

Massage Therapy Today

Putting Knowledge into Practice

FOCUS ON PROFESSIONAL ISSUES

The Journey Towards
HST Exemption **4**

The Canadian Massage
Therapist Alliance **9**

Interpersonal Issues
Affecting Massage
Therapy Practice **12**

Do We Have
an Accord?
Contracts Essential
to Professional
Relations **16**

The Essentials for
Regulated Health
Professionals **18**

A Better Understanding
of HCAI: Health Claims
for Auto Insurance **20**



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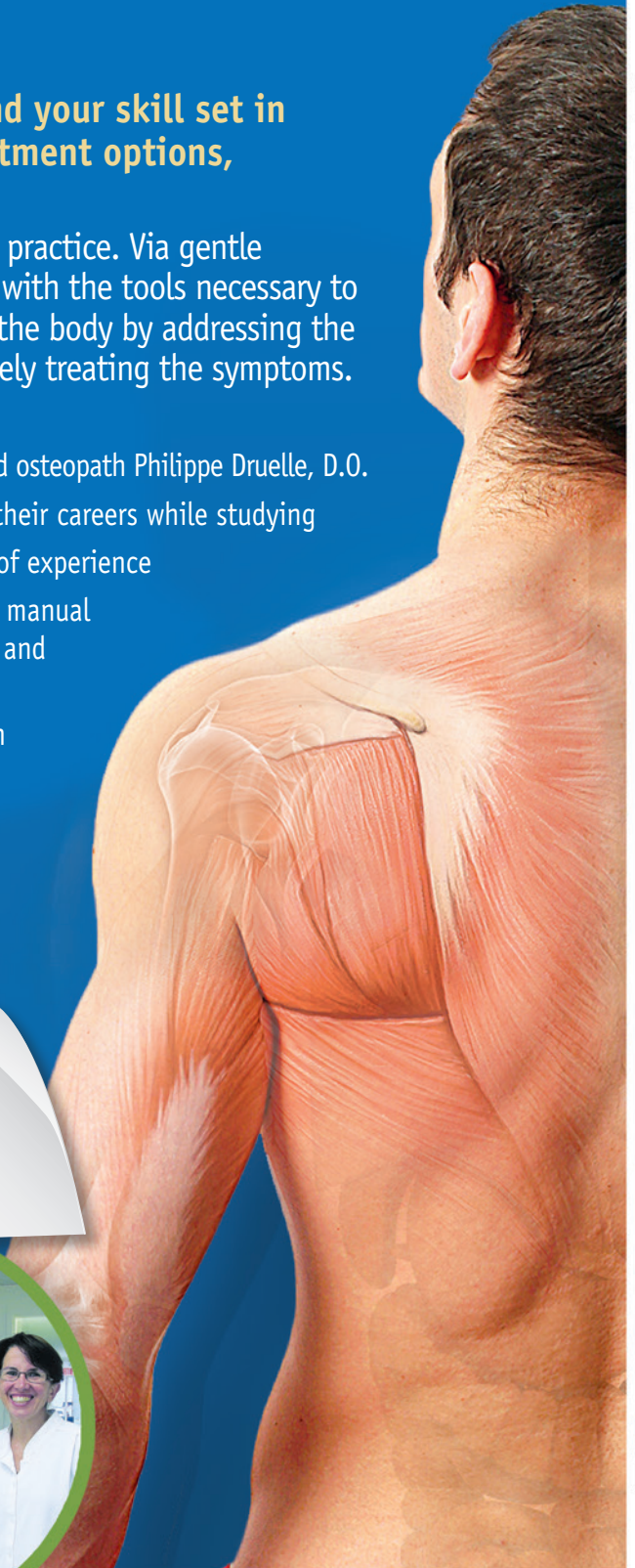
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Message from the Editor

Thinking about the big picture

Everyone is busy. From building and maintaining a successful practice to providing your patients with the best possible care and juggling your personal and professional lives, there's always more to do. In our busy day-to-day lives, it can be hard to think about big-picture issues that aren't right in front of you. But, in a growing health profession such as massage therapy, there are many things that can have a direct impact on your practice whether you're aware of them or not.

From deciding whether to charge your patients tax to working within a healthcare team and looking at what new massage therapists are being taught in school, the issues we cover in this issue are well worth your time and attention.

Read on to discover an overview of several key areas that are affecting massage therapists from coast to coast, and learn how you personally can address them. Professional issues begin with the ways in which you interact with your fellow RMTs, collaborate with other health professionals and communicate with your patients. In her article, Erika Kuehnel provides good advice on navigating interactions with clear, transparent communication that turns inter-professional challenges into opportunities. Of course, some situations can seem more challenging than others. Perhaps you'll encounter someone who's been injured in a car accident and be required to deal with Health Claims for Auto Insurance (HCAI). Chris Semenuk's helpful article provides a great overview on how to successfully navigate HCAI in these cases. All RMTs will encounter contracts at some point in their careers, which often requires particular attention to professional communication. Don Dillon's article goes over why contracts are important in your practice.

The *Protecting Patients Act*, which was recently passed in Ontario, will require changes to the *Regulated Health Professions Act*, 1991, and will directly affect RMTs in their practices. Lad Kucis, a lawyer, has outlined the ways this will affect us, and explained the subsequent changes.

Some professional issues are national in scope. The Canadian Massage Therapist Alliance (CMTA) concerns itself with many important issues that affect RMTs across Canada, including taxation, national standards and national accreditation. Right now, massage therapists are one of the few regulated health professionals in Canada who must collect and remit tax. We have provided an article on the process of HST exemption, and how that process played out for Naturopathic Doctors, who became exempt from charging and remitting HST in 2014. HST is a national issue, and must be worked on by all Canadian provinces and territories through the CMTA.

As an RMT, it is, important to keep in mind the big-picture topics that will impact your practice and your patients. We encourage you to stay informed, provide feedback and get involved.

Laura Fixman,

Communication and Member Services Coordinator, RMTAO

The Journey Towards HST Exemption — Lessons from Naturopathic Doctors

By Laura Fixman

Massage therapy is one of the few health professions that is not exempt from charging goods and services tax (GST), as outlined in the *Excise Tax Act*. In Ontario, GST was combined with provincial sales tax to become harmonized sales tax (HST). This means that HST, as GST before it, is required to be charged to clients, and collected and remitted by massage therapists who are HST-registered in Ontario.

Massage therapy in Ontario is regulated under Ontario's Regulated Health Professions Act (1991). This Act is provincial and has no impact on definitions included in federal legislation, such as the *Excise Tax Act*. This means that HST exemption for goods and services is a federal issue, regardless of provincial status. HST exemption for massage therapists has been a focus of the advocacy efforts of the RMTAO since before its inception.

In order for massage therapists to become exempt from charging and remitting HST, several steps must be taken to lobby the government for this change. This effort is being spearheaded by the Canadian Massage Therapist Alliance (CMTA), and is strongly supported by the RMTAO.

It is important to first take a look at what conditions must be met to qualify for HST exemption.

Understanding tax exemption

The determination of whether or not a service is taxed is made within the *Excise Tax Act* and its schedules and regulations,



as administered by the Canada Revenue Agency (CRA) and the Canadian Ministry of Finance. The Act's schedules and regulations clearly outline which services are exempt and, although many health services are listed among the exemptions, massage therapy is not among them.

A health service may be exempt from charging and remitting HST if it is covered by the provincial health plans of at least three provinces, or is regulated in five or more provinces. Massage therapy is currently regulated in four provinces—Ontario, British Columbia, New Brunswick, and Newfoundland and Labrador and is not currently included in any provincial health plan. There are several other provinces working towards the regulation of massage therapy, but until one of those provinces becomes regulated, we are unable to apply for tax exemption.



Laura Fixman
is the Communications and
Member Services Coordinator
for the RMTAO.

Looking at the experience of others

Other health professions have been granted HST exemption over the past few years. Naturopathic doctors (NDs) became exempt from charging and remitting HST in 2014 after many long years of continuous effort. Shawn O'Reilly, Executive Director and Director of Government Relations at the Canadian Association of Naturopathic Doctors (CAND) says that in 1996, CAND first put in a formal request for GST exemption (which was the tax at the time) to the then Minister of Finance, Paul Martin. Martin then put the criteria for HST exemption in writing for the first time, which included the criterion of being regulated in five provinces.

At the time, NDs were regulated in only four provinces and had been for many years, so CAND got to work on ensuring it would be in the best possible position once a fifth province had regulated the profession.

In 2007, while NDs were still regulated in only four provinces, the Canadian Naturopathic Coordinating Council (CNCC) was created. This was a forum for all of the major stakeholders in the naturopathic profession, including schools, provincial associations, regulators and others, to talk about the issues impacting the naturopathic profession, including taxation. O'Reilly says that the establishment of the CNCC has made CAND's work much easier.

"We're all there at the table. It has become an excellent means to reduce duplication of work effort and to strategize about moving forward to regulation," she says.

The CNCC formed a GST working group that included representatives from each ND provincial association, as well as CAND. This working group pulled together all of the background information about the tax, the financial implications of charging and remitting the tax to the ND profession, the financial impact to the government and supporting documents that could be used to substantiate those implications.

Majority rules

In order to request HST exemption from the government, it is essential to demonstrate that the majority of the profession is united in support of that request. CAND represents 80 per cent of NDs in Canada and, in 2009, before the profession was regulated in a fifth province, the organization surveyed its membership to see where NDs stood on the issue of HST exemption. Overall, 88 per cent of CAND members were in favour of removing the requirement to charge and remit HST, even though the change could have a negative financial impact on their practice.

In comparison, the CMTA currently represents fewer than half of massage therapy professionals in Canada. In order to effectively demonstrate that the majority of the profession supports HST exemption, the CMTA needs to be able to represent the majority of massage therapists. Without this support from the profession, the CMTA does not have a strong position when representing the profession to government agencies. Without this support, it will be far more difficult to achieve HST exemption.

Lobbying for change

Another important step for CAND was to receive letters from all of the provincial ND associations, as well as from the CNCC, officially expressing their support for the revocation. The provincial associations all reached out to their members for their feedback, so that when it came time to apply for HST exemption, CAND could provide a united front.

NDs were regulated in a fifth province in 2012. CAND immediately put in a request for HST exemption to the Ministry of Finance, and also reached out to the CRA to let that organization know about its efforts.

"We recognized early on the importance of developing a good working relationship with the CRA," says O'Reilly.

“In order to request HST exemption from the government, it is essential to demonstrate that the majority of the profession is united in support of that request.”

“Raising the standards across Canada and meeting them will be essential for the tax exemption.”

Immediately after the profession was regulated in a fifth province, CAND engaged a government relations firm, which was essential in navigating the process that followed. The CMTA has already engaged a government relations firm, and has been actively working with that firm to move forward with the steps towards tax exemption that can be taken before massage therapy is regulated in a fifth province. The process will likely take quite some time, as it did in the case of NDs.

“It was two years of being very actively engaged on a regular basis, because once we made the formal request, we had to convince the Finance Minister,” says O’Reilly.

Throughout the process, support from individual members was essential. In 2013, CAND was asked to survey its membership, and to obtain a great deal of information about its members’ practice environments and about the financial impact of NDs collecting and remitting HST to the government.

At the same time this survey was going on, CAND prepared materials that its members

could send to their MPs, supporting the tax revocation. These materials were also made available, through the association members, to ND patients, who could also send them to their MPs.

The CMTA has sent out an initial survey to all massage therapists in Canada, gaining a substantial amount of information about massage therapists—how they practice, where they practice and the conditions of those practices. There will be another more targeted survey sent as the CMTA gets further in the process of obtaining tax exemption.

Considerations for unregulated provinces

Throughout the entire process, CAND was told that although NDs were regulated in five provinces, there were people who called themselves “naturopaths” in unregulated provinces who did not have the same training or regulation. CAND had to make it clear that this exemption applied to NDs only, while at the same time determining how this exemption would apply to provinces that did not have regulation. Currently, HST exemption only applies to naturopathic services provided by NDs, which can still cause issues in unregulated provinces.

This is an issue that will also apply to massage therapists in unregulated provinces. While the naturopathic profession has national accreditation for schools, national standards of practice and a national entry-to-practice exam, the massage therapy profession does not. Establishing these requirements will allow massage therapists in unregulated provinces to also become HST exempt, once HST exemption is granted.

Accreditation of massage therapy schools is a process currently being undertaken by the Canadian Massage Therapy Council for Accreditation (CMTCA), and is strongly supported by the CMTA and other massage therapy stakeholders. The CMTA has also established national standards of practice

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6	7	8	9	10

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March 30, 2017

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for the profession of massage therapy, but these standards have not been adopted by all practitioners identifying as massage therapists in some provinces where the profession is unregulated. Raising the standards of massage therapy across Canada, and demonstrating that these standards are being met, will be essential for the massage therapy profession as it seeks tax exemption.

Tax exemption for NDs

The announcement in the 2014 federal budget that NDs would be exempt from HST came as something of a surprise.



A Call to Action

There are more than 26,000 Massage Therapists in Canada and the Canadian Massage Therapist Alliance (CMTA) collectively represents fewer than half of them. In Ontario alone there are almost 14,000 RMTs, of which the RMTAO represents approximately 5,600. This means that the RMTAO represents slightly more than 40 per cent of Registered Massage Therapists in Ontario. Without being able to demonstrate that the majority of Massage Therapists stand behind us, our lobbying stance will not be strong enough to affect change. We need to represent the majority of Massage Therapists so that we have the leverage to advocate for our members to the government and other critical stakeholders.

More than half of the Massage Therapists in Canada are in Ontario. We have the potential to be a great force for national change in this profession. We can lead by example and set the precedent for high standards of practice and standards of care. We can unite as a profession in this province and across this country, and show what is possible when we all come together. The more united we are as a profession, the stronger our profession and the louder our voice.

Imagine what we could do if every Massage Therapist was a member of their provincial association. Imagine how loud our voice would be.

Andrew Lewarne

Executive Director and CEO of the RMTAO.


"We were told that this was going to take time, and two federal budgets came and went without exemption being put forward," O'Reilly says. "They told us very clearly there were a number of priorities and they did not foresee that we would be getting the exemption in the 2014 budget."

O'Reilly received an invitation to the reading of the 2014 budget, but still did not expect to receive the exemption. Cell phones were taken away, everyone was held in a big room and no information was released until the Minister of Finance stood up and started to read the budget. Everyone heard the news from the Minister at the same time: NDs would be exempt from charging and remitting HST, effective immediately.

Throughout the long process of obtaining HST exemption, and even after NDs received HST exemption, O'Reilly says that the support they had from provincial associations and individual NDs was essential. When NDs were asked for letters of support, they were provided immediately; when they were surveyed, they responded. They could also be counted on to share information about any developments or difficulties in the process.

"They were supportive," O'Reilly says. "Even though they knew this would impact them financially, they felt very strongly that this was a barrier for their patients."

Obtaining HST exemption has allowed more consistent access to health care and a focus on preventative care, and has actually had no significant impact on revenues. There have also been unexpected benefits for NDs. "It has actually increased the recognition of naturopathic doctors by other health professionals and by the public," O'Reilly says.

When it comes to the long and often difficult journey to obtaining HST exemption, O'Reilly emphasizes that the focus should always be on the patients. "The ones that have benefited the most are the patients," she says, "which is why naturopathic doctors did it." 

The Canadian Massage Therapist Alliance: The National Voice

By The RMTAO



The Canadian Massage Therapist Alliance (CMTA) is a collaborative collection of provincial massage therapy associations across Canada. The provincial members of the CMTA join forces to tackle national issues affecting massage therapists across the country. This includes working towards regulation in every province and territory, and the advancement of massage therapy as an important part of Canadian health care. Some important areas of priority for the CMTA include taxation, the insurance industry, national standards and national accreditation.

Taxation

Massage therapy is one of the few regulated health professions that is required to charge and remit goods and services tax, harmonized sales tax (HST) or goods and services tax (GST) in applicable provinces. The federal Minister of Finance, in consultation with the provincial Ministers of Finance, has established a policy that sets the minimum requirements for a tax exemption: Either the service is publicly funded in three provinces or the profession is regulated in five provinces. Massage therapy does not meet either of these requirements.

The process of achieving tax exemption is expected to take two to five years after a fifth province institutes regulation. This process will include demonstrating that the majority of massage therapists in Canada support the request for tax exemption. Information about the financial impact of

this tax relative to the potential health benefit for Canadians will be presented to the government. The CMTA has achieved a jump-start on the issue of tax exemption by engaging a government relations firm, and by beginning to gather important information about the impacts of taxation.

Insurance industry

Most patients pay for their massage therapy treatments using their extended health benefits, and massage therapy is the most utilized paramedical benefit in Canada. A positive relationship with the insurance industry across Canada is a key element in ensuring that massage therapy across Canada remains accessible and Massage Therapists remain viable.

There is the expectation that massage therapy treatments are clinical in nature,



“When it comes to lobbying for change, the more massage therapists represented by the CMTA, the stronger the CMTA’s position.”

and the insurance industry wants to see concrete evidence and positive reported outcomes from massage therapy in order to continue to provide coverage. The CMTA has met with several key representatives of the insurance industry to provide them with research and evidence that supports the clinical applications and benefits of massage therapy.

The CMTA is also working closely with the Canadian Life and Health Insurance Association (CLHIA), being actively involved with the CLHIA’s annual conference to ensure that key representatives in the insurance industry are aware of the benefits of massage therapy for their clients. Insurance companies are national, so it is essential to have a national representative of the massage therapy profession that can communicate with insurers.

National standards

One of the overarching goals of the CMTA is to ensure that all massage therapists across Canada follow the highest standards of practice. In regulated provinces, the Inter-Jurisdictional Practice Competencies and Performance Indicators have been developed to create uniformity of massage therapy practice. This document establishes the minimum requirements for newly Registered Massage Therapists who are entering practice for the first time and ensures they are able to practice in a manner that is safe, effective and ethical.

There is difficulty in ensuring consistent standards in provinces where massage therapy is not a regulated health profession, and the CMTA has worked hard to address those gaps. The CMTA has created National Standards of Practice, which outline the minimum competencies and requirements for practicing as a Massage Therapist in Canada. The standards describe the expectations for professional behavior and

conduct to ensure high-quality, safe and ethical delivery of care. The standards are a great tool to ensure that massage therapists in every province and territory in Canada practice to equally high standards, and that an individual visiting a massage therapist can expect the same level of care regardless of their location. Demonstrating consistent national standards is also critical when lobbying on federal issues, including insurance and taxation.

National accreditation

The accreditation of massage therapy programs will help ensure that massage therapy schools are teaching to a consistent, predefined standard. The Canadian Massage Therapy Council for Accreditation (CMTCA), with strong support from the CMTA, has been working hard to develop consistent academic standards and create a system to implement these standards in schools across Canada.

Having these standards in place will facilitate the process of regulation in provinces that are not already regulated. It will also positively impact a Massage Therapist’s ability to move from one province to another while continuing to practice massage therapy, and help to establish a common baseline for massage therapy education, which will be essential when lobbying on national issues, including the application for tax exemption.

The big picture

There are some issues that not only affect Massage Therapists, but also affect all health professions across Canada. In March 2017, the CMTA became a member of the Organizations for Health Action (HEAL). HEAL is a coalition of national health organizations and represents more




than 650,000 health care providers from across the country. Along with many other national Canadian health care associations that belong to HEAL, the CMTA is committed to sustaining and enhancing the health of Canadians, and to the continuous improvement of fair, equitable and effective health services and systems.

Most recently, the government proposed beginning to tax health and dental benefits. The members of HEAL, including the CMTA, organized a letter-writing campaign from health professionals and their patients, aimed at members of Parliament. This campaign was successful and the benefit taxation proposal was dropped from the legislative agenda. This is only one of the successes that HEAL has accomplished. Some other areas of focus for HEAL include the opioid crisis, home care initiatives (including palliative care), mental health initiatives, the welfare of aging populations and the health of indigenous peoples.

Conclusion

The CMTA works to ensure that the massage therapy profession remains an essential component of health care in Canada. The CMTA ensures that the delivery of massage therapy across Canada is consistent, effective and based on the latest evidence. Issues that are federal in scope can affect Massage Therapists across Canada directly in their practice—from the requirement to charge and remit tax, to patients being able to use their extended health care benefits to pay for massage therapy treatments.

Currently, the CMTA represents fewer than half of all Massage Therapists in Canada. The CMTA works on behalf of all Massage Therapists in Canada, and the more Massage Therapists that are members of their provincial associations, the more effective when it comes to lobbying for change. ■



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Interpersonal Issues Affecting Massage Therapy Practice: Turning Challenges into Opportunities

By Erika Kuehnel,
DC, CMAG, RMT

RMTs fill several roles in clinical practice: Health care provider (HCP), patient advocate, entrepreneur and representative of the profession. An RMT interacts regularly with varied groups, including patients and decision-makers, other HCPs, the public and business associates. Each group has different priorities, perspectives and competencies, and presents different challenges. Refining interpersonal skills helps the RMT navigate these challenges, both clinically and professionally.

Patients: Skillful communication improves outcomes

When an RMT confidently directs treatment, compliance increases, patient goals are addressed and the RMT can better examine what clinical success (or lack thereof) means for each patient. Health care delivery becomes more efficient, and patient outcomes and satisfaction improve. As an example, let us explore the differences between the following two treatment plan recommendations:

"I recommend three more 60-minute sessions over the next four weeks, with the goals of increasing your tolerance for standing at work and reducing your discomfort when climbing and descending stairs. I'll instruct you in some stretches and exercises, and it's important that you do these consistently. After three visits I will re-assess, and we'll discuss continuing with care, modifying treatment or referral if necessary."

Versus, "So, another visit next week and we'll see how it goes."

In the first example, the patient is informed of their role in the treatment plan, the time-frame in which they can expect change and when re-evaluation will take place. They are also informed that if the current plan is not best suited to them, then the RMT will have further recommendations. A patient who expects symptoms to resolve immediately, or to resolve without their own effort or participation, might lose confidence in their RMT or the treatment if this does not occur. A clearly explained treatment plan reduces confusion, ensures reasonable patient expectations and promotes greater confidence in the RMT.

Impact on practice: Greater confidence in the RMT positively influences the perceived effects of treatment. Trust in the RMT's clinical acumen encourages repeat visits from existing patients, who anticipate helpful education and informed direction.

Other HCPs: Collaboration is encouraged by mutual respect

Respectful behaviour in relationships sets a positive and collaborative tone. Respecting oneself in relationships sets the boundaries required for productive interactions. Each party operates as an equal and brings their best work to the collaboration, without insecurity.



Erika Kuehnel, DC, CMAG, RMT, is a registered chiropractor and massage therapist with certification in acupuncture and independent chiropractic examinations. Practicing in Milton since 2008, Dr. Kuehnel is a strong advocate for patient care and strives to educate every patient on what they can do to treat themselves.

Consider co-treatment of a patient with another HCP. If that HCP were to reach out, outline their clinical impressions and reasoning, and ask you to reciprocate, how would you respond? How would this affect your interaction with the patient? How would this affect your impression of that HCP and their profession? Would you be inclined to refer to this HCP in future?

An RMT who collaborates with other HCPs participates in integrated patient care and defines the role of massage therapy in the treatment plan. Collaborating HCPs gain greater insights into a patient's clinical presentation and progression, and improve outcomes. The RMT also creates a greater understanding and respect for their own clinical contribution, encouraging the inclusion of massage therapy into treatment plans by patients and HCPs.

When HCPs are working out of the same location, this facilitates the exchange of information; however, HCPs who operate individ-

ual practices can still access the clinical and professional advantages of those in integrated environments through phone calls, clinical notes and digital or in-person interactions.

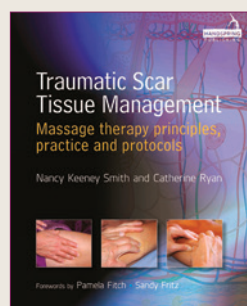
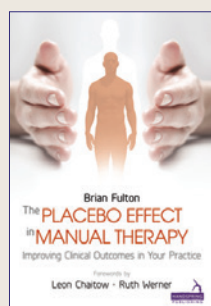
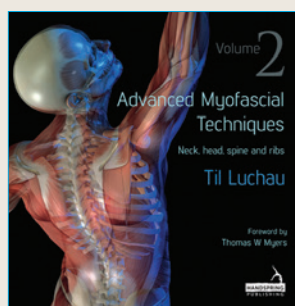
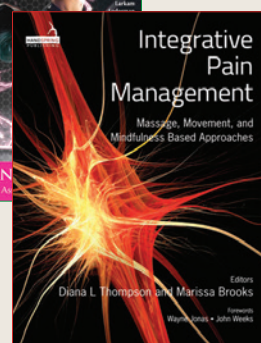
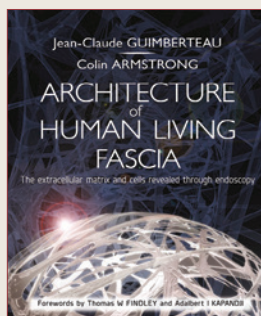
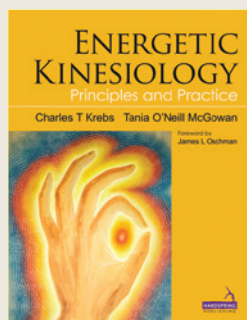
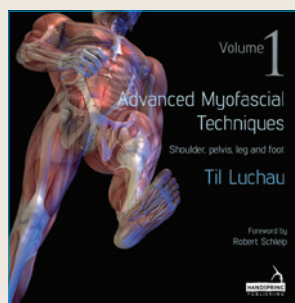
Impact on practice: Respectful interactions serve as a platform for professional collaboration with other HCPs. Communication of the massage therapy treatment plan and consideration of another HCP's contribution communicates respect and permits the exchange of information. This benefits the RMT through education, enhanced patient outcomes and increased referrals.

The public:

Trust relies on integrity

RMTs and other HCPs enjoy a position of trust through the nature of their specialized knowledge and regulated status. Patient-centred behaviour consistent with professional ethics affirms this trust even in the presence of uncertainty or conflict.

“Trust in the RMT's clinical acumen encourages repeat visits from existing patients, who anticipate helpful education and informed direction.”



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“Respectful interactions serve as a platform for professional collaboration with other HCPs.”

Certain situations can make it more challenging to maintain clear communication while sticking to established professional responsibilities. For example, chair massage demonstrations used for public outreach can result in a participant attempting to solicit a professional opinion. This can be awkward for the RMT, as such interactions will rarely satisfy clinical needs or regulatory requirements. The RMT, however, still has the responsibility to respond with the participant's best interests as their priority, without exceeding the limits of their clinical abilities and within the context of the event. Thoughtful questioning of the participant, articulation of the role of massage therapy and unbiased direction can educate the patient and preserve the public's trust.

Impact on practice: An inquiring individual who provisionally experiences an RMT's clinical approach and is addressed professionally will experience the trust central to a patient-HCP relationship. Connecting with members of the public with integrity contributes to a favourable perception of the profession and the RMT, providing a compelling reason for the patient to pursue care with the RMT.

Business associates:

Resolving conflict with empathy

Empathy is an important element in many aspects of practice, including business negotiations. As nearly every RMT will engage in a financial negotiation within their first years in practice, such as a service contract or lease, using the information gained through empathizing ensures arrangements that are mutually beneficial to all parties.

Interpersonal conflicts are common in negotiations as negotiations can appear adversarial. Adversarial approaches risk one party “losing,” provoking an emotional response. Negotiating parties may behave selfishly or thoughtlessly, or feel frustrated or undervalued. Assumptions about the other party's intentions distort the message. The negotiation polarizes, and the focus shifts away from practical aspects and onto the interpersonal conflict. However, RMTs and their employers often share mutual goals.

Both wish to provide services to patients comfortably, while maximizing their own profitability. Empathizing allows one to acknowledge the other party's goals without ignoring one's own, identify conflicts and propose solutions. It also considers the impact of a person's own requirements on the other party and determines compatibility. Consider the following priority conflicts in a service contract.

- 1 The RMT's priorities include ample staffing support, while the service location wishes to control costs to reduce financial risk. Potential solution: Acknowledge staffing is an expense and financial risk to the service location. Suggest measures to offset this expense, such as flexibility on compensation or a minimum rent threshold for the RMT.
- 2 The RMT's priority is compensation, while the service location wishes to maximize profitability. Potential solution: Achieving a greater income for both parties is related to the RMT's productivity. Both parties commit to practice-building activities, or the RMT can choose to forego some services or cost share some expenses, allowing for increases to compensation.
- 3 The service location desires an open, flexible RMT to take advantage of patients calling in for same-day appointments. This restricts the RMT from other work endeavours, but income is not assured. Potential solution: Recognize the RMT's risk (income limitation). Offer a minimum financial consideration and/or offer of exclusivity to reduce this risk, or meet the service location's desire for accessibility while reducing the RMT's risk through a fixed schedule with “by appointment” hours subject to appointment approval by the RMT.

Impact on practice: Negotiations are challenging due to conflicts in priorities and personalities. Empathy communicates appreciation for the other party, encourages neutrality, minimizes emotional responses and allows a focus on goals to arrive at mutually beneficial arrangements.

The workplace:

Clarity and transparency promote cooperation


Clear and transparent communication in the workplace creates and encourages trust and respect, supports cooperation, ensures efficient resource use, facilitates problem-solving and innovation, and assists in planning. When teams understand how decisions are made, members can identify points in the process where they can participate. When a plan is discussed in advance and the team's input is considered, engagement increases, ideas develop more thoroughly and change is accepted and implemented more readily.

Take the addition of a new therapist to a clinical team, for example. If hiring is conducted without the team's knowledge as a *"fait accompli"* then the team might resist or feel threatened, and mistrust develops. If the existing team is instead consulted and their feedback invited then trust is preserved and the team feels their opinions are valued.

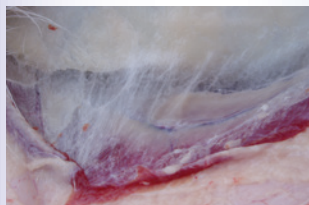
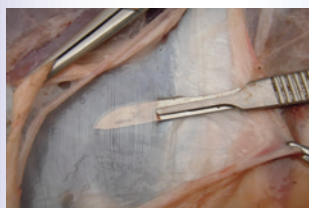
The new therapist is included and referred to more readily, requiring less effort for onboarding.

Impact on practice: Clarity and transparency reduce suspicion and deterioration of the work environment. More cooperation in the workplace enhances results, efficiency and profitability, while reducing costs and wasted effort. Appeals for input and participation increase engagement and perceived value, and lead to innovation and problem-solving.

Summary

Massage therapy practice includes a variety of interpersonal interactions—some clinical and others professional. RMTs who practice to ensure they interact with others through clear, respectful and transparent communication with empathy and integrity will increase their potential to turn interpersonal challenges into opportunities for learning, growth, and professional and clinical success. 

“Clarity and transparency reduce suspicion and deterioration of the work environment. More cooperation in the workplace enhances results, efficiency and profitability...”



A Fluidic Approach to the Treatment of Fascia

By Jane Eliza Stark, MS, D.O.M.P

A Three-Day Course for RMTs - - December 8-10, 2017

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Such an approach both lessens strain on the massage therapist's body and encourages the effortless, long-term release of clients' tissues. Jane presents a comprehensive theoretical and practical course based on her years of clinical experience as an osteopathic manual practitioner and certified athletic therapist, as well as her work with dissection of fresh tissue.

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Do We Have an Accord? Contracts Essential to Professional Relations

By **Don Dillon,**
RMT

A contract is a promise between two parties that defines the relationship, responsibilities and legal requirements of each person signing the document. There should be no confusion or ambiguity. RMTs frequently work as “freelancers” (contractors), renters (self-employed) or employees, and are offered an opportunity to practice by a practice “broker” or employer.

RMTs who deem themselves “self-employed” would pay a flat rent and manage all aspects of the business. This is very different from the “freelancer” RMT who relies on the business for acquiring clients/patients, and uses their equipment and billing.

“Freelance” RMTs are contracted short-term to meet demand. These contracted RMTs hold no ownership stake in the business, and can freelance to multiple sites if they choose.

Consult the Canada Revenue Agency document RC4110 “Employee or Self-Employed?” to ensure your working relationship lands clearly in the right classification. Misclassification can result in penalties, denied business expenses and back taxes owing.

Responsibilities

RMTs should not enter into a working relationship without a contract. A contract states what each of the signatories brings to the table, who has a stake in ownership, who controls the assets (including files/

records), and how the agreement should be dissolved. The contract may outline additional duties, such as assisting with reception and billing. Who is responsible for operations, marketing, administration and maintenance should also be clearly outlined.

Without a contract in place, an RMT may find their work relationship prematurely terminated, their access to equipment and records denied, and their income stream abruptly halted. Further, there are legal and regulatory implications, such as safekeeping of client records. RMTs should consult a lawyer to fully comprehend the legal implications of any contract before signing.

Legal Requirements

Confidentiality

RMTs will be exposed to intellectual capital within a business that, in the hands of a competitor, could be harmful to the business. This includes financial information, business strategy, client/patient and supplier information. The business will place limitations in the contract to protect these assets. RMTs are also expected to comply with professional regulations related to confidentiality, such as in the Personal Health Information Protection Act (PHIPA).

Probationary Period

A clearly defined 3-month employee



Don Dillon, RMT is a practitioner, speaker and practice coach. Find him at DonDillon-RMT.com

probationary period allows for the dissolution of the agreement by either side should the relationship not work out. "Providing for the probationary period in the initial contract of the employment clarifies expectations and builds in an opportunity for the employer to correct behaviour or terminate the relationship at an early stage."¹

Termination of the Agreement

Clearly outline how the agreement can be terminated. Obvious reasons include theft, breach of trust, and gross incompetence. The employer/practice broker may wish to define performance indicators to be achieved to maintain the relationship.

Non-Competition / Non-Solicitation

Employers wish to protect contact information and service relationships with a non-competition clause. The courts may view non-competition clauses skeptically due to the potential to negatively impact the employee's right to earn a living. However, "if the clause is drafted to protect the reasonable interests of the employer within a geographic area the employer would normally provide services, and within a

reasonable period of time, the clause may be upheld by the courts."³


The employer may utilize a non-solicitation clause instead, restricting employed or contracted practitioners from contacting existing customers of the business for a specific period of time.

Contract Duration

It is often wise to set a review date for a contract/agreement to ensure the contract

is still a good fit for both parties. One-year renewals are customary. Make sure to schedule a review of the contract by both parties.

A contract is much more than a piece of paper. It's an agreement, an outline of roles and expectations, a description of workplace and legal

responsibilities, and a guideline for how to end the working relationship when it's no longer working for the signatories involved. 

“Without a contract in place, an RMT may find their work relationship prematurely terminated.”



References

1. Standryk, L: *The Written Employment Contract*. Lancaster, Brooks & Welch LLP. bulletin. Pg 4
2. Standryk, L: *The Written Employment Contract*. Lancaster, Brooks & Welch LLP. bulletin. Pg 4
3. Ibid, pg 5

Contractor	Self-employed	Employee / Employer
<ul style="list-style-type: none"> • "Freelancer" employed to provide provided services to practice with excess demand • Paid commission or per service • Typically short-term relationship • May need to provide own tools and supplies • Work (clients) acquired by the business • No ownership stake in business • Contractor can work for multiple contracts 	<ul style="list-style-type: none"> • "Renter" remains autonomous from landlord • Pays flat rent, assumes risk for insufficient work/cash-flow • Practitioner manages own operations, promotes self, handles design all billings and administration • Landlord is hands-off 	<ul style="list-style-type: none"> • Applied to a job description by an employer; offered long-term employment • "Employer" pays acquisition costs to draw customers and operate business; determines workplace and delivery of service model • Employer supplies training, invests capital/resources, bears risk with objective of making a profit

The Protecting Patients Act (2017): The Essentials for Regulated Health Professionals

By Lad Kucis

On May 30, 2017, the *Protecting Patients Act* (2017) (the “Act”) received royal assent in the Ontario legislature. This resulted in amendments to various health care-related legislation, including the *Regulated Health Professions Act* (1991) (the RHPA). The following are some of the key changes to the RHPA that all regulated health professionals need to be aware of.

1 Expansion of conduct resulting in mandatory revocation

In the past, health professionals faced a mandatory revocation penalty if they were found guilty of sexual abuse of a patient and the conduct in question involved certain frank sexual acts. As a result of the amendments made by the Act, this list has been expanded to include:

- touching of a sexual nature of a patient’s genitals, anus, breasts or buttocks
- other conduct of a sexual nature prescribed in regulations.

2 Suspensions are now the minimum penalty for sexual abuse

The Act establishes that if a health professional is found guilty of sexual abuse of a patient then the minimum penalty is a suspension. Please keep in mind, however, that if the conduct involves frank sexual acts or touching of a sexual nature, as described above, the penalty is a mandatory revocation.

3 Immediate interim suspensions

In the past, a health professional could not be suspended on an interim basis unless they were referred to a discipline committee

on charges of professional misconduct or incompetence. The Act provides that a health professional can now be suspended as soon as their health regulatory College receives a complaint or commences an s.75 investigation. However, such interim suspensions can only be imposed if Inquiries, Complaints and Reports Committee (ICRC) of the College believes that conduct or behaviour of the health professional is likely to put patients at risk.

4 Minimum cooling-off period re; sexual relations with a patient

The Act establishes that health professionals must wait a minimum of one year before commencing a sexual relationship with a former patient, although their College is permitted to extend this period. As an aside, it is also important to keep in mind that in certain cases it is never permissible to initiate a sexual relationship with a former patient.

5 Public registers

Although the Colleges have made by-law changes over the past few years that have expanded the types of information posted in their respective public registers, the Act requires that the following information must now be posted by all Colleges:

- a notation of every caution
- a notation of any specified continuing education or remediation program
- a copy of the specified allegation for every matter referred to the Discipline Committee that has not been fully resolved
- a notation and synopsis of any acknowledgments and undertakings in



Lad Kucis is co-chair of the Health Law Group and provides legal assistance to health sector clients regarding regulatory college proceedings, privacy matters, retirement/long-term care home operations and matters before Health Canada and the Ministry of Health and Long-Term Care.

relation to allegations of professional misconduct or incompetence that have been provided to the ICRC or the Discipline Committee and that are in effect.

6 Gender-based restrictions

Colleges are no longer permitted to impose gender-based restrictions on a health professional's certificate of registration, such as prohibiting a health professional from treating patients of a certain gender. This changes a long-standing practice where such restrictions would, on occasion, be imposed on health professionals charged with offences of a sexual nature.

7 Reporting offences

Health professionals will have to file a report with their College if they have been charged with an offence, such as a criminal offence. In addition, the report must also include any bail conditions or other restrictions imposed to or agreed upon in relation to the charge.

8 Reporting of other professions

Health professionals will be required to advise their College, in writing, if they are a member of another body that governs a profession either inside or outside of Ontario. In addition, they will also have to file a report with their College if a finding of professional misconduct or incompetence has been made against them by such bodies.


9 Increased fines for failure to report

The Act has significantly increased the fines for health professionals and facility operators who fail to report the sexual abuse of a patient.

10 Withdrawal of complaints is now permitted

The Act provides that College Registrars may withdraw complaints about a health professional at the request of the complainant, as long as the ICRC has yet to take any action.

The above changes are significant and health professionals must become knowledgeable about this new legal landscape. As always, if faced with a complaint or College matter, it is essential to obtain legal counsel. ■




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A Better Understanding of HCAI: Health Claims for Auto Insurance

By Chris Semenuk,
RMT

Massage therapists who are (or wish to be) involved in the recovery of patients who have been involved in a motor vehicle accident will come across Health Claims for Auto Insurance (HCAI). For many this represents a massive hurdle, as they feel they do not know where to start.

What exactly is HCAI?

HCAI is a third-body entity that has been designed to be a “go between” for auto insurance companies and medical practitioners/professionals. The HCAI system, and its employees, are independent of either side. The system is an official accounting of what has been transmitted between the two parties. The system is designed to “keep things honest.”

HCAI is a good thing

Both sides are able to track the activities of a claim. This system also provides HCPs and facilities with a built-in tracking program that indicates, in real time, the insurer's activity (received, being reviewed) and response.

HCAI provider

There are essentially two ways to be a provider through HCAI. One is to be a “dependent provider” and the other is to be an “affiliated provider.”

- **Dependent provider** means that your provider information is on the HCAI system under a facility that you're delivering

services on behalf of (either in the same clinic or elsewhere). As a dependent provider, you will not be granted access to the HCAI system.

- **An affiliated provider** is one that has been granted a user ID by a facility for the purposes of accessing the HCAI system online. These providers can submit, track and make changes to forms. Both forms have a three-year limitation. After this time a new form must be signed, if you continue to require services from said HCP.

HCAI-enrolled facility

Most often a “facility” is thought of as a large clinic. But that is not always the case. A facility can be as small as a single HCP, such as a sole practitioner RMT.

If you are an RMT who works at a large established clinic then you may not have to do a single thing to be a provider through HCAI, other than sign a “provider form” for the facility. If you are in practice on your own, however, or starting a clinic with others and wish to treat patients who have been in motor vehicle accidents then you will need to be enrolled in HCAI.

As the simplest facility of just a one RMT clinic, you will first need to register your clinic with your name, followed by the RMT designation. You will be the “officer” for everything at your clinic (e.g., signing officer, privacy officer), so whenever the system asks for that information you fill in your name, without the RMT designation.



Chris Semenuk,
RMT, has been treating patients since 2001 in the St. Thomas and London area. As well as teaching massage therapy, he has certifications in laser therapy, SpiderTech Kinesio-tape, TENS, ultrasound and ETPS.

Second, you will need to sign up your provider: You. This is separate from the facility sign up and, without a designated provider, you cannot submit forms. So, for this sign up you will place your name, with the RMT designation, in the necessary fields.

Third, any HCP (such as a physician) that signs an OCF form for you must also be signed up under your HCAI account. This is necessary, but you can just explain that the person is only required to sign a “dependent provider” form and will never be required to do any paperwork for the facility, and that the one form is good for three years.

Forms must be submitted through HCAI

FSCO has made it mandatory for claim forms to be processed through HCAI. Without submission through HCAI, an auto insurance company is under no obligation to acknowledge the claim at all. The forms that are mandated to be processed through HCAI are as follows:

- Treatment & Assessment Plan (OCF-18)
- Treatment Confirmation Form (OCF-23) (aka: MIG [Minor Injury Guideline])
- Auto Insurance Standard Invoice (OCF-21)
- Disability Certificate (OCF-3)

Always get it in writing

As explained above, some forms *must* be processed through HCAI. However, RMTs have reported that, on many occasions, an adjuster or a lawyer will tell the RMT to submit forms directly to them for processing.

Don’t do it. Explain that you will gladly supply a copy of the forms to them by the means they have requested, but that you must still submit the form through the HCAI portal because FSCO (a branch of the government) requires this to happen 100 per cent of the time. Do not allow someone to talk you out of this process. Any claims or promises made to you by an adjuster or lawyer must be provided in writing. Only once a promise is in writing, from an official source, is it considered to be binding. Verbal agreements are not sufficient.

Licensed vs. non-licensed

A FSCO “licensed facility” means that the facility paid FSCO for the privilege to require an auto insurance company to pay its bills directly to the HCP/facility.

Regardless of whether you are licensed or non-licensed, all OCF-21s (invoices) must be submitted through HCAI. This provides a traceable account so that the official charges are recorded. For non-licensed facilities, the patient must pay the invoice out of pocket, then submit an OCF-6 (Expenses Claim Form) to their adjuster. This OCF-6 should match your submitted OCF-21, which deters possible fraudulent activity by the patient.

OCF-21s can only be submitted at the end of a completed treatment plan, or once per calendar month. Earlier submissions are not permitted, and could be seen as a form of harassment.

The HST debate

First, this should not be a debate. HST must be paid over and above any fees that have been approved. This means that the current \$58.19 FSCO allowance for an hour of massage therapy service should have \$7.56 added to it (for a total of \$65.75) by any RMT who is required to collect HST. This is not debatable by any auto insurer or its representatives. The common reason that adjusters give to not pay is that the Statutory Accident Benefits Schedule (SABS) does not state that tax is to be paid above the approved amount. However, the SABS does not determine taxation—that is the job of the *Excise Tax Act* (R.C.S., 1985, c. E-15). This Act states that HST should be applied over an agreed transaction amount. There are no variances granted. So, an adjuster who suggests that the insurer does not have to pay HST is possibly committing tax evasion under the *Excise Tax Act*.

Both the RMTAO and FSCO have previously released statements to support the above. Both have stated that HST is applicable over and above FSCO fee schedule.

“With properly completed forms the adjuster has the ability to make swift, fair decisions on a case.”

“Any claims or promises made by an adjuster or lawyer must be provided in writing.”

Do what you say you will do

A common misconception is that RMTs can “self-adjust their therapy to match their rate.” This is very wrong—so much so that it is fraudulent activity. If you submit a proposal to provide an hour of massage therapy (code: 12) then you must provide a full hour of therapy. You cannot provide 45 minutes (0.75 hrs) and bill for one hour.

What RMTs can do is itemize their therapy and add more to it. If you wish to provide heat (code: 07) then just add it to the proposed services. When providing this therapy it must be separate and additional to the massage therapy component. In other words, it cannot be combined into the massage—heat placed on the back during a 15-minute leg massage is all the same therapy and can only be billed for the actual time of 15 minutes, not the multiplied time of 30 minutes. To use the “multiplied time” would be fraud.

By providing the treatment you say you will provide, and following the processes and procedures set out, you will hopefully be more comfortable with providing care to patients injured in automobile accidents. ■

Further reading

- Excise Tax Act: laws-lois.justice.gc.ca/eng/acts/E-15
- Financial Services Commission of Ontario: fSCO.gov.on.ca
- Health Claims for Auto Insurance: hcaiinfo.ca
- Health Claims for Auto Insurance Guideline August 2017. Superintendent's Guideline NO. 01/17 - FSCO
- Statutory Accident Benefits Schedule: ontario.ca/laws/regulation/100034
- Applying HST to Massage Therapy for Automobile Incidents (MVA, MVC, MVI) Health Claims (Chris Semenuk, RMT): clinicwise.org/hst-massage-therapy-automobile-incident.



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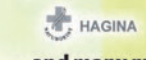
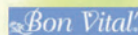
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Garrett Woynarski, RMT, Regina, SK

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Given G. Cortes, RMT, Little Current, ON

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Ken Ansell, RMT, Regina, SK

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