
February 13, 2009

Ms. Barbara Millar
Senior Policy Analyst
Legislative Unit
Manitoba Health & Healthy Living
300 Carlton Street
Winnipeg, MB R3B 3M9

Dear Ms. Millar:

**RE: Health Professions Regulatory Reform Initiative:
Draft Consultation Paper**

On behalf of the Psychological Association of Manitoba (PAM), we would like to thank you for the opportunity to provide feedback to you on the draft consultation paper reflecting the new Regulated Health Professions Act. Having been participants in discussions since the beginning of this project, we are grateful for an opportunity to provide you with the thoughts of the Psychological Association of Manitoba on the tremendous amount of work that has been done, both by the regulators and government in this endeavour. We appreciate the responsiveness of the Department of Health to the concerns that have been expressed to date, and anticipate an ongoing collaborative working relationship with you as the finer details of this legislation are crafted.

Generally speaking, PAM is pleased with a number of the concepts introduced in the Regulated Health Professions Act as laid out in the consultation document. This Act provides for far more transparency and accountability than currently is provided for in the Psychologists Registration Act. You are by now well aware of our concerns over our antiquated act, and we applaud a number of the changes offered in this new legislation. In particular, we are pleased that we will now be able to have public/lay representation on our Executive Council, potentially recover costs at all stages of our disciplinary processes, and establish a College of Psychologists of Manitoba, to bring us in line with contemporary legislative practices. Our members will also be pleased to have the option to incorporate their practices.

Notwithstanding the above, we do have some prominent concerns that we would like to bring to your attention. First and foremost, we are deeply troubled over the exclusion of Psychologists in Sec. 68 (1) under Title Restriction and Other Prohibitions, wherein professions that may utilize the title “doctor” and the abbreviation “Dr.” in the provision of health care services are listed. We certainly recognize the appropriateness of including Physicians and Surgeons, Dentists, Chiropractors, Naturopaths, Optometrists, and Podiatrists in this listing. We wish to emphasize, however, that Doctorally trained Registered Psychologists also must be included in this listing. Over the past decade in particular, Psychologists have become recognized as integral members of

the interdisciplinary healthcare teams both in primary care environments (where they work in collaborative care practices), and in tertiary care institutions (e.g., community and teaching hospitals). In these settings, like many of the professions already listed under Section 68, Psychologists are looked to as competent and professional members of a multidisciplinary healthcare service delivery team, along with physicians, and as such we are perplexed as to the failure to include psychologists in this list.

As you are well aware, Doctorally trained Psychologists have received extensive, comprehensive, and thorough training (through 4 to 6 years of course work, multiple supervised practica, a one-year clinical internship, and one year of post-doctoral supervised practice) through institutions accredited both regionally and nationally, to provide health services to the citizens of Manitoba. By virtue of our current antiquated Act, and the existence of exempt institutions, not all those who are designated as Psychologists in Manitoba have achieved this doctoral level of training, but certainly those who have earned a doctorate from an accredited institution have the right to use the title that has been awarded to them. Moreover, this title helps the public to identify those psychology practitioners who have achieved this level of education and training. The right of Doctorally trained Psychologists to use this title was affirmed by the American Medical Association in June, 2008, when they rejected a proposal to restrict the use of the title “Dr.” to only certain professions and stated that any individual who has received a terminal doctoral degree in his or her area of study, has the right to be called “doctor.” We would be happy to provide you with further information on this recent AMA decision, at your request.

Further, as highlighted by your Department, the current Regulated Health Professions Acts in Alberta and Ontario have been referenced extensively as templates for the Manitoba version of this legislation. Therefore, we would draw your attention to the Ontario Regulated Health Professions Act and Alberta Health Professions Act, both of which specifically permit members of their respective Colleges of Psychology to utilize the title doctor, for Doctorally trained registered psychologists in their respective jurisdictions (please see attached excerpts). We see no reason why the modeling and template-based approach which has been used for so many aspects of our draft legislation, should not continue with respect to title restriction. To do otherwise would, in our view, represent a significant step backwards and away from the types of nationally consistent legislative practices, that the HPRRI was, in part, designed to achieve. Our work with you has been collegial and collaborative and it is our assumption that the omission of psychologists from this list was simply an oversight and reflective of your understanding that several professions may be requesting this use of title. As such, we are drawing this omission to your attention and request that this title use be provided to Psychologists in a manner consistent with other professions under Section 68 and that it be included in the Act itself, as opposed to in profession-specific legislation.

A second concern for PAM lies in Section 29 (3) (c) (ii) in which it is stated that, during normal business hours, a person may obtain information from the College including whether a member has been required to pay a fine or **attend to be censured**. Within PAM, at this time, a censure is used as a disciplinary tool to express concern over less than optimal practice by a member. It is a jointly agreed upon disciplinary disposition that falls below our generally accepted threshold for public reporting (e.g., a reprimand). It is utilized in instances when a member has demonstrated undesirable practice but not acted in an egregious manner. Including a censure in the information that is typically available to members of the general public drastically changes the ways in which we utilize this disciplinary measure and, in our view, potentially could further limit the options available to us, short of progression to the far more adversarial (and resource costly) laying of charges and a disciplinary hearing by our Inquiry Committee.

We speculate that perhaps you may be using the concept of censure somewhat differently than we are and, as such, we are requesting clarification from you as to how you are utilizing this term. From our perspective, a censure reflects an expression of displeasure in a Psychologist's practice and a statement by the Psychologist in question that he or she acknowledges sub-optimal practice and undertakes to avoid such types of practices in the future. Furthermore, within the context in which censure is used by us, this type of information is available to the Complaints Committee and/or Inquiry Committee should a member be brought to the attention of these committees as a result of future complaints. In this way, sub-optimal practice errors are not overlooked in future disciplinary matters. The complainant is informed that the censure may be considered in future disciplinary matters, but the censure itself typically is not made available to the public.

A further concern related to this section involves those censures already issued over the past six years. PAM has entered into legally binding agreements with members, which assure them non-publication of these censures. The proposed legislation seems to necessitate the release of this information to inquiring members of the public, but doing so would break our agreements with these members. We have obvious concerns about legislation that would compel us to act in such a fashion and we look forward to your comments and further thoughts on this matter, as it does have direct implications for the manner in which we currently discipline our members.

Third, you have indicated in Section 93 (1) (f) that the Complaints Investigation Committee may, in the course of disposing of a matter, accept an undertaking from an investigated member to assess their capacity or fitness to practice the Regulated Health Profession in question. We note that no such power is afforded an Inquiry Panel under Section 117 (1). Given the potential that indications of diminished capacity to practice may become manifest later in the complaints process (e.g., within the context of an Inquiry hearing), we request that this disposition option also be afforded an Inquiry Panel. We recognize that in the case of an inquiry it would not be an agreed-upon disposition but rather one that is imposed by the panel. However, given our primary mandate of public protection, we wish to permit ourselves the most breadth in options for disposition as possible and, in this case, are of the opinion that the option of submitting an individual to a fitness-to-practice assessment is a potential reasonable disposition of an Inquiry Panel.

In addition to the above primary concerns, there are several other matters that we would like to bring to your attention. They are as follows:

1. Our current by-laws/regulations contain the following provision/indemnification:

Sec. 53 (By-Law #1) - No action or proceeding may be brought against the association, the council, the registrar, a person conducting an investigation or a member of a committee established under the Act or the by-laws, or any employee, officer or person acting on the instructions of any of them, for anything done or not done, or for any neglect, (a) in the performance or intended performance of a duty under the Act or the by-laws; or (b) in the exercise or intended exercise of a power under the Act or the by-laws; unless the person was acting in bad faith.

We respectfully request that such a provision also be included in the new regulated health professions legislation.

2. We have concerns over Sec. 10(2)(e). Although we recognize the importance of keeping members abreast of changes in practice standards and technologies, along with innovations in service delivery, we simply do not have sufficient resources to establish the types of upgrading programs inferred by this section of the legislation. We believe instead that this task is more properly within the mandate of the educational/training institutions and we will endeavour to work closely with them to ensure that changes in competencies to practice are clearly understood by the institutions charged with educating and training new graduates.
3. With regards to the Health Professions Advisory Council, we call on government to strongly consider including a member of a regulated health profession on this council. We would suggest that such members could be rotated on a regular basis in order to avoid the perception of any discipline being favoured. We recognize the important role that this council will perform and understand that it should be independent from stakeholders. At the same time, it seems prudent to include one individual from the body of individuals and professions whose practice the Council is designed to regulate. We believe that such inclusion could not only improve the efficiency of the Council, it also could substantially improve the applicability and/or practicality of recommendations for change offered by this body. In considering the environment and contexts in which regulated health professions work, there is simply no substitute for the knowledge that comes from being a member of such a profession.

Again, we wish to thank you very much for the opportunity to share our thoughts and concerns with you and look forward to your earliest possible response. We would, of course, be more than happy to meet in person to discuss these issues with you. Please feel free to contact us at your convenience.

Sincerely,

Teresa Sztaba, Ph.D., C.Psych.
President, Psychological Association of Manitoba

Alan Slusky, Ph.D., C.Psych.
Registrar, Psychological Association of Manitoba

/Enclosures.

Cc: Dr. Harvey Keselman, Head of Psychology, University of Manitoba
Dr. John Arnett, Director of Clinical Psychology Training, University of Manitoba
Dr. R. McIlwraith, Head, Dept. of Clinical Health Psychology, University of Manitoba
Ms. Theresa Oswald, Minister of Health
Dr. Nancy Prober, President, Manitoba Psychological Society

AS/lc

Excerpt from Ontario Regulated Health Professions Act:

33. (1) Except as allowed in the regulations under this Act, no person shall use the title “doctor”, a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals. 1991, c. 18, s. 33 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 33 is amended by the Statutes of Ontario, 2007, chapter 10, Schedule P, subsection 20 (1) by adding the following subsections:

Same

(1.1) Subsection (1) does not apply to a person who is a member of the College of Naturopaths of Ontario. 2007, c. 10, Sched. P, s. 20 (1).

Naturopathic doctor

(1.2) A member referred to in subsection (1.1) shall not use the title “doctor” in written format without using the phrase, “naturopathic doctor”, immediately following his or her name. 2007, c. 10, Sched. P, s. 20 (1).

See: 2007, c. 10, Sched. P, ss. 20 (1), 21 (2).

Idem

(2) Subsection (1) does not apply to a person who is a member of,

- (a) the College of Chiropractors of Ontario;
- (b) the College of Optometrists of Ontario;
- (c) the College of Physicians and Surgeons of Ontario;
- (d) the College of Psychologists of Ontario; or
- (e) the Royal College of Dental Surgeons of Ontario. 1991, c. 18, s. 33 (2).

Excerpt from Alberta Regulated Health Professions Act:

Section 128(7) No person shall use the title “doctor”, “surgeon”, “pathologist” or “oncologist” or the abbreviation “Dr.” alone or in combination with other words in connection with providing a health service unless the person is authorized to use the title or abbreviation by this Act or another enactment.

Schedule 22 Profession of Psychologists

Use of “Doctor”, etc.

Section 5 No regulated member except a regulated member who has obtained an earned doctoral degree in a program in psychology approved by the Credentials Evaluation Committee of the College of Alberta Psychologists shall use the title “Doctor” or the abbreviation “Dr.”, “Ph.D.”, “Ed.D.” or “Psy.D.” in connection with the practice of psychology without identifying the program or discipline in which the regulated member earned or received the doctoral degree.