

LEGISLATIVE UPDATE

Updated: July 2024

Backgrounder

Ontario Announces the *Advancing Oversight and Planning in Ontario's Health System Act, 2021*

Context

On April 27, 2021, the provincial government introduced Bill 283, the [*Advancing Oversight and Planning in Ontario's Health System Act, 2021*](#). On June 3, 2021, Bill 283 received Royal Assent. When passed, Bill 283 created three new Acts one of which is the [*Health and Supportive Care Providers Oversight Authority Act, 2021*](#) (HSCPOAA or the Act).

The Ontario Hospital (OHA) prepared a [backgrounder](#) to provide members with a high-level and non-exhaustive overview of the components of Bill 283 that may interest to hospitals.

This Backgrounder provides members with a summary of the various regulations created under the HSCPOAA. These regulations were published on June 4, 2024, and come into force on December 1, 2024.

Purpose of Regulatory Changes

The regulatory changes under the Act are designed to enhance the oversight and planning within Ontario's health system concerning personal support workers (PSWs). A key action in this reform is the introduction of the Health and Supportive Care Providers Oversight Authority (HSCPOA),¹ where PSWs can voluntarily register starting December 1, 2024. The HSCPOA is governed by a Board of Directors.² This and other changes under the reform aim to:

1. **Establish an Oversight Body:** The regulations set up a new oversight body, HSCPOA, to oversee PSWs, ensuring they meet high standards of practice.
2. **Enable a Regulatory Framework:** This framework includes provisions for funding therapy and counselling for individuals alleging sexual abuse, procedures for discipline and appeals, and guidelines for advisory committees, ensuring structured and fair processes.
3. **Define Visual Identity:** The introduction of visual marks helps to clearly identify registrants³ within different classes, promoting transparency and trust within the healthcare system.
4. **Support Personal Support Workers (PSWs):** Regulations provide for establishing and operating a PSW Advisory Committee, ensuring the representation of various stakeholders and the continuous improvement of PSW standards.

¹ For more information about the HSCPOA, please visit the [HSCPOA website](#).

² An interim Board of Directors was appointed by the Lieutenant Governor in Council in late 2022 to oversee the governance and operational establishment of the HSCPOA until a permanent Board of Directors is in place. PSWs are not eligible to serve on the Board.

³ Refers to the voluntary PSW Registrants.

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5. **Enforce a Code of Ethics:** The regulations establish a comprehensive code of ethics for registrants, guiding their professional and ethical conduct to ensure high-quality and respectful care.
6. **Maintain Transparency and Accountability:** Requirements for public access to information, complaint procedures, and the publication of disciplinary decisions promote accountability and transparency in the oversight of PSWs.

I. [O. Reg. 211/24: FUNDING FOR THERAPY AND COUNSELLING](#)

This regulation establishes a program administered by the HSCPOA to provide therapy and counselling funding for individuals claiming to have been sexually abused by a registrant of the HSCPOA. Key provisions include:

- **Program Creation:** A program is mandated to support victims of alleged sexual abuse by registrants, ensuring they receive necessary therapy and counselling.
- **Administration:** The Chief Executive Officer (CEO) of the HSCPOA will administer this program.
- **Eligibility:** Individuals are eligible for funding based on allegations of sexual abuse by a registrant in the context of receiving health services or supportive care.
- **Funding Use:** Allocated funds are strictly for therapy or counselling expenses, potentially covering services undertaken after the alleged abuse.
- **Maximum Funding:** The funding maximum is equivalent to the cost of 200 half-hour psychotherapy sessions as per the Ontario Health Insurance Plan rates.

II. [O. Reg. 212/24: DISCIPLINE AND APPEALS](#)

This regulation introduces the procedure for discipline and appeals within the framework of the HSCPOAA. This regulation outlines the composition, roles, and operational guidelines of both the Discipline Committee and Appeals Committee, ensuring fair and structured processes for handling allegations against registrants. Key sections of the regulation include:

- **Committee Compositions:** Membership eligibility criteria for both Discipline and Appeals committees are stated, requiring impartiality and excluding current or former registrants, those with specific professional affiliations, or persons with a history of professional misconduct.
- **Hearing Procedure:** Adopting *Statutory Powers Procedure Act* (SPPA) standards for hearings, including including public access, disclosure of evidence, and protection of the witness in sexual misconduct cases.
- **Appeal Rights and Process:** Outlining the right to appeal Discipline Committee decisions, including how an appeal is initiated, who becomes parties on appeal, and what to consider regarding the overlap in process between committees.

III. [O. Reg. 213/24: RULES FOR ADVISORY COMMITTEES](#)

This regulation sets out the standardized rules of procedure for how the advisory committees operate and govern themselves and function under section 11 of the Act. Key components of the regulation include:

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- **Leadership:** Allowing the board to vote for a chair and vice-chair, with all the committee members having voting rights. The committee must meet at least two times a year.
- **Member Responsibilities:** Board policy compliance, participation, conflict of interest declaration, adequate preparation, attendance, and confidentiality of committee deliberations is required by all members.

IV. [O. Reg. 214/24: PERSONAL SUPPORT WORKER ADVISORY COMMITTEE](#)

This regulation sets out how the Personal Support Worker (PSW) Advisory Committee will be established and operate under the Act. The PSW Advisory Committee shall advise and make recommendations to the HSCPOA Board of Directors and the CEO, respecting matters of concern to registrants in that registration class.

V. [O. Reg. 215/24: CODE OF ETHICS](#)

This regulation establishes a comprehensive Code of Ethics for registrants' regulation. It is designed to guide the professional and ethical conduct of health and supportive care providers registered under the HSCPOA's oversight in Ontario. Key elements include:

- **Professionalism and Accountability:** Setting expectations for competence, respect, supervision, and collaboration standards. It requires registrants to stay competent, avoid substance abuse, and abide by strict criteria for discontinuing service.
- **Privacy and Confidentiality:** Ensuring that privacy legislation is met, employer policies regarding retention of information are adhered to, and personal health information is appropriately safeguarded.
- **No Discrimination or Harassment:** Affirming adherence to the *Human Rights Code* includes respect for recipient beliefs and any form of abuse.

VI. [O. Reg. 216/24: VISUAL MARKS](#)

This regulation addresses the issuance and control of visual marks by the HSCPOA. Its purpose is to put a visual mark to separate those registered with HSCPOA and those who are not registered. Some of the main sections within this regulation are as follows:

- **Issuance and Authorization:** The HSCPOA may issue visual marks to a registrant to indicate that their registration is in one or more specific classes. The visual mark must be used appropriately on identification and promotional materials.
- **Limitation and Compliance:** Registrants must not misrepresent the visual mark and comply with audits and the Code of Ethics regarding its use.

VII. [O. Reg. 217/24: REGISTRATION](#)

This regulation details the Act's registration requirements for health and supportive care providers. Key sections include:

- **Application for Registration:** Outlining how to apply for registration, which includes:
 - Disclosure of any criminal charges or convictions
 - Findings of professional misconduct
 - Refusal by another jurisdiction to register the applicant.

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- **Suspension and Reinstatement:** Description of the processes for suspending registration due to unpaid fees and the procedure for reinstatement.

Commentary:

Starting Fall 2024, there will be 4 pathways to become a HSCPOA PSW registrant:

1. Ontario PSW Education
2. Employed as a PSW in Ontario
3. Labour Mobility
4. Competency Assessment

For more information about the registration pathways, please visit the [HSCPOA website](#).

VIII. [O. Reg. 218/24: REGISTER](#)

This regulation sets the standards for maintaining the Public Register of registrants by the HSCPOA. The Public Register will be available on December 1, 2024, when the regulations come into force. Key sections include:

- **Prescribed Information Data:** Detailing the necessary information for each registrant, such as:
 - Legal Names
 - Gender
 - Business Details
 - Registration Status
 - Disciplinary Actions
- **Access to Information by the Public:** Ensuring public access to registrant information during business hours and on the HSCPOA's website.
- **Retention of Personal Information:** Establishing durations for maintaining and discarding personal and health information according to data category and registrant classification.

IX. [O. Reg. 219/24: COMPLAINTS](#)

This regulation outlines the procedures for handling complaints against registrants. The main sections include:

- **Notice to Complainant:** The CEO shall acknowledge receipt of a complaint within 14 days of receiving it and provide the complainant with information about how the HSCPOA will handle it.
- **Notice to Registrant:** A registrant who is the subject of a complaint shall be provided with a copy within 14 days after the day the complaint is received.
- **Submissions from Registrant:** Registrants have 30 days from their notice to reply in writing with submissions to the CEO.
- **Prescribed Actions of CEO:** For complaints deemed frivolous, vexatious, made in bad faith, moot, or an abuse of process, the CEO must notify the complainant and registrant, offering a

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30-day period for written submissions. After considering any submissions, the CEO may decide not to take action on the complaint.

Timeline and Next Steps

The OHA will continue to monitor the legislative progress and implementation of these regulations. Regular updates will be provided to keep members informed about the latest developments.

Any questions about the regulations made under the [*Health and Supportive Care Providers Oversight Authority Act, 2021*](#) or Bill 283 can be directed to Meghana Kuriya, Legal Advisor, at mkuriya@oha.com.