

**SEIU-West:**

**Submission to Ministry of Health on Proposed  
Regulation of Diagnostic Medical Sonographers**

**Submitted June 17, 2019**



## **INTRODUCTION**

On May 1, 2019 Barb Cape, President of SEIU-West, received an email from Dastageer Sakhizai of the Partnerships and Workforce Planning Branch of the Ministry of Health. According to the cover letter attached to the email:

*The Government of Saskatchewan is considering a proposal to amend The Medical Radiation Technologists Act, 2006 (the Act) to allow for the regulation of diagnostic medical sonographers under the Saskatchewan Association of Medical Radiation Technologists (SAMRT). As part of the consultation process, the Ministry of Health would like to invite you to review the attached package and provide comments...*

The following letter is SEIU-West's response to the proposal. In brief, after reviewing the supplied documents, conducting an environmental scan, and consulting with our members in affected job classifications, SEIU-West expresses qualified support for the proposal.

In principle, it makes sense to treat diagnostic sonography in much the same manner as other diagnostic imaging modalities.

However, the proposed amendments to *The Medical Radiation Technologists Act, 2006* are just a first step. How regulation works in practice, in particular whether it achieves the stated goals of sonography regulation, will depend on a range of supporting documents: other statutes, regulations, regulatory bylaws, practice documents and employer policies. No such documents were part of the review package, perhaps because, in most cases, they remain to be drafted.

While at first glance the power to develop many of these supporting documents belongs to bodies other than the Ministry of Health (e.g. SAMRT, the College of Physicians and Surgeons of Saskatchewan (CPSS), and the Saskatchewan Health Authority (SHA)), the Ministry in fact has significant legal authority over the development and implementation of such documents, including:

- the power to approve and review SAMRT regulatory bylaws;<sup>1</sup>
- comparable powers with respect to CPSS bylaws;<sup>2</sup> and
- broad powers over the SHA, including the issuance of Ministerial directives.<sup>3</sup>

SEIU-West urges the Ministry to use this authority, as well as its influence over other key stakeholders such as the Ministry of Labour Relations and Workplace Safety, to ensure that sonography regulation conduces to the values and goals of Saskatchewan's health care system.

The letter below identifies several issues that must be addressed when implementing the proposal.

---

<sup>1</sup> *The Medical Radiation Technologists Act, 2006*, SS 2006, c M-10.3, <http://canlii.ca/t/53gbd>, sections 16 & 17.

<sup>2</sup> *Medical Profession Act, 1981*, SS 1980-81, c M-10.1, <http://canlii.ca/t/53gq1>, section 88.

<sup>3</sup> *The Provincial Health Authority Act*, SS 2017, c P-30.3, <http://canlii.ca/t/531kr>, part 2.

## **SEIU-WEST: OUR AFFECTED MEMBERS**

SEIU-West represents about 12,000 employees of the SHA and its affiliates. According to the latest SHA-provided seniority lists, SEIU-West represents 49 sonographers employed by the SHA in the former Saskatoon, Cypress, Five Hills and Heartland health regions. Of these, 34 are classed as Diagnostic Medical Sonographers (Job #105 in the Provider Group Joint Job Evaluation (PGJJE) scheme<sup>4</sup>), two are Diagnostic Cardiac Sonographers (Job #323), 11 are Diagnostic Medical Sonographers-Dual Credential (Job #352), and two are Diagnostic Medical Sonographer Working Supervisors (Job #247). According to the Sonography Canada membership database,<sup>5</sup> all but three are members of Sonography Canada with at least one credential in general (CRGS), cardiac (CRCS or CRCS-AE) or vascular (CRVS) sonography. Clearly, our members will be able to transfer smoothly to the new regulated regime without much need for grandparenting or upgrading. Based on the information available to SEIU-West at this time, if (as the supplied FAQ implies) the credential transitioning procedures will be modelled on those that were used in Ontario, SEIU-West has no objections.

SEIU-West also represents about 240 SHA-employed professionals currently regulated by SAMRT: medical radiation technologists, MRI technologists, and nuclear medicine technologists. Our consultations identified no objections among these members to the idea of regulating sonographers under SAMRT.

Our submission is premised on the assumption that there are no SHA employees in other classifications who currently perform diagnostic ultrasounds in the course of their work within the SHA. If SEIU-West were made aware that such employees do in fact exist with the SEIU-West bargaining unit, SEIU-West's representational obligations toward those members would compel us to seek a fair opportunity for those members to access grandfathering and/or upgrading provisions.

## **SCOPE OF PRACTICE AND DELEGATION**

The movement to bring diagnostic sonography into the family of regulated health professions is Canada-wide and goes back at least two decades. Advocates for this movement, who come both from within and outside the sonography profession, rest their case particularly on the need to ensure patient safety and diagnostic quality. Based on our consultations with our sonography members and members in classifications already regulated by SAMRT, SEIU-West supports these goals and believes that sonography regulation, if done right, can further those goals. We urge the Ministry to ensure that all relevant "rules" (statutes, regulations, professional bylaws, practice documents, and health employer policies) are clear and consistent about who has the authority to perform diagnostic ultrasound, the circumstances under which they may perform it, and whether and to whom that authority can be delegated. More specifically, the rules should significantly limit the number of persons and professions other than diagnostic medical sonographers who can perform diagnostic ultrasound, and/or limit the circumstances in which non-sonographers may perform diagnostic sonography.

---

<sup>4</sup> <https://www.working-for-health.ca/support/jobevaluation/provincial-job-descriptions>

<sup>5</sup> <https://sonographycanada.ca/find-a-member>

Our search of Saskatchewan statutes, regulations, and health professional bylaws and practice documents found only three documents that explicitly address the issue of who may perform diagnostic ultrasonography. As discussed below, sonography regulation generates urgent needs and productive opportunities for revisions.

- Under the *Midwifery Regulations*, midwives have the authority both to “order” and “perform” “ultrasound imaging” for “a purpose that is within the scope of the practice of midwifery”.<sup>6</sup> Does this dual authority imply an ability to delegate the performance to a non-professional, perhaps under the midwife’s supervision? This provision needs to be clarified.
- Section 32 of the *Radiation Health and Safety Regulations*<sup>7</sup> requires “owners” of diagnostic medical ultrasound equipment to ensure that each “operator” of the equipment is either:
  - (a) a “duly qualified medical practitioner”;
  - (b) “a medical ultrasonographer who possesses the qualifications necessary for membership in the Saskatchewan Association of Diagnostic Medical Sonographers”. This provision should be amended to conform to the language of the amended *Medical Radiation and Imaging Technologists Act* and supporting documents, e.g. “a diagnostic medical sonographer who is a member of the Saskatchewan College of Medical Radiation and Imaging Technologists”.
  - (c) a “student”, under the direct supervision of a person from (a) or (b). Ideally, this provision should specify that the student must be training in a licensed health profession whose members are otherwise qualified under Saskatchewan law to perform diagnostic ultrasound.
  - (d) a “person who has been formally trained to carry out the procedures for which the equipment is to be used”, provided the person is capable of demonstrating (to the satisfaction of an occupational health officer of the Ministry of Labour Relations and Workplace Safety) “knowledge of the equipment, the biological effects associated with its use and the necessary safety procedures”. This provision is troubling, as it appears to countenance the performance of diagnostic ultrasound by a person who has received no formal training in health care, particularly training in such critical matters as protecting privacy and respecting interpersonal boundaries.
- The CPSS regulatory bylaw 25.1 on “Operation of Diagnostic Imaging Facilities”<sup>8</sup> spells out the conditions that must be present in any diagnostic imaging (DI) facility in order for a physician to be authorized to perform DI in it, interpret images from it, or refer patients to it. This includes facilities that perform diagnostic sonography. The facility must not “use unqualified personnel”. The sections spelling out the required “Training Standards” of “ultrasonographers” in “ultrasound facilities”<sup>9</sup> are much more detailed than those given for “technologists” working in facilities that provide radiology, MRI, nuclear medicine, or CT procedures. As part of bringing sonographers under the regulatory umbrella of the new Saskatchewan College of Medical Radiation and Imaging Technologists, the “Training Standards” for ultrasound facilities should be repealed and replaced with language that parallels the standards language for other facilities,

---

<sup>6</sup> *Midwifery Regulations*, RRS c M-14.1 Reg 1, <http://canlii.ca/t/kn92>, s. 4.

<sup>7</sup> *Radiation Health and Safety Regulations*, 2005, RRS c R-1.1 Reg 2, <http://canlii.ca/t/1sjs>

<sup>8</sup> CPSS, Regulatory bylaws for medical practice in Saskatchewan (February 2019). <http://www.cps.sk.ca/iMIS/Documents/Legislation/Legislation/Regulatory%20Bylaws.pdf>

<sup>9</sup> Bylaw 25.1(d)(i).3(1)-(3).

e.g. “Ultrasonographers working in an Ultrasound facility shall be members in good standing with the Saskatchewan College of Medical Radiation and Imaging Technologists. (SCMRIT), hold a current full practicing license or restricted practicing license in accordance with *The Medical Radiation and Imaging Technologists Act* and SCMRIT Regulatory Bylaws and be authorized by SCMRIT to use the title ‘Diagnostic Medical Sonographer’”.

CPSS Bylaw 25.1 states that it does not apply to facilities operated by the SHA or the Saskatchewan Cancer Agency. The Ministry should use its authority over these institutions to ensure that their internal policies are as consistent as possible with those (like Bylaw 25.1) that apply in other contexts. Patients should be entitled to expect the same standards of ethics, safety, and technical proficiency regardless of the facility in which they receive their sonographic procedure.

Ontario used sonography regulation as an opportunity to clarify and tighten the range of professionals authorized to perform diagnostic ultrasonography. Under Ontario legislation, diagnostic ultrasonography may be performed by physicians, “extended practice” registered nurses, and midwives (pelvic ultrasounds only).<sup>10</sup> Prior to sonography regulation, these professionals could delegate the performance to “persons”, with no specifications or restrictions on the qualifications of those persons.<sup>11</sup> When sonography was made a regulated profession, the regulations were amended to specify that performance could be delegated only to a member of the College of Medical Radiation Technologists of Ontario (the governing body of sonographers), a registered nurse, or a practical nurse.<sup>12</sup>

## **PROTECTION OF TITLE**

One of the main justifications for, and components of, professional regulation is protection of the public. For this reason, the regulatory act of a profession normally includes provisions for title protection: only registered members of the regulated profession are permitted to use certain titles and terms associated with the practice of the profession. SEIU-West is concerned that the title protection afforded to regulated sonographers in the proposed amendments is too narrow. According to section 22, no person other than a regulated sonographer will be permitted to use the title “Diagnostic Medical Sonographer”, “abbreviated or otherwise”, or the designations MRT (DMS) or DMS, “to imply that the person is a member”. It is unclear whether this provision would apply to titles like “echocardiographer” or “ultrasound specialist”, titles that would have a high potential to mislead the public as to the user’s qualifications. We endorse the statement of the College of Medical Radiation Technologists of Ontario in its 2014 submission on sonography regulation: “In order to prevent unqualified persons from misleading the public to believe that they have the qualifications to practice as a sonographer, the protected title needs to reflect the title that professionals use in practice.”<sup>13</sup> The Nova Scotia legislation, in this spirit, takes an appropriately broad approach: it protects the titles "diagnostic medical sonographer", "diagnostic ultrasound technologist", "registered diagnostic ultrasound professional", "registered ultrasound technologist", "registered sonographer", "sonographer", or “any derivation or abbreviation

---

<sup>10</sup> *Regulated Health Professions Act, 1991*, SO 1991, c 18, <<http://canlii.ca/t/53gtq>> s. 27(1).

<sup>11</sup> *Controlled Acts*, O Reg 107/96, <<http://canlii.ca/t/52jmm>>, s. 7.1. Version in force as of Dec. 29, 2017. Both this version, and the current version discussed below, also stipulated that the delegated ultrasound must be performed in a hospital, licensed facility or (under certain additional conditions) the ordering professional’s own clinic.

<sup>12</sup> *Controlled Acts*, O Reg 107/96, <<http://canlii.ca/t/53ht5>>, s. 7.1

<sup>13</sup> CMTRO submission to Health Professions Regulatory Advisory Council (HPRAC) in response to Ontario Association of Diagnostic Medical Sonographers’ application for the regulation of diagnostic sonography (January 2, 2014). [https://hprac.org/en/resources/Diagnostic\\_Sonographer\\_Part\\_II\\_other\\_submissions.pdf](https://hprac.org/en/resources/Diagnostic_Sonographer_Part_II_other_submissions.pdf)

thereof". It also bars non-registrants from "describing their activities" as diagnostic sonography.<sup>14</sup> Ontario's legislation specifically bars non-registered persons from using the term "diagnostic medical sonographer" or (more broadly) any "variation or abbreviation or an equivalent in another language", but even more generally also bars such persons from "holding themselves out" as qualified to practice as a medical imaging technologist in Ontario. Alberta's amendments (not yet proclaimed) to regulate sonographers<sup>15</sup> limit the use of "sonographer", "diagnostic medical sonographer", "echocardiographer", "ultrasonographer", "ultrasound technologist", and "vascular technologist"; but we note that these titles will be added to an act that already includes very broad general prohibitions on the use of misleading professional titles.<sup>16</sup> SEIU-West recommends that the amendments should include a longer list of restricted titles, including terms that are in wide lay usage, and/or should also include more explicit general prohibitions on falsely holding oneself out as authorized or qualified to perform diagnostic imaging (including diagnostic sonography).

## **TRAINING THE NEXT GENERATION OF SONOGRAPHERS**

It makes little to sense to create a new regulated health profession without a vision of where future cohorts of the profession will come from. As the Ministry's Workforce Planning Branch is well aware, there is a shortage of diagnostic medical sonographers across Canada.<sup>17</sup> Saskatchewan has never had an in-province Diagnostic Medical Sonographer program. It has relied on sonographers trained elsewhere to fill these hard-to-recruit positions. In mid-2017 Sask Polytechnic announced plans to launch a DMS diploma program in fall 2019.<sup>18</sup> However, by mid-2018, in the aftermath of cuts in its operating grant from the provincial government, Sask Polytechnic had delayed the launch date to fall 2020.<sup>19</sup>

SEIU-West hopes that this program will begin training students as soon as possible.

We anticipate that the opening of this program will increase the need for clinical rotation opportunities in the SHA facilities where our members work. In past consultations, our members have told us that while they welcome the presence of students in their workplaces (particularly the opportunities for bidirectional learning that this presence affords) the presence of students may increase workload and decrease productivity. The government must plan for this possibility, and ensure that both Sask Polytechnic and the SHA have the resources needed to minimize its likelihood and impact.

---

<sup>14</sup> *Medical Imaging and Radiation Therapy Professionals Act*, SNS 2013, c 7, <<http://canlii.ca/t/521vx>>

<sup>15</sup> *Health Professions Act*, RSA 2000, c H-7, <<http://canlii.ca/t/53kd8>>

<sup>16</sup> Part 7—Title Protection (sections 128-130).

<sup>17</sup> HEABC/HSPBA Recruitment and Retention Committee. Recommendation Report: Diagnostic Medical Sonographers. Prepared for the Ministry of Health and the Public Sector Employers' Council (August 31, 2016). <https://hsabc.org/sites/default/files/uploads/2016-08-31%20HEABC%20HSPBA%20RRC%20Recommendations%20Report%20FV.pdf>

<sup>18</sup> Sask Polytechnic. Multi-year business plan 2017-2020. Submitted to the Ministry of Advanced Education May 3, 2017.

<http://saskpolytech.ca/about/about-us/reports-and-statistics/documents/2016-2017/multi-year-business-plan-2017-2020.pdf> & Annual report, 2016-17. <http://saskpolytech.ca/about/about-us/reports-and-statistics/annualreport/documents/2016-17%20Sask%20Polytech%20Annual%20Report.pdf>

<sup>19</sup> Saskatchewan Polytechnic 2018-2021 Multi-year Business Plan. <https://saskpolytech.ca/about/about-us/reports-and-statistics/documents/2018-2019/multi-year-business-plan-2018-2021.pdf>

## **TOWARDS MORE PRINCIPLED AND TRANSPARENT ASSESSMENT OF NEW HEALTH PROFESSIONS**

Finally, we question whether the Ministry has a principled, consistent, transparent process in place to assess applications from unregulated or partially regulated health professions to create or be included in an existing regulatory body. Based on SEIU-West's experiences with the regulation of pharmacy technicians and (now) diagnostic sonographers, our answer is no. We appreciate that we were consulted in both processes, but we found both processes to be somewhat opaque and ad-hoc. This lack of process does not lend to the sharing of information (in a comprehensive fashion) nor is there a clear expectation of what the stakeholder brings to the table. Saskatchewan would do well to adopt a version (scaled to the Saskatchewan context) of the more transparent process used in Ontario, where applications are assessed by an arm's-length body with a statutory mandate, the Health Professions Regulatory Advisory Council (HPRAC).<sup>20</sup> We are aware that there have been efforts by Combined Laboratory and X-Ray Technologists (CLXTs) and Continuing Care Assistants (CCAs) to gain professional recognition. Those efforts deserve a fair and transparent hearing of the sort that a HPRAC-style process could provide. We urge the Ministry of Health to consider establishing this type of body in Saskatchewan.

### **CONCLUSION**

As discussed above, based on the information available to us at this time, SEIU-West has no objection in principle to the proposed amendments to *The Medical Radiation Technologists Act, 2006*. However, we wish to reemphasize that the proffered amendments are just a first step. How the regulation works in practice, in particular whether it achieves the stated goals of sonography regulation, in a manner consistent with the broader goals of the public health system and the relevant SEIU-West collective agreements, will depend on a range of supporting documents: other statutes, regulations, regulatory bylaws, practice documents and employer policies. No such documents were part of the review package. We urge the drafters of these documents to consider our submission and promote further consultation in the development of these supporting documents to ensure success in the regulation process.

---

<sup>20</sup> *Regulated Health Professions Act, 1991*, SO 1991, c 18, <http://canlii.ca/t/53gtg>, sections 7-17. See also <https://hprac.org/en/index.asp>