

 Council on Licensure, Enforcement and Regulation
2011 Annual Educational Conference



Trends in Regulatory Oversight I: Four Approaches

Pittsburgh Pennsylvania

Presenters: Hon. Jean Augustine, PC, CM
Fairness Commissioner,
Province of Ontario

Promoting Regulatory Excellence

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Agenda

- Fair access law
- Context
- Continuous Improvement and Assessments
- Conclusion

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Fair access law

- Fair Access to Regulated Professions Act, 2006
- 40 regulatory bodies
- Transparent, objective, impartial and fair licensing
- Everyone deserves fair treatment when applying to practise a profession, regardless of where he or she was educated

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Ontario Context

- Ontario population: 12 million
- Membership in regulated professions
 - Largest: College of Teachers 230,000
 - Smallest: College of Dental Technologists 500
- Proportion of internationally educated members ranges from zero to 39 %.
- In 2008-10, most applicants came from South Asia, U.S., South East Asia, East Asia

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Progress

- Regulatory bodies' improvements:
 - Reduced requirements for Canadian work experience
 - Speeded up procedures
 - Posted more information online
 - Ensured that qualifications assessment agencies do their work fairly


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Strategy for Continuous Improvement

- Two-year cycle
 - Assessment
 - Meeting
 - Recommendations, as needed
 - Action plan
 - Implementation and monitoring


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Assessment

- Assessment Guides
 - Allow OFC to assess consistently
 - Help regulators understand legal requirements
 - Based on provisions of the law


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Assessment

- “Required” licensing practices
- “Good” licensing practices
- Enforcement for failure to meet legal duties

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Assessment

Specific Duty — Information for Applicants

[Legislation: RHPA, Schedule 2, s. 22.3](#)

Does the regulatory body demonstrate the following practices?

1. Good: All of the information referred to in the good practices in this section is on the regulatory body's website, for applicants and for people intending to apply.
2. Required: The regulatory body describes requirements for registration on its website, including the ways in which requirements may be met and/or the criteria that must be met for the requirements to be satisfied.
3. Good: The regulatory body provides information about the requirements that may be satisfied through acceptable alternatives.
4. Good: The regulatory body provides information about all requirements that are subject to exemptions.

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Conclusion

- Ontario fair access law has been in place for four years.
- Regulatory bodies are making improvements.
- Clear vision: everyone deserves fair treatment in registration and licensing.
- Recommendations are practical and realistic.
- Applicants will have faster, fairer access to the professions.

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Manitoba Fairness Commissioner

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Fair Registration in Regulated Professions Act

Nov 6, 2007
Act receives Royal Assent

April 16, 2008
Act is proclaimed

21 Health-related professions

10 Other professions

Trades, Teachers, Early Childhood Educators

Check on the business Fairness Commissioner

Review registration practices
Report on compliance
Support change

Governed by the registration practices

Office of the Manitoba Fairness Commissioner

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Fair Registration Practices in Regulated Professions Act

MANITOBA FAIRNESS COMMISSIONER
Xinena Munoz, Manitoba Fairness Commissioner

MINISTER RESPONSIBLE FOR THE ACT
Jennifer Howard, Minister of Labour and Immigration

FAIR REGISTRATION PRACTICES CODE

Helps regulators understand how to comply with the Act

Reviews registration practices. Makes recommendations

Ensures compliance

Provides applicants with information and assistance on registration requirements and processes

Provides regulators with information and assistance on fair registration practices and related matters

Sets out a general duty and list of specific duties regulators must adhere to meet compliance with the Act

Office of the Manitoba Fairness Commissioner 14

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Registration Review Process

To establish a meaningful review process that concretely identifies fairness issues and leads to progressive actions

Working co-operatively to document and understand their processes, evaluate them, and agree on an action plan to move things forward

Registration Reviews preceded by profession-specific focus groups of internationally educated professionals who have successfully navigated the process.

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Registration Review Process

The Registration Review includes:

- Documenting the regulator's assessment and registration process
- Analyzing the relevance and necessity of the requirements for registration
- Making recommendations for Compliance
- Developing an Action Plan
- Final Registration Review Report

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Data collection

No baseline data to report on how many IEPs are registered by the regulators or how long professional registration takes

Data collection process developed to record the experience of individual internationally educated applicants as they move through the process of assessment and registration

Comparison between internationally educated and domestic applicants and registrations from interprovincial labour mobility.

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Support

Collaborative and supportive approach while establishing relationships with regulators and building a foundation for future work

Commitment to help regulators make needed and substantive changes by providing access to expertise and funding

Funded gap training programming for internationally educated professionals

Funded activities to help regulators meet the reporting requirements and increase efficiency

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Trends in Regulatory Oversight I: Four Approaches - Québec

Presenter: **André Gariépy**, lawyer, C. Admin.
Commissioner for Complaints concerning the Recognition of Professional Competence,
Government of Québec

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CONTENT

- Context
- Inquiry Commission (2007-2008)
- The Commissioner
- Complaints Process
- Verification Process
- Principles
- Philosophy
- Appendix - The Québec Professional System


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CONTEXT

- Recognition of competence is evolving as a discipline of its own, where different public policies and issues have a stake and an influence
 - Public protection
 - Demographics and labour market
 - Trade liberalization and mobility
 - Economic development
 - Education and training
 - Immigration


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CONTEXT (cont'd)

- Pressure on the professional regulatory boards (especially the self-governed) for
 - More accountability
 - More transparency
 - More sensitivity on individuals rights as well as economic and social issues


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AN INQUIRY COMMISSION ON DIVERSITY AND INTEGRATION IN QUÉBEC (2007-2008)

- Conclusions on recognition of competence
 - Stressed that public protection is a legitimate public policy
 - Stressed the specialized and valued role of the regulatory bodies
 - Recognized what has been done to make the system more efficient and fair (2001 Action Plan, 2005 Working Group on Integration, Change to the Professional Code)


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AN INQUIRY COMMISSION ON DIVERSITY AND INTEGRATION IN QUÉBEC (2007-2008) (cont'd)

- But still...
 - Professional regulation is not easy to understand
 - We don't know enough about the activities of the regulatory boards
 - We don't have comprehensive and indisputable data on the performance of the recognition of competence to base an opinion

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AN INQUIRY COMMISSION ON DIVERSITY AND INTEGRATION IN QUÉBEC (2007-2008) (cont'd)

- But still... (cont'd)
 - Need to verify if there is protectionism
 - No recourse for individuals who are not satisfied with a decision
 - Not enough collaboration between education and professional systems


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AN INQUIRY COMMISSION ON DIVERSITY AND INTEGRATION IN QUÉBEC (2007-2008) (cont'd)

- Recommendations around these issues
 - Set up a specific inquiry commission on the practice of the regulatory boards
 - Set up a permanent and independent body that will examine complaints concerning the decisions on recognition of competence
 - Clarify responsibilities between the education and professional systems (re: bridging programs and internships)


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THE COMMISSIONER

- Creation
 - Bill passed at the end of 2009 by the National Assembly of Québec
 - An oversight entity granted independence and wide investigative powers
 - Administratively attached to the Office of the Professions, an agency which already has oversight functions over the 46 professional regulatory boards

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THE COMMISSIONER (cont'd)

- Functions-mandate
 1. Receive and examine individual complaints concerning the recognition of competence by the regulatory boards
 2. Verify the mechanisms of recognition of competence (in a more systemic way compared to case by case)
 3. Monitor the collaboration between the education and the professional systems (re: bridging programs and internships)

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THE COMMISSIONER (cont'd)

- Recognition of competence in applying for
 - The permit/license issued in relation with a mutual recognition agreement as part of Government to Government mobility agreement
 - The permit/license issued to those holding a legal authorization to practice in another jurisdiction, this legal authorization having been recognized in a specific regulation.

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THE COMMISSIONER (cont'd)

- Recognition of competence in applying for (cont'd)
 - The permit/license through case by case recognition
 - The temporary, restrictive permit/license for those in the recognition process but in need of bridging training or internship to be completed
 - The special permit/license, a permanent restrictive permit


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THE COMMISSIONER (cont'd)

- Recognition of competence in applying for (cont'd)
 - The permit/license through case by case recognition
 - The temporary, restrictive permit/license for those in the recognition process but in need of bridging training or internship to be completed
 - The special permit/license, a permanent restrictive permit


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COMPLAINTS PROCESS

- Not an appeal: - autonomy of the boards
- After examining the complaint, the Commissioner will inform all parties of his findings and, if deemed, send recommendations
- The regulatory board targeted will have 60 days to inform the Commissioner of the actions it intends to take as a result of the recommendation, and the reasons for not acting upon the recommendation
- Everything will be made public at the end of the process


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VERIFICATION PROCESS

- Boards individually, or by issue affecting one or many boards
- After the verification, the Commissioner will inform those concerned of his findings and, if deemed, send recommendations
- The regulatory board targeted will have 60 days to inform the Commissioner of the actions it intends to take as a result of the recommendation, and the reasons for not acting upon the recommendation
- Everything will be made public at the end of the process


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PRINCIPLES USED IN ANALYSIS

- Equality
- Fairness
- Objectivity
- Transparency
- Openness
- Coherence
- Efficiency
- Reasonability
- Periodic Review

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PHILOSOPHY

- The Commissioner is an agent of change, systemic change
- You don't make institutions change and be more accountable by humiliating them
- More on identifying problems and solutions than guilt

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APPENDIX

The Québec Professional System

- Protecting the public is a State mandate
- Harmonized system for all professions
- Public interest and consumer sensitivity
- One basic model for institutions, procedures and disciplinary complaints mechanism for the public
 - *Professional Code*, in force since 1974
 - Complementary professions' specific legislation if needed
 - Similar regulation and mechanisms for the public
 - Now 51 professions regulated under this model
 - Under State orientation and supervision
 - Mainly through the Office of the Professions


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APPENDIX
The Québec Professional System (cont'd)

- Degree of autonomy and self regulation
 - Through Professional Orders (regulatory bodies)
 - Role of Professionals in the regulation scheme: specialists running a specialized public entity
 - The Orders can initiate regulation/By-law on important professional matters but, to get the approval, must engage in a dialogue with public authorities about the relevance and the modalities


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APPENDIX
The Québec Professional System (cont'd)

- Cooperation between Professional Orders
 - Through the Québec Interprofessional Council
- Accountability and transparency
 - Check and balance approach
 - Oversight government agency
 - The Office of the Professions and the Commissioner for complaints
 - Investigation powers
 - Main regulations/By-laws examined then approved by the Government (Cabinet/Executive Council) and made public
 - Annual public reporting on activities
 - Content of the report established by regulation/By-law
 - Report submitted to the National Assembly


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APPENDIX
The Québec Professional System (cont'd)

- Accountability and transparency (cont'd)
 - Presence of representatives of the public on
 - Board of Directors of the Office of the Professions
 - Board of Directors and Executive Committee of Professional Orders
 - Advisory Committee on Investigation Review
 - Disciplinary Council (through a lawyer presiding)
 - Subjected to the Access to information Act
 - For information on public protection related activities

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APPENDIX

The Québec Professional System



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APPENDIX

The Québec Professional System (cont'd)

- For more information on the system
 - Office of the Professions of Québec (French only)
www.opq.gouv.qc.ca
 - Québec Interprofessional Council (French, English, Spanish)
www.professions-quebec.org

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Fair Registration Practices Act

Presenters: C. Diane Gordon, Dept. of Labour and Advanced Education, Skills & Learning Branch, Government of Nova Scotia, Canada

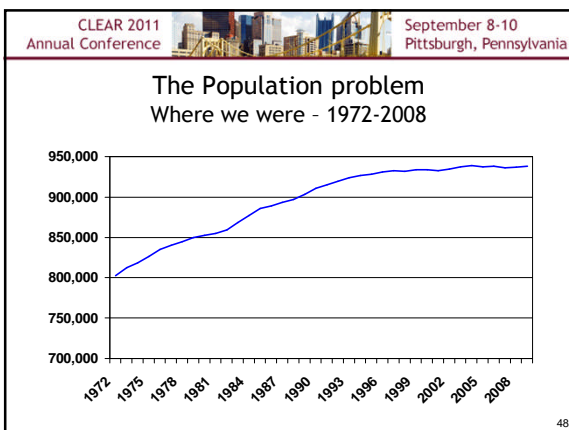
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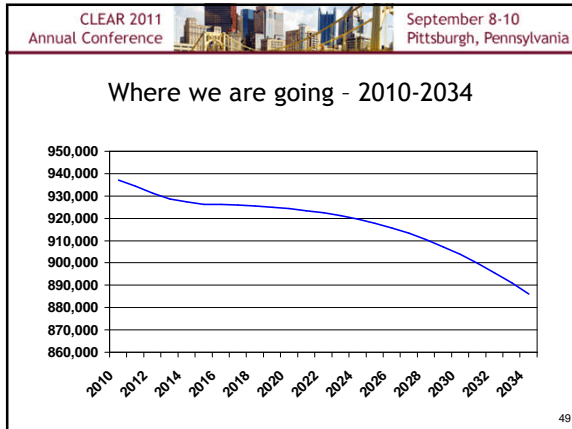
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How we got here

- Recognized that there was a problem
- Needed to ensure we were making the best use of the current and future labour force
- By 2020, our working age population will shrink by 46,000 (~ 600,000)
 - Immigration and births will not offset aging and outmigration
 - Labour and skills shortages are already occurring in Health, IT, and Engineering

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Immigrant population

- Planning to double the number of immigrants
- Current Immigrants:
 - have a high level of education
 - are experiencing low levels of employment and low earning compared to their Canadian born counterparts

Match rates:

- Canadian born/educated - 60%
- Internationally Educated - 40%


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Challenges for Immigrants

- Immigration points system makes individuals with higher education a priority
- Credential recognition is one of the top challenges for newcomers
- Employment rates for Nova Scotians aged 25-64 with a degree, certificate or diploma:
 - 65.2% for very recent immigrants (arriving 2001-2006),
 - 74.6% for immigrants arriving prior to 2001, and
 - 75.7% for non-immigrants.


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Challenges for Regulators

- Focus to protect the public
- Added work - with little return
- Assessment of Academic Credentials
- Non-traditional methods - not a sequential assessment/application method
- Limited expertise - May need to test the competence of the individual rather than assess the credential - competency based assessments


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Barriers to recognition

- Lack of information - misinformation
- General lack of pre-immigration preparation
- Applicants not prepared for the long process
- Difficulty obtaining required documents
- High costs associated with certification
- Skills and knowledge testing methods not appropriate

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Nova Scotia Solution

- The Department brought together:
 - representatives of regulatory authorities,
 - immigrant professionals,
 - immigrant serving agencies and;
 - government departments,to design a piece of legislation that fulfilled the needs of the people seeking recognition and protects the right of the regulatory authorities to set standards that protect the public.

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What we have

The Fair Registration Practices Act ensures regulatory bodies:

- Provide applicants, including international applicants, with clear and understandable information about their registration/licensing practices and requirements
- Make timely decisions and respond to applicants in a timely fashion
- Assess qualifications in a transparent, objective, impartial and procedurally fair manner
- Assess qualifications in a manner that is compliant with Ch. 7 of the Agreement on Internal Trade
- Have an objective process in place for applicants to appeal registration decisions

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Essential Elements of the FRPA Act

Fair Registration Practices Code

- Duty of Regulating Body
 - Transparent, objective, impartial and procedurally fair registration practices
- Provision of Information
 - in a clear and understandable form for all registration and internal review processes


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Essential Elements of the FRPA Act

- **Duties Respecting Communication**
 - Respond in a reasonable time to applicants
 - Provide a written decision with reasons
 - Provide information on measures to assist unsuccessful applicants
- **Documentation of Qualifications**
 - Make information on the required documentation publicly available.
 - Post any alternatives to the standard documentation requirements.


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Essential Elements of the FRPA Act

- **Internal Review Process**
 - Provide an internal review process
- **Access to records**
 - Provide the applicant with access to records related to the application
 - Develop a process that protects privacy and public safety and at the same time meets the rights for the applicant to have access to their application information


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Review Officer

- Government Employee
- Duties set out in the legislation
- Information and advice to regulating bodies and government
- Assessment of Registration Practices
- May issue a compliance Order under the Act
 - Notification and consultation long before there is the need to issue an Order

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Next steps

- Will continue to work in collaboration with our partners, through the review process
- Developing the Report Questionnaire and the Guidelines for assisting with the report
- First workshop in early November
 - overview of the Act, how we can help
 - release of the reporting schedule, draft report questions, survey results


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More Next Steps


- Determine the support needed by the regulatory bodies
- First pilot assessments early 2012
- Facilitate model development (regulatory/legislative, appeal committees, website models)
- Coordinate and provide legislative and other support to small regulatory bodies

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Thank you!

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