



GREY AREAS NEWSLETTER

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

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Addressing Indigenous-Specific Racism

by Julie Maciura
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In recent years, many Canadian regulators have taken preliminary steps to address the racism facing Indigenous people. The [reports](#) of the Truth and Reconciliation Commission of Canada have contributed enormously to these activities. Initial steps by regulators have included public acknowledgements of the role of professions in the oppression of Indigenous peoples, education of regulatory staff and committees on the topic, voluntary and mandatory continuing professional development for registrants in the area, providing resources for registrants and the public, specifically identifying Indigenous-specific racism as a category of serious professional misconduct, and land acknowledgements.

What, then, are the next steps for regulators? While there are developments across the country, some regulators in British Columbia have taken significant next steps that are worthy of note. This is particularly (but not exclusively) true for health regulators. In part this is due to the ground breaking [In Plain Sight](#) report released there in November 2020, and the enactment of the *Health Professions and Occupations Act* ([Bill 36](#)) in that province two years later. As a case

study, this article provides a brief overview of some of the [next steps taken by the British Columbia College of Nurses and Midwives](#) (BCCNM).

Key Documents

On May 11, 2021, the BCCNM joined with three other health regulatory Colleges to issue [An Apology to Indigenous People and a Pledge to Be Anti-Racist](#). The Colleges stated:

Indigenous people (First Nations, Métis and Inuit) have waited far too long for their legal rights to be recognized. And they have waited too long for health-system leaders to dismantle the racism that was built into our colonial health-care system—racism that continues to cause harm to this day.

As the leaders of the four largest health regulatory colleges in British Columbia, we offer our apology to the Indigenous people and communities who have experienced racism while

engaging with us and with the health professionals we regulate.

The following September, the BCCNM published a [commitment to action](#) to help facilitate “constructive disruption to Indigenous-specific racism amongst B.C. Nurses and Midwives”. Updates were published, in conjunction with other Colleges, in [2022](#) and [2023](#).

In December of 2022 a 120-page [report of an external review](#) of the BCCNM’s inquiry, discipline and monitoring process was released containing 13 recommendations.

In April of 2023 the BCCNM updated its commitment to action with a description of the next steps it had taken and intended to take. That document is entitled [Redressing Harm to Indigenous Peoples in the Health Care System](#).

The information below is based on these documents.

Organizational

The BCCNM is taking steps to ensure that its physical and virtual presence provides a safe space. Consultation with local First Nations has resulted in recognition of the traditional lands upon which the BCCNM office sits and the use of artwork and signage as educational tools. Further, “most of BCCNM’s important events are opened and closed by Indigenous Knowledge Keepers from Musqueam, Squamish, and Tsleil-Waututh Nations.”

The BCCNM, in advance of the proclamation of Bill 36, is developing processes for engaging with Indigenous audiences for its regulatory activities and policy development. This will include developing partnerships with relevant bodies such as the Office of the Ombudsperson, Patient Care Quality Offices, Ministry of Health, other health regulators, B.C. Health Authorities, Métis Nation, and the First Nations Health

Authority. Significant progress has already been reported.

Board, Committees, and Staff

The BCCNM is developing “a culturally safe data collection process to determine numbers of registrants, staff, board, and committee members who are Indigenous”. Targets for recruitment and retention of Indigenous people are being set. One target is that 10% of members of all BCCNM committees identify as Indigenous. As of June 2023, the BCCNM is close to meeting that target for committee composition. Also, as of that date, two of the ten BCCNM board members have Indigenous heritage.

Recruitment strategies will include changing the “language in existing job descriptions to ensure candidates are being considered with lived experience as an Indigenous person or other equity seeking or marginalized groups with the same weight as is used for formal colonial education.”

Enhanced mandatory training will be provided to all board, committee, staff members and contractors. Additional training will be provided to those in direct interactions with Indigenous people or groups. Training will include “Indigenous-specific racism, cultural safety and humility, anti-racism, disability awareness, trauma- and violence-informed practice, and other intersectionalities.”

The BCCNM is also “developing a speak-up culture policy to foster an environment within BCCNM where stereotypes, discrimination, and racism are recognized and addressed. To support this initiative and ensure the organization will be well equipped to know when and how to speak up, relevant training will be sourced and provided. We have hired an Executive Director of Reconciliation, Equity, Diversity, and Inclusion (ED-REDI) to provide strategic leadership in this area and to move BCCNM forward.”

Registrants

On February 25, 2022, the BCCNM, in conjunction with other regulators, implemented a stand-alone practice standard on [Indigenous cultural safety, cultural humility, and anti-racism](#). The standard expects all registrants to:

- Reflect on their privileges, biases, values, belief structures, behaviours and positions of power;
- Undergo ongoing relevant education;
- Intervene when observing Indigenous-specific racism;
- Actively create safe health care experiences for Indigenous clients;
- Work collaboratively with Indigenous clients to meet their health and wellness goals; and
- Apply trauma-informed practice to their interactions with Indigenous clients.

This standard goes further than the traditional “don’t discriminate” approach to addressing racism. The standard was accompanied by a video series and companion guide.

Feedback has been obtained from registrants through the quality assurance program as to the implementation of the standard and the experience of registrants with Indigenous-specific racism.

In addition to ensuring that these competencies are incorporated into BC programs, the BCCNM will assess applicants for registration from other jurisdictions for these competencies. The College’s process of approving educational programs will also be revised to ensure a culturally safe approach when reviewing programs for Indigenous practitioners.

The BCCNM is also creating “a barrier-free name-changing process for Indigenous registrants reclaiming their names.”

Complaints and Discipline

The BCCNM is in the process of implementing the recommendations of the external review of its complaints and discipline processes including:

- Using language (e.g., “feedback” rather than “complaint”) that is more applicable to Indigenous cultures;
- Establishing “a distinct, integrated, and accessible entry point for Indigenous individuals” to enter the process and to provide meaningful responses;
- Addressing “barriers for Indigenous reporting by creating multiple pathways to capture a reporter’s healthcare experience through written, oral, audio, and/or video truths, with the option to have staff go to communities and obtain reports, if invited”;
- Ensuring that a “reporter’s concern is provided, verbatim, to investigators and committees as part of the inquiry and discipline process”;
- Establishing “a process to provide a culturally safe opportunity for reporters or registrants to self-identify Indigeneity during the reporting process”;
- Recruiting and retaining Indigenous representatives for the relevant committees and utilizing Indigenous subject matter experts in the process;
- “Create, document, and implement a process for culturally safe investigations and hearings when the client or registrant is Indigenous”; and
- Recognizing the role of Indigenous-specific racism in the process and considering methods of addressing this, including using Gladue-type reports [i.e., individualized reports of the registrant’s life experiences and community input into appropriate remedies] when sanctioning registrants who are Indigenous. Further than that, consideration will

be given to negotiating consent resolutions that are respectful of Indigenous protocols for registrants who are Indigenous.

More significantly, the BCCNM is exploring the renaming and reframing of “the complaints process (deficit-based) to health care feedback process (strengths-based).”

These developments should be read in conjunction with the [report](#) adopted on July 14, 2023, by the BC legal regulator which included recommendations for effective communication about its process, using trauma-informed and culturally sensitive investigation techniques, employing a “navigator” to assist individuals who are Indigenous participate in the regulatory process, to enhance use of informal resolution techniques, and to employ non-adversarial hearing processes where feasible.

Conclusion

Of course, initiatives will not matter if they do not result in meaningful changes, both in the results achieved by the regulator and in the treatment of members of the public. In the UK the regulator for physicians has gone to great lengths to address racism and has reportedly made significant progress: <https://www.gmc-uk.org/-/media/gmc-site/about/how-we-work/edi-targets---progress-and-priorities-for-2023.pdf>. On the other hand, the UK Doctors’ Association says that inequitable treatment of racialized registrants is still a significant issue: <https://fitnesstopracticenews.co.uk/are-ethnic-minority-doctors-still-treated-differently/>.

The steps taken by Canadian regulators to redress Indigenous-specific racism will no doubt vary widely. However, the significant action taken by the BCCNM may provide a valuable model for others.

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