

An Overview of Legal Considerations for Chiropractors

Presented by David Mills

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130 YEARS

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Presented by David Mills, Mills & Mills LLP



David is proud to represent the fourth generation of Mills to practice at the firm. He is a great-grandson of Alexander Mills, K.C., one of the founders, grandson of Ralph S. Mills, Q.C., and a son of J. Paul Mills, Q.C. David served his articles with Mills & Mills LLP, joined the firm following his call to the Bar and became a partner in 2006.

David provides a comprehensive range of legal services to meet the needs of entrepreneurs and private businesses. Many of David's clients manage healthcare services businesses, including chiropractors, dentists, midwives, multidisciplinary health clinics, and others.

Through careful planning and the implementation of appropriate legal structures and practices, David helps healthcare providers protect their businesses and assets and focus on what they do best – take care of their patients.

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Agenda

1. Business Structure – Protecting One’s Personal Assets
2. Setting up an Office
3. Top 4 Acronyms to Pay Attention to
4. Hope for the Best, Prepare for the Worst
5. Working with Others
6. Succession and Estate Planning
7. Questions

Business Structure - Protecting One's Personal Assets

Three types include,

1. Sole Proprietorship
2. Partnership
3. Professional Corporation

How to decide?

The decision is often informed by factors such as tax planning, cost and liability.

Business Structure - Protecting One's Personal Assets

- Sole Proprietorship – Easiest to organize – it's all you! BUT it has the highest exposure for personal liability.
- Partnership – It can be more complex to organize, but you can limit some personal liability with a partnership agreement.
- Professional Corporation – Most complex organization, but limits personal liability with respect to business risks and debt.

Business Structure - Liability

REMEMBER: You cannot avoid your professional obligations.



Setting up an Office

Don't forget the
legal implications!



Setting up an Office - Considerations

- Location – Municipal regulations? Buy or lease?
- Financing - Where will you be obtaining financing from? An institutional lender? A business partner? Yourself? Do you need loan documents? What is a General Security Agreement?
- Equipment – Will you buy or lease? From whom?

Setting up an Office

“If it’s not in writing, it doesn’t exist”

- Countless problems can arise if you don’t take the time to write things down.
- What should be in writing?
 - Agreements
 - Important patient and other communications
 - Work orders
 - Progress reports
 - Time logs
 - Etc.

Setting up an Office - Considerations

- Internal Policies – policies will be needed to address record-keeping, privacy, employment, occupational health and safety, discrimination and harassment, marketing, etc.
- Billing – What will your billing and collections processes be?
- Professional Advisors – Behind every successful business there is ...

Setting up an Office - Professional Advisors

Behind every successful business there is...

- A relationship with a **bank** – Establish a good relationship as soon as possible.
- An **Accountant** – The *Income Tax Act* is the size of a phone book; this is just the tip of the iceberg in the financial sea you will venture into.
- A **Lawyer** – Legal advice will be more important as your business grows. Seek advice before signing anything significant – a small expense today can save a lot of money and trouble tomorrow.

Top 4 Acronyms to Pay Attention to

1. CASL (Canada's Anti-Spam Legislation, in force July 1, 2014)
2. PHIPA (Personal Health Information Protection Act)
3. PIPEDA (The Personal Information Protection and Electronic Documents Act)
4. CCO (College of Chiropractors of Ontario)

1. CASL

- **What is it?** Legislation meant to help limit spam, unsolicited electronic communications and other electronic threats.
- **Who does it apply to?** Any individual, business or organization that (1) sends commercial electronic messages; (2) is involved with the alteration of transmission data or (3) produces or installs computer programs
 - Therefore, if you expect to communicate with patients by email or do any online communication, it will likely apply to you!
- **When does it come into force?** July 1, 2014.

1. CASL

- **How can you protect yourself?**
 - Consider your internal processes
 - Consider whether your communications would be considered commercial electronic messages
 - Consider whether implied consent exists
 - Obtain express consent
 - Maintain records of consent and when consent is revoked
- **What is a commercial electronic message?**
 - an "electronic message" means "a message sent by any means of telecommunication". This definition is technology-neutral, and so e-mails, text messages, and picture messages are captured by CASL.

1. CASL

- **Consent**

- consent to receive a commercial electronic message can be given expressly or impliedly
- CASL sets out when implied consent exists
- CASL requires that certain information be included in a request for consent
 - Note: A request for consent will be considered a commercial electronic message!

2. PHIPA

- Health specific privacy legislation which applies to health information custodians (a listed individual or organization under PHIPA that, as a result of his, her or its power or duties, has custody of or control over personal health information)
- PHIPA sets out obligations with respect to the collection, modification, retention and accuracy of, as well as one's access to, personal health information.
- Office policies need to be developed and followed.

2. PIPEDA

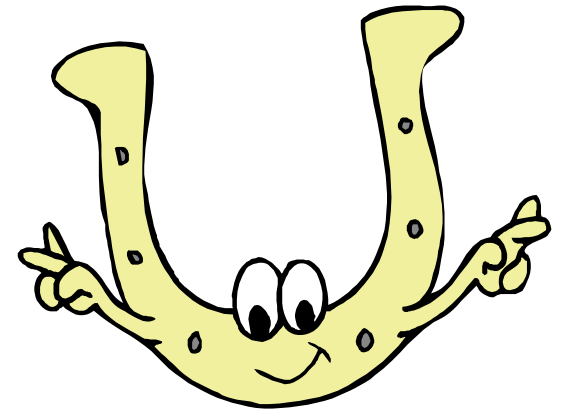
- A set of rules regarding the collection, use and disclosure of personal information in the course of commercial activities.
- Gives individuals the right to access and request correction of the personal information organizations may have collected about them.
- Be aware, implement policies and follow them!

3. CCO

- Professional Regulation and Responsibility
 - The Regulated Health Professions Act
- Be aware of the standards of practice and follow the rules.
- Recognize that complaints happen and deal with them when they occur.

Hope for the Best, but Prepare for the Worst

Always keep the “worst case scenario” in mind when evaluating risk or planning business expenditures.



Hope for the Best, but Prepare for the Worst

Make sure that if a plan falls through, it won't be devastating to you or your business – don't put all your eggs in one basket!



Hope for the Best, but Prepare for the Worst

What can you do? What should you consider?

1. Insurance coverage – General Insurance?
Professional Liability Insurance? Life Insurance?
Critical Illness or Disability Insurance?
2. Develop workplace policies – for example, policies regarding workplace safety.
3. Keep informed.

Working with Others

- Patients
- Fellow chiropractors
- Other health care professionals
- Support staff
- Independent contractors



Working with Others - Patients

- What information must you/should you collect before and during the initial consult?
- Will you be processing insurance claims on behalf of clients or will you require payment?
- How will you be managing billings? What will be your collection policies?
- Record-keeping and privacy.



Working with Others

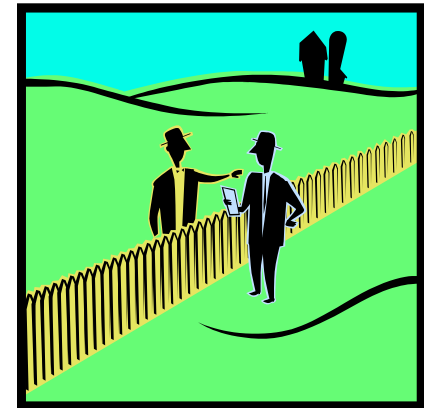


Document your business relationships with employees, colleagues and contractors using agreements such as employment contracts, partnership agreements, contractor agreements, space sharing agreements and associate agreements.

Working with Others

Remember...

just as good fences make good neighbours, good contracts make good business partners.



Succession and Estate Planning

Why do it?

- For both personal and professional reasons



Succession and Estate Planning - Things to Consider

- Personal motivations
- Agreements that require you to have certain provisions in your Will or to have a Power of Attorney
- As your practice becomes more successful, consider how you can protect your family and maximize the benefits to your estate by planning ahead.
- Do you have a plan for the management of your practice if you get sick and cannot work for a time?

Succession and Estate Planning - Planning Documents

1. Will
2. Power of Attorney for Property
3. Power of Attorney for Personal Care
4. Succession Plan for your practice



Succession and Estate Planning - Top Ten Things to Consider

1. Choose your Estate Trustee(s) carefully
2. Consider using multiple Wills to reduce probate tax
3. Consider whether you need a Will in any other jurisdictions
4. There are more important things to worry about than the dreaded Probate Tax
5. Beware of joint accounts
6. Be careful with gifting
7. Be sure to appoint Guardians for your minor children
8. Be realistic - make sure your plans are consistent with reality
9. Involve your family to avoid future disputes
10. Estate planning is not a rotisserie cooker – you can't just “set it and forget it”.

QUESTIONS...

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Thank you!



The information contained in this presentation is of a general nature and cannot be relied upon as legal advice.

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