

**Canadian Pharmacists Association's Submission on the
*Notice of Proposed Regulations to Amend Ontario
Regulation 935 under the Drug Interchangeability and
Dispensing Fee Act and Ontario Regulation 201/96 under
the Ontario Drug Benefit Act***

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INTRODUCTION

The Canadian Pharmacists Association (CPhA) is the national organization of pharmacists, committed to advancing the profession of pharmacy so as to contribute to the health of Canadians. CPhA represents the national views and interests of Canadian pharmacists and advocates for the profession to position pharmacists as the drug expert members of the health care team.

We wish to make the following submission to the Ministry of Health and Long Term Care regarding the proposed amendments to *Ontario Regulation 935 under the Drug Interchangeability and Dispensing Fee Act* and *Ontario Regulation 201/96 under the Ontario Drug Benefit Act*.

We feel that while the Ministry has made some enhancements to the regulations, there are some significant issues that remain to be addressed. CPhA is concerned that the amendments to the regulations do not go far enough to address the sustainability of community pharmacy practice in Ontario and, subsequently, patient care in the province.

SUMMARY OF COMMENTS ON THE AMENDED REGULATIONS TO TRANSPARENT DRUG SYSTEM FOR PATIENTS ACT

CPhA is concerned that the amended regulations still do not address all of the issues concerning the sustainability of community pharmacy practice in Ontario and, subsequently, patient care in the province.

The expanded definition of professional allowances is a first step but there is room to include investment in even more activities that will enable pharmacists to better serve their patients.

CPhA is concerned with the transparency of the process regarding generic pricing that differs from the 50% rule.

The economic impact on pharmacy practice needs to be continually assessed, with immediate action to address unexpected consequences. Impact on patient care and services should also be evaluated. More focus needs to be placed on optimizing drug therapy.

The Ministry should consider accepting claims for variances after the January 1, 2007 deadline if adherence to formulary pricing is not enforced.

A phased approach should be considered to allow practice change to proceed in a structured manner.

PROFESSIONAL ALLOWANCES: FURTHER INVESTMENT IN PATIENT CARE

CPhA welcomes the Ministry's expanded definition of professional allowances. The scope of professional allowances should enable pharmacists to deliver services that enhance patient care. The Ministry has clarified the Code of Conduct so that professional allowances may be used for:

1. advertising or promotional materials, and staff wages and benefits, in respect of disease management and prevention initiatives and clinical pharmacy services mentioned in paragraphs 6 and 8 of the definition of "professional allowance"; and
2. renovations, leasehold improvements and similar matters where they are directly related to a private counseling area within the pharmacy.

The expanded definition of professional allowances is an important first step in resolving some of our concerns but there is room to include investment in additional activities that will enable pharmacists to better serve their patients. CPhA would like to see the addition of technological upgrades (such as computer hardware, software, handheld computers, etc.) to the list of pharmacy practice improvements that would be considered under professional allowances. Consideration should also be given to further expanding the definition of professional allowances to include additional activities to enhance patient services such as: call-back programs, compliance programs, diagnostic devices, as well as other educational materials and drug information resources. There should be a review of the Code of Conduct on a regular basis and adjustments made to the definition of what activities professional allowances may be used to support.

PRICING & THE ROLE OF THE EXECUTIVE OFFICER

The amendments to the regulations set out that at the executive officer's sole discretion he may negotiate an agreement with a manufacturer for a product's drug benefit price that is different from the flat 50% price rule. This negotiation may take place only where there is sufficient evidence that the product would be the only drug product of its type that has been proposed to be designated as interchangeable with an original drug product.

The Canadian Pharmacists Association (CPhA) is concerned with the amount of transparency and competition that can exist in this process. The lack of detail surrounding this process leads to a number of questions: Will this amendment limit the number of generic alternatives that will be available to the market? How will the prices be set?

The spirit of the original legislation was to ensure better value for money, improve patient access to drugs, promote the appropriate use of medications, invest in innovative health system research, and strengthen drug system transparency and accountability. The subsequent regulations have focused heavily on the economics of the drug system and not enough on increasing transparency and accountability, nor enough on optimizing drug therapy.

In a previous submission, CPhA stated that the scope of responsibilities for the executive officer proposed in the legislation are beyond that of one individual and that consideration should be made to making this an Ontario Drug Agency or Executive Office that is accountable to the Minister and to the public.

IMPLEMENTATION & ASSESSMENT

CPhA is pleased to see that the Ministry will no longer penalize pharmacies unfairly if they cannot purchase inventory at the drug benefit price published in the formulary or if an interchangeable product is not available. The Ministry will allow claims for variances in acquisition and reimbursement prices until January 1, 2007. It will be imperative that the Ministry ensures that all manufacturers and suppliers are adhering to formulary prices and that no variances exist before the deadline for claims. Otherwise the Ministry will have to allow claims after the January 1, 2007 date. The process and eligibility for submitting claims requires further clarification.

Since the implementation of the new formulary prices, pharmacies have been sustaining significant financial losses while a variance in the acquisition and reimbursement price for some generic products existed. The economic impact on pharmacy practice needs continuous assessment and immediate action must be taken to address unfair or unforeseen consequences. Furthermore, assessment of the impact on patient care needs to be implemented to ensure the legislation produces the desired outcomes.

CPhA would like to see more policy aimed directly at improving overall patient care. The focus should not only be on the cost of medications, but also on other initiatives to ensure that patients receive safe, optimal drug therapy. We also still believe that the Ministry needs to implement a phased approach to allow practice change to proceed in a structured manner.

As the national voice for pharmacists, CPhA is committed to working with our members and colleagues in Ontario to ensure that the drug program changes the Government of Ontario makes result in improved access, better patient outcomes, and better value for money. We are all patients, caregivers, and taxpayers as well as health care providers. We all have an interest in this legislation and its impact on the delivery of pharmacy care in Ontario.

In summary, the amendments to the regulations are an important first step in resolving some of the issues affecting patient care, pharmacy practice and sustainability, but there is much work yet to be done. Significant issues in the interpretation and implementation remain unaddressed that will negatively impact the sustainability of community pharmacy practice in Ontario.