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The Expanding List of “Concerns” on the OCP Public Register – A Summary of Information to be Posted and What it Means for Pharmacists

By Lad Kucis

Over the past couple of years, the Ontario College of Pharmacists (OCP) has made a number of changes to its by-laws which have resulted in a significant expansion of the types of information that are required to be posted about pharmacists¹ on the Public Register.

The most noteworthy of these changes involve the addition of various categories of information that are listed under the “concerns” section of the Public Register, which can be found on the OCP website.

This Legal Bulletin will provide a summary² of the “concerns” that must now be posted on the Public Register and will also set out the potential repercussions that these changes may have for pharmacists.

Concerns to be Posted

- **Investigations** – the OCP will confirm that it is investigating a pharmacist if there is a compelling public interest in the disclosure of that information. In most cases, however, the existence of an investigation is not posted.
- **Oral Cautions** – a summary of any oral caution ordered by the Inquiries, Complaints and Reports Committee (ICRC), resulting from a complaint or investigation commenced after April 1, 2015. Oral cautions are ordered where there is a significant concern about a pharmacist’s conduct or practice that may have a direct impact on patient care. If a pharmacist requests a Review (i.e. an appeal) of the ICRC decision, the fact of the pending Review is to be noted on the Public Register and the notation is to be removed once the Review is finally disposed of.

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1. All references to “pharmacists” in this Legal Bulletin also apply to “pharmacy technicians”, who are also governed by the OCP.
2. For a full listing of information that is required to appear on the Public Register, please refer to OCP By-Law #4 and section 23 of the Health Professions Procedural Code, which is Schedule 2 of the *Regulated Health Professions Act, 1991*.

- **Specified Continuing Education or Remediation Programs (SCERPs)** – a summary of any SCERP ordered by the ICRC, resulting from a complaint or investigation commenced after April 1, 2015. SCERPs are remedial in nature and are ordered if the ICRC identifies a serious care or conduct concern and believes that a skills upgrade is required. As with oral cautions, if a pharmacist requests a Review of an ICRC decision ordering a SCERP, the fact of the pending Review is to be noted on the Public Register and the notation is to be removed once the Review is finally disposed of.
- **Certain Undertakings** – a summary of any restriction on a pharmacist's right to practice resulting from an undertaking provided by the pharmacist or an agreement entered into between the pharmacist and the OCP.
- **Referrals to Discipline Committee** – a summary of any charges of professional misconduct or incompetence that have been referred to the Discipline Committee for adjudication, as well as the Notice of Hearing, and once scheduled, the hearing date.
- **Findings of Professional Misconduct by Discipline Committee** – a summary of any findings of professional misconduct or incompetence made by the Discipline Committee, including a link to a copy of the Decision and Reasons. If a Discipline Committee decision is under appeal, the fact of the pending appeal is to be noted on the Public Register. This notation is to be removed once the appeal is finally disposed of.
- **Reinstatement Applications** – a summary of any application for reinstatement made to the Discipline Committee.
- **Findings of Professional Misconduct in Other Jurisdictions** – a summary of any findings of professional misconduct or incompetence made against the pharmacist by any regulatory body that governs pharmacists outside of Ontario.
- **Criminal and Other Charges** – a summary of any currently existing charges against a pharmacist, in respect of a provincial or federal offence, including under the Criminal Code of Canada, that the OCP is aware of and which the Registrar believes are relevant to the pharmacist's suitability to practice.
- **Bail Conditions** – a summary of any existing conditions, terms, orders, directions, or agreements related to provincial or federal offence processes that the OCP is aware of and which the Registrar believes are relevant to the pharmacist's suitability to practice.
- **Findings of Guilt** – a summary of any findings of guilt in respect of provincial or federal offences, including under the Criminal Code of Canada, made after April 1, 2015, that the OCP is aware of and which the Registrar believes are relevant to the pharmacist's suitability to practice.

Repercussions for Pharmacists

In my professional opinion, the following are some potential repercussions flowing from the posting of the above “concerns” on the Public Register:



- **Criminal Charges and Findings Likely to Appear on Public Register** – pharmacists should expect that most criminal charges and convictions will meet the threshold of “relevance to suitability to practice” and will therefore be posted on the Public Register.
- **Increased Stigma** – the posting of the above listed “concerns” will certainly result in an increased level of stigma for pharmacists, who will have to deal with the fact that patients, fellow pharmacists and other members of the public will now have access to this additional information about them.
- **Increased Number of Complaints** – it is reasonable to conclude that posting additional types of “concerns” on the Public Register will result in an increase in the number of complaints filed against pharmacists. The likelihood of such a result becomes further augmented after one reviews the recently re-designed Public Register on the OCP website, as described above, which prominently displays any “concerns” that have been posted about a pharmacist.
- **Heightened Importance of Complaint and Investigation Responses** – because oral cautions and SCERPs are now posted on the Public Register, pharmacists need to be more diligent than ever in responding to complaints and investigations, even where the allegations do not appear overly serious. Pharmacists would be well advised to obtain the assistance of experienced legal counsel in this regard.

- **Reviews of ICRC Decisions** – pharmacists should seriously consider requesting a Review of an ICRC decision if an oral caution or SCERP has been ordered against them – especially since such information may otherwise remain on the Public Register indefinitely. In the past, pharmacists rarely requested reviews in such circumstances, since this information was not posted on the Public Register.

Pharmacists need to be fully aware of this new legal landscape so that they can take appropriate steps to protect their interests.

About the Author

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