

## SECTION: THE LEGISLATIVE FRAMEWORK

### ACTS & REGULATIONS

**ACTIVITY:** Q & A, in pairs, and individually

**TIME:** 1 hour

**LEARNING OUTCOME:**

Participants will understand the ways in which these acts affect them in the performance of their duties.

**DESCRIPTION:**

- Organize the class into pairs.
- Instruct participants to use the copies of *the Regulated Health Professions Act* and the *Health Care Consent Act* in their Resource Packages to complete the exercises on **pages 29-34**.
- Take up answers as a class (use Answer Key provided).
- Instruct participants to use the copy of the act for their profession from the Resource Package to complete the exercise on **page 35** (do not take up answers as a class).

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT --  
ANSWER KEY**

**Section 1: Definitions**

According to Schedule 1, there are **21** self-governing “health professions” regulated by **21** “health profession Acts.”

How does the Act define the term “College”?

*The College of a health profession or group of health professions established or continued under a health profession Act.*

**Section 3**

Outline the Minister of Health’s duties under this Act.

*To ensure that:*

- The health professions are regulated and co-ordinated in the public interest*
- That appropriate standards of practice are developed and maintained and*
- That individuals have access to services provided by the health professions of their choice and that they are treated with sensitivity and respect in their dealings with health professions, the Colleges and the Board.*

**Section 11**

To whom does the Advisory Council report?

*The Minister of Health*

What are the Advisory Council’s responsibilities?

- To keep a record of matters that the Minister has referred to the Advisory Council;*
- To have the custody and care of the records and documents of the Advisory Council:*
- To give written notice of suggested amendments to the Regulated Health Professions Act, a health profession Act, or a regulation under any of those Acts.*
- To carry out the functions and duties assigned by the Minister.*

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT --  
ANSWER KEY**

**Section 27**

In your own words, describe what a “controlled act” is and why they exist.

*Controlled acts are acts that can only be performed by members of health professions authorized, through legislation, to perform them. Example - a midwife is authorized through the Midwifery Act to manage labour and deliver a baby. These controlled acts exist to protect the interests of the public.*

**Section 29**

Under what conditions can a person perform a controlled act without violating subsection 27 (1)?

- If it is an emergency*
- If you are in training and under supervision*
- If you are treating a person by prayer or spiritual means*
- If you are treating a member of your own household (some controlled acts)*
- If you are assisting a person with his or her routine activities (some controlled acts)*

**Section 30**

According to subsection 30 (1), is it acceptable for an occupational therapist to treat or advise a patient who is seriously ill with liver cancer? Why or why not?

*No it is not. It is reasonably foreseeable that serious physical harm may result from the treatment or advice, since an Occupational Therapist is not qualified to treat or advise on liver cancer.*

**Section 33**

Who may use the title “doctor” in Ontario?

*Members of the College of Chiropractors, College of Optometrists, College of Physicians and Surgeons, College of Psychologists, and Royal College of Dental Surgeons of Ontario.*

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT --  
ANSWER KEY**

**Section 36**

As a health professional, would you be able to give information:

- about one of your patients to a lawyer? *Yes, to your own lawyer.*
- about a colleague's incompetence to the Health Professions Board?

*Yes. See (b).*

*Section 40*

What penalties may be imposed on a person who fails to observe subsections 27 (1) and/or 30 (1)?

*A fine of not more than \$25,000 or imprisonment for a term of not more than six months, or both.*

What are the maximum penalties for a massage therapist who calls himself "Doctor"?

*A fine of not more than \$5000 for a first offence, and not more than \$10,000 for a subsequent offence.*

What is the maximum fine for a psychiatrist who discusses his patient with the patient's employer without the patient's written consent?

*A fine of not more than \$25,000*

**Sections 41/42**

Which three groups, other than the employee, may be convicted of an offence if the employee has been found guilty of improperly performing controlled acts?

*A person who procures employment for an individual and knows that the individual cannot perform the duties; the employer; the directors of the corporation.*

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT --  
ANSWER KEY**

**Schedule 2: Health Professions Procedural Code**

Define the following:

“incapacitated”

*Suffering from a physical or mental condition or disorder*

“patient relations program”

*A program to enhance relations between members and patients*

“quality assurance program”

*A program to assure the quality of the practice of the profession and to promote continuing competence among the members.*

**Section 13**

Who is considered a member of the College?

*A person who is registered.*

**Section 14**

True or false? A member who resigned in 2003 may be charged with an act of professional misconduct that occurred in 2000, while this person was still in practice.

*True.*

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT --  
ANSWER KEY**

**Section 23**

The Registrar is a Council employee who has been appointed to this position. What information about members will the Registrar maintain in the College register?

*Name, business address, business telephone number*

*Class of registration and specialist status*

*Terms, conditions and limitations*

*Notation of every revocation and suspension of a certificate of registration*

*Result of every disciplinary and incapacity proceeding*

*Findings of the Discipline Committee that are under appeal*

*Information that a panel of the Registration Discipline or Fitness to Practise Committee specifies*

*Information that the regulations prescribe to be kept in the register.*

**Section 82: The Quality Assurance Committee**

In cooperating with the Committee, every member must, if requested to do so:

- Permit an assessor to enter and inspect the premises*
- Permit the assessor to inspect the member's records of the care of patients*
- Give the Committee or the assessor the information in respect of the care of patients*
- Confer with the Committee or assessor*
- Participate in a program designed to evaluate the knowledge, skill and judgement of the member.*

**Section 84: The Patient Relations Program**

Outline measures the Patient Relations Program should implement for preventing or dealing with sexual abuse of patients.

- Educational requirements for members*
- Guidelines for the conduct of members with their patients*
- Training for the College's staff*
- Provision of information to the public*

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT --  
ANSWER KEY**

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**For the Case Study on the Health Care Consent Act:**

*You assess Mr. C. to be competent. You do a quick assessment of other baths. Was there anything that could have upset Mr. C. (cold water, lack of privacy, etc.) You discuss personal hygiene with Mr. C. and any risks associated with not bathing. If Mr. C. still refuses, you respect his wish to not bath, and plan to discuss with him at a later time a new bathing schedule.*

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT**

**Section 1: Definitions**

According to Schedule 1, there are \_\_\_\_\_ self-governing “health professions” regulated by \_\_\_\_\_ “health profession Acts.”

How does the Act define the term “College”?

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**Section 3**

Outline the Minister of Health’s duties under this Act.

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**Section 11**

To whom does the Advisory Council report? \_\_\_\_\_

What are the Advisory Council’s responsibilities?

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**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT**

**Section 27 (2)**

In your own words, describe what a “controlled act” is and why they exist.

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**Section 29**

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**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT**

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What is the maximum fine for a psychiatrist who discusses his patient with the patient’s employer without the patient’s written consent? \_\_\_\_\_

**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT**

**Sections 41/42**

Which three groups, other than the employee, may be convicted of an offence if the employee has been found guilty of improperly performing controlled acts?

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**Schedule 2: Health Professions Procedural Code**

Define the following:

“incapacitated”

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“patient relations program”

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“quality assurance program”

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Who is considered a member of the College?

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True or false? A member who resigned in 1997 may be charged with an act of professional misconduct that occurred in 1995, while this person was still in practice.

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**THE LEGISLATIVE FRAMEWORK:  
REGULATED HEALTH PROFESSIONS ACT**

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**Section 84: The Patient Relations Program**

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## THE LEGISLATIVE FRAMEWORK: HEALTH CARE CONSENT ACT & SUBSTITUTE DECISIONS ACT

The *Health Care Consent Act* is administered by the Ministry of Health and Long-Term Care. The Act gives the client control over their care and grants people the right to actively participate and make informed decisions about their plan of care. It ensures the client must:

- Be told about their diagnosis, care and treatment choices,
- Consent to care and treatment choices, and,
- Be allowed to refuse care and treatment choices if they wish.

The Act also ensures this same control for family members when the client cannot consent. No treatment may be performed on a client unless the client gives consent. Every health care professional is responsible for this.

If a health care professional assesses that a client is unable to make an informed voluntary consent, a substitute decision maker will make the decision about the treatment, admission to care facility, or personal assistance service. A substitute decision maker should be selected in this order:

- A spouse,
- A partner,
- A child; if 16 years of age or older,
- A relative,
- A guardian,
- A legally appointed representative.

The *Substitute Decisions Act* is administered by the Office of the Public Guardian and Trustee of the Ministry of the Attorney General. The Act deals with giving power of attorney in cases where clients cannot make informed voluntary consent. The Substitute Decisions Act provides for a greater degree of certainty as to who will make decisions on a client's behalf than does the Health Care Consent Act.

### Consider the following scenario:

Mr. C. is an 87 year-old client you have been involved with. Every other day you help Mr. C. with his bath. Today he refuses. What do you do?

**THE LEGISLATIVE FRAMEWORK:  
OCCUPATION-SPECIFIC REGULATIONS**

Use the copy of the Act relevant to your profession provided to answer the following questions.

How are the following terms defined in the Act?

“College”: \_\_\_\_\_

Health Professions Procedural Code: \_\_\_\_\_

\_\_\_\_\_

This Act: \_\_\_\_\_

How is the practice of your profession defined?

\_\_\_\_\_

\_\_\_\_\_

List the acts a member of your professions is authorized to perform:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Who can use the title of your profession or represent him/herself as someone who is qualified to practise in Ontario?

\_\_\_\_\_

What is the maximum penalty faced by someone who, although not a member of the College, calls him or herself a member of the profession?

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What other legislation – besides the *Regulated Health Professions Act*, *Health Care Consent Act* and *Substitute Decisions Act* – is relevant to the practice of your profession?

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**THE LEGISLATIVE FRAMEWORK:  
FOR MORE INFORMATION**

**Ministry of Health and Long-Term Care, Professional Relations Branch**

5700 Yonge Street, 3<sup>rd</sup> Floor

Toronto, ON M2M 4K5

(416) 327-8894

(416) 327-8897 Fax

<http://www.health.gov.on.ca/>

**Ministry of Health INFOLine**

1-800-268-1154 (Toll free in Ontario)

(416) 314-5518 in Toronto

1-800-387-5559 TTY

**Health Professions Regulatory Advisory Council**

55 St. Clair Avenue West, Suite 806

Toronto ON M4V 2Y7

(416) 326-1550

(416) 326-1549 Fax

[www.hprac.org](http://www.hprac.org)

*See also the list of resources at the end of Section Four, Registration.*