

Ministry of Health
and Long-Term Care

Ontario Public Drug Programs

Office of the Executive Officer and
Assistant Deputy Minister

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JAN 07 2009

Bonni Ellis
Steinecke Maciura LeBlanc
Barristers & Solicitors
Law Chambers, University Centre
393 University Avenue, Suite 2000
Toronto, ON M5G 1E6

Dear Ms. Ellis:

Thank you for your letter dated December 9, 2008 on behalf of the Independent Pharmacists of Ontario (IPO) providing comments in respect of the updated Health Network System (HNS) Subscription Agreement ("Agreement"). I have carefully reviewed your comments with my staff and advisers.

In my capacity as Executive Officer and a steward of public funds, it is my duty to ensure that the Ontario Drug Benefit (ODB) Program is administered responsibly in the public interest and in conformance with the rule of law. The Agreement has been drafted with those goals in mind. There is no intent on the part of the ministry to enforce any of the terms of the agreement in an unreasonable manner.

In cases where the ministry believes that an overpayment has been made to a pharmacy operator, the ministry will not recover that amount until the operator has been provided with written reasons for the recovery and an opportunity to respond. This is the rationale for providing 30 days notice before initiating a recovery (as required under section 9.3 of the Agreement) and is consistent with the ministry's long-standing practice.

Please also note that procedural fairness rights have been expressly incorporated into the termination-for-cause provisions (see sections 12.3 and 12.5). Pursuant to section 12.2, the ministry cannot terminate the Agreement without cause unless a new Agreement is being offered. Accordingly, this provision is much less onerous than the termination-for-convenience clause in the old subscription agreement that has been in use since 1993.

The ministry is also required under the Agreement to provide reasonable notice to operators if any changes to the technical specifications or *Ontario Drug Programs Reference Manual* are required (see section 6.3 and the definition of 'Reference Manual' under section 1.1). In the event that the ministry intends to implement or change any policies which impact on pharmacy

Ministère de la Santé
et des Soins de longue durée

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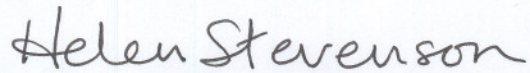
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practice under the ODB Program, the ministry will endeavour to provide as much notice to operators as reasonably possible.

In light of the high percentage of pharmacy operators in Ontario who have already executed the Agreement, I am not prepared to accept any of your proposed changes at this time. I can, however, provide assurance that the ministry intends to interpret and apply the rights and obligations arising under the Agreement according to a standard of reasonableness.

Thank you again for bringing the concerns of the IPO membership to my attention. I hope the foregoing will assist in alleviating your members' concerns.

Sincerely,

A handwritten signature in cursive script that reads "Helen Stevenson".

Helen Stevenson
Assistant Deputy Minister and Executive Officer of Ontario Public Drug Programs