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College of Physiotherapists of Ontario

Response to HPRAC Referral on Interprofessional Collaboration among Health Colleges and Professionals

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Introduction

Interprofessional collaborative patient care (IPC) is at the heart of multiple government and provider strategies - touching on the full continuum from system design to point of care. Within that dialogue structures (such as regulatory Colleges and the RHPA) which support IPC generally are receiving attention. Questions as to whether action to date by regulators is wide enough and deep enough have been raised.

HPRAC brought attention to IPC and more specifically regulatory IPC (RIPC) in its New Directions report in 2006. HPRAC continues to shape this debate and discussion in its current consultation. The College welcomes this opportunity and is pleased to participate.

The College is very committed to collaborative activity. Our commitment is demonstrated in numerous ways, not the least of which is the high level of involvement that the College has demonstrated in this activity for many years, both under the auspices of the Federation of Health Regulatory Colleges and with other regulators beyond the scope of the Federation and Ontario.

Further evidence of this is the College's 2007-2010 Strategic Framework. One of the two primary objectives focuses on promoting health outcomes through advancing interprofessional collaboration. Several tactics and resources have been dedicated to this initiative.

In participating in this review, the College will offer some high level contributions for HPRAC's consideration of this important issue, and some practical recommendations for change where these have been identified.

To better understand the College submission, the reader may wish to note that following points. The College believes that some stakeholders have suggested that health colleges or the legislation they work under in some way hinders collaboration among professions. The College hopes that HPRAC will, in this course of this review, work hard to dispel the myth that professional regulation in Ontario inhibits collaborative practice and/or regulation of health professionals.

The College also hopes that HPRAC's work will recognize that there are some variations in the way that professions collaborate and that a model for regulatory collaboration can and must embrace some of these distinctions.

Finally, the College would like to emphasize that the changed objects of the colleges in Section 2 of the Health Professions Procedural Code are intended to further promote RIPC and are not yet in effect. It will be important to consider whether these changes might in themselves be sufficient to promote greater collaboration amongst colleges. It might be very valuable to allow the direction of the changed objects gain momentum before other significant structural changes to the RHPA are made.

Thank you for the opportunity to make a submission on this important matter.
The College hopes that the following comments are valuable.

Scope of Referral/Defining Interprofessional Collaboration

To assist respondents to understand the Minister's referral on Interprofessional Collaboration among Health Colleges and Professionals, HPRAC has offered its interpretation of key aspects of the Minister's referral.

HPRAC suggests that in the context of this referral, initiatives related to promoting interprofessional collaboration (IPC) should be directed to finding ways to assist health regulatory colleges and their members to work collaboratively, rather than competitively, and to learn from and about each other through a process of mutual respect and shared knowledge to:

- Improve patient care and facilitate better results for patients;
- Protect the public interest; and ensure the highest standards of professional conduct and patient safety;
- Regulate the health professions in a manner that maximizes collective resources effectively and efficiently, while protecting the public interest;
- Optimize the skills and competencies of diverse health care professionals to enhance access to high quality and safe services;
- Ensure access to high quality and safe services no matter which health profession is responsible for delivering care or treatment, and
- Enhance scopes of practice to ensure that all regulated health professionals work to their maximum competence and capability.

HPRAC also suggests that strengthening collaboration between and among the health regulatory colleges should be grounded in the following underlying principles:

- The responsibility to meet the public's expectations for improved access to high quality, safe services and patient-centred care;
- Optimizing the contribution of all health professionals, and
- Maintaining self-regulation.

It is interesting to note that HPRAC's first question is a request for respondents to comment on its interpretation of how the Minister's referral should be understood. Are there elements that should be added or removed? If so, what are they?

In order to provide a context for its submission, the College has determined that HPRAC's interpretation is generally consistent with the core assumptions of the College that are used to guide the College response, although some of the elements in this interpretation seem to be more focused on the outcomes of IPC related to patient care rather than regulatory collaboration.

With this in mind, during the course of its discussions on the importance of interprofessional collaboration, the College identified additional points that it believed were important to understand in the context of its submission:

- The key focus of this review is regulatory interprofessional collaboration (RIPC) among colleges, not clinical practice IPC and while these are ideas are often closely intertwined, it is important to keep them distinct in the context of this review
- The College's current strategic framework provides strong support for both RIPC and IPC and is focused on ensuring that collaborative activities promote better outcomes
- The RHPA changes (most significantly the changed objects of the colleges in section 2 of the Health Professions Procedural Code) intended to further promote RIPC are not yet in effect.

Eliminating the Barriers to Collaboration among the Colleges

HPRAC's first section of discussion appears intended to identify the barriers that inhibit regulatory interprofessional collaboration (RIPC) among professions.

In considering this general question of barriers, rather than the individual discussion questions in this section of the Discussion Guide, the College has identified a number of issues that may, in some circumstances inhibit RIPC.

Barriers to the approval of College regulations

One of the most significant barriers to effective RIPC is the current regulation making process. The process as it is now operationalized significantly inhibits colleges' ability to coordinate their regulatory approach to matters of common concern. Among the major problems associated with the process are:

First, the very significant time that it can take for a regulation to be approved. While there may be exceptions to the general rule, in the experience of this College, it takes a minimum of two years for any regulation to be approved. Other colleges reports similar experiences. Not only does this significant delay impair a college's ability to regulate its members, it also results in the regulation typically being out of date even before it can be approved. These kinds of time lines also impair the ability of colleges to engage in the development of regulations that would facilitate RIPC because the time lines are just too long to address current issues.

Second, there is a problem with developing consistent rules for colleges, especially regulations. Government lawyers do not seem to support consistent language in such regulations and colleges report a significant degree of difficulty in convincing the government of the benefits from using consistent language in college regulations when requested to do so. Based on the experience of this College the government will not typically support consistent wording in regulations.

For example, when this College proposed to use some of the same wording that was used in a recently approved professional misconduct regulation from another profession to deal with the same issue in this profession, this College was informed that the use of such wording in another regulation was not considered sufficient justification and other justifications for the use of this wording were required. The apparent unwillingness of government to facilitate the use of consistent regulatory language undermines the ability of RIPC by complicating the interpretation of regulations that are often intended to enact similar if not identical regulatory protections for the public.

These and similar problems with the current regulation making process lead the College to recommend that colleges be given a form of direct rule-making authority.

While there are a number of ways this could be accomplished, the College is of the view that one effective method would be to give all colleges the authority to develop legally binding administrative rules.

Like regulations, to which they are closely related, administrative rules have the force and effect of law and would normally be subject to a review process prior to coming into effect. Administrative rules typically include the standards that are adopted by an agency to implement or interpret a statute that is enforced or administered by the agency.

To ensure accountability and public protection, the development of administrative rules should incorporate some oversight mechanism by the Minister of Health and Long-Term Care. However, given the current issues with the regulation making process, it is to be hoped that the review process would not be the same as that currently required by the regulation making process.

In this context the College would recommend that the Minister be given an opportunity to review a proposed rule. If no concern was identified in a given period of time, then the rule would be enacted. Similar models are used by other regulatory agencies, for example, the Ontario Securities Commission.

The College would be pleased to work with HPRAC and/or the Ministry of Health and Long-Term Care to assist in the development of a model of administrative rule making that would protect the public interest and meet the accountability needs of both government and colleges.

Recommendation

Provide Colleges with the authority to develop legally binding administrative rules.

Statutory Barriers to joint College investigations

The RHPA contains very few practical barriers that limit the ability of colleges to collaborate for regulatory purposes.

The exception to this general rule are some very specific provisions in the RHPA that do act as barriers to collaboration among college to achieve the outcomes that HPRAC discusses in the context of its definition of interprofessional investigations.

Confidentiality

Recent changes to the RHPA in section 36, respecting confidentiality, have clarified that colleges are able share information to other bodies that regulate professions. These changes have increased the ability of colleges to engage in RIPC for the purposes of conducting investigations but they do not specifically mention the need to share information for investigative purposes in collaborative investigations.

Despite these improvements, this provision is still a cause of concern because it does not address the fact that the scope of any two colleges' investigation is unlikely to be identical. So, extreme care must be taken to ensure that information extraneous to the collaborative investigation is not inadvertently shared.

Recommendation

Clarify, through statutory change, that information may be shared specifically for the purpose of collaborative investigations with the recognition that no two investigations are completely identical.

Timing of investigations

Another barrier that may inhibit joint investigations is that colleges may become aware of concerns about members of their respective professions at different points in time. This makes the RHPA's provisions relating to the timing of investigations very difficult to coordinate.

For example one college may begin an investigation about a member's practice. After some time, the college may realize that the issue arises in conjunction with the practice of another health professional. The college of this professional might then be asked if they wish to participate in a joint investigation. While they may desire to participate, the RHPA contains provisions around timing that serve as a barrier to the coordination of joint investigations in these circumstances.

The first is the statutory requirements for timely disposal of the matter (section 28 of the Code). In the current Code a college is supposed to dispose of a matter within 120 days. This can become a grave barrier if a college is attempting to coordinate the investigation of a matter with another college.

While forthcoming changes to section 28 will go some way to assist by extending the time period to 150 days and incorporating statutory provisions to deal with delays, these changes still do not fully address the difficulties. This challenge is exacerbated because the matters that typically require collaborative college

investigation are often very complex and time consuming to investigate appropriately.

Notice to member

A third statutory requirement that may have a significant potential to serve as a barrier to collaborative investigations is the forthcoming obligation in section 25(5) for colleges to notify members within 14 days of the receipt of the complaint or report that prompts an investigation.

The concern with respect to this new obligation, which will come into effect in June 2009, is that it will undermine the success of collaborative investigations.

This may happen because the notice requirement will do exactly what it is intended do – give notice of the intent of a college to investigate. While this is reasonable in many circumstances, in the case of collusion amongst multiple health professionals of multiple health professions to engage in inappropriate conduct such as billing for services not provided, the notice may be a real problem. It will serve to give an opportunity for those in collusion with the person who receives the notice to take steps to minimize their apparent involvement through the destruction of records or similar activities. Here again, unless the coordination among colleges is essentially perfect, the notice requirement will undermine the ability of colleges to conduct successful investigations in those admittedly few but often serious cases where interference with evidence might occur.

In the context of all three of these issues, the College is of the view that simplest solution might be to add a provision to the RHPA that makes it explicit that collaborative investigations are permitted. Such a provision might also include additional clarification that in circumstances of formal collaborative investigations, the provisions that would inhibit such investigation are relaxed.

Recommendation

Add a provision to the RHPA that makes it explicit that collaborative investigations are permitted. This provision should also include additional clarification that in circumstances of formal collaborative investigations, time limits and notice periods that inhibit such investigation are relaxed or extended.

Developing Enablers for Collaboration among the Colleges

How should IPC be promoted?

The College is of the view that RIPC would be enabled if government were to act on the recommendations made above. However these recommendations are very specific ones and are intended to address particular problems that inhibit specific barriers to RIPC rather than enable collaboration as a whole.

To be fully enabled, RIPC needs to be fostered, maintained and facilitated. The College believes that colleges should be determining the activities and processes that would relate to any facilitated collaboration mechanism (structures, processes, rules, and the role of the Minister). The colleges have been participating in RIPC through the Federation of Health Regulatory Colleges for many years and have had considerable success in doing so.

With the support of government, the College believes that the Federation could do even more. This is particularly true when the projects that need to be addressed relate are large, multifaceted and expensive to implement or in the rare circumstances where colleges may find it difficult to agree on the best way to collaborate.

The first step might be to facilitate voluntary collaboration by which is simply meant encouraging the incorporation of the RHPA's new collaborative objects into colleges' activities. Given colleges' current deep involvement in RIPC activities through the Federation and in other ways, when the objects come into effect, they may encourage this even further. The College believes that some patience is needed to allow these new requirements to be incorporated into college activities and a component of this implementation process might be for government to engage in dialogue with colleges to facilitate common understanding of these new objects .

Another initiative that might be facilitated with government support is "incentive-based collaboration". The College believes that collaboration is typically more successful when it is encouraged rather than simply mandated. In this context, HPRAC and the Ministry of Health and Long-Term Care might wish to consider partnering with colleges to identify things that could be done to encourage collaboration. Such "incentives" might take a variety of forms. One idea might be to accelerate the consideration of college regulations when they have been developed among two or more colleges to facilitate collaborative regulation of these professions.

Finally in the interest of seeking improvement to RIPC initiatives, the College believes that a key component of this process will be the need to develop outcome measures and reporting mechanisms that will enable the colleges to assess the success of collaborative activities and report on them. Here again the College suggests that partnerships with HPRAC/MOHLTC to develop outcome measures and reporting processes would encourage colleges in this regard.

Recommendation

Facilitate additional RIPC by encouraging government to work collaboratively with the Federation to:

- *promote collective understanding and integration of the revised objects in the RHPA*
- *develop and implement incentives within the regulatory system that would promote RIPC, and*
- *develop outcome measures and reporting process to measure RIPC.*

Structural Mechanisms

Should there be an additional oversight function/agency to promote IPC?

As noted above the College is of the view that the Federation's significant history of facilitating RIPC should be built on. The College believes that building on such success would be a more efficient method of promoting RIPC than establishing a new agency or expanding the role of an existing agency to undertake this activity. Here again the College suggests that patience is needed to assess the impact of the new college objects that are intended to promote RIPC.

Given that the Federation already has the promotion of college collaboration within its mandate, the College is of the view that creating additional bureaucratic structures to duplicate this work would be inefficient. As such the College does not believe that any additional oversight function or agency to support IPC is needed.

Joint disciplinary processes

With respect to joint disciplinary processes, the College is not convinced of the utility of this approach.

The College notes that HPRAC has indicated that one of the guiding principles underlying this review is that colleges should maintain self regulation. In the view of most colleges and their members, this means regulation by ones' peers. In other words, it is the responsibility of the members of the profession being regulated (with appropriate input from the public).

To date the College is not aware that any evidence has been uncovered that suggests that self regulation is no longer a viable model of professional discipline. In particular the College did not note that any such evidence was presented in either the Consultation Discussion Guide or the Literature Review.

It is also worth noting that there are also practical challenges to this kind of joint regulation. Not the least of these challenges is the obligation that colleges have through common law and statute to ensure that the interests of both members of the public and their members are fairly represented in the discipline process. In this context, a model of joint regulation that is shared among professions may cause concerns, particularly in circumstances where a college's ability to assess the conduct of a member of the profession by his or her peers is undermined.

With this in mind, the College does not support HPRAC's suggestion that colleges might pursue joint professional disciplinary processes. The College believes that for regulation to be truly self-regulation, the decision-makers must include members of the profession and members of the public and bringing

members of other professions into the process is not consistent with this tenant.

Collaboration in Quality Assurance

With respect to collaboration in quality assurance, the College does support HPRAC's recommendation that Quality Assurance committees should have some mandate to address collaborative practice. In this context, the College believes that government and colleges should work together to ascertain how such a mandate could best be enacted.

Whatever mandate is considered the College believes that it should be principle-based rather than rule based – that is to say, RIPC in the context of QA should encourage better understanding and the use of similar tools but it should recognize the differences between professions and practice contexts and thereby permit some diversity in approach.

Areas that might be worthy of further consideration include:

- The development of consistent principles of evaluation that might apply to relevant colleges' QA/QM processes. Consistent principles would not require all colleges to assess quality in the same way but might help to assure that both members of the public and the professions understood the intent of and the goals for such programs.
- The identification and development of core IPC competencies common to all professions that could then be assessed in college quality assurance processes.
- The development of data repositories of issues identified in multiple professions' QM programs as this would be might be useful for assessing changing trends and allowing early responses to such trends.

Standards of Practice and Professional Practice Guidelines

In the context of HPRAC's discussion of the benefit of the development of standards applicable to multiple professions where the development of such standards is facilitated by a body at arms length from regulators, the College has some concerns about such a model.

As noted above, the College does support the facilitation of further collaborative work among colleges by an agency like the Federation. While the exact breadth of such collaborative activities is not defined, it may be conceivable that the development of standards could be considered in this context. However the College is not supportive of an agency whose mandate would require colleges to come together for this specific purpose. Not only must collaboration be voluntary to succeed, it is best facilitated by those who understand both the practical

benefits and challenges with developing consistent expectations across multiple professions.

For example the Federation success in developing cross-professional tools to assist health professions in better complying with regulatory expectations around the delegation of controlled acts indicates the Federation's capacity for this very complex work.

College Autonomy, Authority and Accountability

In prior sections of this submission the College has noted the importance of ensuring the principles of self regulation are maintained by maintaining college autonomy in professional conduct matters. The submission has also made a number of specific requests for additional authority mechanisms that the College believes will support improved RIPC.

Some further changes are also needed to promote accountability in the context of RIPC. This College is in general agreement with the view that “if it is not measured, then it cannot be improved”. In this context, this College has taken considerable steps to institute performance measurement processes into its activities and to publicly report upon these outcome measures. The College’s decision to use a balanced scorecard approach to performance reporting demonstrates its commitment to public accountability.

With this in mind the College envisions that similar types of performance measures and reporting could be instituted to demonstrate college participation in and accountability for RIPC.

Here again the College believes that the most appropriate forum for this work would be the Federation. While government may provide input into the kinds of RIPC measures it is interested in it must ultimately be up to the Federation and its member colleges to participate in RIPC, to measure their activities and to report publicly upon them.

Recommendation

Government financial aids assist the Federation to:

- *track data related to participation in and outcomes of RIPC*
- *report publicly upon this data to promote accountability and transparency of college activity in this area.*

Interprofessional Care at the Clinical Level

When considering IPC at the clinical level the College is grounding its consideration of these issues in the two components of the HPRAC IPC definition that speak to optimizing the skills and competencies of diverse health care professionals to enhance access to high quality and safe services and ensuring access to high quality and safe services no matter which health profession is responsible for delivering care or treatment.

To address these concerns properly and to promote true collaborative practice at the interface of the patient and the caregiver, colleges would appear to have some role in both promoting IPC at the clinical level and addressing statutory barriers that limit IPC at the clinical level.

Role of College in promoting IPC at the clinical level

In the view of the College, there is a relationship between collaborative practice and evolving practice. Collaborative health care environments tend to drive health professionals to expand their healthcare activities to the limits of their current competencies, scopes and authorized activities.

The underlying need for such expansion is typically the desire of health professionals to meet the needs of their patients and the setup in where they work. Patients and/or healthcare administrators are often actively seeking this kind of practice expansion. With this in mind colleges should assist their members to fill the needs and expectations of the public and the system, and should facilitate the expansion of practice activities within the scope of practice of the profession and within areas of professional competence.

Statutory enablers for IPC at the clinical level

The expansion of the activities of the members of a profession needs to be recognized in the statutory tools used by regulators which may require clarifications in scope of practice statements and additional authorized acts. The College believes that the legislation that governs health professionals should not impose barriers to health professionals engaging in collaborative practice from working to the full extent of their scopes and competencies and should promote professional accountability

For example, the restrictions on who can perform controlled acts limit true collaborative practice when they require health professionals who have specific competencies to refer their patients to another health professional for the same matter.

To address these concerns properly and to promote true collaborative practice at the interface of the patient and the caregiver, changes to these and similar statutory barriers may be needed.

The College believes that mechanisms to address this problem can and should be developed. Since the major concern relates to the need to ensure that the scope of practice and the authorized acts for each profession reflect its current members' competencies and practice activities, the College believes that a process should be built into the legislative model to require that such reviews be periodically conducted. The College believes that HPRAC, given its current mandate and expertise in conducting such reviews, should be the agency charged by statute to fill this need.

Recommendation

Expand HPRAC's statutory duties to require it to conduct a periodic review of the scope of practice and authorized acts for each regulated health profession and recommend legislative change associated with the outcome of these reviews.

Summary and List of College Recommendations

In this submission the College has offered its views as to what barriers currently exist for interprofessional collaboration for regulatory purposes and what might be done to enhance this activity.

Regarding legal barriers, one key legal problem is the unreasonable delays that colleges face in having their regulations approved. The College believes that a solution to this problem may be found by giving colleges the authority to develop legally binding administrative rules. Respecting the RHPA, the College believes that while the act does not contain general statutory barriers to interprofessional collaboration, some provisions relating to investigations may hinder joint college investigations, specifically the confidentiality provisions, the time limits on investigations and the requirement for notice of investigations. These barriers to collaborative investigations should be addressed.

To promote interprofessional collaboration the College believes that time should be given for the revised objects for colleges to be implemented and integrated into college activities. Collaboration should be facilitated by promoting common understanding of the new obligations and by using incentives to encourage participation in collaborative activities. Developing collaborative outcome measures and reporting on them will also help colleges to integrate collaborative activities.

Regarding the promotion of collaboration through additional oversight by an external agency or through joint investigations, the College has considerable reservations about such activities. Instead the College would suggest that quality assurance and standards development activities might be collaborative activities to be encouraged and supported providing this was done under the auspices of the Federation of Health Regulatory Colleges and not some external agency.

Finally the College notes the importance of facilitating interprofessional collaboration at the clinical level. The College suggests that legal barriers that hinder professionals from practicing to their full range of competence be addressed by periodic reviews of scopes of practice and authorized acts for all professions.

In the context of these comments, the College makes some specific recommendations for HPRAC to consider. The College is hopeful that both this submission and the recommendations within it are useful and would be pleased to provide additional information on any matter it has raised. The College is eager to play an active role in strategic discussion related to collaboration toward safe, quality patient care.

College Recommendations

1. Provide Colleges with the authority to develop legally binding administrative rules.
2. Clarify, through statutory change, that information may be shared specifically for the purpose of collaborative investigations with the recognition that no two investigations are completely identical.
3. Add a provision to the RHPA that makes it explicit that collaborative investigations are permitted. This provision should also include additional clarification that in circumstances of formal collaborative investigations, time limits and notice periods that inhibit such investigation are relaxed or extended.
4. Facilitate additional RIPC by encouraging government to work collaboratively with the Federation to:
 - promote collective understanding and integration of the revised objects in the RHPA
 - develop and implement incentives within the regulatory system that would promote RIPC, and
 - develop outcome measures and reporting process to measure RIPC.
5. Government financial aids assist the Federation to:
 - track data related to participation in and outcomes of RIPC
 - report publicly upon this data to promote accountability and transparency of college activity in this area.
6. Expand HPRAC's statutory duties to require it to conduct a periodic review of the scope of practice and authorized acts for each regulated health profession and recommend legislative change associated with the outcome of these reviews.

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