

Policy

Type:	Registration		
Number:			
Name:	Professional Liability Insurance Policy		
Status:		Version #:	3
Date Approved:	June 18 2012	Date Revised:	September 17, 2024

Background

Professional liability insurance protects both Kinesiologists and the public. Professional liability insurance provides financial compensation to a client should harm occur as a result of error, omission or negligence, and it protects the Kinesiologist by providing legal and financial support should a client make a claim against them. Members can obtain professional liability insurance from various sources, including their employer, their professional association, or directly from an insurance company.

The *Regulated Health Professions Act, 1991*, permits the Council of the College to set professional liability insurance requirements of all practising registrants:

Professional Liability Insurance

- 94(1)(y) The Council may make by-laws relating to the administrative and internal affairs of the College and, without limiting the generality of the foregoing, the Council may make by-laws requiring members to have professional liability insurance that satisfies the requirements specified in the by-laws or to belong to a specific association that provides protection against professional liability and requiring members to give proof of the insurance or membership to the Registrar in the manner set out in the by-laws.

In addition, section 5(1)(d) of the *General Regulation* requires that members provide proof of professional liability coverage specified in the bylaws of the College or provide an undertaking to provide proof of such coverage within 30 days of being registered. Under section 17(1), if the Registrar becomes aware that a member no longer maintains professional liability insurance in the amount and in the form as required under the by-laws, the Registrar may immediately suspend the member's certificate of registration.

Policy

General

1. Registrants are responsible for their own actions and activities. In the event of committing a fault, error, omission, or negligent act

while practising kinesiology, professional liability insurance must be in place to facilitate an appropriate level of accountability to the public.

2. Each member upon being registered for the first time, must provide proof of professional liability insurance coverage in the amount and in the form as required under the by-law, or sign an undertaking to provide proof to the College within 30 days of registration that the member holds a policy of professional liability insurance that meets the by-law requirements.

Proof of Professional Liability Coverage

3. Members are required to provide the College with a copy of their insurance certificate which includes a policy number and expiry date.
4. At annual renewal, members must provide updated insurance coverage information to maintain registration with the College.

Minimum Professional Liability Insurance Requirements – General Certificate of Registration

5. The CKO by-law requires that active members engaged in the practice of kinesiology carry minimum professional liability insurance as follows:
 - a. A minimum amount of \$1,000,000 per occurrence,
 - b. A minimum aggregate amount of \$3,000,000 per year,
 - c. A deductible of no more than \$1,000 per occurrence,
 - d. The member shall have enduring (tail) insurance to provide coverage for at least five years after the termination of practice; and
 - e. The provider must either be licensed as an insurer with the Financial Services Regulatory Authority of Ontario or must be in the form of membership in a protective association acceptable to the Registrar that provides equivalent protection.
6. At a minimum, coverage should also include conduct or omissions within the scope of practice of kinesiologists as defined in section 3 of the *Kinesiology Act*, the *Regulated Health Professions Act* and the Standards of Practice of the profession. The insurance coverage should only have standard exclusion clauses that do not materially detract from comprehensive professional liability coverage, for example, criminal or deliberate acts.

Employer-provided Insurance Coverage

If a member is covered by their employer's professional liability insurance plan in the amounts and coverage set out in the by-law (see above), the member is not obliged to obtain additional professional liability insurance coverage, although the member may wish to do so. Members should note that it is not sufficient for the employer's policy to cover the employer or the facility. The *Health Professions Procedural Code* requires that

members practising a health profession be “personally insured.” This means that a member must ensure that their employer’s insurance policy covers not just the organization, but individual employees as well. The policy does not have to list the member individually by name but must specify that it covers the “employees” of the organization as “added insureds.”

Where a member is covered by an employer’s insurance plan, the member must ensure the necessary individual coverage as described above. The member is advised to request a letter from the employer confirming coverage. If the employer’s insurance is insufficient in any way, the member must obtain additional insurance to meet the requirements stated by the College.

Professional Liability Insurance Requirements – Inactive Certificate of Registration

7. For members moving to inactive status from the General class, professional liability insurance which is enduring (tail) that was in place at the time of conversion shall provide protection to members of the public. The member applying to move to Inactive class must provide a declaration on their renewal form that they:
 - a. are requesting an exemption from the professional liability insurance requirement on the grounds that they are not currently engaged in the practice of kinesiology;
 - b. Have enduring tail insurance coverage for five years; and
 - c. Have read and understood the College’s Policy on professional liability insurance and will obtain insurance before practising.

Ensuring the requisite Insurance Coverage

The College recommends that all kinesiologists review their professional liability insurance coverage from time to time, whether it be an individual plan or one provided by an employer, for paid or volunteer work. Members should be satisfied on the following:

- Does your plan cover reimbursement of legal or criminal defense expenses?
- Will your plan provide for the cost of legal representation in the event you are subpoenaed to appear as a witness?
- What type of coverage does your policy provide e.g., Malpractice, Errors & Omissions, and Legal Expenses?
- What is the liability aggregate limit?

- Do you have an "occurrence" type of policy (covers claims that occur after the policy has lapsed) or "claims made" policy (only covers you for claims made during the term of the policy)? If you have a "claims made" policy (which is the most common form of professional liability insurance today) you should ensure that you have enduring coverage (often called "tail insurance") to protect against any claims made after you leave or the insurance policy ends.
- What are the "exclusions" under the policy? Such exclusions should be standard provisions that do not materially detract from comprehensive professional liability

Decision Criteria for Registrar – initial members (for a General Certificate of Registration)

8. An applicant who is approved for registration must provide a declaration that they are eligible for professional liability insurance coverage and that they will submit the insurance policy to the Registrar within 30 days after their registration is approved.
9. A member or person approved for registration may meet the requirement by providing a copy of their certificate of insurance to the College which confirms the purchase of the insurance and includes the policy number and expiry date. This can be submitted as a hard copy, a photocopy, or a PDF. The policy content must demonstrate that it meets the College's requirements.

Decision Criteria for Registrar – members (General Certificate of Registration)

10. If for any reason the member ceases to hold professional liability insurance or the policy expires, the member must notify the Registrar in writing within two business days.
11. The Registrar may suspend the member's certificate of registration if the member is without professional liability insurance, and they practice or are holding out as a regulated health professional. The member is required to cease practising if insurance is not in place.
12. The member cannot begin practising again until they provide proof of professional liability insurance coverage and, if suspended, until their certificate is reinstated.