



## Special Council Meeting Minutes

<b>Date/Time of Meeting:</b>	Monday, February 13, 2023 – 9 a.m.
<b>Council present:</b>	Jennifer Pereira, Teresa Bendo, Matthew Daher, Susan Garfat, Sara Gottlieb, Bradley Markis, Chad McCleave, Victoria Nicholson, Jotvinder Sodhi, Heather Westaway
<b>Staff members:</b>	Nancy Leris, Michelle Bianchi, Lynn Butler, Brian Fehst, Magdalena Reder, Fiona Teape
<b>Guests/observers:</b>	Rebecca Durcan, Legal Counsel Asna Ali, Ministry of Health

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### 1. Call to order, roll call, welcome

Jennifer Pereira, Chair and Council President, called the meeting to order at 9 a.m. and welcomed Council, staff members and guests.

As the notice of the meeting had been duly given in accordance with the by-laws of the College of Kinesiologists of Ontario and a quorum was present, the meeting was duly constituted for the transaction of business.

### 2. Introductions

Jennifer Pereira welcomed Jotvinder Sodhi, the newly appointed public member to Council. Jennifer also welcomed Rebecca Durcan of Steinecke Maciura LeBlanc as College legal counsel. Individual introductions were made by Council, College staff and guests.

### 3. Conflict of Interest Declarations

Jennifer Pereira asked whether any Council members present wished to declare a conflict of interest. There were no declarations.

### 4. Approval of Agenda

*UPON A MOTION duly made by Sue Garfat and seconded by Chad McCleave, it was resolved that the agenda be approved. Carried.*

## 5. Proposed Amendments to the General Regulation for Registration (Emergency Class)

Jennifer Pereira invited Fiona Teape, Director of Registration, to present the proposed draft amendments to the General Regulation of the *Kinesiology Act, 2007*, which would introduce an emergency class certificate of registration.

In April 2022 the Ontario government enacted Bill 106, the *Pandemic and Emergency Preparedness Act, 2022*, which sets out amendments to the *Regulated Health Professions Act, 1991* to ensure the healthcare system is better equipped to respond to a public health emergency. In October 2022, the Ontario government approved a regulation made under the RHPA that, amongst other things, requires all health regulatory health colleges to develop an emergency class of certificate of registration.

In late December 2022, the Ministry of Health advised all regulated health colleges to submit their draft proposed regulation on or before May 1, 2023. A 60-day circulation period to registrants and stakeholders must occur before the May 1 submission. Once approved by the Ontario government, the emergency class will come into force on August 31, 2023.

Features of the emergency class certificate of registration must include:

1. The specific emergency circumstances that will cause the class to be open for registration. The term 'emergency circumstance' should be broader than a declared state of emergency made under the *Emergency Management and Civil Protection Act, 1990*.
2. A time period of no more than a year duration, but renewable for the same period of time, with no limit on the number of times they may be renewed as long as the emergency circumstance persists.
3. Circumstances in which a member of the emergency class must become eligible for registration in another registration class and be exempt from at least some registration requirements that would ordinarily apply to that other class of registration.

### Features of the Proposed Draft Amendments to the *Kinesiology Act, 2007*

#### *Emergency Circumstances*

The Ministry expressed that an 'emergency circumstance' should be considered broader than a declared state of emergency, such as the interruption of a registration pathway due to a delayed examination. To sufficiently capture the breadth of possibilities, the proposed amendments permit Council or the Government of Ontario to invoke the emergency class when an emergency circumstance exists and it is in the public interest to do so. Such language allows the College a level of discretion in determining what constitutes an emergency circumstance, with or without declaration by the government.

#### *Requirements to Apply*

The purpose of the emergency class certificate of registration is to provide a route of entry for applicants who do not yet meet the core registration requirements, and enable rapid entry to the workforce in emergency circumstances under certain safeguards. As the College's entry-to-practice examination, currently held twice a year, presents a realistic delay to immediate registration in an emergency circumstances, it is omitted as a registration requirement for the emergency class. All other requirements under the general regulation remain. To provide reasonable assurances of competency and safeguards to the public, the following are non-exemptible requirements to registration in the emergency class:

- **The applicant must either,**
  - have satisfied the program requirements described in clause 5 (1)(a) no more than two years prior to the date of application for the emergency certificate of registration, or
  - have practiced the profession of kinesiology for at least 1,500 hours during the three years immediately prior to the date of the application.
  
- **The applicant must practise kinesiology under the supervision of a holder of a general class certificate of registration** whose certificate is not subject to additional terms, conditions, and limitations and who is in good standing. Operationally, the College will develop supervision guidelines (e.g. direct vs. indirect supervision) and reporting requirements.

#### *Expiry of the Emergency Class*

In accordance with Ministry requirements, the emergency class certificate of registration will be issued for up to a one-year period and renewable for a one-year period. The College is proposing the expiry date of the initial certificate of registration align with the annual registration renewal deadline, which is currently August 31, to avoid additional strain to staff and system resources. In this way, the initial certificate could be valid for a maximum 12-month period depending on the first issuance date, with any subsequent renewals issued for a one-year term.

Notwithstanding the one-year term of the emergency certificate, the certificate would expire 90 days after the Government of Ontario or Council declares the emergency circumstance has ended or immediately, if it is in the opinion of the Registrar that it is in the public interest to do so.

#### *Transition from the Emergency Class*

The draft amendments provide a path to registration in the general class that would exempt completion of the entry-to-practice examination for those who have demonstrated at least 1500 hours of practice in the three years at the time of registering for the emergency class, satisfactorily completed an additional one year of practice in the emergency class under supervision, and underwent a peer and practice assessment designed to assess practice competencies.

This is in accordance with the Ministry's mandate to establish circumstances in which a member of the emergency class can become eligible for registration in another class, with the emergency certificate holder exempt from at least some registration requirements that would ordinarily apply to that other class of registration. The College will develop and refine, through policy and guidelines, the criteria for determining the satisfactory evidence of knowledge, skill, and judgment to transition to the general class.

Council also considered the following recommendations:

- Registrants in the emergency class would not be permitted to apply directly to the inactive class;
- Registrants in the emergency class would not be required to participate in the quality assurance program under the *Kinesiology Act, 2007*, unless applying to transition to the general class under the proposed amendments. Council members acknowledged that the supervision requirement under the emergency class provided a layer of assurance and accountability in this area.

Council was also provided a summary of an environmental scan of other regulators' approaches to the emergency class.

Rebecca Durcan provided the following additional insights:

- The Lieutenant Governor in Council of Ontario may make changes to the wording/language to the final draft of the proposed legislation without consultation with the Colleges. The College should view the final submission to the Ministry as an opportunity to highlight the public interest rationale within the proposed amendments.
- The new regulation will likely require operational policy to be developed to guide Council regarding when Council may declare an emergency. Policies should be developed within a reasonable timeframe, though there is no requirement to have these finalized for May.
- Notwithstanding the need for operational guidance through policy, the core components of the class of registration should be included (e.g. supervision requirement) in the regulation in order to ensure transparency and fairness.

Following approval in principle by Council, the draft regulation will be circulated for 60 days and returned to Council in April 2023 to review the feedback and ratification. The final draft would then be submitted to the Ministry of Health for May 1.

### **Resolution – Proposed Amendments to the Registration Regulation (Emergency Class)**

*UPON A MOTION duly made by Teresa Bendo and seconded by Brad Markis, it was resolved that the Council of the College of Kinesiologists of Ontario approves in principle the draft proposed amendments to the General Regulation of the Kinesiology Act, 2007, as appended to this resolution, and directs staff to circulate the draft amendments to the membership for comment for a period of at least sixty (60) days. **Carried unanimously.***

### **Adjournment**

Jennifer thanked Council and staff for their continued dedication and wished everyone well.

*UPON A MOTION duly made by Chad McCleave the Council meeting of February 13, 2023 was terminated at 10:16 a.m. **Carried.***