

Health Professions Act Employer's Handbook

a guide for employers of
regulated health professionals

June 2004

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Reference Materials

The Steering Committee relied upon a wide variety of reference materials in preparing this handbook, including:

- "*A Guide to the Health Professions Act*": published by the Legal Education Society of Alberta in 2002; used with permission of the author, James Casey.
- "*College of Dietitians of Alberta Member Handbook 2002*": used with permission of the Registrar.
- "*Glossary of Nursing and HPA Terminology*": prepared by the Capital Health Authority in January 2003
- "*Health Professions Act: An Overview* ": prepared by Alberta Health and Wellness in May 2000.
- "*Health Professions Act: Implementation*": prepared by Alberta Health and Wellness in May 2000.
- "*Health Professions Act Implementation Committee: Report to the Minister of Health and Wellness*" in May 2002.
- "*Health Professions Act: A New Law for Regulated Health Care Professionals*" prepared by Alberta Health and Wellness in March 2002.
- "*Introducing the Health Professions Act: A Guide for the Regulated Speech Language Pathologist and Audiologist*": used with the permission of the Registrar.
- "*The AARN Professional Conduct Review Process: Information for Employers and Managers Regarding Complaints About Professional Conduct of Registered Nurses*": used with the permission of the AARN Director of Regulatory Services.
- "*Professional Council of Licensed Practical Nurses - Conduct and Competency Committee Hearing Manual*": used with the permission of the Executive Director, College of Licensed Practical Nurses of Alberta.

Comments and Suggestions

This document is intended to simplify and summarize complex concepts in the *Health Professions Act* for the benefit of employers and others. It is intended as a guide and is not intended to act as a legal reference. Compliance with this guide is not a substitute for compliance with the legislation.

Readers are encouraged to review the HPA directly and where appropriate to consult with their legal counsel, to determine the full extent of their legal obligations.

The Steering Committee recognizes that employer issues with respect to the HPA are continuously evolving, and refinements to this handbook will be necessary over time. Please address your comments and suggestions to:

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Executive Summary

The *Health Professions Act* was proclaimed in December 2001, following seven years of discussion and consultation. It is intended to introduce overlapping, non-exclusive scopes of practice for health professionals and to restrict the performance of high-risk health services (restricted activities) to appropriately regulated individuals.

This handbook was prepared by a Steering Committee represented by employers, Provincial Government Departments and regulatory colleges, and is intended to benefit managers, supervisors, colleges and other stakeholders. The order of topics presented reflects the order of areas in the actual legislation. The contents of the various sections are intended to overlap, as this is a reference document.

Among the major implications for employers are:

- The concept of restricted activities has replaced the previous legislation's focus on exclusive scopes of practice.
- The concept of "mandatory registration" has implications for employers. Individuals who have met the educational and experience qualifications for registration in a health profession and are providing the services of that profession must register, irrespective of the practice setting or working under the "supervision" of another regulated health practitioner. It is prohibited to knowingly employ a person who is required to be registered under the HPA and is not registered, unless the person is authorized to provide the services under other health professional legislation.
- There is a need to understand the concept of competence (knowledge, skills, attitudes and judgment required to provide professional services), by comparison to focusing exclusively on tasks in many employees' job descriptions.
- It is important to appreciate the rationale for continuing competence programs. The HPA obligates all health professionals to view the maintenance of competence and the ability to apply advances in their profession as a life-long process.
- The HPA was proclaimed in December 2001; however the impact of the Act due to the "staged implementation" upon regulated members will only become evident as their respective colleges' regulations are approved under the Act.
- For those employers relatively conversant with the HPA, the majority of their involvement has been to provide *consultation* on the draft policies and regulations, rather than actual *implementation*. There are numerous legislative, policy, collective agreement, historical, political and cultural challenges to realizing the full benefits of the legislation.

- To ensure compliance with existing legislation, the HPA and Regulations as approved, employers will need to address existing organizational and human resource policies and procedures, medical staff bylaws, and access to controlled resources such as ordering tests.
- Some formerly regulated health professionals, often in sole practitioners' offices, have let their registrations lapse, as they erroneously believe that they are "covered" under their employers' or supervisors' registration and professional practice liability insurance (e.g. nurses working for physicians in clinic settings).
- The implications of unregulated health providers providing restricted activities need to be clearly articulated. Unregulated health providers who perform restricted activities must do so only *with the consent of and under the supervision of a regulated member*, in accordance with the regulations of the regulated member's college. Further clarification is often provided in each college's policies and procedures.
- College and employer disciplinary processes often proceed concurrently or sequentially. There is sometimes a lack of understanding about the role of unions in the implementation and enforcement of the HPA.
- Disciplinary decisions have far reaching implications for regulated professionals found guilty (or even accused) of unprofessional conduct. Sanctions can range from reprimands, suspensions or revocations of an individual's registration. Suspensions or revocation of an individual's registration deprives them of the opportunity to practice their profession and maintain employment.
- At their discretion, union officials may provide support, advice and/or legal representation for their members. Yet, a regulated member's dealings with his/her regulatory college are separate from matters subject to collective agreements. Union officials cannot intercede to "exempt" their members from the requirements of the legislation.
- Employers must be aware of HPA considerations, relative to employment classifications, position descriptions, and regulated members' protected titles and abilities to perform restricted activities.

The HPA: An Introduction for Employers

What are the historical origins of the HPA?

The Ministers of Health and Labour established the Health Workforce Rebalancing Committee in 1994 to review legislation regulating health professions. In its 1995 final report, the committee recommended the following principles:

- The **public must be protected** from incompetent or unethical health professionals.
- The health professional regulatory system should provide **flexibility in the scope and roles of professional practice**, so the health system operates with maximum effectiveness.
- The health professional regulatory system should be **transparent** to the public. Information about its workings and purpose should be credible and easily available.
- The **regulatory process** for health professions must be **fair** in its application. The principles of **natural justice** must be observed. Decision makers must be accountable for their decisions.
- The health regulatory system must support the **efficient and effective delivery** of health services.

The HPA Implementation Steering Committee was established in 1996, and an advisory committee on restricted activities was formed in 1997. The HPA was introduced in the Provincial Legislature in 1998, and after a number of the amendments was **proclaimed in part on December 31, 2001**. Full implementation will occur on a profession-by-profession basis, as appropriate regulations are approved.

What are the major features of the HPA?

The HPA arose from the final recommendations of the Health Workforce Rebalancing Committee in 1995, and included the following recommendations:

- The model of professional **self-governance** should be continued through **delegation of regulatory authority to colleges**.
- Regulation of all health professionals by a **single Act** with common sections that apply.
- **Mandatory registration** of practicing members of the health profession.
- Expanded **protection of titles**.
- The introduction of **overlapping, non-exclusive scopes of practice**, in the form of **practice statements**, found in the Schedules of the HPA.
- The introduction of restricted activities and requirement that **only qualified practitioners** are authorized to perform them.
- Increased public **representation** on college councils, hearing tribunals, complaint review committees and the Health Professions Advisory Board.
- Enhanced mechanisms to avoid conflicts of interest, including the **separation of "college" and "association" functions**.

- Mechanisms and structures to *address consumer and professional concerns* about unethical or incompetent professional practice.
- The requirement for colleges to establish programs that ensure *continuing competence* among their members.
- *Removal of regulatory barriers that limit inter-disciplinary collaboration.*
- A body that provides advice to the Minister on scope of practice and other issues (the *Health Professions Advisory Board*).

What is new or changed in the HPA?

Restricted Activities: instead of broad exclusive (one profession to the potential exclusion of others) scopes of practice, the *Government Organization Act* identifies *high risk activities*. The HPA provides for regulations identifying which restricted activities may be performed by regulated individuals.

Mandatory Registration: registration will no longer be voluntary for regulated health professionals. *An individual who qualifies for registration must register* to provide professional services to the public.

Ombudsman: if there are concerns about the manner in which a college carries out its duties under the HPA, an individual may complain to the Ombudsman, after all avenues for internal review have been exhausted. The Ombudsman may investigate the actions taken by the college and make *recommendations to the college* in question.

Criteria for New Professions Seeking Self-Governance: any new health profession seeking regulation and the ability to be self-governing in Alberta must apply to the Minister, and the application must *meet the criteria* set out in the Act.

Alternative Complaint Resolution: while previous legislation permitted alternative approaches to professional discipline, the HPA clearly establishes this as an acceptable approach that results in enforceable ratified settlements.

What has not been changed in the HPA?

The HPA maintains a number of important principles of previous health professional legislation, including:

Professional Self-governance: Within the context of public accountability, professions continue to be self-governing, with the ability to make regulations, bylaws, codes and standards to govern their members.

Separate Professions: There is one act governing all health profession. Yet, each separate profession has its own schedule, college and regulation.

Controls on the provision of high risk health services ("restricted activities"): qualified practitioners will continue to be the only ones able to perform health services such as prescribing drugs, performing surgery, or taking x-rays.

What has been enhanced with the HPA?

Consistency: There is a single act governing all regulated health professions. Each profession will be governed by a college. There are standard provisions for registration, handling complaints and discipline.

Openness and transparency: Each college is required to maintain a list of its officials available to the public. For all health professions, the disciplinary process will be more open to public scrutiny. Public participation in the activities of regulatory colleges will be increased.

Fairness: Disciplinary processes have been revamped to reduce or eliminate structural biases. For example, there is a clearer separation between the investigation of complaints and disciplinary hearings.

Accountability: The HPA explicitly sets out the responsibilities of a college for which it is accountable. There are consistent requirements for colleges to report annually on their activities to the Minister. There are also ongoing requirements to report cancellations or suspensions to the Minister and others identified in the legislation.

HPA references

References to these topics are noted in sections throughout the HPA.

Passage and Proclamation of the HPA: Process and Timelines

What is the process for a health profession to be regulated under the HPA?

Professions come under the HPA one by one and as they do, their previous legislation and regulations will be repealed.

The HPA includes a *Schedule* for each regulated health profession. Each Schedule establishes the governing college, lists the titles reserved for the profession, describes the practice of the profession, and sets out transitional provisions to implement the new legislation.

To come under the HPA, a profession must have its regulations approved by the Lieutenant Governor in Council (Provincial Cabinet) and its Schedule Proclaimed in Force.

Currently, health professions are regulated under a variety of professional statutes which regulate single professions (e.g.: *Medical Profession Act*; *Nursing Profession Act*) or multiple professions (e.g.: *Health Disciplines Act*; *Dental Disciplines Act*). Although the HPA was proclaimed in part on December 31, 2001, *transition to the HPA occurs separately* for each health profession.

Full proclamation of the HPA, that is having all 28 (health professional college) schedules proclaimed, is expected to be complete by 2005. Appendix 1 lists the professions that are or will be regulated under the HPA along with their current regulatory status.

How are Regulations developed and approved?

Each regulation addresses the similarities and unique requirements of the specific profession.

The council of each college is responsible for making regulations to govern members of the profession. Before regulations can come into effect, they must be *approved by* the Lieutenant Governor in Council (*Cabinet*).

Regulations are not made by professions in isolation. Their development requires extensive consultation with the membership of the profession, Alberta Health and Wellness (AHW) and other stakeholders, including employers, educators, other professions, consumers and other government departments.

Regulation development begins with a college identifying the particular *policies* to be reflected in its regulation. The policies are developed and clarified in consultation with Alberta Health and Wellness, and are then circulated to a wide variety of external stakeholders for comment.

If the college's policies involve a significant change in scope of practice or entry requirements, the Minister of Health and Wellness may refer the matter to the ***Health Professions Advisory Board*** for additional review.

The feedback from stakeholders (and, if applicable, any recommendations from the Health Professions Advisory Board) are used to refine the college's policies, which are then considered by legislative drafters in preparing the draft regulation.

Stakeholders are provided with an additional opportunity to comment upon the draft regulation, particularly in terms of how their earlier input has been reflected in the proposed regulation.

The draft regulation will be reviewed by a number of Provincial Government committees, before being approved by the Provincial Cabinet ("Lieutenant Governor in Council"). Normally, regulations are approved to "***come into force***" on a ***particular date***. At that time, the health profession's pre-existing legislation is repealed.

Why is this relevant to employers?

Employers will need to recognize the common provisions of the HPA, as noted previously. Considerations include mandatory registration, protected titles, categories of members, continuing competence programs, practice permits, requirements for continuing competency, performance of restricted activities (including supervision of unregulated workers) and investigative and disciplinary processes.

Individuals performing restricted activities must be authorized:

- under existing health professional legislation (such as the *Health Disciplines Act*, *Nursing Professions Act* or *Medical Profession Act*)
- under the HPA, or
- specifically by the Minister of Health and Wellness under the *Government Organization Act*.

Ultimately, restricted activities will be authorized by the (ii) HPA and (iii) Minister of Health and Wellness, as (i) existing health professional legislation will be repealed.

Unregulated health providers who perform restricted activities must do so only *with the consent of and under the supervision of a regulated member*, in accordance with the regulations of the regulated member's college. Further clarification is often provided in each college's policies and procedures.

Employers must continue to ensure that unregulated health providers who perform restricted activities are supervised appropriately and possess the required competencies and skills.

NOTE: If in doubt about the regulatory status of a health professional, employers should ***contact the registrar for the college***. (Please see Appendix III).

HPA references

Part 8: Regulations, Bylaws, Codes of Ethics and Standards of Practice.

Additionally, Section 25 deals with the process for considering applications for professional self-regulation.

Restricted Activities

What are restricted activities?

Restricted activities are regulated health services that by law can only be performed by individuals who are authorized to perform them.

Restricted activities are listed in Schedule 7.1 of the *Government Organization Act*. A copy of this schedule is provided in Appendix II. Restricted Activities include procedures such as but not limited to, surgery, assisting in childbirth, performing injections, prescribing medication, entering into one or more body cavities, and setting fractures.

Professions do not own or have exclusive rights to perform restricted activities. Practitioners must be authorized by statute or regulation.

Members of several different professions may be authorized to perform the same restricted activity.

What are not restricted activities?

The Schedule of Restricted Activities in the *Government Organization Act* also recognizes certain activities that are not restricted: activities of daily living, counselling and the drawing of venous blood.

"Activities of daily living" means activities that individuals normally perform on their own behalf to maintain their health and well-being, and include:

- Routine and invasive self-care activities, including but not restricted to the removal of slivers and the cleaning of wounds, and
- Specifically taught procedures, which generally result in predictable and stable responses, such as for example in home care and continuing care settings. These include catheterization, maintenance of drainage tubes, and administration of drugs by injection (such as insulin);

Actions performed in the course of dealing with an *emergency* to comfort or stabilize a person who is ill, injured, or unconscious because of an accident or other emergency, if provided without hope or expectation of compensation or reward. This is consistent with the provisions of the *Emergency Medical Aid Act*.

Why are certain activities restricted?

When the Health Workforce Rebalancing Committee released its final report in 1995, one of its key recommendations was that exclusive scopes of practice be replaced by a combination of restricted activities and mandatory registration. The committee developed criteria and principles for restricted activities, including:

- **Level of risk:** to an individual's physical or psychological health.
- **Practitioner competency:** including judgment, knowledge and skills required for initiating or providing specialized and complex services.
- **Public interest:** balancing the need to ensure the public's health and safety with the need for flexibility in the scope and practice of regulated and unregulated health practitioners.
- **Other safeguards:** such as legislation, employer standards, outcome measures, and civil and criminal litigation.
- **Clarity:** definitions of restricted activities must be clearly understandable to the public and regulatory bodies.
- **Consistency of application:** across the province, employment settings and professions.

Historically, the performance of high risk health services was controlled using "exclusive scopes of practice." However, this legislative mechanism often served to limit the entire field of practice and create monopolies.

Restricted activities are specific health services that may be performed by a number of regulated health practitioners, and are not linked to any particular health profession. Although professions are regulated by the HPA, restricted activities are found in the *Government Organization Act*.

Section 7.1 of the *Government Organization Act* identifies activities involving risk to patients/clients/consumers and labels them as restricted activities. It then sets out ***provisions for individuals to be authorized*** to perform these activities.

Each regulated profession has a Schedule under the HPA. The restricted activities conducted by members of a health professional college must be seen within the context of their "***practice statements***" contained in the applicable Schedule.

What persons are legally authorized to perform a restricted activity?

Restricted Activities may be performed by a person who is a member of a college under the HPA and is authorized by the college's regulations to perform the activity.

Restricted activities may also be performed by a person

- who is performing the restricted activity under the supervision of a regulated health professional, in accordance with regulations made by the professional's college.
- who is authorized to perform a restricted activity under other health professional legislation. (This will eventually be phased out as all health professions come under the HPA).
- who is not a regulated health professional, but is authorized in a ministerial regulation to perform the restricted activity.

How does a person demonstrate competence in performing restricted activities?

Professionals normally demonstrate initial competence by completing an approved program of studies.

Even though they may be authorized to perform a restricted activity, ***members are always constrained by their own level of expertise.*** An example of the wording in a regulation is:

"Despite any of the authorizations to provide restricted activities, regulated members must restrict themselves in performing restricted activities to those activities that the member is competent to perform, as well as to those appropriate to the member's area of practice and the procedures being performed."

What are the considerations for employers?

Proclamation of the HPA on December 31, 2001 resulted in the provisions for restricted activities coming into effect.

If a person is performing a restricted activity and not authorized to do so, then he/she is committing an offence under Schedule 7.1 of the *Government Organization Act*.

Employers who require any person to perform a restricted activity when the person is not authorized to do so are also committing an offence.

College regulations deal with how members of the profession may supervise ***students*** or other individuals performing restricted activities under supervision.

Employers should ensure that employees, contractors and students are ***appropriately authorized or supervised*** when performing restricted activities. This requirement

remains in existence irrespective of staffing shortages, vacation coverage or other challenges in the workplace.

There is considerable *variation among professions in terms of whether all or some members are authorized* to provide a restricted activity. The specific categories of practitioners in each profession authorized to provide certain restricted activities will be noted in each college's regulation.

Unregulated workers may provide restricted activities *under supervision*, provided this is authorized by the supervisor's regulations. These regulations must identify who can provide restricted activities under supervision, and the nature of that supervision.

What are the restricted activities in the Government Organization Act?

Please see Appendix II

HPA references

Sections 46 to 49 (Mandatory Registration); Section 131 (1) (d) (Regulations authorizing performance of restricted activities and supervision of unregulated practitioners)

Health Professional Colleges: Governance Roles and Responsibilities

What is the role of health professional colleges under the HPA?

The HPA places significant responsibilities on each health professional college to:

- carry out its activities and govern its regulated members in a matter that protects and *serves the public interest*;
- *provide direction to and regulate the practice of the regulated profession* by its regulated members;
- establish, maintain and enforce *entry level and continuing competence* (knowledge, skills, attitudes and judgment required to provide health professional services) *and standards of practice*,
- establish, maintain and enforce a *code of ethics*,
- approve *programs of study and education courses* for the purpose of registration requirements; and
- perform *other duties and functions* by the exercise of the powers confirmed by the HPA.

Colleges may not set, provide guidelines or negotiate professional fees on behalf of some or all of their members, unless the Minister grants specific approval. Colleges may not be a certified bargaining agent as defined in the Labour Relations Code.

The HPA requires a *clear separation* of a profession's *regulatory responsibilities* and functions that protect the public, from *fee and salary negotiations* that are directed at the economic or social well-being of members of the profession.

Appendix III lists the professions and the colleges that will govern them under the HPA.

Under what authority do colleges function?

The HPA sets out the powers, duties and responsibilities of each college, its officers, regulated members, and others with respect to professional legislation.

Each profession's *Schedule* under the HPA *and Regulation* describes how the college addresses the unique requirements of its profession, authorities and responsibilities. These may include requirements for registration and practice permits, continuing competency programs, and authority for providing restricted activities. Regulations must be *approved by the Lieutenant Governor in Council (Provincial Cabinet)*.

Bylaws determine the framework and scope of the colleges' activities and how they conduct their business on a day-to-day basis. Bylaws are *established by the council* of the college and specify procedural matters such as the election of council, the

appointment of committees and tribunals, quorum, rules of order, fees and notices. Bylaws do not require provincial government approval.

- **Codes of Ethics** and/or **Standards of Practice**: provide practitioners with a set of guidelines and principles by which they must govern their behaviour. A college must provide for review and comment a copy of its proposals to its regulated members, the Minister of Health and Wellness, and "any other persons the council considers necessary." Codes of Ethics and Standards of Practice do not require government approval. Colleges are obligated, however, to consider the comments and feedback provided by the Minister and others.
- **Standards of Practice**: provide general direction for the provision of professional services, and are established by the council of each college.
- **Policies** describe the way the college interprets and implements the HPA, regulation and bylaws. Policies are **established by the council** and guide their decisions and those of college staff.

What are the various college positions and their authorities relevant to employers?

Council: The council is the **governing body** of the college, whose role is to manage and conduct the college's activities on behalf of its members. The council acts in a governance capacity (establishing the mission, vision and values), makes regulations and bylaws, establishes registration and practice permit fees, appoints individuals, and hears appeals of registration decisions, practice permit renewals, and hearing decisions. The council is also responsible for developing **Standards of Practice** and **Codes of Ethics**.

President: The president is elected by the members (or may be appointed by council) to lead the college and preside over all general meetings of the college and council.

Registrar: The registrar performs duties required by the HPA, as well as those delegated by the council, such as receiving applications for registration, issuing and cancelling practice permits, providing written requests to individuals under the HPA's mandatory registration provisions, and disseminating information.

Registration Committee: A registration committee reviews applications for registration and reinstatement.

Competence Committee: A competence committee

- makes recommendations to the council on **continuing competence** requirements and assessments of those requirements; and
- if authorized by the regulations, provides for **practice visits** as part of the continuing competence program and conducts practice visits of regulated members.

Complaints Director: The complaints director receives and investigates complaints of unprofessional conduct and determines whether the complaint should be dismissed, referred to the Alternative Complaint Resolution process or to a hearing.

Complaint Review Committee: The complaint review committee reviews and ratifies settlements under the alternative resolution section of the HPA, and reviews the dismissal of a complaint under the professional conduct section when requested by a complainant.

Hearing Tribunal: A hearing tribunal is established when a complaint of unprofessional conduct with respect to a member is referred for a hearing, and may recommend that conditions be imposed on an investigated person's practice permit, or that the practice permit be suspended or cancelled.

Hearings Director: The hearings director establishes the hearing tribunal or a complaint review committee, and coordinates scheduling, production of notices and records. The hearings director may not chair or participate in a hearing, review or appeal. The complaints director and hearings director may not be delegated to the same person.

Are these positions found in every college?

Colleges may combine certain of the above functions. For example, the registrar and complaints director may be the same person. Registration and competence functions may be combined into one committee.

The hearings director and complaints director are always different people. There would be a conflict of interest if the person who investigated a complaint also picked the members of the hearing tribunal.

Colleges may establish other relevant college positions including individuals responsible for continuing competency, and policy and practice standards.

Why is this relevant to employers?

Employers are likely to contact or be contacted by

- the ***registrar*** (or his/her designate) to determine an employee's status as a regulated member;
- the ***complaints director*** in the event of a complaint of unprofessional conduct;
- other college officials conducting ***practice visits***.

While college processes are largely standardized, they may differ somewhat depending upon the profession. Generally, the registrar or registrar's office is in the best position to address general queries or to refer a matter to an appropriate individual within the college.

HPA References

Sections 2 to 4 (College); Sections 5 to 8 (Council, President and Registrar); Section 18 (Panels) and Sections 19 to 21 (Delegation and Officials Directory).

Accountability of Colleges

How is the accountability to the public of colleges ensured?

Colleges must carry out their activities and govern their regulated members in a manner that *protects and serves the public interest*. There are numerous mechanisms to ensure public input and accountability contained in the HPA, including:

- Public membership on college councils, complaint review committees, hearing tribunals, and appeals before the council.
- Preparation of an Annual Report, and submission to the Minister.
- Publication of an "Officials Directory."
- Public availability of selected information on the college's Register.
- Involvement of the Ombudsman.

What are College Annual Reports?

These are reports submitted to the Minister, containing information such as:

- Complaints and their disposition
- Registration
- Continuing Competence Programs
- Committees and tribunals established under the HPA
- Audited financial information

The Minister must table each college's Annual Report in the Provincial Legislature.

The Minister may require colleges to produce reports in addition to the Annual Report to ensure that the requirements of the HPA are met.

What is a college's "Officials Directory?"

The HPA requires that each college maintain a current directory that contains the names of and how to contact the following individuals and/or their delegates:

- The complaints director
- the hearings director
- the registrar
- the president
- the council members.

This information must be available to the public during regular business hours and be provided to the Minister.

What is the role of the Ombudsman?

The HPA provides that "*Any person may make a complaint with respect to anything under this Act in accordance with the Ombudsman Act.*" In practice, this involves an opportunity to address concerns about college processes and outcomes, most often dealing with investigations and discipline.

The Office of the Ombudsman is a ***complaint mechanism of last resort***. The Ombudsman cannot be involved until all formal and informal appeals within the college have been completed by the individual who has a complaint about the ***fairness of the process*** or the outcome.

The Ombudsman cannot change a decision, as he/she has only the power of recommendation. The Ombudsman may make public any matter deemed to be of public interest.

The Ombudsman reviews complaints about actions taken by a college under the HPA when formal appeal processes have been exhausted. The Ombudsman may make recommendations to the college, but does not act as an appeal body for disciplinary decisions. Should a matter be appealed to the Courts, the Ombudsman will decline involvement until the matter is completed.

The Ombudsman may request a college to rehear any matter and reconsider any decision or recommendations made. If the Ombudsman makes such a request, the HPA permits the college or any of its officers to comply with the recommendation, even though the time limits for the action have expired.

What are the considerations for employers?

In practice, the Ombudsman deals with college process issues and will not normally be involved in employment matters.

HPA References

Sections 3 (college's role), 4 (Annual Report), 5 (Council Established), 21 (Officials Directory), 127 (Complaints to Ombudsman) and numerous references throughout the legislation.

Protection of Titles

What are the HPA provisions for protection of titles?

The HPA protects certain titles for the purpose of transparency and public accountability, within the context of the provision of health services. This makes it easier for the public to identify regulated health professionals, and if necessary to contact their regulatory colleges.

Each Schedule to the HPA lists the titles that have been reserved for the exclusive use of the health profession. college regulations address how these titles are used within the profession.

The legislation also protects the following titles for professions regulated by the HPA:

- **"College"**: Under the HPA, each profession governed by a regulatory body is called a "college." Only organizations recognized under the HPA can use this designation. Other organizations or associations of health professionals may not use the term "college" to imply that they are colleges under the HPA. This prohibition does not extend to academic institutions (e.g. Mount Royal College).
- **"Regulated/Registered/Licensed"**: within a health care context, only practitioners registered with a college under the HPA can call themselves regulated or registered, and then only in accordance with their individual college regulations (e.g. Registered Dietitian or Licensed Practical Nurse).
- **"Doctor", "Surgeon", "Pathologist", "Oncologist"**, within a health care context, consistent with the HPA or one of its regulations.
- **"Nurse"**: can only be used by registered nurses, licensed practical nurses and registered psychiatric nurses.

What are the considerations for employers?

Employers assign numerous "job titles" for a particular professional group, possibly due to historical and/or collective bargaining considerations.

Yet, employers need to be mindful of the HPA requirements for protected titles when assigning job titles. ***A job title cannot be a protected title unless*** the job title relates only to those who are regulated members with the particular college.

For example, a position entitled "Dietitian" in an employer's job description or a collective agreement must only be assigned to regulated members of the College of Dietitians.

In some circumstances following a particular professional group being regulated under the HPA, affected job titles may need to be amended. This may have human resources and collective agreement implications.

HPA References

Part 7 - Title Protection

Section 2 of each of schedules 1 to 28 for profession – specific titles.

Health Professions Advisory Board

What is its mandate?

The HPA establishes the HPAB and mandates it to *provide advice to the Minister* in relation to the HPA, as well as restricted activities in Schedule 7.1 of the *Government Organization Act*.

The Lieutenant Governor in Council appointed this public Board on May 1, 2002.

The Board *considers matters only at the request of the Minister* of Health and Wellness. It has no regulatory authority (unlike, for example, the Health Disciplines Board).

Of the 12 members of the Board, at least 25% must be members of a regulated profession. The remainder are individuals with wide-ranging experience and knowledge of the health care system, the public sector and social issues.

Non-voting members are designated by the Deputy Ministers of Human Resources and Employment, Health and Wellness, Learning and Children's Services.

Appointments are for up to three years, to a maximum of six consecutive years.

Alberta Health and Wellness provides administrative and secretariat services. Its staff prepare background information, including publicly available documents that summarize stakeholder positions on issues considered by the Board.

The HPAB must give colleges reasonable notice of matters to be considered by the Board and permit them to make submissions.

Except for purposes of discussion and voting, meetings of the HPAB are open to the public.

Why is it relevant to employers?

The Minister would likely ask the Board to consider and provide advice on matters such as:

- *requests for groups to be authorized to perform additional restricted activities*
- *proposed changes in requirements for entry to practice*
- proposals for new restricted activities
- proposals by unregulated groups to become regulated under the HPA.

These are generally significant issues that may affect employers of health professionals.

Employers may decide to make a *presentation* before the HPAB, if the topic matter is seen to be relevant.

What is the process for appearing before the Board?

Individuals or groups wanting to make a presentation before the Board should make a formal request to the Board's Chair. Contact is usually made through the secretary to the Board, an employee of Alberta Health and Wellness.

The portion of meetings where submissions are presented must be open to the public.

The Board's deliberations are held in private, and its recommendations to the Minister of Health and Wellness are confidential. The Board does not play any role in communicating or implementing the Minister's decision.

The Board has published guidelines for assessing or evaluating:

- proposals to create new restricted activities,
- *proposals that members of a college be authorized to perform additional restricted activities,*
- *college proposals to increase entry-to-practice requirements and*
- proposals from unregulated voluntary health professional groups seeking self-regulation.

HPA References

Sections 22 to 27 (HPAB)

Please note that HPAB guidelines may be accessed by calling Alberta Health and Wellness at (780) 415-0488 in Edmonton. The guidelines are available in written and electronic formats.

Mandatory Registration

What is mandatory registration?

Under the HPA, *health professionals who meet the requirements for registration must be registered with their regulatory college if they intend to provide the services described in section 46 of the Act. These services include:*

- *providing professional services directly to the public* (Note that each regulated profession has a Schedule to the HPA which describes the profession's common practices: "*In their practice, [regulated practitioners] do one or more of the following...*";
- *teaching* the practice of a regulated profession *to regulated members and students* of the regulated profession; and
- *supervising regulated members* who provide professional services to the public.

Why is this relevant to employers?

The HPA prohibits persons from knowingly employing a person who is required to be registered under the HPA and is not registered, unless the person is authorized to provide the services under other health professional legislation.

If an employer is aware of an individual who meets the above criteria but is not registered, it is their responsibility to report this information to the applicable college.

If the registrar of the applicable college learns of a person who the registrar believes may be required to be registered and is not, then the registrar may send the person a request to apply for registration. Should the person decide not to apply, the college may seek an injunction prohibiting the person from providing the services.

HPA References

Sections 46 to 49 and individual profession-specific Schedules 1 to 28 of the HPA.

Registration as a Health Professional

How does an individual apply for registration?

The HPA sets out the basic process for registration, but the specific *requirements* that must be met for registration in each profession are *included in that profession's regulation*.

Most regulated health care practitioners will apply once to become registered. They will regularly apply for a new or renewed practice permit, according to the time period set out in the profession's regulation or bylaw. The most common period is one year.

The HPA provides for *three* ways in which an individual may become registered as a member of a health profession:

1. By *meeting the formal requirements* set out in the regulation. This is the *standard route* for practitioners who are educated in a profession and apply for registration. The regulation specifies academic preparation, necessary practicum/work experience, and attainment of certain competency standards, including any examination requirements;
2. By coming from *another jurisdiction*, that is recognized by the college as having substantially similar practice requirements and competencies to those in Alberta. These jurisdictions would be recognized by the council of the college. It is through this process that a college might implement a mutual recognition agreement (under the Agreement on Internal Trade). Recognition of other jurisdictions is not, however, limited to Canada.

Jurisdiction recognition is intended to expedite the registration process. The absence of this recognition does not mean that practitioners in another jurisdiction cannot be registered; they may be assessed on an individual basis by the registrar or registration committee.

3. By having individual qualifications and experience assessed by the college, to be deemed *substantially equivalent* to the competencies required for registration. The individual must demonstrate his/her competence to the satisfaction of the registrar or registration committee, through an assessment of prior education and experience, and may involve additional examinations, as authorized in the college's regulation.

While colleges may use external assessment agencies such as a national organization or a private agency to evaluate qualifications, colleges have the ultimate decision about whether an applicant is qualified for registration. Colleges cannot delegate or sub-delegate this responsibility to another organization.

Many colleges require that applicants for registration (and renewals of practice permits) provide evidence of ***good character and reputation***. This most often involves a declaration that the individual:

- Has provided complete and accurate information.
- Has not been disciplined by another profession or in another jurisdiction.
- Has not been charged with or convicted of a criminal offence. (Note that the *Protection for Persons in Care Act* requires new employees in most health care facilities and agencies to undergo criminal record checks during the recruitment and selection process).

Being disciplined or having been convicted of a criminal offence does not preclude registration. The registrar and/or registration committee will deal with each application on a case-by-case basis.

Most colleges require, as part of their regulation, that members have ***professional liability insurance***.

Why is this relevant to employers?

The HPA requires that individuals who have met the qualifications for registration in a health profession and are providing the services of that profession to the public, or supervising or teaching the practice of the profession, must register with the applicable college.

Employers involved in ***recruitment and selection*** will need to be mindful of ***colleges' timeframes*** for processing applications for registrations.

If the practitioner's registration status is unclear, the letter of ***offer of employment or contract*** should specify that being registered in good standing with the practitioner's college is a ***prerequisite for employment or contract work***. This stipulation should be monitored through a "bring forward" system to ensure appropriate followup.

If in doubt, employers are encouraged to confirm a prospective employee or contractor's registration status by ***contacting the registrar*** of the applicable professional college.

Employing or contracting with practitioners who should be but are not properly registered (or do not have current practice permits) is ***unlawful*** under the HPA, and may present significant liability concerns.

Employers should ensure ***on an ongoing basis*** that all employees and contractors have current registration and practice permits.

Employers may continue to set standards exceeding those required by a health practitioner's college. That is, job descriptions and performance expectations recognize

each health professional's legal obligations, but often require additional skills, competencies and training.

HPA References

Sections 28 to 32 (Applying for Registration)

College Registers

What Registers are colleges required to maintain?

A college must maintain a register of its members who provide professional services.

Most colleges currently under the HPA have registers divided into categories such as:

- **General**: members who meet all registration requirements, may use the college's protected titles, and, if applicable, are authorized to perform restricted activities.
- **Temporary or provisional**: practitioners who are in the process of fully meeting the requirements of registration, most often after completing their formal academic education. These individuals may, for example, be completing practical training requirements, awaiting the opportunity to write the provincial and/or national examination, or awaiting examination results.

Temporary registration allows graduates to practice under the supervision of a regulated member on the General Register for a specified period (most often for several months and generally not more than one year). The college's supervision requirement is designed to provide mentorship and practical advice until the temporary registrant is fully registered on the General Register.

- **Courtesy**: practitioners from other jurisdictions, who are practicing in Alberta on a short-term basis, and for a specific time and purpose (for example, for several months to teach a course).

Some colleges have more than one Register. For example, the Alberta College of Speech Language Pathologists and Audiologists has two: one for speech language pathologists, and another for audiologists.

Colleges may also establish voluntary registers under their bylaws for non-regulated members.

What information is contained in college registers?

For each regulated member, college registers must include the following information:

- The full name of the member.
- The member's unique registration number.
- Whether the member's registration is restricted to a period of time and, if so the period of time.
- Any conditions imposed on the member's practice permit.
- The status of the member's practice permit, including whether it is suspended or cancelled (the member's name remains on the register regardless).
- The member's practice specialization recognized by the college.

Additional information may be included in the register as specified by each college's regulation. The regulation will also specify whether this additional information is available to the public.

Restricted activities that are normally provided by all members of a profession are not listed in a college's register or on a practitioner's practice permit.

College registers will identify if a practitioner is authorized to provide a restricted activity not normally provided by members of the profession, or if the practitioner is limited from providing restricted activities normally provided by members of the profession.

How can employers (and members of the public) access this information?

Any member of the public may request this information about a named individual during regular business hours, and it must be provided by the college.

What are other considerations for employers?

Employers should *formally review* their employees and contractors' registration status *on a regular basis*. (See Practice Permits: What should employers consider).

Human resource directives, policies and procedures should mandate annual confirmation that employees and contractors' practice permits are current and placed on their human resources' file.

This is a prudent action from an employer's risk management perspective, and complements the obligation of each college to notify a practitioner's employer in the event of suspension or cancellation.

During the *recruitment and selection* process, employers are encouraged to contact the prospective employee or contractor's college to determine if the applicant is in good standing, if there are any restrictions on his/her practice permit, and whether there have been any complaints about the regulated member.

Additionally, each regulated member's registration status should be reviewed when they transfer to a new worksite or position.

Employers may be able to access *aggregated* information from Alberta Health and Wellness for similar workforce planning and related purposes. Among the uses of this information are employee recruitment, selection and retention, collective bargaining and forecasting.

HPA References

Notices and Information (Section 119)

Students

How does the HPA address students?

Under the mandatory registration provisions of the HPA, all health professionals who meet the requirements for registration must be registered with their regulatory college to provide professional services to the public.

While students may practice in a regulated health profession and perform restricted activities, they are generally *not registered as regulated members*. They are considered to be under the control of their educational institution. (In the case of the medical profession, though, undergraduate and post-graduate students are registered as regulated members).

When students, like other unregulated practitioners, perform restricted activities, they do so under the supervision of regulated members and are authorized by the supervisor's regulation.

College Regulations specify how members of the college are to supervise students (and unregulated workers) in the performance of restricted activities. These regulations must identify who can provide restricted activities under supervision, and the nature of that supervision.

While students are not normally regulated, they can use the name of the profession in combination with the title "student" while undertaking activities within the program.

Why is this relevant to employers?

Employers need to continue to ensure that students employed to provide health services are *appropriately authorized or supervised* when performing restricted activities.

To perform restricted activities as part of their training, students must be enrolled in a program approved by the appropriate college. They must have the *consent of and be under the supervision of a regulated member*.

While there is some variation between professional regulations, the supervising member must generally be on site and available to consult with and assist when the restricted activity is being performed.

The degree of orientation, supervision, mentoring and sequencing of performance appraisals generally varies in accordance with the student's level of educational preparation and demonstrated skills and competencies.

HPA References

Sections 40 (Applying for a Practice Permit), 46 (Mandatory Registration) and 128 (Title Protection)

Unregulated Health Providers and Restricted Activities

Who are unregulated health providers?

There are a significant number of unregulated health providers in health care and other employment settings. Examples of unregulated health providers include Personal Care Attendants, Nursing Attendants, Orderlies, and Physical Therapist and Occupational Therapist Aides/Assistants.

Students of most professions may be considered as a special subset of unregulated health providers.

The HPA does not prohibit unregulated health providers from performing health services that are not restricted activities, even though these activities may be within the scope of practice of regulated health professionals.

Unregulated health providers may only *provide restricted activities* if they are assisting or working *under appropriate supervision*, with the consent of an authorized, regulated professional, and are authorized by their supervisor's regulation.

Unregulated practitioners may also provide restricted activities if they are authorized to do so through Ministerial regulations.

How are unregulated health providers supervised in the performance of restricted activities?

In their regulations, health professional colleges will identify the unregulated practitioners that may perform restricted activities under the supervision of regulated members.

These regulations will also identify the restricted activities that may be performed and the nature of the supervision that must be provided.

What are the considerations for employers?

Employers need to ensure that their unregulated workers are not in contravention of the HPA or the *Government Organization Act*.

Employers (and particularly managers and supervisors) must ensure that *unregulated health providers who perform restricted activities* possess the required competencies and skills, and that quality of care and potential liability concerns are effectively addressed.

HPA References

Schedule 7.1 of the *Government Organization Act*.

Practice Permits

What are practice permits?

A practice permit is a document issued by a college indicating that the *regulated member's registration with the college is current* and that the regulated member is *permitted to practice* the profession, subject to any conditions on the permit.

Practice permits are *generally issued yearly* by each college, although different periods of registration are possible (for example, a courtesy practice permit might be issued for several months).

Practice permits must include the following information:

- The name of the college and that the permit is issued under the HPA.
- The member's name and registration number.
- The category of registration.
- Any conditions on the member's practice permit.
- The expiry date.

Some colleges may include a list of restricted activities on their members' practice permits.

How are practice permits renewed, suspended or cancelled?

Practice permits are renewed by each regulated member completing an application form, submitting the required fees, and documenting compliance with the continuing competence program.

If a practitioner fails to apply for a practice permit by the date specified in the college's bylaws, the practitioner's practice permit will be suspended.

A member's practice permit may be suspended, cancelled or have conditions placed upon it through the continuing competence program, or as a result of college disciplinary processes. The HPA requires that the applicable college formally notifies employers and other parties.

What conditions may be placed on a member's practice permit?

Common conditions imposed on a *case-by-case basis* include, but are not limited to:

- Completion of continuing competency requirements within a specific time period.
- Completion of examinations, testing, assessment, practicums, work experience or counselling.
- A requirement to practice under the supervision of another regulated member.

- A prohibition on engaging in solo practice.
- A requirement that the member limit their practice to specific practice areas or settings.
- A requirement to report to the registrar or registration committee on specified matters at specified times.
- Limitation of the duration of the practice permit.
- A provision that the member may only use specific titles.
- A prohibition from supervising students.

What are a college's responsibilities if a regulated member's practice permit is suspended or cancelled, or if conditions are placed upon it?

If a practice permit is suspended or cancelled, it must be returned to the registrar. If conditions are imposed, the registrar must enter the conditions imposed on the regulated member's practice permit.

The registrar must also *provide the information to*:

- A *person who employs the regulated member* to provide professional services on a full-or part-time basis as a paid or unpaid employee, consultant, contractor or volunteer.
- A *Regional Health Authority* where the health professional provide services.
- A *hospital* if the regulated member is a member of the hospital's medical staff or professional staff.
- The Minister of Health and Wellness or any organization that administers the payment of fees for the professional services the regulated member provides.
- Another health professional college if the registrar knows that the regulated member is also a member of the other college.
- Governing bodies of similar professions in other Canadian jurisdictions.

Subject to the college's bylaws, the college may publish or distribute the information to its members and/or the general public.

How may a suspended or cancelled practice permit (and registration) be reinstated?

When a practice permit is cancelled for failure to pay the renewal fee, the practitioner may have the practice permit reinstated by paying the required fee and any late penalties, as specified in the college's bylaws.

If a practice permit is *suspended* for failure to meet continuing competency requirements, the college will advise the member of what steps are necessary to have the permit reinstated.

If a practice permit is *cancelled* as a result of discipline, the practitioner may apply for reinstatement in accordance with the profession's regulations. Generally, these applications are permitted only after a considerable time period has elapsed. Members applying for reinstatement must demonstrate that they can provide services in a safe and competent manner.

Why is this relevant to employers?

The HPA requires that *employers be notified by a college when a regulated member's practice permit is issued with conditions, suspended or cancelled*. In the event of reinstatement, employers must also be notified.

The *most common scenario* for a regulated member's practice permit to be suspended is due to *non-payment of college fees*.

If a college places restrictions on a practitioner's practice permit, this may *limit the ability of employers* to recruit, retain and deploy the employee.

If a practice permit is suspended or cancelled, the member may not practice.

What should employers consider?

Employer human resource directives, policies and procedures dealing with recruitment and selection should require that prospective employees, contractors and volunteers provide *evidence of current registration and a practice permit* with their applicable college.

Employer human resources policies and procedures should ensure that regulated members are obliged to provide a copy of their updated practice permit on a regular basis. Since colleges vary in terms of their renewal period (usually yearly) and annual renewal date, a "bring forward" or similar reminder system is recommended. Additionally, employers may want to require continuing registration as a condition of employment.

HPA References

Sections 38 to 41 (Practice Permit Renewal), Section 47 (Mandatory Registration - Prohibition) and Section 118 (Assessing Incapacity)

Continuing Competency Programs

Why does the HPA mandate continuing competency programs?

Health professional legislation has *traditionally* established detailed *entrance standards* for professionals designed to ensure initial competence. Continuing competence has historically been seen as a professional responsibility, but colleges did not in many instances play an active role, monitor or facilitate. Professionals demonstrating a serious lack of competence were dealt with by the disciplinary process.

In its initial report recommending the development of a *Health Professions Act*, the Health Workforce Rebalancing Committee noted: "*A shift in emphasis is needed to ensure that professionals maintain and update their knowledge and skills throughout their professional careers.*"

How does the HPA mandate continuing competency programs?

The HPA obligates all health professionals to view the maintenance of competence and the ability to apply advances in their profession as *a life-long process*.

All colleges must establish continuing competence programs within five years of the HPA coming into effect for each college and its members.

The HPA obliges colleges to establish mandatory continuing competency programs in their regulations, and to link *obtaining practice permits* (most often on an annual basis) to participation in continuing competency programs.

The specifics of each college's continuing competence program are explained in its regulation.

Colleges' approaches to continuing competence differ, but usually include one or more of the following:

- Continuing education (a certain number of credits per year).
- Self-directed learning, self - assessment and evaluation, and the development of competence plans.
- Re-certification on a regular basis (for example, CPR).
- On-the-job experience ("practice hours").

Under the HPA, all information related to participation in a continuing competence program is confidential and may not be released except to carry out the activities within the program.

Why are continuing competency programs relevant to employers?

If regulated health professionals fail to meet continuing competence requirements, their practice permits may be suspended or conditions may be placed on their practice permits. These conditions may include the requirement to provide services under the supervision of another regulated health practitioner.

Employers are not obliged to provide financial support for professional development opportunities or to pay for programs, although some may do so.

The fulfillment of continuing competence requirements may prove challenging to some practitioners in rural and remote areas. These practitioners may have some difficulties accessing activities in major urban centers. Many colleges have responded with innovative solutions such as remote access and internet-based programs.

HPA References

Section 50 to 53 (Continuing Competence Programs)

Practice Visits

What are practice visits?

As part of their continuing competence programs, some colleges undertake practice visits of their members to ensure that continuing competence requirements are met.

Not all professions will use practice visits. If a college is to complete practice visits, there must be provisions in their regulations.

Practice visits are most frequently used for professions whose members practice in their own offices as independent practitioners. Nonetheless some professions, in accordance with their regulations, may use practice visits for practitioners working *in hospitals, continuing care facilities, mental health and alcohol and drug abuse treatment facilities, correctional facilities and social service agencies*.

A practice visit can be undertaken in a publicly funded facility, but only with the consent of the person who controls or operates the facility.

In conducting a practice visit, the competence committee may not enter a private dwelling or any part of a place designed to be used as a temporary or permanent private dwelling, without the consent of the occupant.

What does a practice visit involve?

A practice visit may involve all or some of the following:

- With proper notice, entering and *inspecting* the place where the regulated member provides professional services.
- *Interviewing* the regulated member about the professional services they provide.
- *Observing* the member providing services, if the person receiving the services consents.
- Interviewing or surveying *patients, clients and colleagues*.
- *Reviewing* documents and medical records.
- Assessing the safety and condition of *equipment and technology*.

Information relating to participation in a continuing competence program as a result of a practice visit is *confidential*.

Disclosure of this information is only permitted in very narrow circumstances. Use of this information in other types of legal proceedings is ordinarily prohibited by the HPA. Employers are encouraged to seek an expert opinion, for example through their legal counsel.

Why are practice visits relevant to employers?

The *extent of a practice visit will need to be arranged* between the regulated member's supervisor/employer and the college prior to the visit occurring.

These arrangements will normally involve formal contact between the college and the member's supervisor/employer, and address relevant details and processes.

HPA References

Section 51 (Practice Visits).

Incapacity

What is incapacity?

The **HPA defines** a regulated member as being incapacitated if the individual is: *"suffering from a physical, mental or emotional condition or disorder or an addiction to alcohol or drugs... or other chemicals that impairs the member's ability to provide professional services in a safe and competent manner."*

How does the HPA address incapacity of members?

If the complaints director has grounds to believe that a member is incapacitated, the complaints director may direct the member to submit to treatment and cease practice until the complaints director is satisfied that the member is no longer incapacitated.

The college's complaints director may deal with a regulated member who is potentially incapacitated, even if a formal complaint has not been made.

The complaints director may direct a potentially incapacitated member to submit to a physical and/or mental examination.

Should the regulated member refuse to cooperate, the member may be subject to disciplinary action by the college.

What are the implications for employers?

Employers need to be aware that the HPA allows a college to address incapacity without the stigma of professional discipline.

HPA References

Section 118 (Assessing Incapacity)

College Disciplinary Processes: An Overview

What are the important features in the HPA?

Options for addressing all complaints include informal communication and attempts to resolve conflicts, obtaining expert assessments, Alternative Complaint Resolution, assessing a member's incapacity, and traditional investigations and hearings.

The HPA sets out the approaches for addressing issues of professional conduct to protect the public from incompetent or unethical practitioners including:

- Options to informally resolve complaints,
- Provisions for Alternative Complaint Resolution (e.g. mediation), and
- Provisions for formal disciplinary hearings before a tribunal.

The HPA sets out the processes to be followed when handling complaints and discipline. The principles of *fairness, reasonableness and due process* should prevail throughout.

What are complaints?

The HPA defines complaints broadly:

- Complaints may come from any person (including an employer, a patient or client, or a regulated or unregulated health care provider). Complaints must be in writing and signed by the complainant, and deal with a regulated member or a former member.
- With respect to *reports from employers if a practitioner is suspended, dismissed or resigns for reasons of unprofessional conduct*, the HPA provides that: "*If, because of (unprofessional) conduct that in the opinion of the employer of a regulated member is terminated or suspended or the regulated member resigns, the employer must give notice of that conduct to the complaints director.*" "**Employment**" includes being engaged to provide professional services on a *full-time or part-time basis as a paid or unpaid employee, consultant, contractor or volunteer.*
- If the complaints director directs a practitioner who appears to be incapacitated to undergo an assessment and the practitioner refuses, the complaints director may treat this refusal as a complaint.

What is unprofessional conduct?

Traditionally, health professional legislation dealt with "unskilled practice" and "professional or ethical misconduct." These two terms are included under the HPA as "unprofessional conduct":

Common examples include:

- Displaying a ***lack of knowledge*** or a ***lack of skill or judgment*** in the provision of professional services.
- Contravening the ***HPA***, a ***code of ethics*** or ***standards of practice***.
- Contravening ***other legislation*** that applies to the profession.
- ***Representing*** that a person was a regulated member ***in good standing***, while the person's registration or practice permit was suspended or cancelled.
- ***Misrepresenting*** the conditions on a person's registration or practice permit.
- ***Failing or refusing to cooperate*** with the requirements of a continuing competence program, the instructions of the competence committee, or an individual undertaking a practice visit.
- ***Failing or refusing to comply*** with a ratified settlement or to undergo a mental and/or physical examination.
- ***Failing or refusing to cooperate*** with an investigator.
- ***"Conduct that harms the integrity of the profession."***

What type of conduct may result in a complaint to a college?

Complaints giving rise to a referral to a college commonly include, but are not limited to:

Addictions and Mental/Physical Health Issues

- Unmanaged substance abuse/addiction.
- Impaired mental and/or physical health.

Interpersonal and Communications Issues

- Failure to communicate appropriately.
- Incomplete or inaccurate documentation.
- "Inappropriate" behaviour.

Practice Issues

- Inappropriate interventions.
- Poor clinical judgment or practice, including inadequate assessments.
- Practicing beyond the regulated member's level of "competency": particularly with respect to restricted activities.
- Medication errors (if applicable).
- Unethical behaviour, including the abandonment of responsibilities.
- Breach of trust and/or the confidentiality of patient records.
- Fraud, theft or misrepresentation.
- Physical, verbal or sexual abuse. This may give rise to a complaint under the ***Protection for Persons in Care Act*** for employees, contractors and volunteers in designated agencies and facilities. There may also be consequences in terms of the Criminal Code of Canada, employer policies and/or potentially civil legal actions.

What issues should be considered by employers prior to contacting a regulated health professional's college to initiate a complaint?

The manager, clinical supervisor or colleague's decision to initiate a complaint is often a subjective judgment, yet there is a legislative obligation to report. Consultation with the applicable college at an early stage may be beneficial.

However, *concerns about a regulated practitioner's actions or lack of actions that potentially place patients or clients at risk should be reported promptly* to the college. Some considerations are:

- Is the professional providing safe care?
- Has the professional potentially breached the ethical and/or practice standards of the profession?
- Has the professional violated the employer's policies and procedures?
- Has there been a pattern of unacceptable behaviour? Is it likely to continue?
- Are the public, patients, clients, co-workers and others potentially at risk?
- Is there evidence of specific behaviours or incidents that support the employer's concerns?
- What have been the outcomes of the employer's attempts to remediate the employee's conduct?

How are complaints investigated?

Section 55 of the HPA sets out the process for acting on a complaint. This process may lead to an investigation.

College policies and practice vary considerably. However, processes are generally consistent with the following:

- A college investigator may require any person to answer any relevant questions and may require that person to provide documents and other items relevant to the investigation.
- The member and the complainant are notified that an investigation has been commenced and a college investigator has been assigned. The college must provide the investigated member with the name of the investigator and reasonable particulars of the complaint, unless the information would "significantly harm the investigation."
- The college investigator will meet with the complainant to gather background information and documents that relate to the complaint. The college investigator will also meet with others who have direct knowledge of the investigated member's conduct.

- The college investigator or designate may request a list of names and contact numbers of individuals who have direct knowledge of the matter. Documents that may be requested include:
 - Policies and procedures
 - Clinical records (not including the full name of the patient, but sufficient identification to be specific about the incident, such as the patient's initials)
 - Notes of meetings
 - Written communications.
- Once all the information supporting the concerns has been gathered, the college investigator will interview the member.
- Members may want to be accompanied by a representative and/or support person, including if applicable a union official.
- When conducting an investigation, the college investigator ***may require any person to answer any relevant questions, if necessary under oath, and provide within a reasonable time any "document, substance or thing relevant to the investigation."***
- The college investigator can ***enter and inspect*** at any reasonable time any building where a regulated member provides services, with the exception of entry into a private dwelling.
- The college investigator has the authority to investigate other matters outside the original complaint, which could give rise to a finding of unprofessional conduct.

What actions may follow an investigation?

The complaints director may determine that a complaint ***should not be referred*** for a hearing if:

- there is insufficient evidence,
- the complaint is seen to be trivial or vexatious, or
- the matter is not within the college's jurisdiction to address.

If the complaints director determines not to proceed with a hearing, the complainant has the right to appeal to the Complaints Review Committee. The complainant also has access to the Ombudsman if there are concerns about the process (only after all other available processes are exhausted).

The complaints director may refer the complaint to the college's ACR process.

If the complaints director determines that a complaint should go to hearing, the matter will be referred to the hearings director, who is responsible for arranging the hearing tribunal.

In extraordinary situations, where there is a perceived threat to patient/client safety, the HPA allows for the immediate suspension of a practitioner's practice permit, pending the outcome of a hearing.

What are the considerations for employers?

Employers should investigate, manage and if necessary remediate employees demonstrating inappropriate behaviours, knowledge, skills and judgement in the workplace.

Employers are legally obligated to inform the college only if a practitioner's employment is terminated or suspended, or the employee has resigned for reasons of unprofessional conduct. In addressing these matters, the college will relate to the employer as a complainant.

Employers may **choose** to make a complaint to a college without terminating or suspending an employee's employment in limited circumstances (such as for example, off-duty conduct).

A college's formal involvement is not intended to replace or supersede employer remediation, investigative and disciplinary practices.

Employers will make what often may be a subjective decision about involving a regulated member's college, including instances involving incapacity, addictions and mental/physical health issues, professional practice issues, and instances of misconduct. Employers are encouraged to speak with their immediate supervisor, their human resources professional, a college official and/or legal counsel for advice.

In the course of a formal investigation initiated by a college, employers may be required by college officials to provide verbal and written information. Employers may also be compelled to attend disciplinary hearings.

Employers need to consider that an investigation is a threatening situation for individuals being investigated. It is important to ensure that tactfulness and understanding of the regulated member's circumstances are demonstrated throughout the process.

HPA References

Part 4 (Professional Conduct); See also the *Protection for Persons in Care Act*.

Disciplinary Hearings

How is procedural fairness ensured?

Disciplinary decisions have far-reaching implications for regulated professionals accused of unprofessional conduct. *Sanctions can range from reprimands, fines, suspensions or revocations of an individual's registration. Suspension or revocation of an individual's registration deprives them of the opportunity to practice their profession.*

As a result, there are general principles to ensure procedural fairness:

- The right to know the precise allegations, so the member can fully and adequately defend his/her self.
- The right to cross-examine witnesses, present supportive witnesses and documents, and the right to present comprehensive arguments.
- The right to a hearing before an impartial and unbiased tribunal, who have not made any prejudgment about the issues.

What happens at a formal disciplinary hearing?

Disciplinary hearings are open to the public unless the tribunal closes the hearing or part of the hearing for one of the reasons specified in the Act. The investigated person has the right to be represented by counsel, at the investigated person's discretion (there is no requirement for employers to supply legal counsel).

Witnesses, including the complainant, may be called at a hearing. They will be provided with formal notice that sets out the allegations, as well as the date and time of the hearing.

During the hearing, *witnesses are examined under oath and can be compelled to testify*, even though their testimony may be seen to possibly incriminate them or subject them to disciplinary action under the HPA. Their testimony cannot be used against them in other civil or criminal actions, except for perjury or giving contradictory evidence under the HPA.

The college's legal counsel will usually prepare college witnesses by providing general information about the hearing process, questions that the college legal counsel may pose, as well as questions that may be anticipated from the member's counsel.

Witnesses are generally excluded from hearings until they are called to give their evidence.

While you should contact the appropriate college to confirm its hearing process, the order of a hearing is generally:

1. The Chairperson deals with any preliminary matters.

2. Allegations are read and the member is asked to respond. If the misconduct is denied or partially denied, then the hearing proceeds on whether the allegations are true. If misconduct is admitted, then the hearing proceeds in order to determine the appropriate sanctions.
3. Counsel for the college is asked whether he/she wishes to make an opening statement, which is usually a brief summary of the issues and the evidence to be called. Opening statements are not considered evidence; they are simply a summary of what evidence is expected to be called. Evidence can only be considered if it is given under oath.
4. The college representative is then asked to make an opening statement.
5. There may be documents which both counsel for the college and the member's representative agree can be marked as Exhibits. There may also be an Agreed Statement of Facts.
6. Counsel for the college then calls the first witness, and requires the witness to respond to questions.
7. The member is then given the opportunity to cross-examine the witness.
8. Counsel for the college is then asked if they have any questions arising from the cross-examination. The re-examination should generally only deal with issues raised during the cross-examination which were not covered in earlier testimony or are required to clarify testimony which appears inconsistent.
9. Committee members are given the opportunity to ask the witness any questions in clarification.
10. Counsel for the college and the member's representative are asked if they have any questions for the witness arising from the questions asked by the Committee members. Any questions should generally be restricted to issues directly raised by the witness' response to questions by the Committee.
11. The questioning processes repeat for each of the witnesses called by the college's counsel. After all the witnesses are called, the college's counsel advises that he/she has closed his case.
12. The member's representative then begins a similar process of starting the case, examining witnesses, cross-examining by the college's counsel, and questions from the Committee.
13. After all witnesses are called, the member's counsel advises the Committee that he/she has closed the case. The college's counsel is then provided the opportunity for any rebuttal evidence.
14. After rebuttal evidence is completed, the Chairperson asks both counsels to present their closing statements. Committee members may ask questions of clarification.
15. The Chairperson then declares the hearing to be completed and advises both counsel that a copy of the decision will be sent to the complaints director and the registrar, the complainant in the investigated person by mail. The Committee then commences its deliberations.

What are the potential outcomes of a hearing?

The hearing tribunal may determine that there is no unprofessional conduct. However, if the hearing tribunal decides that the conduct of any investigated person constitutes unprofessional conduct, it has numerous *options* in dealing with the investigative person. These include but are not limited to:

- A caution.
- A reprimand.
- Imposing conditions on the practice permit.
- Suspending the practice permit.
- Requiring counselling or treatment.
- Directing a specific course of study or supervised practical experience.
- Cancelling the registration and practice permit.
- Payment of a fine and/or the costs related to the Hearing.

How can tribunal decisions be appealed?

The decision may be appealed by the investigated member or the college. *The complainant may not appeal the decision.*

The investigated person and the complaints director on behalf of the college first have the right to appeal to the council of the college. This provides colleges an opportunity to correct their own errors.

The complainant does not have the right to appeal. At a disciplinary hearing, the case is between the college and the practitioner, not between the complainant and practitioner. The complainant has an interest in the hearing and may be a witness, but the complainant is not a party to the hearing and does not have the right to appeal.

There are provisions in the HPA for the investigated person to appeal the decision of the council of the college to the Court of Appeal.

Are there other options than an appeal?

Any individual, including the complainant, may make a complaint to the *Office of the Ombudsman*.

If the Ombudsman believes that a decision of the college appears contrary to law, was unreasonable, unjust, oppressive or improperly discriminatory, or was based on a mistake of law or fact, the Ombudsman may recommend that corrective action be taken and that

the college notify the Ombudsman within a specified time of the action taken. The Ombudsman cannot compel changes to be made and cannot reverse a decision.

What are the considerations for employers?

HPA and employers' *disciplinary and related processes may operate concurrently and/or sequentially*. Employers need to make their own decisions within organizational directives, policies and procedures on disciplinary matters. The potential for or actual involvement of the college does not absolve employers from the responsibilities for appropriate investigation and discipline.

The professional conduct process may be initiated if a college receives a *notice from a regulated member's employer*, including circumstances where the member has been terminated or suspended or has resigned due to what may be unprofessional conduct.

Employers need to be mindful of the HPA disciplinary and ACR processes from the perspectives of applying human resource directives, policies and procedures and considering the provisions of collective agreements.

Employers may also be called on to give evidence in cases where others have initiated the complaint (for example, patients, clients or consumers).

HPA References

Part 4 (Professional Conduct) and Section 118 (Assessing Incapacity)

Alternative Complaint Resolution

What is the intent of ACR?

The HPA recognizes that *not all complaints need to result in a formal investigation, hearing and potentially discipline*. Many issues can be addressed through a *less formal and less adversarial process* of alternative complaint resolution (ACR).

The HPA describes the basic requirements of the ACR process. *Each college's regulation provides additional, specific details*.

With ACR, the focus is on *problem solving* between the complainant and the professional, and not necessarily on assigning blame.

ACR can be initiated at any point after the receipt of a complaint, until the commencement of a hearing.

What is the process?

The ACR process is conducted by one of the college's regulated members or a trained third party mediator.

The ACR process allows a complainant and the investigated member of a college to resolve a complaint or dispute where appropriate, without resorting to a disciplinary hearing.

Participation is voluntary and participants may exit at any point.

The investigated member may want to be accompanied by a representative and/or support person, including if applicable a union official.

The ACR process *must involve the college*, and the outcome must be seen to be in the "public interest" and ratified. The process is not simply a matter between a complainant and a regulated practitioner.

The college's Complaint Review Committee must review any resulting agreement and may:

- ratify the settlement.
- with the consent of the complainant and the investigated person, amend and then ratify the settlement.
- refuse to ratify the settlement.

Agreements reached through ACR are enforceable in the same way as a college's disciplinary order.

Depending upon the circumstances, if the ACR process does not result in a ratified settlement, the college may, depending on when the ACR process was initiated, dismiss the complaint, initiate a formal investigation, or proceed with a formal hearing.

Information within the ACR process is confidential. It does not become part of the formal disciplinary process.

A college must retain copies of all ratified settlements and may publish them in accordance with its bylaws. The college may, if authorized to do so by the settlement, reveal the name of the investigated person or complaint.

Decisions that affect the investigated person's practice permit (cancellation, suspension or conditions) must be communicated in a similar manner as those made through other processes under the HPA.

What are the considerations for employers?

Employers need to be aware that ACR may be an option to address certain complaints.

HPA References

Sections 58 to 60 (Alternative Complaint Resolution)

Access to Information and Confidentiality

Introduction

While the HPA provides for the confidentiality of certain information and mandates the release of other information, there are no overriding provisions for confidentiality within the act.

Health professional colleges are not subject to the *Freedom of Information and Protection of Privacy Act*. Health professional colleges are not public bodies under the *Freedom of Information and Protection of Privacy Act* or custodians under the *Health Information Act*.

The HPA provides considerable direction for colleges, regulated members and members of the public (including employers) in accessing, disclosing and ensuring the confidentiality of information. This includes **registration and practice permit information, information about investigative and disciplinary processes, and continuing competence information**. Specific offences and penalties are provided for in the HPA to address inappropriate disclosure of information.

The provisions of the *Health Information Act* apply to custodians (for example, health authorities) when they are disclosing health information to health professional colleges. Custodians have the authority to disclose identifiable diagnostic, treatment and care information to health professional bodies without consent for an investigation, discipline proceeding, practice review or inspection.

A custodian can make this disclosure only if the custodian has complied with an enactment that authorizes or requires the disclosure. The health professional body must agree in writing not to disclose the information further (except as authorized by an enactment), and to destroy the information at the earliest opportunity.

What type of information must be released by a college to the public (including employers) upon request?

Register Information:

A member of the public, upon request, must be provided with information by a college about the:

- Full name of the member.
- The member's unique registration number.
- Whether the member's registration is restricted to a period of time.
- Any conditions on the member's practice permit.
- The status of the member's practice permit, including whether it is suspended or cancelled.

- The member's practice specialization.
- Whether the member is authorized to provide a restricted activity not normally provided by regulated members of the college.
- Whether the member is not authorized to provide a restricted activity that is normally provided by regulated members of a college.

Disciplinary Decisions and Records of Hearings

The public may examine the decision and record of a hearing, except for that part of a hearing that was held in private. The record of that part of the hearing cannot be released to anyone who would not have been present when the hearing was held.

What type of information cannot be released by a college to the public (including employers)?

Continuing Competence Program Information and Practice Visits

Information relating to a regulated member's participation in a continuing competence program and practice visits is confidential. Any person who has access to or comes into possession of this information may not, use it except to carry out their duties under the HPA.

If a person releases or discloses information in contravention of the confidentiality provisions, the information may not be used in any proceedings under the HPA, in any arbitration, inquiry, legal action or Court proceeding.

A regulated member who is participating or has participated in a continuing competence program cannot be required to give evidence about their continuing competence program in a legal proceeding. The only exceptions are with respect to perjury or the giving of contradictory evidence, or where there are other proceedings under the HPA.

Alternative Complaint Resolution

With specific exceptions, information arising from ACR processes is confidential and not admissible in any proceedings under the HPA or other legislation:

- Without the written consent of the investigated person and the complainant; or
- In the case of written evidence, without the written consent of the person who prepared the written evidence, the investigated person and the complainant.

How long must colleges make information available?

While the HPA mandates that certain information be released to the public, colleges may make regulations specifying how long such information must be available.

In addition, irrespective of whether the information is to be released, colleges must keep, for at least 10 years:

- A copy of the ratified settlement and admissions of unprofessional conduct,
- Records of investigations and hearings, and
- Records of complete registration applications and reviews.

What are the considerations for employers?

Employers need to be mindful of confidentiality and disclosure requirements in their dealings with colleges and regulated members.

This is a complicated and developing area involving interaction between provincial and federal legislation. Employers are encouraged to seek legal counsel for clarification and advice.

HPA References

Sections 34 and 119 (Register Information); Section 125 (Continuing Competency and Practice Visits); Section 58 (Alternative Complaint Resolution); Section 66 (Investigations); Section 121 (Record Retention)

Please see also section 35 (4) of the *Health Information Act*, which is the key provision that affects health professional bodies.

Regulations, Bylaws, Codes of Ethics and Standards of Practice

What are college regulations?

Regulations are made by the council of the college, in consultation with Alberta Health and Wellness. The development of regulations involves extensive consultation with stakeholders.

Regulations must be approved by the Provincial Government before they come into force.

From an employer's perspective, regulations most often refer to:

- The requirements for registration and practice permits including *education, experience*, completion of examinations, *recognition of professionals from other jurisdictions, professional liability insurance*, evidence of Canadian citizenship or ability to work and study in Canada, and "good character and reputation"
- Categories of members.
- The *restricted activities* a regulated member or category of regulated members may provide *and the applicable conditions*.
- Who may perform restricted activities with the *consent of and under the supervision of* a regulated member, and how regulated members must supervise these persons (this includes supervision of *students and unregulated workers*).
- Continuing competence programs and practice visits.
- Access to and disclosure of information.
- Reinstatement of members whose registration and/or practice permits have been cancelled.

What are college bylaws?

Colleges develop bylaws in order to undertake their responsibilities on a day-to-day basis under the HPA.

Bylaws most often refer to:

- The college' governance structures and processes, and the management and conduct of its council, committees, tribunals, and other organizational entities.
- Benefit programs and educational incentives.
- The publication and distribution of information.
- The development of and adoption of *Codes of Ethics and Standards of Practice*.

Bylaws must be approved by the college in accordance with the process outlined in its bylaws.

What are codes of ethics and standards of practice?

The HPA requires that a college must "establish, maintain and enforce a Code of Ethics and Standards of Practice." They provide practitioners with a set of guidelines and principles to govern their professional behaviour and the provision of services.

A college must provide for review and comment a copy of its proposed *Code of Ethics and/or Standards of Practice* to its regulated members, the Minister of Health and Wellness, and "any other persons the council considers necessary." The Minister of Health and Wellness will similarly consult with stakeholders, including employers, prior to providing comments to the college.

What are college policies and procedures?

College policies and procedures are approved by the council and, in some instances by the responsible committee or tribunal.

College policies further interpret and implement the requirements of the act, regulation and bylaws.

What are the considerations for employers?

Non-compliance with a college's regulations, bylaws and/or Code of Ethics and Standards of Practice may result in the college initiating disciplinary action against its regulated member (for example, for "unprofessional conduct"). This may have implications for an employee or contractor's status with an employer.

HPA References

Part 8 (Section 131 to 135)

Professional Practice Liability Insurance of Regulated Members of Colleges

Do regulated professionals require professional practice liability insurance?

- *College regulations* often, but not always, specify that members must be covered by professional practice liability insurance, in an amount determined by the college.
- Should their college regulations specify, regulated members are required to *demonstrate evidence* of professional practice liability insurance *every year upon renewal of their practice permits*.
- Many colleges have made group arrangements with insurance carriers to provide professional practice liability insurance for regulated practitioners who are not covered by an employer.

What are some of the considerations for employers?

- Some employers provide professional practice liability insurance for their employees (although not necessarily for contractors). In many instances, colleges deem this to be an equivalent and acceptable level of coverage.
- Members who are employees are required to ensure that their employers' coverage is acceptable to their college.
- Some employers may differentiate whether they pay for professional practice liability insurance depending upon the employee's status (for example, part-time, casual, etc. may be ineligible)
- If employers do not provide professional practice liability insurance, they should ensure that their employees, contractors, sub-contractors and volunteers who are regulated health professionals provide appropriate proof of liability insurance on a continuing basis.

HPA References

Sections 28 (Applying for Registration), 40 (Applying for a Practice Permit) and 131 (Regulations, Bylaws, Codes of Ethics and Standards of Practice)

Glossary of HPA and Related Terminology

(Please note that these definitions are not intended to have legal significance.)

Activities of daily living: - Routine self-care activities, including but not restricted to the removal of slivers and the cleaning of wounds, and specifically taught procedures, which generally result in predictable and stable responses, including but not restricted to catheterization, maintenance of drainage tubes and administration of drugs by injection. These are specifically exempted as restricted activities in Schedule 7.1 of the *Government Organization Act*.

Advanced clinical practice: implies additional, formal duties that can be performed as a result of extra training beyond that required for basic entry into a health profession (for example, nurse practitioners).

Alternative Complaint Resolution Process: a process to assist the complainant, college and investigated person settle a complaint in a less adversarial, non-disciplinary matter.

Barriers to interdisciplinary practice: impediments to collaboration among health professionals that may be caused by legislative barriers, bargaining unit boundaries, intra-and/or inter-disciplinary rivalries, etc.

Certified Bargaining Agent: has the exclusive authority to bargain collectively on behalf of employees in a functional bargaining unit for which it is certified and bind them by a collective agreement. A college or council of a college may not be a certified bargaining agent.

Code of ethics: guidelines for permissible professional behaviour adopted by a college. Non-compliance may be the basis for disciplinary action under the *HPA*.

College: means the regulatory body for a profession that is a corporation that must:

- carry out its activities and govern its regulated members in a manner that protects and serves the public interest.
- provide direction to and regulate the practice of the regulated profession by its regulated members.
- establish, maintain and enforce standards for registration of continuing competence and standards of practice of the regulated profession.
- establish, maintain and enforce the code of ethics.

Competence: the combined knowledge, skills, attitudes and judgment required to provide health professional services.

Consultation: an in-depth evaluation of a patient with a written report to the referring health practitioner. For physicians, this includes the recording of a complete history, performing a complete physical examination appropriate to the physician's specialty, an

appropriate record and advice to the patient. It may also include the ordering of appropriate diagnostic tests and procedures, as well as discussion with the patient and/or referring physician.

Continuing competence programs: a requirement to participate in educational and skill building experiences. Continuing competence programs are designed to ensure maintenance of skills and the ability to apply advances in one's profession.

They may include mandatory continuing education (a certain number of credits per year), self-assessment and development of learning plans, recertification (for example, CPR) on a regular basis, and on the job experience (practice hours).

Continuity of care: the health care provider supports the interest and well-being of the patient/client in a manner that ensures the patient/client receives the right service, by the right provider at the right time.

Council: the governing body of a college.

Diagnosis: a clinical judgment about an individual, family or community's response to actual or potential intervention, for which the regulated health professional is accountable (this is not a restricted activity).

Health authority/hospital privileges: formal agreements between health authorities and regulated health care practitioners that outline access to resources and corresponding responsibilities.

Health services: within the meaning of the HPA, means services provided to people to protect, promote or maintain their health: to prevent illness; to diagnose, treat or rehabilitate; or to take care of the health needs of the ill, disabled, injured or dying. Please also see "professional services."

Incapacitated: a practitioner suffering from a physical, mental or emotional condition or disorder or an addiction to alcohol or drugs as defined in the *Pharmaceutical Profession Act*, or other chemicals that impair the ability to provide professional services in a safe and competent manner.

Independent practitioner: a health practitioner who is not an employee.

Inter-disciplinary team: those members of a regulated profession who collaborate in the provision of services to a patient or client.

Mandatory Registration: individuals who have met the qualifications for registration in a health profession must register if they are to provide the services of the profession. For qualified professionals, registration is no longer voluntary – all must register.

For the purpose of mandatory registration, "practicing the profession," means:

- (i) providing professional services directly to the public as outlined in the schedules of the HPA
- (ii) supervising and managing regulated members
- (iii) teaching the practice of the profession to regulated members and students of the profession.

Non-professional conduct: please see **Unprofessional conduct**

Practice statement: details the commonly performed (but not exclusive) activities and services provided by a group of health professionals, and is noted in the profession's Schedule under the HPA (replaces the term "**Scope of Practice**")

Practice visits: on-site assessments of a competency, as one component of a continuing competence program. Practice visits are best suited for those professionals whose members practice in their own offices as sole practitioners. They need to be specifically authorized by a regulation. The health authority's consent must be gained for practice visits to a "public" facility.

Professional services: for the purposes of the HPA, are services that come within the practice of a regulated health profession. These are services reflected in a profession's practice statement in Section 3 of the profession's Schedule under the HPA.

Protection of title: within the provisions of the HPA, the following terms are protected: "college," "regulated/registered," "doctor," "surgeon," "pathologist," "oncologist" and "nurse," and the titles reserved by each regulated profession for the exclusive use of their members.

Referral: may include a written or verbal communication, or communication between practitioners' agents at the direction of the practitioners. This may give rise to the need for a **Consultation**.

Registered health practitioner: a practitioner who is registered as a member of a professional college under any existing health profession legislation

Regulated health professional: synonymous with **Registered health practitioner**

Regulatory authority (for health practitioners): a body responsible for the governance of a regulated health profession under the HPA or other statute. Under the HPA, these regulatory bodies can be identified by the use of the term "college" in their names.

Restricted activities: a term defined in the Section 7.1 of the *Government Organization Act* that applies to specific health services that carry significant risk to a patient's physical and/or psychosocial well - being.

Scope of practice: this term has been replaced with **Practice Statements** in each health professional college's schedule under the HPA.

Standards of practice: a set of standards and expectations issued by a college about the required level of skills or means of performing activities and/or conduct required for professional practice

Supervision: as it relates to the provision of health services including restricted activities, this term is defined in the profession-specific regulations by each college. It implies overseeing without delegation by an authorized practitioner, who is ultimately accountable. It should be distinguished from supervision from an employment perspective.

Transfer of function/duties: a term that is falling into disuse because of its overlap with "supervision" and "delegation"

Unprofessional conduct: as defined in the HPA, the most relevant criteria include:

- displaying a lack of knowledge or lack of skill or judgment in the provision of professional services.
- contravention of the HPA, a code of ethics or standards of practice.
- contravention of other legislation that applies to the profession.
- representing or holding out that a person was a regular member and in good standing while the person's registration or practice permit was suspended or cancelled.
- representing or holding out that person's registration or practice permit is not subject to conditions when it is misrepresenting the conditions.
- failure or refusal to comply with the requirements of the continuing competence program.
- failure or refusal to comply with an agreement that is part of a ratified settlement.
- conduct that harms the integrity of the regulated profession.

Appendix I: Which professions are currently regulated and which are awaiting regulation under the HPA?

Regulated Profession	Legislative Status
Acupuncturists	Under the <i>Acupuncture Regulation, Health Disciplines Act</i> ; Eventually under Schedule 1 of the HPA
Chiropractors	Under the <i>Chiropractic Profession Act</i> ; Eventually under Schedule 2 of the HPA
Combined Laboratory and X-Ray Technologists	Under the <i>Combined Laboratory X-ray Technician Regulation, Health Disciplines Act</i> ; Eventually under Schedule 3 of the HPA
Dental Assistants	Under the <i>Dental Assistants Regulation, Dental Disciplines Act</i> ; Eventually under Schedule 4 of the HPA
Dental Hygienists	Under the <i>Dental Hygienists Regulation, Dental Disciplines Act</i> ; Eventually under Schedule 5 of the HPA
Dental Technologists	Under the <i>Dental Technologists Regulation, Dental Disciplines Act</i> ; Eventually under Schedule 6 of the HPA
Dentists	Under Schedule 7 of the HPA since 2001
Denturists	Under Schedule 8 of the HPA since 2002
Hearing Aid Practitioners	Under Schedule 9 of the HPA since 2002
Licensed Practical Nurses	Under Section 10 of the HPA since 2003
Medical Laboratory Technologists	Under Schedule 11 of the HPA since 2002
Medical Radiation Technologists and Electroneuro-physiologists	MRTs are under the <i>Medical Radiation Technologists Regulation of the Health Disciplines Act</i> , while Electroneurophysiologists are presently unregulated. Both groups will eventually be under Schedule 12 of the HPA
Midwives	Under the <i>Midwives Regulation, Health Disciplines Act</i> ; Eventually under Schedule 13 of the HPA

Regulated Profession	Legislative Status
Naturopaths	Voluntary members of the Alberta Association of Naturopathic Practitioners (presently unregulated); Eventually under Section 14 of the HPA
Occupational Therapists	Under the <i>Occupational Therapy Profession Act</i> ; Eventually under Schedule 15 of the HPA
Opticians	Currently under the <i>Opticians Act</i> ; Eventually under Schedule 16 of the HPA
Optometrists	Under Schedule 17 of the HPA since 2003
Paramedics	Under the <i>Emergency Medical Technicians Regulation, Health Disciplines Act</i> ; Eventually under Schedule 18 of the HPA
Pharmacists	Under the <i>Pharmaceutical Professions Act</i> ; Eventually under Schedule 19 of the HPA
Physical Therapists	Under the <i>Physical Therapy Profession Act</i> ; Eventually under Schedule 20 of the HPA
Physicians, Surgeons, Osteopaths and Podiatrists	Under the <i>Medical Profession Act</i> and the <i>Podiatry Act</i> ; Eventually under Schedule 21 of the HPA
Psychologists	Under the <i>Psychology Profession Act</i> ; Eventually under Schedule 22 of the HPA
Registered Dietitians and Registered Nutritionists	Under Section 23 of the HPA since 2002
Registered Nurses	Under the <i>Nursing Profession Act</i> ; Eventually under Schedule 24 of the HPA
Registered Psychiatric Nurses and Mental Deficiency Nurses	Under the <i>Psychiatric Nurses and Mental Deficiency Nurses Regulation, Health Disciplines Act</i> ; Eventually under Section 25 of the HPA
Respiratory Therapists	Under the <i>Respiratory Therapists Regulation, Health Disciplines Act</i> ; Eventually under Section 26 of the HPA
Social Workers	Under Schedule 27 of the HPA since 2003
Speech - Language Pathologists and Audiologists	Under Schedule 28 of the HPA since 2002

Appendix II: Restricted Activities

Schedule 7.1 to the *Government Organization Act* sets out the following restricted activities.

1. to cut a body tissue, to administer anything by an invasive procedure on body tissue or to perform surgical or other invasive procedures on body tissue
 - (i) below the dermis or the mucous membrane or in or below the surface of the cornea
 - (ii) in or below the surface of teeth, including scaling of teeth
2. to insert or remove instruments, devices, fingers or hands
 - (i) beyond the cartilaginous portion of the ear canal,
 - (ii) beyond the point in the nasal passages where they normally narrow,
 - (iii) beyond the pharynx,
 - (iv) beyond the opening of the urethra,
 - (v) beyond the labia majora,
 - (vi) beyond the anal verge, or
 - (vii) into an artificial opening into the body
3. to insert into the ear canal
 - (i) under pressure, liquid, air or gas or
 - (ii) a substance that subsequently solidifies
4. to set or reset a fracture of a bone
5. to reduce a dislocation of a joint except for a partial dislocation of the joints of the fingers and toes
6. to use a deliberate, brief, fast thrust to move the joints of the spine beyond the normal range but within the anatomical range of motion, which generally results in an audible click or pop
7. to prescribe a Schedule 1 drug within the meaning of the *Pharmaceutical Profession Act*
8. to dispense, compound, provide for selling or sell a Schedule 1 drug or Schedule 2 drug within the meaning of the *Pharmaceutical Profession Act*
9. to prescribe, dispense, compound or administer a vaccine or parenteral nutrition
10. to prescribe, compound or administer blood or blood products
11. to prescribe or administer diagnostic imaging contrast agents

12. to prescribe or administer anaesthetic gases, including nitrous oxide, for the purposes of anaesthesia or sedation
13. to prescribe or administer radiopharmaceuticals, radiolabelled substances, radioactive gases or radioaerosols
14. to order or apply any form of ionizing radiation in
 - (i) medical radiography,
 - (ii) nuclear medicine, or
 - (iii) radiation therapy
15. to order or apply non-ionizing radiation in
 - (i) lithotripsy,
 - (ii) magnetic resonance imaging, or
 - (iii) ultrasound imaging, including any application of ultrasound to a fetus
16. to prescribe or fit
 - (i) an orthodontic or periodontal appliance,
 - (ii) a fixed or removable partial or complete denture, or
 - (iii) an implant supported prosthesis
17. to perform a psychosocial intervention with an expectation of treating a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs
 - (i) judgment,
 - (ii) behaviour,
 - (iii) capacity to recognize reality, or
 - (iv) ability to meet the ordinary demands of life
18. to manage labour or deliver a baby
19. to prescribe or dispense corrective lenses.

Appendix III: Regulatory Bodies and Contact Information

Profession of Acupuncturists

Regulatory Body:	Acupuncture Committee
Governing Legislation:	<i>Health Disciplines Act Acupuncture Regulation</i>
Address:	17th Floor, 10025 Jasper Avenue, Edmonton T5J 2N3
Telephone:	(780) 415-0488 or 310-0000
Website:	N/A
Email:	heather.cameron@gov.ab.ca

Profession of Audiologists

Regulatory Body	Alberta College of Speech-Language Pathologists and Audiologists
Governing Legislation	<i>Health Professions Act Speech-Language Pathologists and Audiologists Profession Regulation</i>
Address	Suite 209, 3132 Parsons Road Edmonton, AB T6N 1L6
Telephone	(780) 944-1609 1-800-537-0589
Facsimile	(780) 408-3925
Website	http://www.acslpa.ab.ca/
Email	admin@acslpa.ab.ca

Profession of Chiropractors

Regulatory Body:	College of Chiropractors of Alberta
Governing Legislation:	<i>Chiropractic Profession Act</i> <i>Chiropractic Profession Regulation</i>
Address:	Suite 1870, Manulife Place 10180 - 101 Street Edmonton, AB T5J 3S4
Telephone:	(780) 420-0932
Facsimile:	(780) 425-6583
Website:	http://www.ccoa.ab.ca/
Email:	office@ccoab.ca

Profession of Combined Laboratory and X-Ray Technicians

Regulatory Body:	Alberta College of Combined Laboratory and X-ray Technicians
Governing Legislation:	<i>Health Disciplines Act</i> <i>Combined Laboratory and X-Ray Technician Regulation</i>
Address:	PO Box 3114 Fort Saskatchewan, AB T8L 2T1
Telephone:	(780) 920-6785
Facsimile:	(780) 992-0329
Website:	http://www.acclxt.ca/
Email:	generalinquiries@acclxt.ca

Profession of Dental Assistants

Regulatory Body:	Alberta Dental Assistants Association
Governing Legislation:	<i>Dental Disciplines Act</i> <i>Dental Assistant Regulation</i>
Address:	#1102, 10707 - 100 Ave NW Edmonton, AB T5J 3M1
Telephone:	(780) 486-2526 1-800-355-8940
Facsimile:	(780) 486-2728
Website:	http://www.adaa.ab.ca/
Email:	office@adaa.ab.ca

Profession of Dental Hygienists

Regulatory Body:	Alberta Dental Hygienists Association
Governing Legislation:	<i>Dental Disciplines Act</i> <i>Dental Hygienists Regulation</i>
Address:	#222, 8657 - 51 Avenue Edmonton, AB T6E 6A8
Telephone:	(780) 465-1756
Facsimile:	(780) 440-0544
Website:	http://www.askdentalhygienist.com/
Email:	adha@askdentalhygienist.com

Profession of Dental Technicians

Regulatory Body:	Alberta Association of Dental Technicians
Governing Legislation:	<i>Dental Disciplines Act</i> <i>Dental Technicians Regulation</i>
Address:	1430 Weber Centre 5555 Calgary Trail South Edmonton, AB T6H 5P9
Telephone:	(780) 434-8620 1-800-537-0568
Facsimile:	(780) 437-3145
Website:	
Email:	membersinfo@cdta.ca

Profession of Dentists

Regulatory Body:	Alberta Dental Association and College
Governing Legislation:	<i>Health Professions Act</i> <i>Dentists Profession Regulation</i>
Address:	Suite 101, 8230 - 105 Street Edmonton, AB T6E 5H9
Telephone:	(780) 432-1012 1-800-843-3848
Facsimile:	(780) 433-4864
Website:	http://www.abda.ab.ca
Email:	adaadmin@telusplanet.net

Profession of Denturists

Regulatory Body:	College of Alberta Denturists
Governing Legislation:	<i>Health Professions Act Denturists Profession Regulation</i>
Address:	Suite 270, 10123 - 99 Street Edmonton, AB T5J 3H1
Telephone:	(780) 429-2330 1-800-260-2742
Facsimile:	(780) 429-2336
Website:	
Email:	abdensoc@telusplanet.net

Profession of Hearing Aid Practitioners

Regulatory Body:	College of Hearing Aid Practitioners of Alberta
Governing Legislation:	<i>Health Professions Act Hearing Aid Practitioners Profession Regulation</i>
Address:	
Telephone:	1-866-990-4327
Facsimile:	
Website:	http://www.chapa.ca/
Email:	ainslie@netalberta.com

Profession of Licensed Practical Nurses

Regulatory Body:	College of Licensed Practical Nurses of Alberta
Governing Legislation:	<i>Health Professions Act Licensed Practical Nurses Profession Regulation</i>
Address:	Suite 230, 10403-172 Street Edmonton, AB T5S 1K9
Telephone:	(780) 484-8886 1-800-661-5877
Facsimile:	(780) 484-9069
Website:	http://www.clpna.com/
Email:	tamara@clpna.com

Profession of Medical Laboratory Technologists

Regulatory Body:	Alberta College of Medical Laboratory Technologists
Governing Legislation:	<i>Health Professions Act Medical Laboratory Technologists Profession Regulation</i>
Address:	#105, 4245 - 97 Street, Edmonton, Alberta. T6E 5Y7
Telephone:	(780) 435-5452 1-800-265-9351
Facsimile:	(780) 437-1442
Website:	http://www.acmlt.org/
Email:	info@acmlt.org

Profession of Medical Radiation Technologists

Regulatory Body:	Alberta Association of Medical Radiation Technologists
Governing Legislation:	<i>Health Disciplines Act</i> <i>Medical Radiation Technologists Regulation</i>
Address:	#501, Centre 104 5241 Calgary Trail Edmonton T6H 5G8
Telephone:	(780) 487-6130 1-800-282-2165
Facsimile:	((780) 432-9106
Website:	http://www.aamrt.org/
Email:	member@aamrt.org

Profession of Midwives

Regulatory Body:	Midwifery Committee
Governing Legislation:	<i>Health Disciplines Act</i> <i>Midwifery Regulation</i>
Address:	17 th Floor, 10025 Jasper Avenue, Edmonton, AB T5J 2N3
Telephone:	(780) 415-0488 or 310-0000
Facsimile:	(780) 415-1094
Website:	
Email:	heather.Cameron@gov.ab.ca

Profession of Naturopathic Practitioners

Regulatory Body:	None but the professional association (Alberta Association of Naturopathic Practitioners) will become the college under the HPA
Governing Legislation:	None
Address:	P.O. Box 21142 665-8th St. S.W. Calgary, AB T2P 4H5
Telephone:	(403) 266-2446
Facsimile:	
Website:	http://www.naturopathic-alberta.com/
Email:	aanp_ab@telusplanet.net

Profession of Registered Occupational Therapists

Regulatory Body:	Alberta Association of Registered Occupational Therapists
Governing Legislation:	<i>Occupational Therapy Profession Act General Regulation (Occupational Therapy)</i>
Address:	Suite 311, 4245-97 Street Edmonton, AB T6E 5Y7
Telephone:	(780) 436-8381 1-800-561-5429
Facsimile:	(780) 434-0658
Website:	http://www.aarot.ca/index2.htm
Email:	info@aarot.ca

Profession of Opticians

Regulatory Body:	Alberta Opticians Association
Governing Legislation:	<i>Opticians Act</i> <i>Ophthalmic Dispensing Regulation</i>
Address:	#201, 10709 Jasper Avenue Edmonton, Alberta T6E 5H5
Telephone:	(780) 429-2694 1-800-263-6026
Facsimile:	(780) 426-5576 1-800-584-6896
Website:	http://www.albertaopticians.org/
Email:	alberta@albertaopticians.org

Profession of Optometrists

Regulatory Body:	Alberta College of Optometrists
Governing Legislation:	<i>Health Professions Act</i> <i>Optometrists Profession Regulation</i>
Address:	#307, 9622 - 42 Avenue Edmonton, AB T6E 5Y4
Telephone:	(780) 466-5999 1-800-668-2694
Facsimile:	(780) 466-5969
Website:	http://www.collegeofoptometrists.ab.ca/
Email:	aco@telusplanet.net

Profession of Paramedics

Regulatory Body:	Alberta College of Paramedics
Governing Legislation:	<i>Health Disciplines Act</i> <i>Emergency Medical Technicians Regulation</i>
Address:	304 Capilano Centre 9945 - 50 Street Edmonton, AB T6A 0L4
Telephone:	(780) 466-2772 1-877-351-2267
Facsimile:	(780) 466-2869
Website:	http://www.collegeofparamedics.org/
Email:	acp@collegeofparamedics.org

Profession of Pharmacists

Regulatory Body:	Alberta College of Pharmacists
Governing Legislation:	<i>Pharmaceutical Profession Act</i> <i>Pharmaceutical Profession Regulation</i>
Address:	Suite 1200, 10303 - Jasper Ave Edmonton, AB T5J 3N6
Telephone:	(780) 990-0321 1-877-227-3838
Facsimile:	(780) 990-0328
Website:	http://www.altapharm.org/college/home/index.cfm
Email:	acpinfo@altapharm.org

Profession of Physical Therapists

Regulatory Body:	College of Physical Therapists of Alberta
Governing Legislation:	<i>Physical Therapy Profession Act General Regulation (Physical Therapy)</i>
Address:	Suite 1350 Weber Centre 5555 Calgary Trail Edmonton, AB T6H 5P9
Telephone:	(780) 438-0338 1-800-291-2782
Facsimile:	780/436-1908
Website:	http://www.cpta.ab.ca/
Email:	cpta@cpta.ab.ca

Profession of Physicians and Surgeons

Regulatory Body:	College of Physicians and Surgeons of Alberta
Governing Legislation:	<i>Medical Profession Act Bylaws of the College of Physicians and Surgeons</i>
Address:	#900 Manulife Place, 10180-101 Street, Edmonton, AB T5J 4P8
Telephone:	(780) 423-4764 1-800-561-3899
Facsimile:	(780) 420-0651
Website:	http://www.cpsa.ab.ca/home/home.asp
Email:	Lwebb@cpsa.ab.ca

Profession of Podiatrists

Regulatory Body:	Alberta Podiatry Association
Governing Legislation:	<i>Podiatry Act</i> <i>By-Laws of the Alberta Podiatry Association</i> <i>Drugs, Chemicals and Compound Regulation</i> Note: Under the HPA, podiatrists will be regulated by the College of Physicians and Surgeons of Alberta
Address:	14110 Stony Plain Road Edmonton, AB T5N 3V8 (780) 452-1444
Telephone:	(780) 452-1444
Facsimile:	
Website:	http://www.albertapodiatry.com/
Email:	rbochinski@albertapodiatry.com

Profession of Psychologists

Regulatory Body:	College of Alberta Psychologists
Governing Legislation:	<i>Psychology Profession Act</i> <i>Psychology Profession Regulation</i>
Address:	2100 Sunlife Place 10123 – 99 th Street Edmonton, AB T5J 3H1
Telephone:	(780) 424-5070 1-800-659-0857
Facsimile:	(780) 420-1241
Website:	http://www.cap.ab.ca/
Email:	a.kinkaide@cap.ab.ca

Profession of Registered Dietitians

Regulatory Body:	College of Dietitians of Alberta
Governing Legislation:	<i>Health Professions Act Registered Dietitians and Registered Nutritionists Profession Regulation</i>
Address:	#540, 10707-100 Avenue Edmonton AB T5J 3M1
Telephone:	(780) 448-0059
Facsimile:	(780) 489-7759
Website:	
Email:	cda@collegeofdietitians.ab.ca

Profession of Registered Nurses

Regulatory Body:	Alberta Association of Registered Nurses
Governing Legislation:	<i>Nursing Profession Act Certified Graduate Nurse Regulation Code of Ethics (Nursing Profession Act) Regulation General Regulation (Nursing Profession Act) Nursing Profession Extended Practice Roster Regulation Registration Regulation Regulation and By-law Approval Regulation</i>
Address:	11620 - 168 Street Edmonton, AB T5M 4A6
Telephone:	(780) 451-0043 1-800-252-9392
Facsimile:	(780) 452-3276
Website:	http://www.nurses.ab.ca/
Email:	aarn@nurses.ab.ca

Profession of Registered Psychiatric Nurses

Regulatory Body:	Registered Psychiatric Nurses Association of Alberta
Governing Legislation:	<i>Health Disciplines Act</i> <i>Psychiatric Nurses Regulation</i>
Address:	#201, 9711 - 45 Avenue Edmonton, AB T6E 5V8
Telephone:	(780) 434-7666 1-877-234-7666
Facsimile:	(780) 436-4165
Website:	http://www.rpnaa.ab.ca/
Email:	rpnaa@rpnaa.ab.ca

Profession of Respiratory Therapists

Regulatory Body:	College and Association of Respiratory Therapists of Alberta
Governing Legislation:	<i>Health Disciplines Act</i> <i>Respiratory Therapists Regulation</i>
Address:	Suite #370, 6715- 8th Street N.E., Calgary, AB T2E 7H7
Telephone:	(403) 274-1828 1-800-205-2778
Facsimile:	(403) 274-9703
Website:	http://www.carta.ca/index.htm
Email:	carta1@telusplanet.net

Profession of Social Workers

Regulatory Body:	Alberta College of Social Workers
Governing Legislation:	<i>Health Professions Act Social Workers Profession Regulation</i>
Address:	#550 10707 100 Ave. Edmonton, AB T5J 3M1
Telephone:	(780) 421-1167 1-800-661-3089
Facsimile:	(780) 421-1168
Website:	http://www.acsw.ab.ca/news
Email	acswe@d.acsw.ab.ca

Profession of Speech Language Pathologists

Regulatory Body :	Alberta College of Speech-Language Pathologists and Audiologists
Governing Legislation:	<i>Health Professions Act Speech Language Pathologists and Audiologists Profession Regulation</i>
Address:	Suite 209, 3132 Parsons Road Edmonton, AB T6N 1L6
Telephone:	(780) 944-1609 1-800-537-0589
Facsimile:	(780) 408-3925
Website:	http://www.acslpa.ab.ca/
Email:	admin@acslpa.ab.ca
Other Comments :	

Appendix IV: Workshop Scenarios and Suggested Answers

A working copy of this handbook was extensively field tested through a series of workshops in the fall of 2003, during which participants worked through a variety of scenarios. The responses to these scenarios represent a distillation of those provided during the workshops.

Human Resources and Staff Supervision: Pre - Employment Considerations

You are involved in hiring Licensed Practical Nurses, and their responsibilities will include immunizations. What steps will you take during the recruitment and selection process to ensure that candidates are able to perform this action?

What research will you conduct, including involvement with the appropriate college? What questions will you include in the written application and pose during the course of the interviews to be able to determine the relevant aspects of all applicants' professional status?

How will you verify applicants' verbal and written statements about their professional credentials and competencies?

Considerations

- LPNs have been regulated under the HPA since April 12, 2003
- Immunizations are "restricted activities" under the *Government Organization Act*, and therefore by reference the HPA.
- Licensed Practical Nurses must be specifically authorized by their college to perform these restricted activities; this authorization is noted on their practice permits (renewed yearly)
- The College of Licensed Practical Nurses of Alberta obligates these specially authorized practitioners to have specific competencies, and to be involved in a continuing competency program.
- Please consider the sections in the Employers' Handbook on Restricted Activities, Registration as a Health Professional, College Registers, Practice Permits, and Access to Information and Confidentiality. Consider the processes of posting the recruitment notice, advertising, questions you may ask the applicants, reference checks, verifying the applicants' credentials (including ensuring their currency), etc.

Suggested Responses

- The position posting should specifically recognize the requirements of the HPA and the relevant health professional college. This includes registration in good standing with the CLPNA, the performance of restricted activities, attainment of appropriate competencies, the need for participation in the CLPNA's continuing competency program, etc.

- As well, employers may obligate additional requirements including previous education and experience, excellent interpersonal and writing skills, etc.
- Ensure that the applicant's registration and practice permit with the College of Licensed Practical Nurses of Alberta are current and in good standing, and that he/she has appropriate authorization/certificate from the registrar to perform immunizations. This should be verified through personal contact with the CLPNA.
- Determine from previous employer(s). (Note that the previous employer has no obligation to disclose this information and should require the employee's consent before doing so):
 - the applicant's educational preparation, including the year of graduation
 - the applicant's successful completion of the CLPNA certification program, including the year of completion (if unfamiliar with the contents, it may be prudent to request a copy of the College's immunization model for review by experienced regulated practitioners)
 - the health care settings in which the applicant performed immunizations (for example, schools and health units)
 - whether the applicant was supervised, preceptored or partnered with another regulated and authorized practitioner
 - if applicable the circumstances under which the employee left his/her previous employer
 - if applicable, the employee's performance during and subsequent to the probationary period
 - how the employee maintained his/her competency (e.g. educational upgrading and skill maintenance, "currency in practice," volume, age group and complexity of procedures)
 - the employee's ability to work independently, as well as part of a team, receptiveness to advice and direction.
- During the interview process, present some scenarios developed to highlight the applicant's competence (i.e. "*knowledge, skills, attitude and judgment required to provide health professional services*"). For example, ask questions such as:
 - How would you give a Mantoux test (to detect tuberculosis)?
 - What complications could arise from immunizations?
 - How would you respond to a client having an anaphylactic reaction following an immunization you performed?
- As an employer, it is important to ensure that appropriate steps are taken to authorize and/or supervise employees performing restricted activities, particularly during the early phases of their employment, including the probationary period.

Human Resources and Staff Supervision

You have been approved to create a new position to provide *clinical* supervisory responsibilities in a 60 bed unit. The staffing includes Registered Nurses, Registered Psychiatric Nurses, Licensed Practical Nurses, a Recreational Therapist (unregulated), and various (unregulated) health care aides. Other regulated professionals also provide health professional services.

You are able to choose from any relevant occupational classification. From a *competency* perspective, consistent with the philosophy of the HPA, please explain how you will prepare the position description, determine the appropriate regulated professional, and proceed to recruit and select this individual.

Considerations

- The philosophy of the HPA addresses the concept of "overlapping scopes of practice"
- Setting aside labour relations implications for the purpose of this exercise, employers are encouraged to deploy health care providers to assigned duties in accordance with the required competencies
- The recruitment and selection process for regulated health professionals should involve consideration of the relevant college to determine if there are any licensure issues
- Students and unregulated health workers performing restricted activities must be supervised
- Please consider the sections on Restricted Activities, Registration as a Health Professional, College Registers, Practice Permits, and Access to Information and Confidentiality. Consider the processes of posting the recruitment notice, advertising, questions you may ask the applicants, reference checks, verifying the applicants' credentials (including ensuring that they are current), etc.
- Please note whether your response would differ if the health care setting involved clinical supervision versus program management.

Suggested Responses

- The recruitment profile/position description for the supervisory position will vary depending upon the assessment of the appropriate *competencies*. That is, if the individual will be providing clinical supervision, the position description should ideally include the majority of competencies within the scope of practice of practitioners in health care setting, paying particular attention to the performance of restricted activities.
- This does not mean that the clinical supervisory must have competencies in all areas, as this is not realistic. No regulated professional has competencies in all health professional services
- If the decision is made to proceed with a program management model, and the supervisor is unregulated, it would be appropriate that the supervisor would seek the

opinion of a clinical lead or knowledgeable and competent (in the practice the profession) colleague to deal with any professional practice issues.

- There is a presumption, however, that all regulated members are competent in the practice of their respective professions, unless there is evidence to the contrary.
- The recruitment and selection process should ideally involve an interview panel with individuals from various professional disciplines.
- If the position profile calls for a regulated professional, it will be important to be mindful of the requirements of the HPA (membership in "good standing" with the respective college, appropriate authorizations (if applicable), etc.
- The position description/profile should identify the position title. If the position title is a "protected title" under the HPA, then all practitioners must be regulated by the applicable college.
- The position description/profile should also include the position supervised (and the nature of the supervision [direct versus indirect]), the name, position and regulated status of the supervisor, key responsibilities, required education and experience, major competencies, etc.
- The interview and potential written examination should involve the applicant addressing various scenarios to determine his/her competencies and critical thinking abilities.
- The selection process will need to include reference checks, contact with the applicable health professional regulatory college, a criminal record check (required by the *Protection for Persons in Care Act*), etc.
- The letter of offer should consider the requirements of the HPA, including the obligation to "remain in good standing" with the applicable college.

Human Resources Policies and Procedures

As a human resource professional, you have been asked to revise existing recruitment and selection policies and procedures. You will need to take into consideration the requirements of the HPA. What will be the critical components of these policies and procedures?

Considerations

- Please consider sections dealing with The HPA: An Introduction for Employers, Restricted Activities, Protection of Titles, Mandatory Registration, Registration as a Health Professional, College Registers, Students, Unregulated Health Providers and Restricted Activities, Practice Permits, Continuing Competency Programs, Practice Visits, Incapacity, College Disciplinary Processes, Disciplinary Hearings, Alternative Complaint Resolution, and Access to Information and Confidentiality.

Suggested Responses

- Employer policies, procedures and directives should specifically reference the HPA's requirements noted in the Employers' Handbook.
- Position descriptions, if they refer to a regulated professional, should define who is legally authorized to perform restricted activities (if any), as well as any supervisory requirements.
- If the position title is a protected title under the HPA, then the position can only be occupied by those regulated professionals authorized to hold the protected title.
- The position posting for recruitment and selection purposes should define the key responsibilities, professional qualifications and the performance of restricted activities that require specific authorization by the college's registrar.
- If the requirement is for a regulated professional, the posting (and job description) should obligate applicants/employees to remain in good standing with their respective colleges for the duration of their employment.
- During the recruitment and selection process, the prospective employee should be obligated to provide proof of his/her current registration and practice permit; the supervisor or human resource professional should always contact the college to confirm that the documentation provided by the applicant is valid (as, for example, the practice permit may have been suspended since it was issued).
- The letter of offer should specify the need for current registration and a current practice permit for the duration of employment.

- Employers should have "bring forward" systems in place to ensure that their regulated members' practice permits are current at all times. Note that college deadline dates for renewal of practice permits vary by profession, and some may have more than one renewal date (for example, quarterly).
- Employers should include in their policies and procedures the requirement to notify the related member's college in the event of suspension or termination of employment, or the employee's resignation, due to what could be construed to be "unprofessional conduct."
- As well, policies will be necessary to address circumstances where employees who are regulated professionals have limitations placed by their respective colleges on their practice permits, which prevent them from performing to their "full scope of practice" of their employment duties.
- Policies and procedures should address protocols for contacting the college's complaints director and other college officials (if applicable) such as the college's practice consultant.
- Employer policies and procedures should also deal with how regulated practitioners will be financially supported by the employer (if applicable) for continuing education/continuing competency activities (time off, travel, salaries and college's expenses, etc.)
- The recruitment and selection processes require special emphasis, including the assessment of applicants' competencies to perform health professional services, particularly restricted activities.
- Some health professional regulatory colleges require their members to carry liability insurance. In most (but not all) circumstances these colleges recognize employers' liability protective plans as providing sufficient and adequate coverage.
- Policies and procedures are necessary to address the special circumstances (supervision, performance of restricted committees, preceptorship, etc.) presented by unregulated workers and students (who most often are unregulated).

Continuing Competence Programs

A regulated health professional under your supervision has practiced for many years and reluctantly participated in various in-services and learning opportunities offered by your organization. His profession has recently been regulated by the HPA.

How will you support this staff member in meeting the continuing competence requirements under the HPA? What relationship is there to the staff member's position description? What involvement might you have with the employee's college?

Considerations

- Please see the sections on Continuing Competency Programs, and Access to Information and Confidentiality in the Employers' Handbook.
- Under the HPA, colleges link the obtaining of practice permits (most often yearly) by their members to participation in continuing competence programs
- Employers have an obvious interest in maintaining and improving their employee's competence, but employers are not responsible for providing continuing competence programs.
- Health professional regulatory colleges may cooperate with employers, to ensure that regulated members may benefit from employer-sponsored courses in assisting regulated members to meet their continuing competence requirements.

Suggested Responses

- Maintenance of competence is a life-long process for regulated health professionals.
- Strictly speaking, a regulated member is responsible to their health professional regulatory college to maintain his/her competencies, in accordance with the college's policies and directives. That is, there is no onus on the employer to provide continuing competence opportunities.
- However, in practice, health professional regulatory colleges often "recognize" employer educational opportunities as being suitable for college educational credits. As well, employers *may* offer time off from work or assist with financial subsidization of continuing education opportunities.
- Recognize that there are strict rules of confidentiality governing the relationships between colleges and their regulated members in dealing with continuing competence programs.
- The supervisor should offer to assist and coach the staff member to prepare their continuing competence requirements, in conjunction with reviewing their goals and objectives and position description, in anticipation of their performance

appraisal. This might include providing in-services and workshops for all applicable employees who are regulated members.

- Assist the staff member to recognize his/her legislative responsibilities as a regulated practitioner, as well as moral/ethical/professional responsibilities to his/her patients, clients or consumers. Provide examples of applicable role models wherever possible.
- Emphasize that the staff member's participation in the continuing competency program is essential for him/her to be able to work at their "full scope of practice" (*provision of health services consistent with the regulated member's education, authorization and level of competency*).
- Ensure as much as reasonably possible that the staff member has the time and ability (e.g. shift cover - off) to attend personal development opportunities. Critically assess whether the employment setting is truly a "learning culture," and if not, what steps can be taken to make this a priority.
- Attempt to determine why the staff is reluctant, perhaps as a result of a change in workload or due to other employment circumstances.
- Without revealing the staff member's identity, as this is not (yet or may never be) a disciplinary matter, contact the applicable college official (e.g. practice consultant) for advice and suggestions.
- Examine opportunities for staff members to access educational opportunities more easily, such as self-directed learning, distance education, Internet-based training opportunities, telehealth and videoconferencing, supervised clinical practice settings, access to educational materials and clinical books and journals, etc.
- A representative from the employee's health professional regulatory college could be invited to speak with all staff in the work setting, to explain the rationale and policies for the college's continuing competence program.
- Ensure that the employer's expectations are clear in terms of requiring regulated members who are employees to maintain their currency and competency in professional practice. This should be emphasized as part of the recruitment selection process, when setting performance expectations, and when conducting performance appraisals.
- It is prudent for employers to attempt to link employees' personal/career goals, employer expectations and goals, health professional regulatory college expectations (including renewals of practice permits) and the HPA's emphasis upon "protection of the public" whenever possible.

Investigations and Discipline

A regulated health professional under your supervision has been *alleged* to be negligent in providing care to a significantly physically and cognitively impaired continuing care resident.

How will you interpret and implement the HPA and other relevant legislation (such as for example the *Protection for Persons in Care Act*) to address your concerns about this individual's professional practice? What actions will you take as the employer, and in what order?

Considerations

- Please consider the sections on college Disciplinary Processes, Disciplinary Hearings, and Access to Information and Confidentiality.
- Instances such as this may at times result in multiple investigative processes, for example, employment (investigation and discipline, including the role of the union), relevant health professional regulatory college, Protection for Persons in Care, and potentially even law enforcement agencies.
- It is often best for the supervisor to prepare a workplan to ensure that all required individuals, family, guardians and agencies are appropriately involved, in a timely fashion.
- There are specific requirements for release and disclosure of various types of information, including dealing with the health professional's college.

Suggested Responses

- Immediately remove the alleged assailant from contact with the alleged victim in any form.
- Then notify your supervisor immediately of the allegation and the course of action you intend to take.
- Have the complaint (if reasonable) and/or a witness to formally document the incident in as detailed a manner as possible.
- Prepare a workplan to ensure that all important steps are followed, and timely and correct information is conveyed to all interested parties.
- If available, engage your human resource specialist to provide collegial advice and potentially assistance and guidance, to ensure all appropriate steps are taken to comprehensively investigate the incident. It also may be prudent to involve the employer's legal counsel.

- Interview the individual who is alleged to have been provided with negligent care, recognizing that this individual is significantly physically and cognitively impaired.
- Interview the alleged assailant to determine what was or what was not done, and whether there were any witnesses.
- If it appears that there are "reasonable grounds" to believe that the employee has engaged in unprofessional conduct, institute the investigation and disciplinary process in accordance with the employer's policies and procedures.
- Notify the college's complaints director if you "reasonably" believe that the employee may have engaged in unprofessional conduct. It is often best not to initiate this significant action until the latter stages of the employer's investigative processes. If in doubt, the college can be approached informally for consultation purposes, without mentioning the regulated member's name.
- The employer's investigation should not be "delegated" to the college, nor should the employer's actions await the outcome of the college's investigative and disciplinary processes.
- During office hours, notify the Protection for Persons in Care reporting line (legislation obligates this action).
- If the complaint involves a regulated professional, the Protection for Persons in Care office may request the relevant health professional regulatory college to conduct the PPCA investigation (although the processes are under entirely separate jurisdictions).
- Depending upon the nature of the circumstances (e.g. whether there is a possibility that the matter may be dealt with in the criminal courts), the police may be involved.
- There is a need to be mindful of the release of information, access and privacy implications of various legislations.
- Ensure that all interested parties have been notified, including family members and/or guardians.

Investigation and Discipline

You are approached by a supervisory co-worker to provide advice with respect to an (option #1: regulated professional) or (option #2: unregulated worker) who is making intermittent medication administration errors. The employee's errors seem to be increasing in severity and frequency.

Your colleague expresses considerable frustration about the employee's lack of response to performance management, including progressive discipline, as well as professional development opportunities.

Please outline the advice, supported by a comprehensive rationale, which you will provide to your co-worker, including appropriate involvement of the employee's college (for the regulated professional).

Considerations

- Please see the sections on Health Professional Colleges, Practice Permits, Continuing Competency Programs, Incapacity, College Disciplinary Processes, Disciplinary Hearings, Alternative Complaint Resolution, and Access to Information and Confidentiality.
- The HPA provides a number of options, including for employers, to work with health professional regulatory colleges in these circumstances.
- Employers are one of the many parties who may initiate a complaint with a college, providing that the employee is a regulated professional.
- The employee may be engaging in unethical and/or incompetent practice, and/or may be incompetent.
- Options for addressing complaints, in conjunction with the college, include informal communication and attempts to resolve conflicts, alternative complaint resolution, obtaining expert assessments, assessing a member's incapacity, and traditional investigations and hearings.

Suggested Responses

- Reasonably assume that there have been many more medication errors committed than actually reported. The circumstances should immediately be reported to the next level of supervisor/manager.
- Potentially limit the employee's practice to certain areas not involving the activity in question where you believe competencies are lacking. Concurrently, limit the employee's access to areas where medications are distributed. If these actions are taken in conjunction with employer disciplinary procedures, the college's complaints director must be notified.
- Consider the potential to have the staff member enrolled or re-enrolled in an employer-sponsored or other certification program. If the employee is a regulated

professional, it may be prudent to speak with the college's continuing competence/practice consultant, who may offer additional information on how to address these performance deficiencies and the potential risk to patients.

- Seek assistance from the applicable human resources staff member/consultant.
- Review the job description, performance goals and objectives, performance appraisals and any other relevant information on the employee's file. Pay special attention to any documentation relative to the medication errors and actions taken (including progressive discipline).
- Interview the employee in a factual and non-threatening manner to attempt to determine the reason for the repeated medication errors, and the level of the employee's insights into their actions.
- Offer a referral to the Employee Assistance Plan or contracted mental health professional if indicated.
- Investigate the potential that the employee may be stealing medications, and/or suffering from an addiction to psychoactive medications. If applicable, a referral to the college's complaints director may be necessary in order to investigate the potential that the member may be incapacitated.
- Potentially involve the facility-based pharmacist.
- Consider speaking with the college's complaints director if remedial measures remain unsuccessful, there is a continued risk to patient/clients, and the member may be engaging in "unprofessional conduct."

Unregulated Workers

You are the supervisor in a setting where Registered Nurses, Registered Psychiatric Nurses and Licensed Practical Nurses are employed. You also have (unregulated) "health care aides" who provide care to clients, including invasive procedures.

How will you determine what tasks the health care aides may perform and under what circumstances? When and in what setting is a particular action a "restricted activity" and when is it an "activity of daily living?" How will the health care aides be supervised?

What supporting policies and procedures will you want your employer to have in place?

Considerations

- Please see the sections on Restricted Activities and Unregulated Health Providers, and Restricted Activities.
- It is crucial to determine whether certain health services are "restricted activities" or an "activity of daily living."
- Restricted activities are noted in the *Government Organization Act*, which is found in an appendix to the HPA Employers Handbook.
- "Activities of daily living" are defined in the *Government Organization Act* as activities that individuals normally perform on their own behalf to maintain their health and well-being, including
 - routine and invasive self-care activities, including but not restricted to the removal of slivers and the cleaning of wounds
 - specifically taught procedures, which generally result in predictable and stable responses, including but not restricted to catheterization, maintenance of drainage tubes and administration of drugs by injection."
- The three nursing groups have agreed to authorize their members to consent to and supervise the following restricted activities to health care aides:
 - 2(1) (b) to insert or remove instruments, devices, fingers or hands
 - (v) beyond the labia majora,
 - (vi) beyond the anal verge.
- Regulated nursing professionals may consent to the assignment of either of these two restricted activities to a health care aide, if the assignment is:
 - appropriate to client needs,
 - within the competencies of the individual health care aide, and
 - supervised by the regulated nurse (LPN, RPN or RN).
- Agencies and administrators are responsible to ensure the competencies of the health care aides they employ, and to provide clear and ongoing means of communication of this information to regulated nursing personnel.
- No other restricted activity can be assigned to a health care aide by a regulated nurse member, unless in that particular situation it is considered an activity of daily living for that client.

- In some circumstances, an invasive activity would qualify as part of the routine activities of daily living for an individual client. These include all of the following list:
 - if the client was healthy and able to perform the function, he would do the task himself as part of his daily self-care, and
 - the client's needs are stable and the invasive procedure is an established aspect of his care, and
 - the outcomes of the invasive procedure are predictable, and
 - the client will not be at risk if the procedure is performed by an unregulated person, and,
 - the client and/or his family have been involved in developing the care plan, including the assignment of an invasive procedure to an unregulated person, and
 - the client has been assessed by an authorized regulated nurse, who will evaluate the outcomes of the care provided on an ongoing basis, and
 - the person performing the procedure has obtained the consent of an authorized regulated nurse and is being supervised by that person, and
 - the person assigned the responsibility for the procedure has received instruction and is competent in performing the task for the client.

Suggested Responses

- Note that the three nursing colleges have only agreed that their regulated members supervise unregulated workers performing two restricted activities, and then only when the many stipulations noted in their combined policy document are met.
- Reference the three nursing colleges' guidelines with respect to supervision of unregulated workers performing restricted activities (the "decision tree" on page 8 of the guidelines is especially beneficial).
- Consider instituting some form of prior position requirements such as a Personal Support Aide Course.
- The employer's policies and procedures should specifically reference the requirements of the HPA, as well as the three nursing colleges' guidelines.
- It is the regulated member as the supervisor who makes the determination about the appropriateness of care, level of supervision, "skill mix," the unregulated member's task proficiency, training requirements, the practice setting or context in which the care is provided, the patient's complexity and stability, when the matter should be referred to a regulated health care professional and other factors which require a high degree of clinical competency, critical thinking and decision making.
- The case plan and applicable position descriptions should include specific reference to the performance of restricted activities by unregulated workers.

Students; Investigation and Discipline

A third year student of the Registered Nursing profession is completing a clinical practicum in your facility. The student has received training in a variety of restricted activities, including the intravenous administration of medications.

The student has committed a significant error in the administration of medication, by flushing an intravenous line with potassium instead of heparin. As a result, a patient's care has been seriously compromised.

Who would you consider involving and in what order?

Considerations

- Please see the sections on Students and Unregulated Health Providers, and Restricted Activities.
- The HPA generally addresses students as unregulated workers. In most circumstances (including Registered Nurses), students are considered as unregulated workers, who are under the control of their educational institution.
- Students performing restricted activities must do so under the supervision of regulated members, in accordance with the regulated member's college regulation.
- It would be advisable to prepare a workplan, to ensure the appropriate and timely involvement of the student's supervisor, the unit supervisor, the attending physician, management, educational institution, employer's liability protective organization, the patient's family/guardian, and (depending upon the patient's outcome) other organizations such as the Medical Examiner's Office.
- As unregulated workers in most instances (with the exception of professions such as medicine and pharmacy), students are considered to be under the control of educational institutions. Therefore, they practice restricted activities under the "supervision" of their respective educational institution and clinical instructors, following a comprehensive organization to the employee's policies and procedures.
- In reality, this responsibility is shared with preceptors, who are usually full-time employees.
- The supervisor's regulations must provide authorization for the supervision of students performing restricted activities.

- The supervisor must ensure that the student (unregulated worker) has the requisite competencies in order to perform the restricted activities, with the necessary level of supervision.
- Prior to students even being on the workplace, consider:
 - Is there a formal agreement in place with the educational institution?
 - What are the (educational institution's) clinical instructor's roles and responsibilities?
 - Is the assigned preceptor a regulated, competent and authorized professional?
 - Has the preceptor been comprehensively trained and oriented to the roles and responsibilities?
 - Has there been an adequate investigation of the student's educational background, competencies, etc.?

Suggested Responses

- Immediately contact the attending physician or any available physician to intervene in the patient's interests.
- Then contact the charge nurse, preceptor and clinical instructor immediately.
- Alert senior management as necessary.
- Potentially involve the facility-based pharmacist.
- Prepare an Incident Report in accordance with the employer's policies and procedures.
- Contact the patient's family and/or guardians as soon as possible.
- Investigate the incident by speaking with the student and preceptor RN as soon as a patient is stable, to determine if the policies and procedures were appropriately followed, whether proper clinical practices were observed, and whether the medications were double checked prior to administration.
- Delegate the responsibility for contacting the employer's liability protective/risk management organization, possibly to the human resources professional.
- Contact the Canadian Nursing Protective Society with respect to the responsibilities and accountabilities of the regulated members (clinical instructor and/or preceptor).
- Document everything, every step of the way, preferably in conjunction with a workplan.

- The college will only become involved if the incident relates to errors of omission or commission of the part of regulated members.
- Reference the Alberta Association of the Registered Nurses' late 2003 policy guidelines on issues relating to students and supervision.
- Once the matter has been resolved, formerly refer the circumstances to the quality improvement team (if applicable).