



December 1, 2014

The Honourable Dr. Eric Hoskins
Minister of Health and Long-Term Care
10th Floor, Hepburn Block
80 Grosvenor Street
Toronto, Ontario
M7A 2C4

Dear Minister,

On behalf of the Council of the College of Physiotherapists of Ontario, we are pleased to provide you with a detailed response to your letter of October 4, 2014, and Ms. Suzanne McGurn's letter of October 28, 2014, in which Ontario's health regulatory colleges were asked to provide your Ministry with information on their efforts to improve transparency practices.

In their responses, colleges were asked to provide information on transparency initiatives that have already been completed and to set out timelines for planned or new initiatives.

To respond to these requests, the College's response will contain two parts:

- **Part One** will detail the transparency initiatives that have been completed and are currently in place.
- **Part Two** will detail transparency initiatives that are under way, and under consideration.

Before detailing the specific activities that the College has already undertaken or that are underway or planned, the College would first like to confirm that it complies fully with the current statutory obligations in the *Regulated Health Professions Act* (RHPA) and the *Health Professions Procedural Code* (HPPC) that are intended to promote transparency in the provision of information to the public and to members.

Part One—Current Transparency Practices

Note: In addition to meeting the minimum statutory requirements noted above, the College has, since its inception, been engaged in the continuing process of considering what it provides to the public and how it provides it. The purpose of this ongoing exercise is to increase both the amount of information that the College provides and to enhance the context in which this information is provided so that it is more useful to the public. The following is an overview of many of these activities.

Advisory Group on Regulatory Excellence

The College of Physiotherapists of Ontario is a member of the Advisory Group on Regulatory Excellence (AGRE) in association with the College of Physicians and Surgeons of Ontario, the College of Optometrists of Ontario, the College of Nurses of Ontario, the Ontario College of Pharmacists and the Royal College of Dental Surgeons of Ontario.

The AGRE college members have been considering means to improve both the content of college regulatory information and public access to it since early 2013. One of the AGRE group's first outputs was to create a set of Transparency Principles that was intended to be used to guide the consideration of how additional information should be made available to the public and what should be included within the realm of public information.

A copy of these principles is attached to this response as Appendix One.

The Council of the College of Physiotherapists of Ontario adopted the AGRE Transparency Principles on September 26, 2013.

Using these principles as a basis for further consideration of what kinds of additional member information should be made available to the public and what kinds of other changes to their information practices colleges should consider, AGRE proceeded to develop recommendations for specific changes in these areas.

These recommendations are divided into Phase One and Phase Two and are attached to this response as Appendix Two.

The Council of the College of Physiotherapists of Ontario adopted Phase One of the AGRE Transparency Recommendations on June 27, 2014. The Council plans to consider the Phase Two recommendations at its meeting of December 19, 2014.

The adoption of these recommendations has substantial impact on the College's transparency initiatives, especially in relation to the recommendations about providing more information to the public, in particular information on the outcomes on the cases considered by the College's Inquiries, Complaints and Reports Committee (ICRC) and the need to develop amendments to the College's content of the Register by-law as a result.

More information on the implementation of these recommendations will be provided in Part Two of this report.

The College's Strategic Goals for 2013 to 2016

The College is currently in the middle of its most recent strategic plan. The three strategic goals associated with this plan are to:

1. Improve the protection of the integrity of the title “physiotherapist” and the College registration number
2. Improve oversight of physiotherapists’ use of support personnel
3. Ensure College expectations respond to the evolving practice environment

The second of these goals has an impact on the College’s ongoing transparency initiatives.

One of the key concerns that prompted the College’s desire to improve oversight of the unregulated support personnel that some physiotherapists use to leverage their capacity to provide patient care is that patients are sometimes confused as to who will actually be providing their care—will it be a physiotherapist or will it be a support person?

To provide more transparency on this issue, the College is in the process of considering changes to the content of the Register by-law that will require the Register to contain information on whether College members use support personnel in their care of patients.

More information on this initiative will be provided in Part two.

The College’s commitment to transparency is demonstrated by its work with AGRE and a variety of other ongoing initiatives. However, in order to respond to the Minister’s request that colleges add the issue of transparency to their strategic goals, the College will bring forward a request to Council to add transparency as an official component of its strategic plan.

Transparency

To inform the public and members about the College’s current activities in the area of transparency, the College has a specific area of its website dedicated to transparency:

<http://www.collegept.org/aboutus/Transparency>.

This section currently contains information including the following:

- An overview of College activities respecting transparency
- The AGRE Transparency Principles
- Information on AGRE’s recommendations
- A link to provide readers with an opportunity to comment on proposed by-law changes
- A copy of the Minister’s letter to the colleges
- A copy of the College’s preliminary response

Council Activities

In keeping with Section 7 of the *Health Professions Procedural Code* (HPPC), meetings of the College's Council are open to the public and to members.

The College informs the public and its members about the opportunity to attend Council meetings by posting the meeting dates on the College's website: <http://www.collegept.org/aboutus/Council>.

To promote additional access to the College's Council meetings, the College makes the complete Council agenda and meeting materials available on its website approximately two weeks prior to every scheduled Council meeting. This is intended to provide full access to the materials well in advance of the meetings to any interested person. The College has been making this information to the public since September 2012.

In order to ensure that members of the profession and the public can determine what happened at College Council meetings, the College also posts the key decisions from each Council meeting, as well as a copy of the Minutes, once they are approved at the successive Council meeting: <http://www.collegept.org/aboutus/Council/CouncilMinutes>.

In keeping with the requirements of the *Health Professions Procedural Code*, the College, as is required of all colleges, provides the Minister with an annual report of its regulatory activities and operations. The College also posts copies of these reports on its website: <http://www.collegept.org/Resources#AnnualReports>.

Regulations, By-laws, Standards and Policies

To ensure that both members of the public and the profession have easy and immediate access to the rules that guide physiotherapists' practice in Ontario, the College posts its official documents on its website at <http://www.collegept.org/Standards/English>. The majority of this information is also available in French.

The list of College's official documents includes:

- The legislation the College operates under includes the *Physiotherapy Act*, the *Regulated Health Professions Act* and other relevant legislation
- The regulations under the *Physiotherapy Act*
- The by-laws under the *Physiotherapy Act*
- The College's Standards for Professional Practice
- The College's Position Statements
- Information Bulletins
- Practice Tools
- Briefing Notes
- Privacy Resources

In keeping with the requirements of the *Health Professions Procedural Code*, the College consults with its members on all proposed regulations and certain by-laws. It does this by sending all members notifications of these proposed regulations and by-law and seeking their feedback, as well as posting

notice of the opportunity to provide feedback on its website:

<http://collegept.org/bylawsconsultation201410>

The College also consults with members, the public and other stakeholders (such as professional associations and academic institutions) about any substantial changes to official documents, such as the standards for professional practice and position statements, using the same process as it uses for consultation on regulations and by-laws. And, as noted above, the College posts all consultation materials on its website so that members of the public may provide feedback if they are so inclined. The College is planning to extend this consultation process further. More information is provided in Part Two of this submission.

In September 2014, the College broadened its consultation process further to include the specific solicitation of feedback on its proposed by-laws from agencies whose role is to provide health services to members of the public. To undertake this kind of feedback solicitation, the College sought out these kinds of agencies (patient groups) and directed individualized requests for feedback to them. We intend to continue to build on our ability to obtain input from members of the public by establishing a citizens' advisory board in the near future.

Educational Videos

To provide an easier access point for members of the public and the profession to the legally complex business of regulation, the College has developed a series of short videos on a variety of topics that can be accessed through the College's website: <http://www.collegept.org/Resources>. Information in this format appears, based on the comments received from users, to be a much more effective way to communicate complex regulatory messages to the public. One of our videos was recognized by the Office of the Fairness Commissioner in their most recent annual report as an example of transparency about registration processes.

Public Register

The College complies fully with the requirements of section 23 of the *Health Professions Procedural Code* which require, among other things, that all colleges have a Register and that colleges provide public access to it, both through their websites and in other reasonable ways.

Subsection (2) of Section 23 also defines the minimum requirements for the publicly available information that must be provided on a college's register. The College provides this information on its Register.

However, the College has also significantly extended the amount of publicly available information on the Register beyond what is required by the statute. In addition to the minimum statutory requirements, the College also provides the following information defined by subsection 37(2) of its by-laws:

- (a) The registrant's name and any changes in the registrant's name since his/her training;
- (b) The registrant's registration number;
- (c) If the registrant ceases to be a registrant or has died, an indication specifying the reason the registration terminated or an indication that the registrant has died and the date of death if known;

- (d) Information on a former registrant that was on the Register just before the registration terminated, for a period of at least two years after the termination of registration, except for any information related to the registration and discipline history of the registrant in Ontario which shall be entered on the register for a period of fifty years after the termination of registration;
- (e) The name of the school from which the registrant received his/her degree or diploma in physiotherapy and the date the registrant received the degree or diploma;
- (f) All classes of certificate of registration held by the registrant and the dates that each started and terminated;
- (g) The name, business address, and business telephone number of each current and previous place of practice of the registrant;
- (h) An indication of which business address is the registrant's primary business address;
- (i) 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 has not been finally resolved, until the matter has been resolved,
- (i) a notation of that fact, including the date of the referral;
 - (ii) a summary of each specified allegation; and
 - (iii) any hearing dates, including dates for the continuation of the hearing;
- (j) 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,
- (i) a notation of that fact, including the date of the referral; and
 - (ii) any hearing dates, including dates for the continuation of the hearing;
- (k) An indication of the fact and status of any appeal from a decision of the Discipline Committee or the Fitness to Practise Committee and the anticipated date of the hearing, if the date has been set;
- (l) Any information jointly agreed to be placed on the Register by the College and the registrant;
- (m) Where the registrant's certificate is subject to an interim order, a notation of that fact, the nature of the order and date that the order took effect;
- (n) Where the registrant's certificate of registration is subject to a suspension for failure to pay a fee, the reason for the suspension and the date of the suspension in addition to the fact of the suspension;
- (o) Where, during or as a result of a proceeding under Section 25 of the Code a registrant has resigned, a notation of that fact;
- (p) The registrant's name as used in their place (s) of practice;

(q) The language(s) in which the registrant is able to provide physiotherapy services; and

(r) The registrant's area(s) of practice and categories of patients seen;

(s) Details of the controlled acts (except performing the controlled act of communicating a diagnosis) and other statutorily authorized acts (e.g. procedures described in subsection 6(2) of the *Healing Arts Radiation Protection Act* and procedures authorized to registrants in regulations made under the *Laboratory and Specimen Collection Centre Licensing Act*) that the registrant performs in the course of practicing physiotherapy.

The College's use of its by-law making authority to significantly extend the amount of publicly available information on the Register is a helpful method of providing the public with information that enables them to make more informed choices about their health care provider.

The College is also in the process of extending the amount of publicly available information on its Register still further, as a result of the AGRE transparency recommendations noted above. This process will be described in detail in Part Two of this response.

To assist the public to understand the information that is on the Register, the College also provides explanatory documents that provides an overview of the information that is on the register and how it can be used to find a physiotherapist: <http://publicregister.collegept.org/AboutPublicRegister.pdf> or <http://www.collegept.org/Public/ThePublicRegister>. There is also a video that explains what kinds of information can be accessed from the Register.

<https://www.youtube.com/watch?v=Ga7lSvqeJlY&index=3&list=PLRtl2eBbYjbbLmyy7ZLjA7qrg-gss5eur>

As required by the HPPC, the College also provides a Register of physiotherapy professional corporations so that members of the public can find more information on the professional corporations that some physiotherapists practice within:

<http://publicregister.collegept.org/PublicServices/ProfessionalCorporationList.aspx>.

While not technically components of the Register, the College also provides two additional resources that are intended to be used by members of the public to obtain information that helps them to find physiotherapists suitable to their needs:

- The "Find a Physiotherapist tool" provides a more user-friendly avenue into the information contained on the Register by allowing the public to search for a physiotherapist using parameters such as city, postal code, by the languages in which they provide services and by the kinds of controlled acts they offer. Members of the public find this tool very useful in helping them find physiotherapists that can provide the services they need:
<http://publicregister.collegept.org/PublicServices/Start.aspx>.
- The "Find a Publicly-Funded Physiotherapy Clinic" resource provides information to the public on the government's eligibility requirements for access to publicly funded physiotherapy care and where such clinics are located. Since many members of the public find themselves unable to afford the costs associated with obtaining physiotherapy care from private clinics, having a source of information on the eligibility requirements for publicly funded care and where these

clinics are located is of considerable assistance to the public:
<http://www.collegept.org/PubliclyFundedPTclinics>.

Registration Process

To ensure that both members of the public and prospective College members can clearly understand the requirements for becoming a physiotherapist, as well as the process by which a person actually becomes a member the College provides a great deal of information about its registration requirements and process on its website: <http://www.collegept.org/Physiotherapists/EP/Becoming>.

This information includes:

- An overview of the registration process
- Flow charts that define the specific steps in the registration process for both Canadian and internationally educated physiotherapists
- Information on the types of registration categories that the College has available
- Information on the College pre-registration program, and
- Registration forms

In addition, the College reports to the Fairness Commissioner of Ontario about its registration practices. The College makes the results of its self-audit and the OFC's reports available on its website at:

<http://www.collegept.org/Physiotherapists/EP/RegistrationEntrytoPractice/FairRegistrationPractices>.

Practice Advice

The College has a Practice Advisor on staff:
<http://www.collegept.org/Physiotherapists/Practice%20Advice>.

To ensure that members of the public can obtain information to help them understand issues relating to their physiotherapy care, the Practice Advisor is available to both members of the public and the profession. The Practice Advisor's role is to provide a source of detailed information on practice questions or issues, or to provide further explanation or detail on the College's written materials.

Complaints and Investigations Process

The College provides a great deal of information about its complaints and investigation process on its website. The content provided is intended to assist both members of the public and members of the profession with information on the process.

Among the information provided is a page that outlines the role of the College's professional conduct area and its obligations to investigate concerns about a member's practice:
<http://www.collegept.org/Physiotherapists/Complaints>.

This page has links to additional material including the following:

- What to do about concerns relating to a physiotherapist's practice
- Links to frequently asked questions about the complaints process for both members of the public and the profession

The College also provides a page that has been specifically designed to assist the public make a complaint about a physiotherapist. It includes an online form that members of the public can use to submit a complaint online and it includes contact information for the College's staff so that people who are less comfortable with online processes may make complaints in alternative ways:

<http://www.collegept.org/ContactUs/FileaComplaint>.

Discipline and Fitness to Practise

The College provides information about its discipline process and fitness to practise processes on its website: <http://www.collegept.org/Physiotherapists/Hearings>.

Discipline

In keeping with the requirements of the HPPC, the College's discipline hearings are open to the public. The only exception to this general rule is those very rare circumstances where an individual's strong privacy or legal interests are in jeopardy (e.g., personal medical information, persons identifying sexual abuse).

To ensure that both members of the public and the profession understand the discipline process and its outcomes and implications, the College website provides a great deal of information about it. This includes:

- An overview of the process by which matters are referred to discipline. This also includes links to additional detailed information including:
 - The discipline hearing process
 - The role of expert witnesses
 - The role of investigators
 - A guide for witnesses testifying at the hearing
 - The rules of procedure for the Discipline Committee

The College's Register is required to provide information on cases that have been referred to discipline.

This information can be difficult to access as it is attached to an individual member's name and can only be found by looking up that individual.

To make this information more transparent, the College has extended the ability to access this information by also making available a list of all the upcoming cases that have been referred to a discipline hearing. When a hearing date has been scheduled, this list also includes the actual hearing date.

In keeping with the requirements of the HPPC, the outcomes of discipline findings are recorded on the Public Register. Once again this information can be difficult to access as it is attached to an individual member's name and can only be found by looking up that individual.

In the interest of making discipline findings more easily accessible to the public, the College also provides a link to an alphabetical list of the names of members who have been previously referred to discipline and a summary of the outcomes of these cases.

Fitness to Practise

In keeping with the statutory requirements defined in Section 68 of the HPPC, Fitness to Practise hearings are closed to the public except if the member requests that it be open. This is because Fitness to Practise matters relates to the personal health of the practitioner, usually involving mental illness or addiction and so human rights considerations require the deliberations be given a high degree of privacy.

The College's Register, through the authority granted in the by-laws referred to above also provides information on matters that have been referred to the Fitness to Practise Committee. This information includes the date of the referral and the hearing dates.

When the Committee makes a finding, a synopsis of the decision is placed on the Register. However, similar to discipline matters, in the interest of making fitness to practise findings more easily accessible to the public, the College also provides a link to an alphabetical list of the names of members who have been previously referred to fitness to practise and a summary of the outcomes of these cases.

Quality Assurance

The College provides information about its quality assurance program on its website:

<http://www.collegept.org/Physiotherapists/QM/QualityManagement>. This information includes:

- An overview of the College's program, including the philosophy that underlies the program and a description on the main program components.
- A document that describes how College members are supposed to go about building a quality improvement portfolio.
- A page that describes the College's Professional Issues Self-Assessment (PISA) questionnaire, and a link to the online automated assessment tool.
- A page that describes the College's practice assessment program. This method of having independent assessors review members' practice is the backbone of the program so a detailed description of the program components is provided including:
 - An overview of the assessment program.
 - How many members are assessed and how they are chosen.
 - Who does the assessments.
 - A video in which a College staff member and PT practice assessor describes the process in more detail.

According to the HPPC, the College is not permitted to release the assessment outcomes or other quality assurance information about individual practitioners. However, if significant concerns were discovered in the course of operating the quality assurance program, they would be reported to the Inquiries, Complaints and Reports Committee and could become publicly available through that process.

Patient Relations Program

The College provides detailed information about its patient relations program on its website: <http://www.collegept.org/Public/ProtectingthePublic/PatientRelationsProgram>.

The section of the website includes information directed to the public on the role of physiotherapists and the College's Patient Relations Program.

This section of the website also contains a number of links to the sexual abuse resources that the College has made available.

Other Publicly-Focused Services

The College's website includes a section that is specifically focused on providing useful information to the public. In addition to including links to many of the programs and services described above such as the Public Register, the Practice Advisor, the Find a Physiotherapist tool and the File a Complaint tool, this section of the website also includes additional materials that are intended to provide members of the public with relevant information to assist them in their choice of health care provider.

In this context, two of the most relevant kinds of information are:

- The College's list of unregulated providers: <http://www.collegept.org/Physiotherapists/UnregulatedPractitioners>. This is a list of people that the College is aware of who have held themselves out to be physiotherapists to the public without actually being College members. Due to the fact that these people are not College members, (and generally have never been members) information about their status is not available on the Public Register. The College provides information about their history of holding themselves as members to the public as a means for increasing the transparency of it.
- The College's list of revoked and suspended people: <http://www.collegept.org/Physiotherapists/pc/RevocationsSuspensions>. This is a group of lists of physiotherapists that have been revoked or suspended by the College, and as such are not allowed to hold themselves out to the public as physiotherapists. It also includes people who resigned to avoid a suspension or revocation. Much of this information is available on the Register as these people are former or suspended members, however one has to be aware of the person's name to find this history on the Register. The College provides this information in a different form to the public as a means of increasing the transparency.

Communications Initiatives

The College also makes considerable attempts to maintain contact with the public and to keep itself in the public eye so that people are aware of the College as a viable information source.

These initiatives include:

- Advertising in Yellow Pages (hard copy) and Help's Here (senior health based publication) so people can find us to make a complaint, ask a question or Find a PT,

- Online advertising in Yellow Pages, Yelp and a number of health related online directories, for the same purposes as noted above,
- Search engine optimization and tagging for our website work done on an ongoing basis to ensure the public can find us when searching online for things related to the College (Finding a PT, concern or complaint, contacting the practice advisor). This is part of an ongoing focus on making the College and our services searchable,
- YouTube videos specifically on making a complaint and on the Public Register directed at the public
- Using Twitter. A proportion of the College’s tweets are directed at the public and raising awareness of the College, the Public Register and patient’s rights,
- Federation of Health Regulatory Colleges of Ontario – the College belongs to the Communications Group. This group develops and distributes tools such as public interest articles, radio spots and a video to community outlets and small publications to raise awareness of regulatory Colleges, patients’ rights and how to access information through the Colleges.

Part Two—Transparency Initiatives Under Way or Under consideration

By-laws

AGRE Phase One

As a result of the College’s Council’s decision to adopt the AGRE Phase One Transparency Recommendations (see Appendix Two), the College is currently consulting on a number of proposed by-law changes that would make the following kinds of information about members available to the public:

- the status of cases that have been referred to the College’s Discipline Committee
- the full notice of hearings
- criminal findings of guilt that are relevant to a member’s practice of physiotherapy
- bail conditions that are relevant to a member’s practice of physiotherapy

The College is anticipating that Council will approve these proposed changes to its by-laws at its Council meeting on December 19, 2014.

Support Personnel

As noted at the beginning of this submission, the College has a strategic goal of improving oversight over support personnel and one of the key activities in achieving this goal is ensuring that patients are easily able to determine if their physiotherapist uses support personnel to provide patient care.

This requires a change to the College’s Register by-law that will require the Register to contain information on whether College members use support personnel in their care of patients.

The College is currently consulting on this by-law change. The College is anticipating that the Council will approve this proposed change to its by-laws at its Council meeting on December 19, 2014.

AGRE Phase Two

The College’s Council will consider approving AGRE’s Phase Two Transparency recommendations at its meeting on December 19, 2014.

It is also anticipated that Council will approve in principle of a number of additional changes to its register by-law to begin the process of implementing the Phase Two recommendations. Once approved in principle, these proposed changes will be distributed to members and other stakeholders for consideration. They will likely return to Council for final approval in March of 2015.

The following table includes the recommendations and outlines the status of each of them and what by-law change would be required, if a change is required.

Recommendation	Status	Required By-law Changes
2.1. Names of former members (fact + date of death, if known)	The College already makes this information public. No action is required	N/A
2.2. Health facility privileges	Not relevant to physiotherapists as they are directly employed. No action is required.	N/A
2.3. Criminal charges (relevant to practice)	The College does not collect this information	The College will propose provisions to collect this information and make it available to the public.
2.4. Known licences in other jurisdictions	The College collects this information but does not have authority to release it.	The College will propose a provision to make this information available to the public.
2.5. Known discipline findings in other jurisdictions	The College collects this information but does not have authority to release it.	The College will propose a provision to make this information available to the public.

Recommendation	Status	Required By-law Changes
2.6. Discipline Committee—No findings	The RHPA does not permit Colleges to release this information.	N/A as this requires a statutory amendment.
2.7. Undertakings	The College collects this information but does not have authority to release it.	The College will propose a provision to make this information available to the public.
2.8. ICRC: Oral cautions	The College collects this information but does not have authority to release it.	The College will propose a provision to make this information available to the public.
2.9. ICRC: SCERPs	The College collects this information but does not have authority to release it.	The College will propose a provision to make this information available to the public.
2.10. Increased focus on data analysis to inform regulatory activities and public reporting	This recommendation relates to developing internal College mechanisms and skills to allow the College to improve its capacity to collect, assess and analyze data.	N/A

Public Consultation

As noted above, the College is continuing to develop its processes for obtaining feedback from the public on various types of official documents, such as by-laws and standards for professional practice.

The College anticipates that the next phase in this process will be the development of Citizens' Advisory Groups that the College will use as focus group to obtain detailed public feedback on its materials.

While these plans are not yet fully developed, the College anticipates that it will seek voluntary representatives from the public whose role will be to serve on these Citizens' Advisory Groups and that these groups will meet periodically to review and provide input on College material before their approval by the College Council.

The College plans to begin the development of this initiative in 2015.

Strategic Plan

As noted in Part One of this response, the College is approximately halfway through its current strategic plan. While the current plan does not have transparency as one of its main foci, the current initiative, especially the oversight of support personnel, does have the potential to ultimately improve public access to relevant information.

However, the issue of transparency has come to the fore at the College through other avenues, particularly through the College's participation in the AGRE group. As a result, the College is currently pursuing numerous changes to its by-laws, as well as other initiatives, that will end up with the public being able to access considerably more information about College members and processes.

Given the importance of transparency in the College's current activities, even though it is not a primary focus of the College's current strategic plan, the issue will no doubt remain high on the College's priority issue list as the College considers its next round of strategic planning in 2016 and will be captured in that plan.

Physiotherapy Clinic Regulation

We trust that we have demonstrated our commitment to transparency and the overwhelming support with which physiotherapists have supported our actions to date. We would be remiss, however, if we did not point out that transparency about health professionals is a relatively small step forward with respect to patient access to information in private clinic settings. As you are aware, these clinics are subject to little or no regulation (the new regulation by FSCO applies only to those clinics involved in treatment associated with injuries from motor vehicle accidents and focuses on financial matters rather than quality of care).

Many physiotherapists work in unregulated settings where business practices dictate a model of care that is at best, suboptimal and, at worst, dangerous to patient care. These settings provide care to one of the most vulnerable population sectors. Moreover, many receive public funding for the care provided. Our College, together with some of our sister colleges, seek to discuss with you the potential for clinic regulation by the Regulatory Colleges. We are certain that this is another important step this government can take in ensuring that Ontario patients are receiving the best quality of care.

Summary

As can be seen from the content of this submission, the concept of transparency, in the context of providing members of the public with information is a key part of the College's activity.

The College is dedicated to ensuring that the public has an enormous array of information available to it. This includes:

- the role of the College
- the outcomes of its complaints and disciplinary processes
- information on members and their interactions with the College
- the College programs
- the rules that guide practice
- and other information that may be useful in helping a patient choose a health care professional of their choice

The College is dedicated to continually evaluating and improving the kind of information it makes available and is currently in the process of extending the kind of information on its Register into a variety of new areas.

With all this in mind, the College looks forward to continue to work with sister colleges and the Ministry to continue to develop and expand these activities.

Sincerely,



Peter Ruttan, President
College of Physiotherapists of Ontario



Shenda Tanchak, Registrar and CEO
College of Physiotherapists of Ontario

cc Ms. Suzanne McGurn, Assistant Deputy Minister—Health Human Resources Strategy Division

Attachments:

- Appendix One—AGRE Transparency Principles – Aug 12, Final
- Appendix Two—AGRE Phase One and Phase Two Transparency Recommendations

Appendix One—AGRE Transparency Principles—Aug 12, Final

Transparency Principles

The following principles are the framework for future decisions by regulatory¹ colleges related to making more information available to the public.

Principle 1: The mandate of regulators is public protection and safety. The public needs access to appropriate information in order to trust that this system of self-regulation works effectively.

In carrying out its legislated mandate, a regulator has a duty to “serve and protect the public interest”.² Regulators must earn and maintain the trust and confidence of the public that they are working in their best interests.

Information needs to provide assurance to the public that practitioners are competent and that the public is safe. The public protection work of the regulator must not only be done, it must be seen to be done.

“In judging whether to place our trust in others’ words or undertakings, or to refuse that trust, we need information and we need the means to judge that information. We need to know what we are asked to accept and who is soliciting our trust”.³

Principle 2: Providing more information to the public has benefits, including improved patient choice and increased accountability for regulators.

Public expectation about access to information about all public agencies has changed dramatically, particularly as a result of exponential increases in internet use.

Regulators must assume that the public is as capable of using regulatory information to make decisions as they are to make informed decisions about their health care treatment. This means that the public is entitled to make decisions others wouldn’t agree with.

¹ Any reference to ‘regulators’, ‘regulatory’ or ‘health professions’ in this document refers to regulated health professions, health professionals and regulators as set out in the *Regulated Health Professions Act, 1991* (RHPA).

² Clause 3(2) *Health Professions Procedural Code*, under Schedule 2 of the RHPA.

³ O’Neill, Onora (2002) “Trust and Transparency” Lecture four of the Reith Lectures 2002 – A Question of Trust by BBC Radio. Available at <http://www.bbc.co.uk/radio4/reith2002/lecture4.shtml>.

“Respect for individual autonomy, responsibility and decision-making is deeply entrenched...we believe that people, given sufficient information, can make their own personal assessments of the risks and benefits of transactions”.⁴

The more transparent an organization is, via its web site or other means, the more it is willing to allow citizens to monitor its performance and to participate in its policy processes.⁵

“Transparency stimulates a ‘culture of openness’ within organizations, which is thought to have a positive effect on trust.”⁶

Principle 3: Any information provided should enhance the public’s ability to make decisions or hold the regulator accountable. This information needs to be relevant, credible and accurate.

Any information, whether about processes, outcomes, or members, provided to the public should enhance public confidence and/or safety. A successful transparency policy will result in public trust in the organization that sorts, processes and assesses the information before any disclosure is made.⁷

The public needs enough information to understand how and why the regulator makes the decisions it does and to evaluate its performance. Patients also need information in order to make informed choices about health care professionals.

More information does not always make it easier to make choices. If increased transparency is understood only to mean providing more and more information, it may lead to a flood of information that results in public uncertainty rather than trust.⁸

Because information about what is not available can be as important as what is available, it is important to be clear about what is not on the public register and why.

⁴ Ripken, Susanna Kim. (2006). “The dangers and drawbacks of the disclosure antidote: toward a more substantive approach to securities regulation” *Baylor Law Review*, 58, 139-204 at p. 195. The author also notes evidence suggesting that when people are given too much information in a limited time, information overload can result in confusion, cognitive strain, and poorer decision-making. (pp. 159-160)

⁵ Curtin, Deirdre, and Meijer, Albert Jacob. (2006) “Does transparency strengthen legitimacy?” *Information Policy* 11(2): 109-122.

⁶ Grimmelikhuijsen, 51. In making this statement, the author refers to: Hood, C. (2006) “Beyond exchanging first principles? Some closing comments” In Hood, C. and Heald, D. (eds). *Transparency: The Key to Better Governance?* Oxford: Oxford University Press, 211-226.

⁷ Grimmelikhuijsen notes that “giving citizens ‘good reasons’ to trust is not only a matter of providing them with knowledge. We also need to develop a sense of realism about the effects of transparency.” (Grimmelikhuijsen, 67). He also notes that “trust...is not only determined individually but is largely shaped in a broader societal context”. (Grimmelikhuijsen, 67).

⁸ Peters, E., Klein, W, Kaufman, A., Meilleur, L, and Dixon, A. (2013) “More is Not Always Better: Intuitions About Effective Public Policy Can Lead to Unintended Consequences” *Social Issues and Policy Review* 7(1):114-148.

Principle 4: In order for information to be helpful to the public, it must:

- **be timely, easy to find and understand.**
- **include context and explanation.**

Transparency involves not only providing information, but doing so in a way that is helpful to the public.

Comprehensibility and timeliness are crucial elements of transparency.⁹

All information should be provided in an accessible way, for example, on websites, and be easy to find. Efforts should be made to simplify and clarify information in order to make it easy to understand. Information also needs to be available as soon as possible.

Context is extremely important. Limited information or information without explanation is potentially unhelpful and could be misleading. For example, single incidents relating to health care providers—even if they reflect a clinical or conduct error—do not necessarily provide information about the overall competence of a provider. Single events are also not necessarily predictive of future behaviour.

The Health Professions Regulatory Advisory Council, in its report “*Adjusting the Balance*” (March 2001), had concerns about the “quality and validity of some of the available information when used as an indicator of the quality or calibre of a health professional. Further, consumers will vary in their views as to what information is relevant.”¹⁰

Regulatory information is complex. Regulators have a responsibility to provide information clearly and place it in the appropriate context. Otherwise transparency may have an effect on the public’s behaviour, yet not be effective in terms of desired outcomes.¹¹ Regulatory bodies can help to provide context by providing clear information about what information may mean and does not mean.

Principle 5: Certain regulatory processes intended to improve competence may lead to better outcomes for the public if they happen confidentially.

⁹ Grimmelikhuijsen, 53.

¹⁰ Health Professions Regulatory Advisory Committee (HPRAC) (March 2001) *Adjusting the Balance: A review of the Regulated Health Professions Act* Available at http://www.hprac.org/en/reports/resources/RHPA_Review_2001_Report.pdf.

¹¹ Weil, David, Fund, Archon, Graham, Mary, and Fagotto, Elena (2006) “The Effectiveness of Regulatory Disclosure Policies” *Journal of Policy Analysis and Management* 25(1): 155-181, at pp. 165, 167.

Most people who come forward with a problem about a health care provider have a common objective: ensuring that the problem does not happen again to someone else.

Regulators share that objective. The goal of regulatory processes is to ensure, maintain and improve the quality of health care for the people of Ontario.

Regulatory functions, such as registration, quality assurance, and enforcement of professional conduct, are designed to protect the public and ensure patient safety. These functions are supported by many processes. Some of them are designed to enhance public protection through the use of confidential, remedial approaches. These processes are valuable and should not be lost in the pursuit of transparency.

Remediation is a critical component of public protection. Education, retraining, assessment and monitoring are the best methods to reduce the likelihood that past conduct/problems will be repeated.

Regulators strive to do this by improving the performance of individual members of the profession. Publishing the outcome of remedial processes may be perceived as punitive and diminish their educational effectiveness.

Patient safety literature shows that identification of errors is most likely to occur, and in fact sometimes only occurs, when health professionals have a safe place to identify, discuss and address problems. These 'safe harbours' create an environment in which true improvement can occur.¹²

Regulators have reason to believe that a remedial approach works. Only a very small fraction of health care providers are the subject of multiple actions at the committee level.

Principle 6: Transparency discussions should balance the principles of public protection and accountability, with fairness and privacy.

A regulatory college's accountability to the public, and its public protection mandate, must be balanced with fairness and privacy principles.¹³

There may be unintended consequences and potential risks to the public of making more information available. These might include a reduced willingness for providers to acknowledge problems and significant delays in process, including the potential to delay important educational interventions. This needs to be explored.

¹² Linthorst GE, Kallimanis-King BL, Douwes Dekker I, Hoekstra JB, de Haes JC, 'What contributes to internists' willingness to disclose medical errors?' Neth J Med. 2012 Jun;70(5):242-8.

¹³ HPRAC

While the protection of the public is paramount, regulators need to take into account their obligation to provide procedural fairness to members. Both duties are important and undermining one does not, in the long run, advance the other.¹⁴

“What makes a profession is the public interest inherent in its operation. Many of the challenges in regulation stem from the reality that securing the public interest requires hard choices to be made:

- limiting access does not secure a monopoly but ensures quality control;
- protecting privacy helps ensure professionals can take certain risks and make unpopular decisions necessary for meeting their professional obligations and the public interest;
- standards that are not black and white reflect the reality that some ethical questions truly involve “shades of grey” that cannot be solved through zero tolerance measures or absolute or inflexible rules.”¹⁵

Principle 7: The greater the potential risk to the public, the more important transparency becomes.

Information about the most serious behaviour or clinical competence concerns is already available to the public as required by the Regulated Health Professions Act.

It is critical for the most important information that patients use to assess risks be the easiest for the public to process and evaluate.

Principle 8: Information available from Colleges about members and processes should be similar.

The public should be able to expect access to the same kind of information about any regulated health care professional in Ontario.

Consistency of information about professionals is critical for interprofessional care and for the maintenance of the integrity of self-regulation.

The RHPA is the legislative framework for all of Ontario’s regulatory health professions. In addition to setting out general objects and specific processes, it governs what information is currently made public¹⁶ or kept confidential¹⁷. Amendments made to the RHPA in 2009 made significant changes to increase information available to the public and make it accessible on College websites.

¹⁴ Steinecke, Richard. (July 2003) “Will the Real Public Interest Please Stand Up?” Grey Areas 65. Steinecke, Richard. (November 2004) “Too much Transparency?” Grey Areas 81.

¹⁵ Anand, Raj (June 6, 2013). “Accountability, Transparency and Professional Ethics: Today’s Challenges for the Ontario College of Teachers” Presentation at the Annual General Meeting of the Ontario College of Teachers.

¹⁶ s23(2)(14) *Health Professions Procedural Code*

¹⁷ s36 *Regulated Health Professions Act*

Appendix Two—AGRE Phase One and Phase Two Transparency Recommendations

Phase One Recommendations

These are the Phase One Recommendations:

- 1.1. Date of referral to Discipline Committee—This is the actual date that the referral to the Committee was made. The College already makes this information available on the public register.
- 1.2. Discipline Committee status—This information describes what is happening with the hearing—is it recessed or stayed, etc. The College already makes much of this information available on the public register.
- 1.3. Full Notice of Hearing—This is the detailed information describing what concerns have been referred to the Discipline panel. The College makes a summary of this information available as the College’s current database does not have the capability to publish the complete notice.
- 1.4. Criminal findings of guilt (if relevant to practice). The College does not currently make this information available.
- 1.5. Bail conditions (if relevant to practice). The College does not currently collect or make this information available.
- 1.6. Non-members practising illegally. The College was among the first colleges to make this kind information available to the public.

Specific Recommendations for Changes to College Information Practices:

Other actions:

- 1.7. Colleges enhance the information on websites about what member information is/is not currently available.
- 1.8. For information deemed to be public, that all colleges make it available on the website as soon as possible (ideally within 24h).

- 1.9. That colleges to adopt a consistent approach to number and names of ICRC outcomes and definitions/criteria for when the approaches are used.
- 1.10 That colleges commit to an external review of the register search function on their websites to evaluate clarity of information and ease of search.

Phase Two Recommendations

These are the Phase Two recommendations:

- 2.1 Names of former members (fact and date of member death, if known). The College already makes this information public when it is available.
- 2.2 Health facility privileges—This is information relating to the practice rights that some professions have to enable them to work in health care facilities. Not relevant to physiotherapists as they are generally directly employed. The College does not currently make this information available to the public.
- 2.3 Criminal charges (if relevant to practice). The College does not currently make this information available to the public.
- 2.4 Licences—other jurisdictions (if known). The College does not currently make this information available to the public.
- 2.5 Discipline findings—other jurisdictions (if known). The College does not currently make this information available to the public.
- 2.6 Discipline Committee—No findings¹⁸. The College does not currently make this information available to the public.
- 2.7 Acknowledgements and Undertakings¹⁹. The College does not currently make this information available to the public.

¹⁸ No finding are cases where either something stops a Discipline panel from completing its deliberations on a referral (e.g., the referred member dies or the hearing is stayed), or more commonly, no finding refers to circumstances where the Discipline panel does not find the member guilty at the end of the proceedings.

¹⁹ If an ICRC panel has concerns about a member’s practice, and believes that a member would benefit from learning more about these issues, the panel may suggest that an acknowledgment and undertaking be used for this purpose. These agreements are typically negotiated between the panel and the member although the process

2.8 ICRC: Oral cautions²⁰. The College does not currently make this information available to the public.

2.9 ICRC: SCERPS²¹. The College does not currently make this information available to the public.

Other actions:

2.10 Increased focus on data analysis to inform regulatory activities and improve public reporting.

normally begins with the panel stipulating the areas of practice that concern them and identifying the method by which the registrant can address these concerns. Members are also advised that they do not have to agree with the undertaking but that the panel feels that the undertaking may be the best resolution in the matter. Once negotiated and agreed to, A&Us are binding. Panels may consider undertakings when:

- members would benefit from participating in a course
- periodic chart audits would be helpful
- a practice supervisor could assist the member
- an onsite assessment with follow up visits would be beneficial
- information from treatment providers or employers may be of assistance
- in the case of incapacity cases, saliva and urine testing is necessary

As A&Us are voluntary agreements, members do not have to agree to proposed resolution and if no agreement is reached, panels will continue with their deliberations. If the member does not complete the A & U or fails to successfully complete it, this information will be provided to the Registrar for consideration.

²⁰ An ICRC panel may choose to require that a registrant appear before the committee to be cautioned. A caution is educational in nature and not intended to be disciplinary. The member is provided with a summary of the concerns related to the caution, information as to the significance of the concerns, and advice from the panel pertaining to their practice. The member is asked to consider the advice and incorporate the suggestions for change into their practice. Cautions are not findings of wrong doing or as a punishment as that is beyond the mandate of the ICRC.

²¹ An ICRC panel may believe that a member needs continuing education or a remediation program related to the concerns identified in the complaint or report. In such cases the panel can specify the continuing education or remediation program that it believes is required and require the member to complete it. If the member does not complete the SCERP or fails to successfully complete it, this information will be provided to the Registrar for consideration.