

COUNCIL MEETING MINUTES

Hotel InterContinental Yorkville,
220 Bloor Street West - Portman Boardroom, 2nd floor

February 8, 2017
(9:00 a.m. to 3:00 p.m.)

Special Meeting

COUNCIL MEMBERS PRESENT:

Heather Blondin, RDH, Elected Member
Kathleen Feres Patry, RDH, Elected Member
Fernand Hamelin, Public Member
Evie Jesin, RDH, Elected Member
Beatrix Kau-Lui, Public Member
Helen Lightstone, Public Member
Caroline Lotz, RDH, Elected Member
Gail Marion, RDH, Elected Member
Janet Munn, RDH, Academic Member
Julius Nathoo, Public Member
Catherine Ranson, RDH, Academic Member
Terri Strawn, RDH, Elected Member
Yvonne Winkle, Public Member

ADMINISTRATION:

Lisa Taylor, RDH, Registrar
Jane Keir, RDH, Deputy Registrar
Gillian Slaughter, Director, Professional Conduct
Suzanne Fox, Director, Corporate Services
Katarina Miatello, Executive Assistant

REGRETS:

Michael C. Connor, Public Member
Roma Czech, RDH, Elected Member
Marlene Heics, RDH, Elected Member
Vinay Jain, Public Member
Pauline Leroux, RDH, Elected Member
Anne Venton, Public Member
Saeed Walji, Public Member

GUESTS:

Julie Maciura, CDHO Legal Counsel
Alison Henry
Stephen Cheng
Rae Trenchard, Recording Secretary

1. Call to Order and Opening Remarks

The Chair, Heather Blondin, convened the meeting at 9:03 a.m. and completed the roll call noting that there were 13 Council members in attendance, meeting the requirement for quorum.

The Chair welcomed the Council members and guests to the meeting and acknowledged the Registrar, Lisa Taylor, for her overview of the meeting preparations. She noted that guests from 14 health regulatory colleges were attending as invited guests. She also noted that the Ontario Ministry of Health and Long-Term Care (MOHLTC) would be attending the meeting to provide some background information and to answer questions. The Chair highlighted that this special meeting was called for the Council to discuss the analysis of the sexual abuse provisions in the Regulated Health Professionals Act, 1991, (RHPA) as amended by Bill 87. She reminded the Council of their mandate to protect the public interest.

2. Approval of Agenda

2.1 Motion to Approve Agenda

MOTION: THAT Council move to approve the February 8, 2017 Council Meeting Agenda.

Moved: T. Strawn

Seconded: C. Ranson

Vote:

CARRIED

2.2 Declaration of Conflict of Interest

Evie Jesin noted a potential conflict of interest, stating that her son, a criminal lawyer, provided free legal counsel to a complainant in a high profile sexual assault trial.

3. Council Education

3.1. Introduction to the Sexual Abuse Task Force Report and the Themes of Bill 87

Julie Maciura presented the Sexual Abuse Task Force (SATF) report and the themes of Bill 87. Details of her presentation were provided in the Council agenda package. She noted that one of the key recommendations in the SATF report that was not included in Bill 87 was to remove sexual abuse adjudications from the colleges and give that function to an independent public agency. She stressed that the recommendation may still be amended in the RHPA at a later date and it would have wide ramifications for the colleges. Julie Maciura outlined each of the SATF's recommendations and their potential impact on complainants and the CDHO.

3.2. Bill 87 Presentation by Ministry of health and Long Term Care

Allison Henry and Stephen Cheng presented background information and answered questions regarding Bill 87, also known as the *Protecting Patients Act, 2016*. Details of their presentation were provided to Council members. They outlined each of the proposed amendments to the RHPA, explaining the current status of the RHPA on each matter and the reasoning for the change. They welcomed the following questions during their presentation.

4. Policy Development

4.1 Issue Assessment, Presentation of Briefing Notes and Materials and Council Deliberations about Bill 87

Julie Maciura led the discussion on issue assessment by reviewing the advantages and disadvantages of each proposed amendment to the RHPA under Bill 87. She noted that the documents only contain recommendations about the position to take. The Council could, in relation to each proposed amendment in Bill 87 and each proposed initiative of the Sexual Abuse Task Force report, indicate their support, opposition, or no position, and add direction if relevant.

- *Item 1a, Affecting committee structure:*

Decision: Support the amendment but indicate the consequences for the CDHO and criteria they would want considered when forming committees.

- *Item 1b, Disclosing personal information to the Minister:*

Decision: Support the amendment provided only necessary information is shared.

- *Item 1c, Collection of information by the College for the Minister and others:*
Decision: Support the amendment.
- *Item 1d, Additional functions for the Patient Relations Committee:*
Decision: Support if the amendment is more specific to the additional functions likely to be given to the Patient Relations Committee.
- *Item 2a, Minister-prescribed functions:*
Decision: Take no position until further detail is provided.
- *Item 2b, Funding for sexual abuse:*
Decision: Support the amendment.
- *Item 2c, Mandatory revocations:*
Decision: Support the amendment and support the expansion of the definition of sexual touching.
- *Item 2d, Other orders:*
Decision: Support the amendment.
- *Item 2e, Definition of “patient” for sexual abuse purposes:*
Decision: Support the amendment and include the suggestions of the Registrar’s letter dated October 17, 2016, to the Deputy Minister of the MOHLTC.
- *Item 2f, Increased Fines for Failure to Make a Mandatory Report:*
Decision: Support the amendment, with reference to the Registrar’s letter dated October 17, 2016, to the Deputy Minister of the MOHLTC.
- *Item 3a, Expansion of the register:* The Council noted that the CDHO may need to rework some of their bylaws to be consistent with the amendment.
Decision: Support the amendment.
- *Item 3b, New mandatory self-reporting obligations:*
Decision: Support the amendment.
- *Item 3c, Publication of Council meeting information on the College’s website:*
Decision: Support the amendment.
- *Item 4a, Authority to order earlier interim suspensions and terms, conditions and limitations:*
Decision: Support the amendment.
- *Item 4b, Disclosing information to regulators of long-term care homes:*
Decision: Support the amendment.
- *Item 4c, Alternative dispute resolutions and withdrawals of complaints:*
Decision: Support the amendment.
- *Item 4d, No stay of appeal:*
Decision: Support the amendment.

4.2 Issue Assessment, Presentation of Proposed Responses to Surveys by the Federation of Health Regulatory Colleges of Ontario (FHRCO)

4.2.1 FHRCO Survey #1: Bill 87, Proposed Positions

Julie Maciura led the discussion of proposed responses to the survey by FHRCO. Detailed explanations of the proposed positions were provided in the briefing notes of the special Council meeting package.

- *Item 1, Oppose the creation of the agency:*
Decision: The Council took no position.
- *Item 2a, Create or support the creation of a comprehensive, credible and transparent training program for College representatives:*
Decision: Support the position.
- *Item 2b, Create or support the creation of a publicly available protocol for the investigation of sexual abuse complaints:*
Decision: Support the position.
- *Item 2c, Support the creation of a PSA-type council to monitor and report on the handling of sexual abuse cases by the colleges:*
Decision: Do not support the position but support providing documents to facilitate an external review of the college's practices.
- *Item 3, Propose a legislative amendment clarifying the use of victim impact statements:*
Discussion ensued with respect to the uncertainty as to how the statements will be used.
Decision: The Council took no position, awaiting further information.
- *Item 4, Develop a rule of procedure preventing the cross-examination of sexual abuse complainants personally by the alleged perpetrator:*
Decision: Support the position.
- *Item 5, Propose a legislative amendment permitting colleges to delete the identities of patients improperly contained:* The Council asked that this position be included as an amendment to the RHPA.
Decision: Support the position and propose the amendment.
- *Items 6 to 9:* see Section 4.1, Issue Assessment.
- *Item 10, Support a legislative amendment to use Statutory Powers Procedure Act (SPPA) rules of evidence at discipline hearings:*
Decision: The Council took no position.
- *Item 11, Propose a legislative amendment to Subsection 36(3) of the RHPA that limits the disclosure as much as possible while achieving the goal of the SATF recommendation:*
Decision: The Council did not support the position.

4.2.2 FHRCO Survey #2: Bill 87, Proposed Initiatives

Julie Maciura led the discussion of proposed responses to the second survey by FHRCO. Detailed explanations of the proposed initiatives were provided in the briefing notes of the special Council meeting package.

- *Item 1, Constitute, and use, a pool of legally trained Discipline Committee chairs that have demonstrable expertise in the dynamics and impact of sexual abuse:*
Decision: Support the initiative.
- *Item 2, Consider some form of free legal advice for complainants throughout the process and some form of legal standing at discipline hearings:*
Decision: The Council took no position, awaiting further information, and will discuss the matter further at the next meeting.
- *Item 3, Provide a support person for all sexual abuse complainants:*
Decision: Support the initiative.
- *Item 4, Develop rules of procedure to enable the complainant to testify outside of the sight of the alleged perpetrator:*
Decision: Support the initiative.
- *Item 5, Consider developing a publicly available protocol for the video recording of statements from complainants (or all parties) in sexual abuse cases:*
Decision: Support the initiative.
- *Item 6:* See Item 2b in Council Review of Bill 87
- *Item 7:* See Item 2c in FHRCO Survey #1
- *Item 8, Develop a professional misconduct regulation describing the duty of practitioners to take reasonable measures to prevent sexual abuse by those working under their direction:*
Decision: The Council took no position.
- *Item 9, Develop a policy for colleges to address a failure to make a mandatory report and propose a legislative amendment to subsection 36(1) of the RHPA permitting the reporting to the police of such failures by non-members.*
Decision: Support the initiative.
- *Item 10, Develop questions for registration application forms relating specifically to sexual abuse and proposed amendments to registration regulations, bylaws and rules of procedure to support the compulsory answering of the questions.*
Decision: Support the initiative.
- *Item 11, Develop wording to modify bylaws to ensure that the public register contains details of the type of sexual abuse the member was found to have committed and to post on the public register all actions taken in sexual abuse cases where any was taken.*
Decision: The Council took no position.
- *Item 12, Develop an education/prevention module on sexual abuse for use by accreditation agencies and educational programs:*
Decision: The Council took no position.

MOTION: **Resolved** to accept the Council’s positions on the recommended amendments to Bill 87 and the proposed positions and initiatives in FHRCO surveys #1 and #2 as declared in this meeting and outlined in the attached document.

Moved: E. Jesin
Seconded: J. Munn
Vote:

CARRIED

5. NEXT MEETING

The next Council meeting will be held on March 24, 2017.

6. ADJOURNMENT

The Chair called for any objections to adjourn the meeting. There were no objections to adjourn. The meeting adjourned at 3:15 p.m.

MOTION: THAT the Council meeting be adjourned at 3:45 p.m.

Moved: K. Feres Patry
Seconded: J. Munn
Vote:

CARRIED

Approved by:



Signature of Chair, Heather Blondin

March 24, 2017

Date