



August 10, 2007

MR. RICHARD MARZ
MLA OLDS-DIDSBURY-THREE HILLS
ACTING CHAIR

MRS. WESLYN MATHER
MLA EDMONTON-MILL WOODS
DEPUTY CHAIR

STANDING COMMITTEE ON COMMUNITY SERVICES
801 LEGISLATURE ANNEX
9718 107 ST NW
EDMONTON AB T5K 1E4

Dear Mr. Marz and Mrs. Mather:

Re: AMA submission on Bill 41

The 8,600-member Alberta Medical Association (AMA), a non-profit professional organization, appreciates the opportunity to comment on Bill 41, the *Health Professions Statutes Amendment Act, 2007*.

As the voluntary association for physicians, medical residents and students, the AMA “stands as an advocate for its physician members, providing leadership and support for their role in the provision of quality health care.”

The AMA’s advocacy is expressed in our signature, Patients First®.

The medical profession has a long and honorable tradition in self-regulation. Today in this province, this responsibility and oversight is with the College of Physicians and Surgeons of Alberta (CPSA).

Other professions such as law, dentistry, engineering, architecture and accounting are governed by self-regulation.

In the main, Alberta and Albertans have been well served by professional self-regulation. Initiatives in recent years to improve public representation, accountability and transparency – where the College of Physicians and Surgeons of Alberta was a leader – have enhanced this.

Therefore, the Alberta Medical Association seeks:

- explanation as to the need for the proposed changes
- assurance that the changes are justifiable and in accordance with the laws of natural justice
- assurance that the proposed changes neither constitute nor encourage political interference

- explanation as to why the health care professions have been singled out by the Government of Alberta

Self-regulation

Historically, self-regulation has been limited to professions whose actions impact the public and society as a whole and have a broad range of specific knowledge, the extent of which is such that a member of the public could not be reasonably expected to understand the breadth sufficiently and to make an informed decision as to the nature of service or product being provided. In return for this right to govern through self-regulation, professions have taken on the responsibility to protect the public by developing policies and codes of conduct, and adjudicating complaints from the public.

How has self-regulation served the citizens of Alberta?

For the most part, self-regulation of the medical profession has been a remarkable success story! The College of Physicians and Surgeons of Alberta has served the public well as it addressed concerns of the public, investigated complaints and disciplined physicians when appropriate. The Alberta college has also fulfilled its responsibilities by attention to professional competency through programs such as the Physician Assessment Review. Moreover, this has been financed by physicians, not taxpayers, and without the growth of a public bureaucracy.

For example, several years ago when an Alberta physician tested HIV positive and there was concern about the implications for his patients, the college responded quickly to the situation: it not only dealt with the individual, but also – to protect both the public and the rights of the individual practitioner – developed policies for physicians who are HIV positive or positive for hepatitis and other blood-borne diseases. Such leadership requires a high degree of technical and ethical expertise that is not readily available outside of the medical profession.

Bill 41

Bill 41 represents an unprecedented intrusion by the Government of Alberta into professional self-regulation of medicine and other health care professions. It would empower the minister to impose his or her will on any aspect of any profession under the *Health Professions Act*. (As noted before, non-health professions such as law, engineering, accounting and architecture are exempted from Bill 41.)

This legislation would allow the Minister of Health to direct a profession's self-regulatory body, such as a college, to develop or amend its code of conduct according to direction and directives imposed by the minister, direct the college to make bylaws or regulations directed by the minister and dictate the procedures to be followed in developing said code of conduct, bylaws or regulations.

Furthermore, the minister would be empowered to appoint administrators for a college and to limit the term of office for an administrator. Cabinet (the Lieutenant Governor in Council) could make bylaws and regulations, or could impose a code of conduct. Under the proposed changes in Bill 41, a health care profession could have direction imposed by a minister or cabinet without any oversight by the legislative assembly. The Alberta Medical Association is concerned that such direction could be imposed without the benefit of the full range of knowledge of the profession impacted.

Perspectives on self-regulation

Institute of Chartered Accountants of Ontario

(<http://fcis.oise.utoronto.ca/~plar/values/chartered.html>)

“There has been a long tradition of professional self-regulation in Canada based on public accountability and protection of the public through the maintenance of high professional standards. It has generally served the people of Canada well. That is not to say, however, that there is no room for change or improvement. But, the simple fact of the matter is that the knowledge and expertise necessary to assess competence to practise a profession reside within members of that profession. The establishment of a role for government would weaken this fundamental principle and must be avoided. Government or other individuals or agencies are not in a position to define for any particular profession what constitutes competence to practise.”

The World Medical Association

The World Medical Association Declaration of Madrid on Professional Autonomy and Self-Regulation (revised 2005):

“The World Medical Association, having explored the importance of professional autonomy and self-regulation of the medical profession around the world, and recognizing the problems and the current challenges to professional autonomy and self-regulation, hereby adopts the following principles:

1. The central element of professional autonomy is the assurance that individual physicians have the freedom to exercise their professional judgement in the care and treatment of their patients.
2. The World Medical Association reaffirms the importance of professional autonomy as an essential component of high quality medical care and therefore a benefit to the patient that must be preserved. The World Medical Association therefore re-dedicating itself to maintaining and assuring the continuation of professional autonomy in the care of patients, which is an essential principle of medical ethics.
3. As a corollary to the right of professional autonomy, the medical profession has a continuing responsibility to be self-regulating. In addition to any other source of regulation that may be applied to individual physicians, the medical profession itself must be responsible for regulating the professional conduct and activities of individual physicians.”

The declaration (attached) also discusses the importance of quality of care, continuing competence, cost-consciousness and ethical principles in self-regulation.

Understanding Professional Self-Regulation - Glen E. Randall, former registrar of the College of Respiratory Therapists of Ontario, 2000

“Governments can also gain a great deal from allowing an occupational group to self-regulate. This form of regulation allows government to demonstrate that they have taken action to protect the public, but in a way that minimizes the government’s role. Regulating through a regulatory body also allows for greater flexibility in the regulatory process as rules can often be developed more quickly. The government saves the expense of hiring experts to assist with creating unique rules and standards for the profession. The self-regulatory model also transfers the cost of regulating from the government to the profession itself. Most importantly, the self-regulatory model helps to insulate government from the actions of individual members of a profession or the rules put in place by a regulatory body.

“One of the most persuasive arguments in favor of self-regulation is that an occupational group has evolved over time and developed a specialized body of knowledge which make members of the group experts. Because the knowledge these members have is so specialized, it would be difficult and expensive, for the government to determine and monitor standards of practice for the profession. It is therefore thought that members of the profession are in the best position to set standards and to evaluate that they have been met.”

Accountability: an essential ingredient for good governance? - Carl-Ardy Dubois, assistant professor, faculty of nursing, Universite de Montreal

“In Alberta, the managerial and professional accountability forms are dominant but recent reforms have reflected significant efforts to integrate new political components. . . . The common sense revolution launched in 1995 focused above all on developing managerial leadership and a series of initiatives designed in part to upgrade performance measurements, ensure close scrutiny of budgets, and rationalize planning of services. In the new context, however, self-regulation mechanisms for professions continue to provide one of the main guarantees of quality of service.”

Review of Legislation Regulating the Architectural Profession - Inquiry Report of the Productivity Commission, Commonwealth of Australia, 2000

“On balance, in the commission’s assessment, the costs of current regulation outweigh its benefits because claimed benefits of the *Architects Act* could be achieved more effectively by a self-regulating profession and other existing legislation.”

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Conclusion

In general, self-regulation for professions is efficient, effective and cost-effective for Albertans and for Alberta. In particular, the medical profession has respected this privilege and fulfilled the responsibilities of this social covenant.

Bill 41 represents an unprecedented and unnecessary intrusion by the Government of Alberta into the self-regulation of the medical profession and other health care professions. In the view of the Alberta Medical Association, Bill 41 could have unwanted and unwarranted consequences for medicine, for the health care system and for the public, our patients.

Sincerely,

Sincerely,

G.N. (Gerry) Kiefer, MD, FRCSC
President

Michael A. Gormley
Executive Director