

a prescription for better access: Bill 179 receives royal assent

Shorter wait times in emergency rooms; nurse practitioners casting fractures; urban pharmacists prescribing and dispensing drugs to individuals in remote communities via a “vending machine” equipped with video conferencing technology. These are some of the intended health outcomes of Ontario’s Bill 179, the *Regulated Health Professions Statute Law Amendment Act, 2009* (“**Bill 179**”), which received Royal Assent on December 15th, 2009. Bill 179 incorporates many of the recommendations made by the Health Professions Regulatory Advisory Council (“**HPRAC**”) to the Minister of Health and Long-Term Care (“**MOHLTC**”) in various reports over the last two years.

expanding scopes of practice

Bill 179 was passed with the intention of increasing access to care for Ontarians by expanding the scopes of practice of certain regulated health professions, promoting greater interprofessional collaboration amongst the various health professions and enabling these professions to provide more services, while ensuring patient safety is not compromised. Certain professions, including chiropody, podiatry, respiratory therapy and pharmacy will be given the ability to administer, by inhalation, certain substances that are designated under regulations. Other health professions will be given a greater role in managing patient care. For example, physiotherapists will be able to order x-rays and diagnose patients’ conditions, and dieticians will be authorized to take blood samples for the purposes of monitoring the blood-glucose level of patients.

As always, the “devil is in the details”. Bill 179 amends a number of the profession-specific acts by expanding the regulation-making authority of Cabinet, which is given discretion to designate the standards of practice, and the requirements surrounding the prescribing and use of drugs. The extent to which the various drug categories available to the different professions are established will be included in pending regulations and will be an important factor in assessing how far the Ontario Government is willing to go to confer new authority on these health professions.

prescribing and dispensing drugs

The acts of prescribing and dispensing drugs have generally, with a few exceptions, been reserved for physicians and pharmacists, respectively. However, these “controlled acts” will now be included in the practice of numerous non-physician health professions to leverage the education, training or skills of qualified practitioners. As a result, the passage of Bill 179 opens new market opportunities for the pharmaceutical industry to market prescription drug products to a broader class of health professions, including pharmacists, naturopaths, dental hygienists, nurse practitioners and midwives.

Nurse practitioners (NPs) will now be able to prescribe, dispense, compound or sell drugs that are designated in the regulations. Under current law, NPs are not permitted to compound or sell drugs. While the spectrum of drugs that NPs can prescribe is still limited by the regulations as opposed to an open right to prescribe, the pharmaceutical industry should be aware of this potential market opportunity. NPs also work closely with physicians and can potentially inform the physician’s choice of drug therapy.

Bill 179 significantly amends the *Pharmacy Act, 1991* with a view to creating a greater role for pharmacists in the delivery of primary health care. Pharmacists will be allowed to prescribe those drugs that are specified in the regulations in the course of engaging in their practice. The regulations may specify individual drugs or substances, or may designate categories of drugs or substances. The mandate of pharmacists is also altered to include the promotion of health, and the prevention and treatment of disease through the management of therapy. The ability to adapt, modify, and extend an existing prescription is also included in their expanded scope of practice. The expanded scope of practice enables pharmacists to help monitor and manage chronic diseases like diabetes. Pharmacists will only be authorized to prescribe drugs where they have an appropriate understanding of the condition being treated, the drug being prescribed, and sufficient knowledge about an individual patient. These changes recognize that pharmacists are experts in medication management therapy and not just limited to the acts of ‘counting, pouring, licking and sticking” prescriptions.

Bill 179 also authorizes dental hygienists to prescribe, dispense, and compound drugs that are designated in the regulations. With greater independence to perform some of the previously restricted acts, dental hygienists will have the option of working in new practice settings including long-term care facilities, schools, mobile clinics and remote and rural locations.

remote dispensing

Another significant development in the delivery of health care is evidenced by Bill 179's amendment to the *Drug and Pharmacies Regulation Act*. The definition of "pharmacy" is expanded to include a "remote dispensing location." Thus, a pharmacist will not always have to be physically present to dispense drugs, but rather can oversee the dispensing process through audiovisual equipment. The pharmacist will still be required to counsel the patient and verify the appropriateness of the drug before authorizing its release. It is anticipated that remote dispensing locations will primarily be utilized in communities where access to pharmacies is particularly limited. In addition, the remote dispensing location must be issued a certificate of accreditation, and it must be operated in accordance with the regulations. Bill 179 also amends the *Drug and Pharmacies Regulation Act* to make it clear that pharmacies will be permitted to sell or dispense a drug to a person authorized under its health profession Act to dispense, prescribe, administer, compound or sell drugs.

government oversight

Bill 179 has generally been approached with much optimism and support; however, some experts have raised concern that as the spectrum of health professions that can prescribe drugs expands, patients will be taking more drugs than are actually necessary. There has thus been discussion about the need to have comprehensive monitoring of all the health professions who are given greater prescribing and dispensing abilities to ensure that they are being diligent in acting in the best interests of the patient. This is controversial, as the health profession colleges would ideally like to maintain their self-regulation and independence from government.

Bill 179 amends the *Regulated Health Professions Act, 1991* to empower Cabinet, on the recommendation of the Minister, to appoint a college supervisor to ensure, amongst other things, that the college is performing the duties and powers imposed upon the college by various health profession Acts, the *Drug and Pharmacies Regulation Act, 1990* or the *Drug Interchangeability and Dispensing Fee Act, 1990*.

conclusion

Despite the significant expansion of the scope of practice of numerous health professions by Bill 179, some professions desire further expansion. However, Bill 179 emphasizes that patient safety must remain at the forefront of any changes in health care, and thus the extent of expansion for each individual health profession may very well be restricted in the interests of avoiding possible harm to the patient. Nonetheless, Bill 179 is a starting point for significant reform within primary health care by directly involving a different range of health professions

in managing drug therapy and making it easier for patients to receive timely and effective care for a variety of conditions.

the following is a link to Bill 179:

http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/b179rep.pdf

by Lydia Wakulowsky and Les Chaïet

For more information, contact any of the lawyers listed below:

| | | | |
|----------|-----------------------|--------------|-----------------------------------|
| Calgary | Joan Dornian | 403.531.4713 | joan.dornian@mcmillan.ca |
| Toronto | Lydia Wakulowsky | 416.865.7066 | lydia.wakulowsky@mcmillan.ca |
| Montréal | Jean-François Pelland | 514.987.5081 | jean-francois.pelland@mcmillan.ca |

a cautionary note

The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted. © McMillan LLP 2009.