

NEW PROFESSION REGULATION UNDER THE RHPA

PROCESS & QUESTIONNAIRE

Prepared by:
HPRAC – Health Professions Regulatory Advisory
Council

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THE REVIEW PROCESS

INTRODUCTION

Under the *RHPA*, the Health Professions Regulatory Advisory Council (HPRAC) is given a broad mandate to "conduct its proceedings in the manner it considers appropriate." HPRAC is committed to conducting its proceedings in such a manner that is timely and efficient and allows for the best advice to the Minister of Health and Long-Term Care, based upon evidence that is available on the public record. In doing so, HPRAC is guided by the following principles: Fairness; Transparency; Efficiency; and Evidence-based decision making.

The terms of each individual referral from the Minister of Health and Long-Term Care will determine the need for, and type of, public consultation necessary in order to establish the public record. Examples of public consultations that HPRAC might use include workshops; discussion paper; focus groups; public hearings; public meetings; call for briefs/submissions; and public opinion surveys.

When the need arises to conduct public consultations as part of its review, HPRAC is guided by the following in determining the process used:

- The nature of the referral from the Minister and its priority;
- The scope of the issues raised in the Minister's referral;
- The range of stakeholders involved;
- The resources available for consultation;
- The objective of consultation (i.e., inform, gather information, test options, identify new options); and
- Any statutory requirements outlined in the *RHPA*.

In general, the following outlines the general approach taken by HPRAC. However, the circumstances surrounding a particular referral may warrant an alternation of the process. All parties will be given notice of any alterations from this standard process.

THE PROCESS

1. A request to regulate a profession under the *Regulated Health Professions Act (RHPA, 1991)* should be made in writing to the Minister of Health and Long-Term Care. The request should include a concise rationale for regulating the profession and a request for the Minister to refer the matter to the Advisory Council. A copy of the letter should be sent to the Advisory Council.
2. Following receipt of the Minister's referral, the Advisory Council may arrange a meeting with the applicants and/or other interested parties to discuss the timeframe and other process management issues. Prior to that meeting, HPRAC will provide the applicant and/or other interested parties with this package, together with any additional questions which have been raised in the Minister's Referral Letter or which HPRAC may decide to ask in light of the Referral Letter. These documents include a description of the criteria and a series of questions. The response to this package should be completed and submitted by a specified date. Minutes from any meeting that takes place will be available to all participants in the review.
3. Questionnaires about the same or related professions may be considered jointly by the Advisory Council, at its sole discretion.
4. Notice of the Advisory Council's review of the matter may be published in the newspaper(s) used for government notice, through the Advisory Council's mailing list and posted on the Advisory Council's website.
5. Notice of the review may be made in other publications or media where warranted.
6. Following notice, individuals or organizations interested in the review should inform the Advisory Council that they wish to participate in the review process.
7. All participants will be provided with a copy of the profession's completed questionnaire package and informed of the review process including the deadline for written submissions and the method of distribution of submissions to other participants.
8. The purpose of written submissions is to comment on the regulation of the profession in general and to respond to the completed questionnaire package.

9. The profession in question and all participants will be afforded an opportunity to provide a written response to any of the submissions from other participants.
10. Following receipt and analysis of all written submissions, the Advisory Council will inform participants whether public presentations are deemed necessary. Participants will be asked to indicate if they are interested in making a public presentation.
11. The purpose of public presentations is for participants to respond to issues raised in the written submissions of other participants and to respond to specific questions of the Advisory Council.
12. Public presentations will be at the invitation of the Advisory Council and will be selected from among those participants indicating an interest in presenting. The Advisory Council will control the presentation proceedings including setting the agenda and adhering to time allotments for presenters. The Advisory Council 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 suggest to the Advisory Council that the public should be excluded. All presentations will be recorded and transcribed.
14. Simultaneous translation, signing, large print, and other accommodation will be available on request. All public meetings will be held in wheelchair-accessible space.
15. The Advisory Council may consult with experts, collect data or conduct literature reviews or use any other process for obtaining information it deems necessary. The results of such investigations will be made public before the presentations or before the final deadline for submissions.
16. Persons or organizations with identified expertise may be invited, at the discretion of the Advisory Council, to make presentations. The Advisory Council will provide adequate notice to ensure that all may respond to these presentations.
17. The Advisory Council will consider supplemental submissions containing information relevant to the applications for up to two weeks following the presentations.

ACCESS TO INFORMATION

18. 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
 - Supplemental submissions
19. The Advisory Council 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.

RECOMMENDATIONS

20. The Advisory Council's recommendations will be based only on the Council's assessment of the profession's ability to meet the criteria for regulation.
21. The Advisory Council will present its recommendations in an Advisory Memorandum to the Minister of Health and Long-Term Care.
22. The Advisory Council's recommendations are and remain confidential until they are released by the Minister of Health and Long-Term Care.

Profession Information

Please answer the following questions:

1. Name of profession for which regulation under the *RHPA* is being sought
2. Name of the association/group/individual making the request (if applicable)
3. Address, website and e-mail address
4. Telephone and fax numbers
5. Contact person (including day telephone numbers)
6. List of other organizations in Ontario that represent practitioners in similar or related areas of health care (including address and contact person)
7. List other professions, organizations or individuals who could provide relevant information with respect to the practice of the profession

FOR ASSOCIATIONS

8. Names and positions of the directors and officers
9. Length of time the association has existed as a representative organization for the profession
10. List name(s) of any national or international association(s) for this profession with which the association is affiliated
11. Provide your association's:
 - Certificate of Incorporation
 - Constitution and bylaws

Criterion #1 – Risk of Harm

A substantial risk of physical, emotional or mental harm to individual patients/clients arises in the practice of the profession.

1. Define what practitioners of the profession do. Specify what diagnoses (if any) and assessments they make. Specify the treatment modalities and services they provide.
2. Specify the diagnostic tools, equipment and methods used by practitioners of the profession.
3. Specify areas of practice, treatment modalities, and services which are:
 - a) Performed exclusively by practitioners of the profession
 - b) Also performed by other regulated health professions
 - c) Also performed by other unregulated health professions
 - d) Performed in conjunction with other regulated health professions
 - i) Provide specific information about the nature and extent of any overlaps in practice with other health professions. *Include references to, and copies of, scientific literature and other published information.*
 - ii) Provide specific information about which treatment modalities and services provided by your practitioners differ from other health professions. *Include references to, and copies of, scientific literature and other published information.*
4. What professional titles do you recommend be restricted to members of your profession?
5. Specify the circumstances (if any) under which a member of the profession should be required to refer a patient/client to another health profession?
6. Specify which diagnoses/assessments, treatment modalities and services entail a risk of harm to patients/clients.
7. To what extent has the public's health, safety or well-being been endangered because your profession has not been regulated?
 - a) Provide examples of patients/clients being harmed by a practitioner who performed services incompetently or inappropriately. *Include references to, and copies of, scientific literature and other published information.*
 - b) How many complaints of harm to patients/clients has the association received each year for the past 10 years? How were complaints

handled? What were the outcomes? Provide supporting documentation.

8. How will regulation decrease the risk of significant harm of the profession's treatments/services to patients/clients?
9. What percentage of practitioners of the profession normally carries liability insurance coverage? Does the association urge its members to carry liability insurance coverage?

Criterion #2 – Sufficiency of Supervision

A significant number of members of the profession do not have the quality of their performance monitored effectively, either by supervisors in regulated institutions, by supervisors who are themselves regulated professionals, or by regulated professions who assign this professions' services.

1. Are practitioners of the profession directly or indirectly supervised in the performance of their duties and responsibilities by other regulated practitioners or administrators of regulated institutions? Which particular tasks/services, if any, are subject to a greater or lesser degree of supervision? Please explain how and why this supervisory relationship is no longer appropriate or adequate.
2. Are practitioners of the profession currently performing controlled acts under the delegation of regulated professionals? Please explain how and why this situation is no longer appropriate or adequate.

Criterion #3 – Alternative Regulatory Mechanism

Regulation under the RHPA must be a more appropriate means to regulate the profession than other means.

1. Are individuals who practise this profession in Ontario subject to regulation restrictions found in any other Act? Please specify.

2. Has the profession in question considered regulation as a distinct subsection within a profession already being regulated, and if so, have they rejected this route? If so, what were the reasons for rejection?
3. Has the profession in question considered joining other unregulated professions in a similar field who are or may seek regulation? If not, please explain why not.
4. Should self-regulation be determined not appropriate for the profession, what would be the most appropriate alternative form(s) of regulation? How might other applicable laws or existing standards meet the profession's needs?
5. What Acts in other Canadian, American and International jurisdictions regulate the profession? What is the statutory scope of practice in these jurisdictions?

Criterion #4 – Body of Knowledge

The members of this profession must call upon a distinctive, systematic body of knowledge in assessing, treating or serving their patients/clients. The core activities performed by members of this profession must be discernible as a clear and integrated whole and must be broadly accepted as such within the profession.

1. Describe the core body of knowledge of the profession.
2. Please provide a proposed scope of practice and relate it to this body of knowledge. *Include references to, and copies of, scientific literature and other published information.*

For the following question, provide the rationale for your position including relating each to the body of knowledge, educational preparation and standards of practice. Also include references to, and copies of, scientific literature and other published information providing evidence for your argument and rationale.

3. With respect to the proposed scope of practice statement:
 - a) What controlled acts (if any) should members of the profession be authorized to perform?

- b) What specific acts should practitioners be permitted to delegate to others? Specify the circumstances when members of the profession may choose to delegate.
- c) What diagnostic/treatment modalities and services should members of the profession be permitted to perform?
- d) What are the limitations of practice (if any) for members of the profession? Are there acts within this field of health care which practitioners should not perform? What diagnostic/assessment abilities, treatment modalities and services are not part of the scope of practice for members of the profession?
- e) If you are proposing a new controlled act, please describe whether this act would be exclusive to your profession or whether there are opportunities for sharing of the act. If there are opportunities for sharing, please describe any consultation that has taken place with other impacted regulators.

Criterion #5 – Educational Requirements for Entry to Practice

To enter the practice of the profession, the practitioner must successfully complete a post-secondary program offered by a recognized educational institution. The educational program must be available in Canada.

1. Does the professional association set standards of practice for diagnostic/treatment modalities and services based on the identified body of knowledge? Please explain. Are these standards enforced? Please explain. *Provide a copy of the standards of practice and ethical guidelines.*
2. Identify and describe the educational and clinical/practical training programs available in Ontario. Specify theoretical and clinical/practical experiences.
 - a) Describe how the profession's body of knowledge and approach to diagnostic/treatment modalities and services are taught in this program.
 - b) Relate the education and training to the diagnostic/assessment abilities, treatment modalities and services
 - c) What percentage of the practitioners of the profession has Ontario education and training?
 - d) What percentage of the members of the Association has Ontario education and training?

3. Identify and describe the Canadian, American and International academic education and clinical/practical training programs available to persons seeking to enter this profession. Specify theoretical and clinical/practical experiences.
 - a) Describe how the profession's body of knowledge and approach to diagnostic/treatment modalities and services are taught in these institutions.
 - b) Relate the education and training to the diagnostic/assessment abilities, treatment modalities and services
 - c) What percentage of the practitioners in the province has Canadian, American or International education and training?
 - d) What percentage of the members of the Association has Canadian, American or International education and training?
4. Identify and explain the major differences between programs in different jurisdictions.
5. What academic/vocational/technical education/training, post-graduate and continuing education/training is required by:
 - a) The association for membership
 - b) Employers
 - c) Other Canadian jurisdictions for registration by a regulating body
6. Do you contemplate levels of registration? Please explain.

Criterion #6 – Leadership's Ability to Favour the Public Interest

The profession's leadership has shown that it will distinguish between the public interest and the profession's self-interest and in self-regulating will favour the former over the latter.

1. Why is it in the public interest to regulate the profession?
2. Provide evidence of the profession's commitment to the public interest through its communications, policies and/or procedures.
3. Does the association have a complaints and disciplinary procedure? Please describe this briefly. How long has this procedure been in place? How effective has it been?

4. Explain how the proposed scope of practice is in the public interest and provides adequate public protection while not unduly restricting the public's choice of health care providers.

Criterion #7 – Membership support and willingness to be regulated and likelihood of complying with regulation

The members of the profession support self-regulation for themselves with sufficient numbers and commitment that widespread compliance is likely. The practitioners of the profession are sufficiently numerous to staff all committees of a governing body with committed members and are willing to accept the full costs of regulation. At the same time, the profession must be able to maintain a separate professional association.

1. Do the members of the profession/association want self-regulation? Please describe any consultation process and the response/results achieved.
2. Do the other organizations (if any) which represent practitioners in similar or related areas of health care agree with the need for regulation? Please explain and describe any consultation process undertaken with other related health professions. What were the responses/results achieved?
3. How many persons practice this profession in Ontario? How many of these practitioners belong to an association? Please provide independently assessed and verified figures, if possible.
4. Explain how members of the profession will be able to assume the responsibilities, including the expense, of administering their own College? (if applicable)
5. What would be the proposed fee structure for College members?

Criterion #8 – Economic impact of regulation

The profession must demonstrate an understanding and appreciation of the economic impact of regulation on the profession, the public and the health care system.

1. Describe the effect of regulation on:
 - Practitioner availability
 - Education and training programs
 - The enhancement of quality of the profession's services
 - Prices, access and service efficiency

Criterion #9 – Public need for regulation

The profession must demonstrate that a significant public need would be met through regulation.

1. Is there a demonstrable public need for regulating the profession? Please describe any process undertaken to determine the public need and the response/results achieved.
2. Describe any agreements on trade and/or mobility that may be affected by regulation of the profession. What are the plans to address these issues?

COMPLETING AND SUBMITTING THE QUESTIONNAIRE

- Six copies of the response to the questionnaire should be submitted to HPRAC at the following address:

HPRAC – Health Professions Regulatory Advisory Council
55 St. Clair Avenue West
Suite 806, Box 18
Toronto, ON
M4V 2Y7

Tel: (416) 326-1550

Fax: (416) 326-1549

E-mail: HPRACWebmaster@moh.gov.on.ca

- The review will commence when the Advisory Council is satisfied, at its discretion, that all of the criteria have been addressed and all supporting documentation has been submitted.