

Radical Governance and Restrained Complaints Reforms in British Columbia

by Julie Maciura
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An all-party Steering Committee has issued recommendations for the modernization of the regulation of health professions in British Columbia. The report flows from a review by Harry Cayton of the regulatory structure and extensive consultations on an earlier document from the Steering Committee.

The recommendations in the report call for radical governance reform for health regulators in the province. Those recommendations will reverberate across the rest of Canada. However, the recommendations in respect of transparency of complaints outcomes and the handling of sexual abuse matters are more restrained than in some other Canadian jurisdictions, including Ontario.

Cultural Safety and Humility

The report provides more specifics than the initial consultation document did. For example, the discussion of cultural safety and humility moves from a background consideration to an implementation priority. The report says that work needs to be done to ensure that cultural safety and humility is improved in:

the complaints and discipline process; ensuring leadership including board membership and regulatory college professional staff reflects the diversity of the people and communities that make up B.C.;

and, creation of standards that promote cultural competence of health professionals and regulatory organizations.

Governance

The report recommends that the governing Boards of regulators be composed equally of public and professional members. All Board members should be selected through a rigorous competency-based recruitment process and should receive extensive training in their role. This reflects a shift in thinking to ensure that Board members are not seen as representing constituencies but as solely serving the public interest. Boards should be smaller in size, consisting of eight to twelve members. Board members should receive adequate compensation to end the concept of volunteerism.

The number of regulatory Colleges would be reduced to six:

- Nursing professionals (including midwives);
- Pharmacy facilities and professionals;
- Physicians and surgeons (including podiatrists);
- Oral health care professionals;
- Allied health professionals; and
- Complementary and alternative health and care professionals.

The word “College” would be replaced by a more easily understood descriptor such as “Regulator” or “Regulatory College”.

Oversight

As proposed in the original consultation document, a single oversight body should be created. However, its

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functions would be slightly reduced from that proposed in the original consultation document, and would have the following functions:

- Auditing and reporting on the performance of the regulators;
- Publishing regulatory guidance on best practices (e.g., complaints timelines and complaints resolution processes) and to promote consistency (e.g., working to create a single public register for all health professions);
- Recommending, but not requiring, that regulators establish certain standards of practice and ethics;
- Periodically and randomly reviewing the by-laws of a regulator, with an ability to ask the Minister to require changes if the suggestions of the oversight body are not acted upon;
- Overseeing the Board member recruitment process; and
- Making recommendations to the Minister about adding new professions to the legislation.

However, the Steering Committee backed away from an earlier proposal to make the Health Professions Review Board (HPRB) an arm of the oversight body. Rather the HPRB will remain independent, reviewing individual registration and complaints matters.

Complaints and Discipline

The recent report provides more details on how the complaints and discipline system would be reformed.

Complaints would continue to be handled by the regulator. However, selection of Inquiry Committee members would be through a competency-based

process and Board members would not be able to serve on the Committee. The Committee would be required to consider the previous complaints history of a practitioner. Any resolution agreements would have to be made public. However, cautions or warnings would continue to be private. Timelines for disposing of a complaint would be replaced with timelines for certain steps in processing a complaint (e.g., notification of the practitioner and complainant; for negotiating a resolution agreement). The regulator would be able to confirm the existence of an investigation where it would be in the public interest to do so.

Discipline hearings would be removed from the regulator. There would be a single disciplinary tribunal operating through the oversight body. The tribunal would have an independent chair or executive who would assign panels. Typically hearing panels would consist of three people, one of whom would be a member of the profession of the person being disciplined.

The Steering Committee did not commit to mandatory revocation provisions for frank acts of sexual abuse. It left that issue for further work. However, it did call for the regulator to create a fund to pay for counselling of patients who were sexually abused. The report also recommended further work on the following:

- Common standards/policies among regulators for prevention, investigation and discipline;
- A specific complaints/investigation process, with specialized investigations and supports;

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- Training in trauma-informed care for regulatory investigators and decision makers; and
- Common definitions of sexual abuse and sexual misconduct between regulators.

The report also recommended that regulators be able to share information about practitioners with each other and with regulators of health care facilities to ensure that the public is being protected.

The report can be found at:

<https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/recommendations-to-modernize-regulatory-framework.pdf>.

The earlier Steering Committee consultation document can be found at:

<https://engage.gov.bc.ca/app/uploads/sites/578/2019/11/Modernizing-health-profession-regulatory-framework-Consultation-Paper.pdf>.

The Cayton Report can be found at:

<https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/cayton-report-college-of-dental-surgeons-2018.pdf>.