

**REVIEW OF A PROFESSIONAL
SCOPE OF PRACTICE
UNDER THE *REGULATED
HEALTH PROFESSIONS ACT***

1. Definition
2. The Review Process

Health Professions Regulatory Advisory Council
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1. CONTEXT FOR THE REVIEW

In its April, 2006 report *New Directions*, HPRAC acknowledged that changes in technology and communications, along with advances in clinical practice and pharmaceutical care have revolutionized the way health care is delivered, consumed and managed in Ontario since the introduction of the *Regulated Health Professions Act, 1991*. The report also recognized the increasing demands placed on professionals to keep pace with an ever-changing health care delivery system and acknowledged that these demands must be met by developing new competencies. HPRAC also notes that pressing health human resource issues requires that each profession to work to the full extent of its scope of practice.

In recent reports, both the Institute of Medicine¹ and the Pew Health Professions Commission² concluded that:

- the purpose of regulation – public protection – should have top priority in scope of practice decisions, rather than professional self-interest
- changes in scope of practice are inherent in our current healthcare system
- collaboration between health care providers should be the professional norm
- overlap in professional scopes of practice is necessary
- professional legislation should require licensees or registrants to demonstrate that they have the requisite training and competence to provide a service

More recently, the Conference Board of Canada has provided recommendations to support broader adoption of interdisciplinary, collaborative models of care.³

It is within this context that HPRAC will undertake a review of a profession's scope of practice under the *RHPA* and make its recommendations to the Minister of Health and Long-Term Care.

2. WHAT IS A SCOPE OF PRACTICE?

The Health Council of Canada noted in November, 2005 that “after reviewing legislation, regulations, policy statements and position papers, a number of interpretations and extrapolations regarding scope of practice appear to emerge. What is clear is that the scope of a profession cannot adequately be found in one document. The extrapolated interpretations offered from several sources include:

¹ *Crossing the Quality Chasm: A New Health System for the 21st Century*. The Institute of Medicine, National Academy Press, 2001.

² *Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century*, Report of the Pew Health Professions Commissions' s Taskforce on Health Care Workforce Regulation, December 1995.

³ *Achieving Public Protection through Collaborative Self-regulation: Reflections for a New Paradigm*, Report from the Conference Board of Canada, April, 2007

- How professionals are defined – who can call themselves a member of the profession, i.e. the eligibility requirements;
- What professionals are trained to do;
- What professionals are authorized to do by legislation;
- What professionals actually do;
- How a professional does what he/she does (standards of practice that usually outline the knowledge, skill, judgment and attitudes necessary for safe practice, including accountabilities and responsibilities);
- What others expect a profession can do (i.e. delegation).”⁴

Within the Ontario health professions’ regulatory framework, a scope of practice is defined as having four key elements:

- A scope of practice statement;
- Controlled and authorized acts;
- The harm clause;
- Title protections.⁵

The term “Scope of Practice” may also be used by regulatory agencies that register health professionals to define the procedures, actions, and processes that are permitted for a registered individual. The scope of practice is usually limited to that which individuals have received through education and clinical experience, and in which they have demonstrated competency. Each jurisdiction has specific regulations based on entry education as well as additional training and practice.

When examining a profession’s scope of practice, HPRAC takes the following elements into consideration:

- **The scope of practice statement;**
- **Controlled or authorized acts granted to the profession;**
- **The harm clause;**
- **Title protections;**
- **Exemptions or exceptions under the *Regulated Health Professions Act* that may apply to the profession;**
- **Other legislation that may affect the profession;**
- **Relevant regulations developed under the profession’s own profession-specific Act; and**
- **Standards of practice, guidelines, policies and by-laws developed by the regulatory College.**

All of these elements determine the profession’s scope of practice.

⁴ Health Council of Canada, *A Review of Scopes of Practice of Health Professions in Canada: A Balancing Act*, November 2005, p. 7.

⁵ Bohnen, Linda *Guide to the RHPA*, 1994

3. THE REVIEW PROCESS

INTRODUCTION

Under the *Regulated Health Professions Act*, the Health Professions Regulatory Advisory Council (HPRAC) provides advice to the Minister of Health and Long-Term Care regarding the regulation of health professions in Ontario. HPRAC is committed to ensuring that its processes are thorough, timely and efficient, and that they take into account principles of fairness, transparency, efficiency; and evidence-based decision making.

Its conclusions are evidence-based, and its research is broad-based and in particular, draws on the expertise and involvement of organizations and individuals with an interest and experience in the matters under consideration, both in Ontario and in other jurisdictions.

The scope of matters that need to be considered on specific projects determines the type of consultations that will be used to assist HPRAC in formulating advice to the Minister. Through its consultations, HPRAC explores a range of issues, options and best practices that it considers in preparing its advice.

Examples of the consultative processes that HPRAC might choose include: workshops, discussion papers, focus groups, public hearings, public meetings, calls for briefs and submissions, key informant interviews, expert panels, and public opinion surveys. In addition, the Advisory Council may conduct independent research into health law policy, jurisdictional experience, jurisprudence and other matters. Some or all of these approaches may be used in any particular project. When the Minister has referred a question to HPRAC, on occasion, the Council may discover through its inquiries that its advice must include the exploration of relevant matters beyond the original question posed by the Minister.

HPRAC is guided by several considerations in determining appropriate public consultation processes to be used in the preparation of advice to the Minister. They include:

- The scope of the issues raised in the question to be reviewed;
- The range of stakeholders involved, and the resources they can commit to responding to the question;
- The resources available for consultation, and the timeline for the consultation process;
- The objective of consultation (for example, to inform, gather information, test options, identify new options); and
- Statutory requirements of the *Regulated Health Professions Act*.

The general approach taken by HPRAC is outlined in the following section; however, the circumstances surrounding the preparation of advice to the Minister on a particular issue may warrant changes to the process. Notices of specific consultative processes and timelines that will be used to review a profession's scope of practice are posted on the project page on HPRAC's website (www.hprac.org).

THE PROCESS

1. A request to change a scope of practice of a profession under the *Regulated Health Professions Act (RHPA, 1991)* can be made in writing to the Minister of Health and Long-Term Care. The request should include a concise rationale for a change in the scope of practice of a profession and a request that the Minister refer the matter to HPRAC. A copy of the letter should be sent to the Advisory Council.

In some circumstances, the Minister may directly request that HPRAC undertake a review of a profession's scope of practice and that the Advisory Council make recommendations responding to that request.

2. If the Minister refers the question to HPRAC, the Council will provide the applicant with a document package, including standard questions along with others that are relevant, either to the specific issue raised by the Minister, or that HPRAC believes are necessary. These documents include a description of the criteria and a series of questions. The response to this package must be completed and submitted by a specified date, and will be posted on the HPRAC website.

The Advisory Council may arrange a subsequent information meeting with the applicants and other interested parties to discuss the timeframe and other project management issues. Minutes from this meeting will be prepared and circulated by HPRAC.

3. If similar or related professions are involved in consideration of the issue, the Council will use its discretion and may review implications for these professions. Participants will be informed, to the extent possible, that HPRAC intends to combine projects where there is an overlap of issues to be considered.
4. Notice of opportunities for public participation in the Advisory Council's review of the matter may be published in the newspaper(s) used for government notice, as well as through the Advisory Council's mailing list. HPRAC will also post the notices on its website. Notices will also be placed in other publications or media where warranted.

5. Following notice, individuals or organizations interested in the issue should inform the Advisory Council that they wish to participate in the review process. This can be done by telephone, fax, e-mail or through HPRAC's website. Participants can also register for regular email updates concerning the project through HPRAC's website.
6. All participants will be notified that the applicant's response to the questionnaire has been posted on HPRAC's website and those with an interest in the matter will be provided with a hard copy of the material on request.

At the same time, participants will be informed of HPRAC's review process including the deadline for written submissions and the method of distribution of submissions to other participants. This information will also be posted on HPRAC's website.

7. All participants must consent that any written submissions provided to HPRAC will be posted on HPRAC's website. HPRAC reserves the right, because of its obligations under the *Freedom of Information and Protection of Privacy Act*, to remove personal identifiers from any submission before posting it on the website.
8. The purpose of written submissions is to comment on the change in scope of practice proposed for the profession and to respond to the completed questionnaire of the proposer. Written submissions may also contain information, with citations where possible, that the participant considers relevant to the question under consideration.
9. The applicant and all participants will have an opportunity to provide a written response to any of the submissions from others. These responses will be posted on HPRAC's website. Responses to submissions will be expected to further the analysis of the issue being considered, and to raise fresh material that may be helpful.
10. Following receipt, synthesis and analysis of all written submissions, the Advisory Council will determine whether public hearings or presentations are necessary, and participants will be asked to indicate if they are interested in making a public presentation.

An open presentation program (in addition to hearings designed for identified participants) may be offered to the public.

11. The purpose of public presentations is to enable participants to respond to issues raised in the written submissions, as well as to respond to specific questions of the Advisory Council.

12. Presenters at public meetings will be those invited by the Advisory Council and may be selected from among individuals who have indicated an interest in making a public presentation. HPRAC will determine the presentation proceedings, including setting the agenda and keeping presenters within time allotments. HPRAC will strive to achieve a balance in presenters.
13. Presentations will be held in open meetings unless issues involving public security or personal safety and health indicate to the Council that the public should be excluded. All presentations will be recorded.
14. Those individuals with disabilities who wish to participate in HPRAC's consultative processes are urged to contact HPRAC in advance of the date for consultations.
15. HPRAC may consult with experts, collect data, carry out literature and jurisdictional reviews or use any other process for obtaining information it deems necessary to complete the review of an issue.
16. The Advisory Council will provide a timeline for the receipt and posting of supplemental submissions containing information relevant to the applications following the presentations.

ACCESS TO INFORMATION

Upon written request, the Advisory Council will provide copies of:

- Completed questionnaire packages;
- Submissions in response to the questionnaire packages;
- Submissions from any experts engaged in the process;
- Minutes from meetings with individuals/organizations participating in the review; and
- Supplemental submissions.

HPRAC is subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, including the protection of personal privacy.

FRENCH LANGUAGE SERVICES

Those individuals requiring French-language services to participate in HPRAC's consultative processes are urged to contact HPRAC in advance of the date for consultations.

RECOMMENDATIONS

The Advisory Council's recommendations will be based on its assessment of the profession's ability to meet the criteria for a change in its scope of practice, and the need for such a change.

HPRAC will present its recommendations in a report to the Minister of Health and Long-Term Care for consideration. This release of the report is at the discretion of the Minister.

HPRAC Criteria for Scope of Practice Review

When conducting a review of a profession's scope of practice under the *RHPA*, HPRAC will consider the following criteria:

1. Relevance to the Profession

The profession should demonstrate that the requested change in scope of practice is rationally related to the practice of the profession and to the qualifications and competencies of members of the profession. It should describe whether the proposed change to the scope of practice provides recognition and authority for existing competencies, or seeks to expand the scope of the practice of the profession.

2. Risk of Harm

If the proposed change in scope of practice presents an increased risk of harm to the public, the profession should demonstrate how it intends to mitigate that risk, and how the training and competencies of members of the profession provide assurance that patients or clients will be cared for within evidence-based best practices.

3. Relevance to the Health Care System and Relationship to other Professions

The profession should demonstrate that a change in the scope of practice is consistent with evolution in the health care delivery system, and particularly with changing dynamics between health professionals who work in integrated, team-based and collaborative care models.

4. Sufficiency of Supervision and Need for Autonomy

The profession should demonstrate that a change in the scope of practice is the most appropriate, effective and efficient means to provide clinical and

patient care services, that delegation or supervisory structures currently available are inadequate, and that the authority for independent or autonomous professional activity is required in the provision of patient care.

5. Body of Knowledge

The profession should show that there is a systematic body of knowledge within the profession to perform the activities being requested and that this change in role is broadly accepted within the profession.

6. Education and Accreditation

Members of the profession should demonstrate that they have, or will have, the knowledge, training, skills and experience necessary to carry out the duties and responsibilities involved in the proposed change in scope of practice. In addition, the profession should demonstrate that the education programs are appropriately accredited by an approved accreditation body.

7. Leadership's Ability to Favour the Public Interest

The profession's leadership should show that it will distinguish between the public interest and the profession's self-interest and will favour the public interest at all times.

8. Profession's Support and Willingness to Comply with Regulation

The profession should demonstrate that it supports the proposed change in scope of practice and that compliance with regulatory requirements is likely among its membership.

9. Economic Impact

The profession should demonstrate an understanding and appreciation of the economic impact of the proposed change in scope of practice for the profession, the public and the health care system.

10. Public Need

The profession should demonstrate that a significant public need would be met through the proposed change in scope of practice.