



CMRTO submission to HPRAC in response to OAMRS application for the regulation of diagnostic sonography – January 2, 2014

Executive Summary

The Health Professions Regulatory Advisory Council (HPRAC) has requested stakeholders to provide feedback on the application for the regulation of diagnostic sonographers, submitted by the Ontario Association of Medical Radiation Sciences (OAMRS)¹. The College of Medical Radiation Technologists of Ontario (CMRTO) welcomes the opportunity to provide HPRAC with our comments on the application for the regulation of diagnostic sonographers and the recommendations and positions set out in the submission.

The position of the CMRTO is that it is in the best interest of the public of Ontario to regulate diagnostic sonographers with medical radiation technologists under one regulatory College. The CMRTO generally supports the proposal submitted by the OAMRS.

The CMRTO supports the OAMRS proposal that sonographers become regulated under one regulatory College with medical radiation technologists. The CMRTO has demonstrated responsible professional self-governance for MRTs with the active participation of the profession and the public. The CMRTO Council has reviewed and approved the CMRTO's response to the application by OAMRS and believes that it is in the best interest of the public of Ontario for sonographers to be regulated. The inclusion of diagnostic ultrasound as a fifth specialty under the CMRTO with the appropriate and necessary legislative amendments will ensure that the same responsible self-governance for the protection of the public of Ontario will apply to all diagnostic imaging specialties.

The need for the regulation of sonographers to protect the public from incompetent or unqualified practitioners is well documented. However, the CMRTO has serious concerns that diagnostic sonographers as a group are disparate and lack coherence, and that there are many barriers to the effective regulation of diagnostic sonographers including: the regulatory structure (either with or without MRTs), the restricted title, grandparenting of practitioners currently practising, the certification examination, and the costs and resulting fees associated with self-regulation.

¹ Submission To The Health Professions Regulatory Advisory Council in Application for Regulation of Diagnostic Medical Sonographers Under the Regulated Health Professions Act (RHPA), 1991; The Ontario Association of Medical Radiation Sciences; September 2013

There are some assertions set out in the OAMRS submission with which the CMRTO does not agree. The CMRTO sets out its reasons for supporting the OAMRS proposal in this submission, in addition to providing its arguments for not agreeing with some of the assertions.

We have identified three principal rationales in support of the regulation of diagnostic sonographers:

- There is a serious risk of harm to the public from the use of this technology by unregulated practitioners;
- The current regulatory environment is not effective in regulating the performance of diagnostic ultrasound; and
- Without the regulation of sonographers, there is no method of ensuring the competence of practitioners through required educational programs or certification examinations.

The CMRTO response also discusses similarities between medical radiation technology and diagnostic ultrasound and, based on these similarities, proposes that a framework for the self-regulation of sonographers with medical radiation technologists under one regulatory College could be developed.

Should diagnostic sonographers be regulated with CMRTO at some point in the future, it would require amendments to the *Medical Radiation Technology Act, 1991* (the MRT Act), the regulations under the MRT Act and the by-laws of the College. It would also require the CMRTO to redevelop and revise all its regulatory processes, governance and administrative processes, and its publications. It would be a significant and resource intensive process to regulate diagnostic sonographers, even if they are joining an existing regulatory college.

In the final section of this response, the CMRTO discusses some of the assertions made by the OAMRS and whether diagnostic sonographers are ready for regulation in the public interest.

Introduction

Sonographers are health care professionals who employ high frequency soundwaves (ultrasound) to produce diagnostic images which are correlated with the patient's physical condition and other related data and then interpreted by a physician with specific training in ultrasound to render a diagnosis. Medical radiation technologists are health care professionals who use ionizing radiation and electromagnetism to produce diagnostic images and tests or apply ionizing radiation for treatment for certain medical conditions. Both sonographers and medical radiation technologists are employed principally in hospitals and independent health facilities.

Ultrasound facilities are most often an integral part of the diagnostic imaging department of a hospital, that may provide radiography, computed tomography (CT), magnetic resonance imaging (MRI), interventional radiology and nuclear medicine services. Independent health

facilities (IHF) in Ontario often provide both x-ray and ultrasound services in one clinic. As a result, MRTs and sonographers are often working in the same department and sharing support services, computer systems, etc.

Some members of the CMRTO in the specialties of nuclear medicine and radiography are also cross-trained in ultrasound. It is quite common for MRTs to practice in more than one specialty. Independent health facilities often cross-train MRTs to perform ultrasound examinations in addition to performing radiographic examinations. CMRTO members have indicated that 344 are performing sonography as part of their practice in medical radiation technology and 214 have completed a program in diagnostic sonography².

The CMRTO has been a very active supporter for the regulation of diagnostic sonographers in the past. Following is a short summary of key activities over the past 15 years:

- In 1999, HPRAC requested CMRTO to respond to a request for regulation under the RHPA regarding:
 - a) Regulation of diagnostic ultrasound
 - b) Regulation of magnetic resonance imaging and
 - c) A request for a change in the scope of practice for MRTs
- CMRTO took the lead in two task groups: Sonography Advisory Committee and MR Advisory Committee. The Committees developed agreed-upon principles for the regulation of sonography and MR with CMRTO. The agreed-upons became the basis of the submission to HPRAC
- November 1999, CMRTO submitted to HPRAC:
 - a) Request for regulation of diagnostic medical sonographers (joint submission with OSDMS)
 - b) Request for regulation of MRI technologists
 - c) Request for a change in the scope of practice for MRTs
- 1999: written communication and town halls were conducted by OSDMS, OAMRT & CMRTO (10,000 stakeholders)
- November 1999: HPRAC circulated letter to 750 organizations and individuals inviting them to participate in the review of the submission, and published notice of submission in newspapers and website
- September 2000: HPRAC provided its advice to the Minister that MR technologists and sonographers be regulated with CMRTO
- February 2001: Minister accepted HPRAC advice

² On January 2, 2014, CMRTO had a total of 6,862 members

- March . Dec 2000: CMRTO led communications strategy including written communications and town halls in conjunction with OSDMS, OAMRT and MR technologists
- Jan 2001 . Dec 2002: Sonography and MR regulation advisory committees established to advise CMRTO Council with respect to required legislative amendments which included representatives from CMRTO Executive, ARDMS, CARDUP, CSDMS, vascular sonographers, OSDMS, OAMRT and MR technologists
- Dec 2002: Minister advised CMRTO that MOHLTC would proceed with the regulation of MR technologists via regulation amendments. There was an intention to present the legislative amendments for the regulation of both diagnostic sonography and MR technologists at the next appropriate legislative opportunity
- May 2003: MR technologists became regulated with CMRTO
- October 1, 2003: CMRTO received a letter from OSDMS requesting to include %Diagnostic Sonographers+in the name of a joint College, contrary to the agreed-upons set out in the 1999 submission to HPRAC. Sonographers see themselves as a distinct profession
- December 17, 2003: CMRTO sent letter in response to OSDMS, in accordance with direction from Council, confirming that the OSDMS letter reflected a change in the agreed-upons and stating that sonographers should pursue regulation through their own separate college. Confirmed that CMRTO would take no further steps to pursue regulation of sonography under RHPA
- Jan . Feb 2004: A series of joint executive committee meetings between CMRTO and OSDMS were held discussing CMRTO Council's decision
- Feb . March 2004: CMRTO Council approved article published in Spring 2004 newsletter setting out the CMRTO's position with respect to the regulation of sonographers and stating that the CMRTO will use no further funds from its current members to pursue the regulation of sonographers
- October 26, 2005: CMRTO received a letter from OSDMS requesting letter of support from CMRTO supporting the regulation of sonography
- January 10, 2006: CMRTO sent letter to OSDMS as directed by Council, confirming support for regulation of sonographers and confirming that no further CMRTO resources will be used to assist sonographers in the process of self-regulation
- July 2007: Minister requested HPRAC to %with regard to a previous HPRAC report, make recommendations on the currency of, and any additions to, advice provided in relation to the regulation of diagnostic sonographers+

- January 14, 2012: CMRTO received letter from OSDMS requesting support from CMRTO for regulation of sonographers with CMRTO, agreeing to all previous agreed-upons in 1999 submission
- April 26, 2012: CMRTO sent letter to OSDMS advising that the CMRTO Council determined to provide its feedback on the OSDMS application as part of the stakeholder feedback process (scheduled at the time for August . October 2012)

This submission to HPRAC in response to the OAMRS application for the regulation of diagnostic sonography provides such feedback.

1. The risk of harm to the patient

The CMRTO believes that the OAMRS has demonstrated with evidence that diagnostic sonographers pose a risk of harm to the health and safety of the public if they are not regulated under the RHPA.

The potential of risk of harm to the patient from incompetent, poorly trained or untrained practitioners in diagnostic ultrasound is significant. The performance of an ultrasound examination by a sonographer has a number of risks to the patient associated with it which are listed below.

Risks associated with the findings of the examination

Inaccurate or incomplete information in recorded images and data, which may result in:

- Missed conditions, disease or pathology
- Invented lesions
- Incorrect or inaccurate image representation
- Failure to correlate all relevant patient data with the ultrasound findings

An accurate ultrasound image representation is vital to the physician's interpretation. The performance of diagnostic ultrasound is very operator dependent. The technical skill of the sonographer affects the quality of the study and the ability to detect diseases or conditions which may be present. The sonographer scans the patient, moving the transducer over the patient's skin to obtain the optimum image and to view the internal organs from different orientations. The sonographer then freezes the image and selects and records a series of images which best shows the area of interest. These images are then sent to a digital storage device (or printed on film) for viewing later by the interpreting physician. Thus, it is the sonographer who determines which images will be sent to the interpreting physician.

The sonographer performing the study is constantly interacting with known clinical information and/or other physiological data in addition to the ultrasound images. Accordingly, significant responsibility for independent judgement and clinical interpretative knowledge is placed on the sonographer. Sonographers must have sufficient skill in the performance of ultrasound procedures so that the interpreting physician has all the anatomical, pathological and functional information to make an accurate interpretation.

The interpreting physician relies upon the images and data selected and recorded by the sonographer to make a diagnosis and complete the final report to be sent to the patient's physician. An incompetent or untrained sonographer may produce poor quality images because he or she is unaware of the limitations of ultrasound, unable to recognize that the image is not optimal, or he or she may fail to use the proper sound wave frequency, transducer, or software program setting. An incompetent or untrained sonographer may not, as a result of an error in judgement or through incomplete scanning, identify the presence of a pathology or disease and therefore may not record the pathology or disease in the images or data presented to the interpreting physician. Incorrect scanning techniques can also result in the creation of images which appear to have a pathology present where in fact no pathology is present.

As a result of relying on images and data selected and recorded by an incompetent or untrained sonographer, the interpreting physician may not have sufficient information, or may have incorrect information on which to base the final report. This can lead to a missed diagnosis or an incorrect diagnosis, either of which can have very severe results for the patient.

Risks associated with the performance of the examination

- Infection
- Close patient contact/sexual abuse
- Biological effects

Risk of infection comes from the direct contact of the sonographer's hand, the transducer and other equipment with the patient's skin, and, in some cases, mucous membranes.

Patient contact is such that opportunities exist for sexual abuse of the patient. The examination requires the sonographer to be in direct contact with the patient's skin for an extended period of time. Some examinations require the sonographer to place the ultrasound transducer into the patient's rectum or vagina, or directly onto the patient's genitals. It is not in keeping with the intent of the RHPA regarding the prevention of sexual abuse by health care practitioners to permit the performance of these very sensitive, high-risk procedures by unregulated practitioners in Ontario's health care facilities.

While soundwaves are generally considered to be a safe imaging modality, federal standards suggest a prudent approach by keeping a patient's exposure to ultrasound as low as is

reasonably achievable (ALARA). The ALARA principle may not be adhered to when the ultrasound examination is performed by an incompetent or untrained sonographer.

Risks associated with the performance of controlled acts

- Transvaginal and transrectal examinations
- Administering substances by injection

Transvaginal and transrectal ultrasound examinations require inserting the ultrasound transducer into the vagina or rectum. The risk of harm from improperly performed intracavitary ultrasound procedures is high. There is a risk of spread of infectious diseases if proper infection control is not utilized, of allergic reactions to latex, of perforation of the vagina or rectum and of sexual abuse. There are also risks associated with administering substances by injection, such as infection.

In light of the risk of harm associated with the performance of these controlled acts, which form an integral part of the sonographer's scope of practice, the public is at risk as a result of sonographers being unregulated.

2. The Current Regulatory Environment

Under the current regulatory environment in Ontario, the application of soundwaves for the purposes of diagnostic ultrasound is not regulated effectively. This has permitted untrained individuals to perform complex and invasive diagnostic procedures which are critical to the medical care of the public of Ontario. If a member of the public has a concern about the practice of a sonographer, there is no regulatory College with which to file a complaint. The only legal course of action for the public lies with the civil or criminal courts.

The lack of regulation of sonographers is inconsistent with the current regulation of other diagnostic imaging practitioners. Medical radiation technologists (MRTs) perform similar imaging procedures for diagnostic purposes and are regulated by the CMRTO under the *Medical Radiation Technology Act* (MRT Act) in the specialties of nuclear medicine, magnetic resonance and radiography. (The CMRTO also regulates the specialty of radiation therapy, which uses ionizing radiation for the treatment of patients with cancer and other diseases.) Under the current regulatory framework, it is an everyday occurrence for a patient in an Ontario hospital to have a chest x-ray performed by a regulated MRT, followed by an ultrasound examination of the heart performed by an unregulated sonographer. The lack of a consistent framework for the regulation of health care practitioners in diagnostic imaging is confusing to the public and is not in keeping with the intent of the *Regulated Health Professions Act* (RHPA).

<p>The CMRTO supports the OAMRS position that sonographers be regulated with CMRTO through legislative changes to the <i>Medical Radiation Technology Act, 1991</i>.</p>
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A full analysis of the specific amendments that would be required to the MRT Act and ancillary legislation has not yet been conducted. However, the CMRTO has experience and knowledge about bringing another discipline into its College with the successful addition of magnetic resonance technologists as a specialty of the CMRTO in 1996 and, as such, is able to make suggestions at this early consultation stage.

In the OAMRS application, HPRAC asks should statutory self-regulation not be found to be appropriate for the profession, what alternate forms of regulation or governance might be considered (e.g. voluntary self-regulation, licensing, accreditation, etc.). The CMRTO is of the opinion that the practice of diagnostic sonography should be fully regulated under the regulatory framework of the RHPA and the MRT Act to protect the public of Ontario for the following reasons:

1. diagnostic sonography is an essential component of health care in Ontario,
2. sonographers have been providing diagnostic imaging services for over 30 years,
3. sonographers practise independently and are not supervised by other health professions,
4. the practice of sonographers is very similar to that of MRTs (both use a form of energy for the purposes of diagnostic and therapeutic procedures), and
5. it would be confusing to the public and practitioners to set up a different regulatory regime for sonographers than that of the current RHPA regulatory framework for MRTs.

Should HPRAC determine that statutory self-regulation is appropriate for diagnostic sonographers, the CMRTO is of the opinion that they should be regulated with the CMRTO as a fifth specialty through amendments to the MRT Act in order that the use of soundwaves for diagnostic ultrasound can be added to the scope of practice statement. This would ensure transparency to the public, other health professionals and the practitioners that members of CMRTO have the authority to use soundwaves for diagnostic and therapeutic procedures. It is also necessary to ensure that the public is protected from persons who are not qualified to provide diagnostic ultrasound services.

The CMRTO strongly suggests that should diagnostic sonographers become regulated with the CMRTO, it be done through legislative amendments to the MRT Act, including the scope of practice statement and the restricted title, to ensure transparency to the public regarding the authority of members of CMRTO to apply soundwaves for diagnostic ultrasound and protection of the public from persons who are not qualified to provide diagnostic ultrasound services.

In addition to amendments to the MRT Act, ancillary amendments will be needed to related legislation and regulations which include, but are not limited to, the following:

- Controlled Acts regulation under the RHPA (Ontario Regulation 107/96)
- Schedule 1 of the RHPA, Self-Governing Health Professions, should the name of the CMRTO change
- Registration Regulation under the MRT Act (Ontario Regulation 866/93)

In addition, all the CMRTO's by-laws would require review to identify required amendments; proposed amendments would need to be considered by Council including circulation of certain by-laws to members for comment, and then final approval by Council. Of course, all the CMRTO's regulatory processes and publications would require review, proposed revisions, circulation and consultation, approvals and re-publication, including the Standards of Practice, the registration processes including the public register, application forms and the like, the Quality Assurance Program, and the complaints, reports and discipline processes.

a) Controlled Acts Regulation Under RHPA

The Controlled Acts regulation made under the RHPA (Ontario Regulation 107/96) sets out the prescribed forms of energy for purposes of the controlled act that relates to the applying or ordering the application of a form of energy prescribed under the RHPA. The Controlled Acts regulation also provides certain exemptions which permit the ordering of the application of and/or the application of the prescribed forms of energy to members of certain regulated health professions and others. The Controlled Acts regulation currently prescribes soundwaves for diagnostic ultrasound as a form of energy for the purpose of paragraph 7 of subsection 27(2) of the RHPA. Applying or ordering the application of this form of energy is a controlled act under the RHPA. However, any **person** who applies soundwaves for diagnostic ultrasound is exempted from the controlled acts restriction of subsection 27(1) of RHPA provided that the diagnostic ultrasound has been ordered by a member of the College of Physicians and Surgeons of Ontario (CPSO), or for certain examinations, a member of the College of Midwives of Ontario (CMO) or a member of the College of Nurses of Ontario (CNO) who is a registered nurse in the extended class.

The exemption for applying soundwaves for diagnostic ultrasound places the regulatory control for the application of this form of energy on the regulated health professional who is ordering the examination. This is not sufficient, however, to ensure the ongoing protection of the public.

The physician, midwife or nurse practitioner who is ordering an ultrasound examination refers the patient to the ultrasound department of a hospital or an independent health facility and often is unaware of, and may have no way of knowing, the qualifications or competence of the individual who will be performing the ultrasound examination.

The person ordering the application of soundwaves does so in order to receive a diagnostic report from the interpreting physician who reads the ultrasound examination. The physician (or midwife or nurse practitioner, in the case of certain ultrasound examinations) who orders the examination does not have the necessary knowledge or information to determine if the qualifications or competence of the individual applying soundwaves is sufficient to ensure the protection of the public.

There is no legal requirement for public hospitals or independent health facilities to employ diagnostic sonographers with specific educational training or certification as any person may apply soundwaves for the purpose of diagnostic ultrasound provided it has been ordered by an authorized regulated health professional.

Consequently, there is no legal requirement for sonographers to have completed an educational program in diagnostic ultrasound, or to demonstrate having achieved a basic level of competence. If employers experience a shortage of sonographers, then on-the-job training of persons who are not health professionals can, and does, occur.

The CMRTO supports the continuation of limitations on which regulated health professions are authorized to order the application of soundwaves for the purposes of diagnostic ultrasound under the Controlled Acts regulation and proposes that the exemption on who can apply soundwaves be limited to members of CMRTO (should diagnostic sonographers be regulated with CMRTO or their own regulatory body), members of CPSO, and members of other regulated health professions as determined through a consultation process.

b) Scope of practice statement

The following is the scope of practice statement for medical radiation technologists as defined in the *Medical Radiation Technology Act (MRT Act)*.

“The practice of medical radiation technology is the use of ionizing radiation, electromagnetism and other prescribed forms of energy for the purposes of diagnostic and therapeutic procedures, the evaluation of images and data relating to the procedures and the assessment of an individual before, during and after the procedures.”

This statement is similar to the practice of diagnostic sonographers. Different imaging modalities use different forms of energy to obtain different types of images of the body. For example, magnetic resonance imaging uses electromagnetism and radio waves, nuclear medicine uses gamma-rays, sonography uses soundwaves, and radiography uses x-rays. The common feature of all the diagnostic imaging modalities is that each uses a form of energy and very sophisticated technologies to produce and record images of the body for diagnostic purposes. However, each form of energy produces different and distinctive images and subsequently different diagnostic information. MRTs and sonographers all use a form of energy to produce diagnostic images and tests.

The CMRTO is of the opinion that should diagnostic sonographers be regulated with CMRTO, then the use of soundwaves needs to be added to the scope of practice statement in the MRT Act rather than relying on a regulation to prescribe the use of soundwaves. It is important that all the forms of energy used by members of CMRTO be set out in the scope of practice statement

in the interests of transparency to the public of Ontario and for role clarification when members are practising in interprofessional care teams.

Another primary component of the practice of medical radiation technologists and sonographers is the evaluation of the images and data relating to the procedures to ensure that the interpreting physician has enough information, and the correct information, from which to determine the findings of the examination. This is an important component of the practice of all the imaging technologies. The MRT or sonographer is responsible for ensuring that the best diagnostic information is obtained from the examination given the limitations of the technology, equipment being used and the patient's condition. As the interpreting physician or radiologist is usually not present at the time of the patient's examination, the interpreting physician is dependent upon the information provided in the final images and data presented to make an accurate interpretation of the findings of the examination. As the MRT or sonographer determines which images or data are provided to the interpreting physician, the competence or ability of the MRT or sonographer to make the correct independent decisions in order to achieve a diagnostic examination is a critical component of the diagnostic process.

Both MRTs and sonographers are responsible for the assessment and monitoring of the condition of the patient, before, during and after the procedure. This component is central to the practice of both MRTs and sonographers and is critical to ensuring optimal outcomes and patient safety.

The CMRTO believes that the current scope of practice statement for the practice of medical radiation technology as set out in the MRT Act is consistent with the practice of diagnostic sonographers and would require no amendments other than the addition of the use of soundwaves for the purposes of diagnostic and therapeutic procedures.

c) Performance of controlled acts

In addition to the application of a form of energy, many ultrasound examinations require the practitioner to perform a controlled act. The controlled acts currently being performed for ultrasound procedures include:

- administering substances by injection (including performing a procedure below the dermis),
- putting an instrument beyond the labia majora, and
- putting an instrument beyond the anal verge.

Currently the performance of controlled acts is achieved through the delegation of the controlled act to the practitioner by the interpreting physician who is responsible for the ultrasound department.

The delegation of the controlled act to the practitioner has a degree of regulatory control since the delegation is from a member of a regulated health profession; however, it is uncertain how effective, in this case, this process is in protecting the public from harm. Theoretically, the delegator is supposed to ensure the training and competence of the delegatee prior to the delegation of a controlled act. Whether or not this occurs in practice likely varies significantly depending on the facility. The person receiving the delegation to perform these controlled acts may not have received any training in any of the health professions. The practitioner receiving the delegation may not have the necessary knowledge, skill and judgement to recognize patient conditions which would make it unsafe to perform the controlled act and thereby put the patient at risk of harm from the performance of the controlled act. As practitioners performing these controlled acts have accepted the delegation from different physicians, there may not be control standards being used to determine the competence of the individual accepting the delegation.

As a result of the current regulatory model, the policies and procedures related to the skill set required of diagnostic sonographers performing controlled acts varies from site to site. There is also a lack of guidelines for the practitioners accepting the delegation to ensure that all the required factors to ensure the delegation can be accepted are in place and that the controlled act can be performed safely, effectively and ethically. The current regulatory model is inadequate to protect the public from the risk of harm associated with the performance of controlled acts by unregulated practitioners performing diagnostic ultrasound examinations.

MRTs are authorized to perform 5 controlled acts under the MRT Act. These are:

1. Administering substances by injection or inhalation
2. Tracheal suctioning of a tracheostomy
3. Administering contrast media, or putting an instrument, hand or finger,
Beyond the opening of the urethra
Beyond the labia majora
Beyond the anal verge, or
Into an artificial opening of the body
4. Performing a procedure on tissue below the dermis
5. Applying a prescribed form of energy

Currently, MRTs are permitted to apply just one prescribed form of energy under an exemption set out in the Controlled Acts regulation made under the RHPA . electromagnetism for magnetic resonance imaging³. Should diagnostic sonographers be regulated with CMRTO, then members of the CMRTO would need to be permitted to apply soundwaves for diagnostic ultrasound in accordance with the standards of practice of the CMRTO.

The remainder of the controlled acts currently performed by diagnostic sonographers are already authorized to MRTs under the MRT Act.

³ The application of ionizing radiation to human beings in Ontario is governed by the Healing Arts Radiation Protection Act

MRTs are able to perform the authorized acts only when the following conditions have been met:

- There is an order for the authorized act from a member of CPSO, or, in the case of applying a prescribed form of energy, from a member of CPSO or another authorized health professional
- The MRT performs the authorized act only in the course of engaging in the practice of medical radiation technology
- The performance of the authorized act is not contrary to any terms, conditions or limitations placed on the MRT's certificate of registration
- The MRT has and applies the necessary knowledge, skill and judgement to perform and manage the outcomes of performing the authorized act safely, effectively and ethically

These conditions ensure the protection of the public from incompetent or unskilled practitioners. Should diagnostic sonographers be regulated with CMRTO, it is proposed that the conditions for the performance of authorized acts currently in place in the MRT Act would also apply to the authorized acts to be performed by diagnostic sonographers.

The CMRTO supports the OAMRS position that the controlled acts currently performed by diagnostic sonographers are already authorized to MRTs under the MRT Act. Amendments to the Controlled Acts regulation would be needed to remove the application of soundwaves for diagnostic ultrasound from the public domain and to permit members of the CMRTO to apply soundwaves for diagnostic ultrasound in accordance with the standards of practice of the CMRTO.

d) Diagnostic sonographers as independent members of the health care team

Sonographers perform ultrasound procedures as independent members of the health care team. Sonographers perform and are responsible for the ultrasound procedure, producing diagnostic images, providing patient care and providing the interpreting physician with the necessary diagnostic images to make a diagnosis. Sonographers require the knowledge, skill and judgement to make independent decisions regarding the evaluation of the images and data and the completeness of the examination. They are also responsible for the assessment of the patient before, during and after the procedure. However, sonographers are not directly supervised when they perform ultrasound procedures. Given the independent role of sonographers within the health care team, the patient is at risk as a result of these health care practitioners being unregulated.

The CMRTO supports the OAMRS position that the public is at risk of harm due to the independent nature of the practice of diagnostic sonographers and the absence of supervision by other health care providers.

e) Accountability of practitioners

Currently, sonographers who are not practising at the expected levels of competency are not subject to any professional disciplinary action. There are no standards of practice to define clear expectations for the practice of diagnostic ultrasound, or for the individual practitioner. There are no methods to prevent incompetent practitioners from practising and placing members of the public at further risk of harm. There is no mandatory quality assurance program in place to ensure the continued competence of practitioners.

Currently the only recourse for a patient who has concerns about the practice of a sonographer is the criminal or civil court system. This is a concern not only for complaints about a practitioner's competence, but also for complaints of a sexual nature.

Regulation under the RHPA will ensure that practitioners who have committed acts of sexual abuse of their patients will be held accountable through the complaints and discipline processes of the CMRTO. Furthermore, with regulation, individual practitioners and those who operate facilities in which sonographers practise, will have a legal obligation to report any sonographer whom they believe has sexually abused a patient.

Sexual abuse of patients is associated with significant human costs (emotional stress and anxiety for the patient), and financial costs. As diagnostic ultrasound has evolved in complexity and become more invasive and intrusive, it is imperative that the rights of the patients are safeguarded through a process for mandatory reporting of all sexual abuse, investigation of any complaints of impropriety, a discipline process to determine allegations of sexual abuse and the implementation of appropriate sanctions where sexual abuse has occurred.

The OAMRS application sets out a summary of recent criminal cases involving diagnostic sonographers.

The CMRTO often receives inquiries from patients who wish to file a complaint against a diagnostic sonographer for reasons of sexual abuse, professional misconduct or incompetence. As diagnostic sonographers are not regulated under the RHPA, there is no regulatory college to which the CMRTO can refer these patients. If the procedure was performed in a hospital, then the CMRTO refers the patient back to the department where the procedure was performed, or to the patient advocate office of the hospital. If the procedure was performed in an independent health facility, then the CMRTO refers the patient to the Independent Health Facilities Program of the Ministry of Health and Long-Term Care.

Since the CMRTO/OSDMS joint application to HPRAC on the regulation of sonographers in 1999, the CMRTO has consistently received eight to ten inquiries per year from patients with complaints regarding sonographers. We are concerned that, in some of those years, this represents more than twice the number of complaints we received from patients about MRTs and may only be a fraction of the number of actual complaints about sonographers. In addition, during the same period, the CMRTO has received three inquiries from police officers who were

investigating criminal complaints against sonographers, all of which involved allegations of sexual abuse.

The CMRTO supports the position of the OAMRS that the public is at risk as sonographers are not accountable to a regulatory body, do not have defined standards of practice, there is no requirement for ensuring continued competence, and there is no complaints process for patients who have concerns about the conduct of a sonographer.

The OAMRS application identifies the use of diagnostic ultrasound for the purposes of non-medical viewing and recording of a fetus (entertainment ultrasound) and sex determination of the fetus for subsequent selective termination of the pregnancy, as being practices which are not safe to the public and are contrary to the position statements of a number of medical associations. Members of the public access these non-medical services through facilities and services which are not regulated by the Public Hospitals Act or the Independent Health Facilities Act.

The OAMRS further states that regulation of the application of ultrasound energy will prevent the use of ultrasound energy for the purpose of entertainment and sex determination.⁴ The CMRTO disagrees with this assertion for the following reasons.

The prevention of the use of diagnostic ultrasound for entertainment purposes or sex determination is a complex matter. Regulation of a health profession under the RHPA does not extend to the regulation of the facility in which the services of the health professional are carried out. In addition, the controlled acts provision of the RHPA applies to activities performed in the course of providing health care services to an individual.⁵ Therefore, the extent to which the regulation of the application of ultrasound energy will prevent the use of ultrasound energy for the purpose of entertainment and sex determination is not at all clear.

The CMRTO does not agree that the regulation of diagnostic sonographers under the RHPA will prevent the use of diagnostic ultrasound for the purpose of entertainment and sex determination.

3. Competence of practitioners

The CMRTO believes that without the regulation of sonographers under the RHPA, there is no method to ensure the competence of practitioners performing ultrasound examinations through approved educational programs and approved certification examinations. The concern regarding the competence of practitioners is substantiated by the findings of the Independent

⁴ Submission To The Health Professions Regulatory Advisory Council in Application for Regulation of Diagnostic Medical Sonographers Under the Regulated Health Professions Act (RHPA), 1991; The Ontario Association of Medical Radiation Sciences; September 2013, page 9

⁵ RHPA, section 27(1)

Health Facility Task Force of CPSO when performing assessments of independent health facilities (IHF) offering ultrasound services.⁶

The current status regarding the education and examination of sonographers is set out in the OAMRS application.

Educational Programs

The OAMRS application provides a description of the educational programs in diagnostic ultrasound offered in Ontario. The OAMRS lists six educational institutions in Ontario providing education in diagnostic ultrasound⁷ and indicates that all these programs are either accredited by the Canadian Medical Association (CMA) Conjoint Accreditation Services or are in the process of achieving accreditation.

This is the same process used by the CMRTO to approve educational programs in each of the four specialties of medical radiation technology. In addition to the approved educational programs in medical radiation technology set out in the CMRTO registration regulation, the CMRTO approves new programs on the basis that they must be accredited by the CMA Conjoint Accreditation Services.

CMA accreditation is based on national competency profiles set by the profession. In the case of sonography, the national competency profile is set by the Canadian Society of Diagnostic Medical Sonographers (CSDMS) and the Canadian Association of Registered Diagnostic Ultrasound Professionals (CARDUP). For medical radiation technology, the national competency profile is developed by the national association, the Canadian Association of Medical Radiation Technologists (CAMRT) in collaboration with the provincial regulators. The CMRTO Council approves the national competency profile as the basis for accreditation and the certification examination approved by the CMRTO.

The CMRTO supports the use of CMA accreditation as a method for the educational programs to demonstrate that they are meeting the requirements set out in the national competency profile. The OAMRS submission is not clear on whether there are educational programs in sonography offered in Ontario (other than the seven programs listed) which have not achieved accreditation with the CMA Conjoint Accreditation Services or which are not in the process of achieving accreditation. This issue requires more research.

Of the six educational institutions providing educational programs in diagnostic ultrasound, four of them also provide educational programs in medical radiation technology. Some of the programs are joint programs in medical radiation technology and ultrasound, or have a

⁶ Submission To The Health Professions Regulatory Advisory Council in Application for Regulation of Diagnostic Medical Sonographers Under the Regulated Health Professions Act (RHPA), 1991; The Ontario Association of Medical Radiation Sciences; September 2013, Appendix E

⁷ Ibid. Appendix G lists seven programs offered at six educational institutions

substantial interprofessional education component between sonography students and MRT students, which emphasizes the similarity in the practice of the professions.

The CMRTO supports the OAMRS suggestion that accreditation with the CMA Conjoint Accreditation Committee appears to be a reasonable and achievable method for the educational programs to demonstrate that they are teaching the essential components of the practice of diagnostic sonography, and that their graduates will be able to practise diagnostic sonography competently and safely.

The CMRTO believes that there needs to be more research completed on the educational programs in diagnostic sonography offered in Ontario to ensure that all are accredited and meet the requirements to be approved as entry to practice programs in diagnostic sonography.

One area in which the educational programs in medical radiation technology and diagnostic sonography differ is that programs in diagnostic sonography are offered in two subspecialty areas, general and cardiac⁸, whereas programs in each of the four specialties of medical radiation technology are offered in one specialty only . there are no subspecialty programs as entry to practice. This difference is inconsistent with the current entry to practice regulatory framework for MRTs and would require further research and consideration should sonographers become regulated with CMRTO.

The CMRTO believes that, should sonographers become regulated with CMRTO, more research needs to be conducted on the educational programs in the subspecialties of diagnostic sonography to determine the best method for the regulatory framework to be structured to protect the public from incompetent or unqualified practitioners.

In its application, the OAMRS states that it does not have the capacity to report on the percentage of practitioners that have been educated and trained in Ontario, but based on their perception and knowledge of the practice environment, they suggest approximately 80% of practising sonographers in Ontario were educated in Ontario⁹. The following information was provided in the CMRTO/OSDMS joint application to HPRAC on the regulation of sonographers in 1999:

Information from both the Michener Institute and Mohawk College indicates that in the last 20 years, approximately 971 sonographers have completed educational programs in diagnostic ultrasound in Ontario. Given that it is estimated that there are approximately 2,800 sonographers practising in Ontario, there may be up to approximately 1,800 sonographers currently practising in Ontario who have not received any Ontario

⁸ In the past, there have been educational programs offered in vascular ultrasound as a third subspecialty.

⁹ Submission To The Health Professions Regulatory Advisory Council in Application for Regulation of Diagnostic Medical Sonographers Under the Regulated Health Professions Act (RHPA), 1991; The Ontario Association of Medical Radiation Sciences; September 2013, page 16

educational training specific to diagnostic ultrasound. Some of these individuals may have completed a CMRTO approved training program in medical radiation technology prior to receiving comprehensive on-the-job training from a qualified sonographer. Others may have no background in the health care field and may have received little or no training in diagnostic ultrasound or have received on-the-job training from an incompetent practitioner.+

In 1999, it was estimated that approximately 35% of sonographers were educated in the practice of diagnostic sonography in Ontario. It appears that there may be many sonographers currently practising in Ontario who may not have completed an accredited educational program in diagnostic sonography, in Ontario or elsewhere. It is in the public interest that these practitioners become regulated under the RHPA in order that they are then accountable for meeting the standards of practice of the profession.

Certification examination

There are currently two certification processes which are accepted by employers and the professional associations as demonstrating competence to practice diagnostic sonography: the American Registry of Diagnostic Medical Sonographers (ARDMS) and the Canadian Association of Registered Diagnostic Ultrasound Professionals (CARDUP).

The ARDMS is an independent, non-profit organization which administers examinations and awards credentials in the areas of diagnostic medical sonography. It is based in the USA. The ARDMS credential is generally accepted by employers and sonographers as an indication of an individual's competence to practise. The only means of obtaining the ARDMS credential is by examination. Many sonographers practising in Ontario have voluntarily written the certification examinations offered by the ARDMS. Since there is no legal requirement to do so, there are sonographers practising in Ontario who have not successfully completed the ARDMS examinations. Over the years, the pre-requisites to access the ARDMS examination have changed from a minimum of four years of on-the-job training in clinical diagnostic ultrasound without any educational training beyond high school, or, after a minimum of one year on-the-job training following a Bachelor degree in any subject, to successful completion of an accredited program in diagnostic ultrasound. Therefore, successful completion of the ARDMS examinations does not guarantee that the person has received the appropriate educational training in diagnostic ultrasound or has completed educational training in any of the health care fields.

In addition, the ARDMS credential is offered in three subspecialty areas: general, cardiac and vascular. The CMRTO also has concerns that being a USA credential, it may be difficult to ensure consistency with the Ontario regulatory framework, should sonographers be regulated with CMRTO and should the CMRTO determine that the ARDMS certifying examination is an appropriate examination.

Further research needs to be completed to determine whether the ARDMS certification examination would be a reasonable option in Ontario and, if so, how this credential structure could be accommodated within the CMRTO regulatory framework.

In more recent years, a Canadian certifying examination has been developed, based on the Canadian national competency profile . the examination of CARDUP. The pre-requisite to write the CARDUP certification examination is the successful completion of an accredited program in diagnostic sonography. The examination is provided in three subspecialty areas . general, cardiac and vascular and is offered in both English and French.

Both the Canadian Society of Diagnostic Medical Sonographers (CSDMS) and the OAMRS (and previously the Ontario Society of Diagnostic Medical Sonographers (OSDMS)) require active membership with either the ARDMS or CARDUP as a condition of membership. Many employers require sonographers to be registered with the ARDMS or CARDUP as a condition of employment.

The OAMRS application states that there are 1,800 sonographers in Ontario who are members of the CSDMS¹⁰, and estimates that there are approximately 3,000 sonographers currently practising in Ontario. Membership in the CSDMS requires either ARDMS or CARDUP certification, therefore, there may be up to about 1,200 sonographers practising in Ontario who have not successfully completed the CARDUP or the ARDMS examination. Some of these individuals may have completed the certifying examination but have not maintained their registration.

The CMRTO believes that, should sonographers become regulated with CMRTO, more research needs to be conducted into the certification examinations currently in use and in the subspecialties of diagnostic sonography to determine the best method for the regulatory framework to be structured to protect the public from incompetent or unqualified practitioners.

4. Readiness of practitioners to be regulated in the public interest

The CMRTO has grave concerns regarding the readiness of diagnostic sonographers to be regulated in the public interest. There is no doubt that there is a small, dedicated group in the leadership of the OSDMS who have pursued regulation of the diagnostic sonographers for decades. However, there are many sonographers who are practising who do not identify themselves with the provincial association, do not see the need for regulation in the public interest, or, who actively oppose the regulation of diagnostic sonographers.

Diagnostic sonographers as a group lack coherence. They are divided into the three subspecialties: general, cardiac and vascular. They have two certifying examinations . ARDMS or CARDUP . which have quite different approaches to certification. They are not homogenous

¹⁰ Ibid. Page 11

in their location of practice . hospital, independent health facility or physician's office. Some sonographers believe that the practice does not pose a risk of harm to the public as the application of the energy of soundwaves is not harmful to the patient. Other sonographers see themselves as separate from medical radiation technologists and do not want to be regulated with CMRTO. For many sonographers, the current delegation of controlled acts under the RHPA by members of CPSO is satisfactory, has been working for the last 20 years, and they see no need to be accountable to the public as health care professionals under the common regulatory scheme for health professionals in Ontario.

Following the advice issued by HPRAC in 1999 that sonographers be regulated with the CMRTO and the adoption by the Minister of Health and Long-Term Care of that advice, it is the understanding of the CMRTO that the MOHLTC received many complaints from sonographers and a group of sonographers supported by some physicians engaged in an active campaign opposing the regulation of sonographers, and certainly opposing regulation with CMRTO.

In March 2013, the Alliance of Medical Radiation Technology Regulators of Canada (AMRTRC) held a symposium on the regulation of sonographers. In the symposium, the need for the regulation of sonographers in the public interest was heard from across the country . but there was much discussion on how it would happen. It again became evident that diagnostic sonographers are not a cohesive group, and that there are many barriers to the effective regulation of diagnostic sonographers including: the regulatory structure (either with or without MRTs), the restricted title, grandparenting of practitioners currently practising, the certification examination, and the costs and resulting fees associated with self-regulation.

a. Number of practitioners

The OAMRS application estimates that there are 3,000 sonographers currently practising diagnostic sonography in Ontario. Of these, 1,800 are members of the CSDMS. This means that there are approximately 1,200 or 40% who are not members of the national association.

At the time of the merger of the OSDMS and the OAMRT in August 2012, there were 800 members of the provincial association of sonographers. In addition, as the merger is relatively recent, it is unclear whether OAMRS will be able to retain this number of sonographers as members, from year to year. This means that there are 2,200 or 73% who are not members of the provincial association. Based on these numbers, one might question whether the OAMRS's position is representative of the majority of sonographers in the province.

<p>The CMRTO suggests that, in light of the relatively recent merger of the OSDMS and the OAMRT, HPRAC request the OAMRS to update the number of sonographers who are members of the OAMRS so that HPRAC can confirm the number of sonographers that the OAMRS currently represents.</p>
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b. Restricted title

The restricted title of "medical radiation technologist" for members of CMRTO is set out in the MRT Act and the four titles restricted to members of the CMRTO in each specialty are set out in the registration regulation made under the MRT Act. The restricted title for MRTs is well-established and there is no need or desire to change the title of medical radiation technologist for the current four specialties¹¹.

The CMRTO position is that the restricted titles for medical radiation technologists currently in use by members of CMRTO are well-established and recognized in the delivery of health care in Ontario and that, subject to more research and consultation regarding the name of the College, there is no need or desire to change the restricted titles for MRTs.

Should diagnostic sonographers become regulated with CMRTO, careful consideration needs to be given when determining the protected title that would be defined for diagnostic sonographers under the MRT Act. This is particularly important under the RHPA regulatory framework as the scope of practice of a profession is not restricted, and the protected title is an essential component of the regulatory structure. In order to prevent unqualified persons from misleading the public to believe that they have the qualifications to practise as a sonographer, the protected title needs to reflect the title that professionals use in practice. Similarly, in order for the public and other health care professionals to recognize newly regulated professionals and understand the role that the individual regulated professional has in the delivery of health care, the protected title needs to reflect the title that the professionals use in practice.

The title of the professionals and the protected title is also an essential component for the effective use of the public register to ensure transparency of information and accountability of the individual professional. It is a central tenant of the public protection framework of the RHPA that the public is able to know the title of the individual professional involved in their care, understand their role, and be able to access information about that individual professional through the public register of their regulatory college. If there is no title universally used by the professionals or a restricted title, and practitioners use other titles in practice, then the principle of transparency is weakened and access to information through the public register is ineffective. In other words, effective regulation of sonographers means that the protected title under the MRT Act must reflect the title that sonographers use in practice.

¹¹ The four specialty specific titles are:

1. Medical radiation technologist . radiography or MRT(R)
2. Medical radiation technologist . nuclear medicine or MRT(N)
3. Medical radiation technologist . magnetic resonance or MRT(MR)
4. Medical radiation technologist . radiation therapy or medical radiation technologist . radiation therapist or MRT(T)

For example, under Nova Scotia's *Medical Imaging and Radiation Therapy Professionals Act*, S.N.S. 2013, c.7, no person shall use the designation "Diagnostic Medical Sonographer", "Diagnostic Ultrasound Technologist", "Registered Diagnostic Ultrasound Professional", "Registered Ultrasound Technologist", "Registered Sonographer", "Sonographer", or any derivation or abbreviation thereof, unless the person is a member of that regulatory body registered in the discipline of diagnostic medical sonography. Another approach is for there to be one restricted title for sonographers and phase out other titles that are currently commonly used over a period of time, as was done with respect to the title of "radiological technician" when the MRT Act was proclaimed in force.

The title that the professionals use and the protected title is another area where there appears to be no agreement among diagnostic sonographers and may be another indication of the disparate nature of diagnostic sonographers as a group. HPRAC has asked the question: "What professional titles should be restricted to members of the profession? Why?" The OAMRS response to this central question is that the CMRTO will determine the appropriate titles for sonography¹². For the reasons referred to above, the title to be restricted for diagnostic sonographers is a key element for self-regulation, and one that must be embraced by the professionals themselves.

The national association and the national certifying body for diagnostic sonographers use different titles. Just over a year ago, the CSDMS sent a letter to many stakeholders requesting that the name of the profession set out in the name of the national certifying body (ultrasonographer) not be used. This public discourse over the use of a common name for diagnostic sonographers is disconcerting and indicative of the lack of harmony among many diagnostic sonographers.

Some of the names, certifications and titles for diagnostic sonographers and specialized areas are as follows:

- Diagnostic sonographer
- Diagnostic medical sonographer (Canadian Society of Diagnostic Medical Sonographers, American Registry of Diagnostic Medical Sonographers)
- Diagnostic ultrasonographer
- Sonographer
- Ultrasonographer (the term most commonly used on the OAMRS website)
- Registered ultrasound professionals (Canadian Association of Registered Diagnostic Ultrasound Professionals)
- (Linda to complete list)

Finding a common name that reflects the many different types of practice of diagnostic sonography, will be accepted and used by the professionals themselves, recognized by the public and can be set out in legislation as the restricted title, will be challenging. Since it is an

¹² Ibid. Page 12

essential component of the regulatory framework, it will be necessary to consider how to address this matter effectively.

The CMRTO has no recommendation for a restricted title (or titles) at this time. More research and consultation needs to be conducted before the CMRTO Council would have sufficient information to make such a recommendation. It is intended that this would occur during the consultation process should it be determined that sonographers be regulated with the CMRTO.

The CMRTO recognizes that identifying a restricted title that can be recognized by the public, agreed upon by the professionals and used by the professionals themselves, will be an essential component for the regulation of diagnostic sonographers.

c. Name and structure of the College

Should sonographers become regulated under the College of Medical Radiation Technologists of Ontario (CMRTO), the name of the College could be changed to more accurately reflect the five specialties regulated under it. When the CMRTO first became regulated in 1993, it regulated three specialties of medical radiation technology: radiography, nuclear medicine and radiation therapy. The generic name of medical radiation technology adequately captured the professions regulated under it. In 2006, magnetic resonance technologists became regulated with CMRTO. Now, there is a possibility that diagnostic sonographers could become regulated with CMRTO. If that occurs, there would be two specialties that use a form of energy other than ionizing radiation . magnetic resonance and diagnostic sonography . and after consultation with members of the CMRTO, consideration would need to be given to changing the name of the CMRTO in order to be more inclusive of the specialties that it regulates.

The CMRTO Council has no recommendation for the name of the College at this time. More research and consultation needs to be conducted before the CMRTO Council would have sufficient information to make such a recommendation. This would occur during the consultation process should it be determined that sonographers be regulated with the CMRTO.

The CMRTO recommends that should diagnostic sonography be regulated with the College, a consultation be conducted to consider whether the name of the College should be changed to a more generic name that would include all the specialties that it regulates.

Should sonographers become regulated under the CMRTO, the structure of the College would need to change. Based on the current estimate of the number of diagnostic sonographers in Ontario, the maximum number of elected members to Council under the MRT Act would need to be increased in order to accommodate up to two new positions on the Council for diagnostic

sonographers. The number of public members appointed to the College Council would also need to increase to preserve the appropriate ratio of public to professional members.

d. Registration and grandparenting of practitioners currently practising

There are currently no formal education or examination requirements for a person to become a sonographer. As a result, there is a wide range of educational training among these practitioners. Some may have received on-the-job training only with no previous experience in a health profession, some may have received on-the-job training following extensive experience and training in medical radiation technology, while others may have successfully completed the educational programs offered at an accredited educational institution in Ontario. There are also some practitioners who have completed one (or more) of the certification examinations offered by ARDMS and CARDUP.

Entry to practice requirements will include formal educational training and successful completion of a certification examination. These requirements will ensure that sonographers have successfully completed the proper training and have the knowledge, skill and judgement to practise competently in accordance with the scope of practice and standards of practice.

Should sonographers become regulated with CMRTO, grandparenting and registration of the estimated currently practising 3,000 sonographers will be very difficult as so many of them are not members of the professional association. Only 800 sonographers (based on the numbers at the time the OAMRS prepared its submission) are members of the OAMRS. The CSDMS has 1,800 members in Ontario. There is no other provincial association of sonographers through which the CMRTO could notify the remaining 1,200 sonographers regarding the regulation of diagnostic sonographers and the requirement for diagnostic sonographers to be members of the CMRTO. The CMRTO would have to communicate through the workplace . hospitals, IHFs, individual physician offices . to make all the sonographers currently practising aware of the need to become members of the CMRTO. This would be a massive and resource-intensive operation.

<p>The CMRTO recognizes that should sonographers be regulated with CMRTO, registration and grandparenting of the estimated currently practising 3,000 sonographers will require broad communication and notification, time and substantial administrative resources.</p>
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e. Integration of sonographers into the CMRTO

The CMRTO Council recognizes that while it is in the public interest to regulate sonographers with the CMRTO, should this occur it would have a major impact on the structure, processes and administration of the CMRTO.

The OAMRS application makes the following assertions: %Should sonographers be regulated under the CMRTO, there would not be any start-up costs in the context of starting up a stand-alone regulatory college. With the current infrastructure of an already existing regulatory college, an additional 2500 to 3000 sonography registrants at the current registration fee by the CMRTO should support and sustain the self-regulation of sonographers. We assume, based on our assessment of the current CMRTO operation that very little change to the existing structure would need to be made for the inclusion of sonographers.¹³

The CMRTO disagrees with these assertions. Without any research or consultation with the CMRTO, these statements by the OAMRS reflect little appreciation of the cost of self-regulation, whether with an existing regulatory college or otherwise. It is troubling that the OAMRS does not appear to appreciate the serious risks associated with creating false expectations about the cost of self-regulation, especially when some of the consultation regarding preliminary matters, such as the protected title, does not appear to have been done.

f. Operating costs

While the CMRTO has the infrastructure and capacity to run the College for its current size of almost 7,000 members , the impact of a 35-40% increase in the number of members would be considerable and have a significant impact on the amount of human resources and operating costs. We know that a 40% increase in registration volume including managing annual renewals, resignations, reinstatements and other administrative functions would require additional registration staff. Similarly, there would be a corresponding increase in the volume of member assessments under the CMRTO quality assurance program. In addition, the CMRTO anticipates that newly regulating health professionals that have been practising for approximately 30 years will result in an increased number of complaints from the public and employer reports that will require investigation and resolution. The CMRTO staff are currently working at full capacity and the increase in the number of members would require additional staff for the CMRTO to continue to meet its statutory obligations in the areas of registration, quality assurance and professional conduct.

Other operating costs that are volume dependent and therefore can be expected to increase in proportion to the increase in the number of new members include:

- Hearing costs
- Investigations and inquiries
- QA practice assessments
- Telephone and fax
- Postage and courier
- Bank and credit card charges

¹³ Ibid. Page 24

- Printing and stationery
- Publications

g. Set up costs

While the CMRTO is already established in many areas that would be required for a new College such as office space and facilities, experienced Council and statutory committee members, an experienced Registrar and other staff, register of members, IT business support systems, policies and procedures, website, communications, legal counsel and others, there would be many one-time set up costs in order to integrate diagnostic sonographers into CMRTO. The CMRTO would need to amend or revise most of its regulations, by-laws and regulatory and administrative processes.

Assuming that diagnostic sonographers become regulated with the CMRTO by amendments to the MRT Act, then some of the associated one-time costs include the following:

- Consult with members, sonographers and stakeholders and work with the Ministry to propose amendments to the MRT Act including a new name of the CMRTO
- Consult with members, sonographers and others in order to develop proposed amendments to regulations
- Develop proposed amendments to regulations, circulate them to members and others and seek the approval of Council to submit them to the Ministry
- Review all by-laws, develop proposed amendments, circulate them to members and others, where required, and seek approval by Council of the amendments to the by-laws
- Change the name of CMRTO on the website, all publications, and notification to all stakeholders
- Establish an election process for up to two new electoral districts and hold elections in said districts
- Revise and conduct orientation for Council members and members of statutory committees
- Develop new policies and update existing policies
- Consult with sonographersqemployers - hospitals, IHFs and physician offices - to notify sonographers of application and registration requirements
- Consult and communicate with sonographers and stakeholders
- Develop proposed amendments to the Standards of Practice to include sonography, consult with members and sonographers, for approval by Council and publication of revised Standards of Practice
- Develop and distribute application forms for registration and grandparenting of diagnostic sonographers currently practising
- Redevelop CMRTO IT business systems, register, public register and on-line member services to include a new specialty
- Receive applications, ensure applicants meets registration requirements and register sonographers who meet the requirements (3,000 expected)

- Develop proposed amendments, consult, approve and publish a revised quality assurance program to include a new specialty
- Purchase additional office furniture and assess whether re-configuration of existing staff work space would be suitable for additional staff, or whether more office space would be required
- Revise and reprint all publications to include a new specialty including the sexual abuse prevention program, What you must know about . series of practice information
- Revise and republish the CMRTO Legislation Learning Package

The integration of sonographers into the CMRTO would take considerable resources and cost a significant amount of money. The estimated costs of the work outlined above have not yet been calculated. It is noted that the majority of these costs would be incurred by the CMRTO before there would be any fees received from sonographers in connection with their application and registration with the College . the costs are front-loadedq The CMRTO suggests that, just as the government has recognized the need to support financially the establishment of the five new professions under the RHPA, it should not be expected that the CMRTO fund these upfront costs through its existing reserves nor increase its current membersqfees for this purpose.

The CMRTO recognizes that should sonographers be regulated with the CMRTO there will be a major impact on the structure, processes and administration of the CMRTO, substantial set-up costs and an increase in operating costs for the CMRTO to continue to meet its statutory obligations. The CMRTO respectfully requests the MOHLTC to consider providing CMRTO with financial assistance to meet its obligations related to regulating diagnostic sonographers.

h. Fees

The costs for the regulation of the profession are borne by the members themselves. The CMRTO strives to maintain the appropriate resources and capacity to meet its statutory obligations. As is noted above, the costs for integrating sonography into the CMRTO would be substantial and would be incurred by the CMRTO before the sonographers become members of the College and the CMRTO realizes the increase in revenue through the payment of their registration fees.

The OAMRS application contains the following assertion: %b .with a potential influx of 3,000 more registrants under this college, the CMRTO may be in a position to reduce its registration fees for all its registrants.+¹⁴ The CMRTO strongly disagrees with this statement. The OAMRS is not in a position to predict the set up costs, the ongoing operating costs, or indeed, the actual number of sonographers who would become registered with the CMRTO. Absent this information, it is premature and inappropriate for the OAMRS to speculate on the future trending of CMRTO registration fees. In the Spring 2004 edition of Insights, the CMRTO newsletter, the

¹⁴ Ibid. Page 24

CMRTO Council communicated its position that it is not willing to commit any more of its current members resources to the regulation of sonography given the uncertain commitment of the OSDMS to the previously agreed upon regulatory model.

Given that the costs for setting up the CMRTO to regulate sonographers would be incurred prior to sonographers becoming registered and paying their registration fees, it can be anticipated that the CMRTO Council will determine to recoup these costs from the sonographers by charging a differential application or registration fee for sonographers for a period of time. Once the set up costs have been recovered, then it can be expected that the application or registration fee would be the same for all specialties of the CMRTO. The method by which the CMRTO will seek to recover the set up costs for regulating sonography would be considered by the CMRTO Council should it be determined that sonography be regulated with CMRTO.

Currently, the annual registration fee for CMRTO members is \$470 plus HST (\$531.10) and the application fee is \$100 plus HST (\$113.00).

The CMRTO recognizes that should sonographers be regulated with CMRTO, there will be substantial one time set up costs, an increase in operating costs, and an increase in revenue. There is insufficient information for the CMRTO to predict any changes in registration fees for its current members as a result of regulating sonography. Depending on the number of sonographers who become members of the College, it is expected that the CMRTO would recover the set up costs of regulating sonographers from the sonographers themselves through a differential application fee or registration fee for a period of time.

i. Communication with sonographers and stakeholders

The OAMRS application sets out the communications that both the OSDMS and OAMRS have engaged in over the past few years with sonographers and stakeholders. The CMRTO notes that the majority of the communications related to the current application to HPRAC have been with members of OSDMS and OAMRS. The OAMRS has lobbied MPPs on the need for regulation of diagnostic sonographers, and the application includes seven letters of support dated within the last year from physicians, employers, an MPP and two associations.

The OAMRS application states that at the OSDMS conferences up to 2012, the association provided information to the attendees on the regulation of diagnostic sonographers and the efforts to achieve regulation of diagnostic sonographers.¹⁵ The OAMRS also states that between 98 . 99 % of the 120 . 240 attendees at the conferences voted to support self-regulation. The CMRTO is concerned that this small group of sonographers (8%) may not be representative of the remaining sonographers currently practising as diagnostic sonographers.

¹⁵ Ibid. Page 33

The CMRTO notes that there does not appear to be a concerted effort to reach sonographers beyond the membership of the OAMRS. At the time the OAMRS prepared the submission, of the estimated 2500 - 3000 practising sonographers in the province of Ontario, it had only 800 sonographer members (and it is unclear whether OAMRS will be able to retain this number of sonographers as members, from year to year). The current attitudes of the remaining sonographers are unknown. Following the advice issued by HPRAC in 2000 that sonographers be regulated with the CMRTO and the adoption by the Minister of Health and Long-Term Care of that advice, the CMRTO understands that the MOHLTC received many complaints from sonographers and a group of sonographers supported by some physicians engaged in an active campaign opposing the regulation of sonographers, and certainly opposing regulation with CMRTO.

The CMRTO is concerned that since that time, there has been no concerted effort by the OSDMS or the OAMRS to consult or communicate with sonographers who oppose regulation. It is a small proportion of sonographers who have been consulted with and informed of the application to regulate diagnostic sonographers with CMRTO. The opinions and attitudes of the large majority of sonographers are unknown and could either be indifferent to, or oppose, regulation. The CMRTO believes that the disengagement of the majority of sonographers from the Ontario association could be an indication of the lack of readiness of diagnostic sonographers to be regulated in the public interest.

The Minister of Health and Long-Term Care wrote to HPRAC on May 7, 2013 to provide HPRAC with clarity on the diagnostic sonography referral and her expectations. The Minister states: "I am aware that the landscape for this imaging technology has changed greatly since HPRAC's original findings in 2000 and that there may be additional considerations related to the regulation of this profession that should be included in your advice to me. In light of the additional work that you may need to undertake, and **to ensure that you have the opportunity to conduct a broad public consultation with key groups and stakeholders within the diagnostic sonography community who may not have been included in HPRAC's original review** (emphasis added), I am extending the timeline for this referral and request that your advice be submitted to me no later than June 30, 2014."

Diagnostic sonographers as a group lack coherence. They are divided into three subspecialties: general, cardiac and vascular. They have two certifying examinations - ARDMS or CARDUP - which have quite different approaches to certification. They are not homogeneous in their location of practice - hospital, independent health facility or physician's office. Some sonographers believe that the practice does not pose a risk of harm to the public as the application of the energy of soundwaves is not harmful to the patient. Other sonographers see themselves as separate from medical radiation technologists and do not want to be regulated with CMRTO. For many sonographers, the current delegation of controlled acts under the RHPA by members of CPSO is satisfactory, has been working for the last 20 years, and they see no need to be accountable to the public as health care professionals under the common regulatory scheme for health professionals in Ontario.

The CMRTO has grave concerns regarding the readiness of diagnostic sonographers to be regulated in the public interest and the communication efforts to reach sonographers beyond the members of the OAMRS. There are many sonographers who are practising who do not identify themselves with the provincial association, and their readiness for regulation is unknown.

Summary

The CMRTO supports the OAMRS proposal that sonographers become regulated under one regulatory College with medical radiation technologists. The CMRTO has demonstrated responsible professional self-governance for MRTs with the active participation of the profession and the public. The CMRTO Council has reviewed and approved the CMRTO's response to the application by OAMRS and believes that it is in the best interest of the public of Ontario for sonographers to be regulated. The inclusion of diagnostic ultrasound as a fifth specialty under the CMRTO with the appropriate and necessary legislative amendments will ensure that the same responsible self-governance for the protection of the public of Ontario will apply to all diagnostic imaging specialties.

The need for the regulation of sonographers to protect the public from incompetent or unqualified practitioners is well documented. However, the CMRTO has serious concerns that diagnostic sonographers as a group are disparate and lack coherence, and that there are many barriers to the effective regulation of diagnostic sonographers including: the regulatory structure (either with or without MRTs), the restricted title, grandparenting of practitioners currently practising, the certification examination, and the costs and resulting fees associated with self-regulation.

The CMRTO looks forward to participating in the consultation process and the continued debate.