

## BRIEFING NOTE

**TO:** Board of Directors

**FROM:** Registration Committee

**DATE:** April 24, 2023

**SUBJECT:** Regulatory Amendment: Emergency Class of Registration

☒ For Decision ☐ For Information ☐ Monitoring Report

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**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.

**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 in January 2023 to review a proposal for the creation of an emergency class under the College's [Registration Regulation](#). Based on guidance from the Ministry, these amendments are being proposed as additions that will "catch up" to an existing proposal for amendments to this regulation that were submitted to the Ministry in June 2017 and are still awaiting final approval.<sup>1</sup>

The Registration Committee gave their approval to circulate the draft amendments for stakeholder feedback. The proposal was posted by the College for feedback from January 27 to March 30, 2023 and was circulated to registrants and other stakeholders via email and social media. The draft amendments were also posted by the Ministry to the Regulation Registry for a mandatory 45-day circulation period from February 10 to March 27, 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.

**For Consideration:**

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**
3. The comments received by the College in response to its call for stakeholder feedback – **Appendix C**

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

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<sup>1</sup> Further information about the 2017 amendments are available on the COO website here:  
<https://collegeofopticians.ca/registrants/professional-obligations/legislation/proposed-regulatory-amendments/registration-regulation>

*Key features of the proposed Emergency Class*

<b>Eligibility for the Emergency Class</b>	<p>Registration in the Emergency Class will be available to opticians holding a certificate of registration as an Inactive Optician<sup>2</sup> who have practised within the previous six years.</p> <p>Typically, opticians who have been out of practise for more than three years are required to undergo a competency assessment and/or complete bridging or refresher modules before they are able to return to active practice. The proposed emergency class will permit opticians who have been out of practise for more than three years as long as they provide evidence of having practised within the last six years.</p> <p>The College will need to approve a separate policy that sets out the criteria for how many practise hours (or other qualifying activities) will constitute sufficient evidence for the purposes of the Emergency Class.</p> <p>The Registration Committee was of the view that the eligibility criteria were appropriate in the circumstances for the following reasons:</p> <ul style="list-style-type: none"> <li>• It will strike 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</li> <li>• Opticians who have been out of practise for three years or less will continue to be eligible to reinstate or change back into the Registered Optician class with little impediment</li> <li>• Student and intern opticians are already permitted to dispense under the supervision of another authorized dispenser. It therefore is not necessary for them to register as an emergency optician.</li> </ul>
<b>How the Class will be opened</b>	<p>The emergency class will only be available if and when the Board of Directors determines that there are emergency circumstances such that it is in the public interest to issue certificates in this class.</p> <p>This might include a significant public health emergency where the board determines there is an insufficient number of opticians to meet the needs of Ontario patients, or where the Minister of Health makes a request to the College to open the class.</p>
<b>Conditions on Emergency Certificates</b>	<p>Registrants in the emergency class will be required to carry professional liability insurance, be eligible to work in Canada, and practice the profession only within the scope of their skills, knowledge and judgment.</p>

<sup>2</sup> The Inactive Class will be created once the amendments to the Registration Regulation that were submitted in 2017 are approved.

<b>Length of certificate validity</b>	<p>Certificates in the emergency class will expire on December 31 of the calendar year in which they were issued. Opticians in the emergency class may apply for renewal as long as the emergency remains in effect.</p> <p>It is necessary for the College to align Emergency class certificates with certificates in the Registered Optician and Inactive class for technical reasons.</p>
<b>Transitioning to the Registered Optician Class</b>	<p>Registrants who hold registration, or held registration in the emergency class within the previous six month, will be permitted to apply for a certificate of registration as a registered optician. These individuals will be required to demonstrate evidence that, as an emergency optician, they practised the profession in accordance with the Standards of Practice (i.e. they meet the criteria set out in policy, such as having practised a for a minimum number of hours).</p>

### *Stakeholder Feedback*

The College received 112 responses on its stakeholder feedback form. 1 additional response was received via letter.

Of those responses:

- 58 (51%) were in favour of the proposed amendments
- 24 (21%) were opposed to the proposed amendments
- 31 (27%) were neutral, undecided, or their position was not clear

Comments included:

- It's great to back up our community.
- I cannot think of any emergency situation that requires additional registered Opticians. however, it does not hurt to have the new emergency amendments to the Registration Regulation ready.
- Good clear guidelines and it protects the public well.
- There is no need for this, This is a waste of time.
- I dont think we will need more opticians than what we have.
- I find it hard to believe that we will ever need to use this.

### **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 submitted to the Ministry of Health for approval and implementation.