

# Health Reform Observer - Observatoire des Réformes de Santé

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VOLUME 3

| ISSUE 2 |

ARTICLE 3

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## Regulating Traditional Chinese Medicine Practitioners and Acupuncturists in Ontario, Canada

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31 December 2015

A Provincial/Territorial Health Reform Analysis

RECOMMENDED CITATION: Randall GE, Embrett MG, Barr NG, Vania DK. 2015. Regulating Traditional Chinese Medicine Practitioners and Acupuncturists in Ontario, Canada. *Health Reform Observer - Observatoire des Réformes de Santé* 3 (2): Article 3. DOI: <http://dx.doi.org/10.13162/hro-ors.v3i2.2441>

## Abstract

In 2006, the Ontario government passed the *Traditional Chinese Medicine Act*, which granted Traditional Chinese Medicine practitioners and Acupuncturists (TCM/A practitioners) self-regulatory status under the *Regulated Health Professions Act, 1991*. The goal of the legislation was to create a new regulatory college that would set and enforce high standards of care and safety in order to enhance public protection and access to a range of traditional and alternative therapies. In April 2013, the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario was officially launched. Several factors account for the government's decision to delegate self-regulatory authority to TCM/A practitioners through the creation of a regulatory college. In particular, the government's decision seems to have been influenced by lobbying of some practitioners, greater public acceptance of alternative medicines, patient safety concerns related to acupuncture cases in the media, and the precedence of self-regulatory status being granted to these practitioners in other provinces. The degree to which the legislation has achieved its goals is difficult to determine given the short period of time the regulatory college has existed. However, the fact that the college has developed standards of practice to guide TCM/A practitioners and has a process in place to address public complaints is an early indication of movement toward achieving the policy's goals.

*Le gouvernement de l'Ontario a fait voter en 2006 la Loi sur les praticiens en médecine traditionnelle chinoise, qui accorde aux praticiens en médecine traditionnelle chinoise et aux acupuncteurs (praticiens en MTC/A) le statut de profession autonome dans le cadre la Loi sur les professions de la santé réglementées de 1991. Le but de la Loi était de créer un ordre professionnel capable d'établir et appliquer des normes de qualité et de sécurité des soins, ceci dans le but d'améliorer la protection du public et l'accès à un éventail de thérapies traditionnelles et alternatives. L'Ordre des praticiens en médecine traditionnelle chinoise et des acupuncteurs de l'Ontario a été officiellement créé en avril 2013. Cette décision du gouvernement de déléguer l'autorité de la régulation aux praticiens en MTC/A à travers un Ordre peut s'expliquer de plusieurs manières. Entre autres, la décision du gouvernement semble avoir été influencée par la pression exercée par certains groupes de praticiens, l'acceptation croissante par le public des médecines alternatives, des cas de mise en danger de la santé de patients d'acupuncteurs relatés dans la presse, et l'autonomie professionnelle accordée à ces professions dans d'autres provinces. Il est encore trop tôt pour évaluer le succès de cette Loi et de l'Ordre. Cependant, le fait que l'Ordre ait développé des normes de pratiques pour guider les praticiens en MTC/A et ait mis en place un protocole pour traiter les réclamations du public est un signe de progrès en direction de ces objectifs.*

### Key Messages

- *The Traditional Chinese Medicine Act, 2006* gave Traditional Chinese Medicine practitioners and Acupuncturists (TCM/A) in Ontario self-regulatory status with a full regulatory college established in 2013.
- Media attention and growing public acceptance of alternative medicine, including TCM/A, were important factors in moving the issue of self-regulation of these professions onto the Ontario government's decision agenda.
- Determining whether there has been an increase in public access to TCM/A will require more time, and reports will be useful in determining the extent to which the new regulations have enhanced public protection. Nonetheless, regulation itself achieved several of the goals intended by the reform, including the establishment of standards of practice and a formal mechanism for complaints.

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### Messages-clés

- *La Loi sur les praticiens en médecine traditionnelle chinoise de 2006 a accordé le statut de profession autonome aux praticiens en médecine traditionnelle chinoise et aux acupuncteurs (MTC/A) en Ontario ; la profession a établi son Ordre en 2013.*
- *L'intérêt des médias pour les médecines alternatives, ainsi que leur acceptation croissante par la population ont poussé le gouvernement de l'Ontario à réfléchir à la question de l'autonomie de ces professions.*
- *Il est encore trop tôt pour savoir si les patients bénéficient d'un meilleur accès aux MTC/A ou dans quelle mesure la nouvelle forme de régulation a renforcé la protection du public. Néanmoins, l'existence d'une régulation a permis d'atteindre de nombreux objectifs explicites de la réforme, notamment la mise en place de normes de pratiques et d'un mécanisme formel de réclamations.*

## 1 BRIEF DESCRIPTION OF THE HEALTH POLICY REFORM

Although the practice of Traditional Chinese Medicine (TCM) and acupuncture (herein referred to jointly as TCM/A) has a long history in Canada and around the world, it was not until recently that practitioners have become regulated in Ontario. In 2006, 15 years after the *Regulated Health Professions Act, 1991* (RHPA) originally excluded TCM/A practitioners from self-regulatory status (Ministry of Health and Long-Term Care [MOHLTC] 1991), Ontario's *TCM Act* received Royal Assent. The *TCM Act* established the scope of practice for TCM/A practitioners and created a regulatory college that is responsible for setting the profession's standards of practice to ensure greater access to the delivery of high quality and safe care for the public of Ontario. This legislation amended the RHPA to give TCM/A practitioners, including other health professionals, the right to self-regulate under authority of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (CTCMPAO). Effective April 2013, under the *TCM Act*, practitioners of TCM/A are required to register with the CTCMPAO in order to legally practice in Ontario (*Traditional Chinese Medicine Act 2006*, 38:2 Bill 50).

The *TCM Act* describes the scope of TCM practice as an "assessment of body system disorders using traditional Chinese medicine techniques and treatment using traditional Chinese medicine therapies to promote, maintain or restore health", and the scope of acupuncture, a component of TCM, as consisting of "performing a procedure on tissue below the dermis and below the surface of a mucous membrane" (*Traditional Chinese Medicine Act 2006*, 38:2 Bill 50). These definitions allow for a wide range of treatments to be performed under the umbrella of TCM/A, including herbal therapy, tuina massage, exercise, cupping, and moxibustion (McKay 2007), many of which have deep roots in TCM practiced in China (Tang, Liu, Ma 2008). The CTCMPAO aims to ensure all health professionals regulated under the RHPA adhere to these standards of practice when administering any of the TCM/A care modalities (CTCMPAO 2013). The CTCMPAO is authorized to discipline individuals who violate the practice standards. The *TCM Act* describes fourteen acts that now are controlled under generic standards of practice (CTCMPAO 2013).

## 2 HISTORY AND CONTEXT

In 1991, the RHPA received Royal Assent and created a common framework for regulating health professionals in Ontario. While TCM practitioners were one of the occupation groups to apply for self-regulatory status, they were deemed to not have met the requirements for inclusion at the time. This meant that up until passage of the *TCM Act* in 2006, there were no quality restrictions on TCM/A practitioners, apart for the overarching restrictions on anyone performing a controlled act under the RHPA. Since the RHPA, much of the Western world has begun to embrace complementary and alternative care that has been

practiced in the East for thousands of years (Sciban 2014). More specifically, aspects of TCM started to grow in popularity as immigrant populations helped its spread to the new countries they now consider home (Boon 2002). Canada was no exception to this trend as public and professional interest in TCM has increased dramatically over the last two decades, resulting in a spike in related educational training programs (Shahjahan 2004).

The issue of their potential self-regulatory status returned to the Ontario government's policy agenda in 1994 when the Minister of Health and Long-Term Care deferred the question of whether the regulation of TCM/A practitioners was appropriate to the Health Professions Regulatory Advisory Council [HPRAC] (Gilmour, Kelner, Wellman 2002). HPRAC seeks information and comments from members of "the regulated health colleges, regulated health professional and provider associations, and stakeholders who have an interest in issues on which it provides advice" in order to inform recommendations provided to the Minister (HPRAC 2013). An HPRAC report that specifically addressed the issue of acupuncture was completed in 1996; however, the Minister delayed any action until HPRAC completed a report on TCM, which was not available until 2001. After reflecting on both reports, the Minister announced plans to seek Ontarians' views about the best way to regulate TCM/A, and in 2005, HPRAC initiated a public consultation process. A range of RHPA practitioners, health regulatory colleges, representatives of TCM/A organizations, students of TCM/A, and the general public made presentations and written submissions to HPRAC. The consultations resulted in the exchange of ideas regarding how much training and education would be appropriate for TCM/A practitioners and how best to regulate these individuals (MOHLTC 2005a).

Not all interest groups welcomed TCM/A inclusion in the RHPA, as Chinese trained acupuncturists believed that education and training provided in Canada did not incorporate important traditional aspects of the treatment. Western trained acupuncturists, on the other hand, declared that traditional training and education lacked the evidence-based scientific approach found in western medicine (Welsh *et al.* 2004). Eventually, during the drafting of Bill 50, the government was able to serve as a mediator in order to give enough credibility to both forms of practice (The Canadian Press 2013).

### 3 GOALS OF THE REFORM

The explicit goal of the *TCM Act* was to provide Ontario citizens with protection against unqualified practitioners through legislation of standards of training and education (Shahjahan 2004). A health regulatory college that set practice requirements and ensured consistency in TCM/A curricula and training programs was created to accomplish this goal (MOHLTC 2005b). Previously, if a person intended to complain about someone practicing TCM/A they would have to file a civil suit, which could be costly in both time and money (McKay 2007).

There were several implicit goals that regulation under the RHPA also intended to

achieve. Regulation under the RHPA appeased many lobbyists by bringing several of their goals to fruition including: bringing a higher level of credibility and trust to the practice in the minds of citizens, expanding access through private insurance markets, and formalizing standards of practice and education to restrict the supply of incoming new professionals (Shahjahan 2004). All of these goals promoted the profession and increased the market size (demand) while decreasing the number of providers (supply). Furthermore, regulatory status and an increase in clientele was another way for this once sidelined group to resist biomedical dominance (Shahjahan 2004). In an increasingly competitive health sector, this goal might be thought of as one of the most important. Lastly, passing of the *TCM Act* demonstrated to citizens that their political representatives recognized the value of an increasingly popular treatment method (MOHLTC 2005b).

## 4 HOW AND WHY THE REFORM CAME TO PASS

Although TCM/A groups in Ontario had a history of lobbying for self-regulating status (Gilmour, Kelner, Wellman 2002; Welsh *et al.* 2004), and various provincial governments had considered the issue since the 1990s, it was the timing of a combination of factors that gave the issue sufficient momentum to stay on the government's policy agenda long enough for action to be taken.

To gain a greater understanding of how issues may or may not make their way onto the government's policy agenda, Kingdon's (2003) framework helps explain how three conceptual streams (problems, politics, and policies) can affect agenda-setting dynamics. The *problems stream* refers to issues that require government attention. These issues can develop through focusing events or crises (such as media attention on an unsafe medical practice), or a change in an indicator (such as an increase in infection rates).

In 2004, a focusing event occurred when an individual in Quebec was charged with not properly sterilizing acupuncture needles (Roesler 2004). Health officials recommended that more than 1,100 people who received treatment at the clinic where the procedures were performed have blood tests for HIV and other infections. Within a few weeks of this event, it was reported that a class action lawsuit for \$30 million was filed against an Ontario woman who was also accused of using unsterilized acupuncture needles, which resulted in some of her clients contracting various skin infections (Ray 2004). As a result of these incidents, there was added pressure on Ontario politicians to move quickly toward regulating TCM/A, which would result in monitoring compliance with standards of practice and therefore minimize the risk of harm to the public.

Closely linked to the problems stream is the *politics stream*, which takes into consideration political events, such as swings in the national mood or events within government. Since the passage of the RHPA in 1991, much of the Western world has embraced complementary and alternative therapies (Harris and Rees 2000), and Canada has not been an exception to this trend (Millar 1997). In most provinces, it seemed that the public

embraced TCM/A before the provincial government did. This public acceptance created a favourable political landscape for changes in the regulation of TCM/A practitioners.

The *policies stream* refers to the generation and diffusion of feasible policy solutions that are publicly and politically acceptable. The self-regulation of TCM/A practitioners was seen as a feasible approach, given that Ontario already had a coherent system in place for regulating health professionals. Moreover, self-regulation was seen as a politically acceptable policy solution because other provinces had already delegated self-regulatory authority to TCM/A practitioners; Alberta and Quebec had legislation regulating acupuncture (Wong *et al.* 2005), and British Columbia had jointly regulated both TCM and acupuncture (Johnson 2001).

## 5 HOW THE REFORM WAS ACHIEVED (OR FAILED)

### 5.1 Policy instruments

The RHPA represented a unique umbrella approach to regulating various health professions and therefore, it was relatively simple for the government to incorporate TCM/A into the existing framework. The *TCM Act* established the CTCMPO, which provided a centralized means to achieve many of the reform goals. The creation of this regulatory college required little policy learning from policymakers and little administrative or institutional change, which made it an appealing reform. The implementation of the *TCM Act*, however, has not been simple, partially because of difficulties related to the diverse forms of medical knowledge that TCM encapsulates (Sciban 2014) and those who wish to influence inclusion or exclusion of particular medicines in the standard of practices (Wong *et al.* 2005).

### 5.2 Implementation plan

In 2008, the Ontario government created a temporary “Transitional Council” made up of appointed individuals who were responsible for completing the groundwork for a permanent regulatory college. In 2013, the CTCMPO was formally established with the election of practitioner Council members to work with the appointed public members. The new regulatory College can discipline any TCM/A practitioner who fails to comply with the established standards of practice. Standard of practice were developed by the college to reflect the expected skills and knowledge of all registered TCM/A practitioners.

## 6 EVALUATION

Since implementation of the regulatory college was relatively recent, it is difficult to evaluate the success of the *TCM Act*. Determining whether there has been an increase in public

access to TCM/A will require more time, and reports from the CTCMPAO will be useful in determining the extent to which the new regulations have enhanced public protection. Nonetheless, regulation itself achieved several of the goals intended by the reform, including the establishment of standards of practice and a formal mechanism for complaints administered through the CTCMPAO. The CTCMPAO has noted that the standards of practice are generic and allow for some ambiguity in interpretation (CTCMPAO 2013).

## 7 STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS

Table 1: SWOT Analysis

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>• Easy incorporation of <i>TCM Act</i> into RHPA</li> <li>• Provides the public increased access to complementary and alternative medicine</li> <li>• Enhances protection of the public against potential harm from practitioners who have not met minimum standards</li> <li>• Provides the public with a formal, centralized complaint service and related disciplinary body</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation and enforcement of registration requirements may be difficult to monitor</li> <li>• Ability of CTCMPAO to license practitioners in response to demand may be difficult</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• Enhanced legitimacy of alternative methods for providing care.</li> <li>• Increased uptake by health insurance companies.</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of transparency of CTCMPAO in processes and decisions</li> <li>• Sustainability of CTCMPAO</li> <li>• Opposition from other health professionals</li> </ul>

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