

BOARD BRIEFING NOTE
MEETING DATE: September 15-16, 2024

FOR DECISION

From: Susan James, Acting Registrar and Director, Registration and Quality

Topic: Proposed By-Law No. 7, for the purpose of public consultation

Issue/Description: Seeking approval of proposed revisions to the By-Laws for circulation for public consultation. These revisions address changes in regulations, application of gender-neutral language, changes or additions to administrative fees and updates to the public register.

Public interest rationale: College By-Laws, along with the Board Policy Booklet, explicitly and transparently outline the structure, operation and governance of the College. The By-Laws are essential in establishing the responsibilities of registrants, directors, committee appointees and staff, and provide a framework for decision-making and dispute resolution.

Strategic alignment, regulatory processes, and actions: While not directly related to the strategic plan, the By-Laws are foundational to our mandate and serve as an adjunct to the legislation and regulations that define the objectives, authority, scope and regulatory obligations of the College.

Background:

- The By-Laws make explicit College expectations and processes related to administrative and internal affairs related to the Board and its Committees, registrants and pharmacies, and therefore need to remain current and consistent with other legislation and regulations that govern our activities and operations.
- Section 94 of the Health Professions Procedural Code defines the College's by-law making authority and includes the requirement that all by-laws associated with fees and the collection and publication of information related to registrants (and for our College, pharmacies) be circulated for at least 60 days prior to approval by the Council (Board).
- As business practices and/or related regulations change over time, review and updating of the By-Laws is necessary to ensure they remain current. Given the effort and resources involved in this process, it is most efficient and standard practice for the College to bundle by-law changes together. As a result, there are several small changes, referred to as housekeeping items, that are made at the same time.
- The impetus for the current By-Law review was government approval of changes to General Regulation 202/94 under the *Pharmacy Act*. Additionally at its December 2023 meeting, the Board approved changes to the composition of the Drug Preparation Premises (DPP) Committee related to panels and quorum. Implementation of this change required a corresponding change in the By-Laws.

Harmonization with General Regulation (O. Reg 256/24) under the *Pharmacy Act*

Analysis:

- On October 1st, 2024, O. Reg 256/24 will come into effect and replace O. Reg 202/94, known as the General Regulation under the *Pharmacy Act*.
- There are changes in terminology, such as reference to the pharmacy profession, rather than pharmacy practice, as well as changes to the classes of registration, including removal of registered pharmacy students

and addition of intern technicians, which need to be made in the College's By-Laws to remain consistent with these legislative changes.

- The introduction of a two-part register (Part A and B) for pharmacy technicians also requires the addition of associated registration fees.

Gender-neutral language

Analysis:

- The use of gendered language is a historical norm that has evolved over time, with inclusive language approaches moving away from defaulting to male designations towards male/female designations, and subsequently towards non-gender specific language.
- The College's By-Laws have illustrated this evolution, with previous updates made to include the pronoun "she" next to "he".
- A recent review of the By-Laws has resulted in the removal of superfluous gendered language to allow focus on the content without making assumptions about gender.
- This update demonstrates the College's commitment to equity, diversity and inclusion (EDI) and serves as a good example of applying this lens to our existing work and achieving an output that meets the stated need for clear communication, without the unintended consequence of limiting applicability or distracting from the focus of the content.

Fee changes

Analysis:

Require payments of outstanding cost orders/fees as a condition of registration renewal

- As of June 30, 2024, OCP had a recorded amount owing of approximately \$157,000 for Discipline Committee cost orders. Historically, collection of these fees has been challenging.
- An environmental scan of 14 regulatory bodies identified that two Ontario colleges, the College of Physicians and Surgeons of Ontario and the College of Massage Therapists of Ontario, require payment of outstanding orders or other fees as a condition of registration/license renewal. This approach has been considered effective in encouraging financial recovery from active members by the two colleges that implemented it.
- Implementing a similar provision in OCP's By-Law is expected to lead to improved collection rates on any outstanding accounts, particularly where registrants seek to continue to practice.
- The inclusion of a clause in the By-Law to allow the capturing of outstanding fees and cost orders before renewal is recommended.

Introduce a cost recovery associated with a second or further instance of registrant cancellation of routine practice or operational assessments less than six weeks prior to the scheduled assessment date without reasonable cause

- Registrants request deferrals or rescheduling of approximately 35% of routine **practice assessments**.
- Approximately 35% of these requests (12% of the total sent) involve last-minute cancellations without reasonable cause. Reasonable cause would include medical reasons (with documented evidence), maternity/paternity leave (expected return date must be provided), or pre-booked travel well in advance (with documented evidence and expected return date).
- In most cases it is not possible to schedule an alternate assessment on short notice. This is because assessments require enough lead time for registrants to confirm, gather or submit documents and prepare for the assessment.
- College staff sought advice from the Office of the Fairness Commissioner, who advised that charging such a

fee would be fair, if the fee is posted publicly.

- A similar experience is encountered when conducting **operational assessments** for community pharmacies. Late cancellations have led to additional travel and administrative costs, as well as opportunity costs associated with personnel conducting the assessment. Resources expended when appointments are canceled range from \$500 to \$600 on average.
- No other health regulators in Ontario charge a fee for “missed” or “cancelled” assessments. However, some regulators charge a fee for ‘failure to comply’ with requests ranging from \$255 to \$565.
- Based on the costs associated with last-minute cancellations and informed by the environmental scan and the response from the Office of the Fairness Commissioner, introducing a fee of \$600 (+HST) for a second or further instance of late practice and operations assessment cancellation, defined as those made less than six weeks before the scheduled assessment date without reasonable cause is recommended. For the first instance, a warning would be issued.

Introduce a cost recovery for costs associated with additional assessments or inspections resulting from non-compliance with policies or standards.

- When registrants fail to comply with established policies or standards of the profession, additional assessments or inspections may be necessary to ensure corrective actions are taken. These unanticipated activities lead to extra administrative costs for the College ranging from \$400 - \$450.
- To mitigate these expenses, College staff recommend introducing an administrative fee that would be applied in cases of non-compliance. This fee would help cover the costs of the extra assessments or inspections and may also act as a deterrent, encouraging registrants to maintain compliance with the regulatory standards and policies.
- A recovery fee of \$450 is recommended (+HST).

Address the increased costs of administering the Jurisprudence, Ethics and Professionalism exam for all applicants.

- The annual cost of administering the Jurisprudence, Ethics and Professional exam through computer-based testing has tripled since the pre-pandemic period, rising from an average of \$53,000 to \$162,000. In 2024, with the addition of blocking fees for holding seats, the average direct cost per registrant taking the exam is just below \$200.
- A jurisdictional scan of health regulatory colleges both in and out of province reveals that a cost of \$200 is consistent with the low end of fees charged by other regulators. Similar fees with other colleges range from \$200 to \$443, except for the College of Nurses of Ontario which charges \$45.
- For cost recovery purposes, an increase in the fee for administering the examinations from \$145 to \$200 (+HST) is recommended.

Add a registration and annual renewal fee for Part B pharmacy technicians.

- Pharmacists listed in Part B of the register are subject to registration and renewal fees that are fifty percent of the fees required for pharmacists listed in Part A. Ontario Regulation 256/24 under the *Pharmacy Act* introduces the registration class of Part B Pharmacy Technicians.
- It is recommended that there should be a registration fee for Part B pharmacy technicians and that it should be set at fifty percent of the fees paid by Part A pharmacy technicians.
- Specifically, the following fees are to be added to the Ontario College of Pharmacists [Schedule of Fees](#):

Registrant Fees	2024 Fees	HST	Total with HST
<i>I. Application and Issuance Fees</i>			
Pharmacy Technician B - New Applicant Registration, Mar 10 to Aug 31	290.85	37.81	328.66

Registrant Fees	2024 Fees	HST	Total with HST
Pharmacy Technician B - New Applicant Registration, Sept 1 to Mar 09	145.40	18.90	164.30
<i>II. Renewal Fees</i>			
Pharmacy Technician – Part B	290.85	37.81	328.66

Introduce a fee for registrants who are required to complete an assessment to support a request to transfer from Part B to Part A of the register.

- An application for transitioning a registrant from Part B to Part A register includes expenses for Practice Assessment of Competence at Entry (PACE), testing, and administrative tasks. By way of comparison, the current cost of each PACE assessment following the second attempt is approximately \$1,000.
- To reasonably recover costs, the following fee is recommended to be added to the Ontario College of Pharmacists, *Schedule of Fees*:

Registrant Fees	2024 Fees	HST	Total with HST
<i>Other fees</i>			
Assessment for Transition from Part B to Part A register	600.00	78.00	678.00

As per Policy 4.5, the Finance and Audit Committee reviewed the above-proposed fee changes at its August 26th meeting. The Committee recommends to the Board that the proposed fee changes be incorporated into the By-Laws and the fee schedule.

Quality improvement

Analysis:

Removal of Narcotic Signer from Public Register

- Under Federal legislation (*Controlled Drug and Substances Act*), pharmacists have been granted the authority as narcotic signers, unless there are specified terms or conditions on their certificate of registration that prohibit it.
- Given the nature of the federal authority, there is no apparent reason for this information to be posted for each pharmacist publicly, other than serving as a convenient offering for licensed dealers.
- Inclusion of this information on the public register for all pharmacists is unique to Ontario. Other pharmacy regulators in Canada only post this information when there is a prohibition for an individual pharmacist to be a narcotic signer due to terms, conditions or limitations associated with their certificate of registration.
- The College has identified that the workload associated with collecting and maintaining currency of this information is unnecessary.
- The process and authority to post terms, conditions and limitations associated with any individual certificate of registration already exists, therefore removal of narcotic signer from the public register is recommended

Addition of Temporary Pharmacy Closures

- It is not uncommon for pharmacies to be closed for a short period of time, usually less than 3 business days.
- While most pharmacies voluntarily notify the College of temporary closures, there have been situations when a pharmacy has been closed for extended periods of time and the College was not aware.
- The public and other system partners rely on the College’s public register as a source of information regarding the “real time” status of operation of a pharmacy, and while permanent closures are noted, temporary closures are not.
- Prolonged closures may be associated with the inability of a pharmacy to secure a designated manager,

which may mean there is risk that no pharmacist is assuming responsibility for the management and security of the drugs and/or patient records at the pharmacy during the closure. The College can only ensure appropriate actions have taken place if we are aware of such closures, therefore the addition of temporary pharmacy closures for more than three days and less than three months is recommended.

Housekeeping

Analysis:

- As noted above, it is standard practice to bundle By-Law changes and make any housekeeping changes at the same time. These changes are most often related to numbering, section titles, deletion of outdated references or updating of terminology. They do not change the intent or introduce new provisions.

Motion:

THAT the Board approves the circulation of College By-Law No. 7 for public consultation.

Next steps:

The *Regulated Health Professions Act* stipulates that College By-Laws related to fees, or information that registrants (and in our case pharmacies) are required to provide to the College, and may be made public, must be circulated for a 60-day consultation. If approved for circulation, the College will initiate consultation and provide an analysis of the feedback at the December 2024 board meeting.

Attachments:

- 19.1 - Summary chart of changes with rationale
- 19.2 - Proposed By-Law No. 7 with tracked changes
- 19.3 - Proposed By-Law No. 7