



The College of Naturopaths of Ontario

CONSULTATION Emergency Class of Registration

INTRODUCTION

This is a consultation document released on behalf of the Council of the College of Naturopaths of Ontario to seek feedback from all stakeholders and interested parties about proposed amendments to the *Registration Regulation* made under the *Naturopathy Act, 2007* that would introduce an emergency class of registration.

BACKGROUND:

In April 2022, the Ontario Government approved the *Pandemic and Emergency Preparedness Act, 2022* (PEPA) which subsequently received Royal Assent on April 14, 2022. PEPA amended the *Regulated Health Professions Act, 1991* by:

1. Prohibiting health regulatory Colleges from requiring applicants to have Canadian experience unless an exception is provided in the regulations;
2. Requiring timely registration decisions;
3. Streamlining requirements for demonstrating language proficiency;
4. Requiring health regulatory Colleges to have emergency classes of registration to enable expedited registration where necessary; and
5. Providing regulation making power to operationalize these changes.

The College of Naturopaths of Ontario, in response to Item 4 above, has prepared draft provisions that would alter or add to the *Registration Regulation* to introduce this new class of registration.

In December 2022, Dr. Karima Velji, Assistant Deputy Minister (ADM) at the Ministry of Health released a memorandum providing guidance to the colleges regarding the creation of the emergency class of registration which is attached as Appendix 1. At the outset, it is important to note that PEPA requires that each College have a regulation in place for an emergency class no later than August 31, 2023. This means that the draft regulations must have completed Ministry review and gained approval from Cabinet by this date. To facilitate this, the Ministry has indicated that all Regulations **must** be submitted no later than April 1, 2023.

This consultation document sets out the policy elements that would form provisions to be included in a draft amending regulation. Attached as Appendix 2 is the *Registration Regulation* with amended provisions based on this policy discussion set out in red.

This document follows the guidance issued by the Ministry of Health and is based upon advice received from a variety of sources, including legal counsel.

PROPOSED PROVISIONS:

About the *Registration Regulation*

The College's *Registration Regulation* establishes the classes of registration available and the requirements for admission to those classes. Additionally, it also establishes certain requirements that will apply to all classes of registration.

In this regard, the following sections of the *Registration Regulation* would continue to apply to all classes of registration, including the proposed emergency class:

- Section 2: that to apply, an applicant must use a form provided by the Registrar¹ and pay any applicable fees.
- Section 3: the requirements that apply to all classes around good character, language proficiency, the absence of physical or mental conditions or disorders which in the public interest would necessitate the application of terms, conditions or limitations or refusal of registration, good standing with respect to other registrations they may hold or have previously held, and proof of professional liability insurance coverage.
- Section 4: the terms, conditions and limitations on every certificate of registration, including such things as reporting misconduct, incompetence or incapacity findings and proceedings, findings of professional negligence, a refusal to be registered, failing an entry-to-practice examination among others.
- Sections 11-15: that examinations be offered twice per year (section 11), appeal provisions (section 12), suspension, revocation, and reinstatement provisions.

Emergency Class Requirements

The emergency class registration requirements set out by the Government are very specific and include that:

- It is a separate class of registration.
- It specifies the circumstances in which the class is open to applicants (which assume that the applicants cannot apply to the class except when there is an emergency).
- It specifies a period of up to one-year, renewable, term of registration.
- It provides a means for the individuals in this class to transfer to another class of registration without having to meet all of the usual registration requirements.

Each of these requirements will be addressed below. References to the draft of the amended *Registration Regulation* (Appendix 2) have also been provided.

Separate Class of Registration

There is a general understanding that since the emergency class of registration will be a new class among existing classes, the process for enacting the class will be a regulation that will amend the College's *Registration Regulation, Ontario Regulation 84/14*. To bring about the emergency class, section 1 of the Regulation will need to be amended to establish the emergency class. Please see paragraph 3 of section 1 of Appendix 2.

¹ Although the Council has required that all references be updated to refer to the Chief Executive Officer (CEO) as opposed to the Registrar and to Registrants rather than members, the Regulations themselves have not been amended. To ensure clarity, this briefing will use the terminology from the regulations.

Criteria for Availability of the Emergency Class

The guidance from the Ministry of Health identifies three criteria that might be used, alone or in combination, to open the emergency class for application as well as noting that a process needs to be developed for determining the existence of emergency circumstances.

Decision-making Process

At this time, the Council is proposing that all decisions relating to the opening of the emergency class registration would be made by the Council acting upon a recommendation from the Registration Committee. It is anticipated that the senior staff of the College would alert the Registration Committee that the circumstances to open the class of registration have been or are about to be met thereby initiating the discussions and a recommendation to be made to the Council.

Emergency Circumstances

The Registration Committee and Council have considered what emergency circumstances should exist in order for the Council to be authorized to open this class of registration. Ministry guidance suggested a “significant interruption of a registration pathway leading to a lengthy delay ... in registration” be one of the identified circumstances. With respect to this College, the only delays experienced to-date have related to the ability of the College to deliver the clinical (practical) examinations. The College has proven itself to be very adept at maintaining all other registration requirements through remote office functionality and on-line examination opportunities.

Nonetheless, there is the potential for exam delivery issues to arise with respect to all the College’s entry-to-practice examinations. This therefore is the focus that has been used in defining the emergency circumstances.

The Ministry’s guidance suggested that there should exist a “significant interruption” and this would lead to a “lengthy delay”. Both of these need to be contemplated.

Based on these criterial, the Council has proposed that the emergency circumstances that would enable the opening of registration in the emergency class would speak to the current or likely inability of the College (or its agent) to deliver any one or more of the entry-to-practice examinations for a period of nine months or longer.

Theoretical example of use: The College offers two of its three entry-to-practice examinations on-line. Despite best efforts, this exam could be compromised either by candidates releasing information or an external organization hacking into the examination system. If this were to occur, the College would be required to redevelop the compromised examination which could take a year or longer to complete. In turn, this would create a barrier in the pathway to registration which the Council might turn to the emergency certificate to resolve temporarily.

Request of the Minister

Ministry guidance recommends that the Regulation enable the Minister to request that the College initiate registrations under this class if in her opinion emergency circumstances call for it. The Council has agreed that this type of provision be included in the amending regulation.

Theoretical example of use: The Minister might have identified a difficulty with the health care system which they feel the emergency class could mitigate. They would then ask one or more of the Colleges to open this class.

Public Interest

Finally, Ministry guidance recommended that there be a general provision that allows the opening of the class where there is a public interest to do so even though neither of the other two conditions may have been met. The Council agrees and is recommending that a provision be included such that where the Council believes other emergency circumstances exist where it is in the public interest to issue certificates in the emergency class of registration.

Theoretical example of use: External circumstances, such as a new pandemic or medical emergency, could emerge that would limit the ability of all Registrants of the College to practice resulting in shortages of Naturopathic Doctors (NDs) to support their patients. Opening the emergency class might allow those NDs who are able to work to provide greater coverage to patients by utilizing individuals who become registered in the emergency class.

Please see section 1.1 of Appendix 2, a new proposed provision for the draft amended *Registration Regulation*, which sets out the three conditions that might trigger the opening of registration in the emergency class. It is important to note that the wording is such that any one of these three conditions might warrant opening of registration in this class.

Expiry of Emergency Class Registration

Guidance from the Ministry requires that the College sets the length of time the initial certificate will be valid and allow for it to be renewable for the same period while the emergency circumstances exist.

The Council has therefore proposed the following approach:

- A certificate of registration in the emergency class expires 12-months after it is issued or on March 31st, whichever occurs first, unless it is renewed. This would mean that the initial certificate would be up to a maximum of one year from the date of issue.
- A renewed certificate of registration in the emergency class expires 12-months after it is issued or on March 31st, whichever occurs first, unless it is further renewed. This would mean that a renewed certificate is valid for a period of up to one year. There is no limit on the number of times it might be renewed; however, this is contingent on the emergency conditions continuing to be met.
- Notwithstanding the preceding points, a certificate of registration in the emergency class expires six months after the date the Council of the College determines that emergency circumstances no longer exist, even where the certificate would otherwise expire before or after that time. This would mean that when the Council declares that the emergency conditions no longer exist, a person who holds an emergency class registration would have six months to transfer to the General Class. The six months timing is irrespective of when the certificate was issued or may be set to expire. The declaration of the end of the emergency gives all registrants in this class a standard six months to meet requirements to change class.

The logic here is that the certificate when first issued would align with all other certificates of registration for renewal. If this is not the approach taken, each certificate would be renewable on a different schedule resulting in the College operating renewals on a constant basis. In other words, if there were 150 emergency certificates issued all with different expiry dates, the process of renewing these becomes a constant endeavour and not aligned with renewals in the Inactive or General Classes.

Assuming certificates are issued and aligned with the renewal period, the College would address all renewals at the same time each year. The ability of individuals to renew would continue for as long as Council has not declared an end to the emergency.

Finally, as soon as the Council makes a declaration that the emergency no longer exists, expiration dates on the certificate would no longer apply. Instead, each person holding the emergency certificate would have six months to transition to the General Class or resign their certificate of registration. This timeframe is seen as sufficient to allow the Registrants to take the necessary steps and the College (and Registration Committee) to process these class changes.

Please see section 10.2 of Appendix 2, a new proposed provision for the draft amended *Registration Regulation*.

Requirements for Issuance of a Certificate in the Emergency Class

The regulation must stipulate what the requirements for the issuance of a certificate of registration in the emergency class must be and in so doing, the College can identify which of the requirements for the General Class do not apply. Given the suggestion that the primary potential for a significant interruption of the path to registration would relate to the College's ability to offer the examinations, this is the point of departure from the General Class requirements.

The Council has proposed that to be eligible for a certificate of registration in the emergency class, an applicant must have:

- Successfully completed a CNME-accredited program in naturopathy or have been deemed substantially equivalent through the College's PLAR program. This means that in order to apply, most applicants must be graduates of the CNME-accredited program.
- Successfully completed the Ontario Jurisprudence Examination, this is an open-book, exam module offered on-line by the College.
- Met all requirements set out in section 3 of the *Registration Regulation*. This provision is standard and applies to all classes of registration.
- Submitted an application for registration and paid the application and initial registration fees.
- Submitted an original CPIC report.
- Provide proof of valid HCP level CPR certificate acquitted through an in-person course, unless otherwise exempted by the CEO (where a situation exists that no course is available, it allows for the applicant to appoint a CPR designate and to have six months to complete the course).
- Provide proof of professional liability insurance in the type and amount set out in the by-laws.
- Provide a photograph for use on the public register.

This section sets out a substantive departure from the requirements to receive a General certificate of registration as the non-exemptible requirements of successfully completing the entry-to-practice examinations have been removed. Please see section 5.1, a new proposed provision for the draft amended *Registration Regulation*.

Terms, Conditions and Limitations (TCLs)

The Ministry requires that the Council set out any terms, conditions or limitations that would apply to the emergency class certificate of registration. The Council is proposing that the following TCLs be applied with explanations provided.

1. **Section 4 applies.** The TCLs set out in section 4 of the *Registration Regulation* which apply to all certificates of registration regardless of class. It is important to note that within this section is a new provision (3)(iii) that sets out the title that may be used by a person holding the emergency certificate of registration.

2. **Practice hours.** That the Registrant must practice the profession for a minimum of 250 hours during each 12-month period. This is a modification of a similar provision for the General certificate. The modification is necessary as it is unlikely that a person would hold this certificate for three full years.
3. **Failing to practice 250 hours.** That the Registrant who does not practice the minimum of 250 hours will be referred to the Quality Assurance Committee for a Peer and Practice Assessment unless they complete a refresher program approved by the Registration Committee or resign their certificate. Again, this is a modification of a similar provision for the General certificate.
4. **CPR certificate.** This provision is currently applied by the College to General Class certificate holders and would apply to emergency class certificate holders. It is added to the regulation for clarity.
5. **Supervised practice.** That the Registrant may only practice under the direct supervision of a Registrant who holds a General Class certificate of registration in good standing. Supervision means that the Registrant who holds the General certificate will work with and guide the emergency certificate holder; however, it does not mean that they are always accompanying them when they see patients.
6. **Prohibition against performing certain controlled acts.** That the Registrant may not perform the controlled acts authorized to naturopathic doctors in paragraph 3 (administering a substance by injection or inhalation), paragraph 5 (communicating a naturopathic diagnosis) and paragraph 7 (prescribing, dispensing, compounding or selling a drug) of section 4(1) of the *Naturopathy Act, 2007*. With the exception of communicating a diagnosis, these controlled acts require additional post-registration certifications.
7. **Restriction on acupuncture.** That the Registrant is not authorized to perform acupuncture unless it has been delegated by a Registered Acupuncturist or a member of the College of Physicians and Surgeons of Ontario (CPSO). NDs and many professions are permitted to perform acupuncture by way of an exemption in the regulations made under the *Regulated Health Professions Act, 1991*. When a controlled act is permitted by exemption, it may not be delegated. A Registered Acupuncturist or a Physician or Surgeon are authorized by the legislation not by an exemption and they may therefore delegate it to a naturopathic doctor who holds an emergency certificate of registration.
8. **Delegation for remaining controlled acts.** That the Registrant may perform the controlled acts set out in paragraphs 1(vaginal examination), 2(anal examination), 4(naturopathic manipulation) and 6 (taking blood or other specimens) of section 4(1) of the *Naturopathy Act, 2007* only when the performance of them is delegated pursuant to Part III of the *General Regulation* and by a Registrant holding a General Class certificate or a member of the CPSO or College of Nurses of Ontario.
9. **Prohibition on further delegation.** That the Registrant may not delegate a controlled act that is delegated to them, which is also set out in Part III of the *General Regulation*.
10. **Prohibition on supervision.** That the Registrant may not supervise another person in the practice of the profession. This is a standard provision for supervised practice.

The terms, conditions and limitations will appear in more than one location in the draft amended Regulation. Please see the following sections of Appendix 2:

- Paragraph (iii) of section 4.(3).
- Section 6.(1.1).
- Section 6.(2.1).
- Section 6.(4) and 6.(5).

Transfer from Emergency Class to another Class of Registration

The Ministry requires that the College stipulate the requirements for a person who holds an emergency class of registration to transfer to another class of registration. It is recommended that this class be treated the same as a new applicant inasmuch as that they cannot access the inactive class without having ever held a General Class certificate of registration.

In order for a Registrant who holds an emergency class certificate of registration to move to the General Class, the Council is proposing that the individual be required to meet the following requirements:

- That an application must be made, and any application fee paid.
- That the applicant must not owe the College any fees or penalties and must not have any outstanding information due to be provided to the College.
- That the applicant must pay the difference in annual registration fees between those in the emergency class and the fees for a General Class certificate of registration.
- That any orders of the Discipline Committee or Fitness to Practise Committee of the College must have been satisfied.
- That where the applicant has been found by one or more panels of the Discipline Committee to be incompetent or to have committed acts of professional misconduct, that a panel of the Registration Committee must be satisfied that it is not a matter of public interest that they not be issued the General Class certificate.
- That where an applicant has held the emergency class registration for more than two years, that they must also satisfy a panel of the Registration Committee that they have the knowledge, skill and judgment that would be expected of a person who holds a General Class certificate or, have completed such additional education, training or examinations determined to be necessary by a panel of the Registration Committee.
- That where an applicant has held the emergency class registration for two years or less, that they must successfully complete the entry-to-practice examinations.

It should be noted that a person who holds an emergency certificate is not prohibited from working towards the General Class certificate by completing any entry-to-practice examinations the College may be offering during the emergency period. This means that a person who holds an emergency certificate could transfer to the General certificate at any time and is not restricted to waiting until the emergency no longer exists unless they have not previously completed the examination which has caused the emergency.

Please see section 10.1 of Appendix 2, a new proposed provision for the draft amended *Registration Regulation*.

Feedback

The College is inviting feedback on the Council's proposal for the emergency class. All feedback must be made in writing, either in the form of a letter or e-mail to the College, and provide details about the person submitting.

All feedback will be published as part of the process of bringing the draft regulation to the Council for final approval. Submissions received from individuals will be published anonymously while feedback from organizations will be published including the name of the organization.

Feedback is invited using any of the following opportunities:

Mail: Feedback may be sent by mail to:
College of Naturopaths of Ontario
10 King Street East, Suite 1001
Toronto, ON

E-mail: Feedback may be sent by e-mail to general@collegeofnaturopaths.on.ca

On-line: On-line feedback is invited [using this on-line form](#).

In order to be considered, all feedback must be received by the end of the business on **March 28, 2023**.

As the timing requires that this be brought back to the Council on March 29, 2023, the College respectfully requests that those who are able to submit feedback earlier to please do so.

Next Steps

In order to meet the timelines, set by the Government, the following schedule has been established.

Step	Description	Due Date/Status
Initiate Consultation	Start consultation of profession and stakeholders.	January 26, 2023
Consultation Ends	End of consultation period.	March 28, 2023
Council Approval	Council is presented with final draft of amending regulation.	March 29, 2023
Submission	Approved regulation is submitted to Ministry of Health.	April 1, 2023

Andrew Parr, CAE
Chief Executive Officer
January 29, 2023

Appendix 1 – Ministry Guidance

Appendix 2 - Proposed provision for the draft amended *Registration Regulation*