

## BRIEFING NOTE

**TO:** Board of Directors

**FROM:** Governance Committee

**DATE:** June 3, 2024

**SUBJECT:** 5.1 Adjustment to By-laws re Election/Voter Eligibility for Inactive Opticians

☒ For Decision

☐ For Information

☐ Monitoring Report

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### Purpose:

To obtain the Board of Directors' approval to conduct a stakeholder consultation on proposed changes to the by-laws to address election/appointment/voter eligibility for members of the new Inactive class of registration.

### Background:

Amendments to the College's Registration Regulation will come into effect on July 1, 2024. The updated regulation will introduce a new Inactive class of registration for non-practising opticians who wish to maintain their license.

Registrants in the Inactive class will be prohibited from practising opticianry or supervising student and intern opticians. Registrants may remain in the Inactive class indefinitely. If an inactive optician wishes to return to practice, they will undergo an assessment of their currency, based on the number of years since they last practised.

### For Consideration:

With the introduction of a new Inactive class of registration, it is necessary to consider whether registrants in this class should be eligible:

- To run for election as a professional board member
- To vote in board elections
- For appointment as an appointed committee Member

Currently, only registrants holding a current certificate of registration are eligible to be elected, vote or be appointed to committees. Registrants who were administratively suspended (for non-renewal or non-payment of fees) are not eligible.

It is therefore recommended that the by-laws be updated to specify that only holders of a certificate of registration **as a Registered Optician** be eligible for election, appointment or to vote in elections. This would exclude holders of an Inactive class certificate but would otherwise be consistent with current practice of restricting elections, appointments and voting to active registrants.

Draft amendments to the by-laws are attached as **Appendix A**.

*Regulated Health Professions Act (RHPA) Colleges*

This recommendation aligns with the direction that other RHPA Colleges have taken with regards to their Inactive and Non-Practising classes of registration.

The College of Nurses of Ontario (CNO) established a Non-Practising class of registration in 2013. Members of this class are not permitted to practise nursing in Ontario in any capacity (whether paid or unpaid) and are not required to take part in the Quality Assurance Program. According to the CNO's by-laws, to align with these conditions of membership, non-practising members are also not eligible to run for the CNO's Council, to serve on its committees or to vote in CNO Council elections.

Similarly, the College of Optometrists of Ontario's Registration Regulation also establishes a Non-Practising class of registration in which members are not permitted to practise. Members of the College are only eligible to vote, stand in elections and be appointed to committees where they hold a General or Academic certificate of registration. As is proposed for the COO, non-practising optometrists do not meet these criteria.

The College of Dental Technologists of Ontario (CDTO) have also taken a similar approach. The CDTO has an Inactive class of membership which is designed for Registrants who wish to take a parental, sick or educational leave, or to practise outside of Ontario, but still maintain their membership with the College. Both Inactive and Suspended Registrants of the College cannot practise dental technology or supervise the practise of the profession. To maintain consistency between the two classes, according to the CDTO's by-laws, only registrants holding a certificate of registration in the General Class (those able to practise dental technology) are eligible for election or eligible for appointment to a committee. This is also in place for the College of Respiratory Therapists of Ontario (CRTO), College of Medical Laboratory Technologists of Ontario (CMLTO) and the Traditional Chinese Medicine Practitioners and Acupuncturists (CTCMPAO) who have determined that although inactive members are eligible to vote in Council elections, they are not eligible to stand for election themselves or be appointed to its committees.

This is not the case for all RHPA Colleges, as is demonstrated with the College of Audiologists & Speech-Language Pathologists of Ontario (CASLPO). CASLPO currently issues a Non-Practising certificate of registration in which members are not permitted to engage in active professional practice in Ontario. However, the by-laws determine that a Registrant is eligible for election to the Board of Directors if they hold a General, Non-Practising or Academic Certificate of registration. The by-laws also determine that all registrants are eligible to vote. This is also true for the College of Naturopaths of Ontario (CONO), College of Midwives of Ontario (CMO) and the College of Massage Therapists of Ontario (CMTO).

**Public Interest Considerations:**

Elections and appointments are a fundamental part of being a self-regulating profession. It is in the public interest for these processes to be clear and transparent. There is a strong rationale for specifying that the profession should be governed by those who are actively practicing.

**Diversity, Equity, and Inclusion Considerations:**

The rationale for excluding Inactive opticians from eligibility for election, appointment, or voting is to ensure that those governing the profession are actively practising and aware of the issues that will impact the public interest. This arguably outweighs any concerns about excluding a group of individuals from eligibility.

**Risk Management Considerations:**

Those who are actively practicing are in a better position to identify issues and concerns that could impact the safe and ethical delivery of opticianry services to the public.

**Recommendations/Action Required:**

That the Board approve the proposed by-law changes to be circulated for stakeholder feedback as recommended by the Governance Committee.

Once complete, the results of the consultation will be presented to the Governance Committee for its review and brought forward to the board with recommendations at its next meeting.

## APPENDIX A

### 6.3 Eligibility for Election

A Registrant is eligible for election to the Board in an electoral district if, on the deadline for the receipt of nominations and up to and including the date of the election:

- (a) the Registrant ~~is a registered optician~~ holds a certificate of registration as a registered optician ~~who and~~ resides in the electoral district for which they have been nominated or the Registrant resides outside the Province of Ontario and is engaged in the practice of opticianry in the electoral district for which they have been nominated;

### 6.15 Disqualification

An Elected Director shall be disqualified from sitting on the Board if they:

- (k) cease to hold a certificate of registration as a registered optician;

### 12.2 Eligibility for Appointed Committee Members

- (a) A Registrant of the College is eligible for appointment as an Appointed Committee Member if, on the date of the appointment:

- (i) the Registrant ~~is a registered optician~~ holds a certificate of registration as a registered optician ~~who and~~ lives in Ontario;

### 12.3 Committee Disqualification

- (a) A Committee Member shall be disqualified from sitting on a committee if such member:

- (ix) in the case of an optician Committee Member, ceases to hold a certificate of registration as a registered optician;