



College of Respiratory  
Therapists of Ontario

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Health Workforce Regulatory Oversight Branch  
Nursing and Professional Practice Division  
Ministry of Health  
438 University Avenue, 10th Floor  
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**RE: Bill 60, Your Health Act, 2023 - Proposed Legislative Amendments to Enable  
Interjurisdictional Mobility for Select Registered Health Professionals**

To Whom it May Concern

The College of Respiratory Therapists of Ontario (CRTO) would like to thank the Government of Ontario and the Standing Committee on Social Policy for allowing us to offer our perspectives on the proposed amendments in Bill 60, *Your Health Act, 2023*.

In this submission, we wish to outline what the CRTO is already doing to ensure a sufficient number of qualified Registered Respiratory Therapists (RRTs) are available to provide safe, competent and ethical care to patients in Ontario. In addition, we would like to propose an alternative solution that would allow applicants coming to our province under the Canadian Free Trade Agreement (CFTA) to begin practising immediately, while at the same time safeguarding the public interest.

### **Background**

The CRTO protects the public through its carefully designed registration practices, professional development programs, and professional conduct processes. Respiratory Therapy has been a regulated profession in Ontario since 1994, and the profession has grown to almost 4,000 members currently. RRTs play an integral role in the Canadian healthcare system and are highly trained in airway management, invasive and non-invasive mechanical ventilation, and cardiopulmonary resuscitation.

COVID-19 highlighted the essential nature of the specialized body of knowledge that RRTs possess. Our members provide critical (often high-risk) care in adult, pediatric and neonatal intensive care units, operating rooms, outpatient diagnostic and educational clinics, as well as community-based family health teams and homecare companies. The patients RRTs treat are often in complicated and critical conditions and, as such, extremely vulnerable.

As we rebuild our healthcare system in the post-pandemic era and, at the same time, prepare for future respiratory outbreaks, it is more essential now than ever that Ontario's RRTs continue to meet the highest possible professional standards.



## Optimizing Labour Mobility

Since its inception in 1994, the CRTO has successfully streamlined its registration processes to reduce potential barriers to labour mobility and facilitate the timely registration of all qualified applicants. The following provides a brief overview of our existing pathways to registration for applicants coming to Ontario under CFTA:

- More than 50% of the RTs moving to Ontario under CFTA currently have their applications approved within ten (10) days or less from the moment their application is first received. Once their application submission is complete, approval by the CRTO usually takes 48 hours or less.
- When an application takes longer to process, it is often because of past competency and/or professional conduct issues that need to be considered by the Registrar and the Registration Committee. These concerns are identified through the detailed information shared (with the applicant's consent) by the jurisdiction of origin which allows the CRTO to mitigate any risk to the public before the RRT begins providing patient care. For example, in 2021, two (2) labour mobility applicants were considered by the Registration Committee because of past conduct. In such cases, the Committee may, for example, register the applicant with specific Terms, Conditions or Limitations (TCLs) aimed at protecting the public and mitigating/preventing future complaints or harm to the public.
- An additional cause for delay in registering a CFTA applicant usually stems from the time it can take employers to submit the RRT's [Employment Verification Form\(s\)](#). This is, of course, outside of the CRTO's control. However, the CRTO has policies in place that help to mitigate these types of delays during public emergencies (see bullet below).
- In situations where CFTA and other applicants need to be registered more urgently, the CRTO already has an [Emergency Registration Policy](#) that enables expedited registration of out-of-province applicants. This policy permits the RRT to begin practicing immediately under TCLs stipulated by the CRTO (usually a requirement that they practise under general supervision), provided they submit a written declaration stating that they have worked as an RRT within the past two years and have no outstanding conduct issues. It also enables waiving all registration-related fees for up to six (6) months.
  - The TCLs can be lifted once the CFTA applicant is able to provide completed [Employment Verification Forms](#).
- For over 20 years, the CRTO has been working with its provincial counterparts in the [National Alliance of Respiratory Therapy Regulatory Bodies](#) (NARTRB) to harmonize registration practices across Canada to facilitate the seamless movement of RRTs from one jurisdiction to the next. The results of these collaborative efforts include the following:
  - The NARTRB utilizes a common [Jurisdictional Registration Verification Form](#), enabling the receiving regulator to learn significantly more about an applicant's past competency and professional conduct than is available in the Public Register of the jurisdiction of origin (for example, information about an ongoing investigation);
  - The NARTRB also has developed a [Pan-Canadian Benchmarks for Language Requirements for Respiratory Therapy](#) document to facilitate ease of movement of Internationally Educated Healthcare Professionals (IEHP) RRTs from one province to



another;

- The NARTRB developed and regularly reviews and updates the [National Competency Framework](#), which outlines the national standards of competencies required for entry-to-practice. The 2023 revision is currently underway.
- The CRTO has developed a comprehensive assessment process for IEHP candidates utilized by almost all NARTRB member organizations. This guarantees that IEHP RRTs can provide safe and competent care in any province.
- An initiative currently underway through the NARTRB is the creation of a common Standard of Practice to be shared by all regulated RRT jurisdictions in Canada. This project aims to further strengthen inter-jurisdictional mobility for all RRTs.

Therefore, as is evident, the CRTO can already register CFTA applicants promptly while at the same time ensuring that the patients of Ontario continue to receive the highest possible standard of care.

**We are very concerned that permitting Out-of-Province Registered Health Professionals (OPRHPs) to practice without being registered removes all the public protection safeguards that exist within the existing regulatory framework.**

### **Potential Risks of Proposed Legislative Amendments**

#### Lack of Regulatory Authority

- If a concern is raised regarding the competency or conduct of an OPRHP, the CRTO would have no jurisdiction to launch an investigation. In addition, our ability to collect, use and disclose information regarding non-members likely falls outside the authority granted to us in the *Regulated Health Professions Act* (RHPA).
- Concerns and complaints will need to be dealt with by the employer(s) and/or the regulatory body with which the RT is registered elsewhere in Canada. An out-of-province regulator will not be able to effectively investigate (e.g., summon documents or witnesses) outside of their jurisdiction because those investigatory powers only apply within their jurisdiction.
- Even if the OPRHP eventually registered with the CRTO, the law is quite clear that a statutory regulator does not have retroactive jurisdiction over members of the profession for conduct in which they engaged prior to registration unless, for example, the applicant lied about the conduct during the application process.
- Furthermore, even if the statute was amended to somehow give retroactive jurisdiction over pre-registration conduct, we strongly feel it is not in the best interest of the public to allow someone to provide patient care in Ontario, only to find out later that they had a prior history of professional misconduct or serious ongoing investigation in another province.
- Currently, all new CRTO members (regardless of whether they are recent graduates or experienced RRTs from another jurisdiction) must complete the CRTO jurisprudence assessment within the first three months of registration. This assessment ensures they have a fundamental understanding of the Ontario-specific standards, guidelines, legislation, and regulations that will apply to their practice in Ontario. If practitioners from other

jurisdictions are permitted to practice without being registered with the CRTO, they would not have this foundational knowledge (e.g., would not know what controlled acts are authorized to RTs, from whom they are permitted to accept an order, etc.).

#### Practice-Specific Legislation and Regulations

Most of the core procedures performed by RRTs are governed by specific provincial regulations, e.g.,

- The [Respiratory Therapy Act](#) (RTA) currently only permits “members” of the CRTO to perform controlled acts authorized to RRTs.
- Ontario has practice-specific regulations under the RTA that apply only to RRTs registered with the CRTO. For example:
  - members of the CRTO performing high-risk advanced Prescribed Procedures below the dermis (e.g., chest tube insertions) are only able to do so after completing a CRTO-approved certification program;
  - only rostered CRTO members are permitted to administer a [Prescribed Substance](#) (as required by the Assistive Device Program’s Ontario Home Oxygen Program), and
  - only RRTs registered with the CRTO can change tracheostomy tubes as per the [Controlled Acts Regulation](#) (s. 14).

Allowing non-registered practitioners to perform high-risk Respiratory Therapy procedures (such as those mentioned above) outside the current regulatory mechanisms could create confusion at the hospital sites and has significant potential to result in patient harm.

#### Variations in the Regulatory Frameworks of other Jurisdictions

- Not all Canadian jurisdictions have the same Entry to Practice (ETP) requirements and standards as Ontario. These differences, in some instances, are substantial but can currently be managed under the existing labour mobility processes. However, the passage of Bill 60 in its current form will remove the CRTO’s ability to mitigate any risk to the public that these variations present.
- The practice of Respiratory Therapy is not regulated in British Columbia (B.C.) and the territories. Therefore, it is unclear how it will be determined that an applicant from one of those jurisdictions is in “good standing”.
- Some of our provincial counterparts have indicated that their member’s certificates of registration stipulate that they are only valid in the province where they were issued.
- It is possible that the OHPRP’s home regulator will not have the legal jurisdiction to investigate a complaint lodged against an OPRHP practising in Ontario. Even if they did, they would lack sufficient knowledge of our healthcare system, legislation, and regulatory framework to do so effectively and timely (i.e., authorizing mechanisms, scopes, and standards of practice). As outlined above, even if they did have jurisdiction to investigate a complaint about conduct in Ontario, they would not have the mechanisms to enforce cooperation with an investigation outside of that jurisdiction.



- The regulator in the practitioner's home province may be unable to impose an interim suspension on a member practicing outside their jurisdiction. Interim suspensions relate to matters that expose or are likely to expose patients to harm or injury, such as sexual abuse.

#### Inability to Obtain and Share Information

- The investigative powers under section 75 of the *Health Professions Procedural Code* ("the Code"), only apply to members of the Ontario regulator. Therefore, the CRTO would have no authority to compel information from an employer or enforce any limitations on an OPRHP's practice in the event of a competency or conduct concern.
- In addition, the OPRHP's province of origin would also be unable to collect and/or compel information and evidence, given that their legislation is limited to their jurisdiction.
- Mandatory reporting obligations may not be in force outside any provincial boundary. Therefore, we will lose the capacity to obtain and share vital information such as offences, findings of professional negligence or malpractice, and information regarding professional conduct.
- OPRHPs deemed in "good standing" in their home jurisdiction may still be the subject of an ongoing investigation or have a serious professional misconduct history. Under the proposed amendments, essential information (such as a current investigation elsewhere) that is currently available to the CRTO through our registration verification process will no longer be available. This information in the past has resulted in a refusal to register the applicant because of the serious risk of harm posed by their past conduct

#### **Other Concerns**

##### Professional Liability Insurance Limitations

- The RHPA requires that all regulated professionals have Professional Liability Insurance (PLI). The two providers of PLI through the RRT provincial and national associations (respectively – the Respiratory Therapy Society of Ontario – JDS Insurance Brokers and the Canadian Society of Respiratory Therapists – BMS Canada Risk Services Ltd.) have confirmed that eligibility for PLI is dependent on the RRT practising within their scope of practice and adhering to the rules and regulations in the jurisdictions where they are based.

##### Financial Implications

- There are significant financial costs associated with investigating and managing complaints brought forward to a regulatory College about a healthcare professional, and even more significant costs if the matter is referred to the Discipline Committee for a hearing. We are very concerned that under the proposed amendments, registered CRTO members will be expected to fund these costs in relation to the conduct of OPRHPs who have not been required to pay membership fees.
- There is also fear that Bill 60 will cause RRTs who are new to the profession, either having newly graduated from a Canadian program or recently moved to Canada, will register in whichever province has the least expensive registration fee, despite their intent to practice in Ontario. Both this and the scenario described above have the potential to significantly

limit the financial resources the CRTO will have to meet its mandate.

### Regulatory Impact

- Every relevant Act (including the *Respiratory Therapy Act*, the *Regulated Health Professions Act*, the *Health Professions Procedural Code*) as well as Regulations, Policies, the CRTO's Standards of Practice, By-Laws, etc., refer to "members". Bill 60 will require the definition of "member" to be amended in all these applicable documents. This will divert finite human and financial resources away from protecting the public.

### Safety Risk Bypass for Applicants Previously Denied Registration

- From time to time, applicants are denied registration with the CRTO due to serious conduct and/or competency issues. However, the proposed amendments have the potential to make it much easier for these same individuals to begin practising in Ontario without any assurance that they can do so safely.

In addition to the potential risk of harm mentioned several times above, it is also important to note that the proposed changes will create a system of inequality. For example, currently, patients who have been sexually abused by a member of a regulated health profession are eligible for funding for therapy and counselling. Patients sexually abused by unregulated practitioners will not be eligible for such funding. Similarly, as mentioned above, patients treated by unregulated practitioners will not have the same complaint mechanisms established under the current regulatory framework.

### **Proposed Solution**

The CRTO is very interested in working with the Ontario government to eliminate any delays that may occur when an RRT registered in another jurisdiction wishes to practise in Ontario. As mentioned above, our approval timeline for CFTA applicants is (10 days or less). This can be shortened by following a process similar to what is outlined in our [Emergency Registration Policy](#), which would be the following:

1. Submit a registration application to the CRTO as soon as they have decided to move to Ontario;
2. Have their current regulatory body send us their [Jurisdictional Registration Verification Form](#); and
3. Submit a written declaration stating that they have worked as an RRT within the past two (2) years and have no outstanding conduct issues.
4. Recognizing that the costs associated with dual registration, the CRTO would consider waiving, reducing, or postponing any fees associated with registering in Ontario.

This will enable the CRTO to grant them an equivalent certificate of registration to the one they had in their province of origin so that the RRT can begin practising immediately while awaiting any additional documentation (e.g., Employment Verification Forms). It accomplishes the dual goals of timely registration of CFTA applicants while at the same time keeping them within the regulatory framework that is dedicated to protecting the public of Ontario.



We welcome the opportunity to offer any clarification and to discuss this matter further.

Regards,

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