeting, the Assistant Deputy Minister is expected to address FHRCO members on this important initiative and that more information and updates will be forthcoming at future Council meetings.

Mr. Moleschi next reported that, together with Deputy Registrar Ms. Resnick, he attended meetings of the Pharmacy Travel Vaccines Working Group to further discuss the potential administration of certain travel vaccines by pharmacists. Council will be kept apprised of developments, he added.

Council was informed that in October, the Ministry of Health and Long-Term Care held a round table discussion on Narcotics Use/Misuse in Ontario. Stakeholders were invited to share information about work planned or underway in their respective organizations and to share with the group the experiences and perspectives in challenges related to narcotic use and misuse, lessons learned from past attempts to address these issues, and opportunities to move forward with a coordinated and cohesive approach to address these issues.

Mr. Moleschi next advised that the College has been invited to participate in discussions regarding Physician Assisted Dying (PAD). College input was also sought on key policy and implementation questions and he added that over the next few months, this issue will likely be discussed by stakeholders on a frequent basis. He added that the proposed Code of Ethics will help guide the profession as it faces these types of issues in the future.

Referring to the section on FHRCO (the Federation of Health Regulatory Colleges of Ontario), Mr. Moleschi advised that video segments for Council member training were in production and will be available for use by FHRCO member Colleges as part of their orientation or ongoing education programs.

Council was also advised about a proposed initiative by the University of Waterloo (5 in 5 project) meant to help the membership better understand their scope of practice. Mr. Moleschi also referred Council members to the status report from the University of Toronto which provides a detailed update on the “Collaborative Project to Advance the Practice of Pharmacy”.

Responding to a question from the floor regarding the appointment of more public members on College Council, the Registrar advised that he was in constant communication with the ministry regarding this matter. Mr. Lederman, who had attended a governance session for public appointees, requested time at the end of the meeting to speak to Council about his experience.

Referring next to the Operational Plan update, Mr. Moleschi reminded Council that in addition to providing an opportunity for Council to assess progress of all directional policies, the update should also be considered a reflection of his performance since he is responsible for the implementation outcomes of the plan.

Ms. Chong, Manager, Hospital and Other Health Care Facilities, was invited to provide an overview of her program area. The presentation took place between 9:51 a.m. and 10:41 a.m. during which she provided clarification and responded to questions from the floor.

9.2 Briefing Note – Code of Ethics Task Force

A motion to receive the Briefing Note from the Code of Ethics Task Force was moved and seconded. CARRIED.

The Chair, Mr. Scanlon, provided some background. He advised that amendments to the Code of Ethics (the Code) were required because the last significant update to the Code happened 20 years ago and pharmacy practice has evolved significantly over the past two decades. Referring to the statement in the document *“The role and purpose of OCP’s Code of Ethics is to clearly articulate the ethical principles and standards which guide the practice of pharmacists and pharmacy technicians in fulfilling the College’s mandate to serve and protect the public by putting patients first”*, Mr. Scanlon added that although practice expectations had not changed in the new Code, it now more appropriately addresses current practice and clearly establishes the standards of ethical conduct for pharmacists and pharmacy technicians in Ontario, regardless of their practice setting.

Following Council’s consideration and approval for consultation in September, the proposed Code was posted on the College website. The consultation resulted in 35 responses, the majority of which were in support of the proposed Code. Mr. Scanlon provided details regarding the feedback which was reviewed and considered by the Task Force and Council noted that while no substantive revisions were being proposed, there were minor revisions made to address and clarify the intent of some of the standards that have been proposed. He added that it was intended that the College will provide further education to pharmacy professionals to support their understanding of the Code. Mr. Scanlon acknowledged the work done by the Task Force, the ethicist and staff in developing this comprehensive document.

Extensive discussion ensued on specific situations which could pose an ethical dilemma for the profession, each of which was addressed through the application of the various standards in the document.

A motion to approve the proposed Code of Ethics, with changes incorporated following the consultation, was moved and seconded. Council members voted unanimously in favour of the motion. **CARRIED.**

9.3 Briefing Note – Code of Ethics Task Force

A motion to receive the Briefing Note from the Code of Ethics Task Force was moved and seconded. CARRIED.

Mr. Scanlon presented the Briefing Note to Council. Given the importance of the Code of Ethics as a foundational document for the profession, a plan for implementation (including communication and education) of this document was deemed necessary. Because the expectation of the College is that members will review and apply the Principles and Standards in the Code of Ethics, the initial step in operationalizing the Code is ensuring that all members have read and understood it. Council was asked to consider approving a requirement for all members to declare that they had read and understood the Code and that this declaration take effect in 2017. **A motion to this effect was moved and seconded.** With the exception of Mr. Lederman, who voted against the motion, Council members voted in favour of the motion. **CARRIED.**

12. Other Matters

12.1 Presentation by Centre for Addiction and Mental Health (CAMH)

Referring to the agenda, and noting that the presentation by CAMH on their program structure and Services was scheduled next, President Merani invited Ms. Gemus, Manager, Investigations and Resolutions, to provide Council with a brief overview of the duties of the Fitness to Practise Committee. Ms. Gemus explained that the Committee oversees the College's management of members who, because of physical, emotional, psychiatric, or substance use disorders, are not currently able to practise safely without monitoring. Ms. Linda Callander, Dr. Reena Chopra and Ms. Anushka Darko-Mensah, were introduced to Council and invited to make their presentation. From 1:07 p.m. to 1:44 p.m., Council received an overview of the objectives of the Ontario Pharmacy Support Program, including the goals and services being offered by CAMH.

9. Matters Arising from Previous Meetings *(continued)*

9.4 Briefing Note – Executive Committee

A motion to receive the Briefing Note from the Executive Committee was moved and seconded. CARRIED.

President Merani invited Mr. Moleschi to brief Council. At the last Council meeting (September 2015), proposed amendments to By-law No. 3 were approved for public consultation. The amendments supported changes to the *Drug and Pharmacies Regulation Act* (DPRA) regulation, ongoing transparency initiatives within the College, and changes in the organizational structure and fees for the College.

Council noted that 77 responses received during the consultation — including responses from organizations such as the Ontario Hospital Association (OHA), a Local Health Integration Network (LHIN) representing 25 hospitals in the North East region, the Ontario Pharmacists Association (OPA), and the Ontario Branch of the Canadian Society of Hospital Pharmacists (CSHP-OB). Council further noted that the majority of respondents expressed disagreement with the proposed fee structure for hospital accreditation. It was felt that the fees were too high in relation to fees paid by community pharmacies and did not take into consideration a hospital's size, complexity, budget, services offered, or number of staff. As a result of the feedback, a review of the hospital inspection program and associated costs was undertaken. Mr. Moleschi explained that the College's original proposal for hospital accreditation fees recommended opening fees of \$6,000 and annual renewal fees of \$5,000. The rationale for these fees was to recover the costs directly attributed to the hospital inspection program and included a flat rate for hospital pharmacy accreditation, regardless of the number of beds in the hospital or services provided. Following the review, and taking into consideration the feedback, the new fees for hospital pharmacies were now set at \$4,000 at opening (\$2,000 for application and \$2,000 for issuance of a Certificate of Accreditation) and annual renewal fees of \$3,500. To coincide with the reduction in revenue, the program costs will be reduced through adjustments to the inspection schedule.

Discussion then ensued regarding hospital fees, with Mr. Farrell expressing his concern with the flat rate for hospital accreditation, regardless of size. Following extensive discussion, **a motion to approve the amendments to the By-laws with changes incorporated following consultation (and reflected as By-Law #4), was moved and seconded.** Council members voted in favour of the motion, with the exception of Mr. Farrell, who voted against the motion. There were no abstentions. **CARRIED.**

9.5A Preamble to Briefing Note on Pharmacy Ownership

Referring to his previously declared conflict, President Merani passed the Chair to the Vice President, Dr. Vaillancourt, who invited Mr. Moleschi to address Council. Mr. Moleschi provided a detailed explanation of what constitutes a conflict of interest, as outlined in the preamble (which was created to help members better understand the issue and provide clarity and direction on how to deal with it).

Mr. Moleschi provided further guidance on the issue, explaining that as stated in the Governance Manual, a conflict of interest can be defined as a personal or financial interest that would reasonably be viewed in all of the circumstances as influencing a Council member's ability to make an impartial and objective decision. He added that members should consider issues such as whether a *perception* of conflict existed, or if the conflict could result in reputational harm (both to the individual and the College). Since Council meetings were open to the public, Mr. Moleschi suggested that those members deemed to be in conflict could remain at the table but should refrain from participating in discussion or voting on the issue of pharmacy ownership.

Following discussion and clarification on the best process to determine conflict, the Vice President asked each Council member to disclose where they worked, if they owned a pharmacy and whether they would benefit from any changes in legislation. With the exception of Dr. Merani, Dr. Nashat and Mr. MacDonald, Council determined that no other members were in conflict.

9.5B Briefing Note – Executive Committee

A motion to receive the Briefing Note from the Executive Committee was moved and seconded. CARRIED.

Dr. Vaillancourt invited Mr. Moleschi to introduce the Briefing Note to Council. In September 2015, Council tabled a motion that had been brought forward regarding proposed amendments to the shareholding requirements under the *Drug and Pharmacies Regulation Act* (DPRA). Staff was directed to provide further background information and clarity on the issue to the Executive Committee who would then bring the matter forward to December Council meeting.

The DPRA requires all corporations that operate pharmacies to have pharmacists/members hold the majority of shares and the majority of director positions. It goes on to exempt corporations that operated a pharmacy as of May 14, 1954 from the majority shareholding requirement. Mr. Moleschi explained that a broad review was undertaken to determine whether the current ownership structure of corporations operating pharmacies had an impact on the public's interest. It was noted that over the years, Council has discussed the issue of ownership, and that each time, no changes were recommended. In 2001, Council approved a recommendation that would enable the College to hold all corporations who own or operate pharmacies in Ontario equally accountable, regardless of ownership structure. The concept of "proprietary misconduct" was introduced, which would give effect to such enforcement capability. Retaining the requirement to have a majority of the directors be pharmacists was determined to provide an added layer of accountability. Again, the Council of the day considered that, in the absence of any public safety issues — which is in the College's mandate — any proposal to make changes to ownership provisions would more appropriately be made by the association or individual lobbyists.

Mr. Organ spoke against the motion, urging Council to revisit the current pharmacy ownership provisions to bring Ontario in line with the rest of the other provinces (other than Quebec). He added that in light of the DPRA, the College has jurisdiction over a pharmacy's certificate of accreditation and also has jurisdiction over anyone involved in directing the pharmacy operations, including non-pharmacist directors, and therefore it was unclear what further benefit or protection the restrictions on pharmacy ownership in section 142 provided. He added that an argument could be made that the provisions were anti-competitive in nature. He further noted that section 142(4) of the Act, which exempts corporations operating pharmacies on May 14, 1954, was being used in a manner which he believed was at odds with the spirit and intent of the legislation (e.g. endorsement of a two-tiered system of pharmacy ownership and the creation of a re-sale market for "pre-1954 charters" which can be sold for a significant amount and allow for several pharmacies to operate under one charter).

Mr. Moleschi referred to the Briefing Note, adding that the Executive Committee considered a series of questions to help focus on the risk being managed by the two classes of pharmacy ownership. Through consideration of the responses to these questions, it was ultimately determined that the College should continue to rely on the existing regulatory framework that held all corporations that operate pharmacies equally accountable, as there was no evidence that the current ownership structure presented a risk to the public within the context of the College's mandate.

Council held extensive debate on the issue, with consideration being given to a suggestion to further examine the issue and bring the matter to another future Council meeting; whether and where the public risk, if any, existed; and whether more resources needed to be spent on this issue when there were pressing needs in other areas of the College.

Following discussion, **a motion was moved and seconded that Council continue to rely on the existing regulatory framework that holds all corporations that operate pharmacies equally accountable, as there is no evidence that the current ownership structure presents a risk to the public within the context of the College's mandate.** 14 Council members voted in favour of the motion. 1 member (Mr. Khan) abstained and 4 members (Mr. Lederman, Mr. Organ, Mr. Laframboise and Mr. Farrell) voted against the motion. **CARRIED.**

9.6 Briefing Note – Executive Committee

A motion to receive the Briefing Note from the Executive Committee was moved and seconded. CARRIED.

Mr. Moleschi was requested to address Council. Council noted that the second part of the motion introduced at the Council meeting in September addressed the issue of shareholders and whether it was necessary for the College to scrutinize the conduct of shareholders as well as directors when determining if a corporation is suitable to operate a pharmacy.

A question was raised as to what value shareholding scrutiny adds given the provisions under the DPRA that permit the College to hold the Designated Manager (DM) and/or the directors and/or the corporation itself accountable for failing to operate a pharmacy in accordance with the requirements. Furthermore, a recent jurisdictional review confirmed that, other than Quebec, no other province has a shareholding requirement for corporations operating a pharmacy. Character screening is also not performed in any other jurisdiction.

With this background in mind, the Executive Committee recommended for Council approval that it would be appropriate to discuss the removal of the reference to shareholders from the applicant qualification with the Ministry of Health and Long-Term Care. This approach would equalize the measures taken by the College for both pre and post-1954 corporations. **A motion to this effect was moved and seconded.** Council members voted unanimously in favour of the motion. **CARRIED.**

9.7 Motion tabled at September 2015 Council Meeting

Mr. Lederman advised that since the issues identified in the motion that he and Mr. Wassef had introduced at the September Council meeting, had now been dealt with at this meeting, both he and Mr. Wassef were withdrawing their motion

11. For Information

There were no matters for information.

13. Unfinished Business

In early October, all public appointees were required to attend one of the five program sessions entitled “Public Appointee Accountability Program”. The program is designed to orient and support the public appointees in fulfilling their duties. Mr. Lederman advised Council that the full-day session had been very helpful, useful and informative. Mr. Farrell, Ms. Moustacalis and Ms. Al-Zand all conveyed similar views.

Motion respecting Circulation of Minutes

A motion to approve the circulation of the draft minutes of this Council Meeting to Council members was moved and seconded. The motion CARRIED.

14. Motion of Adjournment

It was moved and seconded that the Council meeting be adjourned at 3:05 p.m. and to reconvene on Tuesday, March 29, 2016, or at the call of the President. The motion CARRIED.

**Ushma Rajdev
Council and Executive Liaison**

**Esmail Merani
President**

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