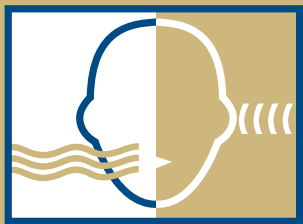


CASLPO



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SPRING 2011

CASLPO TODAY

Recognizing the Need: More Funding for Cochlear Implants

The Hospital for Sick Children

THE SLAIGHT FAMILY
ATRIUM

SickKids

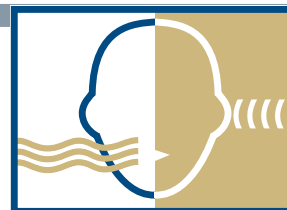
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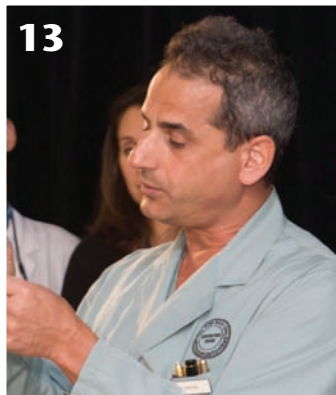
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Cover image courtesy Robert Teteruck, Senior Photographer,
The Hospital for Sick Children.



CASLPO TODAY

REGISTRAR'S MESSAGE

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Early in April, **Margaret Drent** was appointed as the College's new **Director of Professional Conduct**. This represents a milestone in the College's continuing staff reorganization planning. Since Lynn Latulippe left the College two years ago, CASLPO has not had a dedicated resource devoted to matters of complaints and professional conduct. In the interim, fortunately, Deputy Registrar Carol Bock and former Deputy Registrar, Karen Luker, have been handling these matters, in addition to their other duties. This was not an optimal deployment of resources, and with Margaret's arrival this situation has now been addressed. The College is grateful to Carol and Karen for their assistance and support over the past two years.

Margaret, a lawyer by profession, comes to CASLPO from the Health Professions Regulatory Advisory Council (HPRAC), where she was a policy analyst. Prior to this, she served for many years as a legal research officer for the Ontario Legislative Assembly. She also served previously as litigation counsel for the Office of Information and Privacy Commissioner of Ontario. Margaret has a solid understanding of the health professions regulatory environment and is fluently bilingual. She will also be providing assistance to Council's Audiology Practice Advisory Committee and responding to audiology-related practice calls.

Margaret will also be involved closely with CASLPO's review of three very important documents. Currently, the College has in place an approved Regulation on Professional Misconduct. It has not been changed since 1993. In 1996, the College forwarded regulations respecting Advertising and Conflict of Interest to government for approval. However, these regulations were never formally approved by the government. Going forward, the College treated these proposed regulations as standards of practice for both professions. The Council of the College recently decided, on a priority basis, to review all three documents to ensure that they reflect current practice realities and address more clearly issues which have arisen over the years for both members of the public and the professions.

CASLPO will, therefore, soon be engaging the College membership and external stakeholders in reviewing the documents. This will be accomplished through a survey of the membership over the spring and summer, as well as focus groups of members. This should position Council to approve new versions of the documents by the end of the year, with an intention to present to the government, for approval, new versions sometime in 2012.

Some of the topics covered in the consultations will include:

- Use of practice terms, titles or designations;
- Business practices and patient fees;
- Conduct that could reasonably be regarded by members as "disgraceful, dishonourable, or unprofessional";
- Advertising of member services, including issues concerning: references to specialization endorsements, patient testimonials;
- Solicitation of business;



CASLPO COUNCIL

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Nancy Blake, SLP, Vice-President
Sasan Borhani, AUD, Vice-President

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Paulina Finak, SLP

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Ferne Dezenhouse
Pauline Faubert
John Krawchenko
Estrella Tolentino
Josie Rose

REGISTRAR'S MESSAGE

- Misleading claims of expertise;
- Conflicts of interest relating to: direct or indirect “benefits”; maintenance of professional judgement; member interactions with manufacturers, dealers, or other vendors in relation to promoting, selling or prescribing products; and
- Provisions of choice for patients in selecting services and devices.

After Council has approved in principle new versions of the documents, they will be circulated formally to members and stakeholders for a 60-day consultation period, prior to final College consideration and presentation to the ministry for approval.

We are, therefore, very hopeful that at the end of the process, with the assistance of the membership and stakeholder responses, CASLPO will emerge with a set of documents that will be more clear, useful, enforceable and robust for the public, for members and for other interested parties. A package of information for consultation will shortly be distributed to all involved.

Margaret Drent can be reached at 416-975-5347 or 1-800-993-9459 x 221 or mdrent@caslpo.com.



Brian O'Riordan,
Registrar

Audiologists Watchful of Practices

Over the past few years, CASLPO has received a number of complaints from audiologists regarding the practice of other audiologists. Most of these complaints have addressed issues pertaining to advertising, as is illustrated in the summary below.

On December 29, 2009, an audiologist submitted a complaint against four members of the College for improper advertising; all four audiologists worked at one clinic. A photo taken of the clinic's window read: "Specialists in Digital and High Technology Hearing Aids." The complainant alleged that the sign was misleading since there was no indication that any of the staff members had applied to the College for individual certificates of expertise or specialization, as stated in its Proposed Regulation for Advertising (1996). The complainant referred to Schedule 2, Section 95-18 of the Proposed Regulation, which states:

1. For the purpose of this regulation, an advertisement is defined as any oral, written, or visual promotion in any medium, directed towards the general public.
2. An advertisement with respect to a member's practice must not contain:
 - c) a reference to a specialization in any area of practice or in any procedure or treatment unless the member holds a specialist certificate issued by the College.

Currently, the College does not have areas of specialty for its members. As part of the submission, the complainant referred to a complaint submitted five years ago in which the same clinic was instructed by CASLPO's Registrar to remove the sign due to a violation of the Proposed Regulation for Advertising. In their responses to the complaint, the audiologists indicated the following

(not all statements can be attributed to all respondents):

- Previous owners of the clinic were responsible for the signage
- The clinic was sold several years ago, and at the time, hearing instrument specialists (HIPs) were employed there. The possibility exists that the clinic may engage HIPs in the future
- Complaints should be directed to clinic owners who are responsible for approving signage rather than the audiologists who work as employees. Employees can certainly inform owners of their regulations, but have no say in final decisions regarding marketing efforts

An updated photo of the clinic window was forwarded to the College, demonstrating that the wording in question had recently been removed.

A panel of the Inquiries, Complaints and Reports Committee (ICRC) considered the complaint, and was of the view that the four audiologists should be reminded of their responsibility in following the Proposed Regulation for Advertising, which prohibits members from using the term "specialist" or any term, title, or designation referring to or inferring a specialization in audiology or speech-language pathology unless the College has issued a specialist certificate. The term "specialist" in the regulated health professions legislation refers to someone who has completed a prescribed course

Council met on March 4, 2011 and the following items were discussed:

1. Revised College 2010 – 2011 Strategic Priorities and Ongoing Activity Areas
B. O'Riordan updated Council on the revisions/updates proposed for the Strategic Priorities.

The resignation of M. Jones-Drost resulted in the rescheduling of some of the priorities, specifically:

- Government relations activity
- Public awareness
- Website enhancements
- SCERPs and Jurisprudence Knowledge
- SAT for Non-clinical work
- Updating and revising PSGs and Position Statements

2. Regulatory Monitoring

Council reviewed the following committee reports: Executive, Registration, Quality Assurance, AUD Practice Advisory, and SLP Practice Advisory.

3. Finance Committee Composition

Council approved the Finance Committee composition to include V. Papaioannou, P. Finak, J. Krawchenko, P. Faubert, and M. Petkoff.

4. Task Force on SCERP modules

B. O'Riordan & C. Bock updated Council on the recommendation to approve the appointment of a SCERP Task Force, as outlined in the proposed Terms of Reference. Council approved the establishment of a SCERP Task Force.

5. Joint Task Force on CHIL

Council approved the creation of a joint CASLPO/CASLPA/OSLA Task Force on the OSLA Communication Health Information Line (CHIL).

6. Position Statement on the Roles and Responsibilities of Audiologists Completing ADP Hearing Device Applications

Council approved the Position Statement on the Roles and Responsibilities of Audiologists completing ADP Hearing Device Applications for publication and distribution to members and stakeholders.

7. Position Statement on the Use of Support Personnel by Audiologists

Council approved that the Position Statement on the Use of Support Personnel

MARCH COUNCIL HIGHLIGHTS

by Audiologists be sent via e-mail to the AUD PAC with changes, and that following the committee review, this document be sent to members and stakeholders for comment.

8. Professional/Problem Based Ethics Program (ProBE)

B. O'Riordan and P. Finak briefed Council on the ProBE program. Council decided that this item be referred back to ICRC for review and to obtain additional information.

9. 2011 Election Schedule for Districts 1 & 3

B. O'Riordan & C. Lammers updated Council on the 2011 election schedule/process for Districts 1 and 3, which Council approved.

10. Records Regulation

B. O'Riordan and C. Bock updated Council on the process thus far. Council approved the Draft Records Regulation (2011) in principle, with the changes discussed, for submission to the Ministry of Health and Long-Term Care.

11. Registration Regulation

B. O'Riordan & C. Myrie provided an update to Council on the response from the Fairness Commissioner regarding our proposed Regulation and on the process thus far.

B. O'Riordan & C. Myrie met with Eric Bruce, Policy Analyst from the Ministry, regarding this regulation on March 7, 2011.

12. Position Statement on Release of Test Data and Materials

C. Bock provided an update to Council regarding the status of this position statement.

Information/concerns/suggestions, which were given by various Council members, will be brought back to the AUD and SLP PACs for consideration.

13. Bylaws

B. O'Riordan provided an update on the bylaw review thus far and the process upcoming regarding consulting the membership on bylaws 3, 6, and 7.

of training beyond that required for initial practice and an examination evaluating their knowledge in that specialty as established by their regulatory College. Currently, CASLPO does not have areas of specialty for its members.

The audiologists were further

reminded of their responsibility to contact CASLPO for assistance in resolving any perceived conflicts between their employer's demands and their responsibilities regarding misleading or improper advertising. CASLPO encourages other members who may be in similar situations to contact the College.

In Memory of Jean Loeffelhardt

By Joanne Shimotakahara



On February 4, 2011 Jean passed away peacefully in her sleep. Her death shocked and saddened her family and friends since Jean had overcome two bouts of cancer a few years ago and looked healthy and happy. In 1989 I first met Jean at the Dufferin-Peel District School Board. As speech-language pathologists we shared a common interest in developing consultation skills. I was initially struck by Jean's direct communication style and generosity in sharing her knowledge, resources and contacts. As I got to know Jean personally I saw beyond her professional strengths to her exceptional loyalty as a friend.

For more than 10 years Jean and I attended the Messiah Concert at Roy Thomson Hall every December. Jean knew the words to the Messiah by heart and sang the Hallelujah chorus with gusto! Sometimes my daughter

joined us since she and Jean were also good friends. Jean was keenly interested not only in her friends but also in their children. In return we were always updated on her son Kyle of whom she was justifiably proud. Jean kept in touch with friends from childhood and university days in Iowa, friends from B.C., the Geneva Centre and SLP friends, her son Kyle's friends and their parents, golfing friends, banking friends, interior designers and manicurists. Following the tradition of her beloved husband Ed, who died 15 years ago, Jean continued to hold her Christmas party for friends from all aspects of her life, with festive food, amazing decorations, and a pianist playing carols. She encouraged her guests to sing enthusiastically if they wished to be invited again! When Jean dealt with cancer and knee surgery Susan, Christiane, Leslie and I brought Jean potluck dinners between treatments and saw her cope with courage, humour and resolve. Once she was well, Jean was honoured at a fundraising event led by her special friend and colleague Ellen Yak to benefit Sunnybrook Hospital's Odette Cancer Centre. Jean's oncologist said Jean taught him to make eye contact and tell her the truth.

Jean was exceptional in her personal presence, philanthropic interests and professional commitment to speech-language pathology especially in serving individuals with autism spectrum disorder and their families and mentoring other professionals. I will forever remember Jean as an outstanding speech-language pathologist, a caring mother, and most of all a fabulous, unforgettable friend.

14. Rules of Order for Council & Committees

B. O'Riordan updated Council on Bourinot's Rules of Order for Council and Committees which are to be in place as per the newly approved bylaws. Further discussion will take place at the June Council meeting.

15. Governance Monitoring

Council reviewed Governance Policies L4, L5, L6, L7, and L8 presented by B. O'Riordan & G. Katchin.

16. Evaluator's Report of the Council Meeting

F. Dezenhouse reported that the meeting was run very well, with strong participation in discussions and an obvious concern for upholding the public interest.

17. Registrar Performance Review – IN CAMERA

Council considered matters relating to the performance review process for the Registrar.

18. Adjournment

The meeting adjourned at 4:06 p.m.

CASLPO Council Members



Back row (left to right): Bob Kroll, Luc DeNil, Sasan Borhani, Pauline Faubert, John Krawchenko, Sandi Singbeil, Ferne Dezenhouse

Front row (left to right): Nancy Blake, Brian O'Riordan, Carolyn Moran, Meg Petkoff, Estrella Tolentino, Vicky Papaioannou, Paulina Finak

Absent: Bryan DeSousa, Cathrine Campbell, Jack Scott, Rosanne Lavallée-McNamee, Mary Suddick

Monday, October 3, 2011 - Mark This Date For Your Registration Renewal!

By Colleen Myrie, Director of Registration Services and Gregory Katchin, Director of Finance and Operations

For members who are away from their e-mail during the summer months, the College wishes to provide this early reminder that it is a member's responsibility to renew their certificate of registration by October 1 of each year, even if the member fails to receive a notice from the College. The registration renewal deadline for 2011/2012, since October 1 falls on a Saturday, is **Monday October 3, 2011**.

To ensure that you receive the College's e-mail reminders regarding the registration renewal, you should confirm that the College has your current e-mail address on file. Also remember to check your spam or junk mail folders regularly, because a CASLPO e-mail message could mistakenly be directed to a spam or junk folder by your service provider. If you will be away from your workplace in the summer, please ensure that the College has an e-mail address for you that you can access while away from the office.

The College's online renewal system will be available to members as of

August 2, 2011. To renew online, you need your registration number and your date of birth to login.

You can also renew using a paper renewal form if you download CASLPO's 2011/2012 renewal package from our website on or after August 2, 2011. If you would like the College to send you a renewal package by mail, you must make a request by telephone, e-mail, or fax before September 16. After this date, a renewal package may not get to you in time by regular mail for you to meet the October 3 deadline.

To avoid the late payment fee, do not wait until the last minute to complete your registration either online or by mail. You can post-date your cheque up to October 3, 2011 and it will not be deposited until that date.

If you are planning to change your class of registration, please be advised that you will not be permitted to renew online and must download the paper version of CASLPO's renewal form and send it to the College by mail or electronically by fax or e-mail, in time

for the October 3 deadline.

If you are planning not to renew your certificate of registration, do not let your registration lapse. You must advise CASLPO in writing via regular mail, fax, or by e-mail that you wish to resign from the College. Once the College has received your notice of resignation, your certificate of registration will not be suspended.

If you fail to renew your membership with the College and do not resign, your membership will be suspended for non-payment of fees and eventually revoked. A notation regarding member's suspension or revocation must be included on the College's public register. This notation will also be included every time a letter is provided that verifies the member's registration status with the College.

If you have a question regarding your registration or renewal, please call 416-975-5347 or toll-free at 1-800-993-9459 and ask for either Gregory Katchin at extension 217 or Colleen Myrie at extension 211.

College Changes That Will Affect Your Practice: Regulations, Bylaws and Practice Standards Update

By Carol Bock, Deputy Registrar

It is important to keep abreast of changes that will affect your practice. When regulations, bylaws and practice standards are in circulation, it is your opportunity to provide Council with feedback. When any of these documents

are published you are then required to adhere to them. Here is an update as of April, 2011:

In Development

- PSG on Assessment of Adults for

SLPs

- PSG on Dispensing
- PS on Disclosure of Test Materials and Data
- PS on Use of Support Personnel by Audiologists

- Advertising Regulation
- Conflict of Interest Regulation
- Professional Misconduct Regulation

In Circulation

- PS on Roles and Responsibilities of Audiologists Completing ADP

- hearing Device Applications
- Bylaws pertaining to fees, the register and personal professional liability insurance

Submitting for Ministry Approval

- Quality Assurance Regulation

- Registration Regulation
- Records Regulation

Recently Published

- Reference Guide for SLPs Employed in the School Board Setting

Ontario Health Study Étude sur la santé Ontario

Launched in the fall of 2010, the Ontario Health Study (OHS) is the largest population-based health study ever attempted in North America. The OHS aims to uncover common risk factors that lead to a variety of diseases, including cancer, diabetes, heart disease, asthma, Alzheimer's, and depression.

The long-term study seeks to recruit Ontarians aged 18 and older. Consisting of an online questionnaire and optional follow-up questionnaires on topics like diet and physical activity, the study will arm researchers with information that may help them develop strategies for the prevention and treatment of various diseases and conditions. Signing up for the study and completing the initial questionnaire at OntarioHealthStudy.ca takes approximately 20 to 30 minutes.

More than 200 scientists and clinicians at universities, hospitals and research institutes across Ontario sit on the study's 30 scientific working groups which are responsible for designing follow-up questionnaires and other measurement protocols.

The Auditory/ENT/Speech Language working group is chaired by Dr. Robert Harrison of SickKids. Currently, there is little research indicating how many Canadians have sensorineural or conductive hearing loss and not much is

known about the health status of Canadians who have little or no hearing. According to a 2007 study using data from the Canadian Community Health Survey, those with hearing loss are more likely to report suffering from depression and chronic diseases than other Canadians.

"The Ontario Health Study is an exciting opportunity to conduct big-vision science that will improve the future health of people in Ontario and around the world," says **Professor Lyle Palmer**, the study's executive scientific director. "Studies like the OHS are now recognized as essential resources to help identify new risk factors for disease and to characterize known environmental and genetic risk factors."

Population-based health research has led to many important discoveries in the past. For instance, the Framingham Heart Study in the United States, which began in 1948 and continues today, led to the discovery, that cigarette smoking is linked to an increased risk of heart disease.

The Ontario Health Study's first optional follow-up questionnaire is on psychosocial health and will be released this spring. It's hoped that findings from the research will help doctors understand the most important psychosocial risk factors to screen for in their patients and

when intervention is necessary.

Moving into the next phase of the study, the first OHS workplace mini clinic is scheduled to take place in June in partnership with Women's College Hospital. Participants who have completed the initial online questionnaire will be invited to visit the mini clinic to provide blood and urine samples and complete a short set of physical measurements.

Beginning in September, a subset of participants will be offered the opportunity to visit the Ontario Health Study's assessment centre in Toronto for comprehensive tests, including lung and cardiovascular function, vision and hearing, physical and cognitive function and imaging such as C-IMT and full-body DXA.

To find out more about the study or to complete the online questionnaire, visit OntarioHealthStudy.ca.



Recognizing the Need: Funding for Cochlear Implants

By Sherry Hinman

The logo for the cochlear implant program at The Toronto Hospital for Sick Children (SickKids) is a funky yellow spiral, representing the cochlea, surrounded by the cheerful rays of the sun – a vibrant symbol of hope.

One of the hopes of the program is for children who can benefit from cochlear implants to have access to them in a reasonable time frame. And the program just came closer to fulfilling that hope. On March 7, the Ontario Ministry of Health and Long-Term Care (MOHLTC) announced that it would be providing new funding for cochlear implants. Five hospitals in Ontario will share the funding: The Ottawa Hospital, Children's Hospital of Eastern Ontario, London Health Sciences Centre, Sunnybrook Health Sciences Centre, and SickKids.

“The government recognized that there are a lot of children and adults waiting for cochlear implants,” explains **Vicky Papaioannou**, clinical audiologist and associate director of the program at SickKids, where she's worked for the past 18 years. Her role is more administrative than clinical; she spends a lot of her time in candidacy assessment for the program. Papaioannou is also president of CASLPO council.

The cochlear implant program at SickKids is the largest in North America, with approximately 120 cochlear implant surgeries performed each year. It is run by a comprehensive multidisciplinary team that includes surgeons, audiologists, speech-language pathologists, and auditory-verbal therapists. And the team has strong connections with the cochlear implant lab, which creates a unique opportunity for research.

The funding is for the devices only, not for staff or for the time to “switch on” the devices, explains Papaioannou. And it's one-time funding. So this means they



Hon. Deb Matthews (Minister of Health and Long Term-Care), Mary Jo Haddad (President and CEO, SickKids), Dr. Blake Papsin (Cochlear Implant Program Director and Surgeon, SickKids), Jamie Abbott (patient's Dad), Danielle Doiron (patient's Mom), Braydy Abbott (Patient).



Dr. Blake Papsin

have to manage the money well. The funding will be divided according to the need and capacity of each hospital. “We were asked how many cochlear implants we do and how many more we could do,” she says. All five programs will be collecting outcomes.

A media release from the MOHLTC states that **184 additional cochlear implants**, with a total value of **\$5.9 million**, will be provided, to help reduce

wait times for both adults and children, and to reduce the number of people waiting for a device by **over 50%**.

The government response came mostly as a result of public pressure. “Mostly it was from users and parents of children who were waiting for cochlear implants,” says Papaioannou. Many met with their MPP. A surgeon in London also met with his MPP. Several hospitals approached their LHIN (Local Health Integration



Mary Jo Haddad at podium. Behind from left to right – Dr. Eitan Prisman (otolaryngology resident, SickKids), Dr. Karen Gordon (PhD – Archie’s Lab, SickKids), Eloisa Salonga (Operating Room Nurse, SickKids), Ann Roche (Clinical Services Co-ordinator, SickKids), Nancy Greenwald-Hood (Auditory-Verbal Therapist, SickKids), Patt Fuller (Information Co-ordinator, Cochlear Implant Program, SickKids), Vicky Papaioannou (Associate Director, Cochlear Implant Program, SickKids), and Gina Goulding (Audiologist, Cochlear Implant Program, SickKids).

Network). And VOICE for Hearing Impaired Children was also involved in advocating for the funding.

The additional funding takes on new significance when you consider the recent trend toward bilateral implants. “We led the country in the provision of bilateral implants,” Papaioannou says. Initially, the two implants were provided sequentially; SickKids’ first sequential implants were done in 2004. But “we’ve been sold on simultaneous implants for a long time. We do a lot of physiological measures and we think simultaneous implants are the way to go.”

The preference for bilateral implants means that, in addition to the many adults and children waiting for a cochlear implant, there are many others who are waiting for their second one. Papaioannou says the wait times differ greatly among hospitals. “For example, there’s a three-year wait for adults in London. And for children with sequential implants, some waited for three years for their second one.”

There are potential serious consequences to waiting. In most cases, adults who receive implants have lost their hearing relatively quickly, for example, as a result of meningitis, ototoxicity, head trauma, pressure-related injury, malformation of the cochlea, or disease affecting the cochlea. A long wait for an adult who has

suddenly lost the ability to hear could be devastating.

The wait times for children are less than they are for adults, though they can still be significant. And Papaioannou reminds us that children can’t afford to be auditorially deprived. As well, if the hearing loss is as a result of meningitis, there is a critical period after which the cochlea could ossify and a cochlear implant would no longer be possible. This can happen within even a year or two.

Papaioannou hopes that the increased funding will allow everyone who needs a cochlear implant (or two) to have them. **“For pediatrics,” she says, “this will reduce or even eliminate the wait list for SickKids. In the past, many got one cochlear implant and waited for the other. In the future we hope to do two for each.”**

Newer devices can accommodate a greater variety of needs. At one time, implants were only for people with a profound hearing loss. But she says, “We just had the first pediatric trial in North America for a hybrid device. This is a hearing aid and cochlear implant in one.” The device is for people with good low-frequency hearing, which can best be corrected acoustically (with a hearing aid) and greater loss in the high frequencies, which can best be corrected electronically (with a cochlear implant).”

This device might be used, for example, by children who lose high frequency hearing after cancer treatment.

As with most interventions, providing cochlear implants sooner rather than later is ideal. Because of wait times, Papaioannou urges anyone considering a child or adult as a potential candidate to refer the individual as soon as possible. **“The key is to refer them as soon as they’re diagnosed or as soon as they become a candidate.”**

With all the advances in cochlear implant technology, it is easy to forget that it has only been a few decades since they’ve been in existence, and easy to overlook the extraordinary difference they can make to people who use them. As Papaioannou says, **“Cochlear implants are about as much of a medical miracle as you can get.”**

Cochlear Implant Programs in Ontario The Hospital for Sick Children

<http://www.sickkids.ca/CochlearImplant/Cochlear-Implant.html>

The Ottawa Hospital

<http://www.ottawahospital.on.ca/wps/portal/Base/TheHospital/ClinicalServices/DeptPgrmCS/Departments/Audiology/CochlearImplants>

Children’s Hospital of Eastern Ontario

<http://www.cheo.on.ca/En/audiology>
London Health Sciences Centre
http://www.lhsc.on.ca/About_Us/LHSC/Publications/Features/Cochlear_Implant_Program.htm

Sunnybrook Health Sciences Centre

http://sunnybrook.ca/content/?page=Dept_ENT_Prog_Coch

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John Krawchenko: Public Council Member

By Sherry Hinman



When John Krawchenko sought appointment to the CASLPO council, it's not as though he had too little to occupy his time. Krawchenko has a busy law practice in Hamilton, where he's been since he was called to the bar in 1988. His practice includes family litigation, estate litigation, corporate and commercial law, wills and estates.

Krawchenko was originally appointed to CASLPO council in 2008, by order in council by the Ministry of Health and Long-Term Care, and he was reappointed for another three years in April of this year.

Once on council, he was quick to roll up his sleeves. In addition to attending regular council meetings, he has been on the discipline committee since he joined; was on the registration committee until last year; was elected to the executive in 2009, where he still sits; and has been a member of the patient relations, finance and quality assurance committees since last year.

Krawchenko sees public members as having an opportunity to bring their own expertise to the Council table, as someone not part of the speech pathology/

audiology world. "It brings a different perspective," he explains, "in order to provide a balanced view. It's the colour that's added to the council work, all in the public interest."

While he sits on council as a member of the public, he doesn't hesitate to don his other hats, when appropriate. "As a lawyer, my experience and knowledge are sometimes of assistance, for example, when we review a bylaw. Everyone does that; you bring everything to the table. At the same time, though, you can't let your own views overshadow the work of council for the benefit of the public."

Krawchenko also devotes time to his own profession. He has been trustee of the Hamilton Law Association since 2007. This is an active association, with over 900 members. He assists in providing continuing professional development for them, is the chair of the real estate committee, and is the chair of the services and benefits committee.

But it's not "all work and no play" for Krawchenko. For the past 10 years, he has been active in local theatre, performing in one or two shows a year. "We open a show tonight that will run for the next two weeks," he says. "The play is called *Looking*. I was also in *A Man for All Seasons*; I played King Henry the VIII."

He's also into back-country camping. "We go during trout season," he says, in May, and before the Thanksgiving long weekend. We try to go at least twice each year, to places like Algonquin Park. The kids are big campers and the whole family goes, even the dog," he adds.

And he's into motorcycles, driving a BMW R1200C cruiser. "I ride, sometimes

with my friends, or my family goes out. And in the good weather, it becomes my mode of transportation to the office," he says.

When asked how he manages so many activities at once, he replies, "It all fits in. I am blessed with a very supportive family." Krawchenko is married and has three children, and he says it takes a lot of cooperation to make things work, as they're all very busy.

And it was Krawchenko's wife who got him interested in regulation and being part of the council. "My wife was a council member for the College of Pharmacists," he says. "And she ended up as president. The issues are similar and the process is similar. And I enjoyed the discussion. So we 'tag teamed'; when she stopped [her council activities], that's when I began."

And what keeps him motivated several years later? "The people I've met," he says, without hesitation. "They're extraordinary. The professional members stand up for their profession. The public members are such talented people. And I get a real sense of involvement and accomplishment with the work of the council. Things move incrementally, but they move toward a positive end. It's so fulfilling to work on something you believe is in the best interests of the profession, for the benefit of the public."

With all that Krawchenko does, you might imagine him spinning several plates in the air. But he says he's enjoying what he's doing. "It's a good mix; it's fulfilling, with my work, my family, the council and some fun. As long as I've got it in balance, I'm a very happy fellow."

Capacity to Make Admission Decisions: What is the Role of Speech-Language Pathologists and Audiologists?

By Alexandra Carling-Rowland

Introduction

According to the *Health Care Consent Act (HCCA)* every competent individual in Ontario has the right to decide whether or not to be admitted to a long-term care facility. If the individual's ability to make such a decision is in doubt, then his or her capacity is evaluated. But what is specifically meant by capacity? Who can and should evaluate? Is the system fair for those we serve, people with acquired speech language and hearing issues? And what are the implications for our two professions? This article will attempt to answer these questions, illustrating points with relevant legislation and findings from appeals to the Consent and Capacity Board. It will also provide information on training in capacity evaluation to ensure that we are better informed to advocate for, and participate in the fair and just evaluation of capacity to make a decision on where and how to live.

Definition of Capacity

The HCCA defines what is meant by "capacity": "If the person is able to understand the information that is relevant to making a decision about the treatment, admission to a care facility or personal assistance service, as the case may be, and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision. (Sch. A., para 4 (1))"

The key word is *able* to understand and appreciate. In *Starson v. Swayze*,¹ the presiding member pointed out: "... the Act requires a patient to have the ability to appreciate the consequences of a decision. It does not require actual appreciation of those consequences. The distinction is subtle but important. A

lack of appreciation may reflect the attending physician's failure to adequately inform the patient of the decision's consequences."¹

In order to provide clarity, the Capacity Assessment Office, Ministry of the Attorney General of Ontario, has provided definitions of the key constructs: "To 'understand' refers to a person's cognitive abilities to factually grasp and retain information. To the extent that a person must demonstrate understanding through communication, the ability to express oneself (verbally or through symbols or gestures) is also implied."

The "appreciate" standard attempts to capture the evaluative nature of capable decision making, and reflects the attachment of personal meaning to the facts of a given situation.²

These constructs are particularly pertinent to speech-language pathology (SLP) and audiology. If an individual is living with a hearing or acquired communication deficit, his or her ability to accurately grasp and retain information and express oneself, demonstrating understanding is compromised. Erroneous determinations of capacity have been reported in findings of Consent and Capacity Board appeals and by SLPs. To help overcome communication obstacles to revealing capacity, the evaluator needs to possess an in-depth knowledge of hearing, speech, and language deficits, and the skills to enhance understanding and expressive communication.

Health practitioners eligible to evaluate capacity are members of specific

regulated colleges, including CASLPO. In contrast to capacity "assessors" for whom education to assess a person's capacity regarding property and personal care is mandatory, "evaluators" are not required to receive special training.³ They are considered qualified solely based on their membership in a designated college. A lack of mandatory training in capacity evaluation has resulted, with a few exceptions, in no training at all. Coupled with general misconceptions by all health care practitioners regarding consent and capacity, a lack of knowledge and clarity has resulted in SLPs being either unaware of their role or a lacking in confidence and knowledge to participate in a process that has serious consequences.⁴

Capacity Evaluation Process

A brief examination of the process will help to illustrate the potential complexities of evaluating capacity with people diagnosed with speech, language and hearing deficits. Before a capacity evaluation is administered, the patient must understand a significant amount of complex information:

- His or her capacity to make a decision regarding admission to long-term care is going to be evaluated
- Why the evaluation is taking place
- What is capacity?
- His or her presumption of capacity to make this decision
- The potential consequences of a finding of incapacity, namely the patient's substitute decision maker will make the decision on his or her behalf
- The appeal process

- The right to ask questions and receive answers
- The right to give or withhold consent to evaluate capacity

Wahl cites *Re: Koch* case, where Mr. Justice Quinn stated that the evaluators should: “inform the person being evaluated of the purpose and consequences of the evaluation, and should not evaluate if the person refuses.”³

Current Capacity Evaluation

The Ministry of Health and Long-Term Care developed a questionnaire to assist the process entitled “The Capacity to Make Admissions Decisions” (CMAD). The questionnaire is composed of five questions: (1) What problems are you having right now? (2) How do you think admission to a nursing home or home for the aged could help you with your condition /problem? (3) Can you think of other ways of looking after your condition/problem? (4) What could happen to you if you choose not to live in a nursing home or home for the aged? (5) What could happen to you if you choose to live in a nursing home or home for the aged?

Questions 1 and 3 examine the patient or client’s ability to understand relevant information, and questions 2, 4, and 5 the ability to appreciate the consequences of a decision. This questionnaire has come under a great deal of criticism for its simplified use.³ It was not designed to be a pass or fail test, rather, a framework to guide the evaluator and provide a reference point for subsequent questions to help establish capacity.⁴

The CMAD questionnaire is largely inaccessible to people with communication barriers.⁵ It uses an open-ended question format, does not provide visual

material to help the individual to understand the capacity questions or communicate a response non-verbally. As mentioned earlier, it is the evaluator’s responsibility to ensure that the patient knows about his or her medical condition, physical limitations and understands the nature of long-term care and how this type of accommodation would help him or her.³ The majority of evaluators are case managers and social workers who may not have the specialized communication skills required to ensure a fair process. A recent research trial examining capacity evaluation of competent individuals with aphasia found that social work evaluators were unable to consistently reveal capacity. One competent person was found lacking in capacity, and 19% of the evaluators were unable to determine capacity either way.⁵

Presumption of an Individual’s Capacity

It is important to explore the legal tenet of “presumption of capacity” further. Although an individual may have been found lacking in capacity in one area, for example managing an investment portfolio, he or she may have the ability to understand and decide where to live. Consequently, the individual should be presumed competent for every new decision. The Capacity Assessment Office of the Ontario Ministry of the Attorney General states that there should be reasonable grounds to prompt an evaluation of capacity: “Routine screening of whole classes of individuals cannot and should not be endorsed, as this prejudices an individual’s capacity based on class membership. For example, it is incorrect to assume that all intellectually disabled persons must be incapable by virtue of their disability.”²

This applies to people who have aphasia and cognitive communication disorders

following a stroke or head injury. Just because he or she cannot easily understand verbal information or give a full verbal response does not automatically mean that they do not have decision-making capacity. With the right help and training capacity can be revealed.^{6,7}

Decisional Capacity and Risk

Capacity evaluation is a complex process that frequently puts health practitioners at odds with the patient. Rehabilitation professionals and case managers consider a patient’s safety a high priority, especially regarding mobility and activities of daily living. When a competent patient makes a decision that puts him or her at risk, it is difficult for the health care team to accept that decision. However, as the Ministry of the Attorney General states: “Unless there is clear and compelling evidence of impaired ‘ability to understand and appreciate’, the assessor cannot use a finding of incapacity as a means to manage risk.”²

Summary

There are many common misconceptions regarding capacity evaluation in healthcare. This places a vulnerable population in an even more precarious position regarding the preservation of legal rights to decide where and how to live. “A health practitioner who makes a finding that rebuts this presumption (of capacity) bears the onus of proving the lack of capacity. In my view, that onus extends also to proving that the assessment was procedurally fair.”⁸

There is a strong argument to be made for SLPs and audiologists to evaluate the capacity of individuals living with communication and hearing deficits in order to ensure evaluations are “procedurally fair.” However, this

requires in-depth training in the legislation and the evaluation process and the tools to overcome the barriers.

With training and our skills and knowledge SLPs and audiologists will go far to protect people's legal and ethical rights.

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