

Proposed Amendments to By-law 13 of the College of Kinesiologists of Ontario

60-day Consultation
Closes: May 30, 2023

The following are proposed amendments to By-law 13 of the College of Kinesiologists of Ontario.

Document Layout

The document is structured in a table that sets out the current by-law provision, the proposed changes (additions are in red and underlined, deletions are in red and struck out) and the rationale for the change. Only proposed changes are included here (by-laws for which no change was proposed have been excluded from this document).

Consultation

Upon approval of the proposed By-law 13 amendments for circulation, a 60-day external consultation will take place in advance of presenting final proposed changes to Council at its June 2023 meeting. College staff will review all feedback received during the consultation, and Council will be provided with final changes and information obtained during the consultation process for Council’s review and approval in June 2023. Once the amendments are approved, staff will communicate these changes to registrants and other stakeholders.

By-Law 13: Specific Composition and Selection of Committees

| Current by-law provision | Proposed change | Rationale / Explanation |
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| <p>13.08 Term of Office of Committee Members The term of office of a committee member shall commence immediately after the appointment and shall continue for approximately one (1) year. The chair of every statutory and non-statutory committee shall be eligible for appointment for a maximum of two (2) consecutive one (1) year terms.</p> | <p>13.08 Term of Office of Committee Members <u>Effective September 2023, and unless stated otherwise in the by-laws or the committee terms of reference, the term of office of a committee member appointed by Council shall commence immediately after the appointment and shall continue for approximately one (1) year three (3) years. A committee member shall be eligible for appointment to any committee(s) for a maximum of two (2) consecutive three (3) year terms or a maximum of six (6) consecutive years.</u> The chair of every statutory and non-statutory committee shall be eligible for</p> | <p>September 2023 effective date selected as this is normally the time when appointments to Committee are made.</p> <p>Inclusion of a reference to “unless stated otherwise[...]” is intended to promote flexibility (for example where a committee may be constituted for a specific purpose or a specific length of time that is less than 3 years).</p> <p>The environmental scan indicated that CNO, OCT, CPSO, CDO, CTCMPAO, CRTO and COTO have moved to 3-year terms, with COCOO’s terms ending at the “first Council</p> |

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| | <p>appointment for a maximum of two (2) consecutive one (1) year terms.</p> | <p>meeting which is more than two calendar years following that appointment.”</p> <p>The inclusion of “[...] or a maximum of six (6) consecutive years” is intended to ensure that multiple appointments, concurrently or sequentially, do not extend the maximum term limit. This is consistent with the by-laws of other Colleges (for example: CPSO).</p> <p>Extending both the term of office and maximum committee term limit will move CKO governance into alignment with anticipated governance reforms and best practices. Longer committee terms and term limits will also promote mentorship, maintenance of institutional knowledge and succession planning.</p> |
| | <p><u>13.09 Maximum Term Exceeded</u> <u>Where there may be exceptional circumstances, a committee member may exceed their maximum term limit for the earlier of 6 months or until the committee member’s successor is appointed.</u></p> | <p>Consistent with other Colleges (for instance, CPSO) and is intended to create a specific and time-limited provision allowing a committee to function and be properly constituted in exceptional circumstances.</p> |
| <p>13.09 Chairs Unless stated otherwise in these by-laws, the chair or chairs of each committee shall be appointed by Council. The chair of any statutory committee must be a member of Council.</p> | <p>13.1009 Chairs Unless stated otherwise in these by-laws, the chair or chairs of each committee shall be appointed by Council. The chair of any statutory committee must be a member of Council. <u>Unless stated otherwise in these by-laws, the chair of every statutory and non-statutory committee shall be eligible for appointment for a maximum of two three (3) consecutive one (1) year terms.</u></p> | <p>Moved the maximum term information regarding committee chairs from 13.08 to 13.09.</p> <p>Extending the maximum number of terms for committee chairs (from 2 terms to 3) is intended to promote mentorship and succession planning. Note that there are instances of chairs exceeding the current maximum term (2 consecutive 1-year terms).</p> |

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| | <p><u>13.11 Term of Office - Vacancies</u> <u>The term of office of a committee member appointed to fill a vacancy will continue until the original term would have expired.</u></p> | <p>Intended to promote participation in committees, particularly where an appointment may be required to maintain quorum/proper constitution in exceptional circumstances.</p> |
| | <p><u>13.12 Maximum Term – Vacancies</u> <u>Time spent as a member of a committee to fill a vacancy is not considered for the purposes of determining an individual’s maximum term limit.</u></p> | <p>Intended to reduce barriers or perceived cost associated with filling vacancies. This is consistent with by-laws of other Colleges.</p> |
| <p>13.10 Decisions Regarding Appointments As soon as possible after the annual election of the President, the Vice-President and the Executive Committee, the Governance and Nominations Committee shall present a slate of recommended chairs and members of each committee to the Council, based on the College’s governance policies as approved by Council. The Council shall appoint the chair and members of each committee. Where, for any reason, the Council fails to appoint a new committee at the time provided for in this by-law, the existing members of the committee shall continue to serve as the committee provided that a quorum exists. If any vacancies occur in the chair or membership of any committee, the Governance Committee shall recommend a member to serve as a replacement. The Council shall appoint a replacement chair. Where the chair of a committee is unable to act for a matter or for a period of time, he/she shall appoint from the committee a</p> | <p><u>13.130 Decisions Regarding Appointments</u> As soon as possible after the annual election of the President, the Vice-President and the Executive Committee, <u>and at other times as needed</u>, the Governance and Nominations Committee shall present a slate of recommended chairs and members of each committee to the Council, based on the College’s governance policies as approved by Council, <u>with consideration given to committee member requests regarding appointments</u>. The Council shall <u>review the proposed slate and</u> appoint the chair and members of each committee <u>as required</u>. Where, for any reason, the Council fails to appoint a new committee at the time provided for in this by-law, the existing members of the committee shall continue to serve as the committee provided that a quorum exists. If any vacancies occur in the chair or membership of any committee, the Governance Committee shall recommend a</p> | <p>Proposed insertion is intended to make explicit that committee member requests regarding their appointments may be considered when the slate is reviewed.</p> <p>This will provide a mechanism by which the slate can be reviewed and adjusted. The insertion of “and at other times as needed” is intended to explicitly permit review of the slate whenever needed (examples may include when new applications are received, or when a new Council member may be elected or appointed).</p> <p>These proposed changes are intended to permit a flexible approach to committee slate composition within the parameters of a 3-year term.</p> |

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| <p>person to act on his/her own behalf, failing which the President shall appoint an acting chair from the committee. Despite the above, in circumstances of urgency, the Executive Committee can act to immediately fill a vacancy.</p> | <p>member to serve as a replacement. The Council shall appoint a replacement chair. Where the chair of a committee is unable to act for a matter or for a period of time, he/she shall appoint from the committee a person to act on his/her own behalf, failing which the President shall appoint an acting chair from the committee. Despite the above, in circumstances of urgency, the Executive Committee can act to immediately fill a vacancy.</p> | |
| <p>13.11 Eligibility for Appointment to a Committee A member shall be eligible for appointment to a committee of the College as a non-Council member if, on the date of appointment:</p> <ul style="list-style-type: none"> i. The member has filed a completed application in the form approved by the Registrar; ii. the member practises kinesiology in Ontario, or if the member does not practise Kinesiology, the member resides in Ontario; iii. the member is not the subject of any disciplinary or incapacity proceedings; iv. no finding of professional misconduct, incompetence or incapacity has been made against the member in the preceding three (3) years; v. the member is not subject to any order, direction, or term, condition or limitation of the Discipline Committee, the Fitness to Practise | <p>13.141 Eligibility for Appointment to a Committee A member shall be eligible for appointment to a committee of the College as a non-Council member if, on the date of appointment:</p> <ul style="list-style-type: none"> i. tThe member has filed a completed application in the form approved by the Registrar; ii. the member practises kinesiology in Ontario, or if the member does not practise Kinesiology, the member resides in Ontario and holds a certificate of registration in good standing with the College; iii. the member is not the subject of any disciplinary or incapacity proceedings of the College or any other regulatory body; iv. the member has not been the subject of a finding of professional misconduct, incompetence or incapacity in the preceding three (3) years at the College or any other regulatory body; | <ul style="list-style-type: none"> ii. Amended to require a certificate of registration in good standing with the College. v., vi. Amended to remove explicit reference to QA. This is consistent with other Colleges, as well as with the principles of the QA program (not punitive, confidential and open exchange of information). There are currently measures in these by-laws adequate to prevent someone who may have committed professional misconduct, be incompetent or incapacitated from serving on a committee. xi. Creates a formal 3-year cooling-off period, which is consistent with other Colleges' (including the CNO) by-laws. This was specifically worded to not apply to an individual who had not served for the full maximum term (they may have resigned, not been re-elected to Council or chosen not to stand for re-election or re-appointment). |

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| <p>Committee or the Quality Assurance Committee;</p> <p>vi. the member is not an employee, officer or director of any professional kinesiology association such that a real or apparent conflict of interest may arise, including but not limited to being an employee, officer or director of the Ontario Kinesiology Association;</p> <p>vii. the member has not been disqualified from the Council or a committee of the Council in the previous three (3) years;</p> <p>viii. the member is not a member of the Council or of a committee of the college of any other health profession;</p> <p>ix. the member has not been a member of the staff of the College at any time within the preceding three (3) years; and</p> <p>x. the member has not been appointed to a committee of the College as a non-Council member in each of the three (3) consecutive prior terms.</p> <p>xi. the member is not holding a responsible position with any organization/group whose mandate or interests conflict with the College;</p> <p>xii. the member is not a consultant to third party provider engaged by the College;</p> <p>xiii. the member has not resigned from Council or a College committee within the previous three years</p> | <p>v. <u>the member is not subject to any order or direction of the Discipline Committee or the Fitness to Practise Committee of the College or of any other regulatory body;</u></p> <p>vi. <u>the member's certificate of registration with the College or any other regulatory body is not subject to any terms, conditions and limitations other than those that apply to all members in the member's class of registration;the member is not subject to any order, direction, or term, condition or limitation of the Discipline Committee, the Fitness to Practise Committee or the Quality Assurance Committee;</u></p> <p>vii. the member is not an employee, officer or director of any professional kinesiology association such that a real or apparent conflict of interest may arise, including but not limited to being an employee, officer or director of the Ontario Kinesiology Association;</p> <p>viii. the member has not been disqualified from the Council or a committee of the College in the previous three (3) years;</p> <p>ix. the member is not a member of the Council or of a committee of the college of any other health profession;</p> <p>x. the member has not been a member of the staff of the College</p> | <p>Consistent with recommendations from the Cayton Report regarding the College of Dental Surgeons of British Columbia (inquiry-into-the-performance-of-the-college-of-dental-surgeons-of-british-columbia.pdf (professionalstandards.org.uk)) (see pg. 21 of this document, item 3.35).</p> |
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| <p>xiv. other than for health or personal reasons acceptable to Council; the member is not in default of payment of any fees, fines, costs, or other amounts owed to the College;</p> <p>xv. the member is not in default of completing and submitting any required form or information to the College;</p> <p>xvi. the member does not have a criminal finding of guilt that is relevant to the member's ability to practise the profession;</p> <p>xvii. the member is not the subject of a charge that is relevant to the registrant's ability to practise the profession; and</p> <p>xviii. before the appointment, the member has successfully completed any qualification process established by the Council.</p> | <p>at any time within the preceding three (3) years; and</p> <p>xi. the member has not been appointed to a committee of the College as a non-Council member in each of the three (3) consecutive prior terms <u>three (3) calendar years have passed since the member last served on Council or a committee of the College for the maximum term;</u></p> <p>xii. the member is not holding a responsible position with any organization/group whose mandate or interests conflict with the College;</p> <p>xiii. the member is not a consultant to third party provider engaged by the College;</p> <p>xiv. the member has not resigned from Council or a College committee within the previous three years other than for health or personal reasons acceptable to Council;</p> <p>xv. the member is not in default of payment of any fees, fines, costs, or other amounts owed to the College;</p> <p>xvi. the member is not in default of completing and submitting any required form or information to the College;</p> <p>xvii. the member does not have a criminal finding of guilt that is relevant to the member's ability to practise the profession;</p> <p>xviii. the member is not the subject of a charge that is relevant to the registrant's ability to practise the profession; and</p> | |
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| | <p>xix. before the appointment, the member has successfully completed any qualification process established by the Council.</p> | |
| <p>13.12 Removal of Committee Members The Council shall disqualify a person appointed to a Committee from sitting on that Committee if the person:</p> <ul style="list-style-type: none"> i. is subject of any disciplinary or incapacity proceeding; ii. is found to have committed an act of professional misconduct or is found to be incompetent by a panel of the Discipline Committee; iii. is found to be incapacitated by a panel of the Fitness to Practise Committee; iv. fails to attend two consecutive meetings of the Committee in which he or she is a member, without reasonable cause in the opinion of Council; v. fails to attend a hearing or review of a panel for which the person has been selected, without reasonable cause in the opinion of Council; vi. ceases to either have a primary practice of kinesiology or primary residence in Ontario; vii. becomes an employee, officer or director of any professional kinesiology association such that a real or apparent conflict of interest may arise, including but not limited to being an employee, officer or | <p>13.152 Removal of Committee Members The Council shall disqualify a person appointed to a Committee from sitting on that Committee if the person:</p> <ul style="list-style-type: none"> i. is subject of any disciplinary or incapacity proceeding <u>of the College or of any other regulatory body;</u> ii. is found to have committed an act of professional misconduct or is found to be incompetent by a panel of the Discipline Committee <u>of the College or of any other regulatory body;</u> iii. is found to be incapacitated by a panel of the Fitness to Practise Committee <u>of the College or of any other regulatory body;</u> iv. <u>holds a certificate of registration with the College or any other regulatory body that becomes subject to terms, conditions and limitations other than those that apply to all members in the member's class of registration;</u> v. fails to attend two consecutive meetings of the Committee in which he or she is a member, without reasonable cause in the opinion of Council; vi. fails to attend a hearing or review of a panel for which the person has | <p>i., ii., iii., Consistent with other by-laws of the College (such as by-law 10.09, 10.29 and by-law 13.11.iii.). The intent is to ensure that a situation that renders a member ineligible should also be considered as disqualifying.</p> <p>iv. Consistent with other proposed changes to the by-laws (by-law 10.09, 10.29 and by-law 13.11.vi.).</p> <p>vii. Proposed amendment to account for members of the College who may, temporarily, be practising outside Ontario or who may be practising in Ontario via virtual means. This is intended to promote consistency with by-law 13.13.ii (which requires practice in Ontario but does not specify or require "primary" practice in Ontario. The intent is to ensure that the eligibility and disqualification criteria are internally consistent.</p> |

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| <p>director of the Ontario Kinesiology Association;</p> <p>viii. becomes a member of the Council or a committee of the college of any other health profession;</p> <p>ix. breaches the conflict of interest provision(s) for members of Council and committees, in the opinion of the Council, after being given notice of the concern and an opportunity to respond to the concern;</p> <p>x. fails to discharge properly or honestly any office to which the person has been appointed, in the opinion of the Council, after being given notice of the concern and an opportunity to respond;</p> <p>xi. becomes in default of payment of any fees prescribed by by-law or any fine or order for costs imposed by the College or court of law;</p> <p>xii. becomes in default of completing and returning any information required by the College</p> <p>xiii. ceases to hold a certificate of registration; or</p> <p>xiv. is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification.</p> <p>A person who is disqualified from sitting on a committee shall cease to be a member of that committee.</p> | <p>been selected, without reasonable cause in the opinion of Council;</p> <p>vii. ceases to either have a primary practice of kinesiology or primary residence in Ontario;</p> <p>viii. becomes an employee, officer or director of any professional kinesiology association such that a real or apparent conflict of interest may arise, including but not limited to being an employee, officer or director of the Ontario Kinesiology Association;</p> <p>ix. becomes a member of the Council or a committee of the college of any other health profession;</p> <p>x. breaches the conflict of interest provision(s) for members of Council and committees, in the opinion of the Council, after being given notice of the concern and an opportunity to respond to the concern;</p> <p>xi. fails to discharge properly or honestly any office to which the person has been appointed, in the opinion of the Council, after being given notice of the concern and an opportunity to respond;</p> <p>xii. becomes in default of payment of any fees prescribed by by-law or any fine or order for costs imposed by the College or court of law;</p> <p>xiii. becomes in default of completing and returning any information required by the College</p> <p>xiv. ceases to hold a certificate of registration; or</p> | |
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| | xv. is found guilty of a criminal offence which, in the opinion of Council, is of such a nature that warrants disqualification. | |
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