



COLLEGE OF NURSES  
OF ONTARIO  
ORDRE DES INFIRMIÈRES  
ET INFIRMIERS DE L'ONTARIO

THE STANDARD OF CARE.

# Council briefing package



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## Agenda

7:30 p.m.	<b>1. Land Acknowledgement Statement</b>	
	<b>2. Agenda</b>	
	<b>3. Call for Conflicts of Interest</b>	
7:40 p.m.	<b>4. <a href="#">Amendments to the Registration Regulation re. Emergency Class</a></b> 4.1 Decision re. approval of the proposed amendments to the Registration Regulation for forwarding to the Minister of Health 4.2 Decision re. consultation Sarah Yun, Legal Counsel, attending	Decision
8:30 p.m.	<b>Conclusion</b>	

**Next Meeting - Hybrid:**  
 September 27 and 28, 2023



## Decision Note – August 2023 Council

### Proposed Registration Regulation Changes

#### Contact for Questions or More Information

Silvie Crawford, Executive Director and CEO

#### Motions for Consideration

THAT Council approves the amendments to Ontario Regulation 275/94, made under the *Nursing Act, 1991*, as proposed by the Minister of Health and shown in attachment 1, which exempts application fees for emergency class registrants who apply to the temporary class and add criteria for Council's consideration when opening the emergency class.

AND FURTHER THAT

Council directs that the regulation be circulated for 60 days to members and other stakeholders.

OR

Council requests the Minister of Health to abridge the circulation period for the regulation.

OR


Council requests the Minister of Health to exempt the regulation from circulation.

#### Background

In April 2022, Bill 106, the *Pandemic and Emergency Preparedness Act, 2022* was approved by the Ontario Government. This Bill changed a number of pieces of legislation, including the *Regulated Health Professions Act, 1991* (RHPA), which is the legislation that governs all regulated health professions in Ontario.

In October 2022, a government regulation made under the RHPA came into effect that, amongst other things, requires health regulatory Colleges to develop regulations creating an Emergency Class of registration. As per the regulation under the RHPA, features of this class must include:

1. The specific emergency circumstances that will cause the class to be open for registration.
2. A specified time period of no more than a year after which the certificate of registration will expire but can be renewed for the same period of time with no limit on the number of renewals as long as the emergency circumstance persists.
3. Circumstances in which a member of the Emergency Class may apply for registration in another registration class and be exempt from at least some registration requirements that would ordinarily apply to that other class of registration.



This March, Council approved regulation changes related to the new Emergency Class requirements for circulation to stakeholders for input. Following this circulation, in May 2023, and after review of the stakeholder input, Council approved the regulation changes for forwarding to government for their review and approval processes. Please refer to the [March](#) and [May](#) 2023 Council briefing materials for additional background.

Government has established a deadline of August 31, 2023 for all changes to be in effect across the province (which includes the time needed to go through government's review and approval processes).

As part of their review, government provided feedback that the exemptions proposed to move from one class to another are not met from their perspective: we cannot simply waive requirements already met. As a result of this feedback, the draft regulatory change proposes to exempt Emergency Class registrants from the application fee if they seek to transition to the Temporary Class. Other health regulators in the province have taken a similar approach.

Further, in relation to the proposal for Council to have the authority to open the Emergency Class, government has added a requirement that Council consider whether the emergency has resulted in the inability to meet a requirement to register in the General Class (e.g., applicants are unable to write the registration exam in-person). For greater clarity, Council would simply need to consider this and could still choose to open the Emergency Class for another reason should it be in the public interest, even if the ability to meet a registration requirement is not impaired.

#### Legislative Framework

Paragraph k.3 in subsection 43(1) of the RHPA gives Council regulation-making authority. The Lieutenant Governor in Council has final approval (with prior review of the Minister) respecting any regulation that Council may pass.


In terms of the potential request to exempt the consultation period referred to in subsection 95(1.4) of the Health Professions Procedural Code, which is Schedule 2 of the RHPA (Code), subsection 95(1.6) of the Code enables this request to be made.

#### Risk Analysis of the Proposed Regulatory Change

In addition to opening the Emergency class, CNO can leverage the Temporary Class, which the system, including employers, are familiar with. Legislative changes in the Fall of 2022 amended registration requirements for the Temporary Class and they are similar to the Emergency Class requirements. Registering in both classes can be done expeditiously (i.e., if there is a need to get individuals in the system quickly, the Temporary Class is also a good option for this). In terms of an example of when the Emergency Class may be opened, Government may identify a need to open this for a number of health professionals if there is a system wide issue.

If there is a need to open the Emergency Class in the future, CNO data suggests that the number of individuals who register in the Emergency Class may be low. Further, the number of those seeking to then transition to the Temporary Class would be even lower. For example, in 2020, 816 nurses were registered in the Emergency Class in Ontario and in 2021, 492 nurses were registered.

Further, the application fee for the Temporary Class is only \$50. Given probable low numbers and the low fee, we are confident that a potential small financial loss will have no impact on



CNO's ability to carry out its regulatory functions. The current CNO budget and forecasts for future years contain no revenue expectations for this circumstance.

In terms of the requirement for Council to consider whether the emergency has an impact on whether applicants can “meet ordinary registration requirements”, this would need to be considered in relation to Council's decision to open the class though it does not need to be satisfied (in other words, there can be another public interest reason to open the class). For example, we know there were instances in which meeting registration requirements for the General Class was a challenge in the COVID-19 pandemic so it could be an important consideration in the future. After review, including input from legal counsel, no risks or barriers have been identified with this proposed addition.

#### Rationale for consultation recommendation

With any proposed regulatory change, the RHPA provides three options regarding consultation:

- Circulate the regulations for 60 days
- Shorten the consultation period with Minister approval of a request from Council
- Exempt the consultation period with Minister approval of a request from Council

Generally, any proposed regulatory change approved by Council is circulated for 60 days for stakeholder feedback.

When Council considers a regulation change, the question Council is considering is whether the change is in the public interest. After the consultation, Council considers a similar question: is there anything in the feedback that changes Council's perspective that the regulation is drafted in the public interest.

As described above, the proposed fee exemption may or may not be enacted in the future and, if it is, we do not anticipate any impact on CNO's regulatory functions and thus no risk from a public interest perspective. Further, considering an impact to meet General Class requirements when opening the Emergency Class aligns with the public interest with respect to health human resource needs. Given this assessment, the recommendation is that Council should request an exemption for the consultation period in this case.

## **Next Steps**

CNO will collaborate with Government throughout this process and provide prompt updates to Council. Preparations are underway to implement these changes should the Emergency Class be opened in the future.

## **Attachment**

1. Redlined version showing the proposed regulation amendments

**Redlined version showing the proposed regulation changes**

5 (5) A member who holds an Emergency certificate of registration who is practicing at the time of applying for a Temporary certificate of registration is deemed to have met the requirements in paragraphs 5, 6, 7 and 8 of subsection (1) **and in addition is not required to pay the application fee required under the by-law.**

7(1) 1. The Government of Ontario has requested or Council, **after taking into account all of the relevant circumstances that impact the ability of applicants to meet the ordinary registration requirements,** has determined that it is in the public interest to issue Emergency certificates of registration to qualified applicants to address emergency circumstances.