

Hot Trends in Professional Regulation

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Council on Licensure, Enforcement & Regulation
www.clearhq.org

Summary of Trends



1. Calling for more transparency and accountability
2. Rising costs of self-regulation
3. Requiring greater fairness in registration
4. Expanding powers of investigators
5. Delegation of disciplinary authority to agency staff
6. Increasing attention to risk management
7. Amalgamating professions under single regulator
8. Increasing renewal periods
9. Putting the brakes on self-regulation?

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1. Calling for More Transparency and Accountability

- Pressure from:
 - Within regulators
 - Media
 - Government
 - Public



Example: media and plaintiffs' lawyers calling for publication of complaint decisions

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2. Rising Costs of Self-Regulation




- Increased litigation
 - Challenges to regulatory authority
- Need to re-evaluate critical mass to sustain self-regulation
- Need to revisit the value of professional self-regulation

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3. Requiring Greater Fairness in Registration



- Decreasing barriers to mobility
 - EU proposes a *European Professional Card* to facilitate automatic recognition of qualifications
- *Mihaly v. The Association of Professional Engineers, Geologists and Geophysicists of Alberta*
 - Regulator's registration practices for international applicants found to be discriminatory

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4. Expanding Powers of Investigators

- Courts and tribunals giving broad reading to statutory powers of investigation
- Illegally obtained evidence can be used in discipline proceedings
- What is role of regulator?



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5. Delegation of Disciplinary Authority to Agency Staff

- Limited to “minor” violations
- Appropriate delegation
 - Approved range of sanctions
 - Fairness
 - Slippery slope?



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6.1 Increasing Attention to Risk - Members

Review

Assessment

Management

Mitigation



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6.2 Increasing Attention to Risk - Regulators



HARDIN

"We've considered every potential risk, except the risks of avoiding all risks."

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7. Amalgamating Regulators – Clusters



- Regulating “like” professions in clusters:
 - Merging Barbers, Electrologists, Cosmetologists (Massachusetts)
 - Merging Soil Scientists with Geologists and Hearing Aid Specialist with Opticians (Virginia)
 - Merging Plumbers, Pool Safety Inspectors, Builders and Contractors (Queensland, Australia)

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7.1. Amalgamating Regulators - Classes



- Regulating multiple classes of registrant under one profession:
 - Unification of accounting professions in Canada – Chartered Professional Accountant
 - Merger of licensing boards for Nurses and Practical Nurses in Georgia

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7.2. Amalgamating Regulators - Umbrella





- Regulating vast group of professions under one “umbrella” regulator:
 - New College of Trades in Ontario (e.g., plumbers, auto body repairers, hairstylists, etc.)
 - Health and Care Professions Council in United Kingdom regulates 16 health, psychological and social work professions (e.g., dietitians, social workers, occupational therapists, paramedics, etc.)

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8. Increasing renewal periods

- Pros:
 - Decreases administrative costs for regulator
 - Cost savings to regulants
- Cons:
 - Decreased regulatory oversight
 - Affect on discipline




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9. Putting the Brakes on Self-Regulation?

“Why License a Florist?” (NYT Op-Ed)


- Criticism of self-regulation in media, political campaigns
- Revisit the process for deciding whether to or not
- Recent trend in Ontario to deny privilege of self-regulation to unregulated professions



PROTECT YOURSELF FROM POSSIBLY BUT PROBABLY NOT UNQUALIFIED PROFESSIONALS

TELEPHONE SALESPERSON **PARKING LOT ATTENDANT**

MIXED MARTIAL ARTIST **TRAVEL AGENT**

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Discussion: How to stay ahead of the trends?



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