

College of Kinesiologists of Ontario Council Meeting Minutes	
Date/Time of Meeting	Monday, June 15, 2015 at 10:30 a.m.
Chair	Lynn Kabaroff
Timekeeper	Zeina Yusuf
Note taker	Zeina Yusuf
Present	Daniel Crete, Jonathan Dubberley (until 3:30p.m.), Kathie Sharkey, Elizabeth Chapman, Lynn Kabaroff, Mary Pat Moore, Lori-Anne Beckford, Kalen Johnson, John Gray Gennady Vaserbakh Robert Ross (until 4:00 p.m.), Michelle Meghie (11:30 a.m.) Teleconference: Rosario Colomba
Regrets	Don Halpert, Fergal O'Hagan, Chad McCleave
Staff in Attendance/ Guests	Staff: Brenda Kritzer, Lara Thacker, Cara Moroney, Nancy Leris, Stamatis Kefalianos, Magdalena Reder, Susan James, Zeina Yusuf Guests: Des Levin and Talia Rubin, Crowe Soberman; Conny Glenn, R.Kin, and Rod Hare, R.Kin from the Association of Registered Kinesiologists of Ontario (ARKO).
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	Robert Ross declared involvement in the proposal of a Masters in Professional Kinesiology program. He was an external reviewer on the proposal and his involvement is not on-going. Council agreed that Robert would leave the room before this discussion.
Approval of Agenda	UPON A MOTION duly made by John Dubberley and seconded by Robert Ross, it was resolved that the agenda be approved as circulated. CARRIED.
Approval of Minutes	UPON A MOTION duly made by Rosario Colomba and seconded by John Gray, it was resolved that the minutes of March 2, 2015 be approved. CARRIED.
	Business Arising from the Minutes of March 2
	<ol style="list-style-type: none"> 1. Brenda Kritzer to clarify with the Ministry of Health and Long-Term Care as to whether the College's surplus will cause the Ministry to ask the College to pay back a portion of its transfer payment. She will report back to Executive Committee on this matter. – Completed. Brenda Kritzer 2. Brenda Kritzer to amend business plan to indicate that all universities will be surveyed to gauge their interest in participating in the mentorship program. – In-progress. University of Toronto approached the College regarding placements. This was previously mentioned at the CKO-Universities Liaison Committee. 3. Brenda Kritzer to provide explanations regarding membership projections for 2015/2016 and thereafter. The budget will then be

	<p>presented to Executive Committee for approval. – Brenda Kritzer/Nancy Leris Completed.</p> <p>4. Brenda Kritzer to amend the letter to Ontario Athletic Therapist Association and remove Canadian Athletic Therapist Association title provisions. – Events overtook this correspondence and letter not sent. Brenda Kritzer</p> <p>5. Ryan Pestana to create online poll to confirm Deny Brulotte’s appointment to ICRC once his involvement with the OKA was determined. – Cara Moroney/Ryan Pestana Completed. Deny Brulotte is no longer put forward for appointment to Committee</p>
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	<p style="text-align: center;">Audited Financial Statements and Annual Report</p> <p>College accountant, Talia Rubin, began with a presentation of the audited financial statements for 2014-2015. It was noted that the statements are similar to previous years with a few variances.</p> <p>Talia noted a temporary restricted cash line in relation to final reconciliation by the MOHLTC.</p> <p>Talia Rubin reported that there was a miscalculation in examination fees revenue in the 2013/2014 financial statements. The fees were overstated by \$62,000 and should have been deferred to the 2014/2015 exam period. To correct the error, the amount was restated to the 2014/2015 financial statement.</p> <p>(T Rubin and D Levin left the meeting)</p> <p>Council was asked to accept the statements for circulation.</p> <p>MOTION Whereas Council requires that its operations undergo a financial audit annually, and</p> <p>Whereas the firm of Crowe Soberman was appointed to carry out this audit and did so during the month of May 2015; and</p> <p>Whereas the auditor has now presented Council with draft financial statements as well as the auditor’s opinion;</p> <p>Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario accept and approve for circulation the audited financial statements for 2014/2015.</p> <p>Moved by John Gray, seconded by Steve Anderson. CARRIED.</p> <p style="text-align: center;">Reappointment of Auditor for 2015-16</p> <p>Lynn Kabaroff presented a motion to re-appointment of Crowe Soberman as the College’s auditor for 2015/2016.</p> <p>MOTION</p>
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	<p>Whereas, the College is required annually to provide audited financial statements to the Council and to the Minister of Health and Long -Term Care; and</p> <p>Whereas, from time to time the Registrar will require advice on accounting and bookkeeping matters to ensure that College practices are consistent with other health regulatory bodies and carried out with due diligence and to meet both provincial and federal (CRA) government requirements; and</p> <p>Whereas Crowe Soberman was selected from an invitational Request for Proposals for the College’s Annual Audit for the fiscal year April 1, 2012 to March 31,2013 and has since performed the required services satisfactorily and in a timely manner;</p> <p>Therefore Be it resolved that Crowe Soberman is reappointed as the auditor for the College of Kinesiologists of Ontario for the period of April 1, 2015 through to and including March 31, 2016.</p> <p>Moved by Mary Pat Moore, seconded by Elizabeth Chapman. CARRIED.</p> <p style="text-align: center;">Annual Report 2014-2015</p> <p>Brenda Kritzer presented the College’s annual report 2014-2015. Kathie Sharkey noted numerical discrepancies in the registration statistics. Stamatis Kefalianos explained that these could be rounding errors and will be corrected prior to distribution.</p> <p>MOTION Whereas Council requires that that an annual report be prepared each year, and submitted to the Ministry of Health and Long-Term Care and posted on the website; and</p> <p>Whereas the report as presented by the Registrar fairly represents the achievements throughout 2014/2015;</p> <p>Resolution Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario accept and approve for circulation the annual report for 2014/2015.</p> <p>Moved by Gennady Vaserbakh, seconded by Kalen Johnson. CARRIED.</p>
	<p style="text-align: center;">Financial Report</p> <p>Nancy Leris presented the revised budget for 2015-2016 and first quarter financial reports. It was noted that the revised budget and projected revenues were approved by Executive Committee in April following revisions to the forecast of membership. The revised budget includes an increased allocation for communications to allow for increased public awareness initiatives. A separate line item for reserve funds was also included as recommended at the March Council meeting. Nancy Leris presented the Interim Statement of Cash Flows for Q1 2014-2015. Council was concerned with the low revenues received from registration in the first quarter. Brenda Kritzer clarified that exam</p>

	<p>results were sent out later this year. Because the College’s fees are prorated, successful candidates were delaying their registration until they could pay a lower fee.</p> <p>MOTION Whereas the Registrar has provided Q1 reports for Council to review revenues, expenditures and achievements to date, and</p> <p>Whereas the Registrar has noted that the Q1 Financial Variance Report is interim in that June 30 represents the end of the quarter, and</p> <p>Whereas Council has found these reports to be satisfactory;</p> <p>Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario accepts the Q1 reports for 2015-16.</p> <p>Moved by John Gray, seconded by Robert Ross. CARRIED.</p>
	<p style="text-align: center;">Registration Committee Report</p> <p>Rosario Colomba, Chair of the Registration Committee provided an update on the Committee’s work. Since the last Council report, there have been no referrals to the Registration Committee. A report of the April exam sitting was provided and it showed a 24% increase in candidates writing the exam compared to last year’s April sitting. Additionally, the College submitted a Fair Registration Practices Report to the Office of the Fairness Commissioner (OFC) and met with OFC staff. They were pleased with the College’s registration practices and there were no concerns raised or recommendations made.</p> <p>Mary Pat Moore asked about the most recent pass rate and how it compares to previous exam sittings and potential reasons for difference. Stamatis Kefalianos explained that the pass rate had improved since Spring 2014.. A proactive approach is taken to better inform candidates of importance of studying the practice standards and guidelines.</p> <p>Some Council members raised concerns that candidates may be discouraged about re-writing the exam after an unsuccessful first attempt. John Gray suggested the College distribute a short survey to these applicants to gauge their intentions on re-writing the exam.</p>
	<p style="text-align: center;">Inquiries, Complaints and Reports Committee</p> <p>Mary Pat Moore informed that the Committee met in April to consider a complaint case for which no action was taken, and a decision was sent to all parties. Following a referral from the Quality Assurance Committee, ICRC met in June to appoint an investigator for this referral and another complaint. Mary Pat Moore reported that the Health Professions Appeal and Review Board (HPARB) is in the process of reviewing a complaint decided by the College and a decision should be released within a month. ICRC’s work on phase 2 of the transparency project will begin in the summer and the Committee will focus on changes to its decision making process and the publication of certain outcomes.</p>

	<p>John Gray excused himself from the remainder of the meeting after the ICRC report. This was his last meeting as a Council member and the President thanked him for his work.</p>
	<p style="text-align: center;">Proposed by-law changes – Findings of Guilt</p> <p>Cara Moroney provided an update on the College’s implementation of transparency initiatives. The presentation began with an outline of the eight transparency principles and two options for Council to consider. At its March meeting, Council approved for circulation a by-law that would permit the College to post all convictions for provincial and federal offences and all criminal convictions from any jurisdiction to the Public Register at the discretion of the registrar. Based on feedback from the circulation. Council considered possible options: Option 1 – Approve and proceed with amended bylaw as circulated; or Option 2 - consider changes to the proposed amendments which would add clarity, increase transparency and address public protection. Council noted that to require the posting of information at the discretion of the registrar lacks transparency for members and would require extensive policy direction to ensure consistency in Registrar’s decisions. Further, it was noted that the such policy direction could lack comprehensiveness which would delay posting and again place the burden of discretion without policy direction on the registrar and open the College to many challenges. Council also noted that convictions in jurisdictions outside of Canada may be in relation to offences not relevant to practice in Ontario and a number of examples were noted. After discussion of both options Council proceeded with option 2 and considered the new amendments drafted by staff as being more in keeping with the transparency principles. The new amendments approved for circulation, will require all findings of guilt under the Criminal Code or the <i>Controlled Drugs and Substances Act</i> to be posted to the Public Register.</p> <p>MOTION</p> <p>Whereas the Minister of Health and Long-Term Care has directed Colleges to make transparency a priority; and</p> <p>Whereas the mandate of the College is protection of the public interest and the College is accountable to the public; and</p> <p>Whereas the proposed by-law would require posting information which is already public, but would provide it in a more relevant place for health care consumers; and</p> <p>Whereas the proposed by-law was circulated for comment for a period of 60 days; and</p> <p>Whereas the majority of responses favoured the proposed amendments but indicated a need for clarity on ‘relevant to suitability to practice’ and what offences would and would not be posted; and</p> <p>Whereas the College has examined the approach and experience of other health regulators and noted that greater clarity on what offences will be posted can be achieved by limiting it to certain pieces of legislation and not providing</p>

the Registrar with discretion; and

Whereas it is a reasonable predetermination that all criminal code offences and offences under the *Controlled Drugs and Substances Act* are relevant to suitability to practice and are therefore a matter of public interest; and

Whereas there are many advantages to this approach because it provides certainty and fairness to members and also provides relevant information to the public;

Therefore, be it resolved that Council approve for circulation a revised By-law amendment on the posting of findings of guilt as follows:

In addition to the information set out in subsection 23(2) of the Code, the register shall contain the following information, which is designated as public information, with respect to each member:

- *Where there has been a finding of guilt against a member under the Criminal Code or the Controlled Drugs and Substances Act, made on or after XX-XX-XXXX, 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, a brief summary of the:
 - (i) The finding
 - (ii) The sentence
 - (iii) Where the finding is under appeal, a notation that it is under appeal until the appeal is finally disposed of.*

Moved by Jon Dubberley, seconded by Robert Ross. CARRIED.

In favour - 11

Opposed -1

Proposed by-law changes – Transparency Phase 1

In response to the Ministry directive on transparency, additional changes were made to by-law provisions regarding the release of member-specific information through the public register. Cara Moroney presented a comparison table of the current by-law provisions and corresponding amendments. The proposed amendments included posting more information regarding a member's referral to discipline and the status of a discipline matter. Also included posting findings of incapacity, and obligations for bail conditions as well as on-going (not just concluded) regulatory proceeding.

Council was asked to review the amended by-law provisions on the posting of member information and approve for circulation.

MOTION

Whereas the Minister of Health and Long-Term Care has directed Colleges to make transparency a priority; and

Whereas the mandate of the College is protection of the public interest and the College is accountable to the public; and

Whereas the College submitted its transparency report to the Ministry of Health and Long-Term Care indicating that the College would move forward in its efforts to increase transparency in the coming year; and

Whereas the six AGRE colleges have moved forward with Phase 1 By-law changes and many other Colleges are also beginning this process and one of the principles of transparency is consistency among the regulators; and

Whereas the amendments being proposed mainly consist of information already known to the College (re: discipline hearings) or information publicly available (ex. bail restrictions, incapacity findings by other regulators); and

Whereas this information is considered relevant to the public’s right to choose their health care providers; and

Whereas other amendments outlined in the By-law Comparison Table also contribute to greater transparency by making the information about what is on the public register and what information members must provide clearer;

Therefore, be it resolved that Council approve for circulation the By-law amendments as outlined in the By-law Comparison Table.

Moved by Kalen Johnson, seconded by Mary Pat Moore. CARRIED.

Patient Relations Committee Report

Kathie Sharkey presented the Patient Relations Committee report. Council reviewed an issue note to seek a regulation to exempt spouses from the definition of sexual abuse. Several questions were raised regarding the definition of “spouse”. Cara Moroney explained that the definition was provided by the Ministry of Health and Long-Term Care and cannot be interpreted differently.

Council discussed the matter and resolved to seek this regulation.

MOTION

Whereas the issue of whether the treatment of spouses constitutes sexual abuse has been considered by the Health Professions Regulatory Advisory Council (HPRAC); and

Whereas HPRAC recommended to the Ministry of Health and Long-Term Care (MOHLTC) that treatment of spouses should be exempt from the definition of sexual abuse in the *Regulated Health Professions Act, 1991* (RHPA); and

Whereas the MOHLTC amended the RHPA to allow individual Colleges to pursue a regulation exempting the treatment of spouses from the definition of sexual abuse; and

Whereas the Patient Relations Committee (PRC) met in November 2014 and May 2015 and undertook a full analysis of the pros and cons of pursuing the regulation and considered the public interest and the zero tolerance philosophy in the RHPA for sexual abuse; and

	<p>Whereas the PRC also consulted the membership through a voluntary working group about the current restrictions and additional concerns about conflict of interest and quality of services; and</p> <p>Whereas the PRC agreed that the automatic assumption that the treatment of spouses constitutes sexual abuse is overbroad and unduly harsh and may not be capturing sexual abuse as contemplated in the RHPA;</p> <p>Therefore, be it resolved that Council approve to seek the regulation pursuant to s.95(1) (O.a) which will bring into effect s.1(5) of the <i>Health Professions Procedural Code</i> (the Code) as follows:</p> <p style="padding-left: 40px;"><i>If the Council has made a regulation under clause 95 (1) (O.a), conduct, behaviour or remarks that would otherwise constitute sexual abuse of a patient by a member under the definition of “sexual abuse” in subsection (3) do not constitute sexual abuse if,</i></p> <p style="padding-left: 80px;"><i>(a) the patient is the member’s spouse; and</i></p> <p style="padding-left: 80px;"><i>(b) the member is not engaged in the practice of the profession at the time the conduct, behaviour or remark occurs. 2013, c. 9, s. 1 (1).</i></p> <p>Moved by Lori Anne Beckford, seconded by Gennady Vaserbakh. CARRIED.</p>
	<p style="text-align: center;">Quality Assurance Committee Report</p> <p>Elizabeth Chapman, Chair of the Quality Assurance Committee, presented the Committee report. Data from the 2014 self-assessment cycle was reviewed and one member was referred to ICRC for non-compliance with the program. The peer and practice assessment (PPA) tools were approved by the Committee following piloting and the first PPA period began on May 1st. Seven members were randomly selected and assessments are to be completed within 90 days. The Committee developed a business case for the development of an ethics and professionalism e-learning module, which could be used by students and faculty to address gaps in the curriculum concerning professionalism and professional practice. The University of Toronto’s Joint Centre for Bioethics will be engaged to advise the project.</p> <p>The Committee underwent training on decision-making, writing decisions and reasons, and directing specified continuing education and remediation programs (SCERPs). The annual Committee evaluation survey was completed and feedback will be reviewed.</p> <p>This was Elizabeth Chapman’s final Council meeting and the President thanked her for her work on Council and as Chair of the QA Committee. She noted the hard work of the Committee and the gains that have occurred for the College in launching the Peer and Practice Review process.</p>
	<p style="text-align: center;">Strategic Planning Report</p> <p>Brenda Kritzer informed Council that the consultants engaged to facilitate and provide support to the development of the College’s strategic plan provided a summary report of the May workshop. The report will be reviewed by College</p>

staff and specific activities will be developed to address the Strategic Priorities. Progress will be reported to Council in September or December.

President/Executive Committee Report

Lynn Kabaroff and Brenda Kritzer met with Alyson Rowe from the Minister`s Office of the Ministry of Health and Long-Term Care and presented on the College`s achievements, progress and challenges. Lynn Kabaroff also met with the Ontario Kinesiology Association (OKA) regarding their annual conference and communications strategies. The OKA raised concerns that members may not be not properly insured at the time of renewal and were only renewing their insurance when contacted by a College staff person. Stamatis Kefalianos reported that for the 2015/2016 renewal period, inputting insurance information will be mandatory, and members will not be able to complete renewal until insurance information is entered.

Clinics Regulation briefing

Lynn Kabaroff gave a brief presentation on the work of the clinics regulation working group. The group has identified a model which would require the establishment of new legislation and a new regulatory body the Health Clinic Authority (HCA). The HCA would function as a health regulatory body with its own Council and committees.

Council members discussed potential costs of the project. Lynn Kabaroff mentioned that projected spending for phases 2 and 3 of the project is \$25,000. The College has currently allocated \$18,000 for special projects. Mary Pat Moore raised concerns of how HCA will function financially. Brenda Kritzer explained that the body will be self-sufficient with clinic owners paying fees and further noted that the Working Group has defined a set of parameters including financial viability without creating an undue burden on clinic owners.

Council was asked to approve the recommendation by the clinics regulation working group to begin drafting legislation to regulate private clinics.

MOTION

Whereas the College has participated in a Working Group exploring the regulation of unregulated clinics where health care professionals are working; and

Whereas Council recognizes that the protection of the public in the health care context is restricted in the current model which regulates individual professions but does not regulate clinics in which they may work; and

Whereas Council recognizes that registered kinesiologists may work in clinics which make it difficult or even impossible for them to adhere to standards of practice, where health information of individuals may not be protected, where equipment and facilities may pose a risk including risk of infection due to poor practices; and

Whereas a conceptual model has been presented which Council believes addresses the needs identified; and

	<p>Whereas the Working Group has recommended that work proceed to begin drafting legislation for clinic regulation as soon as possible; and</p> <p>Whereas Council wishes to seek input and feedback on this model from members of the College and stakeholders;</p> <p>Therefore be it resolved that the Council of the College of Kinesiologists of Ontario approves the recommendation by the Clinic Regulation Working Group to pursue the creation of new legislation for clinic regulation, and to begin consultation with stakeholders on the preliminary model.</p> <p>Moved by Elizabeth Chapman, seconded by Daniel Crete. CARRIED. Abstained – 1 Approved – 11</p>
	<p style="text-align: center;">Registrar’s Report</p> <p>Staff changes Brenda Kritzer introduced Zeina Yusuf, the College’s new Administrative Assistant.</p> <p>Update from FHRCO Brenda Kritzer provided an update from the Federation of Health Regulatory Colleges of Ontario (FHRCO).</p>
	<p style="text-align: center;">Correspondence</p> <p>New professional association</p> <p>Lynn Kabaroff read a letter from a newly founded professional association, the Association of Registered Kinesiologists of Ontario (ARKO). ARKO’s President, Conny Glenn and Vice-President, Rod Hare, were present at the meeting.</p> <p>Masters in Professional Kinesiology</p> <p>Robert Ross left the room due to conflict of interest Brenda Kritzer presented a letter from ARKO to the Ministry of Training Colleges and Universities (MTCU). The letter addressed concerns about the proposed Masters in Professional Kinesiology program at the University of Toronto. Various concerns about this program were discussed.</p>
	<p style="text-align: center;">NEW BUSINESS</p>
	<p style="text-align: center;">Appointments to Committees</p> <p>Lynn Kabaroff presented a resolution to re-appoint Marc Davis, R.Kin to the Quality Assurance Committee as a non-Council committee member.</p> <p>Whereas the QA Committee Terms of Reference indicate that the Committee shall be composed of at least one (1) member (professional) of the College who is not a member of Council; and</p> <p>Whereas Marc Davis’ one year term as the non-Council professional member has expired, and the member has expressed interest in continuing to serve on</p>

	<p>the QA Committee; and</p> <p>Whereas Marc Davis is a General Member of the College in good standing, and practises kinesiology in Ontario; and</p> <p>Whereas the member is not an employee, officer or director of any professional kinesiology association such that a real or apparent conflict of interest may arise; and</p> <p>Whereas the member has not been disqualified from the Council or a committee of the Council in the previous three years; and</p> <p>Whereas the member is not a member of the Council or of a committee of any other health profession; and</p> <p>Whereas the member has not been a member of the staff of the College at any time within the preceding three years;</p> <p>Resolution Therefore, be it resolved that the Council of the College of Kinesiologists of Ontario re-appoint Marc Davis to the Quality Assurance Committee as the non-Council professional member for a period of 1 year from the date of appointment.</p> <p>Moved by Elizabeth Chapman and seconded by Kathie Sharkey. CARRIED.</p> <p style="text-align: center;">Appointment of a New College Signatory</p> <p>Mary Pat Moore was appointed as a new College signatory.</p> <p>Moved by Elizabeth Chapman, seconded by Kathie Sharkey. CARRIED.</p>
	<p style="text-align: center;">Review of Action Items</p> <ul style="list-style-type: none"> • Registration department to generate and distribute a short survey for applicants unsuccessful on their first exam sitting and gauge their intentions to rewrite the exam. • Lynn Kabaroff to provide update on lobbying.
<p>Adjournment</p>	<p>Motion to adjourn the meeting at 4:15p.m made by Michelle Meghie. CARRIED.</p>