

# **The Regulation of Health Professionals in Ontario**

## **Information Session**

**Health Professions Regulatory Policy & Programs Branch  
Health Human Resources Strategy Division  
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# Purpose of Health Professional Regulation

**The RHPA and health profession Acts provide a common framework for Ontario's regulated health professions, incorporating a number of underlying principles, including:**

- As a primary principle, advancing the public interest
- Protecting the public from harm and unqualified, incompetent or unfit providers
- Promoting high quality health care services and accountability of health care professionals
- Providing patients/clients access to health care professionals of their choice
- Achieving equality and consistency by requiring all regulated health professions to adhere to the same purposes, objects, duties, procedures and public interest principles
- Treating individual patients/clients and health professionals in an equitable manner
- Providing flexibility in roles of individual professions and room for evolution of professions through broad scopes of practice provisions

# *Regulated Health Professions Act, 1991 (RHPA)*

- Proclaimed in force December 31, 1993
- Under the RHPA, all colleges have the duty to carry out their objects in a way that serves and protects the public interest, to ensure the public is provided with appropriate and quality health care services
- Provides one comprehensive and consistent framework for the existing 21 health regulatory colleges that regulate 23 health professions
- Five additional health professions – homeopathy, kinesiology, naturopathy, psychotherapy, traditional Chinese medicine - will be regulated under the RHPA

# Health Professions Procedural Code

Schedule 2 of the RHPA is the *Health Professions Procedural Code*. It is a comprehensive code providing substantive and procedural rights for Colleges, their members and the public in a number of areas, including:

- Registering members
- Fair registration practices, reports and audits
- Handling complaints
- Conducting investigations
- Carrying out discipline and fitness to practise hearings
- Quality assurance program
- Patient relations program
- Mandatory reporting
- Funding for victims of sexual abuse by members
- Rights to appeal processes to the Health Professions Appeal and Review Board (HPARB) regarding registration and complaint decisions
- Broad regulation making powers given to College Councils to govern the professions

# Health Profession Acts

- Establish a health regulatory College to regulate the practice of the profession and govern the members
- Articulate the scope of practice statement
- Identify the controlled acts, if any, authorized to the profession and conditions, if any
- Provide for restrictions on titles - for members' use only and on unqualified persons holding themselves out as qualified
- Establish the composition of a College's governing Council

## **Health Professions Regulated under the RHPA**

- Audiology
- Speech Language Pathology
- Nursing
- Optometry
- Pharmacy
- Dentistry
- Chiropody (and Podiatry)
- Dental Technology
- Denture Therapy
- Massage Therapy
- Medical Radiation Technology
- Chiropractic
- Dietetics
- Medical Laboratory Technology
- Midwifery
- Occupational Therapy
- Respiratory Therapy
- Dental Hygiene
- Psychology
- Physiotherapy
- Opticians
- Medicine

## **Additional Health Professions to be Regulated under the RHPA**

- Traditional Chinese Medicine
- Naturopathy
- Kinesiology
- Psychotherapy
- Homeopathy

# **Key Features of the RHPA Framework**

## **Scope of Practice**

A general statement in the health profession Act describing in broad terms what the profession does and the methods it uses. For example: The practice of massage therapy is “...*the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop, maintain, rehabilitate or augment physical function, or relieve pain*”.

## **Controlled Acts**

The RHPA identifies 13 controlled activities that may put the public at substantial risk. These controlled acts are authorized to be performed in the course of providing health care services only by certain regulated health professions. Not all regulated health professions are authorized to perform controlled acts (e.g., massage therapists, dietitians).

A 14th controlled act (psychotherapy) was added in June 2007, but is not yet in force.

# Key Features of the RHPA Framework

## Controlled Acts Identified In The RHPA:

- communicating a diagnosis
- procedures on tissue below the dermis
- setting a fracture or a dislocation
- moving joints of the spine beyond usual range
- injection/inhalation
- inserting an instrument, hand or finger
- applying/ordering a form of energy
- prescribing, dispensing, selling or compounding a drug
- vision care
- hearing care
- dental care
- managing labour
- allergy testing
- psychotherapy treatment of serious disorders (not yet in force)

# Key Features of the RHPA

## **Controlled Acts: Ordering, Authorizing, Delegating**

- Performance of a controlled act may be dependent on it being ordered or authorized by a member of another profession.
- Prescription requirement for dispensing a drug is a form of ordering.
- A regulated health professional may delegate a controlled act authorized to his or her health profession, subject to any applicable regulations.
- An act may be delegated to another regulated professional or to an unregulated practitioner.
- The delegating professional is accountable for the decision to delegate.

# Key Features of the RHPA

## **Protection of Title and Holding Out**

Professional titles are restricted, enabling the public to identify regulated professionals and to distinguish among regulated health professionals. For example, when the *Traditional Chinese Medicine Act, 2006* comes fully into force no person may use the titles “traditional Chinese medicine practitioner” or “acupuncturist” unless they are a member of the new College. Also, no person other than a member of the new College may hold themselves out as a person qualified to practise in Ontario as a TCM practitioner or acupuncturist or in a specialty of TCM. These restrictions are enforced by provincial offences provisions.

## **Harm Clause**

Prohibits anyone - unless a member of a regulated profession treating or advising within the scope of practice of their profession - from treating or advising a person with respect to his or her health when it is foreseeable that *serious physical harm* may result from the treatment or advice.

Will be changed from “serious physical harm” to “serious bodily harm”, which encompasses psychological harm, by June 4, 2009 or earlier.

# **Key Bodies in the Regulatory Framework**

- Minister of Health and Long-Term Care
- Health Profession Regulatory Colleges
- Health Professions Appeal and Review Board
- Health Professions Regulatory Advisory Council

# **Key Bodies in the Regulatory Framework**

## **The Minister of Health and Long-Term Care**

Designated responsibility for administration of the RHPA, including:

- ensuring professions are regulated and coordinated in the public interest
- that appropriate standards of practice are developed and maintained
- ensuring individuals are treated with sensitivity and respect
- individuals have access to services by health professions of their choice
- reviews regulations made by College Councils that are submitted for approval by the Lieutenant Governor in Council

## **The Health Professions Regulatory Advisory Council (HPRAC)**

Advises the Minister of Health and Long-Term Care on certain issues, including:

- whether unregulated professions should be regulated
- whether regulated professions unregulated
- or any matter referred by the Minister

# Key Bodies in the Regulatory Framework

## **The Health Professions Appeal and Review Board (HPARB)**

- HPARB is an arms-length, independent tribunal, reviewing certain decisions made by health regulatory college complaints or registration committees when a review or a hearing is required, e.g., by an applicant who has been refused a certificate of registration.

## **Health Regulatory Colleges**

- Govern health professions and the conduct of members in order to protect the public interest.
- Make regulations under profession-specific Acts (e.g., entry to practice requirements, professional misconduct), subject to approval by the Lieutenant Governor in Council and with prior review by the Minister.
- Health regulatory colleges are the key decision makers.

# Key Functions of Health Regulatory Colleges

## **Registration / Entry to Practice**

- Health colleges set the registration requirements for entry to the professions.
- Registration requirements are the primary method of assuring the public that a registered practitioner is competent to practice the profession.

## **Quality Assurance**

- Health colleges must have a program to assure the quality of practice of the profession and to promote the continuing competence of members.

# **Key Functions of Health Regulatory Colleges**

## **Standards of Practice**

- Colleges develop standards of practice that establish how health professionals do their jobs in an effective, safe and ethical manner.
- Members of health professions are legally obliged to adhere to standards of practice.

## **Professional Misconduct**

- Professional misconduct is the act of failing to do something, or doing something that is a breach of accepted ethical or professional behaviour.

## **Complaint and Discipline Processes**

- Colleges must investigate any written complaint made about a member's practice.
- If a complaint is determined to be substantiated the member may be referred to discipline where significant penalties may be imposed on the member.

# Transitional Council

## **Transitional Council Responsibilities**

Transitional Councils are responsible for establishing the new Colleges, including creating core regulations, policies, and by-laws and putting in place the business practices and infrastructure necessary for the College to operate and fulfil its mandate to protect the public interest. More specifically, the transitional Councils will be responsible for, among other things:

- establishing accountability agreements with the ministry;
- establishing core business processes to establish operating organizations,
- developing policies and by-laws for initial start up (e.g., fees, data collection, composition of statutory committees);
- developing and submitting to the ministry essential regulation proposals needed to fulfil the Colleges' statutory mandate (e.g., registration, professional misconduct);

# Transitional Council

## Transitional Council Responsibilities (cont.)

- considering whether a grandparenting process would be appropriate and if yes, developing such a process and any applicable or necessary regulations to administer it;
- developing communication programs to advise those practising the professions about regulation and registration; and
- assessing and registering members.

# Transitional Councils and Registrars

## **Application Process for Appointments**

The application process for transitional Council members and transitional Registrars has not yet been determined, but may follow the process used recently for the new TCM college:

- Advertised on Public Appointments Secretariat's website, ministry website and in selected newspapers inviting applications from individuals with certain competencies
- Sought Council members with clinical or academic experience; experts in health professional regulation, the health sector or public administration; or demonstrated interest/experience in public service
- Ministry reviewed and assessed applications for transitional Council members and transitional Registrar

# Transitional Councils and Registrars

## Application Process for Appointments (cont.)

- Followed established government processes respecting Orders-in-Council currently used for other public appointees
- Selected candidates recommended by minister are subject to background checks
- Appointments made by the Lieutenant Governor-in-Council are for a specified term
- Entire process may take three to four months or longer from advertisement to appointment
- Important to note that no single organization will become the transitional Council

# Transition Milestones

**Royal Assent**  
June 4, 2007

## **Transitional Council Appointed**

- positions advertised
- applications screened
- interviews conducted
- transitional council appointed

## **Regulations**

-developed and submitted to ministry for review/approval.  
(e.g. registration, professional misconduct, etc.)

## **By-laws**

-developed by transitional Council  
(e.g. fees, terms of office, etc.)

**Receive Applications, Assess, Register Members**

**Proclamation (entire Act)**

**College  
Established**

**The length of the process from the time the transitional Council is appointed to proclamation of the entire Act may be 2 to 3 years, or longer**

# *Health System Improvements Act, 2007*

The *Health System Improvements Act, 2007*, which received Royal Assent on June 4, 2007, amended existing health legislation to:

- Support *HealthForceOntario* (the province's HHR strategy) strategy;
- Increase public protection and confidence in health professional regulation by improving the effectiveness, efficiency and transparency of the RHPA;
- Strengthen the accountability of health regulatory Colleges;
- Increase public access to, and understanding of, the health profession regulatory process;
- Increase efficiency/transparency in complaints & discipline, incapacity & Quality Assurance processes of health regulatory colleges;
- Increase protections against harm and abuse; and
- Regulate four additional professions under the RHPA (homeopathy, kinesiology, naturopathy and psychotherapy).

# Conclusion

## *Regulated Health Professions Act, 1991*

- Public protection is a primary goal
- Provides strong protection from harm and a focus on promotion of quality care
- Establishes a consistent regulatory approach across health professions
- Balances autonomy of health professions with accountability to the public
- Balances autonomy of health professions with responsibility of government

# Looking for additional information?

Ontario government website: [www.ontario.ca](http://www.ontario.ca)

Ontario legislation/regulations: [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca)

Federation of Health Regulatory Colleges of Ontario: [www.regulatedhealthprofessions.on.ca](http://www.regulatedhealthprofessions.on.ca)

Health Professions Regulatory Advisory Council: [www.hprac.on.ca](http://www.hprac.on.ca)

Health Professions Appeal and Review Board: [www.hparb.on.ca](http://www.hparb.on.ca)