

An Overview of the Legal Issues Faced by Ontario Chiropractors Today

David Mills – Chair, Corporate Commercial Group

Denise Robertson – Chair, Health Law Group

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Over the years, the legal issues faced by Chiropractors have evolved and multiplied. Chiropractors must decide where they want to practice and with whom. A business structure must be determined, leases need to be negotiated, associate agreements might need to be signed, and the risk of personal liability should be analyzed and exposure to it minimized. This is on top of the need to observe the regulatory requirements set out by the College of Chiropractors of Ontario.

The following is a brief overview of some of the top legal issues and concerns impacting Chiropractors in Ontario today. In the months to come, we will take the time to elaborate on the various topics covered in this article. When reading this information, it is important to recognize that each situation is different and, therefore, we cannot provide legal advice in a publication such as this. However, should you require legal assistance or have additional questions, please do not hesitate to contact us.

In addition, if you are interested in reading more general information about the current state of different areas of law, please visit our blog at www.millsandmills.ca/blog.

1. Corporate Structure – Protecting One’s Personal Assets

How to structure a business is a question faced by all entrepreneurs when starting out, regardless of the industry. This decision is often informed by factors such as cost, who you want to work with, tax planning, and concerns about personal liability protection. Three types of business structures include corporations, sole proprietorships and partnerships.

To operate through a corporation, a business must be incorporated under provincial or federal law. The incorporation process includes filing documents with the government and paying certain required fees. Once incorporated, the business becomes a separate legal entity. This means that it can carry on business, own property, and incur liability.

Unlike a corporation, a sole proprietorship comes into existence when an individual starts to carry on business without taking any steps to establish a specific form of organization (for example, if the individual decides not to take the steps necessary to incorporate the business). Similarly, a partnership exists when two or more individuals carry on business together with a view to profit, and do not incorporate their business.

Each of these business structures has advantages and disadvantages which distinguish them. One distinguishing characteristic involves personal liability. Sole proprietors and partners are personally liable for the obligations of the business. In contrast, as a result of it being a separate legal entity, a corporation's liabilities are not borne by the corporation's shareholders. It is important to note, however, that health professionals like Chiropractors remain personally liable for professional negligence, regardless of incorporated status. Protection against these liabilities is found in both practice management and maintenance of adequate professional liability insurance.

2. Setting up an Office

Setting up an office is accompanied by its own legal questions. First and foremost, where will the office be located? Municipalities may have regulations that apply to your business or the location of your business.

When you find that perfect office space (or the space that will do for the time being) the next step is generally to negotiate a lease. In addition, equipment will need to be obtained. This may involve rental agreements or agreements with suppliers. The corporate structure of your business will determine the name you should be making these agreements under.

If you are opening your own practice, you may decide to have a logo developed. You may also decide to publish newsletters or information sheets. In addition, you will likely decide to advertise your practice to drum up business. As you spend time and money on this development and marketing process, you should turn your mind to intellectual property law (with respect to the ownership and protection of trademarks and copyright), as well as to competition and consumer protection laws (with respect to marketing practices).

3. Working with Others

Regardless of which type of corporate structure you have chosen, setting up a practice will involve other individuals. These individuals may be fellow chiropractors, other health care professionals, or support staff. It is very likely that the people you work with will change over the years. You will need to define your relationships with these people.

The business arrangements with these employees, colleagues and contractors will involve a variety of agreements, such as Employment Contracts, Partnership Agreements, Contractor Agreements, Space Sharing Agreements and Associate Agreements.

4. Keeping up with Regulatory Requirements

Since the chiropractic profession is a self-regulated profession under the *Regulated Health Professions Act* and is governed by the College of Chiropractors of Ontario, every Chiropractor practicing in Ontario must be a registered member of the College. As a result, he or she must ensure that he or she adheres to the standards of practice set out by the College. Aspects of a chiropractic practice regulated by the College include record keeping and record retention requirements, consent to treatment, professional competency and conflicts of interest. The importance of being aware of and adhering to the regulations set out for the profession cannot be understated.

5. When Something goes Wrong – Hope for the Best, Prepare for the Worst

Although unpleasant to think about, it is important to realize that something may go wrong at some point in your career. For this reason, it is important to be prepared. This is something you need to consider both when you are starting off, and with every business decision you make thereafter.

With respect to the business aspects of your practice, you must consider which insurance package is appropriate within the context of your practice. You also need to be aware of the applicability and the requirements of the *Occupational Health and Safety Act*.

Further, it is important to be prepared for the chance that you may receive complaints directly, that complaints may be made about you to the College, that you may be audited or investigated, or that you may experience other unexpected difficulties.

By keeping apprised of the need to have proper insurance coverage, the need to maintain a safe workplace, and the possibility that the unthinkable may occur, you will be better prepared to handle issues as they arise.

Through the articles to follow, we hope to help you to plan for success and to navigate the legal and business challenges that you may encounter.

This article is not to be considered legal advice relating to specific facts or situations. If you have specific concerns or questions, please contact David Mills at 416-682-7138 or Denise Robertson at 416-682-7139.