

The Report Card is Out – Part 2 Notable Practices

by Bernie LeBlanc

November/December 2021 - No. 261

As reported in the last issue of *Grey Areas*, earlier this year the Ontario health regulators filed and published detailed reports on their own performance. The reports were based on the College Performance Measurement Framework (CPMF) issued by the Ministry of Health in 2020. The Ministry promised to issue a summary of the trends and observations it made in reviewing the reports. That “report card” was released on October 8th, 2021.

In addition to the six commendable practices identified by the Ministry, it also pointed out a number of notable practices that demonstrated excellence in professional regulation. Below are some of the notable practices that might be of interest to regulators generally.

Governance

The report identified the Ontario College of Pharmacists, the College of Physicians and Surgeons of Ontario, the College of Medical Radiation and Imaging Technologists of Ontario (CMRITO), the College of Nurses of Ontario (CNO) and the Royal College of Dental Surgeons of Ontario (RCDSO) as all having taken steps to modernize and improve their governance structures. Most commonly, these regulators established competencies for Council and committee members and introduced measures, such as a nominations and recruitment process, to facilitate selection of individuals who possessed those competencies.

Staff Development

A second notable practice related to learning development processes for regulatory staff. The report:

... highlighted a notable practice by the College of Massage Therapists of Ontario (CMTO) related to learning development processes for College staff. The CMTO reported that it uses an internal learning management system to ensure it has a capable and competent staff complement. The CMTO’s learning management system provides a curated and self-directed learning program to all staff on administrative and management topics to ensure skill development and the development of a shared leadership culture. The Working Group noted that human resources are central to day to day operations and managing an organization’s workforce is required to support organizational success.

Pandemic and Safety Initiatives

Some notable practices related to the regulators’ responses to the pandemic. A number of regulators created return to practice guidance for former practitioners wishing to contribute during the crisis.

Other regulators built “joint resources related to procurement and shared data collection and analysis services” to minimize resource duplication amongst small and medium sized regulators.

The CNO “worked to implement the recommendations of the 2018 Long-term Care Homes Public Inquiry, developing and sharing multiple resources on preventing intentional patient harm that are relevant to all regulated health professionals.”

Another exciting initiative of the CNO is its collaboration “on the development of a national database for sharing nurse registration and discipline information. The database will enable proactive sharing of information about nurses across

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

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.

jurisdictions and will enhance public safety in a time of increasing labour mobility.”

Privacy

The report also commented on the privacy and confidentiality initiatives of the RCDSO, in particular:

its implementation of a range of privacy and confidentiality policies intended to ensure the College’s legal obligations are met. Policies include a focus on information security, acceptable use of systems and related services, records management, and workplace social media conduct. The College also provides information technology (IT) security awareness training for staff and planning for the possibility of IT security breaches. Lastly, the RCDSO has a designated Privacy Officer and privacy lead who consults with staff regarding the management and disclosure of confidential and private information.

Policy Making

The report commented on the policy making process of the College of Midwives of Ontario (CMO).

The CMO uses a rigorous and structured process for the development and revision of guidance that is based on the principles of good regulation. This ensures that:

1. Regulation is proportionate to the risk of harm being managed,
2. Regulation is evidence-based and reflects current best practice, and
3. Regular and purposeful engagement is undertaken with partner organizations, midwives, and the public throughout the policy making process.

Registration

In terms of registration processes, the report noted:

The CMRITO has developed a career map for international applicants that provides step by step instructions on the application process, the evaluation process and sets out what documentation is required to support an application for registration. This career map also provides the timing associated with registration and what is required of applicants at each stage of registration.

Complaints Process

For enhancing access to the complaints process, the report indicates:

The [College of Massage Therapists of Ontario] CMTO makes information about the complaints process available in multiple languages, and also provides information in an audio format. The College of Naturopaths of Ontario (CONO) publishes anonymous complaint information on its website, including the date when the complaint was filed, the issues or concerns included in the complaint and the current stage of the complaints process. When a complaint is closed, the College provides the outcome of each matter and the date of closure.

Risk Management

Risk management is an important tool used by many regulators. The report commented on the College of Medical Laboratory Technologists of Ontario’s (CMLTO) use of a publicly available governance risk register.

Approximately every two years the CMLTO’s Council reviews risk trends to update its

Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

governance risk register and to ensure there are no key gaps in its policy parameters or in actions Council should be taking. The Working Group noted that the use of a risk-based approach drives regulatory effectiveness by clearly articulating the College's role in understanding and addressing the current and emerging risks to clients/patients. Additionally, it was noted that regular review of regulatory and profession-specific risks can be done using both internal and system-level data and allows Colleges to identify and proactively respond to risks to the organization.

On a related note, the report identified as a notable practice the use of risk-based processes for Quality Assurance (QA) programs.

... the College of Occupational Therapists of Ontario's (COTO) and the College of Optometrists of Ontario's (CoptO) risk-based processes for selecting registrants to undergo a continuing competency assessment as part of the QA Program. The Working Group noted that these processes are aligned with the principles of right touch regulation and identify higher risk registrants. The COTO's process includes categorizing risks into four categories, assigning a risk rating to registrants and using this data as a basis for selection of registrants who will undergo a competency assessment. The CoptO uses its complaints data to identify areas of practice that may pose a higher risk and incorporates this into how it selects registrants to participate in the QA Program. Additionally, QA activities focus on areas of practice that provide the most accurate picture of a registrant's practice and allow for less intensive reviews unless an assessment identifies a comprehensive review is needed. The College of Dietitians of Ontario and the RCDSO have incorporated methods for registrants to self-assess risk and follow up on

areas that need improvement into their QA processes.

These notable practices can give other regulators ideas for enhancing their own performance.

The Ministry's report can be found at: https://health.gov.on.ca/en/pro/programs/hwrob/CPMF_summary_report.aspx.