

Council Approves Premises Inspection Regulation

Proposed regulation now with government; may be in force by early next year

At its last Council meeting, Council passed a regulation that will establish a process that will allow the College to inspect non-hospital premises where certain kinds of procedures are performed.

The proposed regulation is now with government. The College anticipates that it will come into force by early next year. The regulation is published here:

1. (1) Ontario Regulation 114/94 is amended by adding the following Part:

PART XI Inspection of Premises Where Certain Procedures are Performed

44. (1) In this Part,

“inspector” means a person designated by the College to carry out an inspection under this Part on behalf of the College;

“premises” means any place where a member performs or may perform a procedure on a patient but does not include a health care facility governed by or funded under any of the following Acts:

1. *The Charitable Institutions Act.*
2. *The Community Psychiatric Hospitals Act.*
3. *The Developmental Services Act.*
4. *The Homes for Special Care Act.*
5. *The Homes for the Aged and Rest Homes Act.*
6. *The Independent Health Facilities Act.*
7. *The Mental Hospitals Act.*
8. *The Ministry of Community and Social Services Act.*
9. *The Ministry of Correctional Services Act.*
10. *The Ministry of Health and Long-Term Care Act.*
11. *The Nursing Homes Act.*
12. *The Private Hospitals Act.*
13. *The Public Hospitals Act.*

“procedure” means,

(a) any act that, when performed in accordance with the accepted standard of practice on a patient, is performed under the administration of,



- (i) general anesthesia,
 - (ii) parenteral sedation, or
 - (iii) regional anesthesia, except for a digital nerve block; and,
 - (b) any act that, when performed in accordance with the accepted standard of practice on a patient, is performed with the administration of a local anesthetic agent, including, but without being limited to,
 - (i) any tumescent procedure involving the administration of dilute, local anesthetic;
 - (ii) surgical alteration or excision of any lesions or tissue performed for cosmetic purposes,
 - (iii) injection or insertion of any permanent filler, autologous tissue, synthetic device, materials or substances for cosmetic purposes;
 - (iv) a nerve block solely for the treatment or management of chronic pain; or
 - (v) any act that, in the opinion of the College, is similar in nature to those set out in subclauses (i) to (iii) and that is performed for a cosmetic purpose;
- but does not include, ►►

- (c) surgical alteration or excision of lesions or tissue for a clinical purpose, including for the purpose of examination, treatment or diagnosis of disease, or
 - (d) minor dermatological procedures including without being limited to, the removal of skin tags, benign moles and cysts, nevi, seborrheic keratoses, fibroepithelial polyps, hemangioma and neurofibromata.
- (2) Anything that may be done by the College under this Part may be done by the Council or by a committee established under clause 94 (1) (i) of the *Health Professions Procedural Code*.

45. (1) All premises where a procedure is or may be performed on a patient by a member in connection with his or her practice are subject to inspection by the College in accordance with this Part.

(2) In carrying out an inspection of a premises under subsection (1), the College may also require any or all of the following:

1. Inspection, examination or tests regarding any equipment, instrument, materials or any other thing that may be used in the performance of a procedure.
2. Examination and copying of books, accounts, reports, records or similar documents that are, in the opinion of the College, relevant to the performance of a procedure in practice of the member.
3. Inquiries or questions to be answered by the member that are relevant to the performance of a procedure on a patient.
4. Direct observation of a member in his or her practice, including direct observation by an inspector of the member performing a procedure on a patient.

46. An inspector may, on the production of information identifying him or her as an inspector, enter and have access to any premises where a procedure is or may

be performed by a member at reasonable times and may inspect the premises and do any of the things mentioned in subsection 45 (2) on behalf of the College.

47. It is the duty of every member whose premises are subject to an inspection to,

- (a) submit to an inspection of the premises where he or she performs or may perform a procedure on a patient in accordance with this Part;
- (b) promptly answer a question or comply with a requirement of the inspector that is relevant to an inspection under this Part; and
- (c) cooperate fully with the College and the inspector who is conducting an inspection of a premises in accordance with this Part.

48. Where, as part of the inspection, an inspector directly observes a member in their practice, or directly observes the member performing a procedure on a patient, before the observation occurs, the inspector shall,

- (a) identify himself or herself to the patient as an inspector appointed by the College;
- (b) explain the purpose of the direct observation to the patient;
- (c) inform the patient that information obtained from the direct observation, including personally identifiable information about the patient, may be used in proceedings under this Part or any other proceeding under the *Act*;
- (d) answer any questions that the patient asks; and
- (e) obtain the patient's written consent to the direct observation of the patient by the inspector.

49. (1) No member shall commence using premises for the purposes of performing procedures unless the member has previously given notice in writing to the College in accordance with subsection (5) of the member's intention to do so and the premises passes an inspection or passes an inspection with conditions.

(2) The College shall ensure that an inspection of the

premises of a member referred to in subsection (1) is performed within 180 days from the day the College receives the member's notice.

(3) A member whose practice includes the performance of a procedure on a patient in any premises on the day this Part comes into force shall give a notice in writing to the College in accordance with subsection (5) within 60 days from the day this Part comes into force.

(4) The College shall ensure that an inspection of the premises of a member referred to in subsection (3) is performed within 24 months from the day this Part comes into force.

(5) The notice required in subsections (1) and (3) shall include the following information, submitted in the form and manner required by the College:

1. The full name of the member giving the notice and the full name of the owner or occupier of the premises, if he or she is not the member who is required to give notice under this section.
2. The full name of any other member who is practising or may practice in the premises with the member giving the notice.
3. The name of any health profession corporation that is practising at the premises.
4. The full name of any hospital where the member or other members at the premises have privileges or where arrangements have been made to handle emergency situations involving patients.
5. The full name of any other regulated health professional who is practising or may practise in the premises with a member at the premises, along with the name of the College where the regulated health professional is a member.
6. The full address of the premises.
7. The date when the member first performed a procedure on a patient in the premises or the proposed date when the member or another member intends



to perform a procedure on a patient at the premises.

8. A description of all procedures that are or may be performed by a member or other members at the premises and of procedures that may be delegated by the member or other members at the premises.
9. A description of any equipment or materials to be used in the performance of the procedures.
10. The full name of the individual or corporation who is the owner or occupier of the premises, if different from the member giving the notice.
11. Any other information the College requires that is relevant to an inspection conducted at the premises in accordance with this Part.

50. All premises where a member performs or may perform a procedure on a patient are subject to an inspection by the College once every five years after its initial inspection or more often if, in the opinion of the College, it is necessary or advisable to do so.

51. (1) After an inspection of a premises, the College shall determine, in accordance with the accepted standards of practice, whether the premises pass, pass with conditions, or fail.

(2) In determining whether premises pass, pass with conditions or fail an inspection, the College may consider,

- (a) the inspection results provided to the College by the inspector;
- (b) information provided by one or more members who perform or may perform procedures in the premises ►►

respecting the inspection, including the answers given by them in response to inquiries or questions asked by the inspector;

- (c) the information contained in a notice given by a member under subsection 49 (1) or (3);
- (d) any submissions made by the member or members practicing in the premises that are relevant to the inspection; and,
- (e) any other information that is directly relevant to the inspection of the premises conducted under this Part.

(3) The College shall deliver a report, in writing, to the owner or occupier of the premises and to every member who performs or may perform a procedure on a patient in the premises, within a reasonable time after the inspection is completed, in accordance with section 39 of the *Regulated Health Professions Act, 1991*.

(4) Any report made by the College respecting an inspection of premises where a procedure is or may be performed shall make a finding that the premises passed, passed with conditions, or failed the inspection and shall provide reasons where the premises passed with conditions or failed the inspection.

(5) Any report made by the College that makes a finding that the premises failed an inspection or passed with conditions is effective on the day that it is received by one or more members who perform or may perform a procedure within the premises, in accordance with section 39 of the *Regulated Health Professions Act, 1991*.

(6) A member shall not perform a procedure on a patient in premises that fail an inspection until,

- (a) the College delivers a report indicating that the premises passed a subsequent inspection, or passed with conditions, or
- (b) after considering submissions under subsection (8), the College substitutes a finding that the premises pass or pass with conditions.

(7) A member shall not perform a procedure on a patient in premises that passes an inspection with conditions except in accordance with the conditions set out in the report until,

- (a) the College delivers a report indicating that the premises passed a subsequent inspection, or
- (b) after considering submissions under subsection (8), the College substitutes a finding that the premises pass.

(8) A member may make submissions in writing to the

College within 14 days from the day he or she receives a report made by the College that finds that the premises passed with conditions or failed the inspection.

(9) The College may or may not elect to re-inspect the premises after receiving a member's submissions, but no more than 60 days after a member provides his or her submissions, the College shall do one or more of the following:

1. Confirm its finding that the premises failed the inspection or passed with conditions,
2. Make a report and find that the premises passes with conditions,
3. Make a report and find that the premises passed the inspection.

(10) Premises that fail an inspection or pass with conditions may be subject to one or more further inspections within a reasonable time after the College delivers its report, at the request of a member, any other person to whom the College gave the report, or at any time at the discretion of the College.

(11) Where, as a result of an inspection carried out under this Part, a report made by the College finds that a member's knowledge, skill or judgment is unsatisfactory, the College may direct the Registrar to refer the report to the Quality Assurance Committee.

(12) Where, as a result of an inspection carried out under this Part, a report made by the College finds that a member may have committed an act of professional misconduct or may be incompetent or incapacitated, the College may direct the Registrar to refer the report to the Inquiries, Complaints and Reports Committee.

(2) Paragraphs 1, 5 and 11 of the definition of "premises" in subsection 44 (1) of the Regulation, as made by subsection (1), are revoked and the following substituted:

1. The *Long-Term Care Homes Act, 2007*.
2. (1) Subject to subsection (2), this Regulation comes into force on the day it is filed.
- (2) Subsection 1 (2) comes into force on the later of the day section 1 of the *Long-Term Care Homes Act, 2007* comes into force and the day this Regulation is filed. 