



ONTARIO
PHARMACISTS
ASSOCIATION

**Public Consultation on Proposed By-Law Changes
(Proposed By-Law No. 7)**

**OPA Submission
November 20, 2024**

INTRODUCTION

The Ontario Pharmacists Association ('OPA', the 'Association') is pleased to provide its comments and recommendations to the Ontario College of Pharmacists ('OCP', the 'College') on proposed By-Law changes which include updates to address changes in regulations, application of gender-neutral language, changes or additions to administrative fees, and updates to the public register, as well as minor housekeeping revisions.

OPA is committed to evolving the pharmacy profession and advocating for excellence in practice and patient care. With its 9,000 members, OPA is Canada's largest pharmacy-based advocacy organization and continuing professional development provider for pharmacy professionals. By leveraging the unique expertise of pharmacy professionals, enabling them to practice to their fullest potential, and making them more accessible to patients, OPA is working to improve the efficiency and effectiveness of the health care system.

Timely updates to legislative and regulatory documents are critical to ensuring accuracy and to avoid confusion during implementation. As such, OPA is supportive of the actions taken by the College to update By-Law No. 6 to ensure that it remains current and utilizes gender-neutral language. It is equally important that updates are clear, transparent, consistent and fair (i.e., are reasonable and do not create any additional burden on pharmacy professionals). The following feedback and comments are provided by OPA, with input from members of OPA's Professional Practice Committee (comprised of pharmacy professionals with experience in different practice settings and environments in Ontario) and Economics Committee (comprised of Ontario pharmacists representing corporate, banner and chain pharmacy groups, long-term care pharmacy operators, and independent pharmacy owners), for the College's consideration regarding the proposed By-Law No. 7.

HARMONIZATION WITH GENERAL REGULATION (O. REG. 256/24) UNDER THE *PHARMACY ACT*, 1991

OPA is supportive of the proposed changes to the By-Laws to ensure alignment with O. Reg. 256/24 under the *Pharmacy Act*, 1991, which recently came into effect on October 1, 2024. Ensuring that the same terminology and references to classes of registration are used between different legislative and regulatory documents is important for consistency and to avoid confusion. To further support consistency and to increase comprehensiveness, OPA suggests that pharmacy technician students also be added to the list of individuals that registrants should strive to participate in educating and mentoring under Schedule A – Ontario College of Pharmacists Code of Ethics: Standards (s. 1.13). This aligns with the rationale that although pharmacy students will no longer be registrants of the College, they continue to be referenced in this provision as registrants may still educate and mentor pharmacy students. Since pharmacy technician students are also aspiring to be registrants of the College and are integral members of the pharmacy team, it is important to also recognize them within this provision for completeness.

GENDER-NEUTRAL LANGUAGE

OPA is fully supportive of the proposed changes to remove superfluous gendered language from the By-Laws to support clear communication while also not limiting applicability or distracting from the focus of the content. Similar to the College, OPA is committed to supporting equity, diversity and inclusion (EDI) in the profession and updating existing legislation and/or regulations, such as these By-Laws, with non-gender specific language is aligned with that commitment.

FEE CHANGES

In response to the several administrative fee changes that have been proposed by the College to be included in the revised By-Laws, OPA would like to present the following commentary regarding each specific proposed fee change.

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

Overall, OPA is supportive of the College's proposed change to require pharmacy professionals who have outstanding cost orders or fees to pay these fees as a condition of registration renewal. OPA agrees that this change may help to improve collection rates on outstanding accounts, especially as it pertains to individuals who are seeking the ability to continue to practice the profession in Ontario. However, OPA is concerned that if these amounts owing are significant, some registrants may have challenges with paying them in full, especially if they are not able to continue to practice in the meantime. As such, OPA recommends that the College put provisions in place to outline exceptional circumstances, and the supporting evidence that would be required to substantiate the claim, that would be eligible for deferral of payment or other arrangements (e.g., installment payments). This way, the College can still collect the amounts owing without causing unreasonable financial hardship for impacted pharmacy professionals.

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

OPA agrees with the College that last-minute cancellations of routine practice or operational assessments can result in significant lost opportunity costs for the College, and thus, the need to recover these costs through introduction of a fee for a second or further instance of late practice and operations assessment cancellations (defined as those made less than six weeks before the scheduled assessment date without reasonable cause). To support the College's intent for these changes, i.e., to recover costs associated with cancelled/deferred practice and operations assessments, the inclusion of rescheduled appointments without reasonable cause to s. 18.5.5 and s. 19.6.1 (new section references) in addition to the already stated cancellations and missed appointments will help to improve clarity. Additionally, it would be important to also clarify whether these two proposed provisions are meant to apply to each assessment separately (i.e., an individual is permitted up to one last-minute cancellation without reasonable cause per practice or operational

assessment that is scheduled) or if that one opportunity to have a last-minute cancellation is per the lifetime of a pharmacy professional/pharmacy. OPA strongly advocates that each practice and operational assessment be treated individually and that the provision should be applied in each instance rather than cumulatively for a pharmacy professional/pharmacy. Unexpected and/or emergency situations may occur from time to time throughout the career of a pharmacy professional that is beyond their control, and they should not be penalized for these unforeseen circumstances.

Furthermore, OPA seeks to clarify whether the list provided of what would be considered reasonable cause for a cancellation or deferral of a routine practice or operational assessment in the briefing note from the September 16 Board meeting is the complete list or if those were only meant to be examples. As per the briefing note, 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). However, OPA contends that there may be other exceptional circumstances that may require a cancellation or deferral of an assessment that must also be taken into consideration, e.g., a pharmacy that has significant staff shortages where an assessment may impact pharmacy operations, power outages at the pharmacy, a personal emergency such as the pharmacy professional dealing with a flooded basement, or if a person has recently left the place of employment and can no longer have their assessment completed at that practice location. OPA recommends the College provide a more comprehensive list of situations, as well as criteria the Registrar would use to determine what would constitute as an exceptional circumstance beyond those listed, that would be accepted as a reasonable cause for a last-minute cancellation or deferral of an assessment to increase transparency. Additionally, greater clarity as to what would be required to be submitted to substantiate the request would help to streamline the process, e.g., documented evidence for a medical reason would only require a doctor's note that the individual cannot complete the assessment but does not require the sharing of detailed information about the medical condition to protect individual privacy.

Introduce a cost recovery for costs associated with additional assessments or inspections resulting from noncompliance with policies or standards

Ensuring that pharmacies are operating in compliance with all regulatory standards and policies of the profession is critical to protecting patient safety and well-being. As such, OPA recognizes the importance of the College's operational assessments of pharmacies to support compliance. However, although use of a negative reinforcement, such as the proposed implementation of a recovery fee for pharmacy re-inspections in cases of non-compliance, may help to encourage pharmacy professionals to maintain compliance with policies and standards, OPA does not support introduction of a new fee for the first pharmacy re-inspection. Instead, OPA recommends the College continue with their current process for when pharmacy re-inspection fees are charged to balance coaching and improvement opportunities with punitive actions.

Currently, pharmacies must undergo a routine operations assessment when selected and if they do not pass, the operations advisor may choose to order a re-assessment.¹ If the pharmacy is still unsuccessful, then they are referred to the Accreditation Committee who may order another re-assessment to be conducted.¹ As per the By-Laws, under s. 19.5 (new section reference), a pharmacy is only required to pay a re-inspection fee if they have undergone a re-inspection as a result of deficiencies noted in an initial inspection, for a third time or more after the initial inspection (unless the re-inspection was pursuant to an order of the Discipline Committee). This model is similarly applied to the College's routine practice assessments where pharmacy professionals who are not successful on their first attempt at a practice assessment are given another opportunity through a practice re-assessment after coaching, and if still unsuccessful, they are provided with the opportunity to undertake remediation by order of the Quality Assurance Committee followed by another assessment.² Only after this post-remediation assessment are registrants subject to a fee for any further assessments that are ordered by the Quality Assurance Committee if they are still found by the Committee to have a deficiency in their knowledge, skills or judgment that requires correction as per the By-Laws, under s. 18.5.2 (new section reference). OPA is highly supportive of this model of not penalizing the pharmacy professional and/or pharmacy owner after their first unsuccessful attempt at an assessment as this helps to reinforce the learning process by providing an opportunity for the involved pharmacy professionals to rectify any issues and learn from the experience so that they can improve their practice and ensure compliance in the future. Furthermore, maintaining the status quo will also ensure alignment between the two types of College assessments to support consistency.

Increasing fees for the Jurisprudence, Ethics and Professionalism exam

As per the College, the annual cost of administering the Jurisprudence, Ethics and Professionalism exam has tripled since the pre-pandemic period with the average direct cost per registrant taking the exam being just below \$200 for the computer-based testing. Although OPA recognizes the importance of cost recovery, OPA seeks clarification from the College as to whether alternative, more cost-effective options have been investigated to minimize the costs of administering the exam so that the fee does not have to be increased. It is critical that the cost of taking the exam does not pose a potential barrier for individuals on the pathway to full licensure, especially since most of these individuals are likely students, interns and/or new immigrants to the country who may not be working full-time positions to have the financial means to cover these expenses. At a time when building the workforce capacity of the pharmacy sector should be a top priority, it is critical that other measures to prevent fee increases are exhausted prior to making changes that may have unintended negative impacts on the pharmacy workforce.

¹ Ontario College of Pharmacists. Community Pharmacy Assessments. Accessed October 25, 2024. <https://www.ocpinfo.com/protecting-the-public/inspections/community-assessments/>

² Ontario College of Pharmacists. Practice and Peer Assessment Model. Accessed October 25, 2024. <https://www.ocpinfo.com/wp-content/uploads/2022/05/practice-peer-assessment-model.pdf>

Introduce a registration and annual renewal fee for Part B pharmacy technicians

OPA believes it is fair to add a registration and annual renewal fee for Part B pharmacy technicians as they are now included as a class of registration in O. Reg. 256/24 under the *Pharmacy Act, 1991*. Setting this fee to be fifty percent of the fee paid by Part A pharmacy technicians is reasonable and in alignment with the fee structure used for pharmacists listed in Part B of the register, whose fees are set at fifty percent of the fees paid by Part A pharmacists.

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

With respect to introducing a fee to recover costs associated with the required administrative procedures and PACE assessment for those individuals who are transferring from Part B to Part A of the register, although OPA recognizes the need for the College to recover some of these costs, OPA would like to highlight that it is important to ensure that the new fee does not pose a barrier for individuals who are interested in making the transition. For example, the proposed fee of \$600+HST for the assessment to transition from Part B to Part A of the register is more than the annual fee for Part A pharmacy technicians (\$581.65+HST). This means that a Part B pharmacy technician could be paying more than double the amount of an already registered Part A pharmacy technician to practice during that first year of the transition. This may pose a financial burden and act as a deterrent for a Part B pharmacy technician to transition back to Part A of the register. As the Canadian health care system continues to be challenged by the health human resources (HHR) crisis, enabling all competent and willing pharmacy professionals who want to partake in providing patient care is critical to maintaining and expanding pharmacy workforce capacity. As such, careful consideration must be given to the introduction of fees and the amount associated with those fees to ensure there is reasonable balance between cost recovery and the possibility of creating barriers to registration.

General comments regarding introducing or increasing fees

OPA has concerns around the proposed changes to s. 18.5.3 (new section reference) to amend the provision to enable fees to be charged for individuals undertaking the Practice Assessment of Competence at Entry (PACE), a practice assessment or a knowledge assessment. The College has provided the rationale that this change is to broaden the scope of assessments for which fees can be recovered. OPA seeks to clarify whether the College's intent is to recover fees for all these assessments in the future, e.g., for routine practice and knowledge assessments that pharmacists must participate in as part of maintaining registration with the College. If so, OPA contends that many of these assessments are part of the normal operations of the College to fulfill its mandate, i.e., to serve and protect the public interest and hold Ontario's registered pharmacists and pharmacy technicians accountable to the established legislation, standards of practice, Code of Ethics and policies and guidelines relevant to pharmacy practice.³ The College's Quality Assurance Program, of which the knowledge assessment and practice assessment are two of the four components, is not

³ Ontario College of Pharmacists. About the College. Accessed October 25, 2024. <https://www.ocpinfo.com/about/>

only required to support the College in meeting its mandate but is also needed to meet the expectations under the *Regulated Health Professions Act*.⁴ Therefore, OPA is adamant that the costs of providing these assessments should not be borne by pharmacy professionals. Pharmacists and pharmacy technicians are already required to pay an annual fee to the College to maintain their Certificates of Registration. These annual fees are supposed to be used by the College to fulfill its duty of ensuring effective regulation of the profession of pharmacy in the public interest.⁵ This includes ensuring that registered pharmacy professionals are qualified and competent to provide care that meets expected practice and ethical standards so that the public can be assured that the pharmacy services they receive are safe, ethical and focused on their best interests.⁵ According to the College, the revenue from the annual registrant fees fund the College's activities and regulatory programs, one of which is the Quality Assurance Program.⁵ As such, the practice and knowledge assessments, which are part of this program, should already be funded and an additional fee should not be imposed on pharmacy professionals. Similarly, many of the PACE assessments are a requirement for registration with the College and should be part of the College's work to manage registration. For those who are unsuccessful, the College already has a fee included in the Schedule of Fees that is required to be paid by applicants for each PACE re-assessment to recover those costs if needed. As such, OPA is not supportive of introducing any new fees for routine assessments.

Finally, as noted above, OPA acknowledges the College's rationale behind the proposed changes to By-Law No. 6 to introduce new fees or increase fees for cost recovery purposes. However, in considering these cost recovery initiatives have traditionally been a part of the College's normal operating expenses (i.e., covered under the revenue from annual fees), OPA recommends these fee changes be accompanied by corresponding adjustments to annual registrant and/or pharmacy accreditation fees. In 2020, OCP's Board of Directors approved an annual increase in fees based on a percentage equal to the Consumer Price Index (Ontario all items), if any, as of September 30th of each year to ensure fees keep up with inflation as this contributes to higher costs for the College to operate. However, pharmacist wages have remained relatively the same (if not less) over approximately the last decade (average of \$50.41/hr in 2014 compared to a median of \$50.00/hr for men and \$47.00/hr for women in 2022).^{6,7} Furthermore, the pharmacy sector has endured significant financial pressures in recent years to support government savings initiatives, implement pharmacy upgrades to continue providing care during the COVID-19 pandemic, etc. while simultaneously trying to balance stagnant pharmacy fees with the rising costs of operation (e.g., labour, rent, supplies, inventory costs, etc.). With the proposed shift of the onus for these cost recovery expenses to the affected pharmacy professionals themselves, OPA recommends that the savings from these expenses be transferred back to the pharmacy profession at large through a decrease or freeze in annual renewal fees. Furthermore, OPA respectfully asks the College to reassess its operations to

⁴ Ontario College of Pharmacists. Quality Assurance Program. Accessed October 25, 2024.

<https://www.ocpinfo.com/practice-education/qa-program/>

⁵ Ontario College of Pharmacists. FAQs on Annual Fees. Accessed October 25, 2024.

<https://www.ocpinfo.com/registration/fees-timelines/faqs-on-annual-fees/>

⁶ Pollara. Member Satisfaction/Wages and Benefits Survey: Combined Research Report. Ontario Pharmacists Association. Published 2013. Accessed October 29, 2024. [Unpublished report]

⁷ Ontario Pharmacists Association. OPA Wage & Benefits Report. Published November 2022. Accessed October 29, 2024. <https://www.opatoday.com/wp-content/uploads/2022/12/OPA-Wage-Benefits-Report-November-2022.pdf>

see if additional efficiencies can be identified and implemented to reduce the College's operating costs, so that introductions of and/or increases to fees that directly impact pharmacy professionals are not required. For example, examining the cost-benefit of the College programs and initiatives may help to inform whether changes can result in additional cost-efficiencies.

QUALITY IMPROVEMENT

OPA supports the proposed change to remove information regarding pharmacists who are narcotic signers for a pharmacy from the public register as this does not serve any purpose with respect to patient care. All pharmacists have the authority to be narcotic signers as per the *Controlled Drug and Substances Act*, unless there are specified terms and conditions on their certificate of registration that prohibit it. Since the College already has a process in place to post these terms, conditions and limitations on the public register if required, there is no additional purpose for maintaining the list of narcotic signers. However, pharmacy owners/designated managers (DMs) should be reminded that in situations where a pharmacist working in their pharmacy should not be a narcotic signer for the pharmacy, despite not having terms, conditions or limitations on their certificate of registration that restrict their authority, there should be procedures/processes in place to notify the wholesaler/distributor of this restriction.

With respect to the proposed addition of mandatory reporting of temporary pharmacy closures (defined by the College as more than 3 days but less than three months), although OPA agrees that having accurate, "real time" information regarding the status of operation of a pharmacy is important, implementation considerations must also be taken into account to ensure that it does not result in any unintended consequences such as unnecessary administrative burden for pharmacies. Exceptions to this requirement should be established for certain situations, such as emergency closures due to weather or short-term power outages where normal operation is anticipated to resume shortly, e.g., if a pharmacy has been temporary closed for 4 days due to a power outage but is anticipated to have power restored and to reopen the next day, they should not be required to notify the College as this creates additional administrative burden on not only the pharmacy owner/DM to complete and submit the paperwork, but also the College to have to process it. For these temporary closures with an anticipated reopening date within a few days from the time of reporting, the College should have provisions to provide exemptions to the mandatory reporting requirements. The College and OPA can also reinforce the importance for all pharmacies to have an emergency contingency plan to ensure continuity of care for patients during these circumstances so that even though the temporary pharmacy closure may not be reported, the College and the public can be reassured that appropriate actions are being taken to protect patient safety and wellbeing.

Similarly, regarding proposed s. 16.5.2 (new section reference), although OPA agrees that information demonstrating that drugs in stock in the pharmacy and that prescription files, drug registers and other records are being securely maintained during a temporary pharmacy closure, the requirement to submit these plans to the College if an individual delays the re-opening of their pharmacy compared to the initial anticipated re-opening date requires exceptions to be defined. For example, an owner whose re-opening date has been delayed by 2 days from the date they originally

provided to the College would now be required to submit a substantial amount of paperwork, the same amount as someone who may delay their re-opening date by 2 months and thus have a greater risk associated with continuing to maintain security of these elements in comparison. This may influence individuals to report a later re-opening date to prevent unnecessary administrative burden which would contradict the College's intent of maintaining an accurate and "real time" public register on the operating status of pharmacies.

Additionally, to meet the goal of providing "real time" updates on the status of operation for pharmacies, it is crucial that the turnaround time for processing notifications of temporary closures and re-openings is timely. For example, if a pharmacy notifies the College that their re-opening date is earlier than anticipated and they can re-open tomorrow, this information must be processed by the College in a timely manner and the public register updated on the same day to coincide with the re-opening of the pharmacy. This will help to prevent confusion amongst patients and other system partners by ensuring that the College's public register accurately reflects the operational status of a pharmacy at any given time. Furthermore, considering that the College's operating hours are more limited compared to most pharmacies, i.e., Monday to Friday, 8:30 a.m. to 5:00 p.m., it is assumed that the ability for the College to process notifications in "real time" will be limited to their business hours. As such, OPA recommends that provisions be put in place that aim to balance the expectations required of pharmacies and the ability of the College to process the information in a timely manner. For instance, if a pharmacy is required to report a temporary closure on Saturday morning, since the earliest the College can process the notification is the following Monday, the pharmacy should have until Monday to submit their notification.

HOUSEKEEPING

As the housekeeping changes are mostly related to numbering, section titles, deletion of outdated references or updating of terminology and do not change the intent or introduce new provisions, OPA is supportive of incorporating these changes into the updated By-Laws.

CONCLUSION

OPA appreciates the opportunity to respond to this consultation on proposed By-Law updates (By-Law No. 7) addressing changes in regulations, application of gender-neutral language, changes or additions to administrative fees, updates to the public register and housekeeping changes that if passed, would replace By-Law No. 6. Overall, OPA is supportive of changes that aim to update the By-Laws to align with other legislation and/or regulations and to use more inclusive language. OPA also recognizes the College's need to introduce some new fees to recover costs in certain operational aspects, however, greater clarity, transparency, and consistency are necessary to support understanding and implementation. Additionally, ensuring that any imposed fees are reasonable and do not result in any additional barriers and/or burdens that may lead to unintended consequences would be equally important. Finally, OPA urges the College to consider decreasing or freezing annual fees in light of the cost recovery efforts for certain activities as these would no longer

require financial support through revenue from annual fees. In conclusion, OPA respectfully asks that the College take into consideration the feedback and recommendations/suggestions provided in this submission, which aim to enhance the draft By-Laws and better support its implementation.