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May 28, 2015

Bob Nakagawa
Registrar
College of Pharmacists of British Columbia
200 - 1765 West 8th Avenue , Vancouver, BC V6J 5C6

Dear Mr. Nakagawa:

Re: Proposed Amendments to Bylaws and Professional Practice Policies and other matters

The BC Pharmacy Association (BCPhA) thanks the College of Pharmacists of BC for the opportunity to provide this submission in respect to the proposed amendments to the HPA Bylaws and Professional Practice Policies. We have carefully reviewed the proposed amendments and other parts of Schedule F to the HPA Bylaws, sought input from legal counsel, and now share the following comments:

1. ***Health Professions Act*** **Bylaws Schedule F, Part 1: Community Pharmacy Standards of Practice**

- **Subsection 6(2)(f)**

The interval between refills is not always indicated on a prescription. For clarity, we suggest the words "if applicable" be moved to the end of the clause, so it would read:

> (f) refill authorizations, including the number of refills and the intervals between refills, if applicable;

- **Subsection 6(4)(g)**

We note that some of the steps listed in s. 6(4)(g)(i)-(vi) are not tasks which a pharmacy assistant is permitted to do (such as addressing the drug therapy problem in accordance with section 12), so we suggest that the words "as appropriate" be added.

- **Confusion caused by the definition of "refill"**

Schedule F Part 1, Section 2 defines "refill" as "a verbal or written approval from a practitioner authorizing a registrant to dispense additional quantities of drug(s) ***pursuant to a prescription***" (italics added). This implies a "refill" is not a prescription but is some other kind of order.

In fact, a "prescription" is defined in the PODSA as **"**an authorization from a practitioner to dispense a specified drug or device for use by a designated individual or animal". Therefore a refill ***is*** a prescription, not something else made "pursuant to a prescription."

Defining a refill as something *other than* a prescription has led to significant confusion. For example, section 6(3) provides that "for the purposes of subsection (4) [what must be included on a prescription at the time of

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dispensing] a prescription includes a refill." This suggests that *except under ss. 6(4),* a refill is *not* a "prescription."

In other words, since a "refill" is included as a prescription *for the purpose of ss. 6(4), it* logically follows that a refill is *not a prescription* for the purposes of ss. 6(1), ss. 6(2), or ss. 6(5)-6(8), and that those subsections don't apply to refills. This conclusion is reinforced by the definition in section 2 that a refill is an "approval" made pursuant to a prescription.

Yet registrants have suffered substantial losses as a result of PharmaCare audits requiring refills to be treated as a "prescription" under ss. 6(2).

The same problems arise in subsections 6(6), 6(7) and 6(9), discussed next, where the vague use of undefined terms rather than the specific use of defined terms only serve to promote further confusion.

- **Subsection 6(6) – A registrant may receive a 'verbal prescription authorization' and Section 6(7) – a registrant must make a written record of a "verbal authorization" and include his or her signature**

The words "verbal prescription authorization" and "verbal authorization" are not defined anywhere. However, as stated above, ***any*** authorization from a practitioner to dispense a specified drug for use by a designated individual is, at law, a "***prescription***". Accordingly, a "verbal prescription authorization" or a "verbal authorization" is, simply, a prescription.

For the sake of clarity, in subsection (6)(6) the word "authorization" should be deleted, and in s. 6(7), "authorization" should be replaced with "prescription."

- **Subsection 6(9) – For refill authorizations, a registrant…**

The same problem arises here. Subsection 6(9) sets out the requirements a registrant must meet for "refill authorizations." Using the term "refill authorizations" supports the conclusion that a refill is something other than a prescription. However, as stated above, the word "authorization" is not defined and, in fact, a "refill authorization" is an authorization to dispense a drug and therefore **is** a prescription. We suggest that, at minimum, the word "authorization" be replaced with the word "prescription".

However, in our view these problems are so central to registrants understanding of their duties that a better solution would be to reconsider the definition of "refill", together with the requirements of section 6 in relation to ***all*** types of prescriptions, and make amendments as necessary to eliminate this confusion.

- **Subsection 8(2) – A prescription copy must contain**

The requirements for a prescription copy under this section are different from what is required on a prescription by ss. 6(2). For example, subsection 8(2)(c) states that the prescription copy must contain "…directions for use of the drug", while ss. 6(2)(e) requires "the dosage instructions including the frequency, interval or maximum daily dose". These sections must be amended so that they are consistent and impose the same requirements using the same language.

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- **Subsection 11(2)(p) – The identification of the prescribing practitioner**

Is the intention that a "prescribing practitioner" is different from a "practitioner"? Practitioner is defined under PODSA, and it would seem that "prescribing" is not required to be added to this term. Section 11(2)(p) should be amended to delete the word "prescribing".

- **Subsection 11(2)(s) and (t) – Recording the drug therapy problem and action taken on the patient record**

We note that the term "patient record" is not defined in the Legislation or the Bylaws. A patient record may comprise paper documents and/or electronic files, or both wherever and however maintained. It may reside in various files or dossiers or formats in different locations. There is no unanimity among our members as to what constitutes the "patient record." This poses risks to patient care and to professional practice. What the "patient record" is – and is not – is of fundamental importance to the practice of pharmacy. The College must define this term to allow registrants to understand and comply with their legal obligations and to determine their processing and storage procedures accordingly.

We propose that the College defines the term "patient record" , and when it does so, provides time for its registrants to determine what software changes pharmacies must make in order to comply.

- **Subsection 11(3)(c) – Compliance with drug regimen**

Subsection 11(3)(c) requires the pharmacist to record "compliance with the prescribed drug regimen". We suggest that the word "adherence" be used in place of the word "compliance". Where the patient's drug therapy is comprised of multiple drugs, there may be more than one drug regimen. Accordingly, we suggest pluralizing the term to "regimens."

Accordingly, we suggest the following amendment:
ss. 11(3)(c) **adherence** with the prescribed drug **regimens**.

- **Subsection 11(4)(h) – Any other potential drug related problems**

We note that the term "drug related problem" is used in the current ss. 11(4)(h), for which no amendment has been proposed. To avoid inconsistency and uncertainty, and in order to ensure clarity, **we suggest that ss. 11(4)(h) be amended to change the term "drug related problems" to "drug therapy problems".**

- **Subsection 12 – "Pharmacist/Patient Consultation"**

We have several recommendations for changes to this section. Given that the definition of "pharmacist" in the HPA means "a person who is currently registered under s. 20 as a member of the College", we believe that the intention of subsection 12 is to limit consulting authority to "practicing pharmacists" as defined in the HPA Bylaws (a full pharmacist, limited pharmacist, temporary pharmacist or student pharmacist) rather than to all registrants.

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Accordingly, for clarity we would suggest that the Bylaws be reviewed to determine where it is appropriate to add the term "practicing" to define "pharmacist" and that ss. 12(2) be amended as follows:
s. 12(1) A **practicing pharmacist** must consult with the patient at the time of dispensing…

s. 12(2) **Except where, in the practicing pharmacist's professional judgment, it is not practical to do so,** the pharmacist/patient consultation…

We also recommend the College consider whether it is appropriate to account for modern technological uses of telephones to account for the widespread use of cell phones with texting or video-phone functionalities, especially among younger patients, vulnerable populations or those in remote areas of the province (e.g., FaceTime or Skype) and the corresponding decline in the use of traditional voice-only landlines. Given the extremely rapid changes in communications technology, it would be prudent to be as technology agnostic as possible, and to specify whether communicating by text only, for example, is permitted or not. We would recommend that texting a consultation should be prohibited because it is more difficult to verify the identity of the individual sending the text. Accordingly we propose the following:

s. 12(3) If it is not practical to consult with the patient in person, the pharmacist/patient consultation may occur by live voice or video communications, but not by text messaging.

- **Subsection 12(5) – Patient consultation for new prescription**

We note that the requirements here are almost – but not entirely – the same as the requirements for obtaining patient consent for treatment under the *Health Care Consent and Care Facility (Admission) Act*. That Act requires the patient be given: information needed to understand the nature of their condition, the proposed care, the risks, benefits and alternatives, a chance to ask questions and a chance to get answers. Making subsection 12(5)(a)-(i) consistent with those requirements would better ensure that registrants understand their obligations around obtaining consent and ensure those obligations are met.

Therefore we suggest adding a new ss. 12(5)(h)(iv) and a new s.12(9):

s. 12(5)(h)(iv) appropriate alternatives (therapeutic or otherwise) where, in the pharmacist's professional judgment, it is appropriate to do so.

s. 12(9) after each consultation, the pharmacist must confirm that the patient understood the information provided and is given an opportunity to ask questions and receive answers.

- **Subsection 12(6) – Patient consultation for refills**

The reality of community practice is that there are many instances involving frequent dispensing where this level of detailed consultation would seriously disrupt the continuity of care, such as in some residential care environments or in street outreach (e.g., assertive community treatment).

It is also widely understood that patients who have been on the same medication therapy for extended periods of time are often highly resistant to in-depth counseling for what they believe to be "regular" medications.

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Forcing a pro forma consultation in such situations can undermine the pharmacist-patient relationship by rendering the refill consultation a rushed, "box-checking" exercise.

The BCPhA therefore submits that prior to imposing new requirements for refill consultations, a thorough stakeholder consultation with registrants and patient groups is appropriate, and a practice requirement be designed based on the results of such investigation. This will ensure that registrants will actually be able to provide patient-centered care to promote better health outcomes.

2. **PODSA Bylaws**

Subsections 3(2)(e)(i) and 3(2)(e)(ii) are ambiguous, overbroad and redundant. We are gravely concerned about the proposals in this section and respectfully submit that they have been developed on faulty and unproven assumptions.

Firstly, we want to be very clear that we support standards of pharmacy practice that support the best patient care. We welcome any fact-based review of current community pharmacy practice that may arise from concerns that pharmacists are in any way compromised in delivering the highest standards of care to their patients. With respect, we do not believe the College's workplace study provides such evidence. It provided a highly subjective snapshot of what some staff pharmacists viewed to be the pressures of their workplace. It understandably provided no evidence that the performance standards in community pharmacy in BC are extraordinary when compared to other industries or, more importantly, that patients were put in harm's way as a result of their employer's expectations.

We also have considerable concerns that workplace standards are not the purview of the College. While the College has a clear mandate to protect the public interest, its duties do not extend to managing workplace issues. We question the College's authority to regulate this area.

The proposed provisions add nothing to the duty to ensure quality patient care. This obligation is an overriding, fundamental obligation. Therefore any business practice which can be demonstrated, on the basis of reliable evidence, to undermine that fundamental duty is simply not permissible. There is simply no need for the College to single out specific business practices or tools. In doing so, while remaining silent on others, the College is acting beyond its authority and sowing the conditions for strife in the workplaces of pharmacies in this province. The BCPhA would welcome a thorough analysis of these issues and opposes the imposition of these ambiguous, redundant and overbroad provisions. Accordingly, we would urge the College to abandon these amendments.

3. **Other Matters**

- **Section 12(1) – Long-term or other residential environments not covered by Schedule F, Part 3**

The requirement under section 12 to consult with the patient *at the time of dispensing* for *all new and refill* prescriptions can pose a serious risk to the continuity of care in circumstances where the pharmacy is dispensing to patients living in residences not covered by Schedule F, Part 3, but where daily or weekly dispensing is required. Registrants require guidance on how to ensure compliance when the patient representatives are unavailable on the day the medications are delivered. It will be unacceptable to patients and their families for pharmacists to withhold delivery of medications. Therefore, a practical solution must be developed.

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- **Controlled Prescription Program**

With respect to the controlled prescription program (CPP), clarity is required as to whether all the elements on the CPP form are required in order to dispense a prescription, or whether only the "legal requirements" must be completed.

The College's statement on the Controlled Prescription Program[1] explains under "Dispensing Information" that: "Prescribers have been advised that failure to complete the prescription forms may result in rejection of the prescription by the pharmacist with resulting patient and prescriber inconvenience. **However, if the prescription includes all the information required in pharmacy legislation, the medication may be dispensed."** (emphasis added)

Neither the HPA nor the Bylaws require a prescription to include, for example, the patient's PHN, or date of birth.

Please clarify if the absence of information – such as the PHN – not required by pharmacy legislation invalidates the controlled prescription program form.

4. **Schedule F, Part 3 – Residential Care Facility and Homes Standards of Practice, subsection 6(8)(f). Refill Authorization, if applicable, including number of refills and interval…**

For consistency, we suggest that the same change that we recommended above for ss. 6(2)(f) of Schedule F Part 1, because the interval between refills is not always indicated on a prescription. Accordingly, we suggest that the words "if applicable" be moved to the end of the clause to read:

(f) refill authorization, including number of refills and the intervals between refills, **if applicable**;

Thank you for the opportunity to provide comments on these amendments. Should you have any questions about any of the foregoing, please don't hesitate to contact me at geraldine.vance@bcpharmacy.ca or 604-269-2860.

Sincerely,

Geraldine Vance
Chief Executive Officer

Cc: Board of Directors, BC Pharmacy Association
Lori Tanaka

[1] Available at: http://library.bcpharmacists.org/D-Legislation_Standards/D-4_Drug_Distribution/5015-ControlledPrescriptionProgram.pdf