

**ONTARIO NURSES' ASSOCIATION**

**SUBMISSION**

**ON**

**Proposed Regulations under the Regulated Health Professions Act, 1991 –  
*Registration Barriers for Regulated Health Professionals***

**TO**

**Health Workforce Regulatory Oversight Branch  
(Ministry of Health)**

**June 10, 2022**



Ontario Nurses' Association

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## **Introduction**

The Ontario Nurses' Association (ONA) is the union representing 68,000 registered nurses (RNs) and health-care professionals, and more than 18,000 nursing student affiliates, providing care in hospitals, long-term care facilities, public health, the community, industry and clinics.

ONA has spoken out at every stage of Bill 106, *Pandemic and Emergency Preparedness Act, 2022*. This is omnibus legislation introduced by the provincial government and rushed through the legislature in just two short weeks with very limited opportunity for public consultation and input.

In April 2022, ONA President Cathryn Hoy presented ONA's [submission](#) on Bill 106 to government at the Standing Committee on Finance and Economic Affairs. Ms. Hoy detailed serious concerns about Schedule 7 of the bill that violates ONA members' right to free collective bargaining and undermines equity rights. Further, Bill 106 fails to repeal Bill 124, wage suppression legislation that is the driving force behind the exodus of experienced nurses from the profession.

ONA welcomes the opportunity to provide additional feedback on proposed amendments to the Regulated Health Professions Act, 1991 (RHPA) contained in Schedule 6 of Bill 106. After careful review, ONA has provided our comments below with respect to Canadian experience, timely registration decisions and an emergency class of certificates of registration. Our position is that any regulations related to Canadian experience must be compliant with the *Ontario Human Rights Code*. In addition, we are supportive of regulations that require the College of Nurses of Ontario (CNO) to make their registration decisions within specific time limits. Finally, we have included our concerns below with proposals to establish an emergency class of registration.

### **Schedule 6, Regulated Health Professions Act and human rights**

As with other Schedules in Bill 106, it is difficult for ONA to assess Schedule 6 because the proposed amendments contain little substance. In essence, Schedule 6 is a mere shell, where the crucial definitions and operative sections have yet to be given substance

by regulations. Nonetheless, we will provide brief input. Schedule 6 proposes the following amendments to the Regulated Health Professions Act (RHPA):

1. prohibiting Colleges from requiring Canadian experience as a qualification for registration, subject to any exemptions provided in the regulations;
2. creating regulations that establish time limits for making certain registration decisions, instead of requiring that those decisions be made within a “reasonable time”;
3. requiring Colleges to comply with the regulations for their English or French language proficiency requirements;
4. requiring the Councils of the Colleges to establish an emergency class of registration.

### **Canadian experience must be compliant with Human Rights Code**

Section 16 (3) states, “A College shall not require as a qualification for registration that a person’s experience be Canadian experience **unless an exemption is provided for in any regulation...**”.

The bar on requiring Canadian experience should, in theory, allow more internationally educated nurses to successfully enter Ontario’s health-care system. However, the exemption to this bar is undefined and is being left to non-public regulation. It is essential the regulations created comply with the *Ontario Human Rights Code* and that the criteria relate to bona fide occupational requirements.

The Ontario Human Rights Commission policy and best practices guidelines on removing the Canadian experience barrier provide guidance (Appendix A). If the exemptions to Canadian experience are not defined in compliance with human rights legislation and principles, certain groups of internationally educated nurses may be disadvantaged.

ONA supports Bill 98, “Fairness for Ontario’s Internationally Trained Workers Act.” This was a private members’ bill introduced in the 42<sup>nd</sup> Parliament that seeks to establish an advisory committee with representatives from government, regulatory bodies, employers,

academic programs and health-care unions. This advisory committee would develop pathways to practice, provide relevant clinical experience, and establish fair and non-discriminatory hiring practices for internationally trained health-care professionals. This legislation was at committee stage when the 2022 provincial election was called. We are hopeful that it will be re-introduced and passed in the upcoming legislative session.

### **Timely registration decisions**

The Ministry of Health has asked for input about appropriate time-limits for the Registrar and panels of the Registration Committee for regulated health professionals who are not domestic labour mobility applicants. We provide the following recommendations:

ONA often receives inquiries from nurses who have encountered difficulties with the Registration Committee at the College of Nurses of Ontario (CNO). These nurses are sometimes individuals who are applying for reinstatement of their registration after moving into the non-practicing class or after surrendering their license, for a time, due to a health concern.

Individuals contact us because CNO is so slow to process their applications for reinstatement – this process can sometimes take months. In trying to resolve these issues on their own, nurses struggle with a complex and opaque application process, no designated CNO staff to speak with, and different answers depending on which CNO staff answers their inquiry.

Even with help from ONA's in-house legal counsel, the CNO registration process is confusing and hard to navigate. Nurses are sometimes delayed months in returning to practice, which has devastating consequences on their employment and, consequently, their financial security.

We recommend that the regulations under the *Regulated Health Professions Act, 1991* set specific timelines for CNO's Registrar and Registration Committee to respond to nurses and that CNO establish a transparent and user-friendly process that nurses can easily access.

## **English and French proficiency**

ONA takes no position on this proposed amendment.

## **Establishing an emergency class of registration**

ONA is unable to provide helpful comments on this proposed amendment, given the lack of information provided. We are concerned that the regulations may create a situation where, during an emergency, health-care professionals who are not able to practice competently, for example nursing students who have not yet completed their placement, will be pulled into practice prematurely.

## **Conclusion**

In conclusion, ONA remains committed to increasing health human resource capacity to help Ontario respond and recover from the pandemic. We offer our assistance to government, including the Ministry of Health, in this vital work. Over 90 per cent of ONA members are women. Many are racialized and immigrant women. Their work is care work on the front lines of this pandemic. Many are in workplaces with the worst RN-to-population ratio in Canada. Nurses are now exiting the system in droves.

With respect to Schedule 6, ONA's position is that any regulations related to Canadian experience must be compliant with the *Ontario Human Rights Code*. In addition, we are supportive of regulations that require the CNO to make their registration decisions within specific time limits. We have also expressed concerns about the lack of information provided on key proposals that are being considered.

Beyond this, we know that Schedule 6 is only one part of a larger omnibus bill. As outlined in ONA's full [submission](#) on Bill 106, many additional concerns need to be addressed to truly tackle the nursing shortage and redress the systemic inequalities in compensation and working conditions. Only then will Ontarians have access to the quality care that they need and deserve.

## **Appendix A**

### **Ontario Human Rights Commission**

#### **Policy on Removing the "Canadian Experience" barrier**

The Ontario Human Rights Commission highlights several best practices to help ensure fairness and substantive equality for those internationally educated workers:

- Examine their organizations as a whole to identify potential barriers for newcomers; address any barriers through organizational change initiatives, such as by forming new organizational structures, removing old practices or policies that give rise to human rights concerns, using more objective, transparent processes, and focusing on more inclusive styles of leadership and decision making.
- Review job requirements and descriptions, recruitment/hiring practices and accreditation criteria to make sure they do not present barriers for newcomer applicants.
- Take a flexible and individualized approach to assessing an applicant's qualifications and skills.
- Give an applicant the opportunity to prove his/her qualifications through paid internships, short contracts or positions with probationary periods.
- Provide newcomers with on-the-job training, supports and resources that will enable them to close "skill gaps" (i.e., acquire any skills or knowledge they may be lacking).
- Use competency-based methods to assess an applicant's skill and ability to do the job.
- Consider all relevant work experience – regardless of where it was obtained.
- Frame job qualifications or criteria in terms of competencies and job-related knowledge and skills.

- Support initiatives designed to empower newcomers inside and outside of their organizations (for example, formal mentoring arrangements, internships, networking opportunities, other types of bridging programs, language training, etc.).
- Monitor the diversity ratios of new recruits to make sure they reflect the diversity of competent applicants overall.
- Implement special programs<sup>1</sup>, corrective measures or outreach initiatives to address inequity or disadvantage affecting newcomers.
- Supply newcomers and social service agencies serving newcomers with information about workplace norms, and expectations and opportunities within the organization.
- Retain outside expertise to help eliminate barriers to newcomer applicants.
- Form partnerships with other similar institutions that can help identify additional best practices.
- Provide all staff with mandatory education and training on human rights and cultural competence.<sup>2</sup>

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<sup>1</sup> <https://www.ohrc.on.ca/en/your-guide-special-programs-and-human-rights-code>

<sup>2</sup> [https://www.ohrc.on.ca/en/policy-removing-%E2%80%9Ccanadian-experience%E2%80%9D-barrier#\\_edn8](https://www.ohrc.on.ca/en/policy-removing-%E2%80%9Ccanadian-experience%E2%80%9D-barrier#_edn8)