

Regulated Professions Neutrality Act

Overview

The *Regulated Professions Neutrality Act* sets overarching principles for how professional regulatory bodies regulate their members. It applies to all regulated professions in Alberta, including occupations and trades, and has paramountcy over other legislation that addresses the regulation of professionals. This means the rules in the *Regulated Professions Neutrality Act* will apply in case there is a difference between its rules and the rules in another piece of legislation.

What is in the legislation

Regulation of expressive off-duty conduct

The *Regulated Professions Neutrality Act* only allows expressive off-duty conduct to be disciplined if it involves the circumstances listed below, and the legislation or regulation governing a regulated profession is updated to expressly allow sanctions in these circumstances.

- threats of physical violence;
- misuse of a professional's position as a member of their profession with the intent to harm an identifiable person;
- expression for which the professional has been convicted of an offence;
- misconduct related to professional boundaries involving a client, patient or student, or a close relative, guardian, or caregiver of a client, patient or student;
- sexual misconduct in relation to a client, patient or student of the professional, or a minor or secondary school student; a close relative, guardian or caregiver of a client, patient or student of the professional; or an individual with whom the professional interacts while practicing their profession;
- intentional communication to a minor or secondary school student that has an improper sexual character or purpose or furthers an improper relationship; or
- communication of sexual images or videos intended to be accessed by a minor or secondary school student, or on platforms not restricted to adults.

The ability to impose sanctions for expressive off-duty conduct must be added to the legislation or regulation that governs a regulatory body for a regulatory body to discipline members for this conduct. The following acts are being updated to allow for sanctions in the above circumstances: *Health Professions Act*, *Education Act*, *Legal Profession Act*, *Professional Governance Act*, *Consumer Protection Act*, *Real Estate Act*, *Funeral Services Act*, *Horse Racing Alberta Act*, *Cemeteries Act*. Regulatory amendments allow the Ministry of Transportation and Economic Corridors to discipline professionals for behaviour that is expressive and occurs off-duty only if it falls under the exceptions in the act.

No other regulator is able to regulate expressive off-duty conduct. In some cases, professions are only regulated in terms of who may legally work within the scope of the profession, and there is no governing regulatory body that receives complaints regarding an individual's conduct, expressive or otherwise.

Mandatory education or training and neutrality

The *Regulated Professions Neutrality Act*:

- Limits mandatory education or training to professional competence and ethics.
 - Regulators will not be permitted to make cultural competency, unconscious bias, or diversity, equity and inclusion training mandatory.
 - Regulators will only be able to require education or training that addresses political, historical, social or cultural issues if it directly relates to a matter of professional competence or ethics, is necessary for effective education on that matter of professional competence or ethics, and does not seek to dictate the acceptable range of opinions on any political, historical, social, or cultural issues, or on any matter of conscience.

- Prohibits professional regulatory bodies from assigning value, moral superiority, a privileged or disadvantaged status or blame based on people's race, colour, ancestry, national or ethnic origin, religious belief, sex, sexual orientation, gender identity, political belief or belief on a matter of conscience, or giving people preferential or adverse treatment based on these categories to achieve diversity, equity or inclusion.

Legal standard of review of regulatory bodies' decisions

The *Regulated Professions Neutrality Act* applies the legal standard of review of correctness for any judicial review or appeal of a decision by a regulatory body on a question of:

- whether a professional regulator has complied with the requirements of the act; and
- the interpretation or application of the *Canadian Charter of Rights and Freedoms* or the *Alberta Bill of Rights*.

A standard of correctness for review means the court can replace the professional regulator's decision with its own without giving deference to the findings and conclusions of the regulator.