

# Directions

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## The Cryotherapy Controversy Webinar: Melting the Myths of Icing

by Nadine Plotnikoff, M.Sc. (PT), FCAMT, Diploma Sport Physiotherapist

PABC members recently joined Alison Hoens (PABC Knowledge Broker) and me in a “fireside chat” style webinar on cryotherapy. The topic has recently come under fire in the media with respect to its place in injury management. Given the widespread use of ice in our profession, it is not hard to understand the wave of concern and confusion about the implications to our practice. Our recent presentation was designed to help members become informed on this issue of consequence to most physiotherapists.

Several researchers have voiced a divergent view of icing. Criticism has centred on the belief that the body does a good job of ‘self-regulation’ of

inflammation and ultimately provides an appropriate degree of response to an injury, with the implication that limiting that response will ultimately negatively influence tissue healing. Conversely, we have historically thought of the body’s inflammatory response as being ‘over-responsive’ and potentially more damaging than necessary to tissue, with the use of ice playing an important role in controlling this over-responsiveness. One of the statements that struck me most was by Dr. Alex Scott, from the UBC Department of Physical Therapy, who stated that we did not want to leave inflammation unchecked; that the application of ice after acute injury limits the initial influx of neutrophils, thereby limiting the extent of secondary injury to surrounding tissue.

We began the webinar with a review of how controversy surrounding cryotherapy

erupted, before providing a summary of the basic physiological effects of icing. Naturally, our conversation then turned to the effects and roles of ice from a clinical perspective. The research is broad and varied; direct comparisons and conclusions are difficult because of differences in the design and methods used in the studies.

Some of the articles Alison highlighted looked at the effect of cryotherapy on nerve conduction, pain threshold, and pain tolerance. There is good evidence that shows that indeed it is effective with pain control.

The webinar was a good opportunity to review the differences among inflammation, edema and swelling, with a view to discussing the appropriateness of using cryotherapy for each of these. Inflammation includes the presence of its five cardinal signs: heat, redness, pain, swelling, and loss of function; heat and redness are absent in both edema (which involves the presence of necrotic debris and fluid accumulation) and swelling (accumulation of fluid without necrotic debris). Cryotherapy is therefore clearly more appropriate in the management of inflammation but not in edema or swelling.

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# Cervical Spine Rule Advisory Group Update

by Marj Belot, Chair of the C-Spine Rule Advisory Group (CRAG)

Every PABC member received a copy of the Canadian C-Spine Rule and our FAQs for their own use in the last *Directions* newsletter. The 3-year task force put together for members and physicians an evidence-based information kit on how the Rule informs our practice.

If you needed to use it at work, do you know where it is? If you prefer a mobile app, have you downloaded QxMD? It also has the Ottawa Ankle and the Ottawa Knee rules. This and copies of the Rule are available on the PABC website on the C-Spine Rule page on the Members' Site.

Curious about how it was developed? The original article by Stiell et al can be found on the same PABC page. Are you feeling uncertain about how to apply the rule? There is a 5-minute video with cases on YouTube as well as the PABC site and a longer, free webinar that includes discussion regarding use of

clinical judgment with the Rule. Peter Francis and Alison Hoens have been developing some tweets with clinical scenarios to test your knowledge of how to use the Rule. If you don't want to miss out, follow PABC on Twitter.

Carol Kennedy and I presented a poster at CPA Congress regarding the baseline survey for this project that was well received. Next steps include completing a manuscript to share what we've learned with the wider physio world as well as searching for a keener who would like to perform an in-depth analysis of our KT project. If you've been considering doing a research masters, Dr. Li would be happy to supervise you and guide you through the process. If you are interested, contact Alison Hoens at [alison.hoens@ubc.ca](mailto:alison.hoens@ubc.ca). 🙋



The C-Spine Advisory Group L-R: Peter Francis, Alison Hoens, Sarah Hrabi, Melina Kurtakis, Bill Lyons, Marj Belot (chair), Carol Kennedy, and Linda Li. (missing: Antonio Zenone, Guido Wisotzki, John Howick)

## The Physiotherapist in Court: I have received a Subpoena, now what?

by David J. Wallin, Barrister & Solicitor

I recently wrote an article for *Directions* in Physiotherapy that discussed a treating professional's legal rights and obligations when it comes to providing testimony in court proceedings.

From time to time physiotherapists may become involved in the legal proceedings of their clients. For many physiotherapists, the prospect of being compelled to attend court at a place, date and time specified in a formal court document is a somewhat daunting prospect and fraught with much uncertainty and misunderstanding. I have been asked to provide a further discussion of what a physiotherapist is to do if they are "Subpoenaed" into the legal proceedings of their clients.

What follows is in the form of a Q&A discussion of the essential information that you may need to know in the event that you receive a "Subpoena to Witness" or a "Summons to Witness", requiring you to attend at court to testify on the treatment of a current or a former client.

### Q: What is a Subpoena to Witness or a Summons to Witness?

A: A "Subpoena" is defined in Black's Law Dictionary as "... a command to appear at a certain time and place to give testimony upon a certain matter." It is the term generally used in civil proceedings before the Supreme Court of British Columbia (as referred to in the Supreme Court Civil Rules) and is similar to a "Summons to Witness" in Provincial Court civil proceedings.

### Q: How are Subpoenas generally served on physiotherapists?

A: To be legally enforceable, a Subpoena must be served upon a witness by a party of record in the proceedings. This is generally effected by personal service by a process server. However, in the case of treating professionals, lawyers will generally wish to meet with the witness well in advance of the court date and will usually personally (and less formally) deliver the Subpoena when meeting to discuss trial testimony matters.

### Q: What is my role as a witness in court/ what is the purpose of having me attend at court?

A: Simply stated, a witness helps our legal system by presenting important information (called evidence) to a court. A witness "testifies" or tells the court what they know about a particular matter. Information from witnesses helps the court make the correct decision on a matter. If you receive a Subpoena that says you have to be a witness in a trial, it is likely because it is believed that you have important relevant information about a client.

**Q: Who can Subpoena me and who will be asking me questions?**

A.: Either lawyer in a court case (counsel for the client / plaintiff or counsel for the defendant(s)) can issue a Subpoena, requiring you to attend at court to be a witness. The notice you receive to be a witness in a civil case will show the names of all parties to the lawsuit.

The lawyers for both parties may ask you questions on topics that are considered relevant in the case before the court. In some cases, the Judge may also ask the witness questions. However, the questions asked by the Judge will generally be to clarify the evidence already provided in response to the questioning of the lawyers involved.

**Q: What if I don't want to answer the questions I am being asked in court?**

A: Many people do not want to be a witness in court because they are for a number of reasons reluctant to become involved in the process and would prefer not answering certain questions. They may also erroneously believe that they can refuse to answer questions for patient confidentiality reasons, or even by "pleading the fifth amendment". This is incorrect.

Witnesses must testify, or tell the court what they know, by answering questions from either side, or questions asked by the Judge. If a witness refuses to answer a question, the Judge can find them in contempt of court and has the power to Order the non-compliant witness incarcerated. However, this judicial power is very rarely required to be used.

**Q: How much notice of my court attendance am I entitled to?**

A: In the Supreme Court of British Columbia you are entitled to a minimum of 7 days advance notice from the time you are expected to be in court to testify. However, a Judge of the Court may make an Order seeking to abridge the time period and shorten the notice period in the appropriate circumstances.

**Q: Am I able to charge for my time as a witness under Subpoena for the time preparing for and attending at court?**

A: Generally speaking, if you are attending court under Subpoena you are entitled to the same witness fees

or "conduct money" as prescribed by Schedule 3 of the Supreme Court Civil Rules, or "travelling expenses" as prescribed by Rule 9 in the Small Claims Rules. In the Supreme Court of British Columbia, the conduct money to which you are entitled is indeed modest and is the same for you as it is for any other "factual" witness.

The above situation should be distinguished from a scenario where a physiotherapist may be called upon to testify in the capacity of an "expert witness", which will generally have involved the physiotherapist having prepared an expert report for use in court proceedings. In such cases, the expert witness may make mutually satisfactory arrangements with the engaging counsel with respect to how they will be remunerated for both trial preparation and trial attendance fees

**Q: If I am unable to attend Court at the appointed time in the Subpoena, what can I do?**

A: On the Subpoena or Summons to Witness is the name of the lawyer who is calling you to attend court. It is completely appropriate for you to phone the lawyer to find out why they want you as a witness and what relevant documents you may have to bring to court. Ask exactly when you have to go to court, and if necessary, try to arrange a more convenient time. It would be a rare case that the lawyer calling upon you to testify will not be able to make some reasonable accommodations with respect to the timing of your court attendance, however, this issue will depend on a number of witness scheduling factors that may be outside the lawyer's control.

**Q: What if I just don't want to attend or feel I am not a proper witness?**

See *Directions* Winter 2015 for more Q&A on this topic, or go to <http://bcphysio.org/resource/court-preparation-and-testimony>

A: If you have a good reason not to be a witness, you can apply to the court for an Order setting aside the Subpoena on the grounds that compliance with it is unnecessary or that it would "work a hardship" on the person. The court may make any Order, as to postponement of the trial or the canceling of the Subpoena as the court considers appropriate in the circumstances.


**Q: What will happen to me if I don't attend?**

A: If the Subpoena or Summons is not cancelled and you do not make other arrangements with the lawyer issuing the Subpoena respecting when to give your testimony, then you must go to court. If you don't attend when required in the Subpoena, the lawyer may ask the judge to have you arrested and brought before the court by a Sheriff or other peace officer. A court can issue a "material witness" warrant for your arrest.

**Q: What am I supposed to bring with me to Court?**

A: The British Columbia Supreme Court Civil Rules require the recipient of a Subpoena to bring with them "all documents in your possession or control relating to the matters in question in this proceeding." The Form 25 Subpoena to Witness served upon a potential witness states this expressly in the body of the Subpoena to Witness.

For the treating physiotherapist, this will generally require you to secure and bring the original copies of your patient's clinical file materials with you to court, in the event the original copies are required to be inspected or reviewed by the parties or the Court.

David Wallin is a Director at WhitelawTwining Law Corporation. 

*PABC is creating another promotional video in its series on the value of physiotherapy. The first was released in the summer and focused on paediatrics, neuro and oncology. The autumn release is on treating arthritis, both before and after surgery; it coincides with Arthritis Awareness Month. In the video are Allison Ezzat (R) and former Canadian Women's Rugby Team Captain Ruth Hellerud-Brown. Allison is treating Ruth for knee OA.*

