

Minutes

Present

N. Sears, Chair	A. Fox	N. Osbourne James
L. Asheri	G. Fox	A. Plumton
J. Attwood	D. Graystone	D. A. Prillo
C. Balcolm	M. Hogard	G. Rudanycz
C. Barnet	A. Jewell	L. Sanderson
C. Beemer	R. MacKay	M. Sloan
Y. Blackwood	M. MacMillan-Gilkinson	M. Tuomi
S. Corkey	C. Manning	D. Walia
R. Davidson	D. Mattina	C. Ward
C. Egerton	A. Molloy	H. Whittle
C. Evans	S. McGeachy	C. Williams

Regrets

D. Burger	D. Miles	J. Pretti
J. Jamieson		

Staff

J. Anderson	J. Hofbauer, Recorder	S. Mills
A. Coghlan	K. McGovern	C. Stanford

Announcements

N. Sears introduced and welcomed new Council members: A. Fox, A. Molloy and N. Osbourne James. She informed Council that K. Jain, public member, has resigned.

Agenda

The agenda had been circulated.

Motion 1

Moved by M. Tuomi, seconded by R. MacKay,

That the agenda for the September 10, 2015 Council meeting be approved as circulated.

CARRIED

Minutes

Minutes of the Council meeting of June 11, 2015 had been circulated.

Motion 2

Moved by H. Whittle, seconded by D.A. Prillo,

That the minutes of the Council meeting of June 11, 2015 be approved as circulated.

CARRIED

Notes of the Council/Leadership Team Governance Workshop had been circulated. Council was informed that the error in the title on the first page will be corrected.

Motion 3

Moved by M. Hogard, seconded by L. Asheri,

That the notes of the Council/Leadership Team Governance Workshop of June 10 and 11, 2015 be approved as corrected.

CARRIED

Transparency

N. Sears noted that transparency has been an ongoing issue for Council, with the most recent decisions to add information to the register made in June of 2015. These additions to the register will come into effect on December 15, 2015.

N. Sears reminded Council that in June it had deferred making decisions about publishing cautions in person (cautions) and specified continuing education or remediation programs (SCERPs). Council had requested more information including proposals for removal of cautions and SCERPs from the register.

She noted that Council is being asked to consider:

- final approval of by-laws related to publishing cautions and SCERPs; and
- approval of by-laws related to removal of cautions and SCERPs for consultation.

She noted that the decision note includes three options developed and analyzed for Council consideration, and a recommendation from staff for removal of cautions and SCERPs from the register. The recommended approach is automatic removal after three years *except* if the original matter was sexual abuse or a boundary violation and/or if additional information of concern about the member has come to the College's attention. Where automatic removal does not apply, under the authority already present in the *Health Professions Procedural Code* the Executive Director would assess whether or not it is in the public interest to maintain the information on the register, and remove the information if she found that there was no longer a significant public interest in having the information remain on the register

K. McCarthy reviewed the history of transparency of health regulators, the proposal related to publication and removal of cautions and SCERPs, and the processes to support the Executive Director in exercising discretion regarding removal. D. Jones presented how cautions and SCERPs will appear on the College's register (Find a Nurse). She noted that this work is still in progress and will include language and usability testing with the public.

There was some discussion of the register search function. It was noted it can be difficult to find a nurse when using limited information (e.g. first name only or uncertain spelling of a last name). J. Anderson highlighted the College's expectations that nurses identify themselves to patients and that this identification is important in assisting the public to use the public register. Managers of sites where nurses are employed and/or care for patients are also a nurse identification resource to the public. A. Coghlan confirmed that staff will consider Council's feedback as it seeks to enhance the functionality of Find a Nurse.

There was discussion about the increasing use of technology and whether information on the register can have an impact on the safety of nurses. There is a provision in the legislation that gives the Executive Director the discretion to remove information about a member's workplace from the register when there are reasonable grounds to believe the safety of an individual (e.g., the nurse) may be jeopardized.

There was discussion about the recommended three-year timeframe before automatic removal of cautions and SCERPs (with some exceptions) and how it was determined. It was noted that the timeframe is based on an analysis of the register removal provisions in the *Health Professions Procedural Code* and the processes used by other health regulators in Ontario. The recommended timeframe is reasonable in that it gives the public a significant period of time to access relevant information while balancing fairness to members. All information that is publicly available is on the register. Once information is removed from the register, it is not available to the public.

There was a question about whether there will be a mechanism to reconsider the removal of information where it has been decided to not remove the information after the three years. A. Coghlan confirmed that the College will be transparent with members about the process for revisiting the issue when a decision is made not to remove information from the register.

Council considered approval of the proposed by-laws related to posting of cautions and SCERPs approved in March of 2015 for circulation. The report of the consultation feedback had been provided to Council in June.

N. Sears noted that Council is giving final approval to a by-law and a 2/3 majority is required.

Motion 4

Moved by H. Whittle, seconded by G. Fox,

That the proposed paragraphs regarding posting in the register and removal of cautions in person and specified continuing education or remediation programs, as they appear in attachment A to the decision note, be approved to come into effect on December 15, 2015.

CARRIED

Council considered approving by-laws related to the removal of cautions and SCERPs for consultation.

Motion 5

Moved by C. Beemer, seconded by A. Molloy,

That the proposed additional provisions for removing cautions in person and specified continuing education or remediation programs from the register, as they appear in option C of attachment A to the decision note, be approved for notice and circulation.

CARRIED

Fees By-law

N. Sears reminded Council that the proposed revisions to the Fees By-law had been approved in June for consultation. Council received a report of the consultation. N. Sears noted that this is final approval of a by-law and requires a 2/3 majority.

Motion 6

Moved by C. Egerton, seconded by M. Hogard,

That Council approve the following amendments to Articles 7.01 and 8.02 of By-Law No. 2: Fees regarding reinstatement application fees and RPN examination fees:

7.01 A person who applies for reinstatement of a certificate of registration shall pay, at the time the person makes such application, an application fee of

- i) \$350.00 where the application is made pursuant to [section 72 of the Code](#); or
- ii) \$150.00 where the application is not made pursuant to [section 72 of the Code](#).

8.02 A person who applies to attempt an examination which is a requirement for a certificate of registration in the general class as an RPN, other than the jurisprudence examination, shall pay a fee of

- i) \$255.00 if the examination is to be taken *before May 1, 2016; and*
- ii) \$220.00 if the examination is to be taken *on or after May 1, 2016.*

CARRIED

Registration Regulation

N. Sears noted that the registration regulation approved by Council in 2010 and effective January 1, 2013 included many changes. The College has received feedback from members and stakeholders about the impact of some of the new regulatory provisions.

E. Tilley, Policy Analyst, shared some of the work that staff have undertaken related to the regulation. Concerns regarding use of the term “revoked” for administrative revocations (e.g. a temporary certificate is revoked when a member registers in the general class) and the requirement for members in the non-practising class to include “non-practising” as part of their title are being addressed operationally.

Generally, the use of the term “revoked” in the stated context may unintentionally and unnecessarily convey a highly negative connotation or aspersion regarding the nurse. An alternative term, yet to be determined, is intended for future use.

It was noted that removing the requirement to include the term “non-practising” as part of the title of members of the non-practising class should not have an impact on public protection as the expectation is that nurses in this class do not hold themselves out to the public as providers of nursing care.

Issues that have come forward with the requirement that members have three years of practice “in Ontario” to remain registered in the general class were highlighted. The public interest rationale identified in 2010 for inclusion of “in Ontario” in the requirements for current practice was reviewed. Subsequent new information and changes in the regulatory environment were highlighted. Council members were asked to discuss whether the public interest rationale for requiring current practice “in Ontario” remains relevant.

It was identified that nurses are accountable for meeting standards, wherever they are practising. On return to Ontario they have a professional responsibility to ensure they can meet Ontario standards. It was noted that use of the NCLEX-RN examination for entry to practice now establishes a common entry base-line across most of North America.

While, in general, there was support that the “in Ontario” provision is no longer needed to protect the public interest and could be removed from the three year practice requirement, the following considerations were raised:

Is there a need to address differently members who work outside of Canada without first having an opportunity to consolidate their knowledge through experience in Ontario?

Recognizing that nursing practice is not comparable world-wide, is it possible to put in place a mechanism to ensure that individuals returning to Ontario from practice outside of the country have been practising in a way that is comparable to Ontario practice?

Cross Jurisdictional Practice

K. McCarthy highlighted some of the regulatory issues related to the growth of cross-jurisdictional practice – that is when a nurse registered in one jurisdiction provides care to a patient in another jurisdiction. He noted that the College does not have a policy position on this issue at this time. Council is being asked to provide early input into this issue to inform the issue development work of College staff.

Council members identified a number of scenarios where Ontario nurses or patients are involved in care that is provided across jurisdictions. While there are a range of issues related to cross-border care, such as liability, Council’s focus is on the regulatory issues.

It was noted that in the United States, which is similar to Canada in that health regulation is a provincial/state rather than national responsibility, some states have reached agreements to mutually recognize members. This supports inter-jurisdictional mobility and cross-jurisdictional care. It was suggested that Canadian jurisdictions explore the same types of agreements. It was noted that having a common entry to practice examination between Canada and the US may support broadening inter-jurisdictional agreements outside of Canada.

It was identified that it is important to consider the College’s mandate and who the College is protecting. Is it the Ontario public? What about Ontario citizens who live abroad for part of the year? What about CNO’s accountability to regulate a member? Does CNO accountability apply if a member cares for someone in or from another jurisdiction?

It was noted that a key issue is where practice and accountability lie: where the patient is or where the nurse is registered?

It was identified that the growth of new ways of practising and of cross jurisdictional practice gives rise to broader questions:

- does this mean that national or joint-provincial regulation is becoming more appropriate within the Canadian context?
- should we move to collaborative regulation across jurisdictions?

Executive Director Update – What’s Hot

A. Coghlan noted that the Executive Director update for this meeting will focus on two issues:

- reporting on the Strategic Plan; and
- the first six-month results following implementation of the NCLEX-RN examination.

Strategic Plan Monitoring

Monitoring the strategic plan is a joint Council/Leadership Team accountability. A. Coghlan informed Council that the Leadership Team is developing Key Performance Indicators (KPIs) to enhance monitoring of the Strategic Plan and to shift reporting from activities to outcomes. K. McCarthy highlighted the work being done to develop the indicators and link them to the goals of the strategic objectives.

In discussion, it was confirmed that the College’s full strategic plan is the one-page document available in the Council meeting materials and on the College website.

One member noted that the plan covers a long timeframe (i.e., 9 years) and suggested that Council consider an annual in-depth review of the plan in the context of emerging developments or changes in the environment.

K. McCarthy noted that in December, Council will receive the proposed outcome-focused Key Performance Indicators along with the draft report framework. Council will also have a briefing on the strategic plan and how it was developed, and will have an opportunity to discuss the plan and the Key Performance Indicators.

NCLEX-RN

A. Coghlan reminded Council that on January 1, 2015 the NCLEX-RN became the Canadian (excepting Quebec) entry to practice examination for registration as a registered nurse. It is an accessible, secure examination that meets all of the standards required for an entry to practice examination.

She noted that there are a number of myths circulating about the NCLEX-RN. It is best characterized as a nursing exam. While administered by an American organization, it is not an American exam. The content is about nursing practice and not about the health care system or legislation. Great care is taken in its development to ensure there are no geographic or context biases. For example, all drugs are referred to using their generic (scientific) names and both metric and imperial units of measurement are provided in examination questions.

Council was reminded that Canadian nurses, educators and regulators all had and continue to have opportunities to provide significant input into development of the examination.

It was noted that the examination is one of a number of entry to practice requirements. Another is graduation from an approved nursing education program. The program prepares applicants

for a career in nursing while the entry examination assesses the subset of knowledge, skill and judgement needed to practice safely in a nurse's first year of clinical practice.

A. Coghlan noted that this is the first time the exam has been used for entry to practice in Canada and the results are limited to the results of exams written between January and June (inclusive) when approximately 1/3 of all expected writers for 2015 completed the exam. For that reason, it is difficult to draw conclusions from the data. The College will not publicly release any program-specific data until approximately March 2016 when a full year of information is available.

B. Knowles highlighted key data for the first six months. It was noted that the overall pass rates in Canada and Ontario is lower than the overall pass rates for the previous CRNE exam; however, there are programs both in Ontario and elsewhere in Canada where students have done very well.

It was noted that the examination is a hot topic in some communities, with significant media coverage and discussion within nursing groups and educators. There was discussion about the changes in the passing standard that is used to determine whether or not a candidate is successful in the examination. The passing standard is reviewed regularly to ensure that it continues to reliably assess that successful candidates will be able to provide safe care when they enter practice. The review process is rigorous and includes a practice analysis, literature review and research. The outcome of this review may result in the passing standard changing, as it did in the last review.

A Council member who had taken both the Canadian Registered Nurse Examination and the NCLEX-RN noted that it was his experience that the NCLEX-RN is a solid examination that tests basic nursing competencies and clinical judgement.

A. Coghlan noted that, starting in November, each nursing education program will have access to detailed reports to support them in understanding areas of strength and areas to focus on for improvement within their specific cohort of nursing students. The College is monitoring the results closely and engaging with stakeholders, including educators. For example, a teleconference between CNO staff and all Ontario nursing programs was held on September 2, 2015. Once there is a full year of data, there will be opportunities for more meaningful analyses.

D. Jones reported that the College has been monitoring social media on this issue. She noted that many social media postings commenting on news articles about the examination are supporting the concept of a rigorous entry examination.

A member noted that having an examination that is standardized across jurisdictions enhances exam validity. The public can perceive of pass rates that consistently sit below 100% as a sign that the examination is a rigorous test of readiness to practice safely, and hence acts in the public interest.

The College has clear information on its website about information to support students' success in the examination. Students who are unsuccessful in passing the examination receive specific information on their performance in each of the nursing practice domains tested, and from this information can identify areas for improvement to support future examination success and safe 'new' nursing practice.

Executive committee minutes

Council members received minutes of the June 5, 2015 and August 25, 2015 Executive Committee meetings.

N. Sears noted that on June 5th, the 2014-2015 Executive Committee decided to appeal a decision of the Discipline Committee on a point of law.

The first meeting of the 2015-2016 Executive Committee took place on August 25th and, in addition to planning for Council, the Executive addressed its approach to working together and to addressing time sensitive issues.

There were no questions about the Executive minutes.

Finance Committee

C. Barnet presented the report of the Finance Committee meeting of August 25, 2015. In addition to orientation, the Committee reviewed the six month unaudited financial statements and the plan for development of the 2016 budget.

In Council's discussion of the financial statements, there was a question about whether a large variance caused by staff vacancies has impeded the College from carrying out its work. A. Coghlan noted that if there are difficulties in filling a position and essential work or a project might be impacted, then contract support is brought in to be sure the College's work is not impacted. In these instances, contracting costs are balanced against unused salary funds.

A Council member queried the pension liability. It was noted this is a new accounting standard. While the College's pension plan is underfunded and hence has the stated liability, the funding status falls within the government guidelines for acceptable variances.

Motion 7

Moved by C. Barnet, seconded by C. Egerton,

That the six month unaudited financial statements as at June 30, 2015 be approved.

CARRIED

Dates of Council meetings

In accordance with by-laws, the Council approves meeting dates for the coming year. In response to Council feedback, the Executive is recommending that meetings be extended to 1.5 days to allow for in-depth discussions of strategic issues and governance. If the additional half day is not needed, Council members will receive at least a month's notice.

N. Sears suggested that members plan to attend meetings for a full day (until 5p.m.). Once a full agenda is available, the anticipated end time will be clearer.

Motion 8

Moved by G. Rudanycz, seconded by A. Plumton,

That the following be the dates for Council meetings in 2016:

- Wednesday, March 9 from 1:00 p.m. and Thursday, March 10 from 9:00 a.m.;
- Wednesday, June 8 from 1:00 p.m. and Thursday, June 9 from 9:00 a.m.;
- Wednesday, September 21 from 1:00 p.m. and Thursday, September 22 from 9:00 a.m.; and
- Wednesday, December 7 from 1:00 p.m. and Thursday, December 8 from 9:00 a.m.

CARRIED

Appointments

In accordance with the by-laws, the Executive appoints new members to committees. These appointments are confirmed by Council at its next meeting. N. Sears noted that the Executive had appointed the two new public members to fill vacancies on the Discipline Committee.

Motion 9

Moved by M. Hogard, seconded by G. Fox,

That the appointment of Nicole Osbourne James and Ashleigh Molloy, public members, to the Discipline Committee until June 2016 be confirmed.

CARRIED

Next Meeting

Council will meet again on Thursday, December 3, 2015.

Conclusion

At 4:50, on conclusion of the agenda and with the consent of the Council, the Council meeting of September 10, 2015 concluded.

Chair