The following document has been prepared in follow-up to questions arising from the OHA Pharmacy Technician Regulation Webcast and as a general guide to assist members in understanding the labour relations implications of The Health System Improvement Act (Bill 171), and in particular, how this legislation will impact the role of pharmacy technicians in Ontario hospitals. Members using this guide should recognize that given that this is new legislation, some of the issues addressed in this document may be subject to legal challenges within the hospital sector or elsewhere in the future. Accordingly, we would ask that members inform the HERS Department should they encounter any challenges in this area. We will continue to monitor developments in this area and will endeavour to keep our members apprised should these developments cause us to amend our views.

Members are also reminded that they may be eligible for support through Central Funding should challenges arise and may wish to consult the OHA website Employee Relations section for further details of eligibility.

Members may also wish to consult with their legal counsel and appropriate regulatory authorities regarding their own particular circumstances.

Q What are the key changes that will result from the new legislation?

A This legislation requires that pharmacy technicians become regulated, a change which is intended to allow for support of the pharmacists in the provision of more comprehensive patient care services and promotion of optimal pharmacy services for the public. As a result of this change, protection of the name “Pharmacy Technician” (or any variation or abbreviation thereof) means that only those pharmacy technicians who have become registered with the College of Pharmacist may continue to use this title.

Q Are hospitals required to move to a model that utilizes Regulated Pharmacy Technicians?

A Hospitals are not required to move to a model that utilizes Regulated Pharmacy Technicians; however, use of the pharmacy technician title, by law, requires that the individual be regulated with the college. Hospitals may elect to move to a Regulated Pharmacy Technician model, maintain their current practice (and rename the current pharmacy technicians to reflect a non-protected titled) or introduce a hybrid model which combines the use of regulated and non-regulated pharmacy staff.
Q What is involved in the registration of pharmacy technicians with the College of Pharmacists?

A Hospitals that elect to move to a patient service model which utilizes Registered Pharmacy Technicians must ensure that all pharmacy technicians currently working in the profession (i.e. graduates of programs prior to, or without CCAPP accreditation, or on-the-job trained) complete the approved Bridging Education Program (a series of four courses). Eligibility to participate in the BEP requires the completion of the Pharmacy Examining Board of Canada (PEBC) certification exams, as a pre-requisite.

Q When will this change that limits the use of the Pharmacy Technician title become effective?

A The changes that result from the implementation of the legislation have been phased in, as hospitals and pharmacy technicians working in the field move through the process of registration with the College of Pharmacists.

The proposed regulations require that individuals who have not graduated from an accredited program complete the pre-requisite Pharmacy Examining Board of Canada (PEBC) certification exam by January 1, 2012.

The proposed regulations further require that individuals pursuing registration must complete the Bridging Education Programs (BEP) by January 1, 2015.

Q If the hospital has determined that they wish to implement a model that requires all pharmacy technicians to be registered and some current employees elect not to pursue registration, what obligations does the hospital have to the Union and the employee?

A The obligations of hospitals to employees who elect not to become registered are variable dependent upon the collective agreement governing their terms and conditions of employment. Generally speaking, hospitals would be obliged to layoff individuals who are no longer eligible to practice as a Pharmacy Technician due to the regulation change, assuming that these individuals cannot be reassigned. These individuals would be entitled to all the protections related to layoff under the applicable collective agreement. Of course at anytime, hospitals would be expected to act reasonably, thus requiring that the specific facts of each case be examined individually to determine appropriate plan(s) of action.

Prior to engaging in any layoff activities under the respective collective agreements, Hospitals are reminded of their obligations to their Union(s) with respect to Layoff and Recall provisions, as specified below:

   OPSEU – Article 11
   CUPE – Article 9.08
   SEIU – Article 10.02
Q  Some employees have indicated their intent to retire in the very near future. Is there an opportunity to grandfather them in their current position until such time as they do retire?

A  Employees who have indicated their intent to retire in the future cannot be grandfathered with the title of Pharmacy Technician beyond the date established for title protection. However, hospitals wishing to bridge such employees from the time that they are unable to retain the job title of Pharmacy Technician until their retirement may wish to consider changing their job title to the unregulated title of Pharmacy Assistant or reassignment to another position within the bargaining unit.

Q  Have there been any discussions between the OHA and the unions representing pharmacy technicians to address the changes emerging from the new legislation?

A  To date, there have been no discussions with any of the unions representing pharmacy technicians to address the changes that may result from the new legislation. This is, in part, due to the fact that the decision to move to a model requiring all Registered Pharmacy Technicians is an individual hospital decision made on a voluntary basis.

QUESTIONS RELATED TO COMPENSATION

Q  Will there be an increase in wages for pharmacy technicians who become registered? If we choose the hybrid model, how will the differential in wages between the pharmacy technician and the pharmacy assistant be addressed?

A  Under the Central Collective agreements there are potentially two ways that wages can be addressed. The first and most common way is at the negotiations table. The issue of the appropriate rates of pay for pharmacy technicians and pharmacy assistants may well be raised by either party at the next rounds of negotiations with OPSEU, CUPE and the SEIU.

The second way is in the context of whether there has been a new classification or substantive change in the job content of an existing classification as provided under Article 25.01 of the OPSEU Central Agreement or under Article 20.01 (a) of the CUPE Central agreement or Article 25.04 of the SEIU Central agreement, as may be applicable. In the case of the OPSEU Participating Hospitals, as the parties are currently engaged in establishing a new Central Pay Equity Plan, the matter will be addressed on a Central basis as a maintenance issue in accordance with Article 25.01, if in fact it is determined that there has been either a new classification established or a substantive change in the job content.

OPSEU Participating Hospitals who plan to implement a model requiring qualification changes to the Pharmacy Technician classification should contact a member of the HERS team to discuss their obligations under Article 25.01 and the Central Pay Equity process.
Q  For hospital pharmacy technicians who are currently working in a “tech-check-tech” setting, there will not be much of a change in terms of the tasks they might be doing. Will any change to the wage rate be necessary in cases such as these?

A  Job duties or tasks are one component of a job that impacts upon the establishment of an appropriate rate of pay. However, a mere change to the position with respect to the addition or deletion of job duties will not be sufficient to establish substantial change. Rather, there must be a qualitative change in the actual job content.

It is important to note that the change to the educational requirement, as well as the transfer of overall task responsibility to an independently working pharmacy technician may or may not be determined a substantive change which in turn may or may not lead to a higher level of compensation. This is particularly true when the changes to the classification are viewed through a formalized Pay Equity process, where jobs are valued based on categories such as “Education/Specific Training”, “Results of Errors”, “Mental/Sensory Effort” and others in their relationship to other job classifications.

Q  Were the positions of pharmacy technician and pharmacy assistant included in the OPSEU Pay Equity process?

A  Yes. Both the Pharmacy Technician and the Pharmacy Assistant classifications were included in the OPSEU Pay Equity process. However, the evaluation of both of these jobs will be completed based on the job data in effect prior to any changes to technician regulation requirements. As such, any changes related to the pharmacy technician regulation will be addressed as laid out in Article 25.01 of the Central OPSEU Collective Agreement and will be captured through a Pay Equity Maintenance Process.

QUESTIONS RELATED TO TUITION/TRAINING

Q  How should hospitals address payment of any tuition fees that are associated with the certification exam(s) and the Bridging Education Program (BEP)?

A  Each of the central collective agreements address hospitals’ obligations with respect to tuition fees that are associated with any courses when an employee is required by the hospital to upgrade their qualifications. Given that the change to a model using Regulated Pharmacy Technicians is voluntary in the hospital setting, as per the Ontario College of Pharmacists, the decision to require hospital employees to upgrade their qualifications is determined to be a hospital requirement, not a college requirement.

Central language addressing compensation/reimbursement for tuition fees for required courses can be found as follows, in the central agreements:
Q Should employees be compensated for any time spent in such training and if so, how should they be compensated?

A The majority of the centrally negotiated collective agreements include language that addresses the issue of reimbursement and/or compensation for courses that employees are required, by the Employer, to take in order to upgrade their qualifications. These clauses typically provide for a protection from loss of pay, benefits and/or seniority for courses that are taken during regular working hours. Such language can be found in the articles referenced above.

As such, subject to any local provisions or policies that may exist at individual hospitals, there is no obligation in the reading of the collective agreement language that would require hospitals to pay hourly wages to employees for time spent in completing coursework to upgrade their qualifications outside of regular working hours. However, it is advisable to engage the local union in planning discussions with respect to implementation of any new pharmacy models. It is also recommended that hospitals confer with HERS should they have concerns about whether or not their implementation plan is in keeping with the provisions of the central agreements.

Hospitals with Pharmacy Technologists who are covered under the Central OPSEU Agreement that proceed to implement either a hybrid or full Regulated Pharmacy Technician model within their organization are asked to contact Hospital Employee Relations Services (HERS) at 416-205-1377, where your call will be redirected accordingly. Additionally, hospitals having any additional questions regarding this matter should also contact any one of the HERS Consultants at the Ontario Hospital Association.