

## Research Insights

by Rebecca Durcan  
November / December 2020 - No. 251

Earlier this year researchers from Cardiff University released its study entitled: “*A Review of Research into Health and Care Professional Regulation*”. Funded by the Professional Standards Authority of the United Kingdom, a regulatory oversight body, the study summarizes and analyzes recent research in the field of professional regulation. Two portions of the study that may be of particular interest relate to racial discrimination in the complaints and discipline process and to guidelines and standards.

### ***Racial Discrimination*** (pp. 43-44)

One of the papers reviewed found that Black and minority ethnic (BME) practitioners were twice as likely to be complained about as their white counterparts. The study also suggested that a lack of confidence in managers in addressing concerns about BME practitioners contributed to this higher rate of intervention. “Regulators considered language proficiency and cultural difference influencing the behaviour and interaction with patients as factors that might lead to disciplinary action.”

Another study of nursing suggested that employer referrals of BME to regulators contributed to their disproportionate involvement with regulators. The data was inconsistent as to whether BME practitioners were referred more frequently to discipline, but did find that the penalty imposed at discipline was higher for Black nurses.

Another study found that internationally trained physicians were more likely to be referred to

discipline but was unable to ascertain the reason (e.g., language proficiency). Another study of physicians found that language proficiency resulted in a higher frequency of complaints but not necessarily a higher rate of disciplinary findings.

The small number and limited scope of these studies makes it difficult to identify trends. However, they clearly demonstrated a need for larger and more systematic research in the area of discrimination in the complaints and discipline process.

### ***Guidelines and Standards*** (pp. 35-40)

A few of the studies reviewed indicated that a lack of clarity in guidelines and standards led to practitioners being confused as to what they should do. In fact, in some contexts, practitioners avoided doing certain things (such as delegating tasks or performing advanced procedures) because of this uncertainty.

A number of studies dealt with the effective implementation of guidelines and standards. One study found that multi-faceted implementation plans tend to be more effective in encouraging practitioners to change their behaviour. For example, in addition to distributing published guidelines and encouraging organizations to implement operational changes based on them, financial and regulatory incentives for practitioners are recommended.

Another study indicated that top-down guidelines and standards tend to be resisted as practitioners desire to maintain their autonomy.

Another study found that encouraging local competition amongst practitioners tends to encourage existing practitioners to improve the quality of services they offer. This implementation mechanism

---

#### FOR MORE INFORMATION

This newsletter is published by Steinecke Maciura LeBlanc, a law firm practising in the field of professional regulation. If you are not receiving a copy and would like one, please contact: Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-599-2200 Fax: 416-593-7867, E-Mail: [info@sml-law.com](mailto:info@sml-law.com)

#### WANT TO REPRINT AN ARTICLE

A number of readers have asked to reprint articles in their own newsletters. Our policy is that readers may reprint an article as long as credit is given to both the newsletter and the firm. Please send us a copy of the issue of the newsletter which contains a reprint from Grey Areas.

# Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

is rarely available to professional regulators and are more associated with government funded services.

The summaries of the studies found in this research document tend to be concise and sometimes difficult to interpret. The overall impression is that academic research into effective regulation of professions is still in its infancy. However, the document does contain a good source of existing research into professional regulation that might identify papers worth reading in more detail.

The study can be found at:

[https://www.professionalstandards.org.uk/docs/default-source/publications/research-paper/review-of-research-into-health-care-regulation.pdf?sfvrsn=699c7620\\_7](https://www.professionalstandards.org.uk/docs/default-source/publications/research-paper/review-of-research-into-health-care-regulation.pdf?sfvrsn=699c7620_7)