



## Council Meeting Draft Agenda

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**Date:** June 27, 2022    **Time:** 9 a.m.    **Location:** Online

**Please join the meeting from your computer, tablet or smartphone.**

### LOGIN INFORMATION

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## AGENDA

Time		Discussion Item	Presenter/ Speaker	Document Included	Action
Please complete the online <a href="#">Conflict of Interest Disclosure/Declaration Form</a> prior to the meeting.					
1	9:05 am	Call to order, roll call and welcome	J. Pereira	Yes	Information
2	9:10 am	Introductions	J. Pereira	No	Information
3	9:15 am	Conflict of interest declarations	J. Pereira	No	Decision
4	9:20 am	Approval of agenda	J. Pereira	Yes	Decision
5	9:25 am	Approval of minutes – March 28, 2022	J. Pereira	Yes	Decision
6	9:30 am	<p><b>Action items from the March 28 meeting:</b></p> <ul style="list-style-type: none"> <li>Amend the Registration Timeline Policy (20f - “<b>more</b> than 15 days” should be “<b>less</b> than 15 days”) - COMPLETED</li> <li>Correct the spelling of Teresa Bendo in the minutes of the previous meeting (Dec. 7, 2021) - COMPLETED</li> <li>Update to Risk Management Plan about current Council composition/membership - COMPLETED</li> <li>Jurisprudence module – “client” to be revised back to “patient/client” when referring to those who receive services from kinesiologists - COMPLETED</li> <li>Registrar to update Council on any “incidents” arising from the online exam - COMPLETED</li> <li>Add a new risk to the Risk Management Plan to reflect that resignations from Council could leave a void in membership - COMPLETED</li> <li>Update Committee Slate - COMPLETED</li> </ul>			
7	9:35 am	<p><b>Committee Reports</b></p> <ul style="list-style-type: none"> <li>Discipline</li> <li>ICRC</li> <li>Registration</li> <li>Quality Assurance</li> <li>Patient Relations</li> <li>Q3 Finance Report / Dashboard Report</li> </ul>	Committee Chairs	Yes	Information
	10:35 am	<b>Break</b>			



8	10:45 am	<b>Registrar's Report</b> <ul style="list-style-type: none"> <li>• Response to the University of Guelph</li> <li>• CKO online exam update</li> <li>• Return to the office</li> <li>• Bill 106 consultation response</li> <li>• EDIB</li> <li>• Governance: online orientation module</li> </ul>	N. Leris	Yes	Information
9	11:05 am	<b>President's Report</b>	J. Pereira	Yes	Information
10	11:15 am	<b>Elections Update</b>	L. Butler	Yes	Information
11	11:25 am	<b>Financials</b> <ul style="list-style-type: none"> <li>• Draft Budget 2022 - 2023</li> <li>• Draft Operational Plan</li> </ul>	M. Bianchi / N. Leris	Yes	Decision
	12:10 pm	<b>Lunch Break</b>			
12	1:00 pm	<b>Practice Standard and Guideline Updates:</b> <ul style="list-style-type: none"> <li>• Practice Standard – Consent</li> <li>• Practice Guideline – Consent</li> <li>• Practice Standard – Advertising</li> <li>• Practice Guideline – Advertising</li> <li>• Practice Standard – Fees and Billing</li> <li>• Practice Guideline – Fees and Billing</li> <li>• Practice Standard – Infection Control</li> </ul>	B. Fehst	Yes	Decision



		<ul style="list-style-type: none"> <li>Practice Guideline – Mandatory Reporting</li> </ul>			
13	1:30 pm	<b>Registration Policies</b> <ul style="list-style-type: none"> <li>Stakeholder Consultation Review and Policy Approval <ul style="list-style-type: none"> <li>Inactive Certificate of Registration Policy</li> <li>Registration Timeline Policy</li> <li>Language Proficiency Policy</li> <li>Reissuance of General Class Certificate Policy</li> </ul> </li> </ul>	B. Fehst	Yes	Decision
14	2:00 pm	<b>Kinesiologists Core Competency Revalidation Business Case</b>	N. Leris	Yes	Decision
15	2:30 pm	<b>Communications Update</b>	L. Butler	Yes	Information
16	3:00 pm	<b>Review of Action Items</b>	J. Pereira	No	Review
<b>ADJOURNMENT</b>					



## March Council Meeting Minutes

<b>Date/Time of Meeting:</b>	Monday, March 28, 2022 / 9 a.m.
<b>Council present:</b>	Jennifer Pereira; Corby Anderson; Teresa Bendo; Susan Garfat; Candace Glowa; Sara Gottlieb; Bradley Markis; Ben Matthie; Chad McCleave; Mary Pat Moore; Victoria Nicholson; Graydon Raymer; Jana Smith; Ryan Wight
<b>Staff members:</b>	Nancy Leris; Michelle Bianchi; Lynn Butler; Brian Fehst; Colleen Foster; Magdalena Reder; Keisha Simpson; Lara Thacker
<b>Guests/Observers:</b>	Chantal Bélisle (OCT); Jason Bennett (OCT); Stuart Moulton (OKA); Christine Forsyth

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

Jennifer Pereira, Chair, called the meeting to order at 9:01 a.m. and welcomed Council, 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 announced the resignations from Council of Leslee Brown, Ben Phalavong and Marie Cousineau. Resigning for personal reasons, the College of Kinesiologists of Ontario thanks Ms. Brown, Mr. Phalayong and Ms. Cousineau for their contributions.

The new staff member occupying the role of Communications Manager was welcomed to the College.

Jennifer Pereira also reminded meeting attendees that the College requires cameras to remain on during meetings to support and encourage engagement.

### 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 Mary Pat Moore and Seconded by Sara Gottlieb, it was resolved that the agenda be approved. Carried.*

#### 5. Approval of Minutes from the December 6, 2021 Council Meeting

An error was cited in Teresa Bendo's name with a request to be corrected.

*UPON A MOTION duly made by Mary Pat Moore and Seconded by Sara Gottlieb, it was resolved that the minutes be approved as amended. Carried.*

#### 6. Action Items from the December 6, 2021 Meeting

College staff to correct misspelled Council member names – **Completed**

College staff to make a wording change in the jurisprudence handbook; psychiatrist to be updated to regulated health professional – **Completed**, pending posting to the website

College staff to send By-law 16, Article 16.02, paragraphs 1,3, 5 for legal review – **Completed**

#### 7. Committee Reports

Reports were provided in the Council package highlighting committee meetings, activities, changes, and discussions that took place since the December Council meeting. A second-quarter financial report and dashboard were also included.

Ben Matthie, chair of the Planning and Finance Committee, provided an update indicating that the College is on track to meet financial goals. The Committee reviewed the responses to the procurement process for an audit firm for the College and made a recommendation to appoint Hilborn LLP further to the following resolution and motion.

##### **Resolution and Motion:**

**Whereas** the College is required annually to provide audited Financial Statements to the Council and to the Minister of Health and Long -Term Care; and

**Whereas**, from time to time the Registrar will require advice on accounting and bookkeeping matters to ensure that College practices are consistent with other health regulatory bodies and carried out with due diligence and to meet both provincial and federal (CRA) government requirements; and

**Whereas** the College practices due diligence by, from time to time, undertaking competitive procurement of services; and

**Whereas** proposals were sought from four audit firms, to enable the College to ascertain whether it is receiving value for money in its purchase of audit services: and

**Whereas** the College selected Hilborn LLP through a competitive procurement process and has been fully satisfied as part of the College's due diligence in ensuring value for money, services provided, timeliness, thoroughness, and quality of services; and

**Whereas** the College has recommended that the Planning and Finance Committee will appoint Hilborn LLP as the auditor for 2021-22.

**Therefore**, be it resolved that the Planning and Finance Committee recommends to Council the appointment of Hilborn LLP as the auditor for the College of Kinesiologists of Ontario for the 2021/22 financial audit and for an additional period of three years.

*UPON A MOTION duly made by Victoria Nicholson and Seconded by Chad McCleave, it was resolved that the appointment of Hilborn LLP as the auditor for the College of Kinesiologists of Ontario for the 2021/22 financial audit and for an additional period of three years be approved. Carried.*

The Planning and Finance Committee also reviewed the College's Risk Management Plan with a recommendation to appoint a new information technology provider for the College.

#### **Resolution and Motion:**

**Whereas** the College practices due diligence by, from time to time, undertaking competitive procurement of services; and

**Whereas** the College has conducted an environmental assessment of qualified information technology providers within the regulated health professions to provide information technology support to the College, and

**Whereas** the College conducted reviews of three information technology providers to determine which would provide the services that the College requires, including cyber security; and

**Whereas** PACE Technical was selected through a competitive procurement process and has been fully satisfied as part of the College's due diligence in ensuring value for money, services provided and quality of services; and

**Whereas** the Planning and Finance Committee is recommending that Council appoint PACE Technical as the information technology provider for the College.

**Therefore**, be it resolved that PACE Technical is appointed as the information technology provider for the College of Kinesiologists of Ontario.

*UPON A MOTION duly made by Corby Anderson and Seconded by Chad McCleave, it was resolved that the appointment of PACE Technical as the information technology provider for the College of Kinesiologists of Ontario be approved. Carried.*

## **8. Governance Reform**

Jennifer Pereira welcomed Chantal Bélisle, Deputy Registrar of the Ontario College of Teachers (OCT) and Jason Bennet, Interim Director at OCT, who provided an update on their Governance Reform and modernization initiatives.

## 9. Registrar's Report

Nancy Leris, Registrar/CEO, presented the Registrar's Report as follows:

### 1. Staffing update

College staff continue to work from home. The College is currently planning to return to the office in the Spring and is ensuring all protocols are in place including the adoption of responsible workplace maintenance and restoration policies so we can return.

In quarter two the College also spent time onboarding new staff hires and recruiting the Communications Manager.

The College is pleased to welcome Lynn Butler who joined the College as the Communications Manager. Lynn was asked to provide a brief introduction of herself.

### 2. College Performance Management Framework

The College Performance Management Framework (CPMF) self-assessment document launched a little over a year ago to capture the state of each College's Performance for the year 2020 over several performance areas called "domains." Each College was required to submit its response to the Ministry of Health, and to publicly post its submission on its own website.

Earlier in November, the Ministry of Health released a "soft launch" of the 2021 CPMF exercise, to get feedback about the clarity of the format and ease of use. Based on the comments they received following the soft launch, the Ministry released the CPMF questionnaire for 2021 activities, with each College's submission due on or before March 31, 2022. Staff has been engaged in significant work to complete the reporting of the CPMF by the March 31 deadline.

The draft CPMF submission has been prepared by College staff and for review by Council later in this meeting. Later today, staff will present a high-level overview of this year's submission.

### 3. OFC legal obligations

The Office of the Fairness Commissioner (OFC) is in the process of updating their database software and modernizing their IT infrastructure. This involves digitalizing most of their system to help them become more efficient in how they collect, share and store information. The OFC expects this process to take several months and have deferred the reporting of the Fair Registration Practices (FRP) Report until Fall 2022 to accommodate these changes.

The OFC is also in the process of transitioning to a new risk-informed compliance framework, implementing legislative changes that impact non-health professions and Skilled Trades.

On December 2, 2021, the [Working for Workers Act](#) received Royal Assent. This legislation contains several provisions designed to modernize the [Fair Access to Regulated Professions and Compulsory Trades Act](#) (FARPACTA) and reduce barriers encountered by internationally trained applicants. These provisions involve:

- establishing maximum time limits for the registration process and expedited regulation processes in cases of emergency.
- reducing the number of language proficiency tests that applicants must take;
- enabling regulators to maintain the continuity of their registration processes during emergency situations; and



- eliminating the Canadian experience requirement unless a regulator can make a compelling case for its retention.

FARPACTA legislation currently applies only to non-health professions and to skilled trades in Ontario. However, the legislative requirements have major implications for regulated health professions.

The Ministry of Health is currently in consultation with health colleges on governance modernization to reduce barriers to registration. It is anticipated that health regulators will be required to comply with these requirements in the very near future.

#### **4. Governance reform – Ministry consultation**

The College responded to a Ministry of Health request for consultation regarding Governance Modernization Reform proposals. Proposals fell into the following categories: governance, modernization, and housekeeping.

The College sought legal advice regarding its response to the government. The College also engaged with other regulatory Colleges through Health Profession Regulators of Ontario (HPRO).

Council was provided an opportunity to review the College's response in a special Council meeting on February 18, 2022. Council members present for that discussion voted to approve the College's response letter to the Ministry.

#### **5. Online exam launch**

The College is excited to announce that the **entry-to-practice exam** will be held **online** for the first time on April 27, 2022.

From a risk management perspective, steps have been taken to ensure exam security and integrity. Accommodations will be offered on an as-needed basis. This may include in-person exam sittings where possible or permitted by local public health measures/restrictions.

Applicants have been registered; late registrations or applications will be considered where possible and if appropriate.

#### **6. Webinar hosted for online exam applicants**

The College also held a webinar on February 3, 2022 for all applicants on what to expect, how to prepare, and how to register for the exam.

#### **7. Update on HPRO Anti-BIPOC Racism Working Group**

The HPRO Anti-BIPOC Racism Working Group continues to meet monthly.

- The working group is working to identify and select consultants for the Equity Impact Assessment (EIA) and EIA implementation tool development proposals.
- It was tasked with reviewing and equity, diversion, inclusion and belonging (EDI-B) glossary and reviewing the Toronto Police Service policy regarding race-based data collection. The College's review of these documents has been completed and submitted to the working group Chair for review.
- The working group is waiting to hear from the federal government regarding a grant application. Council will be updated as soon as any further information is available regarding this funding application.
- The next meeting is scheduled for April 21, 2022.

## 8. Education equivalency: University of Guelph

The College received a letter from the University of Guelph regarding a Registration Committee decision and the impact on the University's students who may wish to apply for the entry-to-practice exam.

The University requested that the College "grandparent" (or exempt) the next two years of University of Guelph Human Kinetics graduating classes from equivalency assessment, permitting them to challenge the entry-to-practice exam without being assessed for their academic equivalency to a four-year Kinesiology program.

The University of Guelph Human Kinetics program is currently deemed not to be substantially equivalent to a Kinesiology degree, although some educational pathways do exist for University of Guelph students to achieve substantial equivalency in the process of obtaining a Human Kinetics degree.

The College is considering this letter and its response, including seeking legal counsel.

## 10. President's Report

Jennifer Pereira, Chair, presented the following President's Report:

The president has:

- Attended various committee meetings.
- Been in constant communications with the Registrar/CEO.
- Communicated with Council members who have resigned.
- Participated in the onboarding of new Council member, Jana Smith.
- Managed stakeholder communications.
- Attended an Executive Committee meeting on Monday, February 28, 2021 that was held to review the Governance and Nomination Selection Committee. The Committee deferred decisions on the nomination and selection process, which are to be brought forward at a later meeting.

## 11. Registration Policies

Keisha Simpson, Director, Registration Services, presented an overview of the Registration Committee's review of the following four draft registration policies with a recommendation that they be brought forward to Council for approval.

### Resolution – Language Proficiency Policy

**Whereas** the requirement for language proficiency (English or French) is required for entry-level kinesiologists to practice safely and effectively; and

**Whereas** the current Language Proficiency Policy has not been updated since 2012 and is to be reviewed by the College every two years to maintain currency and consistency across the spectrum of regulated healthcare professionals in Ontario; and

**Whereas** current regulatory practice appears to be evolving towards a more flexible approach to proof of language proficiency; and

**Whereas** most health regulatory colleges, the Ministry of Health and the Office of the Fairness Commissioner have identified/ are in support of a variety of alternatives to completion of a standardized language proficiency test to reduce barriers to registration; and

**Whereas** revisions have been suggested to the Language Proficiency Policy in keeping with changes to the regulatory environment and changes to the standardized testing landscape; and

**Whereas** the Registration Committee has recommended that the amended 'Language Proficiency policy' with updates to acceptable tests of French language proficiency be forwarded to Council for final review and approval.

**Therefore**, be it resolved that Council approves the amended Language Proficiency Policy.

*UPON A MOTION duly made by Ryan Wight and Seconded by Teresa Bendo, it was resolved that Council approves the amended Language Proficiency Policy. Carried.*

#### **Resolution – Registration Timeline Policy**

**Whereas** the College seeks to ensure that its registration process is fair and consistent, and that the processing timelines for applicants seeking entry to the profession are clear and transparent; and

**Whereas** the Registration Timeline policy has been developed to describe the timelines used by the College for matters pertaining to the Registration process; and

**Whereas** Office of the Fairness Commissioner have identified several provisions designed to modernize and reduce barriers encountered by internationally trained applicants involving establishing maximum time limits for the registration process; and

**Whereas** the Registration Committee has recommended that the draft Registration Timeline Policy' be forwarded to Council for final review and approval.

**Therefore**, be it resolved that Council approves the draft Registration Timeline Policy, as amended.

*UPON A MOTION duly made by Victoria Nicholson and Seconded by Sara Gottlieb, it was resolved that Council approves the Registration Timeline Policy, as amended. Carried.*

## Resolution – Inactive Class Policy

**Whereas** the College seeks to establish clear eligibility requirements for registration in the inactive class; and

**Whereas** the College views the establishment of clear eligibility conditions for the inactive class to reduce risk of harm to the public., increase processing efficiencies and provide a clear and transparent outline of the requirements and conditions for registrants; and

**Whereas the** inactive Certificate of Registration is a component of the College's Registration Regulation; and

**Whereas** the College seeks to separate the current Inactive Certificate of Registration and Reinstatement to the General Class Policy into two distinct policies which governs the process for registration in the inactive class and reinstatement to the General class; and

**Whereas** the Inactive Certificate or Registration Policy has been developed to provide legislative context, clarify principles that underpin the policy, reflect updated terminology, and expand the eligibility criteria; and

**Whereas** the Registration Committee has recommended that the proposed 'Inactive Certificate of Registration' policy' be forwarded to Council for final review and approval.

**Therefore,** be it resolved that Council approves the draft Inactive Certificate of Registration Policy.

*UPON A MOTION duly made by Chad McCleave and Seconded by Ryan Wight, it was resolved that Council approves the Inactive Certificate of Registration Policy. Carried.*

## Resolution – Reissuance of General Class Certificate of Registration Policy

**Whereas** the College is required under the Registration Regulation to ensure that all general class members have current knowledge, skill and judgement relating to the practice of the profession of Kinesiology; and

**Whereas the** Inactive Certificate of Registration and Reinstatement to the General Class is a component of College's Registration Regulation; and

**Whereas** the College views this as important for members and the public; and

**Whereas** the College seeks to establish a defensible benchmark of currency of knowledge, skill and judgement in Kinesiology at the time of reissuance of the General class certificate that is in keeping the legislative currency requirement of 1500 practise hours for registrants holding a General class Certificate under the Registration Regulation; and

**Whereas** the Registration Committee has recommended that registrants who have been registered in the Inactive class in Ontario who have practised less than 1500 hours in the three years preceding the date of the application for reissuance of a General class Certificate of Registration be referred by the Registrar to a Panel of the Registration Committee for consideration.

**Therefore**, be it resolved that Council approves the draft Reissuance of General Class Certificate of Registration Policy.

*UPON A MOTION duly made by Chad McCleave and Seconded by Ryan Wight, it was resolved that Council approves the Reissuance of General Class Certificate of Registration Policy. Carried.*

## 12. Practice Standard and Guideline Updates

Brian Fehst, Practice Advisor, presented an overview of the Patient Relations Committee's review of the following four draft practice standards and guidelines with a recommendation that they be brought forward to Council for approval.

### Resolution – Update to Practice Standard – Professional Boundaries

**Whereas** the College of Kinesiologists of Ontario has adopted the spousal exception to sexual abuse provisions in the *Regulated Health Professions Act, 1991*; and

**Whereas** the Council of the College of Kinesiologists has approved the review of Practice Standards and Guidelines in keeping with the adoption of the spousal exception; and

**Whereas** a revised Practice Standard – Professional Boundaries has been reviewed by the Patient Relations Committee and is being submitted to Council for approval.

**Therefore**, be it resolved that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Standard – Professional Boundaries to be published by the College.

*UPON A MOTION duly made by Mary Pat Moore and Seconded by Bradley Markis, it was resolved that Council approves the revised Practice Standard – Professional Boundaries. Carried.*

### Resolution – Update to Practice Standard – Conflict of Interest

**Whereas** the College of Kinesiologists of Ontario has adopted the spousal exception to sexual abuse provisions in the *Regulated Health Professions Act, 1991*; and

**Whereas** the Council of the College of Kinesiologists has approved the review of Practice Standards and Guidelines in keeping with the adoption of the spousal exception; and

**Whereas** a revised Practice Standard – Conflict of Interest has been reviewed by the Patient Relations Committee and is being submitted to Council for approval.

**Therefore**, be it resolved that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Standard – Conflict of Interest to be published by the College.

*UPON A MOTION duly made by Victoria Nicholson and Seconded by Corby Anderson, it was resolved that Council approves the revised Practice Standard – Conflict of Interest. Carried.*

## Resolution – Update to Practice Guideline – Treating Family Members and Other Close Personal Relations

**Whereas** the College of Kinesiologists of Ontario has adopted the spousal exception to sexual abuse provisions in the *Regulated Health Professions Act, 1991*; and

**Whereas** the Council of the College of Kinesiologists has approved the review of Practice Standards and Guidelines in keeping with the adoption of the spousal exception; and

**Whereas** a revised Practice Guideline – Treating Family Members and Other Close Personal Relations has been reviewed by the Patient Relations Committee and is being submitted to Council for approval.

**Therefore**, be it resolved that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Guideline – Treating Family Members and Other Close Personal Relations to be published by the College.

*UPON A MOTION duly made by Ben Matthie and Seconded by Graydon Raymer, it was resolved that Council approves the revised Practice Guideline – Treating Family Members and Other Close Personal Relations. Carried.*

## Resolution – Update to Practice Guideline – Professional Boundaries

**Whereas** the College of Kinesiologists of Ontario has adopted the spousal exception to sexual abuse provisions in the *Regulated Health Professions Act, 1991*; and

**Whereas** the Council of the College of Kinesiologists has approved the review of Practice Standards and Guidelines in keeping with the adoption of the spousal exception; and

**Whereas** a revised Practice Guideline – Professional Boundaries has been reviewed by the Patient Relations Committee and is being submitted to Council for approval.

**Therefore**, be it resolved that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Guideline – Professional Boundaries to be published by the College.

*UPON A MOTION duly made by Corby Anderson and Seconded by Bradley Markis, it was resolved that Council approves the revised Practice Guideline – Professional Boundaries. Carried.*

## 13. CPMF Submission

Brian Fehst, Practice Advisor, presented the second annual College Performance Measurement Framework (CPMF) submission to the Ministry of Health that provides updates on the College's performance improvement commitments in seven different areas. This year's report focused on how well the College has met the set of standards related to its statutory functions. Key report highlights included the College placing a greater emphasis on monitoring and evaluation related to a registrant's suitability to practice. Additionally, proposed changes would see an improved alignment

with “right-touch regulation” practices and developing consistent criteria for disclosing concerns about a registrant.

The College has also enhanced the orientation and training of Council and committee members and, in collaboration with other health regulatory colleges, is working on an online orientation module. The College intends to implement the new Council and committee orientation for the 2022 Council election cycle.

Together with other colleges, the College is participating in collaborative initiatives to improve performance to meet new strategic planning and Equity Impact Assessments standards. Work is also ongoing to develop a schedule for the review of policies, standards and guidelines that support the College’s regulatory policies.

## **14. Public Awareness Campaign Update**

Lynn Butler, Communications Manager, provided an update on the College’s Public Awareness Campaign that ran from February to July 2021. The campaign focused on what a registered kinesiologist does, how the profession is regulated in Ontario, and on the role the College plays in public safety and well-being. Creative partners Brand Heroes and Zoomer Media were engaged to develop the campaign.

Overall campaign numbers on Instagram and Facebook showed a total reach of 829,725 and 1,955,230 total impressions with 5,557 total clicks. The College’s Instagram grew from zero to 300, and the Facebook following grew by 8 per cent. Audiences responded particularly well to content that posed questions like “Did you know...?” Engagement, especially among Kinesiologists, was high with likes, shares, and positive comments.

Overall, the campaign grew the College’s social media following, increased awareness, established a baseline for measuring future campaigns, and offered insight about the kinds of organic (free) content that can be used to connect with audiences most effectively.+

## **15. Risk Management Plan Review**

Nancy Leris, Registrar and CEO presented a review of the College’s risk management process and review cycle along with proposed Risk Management Plan amendments. She outlined the key risks affecting the organization, particularly those that could significantly impact the achievement of objectives. She also described the risk occurrence matrix and risk ratings.

The Risk Management Plan addresses eight different areas that may pose risks to College operations, noting that risk types may be updated, added or removed as the plan is reviewed on an ongoing basis. Council’s role is to set the risk tolerance for the College and oversee the review and oversight while staff are responsible for the design and implementation of the plan.

Risks that were outlined included those related to finance, information management, examination, human resource, loss of confidence, and governance and compliance. The Business Continuity Plan is a framework to ensure essential business functions can continue during a declared emergency and will help to manage and reduce the disruption of services. The Disaster Recovery Plan is part of the BCP and allows the College to fulfill its mandate of public protection and provide services.

Overall, the College's Risk Management Plan is a living document with the goal of promoting a resilient organization that can use a variety of strategies to operate effectively in the face of the risks that present themselves and may emerge in the future.

## 16. Committee Appointments

Jennifer Pereira, Chair, welcomed Jana Smith as a new public member to Council. Jennifer also presented the new Committee Slate as follows.

Jana Smith to be appointed to:

- Inquiry, Complaints and Reports (ICRC) Committee
- Quality Assurance Committee
- Registration Committee

Committee appointments:

- Ben Matthie to Chair of the ICRC Committee
- Susan Garfat to Vice Chair of the ICRC Committee
- Victoria Nicolson to Vice Chair of the Quality Assurance Committee

*UPON A MOTION duly made by Corby Anderson and Seconded by Mary Pat Moore, it was resolved that Council approves the revised Committee Slate. Carried.*

## 17. Review of Action Items

- Amend the Registration Timeline Policy (20f) as follows:  
Candidates withdrawing (without deferring to the next available exam date) from the exam will receive a 50% refund of the examination fee if they withdraw at least 15 calendar days before the exam date. Candidates who withdraw **less** than 15 calendar days before the exam date will not receive a refund, except for compassionate grounds or due to illness, in keeping with the [Fee Refund Policy](#)
- Correct the spelling of Teresa Bendo's name in the Council Meeting minutes of December 7, 2021.
- Update the Risk Management Plan with current Council composition and membership.
- Add a new risk to the Risk Management Plan to reflect that resignations from Council could leave a void in membership.
- Revise wording in jurisprudence handbook to reflect that "patient/client" be used when referring to those who receive services from kinesiologists.
- Update the Committee Slate.
- Registrar to update Council on any "incidents" arising from the online exam.

## 18. 2022 Council Meeting Dates

Council will meet in 2022 on the following dates:

- June 27
- September 26
- December 5



## Adjournment

*UPON A MOTION* duly made by Sara Gottlieb and Seconded by Candace Glowa, the Council meeting of March 28, 2022 was terminated. **Carried.**

DRAFT

Discipline Committee Report

<b>Committee: Discipline</b>
<b>Prepared for:</b> Council
<b>Date:</b> June 9, 2022

**Meetings**

There are no new cases that have been referred to the Discipline Committee.

ICRC Report

<b>Committee:</b> ICRC
<b>Prepared for:</b> Council
<b>Date:</b> June 9, 2022

**Meetings**

The ICRC met on May 19, 2022, to issue a decision on one matter, which is now closed.

**Matters**

There is one active complaint that is under investigation.

One matter was appealed to HPARB and returned with the decision upheld.

## Registration Report

<b>Committee: Registration</b>
<b>Prepared for: Council</b>
<b>Date: June 27, 2022</b>

### Registration Committee meetings

The Registration Committee met once since the last report to Council on March 28.

The Committee also met four times in panels to review referrals from the Registrar.

### Spring Examination

The College successfully held its first online remotely proctored administration of the Entry-to-Practice Examination (Exam) on April 27, 2022.

A total of 243 candidates wrote the Exam. This included six candidates who requested testing accommodations and one candidate who requested writing the Exam in French

A total of 11 applicants were not able to complete the Exam either due to technical issues or missed appointments. This includes three applicants who were rebooked for April 28, four applicants who were rebooked for May 5, and four applicants who decided not to rebook their Exam.

A total of 38 applicants deferred/withdrew from the Exam. The final examination results are as follows:

Number of Exam Candidates	
Registered	285*
Wrote	243
Passed	165
Failed	78

\*This total includes 243 applicants who wrote, +38 deferrals/withdrawals +4 no shows.

## **Membership Update**

During the period March 1, 2022, to May 31, 2022 the College registered 70 new registrants.

As of June 8, 2022 the total membership stands at 2939 registrants, with 2536 registrants in the General Class and 403 registrants in the Inactive Class.

## **Meeting with the University of Guelph**

College staff and the Registration Committee Chairs met with representatives from the University of Guelph on April 12. The impetus for the meeting was to discuss the Registration Committee's decision on the Universities application for substantial equivalency of its Honours B.SC. major in Human Kinetics program and the impact on existing and future applicants to the College. The College is working closely with the University of Guelph to help to identify pathways for their students to achieve education equivalency.

## Committee Report

<b>Committee: Quality Assurance Committee</b>
<b>Prepared for: Council</b>
<b>Date: June 2, 2022</b>

## Meetings

The Quality Assurance Committee (QAC) met once (on May 20, 2022) since the last Council meeting in March 2022.

## Peer and Practice Assessment

Twenty registrants participated in the Peer and Practice Assessment (PPA) Fall/Winter 2021 Cycle (January 2021 - March 2022). The QAC has met (most recently on May 20, 2022) and rendered decisions with respect to 7 PPA cases from the cycle.

The QAC decisions are summarized as follows:

- No Further Action (including No Further Action with request for a follow-up document) – 4
- Directed to participate in competency enhancement (demonstrated change report) – 3

## Risk-based Programming

The QAC has also discussed options for enhancing a risk-based, evidence-informed approach for determining how registrants should be selected to participate in peer and practice assessment through stratified random sampling. The Committee has advised that staff may proceed with stratified random sampling based on gaps in Professional Liability Insurance (PLI). Registrants who are found to be missing evidence of PLI (or where the registrant's PLI does not meet the College's requirements) will be entered into a stratified random sampling pool, from which 20 per cent of Peer and Practice Assessments for that cycle will be drawn (a total of five selections for each Peer and Practice cycle). As stratified random sampling is currently indicated (in the College's Quality Assurance policies) as an option available for Peer and Practice Assessment selection, it has been determined that a policy update or creation of a new policy for stratified random sampling is not required at this time.

College staff will monitor and track the results of the stratified random sampling selection process, as will track other Peer and Practice Assessment data to identify and evaluate other potential opportunities for risk-based selection.

## Patient Relations Committee Report

<b>Committee:</b> Patient Relations
<b>Prepared for:</b> Council
<b>Date:</b> June 9, 2022

The Patient Relations Committee met on June 9, 2022. The following matters came before the Committee:

- An update regarding outstanding action items from the previous committee meeting (February 22, 2022).
- The following 8 practice standards and guidelines were reviewed by the Committee:
  - Practice Standard – Consent
  - Practice Guideline – Consent
  - Practice Standard – Advertising
  - Practice Guideline – Advertising
  - Practice Standard – Fees and Billing
  - Practice Guideline – Fees and Billing
  - Practice Standard – Infection Control
  - Practice Guideline – Mandatory Reporting
- The Committee was updated regarding the fund providing for treatment and counselling for people who have alleged sexual abuse by a registrant of the College.

# REVENUES

COLLEGE OF KINESIOLOGISTS OF ONTARIO  
REVENUES RECEIVED TO DATE & FORECAST TO YEAR END  
FOR THE FISCAL YEAR 2021/2022

	1	2	3	5	6
CATEGORY	APPROVED REVENUE FORECAST (Sept 1 2021 to Aug 31, 2022)	(INTERIM) ACTUAL Q1, Q2 & Q3 (SEPT - May 31) 2021/2022	PROJECTIONS Q4 (JUN - AUG) 2021/2022		VARIANCE
	\$	\$	\$		\$
<b>Revenue:</b>					
Jurisprudence Fee (\$48.25)	28,178	12,783	15,395		0
Application Fee (\$100)	59,900	24,200	35,700		0
Examination Fee (\$400)	194,000	74,140	123,860		4,000
Registration Fees*	1,818,763	392,225	1,457,814		31,276
Interest Income	25,000	17,067	936		-6,997
<b>TOTAL REVENUE</b>	<b>2,125,841</b>	<b>520,415</b>	<b>1,633,705</b>		<b>28,279</b>
<b>*Registration Fees made-up of:</b>	<b>Approved Forecast</b>	<b>(Interim) Actual Q1 , Q2 &amp; Q3 Sept to May 31</b>	<b>Projections Q4</b>		<b>Variance</b>
	\$	\$	\$		\$
New Registrants					
- Sept - Nov (\$650)	13,000	18,200			5,200
- Dec - Feb (\$487.50)	49,725	79,463			29,738
- Mar - May (\$325)	24,700	16,475			-8,225
- Jun - Aug (\$162.50)	8,288		4,063		-4,226
Renewal (\$650)	1,631,500	263,250	1,369,760		1,510
Change in Status (members back to active)	3,950	9,213	875		6,138



Professional Corporation	2,000	800	1,200	0
Professional Corporation Late fee	400		400	0
Inactive Renewal (\$200)	79,200	29,000	50,200	0
Inactive Renewal Late Fee(\$50)	100	450	0	350
Renewal Late Fee (\$100)	1,400	900	0	-500
Re-instatement Fee (\$300)	4,500	3,600	2,200	1,300
Refunds		-29,125	-9,000	
<b>Total</b>	<b>1,818,763</b>	<b>392,226</b>	<b>1,419,698</b>	<b>31,286</b>

**Notes**

Regarding new registrations, we projected 249 however we believe the end number will be 263

**Details:**

During the 1st quarter we projected 20 new registrations, 28 registered increase of 8,  
QTR 2 projected 102- 160 registered increase of 58, QTR 3 forecasted 76 however only 50 registered,  
QTR 4 we projected 51 however due to early registrations we feel that number will now be 25.  
Overall 40 more people registered than projected.  
A number of refunds were processed, these were for withdrawing from examination,

# EXPENDITURES

## EXPENDITURE TO DATE & FORECAST TO YEAR END FOR THE FISCAL YEAR 2021/2022

updated Mar 16

	1	2	3	5	6
CATEGORY	APPROVED BUDGET Sept 1 2021 to Aug. 31, 2022	(INTERIM) ACTUAL EXPENSES Q1, Q2 & Q3 SEPT - May 2021/2022	Projections Q4 (Jun - Aug)	VARIANCE QTR	
	\$	\$	\$	\$	
<b>Expenditure:</b>					
Council & Committees	60,150	33,020	21,070	6,060	
Professional Fees	100,000	95,201	10,466	-5,667	0
Communications & Media	85,500	76,736	17,800	-9,036	0
Rent & Facility Costs	237,167	172,300	65,956	-1,089	0
Office & General	105,154	52,480	35,910	16,764	0
Salaries & Wages	1,137,914	730,300	330,000	77,614	0
Registration	253,527	123,000	23,575	106,952	0
Quality Assurance	35,336	1,696	9,300	24,340	0
Professional Conduct	53,500	29,780	10,170	13,550	
<b>TOTAL EXPENDITURE</b>	<b>2,068,248</b>	<b>1,314,513</b>	<b>524,247</b>	<b>229,488</b>	

### Major Highlights:

#### Council and Committee

Payments in Q1, Q2 & Q3 for Council and Committee meetings i.e. Executive Committee, ICRC, QA, Registration, Patient Relations, University Liaison, Planning and Finance. - Elections costs in Q3

#### Professional Fees

We had additional legal costs for return to work policy

#### Communications & Media

*Payment in Q3 for I.T. service and increase in cost due to switch over, online orientation module for the June elections and translation cost for two french applications for the exam.*

#### Rent & Facility Costs

*Payment in Q1, Q2 & Q3 for rent. Payment for computer upgrade for staff.*

#### Salaries and Wages

*Savings in Q3 resulting from waiting period for new staff hires for benefits and staff vacancy.*

#### Office and General

*Payment for Professional development, bank charges, membership dues, postage/courier, staff travel, printing cost office supplies, equipment rental, insurance and recruitment costs. Allocation in Q4 for bank charges, printing costs, postage/courier, equipment rental telephone/fax, professional development, training for council and office supplies and return to office planning/modifications.*

#### Registration

*Payment in Q1, Q2 & Q3 for IMIS consultants (maintenance of database), hosting of database, examination administration and printing of certificates of registration. Projections in Q3 & Q4 for review of the Kinesiology Competency profile, IMIS system enhancements & Support. Projections in Q4 for payment of April online exam administration and updates to Jurisprudence E-Learning Module.*

#### Quality Assurance

*Payment in Q1, Q2 & Q3 for self assessments portal annual licence and maintenance and Peer and Practice Assessments. Projections for Q4 for hosting of sexual abuse & ethics and professionalism online modules.*

#### Professional Conduct

*Costs for investigations, legal advice and discipline. Q4 projections are for ongoing and future cases.*





## 2021/2022 Performance Report

Overall highlights:



(70 new registrants between March 1, 2022, and May 31, 2022)

April, 2022 Exam: 285 Registered (243 Wrote)

Operational highlights (Q3: March to May 2022)

Focus	Deliverables	Status	Comments and Impacts
<b>Governance</b>	Nomination and Selection Committee	Yellow	<ul style="list-style-type: none"> <li>- Plan: Ensure that Committee TORs and relevant selection Policy are approved by Council (September Council meeting)</li> <li>- Notes: Nomination and Selection Committee to be composed of 5 to 7 members, at least one of whom is not a member of College Council, staff or Committee and who is free from conflicts of interest.</li> <li>- The non-affiliated Committee member(s) will be selected from other regulatory College(s) or supportive stakeholders.</li> <li>- The non-affiliated Committee member(s) will be required to have Governance or Human Resources expertise.</li> </ul>
	Online Council and committee orientation module	Green	<ul style="list-style-type: none"> <li>- Module posted to College website in advance of Council elections.</li> <li>- To be reviewed and revised based on feedback received from nominees/candidates who have completed the module.</li> </ul>
<b>Corporate</b>	Return to Office- Hybrid Model	Green	Returned to office on May 2 in a Hybrid model. Staff rotates working two days a week, 4 to 5 staff in office at one time. As things progress, we will be modifying our return to office policy
	I.T. Transition	Yellow	Working with New I.T. company, transition will be completed by June 30/22
	Employee Benefits	Green	Renewed the College's health benefits package on June 1. Based on overall experience rating, the College received 8% reduction in costs.
	Staff	Yellow	Currently conducting interviews for Director, Registration
<b>Communications</b>	Regular and timely communication to R.Kins	Yellow	<ul style="list-style-type: none"> <li>• Website updates ongoing with respect to elections, requests for feedback, release of CPMF, COVID-19 and other ongoing and emergent situations</li> <li>• E-Newsletters distributed to R.Kins and stakeholders</li> </ul>

Focus	Deliverables	Status	Comments and Impacts
	Request for new renewal of Public Appointments		Request to PAS for reappointments of four public members whose terms are expiring in September and October.
	New Council member orientation		New Council member orientation to be conducted (virtual orientation) in August 2022 following the elections and prior to the September Council meeting.
	Elections for Council 2022		<ul style="list-style-type: none"> <li>Nominations opened on May 13 and elections will take place from July 12 – 19.</li> <li>By-elections also running in Districts 4 &amp; 7.</li> </ul>
	Communications advice and support for CKO activities		<p>Lead communications for College activities including:</p> <ul style="list-style-type: none"> <li>Entry-to-practice examination</li> <li>Consultations on policies</li> <li>Surveys</li> <li>Bill 106 consultation submission from CKO to the MOH</li> <li>Council</li> </ul>
<b>Registration</b>	Entry -to -Practice Examination		<ul style="list-style-type: none"> <li>The College successfully held the first online administration of the Entry-to-Practice Exam on April 27, 2022.</li> <li>A total of 242 applicants wrote the Exam (across all writing centres). This total includes one French applicant and six applicants with testing accommodations.</li> <li>The College held a webinar to assist applicants in preparing for the exam and made significant updates to the exam content on the CKO website to reflect the transition from the paper to the online exam administration.</li> <li>The College issued the exam results to candidates.</li> </ul>
	Registration Policies		<ul style="list-style-type: none"> <li>The College circulated three registration policies for stakeholder consultation following their approval by Council (i.e. the Registration Timeline Policy, Inactive Class Policy and Reissuance Policy).</li> <li>A briefing note has been provided to Council on the outcome of the consultation.</li> </ul>
	Bill 106		<ul style="list-style-type: none"> <li>The Ontario Government passed the Pandemic and Emergency Preparedness Act, 2022 on April 14, 2022.</li> <li>The Bill proposes to enforce changes to the requirements under the RHPA for English or French language proficiency, registration timelines and Canadian experience. However the changes to this Bill are not yet in force.</li> <li>The College has submitted a response to the Ministry on its consultation on the impact of these changes on health regulators.</li> <li>The College is also reviewing the General Registration regulation and registration policies to identify key areas for update in preparation of the impending changes under the RHPA.</li> </ul>
	Health Professions Database Report		<ul style="list-style-type: none"> <li>The College successfully submitted the 2021 HPDB report to the MOH.</li> <li>The College is working with its system provider to fine tune the report and minimize data errors and discrepancies.</li> <li>The Ministry has updated the minimum data set (MDS) required for reporting to be more gender inclusive. A new gender field has been added to the MDS in this regard.</li> </ul>
	Office of the Fairness Commissioner Report (OFC)		<ul style="list-style-type: none"> <li>The OFC report for the 2022 year has been deferred to Fall 2022.</li> <li>The OFC is in the process of updating its reporting tool and has undertaken a comprehensive overall of its reporting structure with a focus on implementing a risk informed compliance framework.</li> <li>The OFC sought input from regulators on the updated reporting framework via a survey.</li> </ul>

Focus	Deliverables	Status	Comments and Impacts
<b>Quality Assurance</b>			<ul style="list-style-type: none"> <li>The CKO responded to the survey and is awaiting instructions on the updated reporting requirements and timeline for submission.</li> </ul>
	Kinesiologist Core Competency Profile Revalidation		<ul style="list-style-type: none"> <li>The College received two proposals out of three in response to its RFP for the revalidation of the Kinesiologist Core Competency profile.</li> <li>A selection committee comprising of CKO staff was established to review and score the proposals received.</li> <li>The proposals were scored based on three main categories (project deliverables, experience of the vendors and pricing). The overall scores in each of these categories were then tabulated to arrive at a weighted score.</li> <li>The College issued clarifying questions to each proponent. The responses received did not have any impact on the outcome of the scoring.</li> <li>A business case will be submitted to the Finance and Planning Committee in keeping with best practices of the organization with recommendations for the procurement of the preferred vendor and justification for the project overall.</li> </ul>
	eLearning Module Launch: 2022		<ul style="list-style-type: none"> <li>Vendor has been engaged to deliver Professionalism and Ethics eLearning module in 2022.</li> <li>Prevention of Sexual Abuse module to be deferred to Summer 2023 to ensure compliance with spousal exception regulation.</li> </ul>
	Peer and Practice Assessments: Spring/Summer 2022 Cycle		<ul style="list-style-type: none"> <li>Peer and practice assessment scheduling (Spring/Summer 2022) in-process.</li> <li>Next steps: QA Committee to review outstanding Fall/Winter 2021 PPA case files, and any case files received from the spring/summer 2022 Cycle, in July and August 2022.</li> </ul>
	Develop/amend processes and policies to demonstrate risk-based, evidence-informed approach to Quality Assurance programming		<ul style="list-style-type: none"> <li>Quality Assurance Committee has determined that stratified random sampling is included in existing Quality Assurance/Peer and Practice Assessment policies</li> <li>Stratified random sampling (based on Professional Liability Insurance) to account for 20% of PPA selections</li> <li>Other avenues for stratified random sampling selection for PPA to be explored via risk-based/right-touch regulatory approach</li> </ul>
<b>Professional Conduct</b>	ICRC		<ul style="list-style-type: none"> <li>Meetings were held in Mar, Feb. &amp; May</li> </ul>
<b>Patient Relations</b>	eLearning module Revision: Prevention of Sexual Abuse		<ul style="list-style-type: none"> <li>To be updated to reflect adoption of the Spousal Exception to sexual abuse provisions of the <i>RHPA, 1991</i>.</li> <li>Budget/costing to include cost of legal consultation/review</li> </ul>
	Practice Standard/Guideline review		<ul style="list-style-type: none"> <li>Review of Practice Standards/Guidelines: Document and material revision ongoing. Most recent Patient Relations Committee meeting June 9, 2022. Eight Standards and Guidelines reviewed at this meeting.</li> </ul>

Legend:

Completed

Ongoing

Incomplete



**The College of Kinesiologists of Ontario**  
**Submission on Schedule 6 of Bill 106**  
**Pandemic and Emergency Preparedness Act, 2022**

June 1, 2022

## Introduction

The College of Kinesiologists of Ontario (CKO) is a regulatory body that oversees kinesiologists working in the province. It exists to protect the public through governing and ensuring the excellent professional practice of kinesiologists in Ontario. CKO receives its authority from the *Kinesiology Act, 2007* and the *Regulated Health Professions Act, 1991*.

The College welcomes the opportunity to provide feedback to the Standing Committee on Finance and Economic Affairs on Schedule 6 of Bill 106 and the Emergency Preparedness Act, 2022. The Schedule amends the *Regulated Health Professions Act, 1991* to add new requirements to the Health Professions Procedural Code and related regulation-making powers.

This submission provides the College's responses on the following areas in Schedule 6 of Bill 106:

- 1) Canadian experience
- 2) Language proficiency
- 3) Timely registration decisions
- 4) Emergency class of certificates of registration

### 1) Canadian experience

Canadian experience is not a requirement for registration with the College of Kinesiologists of Ontario (CKO). The College does not anticipate any compliance issues with this change.

### 2) Language proficiency

CKO is concerned if reaching a score of 4 in speaking and listening on the [Canadian Language Benchmarks](#) is sufficient to ensure that potential registrants can safely practice kinesiology without posing a risk of harm to the public. This threshold does not include requirements for reading and writing, which may impact an applicant's overall competency or perceived competency, and may limit the applicant's ability to successfully challenge the entry-to-practice examination. This threshold may also result in an increase in complaints related to record-keeping and communication with clients and the College once the applicant is registered. If there is an increase in complaints, then the College will have to focus on its Quality Assurance program to address the deficiencies.

Health regulators have varying scopes of practice depending on the nature of the practice. There may be requirements for more robust language proficiency requirements that take into consideration reading and writing proficiency in English or French. The College recommends that regulators be given the flexibility to add reading and writing proficiency requirements as deemed necessary.



### 3) Timely registration decisions

CKO foresees potential issues with creating panels and ensuring quorum under these timelines and the current governance model. There may be instances outside of the panel's control that affect the issuance of decisions. For example, decisions may be delayed when further information or supporting documentation is required from an applicant after receipt of their application, or when there are unexpected emergencies and circumstances.

The prescribed time limits of 10 days may pose a great risk for panels to make hurried decisions that are not defensible and not within the mandate of public protection.

### 4) Emergency class of certificates of registration

The requirement to develop an emergency class certificate of registration is necessary and is supported by the CKO.

Regulators who do not have controlled acts should be given the power to identify specific eligibility requirements for the temporary class (e.g., good conduct requirements, requirements to hold professional liability insurance, police reference checks, imposition of TCLs) that are deemed necessary. Colleges should also have flexibility to include these requirements in their general registration regulation and to develop their own set of rules to ensure reduction in risk of harm to the public.

### Conclusion

Further information is required about the operationalization of these changes, the rollout plan and the compliance framework for implementation.

Clarification is needed about the requirements that regulators are expected to develop based on the needs of their individual Colleges under the broader requirements imposed under the Act. CKO also anticipates significant implementation costs for these changes.

The College appreciates the opportunity to provide feedback. We look forward to working collaboratively to fulfill our public protection mandate and reduce barriers to registration.

Sincerely,



Nancy Leris  
Registrar and CEO  
College of Kinesiologists of Ontario

cc. Sean Court, Assistant Deputy Minister, Strategic Policy, Planning & French Language Services Division, Ministry of Health  
Allison Henry, Director, Health Workforce Regulatory Oversight Branch, Ministry of Health  
Stephen Cheng, Manager, Strategic Regulatory Policy Unit, Ministry of Health  
Council, College of Kinesiologists of Ontario

College of Kinesiologists of Ontario - Revenue Projections & Operating Cost Estimation - 2021/2022 - 2024/2025						
	Approved Revenue Forecast	Revenues Received to date	Revised Projections (Sept to Aug)			
	2021/22	Sept 2021 to May 31 2022 \$	2021/2022	2022/2023	2023/2024	2024/2025
Revenues	(\$)	\$	(\$)	(\$)	(\$)	(\$)
Jurisprudence Fee	28,178	12,783	28,178	29,433	29,867	29,963
Application Fee	59,900	24,200	59,900	62,900	66,100	66,200
Examination Fee	194,000	74,140	198,000	200,400	201,600	202,000
Registration Fees	1,818,763	420,551	1,850,039	1,854,063	1,859,550	1,906,987
Interest At Bank	25,000	18,166	18,166	18,000	25,000	25,000
Other Income		- 1,020	- 1,020			
<b>Total Revenue Projections</b>	<b>2,125,841</b>	<b>548,820</b>	<b>2,153,263</b>	<b>2,164,795</b>	<b>2,182,117</b>	<b>2,230,150</b>
Operating Expenses	Approved Budget 2021/2022	Expenditures To Date Sept 1 2021 to May 31 2022 \$	Revised Projections 2021/2022 (Sept to Aug) \$	2022/2023 \$	2023/2024 \$	2024/2025 \$
Council and Committees	60,150	33,020	50,005	60,750	65,650	66,750
Professional Services	100,000	95,201	105,667	69,775	63,000	33,000
Communications/Media	85,500	76,736	94,537	137,500	110,500	95,500
Rent and Facilities Costs	237,167	172,267	229,444	238,000	242,700	247,494
Office and General	105,154	52,480	88,393	113,312	107,362	107,574
Staff Salaries/Benefits & Stat Remittances	1,137,914	730,310	1,060,195	1,195,000	1,194,810	1,254,551
Registration Costs	253,527	122,978	146,553	300,820	189,738	179,738
Quality Assurance Costs	35,336	12,516	21,016	56,210	31,426	40,466
Professional Conduct	53,500	29,778	39,948	53,700	53,500	53,500
<b>TOTAL OPERATING COSTS</b>	<b>2,068,248</b>	<b>1,325,286</b>	<b>1,835,758</b>	<b>2,225,067</b>	<b>2,058,686</b>	<b>2,078,573</b>
<b>SURPLUS (DEFICIT)</b>	<b>57,593</b>	<b>(776,466)</b>	<b>317,505</b>	<b>(60,272)</b>	<b>123,431</b>	<b>151,577</b>
Reserve Fund Contribution						



## Performance Report: September 1, 2022 – August 31, 2023

### Communications

#### Focus:

- Increased transparency around Council and committee processes.
- Increased communication to the public about the role of registered kinesiologists.
- Increased communication to registrants on patient/client-centred care and reducing harm.

#### Impact:

- Registrants and the public understand patient/client-centred care in the context of kinesiology and ways to minimize risk of harm.
- The public, employers and other regulated health professionals understand the practice of kinesiology and the obligations of registered kinesiologists.
- The public and registrants have access to more information about Council

#### Activity Highlights

- Articles and other resources developed for registrants and the public on patient/client-centred care in kinesiology and how to reduce risk of harm. Articles promoted through the College's various channels, including the Citizen Advisory Group.
- Public awareness campaigns - both print and digital - executed that highlight the role of the College, what registered kinesiologists do and how regulation protects the public.
- Council and Committees section of the website enhanced to provide more information on the assessment and education of Council and committee members, their orientation and training, and agendas and minutes of Executive and/or Nominations Committee meetings (excluding in-camera items).

#### Key deliverables for the fiscal year:

1. Continue to implement a public awareness campaign that highlights the importance and value of working with registered kinesiologists.
2. Publish more information on the obligations of Council members, how they are trained and details on governance reform including details on the nominations committee of Council.
3. Continuous implementation of the College Performance Measurement Framework and governance reform including focus on equity, diversity, inclusion and belonging in College communications and policies.

## Corporate

**Focus: Enhanced performance reporting  
Enhanced competency and accountability measures.**

### Impact:

- Demonstration of value to the public
- Demonstration of effectiveness
- Enhanced accountability
- Competent Council members
- College performance measurement framework for sound decision-making
- Development of performance measures through business planning

### Activity Highlights

- Implementation of a competency-based assessment and education for Council and Committee members
- Continue to implement a competency-based orientation and education program for Council and Committee members covering the roles and responsibilities.
- Enhance the Council and committee self-evaluation framework to include Council and committee member's individual development plan
- Revisions of by-laws re: governance reform and membership fees

### Key deliverables for the fiscal year:

1. Completion of 2021/2022 Financial Audit and annual report
2. Completion of the CPMF to the Ministry
3. Orientation and training opportunities for Council and Committees
4. Development of committee-specific competencies
5. Development of a new three to five year strategic plan for fiscal year 2022/23
6. Development of new budget for the next fiscal year
7. Fees by-law revisions

## Registration

**Focus:** Entry-to-practice review, develop online entry-to-practice exam, policy development, improvement of data management system

### Impact:

- Entry- to-practice requirements are defensible and clearly defined
- Compliance with by-law and legislative requirements for reporting of data
- Automated processes and well-organized data management system increase operational efficiencies

### Activity Highlights

- Assessment of Kinesiology Core Competency Profile, to identify required updates to entry to practice requirements.
- Updated Jurisprudence E-Learning Module
- Review and update existing registration policies, and development of new registration policies.
- Automate prioritized registration processes in IMIS data management system.
- Revision of the educational assessment tool for the entry to practice examination.

### Key deliverables for the fiscal year:

1. Kinesiology Core Competency Profile updated
2. Educational Equivalency Framework updated
3. Jurisprudence E-learning Module updated
4. Registration Policy review and development
5. Automation of application processes

## Quality Assurance

**Focus:** Harm reduction through risk management, increased transparency and accountability

### Impact:

- College efforts become more risk-focused to assist registrants in reducing potential for harm
- Promote registrants' continuing competence and continuous quality improvement
- Improve patient-centred care and inter-professional collaboration
- Improve public protection and reduction of risk

### Activity Highlights

- Continue peer and practice assessment operations through hybrid platform to ensure registrants' continuing competence, to promote continuous quality improvement, and to identify profession-wide practice issues
- Support registrants in applying relevant practice standards and guidelines to their practice and obtain feedback on value/efficacy of supports

- 
- Develop/amend processes and policies to explain how we use a risk-based, evidence-informed approach to assessment
  - Demonstrate how QA activities engage and support registrants in incorporating CQI into their practice, and help registrants improve practice as individuals and as part of a team

**Key Deliverables for the fiscal year:**

1. Revise peer and practice assessment and competency enhancement program components with risk focus in line with the Ministry's Performance Measurement Framework
2. Establish expectations and supports to promote culture of continuous quality improvement
3. Develop/amend processes and policies to demonstrate risk-based, evidence-informed approach to programming

## Professional Conduct

**Focus: Analysis of risk within the practice of kinesiology and support to Quality Assurance and Patient Relations to reduce potential for harm**

**Impact:**

- Compliance measurement and reduction of risk to the public
- Improve transparency measures through communication through College website

## Activity Highlights

- Respond to legislative changes and the Ministry's CPMF requirement to ensure full compliance
- Timely updates to the public register and database regarding professional conduct matters
- Ensure that information regarding member conduct is readily available and appropriately monitored
- Complaints process and relevant support available to complainants are clearly communicated on our website including information on access to sexual abuse therapy
- Track and monitor College response to inquiries to ensure College is meeting the CPMF requirement
- Develop accessible, up-to-date, documented guidance setting out the framework for assessing risk and acting on complaints, including the prioritization of investigations, complaints, and reports

**Key Deliverables for the fiscal year:**

1. Timely response to complaints
2. Complainants effectively supported by and kept up-to-date on progress of complaints
3. The College addresses complaints in a right touch manner



# Practice Standard- Consent

Approved: June 2012

Revised: N/A

## Definitions

Consent: to acquiesce, agree, approve, assent and give permission to some act or purpose.

Informed consent: a phrase used in law to indicate that the consent given by a person has been based upon a clear appreciation and understanding of the facts, implications, and future consequences of an action. In order to give informed consent, the individual concerned must have adequate reasoning faculties and be in possession of all relevant facts at the time consent is given. In some instances, a substitute decision maker may be involved in giving informed consent.

Express Consent: consent that is given directly in explicit words, either verbally or written, by the patient/client or substitute decision maker, for a specific purpose.

Implied Consent: consent that is inferred from signs, actions, or facts or by inaction or silence. The standard that is applied to whether implied consent was obtained is based on whether a reasonable person in the same circumstances would believe that consent was given.

## Intent

To facilitate appropriate assessment/examination or treatment of patient/client by ensuring that members comply with their obligations relating to consent.

## Objectives

- To ensure that members and the public are aware of the mutual benefits of fully informed, voluntarily given consent to assessment/examination or treatment.
- To ensure members are aware of their existing obligations relating to consent.
- To clarify the consent requirements outlined in legislation, the case law, shared professional values and various existing College Practice Standards, policies and guidelines.
- To ensure patients/clients receive appropriate information about the nature, benefits, risks and side effects of kinesiology assessment/examinations or treatments.
- To facilitate discussion and dialogue between members and patients/clients relating to kinesiology care.



## Description of Standard

Members must respect the autonomy of patients/clients and will only assess/examine or treat them with their informed consent with rare exceptions (e.g., an emergency).

## Elements of Consent

Every member of the College must ensure that the patient/client or their substitute decision maker, including an authorized representative, consent to any assessment/examination or treatment or to a course of treatment that is:

1. fully informed;
2. voluntarily given;
3. related to the patient/client's condition and circumstances;
4. not obtained through fraud or misrepresentations; and
5. *where appropriate*, evidenced in a written form signed by the patient/client or otherwise documented in the patient/client record.

Consent can be written, verbal or implied. Implied consent (e.g., taking a verbal history from a patient/client) should be used with caution because it is easy for a misunderstanding to occur. For example, a patient who disrobes on request may not be consenting to all forms of touching (or, in some circumstances, any touching at all). Since it is the duty of the member to obtain informed consent, the onus is on the member to ensure that the patient/client understands and appreciates what is being asked and agrees to it.

## Appropriate Discussion and Dialogue

In order to be "informed," consent to assessment/examination or treatment (including imaging), includes a discussion of the following:

1. What is the nature of the recommended assessment/examination or treatment?
2. Why should the patient/client have the assessment/examination or treatment?
3. What are the alternatives to the assessment/examination or treatment?
4. What are the effects, material risks and side effects of the proposed assessment/examination or treatment and alternative assessment/examinations or treatments?
5. What might happen if the patient/client chooses not have the assessment/examination or treatment?

**Commented [BF1]:** Inserted a space (grammar/spelling/punctuation change).

In discussing the effects, material risks and side effects of the proposed assessment/examination or treatment and alternative assessment/examinations or treatments, members shall disclose improbable risks, particularly if the effects are serious. Accordingly, members shall include a discussion with patient/clients of the rare but potentially serious risk of pain or injury.

Obtaining consent is an ongoing and evolving process involving continuous discussions with a patient/client and not a single event of a patient's/client's signature on a consent form. If the member recommends a new assessment/examination or treatment, if there are significant changes in a patient's/client's condition, or if there are significant changes in the material risks to a patient/client, the member should continue the dialogue with the patient/client about the material risks, the benefits and side-effects of the recommended assessment/examination or

treatment, including potential risks that may be of a special or unusual nature, and document those discussions in the patient's/client's chart.

During discussions, members should provide patient/clients with an opportunity to ask questions concerning the proposed assessment/examination or treatment and answer questions prior to the commencement of the assessment/examination or treatment. Patients/clients may withdraw their consent to any assessment/examination or treatment at any time.

The standard of disclosure focuses on the patient/client and what a reasonable person in the patients'/clients' position would need to know to make an informed decision. Members are advised to err on the side of caution in providing comprehensive disclosure. In addition, if a patient has unique concerns (e.g., disrobing in front of a person from the opposite gender), this should be discussed as well.

### **Incapable Patients/Clients**

Where a patient/client does not understand the information or appreciate the reasonably foreseeable consequences, he or she would be incapable of making the decision. Capacity can vary with the proposed intervention (e.g., the patient/client could be able to consent to an examination but not to a treatment plan) and over time (e.g., the patient/client has "good days and bad days").

Where the member concludes that the patient/client ~~is may not be capable of~~ consenting to a proposed intervention, the member is expected to inform the patient/client of this finding, where feasible, and include the patient/client in the process as much as possible. The member must then (absent an emergency) obtain consent from a substitute decision maker.

**Commented [BF2]:** Changed to "may not be", as kinesiologists are not authorized to determine capacity (only certain regulated health professionals have that authority under the HCCA, 1996).

The *Health Care Consent Act, 1996* does not identify an age at which minors may exercise independent consent for health care because it is accepted that the capacity to exercise independent judgment for health care decisions varies according to the individual and the complexity of the decision at hand. Members are encouraged to seek consent from the appropriate substitute decision maker to treat children who do not have the capacity to consent to an assessment/examination or treatment.

The *Health Care Consent Act, 1996* sets out the priority of substitute decision makers and the principles that apply. The hierarchy of substitute decision makers is as follows:

1. The incapable person's guardian, if the guardian has authority to give or refuse consent to the treatment.
2. The incapable person's attorney for personal care, if the power of attorney confers authority to give or refuse consent to the treatment.
3. The incapable person's representative appointed by the Consent and Capacity Board if the representative has authority to give or refuse consent to the treatment.
4. The incapable person's spouse or partner (which need not be a sexual partner).
5. A child or parent of the incapable person, or a children's aid society or other person who is lawfully entitled to give or refuse consent to the treatment in the place of the parent. This does not include a parent who has only a right of access and is not lawfully entitled to give or refuse consent to treatment. If a children's aid society or other person is lawfully entitled to give or refuse consent to the treatment in the place of the parent, it gives consent.
6. A parent of the incapable person who has only a right of access.
7. A brother or sister of the incapable person.
8. Any other relative of the incapable person.

9. As a last resort, the Public Guardian and Trustee.

The substitute decision maker who is highest on the list makes the decision unless he or she is not willing or able to make the decision, is not capable themselves, or is not at least 16 years of age (unless that person is also the parent of the patient). If two equally ranked substitutes cannot agree on a decision, then the Public Guardian and Trustee (a civil servant) makes the decision. For more information on the Public Guardian and Trustee, see:

<http://www.attorneygeneral.jus.gov.on.ca/english/>

The substitute decision maker acts as if he or she were the patient/client. The substitute decision maker is entitled to all of the information for making the decision just as the patient/client would be. The substitute decision maker is required to act in the patient's/client's best interests, taking into account any wishes expressed by the patient/client while he or she was capable.

### **Information Practices and Billing**

The principles described above apply with some minor modifications to the collection, use and disclosure of personal health information (including patient/client records) and billing. Members will proceed only on the basis of full disclosure, patient/client choice and informed consent unless one of the recognized exceptions apply (e.g., disclosure of personal health information where permitted or required by law). See the Practice Standard on Record Keeping and the Practice Guideline on Privacy and Confidentiality for more information.

### **Legislation**

*Health Professions Procedural Code*

*Regulated Health Professions Act, 1991*

The Professional Misconduct Regulation

*The Health Care Consent Act, 1996*

*The Personal Health Information Protection Act, 2004.*

### **Notation**

In the event of any inconsistency between this standard and any legislation that governs the practice of members, the legislation governs.

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Standard - Consent</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### Background:

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- Practice Standards outline expectations for conduct and practice. They are principle-based documents meant to guide kinesiologists to identify and avoid behaviours that may be inappropriate and/or constitute professional misconduct, including ensuring that informed consent is appropriately sought, obtained and documented.
- The Practice Standards may also be used to clarify situations and circumstances that may present challenges to a kinesiologist’s decision-making (such as where capacity may be an issue in obtaining informed consent).
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.
- The College’s stated aim of public protection by effective regulation of the practice of kinesiology is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### Analysis

#### Practice Standard - Consent

- This Standard was approved in June, 2012, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made because of this review are tracked in the attached version.
- Pg. 3, Paragraph 4: wording was inserted as follows: “Where the member concludes that the patient/client may not be capable of consenting to a proposed intervention[...]”, this is changed from the original wording “[...] patient/client is not capable of consenting [...]”, as kinesiologists are not authorized under the HCCA to make a determination of incapacity.

## **Resolution – Update to Practice Standard – Consent**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including setting practice standards for registrants of the College; and

**Whereas** changes to legislation and the practice environment impact how kinesiologists should proceed with obtaining informed consent for care and related activities; and

**Whereas** it is desirable for practice standards to be updated so as to reflect the changing practice environment; and

**Whereas** a revised Practice Standard – Consent has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Standard – Consent to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022



# Practice Guideline- Consent

Approved: April 2013

Last revised:

## Introduction

The ability to direct one's own health care needs and treatment is vital to an individual's personal dignity and autonomy. A key component of dignity and autonomy is choice. Regulated health professionals hold a position of trust and power with respect to their patients/clients and can often exercise influence over a patient/client; however, decision making power must always rest with the patient/client, or in the case of incapacity, the patient's/client's substitute decision maker (SDM). It is the right of every patient/client or their SDM to receive full and frank information on his/her condition, the options available and to provide free and informed consent to any matters relating to their health.

The issue of consent in the health care context is so crucial that Ontario passed the *Health Care Consent Act (HCCA), 1996* to ensure there is a legal framework on establishing, maintaining and recording valid consent that is consistent in all settings.

This Guideline serves as a further explanation to the College's Practice Standard on Consent with specific focus on the HCCA. While it focuses on the provisions of the HCCA, members should remember the principle of choice and consent and that obtaining valid consent at all times is the ideal. Where there are exceptions to the need to obtain consent, these exceptions should only be applied if absolutely necessary. Consent should always be sought before action takes place or as soon as possible thereafter. When assessing the need for consent or when seeking to obtain consent, a member should not look at the situation through a legal or technical lens; consent is a broad concept and ultimately involves the person's inherent right to choose and their right to dignity and autonomy.

## ***The Health Care Consent Act (HCCA), 1996***

The HCCA was passed in 1996 and it is multi-purpose in scope. It not only provides parameters on what, when and where consent should be obtained, but also establishes a framework for situations in which the patient/client is deemed incapacitated for the purposes of giving consent. In a broader sense, the act seeks to "promote communication and understanding between health practitioners and their patients or clients". By providing patients/clients with all of the necessary information regarding their condition and treatment options, a practitioner is including the patient/client in the process, thereby strengthening the efficacy of the therapeutic relationship and the autonomy of the patient/client.

### **When does the HCCA apply?**

The HCCA outlines three major areas when consent is needed: 1) treatment; 2) admission to care facilities; and 3) the need for personal assistance services. Members will most often be operating under the treatment category. The scope of the HCCA does not negate the need for consent in other matters such as disclosure of personal health information, which is dealt with under the *Personal Health and Information Privacy Act (PHIPA), 2004*. The principles of the HCCA and the elements of consent outlined below should be followed in all situations where consent is needed, such as informing patients/clients about fees and billing.

#### **“Treatment”**

The HCCA defines treatment as “anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose, and includes a course of treatment, plan of treatment or community treatment plan.” The HCCA does provide a number of exceptions under the definition for treatment, which include, among others:

- (a) the assessment, for the purpose of this act, of a person’s capacity with respect to a treatment,
- (b) the assessment or examination of a person to determine the general nature of the person’s condition,
- (c) the taking of a person’s health history,
- (d) the communication of an assessment,
- (e) treatment that in the circumstances poses little or no risk of harm to the person.

However, a prudent member may still wish to seek consent even when not required to do so under the HCCA. It should also be noted that taking a person’s health history is considered collection of personal health information and therefore the need for consent under PHIPA would apply.

### **WHAT does consent look like under the HCCA?**

The HCCA outlines the elements of consent to treatment as follows:

1. The consent must relate to the treatment.
2. The consent must be informed.
3. The consent must be given voluntarily.
4. The consent must not be obtained through misrepresentation or fraud.

#### **1) The consent must relate to the treatment**

Consent must be specific to the action the member proposes to take before the action takes place. This means that a member cannot obtain blanket consent for any and all assessments or treatments at the present time or in the future.

#### **2) The consent must be informed**

The HCCA defines informed consent as consent that is based on information which a reasonable person in the same circumstances as the patient/client would require in order to make a decision about the treatment. The HCCA specifies that the following matters must be discussed in order for the patient/client to provide informed consent:

1. The nature of the treatment.

2. The expected benefits of the treatment.
3. The material risks of the treatment.
4. The material side effects of the treatment.
5. Alternative courses of action.
6. The likely consequences of not having the treatment.

### **The Duty to Disclose**

Informed consent is obtained by providing a patient/client or the SDM with full and frank disclosure of the items listed above, most notably the material risks and side effects of the proposed treatment. Providing this information is also often referred to as duty to disclose. The Supreme Court of Canada has held that the standard for disclosure is based on what information a reasonable person in the circumstances of the patient/client would require. The focus is on the patient/client.

#### **Material risk**

It is most often the potential risk(s), and/or the likelihood of the risk(s) occurring in relation to potential benefit(s) of a proposed treatment that is the deciding factor for a patient/client. A member should disclose all known risks or those that should be known of a proposed treatment. The latter requirement implies a duty on the member to be current with the state of science on the proposed treatment. Not all possible risks are material. However, if the risk is serious, or could result in permanent pain or injury, then the mere possibility of that risk may be material. The most notable example is risk of death. Even where death is only a remote possibility in a proposed treatment, its risk must always be disclosed. Another serious risk is the risk of a heart attack. A member who is assessing a person's cardiovascular performance, for example, should disclose the risk of a heart attack if it is at all present given the patient's/client's condition.

Members should use caution when providing prepared lists of risks. Common problems with lists are that they may not be exhaustive, they can become outdated and they may not be fully relevant to a particular patient/client. What may be a material risk to one patient/client may not be relevant to another. For example, a course of treatment that could result in pain or injury to a person's joint functioning may be more relevant to a high-functioning athlete than a person who does not engage in much exercise.

Care should also be taken with respect to explaining to the patient/client the consequences of foregoing treatment. The consequences or risks involved should be realistic and patient/client-based. The same principles involved in disclosing material risks should be applied to this situation. It is important that the member does not attempt to influence or sway the patient/client into accepting treatment by mentioning alarming but remotely possible risks, unless they are very serious. Having undue influence over a patient's/client's giving of consent, or being in a position of a conflict of interest, may invalidate the consent.

#### **Communication**

On-going dialogue and open communication between the patient/client or the SDM and the practitioner is essential for obtaining informed consent. Consent should be considered a process and not a single event. If the condition of the patient/client significantly changes or the member proposes a different treatment option, then consent should be obtained again. By the same token, members are encouraged to obtain consent to continue treatment where there has been no improvement in a patient's/client's condition. The member should always be realistic with the patient/client when it comes to discussing the likelihood of future improvement. A member may assess a person's condition as unlikely to improve but treatment is considered necessary to prevent regression and this should be fully explained to the patient/client before proceeding.



The HCCA does set out two situations in which consent can be presumed: 1) if there is a variation in the treatment, but the expected benefits, material risks and material side effects are not significantly different from the original treatment; or 2) if the setting in which the treatment takes place changes, but there is no significant change in the expected benefits, material risks or material side effects of the treatment as a result of the change in the setting.

During discussions about the patient's/client's condition and treatment options, the member should provide opportunities for questions by the patient/client or the SDM. The member should seek to answer any questions when asked, if possible, or as soon as possible thereafter. If the discussion is lengthy and complex, the member should provide opportunities for questions throughout the conversation and should not always wait until the end of discussion to address questions. The patient/client may not be able to remember all of his/her questions if the discussion becomes complicated and prolonged.

Further, in ascertaining a patient's/client's circumstances in order to determine an appropriate treatment plan, the member will have to collect personal information, including personal health information, from the patient/client, which also requires consent under PHIPA. It is therefore important that when asking the patient/client questions that the member explains the purpose of the questioning and ensures the confidentiality of the information provided. For example, a member may want to ascertain what a patient's/client's family and financial situation is because this may affect their ability to take part in an expensive and time-consuming treatment program. Questions of this nature may at first seem irrelevant to a patient/client unless the member explains the purpose in relation to a proposed treatment.

Members must also be satisfied that the patient/client or the SDM understands the discussion about treatment. Every patient's/client's ability to comprehend health matters varies, and the member should be mindful of any indications that the patient/client does not understand what is being said and should adjust their communication accordingly. If there is a language barrier, the member should consider having a colleague, staff member or a family member of the patient/client assist with translation. The use of diagrams or written information may also be helpful. The member can also consider having the patient/client explain back to the member, in his/her own words, the nature of the treatment and risks and benefits involved.

The member must also allow the patient/client time to provide consent. The patient/client may need a few days to think about the options or obtain a second opinion. Where a treatment poses greater risks, the member should encourage the patient/client to seek a second opinion from a relevant health care practitioner.

#### **Withdrawal**

Consent may be withdrawn at any time and this withdrawal should be respected by the member immediately (provided the withdrawal is made by a capable patient/client or the SDM). Moreover, patients/clients should be informed of their right to withdraw consent at any time. The patient/client should be reminded of their right to withdraw consent every time consent is being sought.

#### **Documentation**

The signature of a patient/client or of the SDM on a consent form is not conclusive proof that the member obtained informed consent. This is true even if the consent form contains detailed information about the nature of the treatment and the risks involved. A signed consent form is only an indicator that a discussion surrounding consent took place.

In addition to any consent form, the member should make detailed notes in the patient's/client's records regarding the nature and content of the discussion around consent and follow all other documentation protocols and standards. In a situation where the member is relying on implied consent, the notes should be sufficient that a reasonable person could assume consent based on the circumstances outlined in the notes. Below is a discussion on implied consent.

### **Implied Consent vs. Express Consent**

The HCCA allows for consent to treatment to be express or implied. Express consent is provided directly from the patient/client or SDM in explicit words or in writing. Therefore, express consent can be either verbal or written.

Implied consent is consent that is inferred from signs, actions, or facts or by inaction or silence. The standard that is applied to whether implied consent was obtained is based on whether a reasonable person in the same circumstances would believe that consent was given. An example of implied consent might be where a patient/client holds out their arm and tells the practitioner that they have pain in their wrist. This may imply that they consent to the practitioner looking at and touching their wrist.

Members should exercise great caution when relying on implied consent. Implied consent is subject to interpretation, which can lead to misunderstanding. Interpretation of someone else's actions may not take into account that person's religious or cultural customs, personal habits or behaviours or the inherent power imbalance between the member and the patient/client. For instance, a patient/client may have a nervous habit of nodding their head during a conversation, but this may not mean they are consenting to the proposed action of the member. Further, there are certain circumstances where implied consent should not be relied upon. The more serious an intervention or invasive a procedure being proposed is, the greater the need for express consent. Members should also be acquainted with the need for express consent with respect to the disclosure of personal health information in certain circumstances under PHIPA (see the College's Guideline on Privacy and Confidentiality of Personal Health Information).

### **3) The consent must be given voluntarily**

Consent must also be voluntary, which means that it must be given free of undue influence or duress. As stated previously, members should be mindful of their own influence over the patient/client. Where the power imbalance is greater, the patient/client may want the member to make the decision or feel they have to accept the member's recommendation.

Members must also ensure that any other person, such as a family member or other representative, is not pressuring the patient/client. There may be situations where a patient/client relies on another person to help them understand the information that is being provided by the practitioner; however, this does not mean that the patient/client is unable to consent freely on his/her own behalf. Members should inform the patient/client that consent to treatment is their choice and that they should make it freely without any pressure from anyone else.

### **4) The consent must not be obtained through misrepresentation or fraud**

In providing the information about the treatment to a patient/client, the member must be frank and honest. The member should not be in a conflict of interest when making recommendations. If the member is recommending any course of treatment or product where the member has a relationship with another provider, this should be disclosed and alternatives provided as well.

### **Where does the HCCA apply?**

The HCCA applies to all settings in which a regulated health professional may be practicing, even if the setting is non-clinical in nature. As a regulated health professional, a member is expected to obtain consent for all treatment matters wherever they occur. A member who is providing athletic training to a client in a private gym would be subject to the provisions of the HCCA as would a member working in a hospital. A member who is conducting an assessment on behalf of an employer or insurance company should also seek the consent of the individual they are assessing. Despite the fact that a member may be hired by a company or insurance firm for the purposes of an assessment, the member enters into a therapeutic relationship with the person they are assessing and all standards of the profession, including the requirement for consent, apply. Consent in the health care context takes place between the practitioner and the patient/client. A third party cannot provide consent on behalf of the patient/client.

However, a member can delegate the consent discussion in certain circumstances, if appropriate. For example, an administrator of a facility might obtain consent for an assessment at an initial appointment on behalf of the member. The person conducting the consent discussion must be knowledgeable about the assessment and be able to answer any questions from the patient/client. However, the member retains the responsibility at all times of ensuring that there is valid and informed consent. If treatment involves a more invasive procedure or touching of a sensitive nature, the member should discuss and obtain consent from the patient/client directly.

### **Incapacity**

There are situations in which a patient/client may not be able to provide informed consent because they are incapacitated. The HCCA sets out rules with respect to obtaining consent from the Substitute Decision Maker (SDM), while still including the patient/client as much as possible. Making a determination that someone is incapacitated for the purposes of consent is a very serious matter and goes to the very heart of an individual's autonomy and dignity.

The HCCA states that a person is capable with respect to a treatment if the person is able to understand the information that is relevant to making a decision about the treatment and is able to appreciate the reasonably foreseeable consequences of a decision or lack of a decision.

All persons are presumed to be capable. A member may not presume that a person is incapable solely on the basis of any one of the following reasons:

- The existence of a psychiatric or neurological diagnosis;
- A refusal of a proposed service that is contrary to the member's advice or the advice of another practitioner;
- A request for an alternative service;
- The person's age;
- The existence of a disability, such as a hearing impairment; and/or
- The mere fact that a SDM is in place.

A patient/client may be in a situation that impedes their ability to process or understand information, but is still capable of providing consent. For example, where a patient/client has a hearing impairment, it is the duty of the member to ensure the patient/client receives all the information necessary to provide informed consent. The member might adjust the volume of his/her voice, move to a quieter setting or use a different method of communication, such as pen and paper.

The HCCA, as well as PHIPA, also explicitly state that a patient's/client's incapacity with respect to one matter may not necessarily mean that they are incapable to make other decisions. For example,

a patient/client may be able to consent to an initial assessment, but may not be able to consent to a treatment plan because they are unable to understand the more complex information provided with respect to the treatment. Also, a patient/client may be incapable at one time and capable at another time with respect to treatment. When a client is deemed to be capable again, consent must be sought from the patient/client.

If a patient/client was judged to be incapable and a SDM provided consent and the patient/client later becomes capable again, then the patient/client's/client's own decision to give or refuse consent governs.

### How to assess capacity

A member may use the following observations as possible indicators of incapacity:

- The person shows evidence of confused or delusional thinking;
- The person appears unable to make a settled choice about service;
- The person is experiencing severe pain or acute fear or anxiety;
- The person appears to be severely depressed;
- The person appears to be impaired by alcohol or drugs; and/or
- Any other observations which give rise to a concern about the person's capacity, including the person's behaviour or communication.

### What to do when a determination of incapacity is made

Under s.17 of the HCCA, it is mandated that the College set out guidelines to its members regarding the type of information that must be provided at a minimum to a patient/client about the consequences of a finding of incapacity. The College recommends the following courses of action following a finding of incapacity:

- Inform the patient/client that the member believes that the patient/client is incapable of providing consent to the proposed treatment unless:
  - there is a substantial risk of serious harm to the patient/client or another individual if the member informs the patient/client; or
  - the patient's/client's incapacity is to such a degree that they would be unable to understand the fact of the finding or the member's reasoning;
- Inform the patient/client that he/she may still be able to consent to other matters if he/she is deemed capable with respect to those matters;
- Inform the patient/client that an SDM will be responsible for making decisions on the patient's/client's behalf and the name of the SDM;
- Inform the patient/client of his/her right to appeal the finding to the Consent and Capacity Review Board (CCRB);
- If the patient/client objects to the particular SDM, the member should inform the patient/client that another person can be appointed by the CCRB;
- Inform the patient/client that his/her incapacity will continue to be reassessed and when capacity returns, he/she will be able to consent to treatment;
- Provide the information to the patient/client in a manner that the patient/client is best able to understand; for example, using simple language or providing a written information sheet; and/or
- Inform the patient/client that the finding of incapacity will be documented in the patient's/client's health record. The member must document the discussion thoroughly in the patient's/client's record

**Commented [BF1]:** These points were reviewed by the Committee and determined to fall outside a kinesiologist's authority (kinesiologists do not have the authority to determine capacity under the HCCA, 1996)

If a patient/client has indicated to the member that they plan to appeal the member's decision to the CCRB, then the member must not begin treatment.

### **Substitute decision makers**

When a patient/client is deemed to be incapable of providing informed consent, the member must seek consent from a Substitute Decision Maker (SDM). The hierarchy of substitute decision makers is as follows:

1. Guardian
2. Attorney for personal care
3. A representative appointed by the Consent and Capacity Review Board
4. Spouse or partner (including a same-sex spouse)
5. Child, parent or children's aid society. This does not apply to a parent who has only a right of access
6. Parent with right of access only
7. A brother or sister
8. Any other relative
9. The Public Guardian and Trustee

The stipulations of the HCCA, the College's Practice Standard on Consent and this Guideline all apply to obtaining consent from the SDM.

In order to qualify as a substitute decision maker, a person must meet all of the following criteria:

- Be capable to consent to the treatment;
- Be at least 16 years old. The only exception is if the person under 16 is the incapable person's parent;
- Not be prohibited by a court order or separation agreement from having access to the incapable person or from giving or refusing consent on the incapable person's behalf;
- Be available; and
- Be willing to assume the responsibility of giving or refusing consent

A SDM must make decisions on behalf of the patient/client that are in accordance with the patient's/client's known wishes or that are in the patient's/client's best interests. The HCCA outlines the factors that a SDM should take into account before making a decision on behalf of the patient/client. If the member does not believe that the SDM is acting in the best interests of the patient/client, the member can make an application to the CCRB.

### **Emergency treatment**

Members cannot make decisions about a patient's/client's treatment without their consent except in certain emergency situations. An emergency situation is defined in the HCCA as when a person for whom the treatment is proposed is apparently experiencing severe suffering or is at risk, if the treatment is not administered promptly, of sustaining serious bodily harm. Where practicable, consent should still be sought from the patient/client or his/her SDM, but not if the delay required in obtaining consent would prolong the suffering or put the person at risk of serious bodily harm. In the case of a person who is capable of providing consent but cannot do so due to a language barrier or disability, the member should attempt to find a way to communicate with that person and obtain consent. If the member is unable to communicate with the person and there is no reason to believe that the person does not want the treatment, then the member can perform emergency treatment without consent.

For example, if a member is supervising a patient's/client's athletic program and the patient/client collapses from an apparent heart attack, the member should ascertain whether the patient/client is conscious and capable of providing consent. If the member determines that the patient/client is incapable of providing consent and no SDM is available, the member should proceed to provide CPR or other appropriate treatment, as may be required.

The member should document any treatment provided in an emergency in the patient's/client's health record as soon as possible. Consent should be sought as soon as possible from either the patient/client or SDM after the emergency treatment has been administered.

It is expected that emergencies in the kinesiology context would be rare.

**Suggested Other Reading**

Practice Standard- Code of Ethics

Practice Standard- Record Keeping

Practice Guideline- Privacy and Confidentiality of Personal Health Information

Practice Guideline- The Therapeutic Relationship and the Prevention of Sexual Abuse

Appendix 1

Sample Consent Form (this consent form is only a guide and should be modified as necessary to a practitioner's individual circumstances)

**Consent to Treatment – Form**

I, \_\_\_\_\_, hereby consent to the following treatment:  
(Client's name or name of substitute decision maker)

(Describe the treatment in specific but understandable words for the client)  
\_\_\_\_\_

I have been told about the following:

- What the treatment is
- Who will be providing the treatment and for approximately how long
- The cost of the treatment
- The potential benefits of the treatment
- The potential risks and side-effects of the treatment
- The alternatives to having the treatment
- The potential risks of not having the treatment

I have understood the explanation and I have had the opportunity to ask questions.

I have been told that I may withdraw my consent to treatment at any time or ask for a reassessment.

My consent is given voluntarily.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of patient/client)

\_\_\_\_\_  
(Print name of patient/client)

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Print name of witness)

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Guideline - Consent</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### Background:

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- Practice Guidelines serve as supporting documents that provide context and help kinesiologists understand their responsibilities and make safe and ethical practice decisions, including regarding when and how informed consent may and should be sought, obtained and documented.
- The Practice Guidelines may contain specific examples that could be extrapolated to a variety of circumstances that may arise, including circumstances where a kinesiologist may have reason to believe that a patient/client may not be capable of providing informed consent to a specific treatment or service at a given time.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant, helpful and aligned with current legislation and best practices.
- The College’s stated aim of preventing and eliminating sexual abuse by kinesiologists is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### Analysis

#### Practice Guideline – Consent

- This Guideline was approved in April 2013 and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made because of this review are tracked in the attached version.
- It is proposed that four points under the section header “What to do when a determination of incapacity is made” (pg. 7) be removed, as they refer to aspects of determining capacity that fall outside a kinesiologist’s authority. The four points are (points 3, 4, 5 and 6, excluding sub-items):
  - Inform the patient/client that an SDM will be responsible for making decisions on the patient’s/client’s behalf and the name of the SDM;



- Inform the patient/client of his/her right to appeal the finding to the Consent and Capacity Review Board (CCRB);
- If the patient/client objects to the particular SDM, the member should inform the patient/client that another person can be appointed by the CCRB;
- Inform the patient/client that his/her incapacity will continue to be reassessed and when capacity returns, he/she will be able to consent to treatment.

## **Resolution – Update to Practice Guideline – Consent**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including by providing guidelines to support registrants in meeting practice standards set by the College; and

**Whereas** changing legislative and practice environments result in changes to how informed consent may be sought and obtained; and

**Whereas** it is beneficial to provide guidance to registrants of the College seeking to ensure that their practices around informed consent meet legislative requirements as well as the College’s standards; and

**Whereas** a revised Practice Guideline – Consent has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Guideline – Consent to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022

# Practice Standard- Advertising

Approved: June 2012

Revised: N/A

## Definition

**Advertisement:** Any message communicating information about a member's practice and/or the professional services he or she offers, the content of which he or she controls or influences, directly or indirectly, which is expressed in any language with the intent to influence choice, opinion or behaviour about the member and communicated in any public medium to anyone.

**Public Medium:** Any form of communication that, generally speaking, is equally available to anyone who chooses to use it and that is directed to the public, or a specific subsection of the public, rather than to an individual person or persons. Radio, television, websites (but not individually targeted emails), flyers (provided they are distributed publicly and not individually targeted), and the Yellow Pages are all examples of public media.

## Intent

The evolution of kinesiology practice now provides members with more opportunities to directly communicate the availability of their services to the public within the kinesiology scope of practice or with other health care professionals.

In this context, the College supports members' use of appropriate advertising to communicate the type and availability of services to the public or other health care professionals so that potential patients/clients and referral sources can make choices based on their respective needs.

## Objectives

- To describe the College's expectations for members involved in advertising of professional services.
- To ensure that communications about one's practice and professional services are accurate, meaningful and professional.
- To inform members that it is advisable to review this standard in partnership with the other Practice Standards.

## Description of Standard

Members may use any public medium to advertise professional services offered within the scope of practice of kinesiology to members of the public or other health care professionals to assist them in making informed choices about the health care services provided by members.

Members' advertisements will be accurate, verifiable, comprehensible, professionally appropriate and compliant with the practice standards of the profession. Members will also take reasonable<sup>1</sup> steps to ensure that advertisements placed by others (e.g. employers, employees, partners and associates, facility operators, etc.) about their services meet these standards. ~~Reasonable in this context means understanding the expectations in the Standard, ensuring that the employer is also aware of the expectations and requesting changes to any content that does not meet the Standard.~~

**Commented [BF1]:** Discussed with Committee, it was advised by committee that this be moved to a Footnote.

**A member demonstrates the standard by ensuring that:**

1. The information in advertisements is:

- accurate,
- true,
- verifiable by the member, and
- is professional and not misleading by either omitting relevant information or including non-relevant information

2. The information contained in advertisements directed at a specific audience is:

- comprehensible to its intended audience, and
- in accordance with the generally accepted standards of good taste of both its intended audience and the profession.

3. The professional services offered by a member advertising in his or her capacity as a member are within the scope of practice of kinesiology.

4. Advertisements do not include anything that could be interpreted as intending to promote a demand for unnecessary services.

5. Advertisements do not contain any information that could be interpreted to be a testimonial and/or endorsement of a member or his or her practice from an individual or an organization.

- A testimonial is the provision by a member of a subjective statement from a client or other individual expressing an opinion about the nature or quality of the member's services. It is distinct from research conducted by others (e.g., prospective clients) gathering information without the involvement of the member.
- An example of an endorsement is where a sports celebrity appears in an advertisement for a member, thereby endorsing the member.

6. Any references to fees or prices used in advertisements meet the expectations for truth and accuracy described in this standard. For example, the fee, which is available to all clients, will

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<sup>1</sup> Reasonable in this context means understanding the expectations in the Standard, ensuring that the employer is also aware of the expectations and requesting changes to any content that does not meet the Standard.

include all components of the service that is fairly described. This is not intended to prohibit a member from:

- displaying or distributing a fee schedule and/or an explanation of the way fees are calculated;
- providing information about fees or charges in response to a request for this information;
- providing information on the funding models or insurance plans for which he or she accepts patients/clients; or
- indicating the forms of payment he or she will accept.

7. Advertisements do not contain any statement that may be interpreted to be a:

- guarantee as to the success of the service provided;
- comparative or superlative statement about service quality, products or people;
- testimonial by any person who has obtained, or is related to or acquainted with, a person who has obtained products or services from the practice being advertised;
- express or implied endorsement or recommendation for the exclusive use of a drug, product or brand of equipment used or sold in the practice; or
- communication that is so undignified or in such poor taste as to be unprofessional.

8. He or she does not directly or indirectly solicit patients/clients in person, by telephone, e-mail or any other means of communication that is not considered to be a public medium. This is not intended to prohibit a member from:

- undertaking activities that are considered to be reasonably necessary to carry out normal and required health care notices and reminders with current or former patient/clients;
- periodically contacting current or former patients/clients for goodwill purposes; or
- providing information to prospective referral sources.

9. His or her participation in the promotion or advertising of health care products or services is consistent with the College's Practice Standard on Conflict of Interest.

### **Legislation**

*Regulated Health Professions Act, 1991*

### **Notation**

In the event of any inconsistency between this standard and any legislation that governs the practice of members, the legislation governs.

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Standard - Advertising</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### Background:

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- Practice Standards outline expectations for conduct and practice. They are principle-based documents meant to guide kinesiologists to identify and avoid behaviours that may be inappropriate and/or constitute professional misconduct, including advertising and other promotional practices that may be unethical or inappropriate.
- The Practice Standards may also be used to clarify situations where exceptions (such as the spousal exception) may apply, and how a kinesiologist may and should adjust their behaviour to maintain transparent and ethical conduct.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.
- The College’s stated aim of protecting the public by regulating the practice of kinesiology is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### Analysis

#### Practice Standard - Advertising

- This Standard was approved in June 2012, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made as a result of this review are tracked in the attached version.
- A footnote was added on page 2 clarifying the “reasonable” steps that a kinesiologist may take to “[...]ensure that advertisements placed by others (e.g. employers, employees, partners, associates, facility operators, etc.) about their services meet these standards.” The contents of the footnote were moved from the main body of the Standard. This change was made based on recommendations from the Patient Relations Committee.

## **Resolution – Update to Practice Standard – Advertising**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including setting practice standards for registrants of the College; and

**Whereas** the standards that may apply to advertising and promotional best practices may change in response to changing legislative, regulatory and practice environments; and

**Whereas** it is desirable for the College to maintain standards that facilitate ethical and responsible advertising practices; and

**Whereas** a revised Practice Standard – Advertising has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Standard – Advertising to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022



# Practice Guideline- Advertising

Approved: April 2013

Last revised: N/A

## Introduction: Why regulate advertising?

Advertising in health care is different from advertising in a business or commercial context. Regulated health professions are held to specific standards outlined by their college with respect to advertising in order to protect the public interest. Advertising can be a means to allow the public to make informed choices regarding their health care. Advertising allows the public to make decisions about which provider to seek out based on services offered, location, fees, etc. However, misleading, dishonest or pressure-based advertising may result in the opposite. While it is recognized that members are engaged in a business, the goals are for members to provide quality health care, and for the College to fulfill its mandate of protecting the public interest. A member's advertising falls within the standard when it is informative in nature and not persuasive and where it helps the public, not harms it. In drafting the Advertising Standard, the College followed [the policy recommendations of the Health Professions Regulatory Advisory Council. The policy recommendations outlined basic principles for all the health regulatory colleges as follows](#) [four key principles](#):

- Advertising should reflect a balance between the public interest requirement and individual interest or freedom of commercial expression requirement.
- The public interest must be served by ensuring that the public gets accurate and understandable information so that it can make an informed choice.
- Advertising should focus solely on providing truthful information and should not stimulate a demand for unnecessary health care services.
- Advertising must not exploit the relationship of trust between patient/client and practitioner.

The purpose of this guideline is to provide members with specific information about what may or may not be included in advertisements in order for them to comply with the College's Practice Standard on Advertising.

## What can/should be included in an advertisement?

The information in advertisements must be:

- Accurate;
- True;

**Commented [BF1]:** HPARC no longer exists (see here: [Dissolution of the Health Professions Regulatory Advisory Council under the Regulated Health Professions Act, 1991. \(ontariocanada.com\)](#))



- Verifiable by the member; and
- Professional and not misleading by either omitting relevant information or including non-relevant information.

Providing the public with accurate, factual, objective and verifiable information to make an informed choice in health care is in the public's best interest. Subjective opinions may cause confusion and lack of trust.

Members can advertise the professional services offered by them that are within the scope of practice of kinesiology. Members should ensure that they are competent by reason of their education, training and/or experience to provide the service(s) advertised, or to act in the manner or professional capacity advertised.

Members can provide information about fees or prices in advertising. Any references to fees or prices must meet the expectations for truth and accuracy described in the Practice Standard on Advertising. For example, the fee, which is available to all patients/clients, will include all components of the service which is fairly described. Members should refer to the Practice Standard on Fees and Billing. This is not intended to prohibit a member from:

- displaying or distributing a fee schedule and/or an explanation of the way fees are calculated;
- providing information about fees or charges in response to a request for this information;
- providing information on the funding models or insurance plans for which he or she accepts patients/clients; or
- indicating the forms of payment he or she will accept.

Members should use caution when mentioning insurance coverages since these may vary among companies and group policies and can be misleading to the patient/client.

The public is entitled to full disclosure of what is and what is not included in the advertised fee.

Price information should be exact, with all fees and applicable taxes for services clearly identifiable, and any conditions or other variables to an advertised price or fee disclosed.

Members are able to offer discounts, complimentary consults or gift certificates in their advertising, provided they do not encourage the unnecessary use of regulated health services and they are not misleading. If a member or a person advertising a service does offer a discount, gift or any other inducement to attract patients/clients to a service, the offer must be truthful, and the full terms and conditions of the offer must be set out clearly in the advertisement. If there is a specified period of time in which the offer is redeemable, this should be made clear and visually apparent. The offer should not be limited to a certain number or type of client. There should not be any pressure or requirement for the client to return for further services. The member must not seek compensation from any third party payor of any part of a complimentary service.

#### **What cannot be included in an advertisement?**

##### **Unnecessary services**

An advertisement cannot include anything that can be interpreted as an intention to promote a demand for unnecessary services. Offering to provide a product, service or treatment prior to an

assessment (e.g. a free walker with every new assessment) could be perceived as promoting a demand for unnecessary treatment. Without an assessment, the need for treatment cannot be justified. Another example would be advertising a block fee for services that does not specify that an adequate assessment must be conducted.

### **Testimonials**

An advertisement cannot contain any information that can be interpreted to be a testimonial and/or endorsement of a member or his or her practice from an individual or an organization. A testimonial is the provision by a member of a subjective statement from a patient/client or other individual expressing an opinion about the nature or quality of the member's services. It is distinct from research conducted by others (e.g., prospective patients/clients) gathering information without the involvement of the member. An example of an endorsement is where a sports celebrity appears in an advertisement endorsing the member.

However, statements that refer to the benefits of kinesiology, and not to a particular member or office, are permissible. Any statements must be truthful and verifiable, and contain generally accepted principles of the profession by those with sufficient expertise. Any statements about the benefits of Kinesiology cannot include negative remarks about another health profession. An example of an unacceptable testimonial would be: "My Kinesiologist, John Doe, helped me walk without pain again". An example of an acceptable statement would be: "Kinesiology can help restore normal joint functioning"

### **Comparisons, guarantees or endorsements**

Advertisements cannot contain any statement that can be interpreted to be a/an:

- Guarantee as to the success of the service provided. Claims or guarantees of success are often not verifiable and may appear unprofessional. Members should not use expressions such as "will help", "can cure" and "does relieve", which imply a guarantee. Members may use expressions such as "may be able to help" or "has been shown to relieve".
- Comparative or superlative statement about service quality, products or people. Comparison to any facet of another member's practice or to another regulated health care provider is unprofessional. The public and the profession are better served by positive and generic kinesiology facts. Members should not use adjectives with comparatives ("more" or "better") in their advertising because they imply a comparison. Members may use words such as "safe" and "effective" to describe the kinesiology profession in general.
- Express or implied endorsement or recommendation for the exclusive use of a drug, product or brand of equipment used or sold in the practice. Exclusive endorsements of products suggest superiority and imply a comparison, which is not permitted. Endorsements may give rise to conflict of interests. Members are expected to put the interests of their patients/clients ahead of their own and avoid conflict of interest situations. Members can advertise use of general types of products or technology, such as ultrasound. Where the member does use or recommend an exclusive brand, this should be explained to the patient/client during an initial appointment or assessment, not in an advertisement. The member should refer to the Conflict of Interest Standard and the Consent Standard.
- Communication that is so undignified or in such poor taste as to be unprofessional. All advertisements must maintain professional integrity and serve the public's best interest.

### Who can advertisements be directed to?

The information contained in advertisements should be directed to a specific audience, comprehensible to its intended audience and created in accordance with the generally accepted standards of good taste of both its intended audience and the profession.

Members must not directly or indirectly solicit patients/clients in person, by telephone, e-mail, or any other means of communication that is not considered to be a public medium. This is not intended to prohibit a member from:

- Undertaking activities that are considered to be reasonably necessary to carry out normal and required health care notices and reminders with current or former patients/clients;
- Periodically contacting current or former patients/clients for goodwill purposes; or
- Providing information to prospective referral sources.

New federal legislation coming into force in 2013 will prohibit the sending of “commercial electronic messages” (CEMs) without express consent, or in limited cases, implied consent. The legislation allows for implied consent when there is an existing relationship; therefore, sending information to former patients/clients for goodwill purposes, via an electronic message such as email, would be permitted. However, this implied consent may be deemed to lapse if the patient/client has not been seen by the member in over two years. Violating this act can result in penalties under the new legislation.

### Where can members place advertisements?

Any advertisement should be presented using a public medium. For example, newspapers, radio, television, websites, flyers and the Yellow Pages are considered public mediums. This means that, generally speaking, the advertisement is equally available to anyone who chooses to use it and that it is directed to the public, or a subsection of the public, rather than to an individual(s).

Advertisements also include any in-office promotional materials, such as pamphlets, brochures, news bulletins, business cards, etc.

Advertisements can be placed on social media websites and personal pages, but they must comply with the Practice Standard on Advertising. Even if the member’s social media page is private, they must not make use of any techniques that are described in the Standard as a breach. Private social media pages, such as Facebook, are still accessible by outside sources.

Members must also keep in mind that making simple statements about themselves as professionals, while not intended to be advertisements, may be perceived as such. For example, members should refrain from posting on a page, “I successfully cured 10 people today”. While the audience may only be for a member’s friends, it could be construed by an onlooker as self-aggrandizing, as a testimonial, or as misleading.

### How can kinesiologists ethically inform other professionals of their practice?

**Commented [BF2]:** This is included in the Practice Standard. Should it be duplicated here?

**Commented [BF3R2]:** Committee determined that this should be kept.

**Commented [BF4]:** Based on practice advice inquiries, it may be helpful to add some specific mention regarding how a registrant MAY connect or network with other regulated health care professionals, for example in order to notify local MDs, Nurses, Chiropractors, Physiotherapists, Psychologists, etc regarding their services.

**Commented [BF5R4]:** See comment below

Kinesiologists may interact with other professionals to build awareness of their practice by attending professional networking opportunities and appropriate participation in professional and interprofessional events (such as conferences or symposia).

When seeking to build their professional network, kinesiologists must comply with all relevant College guidance regarding professional conduct, including the Code of Ethics, the Practice Standard – Professional Collaboration, the Practice Standard - Advertising, the Essential Competencies of Practice and this Practice Guideline. Kinesiologists engaged in professional networking should refer to the College's Practice Standard – Conflict of Interest and refrain from conduct that may be considered a violation of that Standard.

### Who is responsible for advertising?

A member is always responsible for advertisements about his or her practice regardless of whether or not the advertisement is made by the individual member. The member is responsible for taking reasonable steps to ensure that any advertising referencing the services provided by him/her meets the Practice Standard on Advertising. This includes advertising that is done by another person on their behalf. *Reasonable* in this context means understanding the expectations in the Standard, ensuring that the employer, or other individual or entity, is aware of the expectations and requesting changes to any content that does not meet the Standard.

The member should attempt, at the very least, to ask an employer, or other individual or entity, to remove any unprofessional references to him/her as an individual practitioner. For example, if the employer advertises that the member is a registered specialist in Kinesiology, the member should ask that this reference be removed because no specialty class exists within the College's Registration Regulation.

Many social media pages also allow other individuals to post comments about someone else. A member should not allow others to post misleading comments or testimonials about his/her practice either on their page(s) or on any other person(s) page(s). If a member becomes aware of any statements about himself/herself and their practice that are in breach of the Practice Standard on Advertising, he/she is responsible for removing, or requesting the removal (if it is not possible to do it themselves) of any such statements.

### Summary

The following is a list of what is and what is not acceptable in advertising. The list is not intended to be exhaustive. A checklist is also provided to be of assistance to members when assessing whether or not their advertisements fall within the standard. **Members are encouraged to submit any proposed advertisements to the College for review if they are unsure whether the advertisements conform to this Guideline.**

What is acceptable advertising?

Advertising used to inform the public of the availability of kinesiology services may be considered to comply with these guidelines if it is information published in the public interest and if it is factual, honest, accurate, clear, verifiable and not misleading. This section is intended to provide examples of the types of advertising of services that the College considers to be acceptable. These examples are not intended to be exhaustive. Advertising may contain:

- (a) A factual and clear statement of the service(s) and/or any product(s) offered;
- (b) Contact details of the office of the member, including email or website addresses, and telephone numbers;

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- (c) A statement of office hours regularly maintained by the practitioner and the availability of after-hours services;
- (d) Non-enhanced photos or drawings of the member or his or her office;
- (e) A statement of any language(s) other than English or French fluently spoken by the member or another person in his or her office;
- (f) A statement about fees charged, billing arrangement or other insurance plan arrangements and payment methods accepted;
- (g) A statement regarding the registration of the member with the College. This information must include the member's name as it appears on the College's Register of Kinesiologists; and/or
- (h) A statement regarding the certifications and additional qualifications of the member which have been recognized by the College.

### **What is unacceptable advertising?**

This section is intended to provide a clear indication of the types of advertising that the College considers unacceptable. Where examples are provided, they are intended to assist members and other persons who advertise regulated health services to comply with the Practice Standard on Advertising. They are not intended to be exhaustive.

Advertisements are considered unacceptable if they:

- (a) Create or are likely to create unwarranted and unrealistic expectations about the effectiveness of the services advertised;
- (b) Mislead, either directly, or by implication, use of emphasis, comparison, contrast, or omission;
- (c) Use testimonials or purported testimonials;
- (d) Compare different regulated health professions where there is no evidence on which to base the comparison and/or in a way that may mislead or deceive;
- (e) Claim that the services provided by a member are superior to those provided by other regulated health practitioners;
- (f) Use superlative terms such as "state of the art" or "cutting edge" when referring to a particular service, technology or product used;
- (g) Contain price information that is inexact, or fails to specify any conditions or variables to an advertised price; and/or
- (h) Contain any claim, statement or implication that:
  - Either expressly, or by omission, that the treatment is infallible, miraculous or a certain, guaranteed remedy;
  - A member has a product that is "exclusive"; and/or
  - The results of the service offered are always effective.

### **Suggested Other Reading**

Practice Standard – Code of Ethics  
 Practice Standard - Conflict of Interest  
 Practice Standard - Fees and Billing  
 Practice Guideline - Use of Title and Designations

### **Advertising Checklist**

When considering the content of an advertisement, members may find the following checklist helpful. This is not an exhaustive list, but rather it is intended to provide members with an optional tool to facilitate the application of the Advertising Standard in practice. This checklist is not intended to be a substitute for thorough reading and understanding of the expectations outlined in the Standard and expanded upon in this Guideline, and should not be used in isolation.

#### **Is the advertised information:**

- True
- Accurate
- Verifiable
- Not misleading
- Professionally appropriate

#### **Does the advertised information:**

- Meet the College's Practice Standards (e.g. Advertising, Code of Ethics, Conflict of Interest, Fees and Billing, etc.)
- Use a public medium
- Relate to the scope of practice of kinesiology
- Facilitate informed choice

#### **Does the advertisement avoid:**

- Promoting a demand for unnecessary service
- The use of endorsements, testimonials or guarantees

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Guideline - Advertising</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### **Background:**

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- Practice Guidelines serve as supporting documents that provide context and help kinesiologists understand their responsibilities and make safe and ethical practice decisions, including decisions regarding advertising that may be used to promote or build awareness of the kinesiologist's practice.
- The Practice Guidelines may contain specific examples that could be extrapolated to a variety of circumstances that may arise.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.

### **Analysis**

#### **Practice Guideline - Advertising**

- This Guideline was approved in April 2013, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made as a result of this review are tracked in the attached version.
- On page 1, paragraph 1, a specific reference to HPRAC was removed, as this body has been dissolved. The reference to the principles underpinning the Practice Standard was made more general.
- Pages 4-5 (page 4, paragraph 11; page 5 paragraph 1): Based on practice inquiries, a section was inserted regarding how kinesiologists may appropriately provide practice information to other professionals, such as when building a referral or other professional network.



## **Resolution – Update to Practice Guideline - Advertising**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including by providing guidelines to support registrants in meeting practice standards set by the College; and

**Whereas** the advertising practices employed by registrants to promote their practice will be influenced by legislation, the practice environment and the College’s standards; and

**Whereas** it is beneficial for the College to provide registrants with guidance that supports ethical and appropriate advertising and other promotional activities; and

**Whereas** a revised Practice Guideline – Advertising has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Guideline – Advertising to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022



# Practice Standard- Fees and Billing

Approved: June 2012

Revised: N/A

## Definitions

**Billing:** To invoice/request payment for services provided to a patient/client.

**Fees:** The amount charged to a patient/client for services provided.

## Intent

To describe the College's expectations for members involved in the care of clients in terms of fees and billing practices and process.

## Standard Statement

Members must ensure that:

- They have a clear fee schedule;
- Clients/patients receive the relevant fee information to enable them to make an informed choice about the financial aspects of the services and products they will receive; and
- The client/patient and any third party payor receive accurate, complete and meaningful information about the services provided and the fees charged.

## Description of Standard

### A member demonstrates the Standard by:

- Ensuring that when the patient/client arrives to his/her first appointment or prior to the patient's/client's arrival:
- the fee schedule and billing requirements are prominently posted in a location where patients/clients will see them, or they must provide a copy to the client. The fee schedule and billing requirements will describe and cover all services, products and administrative charges (e.g., copies of documents, fees for reports, late payment charges, cancellation charges etc.), as well as, how the bill will be calculated, the timing and frequency of billing, and accepted methods of payment;
- there is an explanation of the rates and billing requirements for a kinesiology appointment to the patient/client, including what part of the treatment time will be used for taking a health history and assessment/reassessment;

- that if a block fee<sup>1</sup> is proposed, ensuring that the patient/client clearly understands that choosing the block fee payment is optional, and ensuring that the patient/client understands the terms of the block fee payment option;
- there is an explanation to the client of the policy with regard to cancellation of appointments;
- the patient/client has the opportunity to ask questions about the rate, fee schedule and billing requirements; and
- any charges that deviate from the set fee schedule have been agreed to by the patient/client and are documented in the clinical notes with the reasons and agreement indicated.
- Ensuring that the fees charged:
  - are not excessive<sup>2</sup> when compared to similar services provided by other members with similar experience and skills in similar circumstances; and
  - are an accurate reflection of the services and products provided.
- Ensuring that any departure from an established or documented fee schedule is used only to reduce fees in appropriate individual cases. For example, patients/clients cannot be charged a higher fee because of their ability to pay or because the service or product is covered by a third party payor.
- When asked, providing an itemized invoice that contains:
  - an accurate and meaningful description of the services provided and charge for them;
  - an accurate and meaningful description of the products provided and charge for them;
  - the date each service or product was provided;
  - the identity of the person who provided the service or took the professional responsibility for selecting the product; and
  - any other information reasonably necessary in the circumstances (e.g., terms of payment, interest or late payment charges, other administrative charges, etc.).<sup>3</sup>
- Where a block fee is charged for a package of services and/or products, ensuring that there is a clear, understandable and complete written agreement that covers the following:
  - the services covered by the fee;
  - the amount of the fee;
  - the arrangements for paying the fee; and
  - the rights and obligations of the member and the client if the relationship between them is terminated before all the services are provided.
- Monitoring and documenting invoices and billing practices at periodic intervals in order to ensure:

**Commented [BF1]:** Added footnote based on committee recommendation that block fees be considered to include monthly fees for access to a specified (or unspecified) number of treatment sessions.

<sup>1</sup> Block fees may include membership-based billing models, such fees charged on a regular interval (e.g. monthly) for access to a specified or unspecified number of treatment sessions.

<sup>2</sup> The fact that other members charge a lower fee does not make one's fee excessive. There is always some variability in fees even if everything else is equal. And circumstances are usually not completely comparable. However, where a fee is markedly higher for no discernible reason then they can become excessive. Any determination of excessive fees is done by a panel of the College that has both professional and public members on it.

<sup>3</sup> It is unprofessional to provide false or misleading information in a receipt. For example, members must refuse any request to falsify the date of the service, the recipient of the service, the nature of the service or the amount charged in order to assist a client to obtain insurance coverage.

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- the accuracy of invoices and receipts;
  - an understanding of the fees that are being charged for their services;
  - an understanding of how the member's registration or billing number is being used; and
  - that when abnormalities are discovered, reasonable steps are taken to remedy the situation appropriately.
- Ensuring that processes exist for the timely:
    - notification of any balance due or owing; and
    - provision of applicable refunds.
  - Ensuring that the financial records required by the Record Keeping Standard are maintained.
  - Ensuring that there is no reduction for prompt payment of an account.
  - Ensuring that there is no breach, without reasonable cause, of an agreement with a patient/client or patient's/client's representative relating to the services provided or fees charged for services.
  - Ensuring that all fee and billing practices are consistent with the College's Code of Ethics and standards and guidelines relating to conflicts of interest, including that kinesiologists may not charge for services provided to a dependant, which may include the kinesiologist's spouse, or bill third-party payors for treatment provided to a dependant, which may include the spouse, of the kinesiologist.

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**Commented [BF2]:** Inserted for clarity and consistency with Practice guidelines, particularly treating spouses and other close personal relations.

## Legislation

*Regulated Health Professions Act (RHPA), 1991*

Paragraph 1(1).6 of the Professional Misconduct Regulation, which reads as follows:

17. Issuing an invoice, bill or receipt for services that the member knows or ought to know is false or misleading.
18. Charging a fee that would be regarded by members as excessive in relation to the service provided.
19. Failing to advise a client or a client's authorized representative, prior to providing a service, of the fee to be charged for the service or of any penalties that will be charged for late payment of the fee.
20. Charging a block fee without first specifying the following in writing:
  - i. The services covered by the fee,
  - ii. The amount of the fee,
  - iii. The arrangements for paying the fee, and
  - iv. The rights and obligations of the member and the client if the relationship between them is terminated before all the services are provided.

21. Failing to itemize an account for professional services if requested to do so by the client or the person or agency who is to pay, in whole or in part, for the services, or if the account includes items that are not professional services, failing to itemize those items at the actual cost to the member, plus any applied mark-up and overhead costs.
22. Failing to keep records in accordance with the standards of the profession.

**Notation**

In the event of any inconsistency between this standard and any legislation that governs the practice of members, the legislation governs.

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Standard – Fees and Billing</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### Background:

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- Practice Standards outline expectations for conduct and practice. They are principle-based documents meant to guide kinesiologists to identify and avoid behaviours that may be inappropriate and/or constitute professional misconduct, including fee and billing practices that fall outside what is considered to be fair, transparent and ethical.
- The Practice Standards may also be used to clarify situations where exceptions (such as the spousal exception) may apply, and how such exceptions and conditions may apply to the kinesiologist’s conduct and behaviour.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.
- The College’s stated aim of public protection through effective regulation of the practice of kinesiology is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### Analysis

#### Practice Standard – Fees and Billing

- This Standard was approved in June, 2012, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made as a result of this review are tracked in the attached version.
- Page 2: at the request of the Patient Relations Committee, a footnote was inserted clarifying that block fees include membership-based billing models, such as where fees charged on a regular interval (e.g. monthly). This is for the purpose of clarity, as this is more commonly observed in the practice environment.

## **Resolution – Update to Practice Standard – Fees and Billing**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including by establishing and maintaining practice standards for registrants of the College; and

**Whereas** it is beneficial for the fee and billing practices of kinesiologists to be fair, transparent and ethical; and

**Whereas** the College should ensure that its standards for business practices, including fees and billing, are consistent with legislation and the general practice environment; and

**Whereas** a revised Practice Standard – Fees and Billing has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Standard – Fees and Billing to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022



# Practice Guideline- Fees and Billing

**Approved: December 2013**

**Last revised: N/A**

## **Introduction**

Registered kinesiologists are obligated to provide safe, ethical and appropriate services. It is important that kinesiology services are available to the public and that the public has an opportunity to benefit from these services. An integral part of offering services to the public in an ethical and appropriate manner, while ensuring public protection, is transparency, fairness and reasonableness in what and how practitioners charge and how they inform patients/clients of their fees and billing practices.

While some services are covered by insurance plans which may have their own fee guidelines, in general, kinesiologists are not held to a common fee schedule. However, members are expected to adhere to the principles of fairness, reasonableness and transparency in setting fees. For example, a practitioner who is the only member practising in a small community should not charge more than what is deemed reasonable by the rest of the profession just because they are the only practitioner available. This is contrary to public protection because, effectively, the cost of the services may make the services unavailable to individuals who are in need of them.

This Guideline serves as a further elaboration on the College's Practice Standard – Fees and Billing.

## **Reasonable Fees**

A regulated health professional must ensure that fees charged are reasonable enough that services are generally accessible to the public. It is considered professional misconduct to charge an excessive fee. What is reasonable is considered in light of what other practitioners in similar practice settings with similar skills are charging. This does not necessarily mean that because one practitioner charges more than another that the fee is automatically considered excessive. Factors that may be considered when setting fees include: the skills and experience of the practitioner; the location of the practice and associated overhead costs, such as rent in more densely populated areas, use of technologies, size of practice, practice setting (home or clinic), etc. If a member is charging a higher rate than other similar practitioners or practices, the member should be able to explain the departure with objective and verifiable factors.



Members should not set fees based on a desire for profit that may be deemed excessive, nor on their patient's/client's ability to pay. Further, any other fees that members collect for travel costs, use of technologies, reports, etc. should be reasonable and transparent to the patient/client. Disbursements are meant to cover expenses and not to generate revenue.

Members are required to provide a full and accurate explanation of fees to patients/clients. The requirements for fees and billing explanations are outlined in the Practice Standard – Fees and Billing. Members must ensure that they receive informed consent from the patient/client regarding all aspects of the fees and billing process.

### HST

Members are permitted to charge HST on their products and services. Members who are charging HST must have registered with the government for an HST number and provide this number on invoices if requested. Members must ensure that patients/clients are aware that HST is being charged and whether or not the fee is inclusive or exclusive of the tax.

### Block Fees<sup>1</sup>

As a regulated health professional, a member is permitted to charge block fees. A block fee is when a patient/client purchases more than one session at a discounted price per session. However, there are conditions on the utilization of block fees. Firstly, the price a member sets for a single session cannot be unreasonably high such that patients/clients are encouraged to purchase a block of sessions at a price per session that is, in fact, the reasonable price. The price for a single session or service should be in line with the rest of the profession.

Secondly, because it is professional misconduct to solicit or to provide unnecessary or excessive services, a member cannot encourage patients/clients to purchase more sessions than they may need. For example, a patient/client seeking rehabilitation after an ankle sprain may need only a few sessions before this goal is met. Greater caution should be taken with more sessions being sold as it may be difficult to ascertain a patient's/client's progress and goals over a longer period of time. A member must base his or her recommendations regarding number of treatment sessions on information contained in a full assessment. The patient/client must be given a full explanation of what is entailed in the purchase of a block of sessions as per the College's Practice Standard – Fees and Billing.

Additionally, continuation of services and changes to the treatment plan should be in response to needs identified through re-assessment. Consent to further treatment must be obtained every time there is material change or if treatment has continued for beyond the expected period without the anticipated improvement. The member must be honest with the patient/client and inform them when the goal has been achieved. If the goal is achieved prior to all sessions in a block purchase being used, the patient/client has a right to a refund on remaining unused sessions.

<sup>1</sup> Block fees may include membership-based billing models, such fees charged on a regular interval (e.g. monthly) for access to a specified or unspecified number of treatment sessions.

**Commented [BF1]:** Inserted footnote at committee suggestion based on practice environment (membership-based service/treatment should be included in definition of block fees).

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Further, a patient/client has the right to withdraw consent to treatment at any time. Therefore **refunds must be permissible as part of the contract** the patient/client signs when purchasing block sessions. Refunds can be subject to cancellation fees as long as this fee is reasonable.

If a member's employer sells a patient/client a set of block sessions before an assessment has been completed, the member must still conduct an assessment and make a reasonable estimate of how many sessions the patient/client will need based on the patient's/client's goals and condition. The member should be prudent and advise the employer that selling block sessions before an assessment is conducted is not according to the College's Standard.

Advertising of block fees must be clear and provide all necessary information according to the Standard. Block fees should also be denoted with an asterisk (\*) which indicates that the block fee is subject to a prior assessment by a regulated health professional.

### **Discounts**

Members are permitted to offer discounts to certain groups of clients such as seniors and students. Where discounts are offered based on belonging to a certain group, there must not be any hidden terms or limitations. The group should be defined and perceived by the public as requiring a discount – for example, seniors. If a senior is able to pay the full amount, this does not disqualify them from receiving the discount if it is advertised by the member or the employer.

### **Reductions**

Discounts or reductions may be made on an individual basis for reasons of hardship. Members should take great care when reducing payments for patients/clients. Members must balance the need of the services to the individual patient/client with fairness and objectivity to all patients/clients. Members should be very cautious when allowing for reductions and examine the reduction in the context of the therapeutic client relationship. Members should not grant discounts to patients/clients based on the member's personal feelings as this could be seen as a breach of the therapeutic client relationship.

Some factors to consider:

- The necessity of services to the patient/client
- The degree of financial hardship experienced by the patient/client
- Availability of other related services or health care professionals at a lesser rate

Members may also offer patients/clients deferred payment plans or installment plans to alleviate any financial hardships that they may be experiencing.

Any reduction of fees or divergence of payment plans should be well documented by the member.

Members should also be cautious when reducing fees based on a patient's/client's lack of insurance coverage. This could be seen as having higher rates for patients/clients with insurance. A lack of insurance coverage may not necessarily amount to hardship on the part of the patient/client.

While discounts are permitted in the proper circumstances, it is considered professional misconduct to raise rates for individual patients/clients based on their ability to pay.

### **Non-payment and Discontinuance**

Members are not required to provide treatment to patients/clients who are unable or unwilling to pay; however, the member should not immediately cease treatment upon failure to pay an account. Where a patient/client has failed to pay an account, the member should initiate a discussion with them to review expectations and ascertain whether it would be a case of a reduction or change in payment plan. In certain cases, where a patient/client is no longer able to pay, the member may assist in finding alternative services for them before discontinuing service.

If, after a reasonable effort to collect the fees have been unsuccessful, it may be appropriate to require payment in advance or even to discontinue treatment. Where a member is contemplating discontinuing service, they should review the College's Practice Standard – Discharging a Client. Generally, discharging a patient/client for financial reasons should be a last resort option after other avenues have been explored.

### **Billing and Third Party Payors**

Members must ensure that their billing practises are accurate and complete, and that proper records are maintained at all times.

When billing third party payors, members must always ensure honesty and full disclosure and compliance with any additional requirements of the third party payor being billed. Members must bill for the services that they have provided and members should not alter the description of their services to correspond with a patient's/client's insurance plan if that description is not accurate. The member should itemize the bill and be clear about what types of services are being provided. The decision is left to the third party payor as to whether they will cover one service or another under a certain funding category. Members should contact third party payors directly if they have specific questions about coverage or other billing requirements beyond the standards of the College.

Where a patient/client is not under the direct care or supervision of another regulated health professional, the member should not bill for those services of another profession regardless of whether the patient/client has coverage for it

The College does not have a specific position on whether different rates should be charged depending upon who is providing the service. Particularly in multi-disciplinary settings, it is important that the member be transparent both to patients/clients and third party payors as to what is being billed and by whom. Third party payors may restrict what can be billed and members should adhere to this.

### **Increase in Fees**

Members are permitted to raise their fees provided that the increase is reasonable and is carried out in a transparent and sensitive manner. It may be necessary for a member to increase fees because overhead costs have increased or to reflect other inflationary costs of living. A member who has undertaken additional education and training may also be justified in raising fees to reflect an increased level of service and experience. Another example is if the member invests in new and better technology that offers better care but is more expensive to operate.

It may be more difficult to raise fees with existing patients/clients and a greater duty of care is owed to them. A member has a duty to continue care when it is needed until new services can be procured. An increase in fees may make some patients/clients unable to pay. This does not mean the member can never increase fees for existing patients/clients, but it does mean that they cannot discontinue services immediately simply because the patient/client cannot afford the increase. The member may want to consider keeping the fees the same for existing clients, if possible, limiting the increase, or implementing the increase in stages. Existing patients/clients should be notified of a potential increase well in advance so that they may have time to prepare financially or seek services elsewhere.

#### **Administration**

A member is permitted to assign the task of billing and invoicing to office staff. Office staff is permitted to explain to patients/clients the member's fees and billing practices; however, the member always retains accountability for ensuring that the information is provided accurately, that the patient/client understands the information, and that the patient/client has the opportunity to ask questions.

Often members are part of an interdisciplinary clinic where billing practices are managed by administrative staff. While this is permissible, it remains the responsibility of the member to ensure that the billing practices meet the practice standards. Members should understand the fees that are being charged for their services, how their registration or billing number is being used and the organizational policies that exist with respect to billing. It is also important that members periodically monitor invoices and billing practices, to ensure accuracy and should any inaccuracies be discovered, that reasonable steps are taken to remedy the error.

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Guideline – Fees and Billing</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### **Background:**

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- This specific Practice Guideline – Fees and Billing, serves as a supporting document that provides context and may help kinesiologists understand their responsibilities and make ethical practice decisions regarding fees and other billing practices related to treatment, services or products provided by the kinesiologist.
- The Practice Guidelines may contain specific examples that could be extrapolated to a variety of circumstances that may arise.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.
- The College’s stated aim of protecting the public by regulation of the practice of kinesiology is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### **Analysis**

#### **Practice Guideline – Fees and Billing**

- This Guideline was approved in April 2013, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made as a result of this review are tracked in the attached version.
- Inserted a footnote on page 2 clarifying that membership fees charged at regular intervals (such as monthly) are considered block fees.

### **Resolution – Update to Practice Guideline – Fees and Billing**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including by providing guidelines to support registrants in meeting practice standards set by the College; and

**Whereas** it is desirable for registrants of the College to have access to clear, current guidelines to promote ethical, transparent and fair business practices, including fees and billing; and

**Whereas** changes in the practice, legislative and business environment may impact how registrants of the College may bill for care and services; and

**Whereas** a revised Practice Guideline – Fees and Billing has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Guideline – Fees and Billing to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022

# Practice Standard- Infection Control

Approved: June 2012

Revised: N/A

## Definitions

Infection control: Measures implemented by healthcare personnel intended to prevent the spread, transmission and acquisition of infectious agents or pathogens between patients/clients, from healthcare workers to patient/clients and from patients/clients to healthcare workers in the healthcare setting. As a minimum, these measures include proper hand hygiene, appropriate work practices and use of personal protective equipment where required. Infection control measures instituted are based on how an infectious agent is transmitted and include standard, contact, droplet, and airborne precautions.

Internal practice environment: The physical location(s) where kinesiology services are provided to patients/clients. These physical locations can include hospitals, private practice premises, long-term care facilities and patients'/clients' homes where kinesiology services are provided.

External practice environment: The community in which the member's internal practice environment exists. The external practice environment is any locale beyond the internal practice environment and may extend to municipal, provincial, national or international borders, depending on the nature of the infection risk being considered.

## Intent

Appropriate infection control is an essential element of clinical practice management based on its critical importance to the health and safety of patients/clients, practitioners and the broader community. Knowledge of clinical infection control measures is continually growing and specific clinical advice continues to evolve. However, the basic principles underlying appropriate infection control practice embedded in professional expectations in this area remain constant. This Standard describes the College's expectations of members as they relate to the incorporation of appropriate infection control measures into their professional practices.

## Objective

When providing professional services, members will ensure that they implement current, appropriate and generally accepted infection control measures, policies and procedures.

## Description of Standard

A member demonstrates the Standard by:

1. Maintaining current knowledge of evidence-based infection control protocols relevant to his or her professional practice.
2. Adopting appropriate infection control measures in his or her professional practice and monitoring their use and effectiveness to identify problems, outcomes and trends.
3. Ensuring that the infection control measures in his or her professional practices include, as a minimum, requirements for:
  - hand washing;
  - use of protective barriers, where appropriate;
  - cleaning and/or sterilization of equipment and facilities; and
  - managing wastes
4. Ensuring that appropriate infection control prevention policies to promote the use of the infection control measures in his or her practice are developed and implemented.
5. Ensuring that processes to update his or her infection control measures and policies are established based on considerations including:
  - relevant changing environmental risk factors for infection and transmission
  - evolving knowledge
  - trends in practice
6. Applying his or her knowledge, skills and judgment to conduct ongoing assessments of the degree of current risks of infection and transmission to patients/clients, staff, colleagues and other health professionals based on the following considerations:
  - the assessments or treatment interventions planned or conducted;
  - the health conditions of patient/clients being assessed or treated;
  - the degree of infection risk currently present in the internal practice environment;
  - the degree of infection risk currently present in the external practice environment;
  - current best practice in infection control protocols relevant to his or her professional practice; and
  - the health and immunization status of people in the practice environment including himself/herself, colleagues and patients/clients.
7. Implementing contact management protocols into his or her infection control measures when his or her risk assessment process supports it. This may include managing the interactions between patients/clients, staff, colleagues and other health professionals.
8. Ensuring that adequate resources are available to support appropriate infection control measures.
9. Educating patients/clients, staff, colleagues and other health professionals about the need for infection control and the minimum requirements for it.



10. Advocating for best practice in infection control to owners and operators of kinesiology practices, as well as and to administrative staff in positions of decision-making authority.

11. Fostering awareness of immunization recommendations for common and/or easily preventable illnesses for patient/clients, staff, colleagues and other health professionals, where appropriate.

## Resources

As noted above, the literature on what is considered to be appropriate practice related to infection control measures continually evolves. As such, rather than provide members with practice information that will be outdated as soon as it is published in a College standard, the College is offering the following annotated list of infection control resources. While this list is in no way complete, the use of resources such as these will ensure that members' infection control practice reflects the current evolving environment.

Please note that the website addresses are to the organizations, rather than individual documents.

**1. Infection Prevention and Control Canada (IPAC Canada).** IPAC Canada is Canada's association of infection control professionals. Its goal is to prevent infections and improve patient/client care and staff health in hospitals, other health care facilities and the community. It undertakes this by:

- initiating and coordinating effective communication and cooperation among all disciplines united by infection control activities;
- supporting and/or developing effective and rational infection control practices;
- standardizing infection control practices;
- promoting research in areas related to infection control; and
- promoting and facilitating infection control education for both infection control practitioners and other personnel working in hospitals, nursing homes and related institutions

IPAC Canada's website provides links and resources on IPAC matters. In particular, its resources on antibiotic-resistant organisms, hand hygiene and medical gels may be useful to many kinesiologists. Its links to evidence-based guidelines on IPAC issues may also be of assistance to kinesiologists seeking to establish or update their IPAC practices.

See <https://ipac-canada.org/index.php> for more information.

**2. Public Health Agency of Canada.** The Government of Canada's Public Health Agency is an resource for all health care professionals regarding IPAC and other public health matters. The Agency's focus is on increasing the effectiveness of efforts to prevent chronic disease, prevent injuries and respond to public health emergencies (including infectious disease outbreaks).

The Agency's website collects a number of IPAC resources, including:

- The Infectious Diseases section which provides current information on a wide variety of infectious diseases in both Canada and elsewhere in the world.
- The Advisories/Warning section which provides current updates on the status of a number of diseases.
- The Canada Communicable Disease Report (CCDR). Visitors can sign up to receive e-mail updates on the CCDR or review past issues of the CCDR online. The posted issues include important publications such as:

- o [Supplement: Hand Washing, Cleaning, Disinfection and Sterilization in Health Care, December 1998;](#)
- o [Supplement - Infection Control Guidelines, July 1999](#)

See <http://www.phac-aspc.gc.ca/index-eng.php> for more information

**3. Ontario Ministry of Health and Long Term-Care (MOHLTC).** The MOHLTC is the branch of Ontario's government that is responsible for health in the province. The MOHLTC website is another resource for health professionals seeking guidance regarding IPAC. The section of the website that is most relevant in this context is the Public Health area. This section contains information in areas such as:

- [Diseases that are currently a matter of concern \(e.g. Clostridium difficile, SARS\)](#)
- [Hand hygiene](#)
- [Reports of the Provincial Infectious Diseases Advisory Committee including Best Practice Manuals.](#)
- [Fact Sheets and important health notices.](#)

See <http://www.health.gov.on.ca/en/> for more information.

**4. Public Health Ontario** has a mandate to provide scientific and technical advice and support to government, public health, health care and related sectors. Public Health Ontario provides information and guidance to a range of partners, including Ontario's Chief Medical Officer of Health, local Public Health Units and other government and non-government organizations. Public Health Ontario provides information on its website pertaining to:

- [General health topics](#)
- [Diseases and Conditions](#)
- [Laboratory Services](#)
- [Data and Analysis](#)
- [Education and Events](#)

Of particular relevance to this Practice Standard is the IPAC information contained in the Health Topics section of the website:

<https://www.publichealthontario.ca/en/Health-Topics/Infection-Prevention-Control>.

**1. Community and Hospital Infection Control Association (CHICA).** CHICA is Canada's association of infection control professionals. Its goal is to prevent infections and improve patient/client care and staff health in hospitals, other health care facilities and the community. It undertakes this by:

initiating and coordinating effective communication and cooperation among all disciplines united by infection control activities;  
 supporting and/or developing effective and rational infection control practices;  
 standardizing infection control practices;  
 promoting research in areas related to infection control; and  
 promoting and facilitating infection control education for both infection control practitioners and other personnel working in hospitals, nursing homes and related institutions

CHICA's website provides an extremely useful set of links and resources on infection control matters. In particular, its resources on antibiotic resistant organisms, hand hygiene and medical gels will be useful to many members. Its links to an extensive list of evidence based guidelines on infection

**Commented [BF1]:** Propose inserting links to and information regarding sources of IPAC information that is as close to a kinesiologist's practice environment as possible (Ontario, Canada). COVID-19 pandemic has shown that guidance may vary between jurisdictions, so it may be important to provide kinesiologists with information that pertains directly to their practice environment.

control issues will also be very useful to members who wish to establish appropriate infection control practices.

See <http://www.chica.org/index.php> for more information.

**2. The Association for Professionals in Infection Control and Epidemiology (APIC)** is CHICA's counterpart in the U.S. It has a similar mandate and it is also heavily involved in promoting knowledge of appropriate infection control practices through education, research, collaboration, public policy, and practice guidance and credentialing.

APIC's website, which contains a wide variety in infection control related materials such as position statements, standards, and guidelines is another valuable resource for members wishing to incorporate appropriate infection control practices into their activities.

See <http://www.apic.org/> for more information.

**3. Public Health Agency of Canada.** The Government of Canada's Public Health Agency is an important resource on infection control and other public health matters for all health professionals. The Agency's focus is on increasing the effectiveness of efforts to prevent chronic diseases, like cancer and heart disease, prevent injuries and respond to public health emergencies and infectious disease outbreaks.

The Agency's website collects a number of important infection control resources into one easily accessible place. Among the useful tools available are the following:

The Infectious Diseases section which provides current information on a wide variety of infectious diseases in both Canada and elsewhere in the world.

The Advisories/Warning section which provides current updates on the status of a number of diseases.

The Canada Communicable Disease Report (CCDR). Visitors can sign up to receive e-mail updates on the CCDR or review past issues of the CCDR online. The posted issues include important publications such as:

Supplement: Hand Washing, Cleaning, Disinfection and Sterilization in Health Care, December 1998;  
Supplement – Infection Control Guidelines, July 1999

See <http://www.phac.aspc.gc.ca/index-eng.php> for more information

**4. Ontario Ministry of Health and Long Term Care (MOHLTC).** The MOHLTC is the branch of Ontario's government that is responsible for health in the province. The MOHLTC website is another useful resource for health professionals who need to keep abreast of infection control matters. The section of the website that is most relevant in this context is the Public Health area. This section contains information in areas such as:

Diseases that are currently a matter of concern (e.g. Clostridium difficile, SARS)

Hand hygiene

Reports of the Provincial Infectious Diseases Advisory Committee including Best Practice Manuals, Fact Sheets and important health notices.

See <http://www.health.gov.on.ca/en/> for more information.

**5. The Centre for Disease Control and Prevention** in the United States is another very valuable resource for health professionals interested in infection control matters. The CDC website contains two sections that are particularly relevant in this context:

The first is the section for Healthcare Providers.  
The second is the section for Public Health Professionals

Both of these sections reference a wide variety of different guidelines and fact sheets pertinent to infection control matters. One that is very useful for practitioners wishing to incorporate appropriate infection controls into their practices is Guidelines for Environmental Infection Control in Health Care Facilities.

See <http://www.cdc.gov/about/> for more information.

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Standard – Infection Control</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### **Background:**

- Practice Standards outline expectations for conduct and practice. They are principle-based documents meant to guide kinesiologists to identify and avoid behaviours that may be inappropriate, but also to promote the application of evidence-based best practices.
- The COVID-19 pandemic has underscored a need to ensure that kinesiologists have access to and are able to observe up-to-date, evidence-based infection prevention and control (IPAC) best practices.
- The Practice Standards may also be used to help kinesiologists identify and manage risks associated with their practice, including the development and implementation of Infection Prevention and Control (IPAC) measures in their practice environment.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.
- The College’s stated aim of public protection through effective regulation of the practice of kinesiology is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### **Analysis**

#### **Practice Standard – Infection Control**

- This Standard was approved in June, 2012, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made as a result of this review are tracked in the attached version.
- Page 3-4: Amended “Resources” section to emphasize local/Canadian/Ontarian resources and IPAC guidance.

## **Resolution – Update to Practice Standard – Infection Control**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including by establishing and maintaining practice standards for registrants of the College; and

**Whereas** the COVID-19 pandemic has resulted in increased awareness of Infection Prevention and Control (IPAC) measures in settings where kinesiologists practice; and

**Whereas** it is desirable for registrants of the College to have access to current information regarding IPAC standards and best practices that may be applicable to their practice environments; and

**Whereas** a revised Practice Standard – Infection Control has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Standard – Infection Control to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022



# Mandatory Reporting for Kinesiologists, Employers and Facility Operators

Approved: April 2013

Last revised: December 2017

## Introduction

Kinesiologists, and those who employ or work with them, have obligations to report certain important information to the College of Kinesiologists of Ontario and/or other bodies. This is known as mandatory reporting. Mandatory reporting ensures that the College becomes aware of and can investigate incidents of possible professional misconduct, incompetence or incapacity, which help protect the public.

By ensuring that kinesiologists and their employers are aware of their reporting obligations, the public can have greater confidence in professional regulation. The *Regulated Health Professions Act, 1991* (RHPA) describes the circumstances in which a mandatory report is required and what must be reported.

## Protection for reporters

Reporters are protected against liability under the RHPA when making a mandatory report, even if the allegations are proven to be false. Kinesiologists, employers and facility operators do not need to have proof of the conduct they are reporting; they only need reasonable suspicion.

Fulfilling the mandatory reporting requirements is not only a legal duty, but an ethical one. While the College understands that making a report about another regulated health professional is difficult, it is necessary to ensure that concerning behaviour is dealt with appropriately and prevented. Making a mandatory report is about putting the interests of patients/clients first.

## What must be reported?

### Sexual abuse

Sexual abuse of a patient/client by a regulated health professional is a serious matter. It is an abuse of power and breach of trust that can have devastating consequences for victims. It is crucial that all

regulated health professionals, employers and facility operators know and recognize what constitutes sexual abuse so that it can be reported.

Sexual abuse is defined in the RHPA as:

- (a) *Sexual intercourse or other forms of physical relations between the member and the patient*
- (b) *Touching of a sexual nature of the patient by the member*
- (c) *Behaviour or remarks of a sexual nature<sup>1</sup> by the member towards the patient*

Any sexual relationship with a patient/client during the professional relationship, even if the patient/client consents, is sexual abuse because of the power the regulated health professional holds. If a kinesiologist becomes aware that another kinesiologist or another regulated health professional is in a relationship with a patient/client (and in some cases a former patient/client), they must report it to the relevant college. The reporter only needs to have a reasonable suspicion, not proof that the abuse occurred.

When a patient/client discloses information about the conduct of another regulated health professional, it is unlikely that they will use words like "sexual abuse.". They may be vague in their details and only imply that they felt something was done that was inappropriate. Kinesiologists must be keen listeners and sensitive to patients/clients who might be gauging whether or not their own feelings around the experience was/is valid, or to take the onus off themselves to make a complaint. Kinesiologists should always listen and take seriously what a patient/client is telling them and potentially probe for more information, particularly the identity of the regulated health professional the patient/client is referring to, in a supportive manner. However, kinesiologists are not to evaluate or screen the information for validity. Once the report is made, the onus is on the College to investigate.

The reporter must make best efforts to inform the patient/client of their reporting obligations and attempt to gain consent to use the patient's/client's name in the report. Consent should be obtained in writing and kept on file. If the patient/client does not consent, a report must still be made to the appropriate college without the patient's/client's name. In many sexual abuse cases, the patient/client is reluctant to provide consent immediately. However, it can be obtained after the report is made. Lack of consent should not stop the kinesiologist, employer or facility operator from making the report.

Kinesiologists, employers and facility operators need to take this reporting obligation seriously as the College relies on this information to protect the public. It is important to understand what constitutes sexual abuse and to be able to identify when it may be happening, keeping in mind that sexual abuse often does not start with overt actions on the part of the abuser. A regulated health professional who has a patient/client disclose potential abuse, and who does not take appropriate action, further undermines that patient/client's trust in the healthcare system.

Regulated health professionals, employers and facility operators face potential investigation and substantial fines for failure to make a report. The fine for not making a report of suspected sexual

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<sup>1</sup> "Sexual nature" is an action, behaviour or remark that is not motivated by clinical needs.



abuse is \$50,000 for individuals and \$200,000 for corporations. Where there is information to believe a regulated health professional or a professional corporation did not make a mandatory report of sexual abuse, the registrar will initiate an investigation.

The College recognizes that the prospect of making a mandatory report about potential sexual abuse is very difficult. Kinesiologists are urged to contact the College if they require guidance as to how to recognize abuse and make a report.

#### **Terminations, restrictions, investigations**

Employers and facility operators are required to report if they terminate, suspend or otherwise restrict the practice of a regulated health professional for reasons of suspicion of professional misconduct. Terminations in this context are not to be confused with terminations with or without cause, which are legal terms associated with employment law.

Employers or facility operators are also required to report if they investigate the practice or conduct of a regulated health professional for reasons of suspicion of professional misconduct, incompetence or incapacity. Investigations can include audits, inquiries, examinations, etc.

[Learn more about reports related to terminations, restrictions and/or investigations.](#)

#### **Conduct of others**

Kinesiologists are required to promptly report incidents of unsafe practice by other kinesiologists. If the unsafe practice would be considered professional misconduct, the kinesiologist should report it to the appropriate source. This may be the College, an employer or a facility operator.

#### **Incompetence and incapacity**

A regulated health professional is considered to be incompetent if his/her *"professional care of a patient displays a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that the member is unfit to continue to practise or that the member's practice should be restricted."* Incompetence is not necessarily demonstrated by one mistake, but by a repetition or pattern of deficiencies that places patients/clients at risk of harm.

Incapacity is defined in the RHPA as a regulated health professional who is suffering from a physical or mental condition or disorder that requires his/her practice to be restricted or suspended in the interest of public safety. It is important to note the two aspects of the definition: first, the existence of a recognized physical or mental condition or disorder, and second, the fact that such a condition or disorder requires restricted or suspended practice. A regulated health professional may not be considered incapacitated if they have a condition or disorder that they are successfully coping with and not posing a risk of harm to patients/clients. Employers or facility operators should be supportive of regulated health professionals with disabilities and be mindful of their duty to accommodate under human rights and other employment related legislation.

Employers and/or facility operators must report incompetence or incapacity. The College's Professional Misconduct Regulation specifies that kinesiologists must promptly report any incidents

of unsafe practice. Where unsafe practice is a result of suspected incapacity or incompetence, kinesiologists should report the issue to the appropriate source.

### **Other reporting obligations**

Other legislation exists that obligates certain professionals to report abuse. Kinesiologists who are providing services to children or the elderly have an obligation to report child abuse as per the *Child and Family Services Act, 1990* and elder abuse as per the *Long-Term Care Homes Act, 2007*. Kinesiologists should be aware of other legislation relevant to their practice.

[Learn more about reporting obligations regarding suspected child abuse or neglect.](#)

### **Self-reporting (Kinesiologists)**

#### **Guilty of an offence**

Kinesiologists have a duty to report to the College if they have been **charged with or** found guilty of any offence in any jurisdiction. Kinesiologists must report within 30 days of the finding. If a kinesiologist has been pardoned, or received an absolute or conditional discharge instead of a conviction, the matter must be reported to the College.

**Commented [BF1]:** Section 85.6.4 (1) of the Health Professions Procedural Code states that a member shall file a report if the member has been charged with an offense (2017, c. 11, Sched. 5, s. 27). The need for this update emerged from a report that was received, which pertained to charges.

#### **Finding of professional negligence or malpractice**

Kinesiologists must report to the College if they have been sued and a civil court has found them liable for professional negligence or malpractice.

#### **Finding or proceeding by another regulatory body<sup>2</sup>**

Kinesiologists are required to inform the College of whether they are regulated in another profession inside or outside of Ontario. A kinesiologist must report to the College if they are the subject of a regulatory proceeding by another regulatory body inside or outside of Ontario. Kinesiologists are required to report the matter whether the proceeding is on-going or a finding has been made. For example, if a kinesiologist has been referred to discipline by another health regulatory college in Ontario, they must make the report at the time of the referral, not at the conclusion of the matter at a disciplinary hearing.

### **How and when to report**

#### **Sexual abuse, incompetence and incapacity**

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<sup>2</sup> These reporting obligations currently exist in the College's By-Laws, but new legislative amendments will come into effect at a later date that will make them enforceable under the RHPA. However, the College's By-Laws expand this duty by requiring kinesiologists to report if they are the subject of a regulatory proceeding; therefore, kinesiologists would be expected to make a report, in some instances, before a finding. See the Mandatory Reporting Checklist for further details. Under the By-laws, kinesiologists are also to report if they are the subject of an incapacity proceeding. The RHPA will not specify this.

These reports must be filed with the applicable college within 30 days of the information being discovered, or immediately if the reporter has grounds to believe that the regulated health professional is an on-going threat to patients/clients.

The report must be addressed to the registrar of the college and must include the following:

- (a) the name of the person filing the report;
- (b) the name of the regulated health professional who is the subject of the report;<sup>3</sup>
- (c) An explanation of the alleged sexual abuse, incompetence or incapacity; and
- (d) If the report is related to a particular patient/client of the regulated health professional who is the subject of the report, the name of that patient/client if they consent to disclosing their name.

#### **Self-reporting**

For all self-reporting obligations, kinesiologists must report within 30 days of receiving notice of the finding.

The self-report must include the following information:

- (a) the name of the kinesiologist filing the report;
- (b) the nature of, and a description of, the offence or finding;
- (c) the date the kinesiologist was found guilty of the offence or the date the finding was made;
- (d) the name and location of the court that found the kinesiologist guilty of the offence or the governing body that made the finding; and
- (e) the status of any appeal.

#### **Failure to report**

It is considered professional misconduct if a kinesiologist fails to report any of the above information. If the College becomes aware of such a failure, the College can investigate. Failure to make a mandatory report is an offence punishable with a fine of up to \$50,000.00 for a first offence.

Where information becomes available that a kinesiologist or professional corporation has failed to make a mandatory report where the practice or conduct at issue is considered serious and a substantial risk to the public, the registrar will initiate an investigation.

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<sup>3</sup> If the kinesiologist, employer or facility operator does not know the name of the regulated health professional who is the subject of the report, they should attempt to ascertain the professional's identity. However, if the patient/client is unable to identify the professional, there is no duty to report.

## Issue or Decision Note

<b>Issue or Decision: revisions to Practice Guideline – Mandatory Reporting</b>
<b>Prepared for: Patient Relations Committee</b>
<b>Date: June 27, 2022</b>

### Background:

- The approval of Spousal Exception and Guideline Resolution (approved December 6, 2021) states that the College approve the timely, incremental review and revision of applicable Standards, Guidelines and other College documents or modules to ensure compliance with the spousal exception and associated guide.
- Practice Guidelines serve as supporting documents that provide context and help kinesiologists understand their responsibilities and make safe and ethical practice decisions. One important responsibility is compliance with the mandatory reporting provisions as set out in the Health Professions Procedural Code (Schedule 2 to the *Regulated Health Professions Act, 1991*).
- The Practice Guidelines may contain specific examples that could be extrapolated to a variety of circumstances that may arise, including where a kinesiologist may be required to file a mandatory report.
- The College aims to have all the necessary information available to members in an efficient and streamlined manner, while being comprehensive, relevant and helpful.
- The College’s stated aim of preventing and eliminating sexual abuse and other inappropriate conduct by kinesiologists is facilitated by ensuring that the information available to registrants is accurate and in accordance with current legislation and best practices.

### Analysis

#### Practice Guideline – Mandatory Reporting

- This Guideline was approved in April 2013, and was reviewed in 2022 in keeping with the adoption of the spousal exception and general material review project. All changes made as a result of this review are tracked in the attached version.
- Page 4, Section “Self-reporting (Kinesiologists)”, sub-section “Guilty of an offence”: Inserted specific language indicating that charges, in addition to findings of guilt, are subject to mandatory reporting. This was inserted for consistency with Section 85.6.4 (1) of the Health Professions Procedural Code.

## **Resolution – Update to Practice Guideline – Mandatory Reporting**

**Whereas** the College’s mandate is to protect the public by regulating the practice of kinesiology, including by providing guidelines to support registrants in meeting legislative requirements for regulated health care professionals; and

**Whereas** all regulated health care professionals are expected to abide by the mandatory reporting provisions of the Health Professions Procedural Code (the Code); and

**Whereas** it is desirable for current information regarding mandatory reporting expectations be available to guide registrants of the College; and

**Whereas** a revised Practice Guideline – Mandatory Reporting has been reviewed by the Patient Relations Committee and is being submitted to Council for approval;

### **Resolution:**

**Therefore, be it resolved** that the Council of the College of Kinesiologists has had the opportunity to review and approve the revised Practice Guideline – Mandatory Reporting to be published by the College.

Moved by:

Seconded by:

Date: June 27, 2022

# Consultation Report: Inactive Class Certificate of Registration Policy

June 27, 2022

## About the College

The College is a regulatory body that oversees kinesiologists working in the province. The College receives its authority from the *Kinesiology Act, 2007* and the *Regulated Health Professions Act, 1991*.

The College regulates kinesiologists and protects the public by:

- setting [requirements to enter the profession](#) so that only qualified individuals can practise kinesiology;
- maintaining on its website a [list of individuals qualified to practise kinesiology](#), known as the public register, or Find a Kinesiologist;
- developing [rules and guidelines for kinesiologists' practice and conduct](#), including a code of ethics;
- investigating [complaints about kinesiologists](#) and disciplining when necessary; and
- requiring kinesiologists to participate in a [program that helps ensure that their knowledge and skills are up to date](#), and monitoring that participation.

## Background and Context

Health profession regulators like the College of Kinesiologists of Ontario exist to protect the public. Part of this public protection mandate is a commitment to continued improvement of registration practices and policies.

On March 28, 2022, Council reviewed an amended version of the '[Inactive Certificate of Registration and Reinstatement to the General Class policy](#)' (the policy). At that time, Council recommended that the policy be submitted for general consultation to provide the public, registrants of the College and other stakeholders an opportunity to comment on the policy.

The purpose of this consultation was to obtain feedback on the proposed amendments to the policy.

## Consultation process

On May 2, 2022, the College provided registrants and stakeholders with a notice of the consultation and its process. A dedicated webpage was created on the College's website to promote the consultation, and anyone with comments was invited to submit feedback via online survey or email.

The consultation concluded on May 27, 2022.

## What we heard

### *Feedback from Survey*

The College received 19 responses to the consultation. 17 respondents (89.47%) were Registered Kinesiologists, with responses also received from 1 student and 1 respondent who self-described as an "unregistered kinesiologist".

The consultation asked for respondents to consider and provide a response to the following questions:

- “Does the policy clearly describe the eligibility requirements, application process and conditions imposed on the Inactive Class?”
- “Do the proposed changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently?”
- [regarding Q3] “If not, what can be done to further strengthen the policy?”
- “Do you have any concerns with the proposed policy?”

Respondents were also provided an opportunity to provide general comments regarding the policy. For a detailed review of responses, see the attached individual response report.

### Analysis of feedback and how the feedback was used

Among the highlights of the consultation responses:

- Most respondents (94.74%) felt that the proposed changes clearly describe the eligibility requirements, application process and conditions imposed on the Inactive Class.
- Most respondents (73.68%) felt that the changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently.

Below is a table capturing themes that emerged from comments made and proposed revisions to the policy:

Comment	Change	Note
Time limits on Inactive Class Certificate of Registration are not clear in the policy.	No change	There is currently no limit on how long a registrant may remain in the Inactive Class, provided that they continue to meet the criteria as set out in the policy. Reinstatement (and applicable currency/practice hour requirements) are covered in the Reissuance of the General Class Certificate of Registration Policy.
The policy should provide additional clarity regarding what may constitute supervision of health care.	No change	The policy states that registrants may not “[...] supervise the provision of health care services by health care professionals/organizations and/or students in patient/client care [...]”
Registrants in the Inactive Class should be permitted to practice in accordance with other certifications/designations they may hold (osteopath, personal trainer, exercise physiologist or similar).	No change	The intent of the policy is to support the College’s public protection mandate and reduce the risk of harm by ensuring that registrants practising within the scope of practice of kinesiology are accountable to the College.



## Consultation feedback reports

The following are attached:

- Individual responses to online feedback survey and consultation



## Policy

<b>Type:</b>	Registration		
<b>Number:</b>			
<b>Name:</b>	Inactive Class Certificate of Registration		
<b>Status:</b>	Draft	<b>Version #:</b>	1
<b>Date Approved:</b>		<b>Date Revised:</b>	

### Background

Under the College's Registration Regulation, registrants who hold a General Class Certificate of Registration may apply for an Inactive Class Certificate of Registration provided they meet the requirements under the Registration Regulation.

This includes agreeing not to engage in direct patient/client care, supervise the profession or claim any competence in the practice of kinesiology.

The Inactive Class Certificate of Registration is intended to accommodate registrants who wish to maintain their registration in the College but who do not intend to practise the profession of kinesiology for a period of time.

The purpose of this policy is to outline the eligibility requirements for an Inactive Class Certificate of Registration, describing the application process, and stating the conditions imposed on the Inactive Class Certificate of Registration.

**Principles:** The principles that underpin this policy include:

1. Transparency – Processes are clear, information is readily available, and College staff and the Registration Committee exercise honesty and openness in carrying out their duties.
2. Fairness, Objectivity, and Impartiality – Processes and procedures exist, address bias, and are reasonable. The College staff and Registration Committee review registration applications and make decisions that are fair and objective.
3. Focus on risk of harm - Review processes includes a risk-management, evidence-informed accountability approach to address and reduce the potential of risk of harm to patients/clients by registrants.

**Applicable Legislation and Regulation:**

1. Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991 (RHPA)*, Registration Section 15.

2. Ontario Regulation 401/12 General, Section 9. (1) (2)

**Eligibility for the Inactive Class**

1. The following registrants are eligible to apply for the Inactive Class Certificate of Registration, provided they satisfy all other requirements for the Inactive Class:
  - i. Registrants who are dually registered to practise in another regulated health profession, and are practising exclusively in this other profession;
  - ii. Registrants working under the direction of another regulated health care professional, and not providing any independent kinesiology patient/client care;
  - iii. Registrants working exclusively in non-clinical practice (e.g., academia, research, program development, insurance, management, administration, etc.) and are not using the knowledge, skills and judgement or claiming competence in the profession of kinesiology;
  - iv. Registrants on a leave of absence from their workplace (e.g., pregnancy, parental, family caregiver, sick, educational, etc.) and are not practising;
  - v. Registrants moving to/working in another jurisdiction outside of Ontario and who are not providing any virtual services to patients or clients within Ontario; and
  - vi. Registrants who are not practising the profession in any capacity for any other reason (e.g., unemployed, furlough, travel).
  
2. The following groups of registrants are not eligible to apply for the Inactive Class Certificate of Registration:
  - i. Registrants who are practising and providing direct patient/client care or services, including registrants who have additional designations that fall within the scope of practice of kinesiology and are providing services that are related to those designations (e.g. athletic therapy, osteopathy, personal trainer, exercise physiologist (CSEP) , etc.);
  - ii. Registrants who are working under the supervision of another regulated health care professional, and who are providing some independent kinesiology patient care services (e.g., PTAs, OTAs, Rehab Assistants, etc.,).
  - iii. Registrants working in mixed practice are only eligible for the General Class.
  - iv. Registrants working exclusively in non-clinical practice (e.g., academia, research, program development, insurance, management, administration, etc.) who are using the knowledge, skills and judgement or claiming competence in the profession of kinesiology.

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Application Process to the Inactive Class

1. Any registrant wishing to apply for an Inactive Class Certificate of Registration must complete the Inactive Class Certificate of Registration Application Form, sign the undertaking and submit it to the Registration Department. The College may request a job description from a registrant to help clarify whether they are eligible.
2. The registrant must meet the following non-exemptible requirements according to the College's Registration Regulation:
  - i. The registrant must hold a General Class Certificate of Registration.
  - ii. The registrant must sign an undertaking in which they agree to comply with the following conditions:
    - a. The registrant will not engage in providing direct patient/client care or services where they are expected to/required to exercise independent judgment or work independently in the course of their work;
    - b. The registrant will not use any title or designation other than R. Kin (Inactive);
    - c. The registrant will not supervise the provision of health care services by health care professionals /organizations and/ or students in patient/client care; and
    - d. The registrant will not make any claim or representation to having any competence in kinesiology or hold themselves out to be a kinesiologist.

3. The registrant must pay the applicable fees. The registrant must not be in default of any fee, penalty or other amount owing to the College.

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4. The registrant must have provided the College with any information that it has required of the registrant.

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5. The registrant must be in compliance with any outstanding requirements of the College's Quality Assurance Committee or any outstanding orders or requirements of Council, the Executive Committee, the Inquiries, Complaints and Reports Committee, the Discipline Committee and /or the Fitness to Practise Committee.

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Fees

1. There is an application fee of \$50.

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00. Refunds for the registrant's General annual membership dues will be pro-rated. The yearly membership fee for the Inactive Class is \$200.

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Conditions

The following are conditions for Inactive Class registrants in Ontario:

1. As per the second requirement listed above in "Application Process", the College will provide the registrant with a statement of undertaking to be signed that will include the conditions that the registrant must abide by while Inactive. The following are conditions of an Inactive Class Certificate of Registration in the Inactive Class. The registrant shall not/cannot:

use any title or designation other than what is specified for an Inactive Class Certificate of Registration set out in the regulation (i.e., R. Kin (Inactive));

supervise the practise of the profession/provision of health care services by health care professionals/ organizations - and/ or students in patient care; or

make any claim or representation to having any competence in the profession, or hold themselves out to be a kinesiologist.

2. With the exception of Quality Assurance requirements (which may be required upon reissuance of a General Class Certificate of Registration), Inactive Class registrants will continue to be required to comply with all other requirements imposed on registrants registered in the General Class, such as:

Annual renewal of registration;

The requirement to make any mandatory reports, including the duty to self-report any offence findings, professional negligence/malpractice or misconduct as per the College's Guideline on Mandatory Reporting.

Registrants may not count any practice hours acquired through employment while registered in the Inactive Class towards the College's currency requirement when applying for reissuance of a General Class Certificate of Registration.

3. Dual registrants who move to the Inactive Class must ensure that they are clear and transparent with patients, clients and employers regarding their registration status, that they are not practising as a kinesiologist but as another regulated health care professional, and that they cannot not bill for kinesiology care or services while in the Inactive Class. Inactive Class registrants are accountable to the College of Kinesiologists of Ontario as well as and that they are accountable to the other health regulatory body under which they are certified/registered.
4. Registrants working under the direction of another regulated health care professional, and are providing Registrants working exclusively under the supervision of another regulated health care professional and who are not providing direct patient care or services where they are expected to/required to exercise independent judgment or work independently in the course of their work any independent Kinesiology direct patient care services remain accountable to the College, and their supervising practitioner is accountable for the work that they perform. Inactive Class registrants must be clear and

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transparent with patients, clients and employers that they are not practising as a kinesiologist, cannot bill for kinesiology services, and cannot provide any direct patient care or services where they are expected to/required to exercise independent judgment or work independently in the course of their work independent Kinesiology direct patient care or services (i.e. all direct patient care or services must be provided under the supervision of another health care practitioner and the supervising practitioner is responsible for their practice).

5. Registrants are not permitted to accept delegated controlled acts from a regulated health care professional while practising in the Inactive Class. Registrants are accountable to the College for their practice, while registered in the Inactive Class
6. Inactive Class registrants wishing to return to the General class must complete and submit the 'Application for re-issuance of the General class and their application must first be approved by the Registrar, or the Registration Committee prior to them engaging in any activities noted in the conditions above.

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#### Statement of Accountability

All Inactive Class registrants are accountable to the College for their conduct under the Professional Misconduct Regulation, for adhering to the practice standards and guidelines, for behaving as a professional, and may be subject to investigation in the event of a complaint.



**Resolution – Inactive Class Certificate of Registration Policy**

**Whereas** the College seeks to establish clear eligibility requirements for registration in the inactive class; and

**Whereas** the College views the establishment of clear eligibility conditions for the inactive class to reduce risk of harm to the public., increase processing efficiencies and provide a clear and transparent outline of the requirements and conditions for registrants; and

**Whereas the** Inactive Class Certificate of Registration is a component of the College’s Registration Regulation; and

**Whereas** the College seeks to separate the current ‘Inactive Class Certificate of Registration and Reinstatement to the General Class Policy into two distinct policies which governs the process for registration in the inactive class and reinstatement to the General class; and

**Whereas** the Inactive Class Certificate or Registration Policy has been developed to provide legislative context, clarify principles that underpin the policy, reflect updated terminology, and expand the eligibility criteria;

**Whereas** the Registration Committee has recommended that the proposed Inactive Class Certificate of Registration policy be forwarded to Council for final review and approval; and

**Whereas** additional consultation recommended by Council regarding the Inactive Class Certificate of Registration policy has been completed and reviewed;

**Therefore, be it resolved that the Inactive Class Certificate of Registration policy, as revised where deemed necessary and appropriate in accordance with the additional consultation, be approved.**

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Date: June 27, 2022  
\_\_\_\_\_

# Consultation Report: Registration Timelines Policy

June 27, 2022



## About the College

The College is a regulatory body that oversees kinesiologists working in the province. The College receives its authority from the *Kinesiology Act, 2007* and the *Regulated Health Professions Act, 1991*.

The College regulates kinesiologists and protects the public by:

- setting [requirements to enter the profession](#) so that only qualified individuals can practise kinesiology;
- maintaining on its website a [list of individuals qualified to practise kinesiology](#), known as the public register, or Find a Kinesiologist;
- developing [rules and guidelines for kinesiologists' practice and conduct](#), including a code of ethics;
- investigating [complaints about kinesiologists](#) and disciplining when necessary; and
- requiring kinesiologists to participate in a [program that helps ensure that their knowledge and skills are up to date](#), and monitoring that participation.

## Background and Context

Health profession regulators like the College of Kinesiologists of Ontario exist to protect the public. Part of this public protection mandate is a commitment to ensuring that College policies and processes are fair, transparent, consistent and make good use of College resources.

On March 28, 2022, Council reviewed a newly-created '[Registration Timelines Policy](#)' (the policy). At that time, Council recommended that the policy be submitted for general consultation to provide the public, registrants of the College and other stakeholders an opportunity to comment on the policy.

The purpose of this consultation was to obtain feedback on the proposed amendments to the policy.

## Consultation process

On May 2, 2022, the College provided registrants and stakeholders with a notice of the consultation and its process. A dedicated webpage was created on the College's website to promote the consultation, and anyone with comments was invited to submit feedback via online survey or email.

The consultation concluded on May 27, 2022.

## What we heard

### *Feedback from Survey*

The College received 11 responses to the consultation. 7 respondents (63.67%) were Registered Kinesiologists, with responses also received from 2 students and, 1 respondent who identified as an academic and 1 respondent who self-described as a member of the public.

The consultation asked for respondents to consider and provide a response to the following questions:

Does the policy clearly describe the timelines to be used by the College for matters related to the Registration process to ensure that the process is fair, transparent and consistent?

- “Does the policy clearly describe the timelines to be used by the College for matters related to the Registration process to ensure that the process is fair, transparent and consistent?”
- “Do the proposed changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently?”
- “If not, what can be done to further strengthen the policy?”
- “Do you have any concerns with the proposed policy?”

Respondents were also provided an opportunity to provide general comments regarding the policy. For a detailed review of responses, see the attached individual response report.

## Analysis of feedback and how the feedback was used

Among the highlights of the consultation responses:

- Most respondents (90.90%) felt that the policy clearly described the timelines to be used by the College.
- All respondents felt that the changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently.

Below is a table capturing themes that emerged from comments made and proposed revisions to the policy:

Comment	Change	Note
That time limits on exam completion (described in the policy as 3 attempts or 4 years, whichever comes first) should not be included in the policy.	No change	The policy’s goal is to ensure that Registration practices are consistent, transparent and fair. There are mechanisms in place (including those outlined in the College’s Registration Appeals policy by which an applicant may advise the College of extenuating circumstances that may affect their application.
One response pointed out typing error (the word “more” instead of the word “less”) used that would appear to be confusing.	Correction to policy text	Used track changes to highlight change.

## Consultation feedback reports

The following are attached:

- Individual responses to online feedback survey and consultation

## Policy

<b>Type:</b>	Registration		
<b>Number:</b>			
<b>Name:</b>	Registration Timeline Policy		
<b>Status:</b>	Draft	<b>Version #:</b>	1
<b>Date Approved:</b>		<b>Date Revised:</b>	

### Background

Registration timelines balances the need for ensuring fair access to the profession for those with the required knowledge, skill and judgement while upholding the requirements for entry to the profession. Fair, consistent, equitable and transparent timelines are a key component of effective public protection through professional regulation.

### Principles

The principles that underpin this policy include:

1. Transparency – Processes are clear, information is readily available, and College staff and the Registration Committee exercise honesty and openness in carrying out their duties.
2. Fairness, Objectivity, and Impartiality – Processes and procedures exist, address bias, and are reasonable. The College staff and Registration Committee review registration applications and make decisions that are fair and objective.
3. Focus on risk of harm - Review processes include a risk-management, evidence-informed accountability approach to address and reduce the potential of risk of harm to patients/clients by registrants or future registrants.

### Applicable Legislation and Regulation

Under the *Regulated Health Professions Act, 1991*, The Health Professions Procedural Code (“The Code”) indicates that:

- *Fair registration practices: general duty*  
22.2 The College has a duty to provide registration practices that are transparent, objective, impartial and fair.
- *Information*  
22. 3 The College shall provide information on its website with respect to the requirements for registration, the procedures for applying for registration and the amount of time that the registration process usually takes.

- *Qualifications*

22. 4 (1) The College shall make information publicly available on what documentation of qualifications must accompany an application and what alternatives may be acceptable to the College if an applicant cannot obtain the required documentation for reasons beyond his or her control.

**Policy**

**General**

1. An individual may open an application at any time.
2. An individual is considered an applicant upon submission of a completed application form and upon payment of the application fee.
3. Applicants have 1 year from the date of submission of their application form and payment of the application fee to submit a completed application unless an extension has been granted by the College.  
  
Applications not completed within 1 year of being initiated are closed and the applicant must re-start the application process, including re-submitting all supporting documents if required and payment of the application fee.
4. All applications are assessed individually to ensure fairness and equity in the review process.
5. Assessment processes may vary from one applicant to the next resulting in processing delays. Failure to submit required supporting documents or information may cause processing delays. The College has no control over delays caused by third parties in issuing required supporting application documents.
6. It is the applicant's responsibility to ensure timely delivery of all supporting documents and information.
7. Delays in submission of requested application, payment or information may increase processing timelines.
8. The processing timelines in this policy may change due to circumstances outside of the College control. The College may adjust timelines within reasonable limits if circumstances necessities such adjustments and where governing legislation allows.

**Supporting Documentation - General**

9. The College acknowledges receipt of a completed application within 2 weeks
10. The College does not send notification of supporting document receipt prior to submission of a completed application form and payment of the application fee though the College may, if the applicant inquires, confirm document receipt verbally, in writing or by email.
11. The College process applications in priority sequence based on the date all application requirements are met. Application processing generally requires 2 to 3 weeks dependant on volumes and receipt of applicable supporting documents.

12. Any supporting documents or materials received prior to an application being opened are kept for 1 year.

- a. Once an application is opened, all documents associated with that application are maintained for up to 1 year, pending completion of the application.
- b. After 1 year, all documents that do not pertain to a valid and active application are destroyed.
- c. The College does not send notice of pending expiry of supporting documents that are not associated with an open and valid application prior to the end of the 1-year period.

**Supporting Documentation –**

**Education Verification**

13. All applicants are required to submit documents verifying their education. Adequate time should be allocated to ensure that documents can be received by the College within application process timelines.

- a. Official transcripts must be submitted by all applicants and will be reviewed within 5 business days of receipt.
- b. Academic Assessment Forms and course outlines, which are required of applicants who have graduated from non-kinesiology programs in Ontario, and applicants who have graduated from degree programs (including kinesiology programs) in Canada or outside Canada will be reviewed by the College within approximately 10 days of receipt provided all supporting documents have also been submitted (e.g., official transcripts and course outlines/course descriptions).
- c. Course-by-course evaluations, required of internationally educated applicants, (which is estimated to take 1 to 10 weeks). will be reviewed by the College within 10 business days of receipt.

**Supporting Documentation – Language Proficiency**

14. applicants whose first language is neither English or French must submit proof of satisfactory completion of a language proficiency test, which will be reviewed by the College within 5 business days of receipt. As per the Language Proficiency Policy.

**Supporting Documentation – Jurisprudence e-Learning module**

15. The Jurisprudence e-Learning module may be initiated at any time and typically requires 4 total hours to complete and is accepted by the College immediately upon completion.

- a. Once initiated, an applicant or prospective applicant has 1-year to complete the Jurisprudence e-Learning module.
- b. If the Jurisprudence e-Learning module is not completed within 1-year from being initiated, the applicant or prospective applicant must re-complete the entire module. This includes modules previously completed or those in progress.

**Supporting Documentation – Letter of Standing**

16. An original letter of standing from any regulator in any jurisdiction where an applicant has been or was registered to practise any profession.

**Evaluation of Exam Eligibility**

17. Under typical circumstances, the College requires 10 business days after receipt of all supporting documents and materials to evaluate completed applications for exam eligibility.

18. Eligibility to write the examination depends upon the satisfaction of eligibility criteria as set by the College, as well as the applicant meeting the following timelines:

- a. Completed application form must be submitted and application fee must be paid no later than 3 months before the date of the exam.
- b. Supporting documents associated with the application must be received no later than 3 months before the date of the exam.
- c. Completion of the Jurisprudence e-Learning Module no later than 3 months before the date of the exam.

**Examination registration and writing timelines upon receipt and evaluation of an application**

19. Eligible exam applicants must make their first attempt<sup>1</sup> at the exam within 1-year of meeting all application requirements and of payment of the exam fee.

20. The following timelines apply to the examination registration process:

- a. Requests for testing accommodation, including any required documentation, must be received by the College no later than 3 months before the exam date.
- b. Completed exam form must be submitted, and exam fee must be paid no later than 2 months before the date of the exam.
- c. Eligible exam applicants must register for the online exam with the service provider no later than 1 month before the date of the exam.
- d. Language change requests (the exam may be written in English or French) must be received no later than 1 month and 3 weeks before the exam date.
- e. Candidates may defer writing the exam (to the next available date) no later than 1 week before the exam date.
- f. Candidates withdrawing (without deferring to the next available exam date) from the exam will receive a 50% refund of the examination fee if they withdraw at least 15 calendar days before the exam date. Candidates who withdraw ~~more~~-less than 15 calendar days before the exam date will not receive a refund, except for on compassionate grounds or due to illness, in keeping with the [Fee Refund Policy](#).

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<sup>1</sup> An applicant is considered to have tried at the exam if they have sat the exam either virtually or in person.

**Exam Completion Timelines**

21. If the first attempt at writing the exam is not made within 1 year, barring [extenuating circumstances](#) approved by the Registration Committee, the application is closed and the applicant must re-start the application process, including re-submitting all supporting documents if required and pay all applicable fees.

22. If the applicant did not pay the examination fee within 1 year of receiving notification from the College confirming their eligibility to take the exam, the College will close the application. These applicants must re-start the application process, including re-submitting all supporting documents if required and pay all applicable fees.

23. Requests for extension of the 1-year period must be received no later than the exam deferral deadline of the last exam for which the applicant is eligible (at the end of the 1-year period).

24. The exam must be successfully completed within 3 attempts or 4 years, whichever comes first. If the exam is failed 3 times, or the exam is not successfully completed within 4 years, the application is closed, and the applicant must re-apply to the College.

25. The College will notify applicants (by email) of their exam results approximately 6 weeks after the exam date.

a. Applicants who pass the exam will be given information regarding the next steps in the registration process.

**Registration Completion Timelines**

26. Applicants who pass the exam have 1 year from the date they receive their exam result to complete their registration with the College, including payment of the registration fee.

a. An applicant who has not completed their registration within 1 year of being notified may be referred to the Registration Committee for assessment of currency of knowledge and skills.

27. An applicant who does not have Professional Liability Insurance (PLI) must sign an Undertaking Declaration not to practise kinesiology and must submit proof of having PLI within 30 days of becoming registered.

28. An applicant must provide the College with a name-based police information check issued no more than 1 year from the date of their application for registration.

a. Police information checks dating more than 6 months from the date the application for registration is received must be accompanied by a signed conduct declaration.

b. A new police information check is required where it is dated more than 1 year from the date the application for registration is received.

29. Approximately 4 months after becoming registered, the printed Certificate of Registration will be mailed to the registrant.

**Commented [KS1]:** This only applies to applicants who have not paid the exam fee and are seeking an extension of the 1-year time limit to make payment and write.



**Exceptions – Delays in Processing**

30. In the event of extenuating circumstances that will affect any of the College's timelines, applicants will be notified of the delay via email as early as possible, but no later than the end of the timeline affected by any delay.

31. Upon notification of an evaluation or processing delay, the College will provide the applicant(s) with a revised application evaluation timeframe, and update applicants of any changes to other timelines that may be associated with the delay in evaluation.

**Referral to Registration Committee**

32. In the event that an application is referred to the Registration Committee, the following timelines apply:

a. The Chair of the Registration Committee will be notified of the referral within 1 business day.

b. The applicant who has been referred to the Registration Committee will be notified within 14 business days of the referral.

c. The applicant who has been referred to the Registration Committee may make a written submission to the Panel of the Registration Committee within 30 business days.

d. The applicant may notify the College, in writing, if an extension beyond the 30-day period for written submissions to the Panel of the Registration Committee is required.

e. Should the applicant choose to waive the 30 business days notice period, the Chair of the Registration Committee will convene a properly constituted Panel to review the referral as soon as possible within 30 days.

**Commented [KS2]:** This is difficult to track in principle but is required as per legislation. May need legal advice for interpretation. Currently reading in the literal sense.

**Appeal of Registration Decisions**

33. Registration decisions may be appealed to the [Health Professions Appeal and Review Board \(HPARB\)](#), within 35 days of issuance.. The College of Kinesiologists of Ontario does not control HPARB processes or timelines.

**Note re: Accessibility, Equity, Diversity, Inclusion and anti-Bias**

34. The College of Kinesiologists is committed to the principles of accessibility, reasonable accommodation, equity, diversity, inclusion and anti-bias. Requests for accommodation, such as modification or extension of any of the timelines described in this Policy on these grounds will be considered by the College on a case-by-case basis and in accordance with all applicable legislation.

**Note:**

As per the [By-Laws](#) of the College of Kinesiologists, the following definitions apply:

1.05: Calculating Time: A reference to the number of days between two events means calendar days and excludes the day on which the first event happens and includes the day on which the second event happens.

1.06: Holidays: A time limit that would otherwise expire on a holiday or a weekend is extended to include the next day that is not a holiday or a weekend.



## Resolution – Registration Timeline Policy

**Whereas** the College seeks to ensure that its registration process is fair and consistent, and that the processing timelines for applicants seeking entry to the profession are clear and transparent; and

**Whereas** the Registration Timeline policy has been developed to describe the timelines used by the College for matters pertaining to the Registration process; and

**Whereas** Office of the Fairness Commissioner have identified several provisions designed to modernize and reduce barriers encountered by internationally trained applicants involving establishing maximum time limits for the registration process;

**Whereas** the Registration Committee has recommended that the proposed Registration Timeline policy be forwarded to Council for final review and approval; and

**Whereas** additional consultation recommended by Council regarding the Registration Timeline policy has been completed and reviewed;

**Therefore, be it resolved that the Registration Timeline policy, as revised where deemed necessary and appropriate in accordance with the additional consultation, be approved.**

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Date: June 27, 2022  
\_\_\_\_\_

# Consultation Report: Language Proficiency Policy

June 27, 2022

## About the College

The College is a regulatory body that oversees kinesiologists working in the province. The College receives its authority from the *Kinesiology Act, 2007* and the *Regulated Health Professions Act, 1991*.

The College regulates kinesiologists and protects the public by:

- setting [requirements to enter the profession](#) so that only qualified individuals can practise kinesiology;
- maintaining on its website a [list of individuals qualified to practise kinesiology](#), known as the public register, or Find a Kinesiologist;
- developing [rules and guidelines for kinesiologists' practice and conduct](#), including a code of ethics;
- investigating [complaints about kinesiologists](#) and disciplining when necessary; and
- requiring kinesiologists to participate in a [program that helps ensure that their knowledge and skills are up to date](#), and monitoring that participation.

## Background and Context

Health profession regulators like the College of Kinesiologists of Ontario exist to protect the public. Part of this public protection mandate is a commitment to ensuring that registrants of the College are able to communicate clearly and effectively in at least one of Canada's two official languages (English and French).

On March 28, 2022, Council reviewed a revised '[Language Proficiency Policy](#)' (the policy). At that time, Council recommended that the policy be submitted for general consultation to provide the public, registrants of the College and other stakeholders an opportunity to comment on the policy.

The purpose of this consultation was to obtain feedback on the proposed amendments to the policy.

## Consultation process

On May 2, 2022, the College provided registrants and stakeholders with a notice of the consultation and its process. A dedicated webpage was created on the College's website to promote the consultation, and anyone with comments was invited to submit feedback via online survey or email.

The consultation concluded on May 27, 2022.

## What we heard

### *Feedback from Survey*

The College received 9 responses to the consultation. 7 respondents (77.78%) were Registered Kinesiologists, with responses also received from 1 student and 1 respondent who self-described as a member of the public.

The consultation asked for respondents to consider and provide a response to the following questions:

Does the policy clearly describe the timelines to be used by the College for matters related to the Registration process to ensure that the process is fair, transparent and consistent?

- “Does the policy clearly describe the updated Language Proficiency policy and its approach to proof of language proficiency?”
- “Do the proposed changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently?”
- “If not, what can be done to further strengthen the policy?”
- “Do you have any concerns with the proposed policy?”

Respondents were also provided an opportunity to provide general comments regarding the policy. For a detailed review of responses, see the attached individual response report.

### Analysis of feedback and how the feedback was used

Among the highlights of the consultation responses:

- All respondents felt that the policy clearly described the College’s approach to language proficiency.
- All respondents felt that the changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently.

Below is a table capturing themes that emerged from comments made and proposed revisions to the policy:

Comment	Change	Note
<p>Comment that there is no accountability that an applicant can speak English/French well enough to be understood. Comment mentioned that “[o]ne can finish a degree in kin without having to speak.”</p>	<p>No change</p>	<p>The policy, and the College’s Registration Regulation, state that applicants must possess sufficient language skills in English or French in order to communicate effectively, both orally and in writing. The policy describes the acceptable test scores, as well as other criteria that may determine language proficiency where exceptional/extenuating circumstances exist, or where there is ambiguity or uncertainty regarding an applicant’s language proficiency in English or French.</p>

## Consultation feedback reports

The following are attached:

- Individual responses to online feedback survey and consultation

# Policy

<b>Type:</b>	Registration		
<b>Number:</b>	101		
<b>Name:</b>	Language Proficiency Policy		
<b>Status:</b>	Draft	<b>Version #:</b>	
<b>Date Approved:</b>		<b>Date Revised:</b>	

## Background

In order to ensure that the practice of Kinesiology in Ontario is safe and accessible, Kinesiologists must be able to communicate clearly and effectively with their patients (or their representatives) as well as with their College, and the general public. Under the *Regulated Health Professions Act, 1991* and The Health Professions Procedural Code (“The Code”), the College may set language proficiency requirements for Kinesiologists, including how Kinesiologists may demonstrate evidence of proficiency.

## Principles

The principles that underpin this policy include:

1. Transparency – Processes are clear, information is readily available, and College staff and the Registration Committee exercise honesty and openness in carrying out their duties.
2. Fairness, Objectivity, and Impartiality – Processes and procedures exist, address bias, and are reasonable. The College staff and Registration Committee review registration applications and make decisions that are fair and objective.
3. Focus on risk of harm - Review processes include a risk-management, evidence-informed accountability approach to address and reduce the potential of risk of harm to patients/clients by registrants or future registrants.

## Applicable Legislation and Regulation

Under the [Regulated Health Professions Act, 1991, The Health Professions Procedural Code](#) (“The Code”) indicates that:

95 (1) Subject to the approval of the Lieutenant Governor in Council and with prior review of the Minister, the Council may make regulations,

- (c) prescribing standards and qualifications for the issue of certificates of registration.

The College has made the following regulations as per the [General Regulation under the Kinesiology Act, 2007 \(O. Reg. 401/12, s. 3\(3\)\(4\)\)](#):

3. *Requirements for issuance of certificate of registration, any class*

3. The applicant must possess sufficient language proficiency, in either English or French, to be able to communicate and comprehend effectively, both orally and in writing.

4. An applicant referred to in subsection (1) is deemed to have met the requirement of paragraph 3 of section 3 if the requirements for the issuance of the out-of-province certificate included language proficiency requirements equivalent to those required by that paragraph.

## Definitions

Approved Language Test – a language proficiency test that the College has determined is acceptable for applicants to undertake to demonstrate that they meet the language proficiency requirements.

## Policy

### General

The nature of the practice of Kinesiology requires that a Kinesiologist be able to communicate clearly and efficiently with their patients. To promote inclusive practice and manage risks, Kinesiologists should be willing to make good faith attempts to facilitate effective communication across language or other communication barriers. Therefore:

1. An individual applying for registration with the College of Kinesiologists of Ontario must submit, in accordance with the Registration Regulation, Registration Timeline Policy and this policy, proof of proficiency in either English or French (or both).

a. Except where the individual is applying from out-of-province and the requirements for the issuance of the out-of-province certificate included language proficiency requirements equivalent to those required by the College, or where exceptional circumstances exist (as approved by the Registrar or Registration Committee), an applicant who cannot provide proof of English or French language proficiency may not be permitted to write the entry-to-practice exam and/or become registered with the College.

Except where the individual is applying from out-of-province and the requirements for the issuance of the out-of-province certificate included language proficiency requirements equivalent to those required by the College, or where exceptional circumstances exist (as approved by the Registrar or Registration Committee), an applicant who cannot provide proof of English or French language proficiency may not be permitted to write the entry-to-practice exam and/or become registered with the College.

2. Applicants shall identify their preferred language of communication with the College (English or French).

3. Applicants shall identify their language(s) of practice to the College. All applicants must offer practice and services in English, French or both, in addition to any other language(s) they may use in practice.

a. This information will be included in the Public Register.

4. All patient records must be in English or French. The language used for



record-keeping (English or French) should be the same as that used for communication with the College.

**Language Proficiency  
– Applicants  
educated in Ontario**

5. Proof of graduation from an Ontario university program (kinesiology or non-kinesiology) will be accepted as evidence of language proficiency in either English or French

a. This holds true for applicants whose first language is neither English or French, but who were educated at and graduated from an Ontario University.

**Language Proficiency  
– Applicants  
educated in Canada,  
outside Ontario**

6. Proof of graduation from a Canadian university program (kinesiology or non-kinesiology) will be accepted as evidence of proficiency in English or French.

7. Applicants holding an out-of-province certificate of registration may be required to submit proof of language proficiency (English or French) if proof of language proficiency was not a requirement for the granting of their out-of-province certificate.

**Language Proficiency  
– Applicants  
educated outside  
Canada**

8. Internationally educated applicants who graduated from a program (kinesiology or non-kinesiology) in English or French may provide their transcript(s) as evidence of language proficiency in English or French.

9. Internationally educated applicants whose first language is English or French who did not graduate from a program (kinesiology or non-kinesiology) in English or French may provide evidence of practice experience in a predominant English or French setting. 10. Internationally educated applicants whose first language is neither English or French and who did not graduate from a program (kinesiology or non-kinesiology) in English or French must submit proof of satisfactory completion of one of the following language proficiency tests:

Option	Fluency Test	Minimum Score
1	TOEFL Paper-based	<b>560</b>
2	TOEFL Internet based <ul style="list-style-type: none"> <li>• Reading</li> <li>• Writing</li> <li>• Listening</li> <li>• Speaking</li> </ul>	<b>86</b> (Total) <ul style="list-style-type: none"> <li>• 20</li> <li>• 20</li> <li>• 20</li> <li>• 23</li> </ul>
3	IELTS – Academic or General Training	Level <b>6.5</b> required on all skills (listening, reading, writing and speaking)
4	CLBA	Benchmark score of <b>7</b> required on all skills (listening & speaking, reading, writing)
5	MetTest	<b>54</b>
6	TEF <ul style="list-style-type: none"> <li>• Reading</li> <li>• Writing</li> <li>• Listening</li> <li>• Speaking</li> </ul>	<b>1154</b> (Total) <ul style="list-style-type: none"> <li>• 349</li> <li>• 310</li> <li>• 280</li> <li>• 215</li> </ul>

<b>Submission of proof of language proficiency</b>	<p>11. Any document required by the College as proof of language proficiency in English or French must be submitted directly to the College by the institution or organization providing the document(s) by email or mail.</p>
<b>Exceptions, Extenuating or Ambiguous Circumstances</b>	<p>12. Where ambiguity or uncertainty exists regarding language proficiency (despite proof of proficiency having been presented), the College may require an applicant to provide evidence of satisfactory completion of one of the above language-proficiency tests.</p> <p>13. In exceptional or extenuating circumstances as approved by the Registration Committee or the Registrar, the following may be accepted as proof of proficiency in English or French:</p> <ul style="list-style-type: none"> <li>a) A sworn affidavit, notarized in Ontario by a notary public or commissioner of oaths, indicating that the applicant is fluent in English or French.</li> <li>b) Successful completion of the application (including Jurisprudence e-Learning modules) and the entry-to-practice examination.</li> <li>c) Proof of registration with a professional College in another jurisdiction where English or French language proficiency is a requirement of registration.</li> <li>d) Proof of membership in a professional association in another jurisdiction where English or French language proficiency is a requirement of membership.</li> <li>e) Evidence of practice experience in a predominantly English or French practice setting.</li> <li>f) Proof of completion of a post-secondary degree or diploma program in English or French</li> </ul> <p>14. Requests for accommodation under <a href="#">AODA</a> or based on equity, diversity, inclusion and anti-bias principles will be reviewed and evaluated on a case-by-case basis by the Registration Committee.</p>
<b>Costs</b>	<p>15. All costs associated with proof of language proficiency in English or French are the responsibility of the applicant, not the College.</p>
<b>Validity of Test Results</b>	<p>16. Test results are valid for two years from the date of the applicant passing the test.</p> <p>17. Test results that are more than two years old will not be accepted by the College</p>
<b>Review</b>	<p>18. Language proficiency standards as described in this policy will be reviewed by the College every two years to ensure they remain current.</p>

**Resolution – Language Proficiency Policy**

**Whereas** the requirement for language proficiency (English or French) is required for entry-level kinesiologists to practice safely and effectively; and

**Whereas** the current Language Proficiency Policy has not been updated since 2012 and is to be reviewed by the College every two years to maintain currency and consistency across the spectrum of regulated healthcare professionals in Ontario; and

**Whereas** current regulatory practice appears to be evolving towards a more flexible approach to proof of language proficiency; and

**Whereas** most health regulatory colleges, the Ministry of Health and the Office of the Fairness Commissioner have identified/ are in support of a variety of alternatives to completion of a standardized language proficiency test to reduce barriers to registration; and

**Whereas** revisions have been suggested to the Language Proficiency Policy in keeping with changes to the regulatory environment and changes to the standardized testing landscape;

**Whereas** the Registration Committee has recommended that the amended Language Proficiency Policy with updates to acceptable tests of French language proficiency be forwarded to Council for final review and approval;

**Whereas** the Registration Committee has recommended that the amended Language Proficiency Policy be forwarded to Council for final review and approval; and

**Whereas** additional consultation recommended by Council regarding the amended Language Proficiency Policy has been completed and reviewed;

**Therefore, be it resolved that the Language Proficiency Policy, as revised where deemed necessary and appropriate in accordance with the additional consultation, be approved.**

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Date: June 27, 2022  
\_\_\_\_\_

# Consultation Report: Reissuance of the General Class Certificate of Registration

June 27, 2022

## About the College

The College is a regulatory body that oversees kinesiologists working in the province. The College receives its authority from the *Kinesiology Act, 2007* and the *Regulated Health Professions Act, 1991*.

The College regulates kinesiologists and protects the public by:

- setting [requirements to enter the profession](#) so that only qualified individuals can practise kinesiology;
- maintaining on its website a [list of individuals qualified to practise kinesiology](#), known as the public register, or Find a Kinesiologist;
- developing [rules and guidelines for kinesiologists' practice and conduct](#), including a code of ethics;
- investigating [complaints about kinesiologists](#) and disciplining when necessary; and
- requiring kinesiologists to participate in a [program that helps ensure that their knowledge and skills are up to date](#), and monitoring that participation.

## Background and Context

Health profession regulators like the College of Kinesiologists of Ontario exist to protect the public. Part of this public protection mandate is a commitment to ensuring that registrants of the College are able to communicate clearly and effectively in at least one of Canada's two official languages (English and French).

On March 28, 2022, Council reviewed a revised '[Reissuance of the General Class Certificate of Registration](#)' (the policy). At that time, Council recommended that the policy be submitted for general consultation to provide the public, registrants of the College and other stakeholders an opportunity to comment on the policy.

The purpose of this consultation was to obtain feedback on the proposed amendments to the policy.

## Consultation process

On May 2, 2022, the College provided registrants and stakeholders with a notice of the consultation and its process. A dedicated webpage was created on the College's website to promote the consultation, and anyone with comments was invited to submit feedback via online survey or email.

The consultation concluded on May 27, 2022.

## What we heard

*Feedback from Survey*

The College received 14 responses to the consultation. 13 respondents (92.86%) were Registered Kinesiologists, with responses also received from 1 student.

The consultation asked for respondents to consider and provide a response to the following questions:

Does the policy clearly describe the timelines to be used by the College for matters related to the Registration process to ensure that the process is fair, transparent and consistent?

- Does the policy clearly describe the eligibility requirements, application process and conditions for Inactive Class registrants to be reissued a General Certificate of Registration (General Class)?
- Do the proposed changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently?
- If not, what can be done to further strengthen the policy?
- Do you have any concerns with the proposed policy?

Respondents were also provided an opportunity to provide general comments regarding the policy. For a detailed review of responses, see the attached individual response report.

### Analysis of feedback and how the feedback was used

Among the highlights of the consultation responses:

- Most respondents (92.86%) felt that the policy clearly described the College’s Reissuance process.
- Most respondents (85.71%) felt that the changes to the policy enhance public trust in the ability of kinesiologists to practice safely and competently.

Below is a table capturing themes that emerged from comments made and proposed revisions to the policy:

Comment	Change	Note
The approach to registrants Reinstating from the Inactive Class who do not meet the colleges practice hours currency requirement (Registration Committee panel referral) should also be applied to General Class members, who currently may be selected for Peer and Practice Assessment if they do not meet the College’s practice hours requirements.	No change	This policy is focused on Reinstatement as opposed to Quality Assurance or Renewal processes. Therefore, this comment may not be applicable to this policy specifically.

## Consultation feedback reports

The following are attached:

- Individual responses to online feedback survey and consultation

## Policy

<b>Type:</b>	Registration		
<b>Number:</b>			
<b>Name:</b>	Reissuance of the General Class Certificate of Registration		
<b>Status:</b>	Draft	<b>Version:</b>	<u>12</u>
<b>Date Approved:</b>	July 2020	<b>Date Revised:</b>	<u>March 1 2021</u>

**Background:** Under the College’s Registration Regulation, a registrant who holds an Inactive Class Certificate of Registration is permitted to apply for reissuance of a General Class Certificate of Registration.

The requirements for issuance of the General Class Certificate may include the registrant satisfying a panel of the Registration Committee that they possess the current knowledge, skill and judgment relating to the practice of the profession that would be expected of a registrant holding a General Class Certificate of Registration.

**Purpose:** The purpose of the policy is to outline the application process for Inactive Class registrants to be reissued a General Class Certificate of Registration to ensure current knowledge, skills and judgement to practise safely, competently and ethically.

**Principles:** The principles that underpin this policy include:

1. Transparency – Processes are clear, information is readily available, and College staff and the Registration Committee exercise honesty and openness in carrying out their duties.
2. Fairness, Objectivity and Impartiality – Processes and procedures exist, address bias, and are reasonable. The College staff and Registration Committee review registration applications and make decisions that are fair and objective.
3. Focus on risk of harm – Processes use a risk-based, evidence-informed approach to reduce the risk of registrants’ potential harm to patients and clients through risk management and accountability.

**Applicable Legislation and Regulation:**

1. Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991 (RHPA)*, Registration Section 15.
2. Ontario Regulation 401/12 General, Section 9. (3)



**The process for applying for reissuance of a General Class Certificate of registration includes:**

1. A registrant who holds an Inactive Class Certificate of Registration may apply for reissuance of a General Class Certificate of Registration if the registrant:
  - i) Completes the Application for Re-issuance of a General Class Certificate of Registration Form;
  - ii) Pays any fee, penalty or other amount owed to the College;
  - iii) Provides the College with any information that it has required of the registrant; and
  - iv) Satisfies a panel of the Registration Committee that they possess the current knowledge, skill and judgment relating to the practise of the profession that would be expected of a registrant holding a General Class Certificate of Registration.
2. Registrants who have been registered in the Inactive Class and have 1500 kinesiology practice hours in the three years preceding the date of application for reissuance of a General Class Certificate of Registration, and have satisfied all other provisions within this Policy (i.e., Paragraph 4), will be deemed by the Registration Committee to have satisfied requirement iv) listed directly above unless there exist other extenuating factors which would require further review (e.g. Conduct). Registrants may count practice hours acquired under the General Class Certificate of Registration and practice hours acquired in a jurisdiction in Canada outside of Ontario towards the above noted currency requirement.
3. Registrants who have been registered in the Inactive Class in Ontario and have practised less than 1500 hours in the three years preceding the date of the application for reissuance of a General Class Certificate of Registration will be referred by the Registrar to a Panel of the Registration Committee for consideration. Practice hours acquired outside of kinesiology or in Ontario while in the Inactive Class cannot be counted towards the above noted currency requirement.
4. All registrants must:
  - i) Complete an Application for Reissuance to General Class Certificate of Registration Form, which includes:
    - a. specific examples of most recent employment, employment dates and number of practice hours in each role (including practice hours outside of Ontario); and
    - b. time elapsed since active practice as a kinesiologist.
  - ii) Submit an updated resume including most recent volunteer work, education, continuing professional development, mentorship and research undertaken.
5. Registrants referred to the Registration Committee for review must complete and submit the following:
  - i) A detailed action plan on how the registrant proposes to reorient themselves to active practice of the profession and address competency gaps. The action plan **may** include the following:
    - a. A program of self-study, identifying specific continuing education or professional development courses, or similar activities that the applicant plans to undertake upon returning to active practice;
    - b. An orientation program at the applicant's place of employment related to the practice of kinesiology including a letter from the employer outlining the details of the program;

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- c. A period of planned on-the-job training, mentoring, or supervision by a kinesiologist or affiliated regulated healthcare professional; and
  - d. A period of planned job shadowing or observation of a kinesiologist or affiliated healthcare professional at the registrant's workplace.
    - i. signed declaration to review all of the College's practice standards and guidelines;
    - ii. The College's paper-based Self-Assessment Tool to identify any competency gaps and opportunities for improvement.
6. The panel of the Registration Committee, upon review, may ask the registrant for additional information before making a determination on the application for reissuance of a General Class Certificate of Registration.
  7. The following are possible outcomes from the Panel's review:
    - i. The Panel may direct that a General Class Certificate of Registration be reissued where the Panel is satisfied that the registrant possesses current knowledge, skill and judgment relating to the practice of the profession that would be expected of a registrant holding a General Class Certificate of Registration;
    - ii. The registrant may be required to successfully complete a training/education program defined by the Panel prior to reissuance of a General Class Certificate of Registration;
    - iii. The Panel may direct the Registrar to impose terms, conditions and limitations on the registrant's General Class Certificate of Registration; and
    - iv. The Panel may direct the Inactive registrant to take the entry-to-practice examination, or an examination approved by the Registration Committee.
  8. The registrant may appeal the decision of the Panel of the Registration Committee to the Health Professions Appeal and Review Board.
  9. The applicant must be in compliance with any outstanding requirements of the College's Quality Assurance Committee or any outstanding orders or requirements of Council, the Executive Committee, the Inquiries, Complaints and Reports Committee, the Discipline Committee and /or the Fitness to Practise Committee.

### **Return to Practice**

9. Registrants shall not do the following until their application for reissuance of a General Class Certificate of Registration has been approved, in writing, by the Registrar, and the registrant has received a written notice confirming reissuance of a General Class Certificate of Registration from the College:

- practise the profession of kinesiology in Ontario;
- engage in providing direct patient care or services where they are expected to/required to exercise independent judgment or work independently in the course of their work,
- use any of the protected titles or designations set out in the General Regulation.

### Professional Liability Insurance

10. As a condition for reissuance of a General Class Certificate of Registration, the registrant shall provide a copy of their professional liability insurance to the College.

### Fees

11. Subject to meeting all other requirements, the registrant will be expected to pay ~~online the annual membership dues for the General Class, which are pro-rated applicable fees according to the Schedule of Fees~~, prior to being reissued a General Class Certificate of Registration.

**Commented [KS1]:** Fee schedule will be updated to include required fees for re-issuance of the General class



**Resolution – Reissuance of General Class Certificate of Registration Policy**

**Whereas** the College is required under the Registration Regulation to ensure that all general class members have current knowledge, skill and judgement relating to the practice of the profession of Kinesiology; and

**Whereas the** Inactive Class Certificate of Registration and Reinstatement to the General Class is a component of College’s Registration Regulation; and

**Whereas** the College views this as important for members and the public; and

**Whereas** the College seeks to establish a defensible benchmark of currency of knowledge, skill and judgement in Kinesiology at the time of reissuance of the General class certificate that is in keeping the legislative currency requirement of 1500 practice hours for registrants holding a General class Certificate under the Registration Regulation;

**Whereas** the Registration Committee has recommended that registrants who have been registered in the Inactive class in Ontario who have practised less than 1500 hours in the three years preceding the date of the application for reissuance of a General Class Certificate of Registration be referred by the Registrar to a Panel of the Registration Committee for consideration;

**Whereas** the Registration Committee has recommended that the Reissuance of General Class Certificate of Registration Policy be forwarded to Council for final review and approval; and

**Whereas** additional consultation regarding the Reissuance of General Class Certificate of Registration Policy has been completed and reviewed;

**Therefore, be it resolved that the Reissuance of General Class Certificate of Registration Policy, as revised where deemed necessary and appropriate in accordance with the additional consultation, be approved.**

**Moved by:** \_\_\_\_\_

**Seconded by:** \_\_\_\_\_

**Date:** June 27, 2022  
\_\_\_\_\_

**College of Kinesiologists of Ontario  
Business Case**

**Procurement of Expert Consulting Services  
for Revalidation of Kinesiologist Core Competencies Profile**

Submitted to: Council  
Submitted by: Registration Department  
College of Kinesiologists of Ontario  
Date Submitted: June 27, 2022

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**1. Background:**

The College of Kinesiologists of Ontario (CKO) is a statutory regulatory body under the [Regulated Health Professions Act, 1991](#) (RHPA) and the Kinesiology Act, 2007. The College regulates kinesiologists to ensure the safe, competent, and ethical delivery of kinesiology services in Ontario.

The [Kinesiologist Core Competency Profile](#) (Competency Profile) is a collection of validated competencies that describes the performance required to demonstrate competence in the role of kinesiologists at the entry-to-practice level. The profile describes competencies across five domains: (1) knowledge, (2) kinesiology practical experience, (3) professionalism/professional practice, (4) communication and collaboration, and (5) professional development.

The Competency Profile provides the foundation for the development of CKO's Entry-to-Practice Examination (Exam) and the [Exam Blueprint](#), which describes the structure of the exam. The Competency Profile also forms the basis for:

- the [educational equivalency framework](#) that enables CKO to assess whether applicants for the exam have the required entry-to-practice competencies. It also assures the public that CKO registrants meet defined knowledge and education requirements to practice in the field of kinesiology safely and competently.
- the [Essential Competencies of Practice for Kinesiologists in Ontario](#), a key College document that informs all regulatory functions. It provides the foundation for the Quality Assurance Program's [Self-Assessment](#), which guides members in reflecting on their practice and helps them identify those areas of knowledge, skill and judgment that they want to strengthen through continuing professional development. In addition, College Peer Assessors use assessment tools that include measurable performance indicators when conducting [Peer and Practice Assessments](#) to evaluate the competence of experienced kinesiologists.
- the validity of the College's [practice standards and guidelines](#), which describe the College's minimum expectations in areas such as advertising, consent, fees and billing, and record keeping. They are also the basis against which public complaints and mandatory reports can be investigated.

The current Competency Profile was approved by the College's Council on January 9, 2012 and has not been reviewed since its inception. The Competency Profile should be reviewed every five years in keeping with regulatory best practices and the College's public protection mandate, and to ensure its continued defensibility in the changing landscape of kinesiology.

## 2. Purpose:

The College is committed to keeping its entry-to-practice competencies, exam, and continuing education requirements up-to-date and relevant for kinesiologists, as part of its mandate to protect the public. In keeping with its continuous improvement strategy, the College searched for a vendor to conduct a comprehensive review of the Kinesiologist Core Competency Profile and to provide expert advice and recommendations for changes to ensure its continued defensibility.

## 3. Risk Analysis:

**Risk to the public** - If the College has not taken adequate steps to ensure that members registered with the College continue to meet the minimum standards of education/knowledge and competence expected of kinesiologists practising in Ontario, members of the public are at risk.

**Risk to the College** - If the College does not have defensible competencies to determine whether applicants meet minimum standards of the education and knowledge competency, it could lose the confidence of other health care professions, the public and its own registrants.

**Risk to the profession** - If the College does not demonstrate due diligence in revalidating the required competencies expected of registrants at entry-to-practice, it could lose public confidence in the profession. The College could also lose the confidence of other health care professions.

### **Risk to the educational program for kinesiology in Ontario –**

If the College does not demonstrate due diligence in revalidating the required competencies expected of registrants at entry-to-practice, there is a risk that universities in Ontario may feel that the College has demonstrated a lack of understanding of the knowledge, skills and judgement gained through university study.

**Risk to the health care system in Ontario** - If the College does not update its fair and rigorous screening of applicants, the public and other healthcare professions could lose confidence in the competence of kinesiologists, leading to patients not receiving optimum care.

## 4. Deliverables

The assignment is to revalidate the Kinesiology Core Competency Profile and to submit recommendations for review and approval by the College's Council that will:

- enable the potential updates of core competencies to support regulatory activities that protect the public, such as approving programs and exams, improvements to the Examination Blueprint, and developing practice standards and quality assurance tool
- provide the foundation for the improvement of the Quality Assurance Program enabling registrants to understand the competencies that they are required to demonstrate, to report on, and against which they will be evaluated
- provide guidance to educators as they plan the future of kinesiology degree programs with other stakeholders.

The competencies will be reviewed across the five competency domains: (1) knowledge, (2) kinesiology practical experience, (3) professionalism/professional practice, (4) communication and collaboration, and (5) professional development.

The expectation is that the vendor will consult with College registrants, the examination committee, members of the public, and other subject matter experts and jurisdictions involved in the regulation of kinesiologists as health care professionals. The vendor is also expected to provide

recommendations for any changes to the Examination Blueprint that reflect the changes to the Competency Profile.

The Competency Profile will provide an updated profile of the newly graduated kinesiologist who has completed the required hours of supervised practical experience and a set of assumptions on which the competencies are based. It will describe the competencies in the context of a basic kinesiology education program and the practice environment of entry-level registered kinesiologists. The profile will also include an updated glossary of terms, practice illustrations and definitions that further understanding and interpretation of the entry-to-practice requirements.

## **5. Process to review competencies**

The vendor is required to demonstrate that the methodology used in its review and validation processes reflects best practices in this type of assignment and is consistent with methodologies used by other health care professional regulators. It is expected that the consultant will engage other key stakeholders including faculty members and students from universities and colleges, professional associations, and other health care professionals.

### **Additional requirements**

The proponents were asked to include these additional requirements in their proposals:

#### **1) Understanding of the College's requirements**

- Detail each section of the scope of required services and their interpretation of CKO's needs.
- Outline their knowledge and understanding of the health professions regulatory environment.

#### **2) Statement of Work**

- Specify their organization's objective in completing the tasks.
- List the tasks to be completed and describe how each task is to be accomplished.
- Detail how data is to be treated regarding security and presentation. If available, provide samples of reports that will be provided to the College.

#### **3) Deliverables timeline**

- Provide a schedule of each task by day and/or week and the total time for each task.
- Separate timelines should be provided for the work requested by the College for the Competency Profile and the Examination Blueprint.

#### **4) Pricing**

- Provide a detailed breakdown of how pricing was determined, including assumptions.
- Fees must include all costs associated with providing the required service, including all hourly and daily rates.
- All disbursements and additional expenses included in the fees must be outlined.
- Note the expectation is that any work related to the deliverables of this project will be conducted either virtually or in person dependant on need and availability of individuals involved.
- Where fixed costs cannot be determined, include the process for calculating non-fixed (variable) costs.
- Personnel hours should be broken down by task where applicable. Identify any factors that may impact timing or pricing. Provide separate pricing details for the Competency Profile revalidation and the Examination Blueprint.

## 5) Administration

- Provide an organizational chart, as applicable, of the roles and assigned personnel.
- Provide biographical information of senior manager or above assigned to the project.

## 6) Corporate qualifications

The proposal should include:

- The proponent's corporate organizational structure.
- The proponent's organization background and related project capabilities, experience in assisting not-for-profit organizations in Ontario with development and revalidation of entry-to-practice competencies, and qualifications and directly related experience of those who will be engaged in this assignment.
- Three references from organizations comparable to the College for whom similar services have been provided in the last five years.
- Details of relevant experience developing and revising competency profiles in Canada and/or other countries.

The proponents were also encouraged to include any other services that their firm may offer, and their related costs, in relation to the required scope of work not outlined above that may be of interest to the College.

## 6. Resources/costs

The revalidation cost has been forecasted competitively to be \$50,000 to \$60,000 inclusive of HST and all deliverables. It is expected that cost proposals for deliverables are scalable to provide flexibility within the budget.

## 7. Proposed timeframe

The College anticipates publishing a revalidated Competency Profile by November 2022 to take effect with the April 2023 exam administration. The Competency Profile will be provided to educators to review and update their curriculum as appropriate and will be used to establish and implement new Examination Blueprint for the CKO exam, and determine exam development activities to address changes to the Competency Profile.

## 8. Invitational RFP

In keeping with the CKO Procurement Policy and due to the need for the required review, the College chose to issue an invitational RFP to prospective vendors. This decision was further supported by the limitations of the educational equivalency framework for determining substantial equivalency, which has been identified by the Registration Committee as a key area for development following the outcome of the review of the Kinesiologists Core Competencies Profile. The College procurement directive allows an invitational procurement strategy for contracts valued at up to \$100,000.

An RFP was issued to three vendors in March 2022 (ACT, Catalyst Consultant and Meazure Learning). Catalyst Consulting declined to submit a proposal due to conflicting timelines with other contracts. The College received proposals from Meazure Learning and Act.

## 9. Evaluation criteria

The Registrar established a selection committee



The selection committee was tasked with reviewing and evaluating the proposals based on the following criteria:

- Experience and qualifications (30%) and proven track record (30%) – total 60%
- Price based on hourly and daily rate for deliverables – total 40%

The selection committee also considered how the proponents incorporated principles of accessibility, reasonable accommodation, equity, diversity, inclusion, and anti bias in their project plan.

## **10. Recommendations:**

Based on the review and weighted scoring by the selection committee, Meazure Learning was identified as the preferred consultant with results proportionally higher in relation to pricing and their project plan to meet identified deliverables.

### **Final weighted scores:**

- Meazure Learning - 89.75
- ACT - 84.55

One of the key differentiators between the two proponents was the pricing. One contact was in USD and another in Canadian dollars. The conversion rate made the US proposal higher in pricing.

Another important difference between the two proposals was that Meazure included French translation in their pricing while it was not included in the ACT proposal. Translation costs can be significant, which would impact the final costs.

Meazure also included the provision of a communications plan for the rollout of the updated competencies and the Examination Blueprint, which was not included in the ACT proposal.

Overall, it is recommended that the College of Kinesiologists of Ontario approve the procurement of expertise to assist in the revalidation of the Kinesiologist Core Competency Profile and make recommendations for any changes to the Examination Blueprint that reflect the changes to the Competency Profile.

It is proposed that the Registrar procure a consultant immediately based upon this business case following recommendations from the Finance and Planning Committee, and approval by Council.

### **Therefore**

**Be it moved that the Planning and Finance Committee recommend to Council the appointment of Meazure Learning to provide Revalidation of Kinesiologist Core Competencies Profile for the College of Kinesiologists of Ontario.**

**Moved by:**

**Seconded by:**

**Date:** June 27, 2022