



**Framework for Developing Consistent Descriptions of Regulatory Models:
Canada**

This document provides a broad overview of the model(s) of regulation for professions and occupations. It is brief by design and aims to introduce the reader to the model(s) in place. The author is involved in professional and occupational regulation in the country discussed and their contribution is gratefully acknowledged. This project was initiated by the International Relations Committee of the Council on Licensure, Enforcement and Regulation (CLEAR), from where additional resources can be located at <http://www.clearhq.org/links.htm>

General Question:

1. Is the regulatory model consistent for each profession and occupation, or are there substantial differences?

- The regulatory model is broadly consistent, with provincial governments granting self-regulation to the professions and occupations.

Philosophy/Purpose

2. Describe the primary purpose of the model (e.g., public protection).

- Public Protection
 - Safety
 - Quality
 - Appropriate and effective services

Government Structure

3. Describe how regulatory entities are organized (e.g. nationally, by state, province, municipality etc).

- Powers of regulation vested in Provincial Legislation, through profession specific acts
- Principles for regulation may be established federally by statute, i.e. Canada Health Act, which guarantees public, universal, accessible medical care

4. Explain how regulatory entities interact and share power with other branches of government.

- Most provinces license practitioners via statute which sets out powers without interaction
- Government defines, by statute or regulation, the powers to be shared
- Some provinces govern health professionals collectively through legislation which gives them the same legal right to practice. It also allows the public the right to choose health care services among safe options and provides the opportunity for inter-professional cooperation and coordination. This umbrella” legislation also defines the sharing of powers with government

Authority Basis

5. On what legal basis is the authority of regulatory entities derived?

- Public Statute which creates a regulatory body, accountable to the Provincial Government, passed by the Provincial Legislature
- Private Statute which creates a professional body with protected title, accountable to a regulatory agency, passed by the Provincial Legislature
- Direct Regulation by government where the Cabinet or Minister has direct authority over a profession, with accountability to the public through the Government
- Occupations, trades and professions may all be regulated through
 - Collective governance by statute
 - Stand-alone” legislation giving legal authorization
 - Certification programs
 - Agencies, boards or commissions
- See also responses to questions three and six

Regulation Creation Framework

6. Describe how the legislative process works when creating the authority for regulatory entities.

For Public Statutes

- changes to powers require legislative change
- Regulatory change generally proposed by the regulatory body, subject to approval of Provincial Cabinet

For Private Statutes

- changes to powers require legislative change
- regulatory change generally proposed by the professional body, subject to approval of Provincial Cabinet
- by-law changes approved by the profession’s Governing Council

For Direct Regulation

- changes made directly by the cabinet or relevant Government Minister

7. Explain how public involvement and comment is incorporated into the process.

For “new” regulation there is extensive public consultation; consultation with stakeholders, affected groups.

- Government commissions review
- Proposals tabled
- Legislation drafted
- Provincial legislation proclaimed, with commencement date, transitional provisions
- Regulations developed, approved

8. Describe how professionals and consumers influence regulations.

Consumers can influence regulations through:

- Personal submissions
- Their elected representatives

Professionals also influence regulations as above, plus

- Their professional or trade organizations

- Stakeholders such as employers, manufacturers
- Their regulatory body

9. Explain how political involvement influences regulations.

- Since the word 'political' is derived from "citizen", it always influences regulation, which is grounded in the public interest; the "how" is incorporated into the process described in the response to question 7

Regulatory Entities

10. Illustrate how regulatory entities (e.g., board, agency, college) are typically constituted and the degree to which they include practitioners, the public, and other stakeholders.

- a) Agencies, Boards, Commissions
 - Stakeholder Associations
 - Government Representatives
 - Affected members where applicable

- b) Regulatory Bodies
 - Members (by election)
 - Public (by Government Appointment)
 - Academic representation (where applicable)

Public representation varies from 40% to just under one-half

11. Detail how participants in the regulatory process are typically appointed to regulatory entities.

- Professional members elected by the peers for a defined term
- Lay members appointed by Government in power usually via an Appointments Agency for a defined term. The public is encouraged to put their names forward, subject to certain restrictions (i.e., not eligible are Government employees, other related practitioners)

12. Give examples of administrative and disciplinary functions typically undertaken by regulatory entities.

- Administer entry to practice requirements
- Maintain a register of members
- Investigate public complaints
- Administer quality assurance
- Hear allegations of misconduct, incompetence or incapacity
- After findings, prescribe penalties or terms or conditions on members

13. Describe the typical funding structure of regulatory entities.

For Agencies, Boards, Commissions:

- Government funded (there may be cost recovery in certain instances)

For professional regulatory bodies, funding is from members and applicants. There maybe cost recovery under certain circumstances (i.e. remediation, premise reinspection) also government grants for special projects

14. Indicate how much autonomy regulatory entities enjoy.

- Professional Regulatory Bodies are autonomous with their objects defined by Statute with oversight by Government (usually Ministerial)

15. Describe the relationship between regulatory entities and the professional membership organization, where different.

- Is arms-length
- Regulatory entity's mandate is to advance the public interest whereas the professional association advances the interests of their members
- Both entities may meet for information sharing or where their respective interests coincide (i.e. continuing professional development)

Practice Requirements

Broadly speaking, prior to beginning practice in a regulated profession or occupation, do requirements exist that must be met in the following areas:

16. education and training;

17. background checks;

18. experience;

19. examination(s) a candidate must pass;

20. continuing competence requirements for renewing practitioners;

21. fees practitioners must pay for entry to the profession;

22. fees practitioners pay as part of continuing practice requirements;

23. language(s) in which practitioners are expected to be proficient;

Response to questions 16-23: Practice requirements include:

- Education and training
- Experience (where applicable) and practicum
- Examinations in addition to academic examinations (i.e. licensing exams, jurisprudence)
- Continuing competence or quality assurance programs
- Reasonable fluency in the official language(s) of the jurisdiction; where applicable, determined by recognized tests (i.e. TSE, TOEFL)
- Payment of prescribed fees

24. conduct that could cause withdrawal of a practitioner's right to practice?

Conduct that could give rise to withdrawal of right to practice include

- A finding of professional misconduct (i.e. practicing below practice standards, dishonourable conduct, sexual abuse)
- A finding of incapacity (physical or psychological impairment)
- A finding of incompetence (qualities, skills and ability lacking)

Withdrawal of practice rights may be temporary (suspension) or permanent (revocation) and could include terms and conditions, fines and recovery of costs

Inter-Jurisdictional Recognition of Regulation

25. Describe the reciprocity/endorsement/mutual recognition that exists with other government entities.

- Professions and trades are expected to have signed reciprocal agreements with other provinces and territories in Canada to provide for labour mobility (under Mutual Recognition Agreements) by 2001. Requirements need to be competency based, and can include fluency, jurisprudence, structured practical training and, where applicable, a national licensing examination

26. Identify international recognition and trade agreements that are affected.

- There may be recognition of credentials pursuant to licensure, which commonly is administered by a National body

27. Are regulatory entities typically ISO 17024 accredited?

Commonly Used Terms

28. List definitions of technical terms someone outside the regulatory agency may require to better understand the program.

- License = a “permit”; official permission to do something
- Member = belonging to a particular group; includes the right to a title
- Registration = inclusion on an official list (register); registrants have met certain requirements
- Certification = conforming to a standard; passing a test and meeting certain qualifications