

Highlights of Proposed new Act and Regulations for Medical Radiation Technologists

Background

The last major revisions to the *Medical Radiation Technologists Act* were done in 1990. Over the last two decades there have been many changes in the field of self-regulation of professions, in the profession of medical radiation technology, and many changes generally in the development of the legal principles applicable to the professions. The current *Medical Radiation Technologists Act* does not reflect many of these changes and also does not reflect many “best practices” that have been adopted by other self-regulating professions, which have now been largely accepted as the standard for regulation of professions by the courts.

The members of the medical radiation technology profession itself have recognized the need for change and have embarked on a detailed process to examine the changes required to its governing documents.

We are setting out below some of the key changes arising from the new *Act* and the Regulations for your information. The details with respect to each of these changes are contained within the language of the Act and Regulations themselves, and accordingly these documents should be carefully reviewed in addition to this brief summary.

Once the Act and Regulations have been appropriately vetted by the members of the NSAMRT, the documents will be forwarded to the Office of the Legislative Counsel for review and approval. The proposed Act and Regulations will also be forwarded for comment to external stakeholders who may be impacted by or interested in this legislation. Such stakeholders include the three political parties, other relevant health professions, employers, unions and others. Feedback received from members and stakeholders will then be incorporated into the version of the Act that will hopefully be ready for introduction in the Legislature in the Spring of 2010. The *Act* must be passed by the Legislature before the Regulations can be approved and brought into effect. However, both the Act and the Regulations have been worked on concurrently by the Committee since one very much complements the other, and the two must be read together as a package.

Feedback to the proposed changes to the *Act* and Regulations is welcome and should be forwarded to the attention of _____ at _____ .

(1) **Governance Documents**

The present “governance” documents for the NSAMRT consists of the Act (the “current Act”), the current By-Laws, and the national Code of Ethics. The *Act* requires approval of government; the current By-Laws require approval by Cabinet; and the adoption of a Code of Ethics requires approval of the membership.

Under the proposed changes, the revised Act will be the principal document to govern the profession of medical radiation technology. It will require approval of government before it comes into effect.

Because of the degree of difficulty in obtaining passage and approval of the Act by government, the general philosophy of legislative drafting is to put only those key concepts in the Act that require governmental involvement, leaving more of the details to other types of governance documents that require lesser approvals and processes. We have prepared in addition to a draft Act, a set of regulations that flesh out the concepts outlined in the Act, as Regulations require approval by Cabinet rather than by government, and are generally easier to amend.

In addition to the Act and Regulations, we will also be preparing a set of By-Laws, which will require approval of the membership only, and the By-Laws will set out the internal operating procedures of the Association. Other information, such as Standards of Practice and a Code of Ethics, will become stand alone documents, approved by the membership.

KEY CHANGE: Under the proposed structure, the proposed Act will contain the “skeleton” outlining the key concepts of governance requiring governmental approval; the proposed Regulations will put sufficient meat on the bones to make the Act functional and understandable; the proposed By-Laws will contain the internal workings of the NSAMRT; and stand alone Standards of Practice and a Code of Ethics will be prepared for members’ approval, that can be changed with members’ approval without government involvement.

(2) **Name of Association**

Under the proposed Act, the name of the NSAMRT is proposed to be changed to the College of Medical Radiation Technologists of Nova Scotia. The use of the term “College” is consistent with other health professions who govern their professions in the public interest.

(3) **Purpose and Objects of the Association**

Under the current Act, the purpose or “objects” of the Association are focused on the members of the Association, rather than on the public interest. The first object focuses, for example, on increasing of knowledge, ability and competence of members. There is no specific mention of the “public interest” as the **key** objective of self-regulation. Governments more and more want to see and ensure that the professions are regulating themselves in the public interest. As a

result, the proposed Act sets out the objects of the Association in such a way as to make it clear that the regulation of the profession is done in order to serve and protect the public interest and to preserve the integrity of the profession. Section 4 of the proposed Act is set out below:

In order to

- (a) serve and protect the public interest,
- (b) preserve the integrity of the profession, and
- (c) maintain public confidence in the ability of the profession to regulate itself

the College shall

- i. regulate the practice of medical radiation technology and govern its members in accordance with this Act and the Regulations;
- ii. establish, develop and promote standards of practice among its members;
- iii. establish, develop and promote a Code of Ethics for the benefit of its members;
- iv. subject to the above, and in the public interest, advance and promote medical radiation technology surveying;
- v. do such other lawful acts and things as are incidental to the attainment of the foregoing purpose and objects set out in this section.

(4) **Scopes of Practice**

The definition of the “practice of medical radiation technology” has been clarified to read as follows:

The application of professional medical radiation technology knowledge, skills and judgment in the use of ionizing radiation and other energy forms, in the provision of diagnostic, assessment, and therapeutic modalities, in collaboration with physicians and other health care professionals, to achieve optimal health, wellness and functional performance, and includes the practice of:

- i. radiological technology;
- ii. radiation therapy;
- iii. nuclear medicine technology;
- iv. magnetic resonance technology; or
- v. the practice of any other discipline set out in the regulations

and includes research, education, consultation, management, administration, information technology, regulation, policy or system development relevant to the foregoing.

In addition, the four separate “disciplines” of radiological technology, radiation therapy, nuclear medicine technology, and magnetic resonance technology have been individually defined in the Act and should be carefully reviewed.

(5) **Composition of the Board**

The proposed Act notes that 2-3 public representatives shall be included as part of the Board. The Nova Scotia government is insisting on representation from public members on the governing bodies of self-regulating professions, in order that the public perspective can be brought to bear on the workings of the Colleges. In all of the professions that have recently included public representatives on their governing bodies, the professions have spoken very highly of the contributions and the perspectives brought to discussions by these public members.

(6) **Registration**

The current Act and By-Laws do not recognize all of the nuances now involved in the applications for registration received from out of Province applicants; international applicants and others. Issues such as the Agreement on Internal Trade and the government's proposed new *Fair Registration Practices Act* (FARPA) make it clear that the registration processes and practices of professions must be clearly and very specifically articulated in their governance documents. Such practices must be open, fair, transparent and objective, and must include a true appeal process. The proposed Act intends to meet the as yet unproclaimed FARPA requirements by laying out in a detailed way the specific requirements for registration for both those who have been registered elsewhere, and those applying for first time registration. The substance of the practices and requirements has not changed in any dramatic way; rather it is how and where the criteria have been articulated that has changed. The details of the registration processes have been moved from the Act to the Regulations. The Regulations are now broken down into a detailed listing of the criteria for those applicants who have never been registered in any jurisdiction and those applicants who have been registered somewhere else. A clear appeal process has also been added.

(7) **Complaints and Discipline Processes**

Under the current Act and By-Laws, there is a very restricted discipline process. All powers of the Discipline Committee are penal and not remedial.

Under the new Act and Regulations, a more flexible and modern complaints and discipline process is set out. Public representatives are included on both the Investigative Committee and the Professional Conduct Committee. There is a clear delineation between the role of an Investigative Committee that operates in an investigative capacity, and a Professional Conduct Committee that operates in a hearing capacity if a matter is referred for a hearing from the Investigative Committee. Alternate dispute resolution mechanisms are encouraged, and wider powers have been given to the Investigative Committee to resolve matters without the necessity of a hearing. For example, the parties can reach agreement with respect to the imposition of conditions or limitations on a licence without the matter having to go for a full hearing. The Investigative Committee is also given the discretion to impose non-disciplinary findings on a member, which are intended to provide guidance to members.

If a matter is referred by the Investigative Committee for a Hearing, there is a process set out where either the Association or the member may propose a settlement to the other before the Professional Conduct Committee process begins. If the Investigative Committee then recommends acceptance of this proposal, the Professional Conduct Committee can review the settlement proposal to determine whether it is in the public interest to accept it. Once again, this offers a method of resolving a matter without the necessity and the significant cost of a formal hearing process.

In the event a hearing is held before the Professional Conduct Committee, the member is given an opportunity to appeal the decision of the Professional Conduct Committee to the Nova Scotia Court of Appeal strictly on points of law.

In the event a member's licence is revoked as a result of a discipline process, a process is set out to reapply to a Reinstatement Committee. In reviewing the matter, the Reinstatement Committee would determine whether or not it was in the public interest to reinstate the licence of a member. The Committee would take into account matters such as what the member has done since the licence was revoked to remedy the issues that were identified in the discipline process.

(8) **Protection of Titles**

The current Act does not contain protection for the use of particular titles by those engaged in the various disciplines of medical radiation technology. Under the proposed Act, Section 21 spells out a variety of titles that can only be used by those who are appropriately licensed under the Act. These titles include "Registered Medical Radiation Technologist", "Medical Radiation Technologist", "Registered Technologist, Magnetic Resonance", "Magnetic Resonance Technologist", "Registered Technologist, Nuclear Medicine", "Nuclear Medicine Technologist", "Registered Technologist, Therapy", "Medical Radiation Therapist", "Registered Technologist, Radiological Technology", "Radiological Technologist", "X-ray Technologist", and "Graduate Medical Radiation Technologist". Unless a person holds an appropriate licence issued under the Act to authorize the use of such title, a person using such title would be considered to be in violation of the Act.

(9) **Grandparenting**

In order to provide transition from the current Act to the new Act, there will be a provision in the legislation that will indicate that a person who is a member in the Association at the time the new Act comes into force, is deemed to be registered in the new College and to hold a licence for the duration of the year when the Act comes into force. It will be important for all members to ensure that they are appropriately registered with the Association at the time the new legislation comes into effect. As earlier noted, it is anticipated that this will not occur until sometime in 2010.

(10) **Illegal Practice**

Under the old *Act*, some uncertainty existed as to the processes to be used when there was an allegation that an individual who was not a practicing member of the Association nonetheless engaged in the practice of medical radiation technology. Under the new *Act* it is clear that the process to be utilized is the *Summary Proceedings Act*, where a detailed system of fines is spelled out. In particular, it is noted that a separate offence, and therefore a separate fine, is incurred for each day that a person violates the *Act*. This will be particularly useful in dealing with any individual who chooses to engage in practice without holding the appropriate registration with the Association. The new penalties serve as a better deterrent.

All readers of this document are advised to read the proposed Act and Regulations in detail to fully understand the details of the summary provided above, and to review all other areas affected by the legislation. .