



Physicians who employ any type of worker in their practices are generally aware of their responsibilities for the health and safety of their employees under Alberta's *Occupational Health and Safety Act*, *Radiation Protection Act*, and *Public Health Act* and of their duty under Alberta's *Employment Standards Code*.

Alberta's recent *Health Professions Act* now adds some further obligations regarding employees who are member of regulated health professions.

Unregulated workers, including personal care attendants, orderlies, receptionists and many others **are not** the subject of these provisions. The list of regulated health professions in Alberta is appended.

For a more complete description of the impact of the *Health Professions Act* on employers, please consult the government's *Health Professions Act Employers' Handbook* on the web at:

- www.health.gov.ab.ca/professionals/HPAemployersHAND-BOOK.pdf

Excerpts from that handbook are italicized below.

1. Mandatory registration for healthcare workers

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.*

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.

Therefore, physicians must ensure that the people they employ to perform health services and who are eligible for registration with a regulatory authority, are in fact registered with that authority (i.e. a professional college). By way of example, a person who is qualified as a registered nurse and who is providing health services in Alberta must be registered with the College and Association of Registered Nurses of Alberta (CARNA).

2. Use of protected 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.

Therefore, a physician must not use a restricted title to describe an employee who is not a registered member of a profession entitled to use that title. For example, the title "nurse" can only be used in reference to an employee who is a registered nurse, a licensed practical nurse or a registered psychiatric or mental deficiency nurse.

3. Reporting unprofessional conduct

*Employers are **legally obligated** to inform the employed worker's college if the worker's employment is terminated or suspended, or the worker has resigned for reasons of unprofessional conduct.*

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

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.

For instance, a physician who terminates the employment of a licensed practical nurse because of a breach of a patient's privacy must report the nurse and the nature of the conduct to the College of Licensed Practical Nurses of Alberta (CLPNA).

4. Contravention of regulatory orders on a healthcare worker's practice

An employer may not insist that an employee perform a function that is prohibited by the employee's regulatory college pursuant to a disciplinary hearing involving that member. For instance, a physician cannot require that an employed nurse administer a narcotic to a patient if that nurse has been restricted by her regulatory college from administering narcotics.

5. Checking of 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.

The simplest method of ensuring that an employee is registered and entitled to practice without conditions is to inspect the worker's practice permit.

6. Receipt of information

A regulatory college must notify the employer when it cancels, suspends or places restrictions on the registration or practice of one of its members. This notification puts an onus on the employer to act accordingly.

The *Employer's Handbook* contains many helpful explanations about the processes in place to regulate healthcare workers in your employ, and we encourage all physician-employers to review it.

Because there also has been little experience with the interpretation of some of these provisions, we are unable to provide as much guidance to physician-employers in some areas as they may need.

For instance, we do not know:

- How difficult will it be for long-time employees whose registration has lapsed to become registered again in their professions?
- What is an appropriate title for an ex-registered nurse, who continues to work in a medical practice?
- What duties of unregulated workers can risk adverse attention from a professional regulatory authority for practicing a profession "without a licence"?
- What is the liability exposure for a physician who terminates a long-time worker in his or her employ because the worker cannot become registered?
- How do we resolve the paradox that permits a physician to supervise an unregulated worker but not a regulated worker in the performance of a restricted activity?

We will continue to work with the professions and government to find answers to these questions. Until the many uncertainties around these provisions of the *Health Professions Act* are resolved, physicians can be assured that this college, at least, cannot be critical of unwitting breaches.

Please feel free to contact Dr. Bryan Ward at the College with your inquiries on this subject.

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Health professions currently regulated or awaiting regulation under the HPA

1. Acupuncturists
2. Chiropractors
3. Combined Laboratory and X-Ray Technologists
4. Dental Assistants
5. Dental Hygienists
6. Dental Technologists
7. Dentists
8. Denturists
9. Hearing Aid Practitioners
10. Licensed Practical Nurses
11. Medical Laboratory Technologists
12. Medical Radiation Technologists and Electroneurophysiologists
13. Midwives
14. Naturopaths
15. Occupational Therapists
16. Opticians
17. Optometrists
18. Paramedics
19. Pharmacists
20. Physical Therapists
21. Physicians, Surgeons, Osteopaths and Podiatrists
22. Psychologists
23. Registered Dietitians and Registered Nutritionists
24. Registered Nurses
25. Registered Psychiatric Nurses and Mental Deficiency Nurses
26. Respiratory Therapists
27. Social Workers
28. Speech – Language Pathologists and Audiologists