

Council Meeting Agenda

Date and Time: September 25 and 26, 2017 at 9:00 a.m.

Location: College of Kinesiologists of Ontario
160 Bloor Street East, Suite 1402, Boardroom
Toronto, ON M4W 1B9

Teleconference Details: 1 (866) 261 6767 (from outside the GTA)
(416) 850 2050 (from Toronto)
Access Code: 67893747#

Day 1- Orientation and Training

	ITEM	BY WHOM	TYPE	ACTION	TIME
1	Call to Order Roll Call, Welcome Introduction	M.P. Moore	Verbal	Information	9:00 a.m.
2	Training Overview	B. Kritzer	Verbal	Information	9:15
3	Conflict of Interest	C. Mietkiewicz	Verbal	Information	9:30
BREAK					10:30
4	Governance Training- Part 1	B. Kritzer	Verbal	Information	10:45
LUNCH					12:00 p.m.
5	Governance Training- Part 2	B. Kritzer	Verbal	Information	1:00
6	Finance Overview	B. Kritzer	Verbal	Information	2:00
BREAK					2:30
7	Portfolio Summaries <ul style="list-style-type: none"> • Registration • Quality Assurance • Professional Conduct • Communications 	U. Ifesi/ L. Thacker/ C. Moroney/ R. Pestana	Verbal	Information	2:45
8	Other Training <ul style="list-style-type: none"> • Workplace violence and safety • Fire alarm training 	B. Kritzer	Verbal	Document	3:30
ADJOURNMENT					4:00

DAY 2- Council Meeting					
9	Call to Order Roll Call, Welcome	M.P. Moore	Verbal	Information	9:00 a.m.
10	Conflict of Interest Declarations	M.P. Moore	Verbal	Decision	
11	Approval of Agenda	M.P. Moore	Verbal	Decision	
12	Approval of Minutes	M.P. Moore	Verbal	Decision	
13	Action Items from the June 26-27, 2017 Meeting <ul style="list-style-type: none"> • Staff to identify the operational impact of implementing the draft Specialties Assessment Framework- On-going • Staff to develop a risk analysis of approving/not approving Specialties Assessment Framework- On-going • Susan James to schedule an Executive Committee meeting for July 10 at 7 p.m. for the Registrar's performance review- Completed • Susan James to schedule a Council meeting for July 19 at 7 p.m. to approve a new registration policy- Council to consider this item on September 26, 2017 				
14	Election of Officers and Motion to strike Committees <ul style="list-style-type: none"> • Appointing members-at-large 	B. Kritzer	Document	Decision	9:15
15	Committee Reports Discussion <ul style="list-style-type: none"> • Q2 financial update • Registration and Examination • Quality Assurance • ICRC • Patient Relations 	President	Document	Decision/ Information	10:00
BREAK					10:30
16	Registrar's Report <ul style="list-style-type: none"> • FHRCO • Cooperation and Collaboration Working Group 	B. Kritzer	Verbal	Information	10:45
LUNCH					11:45
17	Registration Policy	U. Ifesi	Document	Decision	1:00
18	Briefing on Bill 87 and proposed By-Law Changes	B. Kritzer/ C. Moroney	Document	Information	1:30
BREAK					2:30
19	Revised Sexual Abuse and Professional Boundaries standards	C. Moroney	Document	Decision	2:45
ADJOURNMENT					3:15

College of Kinesiologists of Ontario Council Meeting Minutes- Day 1	
Date/Time of Meeting	Monday, June 26, 2017 at 11:15 a.m.
Chair	Mary Pat Moore
Note taker	Ryan Pestana
Present	Ken Alger (11:15-12:30), Steve Anderson (teleconference until 3:30), Marilyn Bartlett, Lori-Anne Beckford (teleconference), Daniel Crête, Samantha Eyles, Elwin Lau, Chad McCleave, Michelle Meghie (teleconference), Mary Pat Moore, Alexander Stephen, Michelle Young.
Regrets	Nicole DiFilippo, Kalen Johnson, Fergal O'Hagan, Jennifer Pereira, Graydon Raymer, Gennady Vaserbakh.
Staff in Attendance	Staff: Brenda Kritzer, Nancy Leris, Lara Thacker, Cara Moroney, Ugie Ifesi, Magdalena Reder, Ryan Pestana
Guests	Guests: Deanna Rudiak from CG Group
Constitution of the Meeting	As a 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.
Conflict of Interest	None declared.
Approval of Agenda	UPON A MOTION duly made by Michelle Meghie and seconded by Chad McCleave, it was resolved that the agenda be approved. CARRIED.
Approval of Minutes	UPON A MOTION duly made by Chad McCleave and seconded by Samantha Eyles, it was resolved that the Minutes of March 27, 2017 be approved. CARRIED.
	Action Items from the March 27, 2017 Meeting
	<ul style="list-style-type: none"> • Staff to review the posting of exam results on the website and provide relevant context and disclaimer for use of the data - Complete • Staff to consider outreach to faculty along with students during university visits- On-going • Cara Moroney to amend the definition of Support Personnel in the clinical supervision standard- Complete • Staff to present annual historical registration counts to Council for general and inactive classes- Complete
	College of Nurses Governance Presentation
	<p>Kevin McCarthy, Director of Strategy at the College of Nurses of Ontario (CNO), joined the meeting. He presented on CNO's new proposed governance framework. It was developed over a two-year period by a task force established by Council. The framework was approved in December 2016.</p> <p>Kevin highlighted some key points from the framework, including the proposal to reduce the Council's size from 37 to 12; end elections to Council and move</p>

	<p>to appointments made on the basis of competency; and ensure that an equal number of nurses and public members were appointed to Council. To arrive at the proposed model, the CNO conducted an extensive literature review and looked at other models that could be adopted. Council also participated in a self-assessment.</p> <p>Kevin then took questions. In response to questions regarding how the CNO engaged members and stakeholders in the development of the framework, Kevin explained that extensive consultation would occur during the implementation phase.</p> <p>Anyone may access the reports issued by the CNO Task Force on governance, the background papers and a summary of the recommendations through the CNO website.</p> <p>President Mary Pat Moore thanked Kevin for his presentation.</p>
	<p style="text-align: center;">Audited Financial Statements and Annual Report</p> <p>Audited financial statements</p> <p>Talia Rubin from the accounting firm Crowe Soberman presented the College’s audited financial statements. She noted that the College received a clean audit.</p> <p>MOTION Moved by Chad McCleave and seconded by Elwin Lau that Council accept and approve for publishing the audited financial statements for 2016/2017. Carried.</p> <p>2016/2017 Annual Report</p> <p>President Mary Pat Moore presented the College’s 2016/2017 annual report highlighting the College’s achievements and statistics from the previous year.</p> <p>MOTION Moved by Chad McCleave and seconded by Daniel Crete that Council accept and approve for publishing the 2016/2017 annual report. Carried.</p> <p>New College fiscal year</p> <p>Chad McCleave, Chair of the Planning and Finance Committee, presented a proposal from the Committee to align the College’s fiscal year with the membership year. Currently, the fiscal year is April 1- March 31, and the membership year is September 1- August 31. This difference makes financial reporting challenging and the College’s auditors have recommended aligning the years. Changing the fiscal year to the membership year would have no impact on the membership. Council discussed and accepted the proposal.</p> <p>MOTION Moved by Chad McCleave and seconded by Michelle Young that the College change its fiscal year to the membership year of September 1- August 31. The change will begin on September 1, 2018. Carried.</p>

	<p style="text-align: center;">Executive Committee/President's Report</p> <p>President Mary Pat Moore reported that Council members had completed a survey as part of the Registrar's performance review. Council would be meeting in-camera on Day 2 to discuss the survey.</p>
	<p style="text-align: center;">Registrar's Report</p> <p>Brenda Kritzer presented her report. She noted that Bill 87, the <i>Protecting Patients Act</i>, passed third reading in the Ontario Legislature. The College is working to communicate the changes to kinesiologists and will be further analyzing the impacts of the bill.</p> <p>Brenda reported that the Ministry of Health and Long-Term Care has engaged Deanna Williams, former registrar and CEO of the College of Pharmacists, to look at best practices in dealing with complaints and discipline of sexual abuse matters. Brenda noted that larger colleges with more experience in this area would be consulted. In addition, Deanna will be investigating and commenting on best practices in governance of professions, and will be looking abroad at models in other jurisdictions.</p> <p>Ryan Pestana, Communications Officer, noted that the Federation of Health Regulatory Colleges of Ontario (FHRCO) launched its new public-facing website (www.ontariohealthregulators.ca) on June 1. A radio ad was released across Ontario introducing the new website. Statistics would be provided at the September Council meeting.</p>
	<p style="text-align: center;">Feedback on the Supervision and Education Practice Standard</p> <p>Cara Moroney, Director of Professional Conduct, reviewed the feedback received from consultation on the revised Practice Standard- Supervision and Education of Students and Support Personnel. She noted that the feedback received was positive and that a few minor changes were implemented.</p> <p>Cara noted that many kinesiologists made comments about supervising high school students. Council members clarified that high school students may shadow kinesiologists in certain clinics, but they will never provide treatment. It was decided to change the definition of "student" in the standard to include any student seeking work experience in the field of kinesiology or a related field.</p> <p>MOTION Moved by Daniel Crête and seconded by Elwin Lau that Council approve the changes to the Practice Standard- Supervision and Education of Students and Support Personnel and that it be posted to the website. Carried.</p>
	<p style="text-align: center;">Reports Discussion</p> <p>Reports from each committee were provided in the meeting package provided to Council and posted on the College website. Council reviewed the reports and had no questions.</p>

	<p>Policy on Per Diems and Council and Committee Compensation</p> <p>The College pays Council and committee members according to rates set by the Ontario government for public appointees. The government has made minor changes to meal allowances and rates payable based on attendance. Council was asked to approve these changes. It was suggested to add the mileage rate to the policy.</p> <p>MOTION Moved by Chad McCleave and seconded by Samantha Eyles that Council approve the changes to the Policy on Per Diems and Council and Committee Compensation. Carried.</p> <p>Capital Assets Policy</p> <p>Council was asked to approve a Capital Assets Policy. The College’s auditors recommended that this policy be developed. The policy defines the value at which an item is deemed a capital asset versus an operating expense.</p> <p>MOTION Moved by Chad McCleave and seconded by Michelle Young that Council approve the Capital Assets Policy. Carried.</p>
Adjournment	Meeting adjourned at 3:40 p.m.

	<p>College of Kinesiologists of Ontario Council Meeting Minutes- Day 2</p>
Date/time of meeting	Tuesday, June 27, 2017 at 9:00 a.m.
Present	Steve Anderson (teleconference), Marilyn Bartlett, Lori-Anne Beckford (teleconference), Daniel Crete, Elwin Lau (teleconference- 10), Chad McCleave, Michelle Meghie (teleconference), Mary Pat Moore, Alexander Stephen, Michelle Young
Regrets	Ken Alger, Samantha Eyles, Nicole DiFilippo, Kalen Johnson, Fergal O'Hagan, Jennifer Pereira, Graydon Raymer, Gennady Vaserbakh
	<p>Alternative Dispute Resolution (ADR) Facilitator Policy</p>
	<p>Cara Moroney presented the draft ADR Facilitator Policy. Council already approved a general policy on ADR. This new policy proposes the use a volunteer roster for ADR facilitators. The policy outlines how volunteers would be selected. Cara noted that this is a cost-effective model that will enable the College to use qualified mediators or facilitators to resolve some matters which may be more appropriately dealt with through a mediation model than the investigations and discipline model.</p> <p>MOTION Moved by Lori-Anne Beckford and seconded by Marilyn Bartlett that Council approve for targeted circulation the draft ADR Facilitator Policy. Carried.</p>
	<p>Draft Specialties Assessment Framework</p>
	<p>Brenda Kritzer presented the draft Specialties Assessment Framework. The framework had been circulated for feedback in 2016. The feedback received was generally supportive. York University commented that the College might consider a competency-based model for accreditation.</p> <p>Brenda noted that in March the framework was reviewed by an expert consultant in higher education with extensive experience in the field of kinesiology and in accreditation of higher education programs. The expert had noted in his review that the draft framework is rigorous and thorough.</p> <p>Considerable discussion occurred regarding the potential impact of authorizing the use of specialty titles within the profession of kinesiology. It was noted that kinesiologists are permitted to use titles and credentials which help the public to understand their areas of practice. Council was reminded that the framework requires that anyone applying for authorization to use a specialty title must demonstrate how the public is better protected by such a title.</p> <p>Concerns were raised that if the College were to begin authorizing use of specialty titles, this may cause confusion with the public. It was also noted that there may be confusion as to what a specialty is. Council felt that the impact on the profession of kinesiology should be understood before the College authorizes use of a specialty title. Council requested that staff identify the impact on operations of implementing the Specialties Assessment Framework.</p>

	<p>Elwin Lau and Michelle Young excused themselves from the vote as they were in a perceived conflict of interest. Both are members of the Ontario Athletic Therapist Association, which has submitted a proposal in response to the draft Specialties Assessment Framework.</p> <p>Chad McCleave indicated that he could not vote in favour of accepting the framework.</p> <p>The President declared that a quorum was not available to vote on the Draft Framework.</p> <p>Council agreed that discussion on the framework should be deferred until the September meeting and asked that the analysis of operational impacts be conducted.</p> <p>MOTION Moved by Chad McCleave and seconded by Marilyn Bartlett that Council defer discussion on the framework until the September meeting. Carried.</p> <p>Brenda Kritzer noted that she would provide general feedback to the Ontario Athletic Therapist Association on their proposal.</p>
	<p style="text-align: center;">Registration Policies</p> <p>Ugje Ifesi, Manager of Registration Services, presented changes to various registration policies. The changes were as follows:</p> <ul style="list-style-type: none"> • The Professional Liability Insurance Policy has been revised to add that members may obtain insurance through an employer, so long as it meets the College’s requirements. • The Inactive Policy has been revised to state that members who are registered in the Inactive Class for more than two years will be referred to the Registration Committee upon a request to move to the General Class. • The Police Background Check Policy has been revised and is now titled the Good Conduct Policy. Changes have been made to ensure that good character and conduct are also considered in the application process, not just criminal matters. In addition, the policy now applies to members as well as applicants. • A policy has been created to cover suspended members returning to the General Class following a suspension of more than three years. <p>MOTION Moved by Alexander Stephen and seconded by Daniel Crête that Council approve the changes to the Professional Liability Insurance Policy and that it be posted to the website. Carried.</p> <p>MOTION Moved by Marilyn Bartlett and seconded by Lori-Anne Beckford that Council approve the changes to the Inactive Certificate of Registration and Reinstatement to the General Class Policy and that it be posted to the website. Carried.</p>

	<p>MOTION Moved by Michelle Young and seconded by Michelle Meghie that Council approve the Good Conduct Policy and that it be posted to the website. Carried.</p> <p>MOTION Moved by Daniel Crête and seconded by Chad McCleave that Council approve the Reinstatement to the General Class after Administrative Revocation Policy and that it be posted to the website. Carried.</p>
	<p style="text-align: center;">Sexual Abuse Principles</p> <p>Cara Moroney presented principles created to explain how the College would deal with matters of sexual abuse. The principles are the following:</p> <p><i>When dealing with concerns about sexual abuse, the College will:</i></p> <ul style="list-style-type: none"> • <i>Treat you with sensitivity and respect</i> • <i>Provide you with guidance and support</i> • <i>Address the matter quickly and appropriately</i> • <i>Hire investigators with training and experience in sexual abuse cases</i> • <i>Provide you with some money for you to seek counselling for the abuse suffered</i> <p>MOTION Moved by Michelle Young and seconded by Elwin Lau that Council approve the sexual abuse principles for publication to the College website. Carried.</p>
	<p style="text-align: center;">Registrar’s Performance Review</p> <p>Council moved to an in-camera session to discuss the Registrar’s performance review.</p> <p>Motion to go in-camera made by Daniel Crête and seconded by Marilyn Bartlett.</p>
	<p style="text-align: center;">Fast Tracking of Sexual Abuse Complaints Policy</p> <p>Cara Moroney presented the Fast Tracking of Sexual Abuse Complaints Policy. This policy commits the College to resolving complaints related to sexual abuse within five months unless there are complicating factors, such as multiple complainants. The policy also identifies who is responsible for each step of the complaint process and what will happen within the five-month period. The policy was developed as one way to respond to the <i>Protecting Patients Act</i>.</p> <p>MOTION Moved by Marilyn Bartlett and seconded by Chad McCleave that Council approve the Fast Tracking of Sexual Abuse Complaints Policy and that it be posted to the College website. Carried.</p>
	<p style="text-align: center;">Revisions to Mandatory Reporting Guideline</p> <p>Cara Moroney presented proposed changes to the Mandatory Reporting Guideline. The reporting of sexual abuse has been given greater prominence</p>

	<p>and changes related to the <i>Protecting Patients Act</i> have been included. The guideline is to be circulated for feedback.</p> <p>MOTION Moved by Michelle Young and seconded by Lori-Anne Beckford that Council approve for circulation for a period of 60 days the proposed changes to the Mandatory Reporting Guideline. Carried.</p>
	<p style="text-align: center;">Action Items</p> <ul style="list-style-type: none"> • Staff to identify the operational impact of implementing the draft Specialities Assessment Framework • Staff to develop a risk analysis of approving/not approving Specialities Assessment Framework • Susan James to schedule an Executive Committee meeting for July 10 at 7 pm to discuss the Registrar’s performance review • Susan James to schedule a Council meeting for July 19 at 7:00 pm to approve a new registration policy.
Adjournment	Meeting adjourned at 1:10 pm

2017-2018 Committee Composition (Draft)

Committee	Professional members	Public members	Member(s)-at-large
Executive	Jennifer Bushell Jennifer Pereira (Vice-President) Michelle Young	Steve Anderson Mary Pat Moore (President)	N/A
Finance	Michelle Young Stefanie Moser Nelson Amaral	Chad McCleave (remains chair) Kalen Johnson	
Registration	Samantha Eyles (remains chair) Daniel Crete Elwin Lau AJ Stephen Graydon Raymer Ryan Wight	Ken Alger (chair) Steve Anderson Marilyn Bartlett Lori-Anne Beckford Mary Pat Moore	Justin Fabella Jessica Johnson Francesca McKenzie Faith Delos-Reyes Alisha Gleiser
Quality Assurance	Daniel Crete Jennifer Bushell Samantha Eyles Fergal O'Hagan Graydon Raymer Jennifer Pereira (new chair)	Kalen Johnson Ken Alger Marilyn Bartlett Michelle Meghie	Marc Davis Kim Cullen Susan Garfat Andrea Scrivener
ICRC	Nelson Amaral Nicole DiFilippo Elwin Lau AJ Stephen Gennady Vaserbakh Michelle Young	Lori-Anne Beckford (remains chair) Steve Anderson Marilyn Bartlett Kalen Johnson Michelle Meghie	Chris Pizzimenti Rosario Colomba Nicole Last Alex Burnaru
Patient Relations	Fergal O'Hagan Stefanie Moser Jennifer Pereira Ryan Wight Gennady Vaserbakh Michelle Young	Michelle Meghie (remains chair) Ken Alger Lori-Anne Beckford	Jonathan Kwok Renee Raymond Evyanne Wooding
Examination Appeals	Nelson Amaral Nicole DiFilippo	Michelle Meghie (remains chair) Chad McCleave	

Discipline	All	Steve Anderson Mary Pat Moore (new chair) All	Chris Serran Rosario Colomba Denis Beaulac Richard Wotherspoon
Fitness to Practise	All	Mary Pat Moore	

Red= Committee chair



Resolution- Committee slates for 2017/2018

Whereas Executive Committee is required to appoint Council members and non-Council members to committees; and

Whereas the term of the existing committees has expired; and

Whereas Council members, including three newly elected Council members, were canvassed for their interest regarding which committees they wished to serve on for the coming year; and

Whereas kinesiologists were invited to submit their applications and résumés for positions as members-at-large on committees; and

Whereas per By-law 13, the Executive Committee at its last meeting developed a proposed slate for committee membership based on the needs of each committee and the interests and skills of Council members;

Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario appoints the committee members and chairs as per the attached slate developed and recommended by the out-going Executive Committee.

Moved by: _____

Seconded by: _____

Date: September 26, 2017

**COLLEGE OF
KINESIOLOGISTS
OF ONTARIO**



Draft Operational Plan 2017-2018

About the Operational Plan

The College of Kinesiologists is the regulatory body that governs the profession of kinesiology in Ontario. The College receives its authority from the *Kinesiology Act, 2007* and the *Regulated Health Professions Act, 1991*. It is governed by a Council, comprised of kinesiologists and members of the public appointed by the Ontario government, who ensure the College achieves its mandate to regulate the profession of kinesiology in the public interest. Council sets the College's strategic direction and develops the policies and standards that support achievement of the mandate. The College's daily affairs are managed by a Registrar and CEO, who is accountable to Council, and ensures that policies and procedures are implemented. The Registrar is supported by seven fulltime staff members.

The operational plan is an important document that details what the College is expected to accomplish during the year and it holds the College accountable for how it is achieving its mandate. The operational plan is presented to Council at the end of each quarter, with comments from staff that provide progress updates on work undertaken to achieve the objectives. The business plan is revised every year, and Council provides final approval of the document.

Vision: Our vision is a healthier Ontario through excellent kinesiology practice.

Mission: Our mission is to protect the public through governing and ensuring excellent professional practice of kinesiologists in Ontario.

Values: The College of Kinesiologists holds honesty and integrity as its guiding principles. The College is committed to operating in a fair and open manner and to treating its staff, members, the public and stakeholders with respect and dignity.

Strategic Goal One: *The value of the regulation of kinesiologists is demonstrated and recognized through public accountability.*

Strategic Objective 1): Public Awareness of and Confidence in the College

Strategic Initiatives:

- Begin outreach to employers of kinesiologists to support their understanding of reporting obligations, the standards that kinesiologists must adhere to and the benefits to the employer and their clients of regulation of health care professionals. This will be done by leveraging kinesiologists' high engagement with the College and using them to reach employers;
- Continue working with FHRCO on a Federation-wide public awareness campaign that promotes regulated health professions in Ontario and the benefits of regulation to the public;
- Continue the development of public awareness campaigns that highlights the role of kinesiologists in the healthcare system and how the College protects the public;

Strategic Objective 2): Retention of members and registration of unregulated practitioners

Strategic Initiatives:

- Outreach to leaders to encourage complementary approaches in communications and building the value proposition.

Strategic Goal Two: Members are supported by the College in maintaining and enhancing professional competence to improve the health of Ontarians.

Strategic Objective 1): The practice of kinesiology is enhanced by access to educational and professional development programs that provide information and training in technological and scientific advancements in the discipline and practice of kinesiology.

Strategic Initiatives:

- Encourage cooperative ventures among trainers to ensure broad access to training.
- Request all universities to respond to the educational requirements survey for 2017-18
- Ensure members have access to practice guidance through:
 - mentorship program
 - practice resources, webinars and workshops
 - online learning modules
 - regional educational sessions and employer sessions
- Encourage further enrichment of university undergraduate programs,
- Understand and help to address members' needs for professional development
- Provide meaningful opportunities to members for involvement in College initiatives

Strategic Objective 2): The College understands and responds in a flexible manner to members' learning needs

Strategic Initiatives:

- *Conduct inter-program analytics and report on trending*
- *Consider forum that engages universities and professional associations to collaborate on education/training opportunities*

Strategic Objective 3): Professional practice standards and guidelines are comprehensive, current and meaningful

Strategic Initiatives:

- Assess gaps or areas for improvement in practice by enhancing the analytics and trends assessment of data gathered by the College
- Address gaps in areas of practice and provide support by:
 - directing members to educational resources (internal and external)
 - consulting and collaborating with other colleges
- Conduct a comprehensive review of the standards (2016-2018)
- Revalidate the Jurisprudence e-Learning Module in 2017-18 with improved practice scenarios. Encourage further collaboration with other colleges to ensure standards are mutually supportive, and assist kinesiologists in working collaboratively with other health professionals

Strategic Goal Three: CKO is responsive to the public's need for information about its members, its policies and its practices.

Strategic Objective 1): The College publishes user-friendly, timely information about its decision-making processes, policies, and members such that the public is able to understand the extent and limit of college powers, and has sufficient information about members to make informed choices about their health care needs.

- *Strategic Initiatives:*
- Provide information to the public on the College's continuing transparency efforts – on-going
- Provide information publicly about decision-making processes and what decisions mean
- Collaborate with other Colleges to harmonize transparency practices and to align with or cooperate in developing policies and standards (e.g., streamlined record-keeping, clinic regulation)
- Reassess Kinesiology Core Competency Profile and blueprint in year 5 (2017-18)

Operational Plan 2017-18

Strategic Goal One: *The value of the regulation of kinesiologists is demonstrated and recognized through public accountability.*

Target	Measures	Status (Q1)	Status (Q2)
<p>Communications</p> <p>Public Begin outreach to employers of kinesiologists so that employers understand their reporting obligations, the standards that kinesiologists must adhere to and the benefits of regulation to the employer. This will be done by leveraging kinesiologists' high engagement with the College and using them to reach employers.</p> <p>Continue working with FHRCO on a Federation-wide public awareness campaign that promotes regulated health professions in Ontario and the benefits of regulation to the public.</p> <p>Continue the development of public awareness campaigns that highlight the role of kinesiologists in the healthcare system and how the College protects the public</p>	<ul style="list-style-type: none"> • Develop and distribute employer-focused brochure • Enhancements to website to include employer responsibilities • Distribution of brochure via e-newsletter to members, including background article • Support FHRCO's launch of new website in 2017-18 directed at increasing public awareness and understanding of health professions governance • Continue current brochure campaign using vendor's network of doctors' offices and the diabetes health network. • Consider additional mechanisms in which kinesiologists in practice can be profiled. Currently two videos aimed at the public are available through the website and You Tube. 	<ul style="list-style-type: none"> • Vendor engaged to design employer brochure and content developed. • New FHRCO website launched in May. Radio ad to begin airing June 1. The College will feature an article promoting the site in its June e-newsletter. • IDS Canada engaged to continue successful public awareness campaign in doctors' offices and diabetes clinics. Vendor engaged to develop second public brochure. Distribution will begin in July. 	<ul style="list-style-type: none"> • Vendor developing brochure that will be posted to College website and emailed to members. • Provided input to FHRCO on the development of a public awareness video. • Brochure distributed in July and is in market until July 2018. Statistics to be provided at the September Council meeting.

Strategic Goal Two: *Members are supported by the College in maintaining and enhancing professional competence to improve the health of Ontarians.*

Target	Measures	Status (Q1)	Status (Q2)
<p><u>Members</u></p> <p>Development of communications pieces directed to members that enhance their competencies (e.g. consent, reporting obligations, appropriate boundaries, ethics, etc.)</p> <p>Survey kinesiologists on the efficacy of College communications and how we can enhance communications</p> <p><u>Member Retention</u></p>	<ul style="list-style-type: none"> • Focused articles in @CKO throughout 2017 on mandatory reporting, maintaining boundaries, and obtaining consent • Release video on peer and practice assessment • Produce a video on consent • Release of videos on standards and professionalism • Develop online survey to gauge members' feedback on the website and e-newsletter • Engage members in development of definition of "inactive" 	<ul style="list-style-type: none"> • Videos on the PPA, professionalism, and standards and guidelines released to the membership in April. Videos featured in the e-newsletter and promoted on social media. • Articles concerning Mandatory Reporting and survey questions completed in April and June newsletter. 	<ul style="list-style-type: none"> • Revisions to the Supervision and Education Standard finalized, circulated and published with accompanying article in newsletter. • Mandatory Reporting Guideline revised and currently out for consultation. • Revisions to Professional boundaries resources to reflect Bill 87 and raise awareness to go to Council in September
<p><u>Quality Assurance</u></p> <p>Understand and address members' needs for professional development and ensure access to mentorship program and practice resources</p> <p>Encourage further enrichment of university undergraduate programs</p> <p>Analyse and develop responses to QA program evaluation metrics</p> <p>Facilitate meetings with professional associations to collaborate on professional development opportunities and discuss approaches to membership engagement</p>	<ul style="list-style-type: none"> • Launch Ethics and Professionalism e-Learning Module And Prevention of Sexual Abuse e-Learning Module • Increase number of peer and practice assessments • Develop further practice resources internally (e.g. infographics, animated explainer videos, etc.) • Continue work with representatives of educational institutions to improve their understanding of students' needs and to collaborate on education/training opportunities for members • Facilitate second College student placement in partnership with Ontario academic institution • Conduct program evaluation to measure 	<ul style="list-style-type: none"> • Facilitated peer assessor training sessions in April and May (expanded assessor pool by 233%) • Peer and practice assessment notices sent to 13 members on May 1st • Launched Ethics and Professionalism e-Learning Module May 1st • Released Quality Assurance Report and Ethics and Professionalism e-Learning Module account to CKO-Universities Liaison Committee members and professional associations. 	<ul style="list-style-type: none"> • Assessors conducted 13 Spring/Summer 2017 peer and practice assessments. Reports sent to members. • Notices distributed to members selected to participate in Fall 2017 peer and practice assessment. • Recruited Lakehead University kinesiology student for winter junior analyst placement • Initiated development of members' compendium of practice resources linked to the essential competencies. • Partnered with professional associations to identify mentors for members requesting practice support. • Follow-up emails sent to members yet to complete the ethics and professionalism e-learning module. • Work on the sexual abuse e-learning module temporarily suspended. Several colleges

	<p>impact of programming, relevance, and to identify efficiencies</p> <ul style="list-style-type: none"> Facilitate focus groups to solicit feedback on program components and stakeholder satisfaction. 		<p>exploring opportunities for collaboration and sharing of resources.</p> <ul style="list-style-type: none"> Worked with the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario to provide portfolio advice and share insights about development of program components and platforms.
<p>Registration</p> <p>Registration processes are consistent with the Fair Access to Regulated Professions Act and the work of the Office of the Fairness Commissioner (OFC)</p> <p>Suspended and inactive class members understand and meet requirements to re-enter active practice</p> <p>Jurisprudence e-Learning Module reflects the changing practice and regulatory environment</p> <p>The College database (iMIS) responds to the needs of staff, applicants and members</p> <p>Development of Examination Blueprint</p> <p>The examination development process meets the College's needs and fairly evaluates the competency of potential</p>	<ul style="list-style-type: none"> Implement process to register professional corporations Implement recommendations for improving registration practices (if identified by the OFC during Audit) Revise application and renewal forms to ensure reporting of any instances of complaints relating to behaviours which would be considered disgraceful or dishonourable by the profession, particularly as such behaviours would relate to sexual abuse. Revise policy on how Registration Committee will handle "good conduct" reviews. Ensure that suspended members, and members facing revocation, are duly informed of suspension and implications of such. (This is for non-payment of fees) Policy development on re-entry after revocation for non-payment. Jurisprudence module revised and updated relating to sexual abuse with new practice scenarios. 	<ul style="list-style-type: none"> Included checklist for international applicants as recommended by OFC. Moved the exam appeals policy to area on website containing other registration policies as recommended. Good Conduct Policy revised for approval by Council in June. Re-instatement after Revocation Policy developed for approval by Council in June. Process for notification for suspended members will begin in June. 	<ul style="list-style-type: none"> Application and Professional Corporation Guides have been updated Implemented process to register professional corporations. Revised application and renewal forms to ensure it adhered to the Ministry's health workforce reporting requirements. Annual Renewal has been completed with late fees charged to members who have not renewed by the deadline. Process for resignation approval revised.. Suspended members and members facing revocation were duly informed. Expiration of 1-year period for registration following notification of eligibility Policy developed for approval by Council in September Contract negotiations for the development and administration of examination services - ongoing

<p>measures</p> <p>Reassess Kinesiologist Core Competency Profile and blueprint in year 5 (2017/2018)</p>	<ul style="list-style-type: none"> • Review and clean-up of data • Software upgrade • Re-design application and renewal forms to ensure alignment with MOHLTC requirements • Re-design applicant and member portals to enable greater self-service functionality <ul style="list-style-type: none"> • Develop new contract for provision of examination development and administration services. • Develop plan for updating Core Competency profile. • Revision of Education & Supervision Standard Schedule of Standards Review Plan 	<ul style="list-style-type: none"> • Data cleanup is being conducted. • Developing the process for professional corporation approval, renewal and publication on register • Initiated the process for contract negotiations for the development and administration of examination services. • Core competency profile update will not begin till Q3/Q4 which will be based on contract negotiations. 	<ul style="list-style-type: none"> • Database update planned for Q3 • Data clean-up completed • Focus groups conducted with staff to determine database needs. Roadmap developed to help configure new database. • Began looking for other providers to host the database • Multiple referrals to Committee to consider issues such a proposed registration after expiration of one-year following the exam, questions relating to educational equivalency and good character.
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Strategic Goal Three: *The College is responsive to the public's need for information about its members and stakeholders, its policies and its practices.*

Target	Measures	Status (Q1)	Status (Q2)
<p>Professional Conduct</p> <p>Provide opportunities for members of the public and all stakeholders to comment on bylaws, policies, programming and quality of College's website</p> <p>Provide information to the public on its members and on the College's continuing transparency efforts</p> <p>Collaborate with other Colleges to harmonize transparency practices and to align with or cooperate in developing policies and standards (e.g. streamlined record keeping, clinic regulation)</p> <p>Respond to legislative changes regarding transparency</p> <p>Comprehensive Standards Review</p>	<ul style="list-style-type: none"> • Publish on college website and in Newsletter, how the College is actively working to prevent sexual abuse by members • Alternative Dispute Resolution processes established and communicated. • Review website to ensure that it is easy to navigate and to identify ways in which users can access information on our members, on policies and practices, and on new initiatives. • Review opportunities to participate in public meetings, publish on our website and newsletter, our availability to attend speaking engagements • Ensure public register provides the necessary information pursuant to transparency by-laws. • Review actions taken by others to enhance transparency and evaluate whether their methods are transferrable to the CKO • Analyse requirements of Bill 87 to ensure that we have met all requirements 	<ul style="list-style-type: none"> • Development of principles for approval by Council in June • Facilitator policy in development for review by Council in June • Website review continues and improvements are initiated to reflect new policies. • Review of Bill 87 and implications for the College continues. The College expects more analysis to be shared through FHRCO. • Governance considerations will be undertaken following further communications from the MOHLTC 	<ul style="list-style-type: none"> • Principles on addressing sexual abuse approved and website revisions made • By-law revisions to Council in September to reflect Bill 87 changes and increase transparency • (ADR) Facilitator policy approved for consultation – roster is in development – speaking to potential partners and other Colleges • CKO will work with FHRCO committees to ensure consistency wherever possible in responses to Bill 87. • No further work on governance outside of the context of project on Collaboration and Cooperation.

Priority: College demonstrates good governance, ensures administration processes are efficient, sound risk management and strategic acuity

Target	Measures	Status (Q1)	Status (Q2)
<p><u>Administration/Management & Council</u></p> <p>Risk to the College’s reputation, viability, and mandate are understood by Council and mitigating strategies are in place to assure ongoing operations</p> <p>Council plans for the long term as well as the short-term and ensures that operational plans align with strategic goals and are responsive to the changing environment of health care governance</p>	<ul style="list-style-type: none"> • Risk Management Strategy re-evaluated to ensure that policy requirements re: sexual abuse therapy fund are addressed. • Council members complete the Council Effectiveness Evaluation Framework and identify actions necessary by the Council or the College to improve effectiveness. • Collaboration with other regulators and the ministry regarding regulation to address issues in clinics • Development of performance measures through business planning and auditing 	<ul style="list-style-type: none"> • Council will complete the self evaluation in 2018. Form will be revised to reflect comments from Council members in the past. • 2016/2017 Annual Audit completed. Clean audit report 	<ul style="list-style-type: none"> • Review of risk management plan to commence with staff at end of quarter/start of Q3 (NEW) College initiated Collaboration and Cooperation working group involving 11 small colleges. Three priority initiatives identified.

Key outstanding work at end of Q2:

- Work on the process and costs that would entail with implementation of the draft Specialties Assessment framework
- Member focus groups to define and validate “inactive.”
- Contract negotiations relating to exam administration.
- Re-examination of Core Competency Profile

REVENUES

COLLEGE OF KINESIOLOGISTS OF ONTARIO - REVENUE REPORT FOR Q2 (JULY- SEPT) INTERIM,
FOR THE FISCAL YEAR 2017/2018

updated 15/09/2017

	1	2	3	4	5	6	7	8
CATEGORY	APPROVED REVENUE FORECAST 2017/2018	PROJECTIONS QTR 1 APR- JUN 2017/2018	ACTUALS QTR 1 APR-JUN 2017/2018	PROJECTIONS QTR 2 JUL - SEPT 2017/2018	INTERIM ACTUALS QTR 2 JUL - SEPT 15 2017/2018	TOTAL REVENUES RECEIVED TO DATE Q1 +Q2	VARIANCE TO BUDGET Q1 + Q2 2017/2018	
	\$	\$	\$	\$	\$	\$	\$	\$
Revenue:								
Jurisprudence Fee (\$48.25)	14,475	5,700	6,473	6,700	9,021	15,494	1,019	
Application Fee (\$100)	30,000	7,500	11,000	11,900	20,300	31,300	1,300	
Examination Fee (\$400)	120,000	2,400	8,300	60,000	111,349	119,649	351	
Registration Fees*	1,656,563	19,538	25,595	1,550,588	1,454,691	1,480,286	176,277	
Interest Income	3,000	750	833	750	954	1,787	1,213	
TOTAL REVENUE	1,824,038	35,888	52,201	1,629,938	1,596,315	1,648,516	175,522	
* Registration Detail	\$	\$	\$	\$	\$	\$	\$	\$
New Registrants								
- Sept - Nov (\$650)	48,750			19,500	11,050	11,050	37,700	
- Dec - Feb (\$487.50)	24,375					-	24,375	
- Mar - May (\$325)	16,250	12,350	17,875			17,875	1,625	
- Jun - Aug (\$162.50)	12,188	6,500	6,668	5,688	3,738	10,406	1,782	
Renewal (\$650)	1,493,700			1,471,600	1,384,853	1,384,853	108,847	
Renewal Installment Payment			1,615		1,950	3,565	3,565	
Inactive (\$200)	54,000	-	200	50,400	60,400	60,600	6,600	
Inactive Installment Payment			50		150	200	200	
Inactive Late (\$50)	1,000			400	350	350	650	
Registration Late Fee (\$100)	6,000			3,000	800	800	5,200	
Re-instatement Fee (\$325)	300			-	-	-	300	
Professional Corporation Installment			100			100	100	
Refunds			913		8,600	9,513	9,513	
Total	1,656,563	18,850	25,595	1,550,588	1,454,691	1,480,286	176,277	

*This report is from July 1 to Sept 15. The quarter ends on Sept 30

Notes

All revenue categories except for "Registration fees" are expected to exceed projections by end of Q2. In Q2, Registration renewal will be lower than expected. Members who have not renewed are expected to renew by October 16. These members will be suspended after October 16. Some members paid their registration fee by installment. Most of the cheques will be cashed by January 2018. Efforts are being made by staff to contact all members who have failed to renew.

Registration Breakdown

Renewal In General Class	2142
Inactive Class	305
Total membership	<u>2447</u>
<u>Resignations Q 1 & Q2</u>	
General Class	39
Inactive Class	17
Total Resignations	<u>56</u>
Members to renew in General Class	126
Members to renew in Inactive Class	69
Total Expected to renew	<u>195</u>

Number of resignations are expected to increase because 195 members have not yet renewed.
Prorated refunds are issued for members moving from general class to inactive class.

EXPENDITURES

COLLEGE OF KINESIOLOGISTS OF ONTARIO - EXPENDITURE REPORT FOR Q2 (JUL - SEPT) INTERIM, FOR THE FISCAL YEAR END 2017/2018

updated 15/09/2017

	1	2	3	4	5	6	7	8
CATEGORY	APPROVED BUDGET (2017/2018)	PROJECTIONS QTR 1 APR - JUN 2017/2018	ACTUALS QTR 1 APR - JUN 2017/2018	PROJECTIONS QTR 2 JUL - SEPT 2017/2018	INTERIM ACTUALS QTR 2 JUL - SEPT 15 2017/2018	TOTAL EXPENDITURES TO DATE Q1+Q2	VARIANCE TO BUDGET Q1 + Q2 2017/2018	
	\$	\$	\$	\$	\$	\$	\$	\$
Expenditure:								
Council & Committees	60,500	7,200	7,763	13,975	116	7,879	52,621	
Professional Fees	29,125	20,373	15,619	3,749	1,136	16,755	12,370	
Communications & Media	145,700	60,712	40,384	20,038	22,205	62,588	83,112	
Rent & Facility Costs	224,421	54,607	53,590	54,605	54,605	108,195	116,226	
Office & General	108,910	12,089	14,559	49,227	50,698	65,257	43,653	
Salaries & Wages	895,903	223,976	185,035	223,975	192,944	377,979	517,924	
Registration	169,150	35,552	23,921	31,802	38,468	62,389	106,761	
Quality Assurance	82,170	22,200	15,326	26,950	15,713	31,039	51,131	
Professional Conduct	59,500	5,000	1,041	-	1,626	2,666	56,834	
TOTAL EXPENDITURE	1,775,379	436,709	357,239	424,321	377,510	734,748	1,040,631	

**Variance: difference between the approved budget amount and actuals for Q1 & Q2.

Notes:

Council & Committees including Elections

Expenses for travel and accommodation for Council came slightly over in Q1. Payment of expenses for three Registration Committee meetings by end of Q2 and Q3. QA Committee meeting scheduled for Q2 will happen in Q3 instead. Expenses for the two-day Council meeting planned in Q2 will also be paid in Q3. Members of the Registration Committee have not submitted expenses for the three meetings. Allocations for Q2 are expected to come under.

Professional Services

Savings in Q1 resulted from accounting services coming under in Q1.

Communications and Media

Expenditures for the public awareness brochure distribution program in health care centres planned for Q1 only but happened in Q1 and Q2. Expenses for printing of brochure distributed at university visits will be completed by the end of Q2. The College budgeted for the ordering of promotional materials for these visits. This will not be necessary as there are plenty of materials from last year. The College planned to undertake a digital public awareness initiative in Q2. This has been deferred to Q4.

Office and General

Expenses for credit card processing fees were higher than allocations during renewal. Allocations made based on the assumption that new payment processing options would be in place prior to renewal. Decision to delay implementation of new option until after renewal to prevent interruption in collection of revenues. Membership to be informed of new payment processing options and implementation in Q3.

Registration

Expenses for the database maintenance were higher than anticipated in Q2 because changes to the renewal form required more support. As well, the College has undertaken clean-up of the database server to ensure stability.

Quality Assurance

Expenses for Peer Assessor training and Peer and Practice assessments came under in Q1 and Q2. Fewer people did assessor shadowing than projected.

Professional Conduct

Expenditures for Investigations and Hearings and Legal Advice are demand driven. Although we make an allocation each quarter, expenditures may not happen in that quarter. Expenses in Q2 is for discipline Committee training

Registration Report

Committee: Registration Committee
Prepared for: Council
Date: September 26, 2017

- **Registration Committee meetings**

The Registrar has made several referrals to the Registration Committee since the June meeting. A number of files have been dealt with and a future meeting is scheduled for review of the outstanding application files, by a Panel of the registration Committee. Matters addressed by Panels include education equivalency, good character and registration after one year following successful completion of the examination.

- **Fall Examination**

The fall sitting of the College's entry-to-practice examination will occur on Saturday, September 16, 2017. There are 303 candidates registered for the exam making this one the biggest suiting to date. There are 7 applicants who requested testing accommodations and 3 applicants who requested the exam in French. Here is a breakdown of where those candidates will write the exam:

Toronto	212
London	43
Ottawa	22
North Bay	11
Windsor	7
Thunder Bay	8

The 303 candidates registered to write the exam represent an increase of 77 candidates or 34% increase from this year's spring exam.

- **Membership Renewal**

Renewal started on July 4, 2017; members had until August 31, 2017 to complete their renewal; however due to technical issues we had experienced on the last day of renewal the deadline was extended until September 8. Here is a breakdown the renewal statistics as of Thursday, September 14:

Renewed	2454
Have not renewed	209
Resigned	63

A total of 7.7% of membership have not renewed while 2.2% have resigned from the College. The College is following up with members that have not renewed.

On September 15, 2017 the College sent out *Notices of Intention to Suspend* to those members who have not yet renewed. Section 16 (1) of the registration regulation allows the Registrar to suspend a member if they fail to renew within 30 days after the notice was given. Failure of members to renew and pay their fee by October 16, 2017 will result in them being suspended for non-payment of fees.

The member's certificate will be revoked if the member does not comply with the renewal requirement within 3 years of the suspension. When a member is suspended they are prohibited from practising as a kinesiologist and from using the title "kinesiologist". The College will inform the member's last employer on record that the member has been suspended and is no longer in good standing with the College. Finally, the fact that a member was suspended appears indefinitely on College's public registry.

- Membership Update

As of September 20, 2017 the College has 2454 total members registered. There are 2149 members in the General Class and 305 members in the Inactive class. Current numbers include members who renewed and new members registered in September.

Registration Numbers as of September 20, 2017

Years	General Class	Inactive Class
2014	1280	29
2015	1419	123
2016	1731	215
2017	2149	305

❖ Members with payment plans are not included in the 2017 statistics.

Committee Report

Committee: Quality Assurance
Prepared for: Council
Date: September 25 & 26, 2017

Peer and Practice Assessment

Thirteen peer and practice assessments (PPA) were conducted in the Spring/Summer 2017 PPA Cycle. Participants were randomly selected, granted a deferral in an earlier cycle or indicated that they had insufficient currency on last year's annual renewal form. Assessor reports have been sent to members along with summaries of opportunities for improvement.

Newly appointed assessors observed and shadowed the Spring/Summer PPAs to provide more hands-on training and to ensure consistency with scoring.

Notices to participate in the Fall 2017 PPA Cycle were distributed to twenty six randomly selected members on September 15th.

PPA behaviour based interview tools were revised to include questions that address and/or prevent sexual abuse in preparation for the Fall 2017 cycle.

Ethics and Professionalism E-Learning Module

All General Class members were required to complete the Ethics and Professionalism e-Learning Module by July 31, 2017. Certain topics, such as ethics, are critical to delivering competent, safe and patient/client-centred care, and require the College to implement mandatory learning. The module contains multiple choice practice scenarios to help members better understand how to apply the College's Code of Ethics in daily practice and identify opportunities for improvement. Completion may be counted as a learning activity towards members' continuing professional development requirements.

Several follow-up notices have been emailed to non-compliant members. Members who fail to complete the module may be required to participate in a peer and practice assessment, or be referred to the Inquiries, Complaints and Reports Committee for non-compliance with QA Program requirements.

Mentorship

The College has partnered with the Ontario Kinesiology Association (OKA) and has reached out to the Ontario Athletic Therapist Association to identify members interested in mentoring fellow kinesiologists. Several kinesiologists have identified that they would benefit from working with an experienced practitioner to enhance their knowledge, skills and judgment, and obtain objective feedback and support. Kinesiologists have indicated that they are looking for expertise in business

development, home-based programming and rehabilitative therapy, self-image coaching, and working with and marketing to unique communities. The OKA issued a call and the College has received several expressions of interest and has been working over the past month to pair kinesiologists. Being mentored and being a mentor may be counted as a learning activity towards members' continuing professional development requirements.

Kinesiology Student Winter Placement

College staff interviewed several students for the Junior Analyst winter placement position, and offered the position to a student in the Professional Kinesiology Graduate Diploma program at Lakehead University. The placement will expose the student to the regulatory sphere and provide him with a unique opportunity to develop professional skills beyond a traditional clinical field placement.



ICRC/Professional Conduct Report

There have been no meetings of the ICRC since the last Council meeting. The College has received 2 complaints and initiated 1 registrar's report investigation, which the ICRC will meet to review in approximately early October.

During the October meeting, it is anticipated that annual training will take place as well as a review of a draft Oral Caution procedural policy.

There is an HPARB hearing set for September 28. Council will be updated when the decision of the board is released – this can take several months. Cara Moroney is attending the hearing. The College is not a party but is present to answer any questions the board may have about its policies and procedures.

A review of any self-reports as a result of renewal will be underway and any serious issues identified will be followed up.

The College is continuing its work on developing a process for Alternative Dispute Resolution and outreach has begun to start developing a roster of Facilitators . There was a meeting with 6 other regulators who are very interested in signing on to use the roster once it is more fully developed. Osgoode Hall's mediation clinic may be a fruitful partnership and the College will be exploring this potential further.



Patient Relations Committee Report

The Patient Relations Committee met on August 30, 2017 for a half day teleconference. The committee reviewed proposed changes to the Practice Standard – Professional Boundaries as well as the corresponding guideline. In addition they reviewed the proposal to remove the Practice Standard – Sexual Abuse from circulation.

The committee recommended these changes and proposals be brought forward to Council for approval. They are in the materials for this meeting.

The next meeting of the Patient Relations will focus on training and continue with the standards review plan. This will change pending any new directions from the Ministry on the issue of sexual abuse.

Briefing/Decision Note

Prepared for: Council
Date: September 26, 2017
Issue: Fair and reasonable treatment of applicants who wish to exercise their right to register, after one year has expired

Background:

The purpose of this policy is to outline the conditions upon which an applicant may be granted a certificate of registration after more than one year has passed from the date of being approved to register.

The College's mandate is to protect the public by attempting to ensure that only competent, safe and ethical practitioners are registered.

Analysis:

The College has noted that some applicants write and pass the examination shortly after completing their education. Often these recent graduates are not employed, some wish to travel prior to commencing fulltime employment and some are unable to register for personal reasons or are unwilling to register immediately because they have not firmly committed to practising in the profession of kinesiology.

The College has considered whether it is fair and reasonable to require that applicants complete registration within one year of passing the examination. The requirement is exemptible, allowing the Registration Committee to consider the applicant's current knowledge, skill and judgement at the time when s/he wishes to complete the registration process.

The College is recommending that an approach be implemented which is fair to applicants and which is based on considerations of retention of knowledge and competency. Such an approach would enable a Panel of the Registration Committee to exempt from the requirement in s.5(2) applicants who do not register within the one year limit where the time passed since the deadline is not substantial enough to prevent the applicant from completing registration.

In considering this proposal, the Committee should consider how long competency is likely to be retained by applicants who have not practised kinesiology for any substantive period of time in Ontario or elsewhere in Canada. For example, if the Committee determines that competency is likely to be retained for a period of two years, it may determine that applicants who apply within a period of two years from the date of passing the examination are exempt from the requirement in s.5(2).

Proposed process:

An applicant who wishes to complete their registration after 1 year of qualifying for registration must submit a request to the College to have their application reviewed by a Panel of the Registration Committee.

Applicants requesting registration within 2 years of passing the examination

An applicant who meets all requirements and applies for completion of registration within two years of meeting all requirements for completion may waive their right to make submissions and have their application fast-tracked. The policy of the Registration Committee would be to grant a certificate of registration to these applicants. Please note that where a panel directs the Registrar to grant a certificate, no written decision and reasons are required and registration can be completed immediately.

Applicants wishing to register after 2 years of passing the Examination:

An applicant who wishes to complete registration more than two years from the date of being notified of eligibility to register, will be given notice of referral of his/her application to a Panel of the Registration Committee and will be provided a minimum of 30 days to make a submission of relevant documentation to support their request.

The Panel of the Registration Committee must decide whether applicants who have not exercised their right to register with the College within two years of having met all requirements, have the knowledge, skills and judgement to practise safely, competently and ethically at the entry level.

Among the considerations will be:

- How much time has elapsed since the applicant qualified for registration;
- What the applicant has done to maintain currency in knowledge, skill and judgement. For example, has the applicant gained relevant experience and /or education in the time since qualifying for registration possibly through practice outside of Ontario;
- How many attempts were required for the applicant to pass the examination;
- Whether the applicant is likely to require additional training in jurisprudence.

Policy

Type:	Registration		
Number:			
Name:	Expiration of 1-year period for Registration following notification of eligibility		
Status:	Draft	Version:	1
Date Approved:		Date Revised:	

Background

Under the College's General Regulation, s. 5(2) once an applicant has successfully completed the examination, the applicant must complete registration within 12 months (one (1) year) of being notified of their examination results. The purpose of the examination is to determine whether the applicant has achieved the minimum competencies required at the entry level, to practise kinesiology safely, competently, and ethically. Successful completion of the examination is a mandatory part of the registration process. By requiring applicants to complete their registration within this 1 year period, the College ensures applicants are current in their knowledge, skills and judgment, which supports the delivery of safe and ethical kinesiology services to the public.

The purpose of this policy is to outline the conditions upon which an applicant may be granted a certificate of registration after this 1-year period has lapsed. An applicant may have the requirement in s.5(2) exempted upon evidence that the applicant has retained current knowledge, skill and judgement.

Exemption of the 1-year clause

Applicants wishing to register within 2 years of passing the Examination

If an applicant wishes to register after 1 year of passing the examination, their application will be referred to a panel of the Registration Committee for review.

Upon review of an application from an applicant who currently meets all other requirements except the requirement stated in s.5.(2), and who has submitted a request for exemption from s.5.(2) within two years of successfully completing the examination set by the College, the applicant shall be exempted from the requirement and be granted the right to complete registration within 30 days.

This exemption is based on the Registration Committee's determination that the additional time of 12 months elapsed, is not sufficient to raise concerns about the applicant's current knowledge, skill and judgement such that terms, conditions or limitations should be imposed on a certificate of registration to protect the public.

Applicants wishing to register after 2 years of passing the Examination

Applicants, who wish to complete registration after 2 years of passing the examination, will be given notice of the referral to a panel of the Registration Committee and provided at least 30 days to make a submission requesting an exemption along with all the supporting documentation to support their request.

Registration Committee Review Process

In reviewing the exemption request, the Panel will consider the following:

- 1) Length of time since the applicant passed the exam.
- 2) Applicant's skill:

The Panel will take into account if the applicant provides verifiable information:

- i) Work or volunteer experience under the scope of the profession, e.g. in an assistant role
- ii) Work outside of Ontario as a kinesiologist
- iii) Related education and research undertaken since the exam.

- 3) Applicant's knowledge:

The Panel will take into account, if the applicant provides verifiable information:

- i) Continuing education or professional development activities
- ii) Participation in a mentorship program/partnership

- 4) Any other relevant factors

The Panel will take into account, if the applicant provides verifiable information:

- i) Extenuating circumstances beyond the control of the applicant, such as illness, provided that such circumstances do not impact other considerations and requirements such as good conduct.

The following are possible outcomes from the Panel's review:

- The Panel may direct that a Certificate of Registration in the General Class be issued where the Panel is satisfied that the information the applicant has provided is sufficient to demonstrate currency of knowledge, skills and judgement, and where the applicant has provided an up-to-date police criminal record check report, and paid the required fees;
- An applicant may be required to successfully complete a refresher/retraining program prior to registration where the additional information the applicant has provided is insufficient for the Panel to demonstrate currency of competencies to allow completion of registration;
- The Panel may direct that specific terms, conditions and limitations being imposed on the applicant's Certificate of Registration in the General Class in order to address the concerns regarding the applicant's current knowledge, skills and judgement;

- The panel may direct that the applicant take the College examination or any other set of examinations approved by the Registration Committee where the panel considers terms, conditions and limitations not sufficient to address the concerns regarding the applicant's current knowledge, skill and judgement;
- The panel may refuse the applicant's application.

Where the panel makes any other decision other than to grant the applicant a certificate of registration, the applicant will be provided with the written decision and reasons. The applicant will have 30 days to request a review of the decision from the Health Professions Appeal and Review Board (HPARB).

Resolution–Expiration of 1-year period for Registration following notification of eligibility

Whereas the College’s mandate is to protect the public; and

Whereas once an applicant has successfully completed the examination required under the General Regulation of the Kinesiology Act, 2007, the applicant must complete registration within 12 months (one (1) year) of being notified of their examination results; and

Whereas the College must be reasonably assured that all members will practise safely and ethically without endangering the public; and

Whereas the expiration of a 1-year period for Registration following notification of eligibility to register is a component of the College’s Registration Regulation that outlines the conditions upon which an applicant may be granted a certificate of registration after this 1-year period has lapsed; and

Whereas the College views this as important for members and the public, and a priority for the College; and

Whereas an applicant may be exempted of the requirement to register within 12 months of notification of eligibility upon evidence that the applicant has retained current knowledge, skill and judgement; and

Whereas the requirement is exemptible, allowing the Registration Committee to consider the applicant’s current knowledge, skill and judgement at the time when s/he wishes to complete the registration process under this policy;

Therefore, be it resolved that Council approves the policy on registration following expiration of 1-year period for Registration following notification of eligibility and that it be posted immediately on the College’s website. For the Expiration of 1-year period for Registration following notification of eligibility is one of the key ways the College is fair and reasonable in its treatment of applicants who wish to exercise their right to register.

Moved by: _____

Seconded by: _____

Date: September 26, 2017

Issue/Decision Note

Date: September 26, 2017

Issue: By-law amendments re: Public Register By-law 21 and Bill 87 legislative changes

Background & Analysis:

- In 2014 and 2015, the Minister of Health and Long-Term Care started making requests from and issuing directives to the Colleges regarding measures for transparency. Most specifically, the ministry required that Colleges make more information about members publicly available through the public register – this is referred to as ‘member-specific’ information. One such directive required that Colleges make transparency a strategic priority. This priority was included in the College’s strategic plan approved in 2015.
- Through 2015-16, the College made changes to its By-laws to enable posting of additional information about kinesiologists that, at the time, was not prescribed in the *Health Professions Procedural Code* (the Code). By-law changes in this regard included posting criminal convictions, criminal charges, and certain decisions of the Inquiries, Complaints and Reports Committee (ICRC), that were previously kept confidential, such as cautions-in-person and specified continuing education and remediation programs (SCERPs)
- With the passage of Bill 87, amendments to the Code have now made some of these by-law changes required under the RHPA law, rendering making some of the provisions in College bylaws redundant. Further, some of the removal provisions around ICRC outcomes are in violation of Bill 87 as the amendments to the RHPA do not contemplate removal of any information that is required by the Code.
- The By-law changes put forward in the attached revised By-law 21 are to ensure the College’s By-laws are consistent with the new legislative provisions. These changes do not require circulation for consultation with the membership as they are overruled by statute. The changes that reflect Bill 87 are as follows:
 - 21.06(1) – this provision simply repeats the Code provisions and now reflect all the new legislative amendments, for example, such as s.7 and 8
 - The sections on oral cautions, SCERPs and information relating to discipline matters are struck out because of the changes in the Code, noted above.
- There are other additions and clarifications made elsewhere in By-law 21 to ensure the College is providing the relevant information to the public on the register and that the type of information we are publishing and asking for is clear. Minor changes are marked by tracked changes in blue with any relevant comments in the side column.
- More significant additions are highlighted in yellow. Reasons for these additions are noted in comments on the revised By-law attached to this issue note. These changes will require circulation for comment by stakeholders

21. THE REGISTER

21.01 Name in Register

Subject to article 21.02, a member's name in the register shall be the full name indicated on the document used to support the member's initial registration with the College.

21.02 Change of Name

The Registrar may enter a name other than the name referred to in article 21.01 in the register if the Registrar:

- i. has received a written request from the member;
- ii. is satisfied that the member has legally changed his or her name; and
- iii. is satisfied that the name change is not for any improper purpose.

21.03 Business Address

A member's business address in the register shall be the address of the location in Ontario where the member is employed or self-employed as a kinesiologist. In the event that the member is employed or self-employed as a kinesiologist in more than one location in Ontario, the member's business address shall be the member's primary practice. In the event that the member is not employed or self-employed in Ontario as a kinesiologist, the Registrar shall enter as the member's business address the location designated by the member.

21.04 Business Telephone Number

A member's business telephone number shall be the telephone number of the location in Ontario where the member is employed or self-employed as a kinesiologist. In the event that the member is employed or self-employed as a kinesiologist in more than one location in Ontario, the member's business telephone number shall be the telephone number of the member's primary practice. In the event that the member is not employed or self-employed in Ontario as a kinesiologist, the register shall not contain a business telephone number for the member.

21.05 Duty of Registrar

The Registrar shall maintain a register in accordance with section 23 of the *Code*.

21.06 (1) Information on the Public Register

Pursuant to s.23 (2) of the *Code*, the following information will be posted on the College's Public Register:

The register shall contain the following:

1. Each member's name, business address and business telephone number, and if applicable, the name of every health profession corporation of which the member is a shareholder.
2. Where a member is deceased, the name of the deceased member and the date upon which the member died, if known to the Registrar.

3. The name, business address and business telephone number of every health profession corporation.
4. The names of the shareholders of each health profession corporation who are members of the College.
5. Each member's class of registration and specialist status.
6. The terms, conditions and limitations that are in effect on each certificate of registration.
7. A notation of every caution that a member has received from a panel of the Inquiries, Complaints and Reports Committee under paragraph 3 of subsection 26 (1), and any specified continuing education or remedial programs required by a panel of the Inquiries, Complaints and Reports Committee using its powers under paragraph 4 of subsection 26 (1).
8. A notation of every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee under section 26 and that has not been finally resolved, including the date of the referral and the status of the hearing before a panel of the Discipline Committee, until the matter has been resolved.
9. A copy of the specified allegations against a member for every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee under section 26 and that has not been finally resolved.
10. Every result of a disciplinary or incapacity proceeding.
11. A notation and synopsis of any acknowledgements and undertakings in relation to matters involving allegations of professional misconduct or incompetence before the Inquiries, Complaints and Reports Committee or the Discipline Committee that a member has entered into with the College and that are in effect.
12. A notation of every finding of professional negligence or malpractice, which may or may not relate to the member's suitability to practise, made against the member, unless the finding is reversed on appeal.
13. A notation of every revocation or suspension of a certificate of registration.
14. A notation of every revocation or suspension of a certificate of authorization.
15. Information that a panel of the Registration Committee, Discipline Committee or Fitness to Practise Committee specifies shall be included.
16. Where findings of the Discipline Committee are appealed, a notation that they are under appeal, until the appeal is finally disposed.

17. Where, during or as a result of a proceeding under section 25, a member has resigned and agreed never to practise again in Ontario, a notation of the resignation and agreement.

18. Where the College has an inspection program established under clause 95 (1) (h) or (h.1), the outcomes of inspections conducted by the college.

19. Information that is required to be kept in the register in accordance with regulations made pursuant to clause 43 (1) (t) of the *Regulated Health Professions Act, 1991*.

20. Information that is required to be kept in the register in accordance with the by-laws

21.06 (2) Additional Information

Pursuant to s.23 (1) 20, the Register shall also contain the following information, which is designated as public information, with respect to each member:

i. The initial date of registration;

ii. The dates upon which any change in class of registration or resignation was effected;

iii. The names other than the proper legal name of the member including any nicknames or abbreviations that the member uses in any place of practice;

iv. If there have been any changes to the member's name since the date of the member's initial application for registration, the former names of the member;

v. The member's gender (if identified)

vi. The name of the member's primary place of practice and every other current place of practice;

vii. The address and telephone number of the member's primary place of practice and every other current place of practice unless the information would disclose the home address of the member and/or patients/clients. In the case of remote practice, the member's business website address. every employer for whom the member is employed as a kinesiologist and, if the member is self-employed as a kinesiologist, the address and telephone number of the location where the member practises, other than addresses of individual clients;

viii. The languages in which the member provides and/or delivers kinesiology services

ix. If the member ceased to be a member, the date and reasons for the cessation;

x. A summary of any finding of guilt against a member under the Criminal Code or the Controlled Drugs and Substances Act, made on or after July 1, 2016, if the person whom the finding was made was a member at the time of the finding, and if the finding is known to the College, including:

a) The finding;

Comment [CM1]: Provisions vi & vii were previously combined. We separated the name of the practice as this is now mandatory. We have made allowances in the address portion as some members work from their home or from clients' homes. We want to ensure that every active, working member at least has the name of their practice listed on the register rather than having no information at all

- b) The penalty; and
- c) Where the finding is under appeal, a notation that it is under appeal until the appeal is finally disposed of

~~vi~~.xi. A summary of any existing restriction (e.g. bail condition) imposed on a member by a court or other lawful authority and of which the College is aware that, in the reasonable discretion of the Registrar, may restrict or otherwise impact the member's right or ability to practice, may prompt a regulatory action on the part of the College or is connected to an existing or ongoing regulatory action by the College;

~~vii~~.xii. Where there have been charges laid against a member under the Criminal Code or the Controlled Drugs and Substances Act, on or after July 1, 2016, and if the person against whom the charges were laid was a member at the time of the charges, and if the charges are known to the College, a brief summary of the:

- a) charges;
- b) date the charges were laid; and
- c) status of the proceedings against the member where known to the College.

Any such summary shall be removed if there is no finding of guilt.

~~viii~~.xiii. where the College is aware that the member is currently registered or licensed to practise a profession inside or outside of Ontario, a notation of that fact;

~~ix~~.xiv. Where the College is aware that a finding of professional misconduct or incompetence or a similar finding has been made against the member by a body that governs a profession, inside or outside of Ontario, and that finding has not been reversed on appeal:

- a) a notation of the finding;
- b) the name of the governing body that made the finding;
- c) the date the finding was made;
- d) a summary of any order made and information regarding any appeals of the finding.

~~x~~.xv. Where the College is aware that a finding of incapacity or a similar finding has been made against the member by a body that governs a profession, inside or outside of Ontario, and that finding has not been reversed on appeal:

- a) a notation of the finding;
- b) the name of the governing body that made the finding;
- c) the date the finding was made;

d) a summary of any order made and information regarding any appeals of the finding

xvi. Where the College is aware that there is an ongoing regulatory proceeding against the member for professional misconduct or incompetence and is considered relevant to the suitability to practise kinesiology;

a) a notation of that fact;

b) the name of the governing body that is conducting the proceeding;

c) a summary of any interim orders and/or restrictions on the member's license with the relevant profession as a result of the proceeding;

Comment [CM2]: The general regulation makes reporting ongoing regulatory proceedings a requirement of every certificate, therefore, having a corresponding ability to post this information is the next step. This provision will not be mandatory, rather at the discretion of the registrar. Policy development to follow, but likely knowledge of referrals to discipline for allegations of sexual abuse would be something that is posted by this College, by way of example

ORAL CAUTIONS

xvii. Where a decision of the Inquiries, Complaints and Reports Committee, relating to a complaint or a report made against the member on or after July 1, 2016, includes an in person (oral) caution,

a) a notation of that fact,

b) a summary of the caution,

c) the date of the panel's decision, and

d) if applicable, a notation that the panel's decision is subject to review and therefore is not yet final, which notation shall be removed once the review and any reconsideration by the Committee is finally disposed;

The information under clause 21.06 (2) (xiii) shall be removed from the Register in the following circumstances:

a) Two years after the decision was made unless a subsequent in person (oral) caution has been given to the member or the member is participating in an undertaking, or the member has been required to participate in an initial or subsequent specified continuing education or remediation program, in which case all records of in person (oral) cautions or specified continuing education or remediation programs shall remain on the register until three years after the most recent in person (oral) caution or specified continuing education or remediation program were made available on the register or the undertaking was completed; and/or

b) the member has made a written request to the Registrar for the removal of the information under paragraph xiii because the information is no longer relevant to the member's suitability to practise;

SCERPs

xviii. Where a decision of the Inquiries, Complaints and Reports Committee, relating to a complaint or a report made against the member on or after July 1, 2016, includes requiring a member to complete a specified continuing education or remediation program (SCERP),

- a) a notation of that fact,
- b) a summary of the SCERP;
- c) the date of the panel's decision, and
- d) if applicable, a notation that the panel's decision is subject to review and therefore is not yet final, which notation shall be removed once the review and any reconsideration by the Committee is finally disposed of

The information under clause 21.06 (2) (xiv) shall be removed from the register in the following circumstances:

- a) two years after the decision was made unless the member was required to participate in a subsequent specified continuing education or remediation program or the member is participating in an undertaking or an initial or subsequent in person (oral) caution has been given to the member, in which case all records of specified continuing education or remediation programs or in person (oral) cautions shall remain on the register until three years after the most recent specified continuing education or remediation program or in person (oral) caution were made available on the register or the undertaking was completed; and /or
- b) the member has made an written request to the Registrar for the removal of the information under paragraph xiv because the information is no longer relevant to the member's suitability to practise.

~~iii.xix.~~ For every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee under section 26 of the Code and that has not been finally resolved, until the matter has been resolved:

- a) a notation of that fact, including the date of the referral;
- b) each specified allegation that has been referred;
- c) the notice of hearing; and
- d) the status of the discipline hearing, including whether the hearing is awaiting scheduling, what the anticipated or scheduled hearing date is, whether the hearing has occurred, whether the hearing has been adjourned with no further hearing date set, whether the decision is under reserve, or whether a decision has been rendered;

~~iv.xx.~~ A notation, including the date of the referral, for every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Fitness to Practise Committee under section 61 of the Code and has not been finally resolved, until the matter has been resolved;

~~v.xxi.~~ Where a decision of the Discipline Committee has been published by the College with the member's name or former name included:

- a) a notation of that fact; and

b) identification of the specific publication of the College which contains the information;

~~xxi~~-xxii. For every application to the Discipline Committee for reinstatement that has not been finally resolved, until that matter has been resolved,

- (a) a notation of that fact, including the date of the application;
- (b) the anticipated date of the hearing, if the hearing date has been set or the next scheduled date for the continuation of the hearing if the hearing has commenced;
- (c) if the hearing has been adjourned and no future date has been set, the fact of that adjournment; and
- (d) if the decision is under reserve, that fact.

~~xxii~~-xxiii. If an application to the Discipline Committee for reinstatement has been decided, the decision of the Discipline Committee;

Comment [CM3]: These two provisions add for greater transparency

~~xviii~~-xxiv. Where, for a pending complaint or other type of investigation, the Registrar confirms that the College is investigating a member because there is a compelling public interest in disclosing this information pursuant to section 36(1)(g) of the Regulated Health Professions Act, 1991, the fact that the member is under investigation.

Comment [CM4]: This provision is adding clarity to what is already in the legislation

~~xxiv~~-xxv. Where the member's certificate of registration is subject to an interim order imposed by the Inquiries, Complaints and Reports Committee:

- a) a notation of that fact;
- b) the nature of the order;
- c) the date that the order took effect;

~~xxv~~-xxvi. Where the member's certificate of registration is subject to an administrative suspension, the reason for the suspension and the date of the suspension.

Comment [CM5]: The previous version only spoke to suspensions for failure to pay fees – there are two other cases for administrative suspensions in the regulation

~~xxvi~~-xxvii. Any information jointly agreed to be placed on the Register by the College and the member;

~~xxvii~~-xxviii. Any of the information that was on the Register before the membership terminated will be posted for a period of at least six years after the termination of membership, except for any information related to discipline proceedings in Ontario, which will be posted on the Register for a period of fifty years after the termination of membership.

21.07 Information requests from College

If requested, a member shall immediately provide the College with the following information, in the form requested by the College:

- i. information required to be maintained in the Register in accordance with subsection 23 (2) of the Code and article 21.06 of these by-laws;
- ii. information for the purpose of compiling statistical data;

- iii. The languages in which the member provides and/or delivers ~~professional kinesiology~~ services
- iv. the member's areas of practice and categories of patients/clients seen;
- v. the member's previous employers and previous practice locations;

~~v.vi.~~ **Information required to verify the member's compliance with their mandatory reporting obligations.**

Comment [CM6]: This provision provides greater authority and clarity if the College requests, for example, a new criminal record check or letter of good standing from another regulator.

21.08 Automatic Notification of the College

The member shall notify the College, in writing, of any changes to the following information within 30 days of the effective date of the change:

- i. the member's name;
- ii. any nicknames or abbreviations that the member uses in any place of practice;
- iii. the address and telephone number of the member's primary residence in Ontario and, if the member does not reside in Ontario, the address and telephone number of the member's primary residence;
- iv. the member's email addresses which the College uses to contact the member;
- v. information regarding the member's employment, including:

- a) the name of the business, address and telephone number and/or website;
- ~~a)b)~~ the member's title and position;
- ~~b)c)~~ a description of the member's role, duties and responsibilities; and
- ~~d)~~ the member's employment category and status;

Comment [CM7]: The College does not currently collect this data

vi. The name of every health profession corporation of which the member is a shareholder, the business address, business telephone number, business e-mail address, if there is one, and any operating names of the health profession corporation.

Comment [CM8]: This was simply moved from 21.07 to 21.08

vii. All information that members are required to report pursuant to s.4 of the General Regulation of the Act and s. 85.6.1 to 85.6.4 of the Code.

Comment [CM9]: This covers the provisions below.

~~vi.viii.~~ information about the member's registration with any other body that governs a profession, whether inside or outside of Ontario, including the name of the governing body, the member's registration or licence number and the date the member first became registered;

~~vii.ix.~~ information about any professional misconduct, incompetence or incapacity proceedings, whether completed or on going, by a regulatory body that governs a profession, inside or outside of Ontario;

- ~~viii.x.~~ Information about any finding of guilt for an offence in any jurisdiction;
- ~~ix.xi.~~ Information about any existing restriction imposed on a member by a court or other lawful authority;
- ~~x.xii.~~ the member's business address or business telephone number;
- ~~xi.xiii.~~ the name, address or telephone number of any employer for whom the member is employed as a kinesiologist and, if the member is self-employed as a kinesiologist, any changes to the address or telephone number of the location where the member practises, other than addresses of individual clients.

21.09 Safety Concerns

All of the information in the register is information designated to be withheld from the public pursuant to subsection 23(6) of the Code such that the Registrar may refuse to disclose to an individual or post on the College's website any or all of that information if the Registrar has reasonable grounds to believe that disclosure of that information may jeopardize the safety of an individual.



Resolution- Amended Public Register By-law

Whereas legislative changes as a result of Bill 87 require the College By-laws to be amended in order to ensure consistency and clarity; and

Whereas transparency is still a strategic priority for the College; and

Whereas the College must ensure that the public has relevant information regarding their choice in kinesiologist; and

Whereas the College must ensure members are aware of their obligations to provide relevant information; and

Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario approves the changes in the By-laws that are required to ensure legislative consistency and circulate other noted by-law changes for circulation and comment for 60 days.

Moved by: _____

Seconded by: _____

Date: September 26, 2017

Decision Note

Date: September 25, 2017

Issue: Revised Professional Boundaries Standard and Guidelines and removal of Practice Standard – Sexual Abuse

Background:

- Bill 87 amendments to the RHPA require that the College ensure that its information is up to date and accurate.
- It is crucial that members be made aware of the changes that could affect their license to practise kinesiology. Many of the changes in Bill 87 involve issues around addressing and preventing sexual abuse as a result of recommendations from the Sexual Abuse Task Force Report.
- The College's Practice Standard on Professional Boundaries and the corresponding guideline (currently titled The Therapeutic Client Relationship and the Prevention of Sexual Abuse) provide important information to kinesiologists on how they should conduct themselves with patients/clients. It is intended that the guidance provided will serve as a preventative measure against sexual abuse. The more kinesiologists are aware of professional boundaries and how to establish and maintain them, the less risk they pose to the public.
- Practice Standards are documents that outline expectations for conduct and practice. They are principle-based and meant to guide kinesiologists' actions and behaviours. Members are expected to be well acquainted with the Practice Standards and the standards are often the first point of reference for members when they are faced with various practice scenarios. Practice Guidelines often serve as further explanation of a standard or a piece of legislation.
- The revised Standard and Guideline help members to understand more about sexual abuse in the context of professional practice and also to understand the new powers that regulators and government will be given to address sexual abuse.
- Some amendments from Bill 87 are already in force, while others await proclamation. The revisions to the Standard and the Guideline reflect both. For example, while the new legal definition of "patient" (for purposes of sexual abuse) is not in force, it would be very prudent for kinesiologists to know the new definition now and abide by it immediately.
- The College is proposing at this time to remove the Practice Standard titled Sexual Abuse. Upon review, the College has noted that this Practice Standard mainly contains information which is captured in the Guideline.
- The ongoing review of Standards and Guidelines aims to have all the necessary information available to members in an efficient and streamlined manner, Standards and Guidelines must be comprehensive, relevant and helpful.
- The Patient Relations Committee met on August 30, 2017 and reviewed the proposed revisions to the Standard and Guideline and also considered the proposal to remove the Practice Standard – Sexual Abuse. Some minor amendments were added to the documents and the committee recommends the approval of the plan revisions

Analysis

Professional Boundaries Standard



- This standard was revised in 2014 and most of the current changes reflect the new and upcoming changes to the RHPA. Some changes are informed by recent questions posed by members and/or development of the sexual abuse learning module. The changes are illustrated in the attached version.
- The College is also proposing to change the term “*therapeutic client relationship*” to “*professional relationship*” to better reflect the contexts of practice for kinesiologists and the types of interactions they may have with clients. This last change clarifies that the standard applies to all kinesiologists including those in non-clinical roles.

Professional Boundaries and the Prevention of Sexual Abuse Guideline (formerly – The Therapeutic Client Relationship and the Prevention of Sexual Abuse)

- The most significant changes to the guideline involve updating information pertaining to the College’s procedures for sexual abuse as a result of Bill 87 changes and adding a section on the topic of touching of a clinical nature.
- Specifically, as the RHPA amendments require mandatory revocation for touching of a sexual nature of a client’s anus, buttocks, breasts and/or genitals, the addition of this section to the Guideline raises awareness for our members and for the public.
- The College wants to ensure that any clinical touching of a patient/client (not just in ‘sensitive’ areas) is dealt with appropriately in the context of the situation. It is important that kinesiologists are aware that the sensitivity of each patient/client is individual and that they must be aware of and respectful of the differences among clients.

Sexual Abuse Practice Standard

- The College proposes to remove this Standard.
 - This Standard contains information about how the College deals with sexual abuse matters and an explanation of the provisions in the *Health Professions Procedural Code* (the Code) pertaining to sexual abuse. Therefore, in the College’s present approach to standards, it is not accurately described as such, as it is not setting out performance expectations. Further, the information that is laid out is contained in the Practice Guideline (discussed above), where information of this sort is more appropriately placed. As an example, the College uses a Guideline rather than a Practice Standard on Mandatory Reporting to describe describes duties regarding mandatory reporting which are outlined in the Code.
 - An environmental scan of the other health regulatory Colleges found that most Colleges do not have a Practice Standard by this name, but most had either a Professional Boundaries Standard and/or other types of documents which discuss the prevention of sexual abuse more generally.
-

Practice Standard- Professional Boundaries

Intent

This Standard deals with the expectations of conduct in the [professional](#) relationship that specifically relate to the preservation of appropriate boundaries between a member and his/her patients/clients, client advocates as well as the expectations of conduct in any other professional relationship where the member is in a position of power or authority.

Standard Statement

The [professional](#) nature of the relationship which exists between patients/clients and a kinesiologist makes it a unique relationship, which differs from other forms of personal or professional relationships. The [professional](#) relationship is essential to ensure safe, ethical and effective assessment and treatment of patients/clients.

The [professional](#) relationship is based on respect, trust and professional intimacy. The relationship is one where the member holds an inherent position of power over the patient/client because of their specialized skills and knowledge, access to the patient/client's personal health information and the patient/client's reliance on a member's judgment and recommendations in order to improve their condition/[provide health services](#).

Members are responsible for anticipating the boundaries that exist with their patient/client, as well as setting and managing boundaries relating to personal dignity, privacy, control and professional detachment to ensure that the trust a patient/client has placed in the member is not betrayed.

Performance Expectations

A kinesiologist demonstrates the Practice Standard by:

- Demonstrating a sensitivity to power imbalance (real or perceived)
- Establishing and managing the boundaries of the [professional](#) relationship
 - Recognizing and understanding the components of the therapeutic-client relationship
 - Maintaining an appropriate level of “professional distance” and objectivity with respect to the assessment and treatment of the patient/client
 - Refraining from accepting and giving gifts
 - Refraining from inappropriate self-disclosure
 - Recognizing that boundary crossings are often subtle and are often motivated by what appear to be noble intentions.

- Refraining from behaviour that could be construed as inappropriate, abusive and/or neglectful. Abuse includes verbal, physical, financial and sexual abuse.
- Refraining from excessive or inappropriate touching of a patient/client. Appropriate physical contact that is necessary for clinical treatment is permitted
- Telling a patient/client you are going to touch him/her, indicating the clinical reason and ensuring the patient/client provides consent before proceeding
- Engaging in appropriate professional communication
 - Using calm and plain language
 - Refraining from voicing personal opinions about personal values, lifestyles, politics, etc. where the client may feel the member is judging or trying to influence him/her
 - Ensuring client choice and informed consent
 - Being aware of both verbal and non-verbal communication and how it may be perceived
- Respecting patient's/client's rights to reach decisions about treatment and/or services
- Advocating for the patient's/client's best interests
- Demonstrating sensitivity to diversity (diversity includes, but not limited to age, gender, religion, sexual orientation, ethnicity, cultural beliefs, ability, values and lifestyles) and adjusting boundaries as appropriate
- Refraining from engaging in a close personal relationship with a patient/client
 - Close personal relationships can diminish the member's objectivity and can increase a patient/client's vulnerability. A close personal relationship does not recognize the unique components of the therapeutic relationship and risks the efficacy of the patient/client's health improvement
 - A sexual relationship with a patient/client or a patient/client's substitute decision maker (SDM) is strictly prohibited and is considered sexual abuse. Kinesiologists are not permitted to engage in a sexual relationship with a patient/client for at least one year after the termination of the professional relationship¹
- Refraining from engaging in a close personal relationship with a patient/client's family member
- Refraining from engaging in a close personal relationship with a former patient/client unless
 - At least one year has elapsed since the termination of the clinical relationship; and
 - the member is reasonably assured that the power imbalance inherent in the professional relationship no longer exists
- Refraining from dual relationships which may give rise to a conflict of interest
- Educating patients/clients and client advocates on the therapeutic-client relationship and protecting them from boundary violations of abuse from the member and other regulated health professionals
- Maintaining a professional image in any professional engagement

Comment [CM1]: This reflects new provisions for mandatory revocation for sexual touching of certain areas of the body. This will be further explained in the guideline

Comment [CM2]: Change as a result around discussion and development of sexual abuse module

Comment [CM3]: Bill 87 change – not yet proclaimed

Definitions

Professional Relationship: A relationship between the member and his/her patient/client that is based on respect, trust and professional intimacy and acknowledges the inherent power of the member over the patient/client.

Client Advocate: Is anyone who the client has consented to assisting them in their health care needs and who advocates for the client's best interests.

¹ This one year period is now prescribed in the Health Professions Procedural Code

[Substitute Decision Maker: a person who is authorized to give or refuse consent to a treatment on behalf of a person who is incapable with respect to the treatment](#)

Close Personal Relationship: a relationship with a person that is characterized by feelings of warmth and familiarity, and/or has elements of exclusivity, privacy or intimacy.

Boundaries: The limits that allow for safe and respectful connections between individuals.

Dual Relationships: When a member of the College has a business or personal relationship with a patient/client outside of their practice.

Family Members: means a patient's/client's spouse or partner, parent, child, sibling, grandparent or grandchild; the patient/client's substitute decision maker; or another individual in relation to whom the patient/client has a personal or emotional involvement with and who may interfere in the therapeutic-client relationship.

Abuse: Abuse is the misuse of the power imbalance existing in the [therapeutic client relationship](#) [professional relationship](#) and a manipulation of the core elements of the relationships – trust, respect and professional intimacy, when the member knew, or ought to have known their behaviour would cause harm. Abuse can be verbal, physical, financial, sexual and/or emotional. Neglect of a patient/client's needs may also be construed as abusive.

[Members should refer to the Practice Guideline – The Professional Relationship and the Prevention of Sexual Abuse for further explanation of the expectations and principles outlined in this standard.](#)

Legislative References

Regulated Health Professions Act, 1991

Professional Misconduct Regulation

Notation

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

Resolution- Revised Resources on Professional Boundaries and the prevention of Sexual Abuse

Whereas legislative changes as a result of Bill 87 require the College By-laws to inform members of how these changes may/will affect them; and

Whereas raising awareness on the issue of sexual abuse and its prevention is part of the mandate of the College; and

Whereas members refer to Practice Standards and Guidelines to inform their practice and by revising these documents it brings the issue to the attention of the membership; and

Whereas the College wants to ensure all resources regarding sexual abuse and its prevention or comprehensive and clear;

Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario approves the revised Practice Standard and Guideline on Professional boundaries for circulation r and comment for 60 days and that it approves the removal of the Practice Standard – Sexual Abuse

Moved by: _____

Seconded by: _____

Date: September 26, 2017

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

Introduction

The mandate of the College of Kinesiologists of Ontario (the College) is to protect the public by ensuring that members practice safely and effectively. Standards have been developed in order to assist members in understanding their role to practise professionally. Prevention of sexual abuse is an important part of the College's mandate as it and all other regulated health professions work towards the eradication of sexual abuse in the health care context.

This guideline provides a further explanation of the College's Practice Standard – Professional Boundaries. Its purpose is to provide members with guidance on the professional relationship, how to establish maintain professional boundaries in order to prevent sexual abuse. It also describes the College's processes regarding allegations of sexual abuse. The content is intended to help members understand the factors, complexities and nuances that exist within the professional relationship and how neglecting/failing to establish and maintaining appropriate professional boundaries can lead to sexual abuse of a patient/client.

Sexual abuse of a patient/client is the most egregious of boundary violations by a regulated health professional and can lead to serious and harmful short and long-term consequences for the patient/client. Moreover, regulated health professionals who sexually abuse patients/clients face severe sanctions by their regulator including a revocation of their license to practise.

All kinesiologists must understand the nature of the professional relationship, know what constitutes a boundary violation and sexual abuse and work towards preventing sexual abuse.

The professional relationship

The components of a professional relationship between a member and the patient/client are respect, trust, professional intimacy and power.

Respect and trust

These are the foundations of a successful professional relationship based on the patient's/client's physical and emotional needs. The patient/client must feel safe, not just in the competency of the member in the services being provided, but in the way in which the member delivers their care.

Professional intimacy

There is a degree of personal closeness that may not exist in other relationships. This intimacy may come in the forms of physical closeness and/or touching of a clinical nature, disclosure of personal and private information, varying degrees of undress and witnessing of emotional behaviours on the part of the patient/client. This intimacy is never sexual in nature, but is appropriate in the context of delivering patient/client-centred care or services.

Power

The professional intimacy, along with the member's knowledge and expertise, place the member in a position of power. As a health care professional, the member must remember that he/she always has more power in the [professional](#) relationship. The member must be sensitive to the perceptions of their patients/clients when [providing services](#). The patient/client may have a heightened sense of vulnerability within this relationship and thus is more susceptible to abuse, whether real or perceived.

Sexual abuse

Members must be aware of the meaning of sexual abuse, and they must understand that they assume the responsibility to prevent it from occurring and that they must respond appropriately when it occurs.

The *Health Professions Procedural Code* ([the Code](#)) of the *Regulated Health Professions Act (RHPA)*, 1991, [outlines acts that constitute sexual abuse](#):

- S. 1(3) (a) *Sexual intercourse or other forms of physical relations between the member and the patient/client*
- (b) *Touching of a sexual nature of the patient/client by the member*
- (c) *Behaviour or remarks of a sexual nature by the member towards the patient/client*

Exception

- (4) *For the purposes of subsection (3), "Sexual nature" does not include touching, behaviour, or remarks of a clinical nature appropriate to the services being provided.*

The College has a zero tolerance policy toward sexual abuse that reflects the College's mandate to protect the public. [Sexual activity between a patient/client and a kinesiologist is strictly prohibited under any circumstances, including, a consensual relationship. A sexual relationship with a patient/client is not considered consensual in a professional context because of the existence of the power imbalance. It is a fundamental breach of the professional relationship and a betrayal of the patient's/client's trust. The professional relationship is based on the patient/client's best interests. Engaging in a sexual relationship is using the professional relationship to the interests of the kinesiologist.](#)

Establishing and maintaining professional boundaries

Every member has a personal responsibility for establishing and maintaining professional boundaries and the professional relationship; it is the member who is accountable for the occurrence of any abuse within the professional relationship not the patient/client.

Some elements of establishing a [professional](#) relationship are as follows:

- Introducing him/herself to the patient/client, their professional designation and their professional background;
- Ascertaining the patient's/client's preferred form of address (for example by their first or last name);
- Being on time for appointments, well-groomed, and dressed professionally
- Recognizing the patient's/client's cultural, social, linguistic or religious background and making appropriate adjustments in behaviour and communication to respect the differing boundaries among different backgrounds;
- Listening to the patient/client, or caregiver, in an open and non-judgmental manner and validating their concerns;
- Speaking in a polite and objective manner; refraining from over use of slang and voicing opinions about certain lifestyles, current events, or other controversial issues
- Being aware of body language, such as appropriate eye contact. Refraining from excessive physical contact that is unnecessary to the treatment of the patient/client;
- Discussing the boundaries of confidentiality with the patient/client;
- Providing sufficient information regarding treatment options to allow the patient/client to make informed choices;
- Obtaining consent on treatment matters. Consent is continuous throughout the treatment and where the member may need to touch the patient/client for a clinical purpose (refer to the Consent Guideline for further information on when consent is needed);
- Telling a patient/client you are going to touch him/her in a sensitive/intimate area and explain the clinical purpose - this includes a patient/client's breasts, buttocks, anus and genital areas (Please see next section for further information on this aspect of treatment)
- Continuous explanation of the patient's/client's treatment progress, changes in treatment, etc., in a manner that the patient/client understands, always keeping in mind if the patient/client has linguistic or conceptual limitations;
- Monitoring for comments, attitudes, or behaviours of patients/clients that may challenge the efficacy of the professional relationship;
- Being aware of any pre-existing conditions or vulnerabilities of the patient/client that may require heightened care in maintaining boundaries;
- Being aware of the treatment environment, such as a patient's/client's home, which may be more informal and require increased diligence on the part of the member; and
- Ensuring the practice environment is safe and that communication between colleagues cannot be construed by the patient/client as unprofessional or sexual in nature

Comment [CM1]: We are proposing not naming the specific body parts as touching of any nature may be sensitive to a given patient/client

This list is not exhaustive, but is to be used as a guide to prompt the member to analyze the situation in which he/she is providing care to the patient/client. Boundaries to the professional relationship are dependent on the patient/client, the type of treatment and the practice setting. Boundaries also vary across social and cultural lines and the member must take efforts to learn what the boundaries are for each patient/client. The boundaries may also change depending on the length of the professional relationship, a change in condition of the patient/client, a change in the treatment course and/or a change in the practice setting. The longer the professional relationship continues, the greater the power imbalance may become. If a member ever finds him/herself in a situation that could be deemed unprofessional, they should consult a colleague, inform a superior or contact the College for further guidance.

Touching of a clinical nature in a sensitive area of patient/client

The practice of kinesiology often involves physical contact between a patient/client and the kinesiologist. A kinesiologist may be providing some manual release, assessing range of motion, feeling for a musculoskeletal injury, or guiding exercises; these are a few examples. Some physical contact may also be required in more sensitive areas of the body. Whenever treatment requires any kind of physical contact, especially of sensitive areas, kinesiologists should be aware of the potential misinterpretation and misunderstanding of this type of contact by the patient/client. Kinesiologists can greatly reduce this risk through some or all of the following precautions:

- Assessing whether or not the physical contact is necessary for the efficacy of the treatment
- Explaining to the client how you intend to touch them and why. This includes ensuring the patient/client understands the clinical benefits to you touching them versus the risk of not touching them, for example, being able to feel if a muscle is fully engaging, or ensuring proper technique during an exercise to avoid injury
- Ask the client if they are comfortable with this course of action. Obtain consent – consent may be implied or express. Express consent is either verbal or written and is as simple as the patient/client saying “yes”. Implied consent maybe if they reach hold their ankle up after you ask to examine it. Deciding between express and implied will depend on the nature of the touching: for sensitive areas, express consent should be obtained
- Demonstrating on yourself how you intend to touch the patient/client
- Limiting the duration of the physical contact
- Documenting the clinical reasoning for the physical touching and that consent was obtained
- Upon initial intake and assessment of a new patient/client explaining the nature of kinesiology treatment in that it can involve physical touching. This may be helpful to gauge a patient/client’s comfort level with touching. It does not negate the need to discuss individual incidents of touching particularly if they are in a more sensitive area

The extent of these various precautions will depend on the nature and duration of the physical contact and the patient’s/client’s comfort with the proposed physical contact. For example, asking to look at a patient/client’s ankle to assess mobility and where the client’s response is simply to lift their ankle towards you may not require specific documentation in the record, however, recommending manual release in the buttocks region may require express consent and a brief note in the record.

Breaching the professional relationship: Possible warning signs

The following is a list of signs that may indicate that boundaries might have been crossed. This list is not exhaustive:

- Spending time with a patient/client that is in excess of that patient’s/client’s health care needs;
- Scheduling irregular appointment times or longer appointment times with a patient/client;
- Dressing differently when seeing a particular patient/client;
- Using suggestive verbal or body language or flirting with a patient/client;

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- Physically touching the patient/client in a manner unnecessary for the treatment of the patient/client;
- Asking a patient/client for personal information that is not related to their health care needs, such as asking if the patient/client is presently dating anyone;
- Answering questions of a similar nature as above from the patient/client;
- Self-disclosure to the patient/client about personal problems or situations;
- Providing a patient/client with personal contact information and/or accepting the personal contact information from the patient/client;
- Contacting and conversing with a patient/client that is not necessary to the treatment of the patient/client;
- Accepting or requesting access to personal social media pages, such as Facebook, Twitter, LinkedIn or other personal blog sites;
- Reducing or waiving professional fees;
- Receiving or giving gifts, especially those that are expensive or of a personal nature;
- Meeting socially with the patient/client even if there is no physical or sexual contact;
- Frequently thinking about the patient/client in personal terms; and
- Being hesitant to discuss activities with a patient/client to friends, family and colleagues (except for reasons of confidentiality)

If one or more of these signs are present, the member must be prepared to acknowledge personal feelings about a patient/client and if needed, modify the behaviour immediately before a more serious breach occurs. The member should seek counsel from peers, an employer or the College. This may avoid an actual occurrence of abuse, but may require the member to cease the clinical relationship. The member should keep in mind that most often a breach of the professional relationship can begin in a seemingly innocent manner with comments or disclosures that can escalate. It is important that the member be mindful of these warning signs, either in him/herself or from the patient/client to avoid further progression. The member must be vigilant to the subtle changes in behaviour within the professional relationship that may be an indication of subsequent breaches.

In some cases, it is the patient/client that takes the initiative to change the relationship. It is important for members to be aware of when the relationship dynamic might be changing. Such changes in the relationship may lead to, or be perceived as, sexual abuse. In cases where the member feels the patient/client is attempting to cross the boundaries of the professional relationship, the member must explain the professional relationship to the patient/client, even if he/she has already done so. The member must be sensitive to the fact that addressing this type of issue with the patient/client may make the patient/client feel even more vulnerable and such communication should be done as sensitively as possible. The member must be prepared for an adverse reaction by the patient/client and, if the relationship continues, the patient/client may feel an increased vulnerability. The member must reassure the patient/client that care will continue in a professional manner. Any discussions of this nature with the patient/client should be documented and disclosed to an employer to protect the member from any bad faith allegations. The member might consider having a colleague or employer present for this discussion or for future treatment in order to create a safer environment for both him/herself and the patient/client.

It should be noted that the types of actions/behaviours listed above, while they might not constitute sexual abuse, may constitute a breach of the professional relationship. Forming a social friendship that is not romantic in nature may also undermine the professional relationship. Therefore, it is a breach of the professional standards and may be considered professional misconduct for which the member is accountable.

Social, romantic or sexual relationships with a patient/client

Engaging in a social relationship with a patient/client while the member is treating the patient/client is not permitted. This is considered a breach of the Professional Boundaries Standard. If a member is engaged in a sexual relationship with a patient/client, this is considered sexual abuse and subject to mandatory revocation of the license to practice for 5 years.

Members are also not permitted to engage in a sexual relationship with a patient/client for a period of at least one year after the termination of the professional relationship.¹ Even after this one year period, it may still not be acceptable for the member to commence a **sexual** relationship with the patient/client if a power imbalance continues to exist. The patient/client may feel pressured into such a relationship or feel that the member is exploiting the former professional relationship for his/her own gain. Members should be very careful in this regard, and **seek professional advice** on the issue and consider how a reasonable member of the College would perceive the situation when initiating any further contact.

The member should also refrain from becoming socially, romantically or sexually involved with a member of the patient's/client's family. This type of behaviour, while not explicitly prohibited by the RHPA, may make the patient/client feel uncomfortable. Or, it may make the patient/client feel that the member's interest is being put ahead of his/her own. Where the patient/client has a Substitute Decision Maker, the member should not embark on a relationship with that person. There may be a power imbalance existing between the member and the decision maker. The **professional** relationship extends to the substitute decision maker and, as such, crossing professional boundaries may affect the decision maker's ability to put the patient/client's interest first and make informed consent on treatment matters.

It is not advisable to treat a family member. A family member can include a member's spouse or partner, parent, child, sibling, grandparent or grandchild; a parent, child, sibling, grandparent or grandchild of the member's spouse or partner; or another individual to whom the member has a personal or emotional involvement that may render the member unable to exercise objective professional judgment in the treatment of the person. A member may be permitted to treat a family member if another health care professional is not readily available, if it is an emergency situation, or for minor, episodic care. The member should limit the length of the treatment and transfer care of the family member as soon as possible.²

The College's process regarding sexual abuse

The College has zero tolerance for the sexual abuse of patients/clients. This is also mandated under the RHPA. As such, there are very specific processes and penalties attached to the sexual abuse provisions in the HPPC to achieve this end and to aid in the prevention of further sexual abuse.

Mandatory reporting

Under s. 85.1 of the **Code**, it is mandatory for members to file a report if they have reasonable grounds, obtained in the course of practicing their profession, to believe that a member of the same

¹ This is a new legislative amendment and the College does not have the authority to shorten this period. This period applies to all kinesiologists and all patients/clients regardless of the nature or length of the clinical relationship

² Members should refer to the College's Practice Guideline: Treating Family Members and Other Close Personal Relations
Guidelines – Professional Misconduct – The Professional relationship and Prevention of Sexual Abuse– April 2013

or a different college has sexually abused a patient/client. Employers and facility operators where members practice are also required to report sexual abuse.

Further information on the form and content of the report is available in the College's Guideline on Mandatory Reporting Obligations. Members are also encouraged to contact a College representative if they have any questions regarding when and how it is appropriate to make a report.

College Procedures for handling sexual abuse matters

Investigations

Once a report or complaint of sexual abuse is received by the College, there are specific and enhanced measures in place to ensure that they are handled sensitively, effectively and efficiently. Procedures are complainant/patient-centred and designed to provide a safe and supportive environment intended to prevent re-victimization.

Alternative Dispute Resolution in an allegation of sexual abuse is not appropriate and prohibited by the RHPA. Therefore, this process will not be available to complainants or members even if they are willing.

Investigations into any allegations of sexual abuse will be fast-tracked by the College with a bench mark of 5 months for completion. Members can refer to the College's Policy – Fast-Tracking Sexual Abuse Matters.

In cases where allegations of sexual abuse are reported to the College or are discovered during an investigation, the Inquiries, Complaints and Reports Committee (ICRC) will decide whether to make an interim order pursuant to s.25.4 of the Code. The ICRC is the committee responsible for reviewing and screening all investigations and determining which matters are serious enough to be referred to the College's Discipline process. An interim order may include a suspension of the member's licence while the matter is under investigation or ordering certain terms, conditions and limitations, such as, that the member only practise under the direct supervision of another regulated health professional.

Members will be provided with notice of the ICRC's intention to make an order and be provided with an opportunity to make a submission.

If the ICRC does make an order, the investigation will be prioritized and expedited. Further, the ICRC has the authority to vary the order at any time prior to its final disposition.

Most investigations into allegations of sexual abuse will be referred to the Discipline Committee by the ICRC because of the very serious nature of sexual abuse, except in exceptional circumstances.

In the event of such a complaint or report, the College will ensure the immediate availability of a staff member to take the information. In most cases, the individual will be directed to the Director, Professional Conduct or the Registrar.

Should the individual wish to meet with a staff member, such a meeting will be arranged in accordance with the following criteria:

- The meeting will take place in a setting that ensures the individual's privacy. The individual's consent will be obtained for the presence of any additional College personnel;
- The individual will be advised that they can withdraw their consent at any time;
- Individuals will be advised prior to the meeting that they may bring other persons of their choosing to the meeting if desired (i.e., friends, counsellors, interpreters, legal counsel);
- College staff (or if necessary, external investigators) will be trained in sensitive, non-judgmental ways of collecting information that is both empathic and impartial; and
- College staff (or if necessary, external investigators) will fully explain the complaints and discipline process and the individual's role and rights in plain language.

Comment [CM2]: Cutting this out as this is more aimed to complainants/victims, not members

There are several "emergency" provisions in the RHPA that can be utilized in the most serious cases of sexual abuse, such as the emergency appointment of an Investigator by the Registrar. In addition, the Inquiries, Complaints and Reports Committee (ICRC) can suspend a member's license without notice pending the investigation. Use of such measures will be dependent on the seriousness of the abuse and the likelihood that the member is an ongoing danger to the public.

Comment [CM3]: Too much info here and with new Bill 87 provisions, these are less relevant

Discipline Prosecutions

If an allegation of sexual abuse is referred to Discipline, special measures are in place to foster a sensitive and fair process; at the same time, prosecutions for sexual abuse will be given priority and expedited. Procedures and penalties are also directed at the philosophy of zero tolerance and the eradication of sexual abuse within the health care context. These measures include the following:

1. Interim orders restricting the member's practice or suspending the member's practice during the discipline process;
2. Witnesses who are describing sexual abuse can request and obtain, as of right, an order prohibiting the publication of their identity;
3. Witnesses who may be vulnerable when testifying may have a support person with them, testify away from the hearing room or behind a screen, and not be cross-examined directly by the member;
- 2-4. Special procedures regarding the production of any medical records about the complainant or victim in order to protect the complainant or victim from unnecessary trauma or invasion of privacy
- 3-5. Interested persons, such as the individual or an advocacy group, may request that they be made interveners who can participate in the hearing;
6. If the member is found to have engaged in sexual abuse, the patient/client can file a written statement describing the impact of the abuse on him or her during the penalty phase of the hearing.

Penalties

Certain sexual acts with a patient/client will result in automatic mandatory revocation of a member's license for a period of 5 years. These acts are prescribed in the Code as follows:

- i. sexual intercourse,*
- ii. genital to genital, genital to anal, oral to genital, or oral to anal contact,*
- iii. masturbation of the member by, or in the presence of, the patient,*
- iv. masturbation of the patient by the member,*
- v. encouragement of the patient by the member to masturbate in the presence of the member*
- vi. Touching of a sexual nature of the patient's genitals, anus, breasts or buttocks*

If the Discipline Panel finds that these acts have been committed, the Panel does not have the discretion in the penalty. The penalty will also be effectively immediately as of the date of the finding is made at the hearing, regardless of when the decision is published or if the member appeals the decision.

All other findings of sexual abuse that do not require mandatory revocation will carry a penalty that include a suspension and an oral reprimand. The length of the suspension and any other terms, conditions or limitations on the license are at the discretion of the Discipline Panel.

Other potential orders of the Discipline Panel after a finding of sexual abuse may include:

- Requiring the member to pay a portion of the College's investigation and prosecution costs
- Requiring the member to pay for the costs of any counseling or therapy for the victim.

A finding of professional misconduct, which includes sexual abuse, will be posted on the College's register and will be available to the public.

COLLEGE OF
KINESIOLOGISTS
OF ONTARIO



BILL 87 – Changes to the RHPA

March 27, 2017



Background: Drivers for change

- ❖ The Sexual Abuse Task Force Report
- ❖ Media and public scrutiny – calls for transparency
- ❖ Government priorities
- ❖ 8-9 years since the last major amendments to RHPA



The Amendments

The amendments can be grouped into 4 topics:

1. Reducing & eliminating sexual abuse
2. Enhancing Transparency
3. Increasing ministerial powers
4. Miscellaneous amendments

Eliminating and Addressing Sexual Abuse (SA)



- a) Regulations on how to investigate and prosecute sexual abuse
 - *Wait and see. No College action at this time*

- b) Additional funding for those complaining of sexual abuse through the abuse therapy fund
 - *Contribution of \$20,000 to the fund this fiscal year*
 - *Policies and procedures to be developed once specifics of legislation passed*

- c) Offences leading to mandatory revocation expanded
 - *Ensure College resources amended to reflect changes, e.g., jurisprudence. Practice Standards. etc.*

Eliminating and Addressing Sexual Abuse



- d) Other orders by the Discipline Committee
 - i) No gender-based restrictions
 - *No changes required (never done)*
 - ii) Minimum of suspension required (for all other SA cases)
 - *Would be decided through discipline decisions and precedence*
 - iii) No deferring of penalties ordered by the Discipline Committee
 - *No changes required by the College*

Eliminating and Addressing Sexual Abuse



- d) Revised definition of patient (for purposes of SA)
 - i) 1 year post-clinical termination
 - *Requires revisions of standards and guidelines, jurisprudence, etc.*
 - *Education and communication to membership, applicants, students, universities*
 - ii) regulation-making power on criteria to determine definition
 - *work with FHRCO to provide advice to government (not sure whether this power will be used in immediate future)*

- f) Increased fines for failing to make mandatory report
 - *educational campaign for members on mandatory reporting*



Enhancing Transparency

- a. Expansion of information on public register
 - Requires by-law amendments to comply with provisions in legislation, e.g. removal of information provisions

- b. New mandatory self-reporting obligations
 - Requires revisions of standards and guidelines, jurisprudence
 - Education and communication to membership
 - Update of public register to include this information

- c. Posting Council meeting materials
 - College is already doing this. No action required



Increased Ministerial Power

- a) Mandating committee structure
 - No College action required at this time. Will work with FHRCO to advise Ministry of Health

- b) Additional prescribed functions for the Patient Relations Committee
 - No College action required at this time.
 - Committee will also work to revise all standards regardless of whether they deal with sexual abuse

- c) Collection and disclosure of information by Colleges
 - Wait and see; no action required at this time



Miscellaneous Amendments

- a) Disclosure of information in the public interest (including long-term care homes)
 - *No immediate action required.*
 - *Once enacted - will develop a policy outlining how the College will assess whether disclosure is necessary*

- b) Earlier Interim Suspensions (for ICRC)
 - *No action required at this time*

- c) Alternative Dispute Resolution (ADR) and withdrawal of complaints
 - *No action required at this time*
 - *College working on ADR policies – will not be affected by amendments*



Thank You

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