



## Definitions for the Policy Development Process

The College has a number of different forms of authority to regulate and guide the profession, including acts or statutes, regulations, by-laws, standards of practice and policies.

We also have non-regulatory tools available to use; information and education instruments developed with a simple objective of providing information or raising awareness of a particular issue. These instruments are often introduced to reinforce regulatory measures. Unlike regulatory tools, information and education instruments do not impose any requirements or restrictions; rather, information is available for practitioners to use if they find it relevant and useful.

We have defined all of our regulatory tools and non-regulatory tools, to help us determine which tool is best for which end result.

### Regulatory Tools

#### Act or Statute

An Act or a statute is a written law passed by a legislature at the provincial or federal level. Statutes set forth general propositions of law that courts apply to specific situations. A statute may forbid a certain act, direct a certain act, make a declaration, or set forth governmental mechanisms to aid society. A bill is enacted or becomes an Act or a statute when it is passed by the Legislative Assembly after its third reading and receives Royal Assent. The terms "statute" and "Act" are used interchangeably<sup>1</sup>.

The *Regulated Health Professions Act, 1991* (RHPA) and the *Midwifery Act, 1991*, determine how the profession is regulated in Ontario.

The RHPA applies to 26 health colleges that regulate 27 professions. The RHPA framework is intended to better protect and serve the public interest; provide mechanisms to improve quality of care and establish an accountable system of self-governance. The Self Governing Health Professions, which is Schedule 1 to the RHPA, lists all health regulatory colleges in Ontario. The Health Professions Procedural Code (Code), which is Schedule 2 to the RHPA, sets out the practical rules for the Colleges regarding registering members, handling complaints, conducting investigations, carrying out discipline complaints and fitness to practise hearings, quality assurance program, and other College functions.

The *Midwifery Act, 1991*, is the legislation that contains a scope of practice statement, controlled acts authorized to midwives as well as provisions on title protection.

<sup>1</sup> e-Laws definitions; Government of Ontario: <https://www.ontario.ca/laws/e-laws-definitions>

## Regulation

Regulation is a law that is made by a body whose authority to make the law is set out in a statute (e.g. RHPA). Usually the authority is given to the Lieutenant Governor in Council. Sometimes the authority is given to a Minister of the Government or to another person or body, such as a regulatory college. Regulations are considered "delegated legislation" because the authority to make them is delegated by the Legislative Assembly in a statute. A regulation deals with topics related to the statute under which it is made; the purpose of a regulation is to provide details to give effect to the policy established by the statute. The process for amending a regulation is usually shorter than the process for amending a statute.

The RHPA, through the Code, and the *Midwifery Act, 1991*, gives the College the authority to develop regulations that establish various kinds of obligations for members (e.g. registration requirements, components of the quality assurance program, etc.). Any regulation that is developed by the College must be circulated to all members for their feedback. A proposed regulation must also be approved by the Ministry of Health and Long-Term Care, a provincial government cabinet committee, and finally it must be signed into law by the Lieutenant-Governor of the province. All approved regulations are filed with the Registrar of Regulations and are assigned a number based on the order in which they are filed in a given year. Regulations in Ontario are cited using the abbreviation O. Reg., followed by the regulation number. For example: The Registration Regulation, made under the *Midwifery Act, 1991*, is cited as O. Reg. 168/11. This means it was the 168th regulation filed in 2011.

The following regulations are made under the *Midwifery Act, 1991*:

- Registration Regulation
- Professional Misconduct Regulation
- General Regulation
  - o Quality Assurance
  - o Notice of Meeting and Hearings
  - o Intubation of a Newborn
- Designated Drugs Regulation

## By-Laws

The College's by-laws are the rules that govern how the College operates. The Code (s. 94) authorizes Council to make by-laws relating to administrative and internal affairs of the College. The College currently has General By-laws and Fees and Remuneration By-law. By-laws are approved by the Council of the College, and do not require the submission to the Ministry.

## Standard

Standards set minimum expectations that must be met by any midwife in any setting or role. Standards guide the professional knowledge, skills and judgment needed to practise midwifery safely. A standard is enforceable only if there is expert evidence that standard is widely accepted, which partly explains extensive consultation. Every College proposal designed to introduce or revise a standard must be accompanied by a Regulatory Impact Assessment (RIA) statement. Standards of practice are approved by the Council of the College.

**Record-keeping Standard:** This standard outlines general requirements and considerations about the collection, use, storage, and disclosure of client's personal health information.

## Policy

College policies (program and operational) are necessary tools to describe, in greater detail, issues set out in legislation, regulation or by-laws. Policies alone are not legally binding. If a matter deals with procedures and actions related to an activity covered in the legislation or regulation but otherwise does not introduce any new information, a Guide or Information Sheet will be developed (see below under non-regulatory tools). Every College proposal designed to introduce or revise a program policy must be accompanied by a Regulatory Impact Assessment (RIA) statement. All College program policies (including governance policies) are approved by the Council of the College, except for the operational policies that are approved by the Registrar.

**Program: Policy on Active Practice Requirements (APR):** Active practice requirements are outlined in the College's Registration Regulation. The APR policy was developed to further outline active practice reporting requirements.

**Operational: Record Retention and Disposition Policy:** Legal retention requirements are defined in relevant federal and provincial statutes and regulations. The policy was developed to outline procedures and schedules developed by the College to ensure appropriate measures are in place to comply with legislative requirements.

## Non-Regulatory Tools

### Guidelines

Guidelines are mere suggestions for best practices. They do not set a minimum standard and are, therefore, not mandatory. For example, suggestions on how to avoid complaints through good communication practices would be a typical guideline. In other words, guidelines, are a "word to the wise."

**Guideline to Appropriate Professional Behaviour with Clients:** The RHPA has provisions specific to sexual abuse. In addition, the College developed a Sexual Abuse Provision Policy that sets out the College's expectations of a midwife's behaviour within the midwife-client relationship. The guideline to Appropriate Professional Behaviour with Clients contains suggestions for enhanced practice that will assist midwives in fulfilling legislative requirements.

### Advisory Statement

Advisory statements normally relate to legal obligations imposed by other authorities upon the practitioner. Many regulators issue advisory statements as a notice or warning to the profession alerting their members of new legislation and explaining its most significant implications. Some regulators also make suggestions as to strategies for complying with the legislation (without giving legal advice).

**Advisory Statement on Changes to *Personal Health Information & Protection Act*:** The College issued an Advisory Statement on changes to *Personal Health Information Protection Act, 2004* (PHIPA), including informing the membership of important consequences and directing them to resources that might help them know what is expected.

### Guide or Information Sheet

A type of document that outlines procedures and actions related to an activity covered in the legislation or regulation, and assists members with their understanding of College requirements or legal obligations imposed by other authorities. A Guide or Information Sheet do not introduce any new information.

**Guide on Compliance with *Personal Health Information & Protection Act* (PHIPA):** The purpose of this guide is to help midwives understand their privacy obligations under PHIPA that governs the collection, use and disclosure of personal health information by health information custodians (including midwives) practicing within Ontario.

### Position Statement (or Joint Position Statement)

Position statement clarifies where the College stands on a topic or current debate and provides a description of how the regulator will approach or what they will do in certain circumstances. Position statements can be issued jointly with other organizations.

**CMO and CPSO Statement on Interprofessional Collaboration:** This joint position statement outlines the Colleges' commitment to working collaboratively at the regulatory level to support their members in meeting the primary maternity care needs of Ontario's women and families.

### Fact Sheets

A fact sheet is a concise presentation of key points or statistics relating to a specific topic. They are normally used to summarize a longer document available on the College's website.

### Frequently Asked Questions (FAQs)

FAQs is an online document that poses a series of commonly asked questions and answers relating to a particular topic (e.g. College's Quality Assurance Program requirements). Real or imaginary questions can be used to develop an FAQ.

### Other tools

Other information and educational instruments may include newsletters, backgrounders, discussion papers, and webinars.