

TO: Council

FROM: Executive Committee

DATE: September 20th, 2017

SUBJECT: By-Law Amendments – Bill 87

ATTACHED: Proposed Amendments to Article 15 of the By-law

BACKGROUND

On May 30, 2017, Bill 87, the *Protecting Patients Act* (“PPA”), received royal assent. That legislation made a number of amendments to the *Regulated Health Professions Act* (“RHPA”), including amendments to the information that colleges are required to post on the public register pursuant to section 23(2) of the *Health Professions Procedural Code* (“Code”), being schedule 2 to the RHPA.

As a result of Bill 87, the following provisions of the College’s By-law Article 15 (The Register) have now been superseded by the Code:

1. Article 15.6(x), which currently requires the college to post a summary of any specified allegations referred by a panel of the ICRC to the Discipline Committee. Under the PPA, colleges are now required to post a full copy of the specified allegations to the public register; and
2. Article 15.6(xxx), which currently provides that a member may make a written request to have information pertaining to a caution or to a specified continuing education and remediation program (“SCERP”) removed from the public register if two years have passed from the date the caution or SCERP was issued and the member had not received any further cautions or SCERPs within that two year period. Under the PPA, the colleges are now required to permanently post a notation of every caution or SCERP received by the member. The Registrar retains limited discretion to remove information from the register where there are reasonable grounds to believe that disclosure may jeopardize the safety of an individual, or the information is obsolete and no longer relevant to the member’s suitability to practice.

FOR CONSIDERATION:

Does Council approve the following by-law amendments for circulation to stakeholders for feedback?



On May 30, 2017, the *Protecting Patients Act* received royal assent. That legislation made a number of amendments to the *Regulated Health Professions Act* (RHPA), including amendments to the information that Colleges are required to post on the public register pursuant to section 23(2) of the *Health Professions Procedural Code*, being schedule 2 to the RHPA.

In light of these amendments, the College of Opticians of Ontario proposes to make the following changes to Article 15 of its by-laws (The Register). The proposed changes are for the purpose of removing or modifying by-laws that have been rendered inoperative as a result of the *Protecting Patients Act*. The following chart sets out the proposed amendments to the by-laws, and an explanation for each proposed modification.¹

Proposed Amendments to Article 15: The Register	
Proposed by-law change	Explanation
<p>AMEND by law article 15.6(x) as follows:</p> <p>(x) For every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee under section 26 of the Code and has not been finally resolved, until the matter has been resolved,</p> <p>(a) a notation of that fact, including the date of the referral;</p> <p>(b) the notice of hearing</p> <p>(c) a summary <u>copy</u> of each specified allegation; and</p> <p>(d) the status of the hearing including any hearing dates.</p>	<p>This change is to make the by-law consistent with Paragraph 9 of Section 23(2) of the <i>Health Professions Procedural Code</i> which now requires a <u>copy</u> of any specified allegations against a member that have been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee to be posted on the public register.</p>

¹ Proposed new by-law wording is underlined in the chart.

<p>REVOKE by-law article 15.6(xxx)(a) and (b) which provide as follows:</p> <p>(xxx) The information placed on the register pursuant to paragraphs (xxvii) and (xxviii) may be removed from the register upon the written request of the Member on the later of the following two dates:</p> <p>(a) Two (2) years from the date of the Inquiries, Complaints and Reports Committee panel’s decision if the Registrar is satisfied that the Member has attended before a panel to be cautioned and/or successfully completed the specified continuing education or remediation program; or</p> <p>(b) If at any time during the two years following the decision of the Inquiries, Complaints and Reports Committee panel, a subsequent panel requires the Member to attend to be cautioned or complete a specified continuing education or remediation program, information about all required appearances for a caution and/or specified continuing education or remediation programs shall remain on the register until two years after the most recent appearance for a caution or specified continuing education or remediation program were noted on the register</p>	<p>This by-law set out the process for the removal of information pertaining to <u>cautions</u> (paragraph xxvii) and <u>specified continuing education or remediation programs</u> (paragraph xxviii) that had previously been posted to the register.</p> <p>This provision has been rendered inoperative in its entirety as a result of the <i>Protecting Patients Act</i>.</p> <p>Paragraph 7 of Section 23(2) of the <i>Health Professions Procedural Code</i> now requires the public register to list a notation of every caution received by a member from a panel of the Inquiries, Complaints and Reports Committee, as well as any specified continuing education or remediation program required by the panel.</p> <p>The Registrar’s discretion to remove this information from the public register is now limited to circumstances in which there are reasonable grounds to believe that disclosure may jeopardize the safety of an individual, or the information is obsolete and no longer relevant to the member’s suitability to practice.</p>
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