

BRIEFING NOTE

TO: Board of Directors

FROM: Registration Committee

DATE: July 11, 2023

SUBJECT: Regulatory Amendment: Emergency Class of Registration

☒ For Decision ☐ For Information ☐ Monitoring Report

Purpose:

To review proposed amendments to the Registration Regulation that will establish a new Emergency Class of registration, and to approve the proposed amendments for submission to the Ministry of Health **based on feedback received from the Ministry of Health.**

Background:

All Health Colleges are required to create a new Emergency Class by August 31, 2023

On April 14, 2022, the Ontario government enacted Bill 106, the *Pandemic and Emergency Preparedness Act, 2022*. Bill 106 amended the *Regulated Health Professions Act, 1991* (RHPA) to add new requirements to the *Health Professions Procedural Code* (Code) and to grant the power for the government to pass further regulations relating to various matters, including the establishment of an emergency class of registration.

In December 2022, the Ministry of Health subsequently enacted a [Registration Requirements Regulation](#) that gave effect to these amendments.

The Registration Requirements Regulation requires that Colleges create regulations establishing an emergency class of registration and sets out the specific requirements that the Colleges must adhere to when creating such a class, specifically:

1. They must specify emergency circumstances that will cause the class to be open for issuance and renewal.
2. They must specify that the emergency class of certificates of registration expire no more than one year after they are issued but are renewable for the same period of time, with no limit on the number of times they may be renewed as long as the emergency circumstances persist.
3. They must specify circumstances in which a member of the emergency class may apply for another class of registration and must exempt the applicant from at least some registration requirements that would ordinarily apply to the application.

The Ministry of Health further directed that colleges circulate their draft regulation to stakeholders for 60 days, seek board approval and submit their proposal by no later than May 1, 2023. The Ontario Government intends to approve the amendments, so they come into force by August 31, 2023.

Registration Committee approved a draft regulation for stakeholder circulation in January 2023

The Registration Committee met again in April 2023 to review the stakeholder feedback. On review of further information received from the Ministry in February 2023, the Committee determined that it would be appropriate to change the name of the proposed new class from “Temporary Emergency Class” to “Emergency Class”. No further changes were proposed by the Registration Committee.

The Board convened a special meeting to consider the final draft which was approved and submitted to the Ministry of Health in advance of their deadline.

For Consideration:

The Ministry of Health reached out mid-June informing the College that the Minister’s office was not considering any outstanding regulatory amendments, including those that have been with them since 2017, until the work on all 26 RHPA College’s Emergency Class were passed first. Based on direction received from the Ministry in January of 2023, the College of Opticians’ Emergency Class was built to work in unison with the incoming amended Registration Regulation, where the new Inactive Class would be the main pathway to the Emergency Class.

Based on this new directive, the COO will now be required to have a pathway to the Emergency Class based on the current Registration Regulation and not the incoming amended regulation.

To meet the compressed 2-week timeline expressed by the Ministry, the College’s legal counsel created a draft that was then seen by the Registration Committee and then forwarded to the Ministry of Health as a draft, to meet the deadline, with a caveat that the COO Board has not yet seen or approved the new draft. Furthermore, to meet this 2-week deadline, the draft was not circulated for feedback. The Ministry is aware that this is not feasible to meet the deadline.

Philosophically, the premise of the Emergency Class remains the same with only the administrative pathway changing to function with the current Regulation.

Aside from the administrative pathway updates, the Ministry articulated that the Minister of Health wished to see that, aside from the Board being able to trigger the activation of the Emergency Class, they wanted the inclusion of a separate clause explicitly enabling the Minister of Health activate the Emergency Class.

The following materials have been appended for the Board's review and consideration:

1. Full text of the proposed amendments to the Registration Regulation – **Appendix A**
2. A clause-by-clause comparison chart that provides a rationale for each section that is proposed to be amended – **Appendix B**

The proposed amendments have been drafted to meet the requirements identified by the Ontario Government in the Registration Requirements Regulation.

Public Interest Considerations:

The purpose of the emergency class is to facilitate access to opticianry services in the event of a public emergency. The proposed amendments to the Registration Regulation will achieve this objective by creating an expedited path to reinstatement for opticians who have been out of practice for fewer than six years. The proposed amendments will also protect the public by striking a balance between the need for opticians on an emergency basis and ensuring that opticians will practise safely and in accordance with the Standards of Practice.

Diversity, Equity and Inclusion Considerations:

The proposed amendments strike a balance between the need for facilitating access to opticianry services in the event of a public emergency and ensuring that opticians will practise safely and in accordance with the Standards of Practice.

The Registration Committee did not identify any concerns from a diversity, equity, or inclusion perspective with respect to the proposed amendments.

Recommendation/Action Required:

The Registration Committee recommends that the Board approve the proposed amendments to the Registration Regulation, as set out in Appendix A, to be *formally* submitted to the Ministry of Health for approval and implementation.