



COLLEGE & ASSOCIATION OF
Acupuncturists
OF ALBERTA

JURISPRUDENCE HANDBOOK

Prepared by

COLLEGE & ASSOCIATION OF ACUPUNCTURISTS OF ALBERTA

Handbook Information

This handbook is designed to provide an overview of the regulatory framework (laws, regulations, by-laws, standards and policies) for the practice of registered acupuncturists in Alberta and their obligations under the framework.

The goal of this handbook is to inform acupuncturists of the legal and ethical foundations that define the practice of the acupuncture profession in Alberta. It also describes acupuncturists' accountabilities for supporting safe and effective practice of acupuncture and tests their knowledge of this area.

Acknowledgement

This handbook is based on the module developed for the Department of Health and Community Services in Newfoundland and Labrador which was an adaptation by the Newfoundland and Labrador Council of Health Professionals (NLCHP) of the original work of the Association of Registered Nurses of Newfoundland and Labrador (ARNNL) and the Professional Development and Conferencing Services, Faculty of Medicine, Memorial University of Newfoundland. Their support in allowing us to use their module is gratefully acknowledged and appreciated.

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1. Introduction

The regulation of acupuncturists is very important for the delivery of safe, competent, compassionate, and ethical care. This module provides information about the regulation of acupuncturists in Alberta through the College and Association of Acupuncturists of Alberta (CAAA) and the Health Disciplines Board (HDB) under the Health Disciplines Act (HDA) and the Acupuncture Regulation.

This module also contains information on the standards of practice for the profession and ethical considerations that are crucial to every day practice of a registered acupuncturist. It provides an opportunity to apply ethical principles to situations that are commonly encountered in practice. Finally the module describes professional responsibilities with respect to safe and competent practice and the complaint and discipline process governing registered acupuncturists. It also provides information about other resources available to support acupuncturists in meeting their responsibilities.

Disclaimer: This module addresses the basic principles for the regulations of acupuncturists under the Health Disciplines Act, RSA 2000, Chapter H-2. This module is designed for educational purposes only and should not be interpreted as legal advice.

1.1 Learning Objectives

Information provided in this handbook will enable the acupuncturist to understand:

- a) The role of the College and Association of Acupuncturists of Alberta in regulating the profession of acupuncture;
- b) The meaning and importance of regulation;
- c) Key components of the regulatory framework governing the practice of acupuncture in Alberta, and acupuncturists' accountabilities under this framework;
- d) Key ethical considerations related to the practice of acupuncture and explain registered acupuncturists' responsibility and accountability associated with these considerations;
- e) Acupuncturists' practice as permitted by legislation;
- f) How the HDA relates to acupuncturists' day-to-day practice;
- g) Acupuncturists' legal obligations as an Registered Acupuncturist (RAC) in Alberta;
- h) That public protection is the mandate of self regulating professions.

1.2 Course Format

We recommend that you complete the course as follows:

- a) Read the information provided in this handbook;
- b) Review the additional reference material and information referred to in the Jurisprudence Information section.

2. Definitions

The following definitions will assist you with the interpretation of the information provided in this handbook:

- a) “*Act*” means The Health Disciplines Act that governs health professions as designated in the schedules under the *Act*.
- b) “College” means the College and Association of Acupuncturists of Alberta established under the *Act*.
- c) “Council” means the Council of the College and Association of Acupuncturists of Alberta established under the Health Disciplines Act and Acupuncture Regulation and which is responsible for governing the health professions within the *Act*.
- d) “Acupuncturist” means a person who is registered under and in accordance with the Acupuncture Regulation.
- e) “Registration” means the process whereby the Registrar, following a review of a person’s application for registration, has determined the requirements for registration have been met and the person may be registered to practice acupuncture within Alberta.

3. Governance Structure for Acupuncturists in Alberta

The profession of acupuncture has been regulated under HDA since 1988. At that time several other health professions were also regulated under the Act including but not limited to: midwives, emergency medical technicians, licensed practical nurses, medical laboratory technicians. In 2001 the Health Professions Act (HPA) was proclaimed and since then the Government of Alberta has been working towards bringing all regulated health professions under the HPA. Work is proceeding to bring the profession of acupuncture under the HPA but until that work is completed the acupuncturist profession will continue to be regulated under the HDA.

3.1 Health Disciplines Act

The HDA was established to put in place a standardized governance structure and process for several health disciplines and provide protection to the public:

- The *Act* is considered “umbrella” legislation that encompasses more than one profession;
- The Act establishes certain health professions as regulated health professions and establishes the governing bodies for those professions;
- It provides protection of title for health professions designated under the Act;
- It establishes the Health Disciplines Board (HDB) which is responsible for advising the Minister with respect to the regulation of a health profession, approving scopes of practice, making regulations governing a regulated health profession, acting as the appeal body for registration decisions and decisions made by discipline committees;
- The HDB approves scopes of practice, entry-to-practice competencies, standards of practice and codes of ethics for professions regulated under the Act.

3.2 Mandate

The Council of the College and Association of Acupuncturists of Alberta (CAAA) is established under the *Act* and is responsible for governing the profession of acupuncture in Alberta in consultation with the HDB.

The mandate of the Council is established in Section 13 of the *Act* and includes:

- Managing and conducting the business and affairs of the College;
- Governing the registered members in accordance with the Act, regulations and bylaws in a manner that serves and protects the public interest;
- Advising the HDB with respect to the services that may be provided by registered acupuncturists, standards of conduct and competency for registered acupuncturists,

qualifications for eligibility for registration including approved training programs and examinations requirements, and standards of continuing competency.

The Council of the College must appoint a registrar, a registration committee and a conduct and competency committee and through those entities manage their governance responsibilities. These responsibilities include:

- Reviewing applications for registration and registering applicants;
- Implementing a continuing competence program;
- Monitoring the practice of registered acupuncturists;
- Investigating complaints regarding registered acupuncturists; and
- Conducting discipline hearings in response to investigated complaints.

The College does not represent registrants in relation to economic and work life interests such as benefits and salary. That is the primary responsibility of unions. The College does include a professional association arm, which provides support to registered members including the provision of professional liability insurance and the provision of continuing competence programs. These professional association activities are not mandated by the Act.

3.3 Governance Structure

There are several components of the governance structure for acupuncturists that serve to ensure the mandate of the *Act* is implemented and achieved: the Health Discipline Board, the College Council, statutory committees and the Registrar. The composition and role of the CAAA Council and statutory committees are established in the *Act*.

<i>Entity</i>	<i>Details</i>
Health Disciplines Board	Health Disciplines Board is responsible for advising the Minister with respect to the regulation of a health profession governed by the Act, approving scopes of practice, making regulations governing a regulated health profession, acting as the appeal body for registration decisions and decisions made by discipline committees;
Council	<p>College Council</p> <p>The College Council is comprised as follows:</p> <ul style="list-style-type: none"> • Between 6 and 9 elected members of the College; • Two Public representatives appointed by government; <p>From this membership Council elects a Chair.</p> <p>All members of Council (College and public representatives) must act in the public's interest and not in the interest of the specific profession.</p>
Director of Health Disciplines	The Director when directed to do so by the Minister examines, inquires into, studies or reports to the Minister on any matter related to the administration of the Act. The Director acts as a liaison between the health profession and the Health Disciplines Board. The Director must approve an investigation of unprofessional conduct by a health profession in the absence of a specific complaint.

Statutory Committee	<p>Statutory Committees The College has two (2) statutory committees as required under the <i>Act</i>:</p> <ul style="list-style-type: none"> • Registration Committee – evaluates applications for registration referred to it by the Registrar where the Registrar believes the applicant is not eligible for registration or believes that terms, conditions or limitations should be imposed on the registration. • Conduct and Competency Committee – at the request of complainants reviews complaints dismissed by the Registrar or Committee Chair following a preliminary investigation and holds hearings into complaints referred to it.
Registrar	<p>Registrar The College must appoint a Registrar as required by the Act. The Registrar is primarily responsible for overseeing the registration function of the College and receiving complaints regarding a registered acupuncturist and conducting preliminary investigations or appointing a preliminary investigator. Following an investigation the Registrar may dismiss a complaint where there is insufficient evidence of unskilled practice or professional misconduct or refer the matter to the Conduct and Committee for a hearing before the Committee.</p>

3.4 Accountability

The stakeholders with respect to health professional regulation include the public, government, the health profession, other health professionals, individual members and employers.

- The primary accountability of the Council and College is to ensure safe practice and protect the public from practitioners who are unqualified, incompetent or unethical.
- The Council and College are also accountable to government to meet the requirements established under the Health Disciplines Act.
- The Council and College are accountable to the HDB for approval of the scope of practice for the profession, standards of conduct and competency, eligibility requirements for registration, continuing competency requirements, approved training programs, registration examinations and proposed regulations.
- The Council and College are accountable to the profession to promote the policies and standards that guide the provision of safe and effective practice.
- The Council and College are accountable to individual members to provide reasonable access to consultative services, assisting them in providing safe and effective services.

4. Professional Self -Regulation

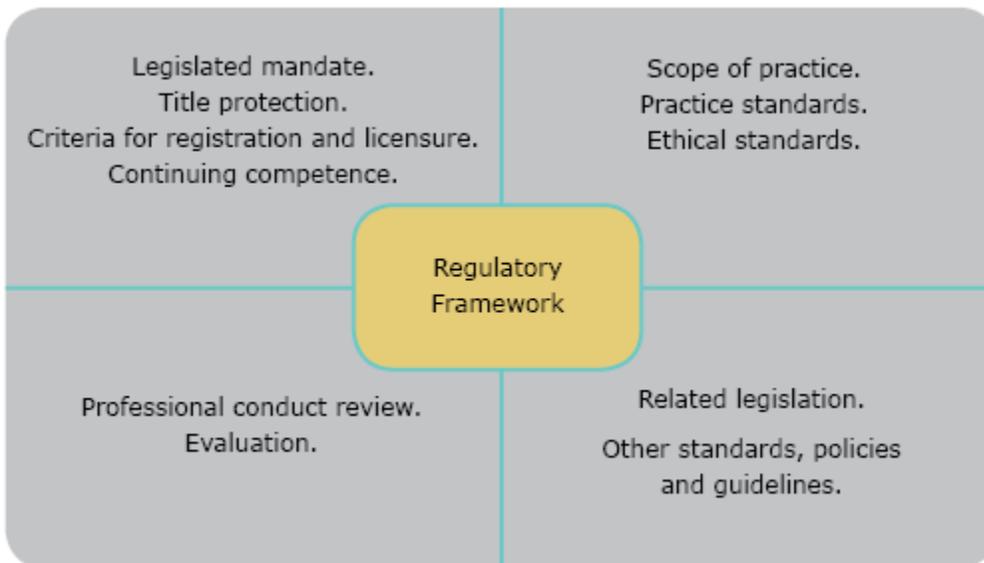
A self-regulating profession has the obligation to ensure public protection in the provision of health services. As the College is still regulated under the Health Disciplines Act and remains accountable to the Health Disciplines Board, the profession is not autonomous in self-regulation; however it does have a significant degree of responsibility in establishing their own standards of

practice, registration and continuing competency requirements and carrying out the discipline process required by the Act.

4.1 Regulatory Framework

An effective regulatory framework promotes good practice and provides intervention measures in situations of unacceptable practice.¹ The elements of the regulatory framework for a health profession includes its legislated mandate, title protection, scope of practice, criteria for initial registration, standards of practice and code of ethics, continuing competency, professional conduct review and evaluation. The regulatory framework for health professions may also include other policies, standards and guidelines adopted or approved through the regulatory process.

Regulatory Framework



¹ Canadian Nurses Association (2007b) Canadian Regulatory Framework for Registered Nurses: A Position Statement
http://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&sqi=2&ved=0CDQQFjAA&url=http%3A%2F%2Fwww2.cna-aiic.ca%2Fca%2Fdocuments%2Fpdf%2Fpublications%2Fps90_canadian_regulatory_2008_e.pdf&ei=gF8YUbdDoA7CA2AXVzoHYCw&usg=AFQjCNG9CjncptUnOlxYPOAEaC-td6sB4A&sig2=BKVglx_Mah6aj6LD1ldJqA&bvm=bv.42080656,d.b2l

4.2 Legislated Mandate

The Health Disciplines Act and the Acupuncture Regulation apply to all acupuncturists in the province and can be found on the Government of Alberta website (<http://www.health.alberta.ca/about/health-legislation.htm>).

The *Act* authorizes the Council to regulate the designated health profession under the *Act* and sets out the governance structure, registration and licensing requirements, and the disciplinary procedures for acupuncturists. It provides for participation of the public in the governance of the Council and in the complaints and discipline process. All these elements contribute to an open and transparent approach to the regulation of the profession and enhance protection of the public.

Regulations are made by the Health Disciplines Board and enacted by the Lieutenant Governor in Council of the Government of Alberta.

4.3 Title Protection

The title of Registered Acupuncturist is considered “protected” under the Act. Section 2 of the Act prohibits anyone other than a registered acupuncturist from using the name of the regulated health profession in any manner that implies the person is a registered acupuncturist. Section 14 of the Acupuncture Regulation prohibits registered acupuncturists from delegating the performance of certain procedures, including but not limited to needle insertion, taking medical histories, to anyone else. This provides further protection and transparency, and ultimately preserves the integrity of the profession.

4.4 Regulatory Processes

The Act requires that the College in conjunction with the Health Disciplines Board establish the following:

- Registration requirements that must be met by individuals seeking to enter the profession;
- A code of ethics and standards for the practice of the profession; and,
- A process to evaluate the on-going competency of regulated members.

The College must also carry out the discipline process as required under the Act.

4.5 Registration

The *Act* requires all individuals practicing acupuncture in Alberta to be registered. This is paramount for ensuring public protection. Registration indicates to the public that the practitioner has the necessary knowledge, judgment, attributes and skills to provide safe, competent and ethical practice.

According to the Acupuncture Regulation, to be eligible for Initial Registration as an acupuncturist in Alberta an individual must meet the following requirements:

- Graduation from an education program in acupuncture approved by the HDB or a program considered to be substantially equivalent;
- Successful completion of a HDB approved registration exam.
- If the applicant graduated from an approved program or substantially equivalent programs more than 1 year prior to the date of application, they must have practiced acupuncture for at least 500 hours within the preceding 2 years or have successfully completed a college approved refresher program for acupuncture;
- Proof of current professional liability insurance ; and
- Letters of good standing from other regulated/licensed jurisdictions where the applicant has worked.

Details for these criteria are listed on the CAAA website at “<http://www.acupuncturealberta.ca>”.

4.6 Registration Renewal

Registration must be renewed on an annual basis. It is the responsibility of the acupuncturist to renew their registration on time. Where a registrant fails to do so, his/her registration will expire and their name will be removed from the register. Acupuncturists who have allowed their registration to expire are no longer permitted to work. If an acupuncturist continues to work without an active registration, they will be referred to the discipline process of the College.

As part of the annual renewal process, each applicant must provide to the College the following information:

- Verification or declaration of completion of 1360 hours of practice as an acupuncturist within the preceding 2 years;
- Completion of 50 hours of continuing education programs approved by the College; and
- Proof of professional liability insurance.

If the Registrar is not satisfied that the registration renewal requirements have been met, the applicant may be required to undergo a period of supervised practice as determined by the Registration Committee, complete the registration examination, and/or complete a period of additional training which may include all or a part of an approved education program.

4.7 Scope of Practice

This is an important element of the regulatory framework as defined in the Acupuncture Regulation. Scope of practice includes the core activities in which registered acupuncturists are educated and authorized to perform. The scope of practice is set out in section 7 of the Regulation, which comprises needle acupuncture, electro-acupuncture, moxibustion, cupping and acupressure

4.8 Standards of Competency and Practice

The fundamental principles, values and standards essential to the responsible practice of Registered Acupuncturists are set out in the Standards of Competency and Practice, the Code of Professional Conduct and the Acupuncture Regulation.

The above-noted documents outline the minimum acceptable practices for acupuncturists who have been approved by the College and the Health Disciplines Board. These are the standards that are employed when a review of a registered acupuncturist's practice is initiated as a result of a complaint and the basis on which a decision is made as to whether the member's behavior is considered unskilled and/or unprofessional conduct.

The ethical principles and standards of competency and practice apply to acupuncturists across all practice domains including clinical care, education, research, administration and any other role related to the profession of acupuncture.

The competency standards as set out in the Standards of Competency and Practice cover the following areas:

- Fundamental competencies including the history and development of Traditional Chinese Medicine and acupuncture, professional trends, basic theoretical concepts specific to acupuncture and the biomedical sciences;
- Specific competencies related to locating and using acupuncture points according to function, indications, precautions and contraindications and implementing the principles of point selection.

The standards of acupuncture practice as set out in the Acupuncture Regulation and Standards of Competency and Practice govern the following areas:

- General provisions around the care and treatment of patients and specific provisions related to confidentiality of patient information and respect of patients during examination;
- Delegation of procedures;
- Diagnostic Process
- Treatment objectives and planning;
- Treatment techniques and specific diseases;
- Equipment and safety;
- Communication skills;
- Collaboration with other caregivers;
- Cleanliness;
- Patient information and informed patient choice
- Conditions requiring precaution

- Consultation with/referral to other health care providers
- Use of instruments;
- Patient records.

4.9 Code of Professional Conduct

The code of ethics governing registered acupuncturists in Alberta is also set out in Acupuncture Regulation and the Code of Professional Conduct. The code of ethics for registered acupuncturists serves as a foundation for the ethical practice of acupuncturists. The values and principles expressed within the code of ethics assists acupuncturists in reflecting on their own values and how they may impact on daily practice. The provisions contained in these documents set out rules for ethical practice including:

- Competence;
- Informed consent for treatment;
- Maintenance of patient records;
- Fees and compensation for services;
- Insurance and third party benefits;
- Advertising and promotional activities;
- Harassment and abuse;
- Conflict of interest;
- Termination of professional relationship; and
- Responsibilities to the CAAA.

4.10 Continuing Competence

The Act under section 13 respectively authorizes the College to develop continuing competency requirements for the profession and the Council to monitor and enforce these requirements. The Act, Regulations as well as the Standards of Competency and Practice and the Code of Professional Conduct also require registered acupuncturists to maintain and enhance their competence through continuing competence activities and seeking learning opportunities to enhance their practice.

Registered acupuncturists are required to demonstrate they have maintained and enhanced their competence to meet the requirements for annual registration renewal. Competence refers to the acupuncturist's proficiency to practice in a safe, competent and ethical manner. There are two competence requirements that must be met to maintain registration: hours of practice and continuing education hours.

- Acupuncturists must have practiced as a registered acupuncturist for a minimum of 1360 hours within the two years immediately preceding application for renewal of registration.

- In addition, acupuncturists must have completed at least 50 hours of continuing education approved by the College within the 2 years preceding the application for registration renewal.

4.11 Practice Review

The authority for the Registrar or person authorized by the Registrar to conduct a Practice Review is contained in the Health Disciplines Act and Acupuncture Regulation and is a matter of quality assurance. The purpose of a practice review is to ascertain whether the requirements of the Acupuncture Regulation and Standards of Competency and Practice are being met and the acupuncturist has maintained adequate skills and knowledge as required.

4.12 Complaint Proceedings

The complaints and disciplinary process is designed to address incompetent or unethical practice of registered acupuncturists in Alberta and is set out in Part 4 of the Health Disciplines Act. It is the way the profession, with input from its public representatives, monitors itself in terms of incompetent or unethical practice.

Sections 27 – 47 of the Act details the process to be followed to receive, investigate and respond to allegations of unprofessional conduct against a registered acupuncturist. It describes the role of the Registrar, Conduct and Competency Committee, and the Council.

The Act allows for complaints to be made about the conduct, skill, judgment or fitness to practice of a registered member and for the Registrar to receive and investigate such complaints. The Act further allows the Registrar, in the absence of a complaint and after consultation with the Director of Health Disciplines, to investigate the conduct of a registered member if there is evidence that the conduct, skill, judgment or fitness to practice of the member poses a significant risk to the public.

It is important that registered acupuncturists understand their responsibilities to conduct themselves professionally under the Act and the Regulation and associated standards and codes. Any act contravening the Act, the Regulation, the Standards of Competency and Practice, and Code of Professional Conduct could be considered unprofessional conduct and open to disciplinary action.

4.13 The CAAA's Authority for Regulation

The *Health Disciplines Act* and the *Acupuncture Regulation* establishes the College as the legal entity responsible for the governance of acupuncturists, and the profession of acupuncture in Alberta in accordance with the Act, regulations, and bylaws.

4.14 The Acupuncturist's Role in Regulation

A registered acupuncturist is responsible to understand the regulatory framework that governs the practice of acupuncture in Alberta, and must comply with the requirements established in the regulatory framework. One key obligation is to maintain competency and fitness to practice. This means that a registered acupuncturist has the knowledge, skill and ability to safely and effectively fulfill their professional duties. It also means that registered acupuncturists must have the physical, emotional and mental capacity to safely perform their duties. Another key obligation is to accept accountability for their own practice, and to understand and apply the standards of practice.

On a very practical level it is important for registered acupuncturists to maintain their knowledge and stay current on all aspects of the regulatory framework governing their practice. A possible way to do this is to volunteer being an active member of committees within CAAA. It is advisable to visit the College website frequently, attend annual general meetings, and pay attention to all correspondence from CAAA.

Professional regulation relies on individual members of the profession participating in the overall governance of the profession and contributing to its further development. The CAAA relies on the volunteer work of many registered acupuncturists to help achieve its mandate.

5. Other Statutes Governing the Practice of Registered Acupuncturists

This section describes other provincial and federal statutes that deal with the practice of acupuncture, in addition to the *Act* and the Regulations. This is not an all-inclusive list. It is important for registered acupuncturists to understand that only part of each of the statutes is presented in this module. Links to the statutes are available in the resource section of this module.

The resource section also provides links to the acts of other regulated health professionals. Registered acupuncturists work closely with professionals such as physiotherapists, chiropractic doctors, registered massage therapists and physicians. It is advisable to become familiar with the roles, functions, responsibilities and activities these professionals are authorized to perform.

Many acupuncturists are self-employed in private practice, while others work in multi-disciplinary settings. In some instances, employers may have pre-set policies that acupuncturists will be expected to follow, and these policies may or may not be based on related legislation. It is important that acupuncturists have a complete understanding of their obligations under all legislation, regardless of their work setting.

The legislation discussed in this module was current at the time of development, November 2014. Legislation changes over time, therefore it is important for the individual practitioner to know the current legislation in relation to his/her practice

Registered acupuncturists should be aware of their obligations under the following statutes.

5.1 Child, Youth and Family Enhancement Act

Section 4 of this *Act* requires any person, who has information indicating that that a child might be in need of intervention, to report all information in his or her possession to a director appointed under the Act. A child is considered to be in need of intervention if there are reasonable or probable grounds that the child's security, survival or development are endangered as a result of abandonment, neglect, being physically or emotionally harmed or sexually exploited. Section 1(2) of the Act provides a full definition of when a child may be considered to be in need of intervention. This Act may be reviewed at http://www.qp.alberta.ca/Laws_Online.cfm.

5.2 Protection for Persons in Care Act (PPCA)

Registered members of a health profession under the Health Professions Act and the Health Disciplines Act have specific obligations under the PPCA if they are employed by a service provider that comes under the PPCA, or if they are engaged in services* (by contract or any other method) by a provider under the PPCA.

*NOTE: The registered member may be “engaged for services” if they are bound by contract, some other formal arrangement, or moral or legal obligation to provide services. This does not include volunteering.

Every individual, including a registered member, who has reasonable grounds to believe that there is or has been abuse involving a client of a service provider must report that abuse, as soon as reasonably possible.

It is an offence for individuals to fail reporting abuse, to make a report of abuse knowing it to be false, or to make a report of abuse maliciously or without reasonable grounds. Individuals who do so may be fined up to \$10,000.

In addition, if the individual is a member of a regulated profession, the applicable regulatory body will be notified of the member’s failure to comply with their duty to report.

This information was taken from a fact sheet on the Alberta Health website. Individuals are encouraged to go to the website and read the information in its entirety at <http://www.health.alberta.ca/services/PPC-health-professionals.html>.

5.3 Health Information Act

The *Health Information Act (HIA)* is a health-sector specific privacy law that establishes rules that custodians of personal health information must follow when collecting, using and disclosing individuals’ confidential personal health information. The HIA also sets out the rights of residents of the province regarding obtaining access to and exercising control of their personal health information. To review this Act, go to http://www.qp.alberta.ca/Laws_Online.cfm.

Currently acupuncturists in independent practice are not considered to be custodians as defined under the Act and so the Act does not apply to them. However, an acupuncturist who is employed by a custodian such as a regional health authority or another health professional who is considered to be a custodian, a physician for example, would be subject to the Act.

Acupuncturists who are employed (including those under contract) by someone other than another acupuncturist should check with their employer and Alberta Health regarding their obligations under this Act.

5.4 Occupational Health and Safety Act

This Act focuses on responsibilities associated with maintaining health and safety within the workplace. The Act requires workers, including registered acupuncturists, to cooperate with their employer and with other workers in the workplace to ensure protection of:

- their own health and safety;
- the health and safety of other workers involved in the work of the employer;

- the health and safety of other workers or persons not involved in the work of the employer but present at or near the workplace.

Part 35 “Health Care and Industries with Biological Hazards” governs the use and disposal of medical sharps and applies to acupuncture clinics. A full description of the Part 35 requirements is available at the “<http://www.work.alberta.ca>” website. Acupuncturists should familiarize themselves with these requirements.

Acupuncturists providing services in the capacity as an owner /employer should also be familiar with the specific responsibilities for employers outlined in the Act to protect the health, safety and welfare of their employees.

5.5 Personal Information Protection & Electronic Documents Act (PIPEDA)

This Act is a Federal statute. It recognizes that technology increasingly facilitates the circulation and exchange of information. Part 1 of The Act establishes rules to govern “the collection, use and disclosure of personal information in a manner that recognizes the right of privacy of individuals with respect to their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances” (p.8.6).

As with similar legislation, consent is required in most situations relating to the collection, use and disclosure of personal information. Registered Acupuncturists operating or employed in a private organization should be familiar with the requirements for the protection of personal information under this Act. To review this Act go to <http://laws-lois.justice.gc.ca/eng/acts/>.

6. Acupuncturist Practice: Ethical Considerations and Expectations

This section of the module addresses topics that can lead to situations of ethical uncertainty for registered acupuncturists. Acupuncturists can encounter situations of ethical uncertainty regardless of their practice setting. Increasingly complex health care environment, rapidly emerging technology and continuous change in the profession, as well as societal norms and values frequently contribute to situations of moral distress and ethical uncertainty.

The next section of this module presents common situations that can lead to ethical uncertainty and the acupuncturist's responsibilities in these situations.

6.1 Privacy and Confidentiality

Acupuncturists have a legal and ethical responsibility to preserve the confidentiality of client information and the privacy of the client under the *Acupuncturist Regulation* and the Standards of Competency and Practice. Information about a client can only be disclosed in the absence of the client's consent in very strict circumstances and within the circle of care. Some of these circumstances are outlined in this module under Other Statutes Governing Acupuncture Practice Section. For acupuncturists, it would be considered professional misconduct, to disclose any patient information, including patient contact information, without the consent of the patient, the patient's representative or as required by law (e.g., summons, court order, etc.). Patients need to know that their information will be kept confidential in order to have the trust necessary to provide private information to the practitioner.

Acupuncturists may frequently be faced with situations where a client's right to confidentiality and privacy may be compromised. For acupuncturists, the best approach is:

- if employed by a an individual or entity defined as a custodian under the Health Information Act, know and strictly follow the employer's confidentiality and privacy policies as set under the Act;
- to know and apply the rules related to confidentiality and privacy contained in the Acupuncture Regulation and Standards of Competency and Practice for registered acupuncturists and in privacy laws.

6.2 Professional Boundaries

There are several provisions that address the importance of maintaining professional boundaries and set rules. Section 16 of the Acupuncture Regulation requires acupuncturists to be guided by the patient's welfare and best interests at all times and to respect the honour, dignity and privacy of the patient during the assessment. In addition, the Professional Code of Conduct considers (i) sexual intercourse or other forms of physical sexual relations between the registrant and the

patient, (ii) touching of a sexual nature, and (iii) behaviour or remarks of a sexual nature, to be unprofessional conduct and are therefore prohibited.

Registered acupuncturists are in a position of power in all patient/practitioner relationships and as a result of this, the acupuncturists are responsible for maintaining strict professional boundaries.

6.3 Informed Consent

The Standards of Competency and Practice and the Code of Professional Conduct both emphasize the importance of patient choice and informed consent. They also define informed consent and set out the details of when this is achieved. Some of the elements regarding informed consent include:

- Advising about potential risks and potential discomfort caused by acupuncture treatment as well as the nature and course of treatment;
- The clinical record must include the patient's written consent and that the process of informed consent occurred;
- The practitioner must ensure that the patient is capable to consent to treatment;
- The practitioner must communicate in a manner appropriate to the patient's skills and abilities;
- All patient records, including signature, must be in permanent (e.g., ink) form.

6.4 Patient Safety

The Standards of Competency and Practice includes several provisions that address patient safety and is very clear about the acupuncturist's responsibility to ensure and promote patient safety. A mandatory requirement for registration is that the acupuncturist must successfully complete a "Clean Needle Technique" test, to ensure that needles are used and disposed of safely.

The Standards of Competency and Practice address patient safety concerns and include: Treatment Techniques, Equipment and Safety, Cleanliness, Conditions Requiring Precautions and Use of Instruments. The registered acupuncturist must be familiar with these requirements to ensure minimizing risks to patients as much as possible.

6.5 Duty of Care

The *Acupuncture Regulation* requires that acupuncturists must at all times be guided by the patient's well being and best interests. To this end the Regulation requires practicing acupuncture with full knowledge and ability necessary, and therefore the registered acupuncturist may not practice under conditions that adversely affect the quality of the treatment. The

registered acupuncturist should consult with colleagues or members of other professions when this is in the best interest of the patient.

The Standards of Competency and Practice also require that the acupuncturist use good judgement when determining whether to treat or consult or refer patients when a patient has a severe infectious or systemic disease, or when the patient is too frail. Acupuncturists should refer a patient to another health care provider when aspects of the care required are beyond their level of competence or scope of practice.

6.6 Discontinuing Professional Services

Once an acupuncturist agrees to provide professional services to a patient, the patient comes to rely upon them. Acupuncturists are expected to not independently discontinue treatment to patients without good reason. Article 11 of the Code of Professional Conduct states that “A Registrant may terminate or sever the professional relationship with their patients only if such a termination or severance will not inconvenience or harm the patient and is not done for an inappropriate reasons.” In deciding whether to terminate the professional relationship the acupuncturist should consider:

- Their reasons for discontinuing the services;
- The condition of the patient;
- The availability of alternate services;
- Giving opportunities to the patient to arrange alternate services after the discontinuation.

The acupuncturist in determining their reason for termination should ensure it is not based on discriminatory reasons such as age, gender, race, national or ethnic origin or socio-economic status.

Note: The above-noted requirements are not meant to jeopardize the acupuncturist’s safety or well-being. A practitioner is not required to continue treating a patient who has assaulted or threatened the practitioner or who has not paid the required fees.

In situations where the treatment will be discontinued because of an intended closure of practice, the Registered acupuncturist has to communicate this to each patient and the patients should be given ample time to find another practitioner. Patient records should be forwarded to another practitioner as requested by the patient or stored properly in a secured fashion to maintain patient confidentiality. The records must be retained for a minimum of 5 years.

6.7 Professional Liability

Registered acupuncturists are responsible and accountable for their actions to their patients, the employer (if applicable) and the profession. Acupuncturists are accountable to know the limits of

their competency and must be answerable for the consequences if they perform actions that are beyond their competency.

Professional liability refers to the legal consequences that can potentially arise from the provision of care. One example of such consequence is an injury or harm to the client. This could result in a lawsuit claiming negligence on the part of the practitioner while providing or failing to provide appropriate care.

6.8 Liability Protection

Professional liability insurance provides protection from liabilities that could arise from an acupuncturist's practice. Because of the risk for clients to be harmed in the provision of care, all registered acupuncturists in Alberta are to carry professional liability insurance.

This requirement is an extension to the concept of public protection by providing financial compensation of clients if they suffer some harm as a result of negligence.

At the time of annual registration, members must provide updated information on their insurance coverage in order to maintain or acquire registration.

6.9 Conclusion

The delivery of safe, competent, compassionate and ethical acupuncture care is the responsibility of each registered acupuncturist in all clinical, administrative, research and educational settings. The registered acupuncturist is accountable to his or her client, employer, and profession to practice within the laws, regulations, by-laws, standards and policies set down by the federal and provincial governments, the Council, the College and the employer.

This module is a synopsis of the key and complex aspects of the regulatory framework for registered acupuncturists in Alberta. The registered acupuncturist must continue staying informed of regulatory developments and frequently review key documents and maintain and update knowledge and skills. In addition to reviewing this information presented here it is recommended that the registered acupuncturist reviews the documents referenced in the module and the links provided.

References and Resources

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