

An Update on Professional Regulation for Laboratory Assistants/Technicians

Blanca McArthur
OSMT Executive Director

The regulation of laboratory assistants/technicians has been on the minds of many and is now the attention of a number of laboratory stakeholders. In fact, the College of Medical Laboratory Technologists of Ontario (CMLTO) has included the exploration of regulation for lab assistants/technicians in its current strategic plan. Over the course of the summer the College conducted an environmental scan to evaluate the support it would have with this initiative.

We know that this subject has also been on the minds of many OSMT members. The results of a survey done by the OSMT indicate that, while generally both MLTs and MLA/Ts are in favour of regulation for lab assistants/technicians, MLA/Ts need further education about what regulation is and how it would impact them. So, a number of things need to be done before taking the big step of filing an application for regulated health profession status with the Minister of Health and Long-Term Care. One of these is ensuring that MLA/Ts know exactly what it means to be a 'regulated health profession' and that they are aware of the responsibilities that go along with it. The OSMT is developing a communications strategy for this educational process.

Another item that needs to be addressed is that of credentialing. Since 1988, the OSMT Medical Laboratory Assistant/Technician (MLA/T) Certification program has established quality standards for laboratory assistants and technicians according to the requirements of Ontario laboratories. MLA/T certification is based on current laboratory workplace practices in Ontario and is in compliance with provincial regulations. Over 6,500 individuals have worked long and hard to earn their MLA/T Certificate. The Society is committed to exclusively supporting this credential as the entry-to-practice requirement in Ontario.

Explaining regulation – what it is and what it takes to get there – is a challenging task. In a nutshell, being a regulated health profession means working within the framework of the Regulated Health Professions Act, 1991 (RHPA) using the concept of 'self-regulation'. The RHPA regulates 23 health professions, including physicians, laboratory technologists, nurses, psychologists, etc.

The RHPA is enforced by regulatory bodies called Colleges that govern and hold professionals accountable. Regulated health professionals must be able to put aside their self-interest in favour of the public interest; hence the primary mandate of the Colleges is to protect the public using the processes stipulated by the RHPA. Each College also has its own profession-specific act that is written for the profession which it regulates, e.g. the Medical Laboratory Technology Act. Colleges are financially supported by the professions they govern.

How do healthcare providers achieve regulated health profession status? A process has been put in place by the Ontario government with the RHPA. The RHPA mandates that there be an arms-length organization called the Health Professions Regulatory Advisory Council (HPRAC) whose job it is to receive referrals from the Minister and advise him or her on how to respond to submissions. Submissions may include applications to become regulated, requests to change the scope of practice of a profession, additions to the controlled acts listed in the RHPA and who is authorized to carry them out, etc. As a general rule, HPRAC consults with stakeholders, professions, and the public, in order to formulate its recommendations to the Minister.

For healthcare provider groups wishing to be regulated, HPRAC has adopted the following nine criteria that must be met for regulating a new profession under the RHPA:

1. Risk of Harm

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

2. Sufficiency of Supervision

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

3. Alternative Regulatory Mechanism

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

4. Body of Knowledge

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

5. Educational Requirements for Entry-to-Practice

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

6. Leadership's Ability to Favour the Public Interest

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

7. Membership's support and willingness to be regulated and likelihood of complying with regulation

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

8. Economic Impact of Regulation

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

9. Public Need for Regulation

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

Currently HPRAC has a number of pending issues which it is considering for the Minister and will not likely be receiving any additional referrals until its recommendations on these have been completed. The Minister has requested that these issues be cleared by March 31, 2006 at which time it is expected that new submissions will be received.

The following article provides an excellent overview of the current issues referred to HPRAC. The outcome of a number of these will undoubtedly set the course for future submissions.

We want to hear the opinions, suggestions, questions, and concerns about regulation for lab assistants/technicians from our OSMT members. Please contact the Executive Director, Blanca McArthur, at 1-800-461-6768 or at bmcarthur@osmt.org, or your District Director to discuss this issue. The names and telephone numbers of District Directors are on the OSMT website at www.osmt.org.

Health Professions Regulatory Advisory Council - The Future of Health Professions Regulation

By Brian Hanulik

Reprinted with permission from Update for Professionals, July 2005, the electronic newsletter of the Professional Regulation Department of Cavalluzzo, Hayes, Shilton, McIntyre & Cornish, LLP

In February 2005, the Minister of Health and Long-Term Care, the Honourable George Smitherman, requested the advice and recommendations of the Health Professions Regulatory Advisory Council (HPRAC) on a number of issues.

In particular, the Minister has requested HPRAC's advice on whether members of certain professions should be regulated under the Regulated Health Professions Act (RHPA). This would include recommendations regarding

their scope of practice, what controlled acts, if any, they should be authorized to perform, and any protected titles that may be required. The Minister has also asked HPRAC to consider whether it is appropriate that these professions be regulated under an existing profession specific act (for example, in the case of pharmacy technicians/assistants, under the Pharmacy Act, 1991).

HPRAC has recently completed a consultation phase regarding the regulation of pharmacy technicians/assistants, homeopaths, and kinesiologists - the deadline for submissions was June 17, 2005. Should HPRAC recommend that any or all of these professions be regulated under the RHPA, it will undoubtedly have an enormous impact, not only on these particular professionals, but also on other professions and the existing Colleges should HPRAC also recommend that the regulation of these new professions occur under an existing profession specific act.

HPRAC will also consider whether psychotherapists and personal support workers should be regulated under the RHPA. Consultations with respect to these professions are expected to commence later this year.

HPRAC is currently reviewing a number of additional issues, including:

- Whether psychotherapy should be an additional controlled act under the RHPA, and if so, what regulated professions should have psychotherapy in their scopes of practice;
- Whether the determination of a need for a hearing aid or the specifications of a hearing aid should be controlled acts, and whether hearing testing and dispensing of hearing aids should be controlled by the RHPA;
- Whether dispensing eye wear is an activity that needs to be controlled under the RHPA, and whether refractometry is within the scope of practice of opticianry.

Formal consultations will apparently also begin in August or September 2005 on a number of issues that the Minister has raised with respect to the legislative framework, including:

- The currency of, and any additions to, recommendations made by the Council as part of the "5 year review" of the RHPA, contained in its report 'Adjusting the Balance';
- The currency of, and any additions to, the Council's recommendations in relation to the Colleges' quality assurance programs and patient relations programs;
- The currency of, and any additions to, the Council's recommendations in relation to the Colleges' complaints and discipline procedures;
- Whether there are any impediments in the RHPA or the profession specific acts to a shared services business model for new professions for whom the financial demands of regulation are onerous, but where the public interest would be served by regulation.

The Minister has requested that the HPRAC provide its Advice Memorandum, containing its recommendations on all of these issues, to him by March 31, 2006. As this process obviously has implications on any number of regulated health professionals in Ontario, we will continue to monitor the ongoing consultation process and will continue to update our clients as developments at HPRAC unfold.