

HEALTH PROFESSIONS REGULATORY REFORM IN MANITOBA

“LEGISLATION – A PUBLIC PROTECTION APPROACH”

Manitoba Health is changing the way health professions are regulated. The present practice in MB regulates people. If individuals meet a certain educational and experience standard they can be registered. What one does, as a registered health professional, is not specified in legislation regulating each profession. Presently, there is a scope of practice statement. Some professions have had an exclusive right to the practice of a profession that dates back centuries. The most obvious one is medicine. Doctors have always had an exclusive right to practice medicine. Exclusive scopes of practice had some benefits, although they were characterized very strongly as a monopoly. This allowed benefits to some professionals. However, over the course of time, problems arose, given that models of health care provision changed quickly in our society, and legislation governing regulated health professionals did not.

The discrepancies between modern models of health care delivery and the legislation governing regulated health professions has become problematic and blocks patients' access to appropriate care. Because of outdated legislation (which include exclusive scopes of practice), health professionals are not permitted to do what they have been trained to. The public cannot access necessary services except through one or two providers who are presently guided by those scopes of practice. It is a barrier to public access, and a barrier to interdisciplinary practice.

The above factors provoked some jurisdictions to review their method of regulating health professionals. Eventually, after many years of study, an approach which regulates activities harmful to the public if performed by someone not trained properly emerged. This approach also emphasizes legislation for the protection of the public. The reason for health profession legislation is to protect the public. The controlled act approach identifies those activities within the health care sector that carry a significant risk of harm to the public. Contained in such legislation that regulates health professions is a list of activities that carry a risk of harm if they are performed by someone who isn't trained to do them safely. It allows health professionals who are competent to carry out these activities, and prohibits others from doing so. In Canada, this style of legislation is now used by the jurisdictions of Ontario, British Columbia, and Alberta.

Controlled Acts Restricted Activities Reserved Actions

The terms listed above are used to describe procedures outlined in legislation regulating health professions that, if not done correctly and by a competent person, have a high element of risk. These reserved activities encompass five main areas:

- Diagnosing
- Prescribing
- Ordering tests
- Manipulations
- Invasive procedures.

In other jurisdictions, these “controlled acts” include such things as communicating a diagnosis, giving injections, prescribing hearing aids and delivering babies. Using electricity or certain forms of “energy” to treat a patient/client or diagnose their condition are also examples of a “controlled act”.

Such legislation states that no one can perform a controlled act in the course of providing health care services to an individual unless the law that applies to their own profession clearly allows them to do so. There are some exceptions to such a rule, however. For example, a person who is training to become a member of a regulated health profession may perform controlled acts, but only under the direct supervision of a qualified professional (as in a practicum situation). Also, such legislation allows a member to delegate a controlled act in accordance with the regulations under college – specific clauses in such legislation governing a particular profession. This means that a qualified professional can delegate a certain aspect of a controlled act to supportive personnel under specified terms of training and supervision.

A jurisdiction that is governed by Regulated Health Professions Legislation develops a list of controlled acts for application in that jurisdiction. Only members of a regulated health profession may perform such acts, as specified under the authority of the clause specific to that professional college. Not all controlled acts are assigned to each profession. For example, some regulated health professions do not have authority to do any controlled acts, while others, such as medicine, have authority to do many of the controlled acts.

Scope of Practice

This is a brief description which generally provides three types of information about a given profession:

1. what the profession does
2. the methods it uses
3. the purpose for which it does it

Use of Title

Legislation regulating health professions places restrictions on the use of professional titles. This portion of the legislation forbids people outside the profession from pretending or holding themselves out to be members of a regulated health profession, and ensures that the public can determine which professionals are qualified and held accountable to the college regulating that profession.

Each college – specific clause guiding a certain profession contains restrictions on professional titles that are relevant to that profession. The type of restrictions include the actual title of the profession as well as any variation, abbreviation, or an equivalent in another language. This means, for example, that people who provide massage services cannot call themselves “massage therapists” unless they are registered with the College of Massage Therapists of that particular jurisdiction. Similarly, only those who are registered with the College of Registered Nurses of a jurisdiction may use the title “nurse”, “registered nurse”, “registered practical nurse”, or a variation, abbreviation, or equivalent in another language.

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