



June 14, 2020

Mr. Darryn Mandel, President
Ms. Theresa Stevens, President-elect
Mr. Rod Hamilton, Registrar

College of Physiotherapists of Ontario
375 University Avenue, Suite 800
Toronto, ON M5G 2J5

Dear Sirs and Madam:

Re: Situation of Physiotherapy Students and Entry to Practice Review

As you know, the Covid-19 pandemic has caused substantial disruption to the career aspirations of applicants who wish to join the College of Physiotherapists of Ontario (CPO). Over the course of the last few months, our office has received many e-mails from these students and the organizations that represent them.

These communications have attested to the hardships that these applicants have endured arising out of the cancellation of examinations, coupled with a regulatory framework that is viewed as inflexible. I will elaborate on these topics later in this correspondence.

On March 23, 2021, the CPO made the decision to establish an Entry to Practice (ETP) Working Group to, among other things, modernize entry to practice processes. The working group's mandate is to:

- a. Make recommendations to council regarding the challenges created by the pandemic preventing applicants from being able to fulfill the qualifications of independent practice.
- b. Review the current entry to practice process from application to registration, for both Canadian trained and Internationally educated physiotherapists (IEPTs).
- c. Review other models of entry to practice in other professions and other jurisdictions.



- d. Make recommendations to council regarding the process of registration.

I am pleased that the CPO has decided to undertake this work. I hope that it will help to ensure that an emergency situation, such as a pandemic, will never again create such severe consequences for applicants to the profession.

Before I offer some thoughts on the working group's mandate, it would be important to provide some contextual comments. At the outset, it is clear that the Covid-19 pandemic severely impacted the assessment and registration processes of many professional regulators and health colleges. The CPO, like numerous other organizations, was able to pivot quickly to continue to efficiently run its operations. It is also the case that the pandemic spun off some incredibly difficult issues that required regulators to balance traditional approaches to registration with practices that were flexible, creative and empathetic.

In the context of the present situation, I also believe that the Canadian Alliance of Physiotherapy Regulators (CAPR) acted responsibly in deciding to develop, and later make available, a virtual clinical examination for physiotherapy candidates as a substitute for in-person sessions.

In an environment where pandemics are likely to constitute the new normal, the migration to virtual clinical examinations constitutes an effective risk mitigation strategy to help ensure that the registration journeys of applicants are not subject to serious delays. This work has also served to position the physiotherapy profession as a leader in developing agile registration solutions.

It is unfortunate that CAPR's attempt to launch the examination was not successful. I believe that CAPR acted reasonably in engaging a third party consultant to explore why the examination platform was not able to support the examination.

Before proceeding to the advice section of my letter, I wanted to briefly set out the circumstances that have led to the current situation.

Chronology of Events:

In November 2019, CAPR last administered the clinical component of the Physiotherapy Competency Exam (PCE). In June and November 2020, the next two iterations of this examination were cancelled because of Covid-19 related restrictions.

In March 2021, CAPR cancelled its virtual clinical examination due to technological challenges, marking the third occasion when applicants could not stand this test.



On March 23, 2021, CPO Council struck its ETP Working Group. On May 19, 2021, CPO Council convened a special meeting to discuss issues related to the provision of examinations in the context of the ETP Working Group.

The Applicant Experience

In general terms, the applicants who have written to my office have expressed concerns about the decision to cancel these examinations, overall delays in completing the registration process and what they characterize as inflexibility in the CPO's registration system. In some cases, these comments have been directed to CPO alone and, in others, to both the college and CAPR. The most common themes that they raised were the following:

- There is a lack of transparent, clear and effective communication with applicants.
- The CPO has not exhibited a sense of urgency in seeking to ameliorate the situation of the many candidates who are still waiting to challenge the PCE nor sought to meaningfully engage with stakeholders on this issue.
- The CPO has not permitted a cohort of applicants who failed to pass the PCE exam in November 2019 to retain their provisional licensure status in circumstances where they are unable to write this examination again.
- Internationally trained candidates have been particularly disadvantaged by the current situation based on personal and financial pressures.

To be fair to the CPO, there are elements of the current regulatory framework that constrain the college's ability to address these issues in the way that the applicants would prefer.

If one includes the upcoming graduating class, our office understands that close to 1,000 applicants have been impacted by the cancellation of the exams, with about 650 not able to proceed beyond provisional licensure status. In some cases, applicants advised our office that they have needed to wait up to 12 months to write the clinical practice component of the examination.

OFC Comments on the Entry to Practice Review

As indicated previously, the OFC supports the CPO's decision to launch an entry-to-practice review which will help to identify challenges and barriers to the fair and timely registration of physiotherapists. To the college's credit, the scope of the review has been broadly defined so that different areas of interest can be explored.



In structuring its review of the issues, the OFC believes that the working group should consider the following issues:

How the CPO Should Interpret and Apply the Public Interest

Section 2.1 of Schedule 2 of the *Regulated Health Professions Act, 2011* identifies how all health colleges should work towards implementing the public interest. This provision states that:

“It is the duty of the College to work in consultation with the Minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals”. [Emphasis added]

In addition to protecting public health and safety, this section of the legislation recognizes that the health colleges must also fulfill certain labour-market imperatives as part of their public interest mandate.

The OFC believes that, to effectively act upon this important objective, regulators need to implement fair and efficient registration processes. It is imperative that registration pathways proceed expeditiously both in normal times, but particularly during emergency situations. It is not acceptable, for example, that registration processes stop applicants “in their tracks” during a pandemic.

In the past, our office has observed that some regulators can exploit the theme of public health and safety as a way of avoiding uncomfortable discussions about how to more fairly and efficiently move qualified applicants through the registration system. While the task of balancing the various aspects of the public interest will continue to place enormous challenges on regulators, these issues must be addressed head on and courageously.

Assessment of Risk and the Application of Regulatory Discretion

Under section 23 of Ontario Regulation 532/98 made under the *Physiotherapy Act, 1991*, a candidate who successfully completes the written examination may receive a provisional certificate provided that the candidate (1) is supervised by a member of the college and (2) has applied to write the PCE clinical examination the next time that it is offered. In the Covid-19 context, this has meant that some individuals have retained this provisional status for up to 12 months.

If, however, the same candidate subsequently fails his or her first attempt at the PCE examination, this individual’s provisional certificate is immediately revoked. This will be the case irrespective of the individual’s previous experience in the profession and/or whether the individual may have scored just below the minimum standardized passing grade. This result seems particularly harsh since most candidates eventually pass the PCE examination during the second or third try.



While the ability to offer provisional certificates is laudable, the current system appears overly rigid and lacks fairness. The working group should consider whether the profession should gravitate to a more modern regulatory approach. Such a scheme should permit CPO officials to intelligently apply discretion in individual cases to allow candidates to continue with their provisional status designation until their abilities can be confirmed. In other words, applicants should be given the benefit of the doubt.

It would also be important for the working group to obtain confirmation that the CPO's assessment of public health and safety risks has been empirically established. This could be gleaned, for example, from reviewing the number of public complaints received and the results of the college's quality assurance program.

Rigidity of Regulatory Framework

In our office's previous discussions with CPO officials, we have been told that the college cannot act on some of the concerns expressed by applicants because the current rules are set out in regulation and the CPO cannot unilaterally change them. We were further advised that it would take considerable time for the Ministry of Health (the ministry) to consider whether it would be willing to make any changes recommended by the college. Hence, we understand that the CPO has not approached the ministry with such a request.

I would agree with the observation that, during emergency situations such as pandemics, embedding a health college's rules in a regulation is not ideal. To contrast this situation, the analogous set of rules for the College of Chiropractors of Ontario are established by policy. It would be important for the working group to consider whether the CPO should gravitate to a similar, more flexible arrangement.

On a related point, the working group should consider whether the CPO should set up a fast-track process where the college is able to identify barriers to registration that cannot be overcome because they constitute non-exemptible regulatory requirements.

In these scenarios, it would be important for there to be a mechanism through which these issues, along with recommended solutions, could be taken to the ministry at the earliest opportunity. This was the approach that the College of Pharmacists of Ontario successfully pursued during the earlier phases of the pandemic.

Approaches such as these would serve to complement a responsive risk mitigation strategy and help to avoid situations where registration processes are delayed for extended and unreasonable periods of time.



Communications with Applicants

The OFC recognizes that, in emergency situations, such as pandemics, the landscape can shift often and sometimes abruptly. In cases where a college's registration processes have been delayed, or examinations cancelled, it is extremely important to establish strong channels of communication with applicants.

Where a regulator and third party service provider are both involved with such an issue, there can sometimes be confusion about which entity should be accountable for communicating with applicants. When these scenarios arise, it is critical for the regulator and third party to work together to develop a joint communications strategy to ensure that applicants have access to the most up-to-date information.

Composition of Working Group

In undertaking this important assignment, it would be important to ensure that the composition of the Entry to Practice Working Group encourages the discussion of novel approaches and engages in courageous conversations. CPO Council should ensure that the membership of the group facilitates this objective. Council should specifically consider whether to appoint an applicant to the profession to the working group.

While the working group is considering these longer-term issues, I would also encourage CPO to proactively take whatever steps it can to relieve the burden on current applicants to the system.

I hope that you have found these comments to be useful. My staff and I would be pleased to elaborate on these perspectives if you would find this to be useful. I look forward to hearing about the progress of your deliberations

Kindest regards,

"Original signed by"

Irwin Glasberg
Fairness Commissioner

Copy: Christopher Rosati, OFC
Alison Henry, Ministry of Health
Katya Masnyk, CAPR