

## BRIEFING NOTE

**TO:** Board

**FROM:** Executive Committee

**DATE:** December 7, 2020

**SUBJECT:** 11.0 By-Law Amendments

☐ For Decision

☐ For Information

☐ Monitoring Report

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**Purpose:**

To review proposed by-law amendments relating to:

- Election eligibility
- The Public Register
- QA Accreditation Fees

**Background:**

Several by-law provisions have been identified as being in need of “clean up” in order to address gaps or other recent policy changes.

In particular,

1. At its October 2020 meeting, the Board approved an amendment to Article 12 of the by-laws that introduced a 3 month cooling off period between when an individual ceases to be an employee of the College and when they become eligible for appointment as an appointed committee member. A need for a corresponding amendment has been identified in Article 6.3(i), which relates to elected directors.
2. The College periodically receives requests from a member of the public about whether a registrant was entitled to practice on a certain date in the past. Currently, the public register indicates the date that a registrant was suspended, but not the date that the suspension ended. Consequently, it is difficult for a member of the public to ascertain whether a registrant was suspended or subject to any other practice restrictions on a particular date in question.
3. Registrants are required to register with the College under their legal name. This name is displayed on the public register. Registrants may also have the register display an abbreviation or nickname that they use in practice. It has been identified that the current wording may not be inclusive of individuals who use a preferred name in practice that they do not consider to be an abbreviation or nickname. For example, individuals who are

transgender may go by a preferred name that affirms their gender, but that otherwise differs from their legal name.

4. The Quality Assurance Committee made recent updates to the Accreditation Policy that eliminated the option to renew accreditation for continuing education activities. Accordingly, there is no longer a need to list an accreditation renewal fee in Schedule A to the by-laws.

**For Consideration:**

Amendments have been proposed to the by-laws to address the issues identified above. A chart of the proposed amendments and the corresponding rationale is attached as Appendix A.

Amendments to Article 15 (Public Register) must be circulated for stakeholder feedback prior to approval.

**Public Interest Considerations:**

As a matter of transparency, it is important that the public be able not only whether a registrant is entitled to practice on the date that they look them up on the register, but also on a past date. For example, an insurance company may inquire about whether a registrant was entitled to practice on a date that a claim was submitted.

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

The current language used on the public register may not be inclusive of individuals who, for reasons relating to their gender identity, country of origin, ethnicity, race or language, may have a preferred name that they use in practice that they wish to display on the public register.

**Recommendations:**

The Executive Committee recommends that the Board:

1. Approve the proposed amendment to Article 6.3(i)
2. Approve the proposed amendment to Article 15.6(xxi) for circulation for stakeholder feedback for 60 days
3. Approve the proposed amendments to Article 15.6(xiv), and the addition of new proposed subsections (xxxii) and (xxxiii) for circulation for stakeholder feedback for 60 days
4. Approve the proposed revision to Schedule A

## Appendix A

### Proposed By-Law Amendments

Current Language	Proposed Language	Rationale
<b>ARTICLE 6: ELECTED DIRECTORS</b>		
<b>6.3 Eligibility for Election</b>		
6.3 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:	6.3 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:	The purpose of this amendment is to introduce a cooling off period between when a person resigns employment with the College and when they become eligible to be nominated for election.
(i) the Registrant has resigned, before being nominated for election, any employment with the College;	(i) the Registrant has resigned, <u>at least 3 months</u> before being nominated for election, any employment with the College;	A parallel amendment to the eligibility criteria for Appointed Committee Members was approved by the Board at its October 6, 2020 meeting.
<b>ARTICLE 15: THE REGISTER</b>		
<b>15.6 Other Information in the Register</b>		
15.6 In addition to the information set out in subsection 23(2) of the Code, the register shall contain the following information with respect to each Registrant:	15.6 In addition to the information set out in subsection 23(2) of the Code, the register shall contain the following information with respect to each Registrant:	The purpose of this amendment is to ensure that the College is inclusive of individuals who go by a name in practice that differs from their legal name. For example, a transgender person may go by

Current Language	Proposed Language	Rationale
(xxi) Any nicknames or abbreviations that the Registrant uses in any place of practice;	(xxi) Any <u>preferred names</u> , nicknames or abbreviations that the Registrant uses in any place of practice;	a name that corresponds to their affirmed gender instead of their legal name.
(xiv) Where the Registrant's certificate of registration is subject to an administrative suspension (e.g., for failure to pay a fee), the fact that the suspension is an administrative one and the date of the suspension in addition to the fact of the suspension;	(xiv) Where the Registrant's certificate of registration is subject to <del>an administrative</del> suspension:  <u>(a) the fact of the suspension</u> <del>(a)(b)</del> <u>where the suspension is an administrative one (e.g. for failure to pay a fee), (e.g., for failure to pay a fee),</u> the fact that the suspension is an administrative one <del>and</del>  <u>(c) the date of the suspension in addition to the fact of the suspension; and</u>  <del>(b)(d)</del> <u>Where applicable, the date that the suspension is lifted or otherwise removed.</u>	The purpose of this amendment is to provide greater transparency and clarity to the information that is posted to the public register about suspensions. Reference has been added to the date that any suspension (whether it is disciplinary, the result of an interim order, or administrative) is lifted or otherwise removed.  The amendment will ensure that a member of the public can ascertain from the register whether a registrant was subject to a suspension on any date during the period of the optician's registration with the College.
n/a	<u>(xxxii) Where the Registrant's certificate of registration is subject to a restriction on the Registrant's right to practice resulting from an undertaking given by the Registrant to the College or an agreement entered into between the Registrant and the College:</u>	The Health Professions Procedural Code requires the College to post information about undertakings and acknowledgements that relate to matters that are before the Inquiries, Complaints and Reports Committee while those undertakings are in effect.

Current Language	Proposed Language	Rationale
	<p><u>(a) a notation of the fact;</u></p> <p><u>(b) a summary of the restriction;</u></p> <p><u>(c) the effective date of the restriction; and</u></p> <p><u>(d) where applicable, the effective date that the restricted is lifted or removed.</u></p>	<p>The addition of this provision to the by-laws would permit the College to post information about any undertaking or agreement between a registrant and the College that places a restriction on the registrant's certificate of registration. This addition will permit the public to ascertain whether a registrant's certificate of registration was subject to a restriction on a given date.</p>
n/a	<p><u>(xxxiii) Where the College is aware of a restriction on the Registrant's right to practice that has been imposed by a court or other lawful authority:</u></p> <p><u>(a) a notation of the fact;</u></p> <p><u>(b) a summary of the restriction;</u></p> <p><u>(c) the source of the restriction;</u></p> <p><u><del>(a)</del>(d) the effective date of the restriction; and</u></p> <p><u><del>(b)</del>(e) where applicable, the effective date that the restriction is lifted or removed.</u></p>	<p>Similar to the previous addition, this addition will permit the public to ascertain whether a registrant's right to practice was restricted on a given date.</p>

Current Language	Proposed Language	Rationale
<b>SCHEDULE A: FEES FOR SERVICES</b>		
15. CE Activity Accreditation Renewal.....\$25.00	<del>15. CE Activity Accreditation Renewal.....\$25.00</del>	This fee is being removed in light of recent amendments to the Quality Assurance Continuing Education Accreditation Policy that eliminated the renewal option.