College of Midwives of Ontario
Regulatory Policy Development Process

Background

Setting and promoting regulations, standards, and policies are some of the College's core regulatory functions. We are committed to adhering to a rigorous approach to policymaking to ensure that policy decisions are based on a proper evaluation of risk, solid evidence, and a thorough analysis of options and impacts. This process ensures that regulatory tools are not adopted as the default solution but rather introduced to mitigate risk when other non-regulatory options are unable to deliver the desired results.

For this document, the terms "regulation" and "policy" are used interchangeably. This should be understood to mean regulation and policy as defined in Appendix A as well as other regulatory and non-regulatory tools used by the College, such as standards and guidelines.

Our policy development process is based on the principles of good regulation and ensures that:

1. Regulation is proportionate to the risk of harm being managed.
2. Regulation is evidence-based and reflects current best practice.
3. Regular and purposeful engagement is undertaken with partner organizations, midwives, and the public throughout the policymaking process.
4. Equity has been adequately considered.

Every policy proposal designed to introduce or revise a regulatory tool (i.e., a statute, regulation, relevant by-law provision, a standard of practice, or regulatory policy) must be accompanied by a regulatory impact assessment (RIA) statement.

Regulatory Impact Assessment

A regulatory impact assessment is an assessment of the expected impact of each regulatory policy initiative that must be done before any regulatory measure is introduced or revised. The results of this analysis are, in effect, a justification of the need for regulation. A regulatory impact assessment is designed to help Board and committee members understand the impact of decisions, structure ideas, test assumptions; and think beyond a regulation-based solution as the default.

The RIA statement addresses the following:

1. Problem Definition and Public Interest rationale
2. Options to Consider
3. Assessment of Impacts of Proposed Change, including:
    a. Cost-Benefit Analysis
    b. Equity Analysis
    c. Data Analysis (including feedback from public consultations)
4. Final recommendation
5. Implementation and Evaluation Plans

Review and Revisions

All College policies approved by the Board or a committee must be formally reviewed within a period not to exceed four years from the date of first issue or the date of the last review. The formal review of a policy may result in no change to the policy, rescinding the policy, or revisions to the policy. All formal reviews, regardless of whether or not changes are proposed, must be accompanied by an updated Regulatory Impact Assessment.

Minor revisions to a policy that are inconsequential and do not affect its content or intent (such as, typographical errors, such as punctuation or spelling, or adding or amending references) can happen outside of the formal review process and can be approved by staff.

Appendix A
Regulatory Tool Definitions

The College has several different forms of authority to regulate and guide the profession, including Acts or statutes, regulations, by-laws, standards of practice, and policies.

Act or Statute

An Act or a statute is a written law passed by a legislature at the provincial or federal level. Statutes set forth general propositions of law that courts apply to specific situations. A statute may forbid a certain act, direct a certain act, make a declaration, or set forth governmental mechanisms to aid society. A bill is enacted or becomes an Act or a statute when it is passed by the Legislative Assembly after its third reading and receives Royal Assent. The terms "statute" and "Act" are used interchangeably[1].

> The *Regulated Health Professions Act, 1991* (RHPA) and the *Midwifery Act, 1991*, determine how the profession of midwifery is regulated in Ontario.

Regulation

Regulation is a law that is made by a body whose authority to make the law is set out in a statute (e.g. RHPA). Usually, the authority is given to the Lieutenant Governor in Council. Sometimes the authority is given to a Minister of the Government or another body, such as a regulatory college. Regulations are considered "delegated legislation" because the authority to make them is delegated by the legislature in a statute. A regulation deals with issues related to the statute under which it is made; the purpose of a regulation is to provide details to give effect to the policy established by the statute. The process for amending a regulation is usually shorter than the process for amending a statute.

The RHPA, through the Health Professions Procedural Code ("the Code"), and the *Midwifery Act, 1991*, gives the College the authority to develop regulations that establish various kinds of obligations for registrants (e.g. registration requirements, components of the quality assurance program, etc.). Any regulation that is developed by the College must be circulated to all midwives for their feedback. A proposed regulation must also be approved by the Ministry of Health, and a provincial government cabinet committee, and finally, it must be signed into law by the Lieutenant-Governor of the province. All approved regulations are filed with the Registrar of Regulations and are assigned a number based on the order in which they are filed in a given year. Regulations in Ontario are cited using the abbreviation O. Reg., followed by the regulation number. For example: The Quality Assurance Regulation, made under the *Midwifery Act, 1991*, is cited as O. Reg. 669/20. This means it was the 669th regulation filed in 2020.

---

[1] e-Laws definitions; Government of Ontario: https://www.ontario.ca/laws/e-laws-definitions

The following regulations are made under the *Midwifery Act, 1991*:

- Registration Regulation
- Professional Misconduct Regulation
- General Regulation
- Quality Assurance Regulation
- Designated Drugs and Substances Regulation

By-Laws

The College's by-laws are the rules that govern how the College operates. The Code (s. 94) authorizes the Board to make by-laws relating to administrative and internal affairs of the College. The College currently has General By-laws and the Fees and Remuneration By-law. By-laws are approved by the Board of the College, and do not require the submission to the Ministry. A regulatory impact assessment is conducted for provisions that impose a regulatory requirement that is made public, such as the provisions in Article 14 (The Register) of the General By-Law.

Standard

Standards set minimum expectations that must be met by any midwife in any setting or role. Standards guide the professional knowledge, skills and judgment needed to practise midwifery safely. A standard is enforceable only if there is expert evidence that the standard is widely accepted, which partly explains extensive consultation. Every College proposal designed to introduce or revise a standard must be accompanied by a Regulatory Impact Assessment (RIA) statement. Standards of practice are approved by the Board of the College.

Professional Standards for Midwives: The Professional Standards for Midwives (Professional Standards) describes what is expected of all midwives registered with the College. The Professional Standards sets out the College's minimum requirements regarding midwifery practice and conduct, and helps midwives achieve the best outcomes for midwifery clients and the public.

Policy

College program policies are necessary tools to describe, in greater detail, issues set out in legislation or regulations that govern the profession. Policies alone are not legally binding. If a matter deals with procedures and actions related to an activity covered in the legislation or regulation but otherwise does not introduce any new information, a Guide or Information Sheet will be developed (see below under non-regulatory tools). Every College proposal designed to introduce or revise a program policy must be accompanied by a Regulatory Impact Assessment statement. All College program policies are approved by the Board of the College, unless a statute, regulation, or by-law delegates this authority to a statutory committee or to the Registrar. Note: governance policies and operational policies of the College do not require regulatory impact assessment because they do not directly apply to the regulation of the midwifery profession. All College operational policies are approved by the Registrar.

Sexual Abuse Prevention Policy: This policy sets out the College's definition of the beginning and end of a midwife-client relationship and assists midwives in complying with the provisions of the RHPA that address sexual abuse.

Non-Regulatory Tools

Non-regulatory tools are information and education instruments developed with a simple objective of providing information or raising awareness of a particular issue. These instruments are often introduced to reinforce regulatory measures and should, therefore, be well integrated with existing regulatory arrangements. Unlike regulatory tools, information and education instruments do not impose any requirements or restrictions; rather, information is available for practitioners to use if they find it relevant and useful.

Guideline

Guidelines are mere suggestions for best practices. They do not set a minimum standard and are, therefore, not mandatory. For example, suggestions on how to avoid complaints through good communication practices would be a typical guideline. All College guidelines are generally approved by relevant committees.

Guideline to Appropriate Professional Behaviour with Clients: The RHPA has provisions specific to sexual abuse. In addition, the College developed a Sexual Abuse Prevention Policy that sets out the College's definition of the beginning and end of a midwife-client relationship and assists midwives in complying with the provisions of the RHPA that address sexual abuse. The guideline to Appropriate Professional Behaviour with Clients was developed to assist midwives in understanding how to maintain appropriate professional boundaries and contains suggestions for enhanced practice that will assist midwives in fulfilling legislative requirements.

Advisory Statement

Advisory statements normally relate to legal obligations imposed by other authorities upon the practitioner. Many regulators issue advisory statements as a notice or warning to the profession alerting their registrants of new legislation and explaining its most significant implications. Some regulators also make suggestions as to strategies for complying with the legislation. Advisory statements can be approved by staff.

Advisory Statement on Changes to Personal Health Information & Protection Act: The College issued an Advisory Statement on changes to *Personal Health Information Protection Act, 2004* (PHIPA), including informing registrants of important consequences and directing them to resources that might help them know what is expected.

Guide
A type of document that outlines procedures and actions related to an activity covered in the legislation or regulation and assists registrants with their understanding of College requirements or legal obligations imposed by other authorities. Guides are generally approved by relevant committees.

> Guide on Compliance with Personal Health Information & Protection Act (PHIPA): The purpose of this guide is to help midwives understand their privacy obligations under PHIPA that governs the collection, use and disclosure of personal health information by health information custodians (including midwives) practising within Ontario.

Position Statement (or Joint Position Statement)
Position statement clarifies where the College stands on a topic or current debate. Position statements can be issued jointly with other organizations. Position statements are generally approved by the Board.

Fact Sheet or Information Sheet
A fact sheet is a concise presentation of key points or statistics relating to a specific topic. They are normally used to summarize a longer document available on the College's website.

Frequently Asked Questions (FAQs)
FAQs is an online document that poses a series of commonly asked questions and answers relating to a particular topic. Real or imaginary questions are used to develop an FAQ.

Other tools
Other information and educational instruments may include newsletters, backgrounders, discussion papers, and webinars.

Appendix B
Key Outcomes We Are Expected to Achieve

1. Clients and the public can be confident that midwives possess and maintain knowledge, skills, and behaviours relevant to their professional practice and exercise clinical and professional judgment to provide safe and effective care.

2. Clients and the public can be confident that midwives practise the profession with honesty and integrity and regard their responsibility to the client as paramount.

3. Clients and the public can be confident that midwives demonstrate accountability by complying with legislative and regulatory requirements.

4. Clients and the public trust that the College of Midwives of Ontario regulates in the public interest.

Appendix C
College Regulatory Risk Register

The College Regulatory Risk Register groups risks into the following three categories:

1. External Risks: Risks arising from external developments that are outside of College control.
2. Midwife practice risks: Risks that an individual midwife practises or acts in a way that may negatively impact midwifery clients or the public interest.
3. Organizational Risks: Risks arising from the College's internal systems and processes.

External Risks	
Changing midwifery environment	Risks arising from changes in the midwifery environment that may affect midwifery practice.
Lack of adequate training opportunities	Risks arising from a lack of adequate training, including bridging and remedial opportunities for midwives with identified gaps and deficiencies in professional knowledge.
Political, Economic, Social, Technological, Legal and Environmental (PESTLE)	Risks arising from the impact of political, economic, social, technological, legal, and environmental factors.
Public emergencies	Risks that external public emergencies affect midwives' ability to deliver safe and effective care.
Poor perception of the College	Risk that the perception of the College and its ability to regulate in the public interest is adversely affected.
Unauthorized practise	Risk that an unregulated individual holds themselves out as a midwife or misuses the title.
Registrant practice risks	
Professional knowledge and practice	Risk that a midwife does not maintain the knowledge and clinical skills necessary to provide safe and effective care to clients.

Failure to act with integrity	Risk that a midwife's conduct lacks integrity and undermines the reputation and values of the midwifery profession.
Barriers to filing a complaint	Risk that a midwife creates barriers to clients' right to file a complaint with the College.
Sexual abuse	Risk that a midwife sexually abuses their client.
Fitness to practise	Risk that a midwife's physical or mental health condition affects their ability to provide safe and effective care.
Failure to meet legislative or regulatory requirements	Risk that a midwife fails to meet legislative or regulatory requirements.
Organizational risks	
Eligibility to practise	Risk that the College grants eligibility to enter or re-enter practice to an individual who does not have the knowledge & skills to practice safely, ethically, and competently.
Disproportionate regulation	Risk that the College regulates in a way that is disproportionate to the risk of harm.
Failure to register in a fair and consistent manner	Risk that the College fails to register in a fair and consistent manner.
Mismanagement of complaints and reports	Risk that the College mismanages complaints and reports from the clients, the public and midwives.
Ineffective quality assurance program	Risk arising from ineffective quality assurance program.
Denial of request to access information	Risk that the College inappropriately denies a request to access information.

Inappropriate release of information	Risk that the College inappropriately releases information.
Breach of privacy	Risk of breach of privacy.
Poor governance	Risk arising from ineffective decision-making by the Board and its committees.
Poor regulatory performance	Risk that the College does not comply with its governing legislation and regulations as well as voluntary standards that it committed to achieving that can adversely affect its reputation.
Lack of transparency	Risk that the College lacks openness and transparency regarding its members and its regulatory decision-making.
Data and records mismanagement	Risk arising from a lack of data and records mismanagement.
Safety and security of College staff and assets	Risk that inadequate systems or infrastructure are in place to protect the College's staff and assets.
IT security	Risk that the College has not adequately protected the College's information.
Lack of effective human resource system	Risk that the College does not have an effective human resource system that allows it to hire and retain staff.
Wrongful dismissal	Risk arising from a wrongful dismissal of College staff.
Employee fraud	Risk that staff use their position at the College to get involved in fraudulent activities intended to result in financial or personal gain.

Appendix D

Equity Impacts

Reflect and think through ways various populations may experience impacts of implementation of the planned regulatory policy, tool and/or process.

Populations[1]	Impacts on Clients	Impacts on Midwives and Applicants
Indigenous/Aboriginal: a collective name for the original peoples of North America and their descendants and includes people who identify as First Nations (Status, non-Status, Treaty), Métis, Inuit and/or Native.		
Disability: Having disability may have been present at birth, caused by an accident, or developed over time. Can include both present and past conditions. Can include visible and invisible disabilities.		
Ethno-racialized and religious/faith communities: Racialized communities, ethno-cultural and religious minorities, immigrants, refugees.		

[1] Revised from the Ontario HEIA Tool https://www.ontario.ca/page/ontario-health-equity-impact-assessment

Linguistic communities: French-speaking and communities that aren't English-speaking.		
Low income: including people who may be unemployed, underemployed, experiencing housing or food insecurity, etc.		
Rural/remote or inner-city urban populations: geographic/social isolation, under-serviced areas, etc.		
Gender: Man, woman, trans man, trans woman, intersex, non-binary, two-spirit, gender fluid.		
Sexual orientation: Lesbian, Gay, Bisexual, Queer, pansexual, asexual, etc.		
Other please describe: (People without legal status, no insurance, etc.)		

Appendix E
Consultation Requirements

Regulatory Tool	Public Consultation Required	Other Forms of Consultation to be Considered
Statute/Act	Yes, unless exemption request granted by Minister of Health (60-days).	Focus groups; targeted emails; meetings with relevant partners; Citizens Advisory Group
Regulation	Yes, unless exemption request granted by Minister of Health (60-days).	Focus groups; targeted emails; meetings with relevant partners; Citizens Advisory Group
By-law	Yes, if related to registrants (60-days).	Focus groups; targeted emails; meetings with relevant partners; Citizens Advisory Group
Policy	No.	Focus groups; targeted emails; meetings with relevant partners; Citizens Advisory Group
Standard	No. However the College conducts in alignment with best practice (30-60 days).	Focus groups; targeted emails; meetings with relevant partners; Citizens Advisory Group