

## Modernizing Oversight of Professions

by Julie Maciura  
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A branch of McMaster University just posted a major research study on modernizing the oversight of the health professions in Ontario. Funded by the Ontario government, the study has three major components: an Evidence Brief of academic research; three Citizen Panels that discussed the issues with a representative cross-section of Ontarians; and a Stakeholder Dialogue. Each has a separate report.

Rather than make actual recommendations, the McMaster Forum proffered themes that emerged from the project. The McMaster Forum defined the problem as the current oversight regime not keeping up with societal needs, particularly in the following areas:

- the oversight mechanisms in place have not kept pace with the changing health system ... including: 1) changing public expectations; 2) growing concern among citizens about the system's ability to deliver high-quality, patient-centred care; and 3) changing care-delivery models (e.g., interprofessional team-based care).
- the current oversight framework is focused on regulating individual categories of health workers, rather than groupings of them, and captures many but not all health workers .... The 26 professional regulatory colleges that currently operate in Ontario are largely independent of one another. This mostly uncoordinated and siloed approach means that

each of the professional regulatory colleges is allocating resources to the same functions of professional registration, quality assurance, education, investigations and discipline. This is in contrast to other jurisdictions (e.g., the U.K., Australia, Ireland and New Zealand), which have chosen to group professionals based on their risk of harm, functional area, or geographic area, into a smaller number of oversight bodies.

- the oversight framework has a different focus than the framework used in the education and training of health workers .... [Regulators] continue to have to work within an oversight framework that stops a health professional from embracing a broader scope of practice or engaging in a controlled act even if they can demonstrate that they have developed an appropriate level of competency.
- the financing and funding of oversight bodies [i.e., membership fees charged by individual regulatory Colleges] are not explicitly designed to optimize public protection efforts.
- it is difficult to find information on how the health workforce and its oversight bodies are performing, and
- citizens are not consistently engaged in meaningful ways in oversight activities.... [Regulators] differ substantially in the extent to which they have made efforts to meaningfully involve citizens and fully understand their perspectives. This includes, for example, convening panels or advisory panels and producing resources specifically for citizens.

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## A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

The McMaster Forum identified three elements to the solution to these concerns:

*1. Use a risk-based approach to health workforce oversight*

The McMaster Forum states:

This approach – also referred to as a ‘risk-of-harm’ approach – builds on the notion that oversight of health workers ought to be designed and implemented to reduce the likelihood of adverse events from occurring, and therefore that targeting high-risk areas is the most efficient use of oversight resources.

While the reports discuss using risk-based concepts in regulatory activities, most of the resulting discussion was confined to the issue of which professions to regulate and whether other options existed beyond full regulation or no regulation. Combining professions into a small group of regulatory bodies was part of this discussion as well for the second element.

*2. Use competencies as the focus of oversight*

The McMaster Forum stated that some of the following could be pursued:

- “develop a process to get input from citizens, health workers and existing oversight bodies about how to define the core competencies for each category of health worker;
- determine an approach to update the core competencies as the health system evolves;
- expand the use of competencies across all categories of health workers in:

- educational programs preparing candidates for entry into a category of health workers;
- training programs involved in preparing health workers for changes to what they are allowed to do; and
- continuing professional-development programs that support health workers to safely do what they are allowed to do under existing oversight mechanisms; and
- use competencies – instead of scopes of practice and controlled acts – as the focus of health-workforce oversight, including to evaluate the seriousness of complaints and other investigations.”

*3. Employ a performance measurement and management system for the health workforce and its oversight bodies*

While some of this discussion was about performance measures for practitioners, much was also said about their application to regulators. The beginning point was the need to commit to developing performance measure indicators. Both citizens and policymakers (i.e., government) should be involved in developing the things that would be measured. Developing an oversight body to implement this initiative and hold regulators accountable for the results was frequently mentioned.

It was interesting to see the differences in feedback from the citizen panels and the stakeholder consultation. Citizen panels emphasized certain concerns such as:

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- the need for “soft skills” like communication and empathy as being an important part of any competencies profile;
- the problems faced by clients when being transferred from one practitioner or institution to another; and
- the difficulty in accessing information about individual regulators and individual practitioners (e.g., the absence of a central data base was puzzling).

The stakeholder consultation identified distractions that made it more difficult to focus on competencies and risk, including some media reports and the political reaction to them. Stakeholders also identified more challenges to implementing change (for example, seeing the provincial election as a barrier to action rather than an opportunity for change).

A number of interesting ideas were buried throughout the reports apart from the major themes discussed above, including:

- A centralized data base of all practitioners.
- Involving citizens in the identification of relevant core competencies.
- Utilizing an independent oversight body like the Professional Standards Authority in the UK.
- Separating registration functions from complaints and discipline and considering centralizing some of those regulatory activities.
- Combining professions so as to promote consistent standards and interprofessional collaboration amongst practitioners.

Some issues mentioned in the reports received less attention than their significance may have warranted. For example, the length of the list of overlapping entities involved in the oversight of practitioners and the services to clients was astonishing. However, there was little discussion about how to reduce that duplication of functions.

The reports are somewhat difficult to read because of the academic language used throughout, however, they are an important addition to the discussion of the modernization of the regulation of professions in Canada.

The reports can be found at:

<https://www.mcmasterforum.org/find-evidence/products/project/modernizing-the-oversight-of-the-ontario-health-workforce>.

*[Disclosure: a member of our firm was on the steering committee for this project and participated in the stakeholder consultation.]*