***The Legal Guide for Canadian Holistic Nutritionists[[1]](#footnote-1)***

by Glenn Rumbell

A reader friendly introduction to the major laws that regulate the provision of services and includes information independent nutritionists need to know, province by province.

**Here are some selected excerpts from the Guide:**

This book, now in its third edition, was commissioned by the Canadian Association of Natural Nutritional Practitioners (CANNP) in response to a need for a single resource for Holistic Nutritionists (i.e., nutritionists who are not members of a regulated health profession) that summarizes the laws surrounding their profession. The purpose of this book, therefore, is to provide Holistic Nutritionists with an understanding of the major regulations that restrict what they can and cannot do in their daily practices and how they represent themselves to the public.

If you are a Holistic Nutritionist, it is crucially important that you take the time to know this.

My challenge in writing this book, and your challenge in reading it, is that health services in Canada are regulated at the provincial level. This means there are as many different regulatory regimes as there are provinces and territories. The approaches governments take, from province to province and over time within a single province, vary from laisse fair to paternalistic, from supporting the right of consumers to choose, to granting select professions monopolies over whole areas of practice.

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Within Canada, there are essentially three approaches used to regulate the provision of health services: (1) Professional Exclusivity—where the rules prohibit anyone other than members of a profession from carrying on the business and practice of that profession (e.g., only members of the provincial College of Physicians may practice medicine); (2) Restricted Activities—where the rules create a list of defined activities and procedures that may only be performed by members of Regulated Health Professions granted the authority to do so (e.g., only members of the provincial College of Physicians may reset or cast a bone fracture); and (3) a combination approach, where both frameworks exist side by side.

The first approach, which I call the Professional Exclusivity framework, is the traditional approach used for regulating health services. Historically, this approach began with the recognition of the medical profession as a discrete profession and the delegation to it of the right and obligation to regulate its own standards and members, the theory essentially being that medicine is a highly specialized activity and members of the profession are in a better position than the public to know the qualifications and standards that should apply to practitioners.[[2]](#footnote-2)

Over the years the concept of what constituted the practice of medicine fragmented as new health practices emerged and specialties within the traditional field of medicine developed and splintered off. Eventually, many of these new health professions sought the prestige and benefits of professional status and petitioned governments for the right of self-governance. Today, somewhere between twenty and thirty health professions are recognized and granted the right of self-regulation within most provinces.

While this approach to regulation appears simple, it can lead to confusion because many of these statutes do not define the specific activities that constitute the practice of the profession they regulate, instead leaving this task to the governing body of the profession itself and the courts.

Using the practice of medicine as an example, common sense should tell us that performing surgery, setting broken bones, diagnosing a disease such as cancer and prescribing and administering chemotherapy as a treatment involves the practice of medicine. But what about less obvious activities? What about determining whether a person is obese and structuring a treatment? Diagnosing obesity is relatively easy. It can be done with little more evidence than our eyes, and the treatment for it (exercise and diet) is also straightforward. Yet, obesity is a recognized disease. Does the act of identifying and treating obesity constitute the practice of medicine? To take this argument to its extreme, what about dehydration and starvation? If I tell a dehydrated person to drink water or a starving person to eat food, am I diagnosing and treating a condition? What if I recommend vitamins? Am I prescribing a treatment?

For Holistic Nutritionists who want to ensure they do not cross the line and face a charge of unlawfully practicing medicine, or dietetics, or naturopathy, this grey zone is a real problem.

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The second regulatory approach taken by Canadian provinces, which I call the Restricted Activities framework, involves focusing more directly on consumer protection by controlling who may perform specific defined acts and procedures that are viewed to be inherently risky and therefore requiring a requisite level of skill and training to perform. For example, section 4(1) of Schedule 7.1 to the Alberta *Government Organization Act* provides in part:

s. 4(1) No person shall perform a restricted activity or a portion of it on or for another person unless:

1. the person performing it
2. is a regulated member as defined in the Health Professions Act, and is authorized to perform it by the regulations under the *Health Professions Act* . . .

The list of Restricted Activities is defined in section 2(1) of the same schedule and provides in part:

s. 2(1) The following, carried out in relation to or as part of providing a health service, are restricted activities:

 (a)    to cut a body tissue, to administer anything by an invasive procedure on body tissue or to perform surgical or other invasive procedures on body tissue

(i)    below the dermis or the mucous membrane or in or below the surface of the cornea;

(ii)    in or below the surface of teeth, including scaling of teeth;

At the present time, the provinces of Alberta, Ontario, and Quebec have implemented Restricted Activity regulatory frameworks. This approach is favoured in some provinces because it addresses the reality that many health professions have practice areas that both overlap and include procedures that can be safely and economically performed by unregulated professionals. In a consultation document prepared by the Government of Manitoba, the effect and benefit of moving to a “Reserved Act” (i.e., Restricted Activity) approach was described as follows:

Actions or clinical procedures that may present a demonstrable risk of harm to the public will be regulated. Many of the reserved acts can be performed by more than one profession, so collaborative care will be encouraged. These acts and procedures will be restricted to specified practitioners, so unregulated practitioners will only be able to provide them if authorized under the legislation, e.g., under delegation from a regulated health profession. Unregulated practitioners will be able to provide services that do not include reserved acts. This model will help improve patient safety.[[3]](#footnote-3)

This trend is good news for Holistic Nutritionists. In provinces that have moved exclusively to a Restricted Activity framework, there is generally more room to practice than in provinces where regulation occurs through professional exclusivity. In addition, because the Restricted Activities are clearly described in the rules, there is less doubt about what Holistic Nutritionists can and cannot do.

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As part of regulating health professions and/or activities that are restricted and may only be performed by specified Regulated Health Professions, the provinces also restrict the use of professional titles, essentially reserving the use of titles typically associated with a profession, for the exclusive use of its members. The principle behind this is, obviously, consumer protection. If the primary purpose of regulating a profession is to ensure the quality of practitioners, it makes sense to ensure those practitioners can be readily identified by the public. An exclusive title does this.

In Canada, most provinces generally reserve titles such as “Doctor” and “Physician” and “Surgeon” and associated abbreviations for use by members of one or more of the “medical” professions (e.g., medicine, dentistry, psychiatry, etc.). In Alberta this restrictive list extends to approximately 75 specific specialties of medicine. In provinces in which naturopathy is a Regulated Health Profession, use of titles such as “Naturopath” and “Naturopathic Doctor” are similarly restricted.

The use of the title “Dietitian” is generally reserved for use by registered dietitians in all provinces. In five provinces, Alberta, New Brunswick, Nova Scotia, Prince Edward Island and Quebec, the title “Nutritionist” and/or “Registered Nutritionist” is also reserved. This has increased from only three provinces just a few years ago and reflects another emerging trend in the regulation of this area. In addition, several provinces restrict the use of any other title or claim that may wrongly indicate a person is a member of a provincially Regulated Health Profession.

Where a title is reserved for use by one or more Regulated Health Professions, it is unlawful for a person who is not a member of one of those professions to use the title. Since there are wide differences among the provinces about which titles are reserved for use by the various Regulated Health Professions, it is very important to check the rules that exist in your province.

In the next chapter, I have included summaries of the key rules relating to the use of professional titles, organized on a province-by-province basis, for easy reference.

1. *© 2022 The Canadian Association of Natural Nutritional Practitioners (CANNP)* [↑](#footnote-ref-1)
2. Casey, J. T., *The Regulation of Professions in Canada* (Toronto: Carswell, 1988) [*Regulation of Professions in Canada*]. [↑](#footnote-ref-2)
3. Health Professions Regulatory Reform Consultation Document, Proposed Umbrella Health Professions Legislation: the *Regulated Health Professions Act,* Government of Manitoba, January 2009 [*Manitoba Health Reform Consultation Document*]. [↑](#footnote-ref-3)