



## **Council Meeting Highlights – February 18, 2022**

This document will provide a summary and overview of Council discussions during a special meeting of Council that was convened in response to the Provincial Government's request for consultation regarding proposed Governance reforms (provincial government's request for consultation attached below this summary). In-camera discussion and deliberation, including legal advice provided by the College's legal counsel, will not be detailed in this document.

### **Conflict of Interest Declarations**

No Council members attending this meeting declared any conflicts of interest pertaining to the materials and topics that were discussed at this meeting of Council.

### **Provincial Government Proposals Regarding Governance Reform**

Christine Forsyth was introduced to Council and observers as the facilitator for this discussion. Also present for the meeting with Mr. Richard Steinecke, the College's legal counsel, who had been called upon to provide his perspective on the reforms proposed by the provincial government.

Christine Forsyth described the current situation, with the Ministry of Health having proposed governance reforms and given Colleges until February 23, 2022, to respond to the proposed changes.

Christine Forsyth advised that the purpose of this meeting is to discuss and review the College's response to these proposed changes and to ensure that the response letter sent by the College reflects Council's opinion on the most important and pertinent aspects of the proposed reforms from the College of Kinesiologists' perspective.

Richard Steinecke then provided a high-level overview of the governance reform proposals, which were grouped into 5 general categories:

- General governance reform proposals, which included (but were not limited to) decreasing the size of Council, implementing a competency-based selection and appointment process and increasing the separation of Council and committee responsibilities.
- Housekeeping proposals, such as updates to terminology used to describe people serving on Council, as well as possible changes to College staff titles (ie: "Registrar" to "CEO"). This item also included reference to public access being granted to unused/outdated titles that may be associated with a regulatory College.
- Modernization initiatives, such as regulatory Colleges falling under the jurisdiction of the *French Language Services Act* (and, by extension, the Office of Francophone Service), the Auditor General of Ontario and the Ombudsman's Office.
- Registration reforms, such as removal of Canadian experience requirements, standardization of registration timelines and standardization of language fluency/proficiency requirements, have also been proposed by the provincial government.
- Creation of a Regulatory Authority, which would be a new body initially tasked with regulation and oversight of Personal Support Workers (PSWs).

Richard Steinecke also provided an overview of the College's draft response letter, which would be considered by Council during this meeting.

**Council then transitioned to an in-camera meeting in order to obtain opinions from legal counsel regarding these matters.**

Upon returning from the in-camera session, Council reviewed the College's letter to the provincial government. The letter addressed proposed Governance, Housekeeping, Modernization, Registration and Regulatory Authority proposals from the perspective of the College of Kinesiologists of Ontario. Council proposed some amendments to the content of the letter, which would be incorporated by staff prior to submission of the letter to the Provincial Government by the consultation deadline of February 23, 2022.

A motion was then made to approve the letter, with amendments. This motion was duly seconded and carried by a majority vote of Council members in attendance. The text of the College letter can be found below.

Following approval of the College's letter, the meeting was adjourned.

Ministry of Health  
Ministry of Long-Term Care

Assistant Deputy Minister  
Strategic Policy, Planning & French Language  
Services Division

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Ministère de la Santé  
Ministère des Soins de longue durée

Sous-ministre adjoint  
Division des politiques et de la planification  
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438 avenue University, 10<sup>e</sup> étage  
Toronto ON M7A 2A5



January 26, 2022

**Health Profession Regulatory Colleges**  
c/o  
**Beth Ann Kenny**  
**Executive Coordinator**  
**Health Profession Regulators of Ontario**

On October 7, 2021, as part of the *Supporting People and Businesses Act* the Ontario government announced that the Ministry of Health (ministry) would be consulting on governance reforms for Ontario's health regulatory Colleges that would improve decision making, bolster transparency and further support high-quality health care for Ontarians.

I would like to thank the Colleges for their leadership and continued contributions to the ongoing work on college governance reform. The input the ministry received from colleges this past June was instrumental in moving this work forward.

At this time, the ministry is seeking health regulatory colleges' insight and feedback on reforms that the ministry is considering for government approval. Attached to this letter is a briefing deck that provides an overview of the reforms under consideration and some guiding questions for some of the areas on which we are seeking your input.

The ministry will be scheduling time to address any questions you may have about the proposals and would like to focus on some key areas of particular interest. We would request that you submit any written feedback you may have on the proposed reforms by **February 23, 2022**.

The ministry looks forward to our continued partnership as we embark on improving and strengthening the oversight system for health professions in Ontario.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean Court".

Sean Court  
Assistant Deputy Minister

Encl.

c. Allison Henry, Director



February 18, 2022

Via email: [Sean.Court@ontario.ca](mailto:Sean.Court@ontario.ca)

Sean Court

Assistant Deputy Minister

Strategic Policy, Planning and French Language Services Division

Ministry of Health

438 University Avenue, 10<sup>th</sup> Floor

Toronto ON M7A 2A5

Dear ADM Court,

**RE: Proposed Governance Reform and Regulatory Modernization Consultation**

Thank you, on behalf of the Council, staff and registrants of the College of Kinesiologists of Ontario (“the College”), for providing us the opportunity to review and comment on the governance and regulatory modernization reforms proposed by the Government of Ontario.

We at the College would like to take this opportunity to share our perspectives regarding the proposed reforms and their potential impact(s) on our day-to-day operations and our mandate to protect the public through effective regulation of the practice of Kinesiology in Ontario.

**Core Governance Reforms:**

We believe that the proposed changes to the governance model under which Colleges in Ontario operate will require a great deal of cooperation and collaboration to ensure a smooth transition. In light of indications from the Ministry that these reforms would be implemented gradually, we would greatly appreciate advance notice of proclamation. In part, such notice would help ensure that any elections that take place prior to proclamation are transparent with regards to the extent to which prospective Council and committee candidates could be expected to undertake additional eligibility requirements. We also believe that advance notice of proclamation is required to determine whether

those elected to Council prior to proclamation may be required to serve truncated terms. We also believe that clear timelines for transition either leading up to or following the proclamation date (e.g., 18-24 months) would help to maintain transparency and the integrity of our election processes.

Please find below our comments with respect to implementation. A considerable amount of work is expected in order to ensure the following:

- Council and committees remain able to operate and make decisions during a transition that would include a reduction in size of and potential challenges in ensuring Council meetings are properly constituted and meet quorum requirements. This is particularly important in light of the proposal to assign Executive Committee functions to Council, as it would currently fall to the Executive Committee to assume responsibility for decision-making in urgent or emergent situations where Council may not be able to be properly constituted in a timely fashion.
- That there is clarity regarding how the transition period will affect the selection or election of new Public and Professional representatives to Council and the selection of Public and Professional committee members. In particular, we would seek guidance regarding how or whether to proceed with upcoming Council election and committee appointment cycles.
- The College supports adopting a hybrid approach during the transition period, where some members of Council are moved to serve exclusively on statutory committees while other members serve temporarily on both Council and committees until the College can fully transition to the new structure. It would be helpful if there were provisions enabling certain committee panels already dealing with a matter to continue to operate despite no longer being properly constituted or losing quorum.
- That all Colleges have equal (or equivalent) access to qualified public candidates wishing to participate in Council or committees. Recruitment and appointment of public members should be competency-based. It is recommended that the Ministry adopt a common set of competency criteria applicable to both professional and public members of Council and statutory committees. The College has a Council and Committee Competency Profile adopted from the Health Professions Regulators of Ontario's Eligibility Criteria and Competency Profile. The same competency-based framework could be adopted for public members of Council.
- That the process for selection/election and appointment of members of the public and professionals registered with the College to Council and committee positions include clear assessment criteria for identified essential or valuable competencies. We believe that this competency identification process should take diversity, equity and inclusion principles into consideration, to ensure that Council and committees reflect and are mindful of the diverse population that we serve.
- It would be helpful to retain all current public members to populate Council and committees until a process can be established for public appointments to committee.
- Legislative amendments should specify who will select statutory committee public members, and who is responsible for their compensation. If Colleges are responsible for remunerating the additional public members, there is concern that public members will gravitate to colleges offering greater remuneration, creating competition among Colleges for public members.

- That any committee or group responsible for nominations and selection of individuals to Council should possess governance and human resources competencies and be free of connections to the profession and conflicts of interest that may impact their decision-making.
- That Council and committee members will possess the competencies and institutional knowledge necessary to make timely and informed decisions. We believe that Council and committee term limits must be carefully constructed to ensure appropriate continuity while allowing for Council and committees to reflect current and emerging public interests.
- In eliminating the Executive Committee, the Ministry should enable Council to continue to operate despite vacancies (i.e., when Council or committees are not properly constituted under new provisions); and consider amending the quorum requirements.

### **Housekeeping Reforms:**

The College understands that the purpose of the reforms being proposed as “housekeeping” measures by the Ministry are to improve public understanding of the function of regulatory Colleges. The College supports these reforms and appreciates the opportunity to provide feedback on their implementation.

#### *Outdated unused titles*

The College is concerned that there is a potential for confusion as to who is a regulated health care professional should unregulated practitioners and service providers begin using outdated or unused titles. The College recommends that the Ministry specifies which “unused titles” are no longer considered protected to avoid public misunderstanding and to enable the College to continue to effectively regulate the practice of the profession.

#### *Removal of Outdated provisions in profession specific Acts*

In removing outdated provisions in professional Acts the College respectfully recommends that the Ministry:

- consider the historical rationale for and application of these provisions prior to their removal. While these provisions may no longer apply, they may help to provide context for historical reference.
- provide regulators with adequate notice and timing for implementation to ensure that documents, policies and procedures are aligned with current legislation.

#### *Terminology Updates*

The College supports the Ministry’s recommended updates but asks that the Ministry considers;

- that there may be value in preserving some titles, such as “Registrar”, in order to avoid the suggestion or implication that Colleges are private corporations (rather than their legal status as not-for-profit professional regulatory bodies).

In general, the College recommends that the Ministry provides appropriate compliance timelines given the document and material updates that would be required to ensure that our internal and external materials accurately reflect the housekeeping reforms proposed.

### **Modernization Reforms:**

As a relatively small regulatory College, we anticipate some challenges associated with compliance with the proposed modernization reforms. While we, as a regulatory body, acknowledge the value of appropriate oversight, we respectfully request that the Ministry takes into consideration our size and operational capabilities when determining how such reforms would be implemented. The College would like to take this opportunity to share our current situation and how the Ministry modernization reform proposals may affect us.

#### *French Language Services Act*

The College ensures its compliance with the enabling legislation by providing services in English and French. The demand for French-language documents and services has, to date, been low. Currently, the College provides translation services when required by applicants and registrants. Document translation is completed at no cost to college applicants and registrants. The College’s entry-to-practice exam and Jurisprudence module and handbook are available in French as well as English.

At present, the College does not have a formal requirement for Council, committee, or staff members to be able to provide service in French. As a result, we anticipate that there would be challenges in ensuring Council and committees (including committee panels) would be properly constituted, particularly if a circumstance should arise where French-speaking staff, Council or committee members were not available at a given time.

The College believes that full compliance with the *FLSA* would create significant financial and resource challenges. The College recommends a gradual and phased compliance timeline for implementation in consideration of the limited operational budget of smaller colleges. Regulators have historically collaborated on a number of Ministry and operational initiatives; the College is open to such collaboration with regulators in sharing resources to achieve this mandate.

The College also believes that College accountability to the Office of Francophone Affairs would need to be properly managed and understood.

### *Regulatory Colleges under the jurisdiction of the Auditor General*

The College makes a concerted effort to ensure that it functions in a sustainable, efficient, and prudent manner. This includes annual financial audits in accordance with generally accepted accounting principles and practices. Should it be determined that the College's operations will fall under the jurisdiction of the Auditor General's office, we would ask for some clarity regarding expectations, including the frequency, probability and scope of a review of College practices by the Auditor General, as well as what our regular reporting responsibilities might be. The College would also strongly recommend that the provincial government offer to provide material support to Colleges. Such support may be time-limited and specifically intended to help manage or offset the operational burdens associated with financial or performance audits conducted by the Auditor General's office. We believe that this support would facilitate College participation and compliance with an audit process and any recommendations that may emerge thereby.

### *Review of College decisions by the Patient Ombudsman*

At present, College decisions may be reviewed by the Health Professions Appeal and Review Board (HPARB). We believe that this constitutes a robust oversight framework and would welcome more details regarding the nature of the Ombudsman's role in the appeal and review process, should that proposed reform be implemented. We would hope that the proposed additional level/layer of oversight will promote improved public confidence through a transparent, efficient and unbiased appeal and administrative process in accordance with "right-touch" regulatory practices, such as minimizing the amount of regulation required to accomplish a given aim or resolve an area of concern.

Currently HPARB can only return a decision for reconsideration by the ICRC. Would the Ombudsman be able to issue a completely different decision? (Essentially overturn the ICRC).

The College understands part of the Ombudsman's mandate is to investigate and report on issues that may impact transparency, fairness and accountability. We understand that this involves making recommendations and the identification of best practices. Currently, the College Performance Measurement Framework (CPMF) may already provide opportunities to identify where College activities can be better aligned with established best practices to promote improved outcomes for the public. As such, we would appreciate clarification regarding how the Ombudsman's role would, with regards to process improvement, be fundamentally different from the CPMF.

In general, the College is concerned with the risk of duplicate and inconsistent oversight from multiple external oversight bodies. If there is to be expanded external oversight, the College recommends that consideration should be given to having just one oversight body. Further, the College recommends amendments to the RHPA to specify what College information these various oversight bodies should be able to access.

### **Reducing Barriers to Registration:**



The College concurs that efficient, streamlined application and registration processes are vital to the College's mandate of public protection. The College welcomes reforms to this end, and believes that the following recommendations may add value:

#### *Removal of Canadian Experience Requirements for Internationally Trained Applicants*

At present, the College of Kinesiologists does not require internationally educated applicants to obtain Canadian experience prior to education. With the exception of obtaining a Police Reference Check, the entire application and registration process can be completed outside Canada. However, the College is mindful of the need to assess each applicant's knowledge, skill and judgement accurately and efficiently to ensure that all registrants can practice kinesiology safely in Ontario, regardless of their country of origin or where they were educated. We agree that undue barriers to labour mobility may be counterproductive.

#### *Prescribed Time Limits for Registration Decisions*

The College believes that standardized registration time limits, if imposed, should be developed with an awareness of the different circumstances that may affect various Colleges. Factors that may impact registration processing times could include the size of a college (including number of applications received, and whether applications are processed throughout the year or whether there is an influx of applications at specific times), or whether the College administers its own entry-to-practice exam (or whether the College accepts national exam results as part of the application evaluation). The College agrees that a standardized registration time limit would increase transparency, though we suggest that such time limits should account for unforeseen or extenuating circumstances that may apply to individual applicants from time to time. It would be our hope that time limits would facilitate registration decision-making, rather than creating a de facto barrier to registration, or, worse yet, contributing to registration decisions that are made based on timelines as opposed to good faith evaluation of the quality of any given application.

#### *Standardized Requirements for Demonstrating Language Proficiency*

The College anticipates that imposing standardized language proficiency requirements may result in some unique challenges. We are aware that the practice environment of each College is slightly different and that dependant on the college, registrants may not require the same proficiency in English and/or French. The College believes that it is important to strike a balance between public protection and avoiding undue barriers to registration and respectfully suggests that language proficiency requirements be based on an objective awareness of the level of fluency required for accurate record-keeping, review of records and obtaining informed consent from patients or their authorized representatives.

#### *Expediting Registration in Emergencies*

The COVID-19 pandemic has provided many lessons for those in the regulatory community. Emergency situations may call for changes in how we view the registration and application process, particularly where the skills of regulated health care professionals can be of value to the public we serve in

challenging times. It may be helpful to consider formalizing the circumstances that would require emergency registration practices to be employed, and who might be eligible for emergency registration. For example, it may be valuable to consider temporary reinstatement of registrants who have resigned from their College, or those whose certificate of registration has been suspended or revoked for administrative (as opposed to disciplinary or fitness-to-practice) reasons. It would be important to consider what changes or regulations would need to be made to the RHPA and various professional Acts, but also who would be responsible for bearing the costs associated with temporary registration in emergency circumstances.

**Integrating Oversight Systems and New Professions:**

We welcome the introduction of a regulatory Authority, with initial responsibility for Personal Support Workers. We believe that these individuals play an important role that will only increase as time passes, and that there is value in ensuring that they are competent and sufficiently able to practice safely. We agree that the jurisdiction of such an Authority could well extend beyond these practitioners, though we would encourage the government to consider how a regulatory Authority may differ from a regulatory College (if, in fact, there is a difference) and to ensure that all efforts are made to promote clarity, collaboration and avoid public confusion.

In summary, the College of Kinesiologists of Ontario would once again like to thank the Ministry for the opportunity to consult on these proposed reforms. We believe that an open, transparent and collaborative approach to the legislative and regulatory environment in Ontario serves not only the best interests of the provincial government, but also our interests as regulatory Colleges and, most importantly, our shared interest in public protection.

We welcome further dialogue with the Ministry regarding this important matter.

Sincerely,



Jennifer Pereira, R. Kin.  
President  
Council of the College of Kinesiologists of Ontario



Nancy Leris  
Registrar and CEO  
College of Kinesiologists of Ontario